

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**  
(E-Filed: November 1, 2007)

ANDREW JOSEPH SAND, a minor,	)	
by his mother and natural guardian,	)	
SHARI SAND	)	No. 99-579V
	)	
Petitioner,	)	<b>UNPUBLISHED</b>
	)	
v.	)	Attorney's Fees and Costs
	)	
SECRETARY OF THE DEPARTMENT OF	)	
HEALTH AND HUMAN SERVICES,	)	
	)	
Respondent.	)	
	)	
	)	

ATTORNEYS' FEES AND COSTS DECISION<sup>1</sup>

Petitioner, Shari Sand (Ms. Sand), as the legal representative of her son and minor child, Andrew Sand,<sup>2</sup> seeks an award under the National Vaccine Injury Compensation

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<sup>1</sup> Vaccine Rule 18(b) states that all of the decisions of the special masters will be made available to the public unless the decisions contain trade secrets or commercial or financial information that is privileged or confidential, or the decisions contain medical or similar information the disclosure of which clearly would constitute an unwarranted invasion of privacy. Within 14 days of the filing of a decision or substantive order with the Clerk of the Court, a party may identify and move for the redaction of privileged or confidential information before the document's public disclosure.

<sup>2</sup> On July 24, 2006, petitioner's counsel moved to amend the case caption to reflect the fact that Andrew Sand had not reached the age of majority. The undersigned granted this motion to amend the case caption on July 24, 2006, however, the caption was not corrected on subsequent filings from the court. Andrew Sand is still a minor, and the caption should reflect this fact.

Program<sup>3</sup> (the Act or the Program). 42 U.S.C. §§ 300aa-1 to -34 (2000 & Supp. II 2003). Ms. Sand filed a Program petition on August 4, 1999. She alleged that “[o]n or about April 1, 1994, and May 1, 1994, Petitioner received hepatitis B vaccinations in the United States and experienced an adverse reaction to these inoculations.” See Petition (Pet.) ¶ 3.

The undersigned monitored the factual and medical development of the petition. On August 24, 2007, counsel for both parties filed a stipulation for voluntary dismissal. See Joint Stipulation for Dismissal (Stipulation), filed August 24, 2007. In the Stipulation, Ms. Sand concedes that “their claim would be more appropriately resolved in a medical malpractice action, unrelated to a vaccine injury.” Stipulation ¶ 3.

On July 21, 2007, counsel for petitioner informally submitted petitioner’s petition for attorney’s fees and costs. Following discussions between counsel and the undersigned, including a status conference, petitioner’s counsel agreed to reduce the attorney’s fees request. On October 11, 2007, counsel for the parties filed an Joint Status Report Regarding Fees and Costs (Fee Stip.) allowing for \$24,833.69 for attorneys’ fees and costs borne by petitioner’s counsel, and \$528.24 for costs borne by petitioner. See Fee Stip., filed October 11, 2007, at 1. The parties stipulated to an award of \$18,638.32 in fees and costs for his current attorney of record, Ms. Anne Toale, Esq. (Ms. Toale). See id. The parties stipulated to an award of \$6,195.37 for his original counsel, Shoemaker and Associates. See id. The parties also stipulated to the award of \$528.24 to petitioner for his personal costs. See id.

The Vaccine Act permits an award of reasonable attorneys’ fees and costs. 42 U.S.C. § 300 aa-15(e). Based on the reasonableness of the parties’ stipulation, the undersigned **GRANTS** the Attorneys’ Fees and Costs request that was filed as a joint status report on October 11, 2007.

The undersigned awards petitioner \$25,361.93 in fees and costs.

Therefore, in the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in petitioner’s favor in the amount of \$25,361.93 in attorneys’ fees and attorneys’ costs and petitioner’s costs.<sup>4</sup> The

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<sup>3</sup> The National Vaccine Injury Compensation Program is set forth in Part 2 of the 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 (2000 & Supp. II 2003) (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.

<sup>4</sup> Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties’ joint filing of notice renouncing the right to seek review.

judgment shall reflect that the Maglio, Christopher & Toale firm may collect \$18,638.32 from petitioner. See Fee Stip. at 1. In addition, the judgment shall reflect that Mr. Shoemaker may collect \$6,195.37 from petitioner. Id. Finally, the judgment shall reflect that petitioner may retain \$528.24 for his out-of-pocket expenses. Id.

**IT IS SO ORDERED.**

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