

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

CHANEL MONROE and *
PAUL A. MONROE, legal representatives *
and parents of a minor child, *
ANGELINA MONROE, *

Petitioners, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

No. 13-239V
Special Master Christian J. Moran

Filed: December 30, 2013

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

Richard H. Moeller, Berenstein, Moore, et al., Sioux City, IA, for petitioner;
Lynn E. Ricciardella, United States Dep't of Justice, Washington, D.C., for respondent.

UNPUBLISHED DECISION ON FEES AND COSTS¹

On December 11, 2013, respondent filed a stipulation of fact concerning final attorneys' fees and costs in the above-captioned matter. Previously, petitioners informally submitted a draft application for attorneys' fees and costs to respondent for review. Upon review of petitioners' application, respondent raised objections to certain items. Based on subsequent discussions, petitioners amended their application to request \$10,292.20, an amount to which respondent does not object. The Court awards this amount.

On April 5, 2013, Chanel and Paul A. Monroe filed a petition for compensation alleging that their minor daughter, Angelina Monroe, suffered episodes of inconsolable, high-pitched intense screaming, incessant irritability, self-inflicted head-banging, inability to sleep, oral pain, abdominal pain, feeding problems, diarrhea, constipation, bowel problems, and "other symptoms" as the result of DTaP, Hep B, IPV, Hib, PCV, and rotavirus vaccines administered on February 3, 2010, and December 7, 2010. Petitioners determined that they were unable to locate

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.

an expert witness to opine on their case and thus, filed a motion seeking a ruling on the record. In this ruling, compensation was denied. Decision, dated Dec. 5, 2013.

Even though compensation was denied, a petitioner who brings her petition in good faith and who has a reasonable basis for the petition may be awarded attorneys' fees and costs. See 42 U.S.C. § 300aa-15(e)(1). Here, counsel for petitioners spent time gathering and filing medical records and affidavits. Counsel for petitioners also conducted a search for an expert witness until counsel determined that no expert was available. At this point, counsel took steps to resolve this case relatively quickly so as not to increase costs and expenses unnecessarily. Thus, because petitioners' counsel acted in good faith and there was a reasonable basis for proceeding, petitioners are eligible for an award of attorneys' fees and costs. Respondent does not contend that petitioners failed to satisfy these criteria.

Petitioners seek a total of **\$10,164.04** in attorneys' fees and costs for their counsel. Additionally, in compliance with General Order No. 9, petitioners state that they incurred out-of-pocket litigation expenses of **\$128.16** 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:

- 1. A lump sum of \$10,164.04 in the form of a check made payable to petitioner and petitioner's attorney, Richard H. Moeller of the law firm Berenstein, Moore, et al., for attorneys' fees and other litigation costs available under 42 U.S.C. § 300aa-15(e).**
- 2. A lump sum payment of \$128.16 in the form of a check payable to petitioners, Chanel and Paul A. Monroe.**

The Court thanks the parties for their cooperative efforts in resolving this matter. The Clerk shall enter judgment accordingly.²

Any questions may be directed to my law clerk, Mary Holmes, at (202) 357-6353.

IT IS SO ORDERED.

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

² Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.