

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 08-447V

Filed: July 13, 2010

LAURA PARSONS, as mother of her daughter,)	
JESALEE PARSONS,)	
)	NOT TO BE PUBLISHED
Petitioner,)	
)	
v.)	Irreducible minimum;
)	Interim Attorney's Fees and Costs
SECRETARY OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	

INTERIM ATTORNEYS' FEES AND COSTS DECISION¹

LORD, Special Master.

Petitioner in the above captioned case filed an "Amended Application for Interim Attorneys' Fees and Costs" ("Application") on June 25, 2010. In the Application, Petitioner represented that the parties have agreed to a total interim award of \$42,954.01 for attorney's fees and costs. *Id.* That request includes \$30,283.00 for attorneys' fees, \$2,671.01 for costs, and an irreducible minimum of \$10,000.00 in costs for payment of Dr. Gershwin's fees. Both Petitioner and Respondent have reserved the right to litigate the entire amount originally requested for Dr. Gershwin's services at the conclusion of this case.

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 award of \$42,954.01 in attorneys'

¹ The 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 ruling will be available to the public. *Id.*

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).

fees and costs to be reasonable. Based on the request's reasonableness and the parties' agreement, the undersigned **GRANTS** Petitioner's request as outlined in the Application.

Accordingly, pursuant to Vaccine Rule 13, Petitioner is awarded a total of **\$42,954.01 in attorneys' fees and costs**, all of which shall be made payable jointly to Petitioner and Petitioner's attorney.

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 according to this decision.⁴

IT IS SO ORDERED.

s/ Dee Lord
Dee Lord
Chief Special Master

⁴ 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.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

 JESALEE PARSONS, by her *
 mother, LAURA PARSONS, *
 *
 Petitioners, *
 *
 v. * No. 1:08-vv-00447-UNJ
 *
 SECRETARY OF THE DEPARTMENT *
 OF HEALTH AND HUMAN SERVICES, *
 *
 Respondent. *

AMENDED APPLICATION FOR INTERIM ATTORNEYS' FEES AND COSTS

On November 12, 2009, Petitioners filed an interim fee application for attorneys' fees and costs covering October 30, 2007 through November 10, 2009. With regard to their interim fee application, Petitioners now amend their request for attorneys fees to \$30,283. Petitioners also now amend their interim fee application for costs, with the exception of costs for Dr. Gershwin's fees, to \$2,671.01. In addition, Petitioners have agreed to accept an irreducible minimum of \$10,000.00 in costs for payment of Dr. Gershwin's fees as outlined in the original petition, subject to a reservation of rights by both Petitioner and Respondent to litigate the entire amount originally requested for Dr. Gershwin's services at the conclusion of this case. This reservation is limited solely to Dr. Gershwin's fees.

In total, Petitioners now request fees and costs in the amount of \$42,954.01, subject to the reservations set forth above.

Respondent has reviewed this amended fee application and does not object to its filing.

Respectfully Submitted,

BLACK McLAREN JONES RYLAND & GRIFFEE
A Professional Corporation

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