## IN THE UNITED STATES COURT OF FEDERAL CLAIMS OFFICE OF SPECIAL MASTERS No. 97-0588V Filed: April 7, 2014

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KENDALL P. LUMSDEN, a minor, by his	*	
adoptive mother and natural guardian,	*	
CYNTHIA PETERS-LONGO,	*	
Petitioner,	*	Stipulation; Attorney Fees and Costs
٧.	*	
	*	
SECRETARY OF HEALTH	*	
AND HUMAN SERVICES,	*	
Respondent.	*	
* * * * * * * * * * * * * * * * * * * *		

*Robert J. Krakow, Esq.*, Law Office of Robert J. Krakow, New York, NY for petitioner. *Traci R. Patton, Esq.*, US Department of Justice, Washington, DC for respondent.

## **DECISION ON ATTORNEY FEES AND COSTS<sup>1</sup>**

Vowell, Chief Special Master:

In this case under the National Vaccine Injury Compensation Program,<sup>2</sup> I issued a decision dismissing this petition on September 11, 2013. On April 4, 2014, the parties filed a stipulation for attorney fees and costs. The stipulation indicates that after informal discussions, the parties have agreed on \$24,250.00 in attorneys' fees and costs and \$83.10 in petitioner's costs for a total of \$24,333.10.

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

<sup>&</sup>lt;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 Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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), a party has 14 days to identify and move to delete medical or other information, that satisfies the criteria in 42 U.S.C. § 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>&</sup>lt;sup>2</sup> The applicable statutory provisions defining the program are found at 42 U.S.C. § 300aa-10 *et seq*. (2006).

reasonable and appropriate. Accordingly, I hereby award the total \$24,333.10<sup>3</sup> as follows:

- a lump sum of \$24,250.00 in the form of a check payable jointly to petitioner (Cynthia Peters-Longo) and petitioner's counsel of record (Robert J. Krakow) for petitioner's attorney fees and costs, and
- a lump sum of \$83.10 in the form of a check payable to petitioner, Cynthia Peters-Longo, for her personal litigation costs.

The clerk of the court shall enter judgment in accordance herewith.<sup>4</sup>

## IT IS SO ORDERED.

<u>/s Denise K. Vowell</u> Denise K. Vowell Chief Special Master

<sup>&</sup>lt;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>&</sup>lt;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).