

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 08-82V

Filed: March 30, 2009

Not for publication

GABRIELA MARTINEZ-OLIVER, *
by and through ROBERTO and MONICA *
PUENTE, as parents and natural guardians, *

Petitioners, *

v. * Attorneys' Fees and Costs

SECRETARY OF THE DEPARTMENT *
OF HEALTH AND HUMAN SERVICES, *

Respondent. *

Anne C. Toale, Sarasota, FL, for petitioners.
Darryl R. Wishard, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION AWARDING ATTORNEYS' FEES AND COSTS¹

On March 26, 2009, the parties filed the attached Stipulation of Fact for Attorney's Fees and Costs. The parties have stipulated to an overall total of **\$42,345.73**, representing **\$23,769.50** in attorneys' fees and **\$18,279.73** in litigation costs. In accordance with General Order #9,

¹ Because this decision contains a reasoned explanation for the special master's action in this case, the special master 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). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to delete such information prior to the document's disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall delete such material from public access.

petitioner stated that she has incurred **\$296.50** in personal costs.

In accordance with the terms of the attached stipulation, the clerk shall enter judgment for **\$42,345.73**, and shall direct the award be in the form of one check for **\$42,049.23**, made jointly payable to petitioner and Ms. Anne C. Toale, and one check for **\$296.50**, made payable to petitioner.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.²

IT IS SO ORDERED.

Dated: March 30, 2009

/s/ Laura D. Millman

Laura D. Millman
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party's filing a notice renouncing the right to seek review.

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MONICA PUENTE,
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Petitioner,

vs.

CASE NO. 08-82V
Special Master Laura D. Millman

SECRETARY OF HEALTH AND HUMAN
SERVICES,

Respondent.

STIPULATION OF FACT FOR ATTORNEY'S FEES AND COSTS

WHEREFORE, IT IS HEREBY STIPULATED by and between the parties that fees in the total amount of Twenty-Three Thousand Seven Hundred Sixty-Nine and 50/100 Dollars (**\$23,769.50**), reimbursement of litigation costs in the total amount of Eighteen Thousand Two Hundred Seventy-Nine and 73/100 Dollars (**\$18,279.73**), and reimbursement of litigation costs borne by the petitioner in the total amount of Two Hundred Ninety-Six and 50/100 Dollars (**\$296.50**), for an overall total of Forty-Two Thousand Three Hundred Forty-Five and 73/100 Dollars (**\$42,345.73**), is reasonable and was necessarily incurred by petitioner in furtherance of the petition, and that said amount of compensation should be made payable jointly to petitioner and petitioner's attorney of record pursuant to 42 U.S.C. § 300aa-15(e).

In compliance with General Order #9, petitioner's counsel hereby represents that of this amount, petitioner has incurred out-of-pocket expenses in the amount of Two Hundred Ninety-Six and 50/100 Dollars (**\$296.50**) in proceeding on the petition in this case (see attached).

Respectfully Submitted,

ATTORNEY OF RECORD FOR
PETITIONER:

/s/ Anne C. Toale

Anne C. Toale, Esq.

Florida Bar Number 948659

MAGLIO CHRISTOPHER & TOALE

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Sarasota, Florida 34236

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ATTORNEY OF RECORD FOR
RESPONDENT:

/s/ Darryl R. Wishard

Darryl R. Wishard, Esq.

Trial Attorney

Torts Branch, Civil Division

U.S. Department of Justice

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Washington DC 20044-0146

Voice: 202-616-4357

Dated: March 26, 2009

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STATEMENT REGARDING CLIENT COSTS

I, MONICA PUENTE, certify that I have incurred ~~\$296.50~~ in litigation costs in furtherance of this claim, as evidenced by the attached receipts.

Signed: Monica Puente
MONICE PUENTE

Dated: 3-17-2009