

IN THE COURT OF CLAIMS OF OHIO

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JOHN D. ROBERTSON, Individ., etc.

Plaintiff

v.

DEPARTMENT OF PUBLIC SAFETY,
etc., et al.

Defendants

Case No. 2001-09214

Judge J. Warren Bettis

FINAL JUDGMENT ENTRY

{¶ 1} On April 17, 2006, the court entered judgment in favor of plaintiff in the amount of \$2,189,694.86. Pursuant to an April 12, 2006, entry, the court held final judgment in abeyance pending the distribution of proceeds by the Trumbull County Probate Court.

{¶ 2} On August 18, 2006, plaintiff filed a notice of the filing of the Probate Court judgment entry of distribution. On August 28, 2006, plaintiff filed a proposed judgment entry reducing allocations among the beneficiaries pursuant to R.C. 2743.02(D), which requires that recoveries against the state be reduced by the aggregate of insurance proceeds, disability award, or other collateral recovery received. On August 31, 2006, defendants filed a response to plaintiff's proposed judgment entry stating that they concur with the methodology used by plaintiff and the resulting apportionment. Defendants did, however, note a mathematical miscalculation in the amount of \$70. Upon review, the court finds that it is not necessary to conduct an oral hearing on the matter as previously contemplated by the court and counsel. Therefore, final judgment shall be entered on the basis of the filings submitted.

[Cite as *Robertson v. Ohio Dept. of Pub. Safety*, 2006-Ohio-5672.]

{¶ 3} It is the duty of the court to deduct collateral benefits received by each beneficiary from that beneficiary's share of the proceeds as adjusted by the Probate Court. *McMullen v. Ohio State University Hospitals*, 88 Ohio St.3d 332, 2000-Ohio-342 and *Buchman v. Wayne Trace Local School Dist. Bd. of Ed.*, 73 Ohio St.3d 260, 269, 1995-Ohio-136. After due consideration and assessment of the setoffs, the court adopts plaintiff's calculations, as corrected by defendants, and finds that the following allocations are equitable, just, and in accordance with the law:

Estate of Joseph Robertson	\$ 250,000.00
Collateral Source Recoveries	<u>39,700.00</u>
Final Allocation	\$ 210,300.00
John D. Robertson	\$1,053,254.31
Collateral Source Recoveries	<u>546,025.00</u>
Final Allocation ¹	\$ 507,229.31
Estate of Joette Robertson	\$ 568,330.59
Collateral Source Recoveries	<u>277,900.00</u>
Final Allocation	\$ 290,430.59
Joshua Robertson	\$ 318,109.96
Collateral Source Recoveries	<u>148,875.00</u>
Final Allocation	\$ 169,234.96

{¶ 4} After applying the total collateral source setoffs of \$1,012,500 to this court's \$2,189,694.86 judgment, the court hereby renders final judgment for plaintiff in the amount of \$1,177,194.86,² which includes the filing fee paid by plaintiff. Court costs are assessed against the Department of Public Safety. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

1

Plaintiff's proposed entry listed this amount as \$507,299.31, or \$70 more than the amount listed above.

2

Plaintiff's proposed entry listed this amount as \$1,177,264.86 due to the noted \$70 miscalculation.

J. WARREN BETTIS
Judge

cc:

Robert F. Linton, Jr.
Stephen T. Keefe, Jr.
Hoyt Block, Suite 300
700 West St. Clair Avenue
Cleveland, Ohio 44113-1230

Attorneys for Plaintiff

Janet McCamley
24100 Chagrin Blvd., #330
Beachwood, Ohio 44122

Peter E. DeMarco
James P. Dinsmore
Assistant Attorneys General
150 East Gay Street, 23rd Floor
Columbus, Ohio 43215-3130

Attorneys for Defendants

LH/cmd
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