

OFFICE OF SPECIAL MASTERS

(Filed: September 18, 2008)

No. 06-464V

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DAVID BAILEY)	UNPUBLISHED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

Kirk A. Patrick, III, Syracuse, NY, for petitioner.

Richard Topping, Washington, DC, for respondent.

ATTORNEYS' FEES AND COSTS DECISION¹

On June 16, 2006, David Bailey, filed a petition pursuant to the National Vaccine Injury Compensation Program² (the Act or the Program), 42 U.S.C. § 300aa-10 et seq. On March 11, 2008, the undersigned issued a Decision finding that petitioner's filed

¹ 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.

² Hereinafter, for ease of reference, all "section" references to the Vaccine Injury Compensation Act will be to the pertinent subdivision of 42 U.S.C. § 300aa (2006 ed.).

medical records do not support a finding of entitlement.

On May 30, 2008, petitioner's counsel filed an unopposed motion for attorneys' fees and costs in the above-captioned case, requesting a total award of \$22,594.47, in attorneys' fees and costs. Petitioner's counsel's failed to include notice to the court of petitioner's out-of-pocket expenses, if any, in accordance with General Order No. 9. On June 25, 2008, the undersigned issued an order requiring petitioner's counsel to supplement his motion to satisfy the requirements of General Order No. 9. On August 29, 2008, petitioner's counsel filed a supplemental motion for attorney's fees and costs, in which he represented that he sent a letter to petitioner, via certified mail, regarding petitioner costs. Although petitioner signed for the letter, acknowledging his receipt of the letter, petitioner declined to respond to petitioner's counsel's letter.³

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300 aa-15(e). Based on the agreement of the parties, the reasonableness of the requested fees, and the failure of petitioner to respond to requests for petitioner's expenses related to this case, the undersigned **GRANTS** the attorneys' fees and costs as stated in petitioner's unopposed motion for attorneys' fees and costs, filed on May 30, 2008.

Therefore, 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 \$22,594.47 in attorneys' fees and costs.⁴ The judgment shall reflect that the Donohue Patrick, PLLC law firm may collect \$22,594.47 from petitioner.

IT IS SO ORDERED.

Patricia E. Campbell-Smith
Special Master

³ Petitioner's counsel filed documentation reflecting his efforts, including a copy of the certified mail receipt signed by petitioner.

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