

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

CHRISTY RANAY FIELDS, *

*

Petitioner, *

*

No. 02-311V
Special Master Christian J. Moran

v. *

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SECRETARY OF HEALTH AND HUMAN SERVICES, *

*

Filed: September 22, 2009

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Respondent. *

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Attorneys' fees and costs, interim award

David L. Terzian, Esq., Rawls & McNelis, P.C., Richmond, VA., for petitioner;
Rebecca Trinrud, Esq., United States Department of Justice, Washington, D.C., for respondent.

UNPUBLISHED RULING ON INTERIM ATTORNEYS' FEES AND COSTS*

Christy Ranay Fields claimed that a hepatitis B vaccination caused her to develop Wegener's granulomatosis, a disease that eventually necessitated a kidney transplant. In a decision dated May 14, 2008, the undersigned held that Ms. Fields was entitled to compensation.

While the case is progressing through the damages phase, Ms. Fields is seeking payment, on an interim basis, of her attorneys' fees and costs. Specifically, Ms. Fields seeks an award for work performed by her current counsel of record, David Terzian, beginning on March 31, 2006,

* Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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

and continuing through March 26, 2009. See exhibit 77. Ms. Fields has not sought any compensation for work performed by her initial attorney, Clifford Shoemaker.

On September 4, 2009, the parties filed a joint stipulation of Facts Concerning Payment of Interim Attorneys' Fees and Costs. See Avera v. Sec'y of Health & Human Servs., 515 F.3d 1343, 1352 (Fed. Cir. 2008). The "stipulation" indicates that petitioner submitted a draft application for payment of interim attorneys' fees and costs to respondent for costs incurred from March 31, 2006 through March 26, 2009. Petitioner further states that in informal discussions, respondent raised objections to certain items in petitioner's draft application. Based on these discussions, petitioner revised the request for interim fees and costs and respondent has no objection to this revised request.

A review of the materials offered in support of the motion for interim attorneys' fees and costs indicates that the (reduced) requested amounts are reasonable. Therefore, Ms. Fields is awarded the amount to which respondent did not object.¹ This amount includes the following items:

Rawls & McNelis, PC (fees and costs total)	\$79,925.96
Ms. Fields Out of Pocket Expenses (total)	\$824.83
TOTAL	\$80,750.79

Ms. Fields is entitled to an award of interim attorneys' fees and attorneys' costs for fees and costs by Mr. Terzian and Ms. Fields from March 31, 2006 through March 26, 2009. The special master determines that there is no just reason to delay the entry of judgment on interim attorneys' fees and attorneys' costs. Therefore, in the absence of a motion for review filed under RCFC Appendix B, the clerk of court shall enter judgment in petitioners' favor for **\$80,750.79** in interim attorneys' fees and attorneys' costs. Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing the right to seek review.

¹ Because petitioner did not submit information about tasks performed by Mr. Shoemaker, it is possible that Mr. Terzian unreasonably duplicated some tasks. This possibility does not prevent an interim award for two reasons. First, the undersigned previously has reviewed applications for attorneys' fees in cases in which Mr. Terzian succeeded Mr. Shoemaker. In these cases, Mr. Terzian has not duplicated tasks. Thus, the likelihood of unreasonable duplication in this case appears to be remote. See Saxton v. Sec'y of Health & Human Servs., 3 F.3d 1517, 1521 (Fed. Cir. 1993) (holding that special masters may use their experience in evaluating requests for attorneys' fees). Second, Mr. Terzian is likely to seek a final award of attorneys' fees and costs at the end of the case. If the evidence shows that Mr. Terzian unreasonably repeated some tasks, then the final award can be adjusted.

IT IS SO ORDERED.

s/Christian J. Moran

Christian J. Moran
Special Master