

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

No. 09-757

Filed: May 16, 2013

FERDINANDO LAZZARA, *

Petitioner, *

v. *

SECRETARY OF HEALTH *

AND HUMAN SERVICES, *

Respondent. *

Attorney Fees and Costs

Ronald C. Homer, Esq., Conway, Homer & Chin-Caplan, Boston, MA, for petitioner.
Justine E. Daigneault, Esq., U.S. Dep't of Justice, Washington, DC for respondent.

DECISION ON ATTORNEY FEES AND COSTS¹

Vowell, Special Master:

Under the National Vaccine Injury Compensation Program,² the special master previously assigned to this case issued a decision awarding compensation to petitioner according to the parties' stipulation on July 9, 2012. On November 29, 2012, petitioner filed an application for attorney fees and costs. Respondent filed a response to petitioner's application on January 16, 2013. Thereafter, on January 28, 2013, petitioner filed a reply to respondent's response, as well as an application for supplemental attorney fees. Respondent filed a response to petitioner's supplemental application on February 1, 2013.

On May 15, 2013, the parties filed a Stipulation of Facts Concerning Attorneys' Fees and Costs. According to their stipulation, petitioner has amended his application

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), a party has 14 days to identify and move to delete medical or other information, that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, I agree that the identified material fits within the requirements of that provision, I will delete such material from public access.

² The applicable statutory provisions defining the program are found at 42 U.S.C. § 300aa-10 *et seq.* (2006).

and supplemental application and now requests an amount to which respondent does not object. Additionally, petitioner has filed a statement pursuant to General Order #9 setting forth his personal litigation costs. Statement, filed Nov. 29, 2012.

I find that this petition was brought in good faith and that there existed a reasonable basis for the claim. Therefore, an award for fees and costs is appropriate, pursuant to 42 U.S.C. §§ 300aa-15(b) and (e)(1). Further, the proposed amount seems reasonable and appropriate. **Accordingly, I hereby award the total \$103,864.01³ as follows:**

- **a lump sum of \$103,018.57 in the form of a check payable jointly to petitioner, Ferdinando Lazzara, and petitioner’s counsel of record, Ronald C. Homer, for petitioner’s attorney fees and costs, and**
- **a lump sum of \$845.44 in the form of a check payable to petitioner, Ferdinando Lazzara, for his personal litigation costs.**

The clerk of the court shall enter judgment in accordance herewith.⁴

IT IS SO ORDERED.

s/Denise K. Vowell
Denise K. Vowell
Special Master

³ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, “advanced costs” as well as fees for legal services rendered. Furthermore, 42 U.S.C. § 300aa-15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See *generally Beck v. Sec’y, HHS*, 924 F.2d 1029 (Fed. Cir.1991).

⁴ Entry of judgment can be expedited by each party’s filing of a notice renouncing the right to seek review. See Vaccine Rule 11(a).