

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS
No. 08-29V
Filed: January 18, 2013**

KARI CUPP, parent of Raegan Cupp,
a minor,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Attorney Fees and Costs.

Ronald Homer, Esq., Boston, MA, for petitioner.
Chrysovalantis Kefalas, Esq., US Dept. of Justice, Washington, DC for respondent.

DECISION ON ATTORNEY FEES AND COSTS¹

Vowell, Special Master:

In this case under the National Vaccine Injury Compensation Program,² Special Master Abell³ issued a ruling on entitlement on June 23, 2009. On June 11, 2012, I issued a damages decision that adopted the terms of respondent's proffer.

On December 12, 2012, petitioner filed her motion for attorney fees and costs. Attached to the motion were the billing and cost records of petitioner's counsel and a statement, pursuant to General Order #9, which noted petitioner incurred no personal litigation costs. Respondent requested and was granted an extension to her response deadline because the parties were engaged in informal discussions regarding petitioner's motion. On January 18, 2013, the parties filed a stipulation for attorney fees

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). 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 This case was reassigned from Special Master Abell to me on March 31, 2010.

and costs. The stipulation indicates that after the informal discussions, petitioner now requests an amended amount to which respondent does not object.

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 amount seems reasonable and appropriate. **Accordingly, I hereby award the total \$114,648.42⁴ in the form of a check payable jointly to petitioner and petitioner's counsel of record, Conway, Homer & Chin-Caplan, P.C., for petitioner's attorney 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/ Denise K. Vowell

Denise K. Vowell
Special Master

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, HHS*, 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).