

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

Filed: August 25, 2017

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KARIE N. DUVERNAY, as Natural  
Guardian and Legal Representative  
Of W.R.D., a minor,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

\* \* \* \* \*

\* No. 16-582V  
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\* Special Master Sanders  
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\* Attorneys' Fees and Costs; Reasonable  
\* Amount Requested.  
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Nancy R. Meyers, Ward Black Law, Greensboro, NC, for Petitioner.

Jennifer L. Reynaud, United States Department of Justice, Washington, DC, for Respondent.

### **DECISION AWARDING ATTORNEYS' FEES AND COSTS<sup>1</sup>**

On May 16, 2016, Karie N. Duvernay ("Petitioner"), as the natural guardian and legal representative of W.R.D., filed a petition for compensation pursuant to the National Vaccine Injury Compensation Program.<sup>2</sup> 42 U.S.C. §§ 300aa-10 to -34 (2012). Petitioner alleged that W.R.D. suffered from synovitis as a result of the Diphtheria-Tetanus-acellular-Pertussis ("DTaP"), Inactivated Polio Virus ("IPV"), and Hepatitis B ("Hep B") vaccines administered on February 6, 2014, and the Haemophilus influenza b ("Hib"), Pneumococcal conjugate ("PCV"), and rotavirus vaccines administered on March 11, 2014. Decision 1, ECF No. 34. On August 4, 2017, the undersigned issued a decision awarding compensation to Petitioner pursuant to the parties' joint stipulation. *Id.*

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<sup>1</sup> This decision shall be posted on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), a party 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, the undersigned agrees that the identified material fits within the requirements of that provision, such material will be deleted from public access.

<sup>2</sup> The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-10 et seq. (hereinafter "Vaccine Act," "the Act," or "the Program"). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

On August 17, 2017, Petitioner filed an application for attorneys' fees and costs. Mot. Att'ys' Fees & Costs, ECF No. 38. Petitioner requested \$19,920.50 in attorneys' fees and \$434.50 in costs, for a total of \$20,355.00. *Id.* at 1. Petitioner averred that she incurred no personal costs in the prosecution of this case. ECF No. 38-1.

Respondent submitted a Response to Petitioner's motion on August 24, 2017. Resp't's Resp., ECF No. 39. Respondent indicated that "[t]o the extent the Special Master is treating [P]etitioner's request for attorneys' fees and costs as a motion that requires a response from [R]espondent[,] . . . Respondent is satisfied the statutory requirements for an award of attorneys' fees and costs are met in this case." *Id.* at 2. Respondent recommended that the undersigned exercise her discretion and determine a reasonable award for attorneys' fees and costs. *Id.* at 3. On August 24, 2017, Petitioner submitted a Reply. Pet'r's Reply, ECF No. 40. Petitioner agreed with Respondent's "recommendation that Special Master Sanders exercise her discretion and determine a reasonable award for attorneys' fees and costs in this case." *Id.*

The undersigned has reviewed the detailed records of time and expenses of Petitioner's counsel, and finds that they are reasonable. In accordance with the Vaccine Act, 42 U.S.C. § 300aa-15(e) (2012), the undersigned finds that Petitioner is entitled to attorneys' fees and costs. **Accordingly, the undersigned hereby awards the amount of \$20,355.00,<sup>3</sup> in the form of a check made payable jointly to Petitioner and Petitioner's counsel, Nancy R. Meyers, of Ward Black Law.<sup>4</sup>** In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court shall enter judgment in accordance herewith.<sup>5</sup>

**IT IS SO ORDERED.**

s/Herbrina D. Sanders  
Herbrina D. Sanders  
Special Master

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<sup>3</sup> This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, § 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 of Health & Human Servs.*, 924 F.2d 1029 (Fed. Cir. 1991).

<sup>4</sup> Attorney Nancy Meyers practices in Greensboro, North Carolina. Although forum rates are applied to the requested fees in this case, I do not reach the question of whether Ms. Meyers is entitled to the forum rate. This decision does not constitute such a determination.

<sup>5</sup> Entry of judgment can be expedited by each party's filing of a notice renouncing the right to seek review. Vaccine Rule 11(a).