

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 09-170V

(E-Filed: October 2, 2014)

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SCOTT A. O'BRIEN and LYNN M. O'BRIEN,\*  
as Parents and Legal Representatives of their  
minor son, D.W.O.,

Petitioners,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

\* \* \* \* \*

UNPUBLISHED

Special Master  
Hamilton-Fieldman

Decision on Attorneys' Fees  
and Costs; Reasonable Amount  
Requested to Which Respondent  
Does Not Object.

Ramon Rodriguez III, Rawls, McNelis & Mitchell, Richmond, VA, for Petitioners.  
Voris E. Johnson, U.S. Department of Justice, Washington, DC, for Respondent.

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

In this case under the National Vaccine Injury Compensation Program,<sup>2</sup> Petitioners, Scott and Lynn O'Brien, filed a petition on behalf of their minor child,

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<sup>1</sup> The undersigned intends to post this unpublished decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub.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)). 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 trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy." Otherwise, "the entire" decision will be available to the public. *Id.*

<sup>2</sup> The applicable statutory provisions defining the program are found at 42 U.S.C. § 300aa-10 *et seq.* (2006).

D.W.O.<sup>3</sup>, on March 23, 2009. The undersigned issued a decision on September 25, 2013 finding that Petitioners were entitled to compensation. On October 1, 2014, the parties filed a Stipulation for Attorneys' Fees and Costs. This stipulation requests a total payment of \$113,154.56, representing total attorneys' fees and costs and Petitioner's expenses, pursuant to General Order #9.

The undersigned finds 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 reasonable and appropriate. **Accordingly, the undersigned hereby awards the amount of \$106,500.00, in the form of a check made payable jointly to Petitioners and Petitioners' counsel, Ramon Rodriguez III, Esq. The undersigned also awards the amount of \$6,654.56, in the form of a check made payable solely to Petitioners, Scott A. O'Brien and Lynn M. O'Brien.**

In the absence of a timely-filed motion for review filed pursuant to Appendix B of the Rules of the U.S. Court of Federal Claims, the clerk of the court shall enter judgment in accordance herewith.

**IT IS SO ORDERED.**

s/Lisa D. Hamilton-Fieldman  
Lisa D. Hamilton-Fieldman  
Special Master

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<sup>3</sup> Since the Decision was originally issued, the caption has been changed to reflect the minor's initials rather than his whole name. Order, ECF No. 70.