

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

No. 13-146V

Filed: March 11, 2014

(Not to be published)

DANA LIVNEH,

*

Petitioner,

*

Damages; Decision Based on Proffer;

Tdap; Shoulder pain and immobility

*

v.

*

*

SECRETARY OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

*

*

Respondent.

*

Elizabeth Martin Muldowney, Esq., Rawls, McNelis and Mitchell, P.C. for petitioner.
Ann Donohue Martin, Esq., U.S. Dept. of Justice, Washington, DC, for respondent.

DECISION AWARDDING DAMAGES¹

Gowen, Special Master:

On February 27, 2013, Dana Livneh [“petitioner”] filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10, *et seq.*² [the “Vaccine Act” or “Program”] alleging that she suffered severe and debilitating pain and immobility in her left shoulder and arm, which was caused-in-fact by the tetanus-diphtheria-acellular pertussis [“Tdap”] vaccine she received on December 1, 2010. Petition at 1. On March 11, 2014, respondent filed a proffer on award of compensation, which indicated that the petitioner agreed to the compensation amount.

Pursuant to the terms stated in the attached Proffer, **I award petitioner a lump sum payment of \$90,000.00 in the form of a check payable to petitioner, Dana**

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), a party has 14 days to identify and move to delete medical or other information, that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, I agree that the identified material fits within the requirements of that provision, I will delete such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

Livneh This amount represents compensation for all damages that would be available under § 300aa-15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Thomas L. Gowen

Thomas L. Gowen
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.

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DANA LIVNEH,)	
)	
Petitioner,)	
)	
v.)	No. 13-146V
)	Special Master Gowen
)	ECF
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$90,000.00, which represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment of \$90,000.00 in the form of a check payable to petitioner. Petitioner agrees.

Respectfully submitted,

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Assistant Attorney General

RUPA BHATTACHARYYA
Director
Torts Branch, Civil Division

VINCENT J. MATANOSKI
Deputy Director
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s/ ANN D. MARTIN
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DATED: March 11, 2014