

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS
No. 3-2720V
Filed: May 20, 2011
Not to be Published**

KEVIN ELLWOOD and DEBORAH	*	
MIELEWSKI, parents of Tate Ellwood-	*	
Mielewski, a minor child,	*	
	*	
Petitioners,	*	Joint Stipulation;
v.	*	Attorney Fees and Costs
	*	
SECRETARY OF HEALTH	*	
AND HUMAN SERVICES,	*	
	*	
Respondent.	*	
	*	

DECISION ON ATTORNEY FEES AND COSTS¹

Vowell, Special Master:

In this case under the National Vaccine Injury Compensation Program,² I issued a decision on March 14, 2011, denying compensation and dismissing this case. On May 18, 2011, the parties filed a stipulation for attorney fees and costs in this matter. That stipulation proposes an amount payable for petitioners' attorney fees and costs, and respondent does not oppose that proposal. The stipulation includes a representation by petitioners' counsel that he will reimburse petitioners for any personal litigation costs compensable in the Program.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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), petitioners have 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 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 the total \$3,001.52³ as a lump sum in the form of a check payable jointly to petitioners, Kevin Ellwood and Deborah Mielewski, and petitioners' attorney, George G. Tankard, III.** Petitioners' attorney shall be reimbursed from this award.

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.⁴

IT IS SO ORDERED.

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

³ 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).

⁴ 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).