

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 03-2313V

Filed: April 26, 2012¹

Not to be Published

JENNIFER GLUTH GRAHAM, *
parent of *
SEBASTIAN GLUTH GRAHAM, *
a minor, *

Autism; Attorneys' Fees and Costs

Petitioner, *

v. *

SECRETARY OF HEALTH AND *
HUMAN SERVICES *

Respondent. *

DECISION AWARDING ATTORNEYS' FEES AND COSTS ²

On April 9, 2012, petitioner filed an unopposed motion for award of final attorneys' fees and reimbursement of costs in this case. Petitioner is entitled to reasonable attorneys' fees and costs pursuant to §§ 15(b) and (e)(1). Respondent has reviewed the motion and does not object. Petitioner seeks attorneys' fees and costs in the amount of \$5,978.50. In lieu of filing a Vaccine General Order #9 statement, petitioner's counsel represents both that he is unaware of any out-of-pocket costs borne

¹ This Decision originally was filed on April 10, 2012. Petitioner requested that Decision be vacated and filed again with language that clarifies the fees and costs awarded constitute reimbursement for attorneys' fees and expenses borne by Simpson, Boyd & Powers.

² Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), a party has 14 days to identify and move to delete medical or other information, that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, I agree that the identified material fits within the requirements of that provision, I will delete such material from public access.

by petitioner and that he will reimburse petitioner any costs that petitioner personally incurred that are compensable under § 15 (e)(1).

Petitioner's counsel exercised due diligence in attempting to contact petitioner. The special master hereby finds that all payments issued jointly to petitioner and petitioner's counsel shall constitute reimbursement for attorneys' fees and expenses borne by Simpson, Boyd & Powers.

The request for attorneys' fees and costs is granted. Petitioner is awarded reasonable attorneys' fees and costs pursuant to §§ 15(b) and (e)(1), as I find that the petition was brought in good faith and upon a reasonable basis, and the amounts requested are reasonable and appropriate.

Pursuant to §15(e), I award a lump sum of \$5,978.50³ to be paid in the form of a check payable jointly to the petitioner and petitioner's counsel, Simpson, Boyd & Powers.

In the absence of a timely-filed motion for review filed pursuant to Appendix B of the Rules of the U.S. Court of Federal Claims, the clerk of the court shall enter judgment in accordance herewith.⁴

IT IS SO ORDERED.

s/George L. Hastings, Jr.
George L. Hastings, Jr.
Special Master

³ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, § 15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See generally Beck v. Sec'y of Dep't Health and Human Services, 924 F.2d 1029 (Fed. Cir.1991).

⁴ Entry of judgment can be expedited by each party's filing of a notice renouncing the right to seek review. See Vaccine Rule 11(a).