

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

JENNIFER ROSS,

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Petitioner,

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No. 06-412V

Special Master Christian J. Moran

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v.

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Filed: January 21, 2009

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SECRETARY OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

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attorneys' fees and costs

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Respondent.

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Scott Rooney, Esq., Morgan and Myers, PLC, Dearborn, Michigan, for Petitioner;
Linda S. Renzi, Esq., United States Dep't of Justice, Washington, D.C., for Respondent.

UNPUBLISHED DECISION ON MOTION FOR ENLARGEMENT OF TIME*

Jennifer Ross seeks additional time to file a reply regarding her request for an award of attorneys' fees and costs, specifically to submit invoices from Dr. Bernard and Medical Quality Management, Inc. This motion is DENIED.

* Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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, a party has 14 days to identify and to move to delete such information before 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. 42 U.S.C. § 300aa-12(d)(4); Vaccine Rule 18(b).

Ms. Ross filed a petition for an award of attorneys' costs on November 1, 2007. This motion did not include all items, specifically, it did not include a request for attorneys' fees. Ms. Ross filed an amended petition for attorneys' fees and costs on May 13, 2008.

Respondent objected to items charged by Medical Quality Management, Inc., which total \$3,555.00. Respondent specifically requested a detailed billing statement showing what tasks Dr. Geier and personnel at Medical Quality Management, Inc. performed. Resp't Opp'n, filed June 18, 2008, at 1-2.

An August 29, 2008 order informed petitioner that she "should be aware that without additional information about the costs as requested by respondent, her motion for attorneys' fees and costs is likely to be viewed unfavorably due to lack of evidence." This order authorized Ms. Ross to provide additional information by September 26, 2008.

Despite the August 29, 2008 order, Ms. Ross did not submit any additional documentation or billing statement from Medical Quality Management, Inc. Although Ms. Ross did explain that Medical Quality Management, Inc. is a company owned by Dr. Peter Bernard, there is no invoice or billing statement. See Pet'r Reply, filed Sep. 23, 2008.

Respondent noted the absence of invoices from Dr. Bernard and/or Medical Quality Management, Inc. Resp't Opp'n, filed Oct. 27, 2008, at 2. Although Ms. Ross was given the opportunity to file a reply brief (see Vaccine Rule 20(b)), she did not file one in the time permitted.

A decision, dated December 4, 2008, awarded Ms. Ross a portion of the attorneys' fees and costs she had requested. The December 4, 2008 decision did not award any compensation for Dr. Bernard or Medical Quality Management, Inc. because Ms. Ross had failed to file any

supporting documentation. Judgment should have been entered in accord with this decision 30 days after it was issued. Vaccine Rule 11; Vaccine Rule 13.

Ms. Ross's pending motion seeks additional time to file a reply to submit documentation regarding Dr. Bernard and Medical Quality Management, Inc. This motion is denied.

Ms. Ross has not established that she is entitled to relief. Ms. Ross has enjoyed ample opportunity to submit the records from Dr. Bernard and/or Medical Quality Management, Inc. The August 29, 2008 order specifically warned Ms. Ross that her application lacked evidence. Even so, Ms. Ross did not file a request for an enlargement of time to gather the information before the decision was issued. Ms. Ross will not be permitted to do after the decision has issued what she should have done before.

For these reasons, Ms. Ross's motion for enlargement of time to file a reply is DENIED.
IT IS SO ORDERED.

Christian J. Moran
Special Master