

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-160V

Filed: March 4, 2015

* * * * *		UNPUBLISHED
LYNN BAYLESS, on behalf of STEVEN	*	
BAYLESS, as his successor in interest,	*	
	*	Special Master Hamilton-Fieldman
Petitioner,	*	
	*	Attorneys' Fees and Costs;
v.	*	Reasonable Amount Requested To
	*	Which Respondent Does Not Object.
SECRETARY OF HEALTH	*	
AND HUMAN SERVICES,	*	
	*	
Respondent.	*	
* * * * *		

Andrew Downing, Van Cott & Talamante, PLLC, Phoenix, AZ, for Petitioner.
Gordon Shemin, United States Department of Justice, Washington, D.C., for Respondent.

DECISION¹

On February 28, 2014, Steven Bayless² filed a petition pursuant to the National Vaccine Injury Compensation Program.³ 42 U.S.C. §§ 300aa-1 to -34 (2006). Mr. Bayless alleged that,

¹ 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).

² Mr. Bayless passed away during the pendency of the case. The case caption was subsequently amended to reflect the fact that his widow, Lynn Bayless (hereinafter "Petitioner"), would be continuing his claim as his successor in interest. See Order, filed June 11, 2014.

³ 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.

as a result of the administration of a tetanus-diphtheria-pertussis (“Tdap”) vaccine on July 2, 2012, he suffered from lymphomatoid granulomatosis. The petition was later amended to reflect acute demyelinating polyneuropathy as Mr. Bayless’ alleged injury. See Amended Petition, filed September 19, 2014.

On March 4, 2015, the undersigned issued a decision awarding compensation to Petitioner.

On March 3, 2015, the parties filed a stipulation regarding attorneys’ fees and costs. The parties have agreed to an award of \$28,769.87 for attorneys’ fees and costs. In accordance with General Order Number 9, Petitioner represents that she has not personally incurred any expenses in pursuit of her claim.

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 \$12,110.34, in the form of a check made payable jointly to Petitioner and Petitioner’s counsel, Andrew Downing, of the law firm of Hennelly & Steadman PLC; and \$16,659.53, in the form of a check made payable jointly to Petitioner and Petitioner’s counsel, Andrew Downing, of the law firm of Van Cott & Talamante, PLLC.**

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties’ stipulation.⁴

IT IS SO ORDERED.

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

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties’ joint filing of notice renouncing the right to seek review.