

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

Communication Bulletin 01 - November 30, 2007

This is the first of many communications we will share as the settlement of the Class Action moves forward. 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 members** with the guidance of the Court.

The County has paid the first \$4,000,000.00 into The Cheshier Class Qualified Settlement Fund, which was established by Order of the Court on October 9, 2007. The second \$4,000,000.00 is due on February 29, 2008. The money is held in federal government funds approved by the Court. The hope is to pay as much of the expenses from interest earned on the Funds. Unfortunately interest rates continue to fall in the current economic environment.

One of the large tasks ahead of us is 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 ARE CURRENTLY ANTICIPATED IN LATE SEPTEMBER 2008.**

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, gblfirm.com. There will be meetings scheduled with Sub Class One Families as information becomes known in the early part of 2008. Group meetings will be available for Sub Class Two Families. They will be announced as more information on those members is received.

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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 your 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 is 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.

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Chesher Class Qualified Settlement Fund – The 468 B Qualified Settlement Fund established by the Court to hold the funds for distribution as 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 will have to complete to attempt to give the names of any Family Member who may be entitled to a payment from the Fund.

Individual Claims 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 and on which this settlement is based.

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.

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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
 - ii. Release Process
- e. Monitoring of the Plan (Ongoing)
- f. **DISTRIBUTION FROM THE PLAN (BEGINS APPROXIMATELY SEPTEMBER 28, 2008)**
- g. **CLOSING OF THE QUALIFIED SETTLEMENT FUND (TARGETED FOR MARCH 31, 2009 BUT DEPENDENT ON CIRCUMSTANCE AT THE TIME AS UNANTICIPATED DELAYS CAN OCCUR. E.G., UN-CASHED CHECKS, PEOPLE MOVING WITHOUT FORWARDING ADDRESSES.).**

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

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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.

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 as is appropriate. Consulting with an accountant/CPA about the income taxation of the award payment to you is something you may want to consider.

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 an 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.

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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. 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. Forms will be provided at a later date for those submissions. The Special Master will make an award to each Family Member. If any Family Member disagrees with that Award, they 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. Please help the 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 matter, rest assured it will take time to coordinate all matters. We want to make sure you are kept informed in the most cost efficient manner possible. If something is of concern to you, please call Class Counsel Renee Infante, Esquire, at 513-621-0267 or me, Karen Meyers, MBA/JD, MEd, CPCU, CLU,FLMI, CSSC, Special Master, at 513-979-5361. We would be honored to speak with you.

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