

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
E-Filed: April 24, 2012

* * * * *	*	
GILBERT PLACENCIA	*	UNPUBLISHED
	*	
Petitioner,	*	No. 10-881V
	*	
v.	*	Chief Special Master
	*	Campbell-Smith
	*	
SECRETARY OF THE	*	
DEPARTMENT OF	*	Award of Attorneys' Fees and
HEALTH AND HUMAN SERVICES,	*	Costs; Amount to Which
	*	Respondent Does Not Object.
Respondent.	*	
	*	
* * * * *	*	

Jane Morrow, Otorowski, Johnson, Morrow & Golden, PLLC, Bainbridge Island, WA, for petitioner.

Alexis Babcock, U.S. Dep't of Justice, Washington, DC, for respondent.

ATTORNEYS' FEES AND COSTS DECISION¹

On December 27, 2010, Gilbert Placencia (“petitioner”) filed a petition, seeking compensation under the National Vaccine Injury Compensation Program (“Vaccine Program”).²

¹ Because this decision contains a reasoned explanation for the undersigned’s action in this case, the undersigned intends to post this decision on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (Dec. 17, 2002). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, “the entire” decision will be available to the public. Id.

Petitioner alleges that as a result of his receipt of the influenza (“flu”) and pneumococcal conjugate (“PCV”) vaccinations on October 6, 2009, he thereafter suffered from adhesive capsulitis, shoulder dysfunction, and myofascial pain. Pet. at 1.

On March 12, 2012, the undersigned issued a decision based on respondent’s proffer on an award of compensation. See Decision Awarding Damages.

On April 9, 2012, petitioner informally provided respondent with his application for attorneys’ fees and costs. See Stip. of Fact for Attorneys’ Fees and Costs at ¶ 2.

On April 24, 2012, the parties filed a stipulation of facts for reasonable attorneys’ fees and costs, to which the parties had agreed during informal discussions.³ Id. at ¶ 3.

The Vaccine Act permits an award of reasonable attorneys’ fees and costs. § 15(e). Based on the reasonableness of petitioner’s request and respondent’s lack of objection to petitioner’s request, the undersigned **GRANTS** the parties’ stipulation of facts for attorneys’ fees and costs.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2006) (“Vaccine Act” or “Act”). All citations in this decision to individual sections of the Act are to 42 U.S.C.A. § 300aa.

³ During informal discussions, petitioner agreed to amend the requested amount for attorneys’ fees and costs, to which respondent would not object. Stip. of Fact for Attorneys’ Fees and Costs at ¶¶ 3-4.

The undersigned awards a total of **\$53,840.00** in attorneys' fees and costs.⁴ Stip. of Fact for Attorneys' Fees and Costs at ¶ 3(a). In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in petitioner's favor in the amount of **\$53,840.00** for attorneys' fees and costs.⁵

The judgment shall reflect that Otorowski, Johnson, Morrow & Golden, PLLC may collect **\$53,840.00** from petitioner.

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Chief Special Master

⁴ This award is intended to cover all legal expenses incurred in this matter and contemplates attorneys' fees and costs in the amount of **\$53,840.00**, payable jointly to petitioner and petitioner's attorney of record. Id. at ¶ 5.

Petitioner had no reimbursable out-of-pocket expenses pursuant to General Order No. 9. Id. at ¶ 3(b).

⁵ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

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

GILBERT PLACENCIA,)	
)	
Petitioner,)	
)	
v.)	No. 10-881V (ECF)
)	Chief Special Master
)	Campbell-Smith
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. Jane Morrow, with the law firm Otorowski, Johnson, Morrow & Golden, P.L.L.C., is the attorney of record for petitioner in this matter.
2. On April 9, 2012, petitioner informally provided respondent with his application for attorney’s fees and costs (“Application”) related to this matter.
3. In informal discussions, respondent raised certain objections to petitioner’s Application. As a result, petitioner has agreed to amend his Application to seek reimbursement for:
 - (a) attorneys’ fees and costs for the law firm Otorowski, Johnson, Morrow & Golden, P.L.L.C., in the amount of \$53,840.00; and,
 - (b) no out-of-pocket expenses for petitioner, as represented by his counsel in compliance with General Order #9.
4. Respondent does not object to the amended request.
5. The parties now request that the Court issue a decision awarding the attorneys’ fees and costs described in paragraph 3 of this Stipulation, directing payment in the form of a check payable jointly to petitioner and petitioner’s counsel.
6. Nothing in this Stipulation, including the amount set forth in paragraph 3, should be construed as an admission, concession, or waiver by either party as to any of the matters raised by petitioner’s request for attorneys’ fees and costs, including

but not limited to the hourly rates requested, the number of hours requested, and other litigation-related costs.

Respectfully submitted,

Dated: April 24, 2012

By: s/ Jane Morrow
JANE MORROW
Attorney for Petitioner
Otorowski, Johnson, Morrow & Golden, P.L.L.C.
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Dated: April 24, 2012

By: s/ Alexis B. Babcock
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