

United Law

ORIGINAL

At an IAS Term, Part 37 of the Supreme Court of the State of New York, held in and for the County of Suffolk at 1 Court Street, Riverhead, County of Suffolk, State of New York on the 5th day of November, 2018.

P R E S E N T:

**HON. JOSEPH FARNETI,
A.J.S.C.**

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MARIA MUIR, as Administrator of the Goods, Chattels,
and Credits which were of RACHEL MUIR, deceased,
and MARIA MUIR, Individually,

Plaintiffs,

Index No. 64226/2014

- against -

AMENDED ORDER

GUSTAVO SAN ROMAN, M.D., MICHELLE MAYER,
C.N.M., and ST. CHARLES HOSPITAL,

Defendants.
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Upon reading and filing the annexed petition of MARIA MUIR, as Administrator of the Goods, Chattels, and Credits which were of RACHEL MUIR, deceased, duly sworn to on the 9th day of May, 2018; the affidavit of Ira M. Newman, Esq. duly sworn to the 9th day of May, 2018, and the exhibits attached hereto, the affidavit of Joshua Fogel, Esq. duly sworn to the 29th day of October, 2018, the Order of this Court dated the 12th day of June, 2018, and upon all the pleading and proceedings heretofore had herein, and after due deliberation thereon,

AND it appearing that the best interest of the Estate will be served by the settlement herein;

NOW, upon motion of SANOCKI NEWMAN & TURRET, LLP, the attorneys for the plaintiff, it is hereby:

ORDERED, that MARIA MUIR, the petitioner and Administrator of the Goods, Chattels, and Credits which were of RACHEL MUIR, deceased, is granted leave to settle all causes of action of the decedent, RACHEL MUIR; and it is further

as against defendant
ST. CHARLES HOSPITAL

ORDERED, that MARIA MUIR, the petitioner and Administrator of the Goods, Chattels, and Credits which were of RACHEL MUIR, is authorized and empowered to settle and compromise all causes of action against defendant ST. CHARLES HOSPITAL for the total sum of ONE MILLION SEVEN HUNDRED FIFTY THOUSAND and 00/100 (\$1,750,000.00) DOLLARS; and it is further

ORDERED, that the Limitations of the Letters of Administration are hereby modified so as to allow the settlement herein and MARIA MUIR, the petitioner and Administrator of the Goods, Chattels, and Credits which were of RACHEL MUIR, deceased, be and hereby is empowered, authorized and permitted to execute and deliver to defendants and/or their attorneys and/or their insurance entities/carriers such releases, discontinuances, and other closing documents and any other papers necessary to effectuate the settlement and collection proceeds and to release and discontinue with prejudice all causes of action as against ST. CHARLES HOSPITAL; and it is further

ORDERED, that defendant ST. CHARLES HOSPITAL and/or its insurance carrier(s) pay the settlement proceeds in the sum of ONE MILLION SEVEN HUNDRED FIFTY THOUSAND and 00/100 (\$1,750,000.00) DOLLARS pursuant to CPLR 5003-a by check made payable to:

MARIA MUIR, as Administrator of the Estate of RACHEL MUIR, deceased, and SANOCKI NEWMAN & TURRET, LLP, as attorneys; and it is further

ORDERED, that upon receipt, SANOCKI NEWMAN & TURRET, LLP shall deposit the gross settlement proceeds in the sum of ONE MILLION SEVEN HUNDRED FIFTY THOUSAND and 00/100 (\$1,750,000.00) DOLLARS into an interest bearing escrow account; and it is further

ORDERED, that attorneys' disbursements are approved in the total sum of SEVEN THOUSAND ONE HUNDRED THIRTY EIGHT and 14/100 (\$7,138.14) DOLLARS; and it is further

ORDERED, that upon receipt and clearance of the settlement proceeds, and upon submission to this Court of proof of filing the petition for allocation and distribution in the Surrogate's Court, ~~Kings~~ ^{Suffolk} County, SANOCKI NEWMAN & TURRET, LLP is permitted and authorized to collect its disbursements in the amount of SEVEN THOUSAND ONE HUNDRED THIRTY EIGHT and 14/100 (\$7,138.14) DOLLARS, as and for its attorneys' disbursements; and it is further

ORDERED, that the motion of SANOCKI NEWMAN & TURRET, LLP, as attorneys for the plaintiff, for attorneys' fees in the total amount of THREE HUNDRED TWENTY FOUR THOUSAND TWO HUNDRED EIGHTY SIX and 18/100 (\$324,286.18) DOLLARS, is hereby granted and approved by the Court as reasonable and just; and it is further

ORDERED, that upon receipt and clearance of the settlement proceeds and upon submission to this Court of proof of filing the petition for allocation and distribution in the Surrogate's Court, ~~Kings~~ ^{Suffolk} County, SANOCKI NEWMAN & TURRET, LLP is permitted and authorized to collect its attorneys' fees in the amount of THREE HUNDRED TWENTY FOUR THOUSAND TWO HUNDRED EIGHTY SIX and 18/100 (\$324,286.18) DOLLARS; and it is further

ORDERED, that upon receipt and clearance of the settlement SANOCKI NEWMAN & TURRET, LLP shall draw a check from the interest bearing escrow account to pay the lien asserted against the decedent's Estate by Suffolk County Department of Social Services in the amount of TWO HUNDRED SIXTY THOUSAND TWO HUNDRED EIGHTY FOUR and 49/100 (\$260,284.49) DOLLARS; and it is further

ORDERED, that upon receipt and clearance of the settlement SANOCKI NEWMAN & TURRET, LLP shall draw a check from the interest bearing escrow account to pay the lien asserted against the decedent's Estate by Blue Cross and Blue Shield of Texas in the amount of SEVEN HUNDRED TWENTY NINE FOUR HUNDRED NINETY and 06/100 (\$729,490.06) DOLLARS; and it is further

ORDERED, that out of the balance of the settlement proceeds in the sum of FOUR HUNDRED TWENTY EIGHT THOUSAND EIGHT HUNDRED ONE and 13/100 (\$428,801.13) DOLLARS, the sum of FORTY THOUSAND and 00/100 (\$40,000.00) shall remain in the interest bearing escrow account to be available to SANOCKI NEWMAN & TURRET, LLP to withdraw and pay expenses incurred in the continued prosecution of the causes of action against the non-settling defendant GUSTAVO SAN ROMAN, M.D. as said case proceeds and during the prosecution of said case against the remaining defendants and the remaining balance, if any, be withheld from distribution to the distributees of the Estate until further Order of the Court; and it is further

ORDERED, that the then remaining balance of the settlement proceeds in the sum of THREE HUNDRED EIGHTY EIGHT THOUSAND EIGHT HUNDRED ONE and 13/100 (\$388,801.13) DOLLARS shall remain in an interest bearing escrow account pending approval of the allocation and distribution of the same by the Surrogate's Court, ~~Kings~~ ^{Suffolk} County pursuant to EPTL §5-4.6; and

ORDERED that the giving of a bond or other security in connection therewith is hereby dispensed with; and it is further

ORDERED, that SANOCKI NEWMAN & TURRET, LLP shall continue to serve as attorneys for the Estate of RACHEL MUIR until the entry of a final decree in the Surrogate's Court.

ENTER:


A.J.S.C.

Hon. Joseph Farneti

GRANTED

NOV 05 2018

Judith A. Pascale
CLERK OF SUFFOLK COUNTY