

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

JOHN DOWNING,

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Petitioner,

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No. 09-582V

Special Master Christian J. Moran

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v.

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Filed: December 13, 2010

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SECRETARY OF HEALTH

*

AND HUMAN SERVICES,

*

Attorneys' fees and costs; award

in the amount to which respondent

*

Respondent.

*

has not objected

UNPUBLISHED DECISION¹

Ronald C. Homer, Esq., Conway, Homer & Chin-Caplan, P.C., Boston, MA, for Petitioner;
Julia W. McInerney, Esq., U.S. Department of Justice, Washington, D.C., for Respondent.

Petitioner John Downing filed an application for attorneys' fees and costs on November 22, 2010. Petitioner filed an amended application on December 7, 2010. The Court awards the amount to which respondent has not objected.

Mr. Downing claimed that the nasal-spray influenza vaccine ("FluMist" or "flu" vaccine) caused him to develop encephalitis. He received compensation based upon the parties' stipulation. Decision, filed July 13, 2010. Because Mr. Downing received compensation, he is entitled to an award of attorneys' fees and costs. 42 U.S.C. § 300aa-15(e).

Mr. Downing seeks a total of **\$20,977.50** in attorneys' fees and **\$233.19** in costs for petitioner's counsel. Additionally, Mr. Downing filed a statement of costs in compliance with General Order No. 9, stating that he incurred **\$395.32** in personal expenses while pursuing this

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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).

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 clearly be an unwarranted invasion of privacy. When such a decision or designated substantive order is filed, the person submitting the information has 14 days to identify and to move to delete such information before the document's disclosure. If the special master agrees that the identified material fits within the categories listed above, the special master shall redact such material from public access. 42 U.S.C. § 300aa-12(d)(4)(B); Vaccine Rule 18(b).

claim. Respondent stated that she had no objection to this application for attorneys' fees and costs.

After reviewing the request, the court awards **\$21,606.01** in attorneys' fees and other litigation costs. 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.