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\$3.2 million malpractice award 'won't bring arm back' girl says

By Chris Welner Toronto Star

Antonella Giannone is a bright and energetic 10-year-old who has just been awarded \$3.27 million — plus five years' interest — in Canada's largest-ever malpractice award.

"Money doesn't change my life, it just buys more stuff. It won't bring my arm back," the Grade 5 student at All Saints Catholic School said in an interview yesterday.

"(Playmates) used to call me so many different names, but now that they know me better and my character — just because I have one arm doesn't mean I have some disease."

The pretty Etobicoke girl with big brown eyes and thick brown hair is getting the money five years after she broke her right arm in a fall, then developed gangrene and had to have it amputated just above the elbow.

Dr. Howard Weinberg admitted liability in a trial last fall and has been ordered to make the record payment. He will appeal.

'Happy, stunned'

Antonella's mother Anna, 43, said she was "happy, stunned, and emotional" when her lawyer called with the news in the morning, her husband Mario, 50, and sons Frank, 14, and Nicky, 6, can close another chapter in their painful ordeal. But it also starts a new story line that will last the rest of their daughter's life.

"People assume \$3 million is a lot of money, but not when you need medical attention all your life," she said. "It's not like you won a lottery and can just have fun for the rest of your life. There's always sadness. You can never take that away."

Mrs. Giannone said the award is high, but prosthetics were "little more than hooks" several years ago and nothing compared to the lighter, faster electrical arms being developed today that cost up to \$50,000.

Held in trust

She'll have to have a new one every five years because they wear out.

The award by Ontario Supreme Court Justice John J. Fitzgerald includes \$953,867 for "the best prosthetic devices available" through her life, \$342,532 for lost future income, \$161,274 for housekeeping expenses, \$75,000 for investment management, special damages of \$16,514 and general damages of \$125,000. The largest chunk of the award, \$1,615,000 is to cover income tax the full amount will generate in her lifetime.

Interest due on the award is about \$450,000, bringing the total to more than \$3.7 million, said the Giannones' lawyer, Robert Roth.

The money is being held in trust with the Supreme Court of Ontario and will be turned over to Giannone when she turns 18.



\$3 million girl: Antonella Giannone, 10, whose right arm was amputated, and her mother Anna are all smiles after a judge awarded her more than \$3.27 million in Canada's largest-ever malpractice award. "Money doesn't change my life... It won't bring my arm back," Antonella said.

Her father Mario Giannone has been granted \$200,000 to cover current expenses and he can apply to the court for more money for any additional expenses.

Defence lawyer David Doherty said the award outstrips previous cases where a limb has been lost by more than \$2.5 million.

"There is a serious danger she will develop skin problems, neck pain, and psychological problems with depression and will probably

suffer an emotional crisis during adolescence," Fitzgerald said in his judgment.

"I hope that Antonella will understand (court findings) are based upon probabilities and cannot take into account the inner strength and courage of a person it has no way to measure."

Antonella had fallen from the verandah of her parents' Westbank Crescent home and suffered a severe compound fracture of her arm in August, 1981.

She was treated at Humber Memorial Hospital by Weinberg and discharged the following day with her arm in a cast. When she returned the next day running a fever, Weinberg said the little girl's cast was too tight, split it to relieve pressure and prescribed 222s for pain.

But the little girl was brought back to the hospital again a day later where the cast was removed

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Angry PM says Reagan broke word

By Martin Cohn Toronto Star

OTTAWA — Prime Minister Brian Mulroney has rebuked U.S. President Ronald Reagan for breaking a personal promise and slapping "appalling" new trade tariffs on certain lumber exports.

In his strongest denunciation yet of U.S. economic policy, Mulroney yesterday said Reagan had betrayed his pledge to avoid increased protectionism during sensitive free-trade negotiations.

Reagan's "bizarre" decision to impose stiff new tariffs on \$250 million worth of Canadian cedar roofing and siding exports — affecting thousands of British Columbia workers — is "unfair and unjustified," Mulroney told the House of Commons.

Mulroney stunned opposition critics by endorsing their protests — despite his government's policy of fostering closer ties with the U.S.

MPs from all three parties passed a rare, unanimous resolution demanding a withdrawal of the "unfair" duty.

And in a Telex sent to Reagan, Mulroney bluntly accused him of breaking agreements reached at their summit meetings in Quebec city and Washington.

"This American initiative is pure protectionism, the precise thing you and I pledged, in Quebec and Washington, we would seek to avoid," Mulroney said.

"Canada is now placed in the position of being forced to consider an appropriate response."

Reagan personally approved a five-year tariff plan to be imposed against cedar shakes and shingles.

□ Aide says Reagan still wants free trade pact, Page A10

used for roofing and siding on houses, on the grounds that Canadian imports are harming the U.S. industry.

The tariffs are set at 35 per cent for the first 30 months, 20 per cent for the next two years and 8 per cent for the final six months.

Expressing his "profound disappointment," Mulroney told Reagan that the tariff is "a punitive measure against Canadian products." And, in a significant line, Mulroney suggested that the new tariff is undermining free trade talks.

"This unjustifiable action is all the more appalling in the context of freer trade negotiations between our two countries having been officially initiated this week," the Telex said.

The Americans, who were caught off guard by the vigor of the Canadian protest, are not expected to officially respond until next week.

'Very serious'

But Canada pulled no diplomatic punches. Apart from the Telex — delivered by Canada's Washington embassy to the White House — External Affairs Minister Joe Clark telephoned his U.S. counterpart, Secretary of State George Shultz, to complain.

And late yesterday, Clark's deputy, James Taylor, summoned U.S. Ambassador Thomas Niles to a meeting at the external affairs department in Ottawa to reinforce the Canadian protest, government sources said.

Clark told reporters that Shultz "understood fully what I was saying, and why I was saying it." Canada is considering "a range of commercial responses" and will decide soon, he added.

"The United States is very often a country difficult to be friendly to," Clark said. "This has been a very serious, in our judgment, violation of undertakings given at Quebec."

A joint declaration by Reagan

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Extra-bill fines may be altered

By Denise Harrington Toronto Star

Ontario doctors could be made to pay increasingly stiff fines for repeated violations of a proposed ban on extra-billing, Health Minister Murray Elston says.

But the fines will be lower than the \$10,000 maximum now proposed in legislation to end the practice, Elston said yesterday.

The Liberal government is considering a sliding scale of fines in Bill 94, but Elston said he wants to reduce the maximum fine level when the bill is brought before the Legislature next week for amendments and detailed review.

"The question is whether you want to do that or whether you want to have a sliding scale," Elston said at the Clarke Institute of Psychiatry after addressing a conference on mental health.

"We're willing to consider something like that."

Graduated fines

"I think what people want to see is sort of a level of graduated fines or whatever — or there may be another mechanism for enforcing it (a ban) altogether."

Elston said he had "no problem with cutting (the \$10,000 fine) in half."

The government offered to eliminate the fines completely if the Ontario Medical Association agreed to a ban and would help enforce one. But association leaders rejected that and other aspects of a 10-point provincial negotiating package several weeks ago.

Elston announced this week that he wants the extra-billing ban to become law as quickly as possible, now that the two sides have failed to reach an agreement. The doctors have called for a province-wide strike Thursday and Friday over the ban.

Work out details

Elston said he has not worked out details of the fines but they will be tied to continued violations.

"That's what happens when you have a sliding scale and they will be increasing on the basis of (the number of) violations," Elston said.

Sources later said the Liberals would like the fines to apply in all separate instances of extra-billing. That means that, if doctors are found to have extra-billed five patients in spite of a ban, they would pay fines for each instance.

The minimum fines have not been determined, but sources said they could start at about \$1,000

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Doctor to appeal malpractice award

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and Weinberg discovered she had gas gangrene.

She was taken to the Hospital for Sick Children where surgeons amputated her arm below the elbow.

"I didn't want to accept (amputation) or believe it," said Anna Giannone. "I thought they (Sick Kids doctors) were just a bunch of liars — my thought was wrong. I realized those people did everything possible to save her life. There was no other choice."

Giannone said her family was shattered by the tragedy and didn't know how to cope.

Antonella became like a baby "who needed a lot of attention I wasn't used to giving her. I had to wash her, dress her, feed her and tie her shoes — things you don't

think of if you have two hands," she said.

Dressed in a pink and white party dress with pink patent-leather shoes, Antonella was ready for a steady stream of media callers.

She told The Star how she still suffers phantom pains (in the arm that isn't there) and how everyday there is real pain that "feels like a hammer's pounding on my arm."

She has had to learn to write with her left hand and still relies on classmates for some note-taking in her French-immersion program. The youngster already speaks English and Italian.

She says math is her favorite subject and likes playing with the computers, although like most 10-year-olds, her favorite part of school is recess where she can skip rope or play basketball.

The myo-electric prosthesis she now wears is little more than cosmetic, although it can move the elbow and grip solid objects in its fingertips.

"When I was little, I thought I'd like to be a nurse or doctor but I don't know now," she said.

Dr. Weinberg's lawyer said he will file an appeal next week.

"We think there are significant questions about the way His Lordship has calculated the award," Doherty said. "Whether it's out of line or not is up to the Court of Appeal, but given awards in similar cases in Canada, I was surprised."

An Ontario Supreme Court judge last November ordered an anesthesiologist to pay a record \$2.2 million to a Scarborough woman who suffered permanent brain damage and blindness during an operation he supervised.

Eggleton exploring idea of Toronto Olympics in '96

Toronto is interested in holding the 1996 summer Olympics, but "there's a lot of spadework to be done" before a formal bid can be submitted, Mayor Art Eggleton said yesterday.

Eggleton said he has sent an "exploratory" letter to the Canadian Olympic Committee, asking what has to be done to make a formal bid.

In the meantime, Eggleton told reporters, studies are under way to see if the games can be held in Metro. The results should be ready by fall.

Eggleton said a group of Metro residents, led by Olympic sailor Paul Henderson, approached him about a year ago to suggest Toronto think about holding the Olympics.