

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 21-1296V

(not to be published)

DAVID DRAPIEWSKI,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: May 19, 2023

Special Processing Unit (SPU);  
Attorney's Fees and Costs

*Jessi Carin Huff, Maglio Christopher & Toale, Seattle, WA, for Petitioner.*

*Nancy Tinch, U.S. Department of Justice, Washington, DC, for Respondent.*

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

On April 30, 2021, David Drapiewski filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the "Vaccine Act"). Petitioner alleges that he suffered from Guillain-Barré Syndrome as a result of an influenza vaccination he received on November 15, 2019. Petition at 1. On November 23, 2022 a decision was issued awarding compensation to Petitioner based on the Respondent's proffer. ECF No. 33.

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<sup>1</sup> Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

Petitioner has now filed a motion for attorney's fees and costs, dated March 17, 2023 (ECF No. 42), requesting a total award of \$74,012.35 (representing \$72,971.00 in fees and \$1,041.35 in costs). In accordance with General Order No. 9, Petitioner filed a signed statement indicating that Petitioner incurred no out-of-pocket expenses. ECF No. 42-4. Respondent reacted to the motion on April 10, 2023, indicating that he defers resolution on whether the statutory requirements for an award of attorneys' fees and costs are met in this case. ECF No. 43 at 2. On April 12, 2023, Petitioner filed a reply requesting that the Court award all fees and costs as indicated in Petitioner's motion. ECF No. 44.

I have reviewed the billing records submitted with Petitioner's request. In my experience, the request appears reasonable, and I find no cause to reduce the requested hours or rates.

The Vaccine Act permits an award of reasonable attorney's fees and costs for successful claimants. Section 15(e). Accordingly, I hereby GRANT Petitioner's Motion for attorney's fees and costs. I award a total of **\$74,012.35 (representing \$72,971.00 in fees and \$1,041.35 in costs) as a lump sum in the form of a check jointly payable to Petitioner and Petitioner's counsel, Jessi C. Huff. Per Petitioner's request the check is to be forwarded to Maglio, Christopher & Toale Law, 1605 Main Street, Suite 710, Sarasota Florida 34236.** In the absence of a timely-filed motion for review (see Appendix B to the Rules of the Court), the Clerk of Court shall enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**  
Brian H. Corcoran  
Chief Special Master

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