

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 21-500V

CODY M. GREENER,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: June 6, 2024

David Alexander Tierney, Rawls Law Group (Richmond), Richmond, VA, for Petitioner.

Joseph Adam Lewis, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION ON ATTORNEY'S FEES AND COSTS¹

On January 11, 2021, Cody M. Greener 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 he suffered a shoulder injury related to vaccine administration resulting from his vaccination with tetanus, diphtheria, and acellular pertussis vaccine administered to him on November 7, 2019. Petition, ECF No. 1. On January 31, 2024, I issued a decision awarding compensation to Petitioner based on the parties' stipulation. ECF No. 34.

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (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 section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

Petitioner has now filed a motion for attorney's fees and costs, requesting an award of \$14,268.86 (representing \$13,460.39 in fees plus \$808.47 in costs). Application for Fees and Costs ("Motion") filed Feb. 19, 2024, ECF No. 39. Furthermore, Petitioner filed a signed statement representing that Petitioner incurred no personal out-of-pocket expenses. ECF No. 39-3.

Respondent reacted to the motion on Feb. 26, 2024, reporting that he is satisfied that the statutory requirements for an award of attorney's fees and costs are met in this case, but deferring resolution of the amount to be awarded to my discretion. Respondent's Response to Motion at 2-3, ECF No. 40. Petitioner filed a reply asserting the request for fees and costs as indicated in the Motion. ECF No. 41.

The rates requested for work performed through the end of 2023 are reasonable and consistent with our prior determinations and will therefore be adopted. Petitioner has also requested the hourly rate of \$328 for 2024 work performed by attorney David Tierney, representing a rate increase of \$19. Motion at 3. I find the requested hourly rate to be reasonable and will award the attorney's fees requested.

For paralegal work, Petitioner requests \$198 per hour for time billed in 2024. Motion at 3. This rate exceeds the Vaccine Program's published range for paralegals by \$1.00, for the requested year and therefore requires adjustment.³ I shall instead compensate all paralegal work performed in 2024 at the rate of \$197, in accordance with the Program's published range for this year. This reduces the amount of fees to be awarded by **\$4.10**.⁴ Otherwise, all time billed to the matter was reasonably incurred.

Furthermore, Petitioner has provided supporting documentation for all claimed costs. ECF No. 39-2. Respondent offered no specific objection to the rates or amounts sought. I find the requested costs to be reasonable and shall award them in full.

The Vaccine Act permits an award of reasonable attorney's fees and costs for successful claimants. Section 15(e). Accordingly, I hereby GRANT in part, Petitioner's Motion for attorney's fees and costs. I award a total of **\$14,264.76 (representing \$13,456.29 in fees plus \$808.47 in costs) as a lump sum in the form of a check jointly payable to Petitioner and Petitioner's counsel, David A. Tierney.** In the

³ The OSM Attorneys' Forum Hourly Rate Schedules are available on the U.S. Court of Federal Claims website at <http://www.cofc.uscourts.gov/node/2914>

⁴ This amount is calculated as follows: $(\$198 - \$197) \times 4.1 \text{ hrs} = \4.10 .

absence of a timely-filed motion for review (see Appendix B to the Rules of the Court), the Clerk of Court shall enter judgment in accordance with this Decision.⁵

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

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.