



To receive compensation under the National Vaccine Injury Compensation Program (hereinafter “the Program”), petitioners must prove either 1) that Kristan suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of her vaccinations, or 2) that Kristan suffered an injury that was actually caused by a vaccine. See §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1). An examination of the record did not uncover any evidence that Kristan suffered a “Table Injury.” Further, the record does not contain a medical expert’s opinion or any other persuasive evidence indicating that Kristan’s alleged injury was vaccine-caused.

Under the Act, a petitioner may not be given a Program award based solely on the petitioner’s claims alone. Rather, the petition must be supported by either medical records or by the opinion of a competent physician. § 300aa-13(a)(1). In this case, because there are no medical records supporting petitioners’ claim, a medical opinion must be offered in support. Petitioners, however, have offered no such opinion.

Accordingly, it is clear from the record in this case that petitioners have failed to demonstrate either that Kristan suffered a “Table Injury” or that her injuries were “actually caused” by a vaccination. **Thus, this case is dismissed for insufficient proof.<sup>2</sup> The Clerk shall enter judgment accordingly.<sup>3</sup>**

**IT IS SO ORDERED.**

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

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<sup>2</sup> On May 31, 2009, petitioners’ counsel filed a [14] motion to withdraw as attorney in this case. Because this case is now dismissed, the motion to withdraw is moot.

<sup>3</sup> The undersigned does not resolve the issue, but notes that respondent contends that petitioners have failed to provide evidence establishing that the jurisdictional prerequisites of the Vaccine Act have been met. The undersigned further notes that if petitioners elect to file a Petition for Fees and Costs pursuant to § 300aa-15(e), based on current case law petitioners will need to first establish proof of vaccination and the timely filing of their Petition for Vaccine Compensation, see § 300aa-16(a)(2) and 16(b), prior to any award for attorneys’ fees and costs being granted. See *Brice v. Sec’y, HHS*, 358 F.3d 865, 869 (2004), citing *Martin v. Sec’y, HHS*, 62 F.3d 1403, 1406 (1995).