

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

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JOSEPH NEAL DUSHEL, \*  
Personal Representative of the \*  
estate of, \*  
JOSEPH JOHN DUSHEL, deceased, \*

Petitioner, \*

v. \*

SECRETARY OF HEALTH \*  
AND HUMAN SERVICES, \*

Respondent. \*

\*\*\*\*\*

No. 09-138V  
Special Master Christian J. Moran

Filed: October 26, 2010

Attorneys' fees and costs; award in  
the amount to which respondent has  
not objected

### UNPUBLISHED DECISION<sup>1</sup>

Benjamin S. Barnes, Esq., Donna L. Crary, P.A., Laurel, MD, for Petitioner;  
Julia W. McInerney, Esq., U.S. Department of Justice, Washington, D.C., for Respondent.

Petitioner Joseph N. Dushel, as personal representative of the estate of his father, Joseph J. Dushel, filed an application for attorneys' fees and costs on July 29, 2010. The Court awards the amount to which respondent has not objected.

Mr. Dushel claimed that the influenza ("flu") vaccine caused his father to suffer from Guillian-Barré syndrome ("GBS"), the effects of which resulted in his death. Mr. Dushel

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 Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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

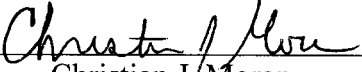
received compensation based upon the parties' stipulation. Decision, filed Sept. 1, 2010. Because Mr. Dushel received compensation, he is entitled to an award of attorneys' fees and costs. 42 U.S.C. § 300aa-15(e).

Mr. Dushel seeks a total of **\$29,325.00** in attorneys' fees and **\$7,066.03** in costs for petitioner's counsel. Additionally, Mr. Dushel filed a statement of costs in compliance with General Order No. 9, stating that he incurred no litigation expenses 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 **\$36,391.03** 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.<sup>2</sup>

**IT IS SO ORDERED.**

  
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Christian J. Moran  
Special Master

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<sup>2</sup> 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.