

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

No. 06-552V  
Filed: December 10, 2010  
Not for Publication

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AMANDA 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 DAMAGES<sup>1</sup>**

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 \$223,524.33, representing trust seed funds consisting of the present year cost of compensation for group home, room and board, and

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<sup>1</sup> 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.

supported employment expenses in Compensation Year 2025 (\$120,006.20) and life care expenses in the first year after judgment (\$103,518.13), in the form of a check payable to Regions Bank, as Trustee of the Reversionary Trust established for the benefit of Amanda Leszczynski, as set forth in Appendix A: Items of Compensation for Amanda Leszczynski.

2. A lump sum payment of \$829,293.79, representing compensation for lost future earnings (\$633,844.02) and pain and suffering (\$195,449.77), in the form of a check payable to petitioner as the court-appointed guardian(s)/conservator(s) of the estate of Amanda Leszczynski for the benefit of Amanda 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 Amanda Leszczynski's estate;
3. A lump sum payment of \$8,286.38, representing compensation for past un-reimbursable expenses, in the form of a check payable to Karolina Leszczynski, petitioner;
4. A lump sum payment of \$53,763.28, 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 \$97,580.41, 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.<sup>2</sup>

IT IS SO ORDERED.

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

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<sup>2</sup> 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.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

FILE

AMANDA LESZCZYNSKI, by her mother and  
 Natural Guardian, KAROLINA LESZCZYNSKI,  
 and KAROLINA LESZCZYNSKI, Individually  
  
 Petitioner,  
  
 v.  
  
 SECRETARY OF  
 HEALTH AND HUMAN SERVICES,  
  
 Respondent.

No. 06-552V  
Special Master Campbell-Smith

**RESPONDENT'S PROFFER ON AWARD OF COMPENSATION**

**I. Items of Compensation**

**A. Life Care Items**

The respondent engaged life care planner Suzanne Labansky, MSN, CRRN, CCM, CLCP, MSC, and petitioner engaged life care planner Roberta Hurley, BS Ed., to work together to provide an estimation of Amanda Leszczynski's future vaccine injury-related needs. All items of compensation identified in the life care plan are supported by the evidence and are illustrated by the chart entitled Appendix A: Items of Compensation for Amanda Leszczynski, attached hereto as Tab A.<sup>1</sup> Respondent proffers that Amanda Leszczynski should be awarded all items of compensation set forth in the life care plan and illustrated by the chart attached at Tab A.

Petitioner agrees.

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<sup>1</sup>The chart at Tab A illustrates the annual benefits provided by the life care plan. The annual benefit years run from the date of judgment up to the first anniversary of the date of judgment, and every year thereafter up to the anniversary of the date of judgment.

B. Lost Future Earnings

The parties agree that based upon the evidence of record, Amanda Leszczynski will never be gainfully employed. Therefore, respondent proffers that Amanda 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 Amanda Leszczynski's lost future earnings is \$633,844.02. Petitioner agrees.

C. Pain and Suffering

Respondent proffers that Amanda Leszczynski should be awarded \$195,449.77 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 Amanda Leszczynski's vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$8,286.38. Petitioner agrees.

E. New York Medicaid Lien

Respondent proffers that Amanda Leszczynski should be awarded funds to satisfy the State of New York Medicaid lien in the amount of \$53,763.28, 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 Amanda 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 Amanda Leszczynski should be awarded funds to satisfy the State of Arizona Medicaid lien in the amount of \$97,580.41, 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 Amanda 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 Amanda 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 \$223,524.33, representing trust seed funds consisting of the present year cost of compensation for group home, room and board, and supported employment expenses in Compensation Year 2025 (\$120,006.20) and life care expenses in the first year after judgment (\$103,518.13), in the form of a check payable to Regions Bank, as Trustee of the Reversionary Trust established for the benefit of Amanda Leszczynski, as set forth in Appendix A: Items of Compensation for Amanda Leszczynski.

- B. A lump sum payment of \$829,293.79, representing compensation for lost future earnings (\$633,844.02) and pain and suffering (\$195,449.77), in the form of a check payable to petitioner as the court-appointed guardian/conservator of the estate of Amanda Leszczynski for the benefit of Amanda Leszczynski. No payments shall be made until petitioner provides respondent with documentation establishing that she has been appointed as the guardian/conservator of Amanda Leszczynski's estate;
- C. A lump sum payment of \$8,286.38, representing compensation for past unreimbursable expenses, in the form of a check payable to Karolina Leszczynski, petitioner;
- D. A lump sum payment of \$53,763.28, 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

- E. A lump sum payment of \$97,580.41, 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

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 company<sup>2</sup> 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 Amanda Leszczynski, only so long as Amanda 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.

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<sup>2</sup> 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 Amanda 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 Amanda 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 Amanda Leszczynski's estate. If petitioner is not authorized by a court of competent jurisdiction to serve as guardian/conservator of the estate of Amanda 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 Amanda Leszczynski upon submission of written documentation of such appointment to the Secretary.

**III. Summary of Recommended Payments Following Judgment**

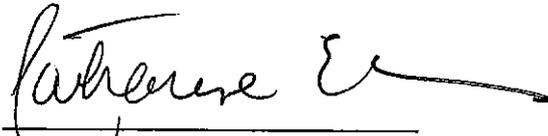
A.	Lump Sum paid to Regions Bank, as Trustee of the Grantor Reversionary Trust for the benefit of Amanda Leszczynski:	<b>\$ 223,524.33</b>
B.	Lump Sum paid to petitioner as guardian/conservator of the estate of Amanda Leszczynski, for lost future earnings and pain and suffering:	<b>\$ 829,293.79</b>
C.	Lump sum paid to petitioner:	<b>\$ 8,286.38</b>
D.	Reimbursement for State of New York Medicaid lien:	<b>\$ 53,763.28</b>
E.	Reimbursement for State of Arizona Medicaid lien:	<b>\$ 97,580.41</b>
F.	An amount sufficient to purchase the annuity contract described above in paragraph II. F.	

Respectfully submitted,

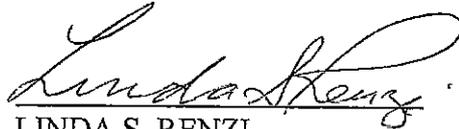
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Dated: December 2, 2010



Appendix A: Items of Compensation for Amanda Leszczynski

ITEMS OF COMPENSATION	G.R.	Lump Sum Compensation Year 1	Compensation Year 2	Compensation Year 3	Compensation Year 4	Compensation Year 5	Compensation Year 6	Compensation Year 7	Compensation Year 8
Respite	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%	69,605.50							
Trust Seed/Grp Home Rm & Bd	4%	9,453.50							
Trust Seed/Supported Employmnt	4%	40,947.20							
Day Program	4%								
Lost Future Earnings		633,844.02							
Pain and Suffering		195,449.77							
Past Unreimbursable Expenses		8,286.38							
Medicaid Lien (New York)		53,763.28							
Medicaid Lien (Arizona)		97,580.41							
Annual Totals		1,212,448.19	96,829.27	97,429.27	99,701.59	82,016.23	81,886.87	80,899.65	79,694.23

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 Amanda Leszczynski, for Trust seed funds (\$120,006.20) and Yr 1 life care expenses (\$103,518.13): \$223,524.33.  
 As soon as practicable after entry of judgment, respondent shall make the following payment to the guardian(s)/conservator(s) of the estate of Amanda Leszczynski, for lost future earnings (\$633,844.02) and pain and suffering (\$195,449.77): \$829,293.79.  
 As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner, Karolina Leszczynski, for past un-reimbursable expenses: \$8,286.38.  
 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: \$53,763.28.  
 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: \$97,580.41.  
 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 Amanda Leszczynski

ITEMS OF COMPENSATION	G.R. *	Compensation Year 9	Compensation Year 10	Compensation Year 11	Compensation Year 12	Compensation Year 13	Compensation Year 14	Compensation Year 15	Compensation Year 16
Respite	4%	13,901.76	13,901.76	13,901.76	13,901.76	13,901.76	13,901.76	13,901.76	2025
Trust Seed/ Grp Home	4%								
Trust Seed/Grp Home Rm & Bd	4%								
Trust Seed/Supported Employment	4%								
Day Program	4%								
Lost Future Earnings									
Pain and Suffering									
Past Unreimbursable Expenses									
Medicaid Lien (New York)									
Medicaid Lien (Arizona)									
Annual Totals		81,739.18	81,421.65	82,186.87	78,104.23	78,292.65	78,899.18	79,409.23	7,236.80

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 Amanda Leszczynski, for Trust seed funds (\$120,006.20) and Yr 1 life care expenses (\$103,518.13): \$223,524.33.

As soon as practicable after entry of judgment, respondent shall make the following payment to the guardian(s)/conservator(s) of the estate of Amanda Leszczynski, for lost future earnings (\$633,844.02) and pain and suffering (\$195,449.77): \$829,293.79.

As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner, Karolina Leszczynski, for past un-reimbursable expenses: \$8,286.38.

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: \$53,763.28.

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: \$97,580.41.

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 Amanda Leszczynski

ITEMS OF COMPENSATION	G.R. *	Compensation Year 17 2026	Compensation Year 18 2027	Compensation Year 19 2028	Compensation Year 20 2029	Compensation Year 21 2030	Compensation Year 22 2031	Compensation Year 23 2032	Compensation Year 24 2033
Respite	4%								
Trust Seed/ Grp Home	4%	69,605.50	69,605.50	69,605.50	69,605.50	69,605.50	69,605.50	69,605.50	69,605.50
Trust Seed/Grp Home Rm & Bd	4%	9,453.50	9,453.50	9,453.50	9,453.50	9,453.50	9,453.50	9,453.50	9,453.50
Trust Seed/Supported Employment	4%	40,947.20	40,947.20	40,947.20	40,947.20	40,947.20	40,947.20	40,947.20	40,947.20
Day Program	4%								
Lost Future Earnings									
Pain and Suffering									
Past Unreimbursable Expenses									
Medicaid Lien (New York)									
Medicaid Lien (Arizona)									
Annual Totals		127,520.58	126,937.58	127,176.01	126,937.58	126,870.58	127,893.00	126,870.58	126,937.58

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 Amanda Leszczynski, for Trust seed funds (\$120,006.20) and Yr 1 life care expenses (\$103,518.13): \$223,524.33.

As soon as practicable after entry of judgment, respondent shall make the following payment to the guardian(s)/conservator(s) of the estate of Amanda Leszczynski, for lost future earnings (\$633,844.02) and pain and suffering (\$195,449.77): \$829,293.79.

As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner, Karolina Leszczynski, for past un-reimbursable expenses: \$8,286.38.

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: \$53,763.28.

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: \$97,580.41.

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 Amanda Leszczynski

ITEMS OF COMPENSATION	G.R. *	Compensation Year 25	Compensation Year 26	Compensation Year 27	Compensation Year 28	Compensation Year 29	Compensation Year 30	Compensation Year 31	Compensation Year 32
		2034	2035	2036	2037	2038	2039	2040	2041
Respite	4%								
Trust Seed/ Grp Home	4%	69,605.50	69,605.50	69,605.50	69,605.50	69,605.50	69,605.50	69,605.50	69,605.50
Trust Seed/Grp Home Rm & Bd	4%	9,453.50	9,453.50	9,453.50	9,453.50	9,453.50	9,453.50	9,453.50	9,453.50
Trust Seed/Supprted Emplymnt	4%	40,947.20	40,947.20	40,947.20	40,947.20	40,947.20	40,947.20	40,947.20	40,947.20
Day Program	4%								
Lost Future Earnings									
Pain and Suffering									
Past Unreimbursable Expenses									
Medicaid Lien (New York)									
Medicaid Lien (Arizona)									
Annual Totals		127,176.00	126,937.58	127,520.58	127,243.00	126,870.58	126,937.58	127,176.01	127,587.58

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 Amanda Leszczynski, for Trust seed funds (\$120,006.20) and Yr 1 life care expenses (\$103,518.13): \$223,524.33.  
 As soon as practicable after entry of judgment, respondent shall make the following payment to the guardian(s)/conservator(s) of the estate of Amanda Leszczynski, for lost future earnings (\$633,844.02) and pain and suffering (\$195,449.77): \$829,293.79.  
 As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner, Karolina Leszczynski, for past un-reimbursable expenses: \$8,286.38.  
 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: \$53,763.28.  
 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: \$97,580.41.  
 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 Amanda Leszczynski

ITEMS OF COMPENSATION	G.R. *	Compensation Year 33 2042	Compensation Year 34 2043	Compensation Year 35 2044	Compensation Year 36 2045	Compensation Year 37 2046	Compensation Years 38-39 2047-2048	Compensation Year 40 2049	Compensation Year 41 2050
Respite	4%								
Trust Seed/ Grp Home	4%	69,605.50	69,605.50	69,605.50	69,605.50	69,605.50	69,605.50	69,605.50	69,605.50
Trust Seed/Grp Home Rm & Bd	4%	9,453.50	9,453.50	9,453.50	9,453.50	9,453.50	9,453.50	9,453.50	9,453.50
Trust Seed/Supported Employment	4%	40,947.20	40,947.20	40,947.20	40,947.20	40,947.20	40,947.20	40,947.20	40,947.20
Day Program	4%								
Lost Future Earnings									
Pain and Suffering									
Past Unreimbursable Expenses									
Medicaid Lien (New York)									
Medicaid Lien (Arizona)									
Annual Totals		126,870.58	127,243.01	126,870.58	125,559.16	125,750.24	125,559.16	125,620.24	125,559.16

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 Amanda Leszczynski, for Trust seed funds (\$120,006.20) and Yr 1 life care expenses (\$103,518.13): \$223,524.33.  
 As soon as practicable after entry of judgment, respondent shall make the following payment to the guardian(s)/conservator(s) of the estate of Amanda Leszczynski, for lost future earnings (\$633,844.02) and pain and suffering (\$195,449.77): \$829,293.79.  
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 Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.  
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 Items denoted with an asterisk (\*) covered by health insurance and/or Medicare.

ITEMS OF COMPENSATION	G.R.	*	Compensation Year 42	Compensation Year 43	Compensation Years 44-59	Compensation Years 60-Life
			2051	2052	2053-2068	2069-Life
Medicare Part B Prem. & Ded.	5%	*	1,481.00	1,481.00	1,326.00	1,326.00
Medicare Part A	5%	*	1,100.00	1,100.00		
Medigap Plan C	5%				2,244.00	2,244.00
Medicare Part D	5%		2,321.76	2,321.76	2,321.76	2,321.76
Keppra	5%	*				
Zonegran	5%	*				
Clonazepam	5%	*				
Multivitamin	4%		44.00	44.00	44.00	44.00
Neurologist	5%	*	151.20	151.20		
Clinical Dietician	4%					
MRI	5%	*	130.00			
Lab Work - CBC	5%	*				
ER	5%	*	245.00	245.00		
Chest X-ray	5%	*		61.08		
Dentist w/ Anesthesia	5%	*	210.00	210.00		
PT	4%					
OT	4%					
ST	4%					
Aqua Therapy	4%					
Therapeutic Riding	4%					
Camp Includes Appl. Fee Yr 1	4%					
Adaptive Bicycle	4%					
Stroller	4%					
Bath Seat	4%					
Adaptive Seating	4%					
Adaptive Dishes	4%					
Tumble Forms Ball 11"	4%					
Tumble Forms Ball 16"	4%					
Computer	4%					
Touch Screen	4%					
Educational Equip & Software	4%					
DDS Case Mngt	4%					
Home Health Aide	4%					

Appendix A: Items of Compensation for Amanda Leszczynski

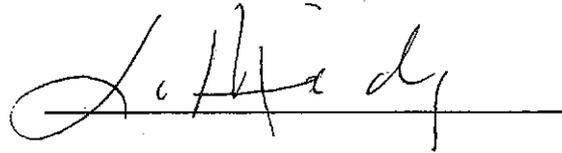
ITEMS OF COMPENSATION	G.R. *	Compensation Year 42	Compensation Year 43	Compensation Years 44-59	Compensation Years 60-Life
Respite	4%	2051	2052	2053-2068	2069-Life
Trust Seed/ Grp Home	4%	69,605.50	69,605.50	69,605.50	69,605.50
Trust Seed/Grp Home Rm & Bd	4%	9,453.50	9,453.50	9,453.50	9,453.50
Trust Seed/Supported Employmnt	4%	40,947.20	40,947.20	40,947.20	
Day Program	4%				
Lost Future Earnings					25,977.60
Pain and Suffering					
Past Unreimbursable Expenses					
Medicaid Lien (New York)					
Medicaid Lien (Arizona)					
Annual Totals		125,689.16	125,620.24	125,941.96	110,972.36

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 Amanda Leszczynski, for Trust seed funds (\$120,006.20) and Yr 1 life care expenses (\$103,518.13): \$223,524.33.  
 As soon as practicable after entry of judgment, respondent shall make the following payment to the guardian(s)/conservator(s) of the estate of Amanda Leszczynski, for lost future earnings (\$633,844.02) and pain and suffering (\$195,449.77): \$829,293.79.  
 As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner, Karolina Leszczynski, for past un-reimbursable expenses: \$8,286.38.  
 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: \$53,763.28.  
 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: \$97,580.41.  
 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.

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 cursive script, appearing to read "S. Bader", is written over a horizontal line.