

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-274V

Filed: September 27, 2016

WYNETTE ARIAS,

*

UNPUBLISHED

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Petitioner,

*

v.

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

Attorneys' Fees and Costs;

*

Reasonable Amount to Which

*

Respondent Does Not Object

*

Respondent.

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Ronald C. Homer, Conway, Homer & Chin-Caplan, P.C., Boston, MA, for petitioner.

Althea Davis, U.S. Department of Justice, Washington, DC, for respondent.

DECISION ON ATTORNEYS' FEES AND COSTS¹

Roth, Special Master:

On April 9, 2014, Wynette Arias ("Ms. Arias" or "petitioner") filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the "Vaccine Act"). Petitioner alleged that she developed lichenoid lesions after receiving a Hepatitis B vaccine on July 29, 2011. *See generally* Petition ("Pet."), ECF No. 1. On October 3, 2014, respondent filed a Rule 4(c) Report ("Resp. Rpt."), stating that petitioner had demonstrated insufficient proof of injury to warrant entitlement. Resp. Rpt. ECF No. 19. Nevertheless, the parties agreed to settle this case. Respondent filed a stipulation of settlement on February 15, 2016. Stipulation, ECF No. 47. Accordingly, on February 18, 2016, the undersigned issued a decision approving the settlement. Decision, ECF No. 48.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

Petitioner now seeks an award of attorney's fees and costs in the amount of \$26,565.69, pursuant to Section 15(e) of the Vaccine Act. Motion for Attorney's Fees ("Motion for Fees"), ECF No. 53. In accordance with General Order #9, petitioner has filed a signed statement indicating petitioner incurred \$257.10 in out-of-pocket expenses. Notice, ECF No. 54. Respondent filed a response to the petitioner's motion for fees on September 19, 2016. Response to Motion for Attorney's Fees ("Response"), ECF No. 55. Respondent made no specific objections to petitioner's fee application, and stated that the amount of fees and costs sought was "not an unreasonable amount to have been incurred." Response at 1. After careful consideration, the undersigned has determined to grant the request in full for the reasons set forth below.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. § 15(e). Based on the reasonableness of petitioner's request and the lack of opposition from respondent, the undersigned **GRANTS** petitioner's motion for attorneys' fees and costs.

Accordingly, the undersigned awards the total of \$26,565.69³ as follows:

- **A lump sum of \$257.10 in the form of a check payable solely to petitioner, Wynette Arias; and**
- **A lump sum of \$26,308.59 in the form of a check jointly payable to petitioner and petitioner's counsel, Ronald Homer.**

The clerk of the court shall enter judgment in accordance herewith.⁴

IT IS SO ORDERED.

s/Mindy Michaels Roth

Mindy Michaels Roth
Special Master

³ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, § 15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See generally *Beck v. Sec'y of Health & Human Servs.*, 924 F.2d 1029 (Fed. Cir.1991).

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