

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

No. 04-1528V

(E-Filed: January 15, 2009)

SARAH FREEMAN)	
)	UNPUBLISHED
Petitioner,)	
)	Attorneys' Fees and Costs
v.)	
)	
SECRETARY OF THE DEPARTMENT OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

Ron Homer, Boston, MA, for petitioner.

Katherine Carr Esposito, Washington, DC, for respondent.

DECISION ON ATTORNEYS' FEES AND COSTS¹

Campbell-Smith, Special Master

On October 7, 2004, Wendy Freeman, filed a petition pursuant to the National

¹ Because this Ruling contains a reasoned explanation for the special master's action in this case, the special master intends to post this order on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002).

Vaccine Rule 18(b) states that all of the decisions of the special masters will be made available to the public unless an issued decision contains trade secrets or commercial or financial information that is privileged or confidential, or the decision contains medical or similar information the disclosure of which clearly would constitute an unwarranted invasion of privacy. When a special master files a decision or substantive order with the Clerk of the Court, each party has 14 days within which to identify and move for the redaction of privileged or confidential information before the document's public disclosure.

Vaccine Injury Compensation Program² (Vaccine Program or Program) seeking compensation for rheumatological injuries sustained by her then-minor daughter, Sarah Freeman (Sarah) as a result of the hepatitis B vaccination that she received on October 17, 2001. Petition at 1. After reaching the age of majority, Sarah moved to amend the case caption. See Petitioner's Motion to Amend the Caption. The undersigned granted the motion to amend, and Sarah became the petitioner in this case. On December 8, 2009, the undersigned issued a Ruling on Entitlement³ finding that petitioner was entitled to compensation under the Vaccine Program. On December 23, 2009, the undersigned adopted, with petitioner's agreement, respondent's proffer awarding Ms. Freeman compensation, and issued her decision. See Decision.

On December 30, 2009, petitioner's counsel filed Petitioner's Application for Attorneys' Fees and Costs (Fee App.) requesting \$67,053.12 for attorneys' fees and costs, including \$195.29 in petitioner's costs. See Fee App. at 1. On January 11, 2010, respondent's counsel filed Respondent's Response (R's Response) to petitioner's fees and costs application. Respondent's filing indicated that the parties had reached an understanding regarding attorneys' fees costs and were able to identify a quantum to which respondent would not object. Further to the parties' understanding, petitioner's counsel requested a revised award of \$65,457.83 in attorneys' fees and costs and an additional \$195.29 in costs borne by petitioner.⁴

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300aa-15(e). Based on the reasonableness of petitioner's request and respondent's counsel's lack of objection to petitioner's counsel's fee request, the undersigned **GRANTS** petitioner's counsel's revised application for attorneys' fees and costs.

The undersigned awards petitioner \$65,653.12 in attorneys' fees and costs and petitioner's costs. 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

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-10 et seq. (2006) (Vaccine Act or the Act). All citations in this Ruling to individual sections of the Vaccine Act are to 42 U.S.C. § 300aa.

³ The Ruling on Entitlement was re-issued for publication on December 9, 2009.

⁴ Petitioner's statement in support of petitioner's costs and in compliance with General Order No. 9 was filed on January 14, 2010. See Petitioner and Counsel Statement.

in the amount of \$65,653.12 in attorneys' fees and attorneys' costs and petitioner's costs.⁵ The judgment shall reflect that Ronald C. Homer, Esq., may collect \$65,457.83 from petitioner. Petitioner may retain \$195.29 for costs borne by petitioner.

IT IS SO ORDERED.

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

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.