

# In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 04-642V

Filed: June 22, 2011

BRENDA LEAHY and PETER J. LEAHY,  
as parents of AIDAN LEAHY, a minor,

Petitioners,

v.

SECRETARY OF HEALTH AND HUMAN  
SERVICES

Respondent.

Attorney Fees and Costs

## 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 February 10, 2011, denying compensation and dismissing this case. On or about June 9, 2011, petitioners submitted a draft application for attorney fees and costs to respondent. On June 21, 2011, the parties filed a joint stipulation of facts concerning attorney fees and costs in this matter. Petitioners requested a reimbursement of \$8,782.98, jointly payable to petitioners and petitioners' attorney, Altom M. Maglio, for all attorney fees and costs. Petitioners understand that the payment totaling \$8,782.98 represents all attorney fees and costs available under 42 U.S.C. § 300aa-15(e). The stipulation includes a representation by petitioners' counsel,

---

<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 Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioners have 14 days to identify and move to delete medical or other information, that satisfies the criteria in § 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.

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

that in lieu of filing a Vaccine General Order 9 statement he will reimburse petitioners for any personal litigation costs compensable in the Program. Counsel for respondent does not oppose petitioners' total request for \$8,782.98 for attorney fees and costs.

I find 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 15(e)(1). Further, the proposed amount seems reasonable and appropriate. **Accordingly, I hereby award the total \$8,782.98<sup>3</sup> as a lump sum in the form of a check payable jointly to petitioners, Brenda Leahy and Peter J. Leahy, and petitioners' attorney, Altom M. Maglio.** Petitioners' attorney shall be reimbursed from this award.

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

---

<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. 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).