

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

PHILLIP and CHRIS SANDY,
As Parents and Natural Guardians of
S.S.

Petitioners,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

No. 10-308V
Special Master Christian J. Moran

Filed: May 17, 2011

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

UNPUBLISHED DECISION ON FEES AND COSTS^1

Anne C. Toale, Maglio Christopher & Toale, PA, Sarasota, FL, for Petitioner;
Debra A. Filteau Begley, U.S. Department of Justice, Washington, D.C., for Respondent.

Petitioners Phillip and Chris Sandy, as parents and natural guardian of S.S., filed an
application for attorneys' fees and costs on May 11, 2010. The Court awards the amount to
which respondent does not object.

Petitioners claimed that the Gardasil vaccine caused their child an adverse reaction,
including severe migraines and petit mal seizures. See Petition, filed May 21, 2011. Petitioner

^1 Because this unpublished decision contains a reasoned explanation for the special master's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).

was unable to find an expert to establish causation and thus, requested a ruling on the record. In this ruling, compensation was denied. Decision, dated Mar. 15, 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). Here, counsel for petitioners spent time gathering medical records and filing affidavits for petitioners. Counsel consulted an expert and then counsel realized that causation was lacking and the case could not proceed. At this point, counsel took steps to resolve this case relatively quickly so as not to increase costs and expenses unnecessarily. Thus, 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.

Petitioners seek a total of **\$4,958.46** in attorneys' fees and costs for petitioners' counsel. Additionally, petitioners filed a statement of costs in compliance with General Order No. 9, stating that petitioners 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 **\$4,958.46** 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.