

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 08-785 V

Filed: May 26, 2011

Not for Publication

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LYN McMAHON,

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Petitioner,

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Attorneys' Fees & Costs

v.

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based on Stipulation

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SECRETARY OF THE DEPARTMENT  
OF HEALTH AND HUMAN SERVICES,

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Respondent.

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Ashley Baird, Kansas City, MO, for petitioner.

Debra F. Begley, Washington, DC, for respondent.

**MILLMAN, Special Master**

### **DECISION AWARDING ATTORNEYS' FEES AND COSTS<sup>1</sup>**

On May 25, 2011 the parties filed the attached stipulation, in which they agreed to settle the attorneys' fees and costs in this case. Petitioner requests \$58,000.00 for attorneys' fees and costs in this case. Respondent does not object to this amount. The court finds the amount requested by petitioner to be reasonable.

In accordance with the General Order #9 requirements, petitioner states that she incurred \$250.00 in costs to pursue this petition.

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this unpublished decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub.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). 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 delete such information prior to the document's disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall delete such material from public access.

The court hereby adopts the parties' stipulation and awards compensation in the amount set forth therein. Pursuant to the stipulation, the court awards **\$58,000.00**, representing reimbursement for attorneys' fees and costs, in the form of a check made jointly payable to petitioner and the law firm Dempsey & Kingsland, P.C. The court awards a second check, representing petitioner's personal costs, in the amount of **\$250.00**, payable solely to petitioner.

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.<sup>2</sup>

**IT IS SO ORDERED.**

Dated: May 26, 2011

/s/ Laura D. Millman  
Laura D. Millman  
Special Master

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<sup>2</sup> 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.

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v.

**SECRETARY OF HEALTH AND  
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**No. 08-785V**  
SPECIAL MASTER  
LAURA D. MILLMAN

**STIPULATION OF FACTS CONCERNING ATTORNEYS' FEES AND COSTS**

It is hereby stipulated by and between the parties, the following factual matters:

1. Ashley Baird is the attorney of record for petitioner.
2. Petitioner's claim for compensation was resolved through a stipulation for settlement filed on March 18, 2011.
3. Petitioner's counsel informally submitted a request for attorneys' fees and costs to respondent's counsel claiming \$39,937.50 in attorneys' fees and \$30,849.46 in costs, totaling \$70,786.96.
4. In informal discussions, respondent raised objections to certain items in petitioner's request. In response, petitioner has amended her total request for reimbursement of attorneys' fees and costs to \$58,000.00. Respondent does not object to this amount.
5. Petitioner understands that the payment of \$58,000.00 represents all attorneys' fees and costs available under 42 U.S.C. § 300aa-15(e). Counsel for respondent has informed counsel for petitioner that she does not oppose petitioner's total request for \$58,000.00 for attorneys' fees and costs.
6. The parties now agree that a decision should be entered awarding attorneys' fees and costs to petitioner and her attorney, Ashley Baird of Dempsey & Kingsland P.C., in the amount of \$58,000.00.

7. Nothing in this Stipulation, including the amount set forth in paragraph 4, should be construed as an admission, concession, or waiver by either party as to any of the matters raised by petitioner's request for attorneys' fees and costs, including but not limited to the hourly rates requested, the number of hours requested, and other litigation-related costs. Respondent states (without waiving any objections) that the total amount of compensation set forth in paragraph 4 is not an unreasonable amount to have been incurred for proceedings in this case.

Respectfully submitted,

/s/ ASHLEY BAIRD

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/s/ DEBRA A. FILTEAU BEGLEY

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Dated: May 23, 2011