

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

E-Filed: August 27, 2012

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ADEENA SANTIAGO and
ERICK SANTIAGO, SR., as the
Natural Parents of ERICK
SANTIAGO, JR., Decedent,

Petitioners,

v.

SECRETARY OF
HEALTH AND HUMAN SERVICES,

Respondent.

* * * * *

UNPUBLISHED

No. 11-342V

Chief Special Master
Campbell-Smith

Award of Attorneys’ Fees
and Costs; Amount to Which
Respondent Does Not Object.

Mark T. Sadaka, Sadaka Associates, LLC, Englewood, NJ, for petitioners.
Lisa A. Watts, U.S. Dep’t of Justice, Washington, DC, for respondent.

ATTORNEYS’ FEES AND COSTS DECISION¹

On May 26, 2011, Adeena and Erick Santiago (“petitioners”) filed a petition on behalf of their deceased son, Eric Santiago, Jr. (“Erick”), seeking compensation under the

¹ Because this decision contains a reasoned explanation for the undersigned’s action in this case, the undersigned intends to post this 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 (Dec. 17, 2002). 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). Otherwise, “the entire” decision will be available to the public. Id.

National Vaccine Injury Compensation Program (“Vaccine Program”).² Petitioners filed an amended petition on April 11, 2012.

Petitioners allege that the measles-mumps-rubella (“MMR”) and varicella vaccines administered to Erick on November 20, 2008, and the diphtheria-tetanus-acellular-pertussis (“DTap”) and pneumococcal conjugate (“PCV7”) vaccines administered to Erick on May 21, 2009, exacerbated his pre-existing reactive airway disease and asthma, resulting in, or substantially contributing to, his death on May 29, 2009. Pet. at 1; Am. Pet. at 1.

On July 19, 2012, the undersigned issued a decision, based on the parties’ stipulation to damages. See Decision Awarding Damages.

Thereafter, petitioners informally provided respondent with their initial application for attorneys’ fees and costs. See Stip. of Fact Concerning Attorneys’ Fees and Costs at ¶ 2.

On August 27, 2012, the parties filed a stipulation of facts concerning attorneys’ fees and costs, to which the parties had agreed during informal discussions.³ Id. at ¶ 3. The parties stipulated that a decision should be entered awarding petitioners reimbursement of attorneys’ fees and costs in the total amount of **\$14,837.68**. Id. at ¶ 5.

The Vaccine Act permits an award of reasonable attorneys’ fees and costs. § 15(e). Based on the reasonableness of petitioners’ request and respondent’s lack of objection to petitioners’ request, the undersigned **GRANTS** the parties’ stipulation of facts for attorneys’ fees and costs.

² 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 “Act”). All citations in this decision to individual sections of the Act are to 42 U.S.C.A. § 300aa.

³ During informal discussions, petitioners agreed to amend the requested amount for attorneys’ fees and costs, to which respondent would not object. Stip. of Fact Concerning Attorneys’ Fees and Costs at ¶ 3.

The undersigned awards a total of **\$14,837.68** in attorneys' fees and costs.⁴ Stip. of Fact Concerning Attorneys' Fees and Costs at ¶ 5. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in petitioners' favor in the amount of **\$14,837.68** for attorneys' fees and costs.⁵

The judgment shall reflect that **Sadaka Associates, LLC** may collect **\$14,837.68** from petitioners.

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Chief Special Master

⁴ This award is intended to cover all legal expenses incurred in this matter and contemplates **attorneys' fees** in the amount of **\$13,344.37** and **attorneys' costs** in the amount of **\$1,493.31**, payable jointly to petitioners and petitioners' attorney of record. Id.

Petitioners had no reimbursable out-of-pocket expenses pursuant to General Order No. 9. Id. at ¶ 4.

⁵ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

ADEENA SANTIAGO and ERICK)	
SANTIAGO, SR., as the Natural Parents of)	<u>ECF</u>
ERICK SANTIAGO, JR., Decedent,)	
)	
Petitioner,)	
v.)	No. 11-342V
)	Chief Special Master
SECRETARY OF HEALTH)	Patricia Campbell-Smith
AND HUMAN SERVICES,)	
)	
Respondent.)	

STIPULATION OF FACT CONCERNING ATTORNEY'S FEES AND COSTS

It is hereby stipulated by and between the parties, the following factual matters:

1. Mark T. Sadaka, Esq., MSPH, is the attorney of record for petitioners in this case. He has been practicing law since 2004, in the areas of complex litigation, consumer protection, medical device and pharmaceutical litigation, product liability, and toxic tort.
2. Petitioners informally shared their initial Attorney's Fees and Costs Application with respondent in August 2012.
3. In informal discussions, respondent raised objections to certain items in petitioners' initial application. Based on these discussions, petitioners amended their Application for Attorney's Fees and Costs in this matter to request reimbursement for Attorney's Fees in the amount of \$13,344.37, and Costs in the amount of \$1,493.31.
4. A GO #9 statement will be filed by petitioners confirming that no costs were paid by them in this action.
5. The parties now agree that a decision should be entered awarding petitioners reimbursement of Attorney's Fees and Costs in the total amount of \$14,837.68, as described in paragraph 3 of this stipulation.
6. This Stipulation does not represent an agreement by respondent to the hourly rates of the professionals who worked on this matter, nor a waiver of any objections that respondent may bring in other cases.

Respectfully submitted,

ATTORNEY OF RECORD FOR
PETITIONERS:

s/Mark T. Sadaka
MARK T. SADAKA, ESQ.
LAW OFFICES OF SADAKA ASSOCIATES
20 North Van Brunt Street, Ste. 4
Englewood, NJ 07631
Tel: (201) 266-5670

Dated: August 27, 2012

ATTORNEY OF RECORD FOR
RESPONDENT:

s/Lisa A. Watts
LISA A. WATTS
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Dated: August 27, 2012