

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 14-244V

Filed: April 28, 2016

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BRIAN LAUER,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

\* \* \* \* \*

UNPUBLISHED

Special Master Gowen

Attorneys' Fees and Costs.

Ronald C. Homer, Conway, Homer & Chin-Caplan, PC, Boston, MA, for petitioner.  
Jennifer Reynaud, United States Department of Justice, Washington, DC, for respondent.

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

On March 31, 2014, Brian Lauer ("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 vaccination on October 14, 2012, he suffered peripheral neuropathy. Stipulation for Award at ¶ 2, 4, filed Nov. 25, 2015. On November 25, 2015, the parties filed a stipulation in which they agreed to an award of compensation to petitioner. On November 30, 2015, the undersigned issued a decision adopting the parties' stipulation for an

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<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, 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). 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.

award. See Decision on J. Stip., filed Nov. 30, 2015.

On April 8, 2016, petitioner filed an amended<sup>3</sup> application for attorneys' fees and costs. Petitioner requests a total award of attorneys' fees and costs in the amount of \$45,634.83. Amended Application for Fees and Costs at 1, filed Apr. 8, 2016. In accordance with General Order #9, petitioner represents that he incurred reimbursable costs in pursuit of this claim in the amount of \$19.99. See Petitioner and Counsel Statement at 1, filed Apr. 6, 2016.

On April 25, 2016, respondent filed a response to petitioner's application for attorneys' fees and costs, indicating that "respondent does not object to the overall amount sought, as it is not an unreasonable amount to have incurred for proceeding in this case to date." Response at 1, filed Apr. 25, 2016. Respondent further stated that her "lack of objection to the amount sought in this case should not be construed as an admission, concession, or waiver as to the hourly rates requested, the number of hours billed, or the other litigation related costs." Id.

The undersigned has reviewed the billing records and documentation of costs, and finds them reasonable. 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, the undersigned **GRANTS** the request for approval and payment of attorneys' fees and costs.

Accordingly, an award should be made as follows:

- (1) in the form of a check jointly payable to petitioner and to petitioner's attorney, Ronald C. Homer, of Conway Homer & Chin-Caplan, in the amount of \$45,634.83; and**
- (2) in the form of a check payable to petitioner only, in the amount of \$19.99.**

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.<sup>4</sup>

**IT IS SO ORDERED.**

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

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<sup>3</sup> On April 6, 2016, petitioner filed an initial application for attorneys' fees and costs which contained an error in the invoice for petitioner's life care planner. On April 8, 2016, petitioner filed an amended application for attorneys' fees and costs, reducing the total cost paid for the life care planner.

<sup>4</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.