

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

No. 14-29

Filed: January 12, 2015

* * * * *		UNPUBLISHED
JEANNIE UETZ,	*	
	*	Special Master Hamilton-Fieldman
Petitioner,	*	
	*	
v.	*	Attorneys' Fees and Costs;
	*	Reasonable Amount Requested
SECRETARY OF HEALTH	*	to Which Respondent Does Not
AND HUMAN SERVICES,	*	Object.
	*	
Respondent.	*	
* * * * *		

Carol L. Gallagher, Carol L. Gallagher, Esquire, LLC, Linwood, NJ, for Petitioner.
Darryl R. Wishard, United States Department of Justice, Washington, D.C., for Respondent.

DECISION¹

On January 13, 2014, Jeannie Uetz (“Petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program.² 42 U.S.C. §§ 300aa-1 et seq. (2006) (“Vaccine Act”). Petitioner alleged that she developed “headaches, myalgia, fatigue and fever, [] necessitating a surgical procedure,” as a result of the administration of the Zostavax³ and Boostrix (Tetanus, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine) vaccinations she received on September 29, 2012. Petition (“Pet”) at 1. On May 28, 2014, Respondent filed a

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.

³ Zostavax is not a covered vaccine under the Vaccine Act and Petitioner made note of this in her Opposition to Respondent’s Motion to Dismiss. Pet’r’s Opp. At 1, ECF No. 14.

Motion to Dismiss and on June 13, 2014, Petitioner filed an Opposition to the Motion to Dismiss. On November 21, 2014, the undersigned granted Respondent's Motion to Dismiss in a Decision granting Respondent's Motion to Dismiss.

On January 12, 2015, the parties filed a Stipulation of Facts Regarding Final Attorneys' Fees and Costs. This stipulation requests a total payment of \$15,000.00, representing total attorneys' fees and costs. In compliance with General Order #9, Petitioner represents that no personal, out-of-pocket expenses were incurred in proceeding on the petition.

The undersigned finds that the 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, the undersigned hereby awards the amount of \$15,000.00, in the form of a check made payable jointly to Petitioner and Petitioner's counsel, Carol L. Gallagher, Esquire, LLC.**

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.

IT IS SO ORDERED.

s/ Lisa Hamilton-Fieldman
Lisa Hamilton-Fieldman
Special Master