

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 09-0438V

E-Filed: December 12, 2011

* * * * *

KEVIN TOCK and TRACY TOCK,
parents and natural guardians of a minor
child, BRYCE TOCK,
Petitioners,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

* * * * *

Scott Taylor, Milwaukee, WI, for petitioner.

Melonie J. McCall, Washington, DC, for respondent.

UNPUBLISHED

Interim Attorneys' Fees and Costs;
Reasonable Amount Requested to
which Respondent Does Not Object

DECISION ON INTERIM ATTORNEYS' FEES¹

On July 6, 2009, Kevin and Tracy Tock ("petitioners"), filed a petition on behalf of their minor son, Bryce, for compensation alleging that he suffered certain injuries as a result of receiving a vaccination. Petitioners alleged that Bryce developed acute demyelinating encephalomyelitis as a result of receiving hepatitis A, hepatitis B, and measles-mumps-rubella vaccinations. Petitioners sought an award under the National Vaccine Injury Compensation Program, National Vaccine Injury Compensation Program²

¹ Because this decision contains a reasoned explanation for the undersigned's action in this case, the undersigned intends 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). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, "the entire" decision will be available to the public. Id.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the

(the Act or the Program). 42 U.S.C. §§ 300aa-1 to -34 (2006).

On November 16, 2009, a damages order issued directing the parties to compile information relevant to the damages phase of this case. On March 30, 2010, this case was reassigned to the undersigned.

On October 12, 2011, petitioner's counsel filed a motion for interim fees (Interim Fees Motion). A status conference was conducted by the undersigned on November 23, 2011, wherein the undersigned encouraged the parties to settle the interim fees and costs issue.

On December 6, 2011, the parties filed a joint stipulation as to application for interim attorneys' fees, stating that a decision should be entered awarding interim attorneys' fees for attorneys' fees incurred through September 22, 2011, in the total amount of \$31,455.00.

The parties agree that only the issue of attorneys' fees generated by petitioners' counsel up to and including September 22, 2011, is being resolved at this time. The parties further agree that petitioner and petitioners' counsel hereby reserve the right to apply for all expenses incurred by petitioner and petitioners' counsel up to and including September 30, 2011. Further, both parties agree that respondent reserves the right to object to an application for an award of any and all expenses incurred by petitioner and petitioners' counsel.

The special master determines that there is no just reason to delay the entry of judgment on interim attorneys' fees and attorneys' costs. Therefore, in the absence of a motion for review filed under RCFC Appendix B, the clerk of court **SHALL ENTER JUDGMENT in petitioner's favor for \$31,455.00 in interim attorneys' fees generated up to and including September 22, 2011.** Under Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing the right to seek review.

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Chief Special Master

National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2006) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.