

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

BETTE KIMBELL, as personal representative *
of the Estate of her husband, *
REX KIMBELL, *

Petitioner, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

No. 10-364V
Special Master Christian J. Moran

Filed: June 18, 2012

Attorneys' fees and costs; award
in the amount to which
respondent does not object.

UNPUBLISHED DECISION¹

Isaiah R. Kalinowski, Maglio Christopher and Toale, Sarasota, FL, for Petitioner;
Alexis B. Babcock, U.S. Department of Justice, Washington, D.C., for Respondent.

Petitioner Bette Kimbell, as the personal representative of the estate of her husband, Rex Kimbell, filed her application for attorneys' fees and costs on June 15, 2012. The Court awards the amount to which respondent has not objected.

Ms. Kimbell claimed that the influenza vaccine caused her husband an adverse reaction and received compensation based upon the parties' stipulation. Decision, filed Jan. 5, 2012. Because Ms. Kimbell received compensation, she is entitled to an award of attorneys' fees and costs. 42 U.S.C. § 300aa-15(e).

Ms. Kimbell seeks \$16,114.28 in attorneys' fees and costs for petitioner's counsel. Additionally, Ms. Kimbell filed a statement of costs in compliance with General Order No. 9,

¹ The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this ruling on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

stating that she incurred **\$22.66** while pursuing this claim. Respondent stated that she had no objection to this application for attorneys' fees and costs.

After reviewing the request, the court awards the following:

1. **A lump sum payment of \$16,114.28 in the form of a check payable to petitioner's attorney, Isaiah R. Kalinowski, of the law firm Maglio Christopher and Toale, and petitioner, Bette Kimbell, for attorney's fees and costs available under 42 U.S.C. § 300aa-15(e).**
2. **A lump sum payment of \$22.66 in the form of a check payable to petitioner, Bette Kimbell.**

The court thanks the parties for their cooperative efforts in resolving this matter.

The Clerk shall enter judgment accordingly.²

IT IS SO ORDERED.

S/ Christian J. Moran

Christian J. Moran
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.