

FOR THE DISTRICT OF KANSAS

MARIA GUADALUPE NEVAREZ, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No.: 04-2309 KHV
)	
THE COUNTY OF FINNEY COUNTY,)	
KANSAS, et al.,)	
)	
Defendants.)	

JUDGMENT ENTRY

On this 17th day of March, 2006, this cause comes for hearing. Present are Plaintiffs Maria Nevarez, Encarnacion Nevarez, Jr., Miguel Nevarez, and Alfredo Nevarez, all in person and represented by counsel Lynne Jaben Bratcher. Beneficiary Patricia Nevarez Solis is not present, but her interests are presented via Affidavit. Also in attendance is Guardian Ad Litem Teodoro Garcia, Jr. for minor children, Livia Vianey Nevarez and Jesus Manuel Nezarez, who are both beneficiaries in this action.

FINDINGS:

1. Encarnacion Nevarez died on July 12, 2002 in Garden City, Finney County, Kansas.
2. Plaintiffs have made claims against Defendants herein regarding the wrongful death of Encarnacion Nevarez, alleging various causes of action in the Complaint filed with the Court on or about July 6, 2004.
3. Plaintiffs employed the law firm of Foreman, Lewis & Hutchinson, P.C. and Bratcher Gockel & Kingston, L.C. (formerly Bratcher & Gockel, L.C.) as their attorneys to assist in the prosecution of this case.

4. The beneficiaries of Encarnacion Nevarez in this wrongful death case include all of the following persons:

- (a) Plaintiff Maria Nevarez, the widow of Encarnacion Nevarez
- (b) Plaintiff Encarnacion Nevarez, Jr., the son of Encarnacion Nevarez
- © Plaintiff Miguel Nevarez, the son of Encarnacion Nevarez
- (d) Plaintiff Alfredo Nevarez, the son of Encarnacion Nevarez
- (e) Patricia Nevarez Solis, the daughter of Encarnacion Nevarez
- (f) Jesus Manuel Nevarez, Jr., the grandson of Encarnacion Nevarez and the son of Jesus Manuel Nevarez, the predeceased son of Encarnacion Nevarez
- (g) Livia Vianey Nevarez, the granddaughter of Encarnacion Nevarez and the son of Jesus Manuel Nevarez, the predeceased son of Encarnacion Nevarez

5. All heirs noted above are now requesting that this Court approve the settlement of all claims for the total sum of One Million One Hundred Dollars and 00/100 (1,100,000.00) and further approve the apportionment of the settlement proceeds to all of the heirs who are entitled to receive such proceeds.

IT IS THEREFOR ORDERED, ADJUDGED AND DECREED THAT:

A. The Court hereby approves the One Million One Hundred Dollars and 00/100 (1,100,000.00) settlement entered into by the parties as being fair and reasonable and in the best interest of all concerned.

B. The proceeds are apportioned as follows, which is in accordance with the Kansas probate court's distribution percentages contained in the Decree of Descent of March 16, 2006, In the Matter of

the Estate of Encarnacion Nevarez, Case No. 06PR15, In The 25th Judicial District, District Court of Finney County, Kansas, Probate Department.

C. The Court Orders the Clerk of this Court to distribute the funds and issue checks as follows:

- (1) To Maria Nevarez, wife - \$470,000.00, mailing address at 340 South Farmland Road, #19, Garden City, KS 67846.
- (2) To Encarnacion Nevarez, Jr. - \$28,000.00, mailing address at 340 South Farmland Road, #19, Garden City, KS 67846.
- (3) To Miguel Nevarez- \$28,000.00, mailing address at 340 South Farmland Road, #19, Garden City, KS 67846.
- (4) To Plaintiff Alfredo Nevarez - \$28,000.00, mailing address at 340 South Farmland Road, #19, Garden City, KS 67846.
- (5) To Patricia Nevarez Solis, adult daughter - \$28,000.00, to be mailed in care of the law firm of Foreman, Lewis & Hutchison, P.C., 611 South Main Street, Suite #700, Grapevine, TX 76051.
- (6) To Jesus Manuel Nevarez, Jr., (date of birth October 4, 1994) minor grandson - \$9,000.00. The Court orders that the Clerk of the Court place these funds at Commerce Bank in an interest bearing and maintain these funds until Jesus Manuel Nevarez, Jr. reaches the age of eighteen years of age.
- (7) To Livia Vianey Nevarez, (date of birth December 1, 1991) minor granddaughter - \$9,000.00. The Court orders that the Clerk of the Court place these funds in

an interest bearing account at Commerce Bank and maintain these funds until Livia Vianey Nevarez reaches the age of eighteen years of age.

D. Attorneys fees and expenses are approved in the amount of 440,000.00 for attorney's fees and \$37,104.36 in expenses for the law firm of Foreman, Lewis & Hutchinson, P.C., expenses in the amount of \$1,612.22 for the law firm of Bratcher Gockel & Kingston, L.C., expenses in the amount of \$405.49 for the Crotty Law Offices, fees in the amount of \$2,500 for attorney Pat Montes who served as a translator in the case, and estate administrator fees in the amount of \$4,448.00 for Terry Stephens.

E.. Guardian ad litem fees in the amount of \$1,250 for Guardian Ad Litem Teodoro Garcia, Jr.

F. The remainder in the amount of \$12,680.02 is to be reserved for the exhumation and transfer of the body of Encarnacion Nevarez to be buried in Mexico. Plaintiffs' attorneys are currently making arrangements with the Mexican Consulate. Any portion not necessary for the exhumation and burial in Mexico shall be distributed in the proportions ordered above among the survivors. When the amount is known, Plaintiffs counsel will notify the Clerk of the Court to inform the Court to whom the funds should be paid. For the time being the funds should be kept in an interest bearing account in Commerce Bank.

G. Plaintiffs shall complete and execute a settlement release in full settlement of any and all claims or causes of action resulting from the matters set forth in the aforementioned complaint which shall be binding upon plaintiffs and their heirs, all as set out herein above.

H. Plaintiffs and all heirs and their counsel shall collect and make receipt for payment to be made at settlement and, upon such payment, shall enter satisfaction of judgment herein.

I. The proposed settlement, having been approved by the court, shall be and hereby is declared to be binding upon plaintiffs and all heirs. Defendants and all agents, servants and employees of Defendants are hereby forever discharged of and from any and all alleged liability for the injuries and death of Encarnacion Nevarez as well as the claims of the Plaintiffs and heirs in connection with any of the claims they made, or could have made in their complaints herein.

J. The Court Orders the Clerk of this Court to distribute the funds and issue checks as follows:

1. A check in the amount of \$440,000 for attorneys fees made payable to the law firm of Foreman, Lewis & Hutchison, P.C., 611 South Main Street, Suite #700, Grapevine, TX 76051.
2. A check in the amount of \$37,104.36 for expenses made payable to the law firm of Foreman, Lewis & Hutchison, P.C., 611 South Main Street, Suite #700, Grapevine, TX 76051.
3. A check in the amount of \$1,612.22 for the law firm of Bratcher Gockel & Kingston, L.C., Suite 1935 City Center Square, 1100 Main St., P.O. Box 26156, Kansas City, MO 64196.
4. A check in the amount of \$405.49 for the Crotty Law Firm, 114 West Pine, Garden City, KS 67846-5444.
5. A check in the amount of \$2,500 for attorney Pat Montes of the Montes Law Firm, 835 E. Lamar Blvd, #412, Arlington, TX 76011.
6. A check in the amount of \$4,448.00 for administrator of the probate estate, Terry Stephens, Attorney at Law, 444 N. Market, Suite 105, Wichita, KS 67202.

7. A check in the amount of \$1,250 for Guardian Ad Litem Teodoro Garcia, Jr., 827 Armstrong Ave., Suite 102, Kansas City, KS 66102.
8. The remainder in the amount of \$12,680.02 is to be reserved for the exhumation and transfer of the body of Encarnacion Nevarez to be buried in Mexico. When the amount is known, Plaintiffs counsel will notify the Clerk of the Court to inform the Court to whom the funds should be paid. For the time being the funds should be kept in an interest bearing account in Commerce Bank.
- J This cause is hereby dismissed with prejudice.
- K. All parties shall bear their own respective costs and attorneys' fees.

Date: March 22, 2006

s/ Kathryn H. Vratil
Honorable Kathryn H. Vratil
United States District Judge