In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS
No. 03-1251V
Filed: April 4, 2012
Not to be Published

MARIBEL RAMOS and NELSON ALMANZAR, Parents of JUSTIN ALMANZAR, a minor, **Petitioners,** **v.** **SECRETARY OF HEALTH AND HUMAN SERVICES** **Respondent.**	Autism; Attorneys' Fees and Costs Denied; Good Faith and Reasonable Basis

DECISION DENYING ATTORNEYS' FEES AND COSTS [1]

On October 25, 2011, petitioners' counsel filed a motion for an award of attorneys' fees and costs. On November 22, 2011 respondent filed an objection in response to petitioners' motion for attorneys' fees and costs alleging that there is insufficient evidence in the record to support an award of attorneys' fees and costs.

On November 23, 2011, I indicated I agreed with respondent's position and ordered petitioners' counsel to file sufficient evidence to demonstrate that the claim was brought in good faith and upon a reasonable basis. *See* 42 U.S.C. § 300aa-15(e)(1). On December 28, 2011, petitioners' counsel filed a motion for an extension of time until January 22, 2012 to file this information. Petitioners' motion was granted on December

[1] Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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), a party has 14 days to identify and move to delete medical or other information, that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, I agree that the identified material fits within the requirements of that provision, I will delete such material from public access.

28, 2011. Petitioners' counsel failed to file any evidence or any response at all to my December 28, 2011 Order.[2]

A determination of whether a fee award is appropriate, in a Vaccine Program claim where petitioners do not prevail, must begin with an assessment of whether the case was brought in good faith and with a reasonable basis, as required by the Act. *See* 42 U.S.C. § 300aa-15(e)(1). I cannot make such a determination in the instant claim since no evidence has been offered in support of these factors. Accordingly**, petitioners' motion for attorneys' fees and costs is denied.**

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.[3]

IT IS SO ORDERED.

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

[2] It is noted that petitioners were first ordered to file medical records in this case, as required under the Vaccine Act, on February 13, 2009. Petitioners failed to file any of the required records and this case was dismissed on March 29, 2011 for insufficient proof and failure to prosecute.

[3] 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).