

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS  
No. 05-1190V  
Filed: July 1, 2011**

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JOSEPH DEMKO,	*	
	*	
Petitioner,	*	
v.	*	
	*	Attorney Fees and Costs
SECRETARY OF HEALTH	*	
AND HUMAN SERVICES,	*	
	*	
Respondent.	*	
	*	

\*\*\*\*\*

**DECISION ON ATTORNEY FEES AND COSTS<sup>1</sup>**

**Vowell**, Special Master:

In this case under the National Vaccine Injury Compensation Program,<sup>2</sup> I issued a decision on March 1, 2011, awarding compensation based on a stipulation of the parties. On July 1, 2011, petitioner filed a status report providing (1) an accounting of his attorney's time and expenses, (2) a statement pursuant to General Order 9, (3) a representation that the parties have discussed certain objections raised by respondent to the time and expenses, and (4) a representation that respondent has no objection to petitioner's amended request for fees and costs.

Petitioner is entitled to reasonable attorney fees and costs 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 \$32,000<sup>3</sup> as follows:**

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 Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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

<sup>3</sup> 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.

- **A lump sum of \$29,093.26 in the form of a check payable jointly to petitioner, Joseph Demko, and petitioner’s counsel, Michael T. McDonnell, III, Kutak Rock, LLP, for petitioner’s attorney fees and costs, and**
- **A lump sum of \$2,906.74 in the form of a check payable to petitioner, Joseph Demko, for petitioner’s personal litigation 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.<sup>4</sup>

**IT IS SO ORDERED.**

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

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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).

<sup>4</sup> 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)*.