

## In the United States Court of Federal Claims

U.S. COURT OF  
FEDERAL CLAIMS

In the Matter of:

Jay A. Bansal

No. 15-11189

## ORDER

On August 18, 2015, Chief Special Master Denise K. Vowell sent to Chief Judge Patricia Campbell-Smith a letter alerting the Chief Judge to the possibility that Jay A. Bansal, attorney of record in *Broomfield v. Secretary of Health and Human Services*, case number 14-523V, had improperly retained a significant percentage of the damages awarded to the client in addition to the attorney's fees of \$31,000 that the special master had awarded to Mr. Bansal pursuant to the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34, for his work on the case. 42 U.S.C. § 300aa-15(e) (providing in the first paragraph for the award of reasonable attorneys' fees and, in the third paragraph, stating that "[n]o attorney may charge any fee for services in connection with a petition filed under section 300aa-11 of this title which is in addition to any amount awarded as compensation by the special master or court under paragraph (1)").

Upon receiving this notification, Chief Judge Patricia Campbell-Smith referred the matter to the Clerk of Court pursuant to Rule 83.2(g)(2)(B) of the Rules of the U.S. Court of Federal Claims ("RCFC"). On August 20, 2015, the Clerk's Office delivered a memorandum to the Standing Panel on Attorney Discipline discussing the credible evidence of Mr. Bansal's potentially inappropriate conduct. This memorandum noted that Chief Special Master Vowell had been notified that the Office of the United States Attorney for Arizona was investigating Mr. Bansal.

In response to this memorandum, the Standing Panel issued an order directing the Clerk of Court to appoint a staff attorney to investigate the allegations regarding the conduct of Mr. Bansal. See RCFC 83.2(g)(5). The staff attorney began an independent investigation into the way that Mr. Bansal handled his clients' vaccine compensation awards in approximately 14 cases.

While the staff attorney was investigating the matter in this court, Mr. Bansal pled guilty to a violation of 18 U.S.C. § 1341, Mail Fraud, a Class C felony offense, in the District Court for the District of Arizona in relation to all 14 of the vaccine cases in this court. Lodged Plea Agreement, *United States v. Bansal*, No. 2:15-cr-01247 (D. Ariz. Oct. 2, 2015). Specifically, Mr. Bansal confessed his guilt and responsibility for using the United States mail to defraud some of his clients who had won damages awards for their vaccine injuries in the Court of Federal Claims by withholding a percentage of their awards as compensation for his legal services in addition to the reasonable attorneys' fees

granted to Mr. Bansal by the special master in each of those cases in violation of 42 U.S.C. § 300aa-15(e). *Id.*; Bansal Aff. ¶ 3 (Dec. 17, 2015). This conduct affected approximately 14 victims who were defrauded out of a combined total of \$775,000. Bansal Aff. ¶ 3. Mr. Bansal asserted under oath, and Dominic W. Lanza, Attorney with the U.S. Attorney's Office, confirmed, that Mr. Bansal had paid full restitution plus 10% annual interest to each his victims. *Id.* at ¶ 4. In the plea agreement, Mr. Bansal took responsibility for his criminal actions, made amends for his conduct, and demonstrated his willingness to accept the consequences. This guilty plea was accepted by the court on November 30, 2015. Accepted Plea Agreement, *United States v. Bansal*, No. 2:15-cr-01247 (D. Ariz. Nov. 30, 2015). The district court sentenced Mr. Bansal to five years of probation and ordered him to pay a fine of \$100,000. Judgment of Probation, *United States v. Bansal*, No. 2:15-cr-01247 (D. Ariz. Nov. 30, 2015). The judgment of the district court does not require Mr. Bansal to pay additional restitution because, pursuant to paragraph 3(b) of the plea agreement, the agreed-upon sentence was contingent upon full restitution being paid prior to sentencing. *Id.*

As part of his plea deal, Mr. Bansal agreed that he would “transition all current clients to new counsel” and “take all necessary steps to terminate any law licenses he has in any jurisdiction, including stipulating to any discipline (up to and including disbarment) determined to be appropriate by . . . any other bar association of which he is a member.” Accepted Plea Agreement at ¶ 3(a), *United States v. Bansal*, No. 2:15-cr-01247 (D. Ariz. Nov. 30, 2015). Furthermore, Mr. Bansal stipulated that he would be prohibited from practicing law. *Id.* at ¶ 3(f). While the criminal investigation was pending, Mr. Bansal began transitioning all of his cases pending before this court to substitute counsel. *See, e.g. Harrington v. Sec’y Health & Human Servs.*, No. 14-043V (Fed. Cl. Aug. 17, 2015) (Motion to Substitute Counsel, ECF No. 35). Mr. Bansal also submitted his consent to disbarment to the State Bar of Arizona. On December 2, 2015, Mr. Bansal was disbarred from the practice of law in Arizona.

After being contacted by the investigating staff attorney on December 10, 2015, Mr. Bansal agreed to consent to disbarment in the U.S. Court of Federal Claims. Mr. Bansal submitted his affidavit consenting to disbarment on December 17, 2015. *See* Bansal Aff. & Consent to Disbarment (Dec. 16, 2015).

In the affidavit accompanying his consent to disbarment, Mr. Bansal acknowledges the allegations of misconduct and admits that “[b]etween 2006 and 2015, in about 14 vaccine cases, [he] ultimately paid [himself] a contingency fee out of the client’s damage award—instead of remitting the entire damage award to the client—and then separately submitted a fee request to the Special Master.” Aff. at ¶ 3. Mr. Bansal admits that he unlawfully paid himself approximately \$775,000 in contingency fees from damages awarded to vaccine plaintiffs. *Id.* In August of 2015, Mr. Basal “identified all of the prior clients to whom [he] had charged a contingency fee and sent a check from [his] office trust account to each one of them refunding the entire contingency fee plus 10% annual interest.” *Id.* at ¶ 4. After making full restitution, a fact which was later

verified by the Office of the United States Attorney for Arizona, Mr. Bansal self-reported his conduct to the federal authorities and submitted to the criminal process described above.

Based on the foregoing facts and pursuant to RCFC 83.2(i), the Standing Panel accepts Mr. Bansal's consent to disbarment, particularly in light of his criminal conviction and unbecoming conduct, which violate RCFC 83.2(c)(1) and (c)(5) respectively. Therefore,

IT IS ORDERED that Jay K. Bansal is permanently disbarred from the practice of law in this court, effective on the date of entry of this order. RCFC 83.2(i), (d)(1)(A).

Consistent with RCFC 83.2(1)(2)(B), the Clerk is directed to make this order part of the public record.

  
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JAMES F. MEROW  
Judge

  
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MARY ELLEN COSTER WILLIAMS  
Judge

  
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ELAINE D. KAPLAN  
Judge