

STATE OF MICHIGAN
COURT OF CLAIMS

DAVID HOREIN, ET.AL.,

COC No. 23-000063-MM

Plaintiffs,

HON. JAMES REDFORD

v

MICHIGAN DEPARTMENT OF HEALTH
AND HUMAN SERVICES,

MOTION FOR FINAL
APPROVAL

Defendant.

Robin B. Wagner (P79408)
Michael L. Pitt (P24429)
Beth M. Rivers (P33614)
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Cline, Cline & Griffin
Attorney for Special Subclass
Representative Hawk Kennedy
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(810) 600-4229

**SUPPLEMENTAL BRIEFING IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION
FOR FINAL APPROVAL**

Fairness Hearing: October 4, 2024 at 11:00 a.m.

RECEIVED by MCOC 10/1/2024 12:31:19 PM

BRIEFING

Now come Plaintiffs, unopposed by Defendant, to supplement their briefing in support of their Unopposed Motion for Final Approval, which was filed with the Court on September 13, 2024.

Plaintiffs, on page 11 of their Brief in Support of their Motion for Final Approval, filed on September 13, 2024, explained that there were 21 members of the Patient Plaintiff Class who were represented by the Guardian ad Litem and did not, as of the time of that filing, have an individual to ensure that they would each have access to their awards allocated for them through the Settlement Agreement. Two of these individuals are adults who are no longer in the state's custody and could not be easily reached, and 19 are either permanent or temporary wards of the state. Plaintiffs further stated that they would further "explore options to facilitate use of the settlement funds for the benefit of" these individuals and report on their progress at the October 4, 2024, fairness hearing. *Id.*

As an initial matter, the CPT Institute Michigan Charities Pooled Trust Master Agreement—the pooled Special Needs Trust (SNT) selected for the Patient Plaintiff Class—lays out a role called "Beneficiary Advocate," detailed in Article 5 of the Master Agreement. (Plaintiffs' Motion and Brief, Ex. 3, Michele Fuller Affidavit, Appendix E—Sample Joinder Agreement with Master Trust Agreement attached.) Pursuant to Section 5.4 of the Master Trust Agreement, 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 to, among other responsibilities, hold the "authority to obtain guidance, findings and assessments regarding the life care of the Trust Beneficiary." The trust beneficiary is the class member. For the 28 individuals with Next Friends, the parents, family members or guardians appointed as Next Friend by the Court fulfill this role.

Regarding the 19 individuals who remain wards of the State, Plaintiffs propose that Charlene Distler, of Probate Support Specialists, LLC, serve as Beneficiary Advocate for these individuals. (See Ex. 1, Supplemental Affidavit of Michele Fuller and Appendices attached thereto.) Charlene Distler is a well-regarded and experienced probate professional. She has served in leadership positions on the Michigan Guardianship Association counsel as well as the Governor's Elder Abuse Task Force. (*Id.*) Distler is well known to Michele Fuller, co-class counsel for the Patient Plaintiff Class. (*Id.*) Attorney Fuller vouches for Charlene Distler based on many years of professional engagement and knows her to be a person of integrity with deep understanding of the responsibilities and obligations of a fiduciary. (*Id.*) Distler 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. (*Id.*) 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. (*Id.*)

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.

Distler's role as Beneficiary Advocate will be, in practical terms, to serve as a liaison between the pooled SNT and the caseworker and/or other responsible party identified by the State

for these 19 wards of the State to ensure that the award allocation is made available to each of these individuals for their benefit. These funds could be used for a wide range of benefits not limited to paying for therapies not covered by their existing resources and public benefits, purchasing and paying for housing and transportation not covered by their public benefits, providing them with enrichment resources such and funding for hobbies and sports activities.

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.

There are two individuals in this group who are no longer minors and who have not been reached. The Guardian ad Litem, attorney Sanford Mall has begun the process of diligently seeking to locate these individuals and apprise them of their award. 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 two class members, the award funds will be considered forfeit pursuant to ¶ 67 of the Settlement Agreement and their funds will be allocated to the cy pres beneficiary. 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.

Class Counsel wishes to ensure that the Court is aware that the above efforts will incur costs of \$75,000 to Probate Support Specialists, LLC, and an additional 10-15 hours of the GAL's time, plus the estimated out of pocket cost for the services of a private investigator of \$500.00. These costs are being paid from the Administrative Pool and not from the individuals' own award allocations. This reduces the estimated costs for the GAL to locate two individuals and appoint a Beneficiary Advocate for each of the 19 wards of the state from \$125,000 (Motion for Final Approval at 33-34) to \$85,000. This then reduces the estimate for total costs and fees before the fees to Class Counsel, Pitt McGehee Palmer Bonanni & Rivers, to \$881,004.75. Thus, Plaintiffs seek a revised payment to Class Counsel of approximately \$3,522,328.58.

Class Counsel provides with this supplemental brief an Amended Proposed Order Granting Final Approval, attached as Exhibit 2.

Respectfully submitted,

PITT, MCGEHEE, PALMER & RIVERS, P.C.

/s/ Robin B. Wagner

Robin B. Wagner (P79408)

Michael L. Pitt (P24429)
Beth M. Rivers (P33614)
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117 West Fourth Street, Suite 200
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Dated October 1, 2024

PROOF OF SERVICE

Carrie Bechill states that she served counsel of record with Supplemental Briefing in Support of Plaintiffs' Unopposed Motion for Final Approval with this Proof of Service via the Michigan Supreme Court's electronic filing system to counsel of record on October 1, 2024.

/s/ Carrie Bechill
Carrie Bechill, Legal Assistant

STATE OF MICHIGAN
COURT OF CLAIMS

DAVID AND KORTNI HOREIN, PARENTS AND
NEXT FRIENDS TO MINOR CHILD D.H., ET AL.,

Plaintiffs,

v

MICHIGAN DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

Defendant.

COC NO. 23-000063-MM

HON. JAMES REDFORD

**INDEX OF EXHIBITS TO SUPPLEMENTAL BRIEFING IN SUPPORT OF
PLAINTIFFS' UNOPPOSED MOTION FOR FINAL APPROVAL**

Exhibit	Description
1	Supplemental Affidavit of Michele Fuller and Appendices
2	Amended Proposed Order Granting Final Approval

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.,

COC No. 23-000063-MM

Plaintiffs,

HON. JAMES REDFORD

v

MICHIGAN DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

CLASS ACTION SETTLEMENT
MOTION TO CERTIFY CLASS

Defendant.

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Ticara D. Hendley (P81166)
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Nancy K. Chinonis P71350
Cline, Cline & Griffin
Attorney for Special Subclass
Representative Hawk Kennedy
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(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 Michigan 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 Sanford 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.


Michele Fuller

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

See attached

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 Alameda
County of _____)

On October 1, 2024 before me, Denise Chacon, notary public
(insert name and title of the officer)

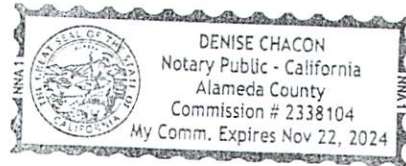
personally appeared Michele Fuller,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) 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.

Signature _____

(Seal)



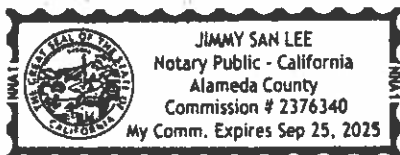
CALIFORNIA JURAT

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 September, 2024, by
Date 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.

Place Notary Seal and/or Stamp Above

Signature [Signature]
Signature of Notary Public

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: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____



59 N. Walnut St., Ste 301
Mount Clemens, MI 48043
(586) 415-0136 Fax (586) 415-8001

www.probatesupport.net

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,

Charlene M. Distler
Probate Support Specialists, LLC



PROBATE
SUPPORT
SPECIALISTS

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September 26, 2024

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Respectfully submitted,

A handwritten signature in blue ink, reading 'Charlene M. Distler'.

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. Re-organized 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: *Career Development - The Adventure Continues*, April 2007

Bar Briefs: *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.

Seminars/CLEs:

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
Improving Your Verbal Communication Skills-An Interactive Session

Presenter, *Institute for Paralegal Education*, November 2011
The Probate Process from Start to Finish for Paralegals

Presenter, 4th ICLE Annual Solo & Small Firm Institute & State Bar of Michigan, September 2007: *Client Relations for Legal Assistants*

Presenter, AARP Sponsored, Macomb Community College, September 14, 2007
Work at 50+ - A New Age of Possibility & Purpose

Train the Trainer – Social Security Prescription Drug Programs

Case Notes and Time Slipping-The Proper Way! **

*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)

*Supervised and Informal Estates for the Legal Assistant***

**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: July 14, 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

MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH BUREAU OF COMMERCIAL SERVICES

Date Received	(FOR BUREAU USE ONLY)		
	FILED		
	This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.		
Name	Charlene M. Tope Bureau of Commercial Services		
Address	32089 Williamsburg Drive		
City	State	Zip Code	
St. Clair Shores	MI	48082	
EFFECTIVE DATE			

AUG 09 2005

 Tran Info: 10888983-1 07/28/05
 Chk#: 4828 Amt: \$50.00
 ID: CHARLENE M TOPE

Document will be returned to the name and address you enter above.
 If left blank document will be mailed to the registered office.

ARTICLES OF ORGANIZATION

For use by Domestic Limited Liability Companies

(Please read information and instructions on last page)

Pursuant to the provisions of Act 23, Public Acts of 1993, the undersigned execute the following Articles:

B 2614 X

ARTICLE I

The name of the limited liability company is: Probate Support Specialists, LLC

ARTICLE II

The purpose or purposes for which the limited liability company is formed is to engage in any activity within the purposes for which a limited liability company may be formed under the Limited Liability Company Act of Michigan.

ARTICLE III

The duration of the limited liability company if other than perpetual is: _____

ARTICLE IV

1. The street address of the location of the registered office is:

32089 Williamsburg Drive, St. Clair Shores, Michigan 48082
(Street Address) (City) (ZIP Code)

2. The mailing address of the registered office if different than above:

_____, Michigan _____
(Street Address or P.O. Box) (City) (ZIP Code)

3. The name of the resident agent at the registered office is: Charlene M. Tope

ARTICLE V (Insert any desired additional provision authorized by the Act; attach additional pages if needed.)

Signed this 22 day of July, 2005

By Charlene M. Tope as President
(Signature(s) of Organizer(s))

Charlene M. Tope, President

(Type or Print Name(s) of Organizer(s))

X

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

000372.212761.0003.001 1 MB 0.309 695
[Barcode]

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

00372

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:

- * 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 forms.
 - * Refer to this EIN on your tax related correspondence and documents.
- Thank you for your cooperation.

COPY

LARA Corporations
Online Filing System
Department of Licensing and Regulatory Affairs

Form Revision Date 07/2016

ANNUAL STATEMENT
For use by DOMESTIC LIMITED LIABILITY COMPANY
(Required by Section 207, Act 23, Public Act of 1993)

Identification Number: 801330874

Annual Statement Filing Year: 2024

1. Limited Liability Company Name:

PROBATE SUPPORT SPECIALISTS, LLC

2. The street address of the limited liability company's registered office and name of the resident agent at that office:

1. Resident Agent Name: CHARLENE M. DISTLER

2. Street Address: 36333 HARPER AVE

Apt/Suite/Other:

City: CLINTON TWP

State: MI

Zip Code: 48035

3. Mailing address of the registered office:

P.O. Box or Street Address: 3603 E 14 MILE ROAD

Apt/Suite/Other:

City: STERLING HEIGHTS

State: MI

Zip Code: 48310

This annual statement must be signed by a member, manager, or an authorized agent.

Signed this 20th Day of December, 2023 by:

Signature	Title	Title if "Other" was selected
Charlene M. Distler	Member	

By selecting ACCEPT, I hereby acknowledge that this electronic document is being signed in accordance with the Act. I further certify that to the best of my knowledge the information provided is true, accurate, and in compliance with the Act.

☐ Decline ☒ Accept



HANOVER
Miscellaneous Advantage
Professional Liability Insurance

Declarations Page

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

Policy Number

LHB H263943 04

The Hanover Insurance Company

440 Lincoln Street
Worcester, MA 01653
(A Stock Insurance Company, herein called the **Insurer**)

Issue Date 03/19/2024

Item 1. NAMED INSURED AND ADDRESS

Probate Support Specialist LLC
36333 Harper Ave.
Clinton Twp, MI 48035

Item 2. POLICY PERIOD

Inception Date: 05/18/2024

Expiration Date: 05/18/2025

(12:01 AM standard time at the address shown in Item 1.)

Item 3. LIMIT OF LIABILITY

- 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
- b. \$0 for all **Claims** in the Aggregate

Item 5. DEDUCTIBLE

- a. \$2,500 each **Claim**
- b. N/A for all **Claims** in the Aggregate

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 Expense	\$15,000 in the Aggregate	\$0
Withheld Client Fee Assistance	\$25,000 in the Aggregate	\$0
Nonprofit Directors and Officers Expense	\$10,000 in the Aggregate	\$0

Declarations Page

Item 7. PROFESSIONAL SERVICES

Paralegal Services

Item 8. RETROACTIVE DATE

05/18/2020

Item 9. PREMIUM FOR THE POLICY PERIOD

\$2,707.00

Total Premium:

\$2,707.00

Item 10. ENDORSEMENTS EFFECTIVE AT INCEPTION: See Schedule of Forms attached.

Item 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 Company
440 Lincoln Street
Worcester, MA 01653

National Claims Telephone Number: 800-628-0250. For Cyber Claims: 800-385-5271

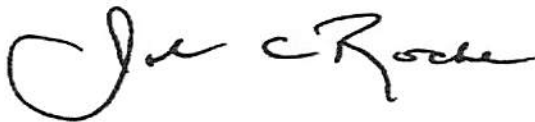
Facsimile: 800-399-4734

Email: firstreport@hanover.com For Cyber Claims: Cyberclaims@hanover.com

Agent on behalf of:

DUDEK INSURANCE AGENCY GROUP INC
36120 GREEN ST
NEW BALTIMORE, MI 48047
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.



John C. Roche, President



Charles F. Cronin, Secretary

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 2 TO SUPPLEMENTAL
BRIEFING IN SUPPORT OF PLAINTIFFS' UNOPPOSED
MOTION FOR FINAL APPROVAL

RECEIVED by MCOC 10/2/2024 10:05:52 AM

STATE OF MICHIGAN
COURT OF CLAIMS

DAVID AND KORTNI HOREIN, PARENTS AND
NEXT FRIENDS TO MINOR CHILD D.H., ET AL.,

Plaintiffs,

v

MICHIGAN DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

Defendant.

COC NO. 23-000063-MM

HON. JAMES ROBERT REDFORD

Robin B. Wagner (P79408)
Michael L. Pitt (P24429)
Beth M. Rivers (P33614)
Pitt McGehee Palmer Bonanni & Rivers, PC
Attorneys for Plaintiffs
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Neil A. Giovanatti (P82305)
Bryan W. Beach (P69681)
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Division
P.O. Box 30758
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(517) 335-7603
giovanattin@michigan.gov
beachb@michigan.gov
hendleyt@michigan.gov

ORDER OF FINAL APPROVAL OF THE SETTLEMENT

On September 13, 2024, Plaintiffs David and Kortni Horein, parents and next friends to minor child D.H., and Mollie and Brent Bonter, parents and next friends to minor child A.B., on behalf of D.H. and A.B. and a class of similarly situated Minor Children; and NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, Chauncey Payne, Jr., along with Brandon Woodruff and Hawk Kennedy, individually and in their capacity as Class Representatives, filed an unopposed motion for final approval of the settlement of the above-

captioned class action and approval of proposed allocations of funds pursuant to the Settlement Agreement and its amendments.

On October 4, 2024, the Court conducted a fairness hearing on Plaintiffs' unopposed motion. Both prior to and during the hearing, Defendant State of Michigan, Department of Health and Human Services, informed that Court that Defendant does not oppose Plaintiffs' motions. For the Reasons set forth below, the Court grants Plaintiffs' Motions.

I. THE CLASS SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

The Settlement Agreement, along with the Amendment to Appendix A and the Amendment to the Plan of Allocation for the Staff Plaintiff Class as moved by Plaintiffs on September 13, 2024, are Approved.

Further, the Court finds that the terms, conditions, and allocation of funds among the Patient Plaintiff Class, Staff Plaintiff Class, and Special Subclass, along with Administrative Pool satisfies the requirements for a fair, reasonable, and adequate settlement of a class action lawsuit. The Court gave preliminary approval on February 16, 2024, and has now conducted a final fairness hearing. The Court is satisfied that the terms and conditions of this settlement and the allocation of funds satisfies the legal requirements for settlement of a class action and MCR 3.501.

II. CLASS REGISTRATION AND AWARDS

Second, for the reasons set forth in Plaintiffs' motion, including the lack of opt-outs and the high participation rate by Staff Plaintiff Class members, the Court finds that the process of notification for the class members satisfies the legal requirements for fair, clear and timely notice of class members. The Court further approves of the appointments of Next Friends as designated in the Court's prior orders, along with the appointment of attorney Sanford Mall as Guardian ad Litem for Patient Plaintiff class members without a family member or guardian able to serve as Next Friend. These appointments satisfy the Court's concerns and the dictates of the Settlement

Agreement to ensure that the Patient Plaintiff Class members, being individuals without the legal competence due to age or cognitive ability, are adequately represented and their entitlements to an award secured on their behalf.

Recognizing the parties' agreement to collaborate on ensuring that the funds for these 19 Patient Plaintiff Class members are used for each individual's benefit and consistent with the trust, the Court finds that Class Counsel's proposed nomination of Charlene Distler to serve as Beneficiary Advocate pursuant to the Master Trust Agreement for the CPT pooled SNT for each of the 19 Patient Plaintiff Class members is a reasonable and prudent measure to ensure that these individuals benefit from the settlement funds allocated to them. The Court further authorizes the payment of \$75,000 from the Administrative Pool for the costs of Charlene Distler and her company, Probate Support Specialists, LLC as described in Plaintiffs' Supplemental Brief in Support of their Unopposed Motion for Final Approval. The Court further approves of additional payments to Guardian ad Litem Sanford Mall from the Administrative Pool to cover an estimated addition 10 hours and costs to locate two members of the Patient Plaintiff Class who were wards of the state but are no longer under the State's care and control.

The Court further finds that that process of allocating awards among the members of the Staff Plaintiff Class and the special sub-class satisfies the terms and conditions of the Settlement Agreement. In light of the reports from the Special Master to the Court and the facts and documentation provided in Plaintiffs' Motion and accompanying exhibits, the Court finds that the apportionment of the Staff Plaintiff Compensation fund equitably and fairly compensates the class members relative to their injuries suffered from the acts and omissions alleged in this lawsuit.

III. AWARD OF FEES AND COSTS TO CLASS COUNSEL AND

Plaintiffs' counsel request approval of the Administrative Costs and Attorney's Fees Pool of \$4,309,333.33, which is less than one-third of the Gross Settlement Amount. All the costs of

the settlement, including QSF administration, Notice Administration, Claims Administration, the Guardian ad Litem, all costs and fees of the Special Master, any costs needed to facilitate access to the funds for the 19 Patient Plaintiff Class members who are wards of the state, litigation costs of Class Counsel, all fees and costs for Patient-Class co-counsel Michele Fuller and worker's compensation counsel Steve Stilman, along with fees and costs for counsel to Mr. Kennedy, will first be paid from this Pool, with Class Counsel Pitt McGehee Palmer Bonanni & Rivers, PC receiving as its fee the remainder from the pool. It is estimated that Class Counsel's fee will be less than 28% of the total common fund, which is within the reasonable and customary approach to compensation for class counsel. The Court finds that each of these requests are fair, reasonable, and consistent with applicable law, and will grant Plaintiffs' motion for approval of attorney fees, reimbursement of costs, and set-aside of administrative costs.

IV. AMENDMENT TO SETTLEMENT AGREEMENT REGARDING ACTUAL COSTS AND INTEREST AND DIVIDENDS EARNED

In light of the interest and dividends being earned, the need to reserve approximately 40% of the interest and dividends earned for taxes, and other considerations raised in Plaintiffs' motion, it is hereby ordered:

For all interest payments earned on the settlement fund up until December 31, 2024, 40% shall be reserved for tax payments. Of the remaining 60%, 33.33% shall be added to the Administrative Pool, 22.22% shall be added to the Patient Plaintiff Pool, and 44.44% shall be added to the Staff Plaintiff Pool.

V. WAIVER AND RELEASE AND POST-DISTRIBUTION REPORT

The Court incorporates by reference here ¶ 36 of the Settlement Agreement, wherein the Class Representatives released and discharged all claims on behalf of themselves and all class members against the State of Michigan, the Department of Health and Human Services and against the defendants named in the Wayne County Circuit Court lawsuits, Victoria Petti, Wayne Soucie, Derek Leppek, and Patti Glenn. Furthermore, pursuant to ¶ 67 of the Settlement Agreement,

individuals who meet the definition of one of the classes, do not opt-out of the class and settlement, and do not complete one of the obligations necessary to effectuate the Settlement Agreement on their behalf are nonetheless bound by the terms of the Settlement Agreement and the Final Approval Order.

Therefore, the Court holds that class members who have not opted out and who have not participated in the claims process as described in Plaintiffs' motion and the Settlement Agreement are barred from bringing future claims by operation of law.

The Court further Orders Class Counsel to file a post-distribution accounting report, providing as follows:

Within 42 days after the settlement funds have been paid to all class members and to all payees from the Administrative Pool, along with the *cy pres* beneficiary, the parties will file a Post-Distribution Accounting (and post it on the settlement website), which provides the following information:

- a. The total settlement fund, the total number of class members, the total number of class members to whom notice was sent and not returned as undeliverable, the number and percentage of worker's compensation and W9 forms submitted for members of the Staff Plaintiff class and the number and percentage of pooled SNT joinder agreements submitted on behalf of members of the Patient Plaintiff class, the number and percentage of opt-outs, the number and percentage of objections, the average, median, maximum, and minimum recovery per claimant, the method(s) of notice and the method(s) of payment to class members, the number and value of funds not accepted, the amounts distributed to the *cy pres* recipient, the administrative costs, and the attorneys' fees and costs.
- b. Counsel will summarize this information in an easy-to-read chart that allows for quick comparisons with other cases.
- c. The Court may hold a hearing following submission of the parties' Post-Distribution Accounting.

VI. CONCLUSION AND ORDER OF THE COURT

The Court having considered the parties' pleadings and exhibits, having heard from the parties during the motion and fairness hearing on October 4, 2024, having considered the applicable and controlling law, and the Court being otherwise advised in the premises,

IT IS HEREBY ORDERED:

1. The Settlement Agreement, along with the Amendment to Appendix A and the Amendment to the Plan of Allocation for the Staff Plaintiff Class as moved by Plaintiffs on September 13, 2024, are Approved.
2. Further, the Court finds that the terms, conditions, and allocation of funds among the Patient Plaintiff Class, Staff Plaintiff Class, and Special Subclass, along with Administrative Pool satisfies the requirements for a fair, reasonable, and adequate settlement of a class action lawsuit as required by MCR 3.501.
3. Charlene Distler and Probate Support Specialists, LLC shall be designated as the Beneficiary Advocate to the pooled SNT for the 19 members of the Patient Plaintiff Class who are wards of the State of Michigan, and shall liaise with MDHHS to ensure that these individual's trust funds benefit these class members.
4. After the Effective Date of this Agreement, the Patient Plaintiff Class Compensation Funds for those class members with assigned Beneficiary Advocates are to be irrevocably assigned to each of the individual class member's pooled SNT held by CPT.
5. Regarding the two individuals whom the GAL is attempting to locate, their funds shall remain in the QSF until they are located. If by December 31, 2024, either or both of these two individuals have not been located despite the GAL's diligent

efforts, then their allocations shall be deemed forfeit pursuant to ¶ 67 of the Settlement Agreement and their award shares allocated to the cy pres beneficiary.

6. The Claims Administration and allocation process, including notifications to the class members, appointments of Next Friends and Guardian ad Litem, and the allocation of Staff Plaintiff Compensation funds based on the forensic evaluation process all satisfy the Court as sufficiently fair, reasonable, and adequate to redress the injuries of the class members.
7. The distribution of the Administrative Pool as proposed in Plaintiffs' Motion is approved as follows:

	Actual or Estimated	Appendix Reference	Amount
TOTAL Administrative Pool			\$4,309,333.33
Costs accrued by Pitt McGehee Palmer Bonanni & Rivers, PC through filing	Actual		-\$32,135.07
Special Master's Fees and Costs	Actual		-\$20,992.50
Claims & QSF Administrator	Estimated		-\$28,940.18
Forensic Psychology team	Actual		-\$71,750
Michele Fuller Fees & Costs	Actual		-\$250,000
Sanford Mall GAL fees and costs -through September 13, 2024	Actual		\$13,687
Counsel for Hawk Kennedy	Estimated		-\$96,000
Stilman Law, Worker's Compensation Fees & Costs	Estimated		-\$282,500
Sanford Mall additional GAL fees regarding two members of Patient Plaintiff Class	Estimated		\$10,000
Charlene Distler and Probate Support Specialists, LLC	Actual		\$75,000
Total Costs and Fees before PMPBR Fees	Estimated		\$881,004.75

Interest Earned and added to Pool	Estimated	\$100,000
Pitt McGehee Palmer Bonanni & Rivers Attorney Fees	Estimated	\$3,522,328.58

8. The Settlement Agreement shall be subject to the following additional terms for allocation of interest and dividends earned:

For all interest payments earned on the settlement fund up until December 31, 2024, 40% shall be reserved for tax payments. Of the remaining 60%, 33.33% shall be added to the Administrative Pool, 22.22% shall be added to the Patient Plaintiff Pool, and 44.44% shall be added to the Staff Plaintiff Pool.

9. After all payments described above have been made from the Administrative Pool, a full statement of actual disbursements from the Administrative Pool shall be submitted to all Parties for review. If there are no objections, Class Counsel Pitt McGehee Palmer Bonanni & Rivers PC shall be paid the remainder of the funds in the Administrative Pool. If there are objections, the Parties shall file a joint statement to the Court within 30 days of the full statement of actual disbursements laying out with specificity the reasons and supporting documentation for objections and Class Counsel's response.
10. Any and all known class members who have not opted-out and who have not made a claim as part of the Class Settlement are hereby barred from bringing future claims by operation of law.
11. Within 42 days after the settlement funds have been paid to all class members and to all payees from the Administrative Pool, along with the *cy pres* beneficiary, the

parties will file a Post-Distribution Accounting (and post it on the settlement website), which provides the following information:

- a. The total settlement fund, the total number of class members, the total number of class members to whom notice was sent and not returned as undeliverable, the number and percentage of worker's compensation and W9 forms submitted for members of the Staff Plaintiff class and the number and percentage of pooled SNT joinder agreements submitted on behalf of members of the Patient Plaintiff class, the number and percentage of opt-outs, the number and percentage of objections, the average, median, maximum, and minimum recovery per claimant, the method(s) of notice and the method(s) of payment to class members, the number and value of funds not accepted, the amounts distributed to the *cy pres* recipient, the administrative costs, and the attorneys' fees and costs.
- b. Counsel will summarize this information in an easy-to-read chart that allows for quick comparisons with other cases.
- c. The Court may hold a hearing following submission of the parties' Post-Distribution Accounting.

IT IS SO ORDERED.

Dated: _____

Hon. James Robert Redford

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 2 TO SUPPLEMENTAL
BRIEFING IN SUPPORT OF PLAINTIFFS' UNOPPOSED
MOTION FOR FINAL APPROVAL

RECEIVED by MCOC 10/2/2024 10:05:52 AM

STATE OF MICHIGAN
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DAVID AND KORTNI HOREIN, PARENTS AND
NEXT FRIENDS TO MINOR CHILD D.H., ET AL.,

Plaintiffs,

v

MICHIGAN DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

Defendant.

COC NO. 23-000063-MM

HON. JAMES ROBERT REDFORD

Robin B. Wagner (P79408)
Michael L. Pitt (P24429)
Beth M. Rivers (P33614)
Pitt McGehee Palmer Bonanni & Rivers, PC
Attorneys for Plaintiffs
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(248) 398-9800

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45200 Card Road Suite 108
Macomb, MI 48044
586-803-8500
michele@milaw.center

Neil A. Giovanatti (P82305)
Bryan W. Beach (P69681)
Ticara D. Hendley (P81166)
Attorneys for Defendant
Health, Education & Family Services
Division
P.O. Box 30758
Lansing, MI 48909
(517) 335-7603
giovanattin@michigan.gov
beachb@michigan.gov
hendleyt@michigan.gov

ORDER OF FINAL APPROVAL OF THE SETTLEMENT

On September 13, 2024, Plaintiffs David and Kortni Horein, parents and next friends to minor child D.H., and Mollie and Brent Bonter, parents and next friends to minor child A.B., on behalf of D.H. and A.B. and a class of similarly situated Minor Children; and NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, Chauncey Payne, Jr., along with Brandon Woodruff and Hawk Kennedy, individually and in their capacity as Class Representatives, filed an unopposed motion for final approval of the settlement of the above-

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II. CLASS REGISTRATION AND AWARDS

Second, for the reasons set forth in Plaintiffs' motion, including the lack of opt-outs and the high participation rate by Staff Plaintiff Class members, the Court finds that the process of notification for the class members satisfies the legal requirements for fair, clear and timely notice of class members. The Court further approves of the appointments of Next Friends as designated in the Court's prior orders, along with the appointment of attorney Sanford Mall as Guardian ad Litem for Patient Plaintiff class members without a family member or guardian able to serve as Next Friend. These appointments satisfy the Court's concerns and the dictates of the Settlement

Agreement to ensure that the Patient Plaintiff Class members, being individuals without the legal competence due to age or cognitive ability, are adequately represented and their entitlements to an award secured on their behalf.

Recognizing the parties' agreement to collaborate on ensuring that the funds for these 19 Patient Plaintiff Class members are used for each individual's benefit and consistent with the trust, the Court finds that Class Counsel's proposed nomination of Charlene Distler to serve as Beneficiary Advocate pursuant to the Master Trust Agreement for the CPT pooled SNT for each of the 19 Patient Plaintiff Class members is a reasonable and prudent measure to ensure that these individuals benefit from the settlement funds allocated to them. The Court further authorizes the payment of \$75,000 from the Administrative Pool for the costs of Charlene Distler and her company, Probate Support Specialists, LLC as described in Plaintiffs' Supplemental Brief in Support of their Unopposed Motion for Final Approval. The Court further approves of additional payments to Guardian ad Litem Sanford Mall from the Administrative Pool to cover an estimated addition 10 hours and costs to locate two members of the Patient Plaintiff Class who were wards of the state but are no longer under the State's care and control.

The Court further finds that that process of allocating awards among the members of the Staff Plaintiff Class and the special sub-class satisfies the terms and conditions of the Settlement Agreement. In light of the reports from the Special Master to the Court and the facts and documentation provided in Plaintiffs' Motion and accompanying exhibits, the Court finds that the apportionment of the Staff Plaintiff Compensation fund equitably and fairly compensates the class members relative to their injuries suffered from the acts and omissions alleged in this lawsuit.

III. AWARD OF FEES AND COSTS TO CLASS COUNSEL AND

Plaintiffs' counsel request approval of the Administrative Costs and Attorney's Fees Pool of \$4,309,333.33, which is less than one-third of the Gross Settlement Amount. All the costs of

the settlement, including QSF administration, Notice Administration, Claims Administration, the Guardian ad Litem, all costs and fees of the Special Master, any costs needed to facilitate access to the funds for the 19 Patient Plaintiff Class members who are wards of the state, litigation costs of Class Counsel, all fees and costs for Patient-Class co-counsel Michele Fuller and worker's compensation counsel Steve Stilman, along with fees and costs for counsel to Mr. Kennedy, will first be paid from this Pool, with Class Counsel Pitt McGehee Palmer Bonanni & Rivers, PC receiving as its fee the remainder from the pool. It is estimated that Class Counsel's fee will be less than 28% of the total common fund, which is within the reasonable and customary approach to compensation for class counsel. The Court finds that each of these requests are fair, reasonable, and consistent with applicable law, and will grant Plaintiffs' motion for approval of attorney fees, reimbursement of costs, and set-aside of administrative costs.

IV. AMENDMENT TO SETTLEMENT AGREEMENT REGARDING ACTUAL COSTS AND INTEREST AND DIVIDENDS EARNED

In light of the interest and dividends being earned, the need to reserve approximately 40% of the interest and dividends earned for taxes, and other considerations raised in Plaintiffs' motion, it is hereby ordered:

For all interest payments earned on the settlement fund up until December 31, 2024, 40% shall be reserved for tax payments. Of the remaining 60%, 33.33% shall be added to the Administrative Pool, 22.22% shall be added to the Patient Plaintiff Pool, and 44.44% shall be added to the Staff Plaintiff Pool.

V. WAIVER AND RELEASE AND POST-DISTRIBUTION REPORT

The Court incorporates by reference here ¶ 36 of the Settlement Agreement, wherein the Class Representatives released and discharged all claims on behalf of themselves and all class members against the State of Michigan, the Department of Health and Human Services and against the defendants named in the Wayne County Circuit Court lawsuits, Victoria Petti, Wayne Soucie, Derek Leppek, and Patti Glenn. Furthermore, pursuant to ¶ 67 of the Settlement Agreement,

individuals who meet the definition of one of the classes, do not opt-out of the class and settlement, and do not complete one of the obligations necessary to effectuate the Settlement Agreement on their behalf are nonetheless bound by the terms of the Settlement Agreement and the Final Approval Order.

Therefore, the Court holds that class members who have not opted out and who have not participated in the claims process as described in Plaintiffs' motion and the Settlement Agreement are barred from bringing future claims by operation of law.

The Court further Orders Class Counsel to file a post-distribution accounting report, providing as follows:

Within 42 days after the settlement funds have been paid to all class members and to all payees from the Administrative Pool, along with the *cy pres* beneficiary, the parties will file a Post-Distribution Accounting (and post it on the settlement website), which provides the following information:

- a. The total settlement fund, the total number of class members, the total number of class members to whom notice was sent and not returned as undeliverable, the number and percentage of worker's compensation and W9 forms submitted for members of the Staff Plaintiff class and the number and percentage of pooled SNT joinder agreements submitted on behalf of members of the Patient Plaintiff class, the number and percentage of opt-outs, the number and percentage of objections, the average, median, maximum, and minimum recovery per claimant, the method(s) of notice and the method(s) of payment to class members, the number and value of funds not accepted, the amounts distributed to the *cy pres* recipient, the administrative costs, and the attorneys' fees and costs.
- b. Counsel will summarize this information in an easy-to-read chart that allows for quick comparisons with other cases.
- c. The Court may hold a hearing following submission of the parties' Post-Distribution Accounting.

VI. CONCLUSION AND ORDER OF THE COURT

The Court having considered the parties' pleadings and exhibits, having heard from the parties during the motion and fairness hearing on October 4, 2024, having considered the applicable and controlling law, and the Court being otherwise advised in the premises,

IT IS HEREBY ORDERED:

1. The Settlement Agreement, along with the Amendment to Appendix A and the Amendment to the Plan of Allocation for the Staff Plaintiff Class as moved by Plaintiffs on September 13, 2024, are Approved.
2. Further, the Court finds that the terms, conditions, and allocation of funds among the Patient Plaintiff Class, Staff Plaintiff Class, and Special Subclass, along with Administrative Pool satisfies the requirements for a fair, reasonable, and adequate settlement of a class action lawsuit as required by MCR 3.501.
3. Charlene Distler and Probate Support Specialists, LLC shall be designated as the Beneficiary Advocate to the pooled SNT for the 19 members of the Patient Plaintiff Class who are wards of the State of Michigan, and shall liaise with MDHHS to ensure that these individual's trust funds benefit these class members.
4. After the Effective Date of this Agreement, the Patient Plaintiff Class Compensation Funds for those class members with assigned Beneficiary Advocates are to be irrevocably assigned to each of the individual class member's pooled SNT held by CPT.
5. Regarding the two individuals whom the GAL is attempting to locate, their funds shall remain in the QSF until they are located. If by December 31, 2024, either or both of these two individuals have not been located despite the GAL's diligent

efforts, then their allocations shall be deemed forfeit pursuant to ¶ 67 of the Settlement Agreement and their award shares allocated to the cy pres beneficiary.

6. The Claims Administration and allocation process, including notifications to the class members, appointments of Next Friends and Guardian ad Litem, and the allocation of Staff Plaintiff Compensation funds based on the forensic evaluation process all satisfy the Court as sufficiently fair, reasonable, and adequate to redress the injuries of the class members.
7. The distribution of the Administrative Pool as proposed in Plaintiffs' Motion is approved as follows:

	Actual or Estimated	Appendix Reference	Amount
TOTAL Administrative Pool			\$4,309,333.33
Costs accrued by Pitt McGehee Palmer Bonanni & Rivers, PC through filing	Actual		-\$32,135.07
Special Master's Fees and Costs	Actual		-\$20,992.50
Claims & QSF Administrator	Estimated		-\$28,940.18
Forensic Psychology team	Actual		-\$71,750
Michele Fuller Fees & Costs	Actual		-\$250,000
Sanford Mall GAL fees and costs -through September 13, 2024	Actual		\$13,687
Counsel for Hawk Kennedy	Estimated		-\$96,000
Stilman Law, Worker's Compensation Fees & Costs	Estimated		-\$282,500
Sanford Mall additional GAL fees regarding two members of Patient Plaintiff Class	Estimated		\$10,000
Charlene Distler and Probate Support Specialists, LLC	Actual		\$75,000
Total Costs and Fees before PMPBR Fees	Estimated		\$881,004.75

Interest Earned and added to Pool	Estimated	\$100,000
Pitt McGehee Palmer Bonanni & Rivers Attorney Fees	Estimated	\$3,522,328.58

8. The Settlement Agreement shall be subject to the following additional terms for allocation of interest and dividends earned:

For all interest payments earned on the settlement fund up until December 31, 2024, 40% shall be reserved for tax payments. Of the remaining 60%, 33.33% shall be added to the Administrative Pool, 22.22% shall be added to the Patient Plaintiff Pool, and 44.44% shall be added to the Staff Plaintiff Pool.

9. After all payments described above have been made from the Administrative Pool, a full statement of actual disbursements from the Administrative Pool shall be submitted to all Parties for review. If there are no objections, Class Counsel Pitt McGehee Palmer Bonanni & Rivers PC shall be paid the remainder of the funds in the Administrative Pool. If there are objections, the Parties shall file a joint statement to the Court within 30 days of the full statement of actual disbursements laying out with specificity the reasons and supporting documentation for objections and Class Counsel's response.
10. Any and all known class members who have not opted-out and who have not made a claim as part of the Class Settlement are hereby barred from bringing future claims by operation of law.
11. Within 42 days after the settlement funds have been paid to all class members and to all payees from the Administrative Pool, along with the *cy pres* beneficiary, the

parties will file a Post-Distribution Accounting (and post it on the settlement website), which provides the following information:

- a. The total settlement fund, the total number of class members, the total number of class members to whom notice was sent and not returned as undeliverable, the number and percentage of worker's compensation and W9 forms submitted for members of the Staff Plaintiff class and the number and percentage of pooled SNT joinder agreements submitted on behalf of members of the Patient Plaintiff class, the number and percentage of opt-outs, the number and percentage of objections, the average, median, maximum, and minimum recovery per claimant, the method(s) of notice and the method(s) of payment to class members, the number and value of funds not accepted, the amounts distributed to the *cy pres* recipient, the administrative costs, and the attorneys' fees and costs.
- b. Counsel will summarize this information in an easy-to-read chart that allows for quick comparisons with other cases.
- c. The Court may hold a hearing following submission of the parties' Post-Distribution Accounting.

IT IS SO ORDERED.

Dated: _____

Hon. James Robert Redford