

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

No. 04-1817V

Filed: October 3, 2011

(Not to be Published)

CHRISTOPHER M. KENNEDY and
LISA B. KENNEDY, Parents of
Shea H. Kennedy, a minor,

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Petitioners,

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Autism; Attorney Fees and
Costs

v.

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

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Respondent.

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DECISION ON ATTORNEY FEES AND COSTS¹

Vowell, Special Master:

In this case under the National Vaccine Injury Compensation Program,² I issued a decision denying entitlement and dismissing this case on July 22, 2011. On September 28, 2011, the petitioners filed an unopposed motion for attorney fees and costs. Petitioners also filed an accounting of their attorney's hours and expenses and a statement pursuant to General Order #9 setting forth their personal litigation costs. The motion indicates that after informal discussions of petitioners' initial request, petitioners request an amended amount to which respondent does not object.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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, 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.

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 upon a reasonable basis. 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 \$4,751.12³ as follows:

- **a lump sum of \$4572.77 in the form of a check payable jointly to petitioners, Christopher M. Kennedy and Lisa B. Kennedy, and petitioners counsel of record, Richard Gage, for petitioners' attorney fees and costs, and**
- **a lump sum of \$178.35 in the form of a check payable to petitioners, Christopher M. Kennedy and Lisa B. Kennedy, for their personal litigation 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.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).