

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-1943V

(not to be published)

OPAL WALTZ,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 13, 2020

Special Processing Unit (SPU);
Attorney's Fees and Costs

*Isaiah Richard Kalinowski, Maglio Christopher & Toale, PA, Washington, DC, for
Petitioner.*

*Daniel Anthony Principato, U.S. Department of Justice, Washington, DC, for
Respondent.*

DECISION ON ATTORNEYS' FEES AND COSTS¹

On December 14, 2017, Opal Waltz filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the "Vaccine Act"). On February 11, 2020, the case was dismissed by the parties' joint stipulation. (ECF No. 55). The same day an order concluding proceedings was filed and the case was dismissed without prejudice. (ECF No. 56).

¹ Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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). **This means the Decision will be available to anyone with access to the internet.** 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, I agree that the identified material fits within this definition, I 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).

On February 7, 2020, petitioner filed an unopposed motion for attorneys' fees and costs. (ECF No. 54).³ Petitioner requests attorneys' fees in the amount of \$31,073.20 and attorneys' costs in the amount of \$1,089.87. (*Id.* at 2). In compliance with General Order #9, petitioner filed a signed statement indicating that petitioner incurred no out-of-pocket expenses. Thus, the total amount requested is \$32,163.07.

In light of all the facts and circumstances of this case, particularly including the history of expedited resolution within the Special Processing Unit, and mindful of respondent's response to the instant application, the undersigned finds upon review of the submitted billing records and based on the undersigned's experience evaluating fee applications in similar Vaccine Act claims that the overall amount sought for attorneys' fees and costs is reasonable. Thus, especially in the absence of any particularized objection from respondent, further analysis is not warranted. Special Masters have "wide latitude in determining the reasonableness of both attorneys' fees and costs." *Hines v. Health & Human Servs.*, 22 Cl. Ct. 750, 753 (Fed. Cl. 1991). Moreover, Special Masters are entitled to rely on their own experience and understanding of the issues raised. *Wasson v. Health & Human Servs.*, 24 Cl. Ct. 482, 483 (Fed. Cl. 1991) *aff'd in relevant part*, 988 F.2d 131 (Fed.Cir.1993) (per curiam). *J.B. v. Health & Human Servs.*, No. 15-67V, 2016 WL 4046871 (Fed. Cl. Spec. Mstr. July 8, 2016) (addressing attorneys' fees and costs in the context of a history of attorneys' fees and costs awards in over 300 similarly situated SPU cases.)

The Vaccine Act permits an award of reasonable attorney's fees and costs. § 15(e). Accordingly, I hereby GRANT Petitioner's Unopposed Motion for attorney's fees and costs. I award a total of **\$32,163.07** (representing \$31,073.20 in fees and \$1,089.87 in costs) as a lump sum in the form of a check jointly payable to Petitioner and Petitioner's counsel.⁴ In the absence of a timely-filed motion for review (see Appendix B to the Rules of the Court), the Clerk shall enter judgment in accordance with this decision.⁵

³ The motion was filed as an unopposed motion and specifically states that respondent has no objection to Petitioner's request. (ECF No. 54).

⁴ Petitioner requests payment be forwarded to Maglio Christopher & Toale, PA, 1605 Main Street, Suite 710, Sarasota Florida 34236.

⁵ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing their right to seek review.

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran

Chief Special Master