

and costs. See 42 U.S.C. § 300aa–15(e)(1). The Sauls are awarded the amount of attorneys’ fees and costs to which respondent has not objected.

I. Procedural History

According to the attorney’s time sheets, work on the Sauls’s case began in January 2008, when the Sauls contacted their attorney. The attorney began collecting medical records over the next several months. See Pet’r Appl’n, filed Feb. 22, 2010, time sheet page 1-2.

The Sauls filed their petition on October 23, 2008. The petition asserted that Kaden developed an “encephalopathy” and sought compensation pursuant to the Vaccine Injury Table. See 42 C.F.R. § 100.3. The Sauls did not file any medical records with the petition, apparently because the Sauls’s attorney was concerned that the medical records that he possessed were not complete. The Sauls’s attorney attempted to address any gaps by collecting medical records directly. The majority of the medical records (exhibits 1-11) were filed on December 8, 2009.

In a motion filed on December 22, 2009, the Sauls requested a ruling on the record. Their motion was discussed in a status conference conducted on January 15, 2010. In this status conference, the Sauls withdrew their claim that Kaden suffered an on-Table injury. In addition, the Sauls stated that they would not be filing a medical expert’s opinion indicating that the DTaP vaccination caused any of Kaden’s problems.

A January 22, 2010 decision stated that based upon the record as a whole, the Sauls had failed to demonstrate either that Kaden had suffered a “Table Injury” or that his condition was “actually caused” by a vaccination. Thus, the Sauls’s petition for compensation was denied.

The Sauls filed an initial application for attorneys’ fees and costs on February 22, 2010.¹ This initial request included **\$13,944.00** in attorneys’ fees and **\$642.59** in costs. Additionally, the Sauls filed a statement of costs in compliance with General Order No. 9, stating that they incurred no litigation costs. The total amount requested is **\$14,586.59**. Respondent does not object to this request for attorneys’ fees and costs.

II. Analysis

Because the Sauls did not prevail upon their claim that the DTaP caused Kaden an injury, they are not entitled to an award of attorneys’ fees and costs by right. Instead, unsuccessful petitioners may be awarded attorneys’ fees and costs when a petition in good faith and there was a reasonable basis for the petition. See 42 U.S.C. § 300aa–15(e)(1).

¹ Also, on February 22, 2010, the Sauls filed an “Amended Petition for Vaccine Compensation.” The confusion of having two requests was alleviated when the Sauls filed, on May 17, 2010, a motion to withdraw the amended application for fees and costs.

The Sauls satisfy the standard for having a reasonable basis because initially, it appeared that they had a likelihood of prevailing on their claim that Kaden suffered a Table injury. Some medical records indicated that doctors diagnosed Kaden as suffering an encephalopathy in the time associated with DTaP on the Vaccine Injury Table. However, additional medical records showed that Kaden would not qualify as a Table Case, and the Sauls withdrew this claim. The Sauls also decided not to pursue a causation-in-fact theory and elected to file a motion for ruling on the record. This situation suffices to meet the reasonable basis standard.

Because the Sauls satisfied their burden of showing that their petition was supported by a reasonable basis and was filed in good faith, the Sauls are awarded a reasonable amount of attorneys' fees and costs. After reviewing the request, the undersigned finds that the requested amounts are reasonable. Thus, attorneys' fees and costs are awarded as follows:

A lump sum of \$14,586.59 in the form of a check payable to petitioners and petitioners' counsel of record, the law firm of Webb, Webb & Guerry.

The court thanks the parties for their cooperative efforts in resolving this matter.

The Clerk shall enter judgment accordingly.²

IT IS SO ORDERED.

Christian J. Moran
Special Master

² Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.