

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 14-693V

Filed: October 30, 2015

* * * * *		UNPUBLISHED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

Anne C. Toale, Maglio Christopher & Toale, Sarasota, FL, for petitioner.  
Althea W. Davis, United States Department of Justice, Washington, DC, for respondent.

### **DECISION ON ATTORNEYS' FEES AND COSTS<sup>1</sup>**

On August 1, 2014, Rebecca Russell (“petitioner”) filed a petition pursuant to the National Vaccine Injury Compensation Program.<sup>2</sup> 42 U.S.C. §§ 300aa-1 to -34 (2012). Petitioner alleged that as a result of receiving an influenza (“flu”) vaccine on September 28, 2012, she developed transverse myelitis. Petition at ¶ 1, 5, 9. Further, petitioner alleged that she experienced residual effects of her injury for more than six months. *Id.* at ¶ 10. A Decision was issued on September 23, 2015, awarding compensation pursuant to the parties’ stipulation filed September 22, 2015. Judgment was entered October 26, 2015.

<sup>1</sup> 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).

<sup>2</sup> 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 (2012) (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.

On October 30, 2015, the parties filed a Stipulation of Fact concerning attorneys' fees and costs. Petitioner requests a total award of final attorneys' fees and costs of \$16,403.00 be issued. Stip. of Fact ¶ 5. Pursuant to General Order #9, petitioner's counsel also represented that petitioner did not incur any reimbursable out-of-pocket expenses in this matter. *Id.* at ¶ 4. The parties' stipulation indicates that respondent does not object to the amended amount of \$16,403.00 that petitioner is requesting for attorneys' fees and costs.

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

**Accordingly, I hereby award:**

**(1) A lump sum of \$16,403.00 in the form of a check payable jointly to petitioner and petitioner's counsel, Anne C. Toale, for petitioner's attorneys' fees and costs.**

The clerk of the court shall enter judgment in accordance herewith.<sup>3</sup>

**IT IS SO ORDERED.**

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

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