

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF THE SPECIAL MASTERS

No.
Filed:

	*	
,	*	
Petitioner,	*	Damages Decision Based on Proffer;
	*	Tdap Vaccine; Hepatitis A Vaccine;
v.	*	Trivalent Influenza Vaccine; MMR
	*	Vaccine; IPV; Complex Regional
SECRETARY OF HEALTH	*	Pain Syndrome
AND HUMAN SERVICES,	*	
	*	
Respondent. *		

Edward M. Kraus, Esq., Chicago, IL, for petitioner.

Darryl R. Wishard, Esq., U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

VOWELL, Special Master:

On _____, _____ [“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” or “Program”] alleging he suffered Complex Regional Pain Syndrome as a result of tetanus-diphtheria-acellular pertussis, hepatitis A, trivalent influenza, measles-mumps-rubella, and inactivated polio vaccines he received on _____. Petition at _____. After reviewing petitioner’s records, respondent indicated that this case is appropriate for compensation under the terms of the Act. Respondent’s Report, filed _____, at _____. Having reviewed the

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to delete 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 delete 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).

evidence, I am satisfied that the case was timely filed and all the statutory prerequisites to obtaining an award of damages have been met in this case.

On _____, respondent filed a proffer on award of compensation [“Proffer”] detailing compensation for past and future lost earnings and past and future pain and suffering. Respondent averred that petitioner agreed to the amounts set forth therein. The proffer also included _____ to which petitioner agreed.³ **Accordingly, I award compensation in the form of a lump sum payment of \$872,938.23 in the form of a check payable to _____, petitioner.** This amount represents compensation for all damages that would be available under § 300aa-15(a).

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment in accordance with this decision.⁵

IT IS SO ORDERED.

s/Denise K. Vowell
Denise K. Vowell
Special Master

³ Petitioner filed his statement in accordance with General Order #9 on _____, averring he incurred no out-of-pocket litigation expenses. Petitioner did not file an application for attorney fees and costs, but he did supply documentation to Respondent. See Proffer at _____. I note that an agreement between the parties to settle attorney fees and costs does not relieve petitioner from the obligation to document costs, because the special master still has the statutory obligation to determine that an award is appropriate and the amounts requested are reasonable. In this case, however, because petitioner is receiving compensation, he is entitled to reasonable fees and costs, and accordingly an award is appropriate at this time. § 300aa-15(e)(1). The amount agreed to by the parties in this case is such that I can determine its reasonableness without petitioner’s supporting documentation.

⁴ This amount is intended to cover all legal expenses. This award encompasses all charges by the attorney against a client, “advanced costs” as well as fees for legal services rendered. Furthermore, § 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).

⁵ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.