

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED
APR 23 2014
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EASTERN MICHIGAN

LORETTA McNAMARA WEAVER,
as Personal Representative of the Estate
of SCOTT R. WEAVER, Deceased,

Plaintiff,

vs.

Case No. 2:12-cv-13807
HON. Robert H. Cleland

NORTH CANTON TRANSFER, LLC,
a Foreign corporation, KENAN ADVANTAGE
GROUP, a Foreign corporation, KAG LEASING,
INC., a Foreign corporation, MARATHON
PETROLEUM COMPANY LIMITED PARTNERSHIP,
a Foreign corporation, and MARLIN RAY MAST, SR.,
Jointly and Severally,

Defendants.

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**ORDER AUTHORIZING PERSONAL REPRESENTATIVE TO
DISTRIBUTE WRONGFUL DEATH PROCEEDS**

At a session of said Court held in the City of Detroit,
County of Wayne and State of Michigan on:

APR 23 2014

ROBERT H. CLELAND

PRESENT: _____
United States District Court Judge

HERETOFORE on, March 13, 2014, this Honorable Court approved a settlement in favor of plaintiff and against defendants, NORTH CANTON TRANSFER, LLC, KENAN ADVANTAGE GROUP, KAG LEASING, INC., and MARLIN RAY MAST, SR. ("KAG DEFENDANTS") in the sum of FOUR MILLION (\$4,000,000.00) DOLLARS and 00/100. The Court makes the following findings of fact and conclusions of law pursuant to Michigan Court Rules, 1985,

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2.517, in support of its certification to Probate Court by a written opinion as to the amount of such recovery representing a loss suffered by the Wrongful Death Statute (Public Act 1061, No. 236 Section 2922, as amended; MCL 600.2922(2)).

1. FINDINGS OF FACT:

The Court makes the following findings of fact:

(1) On the 13th day of March, 2014, this Honorable Court approved a settlement in favor of plaintiff, LORETTA McNAMARA WEAVER, as Personal Representative of the Estate of SCOTT R. WEAVER, deceased against defendants, NORTH CANTON TRANSFER, LLC, KENAN ADVANTAGE GROUP, KAG LEASING, INC., and MARLIN RAY MAST, SR. (“KAG DEFENDANTS”), in the sum of FOUR MILLION (\$4,000,000.00) DOLLARS and 00/100;

(2) That the Next of Kin of the Decedent include the following:

- A. Loretta McNamara Weaver - wife of deceased;
- B. David Weaver - natural son;
- C. Samantha McNamara - step-daughter;
- D. Rosemary Weaver - mother;
- E. Darrel Weaver - father;
- F. Sheri Roose - natural sister;
- G. David Ryan Weaver - natural brother;
- H. Terri Bigham - natural sister.

(3) The Decedent died on September 1, 2011, after allegedly experiencing some conscious pain and suffering, although disputed by the Defendants.

- (4) The plaintiff engaged the services of NEMIER, MATHIEU, NASH & JOHNSON, P.L.L.C. to prosecute said action against the defendants.
- (5) For purposes of negotiating said settlement, the Law Firm of NEMIER, MATHIEU, NASH & JOHNSON, P.L.L.C. has handled this claim on behalf of the Personal Representative and has agreed to an attorney fee of 1/3 of the total settlement after the deduction of costs and expenses.
- (6) The Law Firm of NEMIER, MATHIEU, NASH & JOHNSON, P.L.L.C., has expended a total of Twenty Five Thousand, Seven Hundred Ninety Five (\$25,795.91) DOLLARS and 91/100 for costs and expenses in the litigation of the Wrongful Death Claim.
- (7) The Law Firm of NEMIER, MATHIEU, NASH & JOHNSON, P.L.L.C., is entitled to an attorney fee in the sum of One Million, Three Hundred Twenty-Four Thousand, Seven Hundred Thirty-Four (\$1,324,734.69) DOLLARS and 69/100 pursuant to an Attorney Fee Agreement.
- (8) The net proceeds of the wrongful death proceeds are Two Million, Six Hundred Forty-Nine Thousand, Four Hundred Sixty-Nine (\$2,649,469.40) DOLLARS and 40/100;
- (9) The Next of Kin heretofore enumerated, have entered into an Agreement for the Distribution of Proceeds from the Wrongful Death claim, a copy of said Agreements having been filed with this Honorable Court;

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(10) Pursuant to the terms of that Agreement, the Next of Kin have agreed that each of the interested parties shall receive the following sums:

- a. LORETTA McNAMARA WEAVER,
Individually as surviving spouse of
SCOTT R. WEAVER - \$1,969,469.40

- b. David Weaver - \$ 250,000.00
- c. Samantha McNamara - \$ 250,000.00
- d. Rosemary Weaver - \$ 35,000.00
- e. Darrel Weaver - \$ 35,000.00
- f. Sheri Roose - \$ -0-
- g. David Ryan Weaver - \$ -0-
- h. Terri Bigham - \$ 10,000.00
- i. Loretta M. Weaver as Personal
Representative of the Estate of Scott R.
Weaver, deceased to be distributed by
the Monroe Probate Court for the
decendent's conscious pain and
suffering.
- \$ 100,000.00

(11) IT IS HEREBY ORDERED, in accordance with the terms of that Agreement, the following distribution of the proceeds shall be made:

- a. Distribute the sum of One Million, Three Hundred Fifty Thousand, Five Hundred Thirty (\$1,350,530.60) DOLLARS and 60/100 to the Firm of NEMIER, MATHIEU, NASH & JOHNSON, P.L.L.C. for attorney fees and costs as reasonable and necessary fees in said matter;

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b. Distribute the remaining proceeds in the sum of Two Million, Six Hundred Forty-Nine Thousand, Four Hundred Sixty-Nine (\$2,649,469.40) DOLLARS and 40/100 as follows:

- c. Loretta McNamara Weaver, individually - \$1,969,469.40
- d. David Weaver - \$ 250,000.00
- e. Samantha McNamara - \$ 250,000.00
- f. Rosemary Weaver - \$ 35,000.00
- g. Darrel Weaver - \$ 35,000.00
- h. Sheri Roose - \$ -0-
- i. David Ryan Weaver - \$ -0-
- j. Terri Bigham - \$ 10,000.00
- k. Loretta McNamara Weaver, as Personal Representative of the Estate of Scott R. Weaver, deceased, to be distributed by the Monroe Probate County Court - \$100,000.00.



HON. Robert H. Cleland
United States District Court Judge

APPROVED:



JEFFREY L. TOLARI (P33503)
Attorney for Plaintiff



RANDALL MOORE (OH# 0018337)
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