

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 11-794V

Filed: March 8, 2013

ADRIANE DAVEY,)	
)	NOT TO BE PUBLISHED
Petitioner,)	
)	
v.)	
)	Stipulation; Human Papillomavirus;
SECRETARY OF HEALTH)	("HPV") Vaccine; Chronic Fatigue
AND HUMAN SERVICES,)	Syndrome; Fibromyalgia; Attorneys'
)	Fees and Costs
Respondent.)	
)	

Michael Baseluos, San Antonio, TX, for Petitioner.

Tara Kilfoyle, United States Dep't of Justice, Washington, DC, for Respondent.

DECISION¹

ZANE, Special Master.

On March 7, 2013, the parties in the above-captioned case filed a Stipulation memorializing their agreement as to the appropriate amount of compensation in this case. Petitioner, Adriane Davey, alleged that she sustained extreme chronic fatigue, fibromyalgia, and multiple other injuries² that were caused-in-fact by her receipt of the Human Papillomavirus

¹ Because this decision contains a reasoned explanation for the Special Master's action in this case, the Special Master intends to post it on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 113 Stat. 2899, 2913 (Dec. 17, 2002). All decisions of the Special Master will be disclosed and made available to the public unless they contain trade secret or commercial or financial information that is privileged and confidential, or medical and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy. When such a decision or designated substantive order is filed, a party has 14 days to identify and to move to redact such information before the document's disclosure. If the Special Master, upon review, agrees that the identified material fits within the banned categories listed above, the Special Master shall redact such material from public access. 42 U.S.C. § 300aa-12 (d) (4); Vaccine Rule 18 (b). In the absence of a motion or should the Special Master disagree with the proposed redactions, the decision shall be disclosed in its entirety.

² Petitioner alleged that she developed extreme and chronic fatigue and malaise; chronic vomiting; dizzy spells; vision changes characterized by blurry vision and an inability to see

(“HPV”) vaccine on December 2, 2008 and January 30, 2009, vaccines that are contained in the Vaccine Injury Table, 42 C.F.R § 100.3(a). Ms. Davey also alleges that she experienced the residual effects of this injury for more than six months and that she has not otherwise received compensation for such injuries. Petitioner seeks compensation related to her injuries pursuant to the National Vaccine Injury Compensation Program, 42 U.S.C. §§ 300aa-10 to 34.

Respondent denies that the vaccines caused Petitioner’s injuries or any other injury or her current disabilities. Nonetheless, the parties have agreed informally to resolve this matter. Stipulation, Appendix A hereto. The court hereby ADOPTS the parties’ said Stipulation, attached hereto as Appendix A, and awards compensation in the amount and on the terms set forth therein.

Because Petitioner is being awarded compensation pursuant to this decision, Petitioner is entitled to an award of reasonable attorneys’ fees and costs. 42 U.S.C. § 300aa-15(e). In their stipulation, the parties have agreed that an award of \$29,883.63 in attorneys’ fees and costs would be reasonable. Petitioner has represented that she has incurred \$2,350.00 in litigation costs personally. The undersigned finds that the amount requested is reasonable. In accordance with 42 U.S.C. §§ 300aa-15(b) and (e), the undersigned awards the amount of attorneys’ fees and costs to which Respondent has agreed.

Specifically, Petitioner is awarded:

- 1) **a lump sum of \$25,000.00, in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a);
- 2) **a lump sum of \$5,843.63 in the form of a check payable jointly to petitioner and petitioner’s former attorney, Conway, Homer, & Chin-Caplan, PC,** for attorneys’ fees and costs awarded pursuant to 42 U.S.C. §§ 300aa-15(e)(1). This check should be sent directly to the firm of Conway, Homer & Chin-Caplan, P.C., 16 Shawmut Street, Boston, MA 02116;
- 3) **a lump sum of \$24,040.00 in the form of a check payable jointly to petitioner and petitioner’s current attorney, Michael A. Baseluos,** for attorneys’ fees and costs awarded pursuant to 42 U.S.C. §§ 300aa-15(e)(1); and
- 4) **a lump sum of \$2,350.00, in the form of a check jointly payable to Petitioner and Maryjane Davey.** This amount represents compensation for that litigation costs Petitioner incurred personally along with Maryjane Davey that would be available under 42 U.S.C. § 300aa-15(e).

color; complex migraines; abdominal pain and nausea/lightheadedness; fainting spells characterized by lapses of memory and consciousness; allodynia; hives; muscle aches; breathing problems, and ; chronic fatigue syndrome and fibromyalgia.

The court thanks the parties for their cooperative efforts in resolving this matter. In the absence of a motion for review filed pursuant to RCFC, Appendix B, the Clerk is directed to enter judgment accordingly.³

IT IS SO ORDERED.

s/Daria J. Zane
Daria J. Zane
Special Master

³ This document constitutes a final “decision” in this case pursuant to 42 U.S.C. § 300aa-12(d)(3)(A). Unless a motion for review of this decision is filed within 30 days, the Clerk of the Court shall enter judgment in accordance with this decision. 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.