

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 11-495V

Filed: August 16, 2013

\*\*\*\*\* NOT TO BE PUBLISHED  
MALORY K. ROLLINS, a minor, \*  
by and through her natural parent \* **Special Master Zane**  
and guardian, KRISTY ROLLINS, \*  
\* Stipulation; attorneys' fees and costs  
\*  
Petitioner, \*  
\*  
v. \*  
\*  
SECRETARY OF HEALTH \*  
AND HUMAN SERVICES, \*  
\*  
Respondent. \*  
\*

\*\*\*\*\*  
*Lawrence Gene Michel*, Kennedy, Berkley, et. al., Salina, KS, for Petitioner  
*Darryl Wishard*, United States Dep't of Justice, Washington, DC, for Respondent.

### UNPUBLISHED DECISION ON ATTORNEYS' FEES AND COSTS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

On August 15, 2013, the parties in the above-captioned case filed a Stipulation of Attorneys' Fees and Costs ("Stipulation") memorializing their agreement as to the appropriate amount of attorneys' fees and costs in this case. Petitioner requests a total award of \$23,000.00, to which Respondent does not object. Petitioner's counsel represents that Petitioner incurred no

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<sup>1</sup> Because this decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, § 205, 44 U.S.C. § 3501 (2006). The decisions of the special master will be made available to the public with the exception of those portions that contain trade secret or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would clearly be an unwarranted invasion of privacy. As provided by Vaccine Rule 18(b), each party has 14 days to file a motion requesting the redaction from this decision of any such alleged material. In the absence of a timely request, which includes a proposed redacted decision, the entire document will be made publicly available. If the special master, upon review of a timely filed motion to redact, agrees that the identified material fits within the categories listed above, the special master shall redact such material from the decision made available to the public. 42 U.S.C. § 300aa-12(d)(4); Vaccine Rule 18(b).

personal litigation costs. In accordance with 42 U.S.C. § 300aa-15(e), the undersigned awards the amount to which Respondent does not object.

Petitioner, Kristy Rollins, alleged that her child suffered from opsoclonus-myoclonus syndrome, which caused acute cerebellar ataxia and its related symptoms as a consequence of the child receiving an influenza (“flu”) vaccine, which is a vaccine contained in the Vaccine Injury Table, 42 C.F.R § 100.3(a), and which the child received on or about October 21, 2009. Petitioner also alleged residual effects of this injury for more than six months and that he has not otherwise received compensation for such injuries. A decision awarding compensation based upon the parties’ stipulation was entered on August 15, 2013.

Although Respondent did not concede the claim, the parties, nonetheless, settled the matter, and an award of compensation was made. Because, Petitioner had been awarded compensation, Petitioner is entitled to an award of reasonable attorneys’ fees and costs. 42 U.S.C. § 300aa-15(e). The undersigned also finds that the stipulated amount of \$23,000.00 in attorneys’ fees and costs, is reasonable based on the stage at which this matter was settled. Based on the request’s reasonableness and pursuant to Vaccine Rule 13, the undersigned **GRANTS** the parties’ request as outlined in the Stipulation. The judgment shall reflect that Petitioner is awarded attorneys’ fees and costs as follows:

**in a check made payable jointly to Petitioner (Kristy Rollins) and Petitioner’s counsel (Lawrence Gene Michel of the law firm Kennedy, Berkley, et. al.), the amount of \$ \$23,000.00, pursuant to 42 U.S.C. § 300aa-15(e).**

The court thanks the parties for their cooperative efforts in resolving this matter. In the absence of a motion for review filed pursuant to RCFC, Appendix B, the Clerk is directed to enter judgment accordingly.<sup>2</sup>

**IT IS SO ORDERED.**

s/ Daria Zane  
Daria J. Zane  
Special Master

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<sup>2</sup> Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.