

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 04-1216V

Filed: December 16, 2011

Not to be Published

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KENNETH SMITH, II and  
LAURA PHILLIPS, parents of  
KENNETH D. SMITH, III, a minor,

Petitioners,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES

Respondent.

Autism; Attorneys' Fees and Costs

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

On December 16, 2011, petitioners filed an unopposed motion for an award of attorneys' fees and costs in this case. Petitioners are entitled to reasonable attorneys' fees and costs pursuant to §§ 15(b) and (e)(1). Respondent has reviewed the motion and does not object. Petitioners seek a total amount of \$7,692.00 for attorneys' fees and costs jointly payable to petitioners and petitioners' counsel, R.G.Taylor, II, P.C. & Associates.

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 Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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

Petitioners failed to delineate to counsel any costs borne by petitioners in pursuance of their claim thereby precluding counsel's compliance with General Order #9. Petitioners' counsel exercised due diligence in attempting to contact petitioners. The special master hereby finds that all payments issued jointly to petitioners and petitioners' counsel shall constitute reimbursement for attorneys' fees and expenses borne by R.G. Taylor II, P.C. & Associates.

**The request for attorneys' fees and costs is granted.** Petitioners are awarded reasonable attorneys' fees and costs pursuant to §§ 15(b) and (e)(1), as I find that the petition was brought in good faith and upon a reasonable basis, and the amounts requested are reasonable and appropriate.

**Pursuant to §15(e), I award a total amount of \$7,692.00.<sup>2</sup> This award shall be in the form of one check for \$7,692.00, payable jointly to the petitioners and petitioners' counsel, R.G. Taylor II, P.C. & Associates.**

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>3</sup>

**IT IS SO ORDERED.**

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

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<sup>2</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, § 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 of Dep't Health and Human Services, 924 F.2d 1029 (Fed. Cir.1991).

<sup>3</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).