

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

(Filed: April 28, 2008)

DO NOT PUBLISH

_____)
MARYBETH BOESON,)
as mother and next friend of her son,)
GRIFFIN BOESON,)
)
Petitioner,)
)
v.)
)
SECRETARY OF)
HEALTH AND HUMAN SERVICES,)
)
Respondent.)
_____)

No. 04-1254V
Attorneys' Fees; Attorneys' Costs;
Personal Expenses

**DECISION ON ATTORNEYS' FEES, ATTORNEYS' COSTS
AND PERSONAL EXPENSES¹**

Petitioner, Marybeth Boeson (Ms. Boeson), as mother and next friend of her son, Griffin Boeson (Griffin), seeks an award of \$20,563.52 in attorneys' fees, attorneys' costs and personal expenses as defined by General Order No. 9 for an action that she pursued under the National Vaccine Injury Compensation Program (Program).² *See generally* Petitioner's Application for Fees and Costs (Fee Petition), filed March 25, 2008. Ms. Boeson represents that she incurred \$150.00 in personal expenses as defined by General Order No. 9. *See* Petitioner and Counsel Statement

¹ 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 statutory provisions governing the Vaccine Program are found in 42 U.S.C. §§ 300aa-10 *et seq.* For convenience, further reference will be to the relevant section of 42 U.S.C.

(Statement), filed April 25, 2008. Respondent does not object. See Joint Status Report, filed April 25, 2008.

Ms. Boeson did not receive Program compensation. Nevertheless, the statute enacting the Program accords discretion to the special master to “award an amount of compensation to cover” Ms. Boeson’s “reasonable attorneys’ fees and other costs” as long as “the special master or court determines that” Ms. Boeson possessed “a reasonable basis for the claim” and that Ms. Boeson filed the petition “in good faith.” § 300aa-15(e)(1); see, e.g., *Di Roma v. Secretary of HHS*, 1993 WL 496981 (Fed. Cl. Spec. Mstr. Nov. 18, 1993). As the United States Supreme Court has cautioned in cases involving other fee-shifting schemes, the special master’s “discretion is not without limit.” *Blanchard v. Bergeron*, 489 U.S. 87, 89 n.1 (1989). Thus, absent “special circumstances,” the special master “should ordinarily” award attorneys’ fees and costs to an unsuccessful petitioner. *Id.*, citing *Newman v. Piggie Park Enterprises*, 390 U.S. 400, 402 (1968); *Hensley v. Eckerhart*, 461 U.S. 424, 429 (1983).

The special master has considered carefully the record as a whole. Based upon his experience, the special master determines that an award of \$20,563.52 in attorneys’ fees, attorneys’ costs and personal expenses as defined by General Order No. 9 is appropriate. Therefore, in the absence of a motion for review filed under RCFC Appendix B, the clerk of court shall enter judgment in Ms. Boeson’s favor for \$20,563.52 in attorneys’ fees, attorneys’ costs and personal expenses as defined by General Order No. 9. The judgment shall reflect that Ms. Boeson’s attorney of record, Ronald C. Homer, Esq. (Mr. Homer), may collect \$20,413.52 from Ms. Boeson.³ Under Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing the right to seek review.

s/John F. Edwards

John F. Edwards

Special Master

³ \$20,563.52 - \$150.00 for Ms. Boeson’s personal expenses as defined by General Order No. 9.