

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
E-filed: June 20, 2012

* * * * *	*	
KELSEY KRAUSE, by and through next friend, DAVID KRAUSE,	*	UNPUBLISHED
Petitioner,	*	No. 01-93V
v.	*	Chief Special Master Campbell-Smith
SECRETARY OF HEALTH AND HUMAN SERVICES,	*	Attorneys' Fees and Costs; MMR Vaccine; Autism
Respondent.	*	
* * * * *	*	

Terry J. Torline, Wichita, KS, for petitioner
Traci R. Patton, United States Department of Justice, for respondent

DECISION AWARDING ATTORNEYS' FEES AND COSTS¹

Campbell-Smith, Chief Special Master

On February 22, 2001, David Krause filed a Petition for Vaccine Compensation in the National Vaccine Injury Compensation Program [the

¹ Because this decision contains a reasoned explanation for the undersigned's action in this case, the undersigned intends to post this ruling on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (Dec. 17, 2002). As provided by Vaccine Rule 18(b), each party has 14 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).

Program],² on behalf of his daughter, Kelsey Krause [Kelsey].³ Petitioner alleged that a Measles, Mumps, and Rubella [MMR] vaccine, received on February 23, 1998, caused Kelsey's "mild" autistic disorder. Petition; Petitioner's Exhibit 4 [Pet. Ex.].

I. PROCEDURAL BACKGROUND

On August 22, 2002, petitioner filed a status report indicating his intent to opt into the Omnibus Autism Proceeding (OAP). The claim was transferred into the OAP nearly one week later. Thereafter, petitioner filed part, but not all, of the medical records pertinent to causation.

In August of 2010, approximately eight years after petitioner opted into the OAP, the OAP test cases were resolved. Petitioner filed a motion for a ruling on the record seven months later, in March of 2011, and filed an amended motion for ruling on the record in May of 2011 that included record citations.

The record did not establish petitioner's entitlement to an award under the Program. Accordingly, petitioner's claim was dismissed on June 21, 2011.

Three months later, on September 26, 2011, petitioner filed a motion for attorneys' fees and costs requesting \$37,255.00 in attorneys' fees, \$1,081.31 in attorneys' costs, and \$95.75 for petitioner's own costs. Respondent opposed petitioner's application, challenging the reasonableness of the amount of attorneys' fees requested.⁴ Petitioner filed a reply to respondent's opposition, and on October 27, 2011, filed a supplemental application for the amount of attorneys' fees incurred to prepare the reply to respondent's opposition. The supplemental fee request totaled \$608.00.

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 (2006).

³ As of June 18, 2012, Kelsey is sixteen years of age and thus, still a minor.

⁴ Respondent does not object to the hourly rates sought by petitioner's counsel. Petitioner's counsel, Mr. Torline, requests: (1) a rate of \$185/hr for his work, (2) \$150/hr for the work of his co-counsel Mr. Emerson, (3) \$190/hr for the work of Ms. Adams, other firm counsel, and (4) for the work of Ms. Jennings, also firm counsel, rates that ranged from \$155/hr to \$190/hr over the course of the claim.

By Order dated November 29, 2011, the undersigned directed the parties to explore the possibility of informally resolving the fee dispute and to indicate by status report filed on December 22, 2011, whether their efforts were likely to be successful. After requesting an enlargement of time to file the status report, petitioner informally communicated to chambers on January 20, 2012, that the parties were unable to reach an informal resolution. At the undersigned's direction, the parties filed a joint status report on February 29, 2012, stating that their attempts at informal resolution were not successful.

Briefing is complete on the issue of fees. The matter is now ripe for decision.

II. THE APPLICABLE LAW

The Vaccine Act requires an award of "reasonable attorneys' fees, and other costs, incurred in any proceeding on such petition" if the petitioner prevails. 42 U.S.C. § 300aa-15(e)(1)(A)-(B). The act permits an unsuccessful petitioner to recover reasonable costs and attorneys' fees if the petition was filed in good faith and had a reasonable basis. Id.

Whether a petition was filed in good faith is a subjective inquiry. Di Roma v. Sec'y of Health & Human Servs., No. 90-3277V, 1993 WL 496981, at *1 (Fed. Cl. Spec. Mstr. Nov. 18, 1993); see also Turner v. Sec'y of Health & Human Servs., No. 99-544V, 2007 WL 4410030, at *5 (Fed. Cl. Spec. Mstr. Nov. 30, 2007) (holding that evidence demonstrating that a petitioner held an honest belief that she sustained a vaccine-related injury is sufficient to establish that her claim was brought in good faith). A special master may make a presumptive factual finding of good faith when -- as in this case -- there is no evidence that petitioner has acted in bad faith. Grice v. Sec'y of Health & Human Servs., 36 Fed. Cl. 114, 121 (1996).

Whether a reasonable basis existed for filing the petition is an objective inquiry. Chronister v. Sec'y of Health and Human Servs., No. 89-41V, 1990 WL 293438, at *1 (Fed. Cl. Spec. Mstr. Dec. 4, 1990). To have a reasonable basis, a prosecuted claim must, at a minimum, be supported by medical records or medical opinion. Id.; see also Perreira v. Sec'y of Health & Human Servs., 33 F.3d 1375, 1377 (Fed. Cir. 1994) (holding that unsupported expert opinions do not provide a reasonable basis). A reasonable basis can exist in circumstances "where the trier of fact decides that the strength of [the] testimony is insufficient to support" a finding of entitlement to compensation under the Program. Mckellar v. Sec'y of Health & Human Servs., No. 09-841V, 2012 WL 362030, at * 6 (Fed. Cl. Spec. Mstr. Jan. 13, 2012), rev'd on other grounds, 2012 WL 1884703 (Fed. Cl. May 3, 2012). To establish reasonable basis, however, a petitioner must show that the

claim is plausible and not frivolous. See Id. at *7 (citing Perreira, 33 F.3d at 1377).

Special masters are afforded wide discretion in determining the reasonableness of both attorneys' fees and incurred costs. Morse v. Sec'y of Health & Human Servs., 05-418V, 89 Fed. Cl. 683, 687 (2009) (citing Perreira v. Sec'y of Health & Human Servs., 27 Fed. Cl. 29, 34 (1992), aff'd, 33 F.3d at 1376). A special master may rely on his or her own personal experience with the Vaccine Program when making an award of fees and costs, but must provide sufficient detail and legal analysis to support any increase or reduction of the requested award. Id. at 688.

In reviewing a fees and costs application, the special master need not engage in a line-by-line analysis of the application. Hocraffer v. Sec'y of Health & Human Servs., 99-533V, 2011 WL 3705153, at *20 (Fed. Cl. Spec. Mstr. July 25, 2011). Instead, the proper inquiry is whether the request is reasonable. Riggins v. Sec'y of Health & Human Servs., 99-382V, 2009 WL 3319818, at *3 (Fed. Cl. Spec. Mstr. June 15, 2009). The reasonableness of a request should be evaluated from the petitioner's perspective. Id. If a hypothetical, reasonable client would be willing to pay for the attorney's work, it is appropriately compensable. Id. However, no award shall be made for claimed hours "that are excessive, redundant, or otherwise unnecessary, [because] a lawyer in private practice ethically is obligated to exclude such hours from his fee submission." Hensley v. Eckerhart, 461 U.S. 424, 434 (1983).

A special master is not limited to considering only the portions of a fee petition that are disputed by the parties. A special master may independently "satisfy [her]self that the fee award is appropriate." Duncan ex rel. Duncan v. Sec'y of Health & Human Servs., 99-455V, 2008 WL 4743493 (Fed. Cl. 2008); see also Carrington v. Sec'y of Health & Human Servs., 85 Fed. Cl. 319 (2008).

Here, respondent does not dispute that this vaccine claim was brought in good faith or that it had a reasonable basis. Rather, respondent has challenged the time billed for various identified tasks as excessive.

Based on a review of the billing records, consideration of respondent's objections, and identification of additional billing entries of concern, the undersigned agrees with respondent. A more detailed evaluation of petitioner's fee request follows.

III. THE REASONABLENESS OF FILING AND CONCLUDING THE CLAIM

The reasonableness of maintaining a claim must be evaluated as the claim progresses. As the Federal Circuit observed in Perreira, at some point, continuing to litigate a claim under the Program may cease to be reasonable -- even if it was reasonable and brought in good faith when originally filed.⁵ Perreira, 33 F.3d at 1377 (holding that “when the reasonable basis that may have been sufficient to bring the claim ceases to exist, it cannot be said that the claim is maintained in good faith”).

The undersigned is persuaded that as one of the many autism claims timely filed with the court and subsequently included in the OAP, petitioner’s claim was filed in good faith and had a reasonable basis. See Edmonds v. Sec’y of Health & Human Servs., 04-87V, 2012 WL 1229149, at *8 (Fed. Cl. Spec. Mstr. Mar. 22, 2012) (holding that “the evidence is sufficient to support a finding that the basis for bringing the OAP test cases was reasonable”). Accordingly, petitioner may recover reasonably incurred attorneys’ fees and costs.

The special masters who decided the OAP test cases found no scientifically reliable evidence -- on the two theories of causation presented -- that the administered vaccines caused the development of autism. The appealed OAP test case decisions were affirmed by the Federal Circuit. Thereafter, petitioner in this case -- as well as other petitioners with pending OAP decisions -- was afforded an opportunity either to proceed on an alternative theory of causation or to dismiss his claim. Petitioner had a period of several months to make his election.

The fee petition indicates that after the Federal Circuit affirmed the OAP decisions in both Hazlehurst and Cedillo, petitioner elected not to pursue his claim further, and petitioner’s counsel spent 28 hours winding down the litigation. Hazlehurst v. Sec’y of Health & Human Servs., 2009 WL 332306, aff’d, 88 Fed. Cl. 473 (2009), aff’d, 604 F.3d 1343 (Fed. Cir. 2010); Cedillo v. Sec’y of Health & Human Servs., 2009 WL 331968, aff’d, 89 Fed. Cl. 158 (2009), aff’d, 617 F.3d 1328 (Fed. Cir. 2010). The payment of attorneys’ fees for winding down cases may be appropriate in vaccine claims. Riley v. Sec’y of Health & Human Servs., 2011 WL 2036976, at *8 (Fed. Cl. Spec. Mstr. Apr. 29, 2011). The winddown activities here included: (1) obtaining and filing final medical records; (2) discussing the outcome and impact of the test cases with the

⁵ The opinions of the United States Court of Appeals for the Federal Circuit are binding on the Office of Special Masters. See Snyder ex. rel. Snyder v. Sec’y, HHS, 88 Fed. Cl. 706, 719 n.23 (Fed. Cl. 2009).

client; (3) preparing motions for ruling on the record; (4) discussing the impact of this court's dismissal of the case with the client; and (5) preparing the request for attorneys' fees. See Pet'r's Ex. A [Ex. A] at 55-62.

The undersigned finds that counsel's efforts to conclude this litigation, the only OAP claim he filed, were reasonable and appropriate. The undersigned will compensate counsel for the requested time spent bringing the Program claim to an end. The compensable time is 25.5 hours.

As discussed in more detail later, the undersigned will not compensate those hours expended during this same period to investigate the prosecution of a civil claim. That expended time totals 2.5 hrs. See infra p. 9.

IV. RESPONDENT'S OBJECTIONS TO REQUESTED FEES

A. Respondent has challenged, as excessive and unreasonable, the time spent on certain identified tasks.

Respondent argues that the time spent performing various tasks was excessive. The undersigned has discretion to reduce the number of excessively billed hours, either by denying all of the claimed hours or denying a percentage of the claimed hours. See Hammitt v. Sec'y of Health & Human Servs., No. 07-170V, 2011 WL 1827221, at *5 (Fed. Cl. Spec. Mstr. Apr. 7, 2011)(reducing counsel's claimed time for medical research, noting that "[a]lthough an attorney must review and understand medical literature to prosecute a case, most attorneys are not qualified to actually conduct the research on medical issues.")

Respondent objects to five billing entries, in particular, as excessive. The undersigned examines, in turn, the identified tasks of concern to respondent.

First, respondent objects to the 25 hours billed by petitioner's counsel to read transcripts from the OAP. Respondent also objects to the 10 hours billed for "analysis" of the OAP decisions. Resp'ts' Opp. at 4. Petitioner's counsel explains that reviewing the OAP record was necessary to allow counsel to advise the petitioner about the impact of the OAP decisions on the claim. Reply at 2. The undersigned will compensate the full time spent reading the transcripts. But, the undersigned declines to compensate the billed 10 hours for analysis as superfluous and unreasonable.

Respondent also opposes payment of the 10 hours billed for review of the Vaccine Act Rules and Guidelines. Resp'ts' Opp. at 4. Petitioner's counsel defends the time he spent on this task by explaining that, unlike other counsel who had filed hundreds of autism cases, he was unfamiliar with the Vaccine Program

because he had filed only one OAP claim. Reply at 5. The undersigned will compensate as reasonably incurred 2.5 of the hours spent by counsel reviewing the Vaccine Act, Rules, and Guidelines in connection with his first representation of a vaccine claimant.⁶

Respondent next observes that petitioner's counsel billed 15 hours for reading various articles, books, and studies about autism and the alleged link to vaccines. Resp'ts' Opp. at 4. Petitioner's counsel contends that review of these materials "constitute[d] necessary research in support of petitioner's claim." Reply at 4. The undersigned declines to compensate counsel fully for these tasks because the scientific reliability of a number of the sources noted in the fee application (for example, the article in Rolling Stone magazine, see Ex. A at 25) is dubious. See Moberly ex rel. Moberly v. Sec'y of Health and Human Servs., 592 F.3d 1315, 1324 (Fed. Cir. 2010) ("the special master is entitled to require some indicia of reliability" in evidence presented). Moreover, while some effort by counsel to familiarize himself with the scientific issues was reasonable, the purpose of the OAP test cases was to evaluate two theories of causation based on a comprehensive record of evidence. Accordingly, it was not reasonable for counsel to conduct extensive independent research in a non-test case during the pendency of the OAP. The undersigned compensates 3 of the requested 15 hours as reasonable.

Respondent also opposes the payment of fees for "various brief conferences and correspondence" between petitioner's attorney-of-record, Mr. Torline, and Mr. Emerson, an associate with Martin, Pringle totaling 3.9 hours. Petitioner responds that this time was "reasonably and necessarily incurred" as Mr. Emerson handled

⁶ Although petitioner's counsel's claims to have spent significant time reviewing the Program Rules and Guidelines, counsel improperly used block billing in his fee application, a billing practice specifically addressed and discouraged in the guidelines. The Guidelines provide that "[e]ach task should have its own line entry... [because]... [s]everal tasks lumped together with one time entry frustrates the court's ability to assess the reasonableness of the request." Guidelines for Practice Under the National Vaccine Injury Compensation Program at 19. The vaccine case law also makes clear that block billing is a disfavored practice. See, e.g., Savin ex rel. Savin v. Sec'y of Health & Human Servs., 99-537V, 2008 WL 5553274 (Fed. Cl. Spec. Mstr. Oct. 17, 2008) (holding that a special master may reduce fees for block billing); Jeffries v. Sec'y of Health & Human Servs., 99-670V, 2006 WL 3903710 (Fed. Cl. Spec. Mstr. Dec. 15, 2006) (rejecting the use of "vague block entries"); Broekelschen v. Sec'y of Health & Human Servs., 07-137V, 2008 WL 5456319, at *4-5 (Fed. Cl. Spec. Mstr. Dec. 17, 2008) (opinion quoting the language of the Guidelines).

the majority of the litigation and Mr. Torline was the attorney of record. Reply at 5. This court has previously paid only one attorney for such conferences when the purpose of the conferences was unclear. See Carcamo v. Sec’y of Health & Human Servs., No. 07-483V, 2011 WL 2413345, at *7 (Fed. Cl. Spec. Mstr. May 20, 2011). Here, the undersigned finds that the conferences between Mr. Torline and Mr. Emerson were appropriate to allow Mr. Torline to oversee Mr. Emerson’s work and to keep Mr. Torline, as lead counsel, aware of the progress of the litigation. See Ray v. Sec’y of Health & Human Servs., 04-184V, 2006 WL 1006587, at *11 (Fed. Cl. Spec. Mstr. Mar. 30, 2006) (finding that although it is generally “reasonable for a senior attorney to oversee the work of associates...it is unreasonable and unproductive to duplicate the work of the junior employee”). As described, *infra* p. 9, however, the undersigned decreases the requested time by 1.9 hours because of conflicting records of the time spent in these conferences.

Finally, respondent objects to 0.6 hours billed by petitioner’s counsel to discuss the possibility of a local news network conducting a television interview with the Krause family. Resp’ts’ Opp. at 4. Petitioner explains that this time was billed properly because a video of Kelsey that showed her condition “would [have] constitute[d] clearly relevant evidence in support of petitioner’s claim, including but not limited to pain and suffering damages.” Reply at 5. The undersigned disagrees and declines to compensate counsel for this task. Such discussions were neither necessary nor reasonable for the prosecution of the vaccine claim.

B. Respondent objects to tasks billed at an attorney rate that were more properly billed at a paralegal rate.

Respondent has made several objections to time billed by petitioner’s counsel for completing administrative tasks. In particular, respondent points to 0.3 hours (or 18 minutes) billed for an attorney to “locate the telephone number for and contact T. Manning.” Ex. A at 4. Petitioner responds that this time was spent appropriately because he was communicating with Ms. (Manning) Patton as respondent’s counsel. The length of time billed for this contact, and the fact that the communication occurred after Ms. Manning’s notice of appearance on behalf of respondent and before respondent filed an initial report regarding a request for medical records, suggests that this communication was primarily ministerial in nature. Accordingly, this time is compensated at a paralegal’s rate.

On further review of the fees’ application, the undersigned noted additional instances of paralegal-type work being performed at attorney rates. This work included: (1) faxing, *see* Ex. A at 2, 17; (2) preparing exhibits, *Id.*; (3) “secur[ing] loose filing[s] in the correspondence/pleadings file,” *see* Ex. A at 14; and (4) drafting notices of filings, *see* Ex. A at 51. Similarly, the undersigned notes that the task of preparing a “[c]hronology of medical records” which was performed by

a “legal assistant” was billed at a rate above the approved paralegal rate. See Ex. A at 60. Ordinarily, attorneys performing paralegal tasks are compensated, not at an attorney’s rate, but at a paralegal’s rate. Doe ex. rel. estate of Doe v. Sec’y of Health & Human Servs., 2010 WL 529425 (Fed. Cl. Spec. Mstr. Jan. 29, 2010); Scoutto v. Sec’y of Health & Human Servs., No. 90-3576V, 1997 WL 588954 (Fed. Cl. Sept. 5, 1997). Thus, the undersigned will compensate the time spent performing these identified tasks at a paralegal’s rate rather than the requested attorney’s rate.

Moreover, the undersigned observes that because petitioner’s counsel used a block billing method of time recordation, it is difficult to determine which of the hours spent performing various tasks were more appropriately performed by a paralegal and which tasks were properly performed by counsel. Because the undersigned is unable to determine from the long paragraphs of billed time how much of the effort was devoted to performing paralegal-type tasks, the undersigned will compensate one third of the billed attorney hours at a paralegal’s rate rather than at the attorneys’ rates.

V. BILLING ISSUES THE UNDERSIGNED HAS IDENTIFIED

A. Counsel seeks reimbursement for time spent researching petitioner’s possible civil remedies.

As briefly addressed earlier, petitioner has billed for researching his available remedies in tribunals other than the vaccine court. The Vaccine Program, however, limits the recovery of “reasonable attorneys’ fees, and other costs” to those “incurred in any proceeding” on a vaccine petition. 42 U.S.C. § 300aa-15(e)(1)(A)-(B). Because the research conducted to explore petitioner’s civil remedies and the time spent investigating the need for alternate counsel to litigate a civil claim are not tasks related to the proceedings on this vaccine claim, the undersigned will not compensate counsel for this requested time. The claimed 2.5 hours related to the prospective filing of petitioner’s civil case are denied.

B. Counsel seeks reimbursement for questionable time entries.

Consistent with the discretionary authority afforded the undersigned to reduce the number of excessive hours claimed by either denying all or a percentage of the billed time, see Hammitt, 2011 WL 1827221, at *5, the undersigned reduces the amount of time requested in three additional billing entries because they appear to be either excessive or redundant.

The first billing entry of concern is a status conference which occurred on June 18, 2001. Both Mr. Torline and Mr. Emerson charged the Program 0.3 hours

for participating in the conference. The need for both attorneys to participate in the conference and bill for their time has not been explained. That a special master may reduce time for duplicative work performed by a senior and junior attorney is well-settled. Duncan v. Sec'y of Health & Human Servs., 99-455-V, 2008 WL 2465811 (Fed. Cl. Spec. Mstr. May 30, 2008) review denied, decision aff'd sub nom. Duncan ex rel. Duncan v. Sec'y of Health & Human Servs., 99-455V, 2008 WL 4743493 (Fed. Cl. Aug. 4, 2008); Ray, 2006 WL 1006587, at *11 (finding that although it is generally “reasonable for a senior attorney to oversee the work of associates...it is unreasonable and unproductive to duplicate the work of the junior employee”). Accordingly, only Mr. Torline, as the attorney-of-record, will be compensated for participating in the status conference.

The second entry of concern regards an intra-office conference which occurred on February 1, 2002. According to the fee application, one of the attorneys at the meeting claimed that it lasted .10 hours, while the other claimed that it lasted 2.0 hours. Given the marked discrepancy between the two requests, the undersigned will compensate counsel for the shorter period of time.

Finally, petitioner claims \$608.00 in supplemental fees incurred to prepare the reply to respondent's fee objections. Petitioner's reply, however, was only five pages in length and included citations to three cases, but ostensibly took three hours to write. See Pet'rs' Supp. Application for Fees at Ex. A. Because three hours appears to be excessive under the circumstances, the undersigned will compensate petitioner for one and one half hour's work on his reply. See Schrum v. Sec'y of Health & Human Servs., 04-210V, 2007 WL 1772056 (Fed. Cl. Spec. Mstr. May 31, 2007) (reducing the claimed hours because a two hour charge for preparing a two-page reply was excessive).

VI. CONCLUSION

For the reasons set forth more fully above, the undersigned determines that an award of \$26,979 in attorneys' fees, \$1,081.31 in attorneys' costs, and \$95.75 in petitioner's costs is reasonable. The undersigned grants an award of \$28,156.06 in attorneys' fees and costs.⁷ The award shall be made jointly payable to petitioner and his counsel, Terry Torline. The Clerk of the Court **SHALL ENTER JUDGMENT** accordingly.⁸

⁷ An itemized chart of the deductions discussed in the decision is attached as Attachment 1.

⁸ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

Summary of Fees and Costs Awarded

	<u>Hours</u>	<u>Attorneys’ Fees</u>	<u>Attorneys’ Costs</u>	<u>Petitioner’s Costs</u>	<u>Total</u>
Requested	262	\$37,863	\$1,081.31	\$95.75	\$39,040.06
Awarded	227.6	\$26,979	\$1,081.31	\$95.75	\$28,156.06

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
 Patricia E. Campbell-Smith
 Chief Special Master

Attachment 1

Itemized Deductions from Billed Attorney Time:

<u>Time</u>	<u>Task</u>	<u>Attorney</u>	<u>Rate</u>	<u>Total</u>
2.7 Hours	Analysis of the OAP Decisions	L. Jennings	\$165/hr.	\$445.5
1.4 Hours	Analysis of OAP Decisions	L. Jennings	\$175/hr.	\$245
4.7 Hours	Review Omnibus Decisions	T. Torline	\$185/hr.	\$869.50
0.3 Hours	Analysis of Decision on Fees	L. Jennings	\$190/hr.	\$57
0.7 Hours	Review Guidelines and Rules	T. Torline	\$185/hr.	\$129.50
5.6 Hours	Review Guidelines and Rules	T. Emerson	\$150/hr.	\$840
0.1 Hours	Review Guidelines and Rules	L. Jennings	\$165/hr.	\$16.50
1.1 Hours	Review Guidelines and Rules	L. Jennings	\$175/hr.	\$192.50
2.4 Hours	Reading/Researching Autism Articles	T. Torline	\$185/hr.	\$444
8.4 Hours	Reading/Researching Articles	T. Emerson	\$150/hr.	\$1260
0.3 Hours	TV Interview Telephone Conferences	T. Emerson	\$150/hr.	\$45

0.3 Hours	TV Interview Phone Calls	T. Torline	\$185/hr.	\$55.50
0.3 Hours	Research on SoL for Civil Claim	L. Jennings	\$190/hr.	\$57
0.6 Hours	Advising Client on Need for New Counsel for Civil Claim	L. Jennings	\$190/hr.	\$114
1.2 Hours	Analysis of SoL and Timeline for State Claim	L. Jennings	\$190/hr.	\$228
0.1 Hours	Telephone Call Regarding Counsel for Civil Claim	L. Jennings	\$190/hr.	\$19
0.2 Hours	Letter About Indianapolis Counsel	L. Jennings	\$190/hr.	\$38
0.1 Hours	Email About Indiana Counsel	L. Jennings	\$190/hr.	\$19
0.3 Hours	Two Attorneys at Status Conference	T. Emerson	\$150/hr.	\$45
1.9 Hours	Mis-matched intra-office conference	T. Torline	\$185/hr.	\$351.50
1.7 Hours	Extra Time for Reply to Respondent's Opposition To Fee Petition	L. Jennings	\$190/hr.	\$323

Total Itemized Deductions: 34.4 Hrs.

Attorneys' Fees:

<u>Service Provider</u>	<u>Title</u>	<u>Requested Rate</u>	<u>Hours Requested</u>	<u>Hours Approved</u>	<u>Total Approved^{9, 10}</u>
T. Torline	Attorney	\$185/hr.	44.6	34.6	\$5132.33
T. Emerson	Attorney	\$150/hr.	97.4	82.8	\$10350
T. Adams	Attorney	\$190/hr.	0.2	0.2	\$30.33

⁹ Two thirds of all approved attorney time is paid at the requested rate, and one third is paid at a paralegal's rate of \$75/hr.

¹⁰ Payment for the legal assistant is made at a paralegal's rate of \$75/hr.

L. Jennings	Attorney	\$155/hr.	2.1	2.1	\$269.50
L. Jennings	Attorney	\$165/hr.	17.8	15	\$2025
L. Jennings	Attorney	\$175/hr.	22.6	20.1	\$2847.50
L. Jennings	Attorney	\$190/hr.	17.3	12.8	\$1941.33
D. Sowden	Paralegal Asst.	\$45/hr.	1.1	1.1	\$49.50
D. Martinez	Paralegal	\$65/hr.	7.5	7.5	\$487.50
D. Martinez	Paralegal	\$70/hr.	1.8	1.8	\$126
D. Martinez	Paralegal	\$75/hr.	1.2	1.2	\$90
D. Tweedy	Paralegal	\$75/hr.	43.3	43.3	\$3247.50
Legal Assistant	Legal Assistant	\$90/hr.	5.1	5.1	\$382.50

Total Approved: \$26979