

07-411-CD
In Re: David McCoy et al

David McCoy vs Geroge McCoy
2007-411-CD

DAVID M. McCOY, Administrator
of the Estate of GEORGE IRVIN McCOY,
a/k/a GEORGE I. McCOY

Petitioner

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PA

No. 07-411-CD

ISSUE: PETITION FOR APPROVAL
OF SETTLEMENT OF AN ESTATE
CLAIM

FILED ON BEHALF OF PROGRESSIVE
INSURANCE COMPANY

COUNSEL OF RECORD FOR THIS
PARTY:

HEATHER A. HARRINGTON, ESQUIRE
PA I.D. No. 62977
McINTYRE, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

I hereby certify that a true and correct
copy of the within was mailed to all
counsel of record this 15th day of
March, 2007.

Heather Harrington
Attorney

FILED Atty fd. 85.00
M 11:30 AM MAR 16 2007 NO CC
[Signature]

William A. Shaw
Prothonotary/Clerk of Courts

original upstairs

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of the Estate of GEORGE IRVIN McCOY,
a/k/a GEORGE I. McCOY

Petitioner

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PA

No. 07-411-C0

RULE RETURNABLE

AND NOW, this _____ day of _____, 2007 a Rule is
hereby granted to show cause why the within Petition for Court Approval of Settlement of
an Estate Claim should not be granted.

This rule is returnable on the _____ day of _____, 2007,
at _____ a.m./p.m. in Courtroom No. _____ at the Clearfield County Courthouse in
Clearfield, Pennsylvania.

BY THE COURT:

J.

DAVID M. McCOY, Administrator
of the Estate of GEORGE IRVIN McCOY,
a/k/a GEORGE I. McCOY

Petitioner

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PA

No. 07-411-C0

FILED *E.C.*

MAR 19 2007

o/1:201w
William A. Shaw
Prothonotary/Clerk of Courts
I CERT TO ATT

PROPOSED ORDER

AND NOW, this 19 day of March, 2007

upon consideration of the within Petition, it is hereby ORDERED, ADJUDGED, and
DECREEED that the claims of DAVID M. McCOY, Administrator of the Estate of
GEORGE IRVIN McCOY, a/k/a George I. McCoy, shall be, and the same are hereby
compromised and settled on the following terms:

1. Payment to DAVID M. McCOY, Administrator of the Estate of GEORGE IRVIN McCOY, a/k/a GEORGE I. McCOY a lump sum of Fifty Thousand Dollars (\$50,000.00) by Progressive Insurance Company. Said funds representing all policy Underinsured Motorist Benefits limits available under the Progressive Policy of Insurance;
2. Payment to DAVID M. McCOY, Administrator of the Estate of GEORGE IRVIN McCOY, a/k/a GEORGE I. McCOY, a lump sum of Two Hundred Twenty Five Thousand Dollars (\$225,000.00) by State Farm Insurance Company, Brad L. Frailey and Krystal J. Frailey;
3. Record costs and attorneys fees of McIntyre, Hartye & Schmitt, will be paid by Progressive Insurance Company and State Farm Insurance Company; and
4. Petitioner is hereby granted leave to execute a Release for the benefit of Progressive Insurance Company, State Farm Insurance Company, Brad L. Frailey and Krystal J. Frailey, for any and all claims of the Estate and beneficiaries, including but not limited to Survival and Wrongful Death claims.

BY THE COURT:

Brad L. Frailey J.

DAVID M. McCOY, Administrator of the Estate of GEORGE IRVIN McCOY, a/k/a GEORGE I. McCOY	:	IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
Petitioner	:	No.
	:	
	:	
	:	
	:	

PETITION FOR APPROVAL OF SETTLEMENT OF AN ESTATE CLAIM

AND NOW, comes Petitioner, DAVID M. McCOY, Administrator of the Estate of GEORGE IRVIN McCOY, a/k/a GEORGE I. McCOY, and files the within Petition for Approval of Settlement , saying as follows:

1. Your Petitioner is an adult individual residing at 3797 Glen Hope Boulevard, Irvona, Clearfield County, Pennsylvania.
2. Your Petitioner is Administrator of the Estate of GEORGE IRVIN McCOY, a/k/a GEORGE I. McCOY, having received Letters of Administration on October 26, 2005 from the Register of Wills of Clearfield County. A copy of the Certificate of Appointment is attached hereto as Exhibit A and incorporated by reference.
3. On or about September 1, 2005, Krystal J. Frailey was operating a vehicle owned by Brad L. Frailey and was involved in an automobile / motorcycle accident with GEORGE IRVIN McCOY, a/k/a GEORGE I. McCOY, causing personal injury to him, resulting in his death.
4. At the time of the accident, Brad L. Frailey and Krystal J. Frailey were insured by State Farm Insurance Company, Policy No. 6163-290-38L, with limits of liability of \$250,000.00 per claimant.

5. Also at the time of the accident, GEORGE IRVIN McCOY, a/k/a GEORGE I. McCOY, had Underinsured Motorist Benefits of \$50,000.00 under Policy No. 42411334-1 with Progressive Insurance Company.

6. All medical and funeral bills have been paid. Your petitioner is unaware of any liens against these settlement proceeds.

7. Your Petitioner has negotiated a settlement with Progressive Insurance Company, State Farm Insurance Company, Brad L. Frailey and Krystal J. Frailey for the benefit of the Estate of GEORGE IRVIN McCOY, a/k/a GEORGE I. McCOY, as follows:

- a. Payment to DAVID M. McCOY, Administrator of the Estate of GEORGE IRVIN McCOY, a/k/a GEORGE I. McCOY, a lump sum of Fifty Thousand Dollars (\$50,000.00) by Progressive Insurance Company. Said funds representing all policy Underinsured Motorist Benefits limits available under the Progressive Policy of Insurance;
- b. Payment to DAVID M. McCOY, Administrator of the Estate of GEORGE IRVIN McCOY, a/k/a GEORGE I. McCOY, a lump sum of Two Hundred Twenty Five Thousand Dollars (\$225,000.00) by State Farm Insurance Company, Brad L. Frailey and Krystal J. Frailey;
- c. Record costs and attorneys fees of McIntyre, Hartye & Schmitt, will be paid by Progressive Insurance Company and State Farm Insurance Company; and
- d. Execution of a Release for the benefit of Progressive Insurance Company, State Farm Insurance Company, Brad L. Frailey and Krystal J. Frailey, for any and all claims of the Estate and beneficiaries, including but not limited to Survival and Wrongful Death claims.

8. The settlement funds are to be distributed as per the final Estate distribution.

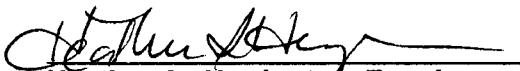
9. Petitioner, has read and understands the statements in this Petition and agrees to accept the settlement set forth hereinabove in full and complete satisfaction of any and all claims against Progressive Insurance Company, State Farm Insurance

Company, Brad L. Frailey and Krystal J. Frailey for any claims of the Estate of GEORGE IRVIN McCOY, a/k/a GEORGE I. McCOY, and its beneficiaries.

10. Petitioner understands and agrees that State Farm Insurance Company, Brad L. Frailey and Krystal J. Frailey deny any and all liability, and that the proposed settlement is not an admission of liability, but under the facts and circumstances pertaining hereto, the settlement offer is the best that can be obtained for and on behalf of the Estate of GEORGE IRVIN McCOY, a/k/a GEORGE I. McCOY, and should be accepted.

WHEREFORE, Petitioner, DAVID M. McCOY, Administrator of the Estate of GEORGE IRVIN McCOY, a/k/a GEORGE I. McCOY, respectfully requests that this Honorable Court enter an Order approving the compromise and settlement of the claim on behalf of the Estate and its beneficiaries on the terms described above, with distribution to be made in accordance therewith.

Respectfully submitted,



Heather A. Harrington, Esquire
PA ID No. 62977
McINTYRE, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg PA 16648
(814) 696-3581

EXHIBIT 'A'

SHORT CERTIFICATE

Certificate of Appointment of Administrator

**Commonwealth of Pennsylvania
County of Clearfield**

Social Security # 170-30-8627

The undersigned, Register for the Probate of Wills and granting Letters of Administration in and for the County of Clearfield, in the Commonwealth of Pennsylvania;

DO HEREBY CERTIFY and made known, that on the **26th** day of **October**, in the year of our Lord, **2005**, Letters of **Administration** on the Estate of **George Irvin McCoy aka George I. McCoy**, deceased, were granted unto **David M. McCoy**, he

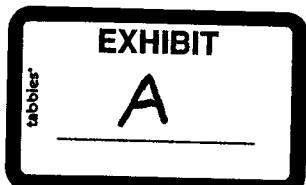
, having first given security well and truly to administer the same. I further certify that said letters are in full force and effect at the present time, and entitled to full faith and credit.

GIVEN under my hand and seal of office this **26th** day of **October** in the year of our Lord, **2005**.

Karen D. Stark

Register of Wills

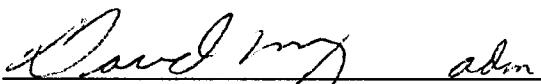
MY COMMISSION EXPIRES
FIRST MONDAY IN JANUARY 2008



VERIFICATION

I, **David M. McCoy**, as the Administrator of the Estate of George Irvin McCoy, a/k/a George I. McCoy, do hereby verify that I have read the foregoing **Petition for Approval of Settlement of an Estate Claim**. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.



David M. McCoy, Administrator of the
Estate of George Irvin McCoy, a/k/a
George I. McCoy

Date: 3-5-2007

ORIGINAL

DAVID M. McCOY, Administrator
of the Estate of GEORGE IRVIN McCOY,
a/k/a GEORGE I. McCOY

Petitioner

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PA

No. 07-411-CD

ISSUE: **PRAECIPE TO SETTLE AND
DISCONTINUE**

FILED ON BEHALF OF PROGRESSIVE
INSURANCE COMPANY

COUNSEL OF RECORD FOR THIS
PARTY:

HEATHER A. HARRINGTON, ESQUIRE
PA I.D. No. 62977
MCINTYRE, HARTYE & SCHMITT
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

I hereby certify that a true and correct
copy of the within was mailed to all
counsel of record this 2nd day of
April, 2007.

Heather A. Hargan
Attorney

FILED

APR 04 2007
2007
12:15 PM

William A. Shaw
Prothonotary/Clerk of Courts

FILED

1 CCR to Atty

DAVID M. McCOY, Administrator
of the Estate of GEORGE IRVIN McCOY,
a/k/a GEORGE I. McCOY

Petitioner

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PA

No. 07-411-CD

PRAECIPE TO SETTLE AND DISCONTINUE

TO: PROTHONOTARY

Kindly mark the above captioned matter as settled, discontinued and ended, with
prejudice.

McINTYRE, HARTYE & SCHMITT



Heather A. Harrington, Esquire
PA I.D. #62977
P.O. Box 533
Hollidaysburg, PA 16648
(814) 696-3581

Date: April 2, 2007