

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 14-342V
(Not to be Published)

CASSIE WOLF and RICHARD WOLF,
on behalf of their minor child, R.W.,

Petitioners,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

*

*

*

*

*

*

*

*

*

*

*

*

*

*

Special Master Corcoran

Filed: November 17, 2016

Decision; Attorney's Fees and Costs.

Andrew D. Downing, Van Cott & Talamante, PLLC, Phoenix, AZ, for Petitioners.

Amy Kokot, U.S. Dep't of Justice, Washington, DC, for Respondent.

ATTORNEY'S FEES AND COSTS DECISION¹

On April 24, 2014, Cassie and Richard Wolf filed a petition on behalf of their minor child, R.W., seeking compensation under the National Vaccine Injury Compensation Program ("Vaccine Program").² Petitioners alleged that the influenza ("flu") and the Diphtheria Tetanus acellular Pertussis ("DTaP") vaccines R.W. received on December 12, 2011, precipitated an encephalopathy, which in turn caused language and other developmental impairments. *See* Petition

¹ Because this decision contains a reasoned explanation for my actions in this case, I will post it on the United States Court of Federal Claims website, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 (2012). As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the published decision's inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen 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). Otherwise, the whole decision will be available to the public. *Id.*

² The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) ("Vaccine Act" or "the Act"). Individual section references hereafter will be to § 300aa of the Act (but will omit that statutory prefix).

at 1 (ECF No. 1). The parties agreed that the matter could be decided without an evidentiary hearing, and I did so on September 15, 2016, dismissing the claim. *See* Decision (ECF No. 60).

Petitioners first filed a motion for attorney's fees and costs on October 28, 2016, but before Respondent filed a response, Petitioners filed an amended motion. *See* ECF No. 64. Petitioners request reimbursement of attorney's fees and costs in the combined amount of \$57,000.00. *Id.* at 1. In addition, and in compliance with General Order No. 9, Petitioners represent that they incurred no litigation-related expenses in conjunction with this proceeding. *Id.* at 1. Respondent has represented that she does not object to the sum requested. *See* ECF No. 65 at 1.

I approve the requested amount for attorney's fees and costs as reasonable. Accordingly, an award of \$57,000.00 should be made in the form of a check payable jointly to Petitioners and Petitioners' counsel, Andrew Downing, Esq. Payment of this amount represents all attorney's fees and costs available under 42 U.S.C. § 300aa-15(e). In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the Court **SHALL ENTER JUDGMENT** in accordance with the terms of Petitioner's motion.³

IT IS SO ORDERED.

/s/ Brian H. Corcoran
Brian H. Corcoran
Special Master

³ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by each filing (either jointly or separately) a notice renouncing their right to seek review.