

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

ALLISON HAGER,

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No. 01-307V

Petitioner,

*

Special Master Christian J. Moran

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v.

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Filed: December 7, 2012

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

*

Attorneys' fees and costs; amount to
which respondent does not object

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Respondent.

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UNPUBLISHED DECISION ON FEES AND COSTS¹

Ronald Craig Homer, Conway, Homer & Chin-Caplan, P.C., Boston, MA for
Petitioner;

Althea Walker Davis, U.S. Department of Justice, Washington, D.C., for
Respondent.

Petitioner, Allison Hager, filed an application for attorneys' fees and costs on November 1, 2012. The Court awards the amount to which respondent does not object.

Petitioner claimed that she suffered autoimmune hepatitis as a result of a hepatitis B vaccine. See Petition, filed May 21, 2001. A decision by the undersigned denying compensation was issued on September 11, 2008. Hager v. Sec'y of Health & Human Servs., No. 01-307V, 2008 WL 4483739 (Fed. Cl. Spec. Mstr. Oct. 15, 2008). The Court of Federal Claims reversed this decision and remanded with instructions to determine an award of damages for petitioner. Rotoli v. Sec'y of Health & Human

¹ The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

Servs., 89 Fed. Cl. 71 (2009). On April 7, 2011, the undersigned issued a decision awarding damages based on the parties' proffer. Hager v. Sec'y of Health & Human Servs., No. 01-307V, 2011 WL 1627071 (Fed. Cl. Spec. Mstr. Apr. 7, 2011). However, the Federal Circuit reversed the 2009 ruling by the Court of Federal Claims, finding that Ms. Hager was not entitled to compensation under the Vaccine Act. Order, Fed. Cir. No. 2011-5104, filed July 10, 2012 (granting summary reversal of judgment holding Ms. Hager was entitled to compensation in light of Porter v. Sec'y of Health & Human Servs., 663 F.3d 1242 (Fed. Cir. 2011)).

Even though compensation was denied, a petitioner who brings her petition in good faith and who has a reasonable basis for the petition may be awarded attorneys' fees and costs. See 42 U.S.C. § 300aa-15(e)(1). Respondent does not contend that petitioner failed to satisfy these criteria. The Court's 2009 ruling justifies finding reasonable basis for this case. Thus, petitioner is eligible for an award of attorneys' fees and costs.

Petitioner seeks a total of **\$78,600.00** in attorneys' fees and costs for petitioner's counsel. Additionally, petitioner filed a statement of costs in compliance with General Order No. 9, stating that petitioner incurred no reimbursable costs in pursuit of her claim. Respondent stated that she had no objection to this application for attorneys' fees and costs.

After reviewing the request, the court awards **\$78,600.00** in attorneys' fees and other litigation costs. The court thanks the parties for their cooperative efforts in resolving this matter.

The Clerk shall enter judgment accordingly.²

IT IS SO ORDERED.

S/ Christian J. Moran
Christian J. Moran
Special Master

² 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.