

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

AMEENAH EASON, *
Legal Representative of a Minor Child *
ANTHONY PRICE PERRY, *

Petitioner, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

No. 10-08V
Special Master Christian J. Moran

Filed: November 21, 2011

Attorneys' fees and costs; award in
the amount to which respondent does
not object.

Randall G. Knutson, Farrish Johnson Law Office, Mankato, MN, for petitioner;
Glenn A. MacLeod, United States Dep't of Justice, Washington, D.C., for
respondent.

UNPUBLISHED DECISION ON FEES AND COSTS¹

Petitioner Ameenah Eason, as legal representative for her son Anthony Price Perry (“Anthony”), filed an application for attorneys’ fees and costs on November 15, 2011. The Court awards the amount to which respondent does not object.

Ms. Eason claimed that Anthony had an adverse reaction, including “febrile seizures, respiratory failure, neurologic failure, developmental delay with regression, and profound, progressive left hemisphere volume loss of the brain” as a result of receiving multiple

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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, the person submitting the information has 14 days to identify and to move to delete such information before the document’s disclosure. If the special master agrees that the identified material fits within the categories listed above, the special master shall redact such material from public access. 42 U.S.C. § 300aa-12(d)(4)(B); Vaccine Rule 18(b).

vaccinations including the measles-mumps-rubella and Hib vaccines administered on December 28, 2006; varicella and pneumococcal vaccines administered on March 22, 2007; and diphtheria-tetanus-pertussis and inactivated polio virus vaccines administered on June 20, 2007. See Pet. at 1. Petitioner was unable to find an expert to establish causation and thus, requested a ruling dismissing her petition. In this decision, compensation was denied and the case was dismissed. Decision, dated May 17, 2011.

Even though compensation was denied, a petitioner who brings her petition in good faith and who has a reasonable basis for the petition may be awarded attorneys' fees and costs. See 42 U.S.C. § 300aa-15(e)(1). Here, counsel for petitioner spent time gathering and filing medical records for petitioner. Counsel consulted an expert and then counsel realized that causation was lacking and the case could not proceed. At this point, counsel took steps to resolve this case relatively quickly so as not to increase costs and expenses unnecessarily. Thus, because petitioner's counsel acted in good faith and there was a reasonable basis for proceeding, petitioner is eligible for an award of attorneys' fees and costs. Respondent does not contend that petitioner failed to satisfy these criteria.

Petitioner seeks a total of **\$12,000.00** in attorneys' fees and costs for petitioner's counsel. Additionally, petitioner filed a statement of costs in compliance with General Order No. 9, stating that she incurred no reimbursable costs in pursuit of her claim. Respondent stated that she had no objection to this application for attorneys' fees and costs.

After reviewing the request, the court awards **\$12,000.00** in attorneys' fees and other litigation costs. The court thanks the parties for their cooperative efforts in resolving this matter.

The Clerk shall enter judgment accordingly.²

IT IS SO ORDERED.

S/ Christian J. Moran

Christian J. Moran
Special Master

² Pursuant 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.