

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

WAYNE B. LYNCH,
*Administrator of the Estate of Donovan W. Lynch,
Deceased,*

Plaintiff,

v.

Action No. 2:21cv341

SOLOMON D. SIMMONS, III, *et al.*,

Defendants.

ORDER

This matter is before the Court on the motion for approval of settlement filed by Wayne B. Lynch, Administrator for the Estate of Donovan W. Lynch. ECF No. 116. Due to disputes regarding attorneys' fees and costs, Magistrate Judge Robert J. Krask ordered plaintiff's past and present counsel of record to file documents and legal memoranda addressing issues regarding their entitlement to attorneys' fees and costs. Judge Krask subsequently issued a Report and Recommendation (ECF No. 151) setting out a thorough and cogent analysis of the situation and recommending that the motion for approval of settlement (ECF No. 116) be granted in part and denied in part.

By copy of the Report and Recommendation, each party was advised of their right to file written objections to the findings and recommendations made by the Magistrate Judge within 14 days from the date of mailing or electronic transmission

of the report. Report & Rec. at 37–38, ECF No. 151 (citing 28 U.S.C. § 636(b)(1)(C)). The Court has received no objections to the report, and the time for filing the same has expired.

“[I]n the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72, Advisory Committee’s Note). Finding no clear error, and further agreeing with Judge Krask that the compromise reached in this case is fair and reasonable, the Court does hereby accept the findings and recommendations set forth in the Report and Recommendation.

Accordingly, it is hereby **ORDERED** that the Estate’s motion to approve the settlement, ECF No. 116, is **GRANTED in part** and **DENIED in part**. It is further **ORDERED** that attorney Joseph V. Sherman’s motion for costs and fees, ECF No. 118, as supplemented, ECF Nos. 134, 145, is **GRANTED**.

It is further **ORDERED** that the settlement funds at issue in this case shall be paid to plaintiff’s attorney of record, Sherman, for deposit into his trust account and for distribution in the manner provided below:

- Attorneys’ fees and costs to Fairfax and Martin: **\$679,197.47**
 - Martin’s costs after reduction: \$35,107.84
 - Fairfax’s costs after reduction: \$63,889.00
 - Fairfax and Martin’s attorneys’ fees award calculated after costs:

- $\$3,000,000.00 - \$35,107.84 - \$63,889.00 = \$2,901,003.16$
- $\$2,901,003.16 \times 20\% = \underline{\$580,200.63}$
 - $\$348,120.38$ (60%) payable to Fairfax
 - $\$232,080.25$ (40%) payable to Martin
- Attorneys' fees and costs to Anchor: **$\$229,635.18$**
 - Anchor's attorneys' fees after reduction:
 - attorneys' hours (488.60) x attorneys' rate ($\$400.00$) =
 $\$195,440.00$
 - paralegal/investigator hours ($132.6 - 18 = 114.60$) x
paralegal/investigator rate ($\$75.00$) = $\$8,595.00$
 - $\$195,440.00 + \$8,595.00 = \underline{\$204,035.00}$
 - Anchor's costs: $\$25,600.18$
- Attorney's fees and costs to Sherman: **$\$30,374.36$**
 - Sherman's attorney's fees: $\$30,107.00$
 - Sherman's costs: $\$267.36$
- Attorney's fees to Kelleter: **$\$14,025.00$**
 - attorney's hours (33) x attorney's rate ($\$425$) = $\$14,025.00$
- Funeral expenses to Wayne Lynch: **$\$12,038.60$**

The remainder of **$\$2,034,729.39$** shall be paid to Wayne Lynch as the sole beneficiary.

See Va. Code §§ 8.01-53–54.

Consistent with paragraph 11.0 of the parties' agreement memorializing the settlement, ECF No. 104, defendants shall pay the sum of $\$3,000,000.00$ to plaintiff's

attorney of record, Sherman, not later than seven (7) days after the date of entry of this Order. Not later than seven (7) days after receipt of said monies, plaintiff's attorney Sherman shall disburse those monies as directed by the Court above. Not later than seven (7) days after such disbursements, Sherman shall file a report with the Court documenting compliance with the specified disbursements. Finally, not later than seven (7) days after the filing of Sherman's report, the parties shall file a notice of dismissal with prejudice and a proposed order.

The Clerk is **DIRECTED** to please forward a copy of this Order to counsel of record, as well as to Anthony Gantous, Esq., Joshua Coe, Esq., Justin Fairfax, Esq., and Thomas Martin, Esq.

IT IS SO ORDERED.

/s/

Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia
September 26, 2023