

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NICOLE PAULTRE BELL, as Administratrix of the
Estate of SEAN ELIJAH BELL, and on behalf of his
infant children, JADA BELL and JORDYN BELL
and NICOLE PAULTRE BELL individually,
JOSEPH GUZMAN and TRENT BENEFIELD,

Plaintiffs,

-against-

THE CITY OF NEW YORK, THE NEW YORK
CITY POLICE DEPARTMENT, P.O. PAUL
HEADLEY, P.O. MICHAEL CARY, P.O. MARC
COOPER, P.O. GESCARD ISNORA and P.O.
MICHAEL OLIVER,

Defendants.
-----X

**STIPULATION OF
SETTLEMENT AND ORDER OF
DISMISSAL**

07-CV-02994 (SJ)(RLM)

FILED

IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ OCT 06 2010 ★

BROOKLYN OFFICE

WHEREAS, plaintiffs Nicole Paultre Bell, as Administratrix of the Estate of Sean Elijah Bell, and on behalf of his infant children, Jada Bell and Jordyn Bell and Nicole Paultre Bell, individually, Joseph Guzman, and Trent Benefield commenced this action by filing a complaint on or about July 24, 2007, alleging that the defendants violated plaintiffs' federal civil and state common law rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiffs' allegations; and

WHEREAS, defendants Marc Cooper, Gescard Isnora, and Michael Oliver filed cross claims against defendant City of New York on or about June 17, 2010; and

WHEREAS, defendant City of New York has denied any and all liability arising out of defendants Marc Cooper, Gescard Isnora, and Michael Oliver's allegations; and

WHEREAS, defendant Michael Carey filed cross claims against defendants City of New York, the New York City Police Department, Paul Headley, Marc Cooper, Giscard Isnora, and Michael Oliver on or about June 18, 2010; and

WHEREAS, defendant Michael Carey filed amended cross claims against defendants City of New York and the New York City Police Department on or about July 2, 2010; and

WHEREAS, defendants City of New York, the New York City Police Department, Paul Headley, Michael Oliver, Marc Cooper, and Giscard Isnora have denied any and all liability arising out of defendant Michael Carey's allegations; and

WHEREAS, defendant Michael Carey filed counter claims against plaintiff Nicole Pauline Bell, as administratrix of the Estate of Sean Elijah Bell on or about June 18, 2010; and

WHEREAS, defendant Michael Carey filed amended counter claims against plaintiff Nicole Pauline Bell, as administratrix of the Estate of Sean Elijah Bell on or about July 2, 2010; and

WHEREAS, plaintiff Nicole Pauline Bell, as administratrix of the Estate of Sean Elijah Bell has denied any and all liability arising out of defendant Michael Carey's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability; and

WHEREAS, plaintiffs have authorized their counsel to settle this matter on the terms set forth below; and

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed against defendants, with prejudice, and without costs, expenses, or attorneys' fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiff Nicole Paultre Bell, as administratrix of the Estate of Sean Elijah Bell the sum of **Three Million Two Hundred Fifty Thousand Dollars (\$3,250,000.00)**; plaintiff Joseph Guzman the sum of **Three Million Dollars (\$3,000,000.00)**; and plaintiff Trent Benefield the sum of **Nine Hundred Thousand Dollars (\$900,000.00)** in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees. In consideration for the payment of this sum, plaintiffs agree to dismissal of all the claims against the defendants and to release the defendants, the City of New York, and any present or former employees and agents of the City of New York or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses, and attorneys' fees.

3. Any and all claims brought by Nicole Paultre Bell in her individual capacity and on behalf of her infant children Jada Bell and Jordyn Bell against defendants are withdrawn and discontinued, with prejudice and without fees or costs to any party.

4. Any and all counter claims brought by defendant Michael Carey against plaintiff Nicole Paultre Bell, as administratrix of the Estate of Sean Elijah Bell are withdrawn and discontinued, with prejudice and without fees or costs to any party.

5. Any and all cross claims brought by defendants Michael Carey, Giscard Isnora, Michael Oliver, and Marc Cooper are withdrawn and discontinued, with prejudice and without fees or costs to any party.

6. Plaintiffs shall execute and deliver to defendant City of New York's attorneys all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraphs 2 and 3 above and an Affidavit of Status of Liens. If Medicare has provided payment and/or benefits for any injury or condition that is the subject of this lawsuit, prior to tendering the requisite documents to effect this settlement, Plaintiffs shall have notified Medicare and shall submit with the settlement documents a Medicare final demand letter for conditional payments. A Medicare Set-Aside Trust may also be required if future anticipated medical costs are found to be necessary pursuant to 42 U.S.C. §1395y(b) and 42 C.F.R. §§411.22 through 411.26.


7. Nothing contained herein shall be deemed to be an admission by the defendants that in any manner or way any of them violated plaintiffs' rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

8. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

9. Plaintiffs agree to hold harmless the City of New York, the New York City Police Department and defendants Paul Headley, Michael Carey, Giscard Isnora, Michael Oliver, and Marc Cooper regarding any liens or past and/or future Medicare payments, presently

known or unknown in connection with this matter. If conditional and/or future anticipated Medicare payments have not been satisfied, defendants reserve the right to issue a multiparty settlement check, naming Medicare as a payee or to issue a check to Medicare directly based upon Medicare's final demand letter. However, prior to issuing a multiparty settlement check to Medicare, defendants will place plaintiffs on notice of their intent to do so and will allow plaintiffs an opportunity to challenge liens asserted by Medicare, if necessary.

10. The time period for defendant City of New York to tender payment to plaintiffs will not begin to run until after the ~~New York Surrogate's Court~~ ^{Federal Court E.D.N.Y.} has approved this settlement as it pertains to the Estate of Sean Elijah Bell. Further, if any plaintiff in this matter seeks to challenge any Medicare lien asserted against the proceeds of this settlement, the time period to tender settlement payment to the plaintiff challenging the lien shall not commence until after such Medicare challenge has concluded.


C.A.R.
by
rlm

11. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York

~~August~~ 23, 2010

Sept 23
Scott Rynecki, Esq.
Rubenstein & Rynecki
Attorney for Plaintiffs Nicole Paultre Bell,
as Administratrix of the Estate of Sean
Elijah Bell, and on behalf of his infant
children, Jada Bell and Jordyn Bell and
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By: 

Scott Rynecki, Esq.

Richard Signorelli, Esq.
Attorney for Police Officer Michael Carey
799 Broadway, Suite 539
New York, New York 10003

By: 

Richard Signorelli, Esq.

SO ORDERED:

Honorable Roanne L. Mann, E.D.N.Y.

MICHAEL A. CARDOZO
Corporation Counsel of the City of New York
Attorney for Defendants City of New York, New
York City Police Department, and Detective Paul
Headley
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By: 

David M. Huzar CARINA ROSENKRANTZ
Senior Counsel

James M. Moschella, Esq.
Karasyk & Moschella, LLP
Attorney for Detectives Michael Oliver, Giscard
Isnora, and Marc Cooper
225 Broadway, 22nd Floor
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By: 

James M. Moschella, Esq.

SO ORDERED

/s/

Roanne L. Mann
U.S. Magistrate Judge

Dated: 10/4/10