

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 03-116V

Filed: February 4, 2011

ELIZABETH PELLETIER, parent of
JACOB D. PELLETIER, a minor,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Omnibus Autism Proceeding;
Stipulation of Attorneys' Fees and Costs

Thomas Powers, Portland, OR, for petitioners.

Alexis Babcock, United States Department of Justice, Washington, DC, for respondent.

DECISION ON ATTORNEYS' FEES AND COSTS¹

On August 4, 2010, the undersigned issued a decision denying entitlement to compensation and dismissing this case under the National Vaccine Injury Compensation Program.² On February 3, 2011, the parties filed a Stipulation of Facts Concerning Attorneys' Fees and Costs (Stipulation). The parties stipulate to the following:

¹ 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 file a motion for 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). In the absence of such motion, "the entire" decision will be available to the public. Id.

² The applicable statutory provisions defining the program are found at 42 U.S.C. § 300aa-10 et seq. (2006).

\$2,700.00 in attorneys' fees, \$2,575.50 in paralegal fees, \$680.00 in costs, and a filing fee of \$150.00.³ Stipulation at 1.

The undersigned finds that this petition was brought in good faith and that there existed a reasonable basis for the claim. Therefore, an award for fees and costs is appropriate, pursuant to 42 U.S.C. § 300aa-15(b) and (e)(1). Further, the proposed amount seems reasonable and appropriate. **Accordingly, the undersigned awards a lump sum of \$6,105.50⁴ in the form of a check payable jointly to petitioner, Elizabeth Pelletier, and petitioner's counsel, Thomas B. Powers, for petitioner's attorneys' fees and 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.⁵

IT IS SO ORDERED.

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

³ The resolution of attorneys' fees and costs was held in abeyance pending the outcome of an informal process developed by the parties to address fees and costs in cases from the Omnibus Autism Proceedings. See Stipulation at 1 citing Order, *Doggett v. Sec'y of Health and Human Servs.*, No. 03-586V, Dec. 29, 2010.

⁴ 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. 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 of Health and Human Servs.*, 924 F.2d 1029 (Fed. Cir. 1991).

⁵ 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).