

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 11-57V

Filed: December 11, 2012

MERIDETH KIRKLAND,	*	NOT TO BE PUBLISHED
	*	
Petitioner,	*	Special Master Zane
	*	
v.	*	Decision on Attorneys' Fees
	*	and Costs
	*	
SECRETARY OF HEALTH	*	
AND HUMAN SERVICES,	*	
	*	
Respondent.	*	
	*	

Sherry Kay Drew, Esq., McDowell & Drew, Ltd., Glenview, IL, for Petitioner;
Julia Wernett McInerny, Esq., United States Dep't of Justice, Washington, D.C., for Respondent.

UNPUBLISHED DECISION AWARDING ATTORNEYS' FEES AND COSTS¹

On November 28, 2012, Petitioner's counsel, Sherry Kay Drew ("Petitioner's counsel"), filed a Petition for Attorneys Fees and Other Costs requesting \$9,377.50 in attorneys' fees and \$762.37 in costs, for a total award of \$10,139.87. In accordance with General Order #9, Petitioner's counsel included a signed statement from Petitioner in which she stated that she incurred no litigation expenses in furtherance of the petition. On December 11, 2012, Respondent filed a Status Report in which she stated that she had no objection to Petitioner's application. In accordance with 42 U.S.C. §§ 300aa-15(b) and (e)(1), the undersigned hereby awards the amount to which Respondent does not object.

On January 27, 2011, Petitioner, Merideth Kirkland, filed a petition seeking compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. § 300aa-10,

¹ The undersigned intends to post this decision on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No.107-347, §205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. §3501 note (2006)). 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 ruling will be available to the public. Id.

et seq., as amended (“the Vaccine Act”), alleging that she suffered from dermatomyositis and an increased risk of cancer as a result of the tetanus-diphtheria-acellular-pertussis (Tdap) vaccine she received on January 31, 2008.

Although Respondent did not concede the claim, the parties, nonetheless, settled the matter, and an award of compensation was made. A decision awarding compensation based upon the parties’ stipulation was entered on May 24, 2012. Because Petitioner has been awarded compensation, Petitioner is entitled to an award of reasonable attorneys’ fees and costs. 42 U.S.C. § 300aa-15(e). The undersigned also finds that the agreed upon amount of \$10,139.87 in attorneys’ fees and costs is reasonable based on the stage at which this matter was settled. Based on the request’s reasonableness and pursuant to Vaccine Rule 13, the undersigned **GRANTS** the Petitioner’s unopposed request as outlined in Petitioner’s Petition for Attorneys Fees and Other Costs. The judgment shall reflect that Petitioner is awarded attorneys’ fees and costs as follows:

in a check made payable jointly to Petitioner (Merideth Kirkland) and Petitioner’s counsel (Sherry Kay Drew, Esq., McDowell & Drew, Ltd.) in the amount of \$10,139.87, representing \$9,377.50 in attorneys’ fees and \$762.37 in costs.

The Court thanks the parties for their cooperative efforts in resolving this matter. In the absence of a motion for review filed pursuant to RCFC, Appendix B, the Clerk is directed to enter judgment accordingly.²

IT IS SO ORDERED.

s/ Daria J. Zane
Daria J. Zane
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.