

OFFICE OF THE SETTLEMENT MASTER
THE CHESHER CLASS QUALIFIED SETTLEMENT FUND
2651 Observatory Avenue
Cincinnati, Ohio 45208
Telephone Number 513-979-5361

Communication Bulletin 02 – April 29, 2008

The purpose of this bulletin is to share information on the settlement of The Chesher Class Action. A Settlement Master has been appointed by Judge Spiegel, Senior Judge of the United States District Court for the Southern District of Ohio, Western Division. The Settlement Master is appointed by the Court and has the authority to render awards to Family Units subject to appeal to the Court.

Because this is the first mailing many of you are receiving from The Chesher Class, this Communication Bulletin will contain all of the information in the first Bulletin as well as additional information which is responsive to questions we have received to date.

First of all let us indicate that we recognize that there is always a chance that money will cause problems or challenges within a Family Unit. It is our hope that this will not happen with the money from this settlement. We will do everything possible to attempt to be fair while supporting family harmony. Please feel free to let us know what we can do to attempt to help your family in any way.

Since this is the first time many of you have been involved in a class action, it is important to note that there are many steps in the settlement of class actions. They all take time in an attempt to be **fair to all class and potential class members** with the guidance of the Court. To date we have heard from 300 families.

Deadlines have been extended in the attempt to locate additional potential class members. Family Unit Information Sheets must be in the Office of the Settlement Master **by May 15, 2008 (extended date)**. Individual Family Member Claims Forms must be in the same office **by June 10, 2008**. Unless there are extenuating circumstances, late Family Unit Information Sheets or Individual Family Member Claim Forms will be denied participation in the awards from the Fund. The earlier the forms are into our offices, the earlier we can begin to work on your claim.

Hamilton County paid the first \$4,000,000.00 into The Chesher Class Qualified Settlement Fund which was established on October 9, 2007 by Order of the Court, on October 30, 2007. The County paid the second \$4,000,000.00 on February 26, 2008. The money is held in AAA Rated federal government funds approved by the Court. While the hope is to pay as much of the Qualified Settlement Fund expenses from interest earned on the Funds, interest rates unfortunately continue to fall in the current economic environment making that very difficult.

A primary concern continues to be the identification of Family Members who are designated distributees or who can apply for money from the Settlement Fund. **THE FIRST DISTRIBUTIONS TO CLASS MEMBERS WHOSE FAMILIES HAVE COMPLETED ALL REQUIRED FORMS AND IN WHICH THERE ARE NO APPEALS AND THE COURT HAS APPROVED THE DISTRIBUTION ARE CURRENTLY ANTICIPATED TO BEGIN IN LATE SEPTEMBER 2008 AND CONTINUE FOR SEVERAL MONTHS THEREAFTER WELL INTO 2009 OR 2010.**

Applications from children will be treated with utmost respect and sensitivity for children. The Claims Form for children under 15 should be completed by a parent or legal guardian with discussion with the child as deemed appropriate by the parent or guardian. Discussions are not required at this time. Children 15 to 18 should be involved in the completion of the form with the parent or guardian as deemed appropriate **unless there is a circumstance which indicates the parent or guardian should complete the form without discussion.**

As we work together, every attempt will be made to handle this matter in a transparent manner. All mailings will be posted on the website of Class Counsel, gbfirm.com. Meetings have been and are being scheduled with Sub Class One Families as information becomes known in the first half of 2008 as early as possible. Group meetings will be available for Sub Class Two Families in the upcoming months of 2008. They will be announced as more information on those members is received. Dr. Steven Sunderland has been appointed by the Court as a grief educator/psychologist to participate in those meetings.

A copy of the entire Plan is included for review at your convenience.

GOALS - We have established the following goals for the handling of The Chesher Class Settlement. To:

- (i) make sure we utilize every effort to be respectful of each Family Unit and Family Member given their individual and joint circumstance;
- (ii) promote family harmony and attempt to minimize conflict, recognizing that money may be a potential source of conflict itself;
- (iii) handle matters fairly and equitably;
- (iv) be responsive to the Court and all Family Units and Members;
- (v) be as efficient as possible given the circumstance of this class, the necessity to gather detailed information on Family Units and Family Members and the unknown number of Sub Class Two participating Family Units, and required Court processes and approval;
- (vi) distribute funds within a reasonable time frame given the notice, claims filing, appeal periods and required release requirements from all members of a Family Unit, the goal being to distribute as much money as possible within one year of the date the Settlement Fund was fully funded.

KEY DEFINITIONS

Allocation Plan – The Plan for dividing up the settlement money that was approved by the Court on November 7, 2007 and entered onto the docket on November 19, 2007.

Chesher Class - The entire group of persons who can apply for payments under the Plan.

Chesher Class Qualified Settlement Fund – The 468 B Qualified Settlement Fund established by the Court to hold the funds until awards are made by the Settlement Master and ordered by the Court.

Family Member - A person who is a member of a Family Unit and entitled to a distribution under the Plan.

THE COURT defined Family Members as “surviving spouse, children, parents, and other next of kin who suffered severe emotional distress.”

Family Unit - A group of individuals who are entitled to distributions under the Plan due to the death of a person who was in the Morgue during the period which Thomas Condon had access to the Hamilton County Morgue.

“A Family Unit is defined as all the members of the family (Family Members) of a decedent who are eligible for a distribution under this Plan.”

Family Unit Claim Information Form - The form each Family Contact has to complete to attempt to give the names of any Family Member who may be entitled to a payment from the Fund. (Many of you have already completed this Form.)

Class Family Member Individual Claim Form - The form each Family Member/each Person will have to complete in order to be considered for a Distribution Payment.

Next of Kin – Next of Kin is a term in Ohio Law. Whether a person is a “next of kin” included in a “family” shall be determined with guidance from the Ohio Wrongful Death Statute, ORC §2125.02(A) (1) and case law interpreting that statute. In general, the cases are based on relationship to the decedent and the loss suffered because of that relationship. As to the Chesher Class, this term will be reviewed in part in light of the emotional suffering the “next of kin” had because of the events involving Thomas Condon at the Hamilton County Morgue between August 16, 2000 and January 10, 2001, and on which this settlement is based. Certain case law limits distribution to relationships beyond the second degree of relationship to the deceased. Unless there are significant unusual factors those persons in the third degree of relationship (aunts, uncles, nephews, nieces, cousins, etc.) **will not be awarded funds** in this matter. The Individual Claim Form allows you to describe what you believe to be unusual circumstances if you are in this level of relationship. (The Court has established requirements for participating in an award. Please refer to the Claims Form and Plan for additional information.)

The Court has ultimate authority in regard to distributions to next of kin. The Settlement Master will make awards. These awards are subject to appeal to the Court.

Release – The legal document each Family Member will have to sign in order to receive a distribution under The Plan. **IMPORTANT NOTE:** A Family Unit's Award **cannot be distributed** until a release has been signed by each Family Member.

Sub Class One Family Unit – Seventeen Family Units identified by the Court to which Thomas Condon had direct contact either with their deceased family member or had pictures of their deceased family member in his possession.

Sub Class Two Family Unit - All other Family Units (All Family Units not included in Sub Class One).

KEY DATES

- a. Draft Plan Preparation (October 2007) - **Completed**
- b. Fairness Hearing (October 9, 2007) - **Completed**
- c. Adoption of a Plan – To be determined by Court **Completed 11/7/2007 and 11/19/2007**
- d. Implementation of the Plan (Begins the day after the Court approves a Plan and is Ongoing)
 - i. Claims Application, Education, Award, and Appeal Process (Ongoing)
 - ii. Release Process Fall 2008
- e. Monitoring of the Plan (Ongoing)
- f. **DISTRIBUTION FROM THE PLAN (BEGINS APPROXIMATELY SEPTEMBER 30, 2008 FOR THOSE FAMILIES THAT HAVE COMPLETED THE SETTLEMENT PROCESS AND ALL FAMILY MEMBERS HAVE AGREED TO THE SETTLEMENT, SIGNED ALL DOCUMENTS, AND THE COURT HAS APPROVED THE SETTLEMENT.)**
- g. **CLOSING OF THE QUALIFIED SETTLEMENT FUND (TARGETED FOR MARCH 31, 2009 BUT DEPENDENT ON CIRCUMSTANCE AT THE TIME AS UNANTICIPATED DELAYS CAN OCCUR. EXAMPLE - UNCASHED CHECKS, PEOPLE MOVING WITHOUT FORWARDING ADDRESSES.). This is an aggressive date for a class action of this size and it could well be circumstance requires the class to be open much longer.**

POTENTIAL IMPACT OF A SETTLEMENT ON MEDICAID RECIPIENTS AND MEDICAID IN GENERAL

If you are currently receiving Medicaid Benefits and are currently totally and permanently disabled as defined in the Federal law as it pertains to Social Security Disability payments, a payment from this settlement over \$1,500.00 or cash assets

(including your settlement check) held over \$1,500.00 are likely to disqualify you for Medicaid.

Since Medicaid is so important to recipients, you will be given the opportunity to have any funds allocated to you placed in a Special Needs Trust, if you already have one. If you do not have such a Trust (***and many of you will not***), you may be eligible to participate in a Pooled Medicaid Payback Trust or acquire what are known as exempt assets. The rules for these trusts are very detailed and very specific and vary with state interpretation. Not everyone can participate in these trusts. The minimum for Pooled Medicaid Payback Trusts is generally \$5,000.00. For more information on these trusts, you will be asked to check a box on your individual application. In the interim there is sample material available for mailing to you upon request and review with an attorney familiar with these benefits. It is suggested you contact an attorney experienced in Medicaid to discuss your personal situation.

INCOME TAXATION

To be income tax free, Internal Revenue Code Section 104 (a) (2) requires that the source of a personal injury claim payment be a *personal physical injury or personal physical sickness*. Payments on account of property damages are also not taxable unless they exceed the value of the property.

Unless the law changes or there is a new reliable interpretation of the law, a Form 1099 (Tax Reporting Form) will be issued on awards in this matter reporting them as taxable. Consulting with an accountant/CPA about the income taxation of the award payment to you is something you may want to consider.

APPEAL PROCESS

You can file an appeal by sending an Appeal Form to the Settlement Master, Karen D. Meyers, MBA/JD, MEd, CPCU, CLU, FLMI, CSSC , 2651 Observatory Avenue, Cincinnati, Ohio 45208 and the Magistrate Judge Timothy S. Hogan in the United States District Court for the Southern District of Ohio, Western Division Court, Potter Stewart

U.S. Courthouse, 100 East Fifth Street, Cincinnati, Ohio 45202 indicating your objection to an award and/or the Position of the Settlement Master and why you are objecting. You must give specific details why you disagree with the decision of the Settlement Master. You must file an appeal within 30 days of receipt of the item on which you are filing an appeal. Appeals should be sent by Certified Mail. An Appeal Form will be sent with every Award Letter. The Appeal Form is much like a letter. You will have an option to request a hearing in front of the Magistrate if you wish.

PERIODIC PAYMENTS

For those who are receiving a distribution payment of over \$10,000.00 you may want to receive those payments over a period of time or at certain anticipated specific events rather than in cash. Structured Periodic Payments are funded through a special type of annuity sold by a specialized broker. To locate a specific broker with this specialty product you can go to either of the following websites:

NSSTA.com

ssp.members101.com/SSP/Module/Home/Theme16.aspx

PLEASE BE SURE TO TELL ANY BROKER WITH WHOM YOU SPEAK THAT THE FUNDS ARE NOT LIKELY TO BE AVAILABLE UNTIL LATE IN SEPTEMBER 2008, AT THE EARLIEST. The Fund will work on specialty language for any settlement involving periodic payments. In response to requests from class members The Settlement Master is providing two independent persons to Qualifying Family Members for discussion of this concept should they wish to do so.

ALLOCATION - Allocation among Family Members is part of the settlement process. The General Rule will be to allocate 75% of the Award to the surviving Spouse, Children, and Parents in equal payments and the remaining 25% to other eligible Family Members in equal payments so long as that calculation does not yield a higher payment. Family Units are encouraged to come up with a different allocation plan should they feel the 75%/25% allocation is not appropriate for their Family Unit or its members. The enclosed Individual Family Member Claims Form allows you to do so.

Alternately, you can ask the Settlement Master to propose an Award for your Family Unit.

The Settlement Master will make an award to each Family Member. If any Family Member disagrees with that Award, he/she can appeal to the Court. Further details are provided in the Plan, which is included in the package you received with this Communication Bulletin.

A Few Final Remarks - The input from you and each of your Family Members is very important to this settlement. We respect each person in this settlement. Conscious of expenses, we will likewise make every attempt to communicate in an efficient manner. Mailings are expensive because of the number of people involved. In an effort to save costs, we are trying to keep mailings at a minimum. We welcome phone calls, letters, and invite you to visit the website at Al Gerhardstein's office (gbfirm.com).

Please help the settlement process and do not assume that because you have not heard anything, nothing is happening. We can assure you something is. With the potential thousands of people involved in this class action, rest assured it will take time to coordinate all matters. In addition, many class members have indicated that **they do not want** monthly updates due to nature of the case. We want to make sure you are kept informed in the most cost efficient manner possible. If something is of concern to you or you have any questions, please call Class Counsel Renee Infante, Esquire, at 513-621-0267 or me, Karen Meyers, MBA/JD, MEd, CPCU, CLU,FLMI, CSSC, Settlement Master, at 513-979-5361. We would be honored to speak with you.

**Karen D. Meyers, MBA/JD, MEd, CPCU, CLU, FLMI, CSSC
Settlement Master for The Cheshier Qualified Settlement Fund
K. D. Meyers & Associates, PSC**