

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DEBRA L. TRAXLER, Individually and as Executrix of
the Estate of GREGG B. TRAXLER,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

ORDER
14-CV-681S

Before this Court are Plaintiff's Motion for Approval of Settlement (Docket No. 13) and a Consent Motion to Amend the Proposed Order (Docket No. 15) in this medical negligence case. Because this action is brought on behalf of an estate, it cannot be settled without leave of this Court. See Local Rule 41 (a)(2)(A).

This Court has considered Plaintiff's motions and the papers filed in support thereof and finds that no hearing is required. This Court further finds that the proposed settlement is in the best interests of the estate and distributees. In so finding, this Court has considered: (1) the circumstances giving rise to the claim; (2) the nature and extent of the damages; (3) the terms of the settlement and amount of attorney's fees and other disbursements; (4) the circumstances of any other claims or settlement arising out of this same occurrence; and (5) the Plaintiff's statement of why she believes this settlement is appropriate. See Local Rule 41(a)(2)(i)-(iv). Plaintiff's motions will therefore be granted and this settlement approved.

ORDERED, that Plaintiff's Motion to Approve Settlement (Docket No. 13) and the Consent Motion to Amend the Proposed Order (Docket No. 15) are GRANTED; and it is further,

ORDERED, that all claims on behalf of the Estate of Gregg B. Traxler as against the defendant herein, be settled for the sum of one hundred forty thousand (\$140,000.00) dollars; and it is further

ORDERED, that the sum of \$1,606.47 is approved as reimbursement of disbursements advanced by Brown Chiari LLP; and it is further

ORDERED, that attorney's fees for Brown Chiari LLP are approved in the sum of \$34,598.39; and it is further

ORDERED, that Debra L. Traxler, as Executrix of the Estate of Gregg B. Traxler and her attorneys are hereby authorized and empowered to sign/execute all documents (including but not limited to settlement drafts, settlement agreements and releases, general releases and a stipulation of discontinuance) necessary to effectuate this settlement and release the defendant, its successors and assigns, agents, servants and employees, as well as their attorneys and insurers; and it is further

ORDERED, that Debra L. Traxler, as Executrix of the Estate of Gregg B. Traxler is directed to apply to the Surrogate of Orleans County, State of New York, for an Order of Distribution of the net proceeds of the settlement, pursuant to Section 5-4.4 of New York's Estate, Powers and Trusts Law; and it is further

ORDERED, that the Clerk of Court is directed to CLOSE this case.

May 7, 2015
Buffalo, NY

s/William M. Skretny
WILLIAM M. SKRETNY
Senior United States District Judge