

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

(Filed: January 28, 2008)

DO NOT PUBLISH

NANCY M. AGOSTA,)	
)	
Petitioner,)	
)	
v.)	No. 05-0598V
)	Attorney's Fees; Attorney's Costs;
SECRETARY OF)	Personal Expenses; Stipulation of
HEALTH AND HUMAN SERVICES,)	Fact
)	
Respondent.)	

DECISION ON ATTORNEY'S FEES, ATTORNEY'S COSTS AND PERSONAL EXPENSES¹

Petitioner, Nancy M. Agosta (Ms. Agosta), seeks an award of attorney's fees, attorney's costs and personal expenses as defined by General Order No. 9 for an action that she pursued under the National Vaccine Injury Compensation Program (Program).² Ms. Agosta did not receive Program compensation. Nevertheless, the statute enacting the Program accords discretion to the special master to "award an amount of compensation to cover" Ms. Agosta's "reasonable attorneys' fees and other costs" as long as "the special master or court determines that" Ms. Agosta possessed "a reasonable basis for the claim" and that Ms. Agosta filed the petition "in good faith." § 300aa-15(e)(1); see, e.g., *Di Roma v. Secretary of HHS*, 1993 WL 496981 (Fed. Cl. Spec. Mstr. Nov. 18, 1993).

¹ 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." Vaccine Rule 18(b). Otherwise, "the entire decision" will be available to the public. *Id.*

² The statutory provisions governing the Vaccine Program are found in 42 U.S.C. §§ 300aa-10 *et seq.* For convenience, further reference will be to the relevant section of 42 U.S.C.

The parties stipulate as a matter of fact now that the sum of \$55,008.93 represents a reasonable award for attorney's fees, attorney's costs and personal expenses as defined by General Order No. 9 in this case. *See* Stipulation of Fact Concerning Attorney's Fees and Costs (Stipulation of Fact), filed January 25, 2008, ¶¶ 3-5.³ The special master has considered carefully the parties' Stipulation of Fact. Based upon his experience, the special master determines that the Stipulation of Fact is appropriate. Therefore, in the absence of a motion for review filed under RCFC Appendix B, the clerk of court shall enter judgment in Ms. Agosta's favor for \$55,008.93 in attorney's fees, attorney's costs and personal expenses as defined by General Order No. 9. The judgment shall provide that Ms. Agosta's attorney of record, Andrew W. Dodd, Esq. (Mr. Dodd), may collect \$48,633.38 from Ms. Agosta.⁴ Under Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing the right to seek review.

The clerk of court shall send Ms. Agosta's copy of this decision to Ms. Agosta by overnight express delivery.

John F. Edwards
Special Master

³ \$48,633.38 + \$6,375.55. *See* Stipulation of Fact ¶¶ 3-4.

⁴ \$55,008.93 - \$6,375.55 for Ms. Agosta's personal expenses as defined by General Order No. 9. *See* Stipulation of Fact ¶¶ 3-4.