

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

THOMAS WALTER RICCI, a minor, *
through his parents and natural guardians,*
DANIEL RICCI and EVA RICCI, *

Petitioners, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

No. 99-524V
Special Master Christian J. Moran

Filed: January 18, 2012

Attorneys' fees and costs; award
in the amount to which
respondent does not object;
reasonable basis.

UNPUBLISHED DECISION¹

David L. Terzian, Rawls, McNelis and Mitchell, P.C., Richmond, VA, for Petitioners;
Michael P. Milmo, U.S. Department of Justice, Washington, D.C., for Respondent.

Petitioners Daniel Ricci and Eva Ricci, as parents of their son, Thomas Walter Ricci
("Thomas"), filed an application for attorneys' fees and costs on January 12, 2012. The Court
awards the amount to which respondent has not objected.

¹ Because this unpublished decision contains a reasoned explanation for the special
master's action in this case, the special master intends to post it 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).

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 clearly be an unwarranted invasion of
privacy. When such a decision or designated substantive order is filed, the person submitting the
information has 14 days to identify and to move to delete such information before the
document's disclosure. If the special master agrees that the identified material fits within the
categories listed above, the special master shall redact such material from public access.
42 U.S.C. § 300aa-12(d)(4)(B); Vaccine Rule 18(b).

Petitioners claimed that the hepatitis B vaccine caused their son an adverse reaction. Pet. ¶ 3. A decision, dated May 16, 2011, found that petitioners were not entitled to compensation. Decision, dated May 16, 2011.

Even though compensation was denied, petitioners who bring their petition in good faith and who have a reasonable basis for the petition may be awarded attorneys' fees and costs. See 42 U.S.C. § 300aa-15(e)(1). Here, counsel for petitioners spent time gathering medical records and filing affidavits for petitioners. Counsel also filed an expert report. While petitioners did not meet their burden of proof, petitioners are still eligible for an award of attorneys' fees and costs. Because petitioners' counsel acted in good faith and there was a reasonable basis for proceeding, petitioners are eligible for an award of attorneys' fees and costs. Respondent does not contend that petitioners failed to satisfy these criteria.

After reviewing the request, the court awards the following:

1. **A lump sum payment of \$138,755.68 in the form of a check payable to petitioners' attorney, David L. Terzian, of the law firm Rawls, McNelis & Mitchell, PC, and petitioners, Daniel and Eva Ricci, for attorney's fees and costs available under 42 U.S.C. § 300aa-15(e);**
2. **A lump sum payment of \$3,359.40 in the form of a check payable to petitioner's former counsel, Shoemaker & Associates; and**
3. **A lump sum payment of \$884.92 in the form of a check payable to petitioners, Daniel and Eva Ricci.**

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.