In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 04-1500V
Filed: July 13, 2007

TO BE PUBLISHED

MATTIE CARTER, Parent of GERALD MORRIS, a minor,	*	
Petitioner,	*	Attorneys' Fees and Costs; Rates for Travel Time; Excessive Client Communication; Number of Attorneys Handling a Case
v.	*	
SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES,	*	
Respondent.	*	

Ronald Homer, with whom was Sylvia Chin-Caplan, Conway, Homer, and Chin-Caplan, Boston, MA, for Petitioner.
Glenn Macleod, United States Department of Justice, Washington, D.C., for Respondent.

ATTORNEYS' FEES AND COSTS DECISION[1]

GOLKIEWICZ, Chief Special Master

I. PROCEDURAL BACKGROUND

On September 27, 2004, petitioner, Mattie Carter, filed a petition on behalf of her son, Gerald Morris, pursuant to the National Vaccine Injury Compensation Program[2] ("the Act" or

[1]The undersigned intends to post this decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, "the entire" decision will be available to the public. Id.

[2] The National Vaccine Injury Compensation Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C.A. §§ 300aa-10 et seq.

(continued...)

"the Program") alleging that Gerald's injuries, including encephalopathy and seizures, are the result of the diphtheria-tetanus-pertussis (hereinafter "DTP") vaccine he received on October 1, 2001. Petition ("Pet.") at 1. On January 10, 2005, petitioner filed an amended petition alleging that Gerald suffered a Table encephalopathy, seizures, and neurological sequella as a result of his diphtheria-tetanus-acellular pertussis (hereinafter "DTaP") vaccine he received on October 1, 2001. Amended Petition ("Am. Pet.") at 1. On May 16, 2005, respondent filed a Rule 4 Report contesting the sufficiency of the evidence and concluding that compensation is not appropriate in this case. Respondent's Report ("R. Report"), filed May 16, 2005.

A hearing was held on February 16, 2006 to elicit expert testimony. Petitioner filed her posthearing brief on May 18, 2006 and respondent filed his posthearing brief on May 19, 2006. On May 31, 2006, the parties filed their reply briefs. On January 19, 2007, the undersigned issued a decision which found that petitioner failed to meet her burden of proof required under the Act and was thus, not entitled to compensation. Judgment entered in this matter on February 20, 2007. On March 5, 2007, petitioner filed a notice to reject the judgment and elected to file a civil action.

Petitioner filed her application for attorneys' fees and costs in the amount of $92,271 on April 19, 2007. Petitioner's Application for Fees and Costs ("P. Fee App."). On May 4, 2007, respondent filed his response. Respondent's Response to Petitioner's Application for Attorneys' Fees and Costs ("R. Response"). Petitioner filed her reply on May 29, 2007. Petitioner's Reply to the Respondent's Response to Petitioner's Application for Fees and Costs ("P. Reply").[3] On June 1, 2007, respondent filed his amended response to petitioner's fee application. Respondent's Amended Response to Petitioner's Initial Application for Attorneys' Fees and Costs ("R. Amend. Resp."). Petitioner then filed the affidavits of her previous counsel Michael R. Richmond and Michael R. Panter on May 31, 2007. Petitioner's Exhibits ("P. Ex. __") 39 and 40. On June 14, 2007, petitioner filed a supplemental fee application for an additional $3,583.50 in fees and $16.53 in costs and a supplemental reply. Petitioner's Supplemental Fee Application and Supplemental Reply to the Respondent's Response to Petitioner's Application for Fees and Costs ("P. Supp. Reply"). This attorneys' fees issue is now ripe for decision.

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[2](...continued)

(West 1991 & Supp. 2002) ("Vaccine Act" or the "Act"). Hereinafter, individual section references will be to 42 U.S.C.A. § 300aa of the Vaccine Act.

[3] Petitioner's reply was not paginated. For ease of reference, the court has paginated its copy beginning with page 1 and will be cited as "P. Reply at [page number]."

I. DISCUSSION

A. Reasonableness of Numbers of Hours Charged and Duplication of Efforts

Respondent's Position[4]

Respondent objects to some of the hours requested by petitioner's law firms, Conway, Homer and Chin-Caplan ("CH&CC") and Heller & Richmond ("H&R"), as redundant, unreasonable or excessive under the facts of this case. R. Response at 6. Respondent objects to the 9.3 hours of paralegal time for securing petitioner's medical records. Respondent argues that "most, if not all of petitioner's medical records" were provided to CH&CC by petitioner's previous counsel, H&R. Id. Thus, the Vaccine Trust Fund should not be charged twice. Respondent objects to the 20.6 hours of time spent by Attorney Sylvia Chin-Caplan to prepare for the hearing. Id. at 7. Respondent argues that the time is excessive given that the hearing had only two expert witnesses and lasted four hours. Id. at 7-8. Further, respondent argues, since CH&CC billed 32 hours of paralegal time to prepare a "Stage 2 Report," petitioner's attorney need not have spent the amount of time she did in her preparation. Id. Respondent also objects to the 63.1 hours of attorney time and the 23.5 hours of paralegal time spent in preparing the petitioner's posthearing briefs. Id. at 8. Respondent argues that given the skill and experience of petitioner's law firm and the nature of this case, i.e. the medical records were limited, the case involved two experts, and the legal issues were straightforward, the amount of time spent preparing the posthearing briefs is unreasonable. Id. at 9.

Respondent objects to some of the hours requested by the H&R law firm. Specifically, respondent objects to the 2.2 hours of time spent by Attorney Bradley Horn from the law firm of Shoemaker & Associates to review records and do research. R. Response at 10. Respondent argues that no apparent benefit was gained by Mr. Horn's involvement. Id. Respondent also objects to the 96 hours spent by paralegals to collect medical records because it "appears excessive." Id.

Petitioner's Position

In response to respondent's objections, petitioner argues that while CH&CC received five sets of records from H&R, CH&CC determined that an additional seven sets of records were incomplete or missing. P. Reply at 6. Thus, the 9.3 paralegal hours were spent determining what records were missing and then obtaining the records. Id. Next, petitioner states that the "Stage 2 Report," which CH&CC's paralegals prepare, is "a useful tool that sharply reduces the amount of attorney and law clerk time, expert time, and life care planning time," and "obivate[s] the need to repeatedly 'start from the beginning' when educating experts or reeducating attorneys about the medical history of a petitioner." P. Supp. Reply at 6. However, petitioner argues that the "Stage

[4] Respondent does not object to the claimed hourly rates for the law firms of CH&CC or H&R and does not object to costs incurred by H&R or petitioner.

2 Report" "can *never* be a substitute for the actual medical records when an attorney is preparing for trial." Id. (emphasis in original). Thus, while the "Stage 2 Report" was helpful in determining that the complete set of medical records were filed, and in drafting the petition, affidavits and prehearing memorandums, Attorney Chin-Caplan was "professionally bound to review the actual medical records . . . utilizing the Stage 2 as her index." Id. at 7. Further, petitioner argues that there is no basis for respondent's objection that the number of hours spent is excessive. P. Reply at 4. Petitioner argues that such a "bald, unsupported, unexplained opposition . . . is unhelpful." Id. Petitioner argues that in Thompson, et al. v. U.S. Dept. of Hous. and Urban Dev. the court held that the party opposing the award of attorney's fees must sufficiently explain the basis for its challenge and bare assertions that certain requests are excessive is insufficient to disallow the time spent. 2002 WL 31777631 at *9 (D. Md. 2002). Further, petitioner argues that a petitioner's counsel has the obligation to "'pursue the case as if every factual and legal issue will be contested, regardless of how straightforward the case may appear with hindsight.'" R. Reply at 5 *citing* Holton v. Sec'y Dept. of Health and Human Servs., 24 Cl. Ct. 391, 398 (Cl. Ct. 1991).

With regard to the time spent by the firm of H&R, petitioner argues that Attorney Horn of the law firm of Shoemaker & Associates provided a valuable service to Attorney Richmond because Mr. Horn, as an experienced Vaccine Program attorney, can review and analyze a potential case for an inexperienced Vaccine Program attorney, in this case Mr. Richmond. P. Reply at 3. Petitioner argues that hundreds of cases are not filed based upon a preliminary review by an experienced Program attorney. Id. at 4. Thus, this review saves the Program money because those cases are never filed. Id. Petitioner then addresses respondent's objection to the excessive time spent by H&R's paralegal to collect medical records. Petitioner argues that efforts to collect records involves multiple contacts with the client to obtain the necessary information to procure medical records and multiple contacts with records personnel. Id. at 7. The collection of records is further complicated by other factors such as name changes, address changes, HIPPA releases, prepayments, incorrect records, and incomplete records among others. Id. at 7-8. Thus, petitioner argues that because respondent has not specified the basis for his objection, Mr. Richmond should be reimbursed. Id. at 8.

Relevant Case Law

Pursuant to 42 U.S.C.A. § 300aa-15(e), special masters may award "reasonable" attorney's fees as part of compensation. This is true even if petitioner was unsuccessful on the merits of the case. § 300aa-15(e)(1). To determine reasonable attorney's fees, this court has traditionally employed the lodestar method which involves "multiplying the number of hours reasonably expended on the litigation times a reasonable hourly rate." Blanchard v. Bergeron, 489 U.S. 87, 94 (1989); Blum v. Stenson, 465 U.S. 886, 888 (1984); Hensley v. Eckerhart, 461 U.S. 424, 433 (1983). The resulting lodestar figure is an initial estimate of reasonable attorney's fees which may then be adjusted if the fee is deemed unreasonable based upon the nature of the services rendered in the case. Blanchard, 489 U.S. at 94; Pierce v. Underwood, 487 U.S. 552, 581 (1988) (Brennan, J. et al., concurring); Blum, 465 U.S. at 897, 899; Hensley, 461 U.S. at

434. See also, Ceballos v. Sec'y Dept. of Health and Human Servs., No. 99-97V, 2004 WL 784910 (Fed. Cl. Spec. Mstr. Mar. 25, 2004).

In assessing the number of hours reasonably expended, the court must exclude those "hours that are excessive, redundant, or otherwise unnecessary, just as a lawyer in private practice ethically is obligated to exclude such hours from his fee submission." Hensely v. Eckerhart, 461 U.S. 424, 434 (1983). In making reductions, the special master is not necessarily required to base his or her decisions on a line-by-line evaluation of the fee application. Wasson v. Sec'y of Health and Human Servs., 24 Cl. Ct. 482, 484 (1991) (affirming the special master's general approach to petitioner's fee request where the entries and documentation contained in the 82 page fee petition were organized in such a manner that specific citation and review were rendered impossible), aff'd, 988 F.2d 131 (Fed. Cir. 1993). Moreover, special masters may rely on their experience with the Vaccine Act and its attorneys to determine the reasonable number of hours expended. Wasson, 24 Cl. Ct. at 486, aff'd, 988 F.2d 131 (Fed. Cir. 1993). Just as "[t]rial court courts routinely use their prior experience to reduce hourly rates and the number of hours claimed in attorney fee requests . . . . [v]accine program special masters are also entitled to use their prior experience in reviewing fee applications." Saxton v. Sec'y of Health and Human Servs., 3 F.3d 1517, 1521 (Fed. Cir. 1993) (citing Farrar v. Sec'y of Health and Human Servs., 1992 WL 336502. at * 2-3 (Cl. Ct. Spec. Mstr. Nov. 2, 1992) (requested fees of $24,168.75 reduced to $4,112.50); Thompson v. Sec'y of Health and Human Servs., No. 90-530V, 1991 WL 165686, at * 2-3 (Cl. Ct. Spec. Mstr. Aug. 13, 1991) (requested fees of $18,039.75 reduced to $9,000); Wasson, 24 Cl. Ct. at 483 (1991), on remand, No. 90-208V, 1992 WL 26662 (Cl. Ct. Spec. Mstr. Jan. 2, 1992), aff'd, 988 F.2d 131 (Fed. Cir. 1993) (hourly rates reduced, and requested fees of $151,575 reduced to $16,500; special master disregarded the claim for 698.5 hours and estimated what, in her experience, would be a reasonable number of hours for a case of that difficulty). "It is well within the special master's discretion to reduce the hours to a number that, in his experience and judgment, was reasonable for the work done." Saxton, 3 F.3d at 1521.[5]

Analysis

As an initial matter, the undersigned will address respondent's statement in his response to petitioner's fee application that "[a]s a general rule, absent compelling circumstances, respondent considers the use of more than three attorneys for any single petitioner to be excessive and unwarranted." R. Response at 3. The undersigned strongly disagrees with this "general rule."

[5]The Federal Circuit noted that "The Court of Federal Claims erred in prohibiting the special master from considering his past experiences with attorneys in the vaccine program -- this past experience is a relevant factor and should be taken into account." Saxton, 3 F.3d at 1521, citing Hensley, 461 U.S. at 430, n.3 (awards in similar cases and counsel's experience and ability are two of twelve factors relevant to a fee determination); Slimfold Mfg. Co. v. Kinkead Indus., Inc., 932 F.2d 1453, 1459 (Fed. Cir. 1991) (district court may rely on its prior experience and knowledge in determining reasonable hours and fees).

There is no, and there cannot be a, general rule with regard to the number of attorneys a petitioner needs to hire or the number of attorneys that a law firm utilizes for each case. The number of attorneys is not the appropriate inquiry; the issue is whether the attorneys spent their time appropriately. The number of attorneys required to handle a case depends on the degree of difficulty of the case and thus, the number of attorneys required must be determined on a case-by-case basis. It is not *per se* unreasonable for a law firm to utilize more than one attorney in a given case so long as the attorney's time is spent efficiently and reasonably. In this case, respondent argues that the use of five attorneys "clearly resulted in duplication of effort and inefficiency." Id. However, respondent does not identify with sufficient specificity the areas in which petitioner's attorneys duplicated their efforts or how the attorneys' efforts were inefficient. Respondent argues that the hours "appear" to be duplicative or "appear" to be excessive, but does not describe the hours objected to with any particularity. A review of the attorneys' billing entries in this case, while raising concerns as to the total number of hours spent, does not indicate unnecessary work or duplication. Without more evidence from respondent, the undersigned cannot make a determination based solely on the number of attorneys involved that the hours claimed are excessive.

The undersigned will now address in turn each of respondent's objections to the number of hours spent. Respondent objects to the number of paralegal hours spent by CH&CC. Petitioner argues that the time spent was necessary to obtain additional records. The undersigned accepts petitioner's explanation and awards the full amount for 9.3 hours of paralegal time. Respondent objects to the amount of time spent by Attorney Chin-Caplan to prepare for the hearing given that the firm's paralegals prepared a "Stage 2 Report." Petitioner argues that although the "Stage 2 Report" is a helpful tool, it is not a substitute for the attorney to review the actual medical records. The undersigned agrees. A paralegal's review and summarization of the medical records cannot replace the attorney's own review of medical records in preparing her case. The attorney must be familiar with the record and know where the information is located in each record. Based upon the undersigned's own preparation for the trial, this case was not as simple and straightforward as respondent contends.

However, a legitimate question is raised as to the utility of a paralegal spending 32 hours to "index" the medical records when the attorney is duty-bound to conduct her own review. This issue may deserve a closer look in future fee applications. Further, this calls into question the system that petitioner's law firm uses in processing its cases. Because the attorneys at CH&CC each conduct a separate phase of a proceeding, this creates the potential for duplicative efforts while one attorney gathers and creates the record, another attorney reviews the record and prepares and conducts hearings, and a third attorney writes posthearing briefs. This individualized system of processing could result in some duplication of time and efforts. Petitioner's counsel is advised to review its system to ensure its efficiency.

Next, respondent objects to the number of hours spent by CH&CC's attorneys and paralegals on posthearing briefs. Petitioner requests 63.1 hours of attorney time and 23.5 hours of paralegal time. While the number of hours spent appears higher than what would normally be

spent on posthearing briefing, the undersigned disagrees with respondent's characterization of the case. Respondent argues that in this case the medical records were limited, there were only two expert witnesses, and the legal issues were straightforward. In the undersigned's view the legal issues were not straightforward as is evidenced by the undersigned's January 19, 2007 Decision. Both the medical and legal issues were complex and several volumes of medical records were filed. The undersigned's experience in deciding this case comports with the time spent by counsel in briefing the issues. Thus, the undersigned awards petitioner the full amount of fees for time spent on posthearing submissions.

Respondent objects to some hours spent by the H&R law firm. First, respondent objects to the hours billed by Attorney Horn from Shoemaker & Associates because no benefit was gained from his involvement. Petitioner argues that his time was valuable in evaluating the case because Mr. Horn is an experienced Program attorney and his review was helpful to Mr. Richmond, an inexperienced Program attorney. However, petitioner does not state with specificity how Mr. Horn assisted Mr. Richmond. Petitioner merely states that experienced Program attorneys routinely make preliminary reviews of possible cases and that many cases do not get filed because the attorneys determine that there is no reasonable basis for filing a claim. While this may be true, an inexperienced attorney may not ethically bill his client to learn about an area of the law in which he is unfamiliar. If an attorney may not bill his client for this task, the attorney may also not bill the Program for this task. If Attorney Richmond found it necessary to consult with more experienced Program attorneys, the cost of doing so should be absorbed by his firm. Thus, the 2.2 hours of time for Attorney Horn is disallowed.

Second, respondent objects to the number of hours spent by H&R's paralegals to collect medical records because it appears excessive. Petitioner argues that the process of collecting records is complicated and arduous. The undersigned agrees with petitioner. Respondent makes no effort to explain why this time spent is excessive nor does he state what is a reasonable amount of time to collect medical records. Since respondent is not tasked with collecting medical records in Vaccine cases, the undersigned is at a loss as to how respondent can make this determination. The undersigned accepts petitioner's explanation that collecting medical records is time-consuming and in this case in particular, there were numerous records filed. The full amount of 96 hours of paralegal time is awarded.

B. Travel Time

Respondent's Position

Respondent objects to CH&CC billing the full hourly rate for Attorney Chin-Caplan's six hours of travel time to the hearing in Washington, DC. R. Response at 7. Respondent argues that it is well established that the attorney's hourly rate for travel should be halved. Id. Respondent also objects to Dr. Griesemer being awarded his full hourly rate for his travel time to the hearing. Id. at 11.

Petitioner's Position

Petitioner argues that her counsel is aware that some special masters have awarded a halved rate for travel time. However, petitioner argues that "[t]here is absolutely no rational basis for such a finding." P. Reply at 6. Petitioner argues that this is not commuting time, but is time spent away from home and office and should be paid at full hourly rates. Id. at 7.

Analysis

As the undersigned noted in Knox v. Sec'y of Dept. of Health and Human Servs.[6], there are three schools of thought with regard to awarding travel time to attorneys and experts in fee-shifting cases. According to the limited decisions published on this issue, travel time is not compensable, it is compensable at a reduced rate, or it is compensable in full. Knox at *7.[7] In Knox the undersigned determined that travel time is compensable at a reduced rate and quantified the case related time at 50% for ease of calculation. Id. at *8.

Petitioner's counsel has acceded to the one half hourly rate for travel time in past fee awards. Thus, petitioner's one line argument that there is no rational basis for awarding one half the rate is simply illogical.[8] In this case and with this counsel the undersigned will award the full hourly rate to petitioner's counsel for travel to the hearing and one half the hourly rate for travel from the hearing. The undersigned makes this determination based on his personal communication in settlement conferences with petitioner's counsel, who in past cases explained to the undersigned that the CH&CC law firm charges the full hourly rate for travel to the hearing because counsel prepares for hearings during that travel time, but charges one half of the hourly rate for the return trip because counsel is not working during that time. This strikes the undersigned as a reasonable explanation. Thus, Ms. Chin-Caplan is awarded her full hourly rate of $270 for 3 hours of travel to the hearing and one half of her hourly rate for her travel from the hearing. In the future, in the absence of a statement or some other evidence that work was being performed on the case at issue during travel, the undersigned will continue to award one half of the hourly rate.

Awarding one half the hourly rate for an expert's travel time has also been acceptable to petitioner's counsel in past fee awards. In the instant case, petitioner does not address why Dr.

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[6] 1991 WL 33242, No. 90-33V (Cl. Ct. Spec. Mstr. Feb. 22, 1991).

[7] See, e.g., Henry v. Webermeir, 738 F.2d 188, 194 (7th Cir. 1984) (full compensation for travel time); Johnson v. University College, 706 F.2d 1205, 1208 (11th Cir. 1983) (reduced rate for travel time); Thomas v. Board of Ed., 505 F. Supp. 102, 104 (N.D.N.Y. 1981) (no compensation for travel time).

[8] Petitioner does not reference any legal authority in support of her argument. In fact, there is a rational basis for awarding travel time at a reduced rate as is evidenced by two cases cited supra n. 6.

Griesemer should be awarded his full hourly rate. Petitioner does not make the same claim, as she does for her attorneys, that Dr. Griesemer spent the time traveling to the hearing preparing for the hearing. Dr. Griesemer's invoice does not distinguish travel time from the time spent preparing for and testifying at the February 16, 2006 hearing. See P. Ex. B at 24. Without any explanation from petitioner, the undersigned cannot make a determination as to why Dr. Griesemer should be compensated at his full hourly rate when other experts in the Program have charged, acceded to receiving, or have been awarded half their hourly rate. For example, petitioner's counsel in another recent case submitted an invoice for the expert in which the expert requested one half his hourly rate for his travel time to the hearing. See Bou v. Sec'y of Dept. of Health and Human Servs., 2007 WL 924495, No. 04-1329V (Fed. Cl. Spec. Mstr. Mar. 9, 2007). Petitioner argues that her law firm paid Dr. Griesemer in full for his services and thus should be reimbursed this cost. P. Reply at 9. However, an unreasonable expert fee is not converted to a reasonable fee because it was already paid. See Perreira v. Sec'y of Dept. of Health and Human Servs., 1992 WL 164436 at *4, No. 90-847V (Cl. Ct. Spec. Mstr. June 12, 2007). Further, in awarding costs a special master is not bound by an agreement between petitioners and experts in determining appropriate costs. See Knox. Dr. Griesemer's requested hourly rate of $300 is reasonable, but without further evidence of why he should be awarded the full hourly rate for his travel, the undersigned cannot award him his full rate. Since Dr. Griesemer did not identify his travel time, the undersigned calculates that Dr. Griesemer spent the same amount of time traveling from Charleston, SC to Washington, DC as Ms. Chin-Caplan spent traveling from Boston, MA, i.e. six hours of travel time. Thus, Dr. Griesemer will be compensated for six hours of travel time at one half his hourly rate of $300, i.e. $150.

C. Client Communication

Respondent's Position

Respondent objects to 23.83 hours Attorney Richmond spent communicating with petitioner because the numerous status updates which amount to over half the time that Mr. Richmond spent on the case is excessive. R. Response at 10.

Petitioner's Position

In response, petitioner argues that in Vaccine Program cases "some clients simply need more attention and this was such a client." P. Reply at 7. Here, petitioner argues that Attorney Richmond was justified in having to spend time explaining the law to his client. Id.

Analysis

The ABA Rules of Professional Conduct obligate a lawyer to keep a client reasonably informed about the status of a case and to promptly comply with reasonable requests for information. MODEL RULES OF PROF'L CONDUCT R. 1.4(a)(3),(4) (2003). Further, the comments

state that a lawyer should have regular communication with clients, and that "telephone calls should be promptly returned or acknowledged." Id. cmt. 4. The standard for determining whether an attorney's communication with his client is excessive is decided on a case-by-case basis and will depend on whether the legal issues in a case are complex or straightforward. See Daly v. Hill, 790 F.2d 1071, 1080 fn. 12 (4th Cir. 1986). The burden of establishing entitlement to compensation for client communications rests with the fee applicant. Lilienthal v. City of Suffolk, 322 F.Supp.2d 667, 673 (E.D. Va. 2004).

In the instant case, respondent argues that because Attorney Richmond spent over half of his total billed time communicating with his client, this is excessive and unreasonable. R. Response at 10. However, respondent does not identify any specific instances of unnecessary communication. The amount of time Mr. Richmond spent communicating with his client, which far exceeds what is normally seen in billing statements, does raise the court's eyebrows, and there is the concern that the attorney could have handled his communications more effectively. If Ms. Carter was a paying client and Attorney Richmond informed her that she would be billed $275 per hour every time she called him, she probably would not have called as frequently or perhaps she would have been satisfied to speak with a member of his firm's non-legal staff with regard to simple requests. Additionally, petitioner's explanation that she was a client that simply needed more attention than other clients is insufficient to meet her burden.

In Lilienthal v. City of Suffolk, the court held that "where a fee petition makes numerous claims for client communications, but does not 'illuminate the way in which the many hours of client conferences may have aided preparation of the case,' the court may properly exclude some hours as excessive." 322 F.Supp.2d at 673(quoting Daly v. Hill, 790 F.2d at 1079). In the case *sub judice*, petitioner does not explain how the numerous calls to her attorney furthered her case or helped her attorney prepare her case. Further, the numerous time entries merely state "client call" or "phone call from client" with no explanation of the reason for the call. P. Ex. C. In Healthchicago, Inc. v. Ass'n for Org. and Human Dev. Mgmt. Co., Inc., the court disallowed several hours of client communication where the time entries gave no explanation for the client communication. 1992 WL 317205, Appendix (N.D. Ill. 1992). Thus, the undersigned will reduce the 23.83 hours of time billed for client communication by 7 hours based upon the time entries where no explanation for the communication is given. Although the undersigned does not want to penalize petitioner's attorneys for answering numerous telephone calls from his client, the undersigned suggests that petitioner's attorneys handle their client communications more efficiently or review the way they communicate information to clients.

D. Other Costs Issues

The undersigned has reviewed the rest of respondent's objections with regard to costs and petitioner's explanations for the costs and finds petitioner's explanations to be reasonable. The undersigned awards the full amount of costs incurred for petitioner's counsel's hotel bill and the cost of obtaining the additional medical records.

III. CONCLUSION

After a thorough review of petitioner's fee application and respondent's objections, petitioner is awarded **$74,394.41 in attorneys' fees** and **$15,870.32 in attorneys' costs**. The award shall be made payable jointly to petitioner and her attorneys. Additionally, petitioner is awarded **$1,761.30 in petitioner's costs**. The award shall be made payable solely to petitioner.

A breakdown of attorneys' fees and costs is as follows:

Firm	Fees	Costs	Total for Firm
CH&CC	$55.156.00	$14,813.11	$69,969.11
H&R	$19,238.41	$1,057.21	$20,295.62
Totals	$74,394.41	$15,870.32	$90,264.73[9]

Accordingly, pursuant to Vaccine Rule 13, petitioner is hereby awarded a **total of $90,264.73 in attorneys' fees and costs.**[10] In the absence of a motion for review filed pursuant to RCFC, Appendix B, the Clerk is directed to enter judgment according to this decision.[11]

IT IS SO ORDERED.

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Gary J. Golkiewicz
Chief Special Master

[9] This amount includes petitioner's supplemental fee request of $3,583.50 in fees and $16.53 in costs.

[10] This amount is intended to cover all legal expenses. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, 42 U.S.C.A. §300aa-15(e)(3) prevents an attorney from charging or collecting fees (including costs) which would be in addition to the amount awarded herein. See generally, Beck v. Sec'y of Health and Human Servs., 924 F.2d 1029 (Fed. Cir. 1991).

[11] 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.