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## Md. Couple, Son To Get \$1.7 Million In Injury Case

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A Bethesda couple and their 5-year-old son will receive \$1.7 million in a cash settlement reached in Montgomery County Circuit Court yesterday for injuries the boy suffered more than a year ago when a large vending machine fell on top of him and crushed his skull.

Jeffery Popper, who was 3 when the accident happened on Jan. 11, 1982, was using a bubble gum machine at a Bethesda food store when the machine toppled over.

His skull was cracked open, his brain was pushed to the side of his head and his right ear was partially torn.

With some of his skull now missing, Jeffery will wear a steel cap until a special plate can be inserted later this year. He suffered some brain damage but according to his mother, Diane Popper, should be able to begin kindergarten this year.

The extent of his injuries will be evaluated this summer at Johns Hopkins University Hospital in Baltimore, she said.

Diane Popper, a calligrapher and her husband, Andrew F. Popper, a law professor at American University, had sued the Victor Vending Corp. of Chicago, which manufactured the bubble gum machine. Parkway Machine Corp. of Baltimore, which distributed them locally, and Giant Food Inc., which owned the store on Old Georgetown Road where the machine was installed.

Attorneys representing Victor Vending agreed

yesterday morning to pay the Poppers \$950,000. The distributors had previously agreed to pay \$300,000 to the family, and Giant had agreed to pay \$450,000. Giant and Victor Vending had filed claims against each other. Circuit Judge John J. Mitchell ruled yesterday that Giant was neither negligent nor liable, and ordered Victor Vending to reimburse the grocery chain for its share of the settlement.

The distributor may still file cross-claims of its own.

Wade J. Gallagher, the attorney for Victor Vending, declined comment yesterday. The attorney for the distributor could not be reached for comment.

Mitchell is expected to determine next week how the money will be divided among the Poppers.

Their attorney, Richard Mithoff, said yesterday that he expected most of the money to be placed in a trust fund for Jeffrey. The Poppers said the have not yet paid all the medical bills involved in their son's treatment.

On Wednesday, several jurors wept as they watched a brief film of Jeffrey, who did not attend the trial, showing him scream in pain at a hospital as a tube was inserted from his nose to his stomach at a time when he was unable to swallow.

Testifying later in the day, Andrew Popper described his son as "a very different little boy" since the accident.

"He wears a helmet and has a hole in the side of his head .... He throws up once a week, more or less .... I am concerned about what he will do with his life, whether he will be accepted." He said he had wanted his son "to be a normal little boy. I never wanted anything more than what his natural potential was."

After the settlement, Diane Popper said she and her husband "would gladly give it [the money from the settlement] all back if it could make Jeffrey normal."