

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 11-50V

Filed: January 5, 2015

* * * * *		UNPUBLISHED
NICOLE BROWN <i>and</i>	*	
DOMAH BROWN <i>as parents and natural</i>	*	
<i>guardians of A.B., a minor</i>	*	
	*	Special Master Gowen
Petitioners,	*	
	*	Joint Stipulation;
v.	*	Attorneys' Fees and Costs;
	*	
SECRETARY OF HEALTH	*	
AND HUMAN SERVICES,	*	
	*	
Respondent.	*	
	*	
* * * * *		

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

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

On January 18, 2011, Nicole Brown and Domah Brown (“petitioners”) filed a petition pursuant to the National Vaccine Injury Compensation Program<sup>2</sup> on behalf of their minor son, A.B. 42 U.S.C. §§ 300aa-1 to -34 (2006). Petitioners alleged that as a result of receiving DTaP, Hib, pneumococcal and MMR vaccines on or about January 16, 2008, A.B. suffered a

<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, 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 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 (2006) (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.

Streptococcal A infection, Streptococcal toxic shock syndrome, and multi-organ system failure. Stipulation for Compensation at ¶¶ 2, 4, filed Sept. 25, 2014. On September 25, 2014, the parties filed a stipulation in which they agreed to an award of compensation. On September 26, 2014, the undersigned issued a Decision adopting the parties' stipulation for an award. See Decision on J. Stip., filed Sept. 26, 2014.

On January 2, 2015, the parties filed a stipulation concerning attorneys' fees and costs. Petitioners request a total award of attorneys' fees and costs in the amount of \$79,000.00. This amount includes final attorneys' fees and costs for petitioners' former counsel, The Law Office of Lesley Zork. Stipulation for Fees and Costs at ¶¶ 3, 4. Petitioners indicate that they are responsible for making the appropriate distribution to former counsel. Id. Respondent does not object to petitioners' request. Id. at ¶ 6. In accordance with General Order #9, petitioners' counsel represents that petitioners did not personally incur costs in pursuit of this claim. Id. at ¶ 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 the parties' request, the undersigned **GRANTS** the request for approval and payment of attorneys' fees and costs.

Accordingly, an award should be made as follows:

(1) in the form of a check jointly payable to petitioners and to petitioners' attorney, Anne C. Toale, of Maglio Christopher & Toale, PA, in the amount of \$79,000.00.

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.