

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

KIMBERLY HUBBARD,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 09-2266-JPO
)	
LOGI WAREHOUSING AND)	
TRANSPORTATION, LLC, et al.,)	
)	
Defendants.)	

**ORDER APPROVING WRONGFUL DEATH SETTLEMENT AND
DISTRIBUTION OF PROCEEDS**

Now on this 21st day of December, 2010 the Court takes up for consideration plaintiff's Application for Approval of Wrongful Death Settlement and Distribution of Proceeds. The Court finds all parties and persons interested in the proceeding pursuant to Kansas law have been duly notified pursuant to said statutes. The Application for Approval of Wrongful Death Settlement and Distribution of Proceeds being presented to the Court, along with Affidavits from all of the wrongful death claimants, and the Court being fully advised in the premises after hearing the evidence, makes the following findings:

1. James D. McLaughlin, the decedent, died on or about November 21, 2007, in a motor vehicle accident in Kansas.
2. This matter was tried to a jury beginning November 15, 2010. The jury reached its verdict on November 22, 2010. Pursuant to the verdict, plaintiff was not entitled to receive any damages from defendants. During the trial, however, plaintiff and defendants entered into a "high-low" agreement under which plaintiff was guaranteed a minimum payment of \$200,000.00. Accordingly, plaintiff has received \$200,000.00 from the defendants. Plaintiff has

executed a Release of All Claims and the parties have filed a Stipulation of Dismissal With Prejudice.

3. The lawful claimants are decedent's five adult children, Kimberly Hubbard, Jamie McLaughlin, Michelle McLaughlin-Schappert, Sarah McLaughlin, and James L. McLaughlin. All of the children testified at trial except for Sarah, who was unable to testify due to a medical emergency. It was clear from the testimony decedent had a close and loving relationship with all of his children.

4. The five claimants have executed Affidavits in which they each agree to share the net proceeds equally (i.e., 20% each). The Court finds this distribution to be fair and reasonable.

5. Intervenor, Dyno Nobel, Inc. and ACE American Insurance Company, have asserted a lien on the settlement proceeds seeking recovery of benefits paid pursuant to the workers' compensation statutes of Kansas as a result of decedent's death. Plaintiff and the intervenors have reached a compromise settlement of the asserted lien. Pursuant to that compromise settlement, the Court orders plaintiff's attorneys distribute \$5,000.00 to intervenors from the settlement proceeds. This payment of \$5,000.00 will fully satisfy and extinguish intervenors' lien.

6. The claimants entered into a Contingent Fee Contract for Legal Services with Summers & Johnson, P.C., in which said attorneys were lawfully employed and retained to represent the claimants with regard to a claim for damages against defendants. Claimants and their attorneys have agreed to payment of attorneys' fees equal to 45% of the net settlement amount after reduction for litigation expenses, and to reimbursement for their litigation expenses. The plaintiff's attorneys' fees and litigation expenses are set forth in Exhibit A, attached to the Affidavits of the claimants. The Court finds the attorneys' fees and litigation expenses to be reasonable.

7. All consideration made herein to claimants is paid for loss of consortium and loss of services damages recognized under Kansas law. No consideration is being given for damages for aggravating circumstances or punitive damages.

8. Claimants have requested, and the Court approves, distribution in the following amounts:

Intervenors, Dyno Nobel, Inc. and ACE American Ins. Co.	\$ 5,000.00
Kimberly Hubbard	
Reimbursement of Trial Expenses	\$ 1,182.64
20% Share of Settlement Proceeds	\$18,187.52
Jamie McLaughlin	
Reimbursement of Trial Expenses	\$ 843.17
20% Share of Settlement Proceeds	\$18,187.51
Michelle McLaughlin-Schappert	
20% Share of Settlement Proceeds	\$18,187.51
Sarah McLaughlin	
20% Share of Settlement Proceeds	\$18,187.51
James McLaughlin	
Reimbursement of Trial Expenses	\$ 1,015.00
20% Share of Settlement Proceeds	\$18,187.51
Summers & Johnson, P.C. and Michael L. Hodges	
Reimbursement of Litigation Expenses	\$22,527.27
Attorneys' Fees	\$78,494.36
Total Distributions	\$200,000.00

IT IS SO ORDERED.

s/ James P. O'Hara
James P. O'Hara
U.S. Magistrate Judge