

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 12-308V

Filed: March 22, 2013

Not for Publication

[REDACTED], *

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Petitioner,

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v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

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Respondent.

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Damages decision based on
stipulation; influenza vaccine;
transverse myelitis; fees and costs
based on stipulation

Diana L. Stadelnikas, Sarasota, FL, for petitioner.

Gordon E. Shemin, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION AWARDING DAMAGES AND ATTORNEYS' FEES AND COSTS¹

On March 22, 2013, the parties filed the attached stipulation in which they agreed to settle this case and described the settlement terms. Petitioner alleges that she suffered from transverse myelitis following her receipt of trivalent influenza vaccine on October 12, 2009. Petitioner further alleges that she suffered the residual effects of this injury for more than six months. Respondent denies that petitioner's transverse myelitis, or any other injury, was caused in fact by the influenza vaccine. Nonetheless, the parties agreed to resolve this matter informally.

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this unpublished decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to redact such information prior to the document's disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall redact such material from public access.

The court finds the terms to be reasonable, hereby adopts the parties' stipulation, and awards compensation in the amount and on the terms set forth therein. Pursuant to the stipulation, the court awards a lump sum of **\$370,000.00**, representing compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a). The award shall be in the form of a check for **\$370,000.00** made payable to petitioner.

The parties have also agreed on an appropriate amount for attorneys' fees and costs in this case. In accordance with the General Order #9 requirement, petitioner's counsel asserts that petitioner did not incur any costs to pursue her petition.

Petitioner requests \$21,961.62 in attorneys' fees and costs to which respondent does not object. The undersigned finds this amount to be reasonable. Accordingly, the court awards **\$21,961.62**, representing reimbursement for attorneys' fees and costs. The award shall be in the form of a check made payable jointly to petitioner and Maglio Christopher & Toale, PA, in the amount of **\$21,961.62**.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.²

IT IS SO ORDERED.

Dated: March 22, 2013

/s/ Laura D. Millman
Laura D. Millman
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party's filing a notice renouncing the right to seek review.