

2015 JUL 16 PM 3:04

ORIGINAL

IN THE COURT OF CLAIMS OF OHIO

LUEDELLA DICKENS, Admr., etc., :
 :
 Plaintiff, :
 : Case No. 2013-00204
 v. :
 : Judge Dale A. Crawford
 THE OHIO STATE UNIVERSITY :
 MEDICAL CENTER, :
 :
 Defendant.

SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

1. This agreement is made between Luedella Dickens as Administrator of the Estate of Ella Frances Whitehead, hereinafter the Plaintiff, and The Ohio State University Medical Center, hereinafter the Defendant (all of whom are designated herein as the "parties").
2. The Plaintiff has asserted claims against the Defendant in an action now pending in the Court of Claims, entitled *Luedella Dickens, Administrator v. The Ohio State University Medical Center*, and identified as Ohio Court of Claims Case No. 2013-00204.
3. This agreement and release is made as a compromise between the parties for the complete and final settlement of the incidents, claims and/or causes of action that were or could have been alleged in Court of Claims Case No. 2013-00204.
4. It is understood by the parties that the facts upon which this agreement and release is made may hereafter prove to be other than or different from the facts now known by either of them or believed by either of them to be true. Each of the parties expressly accepts and assumes the risk of the facts proving to be so different, and each of the parties agrees that all the terms of this agreement and release shall be in all respects effective and not subject to termination or rescission by reason of any such difference in facts.
5. The parties agree that the terms of this agreement and release bind the parties and their assigns and successors in interest.

6. The Plaintiff understands that this settlement and release is a compromise of disputed claims and payment thereof is not to be construed as an admission of liability on the part of the Defendant.
7. This agreement and release contains the entire agreement between the parties with regard to the matters set forth herein. There are no other understandings or agreements between the parties except as set forth herein.
8. In consideration of the mutual covenants set forth herein, the parties agree as follows:
 - A. The Defendant agrees to pay the Plaintiff, the sum of Two Hundred Seventy Five Thousand and No/100 Dollars (\$275,000.00), pursuant to Ohio Revised Code Section 2743.19. No interest on this amount shall be paid. No representation is made by the Defendant as to the tax consequences of payment of the amount specified in this paragraph.
 - B. Consistent with R.C. Section 2743.02(D), no portion of the settlement amount represents reimbursement for medical bills that were paid, or payable by, any private insurers.
9. The Plaintiff agrees that all claims, demands, rights, causes of action, costs, loss of services, expenses, and any and all other damages on account of, or in any way arising out of the actions or inactions of the Defendant, its officers, employees, servants, or agents, during or arising out of the incident described in the Complaint in Court of Claims Case No. 2013-00204 be released, settled, satisfied, discharged and compensated.
10. All sums set forth herein constitute damages on account of personal physical injuries or physical sickness, within the meaning of Section 104(a)(2) of the Internal Revenue Code of 1986, as amended.
11. In the event of a claim, action or other proceeding is brought against the Defendant as a result of, arising out of, or with reference to the incident described in the Complaint filed in Ohio Court of Claims Case No. 2013-00204, including, but not limited to, any subrogation claim or any claim, action or other proceeding for contribution, damages, indemnity or reparation in whole or in part, the Plaintiff will indemnify the Defendant and hold the Defendant harmless from any and all claims, liability, judgments,

damages, losses, costs and expenses of any nature whatsoever (including attorney fees and court costs) arising out of or relating to such claim, action or other proceeding brought against the Defendant. Plaintiff's obligations to indemnify and hold harmless the Defendant extend to, but are not limited to, any obligation arising out of any subrogation liens, government reimbursement rights or any claims made by an insurance carrier, state or federal government agency, health care provider, or attorney(s) pursuant to alleged common law, contractual or statutory subrogation rights. Other than the payment set forth above, it is the express intent of the parties that Defendant shall be relieved from any and all obligations whatsoever to pay any amount to any person or any entity in connection with, arising out of or relating in any matter whatsoever to the incident described in the Complaint filed in Ohio Court of Claims Case No. 2013-00204.

12. Ella Frances Whitehead was a Medicare beneficiary and accordingly, Plaintiff agrees with Defendant that Medicare should be reimbursed for the Medicare conditional payments made relative to her claim. Therefore, Plaintiff expressly agrees to reimburse Medicare for all past and present conditional payments made relative to her claims described herein and, in addition, she expressly agrees to be responsible for all future Medicare covered expenses.
13. Defendant has, or will, report this agreement and release to the Centers for Medicare and Medicaid Services ("CMS") pursuant to the Medicare, Medicaid, and SCHIP Extension Act (MMSEA) as well as notify CMS of the settlement pursuant to 42 CFR Section 411.25.
14. The Plaintiff agrees to be bound by a journal entry dismissing with prejudice the above-described claim known as Ohio Court of Claims Case No. 2013-00204.
15. The parties acknowledge and agree that this agreement and release shall not be binding on any of the parties until it has been duly presented to the Ohio Attorney General, as required by Section 2743.15(A), Ohio Revised Code, and Rule 7(A) of the Rules of the Court of Claims, for the Attorney General's approval, and the Ohio Attorney General has approved the agreement and release. The parties further acknowledge that the signature of the Assistant Attorney General on this agreement and release is on behalf of the Defendant and is not to be construed as the approval of the Attorney General. If the Attorney General should fail or refuse to approve the agreement and release, it shall be null and void and without any force or effect, and none of the parties shall be bound by it.

16. The parties acknowledge and agree that this agreement and release shall not be binding on any of the parties until it has been duly presented to the Ohio Court of Claims as required by Ohio Revised Code Section 2743.15(A), and Rules 7(A) and (B) of the Rules of the Court of Claims, for the Court's approval, and the Court has approved the agreement and release. If the Court should fail or refuse to approve the agreement and release, it shall be null and void and without any force or effect, and none of the parties shall be bound thereby.
17. The undersigned have read this agreement and release, understand all its terms, if signing on behalf of a principal, have authority to sign settlement documents on its behalf, and have executed this agreement and release voluntarily.

6/15/2015
DATE

Luedella Dickens
Luedella Dickens, Administrator of the
Estate of Ella Frances Whitehead
Plaintiff
S.S. No. _____

6/18/15
DATE

Mark E. Defossez
Mark E. Defossez
Co-counsel for Plaintiff

FILED
COURT OF CLAIMS
OF OHIO
2015 JUL 16 PM 3:04

6/18/15
DATE

Andrew W. Cecil
Andrew W. Cecil
Co-counsel for Plaintiff

6.26.15
DATE

Christopher M. Culley
Christopher M. Culley
Senior Vice President and General Counsel
The Ohio State University

7.9.15

DATE



Jeffrey L. Maloon
Assistant Attorney General
Co-counsel for Defendant

FILED CLAIMS
COURT OF OHIO
2015 JUL 16 PM 3:04

[PAGE FIVE OF FIVE: SETTLEMENT AGREEMENT]



PB15060100141

554055

14.2 Pages: 0003

PC-E-14.2 (Rev. 9-2011)

PROBATE COURT OF FRANKLIN COUNTY, OHIO

ROBERT G. MONTGOMERY, JUDGE

ESTATE OF ELLA FRANCES WHITEHEAD

CASE NO. 554055

FILED #29
JUN 01 2015, DECEASED
 Robert G. Montgomery, Judge
 Franklin County Probate Court

ENTRY APPROVING SETTLEMENT AND DISTRIBUTION OF WRONGFUL DEATH AND SURVIVAL CLAIMS

Upon hearing the application to approve settlement and distribution of the wrongful death and survival claims, the Court:

- Approves the proffered settlement of \$ 275,000.00
- Orders payment of \$ _____ to be applied to decedent's funeral and burial expenses.
- Orders payment of \$ _____ to the fiduciary for services rendered with respect to the wrongful death and survival claims.
- Orders payment of \$ 4,092.55 to the attorney for reimbursement of case expenses and \$ 112,000.00 for attorney fees for services rendered with respect to the wrongful death and survival claims.
- Orders that the net proceeds of \$ 158,907.45 be allocated \$ 158,907.45 to the wrongful death claim and \$ 0.00 to the survival claim. The amount allocated to the survival claim shall be considered an asset of the estate and shall be reflected in the fiduciary's account of the administration of the estate.
- Finds all of the beneficiaries of the wrongful death claim are on an equal degree of consanguinity, are adults, and have agreed how the net proceeds allocated to the wrongful death claim are to be distributed.
- Orders distribution of the net proceeds allocated to the wrongful death claim to the surviving spouse, children, parents and other next of kin, in the equitable shares shown below, fixed by the Court having due regard for the injury and loss to each beneficiary resulting from the death and for the age and condition of the beneficiaries.

Name	Residence Address	Relationship to Decedent	Birthdate of Minor	Amount
SEE ATTACHED				

Estate of Ella Frances Whitehead
Case No. 554055

Shawn Whitehead \$79,658.28
22131 Lake Jordan Dr.
Petersburg, VA 23803

Javon Whitehead \$31,836.04
22131 Lake Jordan Dr.
Petersburg, VA 23803

Luedella Dickens \$31,836.04
2605 Lime Street
Temple Hill, MD 20748

Ann Hawkins \$1,947.14
871 Ann Street
Columbus, OH 43206

Andrance James \$1,947.14
4626 Hertiage Manor
Crestwood, KY 40014

Alice Lewis \$1,947.14
PO Box 86
Battleboro, NC 27809

Mattie Thorne \$1,947.14
917 Greenwhich St
Raleigh, NC 27610

Charles Whitehead, Jr. \$1,947.14
317 Myrtle Ave.
Irvington, NJ 07111

Alexander Whitehead \$1,947.14
PO Box 171
Battleboro, NC 27809

James Whitehead \$1,947.14
PO Box 342
Battleboro, NC 27809

Johnny Whitehead \$1,947.14
PO Box 86
Battleboro, NC 27809

FILED #29
JUN 01 2015
Robert G. Montgomery, Judge
Franklin County Probate Court

Orders that the share of:

_____ a minor(s) be deposited pursuant to R.C. 2111.05.

_____ a minor(s) be paid to the guardian of the estate of such minor.

_____ a child(ren) be deposited in a trust for the benefit of the child(ren) until twenty-five years of age.

Authorizes the fiduciary to execute a release which, upon payment, shall be a discharge of the claim.

Orders the fiduciary and the attorney to report the distribution of the proceeds within 30 days of the date of this Entry.

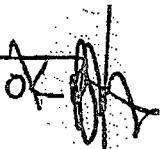
Further orders _____

Approved:



Attorney for Fiduciary



Robert G. Montgomery
Probate Judge 

Adam R. Rinehart 0041572

Attorney Registration No.

June 1, 2015

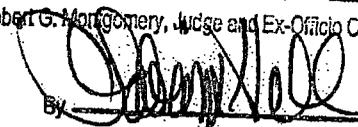
Date

THE STATE OF OHIO }
Franklin County, ss } I, Robert G. Montgomery, Judge and
Ex-Officio Clerk of the Probate Court of
Franklin County, Ohio, hereby CERTIFY
that the above and foregoing is

truly taken and copied from the original entry

filed JUN 01 2015 as the same appears of record
and on file in said Court except Social Security numbers, if any, have
been redacted.

WITNESS MY HAND and the Seal of said Court, this JUN 01 2015

Robert G. Montgomery, Judge and Ex-Officio Clerk
By  Deputy Clerk

FILED #29
JUN 01 2015
Robert G. Montgomery, Judge
Franklin County Probate Court

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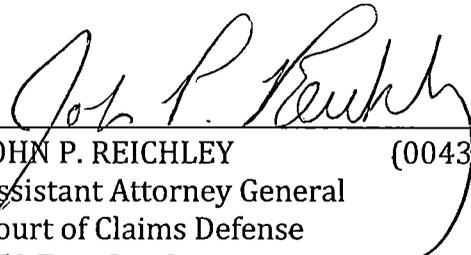
:

Defendant.

ATTORNEY GENERAL'S APPROVAL OF SETTLEMENT

The Attorney General of Ohio, pursuant to Sections 2743.15(A) and 109.04 of the Ohio Revised Code, has reviewed the Settlement Agreement in the above-captioned action and hereby approves it this 9th day of July, 2015.

MICHAEL DeWINE
Ohio Attorney General



JOHN P. REICHLEY (0043944)
Assistant Attorney General
Court of Claims Defense
150 East Gay Street
18th Floor
Columbus, Ohio 43215-4220
Telephone: (614) 466-7447
john.reichley@ohioattorneygeneral.gov

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LUEDELLA DICKENS, Admr., etc.,	:	
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v.	:	Case No. 2013-00204
THE OHIO STATE UNIVERSITY	:	Judge Dale A. Crawford
MEDICAL CENTER,	:	
Defendant.	:	

JOURNAL ENTRY APPROVING SETTLEMENT

The Court, being fully advised as to the premises, approves and confirms the settlement agreement heretofore entered into by and between the parties hereto and orders the case be dismissed with prejudice to all parties, all court costs to be paid by the Defendant. No interest shall be paid on the amount of the settlement.

It is further ordered that the settlement warrant of Two Hundred Seventy Five Thousand and No/100 Dollars (\$275,000.00) shall be drawn on the account of The Ohio State University Medical Center made payable to Luedella Dickens, Administrator and her attorneys, The Donahey Law Firm, and sent to the Plaintiff c/o Mark E. Defossez, The Donahey Law Firm, 495 South High Street, Suite 300, Columbus, Ohio 43215.

DATE: _____

JUDGE, COURT OF CLAIMS OF OHIO

Entry cc:

Mark E. Defossez, Esquire
The Donahey Law Firm
495 South High Street
Suite 300
Columbus, Ohio 43215

and

Andrew W. Cecil, Esquire
Cecil & Geiser, LLP
495 South High Street
Suite 400
Columbus, Ohio 43215
Counsel for Plaintiff

Jeffrey L. Maloon
Assistant Attorney General
Court of Claims Defense Section
150 East Gay Street
18th Floor
Columbus, Ohio 43215-4220
Co-counsel for Defendant