

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

(Filed: January 6, 2009)

No. 99-517V

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	)	
KATHY RICHARDS, and	)	
RICHARD DAVID RICHARDS,	)	
as representatives of the estate of,	)	
DAVID WILLIAM RICHARDS,	)	
	)	
Petitioners,	)	UNPUBLISHED
	)	Attorneys' Fees and Costs
v.	)	
	)	
SECRETARY OF THE DEPARTMENT OF	)	
HEALTH AND HUMAN SERVICES,	)	
	)	
Respondent.	)	

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David L. Terzian, Richmond, VA, for petitioner.

Glenn A. MacLeod, Department of Justice, Washington, DC, for respondent.

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

On July 28, 1999, petitioners, Kathy and Richard D. Richards, filed a petition as representatives of the estate of David William Richards, seeking compensation under the National Vaccine Injury Compensation Program (the "Vaccine Program" or the "Act").<sup>2</sup>

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<sup>1</sup> Vaccine Rule 18(b) states that all of the decisions of the special masters will be made available to the public unless an issued decision contains trade secrets or commercial or financial information that is privileged or confidential, or the decision contains medical or similar information the disclosure of which clearly would constitute an unwarranted invasion of privacy. When a special master files a decision or substantive order with the Clerk of the Court, each party has 14 days within which to identify and move for the redaction of privileged or confidential information before the document's public disclosure.

<sup>2</sup> The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42

On July 30, 2008, the undersigned issued a Decision awarding compensation to petitioners.

On December 31, 2008, the parties filed their Stipulation of Facts Concerning Attorneys' Fees and Costs (Stipulation). In the stipulation, petitioners requested a total of \$40,309.38 in attorneys' fees and costs and \$190.62 petitioner's costs. Petitioners requested \$9,500.00 in attorneys' fees and costs from petitioners' former counsel, Clifford Shoemaker of the Shoemaker and Associates law firm. See Stipulation at 1. Petitioners also requested \$30,809.38 in attorneys' fees and costs from petitioners' current counsel, David L. Terzian of the Rawls & McNelis, P.C. law firm. Id. Respondent does not object to these requests. See generally, Stipulation.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300 aa-15(e). Based on the reasonableness of the requested fees and the absence of an objection by respondent, the undersigned **GRANTS** petitioners' costs and petitioners' attorneys' fees and costs as outlined in the parties' stipulation.

The undersigned awards petitioners \$40,500.00 in fees and costs.

Therefore, in the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in petitioner's favor in the amount of \$40,500.00 in attorneys' fees and attorneys' costs and petitioner's costs.<sup>3</sup> The judgment shall reflect that the Shoemaker and Associates law firm may collect \$9,500.00 from petitioners and the Rawls & MCNelis, P.C. law firm may collect \$30,809.38 from petitioners. Petitioners may retain \$190.62 for costs borne by petitioners.

**IT IS SO ORDERED.**

s/Patricia E. Campbell-Smith  
Patricia E. Campbell-Smith  
Special Master

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U.S.C.A. § 300aa-10-§ 300aa-34 (West 1991 & Supp. 2002) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

KATHY RICHARDS AND RICHARD DAVID	)	
RICHARDS, AS REPRESENTATIVES OF THE	)	
ESTATE OF DAVID WILLIAM RICHARDS,	)	
	)	
Petitioners,	)	No. 99-517V
	)	
v.	)	Special Master
	)	Campbell-Smith
SECRETARY OF HEALTH AND	)	
HUMAN SERVICES,	)	
	)	
Respondent.	)	
	)	

STIPULATION OF FACTS CONCERNING ATTORNEYS' FEES AND COSTS

It is hereby stipulated by and between the parties, the following factual matters:

1. David L. Terzian is the attorney of record for petitioners, Kathy Richards and Richard David Richards, as Representatives of the Estate of David William Richards. Petitioners were previously represented by Clifford J. Shoemaker.

2. Petitioners submitted a draft Application for Attorneys' Fees and Costs to respondent on or about October 14, 2008.

3. In informal discussions, respondent raised objections to certain items in petitioners' draft application. Based on these discussions, petitioners have amended their Application for Attorney's Fees and Costs in this matter to request reimbursement in the following amounts payable jointly to petitioners and their attorney of record:

- a. An award of \$30,809.38 to David L. Terzian.
- b. An award of \$9,500.00 to Clifford J. Shoemaker.

4. Pursuant to General Order #9, petitioners advanced \$190.62 in reimbursable costs payable solely to petitioners in pursuit of their claim. This amount is in addition to the attorneys' fees and costs stated in paragraph 3, *supra*.

5. The parties now request that a decision awarding the attorneys' fees and costs described in paragraphs 3 and 4, *supra*, totaling \$40,500.00, be issued.

Respectfully submitted,

/s/ David L. Terzian  
David L. Terzian  
Attorney for Petitioners  
Rawls & McNelis, PC  
Suite 1701  
1111 East Main Street  
Richmond, VA 23219  
(804) 782-0613

Gregory G. Katsas  
Assistant Attorney General  
  
Timothy P. Garren  
Director  
Torts Branch, Civil Division  
  
Vincent J. Matanoski  
Acting Deputy Director  
Torts Branch, Civil Division  
  
Catharine E. Reeves  
Assistant Director  
Torts Branch, Civil Division

/s/ Glenn A. MacLeod  
Glenn A. MacLeod  
Senior Trial Counsel  
Torts Branch, Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington, D.C. 20044-0146  
(202) 616-4122

Date: December 31, 2008