

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 08-339V

Filed: January 31, 2011

Unpublished

CHERI MARTIN,

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Petitioner,

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Decision on attorney fees and costs

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v.

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SECRETARY OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

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Respondent.

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Carol L. Gallagher, Gallagher & Gallagher, Somers Point, N.J., for Petitioner.

Darryl R. Wishard, U.S. Department of Justice, Washington, D.C., for Respondent.

CORRECTED ATTORNEY'S FEES AND COSTS DECISION¹

GOLKIEWICZ, Special Master.

This Decision corrects the Attorney's Fees and Costs Decision filed on January 26, 2011.

On January 26, 2011, petitioner filed a Petition for Attorneys Fees and Costs [hereinafter "Fee Petition"]. On the same day, the parties filed a Stipulation of Facts Regarding Attorney's Fees and Costs (hereinafter "Fee Stipulation). In the Fee Stipulation, the parties state that respondent raised certain objections to the Fee Petition; thereafter, petitioner agreed to amend the request. Fee Stipulation at ¶ 2. Petitioner is now requesting \$76,000.00 in attorney fees, \$8,996.06 in attorney costs and \$3,003.94 in petitioner's own costs. The total request is \$88,000.00. Respondent does not object to an award in this amount. Id.

¹ The undersigned intends to post this decision on the website for the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 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. Any motion for redaction must be filed by no later than fourteen (14) days after filing date of this filing.** Further, consistent with the statutory requirement, a motion for redaction must include a proposed redacted decision, order, ruling, etc.

In compliance with General Order #9, petitioner filed a Statement on January 26, 2011, stating petitioner incurred costs in the amount of \$3,003.94. Fee Petition, P Ex 8, filed January 26, 2011.

The court hereby awards the petitioner \$76,000.00 in attorney fees, \$8,996.06 in attorney costs and \$3,003.94 in petitioner's own costs. **Specifically, petitioners are awarded a lump sum of \$84,996.06 in the form of a check payable jointly to petitioner and petitioner's attorney; petitioner is also awarded a lump sum of \$3,003.94 in the form of a check payable to petitioner individually.**

The Clerk of the Court is directed to enter judgment accordingly.²

IT IS SO ORDERED.

s/ Gary J. Golkiewicz
Gary J. Golkiewicz
Special Master

²Pursuant 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. Furthermore, this amount is intended to cover all legal expenses. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, 42 U.S.C.A. §300aa-15(e)(3) prevents an attorney from charging or collecting fees (including costs) which would be in addition to the amount awarded herein. See generally, Beck v. Secretary of the Dept. of Health & Human Servs., 924 F.2d 1029 (Fed. Cir. 1991).