

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

GREG HORTON,)
)
Plaintiff,)
)
vs.)
)
HOLLY CORPORATION;)
HOLLY REFINING & MARKETING -)
TULSA, L.L.C.; and)
BROCK SERVICES, LTD.,)
)
Defendants.)

No. 10-CV-524-GKF-FHM

OPINION AND ORDER

This matter comes on before the court on plaintiff’s Application for Approval of Settlement [Dkt. # 134]. On April 9, 2012, this court heard plaintiff’s Unopposed Application for Preliminary Approval of Settlement [Dkt. # 122] and Plaintiff’s Supplement to his Unopposed Application for Preliminary Approval of Settlement [Dkt. # 125].

On April 18, 2012, this court entered an order [Dkt. # 133] granting plaintiff’s motions. In accordance with Oklahoma law, the Oklahoma Workers’ Compensation Court on December 4, 2012, reviewed and approved this court’s order. [Dkt. #134, Ex. 1, Miscellaneous Order, *Gregory Scott Horton v. Holly Frontier Corp, et al.*, Oklahoma Workers’ Compensation Case No. 2010-09246X].

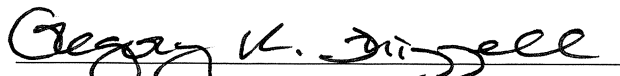
The plaintiff seeks final approval of a compromised settlement between plaintiff and the defendant Brock Services, Ltd. (“Brock”) in the amount of \$475,000.00 consistent with this court’s order of April 18, 2012 [Dkt. # 133]. Brock does not oppose plaintiff’s Application for Approval of Settlement. Non-party insurer Zurich American Insurance Co. (“Zurich), however, opposes the application and requests that this court reconsider the "just and reasonable"

apportionment herein in light of the Worker's Compensation Court's denial of Zurich's Motion to Suspend Benefits by order filed July 27, 2012. [Dkt. #135, Ex. 5, Miscellaneous Order, *Gregory Scott Horton v. Holly Frontier Corp, et al.*, Oklahoma Workers' Compensation Case No. 2010-09246X].

The court declines to reconsider the apportionment of settlement proceeds approved in the April 18, 2012 order. It is clear from the transcript of the hearing on plaintiff's motion for preliminary approval that the parties, and in particular Zurich, understood the Oklahoma Workers' Compensation Court had yet to resolve plaintiff's claims for permanent partial disability and partial disfigurement. [Dkt. #132, TR at 18:9-19:2]. Further, the court, in its April 18, 2012 order expressly recognized the workers' compensation court's jurisdiction to determine "what, if any, medical care, impairment, disability, and/or disfigurement occurred as a result of the injury or exposure caused by the alleged acts or omissions of Defendant Brock and *the extent to which Zurich is entitled to suspend further benefits due to Plaintiff in his worker's compensation claim.*" [Dkt. #133 at 2 (emphasis added)].

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff's Application to Approve Settlement is granted and this court's order of April 18, 2012 [Dkt. # 133] is hereby adopted and confirmed as final.

ENTERED this 10th day of April, 2013.


GREGORY K. FRIZZELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT