

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

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JAMES SCHUTTE,
as guardian and conservator of
CAROLYN SCHUTTE,
an incapacitated and disabled person,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

* * * * *

No. 14-239V
Special Master Christian J. Moran

Filed: April 22, 2015

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

LeLand F. Dempsey, Dempsey & Kingsland, P.C., Kansas City, MO, for
Petitioner;

Lisa A. Watts, United States Dep't of Justice, Washington, DC, for Respondent.

UNPUBLISHED DECISION ON FEES AND COSTS¹

On April 17, 2015, respondent filed a stipulation of fact concerning final attorneys' fees and costs in the above-captioned matter. Previously, petitioner informally submitted a draft application for attorneys' fees and costs to respondent for review. Upon review of petitioner's application, respondent raised objections to certain items. Based on subsequent discussions, petitioner amended his application to request \$147,082.66, an amount to which respondent does not object. The Court awards this amount.

¹ The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

On March 28, 2014, James Schutte, filed a petition for compensation on behalf of his spouse, Carolyn Schutte, alleging that Carolyn suffered the Table injury of encephalopathy resulting from her receipt of the tetanus, diphtheria, acellular pertussis (“Tdap”) vaccine on June 22, 2011. Petitioner received compensation based upon the parties’ proffer. Decision, issued Feb. 25, 2015. Because petitioner received compensation, he is entitled to an award of attorneys’ fees and costs. 42 U.S.C. § 300aa-15(e).

Petitioner seeks a total of **\$147,082.66**, in attorneys’ fees and costs for his counsel. Additionally, in compliance with General Order No. 9, petitioner states that he incurred no out-of-pocket litigation expenses while pursuing this claim. Respondent has no objection to the amount requested for attorneys’ fees and costs.

After reviewing the request, the Court awards the following:

A lump sum of \$147,082.66, in the form of a check made payable to petitioner and petitioner’s attorney, LeLand F. Dempsey, for attorneys’ fees and other litigation costs available under 42 U.S.C. § 300aa-15(e).

The Court thanks the parties for their cooperative efforts in resolving this matter. The Clerk shall enter judgment accordingly.

Any questions shall be directed to my law clerk, Mary Holmes at (202) 357-6360.

IT IS SO ORDERED.

s/Christian J. Moran
Christian J. Moran
Special Master