

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

**No. 06-477V
Filed: May 18, 2012**

ASHLY WHITENER,	*	
	*	
Petitioner,	*	Attorney Fees and Costs
	*	
v.	*	
	*	
SECRETARY 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 a decision was issued, on September 2, 2009,³ which held that petitioner had established entitlement to compensation. On December 1, 2011, I issued a decision awarding damages that adopted the amounts proposed in respondent's proffer.

On April 24, 2012, the parties filed a stipulation of fact concerning attorney's fees and costs. The stipulation notes that interim fees were awarded on March 25, 2011, and indicates that after informal discussion of petitioner's final fee and cost request the parties have reached an agreement. Petitioner filed a statement pursuant to General Order #9 on May 17, 2012, confirming that petitioner incurred no personal litigation costs.

Petitioner seeks \$19,410.00 in fees and \$18,030.71 in costs. This amount is in addition to the fees and costs previously awarded in the interim award. I find that this

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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

³ The ruling was issued by Special Master Abell. This case was reassigned to me on March 31, 2010.

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 \$37,440.71⁴ in the form of a check payable jointly to petitioner, Ashly Whitener, and petitioner counsel of record, Steven D. Goldston, for petitioner's final attorney fees and 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.⁵

IT IS SO ORDERED.

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

⁴ 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).

⁵ 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).