

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

No. 06-551V
Filed: December 10, 2010
Not for Publication

NATALIE LESZCZYNSKI, by her mother and *
Natural Guardian, KAROLINA LESZCZYNSKI, *
and KAROLINA LESZCZYNSKI, Individually, *

Petitioner, *

v. *

SECRETARY OF *
HEALTH AND HUMAN SERVICES, *

Respondent. *

Seth Bader, New York, NY, for petitioner
Linda S. Renzi, Washington, DC, for respondent

Damages Decision Based on
Proffer; Diphtheria-Tetanus-
Acellular Pertussis (DTaP)
Vaccine; Seizure Disorder;
Developmental Delay

CAMPBELL-SMITH, Special Master

DECISION AWARDING DAMAGES¹

On December 2, 2010, respondent filed a Proffer on Award of Compensation. On December 1, 2010, petitioner orally accepted respondent's Proffer. Based on the record as a whole, the special master finds that petitioner is entitled to an award as stated in the Proffer. Pursuant to the terms stated in the attached Proffer, the court awards petitioner:

1. A lump sum payment of \$408,599.77, representing trust seed funds consisting of the present year cost of compensation for group home, room and board, and day treatment expenses in Compensation Year 2025 (\$126,141.20) and life care

¹ Vaccine Rule 18(b) states that all of the decisions of the special masters will be made available to the public unless the decisions contain trade secrets or commercial or financial information that is privileged or confidential, or the decisions contain medical or similar information the disclosure of which clearly would constitute an unwarranted invasion of privacy. Within 14 days of the filing of a decision or substantive order with the Court, a party may identify and move for the redaction of privileged or confidential information before the document's public disclosure.

expenses in the first year after judgment (\$282,458.57), in the form of a check payable to Regions Bank, as Trustee of the Reversionary Trust established for the benefit of Natalie Leszczynski, as set forth in Appendix A: Items of Compensation for Natalie Leszczynski.

2. A lump sum payment of \$832,124.51, representing compensation for lost future earnings (\$633,844.02) and pain and suffering (\$198,280.49), in the form of a check payable to petitioner as the court-appointed guardian(s)/conservator(s) of the estate of Natalie Leszczynski for the benefit of Natalie Leszczynski. No payments shall be made until petitioner provides respondent with documentation establishing that she has been appointed as the guardian(s)/conservator(s) of Natalie Leszczynski's estate;
3. A lump sum payment of \$25,450.10, representing compensation for past un-reimbursable expenses, in the form of a check payable to Karolina Leszczynski, petitioner;
4. A lump sum payment of \$84,177.69, representing compensation for the reimbursement of the State of New York Medicaid lien, payable jointly to petitioner, and

New York State Department of Health
Office of Health Insurance Programs
Division of Systems–Data Warehouse
Data Access Unit
800 North Pearl Street
Room 322
Albany, NY 12204
Attn: Bruce Lombardo

5. A lump sum payment of \$117,083.77, representing compensation for the reimbursement of the State of Arizona Medicaid lien, payable jointly to petitioner, and

Health Management Systems
2122 East Highland Avenue
Suite 225
Phoenix, AZ 85016
Attn: Gloria Delgado

6. An amount sufficient to purchase an annuity contract, subject to the conditions described in paragraph II. F. of the attached Proffer, paid to the life insurance company from which the annuity will be purchased.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.²

IT IS SO ORDERED.

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

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party's filing a notice renouncing the right to seek review. Then, under Vaccine Rule 12(a), petitioner can expedite payment by filing an election to accept the judgment.

B. Lost Future Earnings

The parties agree that based upon the evidence of record, Natalie Leszczynski will never be gainfully employed. Therefore, respondent proffers that Natalie Leszczynski should be awarded full lost future earnings as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(3)(B). Respondent proffers that the appropriate award for Natalie Leszczynski's lost future earnings is \$633,844.02. Petitioner agrees.

C. Pain and Suffering

Respondent proffers that Natalie Leszczynski should be awarded \$198,280.49 in actual and projected pain and suffering. This amount reflects that the award for projected pain and suffering has been reduced to net present value. See 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

D. Past Unreimbursable Expenses

Evidence supplied by petitioner documents her expenditure of past unreimbursable expenses related to Natalie Leszczynski's vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$25,450.10. Petitioner agrees.

E. New York Medicaid Lien

Respondent proffers that Natalie Leszczynski should be awarded funds to satisfy the State of New York Medicaid lien in the amount of \$84,177.69, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of New York may have against any individual as a result of any Medicaid payments the State of New York has made to or on behalf of Natalie Leszczynski from the date of her eligibility for benefits through

the date of judgment in this case as a result of her vaccine-related injury suffered on or about August 22, 2003, under Title XIX of the Social Security Act. Petitioner agrees.

F. Arizona Medicaid Lien

Respondent proffers that Natalie Leszczynski should be awarded funds to satisfy the State of Arizona Medicaid lien in the amount of \$117,083.77, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Arizona may have against any individual as a result of any Medicaid payments the State of Arizona has made to or on behalf of Natalie Leszczynski from the date of her eligibility for benefits through the date of judgment in this case as a result of her vaccine-related injury suffered on or about August 22, 2003, under Title XIX of the Social Security Act. Petitioner agrees.

II. Form of the Award

The parties recommend that the compensation provided to Natalie Leszczynski should be made through a combination of lump sum payments and future annuity payments as described below, and request that the special master's decision and the Court's judgment award the following:

- A. A lump sum payment of \$408,599.77, representing trust seed funds consisting of the present year cost of compensation for group home, room and board, and day treatment expenses in Compensation Year 2025 (\$126,141.20) and life care expenses in the first year after judgment (\$282,458.57), in the form of a check payable to Regions Bank, as Trustee of the Reversionary Trust established for the benefit of Natalie Leszczynski, as set forth in Appendix A: Items of Compensation for Natalie Leszczynski.

- B. A lump sum payment of \$832,124.51, representing compensation for lost future earnings (\$633,844.02) and pain and suffering (\$198,280.49), in the form of a check payable to petitioner as the court-appointed guardian/conservator of the estate of Natalie Leszczynski for the benefit of Natalie Leszczynski. No payments shall be made until petitioner provides respondent with documentation establishing that she has been appointed as the guardian/conservator of Natalie Leszczynski's estate;
- C. A lump sum payment of \$25,450.10, representing compensation for past unreimbursable expenses, in the form of a check payable to Karolina Leszczynski, petitioner;
- D. A lump sum payment of \$84,177.69, representing compensation for the reimbursement of the State of New York Medicaid lien, payable jointly to petitioner, and

New York State Department of Health
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- E. A lump sum payment of \$117,083.77, representing compensation for the reimbursement of the State of Arizona Medicaid lien, payable jointly to petitioner, and

Health Management Systems
2122 East Highland Avenue

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F. An amount sufficient to purchase an annuity contract, subject to the conditions described below, that will provide payments for the life care items contained in the life care plan, as illustrated by the chart at Tab A attached hereto, paid to the life insurance company² from which the annuity will be purchased. Compensation for Year Two (beginning on the first anniversary of the date of judgment) and all subsequent years shall be provided through respondent's purchase of an annuity, which annuity shall make payments directly to Regions Bank, as Trustee of the Reversionary Trust for the benefit of Natalie Leszczynski, only so long as Natalie Leszczynski is alive at the time a particular payment is due. At the Secretary's sole discretion, the periodic payments may be provided to the Trustee of the Reversionary Trust in monthly, quarterly, annual or other installments. The "annual amounts" set forth in the chart at Tab A describe only the total yearly sum to be paid to the Trustee and do not require that the payment be made in one annual installment.

² The Life Insurance Company must have a minimum of \$250,000,000 capital and surplus, exclusive of any mandatory security valuation reserve. The Life Insurance Company must have one of the following ratings from two of the following rating organizations:

- a. A.M. Best Company: A++, A+, A+g, A+p, A+r, or A+s;
- b. Moody's Investor Service Claims Paying Rating: Aa3, Aa2, Aa1, or Aaa;
- c. Standard and Poor's Corporation Insurer Claims-Paying Ability Rating: AA-, AA, AA+, or AAA;
- d. Fitch Credit Rating Company, Insurance Company Claims Paying Ability Rating: AA-, AA, AA+, or AAA.

1. Growth Rate

Respondent proffers that a four percent (4%) growth rate should be applied to all non-medical life care items, and a five percent (5%) growth rate should be applied to all medical life care items. Thus, the benefits illustrated in the chart at Tab A that are to be paid through annuity payments should grow as follows: four percent (4%) compounded annually from the date of judgment for non-medical items, and five percent (5%) compounded annually from the date of judgment for medical items. Petitioner agrees.

2. Life-contingent annuity

The Trustee of the Reversionary Trust will continue to receive the annuity payments from the Life Insurance Company only so long as Natalie Leszczynski is alive at the time that a particular payment is due. Petitioner shall provide written notice to the Secretary of Health and Human Services and the Life Insurance Company within twenty (20) days of Natalie Leszczynski's death.

3. Guardianship

No payments under paragraph II. B. herein shall be made until petitioner provides the Secretary with documentation establishing her appointment as guardian/conservator of Natalie Leszczynski's estate. If petitioner is not authorized by a court of competent jurisdiction to serve as guardian/conservator of the estate of Natalie Leszczynski at the time a payment is to be made, any such payment shall be paid to the party or parties appointed by a court of competent jurisdiction to serve as guardian/conservator of the estate of Natalie Leszczynski upon submission of written documentation of such appointment to the Secretary.

III. Summary of Recommended Payments Following Judgment

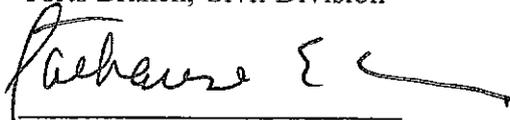
A.	Lump Sum paid to Regions Bank, as Trustee of the Grantor Reversionary Trust for the benefit of Natalie Leszczynski:	\$ 408,599.77
B.	Lump Sum paid to petitioner as guardian/conservator of the estate of Natalie Leszczynski, for lost future earnings and pain and suffering:	\$ 832,124.51
C.	Lump sum paid to petitioner:	\$ 25,450.10
D.	Reimbursement for State of New York Medicaid lien:	\$ 84,177.69
E.	Reimbursement for State of Arizona Medicaid lien:	\$ 117,083.77
F.	An amount sufficient to purchase the annuity contract described above in paragraph II. F.	

Respectfully submitted,

TONY WEST
Assistant Attorney General

TIMOTHY P. GARREN
Director
Torts Branch, Civil Division

MARK W. ROGERS
Deputy Director
Torts Branch, Civil Division



CATHARINE E. REEVES
Assistant Director
Torts Branch, Civil Division



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Dated: December 2, 1020

Appendix A: Items of Compensation for Natalie Leszczynski

ITEMS OF COMPENSATION	G.R.	Lump Sum Compensation Year 1	Compensation Years 2-3	Compensation Year 4	Compensation Year 5	Compensation Year 6	Compensation Year 7	Compensation Year 8	Compensation Year 9
Medicare Part B Prem. & Ded.	5%	2010	2011-2012	2013	2014	2015	2016	2017	2018
Medicare Part A	5%								
Medigan Plan C	5%								
Medicare Part D	5%								
Keppra	5%	1,946.40	1,946.40	1,946.40	1,946.40	1,946.40	1,946.40	1,946.40	1,946.40
Zonegran	5%	1,021.85	1,021.85	1,021.85	1,021.85	1,021.85	1,021.85	1,021.85	1,021.85
Clonazepam	5%	985.17	985.17	985.17	985.17	985.17	985.17	985.17	985.17
Multivitamin	4%	44.00	44.00	44.00	44.00	44.00	44.00	44.00	44.00
Vitamin B-6	4%	155.88	155.88	155.88	155.88	155.88	155.88	155.88	155.88
Neurologist	5%	1,512.00	1,512.00	1,512.00	1,512.00	1,512.00	1,512.00	1,512.00	1,512.00
Clinical Dietician	4%	300.00	300.00	300.00	300.00	300.00	300.00	300.00	300.00
Orthopedist	5%	85.00	85.00	85.00	85.00	85.00	85.00	85.00	85.00
Hospital-ization	5%	6,873.00	6,873.00	6,873.00	6,873.00	6,873.00	6,873.00	6,873.00	6,873.00
MRI	5%	650.00	650.00	650.00	650.00	650.00	650.00	650.00	650.00
Lab Work - CRC	5%	67.00	67.00	67.00	67.00	67.00	67.00	67.00	67.00
ER	5%	1,225.00	1,225.00	1,225.00	1,225.00	1,225.00	1,225.00	1,225.00	1,225.00
Chest X-ray	5%	305.42		305.42			305.42		
Dentist w/ Anesthesia	5%	1,050.00	1,050.00	1,050.00	1,050.00	1,050.00	1,050.00	1,050.00	1,050.00
PT	4%	11,223.36	11,223.36	11,223.36	11,223.36	11,223.36	11,223.36	11,223.36	11,223.36
OT	4%	5,611.68	5,611.68	5,611.68	1,402.92	1,402.92	1,402.92	1,402.92	1,402.92
ST	4%	5,611.68	5,611.68	5,611.68	2,805.84	2,805.84	2,805.84	2,805.84	2,805.84
Aqua Therapy	4%	5,611.68	5,611.68	5,611.68	5,611.68	5,611.68	5,611.68	5,611.68	5,611.68
Therapeutic Riding	4%	480.00	480.00	480.00	480.00	480.00	480.00	480.00	480.00
Camp Includes Appl. Fee Yr 1	4%	1,640.00	1,590.00	1,590.00	1,590.00	1,590.00	1,590.00	1,590.00	1,590.00
Therasuit Therapy	4%	11,250.00							
Sensory Motor Equip	4%	750.00				750.00			
High Impact Floor Mats	4%	223.09				223.09			
Bath Chair	4%	1,667.95				1,667.95			
Shower Chair	4%								
Ball Pit	4%	470.00							1,498.95
Tumble Forms Vestibulator	4%	3,549.95							
Tumble Forms Balls 2-2"	4%	644.90				644.90			

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ITEMS OF COMPENSATION	G.R.	Lump Sum Compensation Year 1	Compensation Years 2-3	Compensation Year 4	Compensation Year 5	Compensation Year 6	Compensation Year 7	Compensation Year 8	Compensation Year 9
Tumble Forms Ball 2-16"	4%	419.90							
Tumble Forms Ball 1-11"	4%	113.75							
Balance Trainer	4%	255.97							
Ankle Weights 5lb	4%	29.95		29.95					
Ankle Weights 10lb	4%	47.95		47.95					
Wrist Weights 5lb	4%	29.95		29.95					
Rifton Ped. and Adult Stander	4%	1,655.00				2,500.00			
Stander Access.	4%	1,263.00				1,655.00			
Wheelchair	4%	*			1,850.00				
Hoyer Lift	4%	839.00							
Walker/ Gait Trainer	4%	604.95							
Seat for Walker/Gait Trainer	4%	112.95				112.95			
Rifton Chair	4%	738.00				738.00			
Go Board System	4%	181.95							
Go Board System Cards	4%	58.95							
Adaptive Eating Equip	4%	45.40	45.40	45.40	45.40	45.40	45.40	45.40	45.40
Diapers	4%	1,039.73	1,039.73	1,039.73	1,039.73	1,039.73	1,039.73	1,039.73	1,039.73
Wipes and Gloves	4%	667.95	667.95	667.95	667.95	667.95	667.95	667.95	667.95
DDS Case Mngt	4%	1,829.80	914.90	914.90	914.90	914.90	914.90	914.90	914.90
Home Health Aide	4%	38,374.65	38,374.65	38,374.65	38,374.65	38,374.65	38,374.65	38,374.65	38,374.65
Respite Care	4%	13,901.76	13,901.76	13,901.76	13,901.76	13,901.76	13,901.76	13,901.76	13,901.76
Trust Seed/Grp Home	4%	70,700.50							
Trust Seed/Grp Home Rm & Bd	4%	9,453.50							
Trust Seed/ Day Treatment	4%	45,987.20							
Modified Van	4%	34,980.00							
Home Mods	0%	120,313.00							
Lost Future Earnings		633,844.02							
Pain and Suffering		198,280.49							
Past Unreimbursable Expenses		25,450.10							
Medicaid Lien (New York)		84,177.69							
Medicaid Lien (Arizona)		117,083.77							

Appendix A: Items of Compensation for Natalie Leszczyński

ITEMS OF COMPENSATION	G.R.	Lump Sum Compensation Year 1	Compensation Years 2-3	Compensation Year 4	Compensation Year 5	Compensation Year 6	Compensation Year 7	Compensation Year 8	Compensation Year 9
	*	2010	2011-2012	2013	2014	2015	2016	2017	2018
Annual Totals		1,467,435.84	100,988.09	101,401.36	95,823.49	102,265.38	88,667.23	88,061.81	89,560.76

Note: Compensation Year 1 consists of the 12 month period following the date of judgment. Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment. As soon as practicable after entry of judgment, respondent shall make the following payment to Regions Bank, as trustee for the benefit of Natalie Leszczyński, for Trust seed funds (\$126,141.20) and Yr. 1 life care expenses (\$282,458.57): \$408,599.77. As soon as practicable after entry of judgment, respondent shall make the following payment to the guardian(s)/conservator(s) of the estate of Natalie Leszczyński, for lost future earnings (\$633,844.02) and pain and suffering (\$198,280.49): \$832,124.51. As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner, Karolina Leszczyński, for past un-reimbursable expenses: \$25,450.10. As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of New York, for reimbursement of the state's Medicaid lien: \$84,177.69. As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Arizona, for reimbursement of the state's Medicaid lien: \$117,083.77. Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment. Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment. Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

Appendix A: Items of Compensation for Natalie Leszczyński

ITEMS OF COMPENSATION	G.R.	*	Compensation Year 10	Compensation Year 11	Compensation Year 12	Compensation Year 13	Compensation Year 14	Compensation Year 15	Compensation Year 16	Compensation Year 17
Medicare Part B Prem. & Ded.	5%	*	2019	2020	2021	2022	2023	2024	2025	2026
Medicare Part A	5%	*								
Medigan Plan C	5%									
Medicare Part D	5%									
Keppra	5%	*	1,946.40	1,946.40	1,946.40	1,946.40	1,946.40	1,946.40	1,946.40	1,946.40
Zonegran	5%	*	1,021.85	1,021.85	1,021.85	1,021.85	1,021.85	1,021.85	1,021.85	1,021.85
Clonazepam	5%	*	985.17	985.17	985.17	985.17	985.17	985.17	985.17	985.17
Multivitamin	4%		44.00	44.00	44.00	44.00	44.00	44.00	44.00	44.00
Vitamin B-6	4%		155.88	155.88	155.88	155.88	155.88	155.88	155.88	155.88
Neurologist	5%	*	1,512.00	1,512.00	1,512.00	1,512.00	1,512.00	1,512.00	1,512.00	1,512.00
Clinical Dietician	4%									
Orthopedist	5%	*	85.00	85.00	85.00	85.00	85.00	85.00	85.00	85.00
Hospital-ization	5%	*	6,873.00	6,873.00	6,873.00		6,873.00		6,873.00	
MRI	5%	*	650.00	650.00	650.00					650.00
Lab Work - CBC	5%	*	67.00	67.00	67.00		67.00		67.00	
ER	5%	*	1,225.00	1,225.00	1,225.00	1,225.00	1,225.00	1,225.00	1,225.00	1,225.00
Chest X-ray	5%	*	305.42			305.42			305.42	
Dentist w/ Anesthesia	5%	*	1,050.00	1,050.00	1,050.00	1,050.00	1,050.00	1,050.00	1,050.00	1,050.00
PT	4%		5,611.68	5,611.68	5,611.68	5,611.68	5,611.68	5,611.68	5,611.68	5,611.68
OT	4%		1,402.92	1,402.92	1,402.92	1,402.92	1,402.92	1,402.92	1,402.92	1,402.92
ST	4%		2,805.84	2,805.84	2,805.84	2,805.84	2,805.84	2,805.84	2,805.84	2,805.84
Aqua Therapy	4%		5,611.68	5,611.68	5,611.68	5,611.68	5,611.68	5,611.68	5,611.68	5,611.68
Therapeutic Riding	4%		480.00	480.00	480.00	480.00	480.00	480.00	480.00	480.00
Camp Includes Appl. Fee Yr 1	4%		1,590.00	1,590.00						
Theraput Therapy	4%									
Sensory Motor Equip	4%			750.00						
High Impact Floor Mats	4%			223.09						
Bath Chair	4%			1,667.95						
Shower Chair	4%									
Ball Pit	4%									
Turnble Forms Vestibulator	4%									
Turnble Forms Balls 2-22"	4%			644.90						

Appendix A: Items of Compensation for Natalie Leszczynski

ITEMS OF COMPENSATION	G.R.	Compensation Year 10	Compensation Year 11	Compensation Year 12	Compensation Year 13	Compensation Year 14	Compensation Year 15	Compensation Year 16	Compensation Year 17
	*	2019	2020	2021	2022	2023	2024	2025	2026
Annual Totals		90,287.23	127,783.65	86,471.81	79,187.23	85,821.81	80,801.81	16,121.67	134,816.50

Note: Compensation Year 1 consists of the 12 month period following the date of judgment. Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment. As soon as practicable after entry of judgment, respondent shall make the following payment to Regions Bank, as trustee for the benefit of Natalie Leszczynski, for Trust seed funds (\$126,141.20) and Yr 1 life care expenses (\$282,458.57): \$408,599.77. As soon as practicable after entry of judgment, respondent shall make the following payment to the guardian(s)/conservator(s) of the estate of Natalie Leszczynski, for lost future earnings (\$633,844.02) and pain and suffering (\$198,280.49): \$832,124.51. As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner, Karolina Leszczynski, for past un-reimbursable expenses: \$25,450.10. As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of New York, for reimbursement of the state's Medicaid lien: \$84,177.69. As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Arizona, for reimbursement of the state's Medicaid lien: \$117,083.77. Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment. Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment. Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

Appendix A: Items of Compensation for Natalie Leszczyński

ITEMS OF COMPENSATION	G.R.	Compensation Year 18	Compensation Year 19	Compensation Year 20	Compensation Year 21	Compensation Year 22	Compensation Year 23	Compensation Year 24	Compensation Year 25
	*	2027	2028	2029	2030	2031	2032	2033	2034
Annual Totals		141,106.50	134,471.92	143,026.50	135,622.40	142,209.52	134,314.10	141,254.10	136,539.52

Note: Compensation Year 1 consists of the 12 month period following the date of judgment. Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment. As soon as practicable after entry of judgment, respondent shall make the following payment to Regions Bank, as trustee for the benefit of Natalie Leszczyński, for Trust seed funds (\$126,141.20) and Yr 1 life care expenses (\$282,458.57): \$408,599.77. As soon as practicable after entry of judgment, respondent shall make the following payment to the guardian(s)/conservator(s) of the estate of Natalie Leszczyński, for lost future earnings (\$633,844.02) and pain and suffering (\$198,280.49): \$832,124.51. As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner, Karolina Leszczyński, for past un-reimbursable expenses: \$25,450.10. As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of New York, for reimbursement of the state's Medicaid lien: \$84,177.69. As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Arizona, for reimbursement of the state's Medicaid lien: \$117,083.77. Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment. Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment. Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

Appendix A: Items of Compensation for Natalie Leszczyński

ITEMS OF COMPENSATION	G.R.	Compensation Year 26 2035	Compensation Year 27 2036	Compensation Year 28 2037	Compensation Year 29 2038	Compensation Year 30 2039	Compensation Year 31 2040	Compensation Year 32 2041	Compensation Year 33 2042
Annual Totals		141,367.05	134,964.10	141,559.52	134,314.10	143,174.10	135,337.42	141,904.10	134,314.10

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.
 Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.
 As soon as practicable, after entry of judgment, respondent shall make the following payment to Regions Bank, as trustee for the benefit of Natalie Leszczyński, for Trust seed funds (\$126,141.20) and Yr 1 life care expenses (\$282,458.57): \$408,599.77.
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 Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.
 Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment.
 Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

Appendix A: Items of Compensation for Natalie Leszczynski

ITEMS OF COMPENSATION	G.R.	Compensation Year 34	Compensation Year 35	Compensation Year 36	Compensation Year 37	Compensation Years 38-39	Compensation Year 40	Compensation Year 41	Compensation Year 42
	*	2043	2044	2045	2046	2047-2048	2049	2050	2051
Annual Totals		141,559.52	136,234.10	133,546.03	132,339.92	132,148.84	132,593.92	133,667.02	132,278.84

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.

Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.

As soon as practicable after entry of judgment, respondent shall make the following payment to Regions Bank, as trustee for the benefit of Natalie Leszczynski, for Trust seed funds (\$126,141.20) and Yr 1 life care expenses (\$282,458.57): \$408,599.77.

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As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Arizona, for reimbursement of the state's Medicaid lien: \$117,083.77.

Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.

Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment. Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

Appendix A: Items of Compensation for Natalie Leszczyński

ITEMS OF COMPENSATION	G.R.	*	Compensation Year 43 2052	Compensation Years 44-Life 2053-Life
Medicare Part B Prem. & Ded.	5%	*	1,481.00	1,326.00
Medicare Part A	5%	*	1,100.00	
Medigap Plan C	5%			2,244.00
Medicare Part D	5%		2,321.76	2,321.76
Keppra	5%	*		
Zonegran	5%	*		
Clonazepam	5%	*		
Multivitamin	4%		44.00	44.00
Vitamin B-6	4%		155.88	155.88
Neurologist	5%	*	302.40	
Clinical Dietician	4%			
Orthopedist	5%	*		
Hospital-ization	5%	*		
MRI	5%	*		
Lab Work - CBC	5%	*		
ER	5%	*	245.00	
Chest X-ray	5%	*	61.08	
Dentist w/ Anesthesia	5%	*	210.00	
PT	4%			
OT	4%			
ST	4%			
Aqua Therapy	4%			
Therapeutic Riding	4%			
Camp Includes Appl. Fee Yr 1	4%			
Therasuit Therapy	4%			
Sensory Motor Equip	4%			
High Impact Floor Mats	4%			
Bath Chair	4%			
Shower Chair	4%			
Ball Pit	4%			
Tumble Forms Vestibulator	4%			
Tumble Forms Balls 2-22"	4%			

Appendix A: Items of Compensation for Natalie Leszczynski

ITEMS OF COMPENSATION	G.R.	*	Compensation Year 43 2052	Compensation Years 44-Life 2053-Life
Tumble Forms Ball 2-16"	4%			
Tumble Forms Ball 1-1"	4%			
Balance Trainer	4%			
Ankle Weights 5lb	4%			
Ankle Weights 10lb	4%			
Wrist Weights 5lb	4%			
Rifton Ped. and Adult Stander	4%			
Stander Access.	4%			
Wheelchair	4%	*		
Hoyer Lift	4%			
Walker/ Gait Trainer	4%			
Seat for Walker/Gait Trainer	4%	*		
Rifton Chair	4%		147.60	147.60
Go Board System	4%			
Go Board System Cards	4%			
Adaptive Eating Equip	4%			
Diapers	4%			
Wipes and Gloves	4%			
DDS Case Mngt	4%			
Home Health Aide	4%			
Respite Care	4%			
Trust Seed/Grp Home	4%		70,700.50	70,700.50
Trust Seed/Grp Home Rn & Bd	4%		9,453.50	9,453.50
Trust Seed/ Day Treatment	4%		45,987.20	45,987.20
Modified Van	4%			
Home Mods	0%			
Lost Future Earnings				
Pain and Suffering				
Past Unreimbursable Expenses				
Medicaid Lien (New York)				
Medicaid Lien (Arizona)				

Appendix A: Items of Compensation for Natalie Leszczyński

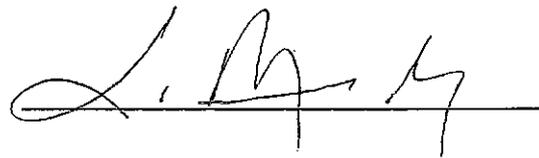
ITEMS OF COMPENSATION	G.R.	Compensation Year 43	Compensation Years 44-Life
	*	2052	2053-Life
Annual Totals		132,209.92	132,380.44

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.
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 Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

CERTIFICATE OF SERVICE

I certify that on the 2nd day of December 2010, a copy of the RESPONDENT'S PROFFER ON AWARD OF COMPENSATION was served via first-class mail, postage prepaid, upon:

Seth D. Bader
Bloomberg, Steinberg & Bader
425 Park Avenue
5th Floor
New York, NY 10022

A handwritten signature in black ink, appearing to read "S. D. Bader", is written over a horizontal line.