STATE OF MICHIGAN COURT OF CLAIMS

DAVID HOREIN, ET.AL.,

COC No. 23-000063-MM

Plaintiffs,

HON. JAMES ROBERT REDFORD

v

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES,

CLASS ACTION SETTLEMENT MOTION TO CERTIFY CLASS

Defendant. CORRECTED EXHIBIT 1 TO SUPPLEMENTAL BRIEFING IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR FINAL APPROVAL

STATE OF MICHIGAN COURT OF CLAIMS

DAVID HOREIN, ET.AL.,

Plaintiffs,

v

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES,

Defendant.

Robin B. Wagner (P79408) Michael L. Pitt (P24429) Beth M. Rivers (P33614) Pitt McGehee Palmer Bonanni & Rivers, PC Attorneys for Plaintiffs 117 W. Fourth Street, Suite 200 Royal Oak, MI 48068 (248) 398-9800 rwagner@pittlawpc.com mpitt@pittlawpc.com brivers@pittlawpc.com

Neil A. Giovanatti (P82305) Bryan W. Beach (P69681) Ticara D. Hendley (P81166) Attorneys for Defendant Michigan Department of Attorney General Health, Education & Family Services Division P.O. Box 30758 Lansing, MI 48909 (517) 335-7603 giovanattin@michigan.gov beachb@michigan.gov hendleyt@michigan.gov COC No. 23-000063-MM

HON. JAMES REDFORD

CLASS ACTION SETTLEMENT MOTION TO CERTIFY CLASS

Michele P. Fuller (P53316) Michigan Law Center, PLLC Attorney for Plaintiffs 45200 Card Road Suite 108 Macomb, MI 48044 586-803-8500 michele@milaw.center

Nancy K. Chinonis P71350 Cline, Cline & Griffin Attorney for Special Subclass Representative Hawk Kennedy 503 S. Saginaw St. Suite 1000 Flint, MI 48502 nchinonis@ccglawyers.com (810) 600-4229

Supplemental Affidavit of Michele Fuller

I, Michele Fuller, do hereby swear and affirm as follows:

1. Article 5 of the CPT Institute Michigan Charities Pooled Trust Master Trust Agreement creates the role of a Beneficiary Advocate. The duties of a Beneficiary Advocate are detailed in Section 5.4, in which the Beneficiary Advocate serves as a liaison between the Beneficiary and the Trustee and assists each party as may be required so the Beneficiary's best interests are served. The Beneficiary Advocate is named and appointed who, among other responsibilities, holds the "authority to obtain guidance, findings and assessments regarding the life care of the Trust Beneficiary," that is, the individual class member. For the 28 individuals with Next Friends, the parent, family member or guardian appointed as Next Friend fulfills this role.

2. For the 22 individuals who were represented in this process by the Guardian ad Litem, I propose the following process:

- a. There is one individual among these 22 who now lives at home with her mother who has indicated she is willing and able to serve as Beneficiary Advocate and signed the Acceptance of Beneficiary Advocate document.
- b. There are 19 individuals who are permanent or temporary wards of the State of Michigan, DHHS, MCI Division. I have nominated, and the parties agreed, that Charlene Distler, of Probate Support Specialists, LLC, serve as Beneficiary Advocate for these individuals. Charlene Distler is a well-regarded and experienced probate professional. She has served in leadership positions on the Michgian Guardianship Association counsel as well as the Governor's Elder Abuse Task Force. She is willing and able to as Beneficiary Advocate for these class members and liaise with the individuals and their caseworkers to ensure that they receive benefits from the pooled SNT.
- c. MDHHS has agreed to designate an appropriately knowledgeable official to provide Distler and her organization, Probate Support Specialists, LLC, with the available contact and placement information for each class member in this category.

MDHHS also agrees to provide Distler and Probate Support Specialists, LLC, as necessary, with authority to discuss with the class members in this category and/or their caseworkers the needs and best interests of the individual regarding additional therapies, technology, communication devices, entertainment, hobbies, or other unmet needs that could be addressed by that individual's trust funds.

d. Distler and Probate Support Services have agreed to continue in their role as Beneficiary Advocate for the pooled SNT for each individual until the earlier date of 1) the depletion of an individual's funds in the pooled SNT, 2) that individual's 19th birthday, when they cease to be wards of the state, or 3) three years from the effective date of the Settlement Agreement. If three years or one of these individual's 19th birthday arrives and assets remain their pooled SNT sub-account, Distler and Probate Support Specialists will work with the individual to appoint a successor Beneficiary Advocate for the pooled SNT. In some situations, the beneficiary (class member) themselves may be able to serve in this role and in other situations Distler will apply her best judgment in nominating an individual known to the beneficiary and deemed able to serve in the role of Beneficiary Advocate.

3. There are two individuals in this group who are no longer minors and who have not been reached. I propose that the GAL Sandford Mall will himself or by engaging a private investigator, apply reasonable diligence to locate these individuals. If, by December 31, 2024, the GAL has exhausted his reasonable and diligent efforts and not been able to locate one or more of these seven class members, the award funds will be considered forfeit pursuant to ¶ 67 of the Settlement Agreement. If the GAL has located these individuals, he shall evaluate whether they can serve as their own Beneficiary Advocate for the pooled SNT or nominate an appropriate party to serve in that role on their behalf. If neither of those options is possible, the Distler and Probate Support Specialists, LLC, will serve as the Beneficiary Advocate and execute the Joinder Agreement for the pooled SNT accordingly on behalf of the class member. If Distler and Probate Support Specialists, LLC, are needed to serve the role of Beneficiary Advocate for either of these two class members, they will do so until the earlier of 1) the depletion of that individual's funds in the pooled SNT or three years from the effective date of the Settlement Agreement. If after three years, assets remain in their pooled SNT sub-account, Probate Support Specialists, LLC, will work with the individual to appoint a successor Beneficiary Advocate for the pooled.

4. I have worked with Charlene Distler for many years and know her to be a person of integrity with deep understanding of the responsibilities and obligations of a fiduciary. She is well versed in the regulations governing public benefits and the workings of a pooled SNT to be able to competently represent the 19 to 21 Patient Plaintiff Class members for whom she would serve as Beneficiary Advocate. Ms. Distler's professional credentials and her proposal to serve as Beneficiary Advocate are attached hereto as Appendix A.

I have nothing further to declare.

under fras Michele Fuller

Subscribed and sworn before me on this 1st day of October, 2024

See attacked

Denise Chacon, Notary Public

ACKNOWLEDGMENT
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.
State of California Aumedu)
On <u>MANUM</u> before me, <u>Demos Manuelly public</u> (insert name and title of the officer) personally appeared <u>Michele Fuller</u> who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal. Alameda County Commission # 2338104 Signature (Seal)

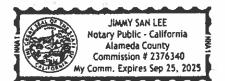
CALIFORNIA JURAT

GOVERNMENT CODE § 8202

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Alameda



Subscribed and sworn to (or affirmed) before me on

this 26 day of Scptember, 2024, by Month Year 1) Michele Fuller

(and (2) ____

Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature gnature of Notary Public

Place Notary Seal and/or Stamp Above

- OPTIONAL ----Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document. **Description of Attached Document** Title or Type of Document: _____ _____ Number of Pages: ____ Document Date: ____ Signer(s) Other Than Named Above: ____

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September 26, 2024

Proposed Services as Beneficiary Advocate by Probate Support Specialists.

- Advocate for the best interests of possible 19-21 Trust Beneficiaries for Settlement Proceeds for a possible eleven year contract:
- Establish contact with pooled trust administrator; receipt proof of settlement proceeds to subaccounts; open file, create tracking and diary system; create ledger for each sub account; diary Prudent Investor Rule appointments for bi-annual review; review annual account of Trustee and address any concerns; assure that tax matters are addressed.
- Secure foster case manager's contact information; contact individual foster case worker for placement, foster care family and/or facility information, pertinent dynamics, court concerns, diagnoses (allergies), schooling, including IEP (if applicable) and establishing proofing for developmental disability, current transportation information, dreams, aspirations and goals.
- Introduction to children and foster care parent(s) and/or facility via Zoom, to develop rapport and acquire information about pertinent dynamics, court concerns, diagnoses, schooling, proof of developmental disability, transportation, dreams, aspirations and goals; encourage request for enhancement courses, supplemental programs, etc.; schedule bi-annual or quarterly appointments as necessitated by need.
- Review requests of trust beneficiary, foster parent, and or foster care worker for funds; facilitate discussion if needed; seek interpretation of request from attorney if needed.
- Strategic planning with foster care worker, trust beneficiary and attorney (if needed) for disbursement of funds to possible ABLE account and/or transition of funds to trust beneficiary upon reaching age of majority.
- Effective Date of Settlement: November 26, 2024, Probate Support Specialists, llc to receive Seventy five Thousand Dollars (\$75,000.00) to perform these responsibilities for each of these individuals at a rate of One Hundred Twenty Five Dollars (\$125.00) per hour; estimating five (5) hours each to establish files and relationships and another twenty (20) to twenty five hours per individual over the 11 year period.

Respectfully submitted,

Parlenne Distly

Charlene M. Distler Probate Support Specialists, LLC



www.probatesupport.net

September 26, 2024

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- Review requests of trust beneficiary, foster parent, and or foster care worker for funds; facilitate discussion if needed; seek interpretation of request from attorney if needed.
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Respectfully submitted,

Charlene M. Distler Probate Support Specialists, LLC

Curriculum Vitae of

CHARLENE M. DISTLER

59 North Walnut, Suite 301 Mount Clemens, Michigan 48043 Office: (586) 415-0136 Fax: (586) 415-8001 charlene@probatesupport.net

Professional Development:

PRESIDENT, PROBATE SUPPORT SPECIALISTS, LLC

August 2005 to present: Created and established an independent professional fiduciary contract company formed for the support of all courts and probate professionals, seeking additional resources to enhance client services. Thoroughly skilled in all areas of probate preparation, including decedent, guardianship, conservatorship estates, Annual Accountings, Creditor and Proofs of Claim issues, Real Estate, Probate Administration, Trust Administration, Guardian Reports, Medicaid Applications, advocacy, and appearance at CMH/Medicaid Appeal hearings, hearing preparation, heir search, client liaison, and professional contacts to expedite Medicaid, Social Security, and IRS matters.

Specializing as Special Needs Trustees, Trustees, Trust Directors, Trust Protectors, Durable and Health Care Powers of Attorney.

Additionally serving the unique appointments of Public Administrators offices and their appointments as Special Fiduciary for investigative purposes.

**Currently serving on the Attorney General's Senior Abuse Task Force, including guardianship reform.

SUPERVISOR, MACOMB COUNTY GUARDIANSHIP PROGRAM

Creation and preparation of detailed reports, memos, forensic accountings and spreadsheets to facilitate criminal investigation; Assistant to Corporation Counsel during protracted settlement meetings and court hearings; Appearance at court on behalf of program, during hearings for Accountings, Annual Reports, Petitions, Case Evaluations, and Mediations. Reorganized program: streamlining reporting, clerical, case note management, tickler and bookkeeping systems; *Authored* guardianship manual; *Supervised* staff with all day-to-day operations; program closed after criminal investigation completed. (May 2003 to June 2005)

PROBATE PARALEGAL TO J. RUSSELL LABARGE, JR., PUBLIC ADMINISTRATOR

Drafting of all documents (petitions, briefs, annual accounts [with all proofing documents], annual reports, mediation, arbitration, facilitation summaries, Medicaid applications, Representative Payee Reports, real estate and tax matters); supervise financial matters on behalf of wards; legal research (both book and on-line); and management of part-time employees. *Direct contact person* for court-appointed wards and all matters relating to their well-being; responsible for *full investigation* of guardianship, conservatorship, trust and decedent estate matters; *liaison* to clients, wards' families, courts, tribunals, Social Service agencies, IRS, corporate entities; (June 1998 to May 2003)

MACOMB COMMUNITY COLLEGE

Co-teaching and *Guest Lecturing* with attorney/professor in area of probate specialty. (Fall semester, 2002 to present)

MACOMB COUNTY PROBATE COURT CLERK

Wills and Estates Division

Conducted *information searches* for court, county personnel, corporate, and general public; *corresponded* with credit agencies; *researched* microfilm inquiries; *General clerical skills* utilized and enhanced; worked in collaboration with Probate Register and court staff to *create* the Legal Assistant's and Public Administrator's Sections of the Macomb County Probate Bar Association. (September 1996 to June 1998)

PARALEGAL TO DAVID D. TURFE (NOW HON.)

Drafted legal documents; *client liaison*; trial preparation; management of attorneys' court dockets; research; library updates (September 1994 to September 1996)

INTERN TO CHIEF COUNSEL, MACOMB COUNTY, FRANK KRYCIA

16th Judicial Circuit Court - Macomb County (Winter Semester, 1994) Summation and tracking of all legal documents regarding an environmental action having 63 interested parties.

INTERN TO THE HONORABLE JOHN B. BRUFF

16th Judicial Circuit Court - Macomb County (Winter Semester, 1994) Processed court docket; assistant to court clerk and secretary; updated video library; liaison to press during high profile murder trial.

Publications:

Michigan Lawyer's Weekly:[The Lawyer's Paralegal] Every day can be like a roller
coaster-here's how to make the ride smoother. April
28, 2008]Laches:
Bar Briefs:Career Development - The Adventure Continues, April 2007
Forcing Guardianship, April 2002
Professionalism in the Workplace, May 2001

Education:

SCAO CERTIFIED MEDIATOR

State Court Administrator's 40-hour intensive training for Mediation skill building. Training completed: September 2004, certification completed: April 2005. Domestic Relations and Domestic Violence, advanced training completed March 2006.

MACOMB COUNTY COMMUNITY COLLEGE

Associate of General Studies, Magna Cum Laude, with concentration in law, May 2005.

- Plenary Presenter, Changes in Guardianship, ELDERS 2024 Fall Conference, October
- Presenter, Michigan Guardianship Association (MGA) Guardianship 201, Spring Conference, April 2019. **
- Attendee, State Bar Section Conference Elder Law and Disability Rights Section, all conferences attended since 2014.
- Presenter, Michigan Guardianship Association (MGA) Guardianship 101, Fall Conference, October 2016**
- Attendee, Medicaid Bootcamp, October 2018, Special Breakout Session.
- Michigan Guardianship Association (MGA), Summer Conference, June 2014, Co-chair, Educational Committee. **
- Michigan Guardianship 2013 Spring Conference, Various breakout sessions for updates on all aspects of public guardianship. **
- Medicaid Boot Camp, January 28, 2023, Novi, Michigan. Dave Schaltz, Sandy Mall and Michele Fuller, presenters: Update on all things Medicaid.
- Presenter, State Bar of Michigan, September 18, 2008, Dearborn, Michigan <u>Improving Your Verbal Communication Skills-An Interactive Session</u>
- Presenter, Institute for Paralegal Education, November 2011 <u>The Probate Process from Start to Finish for Paralegals</u>
- Presenter, 4th ICLE Annual Solo & Small Firm Institute & State Bar of Michigan, September 2007: <u>Client Relations for Legal Assistants</u>
- Presenter, AARP Sponsored, Macomb Community College, September 14, 2007 Work at 50+ - A New Age of Possibility & Purpose
- <u>Train the Trainer Social Security Prescription Drug Programs</u>

<u>Case Notes and Time Slipping-The Proper Way!</u> **

Medicaid Applications, The Legal Assistant's Point of View**

Protection Issues for Legally Incapacitated Individuals**

Trust Administration for the Legal Assistant**

Attorney General: Public Administration & Charitable Trust Divisions **

Michigan Probate: Beyond the Basics (CLE)

<u>Supervised and Informal Estates for the Legal Assistant</u>** **I developed and implemented these seminars for the benefit of various organizations.

Associations:

Treasurer, Michigan Guardianship Association, Vice – Chair Educational Committee Vice Chair, Macomb County Probate Bar Association/Paralegal Section Past Chair, Macomb County Bar Association/Paralegal Section Member, Oakland County Bar Association, Paralegal Section Member, Women's Small Business Association, Metro Chapter Member, Macomb Community College, Legal Assistant Technology Advisory Board Member, Baker College, Paralegal Advisory Board Past-President, Macomb Community College/Student Legal Assistant Association Recipient of the Women's Economic Club of Detroit Student Recognition Award

Notary Public: County of Macomb, State of Michigan, Expires: July14, 2024.

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

FILING ENDORSEMENT

This is to Certify that the 2024 ANNUAL STATEMENT

for

PROBATE SUPPORT SPECIALISTS, LLC

ID Number: 801330874

received by electronic transmission on December 20, 2023, is hereby endorsed.

Filed on December 20, 2023, by the Administrator.

The document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.



In testimony whereof, I have hereunto set my hand and affixed the Seal of the Department, in the City of Lansing, this 20th day of December, 2023.

Linda Clegg

Linda Clegg, Director Corporations, Securities & Commercial Licensing Bureau

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IRS DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE CINCINNATI OH 45999-0023

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PROBATE SUPPORT SPECIALISTS LLC TOPE CHARLENE SINGLE MBR 32089 WILLIAMSBURG DR ST CLAIR SHORES MI 48082

Date of this notice: 08-08-2005

Employer Identification Number: 20-3184774

Form: SS-4

Number of this notice: CP 575 E

For assistance you may call us at: 1-800-829-4933

IF YOU WRITE, ATTACH THE STUB OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an EIN. We assigned you EIN 20-3184774. This EIN will identify your business account, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, please use the label IRS provided. If that isn't possible you should use your EIN and complete name and address shown above on all federal tax forms, payments and related correspondence. If this information isn't correct, please correct it using the tear off stub from this notice. Return it to us so we can correct your account. If you use any variation of your name or EIN, doing so could cause a delay in processing and may result in incorrect information in your account. Doing so could result in our assigning you more than one EIN.

. . . .

If you want to apply to receive a ruling or a determination letter recognizing your organization as tax exempt, and have not already done so, you should file Form 1023/1024, Application for Recognition of Exemption, with the IRS Ohio Key District Office. Publication 557, Tax Exempt Status for Your Organization, is available at most IRS offices and has details on how you can apply.

IMPORTANT REMINDERS:

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- Keep a copy of this notice in your permanent records.
- Use this EIN and your name exactly as they appear on all your federal tax ×
- * Refer to this EIN on your tax related correspondence and documents.

Thank you for your cooperation.



	AN	NUAL STATEMENT	Form Revision Date 07/3
		MESTIC LIMITED LIABILITY COMPA	INY
	(Required by	Section 207, Act 23, Public Act of 199	3)
Identification Number:		801330874	
nnual Statement Filing Ye	ar: 2024		
	(•)		
. Limited Liability Company	v Name:		
PROBATE SUPPORT SPE	CIALISTS, LLC		
 The street address of th Resident Agent Name: 		egistered office and name of the resid	ent agent at that office:
2. Street Address:	CHARLENE M. DISTLER		
	36333 HARPER AVE		
Apt/Suite/Other:			
City:	CLINTON TWP		
State:	MI	Zip Code: 48035	
. Mailing address of the re	enistered office:		
P.O. Box or Street	3603 E 14 MILE ROAD		
Address:	JUUS E 14 MILL KOAD		
Apt/Suite/Other:	CTEDUNIC UEICUTC		
City: State:	STERLING HEIGHTS	Zip Code: 48310	
State.	MI	210 6006. 48310	
his annual statement mus	t be signed by a member, mar	nager, or an authorized agent.	
igned this 20th Day of De			
Signature		Title	Title if "Other" was selected
		Member	



HANOVER Miscellaneous Advantage Professional Liability Insurance

Declarations Page

	Policy Number		The Hanover Insura	ince Comp	bany	
	LHB H263943 04		440 Lincoln Worcester, MA (A Stock Insurance Company, H	A 01653	the Insurer)	
Issue Date	03/19/2024					
ltem 1.	NAMED INSURED AND AD	DRESS				
	Probate Support Specialist L 36333 Harper Ave. Clinton Twp, MI 48035	LC				
ltem 2.	POLICY PERIOD					
	Inception Date: 05/18/2024		Expiration Date: 05/18/2	025		
	(12:01 AM standard time at	the address sho	own in Item 1.)			
Item 3.	LIMIT OF LIABILITY	- \$500.000 f	as each Olaim ast to succeed			
		 a. \$500,000 for each Claim; not to exceed b. \$500,000 for all Claims in the Aggregate 				
Item 4.	SUBLIMITS OF LIABILITY					
	Privacy and Security Liability Coverage	a. \$0 for each	Claim; not to exceed			
	Liability Coverage	b. \$0 for all C	laims in the Aggregate			
ltem 5.	DEDUCTIBLE					
item 5.	DEDUCTIBLE	a. \$2,500 eac	h Claim Claims in the Aggregate			
ltem 6.						
item 6.	SUPPLEMENTAL COVERAGE LIMIT AND DEDUCTIBLE LIMIT				DEDUCTIBLE	
	Disciplinary Proceedings Coverage		\$25,000 per Insured / \$50,000 for all Insureds	\$0		
	Subpoena Assistance	\$25,000 in the Aggregate		\$0		
	Crisis Event Expense		\$25,000 per Event / \$50,000 in the Aggregate	\$0		
	Reputation Protection Exper	nse	\$15,000 in the Aggregate	\$0		
	Withheld Client Fee Assista	nce	\$25,000 in the Aggregate	\$0		
	Nonprofit Directors and Offic	ers Expense	\$10,000 in the Aggregate	\$0		

NOTICE: THIS POLICY IS A CLAIMS-MADE POLICY. PLEASE READ THE POLICY CAREFULLY.



HANOVER Miscellaneous Advantage Professional Liability Insurance

Declarations Page

ltem 7.	PROFESSIONAL SER	VICES			
	Paralegal Services				
ltem 8.	RETROACTIVE DATE		05/18/2020		
ltem 9.	PREMIUM FOR THE P	OLICY PERIOD		\$2,707.00	
	Total Premium:			\$2,707.00	
ltem 10.	ENDORSEMENTS EFF	ECTIVE AT INCEPTION: S	ee Schedule of Forms attached.		
ltem 11.	NOTICE TO INSURER Report a claim to the Company as required by Section G. Duties in the Event of Claim(s) or Potential Claim(s) to:				
	The Hanover Insurance 440 Lincoln Street Worcester, MA 01653	Company			
	National Claims Telephone Number: 800-628-0250. For Cyber Claims: 800-385-5271 Facsimile: 800-399-4734 Email: firstreport@hanover.com For Cyber Claims: Cyberclaims@hanover.com				
Agent on t	ehalf of:	DUDEK INSURANCE AGE 36120 GREEN ST NEW BALTIMORE, MI 4804 0201373			

We have caused this Policy to be signed by our President and Secretary and countersigned where required by a duly authorized agent of the Company.

x Joche C -r

John C. Roche, President

Charles F. Cronin, Secretary