

ORIGINAL

FILED
COURT OF CLAIMS
OF OHIO

2016 APR 14 PM 2:07

IN THE COURT OF CLAIMS OF OHIO

DARLENE LANE FERRARO)	
)	
Plaintiff)	CASE NO. 2011-10371
)	
v.)	JUDGE PATRICK M. McGRATH
)	
THE OHIO STATE UNIVERSITY MEDICAL CENTER)	<u>MOTION TO ENFORCE SETTLEMENT</u>
)	
Defendant)	

Now comes the Plaintiff by and through her counsel of record and moves this Honorable Court for an Order enforcing the settlement that was previously reached by the parties on Friday, November 20, 2015, three days prior to the scheduled trial on damages. Since that time, Plaintiff filed an Application for Approval of Settlement with the Cuyahoga County Probate Court. The Probate Court issued an order on March 2, 2016 approving the settlement. A copy of this Order was forwarded to Assistant Attorney General Chris Conomy on March 8, 2016. Since that time, Plaintiff's counsel has sent several e-mails to the Attorney General's office in an effort to have an appropriate settlement entry filed with the Court and the settlement proceeds paid. Copies of e-mails exchanged by counsel are attached hereto as Exhibits A, B, C, D and E. In addition, the Ohio Supreme Court has held that a defendant who has failed to pay a settlement that has not been reduced to a judgment should owe interest from the date of settlement. *Hartman v. Duffy*, 95 Ohio St. 3d 456 (2002).

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BASHEIN & BASHEIN
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In light of the delay in the payment of the settlement proceeds, Plaintiff also moves this Honorable Court for an Order requiring the Defendant to pay statutory interest from the date of probate approval. Regardless of the interest accruing, the Defendant should take measures to issue a check in the settlement amount pursuant to the agreement of the parties and the approval of the Cuyahoga County Probate Court.

Respectfully submitted,



W. Craig Bashein (0034591)
BASHEIN & BASHEIN CO., L.P.A.
Terminal Tower, 35th Floor
50 Public Square
Cleveland, OH 44113
(216) 771-3239
(216) 781-5876 (fax)
cbashein@basheinlaw.com
Attorney for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of April, 2016, a copy of the foregoing was served via e-mail to the following parties:

Michael D. DeWine
Ohio Attorney General
c/o Jeffrey L. Maloon
jeffrey.maloon@ohioattorneygeneral.gov
Christopher P. Conomy
Christopher.conomy@ohioattorneygeneral.gov
Assistant Attorneys General
Court of Claims Defense Section
150 East Gay Street, 18th Floor
Columbus, Ohio 43215



W. Craig Bashein (0034591)
Attorney for Plaintiffs

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CLEVELAND, OHIO 44113

(216) 771-3239

Craig Bashein

From: Craig Bashein
Sent: Thursday, March 10, 2016 5:05 PM
To: Christopher P. Conomy
Cc: Jeffrey Maloon; Janine Lycan
Subject: Lane

Chris , following up on the probate approval that was sent to you. Are the Ohio State check and Nationwide check being forwarded? Thanks in advance. Craig Bashein

Sent from my iPhone

EXHIBIT A

Craig Bashein

From: Craig Bashein
Sent: Thursday, March 10, 2016 5:17 PM
To: Christopher P. Conomy
Cc: Jeffrey Maloon; Janine Lycan
Subject: Re: Lane

Thanks!

Sent from my iPhone

> On Mar 10, 2016, at 5:16 PM, Christopher P. Conomy <christopher.conomy@ohioattorneygeneral.gov> wrote:

>

> We will need to submit an agreement to the Court of Claims for approval there as well. We will have that to you in short order.

>

>

> Christopher P. Conomy
> Principal Assistant Attorney General - Court of Claims Defense Office
> of Ohio Attorney General Mike DeWine Office number: 614-728-9474 Fax
> number: 866-452-9957 Christopher.Conomy@OhioAttorneyGeneral.gov

>

>

>

> -----Original Message-----

> From: Craig Bashein [mailto:cbashein@basheinlaw.com]

> Sent: Thursday, March 10, 2016 5:05 PM

> To: Christopher P. Conomy

> Cc: Jeffrey Maloon; Janine Lycan

> Subject: Lane

>

> Chris , following up on the probate approval that was sent to you. Are
> the Ohio State check and Nationwide check being forwarded? Thanks in
> advance. Craig Bashein

>

> Sent from my iPhone

EXHIBIT B

Craig Bashein

From: Craig Bashein
Sent: Thursday, March 17, 2016 8:11 PM
To: Christopher P. Conomy

Chris can you forward a draft of the filing you described that we need to file with the Court on Lane. Thanks in advance.
Craig Bashein

Sent from my iPhone

EXHIBIT C

Craig Bashein

From: Craig Bashein
Sent: Thursday, March 31, 2016 10:54 AM
To: Christopher P. Conomy
Cc: Jeffrey Maloon; Janine Lycan
Subject: Lane

With the court hearing coming up on the status of the settlement, we have still not received from you what I assume is a simple pleading filed with the court to approve the settlement and dismiss the action. You said on March 10th you were preparing this pleading and would send it over in "short order" for my approval. That was 3 weeks ago. My email inquiring on the status of the document sent on March 17th was not responded to. If I do not receive a proposed pleading by Tomorrow, I will go ahead and file our own motion to approve the settlement, explain the timeline to the court, and request an order requiring the state to comply with the terms of the settlement and the order of the Probate Court issued almost a month ago. Given the delays in processing this settlement, I assume your client is not opposed to paying statutory interest. Let me know your plans. Thanks Craig Bashein

Sent from my iPhone

EXHIBIT D

Craig Bashein

From: Craig Bashein
Sent: Thursday, March 31, 2016 6:13 PM
To: Christopher P. Conomy
Subject: Re: Lane

Chris I would tell them you need a check ASAP or pay us and get reimbursed. I'm likely going to have to file a motion to enforce the settlement against all parties. Under ORC there is interest accumulating as well. If you can expedite let me know and I'll hold off. Otherwise we'll get something filed. Thanks Craig

Sent from my iPhone

> On Mar 31, 2016, at 1:25 PM, Christopher P. Conomy <christopher.conomy@ohioattorneygeneral.gov> wrote:

>

> Craig:

>

> We are sorry for the delay, but we have not heard anything back from Nationwide yet. We have sent them a draft of the settlement agreement with a request for their input, and how they would like to handle payment (reimburse us, pay separately, or otherwise). They have not even acknowledged our requests so far.

>

> Given that this is likely to be a three-party agreement, we will request their participation in the conference and reach out yet again for a response. We will let you know when we hear something.

>

> Christopher P. Conomy

> Principal Assistant Attorney General - Court of Claims Defense Office

> of Ohio Attorney General Mike DeWine Office number: 614-728-9474 Fax

> number: 866-452-9957 Christopher.Conomy@OhioAttorneyGeneral.gov

>

>

>

> -----Original Message-----

> From: Craig Bashein [mailto:cbashein@basheinlaw.com]

> Sent: Thursday, March 31, 2016 10:54 AM

> To: Christopher P. Conomy

> Cc: Jeffrey Maloon; Janine Lycan

> Subject: Lane

>

> With the court hearing coming up on the status of the settlement, we
> have still not received from you what I assume is a simple pleading
> filed with the court to approve the settlement and dismiss the action.
> You said on March 10th you were preparing this pleading and would send
> it over in "short order" for my approval. That was 3 weeks ago. My
> email inquiring on the status of the document sent on March 17th was
> not responded to. If I do not receive a proposed pleading by Tomorrow
> , I will go ahead a file our own motion to approve the settlement ,
> explain the timeline to the court, and request an order requiring the
> state to comply with the terms of the settlement and the order of the
> Probate Court issued almost a month ago. Given the delays in
> processing this settlement , I assume your client is not opposed to

EXHIBIT E

> paying statutory interest. Let me know your plans. Thanks Craig

> Bashein

>

> Sent from my iPhone

Bashein & Bashein

COMPANY, L.P.A.

R. William Bashein
(1919-1991)

W. Craig Bashein

Richard W. Bashein

Thomas J. Sheehan

John P. Hurst, Of Counsel

35th Floor, Terminal Tower
50 Public Square
Cleveland, Ohio 44113
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www.basheinlaw.com

April 13, 2016

Via FedEx

Court of Claims
Attention: Civil Filing Clerk
65 South Front Street, 3rd Floor
Columbus, Ohio 43215

Re: *Darlene Lane Ferraro, etc., v. The Ohio State University Medical Center*
Case No. 2011-10371

Dear Sir/Madam:

Enclosed please find an original and one copy of a Motion to Enforce Settlement. Please file the original and return a time-stamped copy in the envelope provided.

Thank you for your kind cooperation.

Very truly yours,



W. Craig Bashein

WCB/mbk

Enc.

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