

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

**No. 12-820V**

**Filed: December 26, 2013  
(not for publication)**

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ANDREA FLORIAN, parent and next  
friend of T.P., a minor,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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Attorney Fees and Cost;  
Stipulation

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*Donald Mark Gerstein, Esq.*, Richard Gage, P.C., Cheyenne, WY for petitioner.  
*Lara Ann Englund, Esq.*, U.S. Department of Justice, Washington D.C. for respondent.

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

**Vowell**, Chief Special Master:

In this case under the National Vaccine Injury Compensation Program,<sup>2</sup> I issued a decision dismissing the petition on November 13, 2013. Petitioner submitted an application for attorney fees and costs on December 4, 2013. On December 26, 2013, the parties filed a stipulation for attorney fees and costs. The stipulation indicates that respondent does not object to the amount petitioner is requesting. Additionally, pursuant to General Order #9, the stipulation notes that petitioner advanced no monies in reimbursable costs in pursuit of his claim.

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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 Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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), a party has 14 days to identify and move to delete medical or other information, that satisfies the criteria in 42 U.S.C. § 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.

<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 the total \$21,000.00<sup>3</sup> in the form of a check payable jointly to petitioner and petitioner's counsel of record, Donald Gerstein, for petitioner's attorney fees and costs.**

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  
Chief 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).