

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 08-554V

Filed: August 5, 2014

RICK LEHNER and SHELLEY LEHNER,
as parents and natural guardians, on behalf
of their minor daughter, C.L.,

Petitioners,

v.

SECRETARY OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

Respondent.

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Autism; Stipulation; Interim
Attorney Fees and Costs

Sheila A. Bjorklund, Esq., Lommen Abdo Law Firm, Minneapolis, MN for petitioners.
Traci R. Patton, Esq., U.S. Department of Justice, Washington, DC for respondent.

DECISION on INTERIM ATTORNEY FEES and COSTS¹

Vowell, Chief Special Master:

On August 4, 2014, the parties filed a Stipulation of Fact Concerning Interim Attorneys' Fees and Costs ["Stipulation"], wherein they explain that based on informal discussions of petitioners' application for interim fees and costs, petitioners have amended their interim fees and costs request. Respondent does not object to the amended amount of \$117,500.00² that petitioners are seeking.

While respondent maintains her position that interim attorney fees and costs awards are not permitted in cases like this one, she "elects not to raise her statutory

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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), petitioner has 14 days to identify and move to delete medical or other information, that satisfies the criteria in § 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 This amount covers all attorneys' fees through April 10, 2014. In addition, the application covers all litigation costs incurred by petitioners and their counsel through March 24, 2014. Stipulation at ¶ 2.

objection at this time in response to this particular request.” Stipulation at n.1. Respondent cites my decision in *Whitener v. Sec’y, HHS*, No. 06-477V, 2011 WL 1467919 (Fed. Cl. Spec. Mstr. Mar. 25, 2011), noting that I considered and rejected her statutory objection in that case.

I find that petitioners are entitled to an award of interim attorney fees and costs under the facts and circumstances of this case and that the agreed upon amount is reasonable.

Accordingly, I hereby award the total \$117,500.00 issued in the form of a check payable jointly to petitioners and petitioners’ attorney, Sheila A. Bjorklund, for interim attorneys’ fees and costs.

The clerk of court shall enter judgment accordingly.³

IT IS SO ORDERED.

s/ Denise K. Vowell
Denise K. Vowell
Chief Special Master

³ Entry of judgment can be expedited by each party’s filing a notice renouncing the right to seek review. See Vaccine Rule 11(a).