

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

No. 08-900V
Filed: March 24, 2011
Unpublished

ERIC WITTEN,

Petitioner,

v.

SECRETARY OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

Respondent.

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Attorney fees and costs

Anne Carrion Toale, Maglio, Christopher and Toale, Sarasota, F.L., for Petitioner.
Darryl R. Wishard, U.S. Department of Justice, Washington, D.C., for Respondent.

ATTORNEY’S FEES AND COSTS DECISION¹

GOLKIEWICZ, Special Master.

On March 24, 2011, the parties filed a Stipulation of Facts Regarding Attorneys’ Fees and Costs [hereinafter “Fee Stipulation”]. The Fee Stipulation states that petitioner provided respondent with a draft Application for Attorneys’ Fees and Costs on March 21, 2011. “In informal discussions, respondent raised objections to certain items in petitioner’s draft” fee application and “based on these objections, petitioner will reduce the amount requested” Fee Stipulation, ¶ 2. Petitioner now requests a lump sum of \$35,750.00 for combined attorneys’ fees and costs. The Fee Stipulation further states, “[r]espondent does not object to this amount.” *Id.* In compliance with General Order #9, petitioner’s counsel represents that petitioner incurred no out of pocket expenses in the proceedings on the Petition. Fee Stipulation, ¶ 3.

¹ The undersigned intends to post this decision on the website for the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 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.* Any motion for redaction must be filed by no later than fourteen (14) days after filing date of this filing. Further, consistent with the statutory requirement, a motion for redaction must include a proposed redacted decision, order, ruling, etc.**

The court hereby awards the petitioner attorney fees and costs in the amount of \$35,750.00. **Specifically, petitioner is awarded a lump sum of \$35,750.00 in the form of a check payable jointly to petitioner and petitioner's attorney.**

The Clerk of the Court is directed to enter judgment accordingly.²

IT IS SO ORDERED.

s/ Gary J. Golkiewicz
Gary J. Golkiewicz
Special Master

²Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge. Furthermore, this amount is intended to cover all legal expenses. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, 42 U.S.C.A. §300aa-15(e)(3) prevents an attorney from charging or collecting fees (including costs) which would be in addition to the amount awarded herein. See generally, Beck v. Secretary of the Dept. of Health & Human Servs., 924 F.2d 1029 (Fed. Cir. 1991).