

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 02-1422V

Filed: May 21, 2012

Not to be Published

RONNIE WHITBY, a minor, *
by his mother and natural guardian, *
CINDY WHITBY, *

Petitioner, *

Autism; Attorneys' Fees and Costs

v. *

SECRETARY OF HEALTH AND *
HUMAN SERVICES *

Respondent. *

DECISION AWARDING ATTORNEYS' FEES AND COSTS ¹

On April 22, 2012, petitioner filed an unopposed² motion for award of final attorneys' fees and reimbursement of costs in this case. Petitioner is entitled to reasonable attorneys' fees and costs pursuant to §§ 15(b) and (e)(1). Respondent has reviewed the motion and does not object. Petitioner seeks attorneys' fees and costs in the amount of \$7,818.08. In lieu of filing a Vaccine General Order #9 statement, petitioner's counsel represents both that petitioner had \$200 in costs (\$50 costs and

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), a party has 14 days to identify and move to delete medical or other information, that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, I agree that the identified material fits within the requirements of that provision, I will delete such material from public access.

² Although the motion clearly states that the parties have agreed upon the amount requested by petitioner, the motion does not indicate whether respondent opposes the award of attorneys' fees and costs in this case. On May 21, 2012, respondent's counsel communicated to an OSM staff attorney that respondent has no objection to this motion.

\$150 for payment of the filing fee) and that he will reimburse petitioner any other costs that petitioner personally incurred that are compensable under § 15 (e)(1).

The request for attorneys' fees and costs is granted. Petitioner is awarded reasonable attorneys' fees and costs pursuant to §§ 15(b) and (e)(1), as I find that the petition was brought in good faith and upon a reasonable basis, and the amounts requested are reasonable and appropriate.

Accordingly, I hereby award the **total of \$7,818.08**³. This total represents \$200.00 in petitioner's personal costs, and \$7,618.08 in attorney fees and costs. The payment shall be:

- 1. a lump sum of \$7,618.08, in the form of a check payable jointly to petitioner, and petitioner's counsel, W. Sam Holland for attorney fees and costs; and**
- 2. a lump sum of \$200.00, in the form of a check payable to petitioner, for out-of-pocket expenses personally incurred by petitioner.**

In the absence of a timely-filed motion for review filed pursuant to Appendix B of the Rules of the U.S. Court of Federal Claims, the clerk of the court shall enter judgment in accordance herewith.⁴

IT IS SO ORDERED.

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

³ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, § 15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See generally Beck v. Sec'y of Dep't Health and Human Services, 924 F.2d 1029 (Fed. Cir.1991).

⁴ Entry of judgment can be expedited by each party's filing of a notice renouncing the right to seek review. See Vaccine Rule 11(a).