

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 10-80 V

Filed: December 1, 2010

Not for Publication

OLIVER KELZENBERG,

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Petitioner,

*

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v.

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Attorneys' Fees and Costs 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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Diana L. Stadelnikas, Sarasota, FL, for petitioner.

Althea W. Davis, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION AWARDING ATTORNEYS' FEES AND COSTS¹

On December 1, 2010, the parties filed the attached stipulation, in which they agreed to settle the attorneys' fees and costs in this case and described the settlement terms. Petitioner requests **\$7,500.00** for attorneys' fees and costs. In accordance with the General Order #9 requirements, petitioner states he incurred no costs to pursue his petition. Respondent has agreed not to object to the amount requested by petitioner. The court finds the amount requested by petitioner to be reasonable.

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this unpublished decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub.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' said stipulation, attached hereto, and awards compensation in the amount and on the terms set forth therein. Pursuant to the stipulation, the court awards a total of **\$7,500.00**, representing reimbursement for attorneys' fees and costs. The award shall be in the form of one check made jointly payable to petitioner and the law firm Maglio Christopher & Toale, PA in the amount of **\$7,500.00**.

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.²

IT IS SO ORDERED.

Dated: December 1, 2010

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

² 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.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF THE SPECIAL MASTERS

OLIVER KELZENBERG,

Petitioner,

vs.

CASE NO. 10-80V
Special Master Millman

SECRETARY OF HEALTH AND HUMAN
SERVICES,

Respondent.

STIPULATION OF FACT CONCERNING
ATTORNEYS' FEES AND COSTS

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

1. Diana L. Stadelnikas is the attorney of record for the Petitioner, OLIVER KELZENBERG.
2. Petitioner informally submitted his Application for Attorneys' Fees and Costs to Respondent on September 30, 2010.
3. In informal discussions, Respondent raised objections to certain items in Petitioner's application. Petitioner does not agree with the objections raised by Respondent, but after further discussions, Petitioner agreed to amend his Application for Attorneys' Fees and Costs in this matter to request reimbursement for Attorneys' Fees and Costs for Diana L. Stadelnikas in the amount of \$7,500.00.
4. Petitioner has no costs related to the litigation of this matter. Petitioner's Statement Regarding General Order #9 is attached as Exhibit "A".

5. Respondent does not object to an award of \$7,500.00 for attorneys' fees and costs, payable jointly to Petitioner and his attorney, Diana L. Stadelnikas.

Respectfully submitted,

/s/ Diana L. Stadelnikas
Diana L. Stadelnikas, Esq.
FL Bar No. 948659
Maglio Christopher & Toale, PA
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Attorney for the Petitioner

/s/ Althea Walker Davis
Althea Walker Davis, Esq.
Senior Trial Counsel
U.S. Department of Justice
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Washington, D.C. 20044-0146
202-616-0515
Attorney for Respondent

Dated: December 1, 2010

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF THE SPECIAL MASTERS

OLIVER KELZENBERG,

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CASE NO. 10-80V
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SECRETARY OF HEALTH AND HUMAN
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Respondent.

STATEMENT REGARDING GENERAL ORDER #9

The Petitioner states that while represented by Maglio Christopher & Toale, PA Law Firm, he did not incur costs related to the litigation of this matter.

/s/ Diana L. Stadelnikas

Diana L. Stadelnikas, Esq.
Florida Bar Number

MAGLIO CHRISTOPHER & TOALE

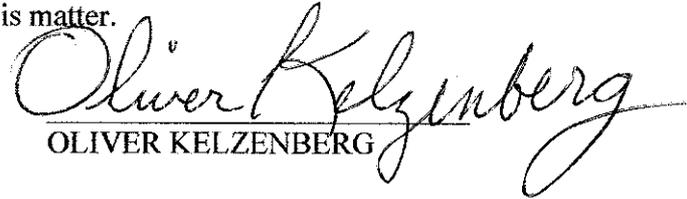
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Attorney for the Petitioner


OLIVER KELZENBERG

Dated: 10/01/2010