

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

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| JAMES E. SMITH, | * |
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| Petitioner, | * No. 13-617V |
| | * Special Master Christian J. Moran |
| | * |
| v. | * Filed: July 23, 2014 |
| | * |
| SECRETARY OF HEALTH | * Attorneys’ fees and costs; award |
| AND HUMAN SERVICES, | * in the amount to which |
| | * respondent does not object. |
| Respondent. | * |
| ***** | |

Michael S. Pemberton, Pemberton & Scott, PLLP, Knoxville, TN, for Petitioner;
Tara J. Kilfoyle, U.S. Department of Justice, Washington, DC, for Respondent.

UNPUBLISHED DECISION ON FEES AND COSTS¹

On July 22, 2014, respondent filed a stipulation of fact concerning final attorneys’ fees and costs in the above-captioned matter. Previously, Mr. Smith informally submitted a draft application for attorneys’ fees and costs to respondent for review. Upon review of petitioner’s application, respondent raised objections to certain items. Based on subsequent discussions, Mr. Smith amended his application to request \$ 14,495.92, an amount to which respondent does not object. The Court awards this amount.

On August 28, 2013, Mr. Smith filed a petition for compensation alleging that the trivalent influenza (“flu”) vaccination, which is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. §100.3(a), and which he received on October

¹ The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

4, 2010, caused him to develop Guillain-Barré Syndrome (“GBS”). Mr. Smith received compensation based upon the parties’ stipulation. Decision, filed April 24, 2014. Because Mr. Smith received compensation, he is entitled to an award of attorneys’ fees and costs. 42 U.S.C. § 300aa-15(e).

Mr. Smith seeks a total of **\$14,495.92** in attorneys’ fees and costs for his counsel. Respondent has no objection to the amount requested for attorneys’ fees and costs.

After reviewing the request, the Court awards the following:

A lump sum of \$14,495.92 in the form of a check made payable to petitioner and petitioner’s attorney, Michael S. Pemberton, for attorneys’ fees and other litigation costs available under 42 U.S.C. § 300aa-15(e).

The Court thanks the parties for their cooperative efforts in resolving this matter. The Clerk shall enter judgment accordingly.

Any questions may be directed to my law clerk, Marc Langston, at (202) 357-6392.

IT IS SO ORDERED.

s/Christian J. Moran
Christian J. Moran
Special Master