

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 08-447V

Filed: July 25, 2012

JESALEE PARSONS)	
)	NOT TO BE PUBLISHED
Petitioner,)	
)	Stipulation; Interim Attorneys'
v.)	Fees and Costs
)	
SECRETARY OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	

Michael G. McLaren, Black, McLaren, Jones, Ryland & Griffee, Memphis, TN, for Petitioner;
Debra A. Filteau Begley, United States Dep't of Justice, Washington, D.C., for Respondent.

DECISION ON INTERIM FEES AND COSTS¹

LORD, Special Master.

On July 23, 2012, the parties in the above-captioned case filed a Stipulation of Facts Regarding Attorney Fees and Costs memorializing their agreement as to the appropriate amount of interim attorneys' fees and costs in this case. After informal discussions with Respondent, Petitioner requests a total award of \$121,567.12 in attorneys' fees and costs incurred as of June 14, 2012. In accordance with General Order #9, Petitioner's counsel represents that Petitioner had incurred \$255.00 in reimbursable personal litigation costs as of July 14, 2012. Respondent does not object to this request.

Petitioner was previously awarded \$42,954.01 in interim attorneys' fees and costs on July 13, 2010. Decision, July 13, 2010, ECF No. 53. On July 25, 2012, the parties contacted the undersigned's chambers and indicated that the current Stipulation of Facts Regarding Attorney Fees and Costs is comprehensive and includes all outstanding fee and cost requests through June 14, 2012, but no duplicative amounts that were previously accounted for in the July 13, 2010 Decision. The parties also asserted that the Stipulation of Facts Regarding Attorney Fees and Costs resolves and includes the amount for Dr. Gershwin's services, which both parties had previously reserved the right to litigate in the July 13, 2010 Decision.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300aa-15(e).² After reviewing the request, the Court finds the stipulated amount of \$121,567.12

¹ In accordance with Vaccine Rule 18(b), petitioner has 14 days to file a proper motion seeking redaction of medical or other information that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Redactions ordered by the special master, if any, will appear in the document as posted on the United States Court of Federal Claims' website.

in attorneys' fees and costs incurred as of June 14, 2012 and \$255.00 in Petitioner's out-of-pocket expenses as of July 14, 2012 to be reasonable. Based on the request's reasonableness, the undersigned **GRANTS** the parties' request as outlined in the Stipulation of Facts Regarding Attorney Fees and Costs.

Accordingly, pursuant to Vaccine Rule 13, Petitioner is awarded a total of **\$121,822.12** in attorneys' fees and costs and out-of-pocket litigation costs. The judgment shall reflect that Petitioner is awarded fees and costs as follows:

- (1) A lump sum of \$121,567.12 in the form of a check payable jointly to Petitioner and Petitioner's counsel, Michael G. McLaren, Rawls Black, McLaren, Jones, Ryland & Griffee, for interim attorneys' fees and costs available under 42 U.S.C. § 300aa-15(e); and**
- (2) A lump sum of \$255.00 in the form of a check payable to Petitioner only for personal litigation costs.**

The Court thanks the parties for their cooperative efforts in resolving this matter. In the absence of a motion for review filed pursuant to RCFC, Appendix B, the Clerk is directed to enter judgment accordingly.³

IT IS SO ORDERED.

s/ Dee Lord
Dee Lord
Special Master

² The Vaccine Act also permits an interim award of attorneys' fees and costs. Avera v. Sec'y of Dep't of Health & Human Servs., 515 F.3d 1343 (Fed. Cir. 2008).

³ Pursuant 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.