

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: November 2, 2017

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ROBERT LOVEJOY,

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No. 15-1484V

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Petitioners,

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Special Master Sanders

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v.

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Attorneys' Fees and Costs; Reasonable

SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

Amount Requested.

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Respondent.

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Edward M. Kraus, Law Offices of Chicago Kent, Chicago, IL, for Petitioner.

Alexis B. Babcock, United States Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING ATTORNEYS' FEES AND COSTS¹

On December 8, 2015, Robert Lovejoy ("Petitioner") filed a petition for compensation pursuant to the National Vaccine Injury Compensation Program.² 42 U.S.C. §§ 300aa-10 to -34 (2012). Petitioner alleged that, as a result of the tetanus-diphtheria-acellular-pertussis ("Tdap") vaccine administered on May 30, 2013, he suffered from chronic inflammatory demyelinating polyneuropathy ("CIDP"). Dec. 1, ECF No. 44. On April 26, 2017, the undersigned issued a decision awarding compensation to Petitioner pursuant to the parties' joint stipulation. *Id.*

On October 12, 2017, Petitioner filed an application for attorneys' fees and costs. Mot. Att'ys' Fees & Costs, ECF No. 48. Petitioner requested \$34,472.40 in attorneys' fees and \$4,381.47 in costs, for a total of \$38,853.87. *Id.* at 1. Petitioner averred that he incurred no personal costs in the prosecution of this case. *Id.*

¹ This decision shall be posted on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), a party has 14 days to identify and move to delete medical or other information that satisfies the criteria in § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, the undersigned agrees that the identified material fits within the requirements of that provision, such material will be deleted from public access.

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-10 et seq. (hereinafter "Vaccine Act," "the Act," or "the Program"). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

Respondent submitted a Response to Petitioner's motion on October 26, 2017. Resp., ECF No. 49. Respondent indicated that "[t]o the extent that the Chief [sic] Special Master is treating [P]etitioner's request for attorneys' fees and costs as a motion that requires a response from [R]espondent[.], . . . Respondent is satisfied the statutory requirements for an award of attorneys' fees and costs are met in this case." *Id.* at 2. Respondent recommended that the undersigned exercise her discretion and determine a reasonable award for attorneys' fees and costs. *Id.* at 3. On October 26, 2017, Petitioner informed Chambers that he will not submit a Reply to Respondent's filing. Informal Comm., dated Oct. 26, 2017.

The undersigned has reviewed the detailed records of time and expenses of Petitioner's counsel, and finds that they are reasonable. In accordance with the Vaccine Act, 42 U.S.C. § 300aa-15(e) (2012), the undersigned finds that Petitioner is entitled to attorneys' fees and costs. **Accordingly, the undersigned hereby awards the amount of \$38,853.87,³ in the form of a check made payable jointly to Petitioner and Petitioner's counsel, Edward M. Kraus, of the Law Offices of Chicago Kent.** 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.⁴

IT IS SO ORDERED.

s/Herbrina D. Sanders
Herbrina D. Sanders
Special Master

³ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, § 15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. *See generally Beck v. Sec'y of Health & Human Servs.*, 924 F.2d 1029 (Fed. Cir. 1991).

⁴ Entry of judgment can be expedited by each party's filing of a notice renouncing the right to seek review. Vaccine Rule 11(a).