

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-662V

Filed: June 13, 2016

Not for Publication

SARAH DAVIS,

*

*

Petitioner,

*

*

Attorneys' fees and costs decision;

v.

*

respondent does not object

*

SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

*

*

Respondent.

*

*

Anne Carrión Toale, Sarasota, FL, for petitioner.

Adriana R. Teitel, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION AWARDING ATTORNEYS' FEES AND COSTS¹

On June 24, 2015, petitioner filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. §§ 300aa-10–34 (2012) (“Vaccine Act”) alleging that her receipt of the Menactra vaccine on June 20, 2012 caused her to develop an altered mental state. Pet. at ¶ 3. On April 28, 2016, the undersigned issued an Order Concluding Proceedings.

On June 13, 2016, petitioner filed an unopposed motion for attorneys' fees and costs. Petitioner requests a total of \$19,850.00 in attorneys' fees and costs. In compliance with General Order #9, petitioner's counsel filed a signed statement from petitioner saying that petitioner incurred \$133.75 in costs in litigating this case.

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this unpublished decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 note (2012) (Federal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). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to redact such information prior to the document's disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall redact such material from public access.

The Vaccine Act permits an award of “reasonable attorneys’ fees” and “other costs.” 42 U.S.C. § 300aa-15(e)(1). It is not necessary for a petitioner to prevail in the case-in-chief in order to receive a fee award as long as petitioner brought the claim in “good faith and there was a reasonable basis for the claim.” Id. Based on the reasonableness of petitioner’s request and the lack of opposition, the undersigned **GRANTS** petitioner’s application for attorneys’ fees and costs.

Accordingly, the undersigned awards \$19,850.00, as a lump sum in the form of a check payable jointly to petitioner and Maglio Christopher & Toale, PA. **She also awards \$133.75** as a lump sum in the form of a check payable solely to petitioner.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.²

IT IS SO ORDERED.

Dated: June 13, 2016

s/ Laura D. Millman
Laura D. Millman
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party, either separately or jointly, filing a notice renouncing the right to seek review.