

Berkovsky v Boro Park Ctr. for Rehabilitation & Healthcare

2020 NY Slip Op 33208(U)

September 30, 2020

Supreme Court, Kings County

Docket Number: 505745/2017

Judge: Marsha L. Steinhardt

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This opinion is uncorrected and not selected for official publication.

At the Medical Malpractice Trial Readiness Part 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 30th day of September, 2020

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

-----X
ILYA BERKOVSKY, as Administrator of the
Estate of ARKADY VIKHMAN, deceased,

Plaintiff,

Index No: 505745/2017

- against -

ORDER

BORO PARK CENTER FOR REHABILITATION
& HEALTHCARE,

Defendant,
-----X

Upon reading and filing the annexed petition of ILYA BERKOVSKY, as Administrator of the Estate of ARKADY VIKHMAN deceased, duly sworn to the 24th day of September, 2020; the Affirmation of MARIA K. MORANO, Esq. duly sworn to the 24th 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 ILYA BERKOVSKY, as Administrator of the Estate of ARKADY VIKHMAN deceased, is granted leave to settle all causes of action of the decedent, ARKADY VIKHMAN; and it is further

ORDERED that, ILYA BERKOVSKY, as Administrator of the Estate of ARKADY VIKHMAN deceased, is authorized to settle and compromise all causes of action brought in the Supreme Court, Kings County, under Index No. 505745/2017 against defendant BORO PARK CENTER FOR REHABILITATION & HEALTHCARE, for the total sum of TWO HUNDRED SEVENTY FIVE THOUSAND and 00/100 (\$275,000.00) DOLLARS, and that all causes of action against defendant BORO PARK CENTER FOR REHABILITATION & HEALTHCARE 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 ILYA BERKOVSKY, as Administrator of the Estate of ARKADY VIKHMAN 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 BORO PARK CENTER FOR REHABILITATION,; and it is further

ORDERED, that defendant BORO PARK CENTER FOR REHABILITATION, and/or its insuring entity shall, within twenty-one (21) days of receipt of all required closing documents, pay the sum of TWO HUNDRED SEVENTY FIVE THOUSAND and 00/100 (\$275,000.00) DOLLARS by check made payable to ILYA BERKOVSKY as Administrator of the Estate of ARKADY VIKHMAN, 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.....	\$3,026.03;
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.....	\$80,493.49;
Medicare, in full satisfaction of its lien.....	\$90,000.00;
Human Resources Admsinitration, in full satisfaction of its lien against the Estate of ARKADY VIKHMAN for Medicaid benefits received	\$40,000.00;
ILYA BERKOVSKI, in reimbursement of decedent’s Funeral expenses.....	\$2,100.00

and it is further

ORDERED that the remaining settlement proceeds in the amount FIFTY-NINE THOUSAND THREE HUNDERED NINETY-FIVE and 48/100 (\$59,380.48) DOLLARS, shall 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 BORO PARK CENTER FOR REHABILITATION & HEALTHCARE, 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 ARKADY VIKHMAN 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:



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