

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

**No. 11-805V**

**Filed: September 14, 2012**

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A.C.W, by and through  
SYLVIA M. JAMES, as legal guardian,

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Petitioner,

Attorney Fees and Costs

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v.

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SECRETARY OF HEALTH  
AND HUMAN SERVICES,

\*  
\*

Respondent.

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**DECISION ON ATTORNEY FEES AND COSTS<sup>1</sup>**

**Vowell**, Special Master:

On November 30, 2011, Sylvia James, on behalf of A.C.W., filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> [the “Vaccine Act” or “Program”]. Due to petitioner’s lack of communication with her counsel, I issued a decision dismissing this case for failure to prosecute and insufficient proof on September 6, 2012.

On September 13, 2012, the parties filed a stipulation for attorney fees and costs. The stipulation indicates that after informal discussions of petitioner’s initial request, petitioner requests an amended amount to which respondent does not object. Additionally, the stipulation notes that petitioner’s counsel paid the filing fee and costs associated with medical record collection and that petitioner’s counsel does not believe petitioner incurred any personal litigation costs.

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to delete medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will delete such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

I find that this petition was brought in good faith and that there existed a reasonable basis for the claim. Therefore, an award for fees and costs is appropriate, pursuant to 42 U.S.C. §§ 300aa-15(b) and (e)(1). Further, the proposed amount seems reasonable and appropriate. **Accordingly, I hereby award the total \$10,590.12<sup>3</sup> in the form of a check payable jointly to petitioner and petitioner's counsel of record, Anne Toale, for petitioner's attorney fees and costs.**

In the absence of a timely-filed motion for review filed pursuant to Appendix B of the Rules of the U.S. Court of Federal Claims, the clerk of the court shall enter judgment in accordance herewith.<sup>4</sup>

**IT IS SO ORDERED.**

**s/ Denise K. Vowell**  
Denise K. Vowell  
Special Master

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<sup>3</sup> This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, 42 U.S.C. § 300aa-15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See *generally Beck v. Sec'y, HHS*, 924 F.2d 1029 (Fed. Cir.1991).

<sup>4</sup> Entry of judgment can be expedited by each party's filing of a notice renouncing the right to seek review. See Vaccine Rule 11(a).