

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 12-829V

Filed: February 23, 2016

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|------------------------------------------|---|---------------------------|
| * * * * * | | UNPUBLISHED |
| CHEYLYNN TADIO <i>and</i> DELTON | * | |
| THOMAS, <i>on behalf of their child,</i> | * | |
| K.T., <i>a minor,</i> | * | |
| | * | Special Master Gowen |
| Petitioners, | * | |
| | * | |
| v. | * | Attorneys' Fees and Costs |
| | * | |
| SECRETARY OF HEALTH | * | |
| AND HUMAN SERVICES, | * | |
| | * | |
| Respondent. | * | |
| | * | |
| * * * * * | | |

Danielle A. Strait, Maglio Christopher and Toale, Washington, DC, for petitioner.

Julia McInerny, United States Department of Justice, Washington, DC, for respondent.

DECISION ON ATTORNEYS' FEES AND COSTS¹

On November 30, 2012, Cheylynn Tadio and Delton Thomas ("petitioners") filed a petition for compensation on behalf of their minor child, K.T., under the National Vaccine Injury Compensation Program, 42 U.S.C. §§ 300aa-10 – 34 (2012)² (the "Vaccine Act" or "the Program"). Petitioners alleged that as a result of receiving an influenza ("flu") vaccination on November 8, 2010, K.T. developed Guillain-Barre Syndrome ("GBS"). Petition at ¶ 11. The parties filed a stipulation awarding compensation to petitioners on May 30, 2014, and a decision

¹ Because this decision contains a reasoned explanation for the undersigned's action in this case, the undersigned intends to post this ruling on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002. 44 U.C.S. § 3501 note (2012)(Federal Management and Promotion of Electronic Government Services). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b).

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 (2012) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

adopting the parties' stipulation was issued the same day. Judgment was entered on June 6, 2014.

On February 23, 2016, the parties filed a Stipulation of Fact concerning attorneys' fees and costs. Petitioners request a total award of attorneys' fees and costs of \$49,197.04. Stip. of Fact ¶ 6. This amount represents: \$35,982.04 in attorneys' fees and attorneys' costs for petitioners' counsel of record, Danielle A. Strait; \$5,000.00 in attorneys' fees for petitioners' former counsel, Kimberly A. Jackson; and \$8,000.00 for petitioners' costs associated with maintaining K.T.'s conservatorship. Id. at ¶ 2-5. Pursuant to General Order #9, petitioners' counsel also represents that petitioners incurred \$215.00 in costs for establishing the conservatorship. Id. at ¶ 3. The parties' stipulation indicates that respondent does not object to the above fees and costs. Id. at ¶ 3-5.

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

Accordingly, an award should be made as follows:

- (1) A lump sum of \$35,982.04 in the form of a check payable jointly to petitioners and petitioners' counsel of record, Danielle A. Strait, for attorneys' fees and costs.**
- (2) A lump sum of \$5,000.00 in the form of a check payable jointly to petitioners and petitioners' former counsel, Kimberly A. Jackson, for past attorneys' fees.**
- (3) A lump sum of \$8,215.00 in the form of a check payable to petitioners for the costs of establishing and maintaining a conservatorship for K.T.**

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance herewith.³

IT IS SO ORDERED.

s/ Thomas L. Gowen
Thomas L. Gowen
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.