

CO-492-CD
GERALD A. CLARK et al -vs- DUBOIS NURSING HOME

KATZ, COHEN & PRICE, P.C.
By: SAMUEL COHEN
ATTORNEY I.D. NO.: 27544
117 SOUTH 17th STREET
SUITE 2010
PHILADELPHIA, PA 19103
(215) 636-0400

ATTORNEY FOR PLAINTIFFS

FILED
*long
to CA*

APR 28 2000

**William A. Shaw
Prothonotary**

**¶ GERALD A. CLARK, Executor of the
Estate of HAZEL DUNLAP, Deceased** : **COURT OF COMMON PLEAS**
vs. : **CLEARFIELD COUNTY**
¶ DU BOIS NURSING HOME : **NO.: 00-492 CO**

**PETITION FOR APPROVAL OF COMPROMISE
SETTLEMENT AND DISTRIBUTION OF PROCEEDS**

Pursuant to Rule 2206 of the Pennsylvania Rules of Civil Procedure, Plaintiff, Gerald A. Clark, Executor of the Estate of Hazel Dunlap by his attorneys, Katz, Cohen and Price, P.C. and Blakley, Jones and Mohney, respectfully petitions this Honorable Court for an Order approving the Compromise Settlement and Apportionment of Proceeds and in support thereof assert the following:

1. Between July 27, 1999 and August 16, 1999, Plaintiff's Decedent Hazel Dunlap was wrongfully administered coumadin while a patient at DuBois Nursing Home
2. On August 17, 1999, Hazel Dunlap died as a result of gastrointestinal bleeding secondary to a Coumadin overdose.
3. At the time of her death, Hazel Dunlap was 82 years of age.
4. An offer has been accepted to settle the claims of the survivors and Estate of Hazel Dunlap against Dubois Nursing Home only for \$225,000.00

STATEMENT OF COUNSEL

Samuel Cohen, Esquire of the law firm of Katz, Cohen & Price, P.C., being duly sworn according to law, hereby deposes and says that he is the attorney for the plaintiff herein and that the proposed settlement and distribution of proceeds as set forth herein is fair and reasonable.



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CLEARFIELD COUNTY

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Pursuant to Rule 2206 of the Pennsylvania Rules of Civil Procedure, Plaintiff, Gerald A. Clark, Executor of the Estate of Hazel Dunlap by his attorneys, Katz, Cohen and Price, P.C. and Blakley, Jones and Mohney, respectfully petitions this Honorable Court for an Order approving the Compromise Settlement and Apportionment of Proceeds and in support thereof assert the following:

1. Between July 27, 1999 and August 16, 1999, Plaintiffs Decedent Hazel Dunlap was wrongfully administered coumadin while a patient at DuBois Nursing Home
2. On August 17, 1999, Hazel Dunlap died as a result of gastrointestinal bleeding secondary to a Coumadin overdose.
3. At the time of her death, Hazel Dunlap was 82 years of age.
4. An offer has been accepted to settle the claims of the survivors and Estate of Hazel Dunlap against Dubois Nursing Home only for \$225,000.00

5. In order to recognize the significant disparity in the amount of damages that would have been awarded under the wrongful death claim as compared to those damages that would have been awarded under the survival claim, counsel for plaintiff respectfully submits that the settlement be apportioned 90% under the Wrongful Death Act and 10% under the Survival Act.

6. With respect to the survival claim, plaintiff would have difficulty in attempting to prove pain and suffering. Plaintiff lost no potential earnings. The significantly larger part of this case would have fallen under the Wrongful Death Act for the family's non-pecuniary damages for the loss of their mother, Hazel Dunlap.

7. Counsel for the plaintiffs believes that the proposed settlement and apportionment of proceeds is fair and reasonable.

8. Executor Gerald A. Clark, also concurs and believes that the proposed settlement and apportionment of proceeds is fair and reasonable. (See attached verification).

9. Pursuant to a written agreement between the plaintiffs and counsel for plaintiff, the law firm of Katz, Cohen & Price, P.C. has charged and plaintiffs have agreed to pay a one-third contingency fee.

10. The costs incurred to date for litigation of this matter, which plaintiffs have agreed to reimburse counsel, are set forth below:

Travel expenses of counsel from Philadelphia to DuBois	
10/19/99	\$131.93
2/8/00	131.93

Estate costs	134.92
U.P.S. Delivery	12.50
Miscellaneous -	
Long Distance Calls, photocopies, postage, etc.	
	100.00
Filing fee for this Petition	<u>80.00</u>
Total	\$591.28

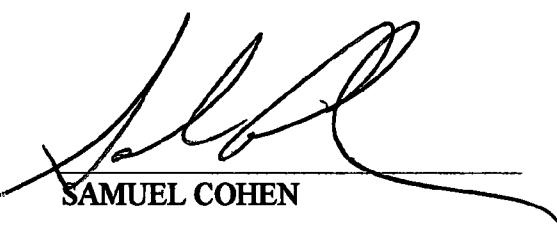
Because the fee of plaintiffs' counsel is based upon the net recovery after deduction of the costs of litigation, plaintiffs' counsel is absorbing one-third of the expenses.

11. The beneficiaries of plaintiffs' decedent's estate are her three daughters, all adults.

WHEREFORE, plaintiffs respectfully request this Honorable Court to approve the proposed settlement and apportionment and to enter an Order in the form attached hereto.

Respectfully submitted,

KATZ, COHEN & PRICE, P.C.

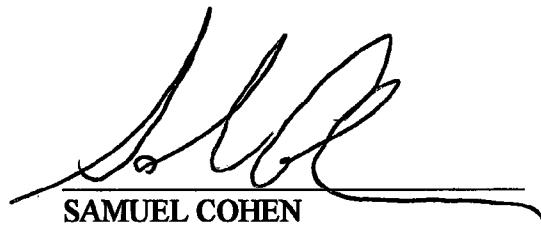


SAMUEL COHEN

Dated: 4/20/00

VERIFICATION

I, Samuel Cohen state that I am the attorney for the plaintiff; that I am acquainted with the facts set forth in the foregoing Petition to Approve Settlement; that the facts contained therein are true and correct to the best of my knowledge, information and belief; and that this statement is made subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.



SAMUEL COHEN

STATEMENT OF COUNSEL

Samuel Cohen, Esquire of the law firm of Katz, Cohen & Price, P.C., being duly sworn according to law, hereby deposes and says that he is the attorney for the plaintiff herein and that the proposed settlement and distribution of proceeds as set forth herein is fair and reasonable.



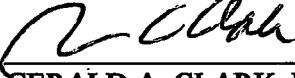
A handwritten signature in black ink, appearing to read "Samuel Cohen", is written over a horizontal line. The signature is fluid and cursive, with a prominent 'S' at the beginning.

SAMUEL COHEN

VERIFICATION

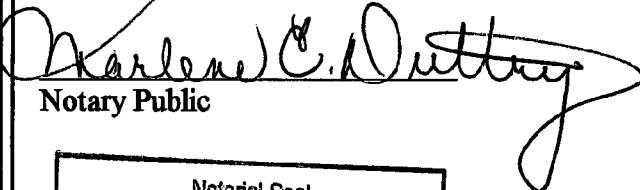
I, Gerald A. Clark, Executor of the Estate of Hazel Dunlap deceased, state that I have read the foregoing Petition for Approval of Settlement; and that I hereby approve of the settlement and distribution and apportionment of the proceeds as set forth herein; and requests the Honorable Court to approve same.

Further, as Executor of the Estate, I approve of the fee and expenses of counsel as set forth herein, and requests this Honorable Court to hereby approve same for reimbursement to counsel.



GERALD A. CLARK, Executor

Sworn to and subscribed
before me this 24th day
of April , 2000



Notary Public

Notarial Seal
Marlene E. Duttry, Notary Public
DuBois, Clearfield County
My Commission Expires Aug. 8, 2002

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COURT OF COMMON PLEAS

vs.

COUNTY

DU BOIS NURSING HOME

NO.:

ORDER

AND NOW, this ~~28~~ day of **April**, 2000, upon consideration of the within
Petition for consideration for approval of compromise settlement and apportionment of
proceeds, it is hereby ORDERED and DECREED that the Petition of APPROVED;

It is further ORDERED and DECREED, that distribution be made as follows:

To:	Katz, Cohen & Price, P.C. (reimbursement of costs)	\$ 591.28
To:	Katz, Cohen & Price, P.C. (counsel fee)	74,829.57
To:	Survival Act - (10%)	14,957.91
To:	Wrongful Death Act - (90%)	134,621.24

FILED

BY THE COURT:

APR 28 2000

William A. Shaw
Prothonotary


J.