

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

**FRANCES Z. WHEAT, AS PERSONAL
REPRESENTATIVE AND FOR/ON BEHALF
OF THE ESTATE AND WRONGFUL DEATH
BENEFICIARIES OF SARAH KATHERINE
WHEAT, DECEASED** **PLAINTIFF**

V. **CIVIL ACTION NO.: 3:13-CV-00087-SA-DAS
LEAD CASE**

**JOHN HOWARD STRICKLAND, JR.,
JOHN HOWARD STRICKLAND and
JENNIFER STRICKLAND** **DEFENDANTS**

CONSOLIDATED WITH

**FRANCES Z. WHEAT, AS PERSONAL
REPRESENTATIVE AND FOR/ON BEHALF
OF THE ESTATE AND WRONGFUL DEATH
BENEFICIARIES OF JOHN WILLIAM
WHEAT, DECEASED** **PLAINTIFF**

V. **CIVIL ACTION NO.: 3:13-CV-00088-SA-DAS**

**JOHN HOWARD STRICKLAND, JR.,
JOHN HOWARD STRICKLAND and
JENNIFER STRICKLAND** **DEFENDANTS**

CONSENT JUDGMENT

Plaintiffs, Frances Z. Wheat as Personal Representative and For/On Behalf of the Estates and Wrongful Death Beneficiaries of Sarah Katherine Wheat, Deceased and John William Wheat, Deceased (“Plaintiffs”) have agreed to a settlement of this action as to Defendant John Howard Strickland, Jr. (“Defendant JR Strickland”) only, that includes the entry of this Consent Judgment.

A. CASE BACKGROUND AND COURT PROCEEDINGS

1. On February 12, 2013, Plaintiffs filed two Complaints in the Circuit Court of Lafayette County, Mississippi styled *Frances Z. Wheat, as personal representative, and for/on behalf of the Estate and Wrongful Death Beneficiaries of Sarah Katherine Wheat, Deceased*, Civil Action No. L13-045; and *Frances Z. Wheat, as personal representative, and for/on behalf of the Estate and Wrongful Death Beneficiaries of John William Wheat, Deceased*, Civil Action No. L13-046.

2. On February 12, 2013, Defendant JR Strickland filed his Separate Answers and Objections to each Complaint.

3. Both lawsuits were removed to this Court on March 29, 2013, and were ultimately consolidated in this cause of action.

4. On December 16, 2014, Defendant JR Strickland moved this Court for Leave to file Amended Answers. The Court granted the motion on January 12, 2015 and Defendant JR Strickland filed his Amended Answers on January 13, 2015.

5. In their Complaints, Plaintiffs have alleged claims against Defendant JR Strickland for Negligence, Negligence *per se*, and Wrongful Deaths of John William Wheat and Sarah Katherine Wheat (“John and Sarah Wheat). John and Sarah Wheat were killed in an automobile accident on October 27, 2012 when Defendant JR Strickland was operating his vehicle under the influence of illegal substances and was impaired to such a point that he lost consciousness, lost control of his vehicle, crossed the median in the west bound lane of traffic and struck the vehicle driven by John William Wheat head on. Both Sarah Katherine Wheat and John William Wheat died as a result of the injuries sustained in the wreck.

6. The toxicology report indicated that Defendant JR Strickland was under the influence of marijuana, Prozac, Valium and had been “huffing” from air duster cans before the collision. Law enforcement at the scene found an aerosol spray can of the air duster in his vehicle. Later, a receipt was recovered showing that he had purchased the can of air duster the day of the collision.

7. Defendant JR Strickland was indicted on two criminal charges of aggravated DUI in the Criminal Court of Lafayette County, Mississippi. He admitted generally the facts as stated above in a guilty plea agreement proceeding wherein Defendant JR Strickland pled guilty to one charge of aggravated DUI. He was convicted and sentenced to prison for 25 years (commuted to 12 years) at the Mississippi State Prison in Parchman, Mississippi.

8. Defendant JR Strickland was ordered by the Criminal Court of Lafayette County, Mississippi to pay restitution in the amount of \$86,142.16 for medical expenses and funeral costs incurred by the Plaintiffs as a result of the injuries sustained by and the subsequent deaths of John and Sarah Wheat.

9. Defendant JR Strickland has admitted his liability for causing the deaths of John and Sarah Wheat in the instant matter before this Court.

10. Plaintiffs and Defendant JR Strickland have advised the Court of their agreement to settle and dismiss this action as to the Plaintiffs claims against Defendant JR Strickland and have provided for the Court’s consideration the Settlement Agreement and Release of Claims (“Settlement Agreement”) between Plaintiffs and Defendant JR Strickland.

B. JURISDICTION AND VENUE

1. Pursuant to 28 U.S.C. §1441, this matter was removed to this Court from the Circuit Court of Lafayette County, Mississippi, based upon 28 U.S.C. § 1332, Diversity of Citizenship.

2. Venue is proper in this judicial district because the actions alleged in the Complaints were alleged to have occurred in Oxford, Mississippi which is within the Northern District of Mississippi.

C. CONSENT JUDGMENT

Defendant JR Strickland consents to a Judgment against him in the amount of Eight Hundred Sixty-Three Thousand, Eight Hundred Fifty-Seven Dollars and 84/100ths. (\$863,857.84.) This amount represents a settlement of \$950,000 less the \$86,142.16 he has been ordered to pay in restitution. It is therefore ORDERED that the Clerk enter a judgment against Defendant JR Strickland in favor of the Plaintiffs in the amount of Eight Hundred Sixty-Three Thousand, Eight Hundred Fifty-Seven Dollars and 84/100ths (\$863,857.84).

D. DISMISSAL, COSTS AND ATTORNEYS' FEES

1. The entry of this Consent Judgment will operate as a Dismissal with Prejudice of all claims Plaintiffs have against Defendant JR Strickland in this action, including all claims asserted or which may have been asserted against him in this action. It is hereby ORDERED that all claims alleged in this action against Defendant JR Strickland are dismissed WITH PREJUDICE.

2. Plaintiffs and Defendant JR Strickland shall each bear their own costs and attorneys' fees incurred in this case.

E. RETENTION OF JURISDICTION

This Court shall retain jurisdiction of this Consent Judgment for the purposes of resolving any disputes arising under this Consent Judgment, entering Orders modifying, or satisfying all or a portion of this Consent Judgment consistent with the Settlement Agreement, or effectuating or enforcing compliance with the terms of this Consent Judgment.

F. FINAL JUDGMENT

Upon approval and entry of this Consent Judgment, this Consent Judgment shall constitute the final judgment in this action as to the claims between Plaintiffs and Defendant JR Strickland. This final judgment is not dischargeable in Bankruptcy pursuant to an agreement of the parties and 11 U.S.C. Section 523(a)(9). This judgment shall accrue interest pursuant 28 U.S.C. Section 1961, and shall be "calculated from the date of the entry of the judgment, at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of the judgment."

IT IS SO ORDERED, this the 10th day of March, 2015.

/s/ Sharion Aycock
UNITED STATES DISTRICT JUDGE

CONSENTED TO AND APPROVED BY:

/s/ J. Rhea Tannehill, Jr.

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