

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 11-650V

(E-Filed: October 5, 2012)

FRANKLIN BREWER,)	
)	
)	UNPUBLISHED
)	
Petitioner,)	Attorneys' Fees and Costs;
)	Reasonable Amount
v.)	Requested to which
)	Respondent Does Not
SECRETARY OF THE DEPARTMENT)	Object
OF HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

Diana Lynn Stadelnikas, Sarasota, FL, for petitioner.

Darryl Wishard, Washington, DC, for respondent.

ATTORNEYS' FEES AND COSTS DECISION¹

On October 6, 2011, Franklin Brewer (“petitioner”), filed a petition for compensation alleging that he suffered certain injuries as a result of receiving a vaccination. Among the injuries petitioner alleged that he has suffered as a result of receiving the influenza vaccine on October 13, 2010, was Guillain-Barre

¹ Because this decision contains a reasoned explanation for the undersigned’s action in this case, the undersigned intends to post this ruling on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). 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 a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b).

syndrome. He sought an award under the National Vaccine Injury Compensation Program, National Vaccine Injury Compensation Program² (the Act or the Program). 42 U.S.C. §§ 300aa-1 to -34 (2006).

On August 7, 2012, counsel for both parties filed a stipulation, stating that a decision should be entered awarding compensation. Finding the stipulation reasonable, the undersigned issued a decision finding that petitioner is entitled to compensation under the Vaccine Program on August 8, 2012, and awarding damages. See Decision.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300 aa-15(e). On October 4, 2012, the parties' filed a stipulation of facts regarding final attorneys' fees and costs in the amount of \$15,000.00, to which respondent's counsel did not object.³ Based on the reasonableness of petitioner's request and respondent's counsel's lack of objection to petitioner's counsel's fee request, the undersigned **GRANTS** petitioner's motion for approval and payment of attorneys' fees and costs. Also attached to the stipulation is a statement from petitioner that he incurred no out-of-pocket expenses per General Order No. 9.

The undersigned awards a total of \$15,000.00 in attorneys' fees and costs. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGEMENT** in petitioners' favor in the amount of \$15,000.00 in attorneys' fees and attorneys' costs. The judgment shall reflect that the MAGLIO CHRISTOPHER & TOALE firm may collect \$15,000.00 from petitioners.

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.⁴

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2006) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

³ Petitioner previously presented a draft application for attorneys' fees and costs in the amount of \$16,953.42. In informal discussions, respondent raised objections to certain items in petitioner's draft application. Petitioner subsequently amended his application in this matter to request reimbursement for attorneys' fees and costs in the amount of \$15,000.00. See Stipulation.

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Chief Special Master