

Hefferan v Berlin

2021 NY Slip Op 32241(U)

November 9, 2021

Supreme Court, New York County

Docket Number: Index No. 16020/2019

Judge: Lisa S. Headley

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This opinion is uncorrected and not selected for official publication.

At the Supreme Court of the State of New York, County of New York, at the Courthouse located at 6080 Centre Street, New York, NY on the 9th day of November 2021

PRESENT:

HON. LISA S. HEADLEY, J.S.C.

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

-----X
ERIN M. HEFFERAN, Executrix of the Estate of Michael T. Hefferan, Deceased,

Plaintiff,

-against-

FEDERIC E. BERLIN and BERLIN PRODUCTIONS,

Defendants. /

COMPROMISE ORDER

Index # 16020/2019

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A petition having been filed by ERIN M. HEFFERAN, Executrix of the Estate of Michael T. Hefferan, deceased, duly verified on September 22, 2021, praying that a decree be issued herein and; upon the reading and filing of the Petition, Attorney Affirmation and the supporting papers;

And it appearing to this Court that there is good cause to permit the Executrix of the Estate of Michael Hefferan, deceased, to compromise the claims asserted herein and that such compromise is in the best interest of plaintiff-Executrix;

NOW upon the Notice of Motion and Affirmation of S. Joseph Donahue, of BLOCK O'TOOLE & MURPHY, LLP, attorneys for petitioner, dated September 22, 2021, it is hereby:

ORDERED that the Petitioner, Executrix ERIN M. HEFFERAN, is authorized, empowered and directed to compromise and settle the cause of action of the decedent MICHAEL HEFFERAN, as against Defendants FEDERIC E. BERLIN and BERLIN PRODUCTIONS, for the sum total of \$1,250,000.00 (One Million Two Hundred Fifty Thousand Dollars) and to discontinue the action, and it is further;

ORDERED that the provisions of the Letters Testamentary, which were of MICHAEL T. HEFFERAN, which were issued to petitioner Erin Hefferan by the Surrogate Court of Westchester County, by the Honorable Brandon R. Sall on July 27, 2017, restraining petitioner from compromising or collecting upon the aforesaid claim are modified only to the extent to permit said compromise, and settlement of the matter against defendants in the sum of \$1,250,000.00 (One Million Two Hundred Fifty Thousand Dollars), and it is further;

ORDERED, that the filing of a bond should be dispensed with, and it is further;

ORDERED, that Defendants FEDERIC E. BERLIN and BERLIN PRODUCTIONS, and/or Defendants' insurance companies, Geico Insurance, and/or Continental Casualty Company (CNA Insurance), shall issue a check made payable to the law firm of Block O'Toole & Murphy, LLP., for their costs and disbursements in the amount of **\$5,897.08**; and issue a check made payable to the law firm of Block O'Toole & Murphy, LLP., for their legal fee in the amount of **\$414,700.97**, at a rate of 33 1/3% of the net recovery, and it is further;

ORDERED, that that Defendants FEDERIC E. BERLIN and BERLIN PRODUCTIONS, and/or Defendants' insurance companies, Geico Insurance, and/or Continental Casualty Company (CNA Insurance), shall pay the Workers Compensation lien by issuing a check made

payable to Employers Assurance Company in the amount of **\$6,609.80**, and deliver said check to Block O'Toole & Murphy, LLP, who shall deliver said check to Employers Assurance Company, and it is further;

ORDERED that the aforementioned costs and disbursements of **\$5,897.08** and legal fee of **\$414,700.97** shall be held in an escrow account by Block O'Toole & Murphy, LLP until the filing of proof with this court of the filing of the petition for allocation and disbursement with the Surrogate Court of Westchester County, and it is further;

ORDERED, that upon the filing of proof with this court of the filing of the petition for allocation and disbursement with the Surrogate Court of Westchester County, Block O'Toole & Murphy, LLP shall be permitted to immediately withdraw the aforementioned costs and disbursements of **\$5,897.08** and legal fee of **\$414,700.97** being held in an escrow account, and it is further;

ORDERED, that Defendants FEDERIC E. BERLIN and BERLIN PRODUCTIONS, and/or Defendants' insurance companies, Geico Insurance, and/or Continental Casualty Company (CNA Insurance), shall pay the balance of the settlement proceeds of **\$822,792.15**, by issuing a check made payable to Erin M. Hefferan, Executrix of the Estate of Michael T. Hefferan, in the amount of **\$822,792.15**, and said amount shall be held in an escrow account by Block O'Toole & Murphy, LLP, and it is further;

ORDERED, that the balance of the net settlement, **\$822,792.15**, is referred to the Surrogate Court, Westchester County, for allocation and distribution, and that the balance of the net settlement proceeds of **\$822,792.15** shall be held in an escrow account by Block O'Toole & Murphy, LLP., until an Order/Decree is issued from the Surrogate Court of the County of

Westchester, State of New York, as to the allocation and distribution of the net settlement proceeds of the ESTATE OF MICHAEL HEFFERAN, and it is further;

ORDERED, that additional disbursements related to the filing of the petition for further allocation and disbursement with the Surrogate Court, Westchester County, including the filing fee, shall be immediately payable from the aforesaid escrow account, and it is further;

ORDERED, that Block O'Toole & Murphy, LLP shall continue to represent Plaintiff until the entry of an Order/Decree by the Surrogate Court, Westchester County for the allocation and distribution of the net settlement proceeds of \$822,792.15, without charge to decedent's estate for additional legal fees, and it is further;

ORDERED, that upon the payments heretofore mentioned by Defendants and/or Defendants' insurance companies, Geico Insurance, and/or Continental Casualty Company (CNA Insurance), the Petitioner, as Executrix of the ESTATE OF MICHAEL HEFFERAN, shall execute and deliver to said Defendants, FEDERIC E. BERLIN and BERLIN PRODUCTIONS, or Defendants' insurance Company, Geico Insurance, and/or Continental Casualty Company (CNA Insurance), a full and final and complete release of all claims against them arising out of the aforesaid cause of action, together with any other papers necessary to effectuate said compromise.

ENTER

Lisa S. Headley

J. S. C.

HON. LISA S. HEADLEY, J.S.C.