

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 10-262V

Filed: December 4, 2012

CRISSEY MEEKS,	*	NOT TO BE PUBLISHED
	*	
Petitioner,	*	Special Master Zane
	*	
v.	*	Stipulation; Attorneys' Fees
	*	and Costs
	*	
SECRETARY OF HEALTH	*	
AND HUMAN SERVICES,	*	
	*	
Respondent.	*	
	*	

Crissey Meeks, Zebulon, NC, *pro se*;
Lawrence R. Cohan, Esq., Anapol, Schwartz, et al., Philadelphia, PA, Petitioner's former counsel;
Darryl R. Wishard, Esq., United States Dep't of Justice, Washington, D.C., for Respondent.

UNPUBLISHED DECISION AWARDING ATTORNEYS' FEES AND COSTS¹

Petitioner alleged that she suffered connective tissue disorder as a result of the human papillomavirus ("HPV") vaccines she received on May 11, 2007, July 19, 2007, and January 18, 2008. Petition at 2-4. On June 7, 2012, Petitioner's then-counsel, Lawrence R. Cohan ("Petitioner's counsel"), filed a Motion for Interim Fees and Costs requesting \$9,297.50 in attorney fees and \$2,356.54 in costs, for a total award of \$11,654.04. In accordance with General Order #9, Petitioner's counsel stated that, to the best of his knowledge, Petitioner had not advanced any funds to his law firm in relation to the pursuit of this claim. Motion, ¶ 7.

On June 21, 2012, the undersigned issued an Order granting Petitioner's counsel's motion

¹ The undersigned intends to post this decision on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No.107-347, §205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. §3501 note (2006)). 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 trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the entire ruling will be available to the public. Id.

to withdraw as counsel of record for Petitioner in this case, for reasons that were discussed in detail in that Order. Petitioner continued with her claim *pro se*.

On August 9, 2012, the undersigned issued a Decision dismissing this case for insufficient proof and failure to prosecute. Judgment was entered September 17, 2012.

As a result of the dismissal of the case, Petitioner's counsel's Motion for Interim Fees effectively became a final request for fees. Respondent's August 10, 2012 Status Report, ¶ 4. On August 10, 2012, in lieu of a response to the Petitioner's counsel's fees request, Respondent filed a Status Report Regarding Attorneys' Fees and Costs. In that filing, Respondent stated that as a result of informal discussions, Petitioner's counsel had agreed to reduce the amount requested in fees to \$9,000.00. *Id.*, ¶ 2. Respondent also stated that she did not object to the payment of \$9,000.00 in fees and \$2,356.54 in costs, for a total stipulated amount of \$11,356.54. *Id.*

As explained below, the undersigned hereby awards the amount to which Respondent does not object.²

Despite the denial of compensation, Petitioner may still be awarded attorneys' fees and costs, when her petition is brought in good faith and has a reasonable basis. *See* 42 U.S.C. §300aa-15(e)(1). Here, at the outset of this case, Petitioner appeared to have a reasonable basis, and counsel for Petitioner spent time preparing the case, gathering and filing medical records and working with Petitioner. But, when it became clear that Petitioner's counsel would not be able to obtain a medical opinion to support Petitioner's claim for causation, Petitioner's counsel took reasonable action by moving to withdraw from representation.³ In so doing, Petitioner's counsel acted in good faith. Petitioner's counsel had a reasonable basis for proceeding in that manner. Respondent does not contend that Petitioner's counsel failed to satisfy these criteria. Thus, Petitioner is eligible for an award of attorneys' fees and costs.

Petitioner's former counsel and Respondent have now stipulated that \$11,356.54 is a reasonable amount to be awarded for attorneys' fees and costs. After reviewing the request, the court finds the stipulated amount of \$11,356.54, in attorneys' fees and costs to be reasonable. Based on the request's reasonableness and pursuant to Vaccine Rule 13, the undersigned **GRANTS** the parties' requests as outlined in the Motion. The judgment shall reflect that Petitioner is awarded attorneys' fees and costs as follows:

in a check made payable jointly to Petitioner (Crissey Meeks) and Petitioner's former counsel (Lawrence R. Cohan, Esq., Anapol, Schwartz, Weiss, Cohan, Feldman & Smalley, P.C.) in the amount of \$11,356.54, representing \$9,000.00 in attorneys' fees and \$2,356.54 in costs.

² The Clerk's Office is directed to serve former counsel with a copy of this decision.

³ The series of events leading up to withdrawal was discussed in detail in both the June 21, 2012 Order granting withdrawal and the August 9, 2012 Decision.

The Court thanks the parties for their cooperative efforts in resolving this matter. In the absence of a motion for review filed pursuant to RCFC, Appendix B, the Clerk is directed to enter judgment accordingly.⁴

IT IS SO ORDERED.

Daria J. Zane
Special Master

⁴ Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.