

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-624V

Filed: July 24, 2015

Unpublished

CHRISTINE L. TISHMACK,

*

*

Petitioner,

*

v.

*

Attorney Fees and Costs; Stipulation

*

SECRETARY OF HEALTH AND
HUMAN SERVICES,

*

*

Respondent.

*

*

Kate G. Westad, Esq., Lommen Abdo Law Firm, Minneapolis, MN, for petitioner.

Julia W. McInerney, Esq., U.S. Dept. of Justice, Washington, DC for respondent.

DECISION ON ATTORNEY FEES AND COSTS¹

Vowell, Chief Special Master:

On July 18, 2014, Christine L. Tishmack filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² [the “Vaccine Act” or “Program”]. Petitioner alleges that she suffered a shoulder injury which was caused by the tetanus, diphtheria-acellular pertussis [“Tdap”] vaccine she received on July 22, 2011. Petition at 1. On June 19, 2015, I issued a decision awarding compensation to petitioner based on respondent’s proffer to which petitioner agreed.

On July 24, 2015, the parties filed a Stipulation of Facts Regarding Final Attorneys’ Fees and Costs. According to the stipulation, the parties agree upon an

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioners have 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 “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

award of \$15,410.92 in attorneys' fees and costs. In accordance with General Order #9, petitioner's counsel represents that petitioner incurred no out-of-pocket expenses.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300 aa-15(e). I find the proposed amount to be reasonable.

Accordingly, I award the total \$15,410.92³ as a lump sum in the form of a check jointly payable to petitioner and petitioner's counsel Kate G. Westad.

The clerk of the court shall enter judgment in accordance herewith.⁴

IT IS SO ORDERED.

s/Denise K. Vowell
Denise K. Vowell
Chief 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, 42 U.S.C. § 300aa-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, HHS*, 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. See Vaccine Rule 11(a).