

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 07-304 V

Filed: May 26, 2011

For Publication

SHERYL GABRIELLE,

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Petitioner,

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v.

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Attorneys' Fees & Costs;

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Interim Award

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SECRETARY OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

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Respondent.

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Michael G. McLaren, Memphis, TN, for petitioner.

Lisa Watts, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION AWARDING INTERIM ATTORNEYS' FEES AND COSTS¹

On May 15, 2007, petitioner filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. §300aa-10 et seq., alleging influenza vaccine caused her Guillain-Barré Syndrome ("GBS") and/or chronic inflammatory demyelinating polyneuropathy ("CIDP"). Initially, Thomas P. Gallagher represented petitioner, but he moved to withdraw from the case on August 8, 2008, which motion the undersigned granted on August 15, 2008. On November 7, 2008, Michael G. McLaren became petitioner's attorney. He moved to withdraw on August 21, 2009, which motion the undersigned granted on August 25, 2009. Petitioner is now pro se and the case is pending on the issue of entitlement.

On April 19, 2011, petitioner's former counsel Mr. McLaren filed a Petition for Interim Attorney's Fees and Costs. Mr. McLaren requested \$6,957.50 in attorneys' fees and attorneys' costs of \$1,037.39 for a total of \$8,076.18.

¹ Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to redact such information prior to the document's disclosure. If the special master, upon review, agrees that the identified material fits within the categories listed above, the special master shall redact such material from public access.

On May 23, 2011, respondent filed a response to petitioner's petition for interim attorneys' fees and costs ("R Resp"). On May 25, respondent indicated that, without waiving her prior opposition to the appropriateness of the interim application, she would have no further objection to the reimbursement of \$6,821.00 in fees, and \$1,118.68 in costs, for a total of \$7,939.68.

In her initial opposition, respondent elected "not to reiterate her statutory objection at this time in response to this particular request for interim attorneys' fees and costs." R Resp at 1, n.1. Respondent notes her cognizance of the undersigned's prior ruling in *Soto v. Sec'y of HHS*, 09-897V, 2011 WL _____, slip op. at 4 (Fed Cl. Spec. Mstr. May 17, 2011). Consistent with that opinion, the undersigned can find no reason to subject counsel in the Vaccine Program to delays in compensation for indefinite periods of time when their service to their client is at an end and they will not be filing future fee applications in this case. Paying attorneys when their service is complete is appropriate. Mr. McLaren's service is at an end, and an interim award is appropriate in this case.

An interim award of attorneys' fees and costs is appropriate in this case. Petitioner and respondent have reached an accord on the amount of compensation acceptable to both parties, notwithstanding respondent's opposition to interim awards in general.

The undersigned awards petitioner interim attorneys' fees and costs in the amount of **\$7,939.68**, representing attorneys' fees and costs, in the form of a check made payable jointly to petitioner and the law firm Black McLaren Jones Ryland & Griffee, P.C.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.²

IT IS SO ORDERED.

Dated: _____

Laura D. Millman
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party's filing a notice renouncing the right to seek review.