

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 17-1218V

Filed: September 19, 2018

UNPUBLISHED

KELLI STRICKLIN,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Attorneys' Fees and Costs

*Jenifer Marie Placzek, Placzek, Winget & Placzek, Springfield, MO, for petitioner.  
Claudia Barnes Gangi, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On September 8, 2017, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the "Vaccine Act"). Petitioner alleges that she suffered a shoulder injury related to vaccine administration ("SIRVA") following receipt of her September 23, 2015 influenza vaccination. Petition at 1. On July 10, 2018, the undersigned issued a decision awarding compensation to petitioner based on the respondent's proffer. (ECF No. 28.)

On August 21, 2018, petitioner filed a motion for attorneys' fees and costs. (ECF No. 30). Petitioner requests attorneys' fees in the amount of \$7,860.00 and attorneys' costs in the amount of \$1,382.60. *Id.* at 1. In compliance with General Order #9,

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

petitioner filed a signed statement indicating that petitioner incurred no out-of-pocket expenses. (ECF No. 31). Thus, the total amount requested is \$9,242.60.

Respondent has not filed a response.

The undersigned has reviewed the billing records submitted with petitioner's request. In the undersigned's experience, the request appears reasonable, and the undersigned finds no cause to reduce the requested hours or rates, with the following exception.

Petitioner's counsel, Jenifer Placzek, billed at a rate of \$300 per hour for work performed from 2016 – 2018. Paralegal, Tracy Dougan, billed at a rate of \$150 per hour for work performed from 2016 – 2018. The undersigned finds the rate of \$300 per hour for Ms. Placzek reasonable and awards it herein. The undersigned finds the rate of \$150 per hour reasonable for work performed in 2018. However, the undersigned finds it necessary to reduce the 2016 and 2017 hourly rates for Ms. Dougan as they exceed the rates for paralegals based on the OSM Attorney's Forum Hourly Rate Fee Schedule.<sup>3</sup> The undersigned reduced Ms. Dougan's rates to the following: \$145 per hour for work performed in 2016 and \$148 per hour for work performed in 2017. This reduces the overall request for attorney's fees in the amount of \$49.00.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. § 15(e). Based on the reasonableness of petitioner's request, the undersigned **GRANTS IN PART** petitioner's motion for attorneys' fees and costs.

**Accordingly, the undersigned awards the total of \$9,193.60<sup>4</sup> as a lump sum in the form of a check jointly payable to petitioner and petitioner's counsel Jenifer Marie Placzek.**

The clerk of the court shall enter judgment in accordance herewith.<sup>5</sup>

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**  
Nora Beth Dorsey  
Chief Special Master

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<sup>3</sup> The Fee Schedule for 2015 - 2018 can be accessed at <http://www.cofc.uscourts.gov/node/2914>

<sup>4</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>5</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.