

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

GENWORTH LIFE INSURANCE COMPANY OF
NEW YORK,

Plaintiff,

-vs-

ORDER

No. 6:12-cv-06330-MAT

GARY S. DWAILEEBE, DAVID J.
DWAILEEBE, LINDA A. VAN NESS, MARK
C. DWAILEEBE, JENNY S. TRAPANI,
JAMES A. DWAILEEBE, GEORGE N.
DWAILEEBE, LAURIE J. OVERMEYER,
MICHELE M. AZZI, MICHAEL G.
DWAILEEBE, THE ESTATE OF GERALDINE
H. DWAILEEBE, GEORGE N. DWAILEEBE,
in his capacity as an Executor of
the Estate of Geraldine H.
Dwaileebe; and MICHAEL G.
DWAILEEBE, in his capacity as an
Executor of the Estate of Geraldine
H. Dwaileebe,

Defendants.

On April 26, 2017, the Court entered an Order (Dkt #63) directing disbursement of \$531,030.97, which represents the Interpleader Property plus Accrued Interest, to the Catholic Family Center ("CFC"), as Guardian of the Property of David J. Dwaileebe ("David").

The Court recognizes the able and diligent representation of David's interests by his attorney, Brian Laudadio, Esq. ("Attorney Laudadio"), throughout the five-year course of this very contentious litigation. The Court finds that \$75,000.00 represents

a fair and reasonable attorney's fee to compensate Attorney Laudadio for his work in achieving a successful result for David.

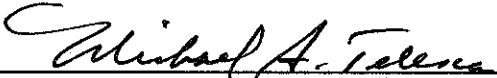
This amount represents a substantial reduction of the attorney's fee that would have been payable to Attorney Laudadio's firm, Bond, Schoeneck & King, PLLC ("BSK"), pursuant to its Retainer Agreement with CFC. Under the terms of that agreement, BSK agreed to represent David's interests on a one-third contingency basis, calculated on 69.75 percent of the annuities' total value (i.e., the amount that was claimed by the co-defendants). By the terms of the Retainer Agreement, the fee earned by BSK would have been \$123,464.69, plus disbursements.

However, acting upon this Court's recommendation, Attorney Laudadio has agreed to reduce his fee to \$75,000.00, to be paid out of the amount awarded to David following the Court's grant of summary judgment in his favor. BSK agrees that the payment of \$75,000.00 will be in full satisfaction of (1) all fees and disbursements incurred by BSK in the instant proceeding and in the underlying Surrogate's Court matter; and (2) any future fees incurred by BSK in counseling CFC regarding the establishment of a special needs trust for David, and the preparation any required estate planning documents for David. CFC, as David's guardian, has agreed to this compromise of fees, as indicated by its signature on the attached letter from Attorney Laudadio to the Court (Exhibit 1).

Accordingly, it is hereby

ORDERED that Bond, Schoeneck & King, PLLC is awarded the sum of \$75,000.00, to be paid out of the \$531,030.97 disbursed to Catholic Family Center, as Guardian of the Property of David J. Dwaileebe, pursuant to this Court's Order (Dkt #63) issued on April 26, 2017.

IT IS SO ORDERED.



HON. MICHAEL A. TELESKA
United States District Judge

DATED: April *26*, 2017
Rochester, New York