

<b>McLean v Kings County Hosp. Ctr.</b>
2020 NY Slip Op 33074(U)
September 17, 2020
Supreme Court, Kings County
Docket Number: 506158/2018
Judge: Marsha L. Steinhardt
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At the Medical Malpractice Early Settlement  
Part 7 of the Supreme Court of the State of  
New York, held in and for the County of  
Kings, at 360 Adams Street, Brooklyn, State  
of New York on the 17th day of  
September, 2020

**P R E S E N T: HON. MARSHA L. STEINHARDT  
J.S.C.**

-----X  
DONNA McLEAN, as Executor of the Estate of  
VICTORIA KNIGHT, deceased,

Plaintiff,

Index No. 506158/2018

- against -

**ORDER**

KINGS COUNTY HOSPITAL CENTER, DR.  
SUSAN SMITH McKINNEY NURSING &  
REHABILITATION CENTER and NEW  
YORK CITY HEALTH AND HOSPITALS  
CORPORATION,

Defendants.  
-----X

Upon reading and filing the annexed petition of DONNA McLEAN, as Executor of the Estate of VICTORIA KNIGHT, deceased, duly sworn to the 3<sup>rd</sup> day of September, 2020; the Affirmation of JOSHUA FOGEL, Esq. duly sworn to the 3<sup>rd</sup> day of September, 2020; and the exhibits attached hereto, and upon all the pleadings and proceedings heretofore had herein, and after due deliberation thereon,

**AND** it appearing that the best interests of the Estate will be served by the settlement herein;

**NOW**, upon motion of SANOCKI NEWMAN & TURRET, LLP, the attorneys for the plaintiff, it is hereby:

**ORDERED**, that DONNA McLEAN, the petitioner and Executor of the Estate of VICTORIA KNIGHT, deceased, is granted leave to settle all causes of action of the decedent, DONNA McLEAN; and it is further

**ORDERED** that, DONNA McLEAN, the petitioner and Executor of the Estate of VICTORIA KNIGHT, deceased, is authorized to settle and compromise all causes of action brought in the Supreme Court, Kings County, under Index No. 506158/2018 against defendant NEW YORK CITY HEALTH AND HOSPITALS CORPORATION for the total sum of TWO HUNDRED FIFTY THOUSAND (\$250,000.00) DOLLARS and that all causes of action against defendants KINGS COUNTY HOSPITAL CENTER, DR. SUSAN SMITH McKINNEY NURSING & REHABILITATION CENTER, and NEW YORK CITY HEALTH AND HOSPITALS CORPORATION are to be discontinued with prejudice and without costs and disbursements to any party; and it is further

**ORDERED**, that the restrictions of the Letters of Administration are hereby modified to allow the settlement herein and DONNA McLEAN, the petitioner and Executor of the Estate of VICTORIA KNIGHT, deceased, be and is hereby empowered, authorized and permitted to execute and deliver any and all papers necessary, including releases, stipulations of discontinuance and such other and usual documents and any other papers required to effectuate the settlement and collection and distribution of said proceeds and to release and discontinue with prejudice the causes of action as against KINGS COUNTY HOSPITAL CENTER, DR. SUSAN SMITH McKINNEY NURSING & REHABILITATION CENTER, and NEW YORK CITY HEALTH AND HOSPITALS CORPORATION; and it is further

**ORDERED**, that defendant NEW YORK CITY HEALTH AND HOSPITALS CORPORATION shall within ninety (90) days of receipt of all required closing documents,

pay the sum of TWO HUNDRED FIFTY THOUSAND (\$250,000.00) DOLLARS by check made payable to DONNA McLEAN, as Executor of the Estate of VICTORIA KNIGHT, deceased and SANOCKI NEWMAN & TURRET, LLP, as attorneys; and it is further;

**ORDERED**, that upon receipt, SANOCKI NEWMAN & TURRET, LLP shall deposit the settlement proceeds into an interest bearing escrow account to be distributed upon clearance of the funds as follows:

SANOCKI NEWMAN & TURRET, LLP, after having submitted proof of filing a Petition in Surrogate’s Court, Kings County, for allocation and distribution of the settlement funds, shall be immediately paid their disbursements pursuant to EPTL §5-4.6.....\$1,150.50;

SANOCKI NEWMAN & TURRET, LLP, after having submitted proof of filing a Petition in Surrogate’s Court, Kings County, for allocation and distribution of the settlement funds, shall be immediately paid their attorneys’ fees pursuant to EPTL §5-4.6.....\$74,654.85;

and it is further

**ORDERED** that SANOCKI NEWMAN & TURRET, LLP is hereby authorized to satisfy any Medicaid and Medicare liens out of the settlement proceeds herein upon receipt of final lien letters;

**ORDERED** that SANOCKI NEWMAN & TURRET, LLP shall hold in the interest bearing escrow account the sum of ONE HUNDRED NINE THOUSAND TWENTY SEVEN and 39/100 (\$109,027.39) DOLLARS representing the preliminary Medicare lien pending resolution of said lien; and it is further

**ORDERED** that SANOCKI NEWMAN & TURRET, LLP shall hold in the interest bearing escrow account the sum of TWENTY FIVE THOUSAND and 00/100 (\$25,000.00)

DOLLARS representing ten percent (10%) of the gross settlement as and for the preliminary Medicaid lien pending resolution of said lien; and it is further

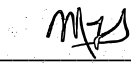
**ORDERED** that the remaining settlement proceeds in the amount ONE HUNDRED SEVENTY FOUR THOUSAND ONE HUNDRED NINETY FOUR and 65/100 (\$174,194.65), less any Medicaid and Medicare liens, are to be held in an interest bearing escrow account pending approval of the allocation and distribution of the same by the Surrogate's Court, Kings County pursuant to EPTL §5-4.6; and it is further

**ORDERED** that the plaintiff shall hold the defendant NEW YORK CITY HEALTH AND HOSPITALS CORPORATION and/or its insurers and attorneys harmless from any and all liens; and it is further

**ORDERED**, that the giving of a bond or other security in connection therewith be dispensed with; and it is further

**ORDERED**, that SANOCKI NEWMAN & TURRET, LLP shall continue to serve as the attorneys for the Estate of VICTORIA KNIGHT until entry of the final Decree in the Surrogate's Court, Kings County and until the receipt and distribution of all settlement proceeds to be paid hereunder by Decree of the Surrogate's Court, Kings County.

E N T E R:

  
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HON. MARSHA L. STEINHARDT  
J.S.C.