

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1720V

Filed: September 18, 2017

UNPUBLISHED

ANDREA OWENS-BACHMANN, *

*

Petitioner, *

v. *

*

Attorneys' Fees and Costs;

SECRETARY OF HEALTH *

Stipulation

AND HUMAN SERVICES, *

*

Respondent. *

*

Danielle A. Strait, Maglio Christopher & Toale, Seattle, WA, for petitioner.

Ryan D. Pyles, U.S. Department of Justice, Washington, DC, for respondent.

DECISION ON ATTORNEYS' FEES AND COSTS¹

On December 30, 2016, petitioner 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 she suffered from Chronic Inflammatory Demyelinating Polyneuropathy ("CIDP") as a result of an influenza ("flu") vaccine she received on October 9, 2013. On May 18, 2017, the undersigned issued a decision dismissing petitioner's claim for insufficient proof.

On September 12, 2017, the parties filed a Stipulation Concerning Attorneys' Fees and Costs. According to the stipulation, attached herein as Appendix A, the parties stipulate to an award of \$4,000. In compliance with General Order #9, petitioner has filed a signed statement

¹ Pursuant to the E-Government Act of 2002, *see* 44 U.S.C. § 3501 note (2012), **because this decision contains a reasoned explanation for the action in this case, I intend to post it on the website of the United States Court of Federal Claims.** The court's website is at <http://www.uscfc.uscourts.gov/aggregator/sources/7>. Before the decision is posted on the court's website, each party has 14 days to file a motion requesting 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). "An objecting party must provide the court with a proposed redacted version of the decision." *Id.* **If neither party files a motion for redaction within 14 days, the decision will be posted on the court's website without any changes. *Id.***

² 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.

indicating that she incurred no out-of-pocket expenses related to the litigation of this matter. Respondent states that this stipulation “does not represent an agreement by respondent to the hourly rates of the professionals who worked on this matter, nor a waiver of any objections that respondent may raise in any other case.” Stipulation at ¶6.

The Vaccine Act permits an award of reasonable attorneys’ fees and costs. § 15(e). Based on the reasonableness of petitioner’s request and the lack of any objection by respondent, the undersigned **GRANTS** the request for approval and payment of attorneys’ fees and costs.

Accordingly, the undersigned awards the total of \$4,000³ as follows:

- **A lump sum of \$4,000, representing reimbursement for attorneys’ fees and costs, in the form of a check payable jointly to petitioner and petitioner’s counsel, Danielle Strait, of Maglio Christopher & Toale.**

The Clerk of the Court shall enter judgment in accordance herewith.⁴

IT IS SO ORDERED.

/Thomas L. Gowen
Thomas L. Gowen
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, § 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 of Health & Human Servs.*, 924 F.2d 1029 (Fed. Cir.1991).

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties’ joint filing of notice renouncing the right to seek review.

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OFFICE OF SPECIAL MASTERS**

ANDREA OWENS-BACHMANN,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 16-1720V
Special Master Gowen
ECF

**STIPULATION CONCERNING
FINAL ATTORNEYS' FEES AND COSTS**

It is hereby stipulated by and between the parties, the following matters:

1. Judgment entered in this case on June 21, 2017, following the special master's dismissal decision issued May 18, 2017.
2. Petitioner forwarded a draft Application for Award of Attorneys' Fees and Reimbursement of Costs (Application) to respondent.
3. Respondent raised objections to certain aspects of petitioner's Application, including the legal prerequisites to an award of attorneys' fees and costs.
4. Maintaining their respective positions as to petitioner's entitlement to attorneys' fees and costs, the parties nevertheless now agree that the issues between them shall be settled and that a decision should be entered awarding attorneys' fees and costs described in paragraph 7 of this Stipulation.
5. Pursuant to General Order #9, petitioner represents that she advanced no reimbursable costs in pursuit of her claim.
6. This Stipulation does not represent an agreement by respondent to the hourly rates of the professionals who worked on this matter, nor a waiver of any objections that respondent may raise in any other case.
7. The parties now request that a decision awarding final attorneys' fees and costs, totaling **\$4,000.00**, payable jointly to petitioner and petitioner's counsel, be issued.

Respectfully submitted,

/s/ DANIELLE A. STRAIT
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DATED: September 12, 2017