

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS  
No. 08-347V  
Filed: August 20, 2010  
Not to be Published**

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DANIEL L. AULL and FRANCES C. AULL,	*	
As Co-Administrators of the Estate of	*	
WILLIAM DANIEL BLAKE AULL, Deceased,	*	
	*	
Petitioners,	*	
	*	Interim Attorney Fees and Costs;
v.	*	<i>Avera</i>
	*	
SECRETARY OF THE DEPARTMENT	*	
OF HEALTH AND HUMAN SERVICES,	*	
	*	
Respondent.	*	
	*	

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**DECISION on INTERIM ATTORNEY FEES and COSTS<sup>1</sup>**

**Vowell**, Special Master:

In this case under the National Vaccine Injury Compensation Program (hereinafter “the Program”),<sup>2</sup> petitioners filed a [30] motion for an award of interim attorney fees and costs on November 12, 2009 [“Original Application”]. See *Avera v. Sec’y, HHS*, 515 F.3d 1343, 1352 (Fed. Cir. 2008). Respondent filed a response to the motion on November 30, 2009, raising objections, and petitioners filed a reply on November 14, 2009. On August 19, 2010, petitioners filed an amended application for interim attorney fees and costs [“Amended Application”].

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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 Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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, 116 Stat. 2899, 2913 (Dec. 17, 2002). 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.

<sup>2</sup> The applicable statutory provisions defining the Program are found at 42 U.S.C. § 300aa-10 *et seq.* (2006).

In the Amended Application, petitioners explain that the parties have agreed to an “irreducible minimum of \$20,000.00” for interim attorney fees, subject to reservation by both parties of the right to litigate, at the conclusion of this case, the remaining contested amount requested in the Original Petition. Petitioners further explain that the parties have agreed to an “irreducible minimum of 12,131.50” for interim attorney costs, subject to reservation by both parties of the right to litigate, at the conclusion of this case, the remaining contested amount of costs requested in the Original Petition for the services of Dr. Marcel Kinsbourne and Dr. Anthony Verity.<sup>4</sup>

I find that petitioners are entitled to an award of interim attorney fees and costs under the facts and circumstances of this case. A review of the materials offered in support of the application for interim attorney fees and costs indicates that the agreed amounts are reasonable. **Accordingly, I hereby award the total of \$32,131.50 issued in the form of a check payable jointly to petitioners, Daniel L. Aull and Frances C. Aull, and petitioners’ counsel’s firm, Black, McLaren, Jones, Ryland & Griffee, P.C., for interim attorney fees and costs.**

In the absence of a motion for review filed under RCFC Appendix B, the clerk of court shall enter judgment accordingly.<sup>6</sup>

**IT IS SO ORDERED.**

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

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<sup>4</sup> Petitioners did not file a statement comporting with General Order 9. However, because any costs personally incurred by petitioners can be addressed in a subsequent award of fees and costs, I have elected to act on this interim application without that statement.

<sup>6</sup> Entry of judgment can be expedited by each party’s filing a notice renouncing the right to seek review. See Vaccine Rule 11(a).