

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 08-789V

Filed: December 8, 2010

Not for Publication

NANCY FERGUSON,

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Petitioner,

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Attorneys' fees and costs

v.

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SECRETARY OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

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Respondent.

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David P. Murphy, Greenfield, IN, for petitioner.

Melonie McCall, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION AWARDING ATTORNEYS' FEES AND COSTS¹

On December 7, 2010, petitioner filed a verified petition for fees and expenses. Petitioner requests **\$7,250.54** in attorneys' fees and costs. In accordance with the General Order #9 requirements, petitioner states she incurred **\$1,800.00** in costs to pursue her 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¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this unpublished decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub.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 verified petition, 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 **\$9,050.54**, representing reimbursement for **\$7,250.54** in attorneys' fees and costs and **\$1,800.00** in petitioner's costs. The award shall be in the form of:

- (a) a check made jointly payable to petitioner and David P. Murphy & Associates, P.C. in the amount of **\$7,250.54**; and
- (b) a check made solely payable to petitioner in the amount of **\$1,800.00**.

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 8, 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.

UNITED STATES COURT OF FEDERAL CLAIMS

NANCY FERGUSON,)
Petitioner,)
v) Cause 08-789V
Special Master Laura D. Millman
SECRETARY OF THE DEPARTMENT)
OF HEALTH AND HUMAN SERVICES,)
Respondent.)

VERIFIED PETITION FOR FEES AND EXPENSES

Comes now David P. Murphy, who being first duly sworn upon his oath deposes and says:

1. That he is an Attorney at Law duly admitted to practice before the Supreme Court of Indiana, the United States District Court for the Southern District of Indiana and the United States Supreme Court.
2. That he maintains an office at 504 West Main Street, Greenfield, Indiana 46140 and his office telephone number is 317-462-2222.
3. That he is counsel of record for the Petitioner herein, Nancy Ferguson.
4. That he has been representing the Petitioner continuously since September, 2008; that those legal services were billed at an hourly rate of \$200 per hour.
5. That as counsel for Petitioner, the undersigned rendered a total of 28 hours of legal services at \$200 per hour for a total of \$5,600.00; advanced costs for postage in the amount of \$124.25; and duplication expenses in the amount of \$26.29, for a total of \$5,750.54. A copy of counsel's statement is attached hereto as Exhibit "A".
6. That counsel also retained Dr. John Kincaid of University Expert Medical Consultants, LLC to serve as an expert in this case; that Dr. Kincaid charged a fee of \$ 1,500 which has not been paid; that a copy of his statement is attached as Exhibit "B".

7. That the claim of counsel is a total of \$ 7,250.54.

8. That Claimant Nancy Ferguson advanced the funds necessary to obtain copies of her medical records, duplicate those records for submission to the Court and transporting those records to the Court; that her total expenditure for those expenses is \$1800.

9. That counsel requests payment of his fees pursuant to 42 USC section 300 aa-15 (e).

10. That counsel has provided a copy of this Verified Petition to Ms. Melanie McCall, Trial Attorney, Torts Branch, Civil Division, US Department of Justice, P. O. Box 146, Benjamin Franklin Station, Washington, D.C. 20044-0146; that Ms. McCall has advised the undersigned counsel that she has no objection to the award of fees.

WHEREFORE, the Petitioner respectfully prays for an award of fees to David P. Murphy in the sum of \$7,250.54 and for reimbursement to Ms. Nancy Ferguson in the sum of \$1,800 and for all further relief proper in the premises.

I AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FOREGOING REPRESENTATIONS ARE TRUE.

DAVID P. MURPHY & ASSOCIATES, P.C.

By: /s/David P. Murphy
David P. Murphy,
Indiana Supreme Court
Attorney No. 9388-30

CERTIFICATE OF SERVICE

I hereby affirm that a copy of this Pleading has been served upon the following counsel of record via United States Mail, First Class, postage prepaid, this 7th day of December, 2010:

Melanie McCall
Senior Trial Counsel
Torts Branch, Civil Division
U. S. Department of Justice
P.O. Box 146, Benjamin Franklin Station
Washington, D.C. 20044-0146

/s/ David P. Murphy
David P. Murphy, 9388-30
Counsel of Record for Petitioners

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