

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 22-240V

KHAIR M. ISSA,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: June 25, 2024

Glen Howard Sturtevant, Jr., Rawls Law Group (Richmond), Richmond, VA, for Petitioner.

Joseph Adam Lewis, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION ON ATTORNEY'S FEES AND COSTS¹

On March 2, 2022, Khair M. Issa filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the "Vaccine Act"). Petitioner alleged that he suffered a shoulder injury related to vaccine administration a Table injury, resulting from an influenza vaccine he received on September 16, 2020. Petition, ECF No. 1. On March 12, 2024, I issued a decision awarding compensation to Petitioner based on the parties' stipulation. ECF No. 41.

¹Because 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.

² 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, requesting an award of \$20,700.92 (representing \$20,211.80 in fees plus \$489.12 in costs). Application for Attorneys' Fees and Costs ("Motion") filed April 8, 2024, ECF No. 45. Furthermore, Petitioner filed a signed statement representing that Petitioner incurred no personal out-of-pocket expenses. ECF No. 45-3.

Respondent reacted to the motion on May 30, 2024, indicating that he is satisfied the statutory requirements for an award of attorneys' fees and costs are met in this case but deferring resolution of the amount to be awarded to my discretion. Motion at 2-3, ECF No. 47. Petitioner stated that he does not intend to file a substantive reply thereafter. ECF No. 48.

The rates requested for work performed through the end of 2023 are reasonable and consistent with our prior determinations, and will therefore be adopted. Petitioner has also requested the hourly rate of \$438 for 2024 work performed by attorney Glen H. Sturtevant, representing a rate increase of \$25. I find this rate reasonable, and I therefore award it herein.

For paralegal work, Petitioner requests \$198 per hour for time billed in 2024. Motion at 3. This rate exceeds the Vaccine Program's published range for paralegals by \$1.00, for the requested year and therefore requires adjustment.³ I shall instead compensate all paralegal work performed in 2024 at the rate of \$197, in accordance with the Program's published range for this year. This reduces the amount of fees to be awarded by **\$3.30**.⁴ Otherwise, all time billed to the matter was reasonably incurred.

Furthermore, Petitioner has provided supporting documentation for all claimed costs. ECF No. 45-2. Respondent offered no specific objection to the rates or amounts sought. I find the requested costs reasonable and hereby award them in full.

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 \$20,697.62 (representing \$20,208.50 in fees plus \$489.12 in costs) as a lump sum in the form of a check jointly payable to Petitioner and Petitioner's counsel, Glen H. Sturtevant.** In the absence of a timely-

³ The OSM Attorneys' Forum Hourly Rate Schedules are available on the U.S. Court of Federal Claims website at <http://www.cofc.uscourts.gov/node/2914>

⁴ This amount is calculated as follows: $(\$198 - \$197 = \$1.00 \times 3.3\text{hrs.} = \$3.30)$.

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.⁵

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

⁵ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing their right to seek review.