

TST/KAB (99-0020)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

JAN 09 2003

PEGGY GRUCA, formerly known as)
PEGGY POOLE, Individually and as)
Administrator of the Estate of STEPHEN)
POOLE, Deceased,)
)
Plaintiff,)
)
vs.)
)
ALPHA THERAPEUTIC CORPORATION,)
a foreign corporation,)
)
Defendant.)

No.: ⁸⁹89-C 7623

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

Honorable Judge Joan Gottschall

DOCKETED

JAN 10 2003

PLAINTIFFS' MOTION TO APPROVE SETTLEMENT OF WRONGFUL DEATH CAUSE OF ACTION AND TO APPROVE DISTRIBUTION OF FUNDS

Plaintiff, PEGGY GRUCA, formerly known as PEGGY POOLE, Independent Administrator of the Estate of STEPHEN POOLE, Deceased, by and through his attorneys, CLIFFORD LAW OFFICES, P.C., moves this Court for leave to accept and distribute \$305,004.72 in complete settlement of this cause of action by the Defendants, ALPHA THERAPEUTIC CORPORATION, a foreign corporation, as full settlement of all matters and controversy in this cause and deposes and states:

1. Factor 8 and Factor 9 concentrates are blood products given intravenously to hemophiliacs to promote clotting. Factor concentrate is made from plasma collected from thousands of people. Plaintiff has alleged that STEPHEN POOLE developed HIV and AIDS from factor concentrate manufactured by Defendant that contained these viruses. Plaintiff has further alleged that Defendant collected from high risk donors and failed to implement

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technology that was available to deactivate these viruses. As a result of contracting HIV and AIDS, Plaintiff's Decedent, STEPHEN POOLE, died on July 10, 1987. Defendant has offered \$300,000.00 to settle this case. While awaiting the settlement of this matter, interest was collected in the amount of \$5,004.72, wherefore the total amount for distribution is \$305,004.72.

2. Based upon the facts and circumstances of this case, Plaintiff and her attorneys have agreed that the settlement offer of \$305,004.72 offered by the Defendant, ALPHA THERAPEUTIC CORPORATION, a foreign corporation, is reasonable and recommend it to the Court. Plaintiff states that the proposed settlement has been fully explained to PEGGY GRUCA, f/k/a PEGGY POOLE, by her attorneys and that she understands its terms. (See Exhibit A, affidavit of PEGGY GRUCA, f/k/a PEGGY POOLE).

3. Plaintiff entered into a contingency fee agreement with their attorneys, wherein Plaintiff requests attorney's fees in the amount of One Hundred One Thousand Four Hundred Twenty Seven Dollars and Eighty Six Cents (\$101,427.86). The Estate of LEONARD RING, Deceased, holds an Attorney's Lien in the amount of \$40,000.00, which Plaintiff requests is reimbursed out of the \$101,427.86.

4. Plaintiffs have incurred reasonable and necessary expenses in the amount of \$4,978.55, (\$1,860.79 incurred by Debra Thomas, (attached as Exhibit B); \$3,117.76 incurred by Clifford Law Offices, P.C., (attached Exhibit C). Plaintiff requests reimbursement of these expenses. Plaintiffs submits Exhibits B and C to the Court as confidential work product.

5. At the time of his death, STEPHEN POOLE left surviving him:

Peggy Gruca, f/k/a Peggy Poole	Wife	
Heather Renae Poole	Daughter	(DOB: 2/18/81)

Kelly Jean Poole Minor Daughter (DOB: 6/25/85)

6. Plaintiff requests that dependency be found in the following percentages for the Estate of STEPHEN POOLE, Deceased, as per the aforesaid and attached affidavit of Peggy Gruca, f/k/a Peggy Poole:

Peggy Gruca f/k/a Peggy Poole	50%
Heather Renae Poole	25%
Kelly Jean Poole	25%

7. Plaintiff requests that the net settlement proceeds be allocated to the wrongful death claim of \$158,598.31 be distributed as follows per the aforesaid and attached affidavits:

Peggy Gruca f/k/a Peggy Poole	\$79,299.15
Heather Renae Poole	\$39,649.58
Kelly Jean Poole	\$39,649.58

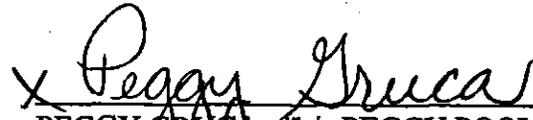
8. Plaintiff requests that this case be dismissed with prejudice against all Defendant, ALPHA THERAPEUTIC CORPORATION, a foreign corporation, with parties to bear their own costs.

9. Kelly Jean Poole is currently seventeen (17) years old and the aforesaid distribution of her settlement proceeds will be subject to approval of, and in accord with, an Order entered by the Probate Division of the Circuit Court of Grundy County, where she resides.

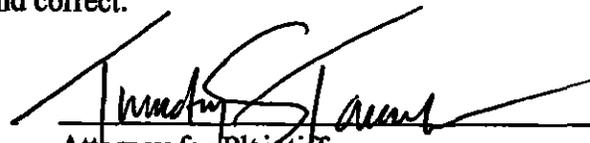
11. Attached is the affidavit of Timothy S. Tomasik.

WHEREFORE, Plaintiff, PEGGY GRUCA, f/k/a PEGGY POOLE, prays for entry of an Order approving the settlement of this cause, approving attorney's fees and litigation expenses incurred and making findings of dependency, approving the distribution of the settlement

proceeds in this cause and dismissing this case against all defendants with prejudice, with parties to bear their own costs and transferring this matter to the Probate Division of the Circuit Court of Grundy County for further proceedings.


PEGGY GRUCA, f/k/a PEGGY POOLE

[X] Under penalties as provided by law pursuant to 735 ILCS 5/1-109 (1993), I certify that the statements set forth herein are true and correct.


Attorney for Plaintiff

Timothy S. Tomasik
CLIFFORD LAW OFFICES, P.C.
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ARDC No.: 6203941

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NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PEGGY GRUCA, formerly known as
PEGGY POOLE, Individually and as
Administrator of the Estate of STEPHEN
POOLE, Deceased,

Plaintiff,

vs.

ALPHA THERAPEUTIC CORPORATION,
a foreign corporation,

Defendant.

No.: 89 C 7623

Honorable Judge Joan Gottschall

AFFIDAVIT OF TIMOTHY S. TOMASIK

I, TIMOTHY S. TOMASIK, being first duly sworn, depose and state as follows:

1. I am the attorney for the Independent Administrator of the Estate of STEPHEN POOLE, Deceased.

2. Based upon the facts and circumstances of this case, I believe the settlement is fair and reasonable and should be approved for the sum indicated. I have discussed this with the Plaintiff, PEGGY GRUCA, f/k/a PEGGY POOLE, who agree with this.

Further affiant sayeth not.


TIMOTHY S. TOMASIK

[X] Under penalties as provided by law pursuant to 735 ILCS 5/1-109, we certify that the statements set forth herein are true and correct.

CLIFFORD LAW OFFICES, P.C.
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**SEE CASE
FILE FOR
EXHIBITS**