

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 00-658V

Initially filed: September 12, 2008

Reissued: September 29, 2008

Not for Publication

BLACKBIRD WILLOW, *

*

Petitioner, *

*

v. * Attorney's Fees and Costs

*

SECRETARY OF THE DEPARTMENT OF *

HEALTH AND HUMAN SERVICES, *

*

Respondent. *

*

Clifford J. Shoemaker, Vienna, VA, for petitioner.

Traci R. Patton, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION¹

¹ 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 be a clearly unwarranted invasion of privacy. When such a decision or designated substantive order 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. On September 16, 2008, petitioner filed a two-sentence Motion to Redact, asking that the names of the parties and attorneys be redacted based on Vaccine Rule 18(b). Petitioner's motion is denied. This three-page decision on fees and costs does not involve privileged or confidential trade secrets, privileged or confidential commercial or financial information, or a clearly unwarranted invasion of privacy of petitioner's medical or similar records.

On November 7, 2000, petitioner filed a petition under the National Childhood Vaccine Injury Compensation Act, 42 U.S.C. §300aa-10 et seq. On May 23, 2007, the undersigned issued an Order to Show Cause for petitioner to show cause why her case should not be dismissed in response to which petitioner requested time to file an expert report. On November 1, 2007, petitioner filed a motion requesting a ruling on the record, citing her inability to prove causation and her inability to find an expert to support causation in this case. The undersigned filed a decision dismissing the petition on November 2, 2007.

Petitioner timely filed an application for fees and costs on May 29, 2008, requesting \$42,042.72. On June 16, 2008, respondent filed a response to petitioner's application, objecting to the amounts claimed for attorney's fees and expert fees. On July 7, 2008, petitioner filed a reply to respondent's response to petitioner's application for fees and costs, amending the amount requested to \$42,356.81. In compliance with General Order #9, petitioner states that she has incurred \$927.59 in costs.

On September 12, 2008, petitioner agreed to a sum of \$35,000.00 for attorney's fees and costs, plus \$927.59 for petitioner's costs. Respondent has no objection to these amounts. After reviewing the requests, the undersigned finds these amounts to be reasonable.

The clerk shall enter judgment for petitioner and shall direct that the award be in the form of one check made payable to petitioner in the amount of **\$927.59** and one check made payable jointly to petitioner and Mr. Clifford J. Shoemaker, Esq. in the amount of **\$35,000.00**. In the

absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herein.²

IT IS SO ORDERED.

September 29, 2008
DATE

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.