

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 07-460V

Filed: October 17, 2008

NOT TO BE PUBLISHED

DAVID GERWIG and, *
PATRICIA ANN GERWIG, *
 *
Petitioner, *
 * Attorneys' Fees and Costs
v. *
 *
SECRETARY OF THE DEPARTMENT *
OF HEALTH AND HUMAN SERVICES, *
 *
Respondent. *

DECISION¹

Petitioner filed petitioner's Application for Attorneys' Fees and Costs (hereinafter P. Fee Appl.) requesting a total of \$5,470.75 in attorneys' fees and costs. See P Fee Appl., filed April 29, 2008. Respondent filed a Response in Opposition to Petitioner's Motion for Attorneys' Fees (hereinafter R Response) on May 13, 2008. See R Response, filed May 13, 2008. Petitioner filed a Reply to Respondent's Response to Petitioner's Application for Attorneys' Fees and Costs (hereinafter P Reply). See P Reply, filed June 10, 2008. Petitioner filed a Motion for Leave to File an Amended Reply (hereinafter P Amended Reply). P Amended Reply, filed June 25, 2008. Respondent filed a Sur-Response to Petitioner's Application for Attorneys' Fees and Costs (hereinafter R Sur-Response) arguing that petitioner's application must be denied. See R Sur-Response, filed June 26, 2008. A status conference was held on October 1, 2008 to discuss the possibility of the parties informally resolving attorneys' fees and costs. Subsequently, on October 8, 2008, petitioner filed Petitioner's Application for Fees and Costs wherein it states that after negotiation by and between counsel, respondent does not object to an award of \$4,119.25

¹The undersigned intends to post this decision on the United States Court of Federal Claims's website, 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 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" decision will be available to the public. Id.

for fees and \$380.75 for costs for a total of \$4,500 in attorneys' fees and costs for petitioner's counsel.

After reviewing the request, the court finds that an award in the amount of \$4,119.25 in attorneys' fees and the amount of \$380.75 in litigation costs for petitioner's counsel to be reasonable. The court thanks the parties for their cooperative efforts in resolving this matter.

Accordingly, pursuant to Vaccine Rule 13, petitioner is hereby awarded a **total of \$4,500.00 in attorneys' fees and costs** to be paid jointly to petitioner and petitioner's counsel.² In the absence of a motion for review filed pursuant to RCFC, Appendix B, the Clerk is directed to enter judgment according to this decision.³

IT IS SO ORDERED.

Gary J. Golkiewicz
Chief Special Master

²This 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 HHS, 924 F.2d 1029 (Fed. Cir. 1991).

³Pursuant 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.