

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
E-Filed: March 15, 2013

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SANDRA DWARES,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

* * * * *

UNPUBLISHED
No. 07-450V

Chief Special Master
Campbell-Smith

Stipulated Fees; Reasonable Amount
Requested to which Respondent Does
Not Object

Ronald Homer, Conway, Homer & Chin-Caplan, P.C., Boston, MA, for petitioner
Julia W. McNerny, U.S. Dep't of Justice, Washington, DC, for respondent.

ATTORNEYS' FEES AND COSTS DECISION¹

On June 28, 2007, Sandra Dwares filed a petition seeking compensation under the National Vaccine Injury Compensation Program ("Vaccine Program").² Petitioner amended her petition on October 26, 2006. Petitioner alleged that as a result of receiving the trivalent influenza vaccination on October 26, 2006, she developed transverse

¹ Because this decision contains a reasoned explanation for the undersigned's action in this case, the undersigned intends to post this decision 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). 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). Otherwise, "the entire" decision will be available to the public. Id.

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 "Act"). All citations in this decision to individual sections of the Act are to 42 U.S.C.A. § 300aa.

myelitis. Pet. at 1. On September 28, 2012, the undersigned issued a decision on the basis of a stipulation from the parties. Decision, September 28, 2012.

On March 14, 2013, the parties filed a Stipulation of Fact Concerning Attorneys' Fees and Costs. According to the stipulation, respondent does not object to an amount of \$160,929.34 in attorneys' fees and costs.³ In accordance with General Order #9, petitioner filed a statement stating that she incurred \$353.00 in out-of-pocket expenses in pursuing her petition. Respondent does not object to petitioner's out-of-pocket expenses.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300 aa-15(e). The undersigned approves the requested amount for attorneys' fees and costs as reasonable. Accordingly, an award should be made in the form of a check payable as follows:

- (a) a lump sum payment in the amount of **\$160,929.34**, payable jointly to petitioner and Conway, Homer, and Chin-Caplan, P.C., for attorney and paralegal fees, attorney costs, and
- (b) a lump sum payment in the amount of **\$353.00**, payable to petitioner only, for her out-of-pocket expenses.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.⁴

IT IS SO ORDERED.

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

³ Petitioner requests \$100,000.00 for attorneys' fees and \$60,929.34 for attorneys' costs.

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.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

SANDRA DWARES, *
*
Petitioner, *
*
v. * No. 07-450V
* Chief Special Master
SECRETARY OF HEALTH * PATRICIA E. CAMPBELL-SMITH
AND HUMAN SERVICES, *
*
Respondent. *

STIPULATION OF FACT CONCERNING ATTORNEYS' FEES AND COSTS

It is hereby stipulated by and between the parties, the following factual matters:

1. Ronald C. Homer is the attorney of record for petitioner in this matter.
2. Petitioner filed her Application for Attorneys' Fees and Costs on February 27, 2013.¹
3. In informal discussions, respondent raised objections to certain items in petitioner's Application. Based on these discussions, the petitioner has amended her Application in this matter to request reimbursement for attorneys' fees in the amount of \$100,000.00, attorneys' costs in the amount of

¹ It was recently discovered that the petitioner made a calculation error within her original application, requesting \$173,696.14 in fees and costs.

