

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF HENRICO

LEON DENNIS OCHIENG, ADMINISTRATOR OF
THE ESTATE OF IRVO NOEL OTIENO,
Deceased,

Petitioner,

Case: CL23-6331

v.

COMMONWEALTH OF VIRGINIA;
COUNTY OF HENRICO, VIRGINIA; and
SHERIFF ALISA A. GREGORY, Sheriff, County of
Henrico, Virginia

Respondents.

ORDER APPROVING WRONGFUL-DEATH SETTLEMENT

ON THIS DAY September 19, 2023, came Petitioner, Leon Dennis Ochieng, Administrator of the Estate of Irvo Noel Otieno, Deceased (hereinafter referred to as "Petitioner"), in person and by counsel, and pursuant to Virginia Code § 8.01-55 and upon Petitioner's motion for approval of wrongful-death settlement, and notice to the statutory beneficiaries, Petitioner moved for approval of the wrongful-death settlement.

It appearing to the Court that the matters agreed upon by the Petitioner and the Commonwealth of Virginia; the County of Henrico, Virginia; and Alisa A. Gregory, Sheriff, County of Henrico, Virginia; (hereinafter "Respondents") (collectively, "the Parties") are as set forth herein and the same are hereby ratified, approved, and confirmed.

Specifically, it appearing to the Court that:

1. All parties required by law to be convened are convened or are deemed convened by their signatures to this Order or by written or actual notice of hearing.

2. Irvo Otieno ("Mr. Otieno) was arrested in Henrico County by the Henrico Police Division on March 3, 2023. Pursuant to a Temporary Detention Order, on March 6, 2023, Mr. Otieno was transported by the Henrico County Sheriff to Central State Hospital (CSH), operated by the Virginia Department of Behavioral Health and Developmental Services. At 5:36 p.m. on March 6, 2023, Mr. Otieno was declared dead at CSH in Dinwiddie County, Virginia. After an autopsy and investigation, the Office of the Chief Medical Examiner determined that the official cause of Mr. Otieno's death to be: "POSITIONAL AND MECHANICAL ASPHYXIA WITH RESTRAINTS." The official manner of death was ruled "HOMICIDE."

3. On May 9, 2023, Leon Dennis Ochieng duly qualified as Administrator of the Estate of Irvo Noel Otieno, Deceased, in Dinwiddie County Circuit Court, under the applicable provisions of law.

4. The Parties have informed the Court that they have reached a settlement contingent upon Court approval.

5. The Respondents deny that their actions, individually or collectively, caused any injury to, or the death of, Mr. Otieno.

6. Specifically, without admitting any liability on the part of themselves, their employees, or their agents, the Respondents have agreed to pay collectively, and Petitioner has agreed to accept, cash in the amount of \$8,500,000.00 (with Henrico County, Virginia paying \$4,450,000.00; the Commonwealth of Virginia paying \$2,550,000.00, and the Sheriff of Henrico County, Virginia paying \$1,500,000.00) in full settlement and discharge of any and all of Petitioner's claims against Respondents for the injuries and death of Irvo Noel Otieno.

7. The Petitioner had the authority to file his petition on behalf of the Estate of Irvo Noel Otieno, Deceased; to negotiate and agree to a settlement; to sign the Settlement Agreement and Releases ("Agreement") on behalf of the Estate of Irvo Noel Otieno, Deceased, consenting

to the resolution of the claims as provided for in the Agreement; and to notice his petition for hearing for approval of the compromise settlement.

8. The settlement is fair and reasonable under all the circumstances.

9. The decedent, Irvo Noel Otieno, who was 28 years old and a resident of Henrico County and the Commonwealth of Virginia at the time of his death, is survived by the following class of Statutory Beneficiaries under the Virginia Death by Wrongful Act, Va. Code § 8.01-53: his mother Caroline Ouko, his brother Leon Dennis Ochieng, his sister Syprose Adhiambo Ouko, his sister Marion Akinyi Ouko, his brother Clifford Otieno Ouko, and his sister Florence Achieng Ouko. The foregoing, all adults, comprise Mr. Otieno's purported statutory beneficiaries.

10. That, as per Virginia Code § 8.01-53 (1950, as amended), which designates applicable classes of beneficiaries, the following have agreed to a division of the net settlement proceeds as follows:

Payable to Caroline Akinyi Ouko	\$ 2,500,000.00
Payable to Leon Dennis Ochieng	\$ 2,500,000.00
Payable to Syprose Adhiambo Ouko	\$ 21,250.00
Payable to Marion Akinyi Ouko	\$ 21,250.00
Payable to Clifford Otieno Ouko	\$ 21,250.00
Payable to Florence Achieng Ouko	\$ 21,250.00

11. Funeral and burial expenses totaling approximately \$29,462.26 were incurred for services rendered on behalf of the Decedent. Those expenses were incurred by Caroline Ouko, the Decedent's mother, and, the National Action Network, Inc., in the amounts of \$14,462.17 and \$15,000.09, respectively. As they are entitled to reimbursement for these expenses, it is hereby ORDERED that the foregoing be paid for same from the settlement proceeds.

12. The Petitioner represents that there are no medical liens in this matter, but reports that Caroline Ouko received funding from Cartiga Consumer Funding LLC and that the amount

owing is \$ 41,820.00, which Ms. Ouko has directed to be paid directly from her portion of the proceeds noted herein, which is so Ordered.

13. It appearing to the Court that the law firms of The Crump Law Firm, PLC and The Krudys Law Firm, PLC have provided valuable legal assistance to the Petitioner in the representation of this matter, and pursuant to the agreement of the foregoing firms and the Petitioner, it is hereby ORDERED that that The Crump Law Firm and The Krudys Law Firm, PLC be awarded \$1,691,000.00 and \$1,665,000.00, respectively. The Court finds that the foregoing collective fee is a reasonable amount for contingency fee work. The foregoing sums will be paid out of the settlement proceeds in this matter.

14. It further appearing to the Court that certain costs and reimbursable expenses have been incurred and advanced by the law firms of The Crump Law Firm, PLC and The Krudys Law Firm, PLC in the amounts of \$8,564.90 and \$20,225.94, respectively, it is hereby ORDERED that the foregoing law firms shall be reimbursed in the foregoing amounts, which sums are to be paid out of the settlement proceeds in this matter. A reserve in the amount of \$746.90 shall be established for any additional expenses, with any remainder payable to Caroline Ouko, the Decedent's mother.

15. It is ORDERED that the sum remaining after the payment of attorney's fees, costs, funeral and burial expenses, and other amounts delineated herein, \$ 5,085,000.00 shall be divided among the Statutory Beneficiaries in the following manner, which division has been agreed to by them and for which this Court finds to be reasonable:

Payable to Caroline Akinyi Ouko	\$ 2,500,000.00
Payable to Leon Dennis Ochieng	\$ 2,500,000.00
Payable to Syprose Adhiambo Ouko	\$ 21,250.00
Payable to Marion Akinyi Ouko	\$ 21,250.00
Payable to Clifford Otieno Ouko	\$ 21,250.00
Payable to Florence Achieng Ouko	\$ 21,250.00

16. All sums paid to the beneficiaries constitute damages on account of personal physical injuries and physical sickness, within the meaning of Section 104 (a)(2) of the Internal Revenue Code of 1986, as amended. The entire payment is compensatory in nature to compensate each beneficiary for the loss of their family member; there being no finding warranting punitive damages, and none of these funds are in any way deemed to relate to any punitive claims that were brought or could have been brought against any Respondent.

It is hereby ORDERED that, upon completion and satisfaction of the terms of this Order, including the transfer of all payments, the Commonwealth of Virginia; Sheriff of Henrico County, Virginia; Henrico County, Virginia; the Henrico Board of Supervisors; and as to all Respondents, their insurers, or reinsurers; their past, present and future owners; officers; directors; stockholders; attorneys; agents; servants; representatives; current and former employees; independent contractors; departments; divisions; agencies; subsidiaries; parent corporations; affiliated corporations; partners; predecessors and successors in interest; heirs; executors; administrators and assigns of them and any of them will be released and fully discharged from all liability for any and all claims for the death of Irvo Noel Otieno, and this matter will be dismissed with prejudice.

It is further ORDERED, that the Clerk of the Court issue certified copies of this Order to all counsel.

Date: 09.19.23
Henrico County, Virginia


Circuit Court Judge

(Endorsements of Petitioner, beneficiaries, and respective counsel appear on the following 3 pages)