

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

No. 09-300V

Filed: September 18, 2013

KIM CASTALDI and RICHARD CASTALDI,	*	
parents and next of kin to	*	
Vincent Castaldi, a minor,	*	
Petitioners,	*	Stipulation; Interim Attorney Fees
v.	*	and Costs
	*	
SECRETARY OF HEALTH	*	
AND HUMAN SERVICES,	*	
Respondent.	*	

Andrew Downing, Esq., Hennelly & Steadman, PLC, Phoenix, AZ, for petitioners.
Darryl Wishard, Esq., U.S. Department of Justice, Washington, DC, for respondent.

DECISION on INTERIM ATTORNEY FEES and COSTS¹

Vowell, Special Master:

On September 17, 2013, the parties filed a Stipulation of Fact Regarding Interim Attorneys' Fees and Costs ["Stipulation"], wherein they explain that based on discussion of petitioners' draft application for interim fees and costs, petitioner has amended her interim fees and costs request. Respondent does not object to the amended amount of \$55,000.00² that petitioners are seeking.

While respondent maintains her position that interim attorney fees and costs awards are not permitted in cases like this one, she "elects not to raise her statutory objection at this time in response to this particular request." Stipulation at n.1. Respondent cites my decision in *Whitener v. Sec'y, HHS*, noting that I considered and

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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, that satisfies the criteria in § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, I agree that the identified material fits within the requirements of that provision, I will delete such material from public access.

² This amount covers all attorneys' fees and costs incurred between April 30, 2009 and April 30, 2013. Stipulation at ¶ 9.

rejected her statutory objection in that case. See No. 06-477V, 2011 WL 1467919, at *2-5 (Fed. Cl. Spec. Mstr. Mar. 25, 2011).

I find that petitioners are entitled to an award of interim attorney fees and costs under the facts and circumstances of this case and that the agreed upon amount is reasonable. **Accordingly, I hereby award the total of \$55,000.00 issued in the form of a check payable jointly to petitioners and petitioner's attorney, Andrew Downing, for petitioners' interim attorneys' fees and costs.** The clerk of court shall enter judgment accordingly.³

IT IS SO ORDERED.

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

³ Entry of judgment can be expedited by each party's filing a notice renouncing the right to seek review. See Vaccine Rule 11(a).