

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 13-68V

Filed: February 12, 2015

* * * * *		UNPUBLISHED
LORI SIMPSON	*	
	*	Special Master Gowen
Petitioner,	*	
	*	Joint Stipulation;
v.	*	Attorneys' Fees and Costs;
	*	
SECRETARY OF HEALTH	*	
AND HUMAN SERVICES,	*	
	*	
Respondent.	*	
	*	
* * * * *		

John C. Theisen, Theisen, Bowers & Associates, Fort Wayne, IN, for petitioner.
Lynn E. Ricciardella, United States Department of Justice, Washington, DC, for respondent.

DECISION ON ATTORNEYS' FEES AND COSTS¹

On January 28, 2013, Lori Simpson (“petitioner”) filed a petition pursuant to the National Vaccine Injury Compensation Program.² 42 U.S.C. §§ 300aa-1 to -34 (2006). Petitioner alleged that as a result of receiving an influenza (“flu”) vaccine on December 18, 2010, she suffered a shoulder injury. Petition at ¶¶ 1, 14. On May 8, 2013, respondent filed a Rule 4(c) Report in which she conceded that petitioner is entitled to compensation in this case. On October 10, 2014, the undersigned issued a decision on damages, adopting—with no objection from petitioner—

¹ Because this decision contains a reasoned explanation for the undersigned’s action in this case, the undersigned intends to post this ruling 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, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). 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).

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

respondent's proffer on award of compensation. See Decision on Damages, filed Oct. 10, 2014.

On February 12, 2015, the parties filed a stipulation concerning attorneys' fees and costs. Petitioner requests a total award of attorneys' fees and costs in the amount of \$35,067.00. Respondent does not object to this amount. Stipulation at ¶ 3. In accordance with General Order #9, petitioner represents that she personally incurred costs related to this proceeding in the amount of \$213.99. Stipulation at ¶ 4.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300 aa-15(e). Based on the reasonableness of petitioner's motion, the undersigned **GRANTS** the request for approval and payment of attorneys' fees and costs.

Accordingly, an award should be made as follows:

- (1) in the form of a check jointly payable to petitioner and to petitioner's attorney, John C. Theisen, of Theisen, Bowers & Associates, in the amount of \$34,853.01, and
- (2) in the form of a check payable to petitioner only in the amount of \$213.99

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance herewith.³

IT IS SO ORDERED.

s/ Thomas L. Gowen
Thomas L. Gowen
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.