

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: July 11, 2018

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CONCHITA DEL MUNDO, M.D.,

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No. 15-590V

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Petitioner,

*

Special Master Sanders

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v.

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

Attorneys' Fees and Costs;

*

Reasonable Amount Requested

*

Respondent.

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* * * * *

William E. Cochran, Jr., Black McLaren, et al., PC, Memphis, TN, for Petitioner.

Adriana R. Teitel, United States Department of Justice, Washington, DC, for Respondent.

DECISION¹

On June 10, 2015, Conchita Del Mundo ("Petitioner") filed a petition for compensation pursuant to the National Vaccine Injury Compensation Program.² 42 U.S.C. §§ 300aa-10 to -34 (2012). Petitioner alleged that as a result of an Influenza ("flu") vaccine administered on November 7, 2012, and a Hepatitis A ("Hep A") vaccine administered on January 9, 2013, she suffered from transverse myelitis ("TM") and neuromyelitis optica ("NMO"). ECF No. 47. On October 10, 2017, the undersigned issued a decision awarding Petitioner compensation pursuant to the parties' stipulation. *Id.*

On February 23, 2018, Petitioner submitted an application for attorneys' fees and costs. ECF No. 52. Petitioner requested \$80,661.80 in attorneys' fees and \$22,600.92 in costs, for a total of \$103,262.72. *Id.* at 10-11. Respondent submitted a Response to Petitioner's motion on March 9, 2018. ECF No. 53. Respondent indicated that "[t]o the extent the Special Master is

¹ This decision shall be posted 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), a party has 14 days to identify and move to delete medical or other information that satisfies the criteria in § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, the undersigned agrees that the identified material fits within the requirements of that provision, such material will be deleted from public access.

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-10 et seq. (hereinafter "Vaccine Act," "the Act," or "the Program"). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

treating [P]etitioner's request for attorneys' fees and costs as a motion that requires a response from [R]espondent[.]. . . Respondent is satisfied the statutory requirements for an award of attorneys' fees and costs are met in this case." *Id.* at 2. Respondent requested for the undersigned to exercise her discretion and determine a reasonable award for attorneys' fees and costs. *Id.* at 3. Petitioner did not submit a Reply. *See* Docket Rep.

The undersigned has reviewed the detailed records of time and expenses of Petitioner's counsel and finds that they are reasonable.³ In accordance with the Vaccine Act, § 15(e), the undersigned finds that Petitioner is entitled to attorneys' fees and costs. **Accordingly, the undersigned hereby awards the amount of \$103,262.72,⁴ in the form of a check made payable jointly to Petitioner and Petitioner's counsel, William E. Cochran, Jr., of Black McLaren, et al., PC.** 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.⁵

IT IS SO ORDERED.

s/Herbrina D. Sanders
Herbrina D. Sanders
Special Master

³ The undersigned does not address the reasonableness of Petitioner's requested rate for work performed by Mr. Chris J. Webb in 2018. Mr. Webb's requested rate for 2018 is higher than that awarded by other special masters in the Program. *Booth v. Sec'y of Health & Human Servs.*, No. 17-0246V, 2018 U.S. Claims LEXIS 547, at *3-4 (Fed. Cl. Spec. Mstr. Mar. 7, 2018). However, Mr. Webb recorded no work for 2018 in the present case.

⁴ 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).

⁵ Entry of judgment can be expedited by each party's filing of a notice renouncing the right to seek review. Vaccine Rule 11(a).