

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

No. 04-0743V

Filed: September 19, 2011

Not to be Published

HEATHER ISSAC MERRILL,
Guardian ad Litem for
ALEXANDER MERRILL, a minor

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

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Autism; Attorneys' Fees and Costs

DECISION ON ATTORNEY FEES AND COSTS¹

Vowell, Special Master:

Petitioner has filed an unopposed motion for an award of attorneys' fees and costs in this case. Petitioner is entitled to reasonable attorneys' fees and costs pursuant to §§ 15(b) and (e)(1). Respondent has reviewed the motion and does not object. Petitioner seeks attorneys' fees and costs in the amount of \$5,685.48. In lieu of filing a Vaccine General Order 9 statement, petitioner's counsel noted the out of pocket costs that petitioner personally incurred.

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.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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

Accordingly, I hereby award the total \$5,685.48² as follows:

- a lump sum of \$5535.48 in the form of a check payable jointly to petitioner, Heather Issac Merrill, and petitioner's counsel of record, Gallagher and Gallagher Law Firm LLC, for petitioner's attorney fees and costs, and
- a lump sum of \$150.00 in the form of a check payable to petitioner, Heather Issac Merrill, for her 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.³

IT IS SO ORDERED.

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

² 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).

³ 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).