

**In the United States Court of Federal Claims**

**OFFICE OF SPECIAL MASTERS**

(E-Filed: April 30, 2007)

UNPUBLISHED

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SHANNON HAWKINS,	)	
	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 00-646V
	)	
	)	Attorney's Fees and Costs
	)	
	)	
SECRETARY OF THE DEPARTMENT OF	)	
HEALTH AND HUMAN SERVICES,	)	
	)	
Respondent.	)	

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Ronald C. Homer, Boston, MA, for petitioner.

Althea W. Davis, with whom were Peter D. Keisler, Assistant Attorney General, Timothy P. Garren, Director, Vincent J. Matanoski, Acting Deputy Director, and Gabrielle M. Fielding, Assistant Director, Department of Justice, Civil Division, Torts Branch, Washington, DC, for respondent.

**ORDER AND DECISION**<sup>1</sup>

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<sup>1</sup> Vaccine Rule 18(b) states that all of the decisions of the special masters will be made available to the public unless the decisions contain trade secrets or commercial or financial information that is privileged or confidential, or the decisions contain medical or similar information the disclosure of which clearly would constitute an unwarranted invasion of privacy. Within 14 days of the filing of a decision or substantive order with the Clerk of the Court, a party may identify and move for the redaction of privileged or confidential information before the

\_\_\_\_\_ On November 2, 2000, Melissa Hawkins, as mother and next friend, filed a petition pursuant to the National Vaccine Injury Compensation Program<sup>2</sup> (the Act or the Program) seeking compensation for injuries allegedly sustained by her minor daughter, Shannon Hawkins (Shannon), as a result of the Hepatitis B vaccination she received on November 4, 1997.<sup>3</sup> Petition at 1. As petitioner, Shannon failed to provide either a medical theory or a medical opinion supporting a logical sequence of cause and effect between her received vaccination and her alleged injury. Accordingly, the undersigned dismissed petitioner's claim by Decision dated March 14, 2007. Hawkins v. Secretary of HHS, No. 00-646V, 2007 WL 958536 (Fed. Cl. Spec. Mstr. March 14, 2007).

On December 28, 2006, petitioner filed an Application for Attorney's Fees & Costs ("P. App.") requesting \$15,389.00 for attorneys' fees, \$1,992.81 for costs borne by petitioner's counsel, and \$0.00 for costs borne by petitioner. Petitioner's application included supporting documentation showing the nature of the costs incurred and the time that petitioner's counsel expended for particular tasks in this case.

On January 16, 2007, counsel for the parties in this matter contacted the court, and the parties represented that they were in agreement with respect to petitioner's application for fees and costs. On further review of petitioner's counsel's application for fees and costs, and to assist the court in evaluating the "reasonable[ness]" of counsel's requested fees, see 42 U.S.C. § 300 aa-15(a)(1), the undersigned requested by March 23, 2007 Order, that petitioner's counsel provide an explanation for the "tasks" described as "stage 2" that appeared in a number of petitioner's counsel's itemized line entries, for which the cumulative requested fees were \$2278.50. See Petitioner's Application for Fees and Costs at pages 9, 10, and 23.

On April 4, 2007, petitioner's counsel filed Petitioner's Response to the Court's Order Dated March 23, 2007 and Supplemental Fee Application (P's Response) and

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document's public disclosure.

<sup>2</sup> The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C.A. § 300aa-10-§ 300aa-34 (West 1991 & Supp. 2002) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

<sup>3</sup> On October 16, 2001, Shannon Hawkins moved to amend the case caption because she is no longer a minor. Chief Special Master Golkiewicz granted her motion to amend the case caption on October 18, 2001, and Shannon Hawkins became the sole petitioner in this case.

Petitioner's Supplemental Application for Attorney Fees and Costs (P's Supplemental Application), which provided a detailed and thorough explanation of the tasks that petitioner's counsel had referred to in his earlier fee petition as "stage 2." As explained by petitioner's counsel, a "stage 2" report is "a comprehensive, detailed, accurate, and complete summary of a petitioner's past medical and/or educational, rehabilitation, physical therapy, psychological, or similar records." P's Response at 2. A firm paralegal prepares the stage 2 report, which requires a multitude of tasks with respect to these records, including: (1) determining what records are illegible and need transcription, (2) obtaining missing records, and (3) cross-referencing the petitioner's medical records against the petitioner's own recollection of events. The completed stage 2 report is used during client conferences, pleading preparation, status conferences, case meetings, expert reviews, hearings, motions for review, and appeals to the Federal Circuit. See P's Response at 4.

In addition to the description of stage 2 tasks, petitioner's counsel provided that "[t]he supplemental attorneys' fees in this case total \$1,473.75." P's Supplemental Application at 1.

On April 12, 2007, the parties jointly contacted the undersigned's chambers by telephone. Respondent indicated that the line items dated 2/9/2007 and 2/26/2007, referring to an order dated 2/8/2007, did not pertain to this case. Petitioner's counsel did not dispute these representations and noted that these line items actually pertained to another client by the same name. Acknowledging his firm's billing error, petitioner's counsel agreed to reduce his supplemental application for attorney's fees and costs by \$54.00 to reflect a total supplemental request of \$1419.75. Respondent stated that she had no further objections to petitioner's fees and costs request.

Based on the supplied explanation from petitioner's counsel, the undersigned finds that the described stage 2 tasks, the time expended on these tasks, and the attendant supplemental fee request satisfy the reasonableness inquiry required by the Vaccine Act.

### **III. Conclusion**

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300 aa-15(e). Based on the reasonableness of petitioner's request and on respondent's counsel's lack of objection to petitioner's counsel's amended fee request, the undersigned **GRANTS** Petitioner's Application for Fees and Costs filed on December 28, 2006, and Petitioner's Supplemental Application for Attorney Fees and Costs filed on April 4, 2007, as modified by oral agreement of the parties on April 12, 2007.

The undersigned awards petitioner's counsel \$16,808.75 in fees and \$1,992.81 in costs. The total award is summarized as follows:

I.	Attorney Fees	
	Ron Homer	\$16,808.75
II.	Costs:	
	Petitioner's Counsel's Costs	\$1,992.81
	Petitioner's Costs	\$0.00
III.	Total Fees and Costs	\$18,801.56

The clerk **SHALL ENTER JUDGMENT** for \$18,801.56. The award shall be made in the form of a check made payable jointly to petitioner and Conway, Homer & Chin-Caplan, PC, in the amount of \$18,801.56. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to entered judgment herewith.<sup>4</sup>

**IT IS SO ORDERED.**

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

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<sup>4</sup>Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.