

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: August 10, 2016

***** UNPUBLISHED
THUY NGUYEN, as Parent and Natural *
Guardian of S.N., *
*
Petitioner. * No. 12-479V
*
v. *
* Chief Special Master Dorsey
SECRETARY OF HEALTH *
AND HUMAN SERVICES, *
* Unopposed Motion for Attorneys' Fees
Respondent. * And Costs; Reasonable Amount to Which
* Respondent Does Not Object.
*

Anne C. Toale, Maglio, Christopher & Toale, Sarasota, FL, for petitioner.
Lara Englund, United States Department of Justice, Washington, DC for respondent.

DECISION AWARDING ATTORNEYS' FEES AND COSTS¹

On July 27, 2012, Thuy Nguyen (“petitioner”) filed a petition on behalf of her deceased minor child, S.N., for compensation under the National Vaccine Injury Compensation Program.² Petitioner alleged that as a result of receiving DTaP, Hib, IPV, Prevnar, and Rotavirus vaccinations on April 4, 2011, S.N. suffered from Sudden Infant Death Syndrome (“SIDS”) and passed away on April 5, 2011. Petition at ¶¶ 2, 4. On April 21, 2016, petitioner filed a motion

1 Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 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, the undersigned agrees that the identified material fits within the requirements of that provision, she will delete such material from public access.

2 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 (2006) (“Vaccine Act” or “Act”). All citations in this decision to individual sections of the Act are to 42 U.S.C. § 300aa.

for a decision dismissing the petition. A judgment dismissing the petition was entered on May 31, 2016.

On August 8, 2016, petitioner filed an Unopposed Motion for Attorneys' Fees and Costs. Unopposed Motion ("Pet'r's Mot.") dated August 8, 2016 (ECF No. 71). According to this motion, respondent does not object to a total award of attorneys' fees and costs in the amount of \$61,000.00. Pet'r's Mot. at 1. In accordance with General Order #9, petitioner stated that she did not incur any out-of-pocket expenses related to the litigation.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300aa-15(e). Based on the reasonableness of petitioner's request and respondent's counsel's lack of objection to petitioner's counsel's fee request, the undersigned **GRANTS** petitioner's motion for attorneys' fees and costs.

Accordingly, an award should be made in the form of a check jointly payable to petitioner and petitioner's attorney, Anne Toale, in the amount of \$61,000.00.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of Court **SHALL ENTER JUDGMENT** in accordance with this decision.³

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.