

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 94-58V

Filed: May 23, 2008

Not to be published.<sup>1</sup>

DORY ZATUCHNI, executrix of the estate of  
E. Barbara Snyder, deceased,

Petitioner,

v.

SECRETARY OF HEALTH AND HUMAN  
SERVICES,

Respondent.

Vaccine Act Attorneys' Fees

### DECISION (ATTORNEYS' FEES)

On May 5, 2008, the petitioner submitted an application seeking an award for fees and costs incurred in this case filed under the National Vaccine Injury Compensation Program. The application seeks a total of \$ 215,105.09. This amount includes the fees and costs for petitioner's current attorney, Ronald C. Homer, and well fees and costs incurred by her former attorney, Boyd McDowell.<sup>2</sup>

Respondent did not file a response.

Since this case has been pending for over thirteen years, and been subject of multiple Motions for Review and an appeal to the United States Court of Appeals for the Federal Circuit,

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<sup>1</sup>This document will not be sent to electronic publishers as a formally "published" opinion. However, because this document contains a reasoned explanation for my action in this case, I intend to post this document on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). Therefore, 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, this entire document will be available to the public. *Id.* See also 42 U.S.C. § 300aa-12(d)(4)(B).

<sup>2</sup>See my unpublished order of February 26, 2002, deferring ruling on Attorney McDowell's fee application, and Judge Wheeler's order of January 9, 2006, granting Ms. Zatuchni's motion to substitute herself for Ms. Snyder, reported at *Snyder v. HHS*, 69 Fed.Cl. 390 (2006).

the total figure of \$ 215, 105.09 seems reasonable and appropriate.<sup>3</sup> Accordingly, I hereby award the following attorneys' fees and costs pursuant to 42 U.S.C. § 300aa-15:

A lump sum of **\$ 215,105.09**, in the form of a check payable jointly to petitioner and petitioner's counsel, **Ronald C. Homer**, on account of services performed by counsel's law firm and costs expended by that firm and Attorney McDowell's firm.<sup>4</sup>

In the absence of a timely-filed motion for review of this Decision (see Appendix B, Rules of the United States Court of Federal Claims), the clerk shall enter judgment in accordance herewith.

/s/George L. Hastings, Jr.

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George L. Hastings, Jr.  
Special Master

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<sup>3</sup>The "merits" of this case has been the subject of several reported opinions, beginning with an opinion in an "Omnibus" proceeding. *Snyder v. et. al v. HHS*, 2002 WL 31965742 (Fed.Cl. Dec 13, 2002). The case-specific history is reported at *Snyder v. HHS*, No. 94-58V, 2005 WL 1230787 (Fed. Cl. Spec. Mstr. May 6, 2006) (denying entitlement), *remanded sub nom, Zatuschni v. HHS*, 69 Fed.Cl. 612 (2006), *finding entitlement and awarding damages*, 2006 WL 1499982 (Fed. Cl. Spec. Mstr. May 6, 2006), *damages modified*, 73 Fed.Cl. 451 (2006) (petitioner entitled to both lifetime damages and death benefit), *aff'd*, 516 F.3d 1312 (Fed.Cir. 2008).

<sup>4</sup>Attorney Homer has indicated that he will send Attorney McDowell's firm his fees and costs, which total \$22,793.68.