



Injury Compensation Program (“Vaccine Program”).<sup>2</sup> Petitioners alleged that Casey suffered adverse effects from the measles-mumps-rubella (“MMR”), hepatitis A (“hep A”), and varicella vaccines that he received on March 24, 2010. See Petition ¶¶4, 6-8. In particular, petitioners claimed that Casey’s vaccinations caused him to develop a Table injury, thrombocytopenic purpura. Id. at ¶¶ 8-9.

On January 3, 2012, respondent filed a report pursuant to Vaccine Rule 4(c) stating that this case is appropriate for compensation under the terms of the Vaccine Program. See Resp’t Report, Jan. 3, 2012, at 1-2.

This case then moved into the damages phase, and the parties worked together to determine the proper amount of damages to be awarded to petitioners. On December 6, 2012, respondent’s counsel filed Respondent’s Proffer on Award of Compensation (“Proffer” attached as Appendix A).

Based on the record as a whole, the undersigned finds that the Proffer is reasonable and appropriate and that petitioners are entitled to an awarded as stated in the Proffer. Pursuant to the terms stated in the Proffer, the court awards to petitioners an award as described below:

- **A lump sum payment of \$5,000.00**, in the form of a check payable to petitioners, Nadine L. Krager and Jeffrey A. Krager, jointly, representing compensation for past unreimburseable expenses.
- **A lump sum payment of \$25,000.00**, in the form of a check payable to petitioners as custodians for Casey R. Krager, representing compensation for actual pain and suffering.

Proffer at II.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT**, in accordance with the terms of the parties’ Proffer.<sup>3</sup>

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<sup>2</sup> 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 (2006) (“Vaccine Act” or “Act”). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties’ joint filing of notice renouncing right to seek review.

**IT IS SO ORDERED.**

s/Patricia E. Campbell-Smith  
Patricia E. Campbell-Smith  
Chief Special Master

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

|  |   |                             |
|--|---|-----------------------------|
| NADINE L. KRAGER AND JEFFREY A.                | ) |                             |
| KRAGER, legal representatives and parents of a | ) |                             |
| minor child, CASEY R. KRAGER,                  | ) |                             |
|  | ) |                             |
| Petitioners,                                   | ) | <b><u>ECF</u></b>           |
| v.   | ) | <b>No. 11-636V</b>          |
|  | ) | <b>Chief Special Master</b> |
| SECRETARY OF HEALTH                            | ) | Patricia Campbell-Smith     |
| AND HUMAN SERVICES,                            | ) |                             |
|  | ) |                             |
| Respondent.                                    | ) |                             |
|  | ) |                             |

**RESPONDENT’S PROFFER ON AWARD OF COMPENSATION**

On October 3, 2011, Nadine L. Krager and Jeffrey A. Krager (“petitioners”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986 (“Vaccine Act” or “the Act”) on behalf of their son, Casey R. Krager (“Casey”), alleging that Casey developed thrombocytopenic purpura as a result of the vaccines he received on March 24, 2010, including the measles-mumps-rubella (“MMR”) vaccine. The Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report on January 3, 2012, conceding that Casey suffered the Table injury of thrombocytopenic purpura following MMR vaccine and recommending that petitioners be awarded compensation. Respondent hereby submits the following proffer regarding the award of compensation.

**I. Items of Compensation**

A. Future Medical Care Expenses

The parties agree that based on the evidence of record, Casey Krager’s vaccine-related injury is in remission with no predicted relapse. Therefore, respondent proffers that petitioners, as legal representatives of Casey Krager are not entitled to an award for projected

unreimbursable medical care expenses incurred from the date of judgment as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(1)(A). Petitioners agree.

B. Lost Future Earnings

The parties agree that based upon the evidence of record, Casey Krager will likely be gainfully employed. Therefore, respondent proffers that petitioners, as legal representatives of Casey Krager, should not be awarded lost future earnings as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(3)(B). Petitioners agree.

C. Pain and Suffering

Respondent proffers that petitioners, as legal representatives of Casey Krager, should be awarded \$25,000.00 for Casey Krager's actual pain and suffering as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(4). Petitioners agree.

D. Past Unreimbursable Expenses

Evidence supplied by petitioners document their expenditure of past unreimbursable expenses related to Casey Krager's vaccine-related injury. Respondent proffers that petitioners should be awarded \$5,000.00 for past unreimbursable expenses incurred before the date of judgment as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(1)(B). Petitioners agree.

E. Medicaid Lien

Petitioners represent that there are no outstanding Medicaid liens related to Casey Krager's vaccine-related injury.

**II. Form of the Award**

The parties recommend that the compensation provided to Nadine and Jeffrey Krager as the legal representatives and parents of Casey Krager should be made through lump sum

payments and request that the special master's decision and the Court's judgment award the following:

A. A lump sum payment of \$5,000.00, representing compensation for past unreimburseable expenses, payable to Nadine L. Krager and Jeffrey A. Krager, jointly.

B. A lump sum payment of \$25,000.00, representing compensation for actual pain and suffering, payable to Nadine L. Krager and Jeffrey A. Krager, as custodians for Casey R. Krager.

**III. Summary of Recommended Payments Following Judgment**

|    |   |             |
|----|---|-------------|
| A. | Lump sum paid to petitioners jointly:                           | \$ 5,000.00 |
| B. | Lump sum paid to petitioners as Custodians for Casey R. Krager: | \$25,000.00 |

Respectfully submitted,

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DATE: December 6, 2012