

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Simmons v. Secretary of Health & Human Services

875 F.3d 632 (Fed. Cir. 2017) · No. 2017-1405 · Decided November 7, 2017

SUMMARY

The Federal Circuit affirmed the Court of Federal Claims’ denial of attorneys’ fees and costs in a Vaccine Act case. The court held that an impending statute-of-limitations deadline cannot establish an objective reasonable basis for the merits of a vaccine-injury claim, distinct from the subjective good-faith requirement.

CASE DETAILS

COURT	United States Court of Appeals for the Federal Circuit
WRITING FOR THE COURT	Prost, Chief Judge; Lourie, Circuit Judge; Taranto, Circuit Judge
JURISDICTION	Federal
DECIDED	November 7, 2017
DOCKET	2017-1405
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Court of Federal Claims' reversal of a special master's award of attorneys' fees and costs under the Vaccine Act.
STANDARD OF REVIEW	The Federal Circuit reviews a special master's Vaccine Act decision for arbitrariness, capriciousness, abuse of discretion, or failure to accord with law. Application of the correct legal standard is reviewed de novo.
PRECEDENTIAL VALUE	Published Federal Circuit opinion; binding precedent within the Federal Circuit.
PARTIES	Henry Simmons v. Secretary of Health and Human Services

TOPICS

- health law
- administrative law
- appellate procedure
- remedies
- standard of review

PRACTICE AREAS

- Vaccine Act litigation
- health law
- administrative law
- appellate procedure
- attorneys' fees

QUESTIONS PRESENTED

1. Whether an impending Vaccine Act statute-of-limitations deadline can establish an objective reasonable basis for the merits of an otherwise unsupported claim for purposes of awarding attorneys' fees and costs under 42 U.S.C. § 300aa-15(e)(1).
2. Whether the special master abused her discretion by treating counsel's impending ethical or limitations concerns as sufficient to establish a reasonable basis for the claim.

HOLDINGS

1. An impending Vaccine Act statute-of-limitations deadline does not establish a reasonable factual basis for the merits of the claim. The reasonable-basis inquiry is objective and concerns the claim for which the petition was brought, independent of counsel's conduct.
2. A special master's Vaccine Act fee decision is reviewed for arbitrariness, capriciousness, abuse of discretion, or failure to accord with law, and application of the wrong legal standard is reviewed de novo.

KEY QUOTATIONS

“Whether there is a looming statute of limitations deadline, however, has no bearing on whether there is a reasonable factual basis “for the claim” raised in the petition.” (at 635)

“We conclude that counsel may not use this impending statute of limitations deadline to establish a reasonable basis for Mr. Simmons’s claim.” (at 637)

FACTUAL BACKGROUND

Simmons told counsel that he developed Guillain-Barre Syndrome after receiving a flu vaccination on October 26, 2010, and provided a vaccination record. After a lengthy period during which counsel could not contact him, Simmons recontacted counsel shortly before the limitations period might expire, and counsel filed a Vaccine Act petition without medical records or other evidence that he had been diagnosed with Guillain-Barre Syndrome. Simmons again became unreachable, and the special master dismissed the petition for failure to prosecute.

PROCEDURAL HISTORY

Simmons filed a Vaccine Act petition alleging Guillain-Barre Syndrome caused by a flu vaccination, but the petition contained no medical records or other supporting evidence. The special master dismissed the petition for failure to prosecute and awarded attorneys' fees and costs after finding good faith and a reasonable basis. The Court of Federal Claims reversed the fee award, and Simmons appealed to the Federal Circuit.

DISPOSITION

affirmed

CASES CITED

- Simmons v. Secretary of HHS, 128 Fed. Cl. 579 (2016)

- Chuisano v. United States, 116 Fed. Cl. 276, 289 (2014)
- Rodriguez v. Secretary of HHS, 632 F.3d 1381, 1383-84 (Fed. Cir. 2011)
- Avera v. Secretary of HHS, 515 F.3d 1343, 1347 (Fed. Cir. 2008)
- Hendler v. United States, 952 F.2d 1364, 1380 (Fed. Cir. 1991)
- Markovich v. Secretary of HHS, 477 F.3d 1353, 1356 (Fed. Cir. 2007)
- Cloer v. Secretary of HHS, 654 F.3d 1322, 1325, 1344 (Fed. Cir. 2011) (en banc)
- Cloer v. Secretary of HHS, 675 F.3d 1358, 1360, 1362, 1364 (Fed. Cir. 2012) (en banc)

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