

ORIGINAL

FILED
COURT OF CLAIMS
OF OHIO
2015 JUL 29 PM 3:21

THE COURT OF CLAIMS OF OHIO

TINA CARROLL,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No. 2014-00722
	:	
THE UNIVERSITY OF TOLEDO MEDICAL	:	Judge Dale A. Crawford
CENTER,	:	
	:	
Defendant.	:	

SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

1. This agreement is made between TINA CARROLL, hereinafter the Plaintiff, and THE UNIVERSITY OF TOLEDO, hereinafter the Defendant (the "parties").
2. The Plaintiff has asserted a claim against the Defendant in an action now pending in the Court of Claims, entitled *Tina Carroll v. The University of Toledo Medical Center* and identified as Ohio Court of Claims Case No. 2014-00722.
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. 2014-00722.
4. It is understood by the parties that the facts upon which this agreement and release is made may 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 agree 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 agreement 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, UNIVERSITY OF TOLEDO agrees to pay the Plaintiff, TINA CARROLL, the sum of TWO HUNDRED FIFTY THOUSAND NINE HUNDRED EIGHTY SIX and 03/100 Dollars (\$250,986.03), pursuant to Ohio Revised Code Chapter 2743. 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. The Plaintiff, TINA CARROLL, does hereby release, hold harmless from any liability, and forever discharge the State of Ohio and The University of Toledo, their agents, servants, employees and officers, personally and in any other capacity, from any and all claims, actions, causes of action, demands, costs, loss of services, expenses, and any and all other damages which the undersigned ever had, now has, or may have, or claim to have, against the State of Ohio or The University of Toledo, or their agents, servants, employees or officers, on account of or in any way arising out of the incidents, claims, and/or causes of action that were or could have been alleged in Court of Claims Case No. 2014-00722.
 - C. The Defendant, UNIVERSITY OF TOLEDO, does hereby release, hold harmless from any liability, and forever discharge the Plaintiff, TINA CARROLL, from any all claims, actions, causes of action, demands, costs, expenses, claims for reimbursement or recoupment that it ever had, now has, or may have, against Plaintiff for medical services provided to Plaintiff between March 25, 2013 and November 9, 2014 that arose out of the incidents, claims, and/or causes of action that were or could have been alleged in Court of Claims Case No. 2014-00722.
9. Payment of Medicare conditional payments:
 - A. Plaintiff understands that the Medicare Secondary Payer Act (42 U.S.C. §1395y(b))("Act") applies to any personal injury settlement involving a Medicare beneficiary and requires that Medicare be reimbursed for any of its conditional payments made on behalf of the Medicare beneficiary.
 - B. As part of the Act, Plaintiff has an obligation to verify his or her status as a Medicare beneficiary and resolve conditional payments made on his or her behalf by Medicare, if any.

- C. Plaintiff and her counsel agree that counsel will (1) hold an amount sufficient to reimburse Medicare, if necessary, for conditional payments made by Medicare on Plaintiff's behalf from the settlement proceeds in a client trust account or similar account; (2) provide Defendant with a copy of the final demand letter, waiver letter or no-conditional payment letter issued by Medicare or CMS; and (3) provide Defendant with proof of full payment of the final demand or other evidence that Plaintiff has in fact satisfied all Medicare claims or liens in full prior to distributing the remaining funds in the trust account to the Plaintiff.
10. CMS Reporting: Further, Plaintiff understands and acknowledges that Defendant has or will report this settlement as per the Act and all applicable reporting guidelines provided by the Centers for Medicare and Medicaid Services (CMS).
 11. Indemnification: As part of this settlement, and in addition to the other releases and indemnification clauses set forth in this Settlement Agreement and Release of All Claims, Plaintiff agrees to indemnify, defend, and hold Defendant harmless against and from any cause of action brought by any federal or state department, agency, contractor or other entity including, but not limited to, any subrogation claim or any action to recover or recoup Medicare or Medicaid benefits or loss of Medicare or Medicaid benefits. Plaintiff further shall be responsible for and hold Defendant harmless from any claim, past, present or future, for conditional payments made by Medicare or Medicaid with regard to or on behalf of Plaintiff.
 12. Waiver of Private Cause of Action: In consideration of the payments set forth in the Settlement Agreement, Plaintiff waives his/her 42 USC 1395y(b)(3)(A) causes of action, and releases and forever discharges Defendant and Defendant's insurer from any obligations for any claim, known or unknown, arising out of the failure of Defendant to provide for a primary payment or appropriate reimbursement pursuant to 42 U.S.C. 1395y(b)(3)(A).
 13. Consideration and Protection of Medicare's Interests: In reaching this Settlement Agreement, the Plaintiff and the Defendant have paid considerable attention to Plaintiff's entitlement to Medicare or Medicaid benefits under 42 USC 1395y, as well as Social Security disability benefits pursuant to 42 USC 423, as well as the entitlement of CMS to subrogation and intervention pursuant to 42 USC 1395y(b)(2) to recover any overpayment by Medicare. It is not the purpose of this settlement agreement to shift to Medicare or Medicaid the responsibility for payment of medical expenses for the treatment of injury related conditions. Instead, this Settlement Agreement is intended to provide Plaintiff a lump sum which will foreclose Defendant's responsibility for future payments of all medical expenses related to the injury set forth in the complaint. In that regard, Plaintiff expressly states and represents that, based on current medical recommendations, no further medical therapy for his condition is contemplated at this time.

14. Acknowledgement of controlling law regarding Medicare/Medicaid: Plaintiff acknowledges that any decision regarding entitlement to Social Security, Medicare, or Medicaid benefits, including the amount and duration of payments and offset reimbursement for prior payments, is determined by federal law and regulations. As such, the United States Government is not bound by any of the terms of this Settlement Agreement.
15. Acknowledgement of possible effect on future benefits: Plaintiff understands that the receipt of these settlement funds may affect Plaintiff's rights to other governmental benefits, insurance benefits, disability benefits, or pension benefits. Despite this possibility, Plaintiff desires to enter into this Settlement Agreement to settle her injury claim as set forth in the complaint.
16. 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. 2014-00722.
17. 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 Ohio Revised Code §2743.15(A) 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 Defendant and is not to be construed as the approval of the Attorney General. If the Attorney General shall 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.
18. 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 §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 shall 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.
19. 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.

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7-2-2015
DATE

Tina Carroll
TINA CARROLL
S.S. No

Sworn to and subscribed in my presence by TINA CARROLL this 2 day of July 2015

J.R. Kuhl
JOHN R. KUHL, Attorney at Law
Notary Public - State of Ohio
My Commission has no expiration date
Section 147.03 O.R.C.

NOTARY PUBLIC

7/2/15
DATE

Robert W. Bryce
ROBERT W. BRYCE
Counsel for Plaintiff

7/2/15
DATE

J.R. Kuhl
JOHN R. KUHL
Counsel for Plaintiff

THE UNIVERSITY OF TOLEDO

July 22, 2015
DATE

Christopher Cooper
CHRISTOPHER COOPER, M.D.
Senior Vice President for Clinical Affairs &
Dean, College of Medicine & Life Sciences

7/28/15
DATE

John P. Reukley
for ANNE BERRY STRAIT
Assistant Attorney General
Counsel for Defendant

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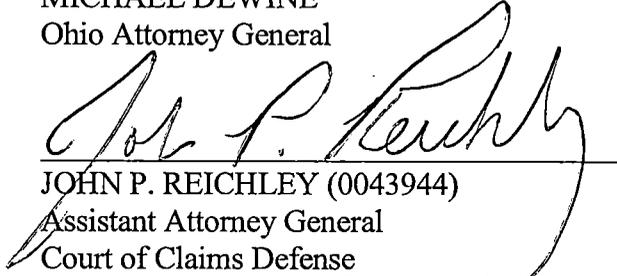
Case No. 2014-00722

Judge Dale A. Crawford

ATTORNEY GENERAL'S APPROVAL
OF SETTLEMENT AGREEMENT AND RELEASE

Pursuant to Ohio Revised Code §2743.15(A), the undersigned designee of the Ohio Attorney General has reviewed the Settlement Agreement and Release in the above-captioned action and hereby approves it this 28th day of July, 2015.

MICHAEL DEWINE
Ohio Attorney General


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Case No. -2- Journal Entry

Entry cc:

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