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DO NOT LEAVE ANY ITEMS BLANK

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X

PROCEEDING BY _____,
AS ADMINISTRATOR OF THE ESTATE OF

a/k/a _____

Deceased,

TO LIFT RESTRICTIONS.

-----X

TO THE SURROGATE'S COURT, COUNTY OF QUEENS:

The petition of _____, Administrator of the Estate of
_____, duly appointed on _____ and residing at
_____ respectfully shows:

1. That the decedent died on _____, a resident of Queens County and the State of New York.
2. On _____ Limited Letters of Administration were issued by this Court to the petitioner restricting him or her from collecting or receiving any funds or other property of the decedent in excess of \$ _____ without further Order of the Surrogate.
3. The names and addresses of all distributees interested in this proceeding, and the date of birth of all infant distributees, are as follows:

**PETITION TO LIFT
RESTRICTIONS**
(Structured Settlement)

File No. _____

4. The names and addresses of all creditors and lien holders and the amount of the debt or lien are as follows:

5. On _____ an action for the wrongful death of the decedent pending in the Supreme Court, _____ County, under Index No. _____ was settled in the form of a structured settlement with a cost of \$ _____ (consisting of \$ _____ in up-front cash and future periodic payments at a cost of \$ _____).

6. Pursuant to the terms of the attached copy of the retainer agreement and the attached itemized list of disbursements, attorney's fees are requested for the prosecution of the action for wrongful act, neglect or default in the amount of \$ _____ and disbursements are requested in the amount of \$ _____.

WHEREFORE, the petitioner respectfully prays that:

(1) the restrictions as listed on the Limited Letters of Administration granted by the Court be modified to permit the collection of the funds recovered from the wrongful death action above;

(2) that the sum of \$ _____ from the settlement be paid by defendant, _____ payable to _____, the structured settlement annuity assignee or life insurer issuing the structured settlement annuity, be delivered to _____ the structured settlement annuity broker placing this case to fund the purchase of a structured settlement annuity or annuities and to lock-in the benefits presented and/or interest rate, subject to review and approval by this Court as part of the proceeding to compromise the action and to judicially settle the account;

(3) that the balance of the settlement funds, after deducting attorney's fees and disbursements and the cost of a structured settlement annuity or annuities, be deposited in an interest bearing escrow account for the benefit of the decedent's estate and distributees;

(4) that attorneys fees in the sum of _____ and reimbursement of disbursements in the sum of _____, for a total of _____ be fixed and approved;

(5) that the attorney for the administrator or personal representative be directed to continue to serve

as the attorney for said administrator or personal representative until the entry of a Final Decree in the proceeding to compromise the action and judicially settle the account in this Court without further compensation;

(6) the attorney for the administrator or personal representative shall pay from the account all due and payable expenses set forth above as well as Court approved legal fees and disbursements;

(7) All other restrictions shall remain in effect.

Dated: _____

Petitioner's Name (Printed)

Petitioner's Signature

Verification: I have read the foregoing petition subscribed by me and know the contents thereof, and the same is true of my own knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true.

Petitioner's Signature

State of New York)

)ss.:

County of Queens)

On the _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument. Such person duly swore to such instrument before me and duly acknowledged to me that he/she executed the same.

Notary Public

Name of Attorney: _____ Tel.,.No.: _____

Address of
Attorney: _____

At the Surrogate's Court held in and for the County of Queens, at Jamaica, State of New York, in said County on the _____ day of _____, 20__.

Present:
HON. PETER J. KELLY, Surrogate
-----X

PROCEEDING BY _____,
AS ADMINISTRATOR OF THE ESTATE OF

a/k/a _____

ORDER
(To Lift Restrictions-
Structured Settlement)

Deceased, File No. _____
TO LIFT RESTRICTIONS.

-----X

A duly verified petition dated _____ having been filed by _____ praying for an Order modifying the limitations on the Letters of Administration to allow the collection of \$ _____ which represents the total proceeds of a wrongful death cause of action brought on behalf of the decedent, it is hereby

ORDERED that the sum of \$ _____ be paid by defendant, _____ payable to (fill in assignment company or life insurance company) _____, and delivered to _____ the structured settlement annuity broker placing this case to fund the purchase of a structured settlement annuity or annuities and to lock-in the benefits presented and/or interest rate, subject to review and approval by this Court as part of the proceeding to compromise the action and to judicially settle the account; and it is further

ORDERED that the balance of the settlement funds, after deducting attorneys fees and disbursements and the cost of a structured settlement annuity or annuities, be paid to the firm of _____, petitioner's attorneys, and shall be deposited in an interest bearing escrow account for the benefit of the decedent's estate and distributees; and it is further

ORDERED that the attorney for the administrator or personal representative is directed to continue to serve as the attorney for the administrator or personal representative until the entry of a Final Decree in the proceeding to compromise the action and judicially settle the account in this Court without further compensation; and it is further

ORDERED that the restrictions as listed in the Limited Letters of Administration are modified to permit the settlement and payment by defendant, _____, to plaintiff's counsel of the up-front cash portion of the settlement in the sum of \$ _____, which is inclusive of attorney's fees and disbursements, and to _____, the structured settlement assignee or life insurance company annuity issuer for purchase of a structured settlement annuity or annuities, at a cost in the sum of \$ _____; and it is further

ORDERED that _____ as administrator or personal representative of the Estate of _____, shall provide defendant with a General Release which recites the amount of up-front cash and the amount of annuity funding, all of which shall be payable forthwith, including payment to the life insurers and/or assignment companies; and it is further

ORDERED that the administrator or personal representative and the defendant or defendant's carrier shall forthwith execute an appropriate settlement agreement setting forth the terms of the structured

settlement; and it is further

ORDERED that the final terms of the structured settlement and all periodic payments including, but not limited to, the amounts, dates of periodic payments, and payees shall remain subject to approval of this Court; and it is further

ORDERED that the life insurers issuing the annuities or funding agreements to provide the periodic payments shall not make any payments to the distributees until this Court has issued a final decree approving the allocation and distribution of the settlement; and it is further

ORDERED that the defendant and/or defendant's carrier shall forthwith execute qualified assignments consistent with the settlement agreement; and it is further

ORDERED that in the event any party to the settlement agreement or qualified assignment is incapable of executing additional or supplementary documents due to bankruptcy, insolvency or otherwise should such documents become necessary at the time a final decree is issued, the original documents shall be deemed amended, nunc pro tunc, consistent with the final decree of this Court; and it is further

ORDERED that, upon the collection of the funds set forth above and the creation of an interest-bearing escrow account for the benefit of the distributees, the attorney for the administrator or personal representative shall pay from the account all due and payable expenses as set forth in the petition; and it is further

ORDERED that attorney's fees are approved for the prosecution of the action for wrongful act, neglect or default, in the amount of \$_____, along with disbursements in the amount of \$_____, which shall be immediately payable from said escrow account after payment of the expenses set forth above; and it is further

ORDERED that the attorney for the administrator or personal representative shall file a petition for the allocation and distribution of the above proceeds in this Court, and cause a citation to issue to all necessary parties within ___ days from the date of this Order; and it is further

ORDERED that the attorney for the administrator or personal representative in the action for wrongful act, neglect or default who receives payment shall continue to serve as attorney until entry of a final decree in the Court; and it is further

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

ORDERED that all other restrictions shall remain in full force and effect.

SURROGATE

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

_____ X
Proceeding to Lift Restrictions to Collect the Proceeds
of a Wrongful Death Proceeding by _____ Notice of Application
as the Administrator of the Estate of _____
File No.
Deceased
_____ X

Notice is Hereby Given That:

- 1) An application to Lift the Restrictions to Collect the Proceeds of a Wrongful Death Proceeding of the estate of the above named decedent, has been made by _____, Administrator, whose post office address is _____.
- 2) Administrator prays that the Decree be modified for the Collection of the Proceeds of a Wrongful Death to _____.
- 3) The names and post office addresses of each and every distributee of the above named decedent as set forth in the petition and known to the undersigned as follows:

Name of Distributee	Domicile and Post Office Address
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

(Continue on reverse if more space is needed)

Dated _____ Signature of Petitioner or Attorney

_____ Name and Address of Attorney Phone No.

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

Proceeding to Lift Restrictions to Collect the Proceeds
of a Wrongful Death Proceeding by
as the Administrator of the Estate of

X

Affidavit of Mailing

File No.

Deceased

X

State Of New York
County Of _____

_____, residing at _____
being duly sworn, deposes and says that deponent is over the age of eighteen years; that on
_____ 20____, deponent mailed a copy of the foregoing Notice of
Application, contained in a securely closed postpaid wrapper, directed to each of the person
named in paragraph 3 above respectively, as follows:

Name and Post Office Address _____

by depositing the document in a letter box or other official depository under the exclusive care
and custody of the United States Post Office, located at: _____

Signature

Sworn to before me this _____
day of _____ 20____

Notary Public
Commission Expires:
(Affix Stamp or Seal)

CHECKLIST
PROCEEDING TO LIFT RESTRICTIONS
AFTER SETTLEMENT OF WRONGFUL DEATH ACTION

REQUIRED ITEMS:

1. PETITION TO LIFT RESTRICTIONS
2. PROPOSED ORDER
3. COPY OF STIPULATION OF SETTLEMENT
4. NOTICE OF APPLICATION TO ALL INTERESTED PARTIES
5. PAID FUNERAL BILL
6. COPY OF RETAINER AGREEMENT
7. ITEMIZED LIST OF DISBURSEMENTS
8. \$45.00 FILING FEE