

At a Surrogate's Court held in and for the County of _____, at the Courthouse in _____, New York, on the _____ day of _____, 20____.

P R E S E N T:

HON. _____
_____ County Surrogate

In the Matter of the Application of _____ as

DECREE

Administrat _____ of the Goods, Chattels and Credits which were of Administrat _____, deceased, for leave to compromise and settle the claim and cause of action arising out of the death of the decedent and to judicially settle his/her account relating to the proceeds thereof.

FILE # _____

Upon the Petition of _____, as Administrat _____ of the Estate of _____, deceased, duly verified the _____ day of _____, 20____, in which application was made for an Order permitting the said _____, as Administrat _____ to compromise and settle for the sum of \$ _____ the cause of action against _____ for the wrongful death of the decedent, _____.

And to discontinue the action for conscious pain and suffering and to discharge and release said defendant and insurance company from all suits and claims upon the payment of the said \$ _____ in settlement of the cause of action herein,

And that the entire recovery of said action should be allocated to the cause of action for decedent's wrongful death, to modify the Letters of Administration to permit said compromise, dispense with the filing of a bond, judicially settle the account, pay to _____, Esqs., their fee for services rendered, reject the claim of the Department of Social Services, and reject the claims of _____ and _____,

And more than seven months having elapsed since the granting of Letters of Administration to _____, and the Surrogate having issued a Citation to all persons interested in the estate of said deceased to attend such judicial settlement on the _____ day of _____, 20____, at _____ a.m., at the Surrogate's Court, _____ County,

And the said Citation having been duly returned with proof of due service thereof, or the due appearance and waiver of notice, by the following named person or corporations, to wit:
[List names of distributees, and, if applicable, _____ County Department of Social Services, New York State Tax Commission, Defendant, and Defendant's Insurance Company]

And the said _____, petitioner herein, having appeared by _____ his/her attorney,

And the said _____ having appeared by _____, his/her attorneys, and having filed objections to said account,

And said _____ County Department of Social Services having appeared by _____, its attorney, and having filed objections to said account,

And said New York State Tax Commission having appeared by _____, its attorney, and having filed objections to said account,

And the Court having appointed _____, as Guardian Ad Litem for _____,

And _____ having filed objections on behalf of his/her ward, _____,

And _____ having filed a report as such guardian,

And a hearing having been held, and the Court having rendered a decision dated _____, granting the petition to compromise the cause of action for wrongful death and to judicially settle the account,

And the Court having examined the said account and having found the state and condition of said account to be as set forth in the following statement recorded with the Court:

SUMMARY STATEMENT OF THE SETTLEMENT PROCEEDS

The Administrat _____ is charged with \$ _____ the proceeds of the action of wrongful death to be distributed.

TOTAL CHARGES \$ _____

The Administrat _____ is credited with \$ _____ the following amounts

TOTAL CREDITS \$ _____

BALANCE OF THE SETTLEMENT PROCEEDS
TO BE DISTRIBUTED

\$ _____

And it appearing the said Administrat _____ has fully accounted for all monies and

properties of the estate in said summary statement, and the Administrat _____ having waived any claim to statutory commissions, it is hereby

ORDERED, ADJUDGED AND DECREED that the petitioner's application for leave to compromise and settle the cause of action for wrongful death and to allocate the entire amount of the proceeds to the cause of action for wrongful death and to grant leave to discontinue the cause of action for conscious pain and suffering is granted; and it is further

ORDERED, ADJUDGED AND DECREED that the petitioner as Administrat ____ of the decedent's estate is authorized to settle and discontinue the claims and causes of action for conscious pain and suffering and wrongful death against the defendant, _____, and petitioner is authorized to deliver general releases and discontinuances and any other papers or documents that may be required to effectuate a settlement and discontinuances or withdrawals of the said claims and causes of actions for conscious pain and suffering and wrongful death; and it is further

ORDERED, ADJUDGED AND DECREED that the entire settlement sum of \$ _____ is allocated to the cause of action for wrongful death, and the personal injury action is discontinued with prejudice and without interest, costs or disbursements; and it is further

ORDERED, ADJUDGED AND DECREED that the entire settlement sum of \$ _____ be paid by the defendant, or defendant's insurance company as follows:

To _____ as fee for services as Guardian Ad Litem	\$ _____
To _____ as fee for services as attorney for the Administrat herein	\$ _____
To _____ in reimbursement of disbursements as attorney for the Administrat _____ herein	\$ _____
To _____ as and for his/her share as surviving spouse and beneficiary of said decedent pursuant to EPTL section 5-4.4, equal to _____ %	\$ _____
To _____, child and next of kin by payment to _____, Guardian of the property of _____, jointly with the Trust Officer of the _____ Bank, as and for his/her share as next of kin of said decedent pursuant to EPTL section 5-4.4, equal to _____ %	\$ _____

and it is further

ORDERED, ADJUDGED AND DECREED that the claims of the Department of Social Services, the New York State Tax Commission, and _____ hereby are disallowed and objections filed by these parties are dismissed; and it is further

ORDERED, ADJUDGED AND DECREED that upon the defendant; or the defendant's insurance company, making payments as aforesaid, _____, as Administrat _____ of the estate of _____, deceased, be and hereby is discharged from any and all further liability as to all matters and things embraced in the aforesaid account and determined by this decree; and it is further

ORDERED, ADJUDGED AND DECREED that the giving of a bond or other security in connections therewith be dispensed with, and that the restrictions on the Letters of Administration be modified to allow the above settlement; and it is further

ORDERED, ADJUDGED AND DECREED that the account of _____ as Administrat _____ is hereby judicially settled.

ENTER: _____

DATED: _____

Surrogate

NOTICE OF ENTRY

_____, Chief Clerk

County Surrogate's Court