

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1163V

Filed: April 5, 2017

Not for Publication

LLOYD FRED BOPP,

*

*

Petitioner,

*

*

v.

*

*

Attorneys' fees and costs decision;
respondent does not object

SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

*

*

Respondent.

*

*

Nancy R. Meyers, Greensboro, NC, for petitioner.

Amy P. Kokot, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION AWARDING ATTORNEYS' FEES AND COSTS¹

On September 20, 2016, petitioner filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. §§ 300aa-10-34 (2012) ("Vaccine Act") alleging that his receipt of influenza ("flu") vaccine on September 4, 2015 caused him to develop hives, bilateral lower extremity swelling, bloating, and shortness of breath. Pet. at ¶¶ 3, 4. On March 8, 2017, the undersigned issued an Order Concluding Proceedings based on petitioner's Notice of Voluntary Dismissal under Vaccine Rule 21(a)(1)(A).

On April 4, 2017, petitioner filed an unopposed motion for attorneys' fees and costs. Petitioner requests \$10,958.00 in attorneys' fees and \$2,814.98 in costs for a total of \$13,772.98.

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this unpublished decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 note (2012) (Federal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). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to redact such information prior to the document's disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall redact such material from public access.

In compliance with General Order #9, petitioner states he incurred no out-of-pocket expenses in pursuing his claim. Petitioner writes that respondent's "lack of objection . . . should not be construed as an admission, concession, or waiver to the hourly rates requested, the number of hours billed, or the other litigation related costs." Fee App. at 1.

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 request and the lack of opposition from respondent, the undersigned **GRANTS** petitioner's application for attorneys' fees and costs.

Accordingly, the undersigned awards the total amount of \$13,772.98 as a lump sum in the form of a check payable jointly to petitioner and Ward Black Law.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.²

IT IS SO ORDERED.

Dated: April 5, 2017

s/ Laura D. Millman
Laura D. Millman
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party, either separately or jointly, filing a notice renouncing the right to seek review.