

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-697V

(Not to be published)

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KENDALL REICHERT,

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Petitioner,

\*

Special Master Corcoran

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Dated: December 4, 2018

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v.

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Attorney's Fees and Costs.

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SECRETARY OF HEALTH AND  
HUMAN SERVICES,

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Respondent.

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*Michael G. McLaren*, Black McLaren Jones Ryland & Griffie, P.C., Memphis, TN, for  
Petitioner.

*David G. Cutler*, U.S. Dep't of Justice, Washington, DC, for Respondent.

### **DECISION GRANTING FINAL AWARD OF ATTORNEYS' FEES AND COSTS<sup>1</sup>**

On June 14, 2016, Kendall Reichert filed a petition seeking compensation under the National Vaccine Injury Compensation Program ("Vaccine Program")<sup>2</sup> alleging that he suffered from Guillain-Barre Syndrome ("GBS") as a result of receiving the influenza ("flu") vaccine on October 22, 2014. I held an entitlement hearing on April 6, 2018, in Washington, DC, and denied entitlement in a decision dated August 2, 2018 (ECF No. 56), with the matter subsequently being

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<sup>1</sup> Although this Decision has been formally designated "not to be published," it will nevertheless be posted on the Court of Federal Claims' website in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 (2012)). **This means that the Decision will be available to anyone with access to the internet.** As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the Decision's inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen 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 whole Decision will be available to the public. *Id.*

<sup>2</sup> The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) [hereinafter "Vaccine Act" or "the Act"]. Individual section references hereafter will be to § 300aa of the Act (but will omit that statutory prefix).

dismissed by judgment on August 28, 2018 (ECF No. 59).

Petitioner previously received an interim award of attorney's fees and costs in the total amount of \$92,204.76. *See* Decision, dated June 20, 2018 (ECF No. 54); Judgment, dated July 23, 2018 (ECF No. 55). Petitioner has now filed a request for a final award of fees and costs, in the total sum of \$4,412.99 (reflecting \$4,371.50 in attorney's fees, plus \$41.49 in costs). *See* Motion, dated October 29, 2018 (ECF No. 62). Petitioner specifically requests reimbursement for attorney work performed between June 2018 and October 2018, and includes work performed in the preparation of the final fee application. *Id.* at Ex. 2. Respondent reacted to the motion the same day it was filed, representing that the statutory and other legal requirements for an award of attorneys' fees and costs had been met, and otherwise deferring the calculation of a reasonable final award to my discretion. *See generally* ECF No. 63.

The requested fees and costs seem reasonable overall in terms of the work performed, and the rates requested are consistent with those awarded in my interim fees decision. Accordingly, in the exercise of the discretion afforded to me in determining the propriety of interim fees awards, and based on the foregoing, I **GRANT** Petitioner's Motion, and award a total of **\$4,412.99** in fees and costs as a lump sum in the form of a check jointly payable to Petitioner and Petitioner's counsel, Mr. Michael G. McLaren.

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 this decision.<sup>3</sup>

**IT IS SO ORDERED.**

s/ Brian H. Corcoran  
Brian H. Corcoran  
Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment if (jointly or separately) they file notices renouncing their right to seek review.