

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 09-277V

Filed: January 3, 2012

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KAITLYN ANN SMITH,

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Petitioner,

\*

**Special Master Zane**

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v.

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Stipulation; attorneys' fees and costs

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SECRETARY OF HEALTH  
AND HUMAN SERVICES,

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Respondent.

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Diana L. Stadelnikas, Maglio, Christopher, & Toale Law Firm, Sarasota, FL, for Petitioner;  
Debra A. Filteau Begley, United States Dep't of Justice, Washington, D.C., for Respondent.

### **DECISION**<sup>1</sup>

**ZANE**, Special Master.

On December 29, 2011, the parties in the above-captioned case filed a Stipulation of Fact Concerning Attorneys' Fees and Costs (Stipulation) memorializing their agreement as to the appropriate amount of attorneys' fees and costs in this case. After informal discussions with Respondent, Petitioner requests a total award of \$33,000.00. In accordance with General Order #9, Petitioner's counsel represents that Petitioner incurred no personal litigation costs. The undersigned awards the amount to which Respondent does not object.

Petitioner, Kaitlyn Ann Smith, alleged that she developed Guillian-Barre Syndrome (GBS) and/or a neuropathy that was caused-in-fact by her receipt of the Human Papillomavirus (HPV), Hepatitis A ("Hep. A"), and meningococcal vaccinations, that she received on March 28,

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<sup>1</sup> The undersigned intends to post this decision on the United States Court of Federal Claims's 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)). 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 trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the entire ruling will be available to the public. Id.

2007. A decision awarding compensation based upon the parties' stipulation was entered on December 29, 2011.

After reviewing the request, the court finds that the petition was brought in good faith and that there is a reasonable basis for the claim. Although Respondent did not concede the claim, the parties, nonetheless, settled the matter. Further, the undersigned finds that the stipulated amount of \$33,000.00, 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 (Kaitlyn Ann Smith) and Petitioner's counsel (Diana L. Stadelnikas, of the Maglio, Christopher & Toale Law Firm), in the amount of \$33,000.00.**

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.