



- A lump sum of \$137,500.00, in the form of a check payable to petitioners as legal representatives of the Estate of Peyton Krause, representing compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).

Under the statute governing the Program, as well as the “Vaccine Rules” adopted by this court, the special master must now enter a decision endorsing that stipulation, and the clerk must enter judgment, in order to authorize payment of the award. See § 300aa-12(d)(3)(A) and (e)(3); § 300aa-13(a); Vaccine Rules 10(a), 11(a).<sup>3</sup>

I have reviewed the file, and based on that review, I conclude that the parties’ stipulation appears to be an appropriate one. Accordingly, my decision is that a Program award shall be made to petitioners in the amount set forth above. In the absence of a timely-filed motion for review of this Decision, the clerk shall enter judgment in accordance herewith.

**IT IS SO ORDERED.**

/s/ George L. Hastings, Jr.  
George L. Hastings, Jr.  
Special Master

---

<sup>3</sup> The “Vaccine Rules of the United States Court of Federal Claims” are found in Appendix B of the Rules of the United States Court of Federal Claims.



5. Petitioners represent that there has been no prior award or settlement of a civil action for damages on behalf of Peyton as a result of Peyton's death.

6. Respondent denies that the vaccines received by Peyton caused her to suffer any injury; and denies that Peyton's death occurred as the result of the vaccines.

7. Maintaining their above-stated positions, the parties nevertheless now agree that the issues between them shall be settled and that a decision should be entered awarding the compensation described in paragraph 8 of this Stipulation.

8. As soon as practicable after an entry of judgment reflecting a decision consistent with the terms of this Stipulation, and after petitioners have filed an election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), the Secretary of Health and Human Services will issue the following vaccine compensation payment:

A lump sum of \$137,500.00 in the form of a check payable to petitioners as legal representative of the Estate of Peyton Krause. This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

9. As soon as practicable after the entry of judgment on entitlement in this case, and after petitioners have filed both a proper and timely election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), and an application, the parties will submit to further proceedings before the special master to award reasonable attorneys' fees and costs incurred in proceeding upon this petition.

10. Payment made pursuant to paragraph 8 and any amounts awarded pursuant to paragraph 9 of this Stipulation will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

11. Petitioners represent that they presently are, or within 90 days of the date of judgment will become, duly authorized to serve as legal representative of the Estate of Peyton Krause under the laws of the State of Maryland.

12. In return for the payments described in paragraphs 8 and 9, petitioners, in their individual capacity and as legal representatives of the Estate of Peyton Krause, on their own behalf, and on behalf of Peyton's heirs, executors, administrators, successors or assigns, do forever irrevocably and unconditionally release, acquit and discharge the United States and the Secretary of Health and Human Services from any and all actions or causes of action (including agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature) that have been brought, could have been brought, or could be timely brought in the Court of Federal Claims, under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq., on account of, or in any way growing out of, any and all known or unknown, suspected or unsuspected personal injuries to or death of Peyton Krause resulting from, or alleged to have resulted from, the vaccinations administered on or about October 1, 2008, as alleged by petitioners in a petition for vaccine compensation filed on or about September 13, 2010, in the United States Court of Federal Claims as petition No. 10-608V, in the United States Court of Federal Claims.

13. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation or if the Court of Federal Claims fails to enter judgment in conformity with a decision that is in complete conformity with the terms of this Stipulation, then the parties' settlement and this Stipulation shall be voidable at the sole discretion of either party.

14. This Stipulation expresses a full and complete negotiated settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended, except as otherwise noted in paragraph 9 above. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly stated and clearly agreed to. The parties further agree and understand that the award described in this Stipulation may reflect a compromise of the parties' respective positions as to liability and/or amount of damages.

15. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that the vaccines received by Peyton Krause caused her to suffer any injury or death; or that Peyton's death occurred as the result of a vaccine-related injury.

16. All rights and obligations of petitioners hereunder shall apply equally to petitioners' heirs, executors, administrators, successors, and/or assigns as legal representatives of the Estate of Peyton Krause.

END OF STIPULATION

/

/

/

/

/

/

/

/

/

/

/

/

/

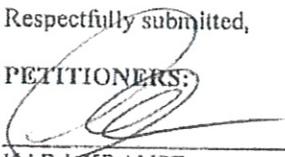
/

/

/

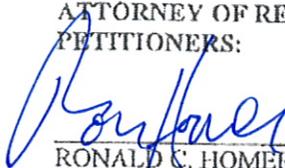
Respectfully submitted,

PETITIONERS:

  
KARA KRAUSE

  
RONALD BLOCKER

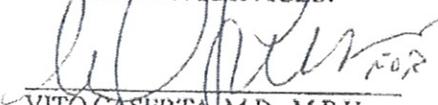
ATTORNEY OF RECORD FOR  
PETITIONERS:

 By Joseph Pepper  
Rule 83.1(c)(2)  
RONALD C. HOMER  
Conway, Homer & Chin-Caplan, P.C.  
16 Shawmut Street  
Boston, MA 02116  
(617) 695-1990

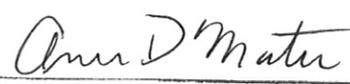
AUTHORIZED REPRESENTATIVE  
OF THE ATTORNEY GENERAL:

  
VINCENT J. MATANOSKI  
Acting Deputy Director  
Torts Branch  
Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington, DC 20044-0146

AUTHORIZED REPRESENTATIVE  
OF THE SECRETARY OF HEALTH  
AND HUMAN SERVICES:

  
VITO CASERTA, M.D., M.P.H.  
Acting Director, Division of  
Vaccine Injury Compensation (DVIC)  
Director, Countermeasures Injury  
Compensation Program (CICP)  
Healthcare Systems Bureau, U.S. Dept.  
of Health and Human Services  
5600 Fishers Lane  
Parklawn Building, Mail Stop 11C-26  
Rockville, MD 20857

ATTORNEY OF RECORD FOR  
RESPONDENT:

  
ANN D. MARTIN  
Trial Attorney  
Torts Branch  
Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington, DC 20044-0146  
(202) 307-1815

Dated: December 13, 2012