

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS
No. 99-381V
Filed: February 17, 2009**

PAT GERARD, *
*
 Petitioner, *
*
 v. *
*
SECRETARY OF THE DEPARTMENT *
OF HEALTH AND HUMAN SERVICES, *
*
 Respondent. *
*

ATTORNEY FEES AND COSTS DECISION

Vowell, Special Master:

On December 15, 2008, petitioner filed an [85] application for attorney fees and costs. On December 18, 2008, respondent filed a [86] joint status report regarding the attorney fees and costs application. In the joint status report, respondent indicated no objection to awarding a total of \$51,250.27 in attorney fees and costs.¹

Petitioner originally requested a total of **\$52,712.77**. The requested amount represented **\$1,949.89** for litigation costs personally incurred by petitioner, **\$17,628.00** for litigation costs incurred by petitioner’s counsel, Clifford Shoemaker, and **\$33,134.88** for attorney fees.² In the joint status report, the parties agreed to reduce the litigation costs to **\$16,165.50** bringing the total request down to **\$51,250.50**.

After reviewing the file, I find that this petition was brought in good faith and that there existed a reasonable basis for the claim. Therefore, an award for fees and costs is appropriate, pursuant to 42 U.S.C. § 300aa-15(b) and (e)(1).

¹ An agreement between the parties to settle attorney fees and costs does not relieve petitioner from the obligation to document costs, because the special master still has the statutory obligation to determine that the amounts requested are reasonable. The information provided in petitioner’s December 15, 2008 application provided an adequate explanation.

² I note that on February 11, 2008, petitioner’s counsel billed 0.10 hour of attorney time for reviewing an order advising counsel of a rules change regarding ECF filing. Payment for this time is authorized **in this case only**, as this was a general notice pertaining to all active cases in the Vaccine Program. **Applications for fees for reading this order will not be paid in any subsequent cases.**

Further, the adjusted proposed amounts seem reasonable and appropriate. Accordingly, I hereby award the total of **\$51,250.27**³ issued as:

- **\$1,949.89**, in the form of a check payable to petitioner, Pat Gerard, for litigation costs incurred personally.
- **\$49,300.38**, in the form of a check payable jointly to petitioner and petitioner's counsel, Clifford Shoemaker, for attorney fees and costs.

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/ Denise K. Vowell
Denise K. Vowell
Special Master

³ 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. § 300aa-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, HHS*, 924 F.2d 1029 (Fed. Cir. 1991).

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