

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS
No. 99-439V
Filed: January 26, 2011**

LUKE WESTFALL, a minor,	*	
by his parents and natural guardians	*	
GREGORY WESTFALL and	*	
JANE WESTFALL,	*	
	*	Attorney Fees and Costs
Petitioners,	*	
	*	
v.	*	
	*	
SECRETARY OF THE DEPARTMENT	*	
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 May 5, 2010, denying entitlement to compensation and dismissing this case. On January 24, 2011, the parties filed a stipulation for attorney fees and costs in this matter. Petitioners separately filed an accounting of their attorney's hours and expenses along with a statement pursuant to General Order #9 on December 21, 2010.

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

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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

reasonable and appropriate. **Accordingly, I hereby award the total \$53,477.10³ as follows:**

- **a lump sum of \$52,000.00 in the form of a check payable jointly to petitioners, Gregory Westfall and Jane Westfall, and petitioners' counsel, Shoemaker & Associates, for petitioners' attorney fees and costs; and**
- **a lump sum of \$1,477.10 in the form of a check payable to petitioners, Gregory Westfall and Jane Westfall, for their 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).