

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 02-493V

Filed: October 5, 2011

Not to be Published

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PENNY DE LA FUENTE and JAMES  
DE LA FUENTE, III, individually and as  
next friends of Darian Lee De La  
Fuente, a minor,

Petitioners,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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Autism;  
Attorneys' Fees and Costs

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### DECISION ON ATTORNEYS' FEES AND COSTS<sup>1</sup>

In this case under the National Vaccine Injury Compensation Program,<sup>2</sup> I issued a decision denying entitlement and dismissing this case on August 15, 2011. On October 5, 2011, petitioners filed a motion for attorney fees and costs. In lieu of filing a Vaccine General Order 9 statement, pursuant to the motion petitioners' counsel agrees to reimburse petitioners any costs that petitioners personally incurred that are compensable under § 15(e)(1). The motion represents that respondent does not object to this requested award.

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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 Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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), petitioners have 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> The applicable statutory provisions defining the program are found at 42 U.S.C. § 300aa-10 *et seq.* (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 a lump sum of \$4,210.00<sup>3</sup> in the form of a check payable jointly to petitioners and petitioners' counsel of record, Michael T. Gallagher, for petitioners' 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).