

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 15-1546V
(not to be published)

DORIS STEINBACH,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

*

*

*

*

*

*

*

*

*

*

*

*

*

*

Special Master Corcoran

Filed: April 25, 2017

Decision; Attorney's Fees and Costs.

Paul Brazil, Muller Brazil, LLP, Dresher, PA, for Petitioner.

Ann Donohue Martin, U.S. Dep't of Justice, Washington, DC, for Respondent.

ATTORNEY'S FEES AND COSTS DECISION¹

On December 18, 2015, Doris Steinbach filed a petition seeking compensation under the National Vaccine Injury Compensation Program ("the Program").² Petitioner alleged that she suffered from right shoulder injuries, including neuropathy of the median and radial nerves, as a result of her September 17, 2014, receipt of the influenza vaccine. The parties eventually filed a stipulation for damages on February 28, 2017 (ECF No. 22), which I adopted by decision that same day. ECF No. 23.

¹ This Decision has been designated "not to be published," which means I am not directing it to be posted on the Court of Federal Claims's website. However, it will nevertheless be made public in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 (2012). As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the published decision's inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the whole decision will be available in its present form. *Id.*

² The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) ("Vaccine Act" or "the Act").

Petitioner has now filed a motion requesting final attorney's fees and costs, dated March 28, 2017. *See* ECF No. 27. Petitioner requests reimbursement of attorney's fees and costs in the combined amount of \$14,229.82 (representing \$13,508.00 in attorney's fees for Paul Brazil and Clark Hodgson, plus \$721.82 in costs).³ *Id.* Respondent filed a response on April 7, 2017, indicating that he is satisfied that the statutory requirements for an award of attorney's fees and costs are met in this case, but deferring to my discretion on the determination of the amount to be awarded. ECF No. 28 at 2.

The amount of attorney's fees for Paul Brazil as reasonable and in keeping with the decisions of other special masters. *Tyree v. Sec'y of Health & Human Servs.*, No. 16-586, slip op. (Fed. Cl. Spec. Mstr. March 23, 2017). The hourly rate requested is also consistent with my prior determinations. *See Colagreco v. Sec'y of Health & Human Servs.*, No. 14-465V, 2016 WL 6518579, at *2. I similarly find that the costs requested are reasonable and award them in full. However, consistent with the recent decision by Chief Special Master Dorsey, I will reduce the requested hourly rate of Mr. Hodgson from \$225 to \$200, for a total reduction of \$75, given his inexperience practicing in the Program. *Id.*

Accordingly, an award of \$14,154.82 (\$13,433.00 in fees and \$721.82 in costs) should be made in the form of a check payable jointly to Petitioner and Petitioner's counsel, Paul Brazil, Esq. Payment of this amount represents all attorney's fees and costs available under 42 U.S.C. § 300aa-15(e). In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the Court **SHALL ENTER JUDGMENT** in accordance with the terms of Petitioner's motion.⁴

IT IS SO ORDERED.

/s/ Brian H. Corcoran
Brian H. Corcoran
Special Master

³Petitioner did not mention General Order No. 9 in his application for attorney's fees and costs. I find that the Petitioner has waived his right to recover any unreimbursed costs not already awarded.

⁴ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by each filing (either jointly or separately) a notice renouncing their right to seek review.