

01-83-CD

GERALD A. CLARK et al -vs- NCS HEALTHCARE OF WASHINGTON, INC.

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

2001-83-C0

GERALD A. CLARK, Executor of the : COURT OF COMMON PLEAS
Estate of HAZEL DUNLAP, Deceased :
vs. : CLEARFIELD COUNTY
NCS HEALTHCARE OF :
WASHINGTON, INC. :
:

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 petition 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. The Coumadin was dispensed by Defendant.
4. At the time of her death, Hazel Dunlap was 82 years of age.

FILED

JAN 17 2001

William A. Shaw
Prothonotary

5. An offer has been accepted to settle the claims of the survivors and Estate of Hazel Dunlap against Defendant for \$40,000.00.

6. The initial portion of this claim was settled for \$225,000.00 against the nursing home where plaintiff's decedent died.

7. 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.

8. 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 loss of their mother, Hazel Dunlap.

9. Counsel for the plaintiffs believe that the proposed settlement and apportionment of proceeds is fair and reasonable.

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

11. 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.

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

Prothonotary - Filing of Writ of Summons	\$394.50
Prothonotary of Clearfield County Two (2) Petitions for Approval of Compromise Settlement and Distribution of Proceeds	160.00
Sheriff of Dauphin County - Summons - Service	25.50
 Miscellaneous -	
Long Distance Calls, photocopies, postage, etc.	100.00
248 Photostatic copies @ \$.10	24.80
<u>TOTAL</u>	<u>\$ 704.80</u>

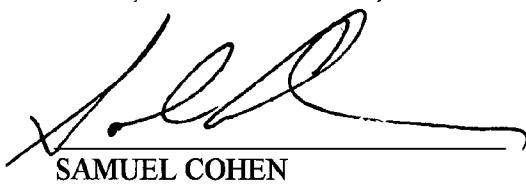
Because the fee of plaintiffs' counsel is based upon the net recovery after deduction of the costs of litigation, plaintiffs' counsel is absorbing one-third of the expenses.

13. 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.

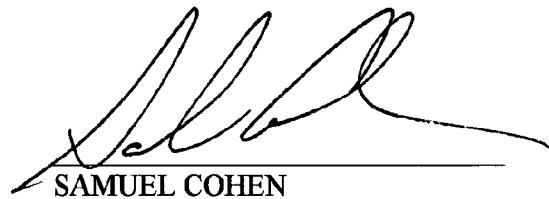


SAMUEL COHEN

Dated: 1/8/01

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.

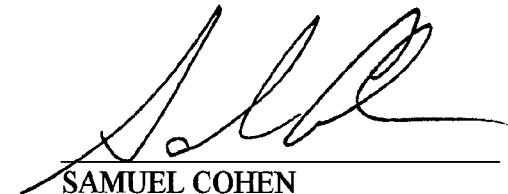


A handwritten signature in black ink, appearing to read "SAMUEL COHEN", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized 'S' at the beginning.

Dated: 1/8/81

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 large, stylized 'S' at the beginning.

Dated: 1/8/01

VERIFICATION

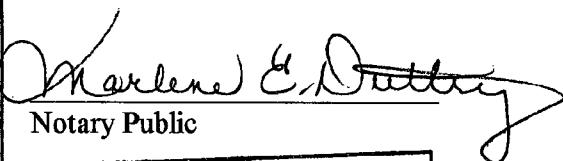
I, Gerald A. Clark, Executor of the Estate of Hazel Dunlap deceased, state that I have read the foregoing Petition for Approval of Settlement; and that I hereby approve of the settlement and distribution and apportionment of the proceeds as set forth herein; and requests the Honorable Court to approve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

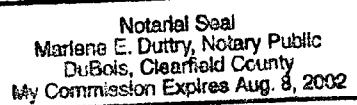


GERALD A. CLARK, Executor

Sworn to and subscribed
before me this 17th day
of January, 2001



Notary Public



CERTIFICATE OF SERVICE

I do hereby certify that service of a true and correct copy of the within Petition for Approval of Compromise Settlement and Distribution of Proceeds was made on the day of , 2001, to the following individuals by United States Mail, postage prepaid:

Cari N. Kohn, Esquire
Rawle & Henderson, LLP
The Widener Bldg., One S. Penn Square
Philadelphia, PA 19107

KATZ, COHEN & PRICE, P.C.


SAMUEL COHEN

Dated: 1/1/01

FILED

JAN 17 2001

6/12: sc/wm

William A. Shaw

Prothonotary

No Copies

PP
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NY ATTY

KATZ, COHEN & PRICE, P.C.
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WASHINGTON, INC. :
:

ORDER

AND NOW, this 17 day of *Jan*, 2001, 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)	\$ 704.80
To: Katz, Cohen & Price, P.C. (counsel fee)	13,098.40
To: Survival Act - (10%)	2,619.68
To: Wrongful Death Act - (90%)	23,577.12

FILED

JAN 17 2001

01/17/01
William A. Shaw
Prothonotary

CERT TO ATTY

BY THE COURT:

J.