

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS
No. 99-425V
Filed: June 29, 2010**

LINDA LENAHAAN,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Attorney Fees and Costs;
Joint Stipulation

DECISION ON ATTORNEY FEES AND COSTS¹

Vowell, Special Master:

In this case under the National Vaccine Injury Compensation Program,² I issued a [105] decision awarding compensation to petitioner based on a joint stipulation of the parties on June 28, 2010. On June 29, 2010, petitioner filed her [107] application for attorney fees and costs in this matter. The parties also submitted a [106] stipulation of fact concerning the attorney fees application,³ wherein they agreed to amounts to be awarded for attorney fees, attorney costs, and petitioner's costs.⁴

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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.

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

³ I note that the attorney fees application in this matter was filed one day after the joint stipulation regarding fees. The application requested different amounts than those agreed to in the stipulation. Counsel for both parties confirmed to my law clerk via teleconference on June 29, 2010 that they intended the stipulated amounts to supersede the application request.

⁴ Petitioner also filed a statement on June 29, 2010 pursuant to General Order #9 delineating costs borne by petitioner and costs borne by her counsel.

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 (e)(1). Further, the proposed amounts seem reasonable and appropriate. **Accordingly, I hereby award the total of \$136,800.78⁵ broken down as follows:**

- a lump sum of **\$33,327.16** in the form of a check payable jointly to petitioner, Linda Lenahan, and petitioner's former counsel, Clifford J. Shoemaker, for petitioner's attorney fees and costs;
- a lump sum of **\$102,603.02** in the form of a check payable jointly to petitioner, Linda Lenahan, and petitioner's current counsel, Anne C. Toale, for petitioner's attorney fees and costs;
- a lump sum of **\$870.60** in the form of a check payable to petitioner, Linda Lenahan, for her 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.⁶

IT IS SO ORDERED.

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

⁵ 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).

⁶ 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).