

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

AMANDA KNIGHT,	*	
Personal Representative of the Estate of	*	No. 99-644V
CLAUDIA J. ROTOLI-BARR, deceased,	*	Special Master Christian J. Moran
	*	
Petitioner,	*	
	*	Filed: October 31, 2012
v.	*	
	*	
SECRETARY OF HEALTH	*	Attorneys' fees and costs; award
AND HUMAN SERVICES,	*	in the amount to which
	*	respondent does not object.
Respondent.	*	
	*	

UNPUBLISHED DECISION ON FEES AND COSTS¹

Ronald C. Homer, Conway, Homer & Chin-Caplan, P.C., Boston, MA, for Petitioner;
Althea W. Davis, U.S. Department of Justice, Washington, D.C., for Respondent.

Petitioner Amanda Knight, as the personal representative of the estate of Claudia J. Rotoli-Barr (“Ms. Rotoli-Barr”) filed her initial application for attorneys’ fees and costs on August 15, 2012. After discussions between the parties, petitioner filed a Stipulation of Fact Concerning Attorneys’ Fees and Costs (“Stipulation”) on October 12, 2012. The Court awards the amount to which respondent has not objected.

Ms. Knight claimed that Ms. Rotoli-Barr “was injured as a result of receiving hepatitis B vaccinations.” Petition at 2. A decision by the undersigned denying compensation was issued on September 11, 2008. 2008 WL 4483739. 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 Servs., 89 Fed. Cl.

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.

71 (2009). On July 15, 2010, the undersigned issued a decision awarding damages based on the parties' proffer. 2010 WL 3260184. However, on November 22, 2011, the Federal Circuit reversed the 2009 ruling by the Court of Federal Claims, finding that Ms. Rotoli was not entitled to compensation under the Vaccine Act. Porter v. Sec'y of Health & Human Servs., 663 F.3d 1242 (Fed. Cir. 2011) (rehearing en banc denied).

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.

Previously, Ms. Rotoli-Barr was awarded \$189,733.90 in interim attorneys' fees and costs for the work of her attorneys in preparing for and taking this case to hearing. 2009 WL 4034800, at *2 (Fed. Cl. Spec. Mstr. Nov. 3, 2009).

Ms. Rotoli-Barr has now requested fees and costs for the remainder of the case. In her initial application for attorneys' fees and costs, Ms. Rotoli-Barr requested a total of \$166,614.58 in attorneys' fees and costs. This total included \$145,939.90 in attorneys' fees, and \$20,674.68 in attorneys' costs.

Summary of Requested Attorneys' Fees and Costs by Phase	
Motion for Review	\$77,252.50
Damages	\$23,601.50
Federal Circuit	\$42,156.70
Final Fees	\$2,929.20
Total Requested Fees in Initial Application	\$145,939.90
Costs	\$20,674.68
Total Requested Fees & Costs	\$166,614.58

After informal discussions, Ms. Rotoli-Barr amended her application and filed the above-referenced Stipulation, requesting a final award of attorneys' fees and costs in the amount of **\$150,000.00**. Additionally, Ms. Rotoli-Barr filed a statement of costs in compliance with General Order No. 9, stating that she incurred **\$548.82** while pursuing this claim. Respondent states that she does not object to a total award in the amount of **\$150,548.82** for attorneys' fees and costs and petitioner's costs.

The attorneys' fees and costs in this case are not insubstantial and were discussed in an October 26, 2012 status conference. The amount requested is reasonable. This case

served as the lead case in a group pursuing a theory that the hepatitis B vaccine can cause autoimmune hepatitis. Petitioners have billed for activities that are common in all the cases, such as reviewing the transcript for the lengthy hearing, into this particular case. Thus, the attorneys' fees and costs in this case are more than other cases in the group. See, e.g., Porter v. Sec'y of Health & Human Servs., No. 99-639, slip op. (Fed. Cl. Spec. Mstr. Oct. 31, 2012).

After reviewing the request, the court awards the following:

1. **A lump sum payment of \$150,000.00 in the form of a check payable to petitioner's attorney, Ronald C. Homer, of the law firm Conway, Homer & Chin-Caplan, P.C., and petitioner, Amanda Knight, for attorney's fees and costs available under 42 U.S.C. § 300aa-15(e);**
2. **A lump sum payment of \$548.82 in the form of a check payable to petitioner, Amanda Knight.**

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.