

Urena-Paulino v New York & Presbyterian Hosp.

2013 NY Slip Op 33908(U)

June 18, 2013

Supreme Court, New York County

Docket Number: 805361/12

Judge: Martin Shulman

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: SHULMAN
Justice

PART 1

FRANCO URENA-PAVINO

INDEX NO. 805361/12

MOTION DATE _____

MOTION SEQ. NO. 001

NY & PRESBYTERIAN HOSPITAL

MOTION CAL. NO. _____

The following papers, numbered 1 to _____ were read on this motion to/for _____

Ex Parte Order/Petition
~~Notice of Motion/Order to Show Cause~~ - Affidavits - Exhibits ...
Answering Affidavits - Exhibits _____
Replying Affidavits _____

PAPERS NUMBERED
1, 2, 3

Cross-Motion: Yes No

Upon the foregoing papers, it is ordered that this ~~motion~~ application is granted
as per the attached order of compromise.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

Dated: June 18, 2013

MARTIN SHULMAN
J.S.C.



Check one: FINAL DISPOSITION NON-FINAL DISPOSITION
Check if appropriate: DO NOT POST REFERENCE

At a ~~100~~ Part of the Supreme Court held in and for the County of New York State of New York, located at 60 Centre Street, on the 18th day of JUNE, 2013

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
FAUSTINO URENA-PAULINO, deceased, by MAYRA PAULINO, Administratrix of his Estate, and MAYRA PAULINO, Individually,
Plaintiff,

ORDER OF COMPROMISE
PURSUANT TO EPTL 5-4.6

-against-

THE NEW YORK AND PRESBYTERIAN HOSPITAL,

Defendants.

Index #: 805361/12
Honorable:

MARTIN SHULMAN
J.S.C.

-----X

Upon the annexed Affidavit of MAYRA PAULINO as Administratrix of the Estate of FAUSTINO URENA-PAULINO deceased, duly verified the 2nd day of May 2013, and the, Affirmation^s of the attorney, LAWRENCE ROSENBLATT, dated the 21st day of May and the 2nd day of May 2013 2013; and upon the exhibits annexed hereto, and upon the pleadings and proceedings hereto had herein and, after due deliberation thereon,

NOW, on application of ROSENBLATT, FRASCIELLO & KNIPPING-DIAZ, LLC, attorneys for the plaintiff it is hereby,

ORDERED, that the settlement provided herein is deemed adequate and in the best interest of the Estate; and it is further,

ORDERED, that the cause of action is hereby settled and discontinued against the defendant, THE NEWYORK AND PRESBYTERIAN HOSPITAL, for the total sum of ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS AND NO CENTS, (\$125,000.00), and it is further,

ORDERED, that MAYRA PAULINO, as Administratrix of the ESTATE of FAUSTINO URENA-PAULINO, deceased, be and is hereby authorized and permitted to settle and compromise the above entitled action for wrongful death and pain and suffering of the decedent, FAUSTINO URENA-PAULINO, against defendant, THE NEWYORK AND PRESBYTERIAN HOSPITAL for the total sum of ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS AND NO CENTS (\$125,000.00) and it is further,

ORDERED, that the administrator be and is hereby authorized and permitted to execute and deliver a General Release to the defendants together with any and all papers necessary to effectuate the settlement herein; and it is further,

ORDERED, that the defendant shall within the time frame set forth in CPLR 5003-a, pay the sum of, ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS AND NO CENTS, (\$125,000.00) by defendant, THE NEWYORK AND PRESBYTERIAN HOSPITAL by check payable to MAYRA PAULINO, as Administratrix of the estate of FAUSTINO URENA-PAULINO, deceased and ROSENBLATT, FRASCIELLO & KNIPPING-DIAZ, LL.C as attorneys; and it is further,

ORDERED, that upon receipt of the settlement monies, plaintiff attorneys shall deposit the funds in an interest bearing escrow account; and it is further,

ORDERED, that upon submission to this Court of proof of filing of a petition for the allocation and distribution in the Surrogate's Court on behalf of the decedent's estate, plaintiff's attorneys may draw a check ^{for attorney's fee} in the total sum of THIRTY SEVEN THOUSAND ONE HUNDRED SIXTY EIGHT DOLLARS AND TWENTY CENTS

[*4]
(\$37,168.20) from the escrow account

and reimbursement of disbursements in the amount of ONE THOUSAND ONE HUNDRED SIX DOLLARS AND NO CENTS, (\$1,106.00); and it is further,

ORDERED, that the spouse of the decedent, MAYRA PAULINO, be reimbursed funeral expenses in the amount of TEN THOUSAND FOUR HUNDRED THIRTY TWO DOLLARS AND NO CENTS (\$10,432.00), and it is further,

ORDERED, that the balance of the settlement money in the sum of SEVENTY SIX THOUSAND TWO HUNDRED NINETY THREE DOLLARS AND EIGHTY CENTS (\$76,293.80) shall be held in said interest bearing account pending a further order from the Surrogate's Court in regard to the allocation and distribution of said funds; and it is further,

ORDERED, that ROSENBLATT, FRASCIELLO & KNIPPING-DIAZ, LLC shall continue to serve as attorney for the estate until the entry of a final Decree in the Surrogate's Court; and it is further,

ORDERED, that the requirement of the filing of a bond is waived at this time.

ENTER



MARTIN SHULMAN
J.S.C.

, J.S.C.