

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

**MISSISSIPPI FARM BUREAU CASUALTY
INSURANCE COMPANY**

PLAINTIFF

VERSUS

CIVIL ACTION NO. 3:20CV252-NBB-RP

FRANK J. WILKERSON, JR.;
PEGGY J. WILKERSON;
TINA RENEE KREUNEN, AS THE CONSERVATOR
OF CYNTHIA D. WILKERSON;
MISSISSIPPI DIVISION OF MEDICAID/
THE STATE OF MISSISSIPPI; AND
CENTERS FOR MEDICARE & MEDICAID SERVICES/
THE UNITED STATES OF AMERICA

DEFENDANTS

**AGREED ORDER AND FINAL JUDGMENT RESOLVING
COMPLAINT FOR INTERPLEADER AND DISMISSING ACTION**

IT IS HEREBY ORDERED, on agreement of counsel for the parties, that the Complaint for Interpleader (Doc. 1) (“Complaint”) of Plaintiff Mississippi Farm Bureau Casualty Insurance Company (“Farm Bureau”) and this action should be dismissed based on the agreement reached between the parties, as evidenced by the signatures of counsel for the parties affixed hereto, and the Court hereby further determines, orders, and adjudicates the following:

1. This action was filed by Farm Bureau to resolve competing claims to funds in the amount of \$50,000.00, which amount Farm Bureau has tendered to and is on deposit with the Clerk. Farm Bureau is the automobile insurer of Defendants Frank J. Wilkerson, Jr. (“Frank”), Peggy J. Wilkerson (“Peggy”), and Cynthia D. Wilkerson (“Cynthia”) (collectively, “the Wilkersons”), pursuant to the insurance policy referred to in the Complaint, and before this action was filed, Farm Bureau determined the \$50,000.00 in uninsured/underinsured motorist insurance (“UM”) benefits were due the Wilkersons as a result of the automobile accident referred to in the Complaint.

2. Farm Bureau was made aware of claims of Defendant Centers for Medicare & Medicaid Services/The United States of America (“Medicare”) to the funds at issue as a result of Medicare’s payment of some of the medical bills at issue with regard to Frank and Peggy, and Farm Bureau also believed Medicare paid some of the medical bills at issue with regard to Cynthia.

3. Farm Bureau further believed Defendant Mississippi Division of Medicaid/The State of Mississippi (“Medicaid”) had claims to the funds at issue as a result of Medicaid’s payment of some of the medical bills at issue with regard to Cynthia.

4. After the Complaint was filed, Medicaid made a counterclaim against the funds interpled based on the medical bills of Cynthia paid by Medicaid, totaling \$1,482.36.

5. Further, Medicare has proposed, by counsel, that Medicare should receive \$12,500.63 out of the funds interpled, based on the medical bills of Peggy paid by Medicare (Medicare Case ID 202004309000746); \$9,000.45 out of the funds interpled, based on the medical bills of Frank paid by Medicare (Medicare Case ID 202027609001140); and \$396.54 out of the funds interpled, based on the medical bills of Cynthia paid by Medicare (Medicare Case ID 202027609001141).

6. The parties have agreed Medicaid and Medicare shall be paid the amounts aforesaid out of the funds interpled, with the remainder of the funds, in the amount of \$26,620.02, being disbursed out of the funds interpled as follows:

(a) Holland & Hisaw

Fees \$13,333.34

Expenses \$787.30

(b) Eric Sappenfield, Esq. \$3,333.33

- (c) Frank Wilkerson \$4,583.02
- (d) Peggy Wilkerson \$4,583.03
- (e) Cynthia Wilkerson \$0.00

7. The parties have also agreed that any accrued interest on the funds interpled shall be paid to Frank Wilkerson and Peggy Wilkerson in equal shares.

8. Cynthia Wilkerson shall receive zero net proceeds out of the funds interpled and/or any accrued interest because she lives with her parents, Frank Wilkerson and Peggy Wilkerson, and any changes in her finances could impact Cynthia Wilkerson's Medicaid eligibility and/or eligibility for other government benefits.

9. The Court also finds that Tina Renee Kreunen, as the Conservator of Cynthia D. Wilkerson, was properly substituted in place of Cynthia D. Wilkerson as a party to this action, and the herein-described resolution of this matter has been approved by an Amended Order of the Chancery Court of DeSoto County, Mississippi, in Cause No. 20-CV-1708, styled "*In the Matter of the Guardianship and Conservatorship of Cynthia Dawn Wilkerson.*"

10. The Wilkersons, Medicaid, and Medicare agree that Farm Bureau shall have no future liability to the Wilkersons, Medicaid, and/or Medicare as a result of the accident and/or injuries referred to in the Complaint, once the Clerk pays the funds interpled to the Wilkersons, Medicaid, and Medicare as aforesaid.

11. The Court hereby directs the Clerk, with regard to the \$50,000.00 interpled by Farm Bureau, to take the following actions:

(a) To make out a check for \$1,482.36 to Medicaid and to mail it to counsel for Medicaid, Samuel Goff, Esq., Post Office Box 220, Jackson, Mississippi 39205-0220. As to the

check payable to Medicaid the Clerk shall note on it “Cynthia D. Wilkerson”;

(b) To make out a check for \$12,500.63 to Medicare and to mail it to counsel for Medicare, J. Luke Benedict, Esq., 900 Jefferson Avenue, Oxford, Mississippi 38655-3608. As to the check for \$12,500.63 made payable to Medicare, the Clerk shall note on it “Peggy J. Wilkerson and 202004309000746”;

(c) To make out a check for \$9,000.45 to Medicare and to mail it to counsel for Medicare, J. Luke Benedict, Esq., 900 Jefferson Avenue, Oxford, Mississippi 38655-3608. As to the check for \$9,000.45 made payable to Medicare, the Clerk shall note on it “Frank J. Wilkerson, Jr., and 202027609001140”;

(d) To make out a check for \$396.54 to Medicare and to mail it to counsel for Medicare, J. Luke Benedict, Esq., 900 Jefferson Avenue, Oxford, Mississippi 38655-3608. As to the check for \$2,770.23 made payable to Medicare, the Clerk shall note on it “Cynthia D. Wilkerson and 202027609001141”;

(e) To make out a check for \$14,120.64 to Holland & Hisaw and to mail it to counsel for the Wilkersons, Post Office Box 256, Horn Lake, Mississippi 38637;

(f) To make out a check for \$3,333.33 to Eric Sappenfield, Esq., and to mail it to counsel for the Wilkersons, Post Office Box 256, Horn Lake, Mississippi 38637;

(g) To make out a check for \$4,583.02 to Frank J. Wilkerson, Jr., and to mail it to counsel for the Wilkersons, Post Office Box 256, Horn Lake, Mississippi 38637;

(h) To make out a check for \$4,583.03 to Peggy J. Wilkerson and to mail it to counsel for the Wilkersons, Post Office Box 256, Horn Lake, Mississippi 38637; and

(i) To make out a check for any accrued interest to Frank J. Wilkerson, Jr., and Peggy J. Wilkerson and to mail it to counsel for the Wilkersons, Post Office Box 256, Horn Lake, Mississippi 38637.

12. Since the agreement reached by all concerned resolves all of the issues before the Court, the Complaint of Farm Bureau is hereby dismissed and the Order and Judgment of the Court, with the consent of counsel for the parties, is that Farm Bureau shall have no future liability to the Wilkersons, Medicaid, and/or Medicare as a result of the accident and/or injuries here at issue as a result of the accident referred to in the Complaint and Medicaid and/or Medicare having provided benefits to or on behalf of the Wilkersons for treatment associated with the accident.

SO ORDERED AND ADJUDGED on this the 28th day of January, 2021.

/s/ Neal Biggers
NEAL B. BIGGERS, JR.
UNITED STATES DISTRICT JUDGE

AGREED AND APPROVED:

/s/ Owen P. Terry

SAM S. THOMAS, ESQ. (MSB #8307)

sst@samthomaslaw.com

OWEN P. TERRY, ESQ. (MSB #105532)

oterry@samthomaslaw.com

THOMAS LAW, P.C.

POST OFFICE BOX 2790 (39130)

115-A HOMESTEAD DRIVE

MADISON, MISSISSIPPI 39110

Attorneys for Plaintiff Mississippi Farm Bureau Casualty Insurance Company

/s/ J. Wesley Hisaw

J. WESLEY HISAW, ESQ. (MSB #101767)

jwhisaw@hollandlaw.net

HOLLAND & HISAW

POST OFFICE BOX 256

HORN LAKE, MISSISSIPPI 38637

*Attorney for Defendants Frank J. Wilkerson, Jr., Peggy J. Wilkerson, and Tina Renee Kreunen,
as the Conservator of Cynthia D. Wilkerson*

/s/ Samuel Goff

SAMUEL GOFF, ESQ. (MSB #105813)

samuel.goff@ago.ms.gov

550 HIGH STREET, SUITE 1200

POST OFFICE BOX 220

JACKSON, MISSISSIPPI 39205-0220

Attorney for Defendant Mississippi Division of Medicaid/The State of Mississippi

/s/ J. Luke Benedict

J. LUKE BENEDICT, ESQ. (MSB #102992)

luke.benedict@usdoj.govmailto:bryan.roberts@medicaid.ms.gov

900 JEFFERSON AVENUE

OXFORD, MISSISSIPPI 38655-3608

Attorney for Defendant Centers for Medicare & Medicaid Services/The United States of America