

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

**No. 13-146V**

**Filed: March 11, 2014**

**(Not to be published)**

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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 AWARDING DAMAGES<sup>1</sup>**

**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.*<sup>2</sup> [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**

<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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.

<sup>2</sup> 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.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Thomas L. Gowen**

Thomas L. Gowen  
Special Master

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<sup>3</sup> 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,	)	
	)	No. 13-146V
v.	)	Special Master Gowen
	)	ECF
SECRETARY OF HEALTH AND	)	
HUMAN SERVICES,	)	
	)	
Respondent.	)	
	)	

## **I. Items of Compensation**

## II. Form of the Award

Respectfully submitted,

RUPA BHATTACHARYYA  
Director  
Torts Branch, Civil Division

VINCENT J. MATANOSKI  
Deputy Director  
Torts Branch, Civil Division

MICHAEL P. MILMOE  
Senior Trial Counsel  
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s/ ANN D. MARTIN  
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DATED: March 11, 2014