

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-630V

Filed: September 9, 2016

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WENDY EARLY *on behalf of Minor Child*,  
C.B.,

Petitioners,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

\* \* \* \* \*

UNPUBLISHED

Special Master Gowen

Attorneys' Fees and Costs.

Larry D. Wright, Criterion Law, LLC, Kansas City, MO, for petitioner.

Debra A. Filteau Begley, United States Department of Justice, Washington, DC, for respondent.

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

On June 19, 2015, Wendy Early ("petitioner") filed a petition on behalf of her minor child, C.B., pursuant to the National Vaccine Injury Compensation Program.<sup>2</sup> 42 U.S.C. §§ 300aa-1 to 34 (2012). Petitioner alleged that a Gardasil vaccination received on June 20, 2012, caused C.B. to suffer irregular heart rate and syncope, adrenal gland insufficiency, autonomic dysfunction, chronic nausea, hand and foot tremors, hand discoloration, anxiety, headaches, and depression. Petition at Preamble. Petitioner moved for a decision dismissing the petition on May 23, 2016, and the undersigned issued a Decision dismissing the petition for insufficient proof that same day.

<sup>1</sup> 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.S.C. § 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).

<sup>2</sup> 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.

On September 6, 2016, petitioners filed an unopposed motion for attorneys' fees and costs, requesting \$9,000.00 in attorneys' fees and costs. Pet. Mot. at 1. Pursuant to General Order #9, petitioner states that she did not incur any costs related to the litigation of this matter. See Petitioner's Statement Regarding Fees and Costs, filed Sept. 6, 2016. Petitioner's application states that respondent does not object to the amount requested, as petitioner's counsel and respondent "discussed Respondent's objections and agreed on an amount of \$9,000.00 as and for [petitioner's attorneys'] fees and costs." Pet. Mot. at 2.

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

An award should be made as follows:

- (1) **A lump sum of \$9,000.00, payable jointly to petitioner and petitioner's counsel, Criterion Law, LLC, for attorneys' fees and costs.**

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.<sup>3</sup>

**IT IS SO ORDERED.**

**s/ Thomas L. Gowen**  
Thomas L. Gowen  
Special Master

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