

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
E-Filed: June 19, 2012

* * * * *	*	
NEIL MOWATT,	*	UNPUBLISHED
	*	
Petitioner,	*	No. 11-308V
	*	
v.	*	Chief Special Master
	*	Campbell-Smith
	*	
SECRETARY OF THE	*	
DEPARTMENT OF	*	Award of Attorneys' Fees and
HEALTH AND HUMAN SERVICES,	*	Costs; Amount to Which
	*	Respondent Does Not Object.
Respondent.	*	
	*	
* * * * *	*	

Isaiah Kalinowski, Maglio Christopher & Toale, P.A., Sarasota, FL, for petitioner.
Lisa Watts, U.S. Dep't of Justice, Washington, DC, for respondent.

ATTORNEYS' FEES AND COSTS DECISION¹

On May 13, 2011, Neil Mowatt (“petitioner”) filed a petition seeking compensation under the National Vaccine Injury Compensation Program (“Vaccine Program”).²

¹ Because this decision contains a reasoned explanation for the undersigned’s action in this case, the undersigned intends to post this decision 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). Otherwise, “the entire” decision will be available to the public. Id.

In the petition, petitioner alleges that he received an influenza (“flu”) vaccine on October 8, 2010, and thereafter suffered from Guillain-Barré syndrome (“GBS”) and the residual effects of this condition for more than six months. Pet. at 1, 3.

On June 1, 2012, the undersigned issued a decision based on the parties’ joint stipulation. See Decision, June 1, 2012.

Thereafter, petitioner informally provided respondent with his initial application for attorneys’ fees and costs. See Stip. of Fact Concerning Attorneys’ Fees and Costs ¶ 2, at 1.

On June 19, 2012, the parties filed a stipulation of facts concerning attorneys’ fees and costs, to which the parties had agreed during informal discussions.³ Id. ¶ 3.

The Vaccine Act permits an award of reasonable attorneys’ fees and costs. § 15(e). Based on the reasonableness of petitioner’s request and respondent’s lack of objection to petitioner’s request, the undersigned **GRANTS** the parties’ stipulation of facts concerning attorneys’ fees and costs.

² 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. §§ 300aa-1 to -34 (2006) (“Vaccine Act” or “Act”). All citations in this decision to individual sections of the Act are to 42 U.S.C.A. § 300aa.

³ During informal discussions, petitioner agreed to amend the requested amount of attorneys’ fees and costs, to which respondent would not object. Stip. of Fact Concerning Attorneys’ Fees and Costs ¶ 3, at 1.

The undersigned awards a total of **\$22,834.06** in **attorneys' fees and costs**.⁴ Stip. of Fact Concerning Attorneys' Fees and Costs ¶ 5. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in petitioner's favor in the amount of **\$22,834.06** for **attorneys' fees and costs**.⁵

The judgment shall reflect that Maglio Christopher & Toale, P.A. may collect **\$22,834.06** from petitioner.

IT IS SO ORDERED.

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

⁴ This award is intended to cover all legal expenses incurred in this matter and contemplates **attorneys' fees** in the amount of **\$19,000.00** and **attorneys' costs** in the amount of **\$3,834.06**, payable jointly to petitioner and petitioner's attorney of record. Id. ¶ 3.

Petitioner had no reimbursable out-of-pocket expenses pursuant to General Order No. 9. Id. ¶ 4.

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

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

NEIL MOWATT,)	
)	<u>ECF</u>
Petitioner,)	
v.)	No. 11-308V
)	Chief Special Master Campbell-Smith
SECRETARY OF HEALTH)	
AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

STIPULATION OF FACT CONCERNING ATTORNEY’S FEES AND COSTS

It is hereby stipulated by and between the parties, the following factual matters:

1. Isaiah Kalinowski, Esq., is the attorney of record for petitioner in this case. He is licensed to practice law in Virginia (2005) and New York (2006). He has been an associate with the Maglio Christopher & Toale law firm since the Fall of 2010, focusing on vaccine injury claims.
2. Petitioner informally shared his initial Attorney’s Fees and Costs Application with respondent.
3. In informal discussions, respondent raised objections to certain items in petitioner’s initial application. Based on these discussions, petitioner amended his application in this matter to request reimbursement for Attorney’s Fees in the amount of \$19,000.00 and Costs totaling \$3,834.06.
4. A GO #9 statement will be filed by petitioner confirming that no costs were paid by him in this action.
5. The parties now agree that a decision should be entered awarding petitioner reimbursement of Attorney’s Fees and Costs in the total amount of \$22,834.06, as described in paragraph 3 of this stipulation.
6. This Stipulation does not represent an agreement by respondent to the hourly rates of the professionals who worked on this matter, nor a waiver of any objections that respondent may bring in other cases.

Respectfully submitted,

ATTORNEY OF RECORD FOR
PETITIONER:

s/Isaiah Kalinowski
ISAAH KALINOWSKI, ESQ.
Maglio Christopher & Toale, PA
1605 Main Street, Ste. 710
Sarasota, FL 34236
1455 Pennsylvania Ave., NW, #400
Washington, DC 20004
Tel: (888) 952-5242

Dated: June 19, 2012

ATTORNEY OF RECORD FOR
RESPONDENT:

s/Lisa A. Watts
LISA A. WATTS
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146
Tel: (202) 616-4099

Dated: June 19, 2012