

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

No. 07-0681V

Filed: August 12, 2010

* * * * *	*	
MARK PRUETT and ANGELA PRUETT,	*	
Legal representatives of a minor child,	*	UNPUBLISHED
PAIGE PRUETT,	*	
	*	Diphtheria-Tetanus-Pertussis
Petitioners,	*	Vaccine; Encephalopathy;
	*	Finding of Entitlement;
v.	*	Proffer on Award of
	*	Compensation
SECRETARY OF HEALTH	*	
AND HUMAN SERVICES,	*	
	*	
Respondent.	*	
* * * * *	*	

Jon James Puk, Omaha, NE, for petitioner.

Katherine Carr Esposito, Washington, DC, for respondent.

CAMPBELL-SMITH, Special Master

DECISION AWARDING DAMAGES¹

On September 20, 2007, Mark and Angela Pruett (petitioners) filed a petition on behalf of their daughter, Paige Pruett (Paige) pursuant to the National Vaccine Injury

¹ The court encourages the parties to review Vaccine Rule 18, which affords each party 14 days to object to disclosure of (1) trade secret or commercial or financial information that is privileged or confidential or (2) medical information that would constitute “a clearly unwarranted invasion of privacy.”

Compensation Program² (the Act or the Program), 42 U.S.C. § 300aa-10 et seq. In the petition, petitioners allege that Paige suffered a post-immunization encephalopathy and seizure disorder three days after she received her diphtheria-tetanus-pertussis vaccine on September 20, 2004. Petitioners allege that Paige's encephalopathy and seizure disorder was caused in fact by the DTaP vaccination.

On December 19, 2007, respondent's counsel filed a Rule 4(c) report (R's report), indicating that "based on the record as it now stands, petitioners satisfy all legal requirements for receiving compensation under the Act." R's Report at 2.

Based on the persuasive factors supporting petitioners' vaccine claim and respondent's own determination that petitioners' claim merits compensation, the undersigned finds that petitioners are entitled to compensation under the Vaccine Program. Accordingly, a determination of damages is appropriate.

On August 6, 2010, respondent filed a Proffer on Award of Compensation ("Proffer"). Petitioner agrees with all aspects of the Proffer. See generally, Proffer. Based upon the record as a whole, the special master finds that the Proffer is reasonable and appropriate.³ Pursuant to that Proffer, the court awards petitioner:

1. A lump sum payment of \$117,902.87, representing compensation for pain and suffering (\$102,745.02), and the discounted present value of projected life care expenses (\$15,157.85), in the form of a check payable to petitioners as guardians/conservators of Paige Pruett, for the benefit of Paige Pruett. **No payments shall be made until petitioners provide respondent with documentation establishing that they have been appointed as the guardian(s)/conservator(s) of Paige Pruett's estate.**
2. A lump sum payment of \$2,370.35, representing compensation for the reimbursement of the Iowa State Medicaid lien, payable jointly to petitioners and the State of Iowa, Iowa Medicaid Enterprise, Lien Recovery/Revenue Collections, 100 Army Post Road, Des Moines, IA 50315, Att: Shannon Wallace.

² Hereinafter, for ease of reference, all "section" references to the Vaccine Injury Compensation Act will be to the pertinent subdivision of 42 U.S.C. § 300aa (2006 ed.).

³ By reference, the special master incorporates respondent's Proffer into this decision on entitlement and damages.

Based upon the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer. 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.⁴

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
PATRICIA E. CAMPBELL-SMITH
Special Master

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.