

TAMMY LYNN COLEMAN,	:	IN THE COURT OF COMMON PLEAS OF
Individually and as Parent and Natural	:	LYCOMING COUNTY, PENNSYLVANIA
Guardian of CHASE COLEMAN, minor	:	JURY TRIAL DEMANDED
child, and MADELINE COLEMAN, minor	:	
child, and TAMMY LYNN COLEMAN as	:	
Administratrix of the Estate of DARREN W.:	:	
COLEMAN, deceased.	:	
4711 Pleasant Valley Road	:	
Cogan Station, PA 17728	:	
Plaintiffs	:	
	:	
vs.	:	NO. 99-01,665
	:	
TAYLOR LOGUE KISSELL	:	CIVIL ACTION
Defendant	:	APPROVAL OF SETTLEMENT

*Date: March 21, 2003*

**MEMORANDUM OPINION AND ORDER**

This Opinion and Order issued in response to the Petition of Plaintiff to approve settlement and the apportionment of settlement funds in the above-captioned action. The Court is pleased that the parties have reached a settlement that provides for a gross settlement payment of \$500,000 in exchange for a full release of all claims. The Petition originally presented to us provided for an apportionment of the proceeds of settlement, after approval of counsel fees, so that the Petitioner, Tammy Lynn Coleman as Administratrix and wife of the decedent in this survival action would receive payment of \$107,111.11 and \$12,000 on behalf of the Estate. The remaining \$214,222.22 was to be paid to the Petitioner (Tammy Lynn Coleman) as parent and natural guardian of the minor children.

This Court, in conference with counsel, has ascertained that counsel for Plaintiff has requested the Department of Revenue to approve the apportionment but this approval has not yet been approved. Also in conference this Court has determined that it does not have authority under Pennsylvania law to make the apportionment between the individuals who are entitled to

receive the proceeds of the Wrongful Death and Survival Action in the form suggested by the proposed order. Rather, the payment of damages in a Wrongful Death and Survival Action should be made to the Administratrix of the Estate who is authorized by law to bring the actions (*see*, 42 Pa. C.S. §§8301, 8302 and 20 Pa. C.S. §3372; *see also Quinn v. Com. Dept. of Transp.*, 719 A.2d 1105 (Cmwlth. 1998 App. Den. 737 A.2d 1227); *Stecyk v. L. Helicopter Textron*, E.D. Pa. 1999, 53 F.Supp.2d 794; *Linebaugh v. Lehr*, 505 A.2d 303 (Pa. Super. 1986).

Accordingly, the following Order is entered.

**ORDER**

Upon consideration of the foregoing Petition, it is ORDERED that the settlement and compromise of this action for the gross sum of Five Hundred Thousand Dollars (\$500,000) is approved. Counsel fees and expenses are also approved as set forth below.

The distribution is directed as follows:

1. To Peter G. Loftus, Esquire and Francis X. O'Connor, Esquire, for counsel fees, the sum of One Hundred Sixty-Six Thousand, Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$166,666.67).
2. The remaining balance of three Hundred Thirty-three Thousand, Three Hundred Thirty-three Dollars and Thirty-three Cents (\$333,333.33) to Tammy Lynn Coleman, as Administratrix of the Estate of Darren W. Coleman, deceased, to be held and distributed by her in accordance with the law as relates to distribution to those entitled to share in the Wrongful Death and Survival Actions. The said Administratrix to hold said funds in an appropriate FDIC insured saving accounts until such time as distribution is made; said distribution to be approved by the appropriate Orphans' Court; said distribution to be made in accordance with the approval of the allocation between the wrongful death and survival Actions as finally approved by the

Pennsylvania Department of Revenue and/or an Orphans' Court in an appropriate proceeding. Notice of the entry of this Order to be given by Petitioner to the Pennsylvania Department of Revenue through the appropriate Estate proceedings.

3. The said Tammy Lynn Coleman, as Administratrix is authorized to execute an appropriate and full release of all claims presented by the within action and to execute the same in her capacity and all capacities as set forth in the caption, that is, individually and as parent and natural guardian to Chase Coleman, minor child and Madeline Coleman, minor child and Tammy Lynn Coleman, as Administratrix of the Estate of Darren W. Coleman, deceased.

4. The parties shall proceed forthwith with the execution of all documents necessary and payment of the settlement amount and the marking of the record of this case as settled and discontinued.

BY THE COURT,

William S. Kieser, Judge

cc: Peter G. Loftus, Esquire  
Daniel Morgan, Esquire  
Judges  
Christian J. Kalas, Esquire  
Gary L. Weber, Esquire (Lycoming Reporter)