

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

██████████,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

*
*
*
*
*
*
*
*
*

No. 10-596V
Special Master Christian J. Moran

Filed: January 22, 2014

Stipulation; influenza (flu) vaccine;
Guillain-Barré Syndrome (“GBS”);
attorneys’ fees and costs

Isaiah R. Kalinowski, Maglio Christopher and Toale, PA, Washington, DC for Petitioner;
Jennifer L. Reynaud, U.S. Department of Justice, Washington, D.C., for Respondent.

UNPUBLISHED DECISION¹

On January 9, 2014, respondent filed a joint stipulation concerning the petition for compensation filed by ██████████. In his petition, ██████████ alleged that the influenza (“flu”) vaccine, which is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. §100.3(a), and which he received on October 14, 2009, caused him to suffer Guillain-Barré Syndrome (“GBS”). Petitioner further alleges that he experienced residual effects of this injury for more than six months. Petitioner represents that there has been no prior award or settlement of a civil action for damages on his behalf as a result of his condition.

Respondent denies that petitioner’s alleged GBS and residual effects were caused-in-fact by the flu vaccine. Respondent further denies that the flu vaccine caused petitioner any other injury or his current condition.

Nevertheless, the parties agree to the joint stipulation, attached hereto as Appendix A.

Previously, ██████████ filed a joint stipulation of fact concerning final attorneys’ fees and costs on November 15, 2013. Prior to filing the November 2013 stipulation, ██████████ informally submitted a draft application for attorneys’ fees and costs to respondent for review.

¹ The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

Upon review of petitioner's application, respondent raised objections to certain items. Based on subsequent discussions, petitioner amended his application to request \$41,000.00, an amount to which respondent does not object.

The undersigned finds said stipulations reasonable and adopts it as the decision of the Court in awarding damages and attorneys' fees and costs, on the terms set forth therein.

Compensation awarded in the stipulations includes:

- A. A lump sum of \$150,629.21 in the form of a check payable to petitioner, [REDACTED]. This amount represents compensation for all damages that would be available under 42 U. S.C. § 300aa- 15(a).**

- B. A lump sum of \$41,000.00 in the form of a check payable jointly to petitioner and petitioner's attorney, Isaiah Kalinowski, Esq., for attorneys' fees and costs available under 42 U.S.C. §300aa-15(e), and, in compliance with General Order #9, no out-of-pocket expenses were incurred by petitioner in proceeding on the petition.**

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment in case 10-596V according to this decision and the attached stipulation.²

Any questions may be directed to my law clerk, Mary Holmes, at (202) 357-6353.

IT IS SO ORDERED.

s/Christian J. Moran
Christian J. Moran
Special Master

² Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.