

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY) IN THE COURT OF COMMON PLEAS
 FIFTEENTH JUDICIAL CIRCUIT
 C/A NUMBER 2021-CP-26-03677

Linda Green, as Personal Representative of
the Estate of Nicolette Tanyja Eugenia
French,

Plaintiff,

vs.

American Aluminum Accessories, Inc.,

Defendant.

**ORDER APPROVING WRONGFUL
DEATH AND SURVIVAL ACTION
SETTLEMENT**

This matter is before the Court on Petition of Linda Green, as Personal Representative of the Estate of Nicolette Tanyja Eugenia French seeking approval of a settlement of wrongful death and survival claims related to an incident that occurred on September 18, 2018.

A full hearing was held in this matter on the 2nd day of June 2021, attended by Linda Green, as Personal Representative of the Estate of Nicolette Tanyja Eugenia French; Morgan Martin, attorney for Linda Green, as Personal Representative of the Estate of Nicolette Tanyja Eugenia French; and George V. Hanna, IV attorney for American Aluminum Accessories, Inc. All persons present at the hearing waived notice and prayed for this Court's approval of the proposed settlement.

A full and careful examination was made of Linda Green, as Personal Representative of the Estate of Nicolette Tanyja Eugenia French who stated freely and unequivocally that she understood the settlement proposal outlined in the attached petition, and that she desired the Court approve the settlement with the knowledge and understanding that upon approval and consummation of the settlement, neither the personal representative, the Estate or any beneficiaries would have any further claims or causes of action against the personal assets of American Aluminum Accessories, Inc. as well as the proceeds of American Casualty Co of Reading, PA Policy Number 6071981769 issued

to American Aluminum Accessories, Inc and the proceeds of The Continental Insurance Company Policy Number CUE 6071981755 issued to American Aluminum Accessories, Inc., or their agents, employees, servants, heirs, executors, personal representatives, administrators, officers, subsidiaries, parent corporations, affiliated companies, directors, successors and assigns, arising, asserted or brought under or by virtue of any South Carolina, or Federal statute or by common law from the September 18, 2018 incident.

Upon consideration of the Petition of Linda Green and based upon testimony before this Court, this Court makes the following finding of fact:

FINDINGS OF FACT

1. That this Court has jurisdiction over all persons and the subject matter of this action.
2. That the Petitioner, Linda Green is the duly appointed and qualified as the Personal Representative of the Estate of Nicolette Tanyja Eugenia French.
3. That Linda Green, as Personal Representative of the Estate of Nicolette Tanyja Eugenia French has the authority to bring claims against the Defendant in this matter and to recover damages for the alleged wrongful death and pain and suffering of Nicolette Tanyja Eugenia French and her Estate related to the incident of September 18, 2018. On that date the decedent died, as the result of of drowning in a Horry County Prison Transport van that became trapped in floodwaters. The van at issue was equipped with an inmate transport module designed and manufactured by Defendant American Aluminum Accessories, Inc.
4. That the Personal Representative, by and through counsel, has negotiated with American Casualty Co of Reading, PA, the liability carrier for Defendant, and The Continental Insurance Company, the excess/umbrella liability carrier for Defendant for the purpose of settling this claim and, after careful consideration, has determined that the said offers for settlement is

adequate and is in the best interest of the Estate and has agreed to accept One Million and 00/100 (\$1,000,000.00) Dollars, in exchange for a Release in favor of American Aluminum Accessories, American Casualty Co of Reading, PA, and The Continental Insurance Company.

5. The settlement and compromise contemplates the execution of a Release thereby ending and terminating all claims and actions as to the personal assets of the Defendant as well as the proceeds of American Casualty Co of Reading, PA Policy Number 6071981769 issued to American Aluminum Accessories, Inc and the proceeds of The Continental Insurance Company Policy Number CUE 6071981755 issued to American Aluminum Accessories, Inc., or their agents, employees, servants, heirs, executors, personal representatives, administrators, officers, subsidiaries, parent corporations, affiliated companies, directors, successors and assigns. The Personal Representative is authorized and directed to execute the Release.

6. The overall settlement totals One Million and 00/100 (\$1,000,000.00) Dollars. Of this total settlement amount, Five-Hundred Thousand and 00/100 (\$500,000.00) Dollars is allocated to the wrongful death claim and Five-Hundred Thousand and 00/100 (\$500,000.00) Dollars is allocated to the survival claims.

7. No liens have been asserted against the Estate. Should any lawful liens be asserted after the approval of this petition, to the extent possible, the Personal Representative will satisfy these liens from any remaining estate assets as permitted and directed by the Probate Court.

8. The Personal Representative has incurred attorney's fees of Four Hundred Thousand and 00/100 (\$400,000.00) Dollars and Forty-Eight Thousand Three Hundred Twenty-Eight Dollars and 46/100 (\$48,328.46) Dollars for costs incurred. These amounts will be disbursed from the settlement proceeds to Pierce Sloan Kennedy & Early, LLC.

9. That the Personal Representative retained the services of Pierce Sloan Kennedy & Early, LLC to represent the Estate. The Personal Representative entered a contract with Pierce Sloan Kennedy & Early, LLC for a contingency fee of 40% the gross recovery plus costs to be paid from the settlement. The Personal Representative is well satisfied with the services of Pierce Sloan Kennedy & Early, LLC. The court in considering the reasonableness of the attorney's fees has considered: (1) the nature, extent, and difficulty of the case; (2) the time necessarily devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) beneficial results obtained; and (6) customary legal fees for similar services. The court finds that the attorney's fee is reasonable and has no hesitation in approving the fees in this matter.

10. That the remaining settlement proceeds of Five Hundred Fifty-One Thousand Six Hundred Seventy-One and 54/100 (\$551,671.54) Dollars, will be paid to Linda Green, as Personal Representative of the Estate of Nicolette Tanyja Eugenia French for the benefit of the Estate.

11. The statutory beneficiary(s) and heir(s) at law are Daniel French (Husband), Rose Marie Eileen Hershberger (Daughter), Erica Courtney Eugenia Hershberger (Daughter) and Minor Gad Jesse Michael Green (Son) by and through his court-appointed counsel John C. Thomas.

12. The court has reviewed the settlement proposal as outlined in the Petition of Linda Green and the court finds the settlement proposal is reasonable and proper and in the best interests of the Estate, and the court approves the same.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that this Court does hereby expressly approve, authorize, direct, and ratify the settlement proposal as set forth in the Petition of Linda Green.

IT IS FURTHER ORDERED that Defendant pay the sum of One Million and 00/100 (\$1,000,000.00) Dollars to Linda Green, as Personal Representative of the Estate of Nicolette Tanyja Eugenia French and her attorneys Pierce Sloan Kennedy & Early, LLC.

IT IS THEREFORE ORDERED that the settlement as set forth in the attached Petition is hereby approved and that upon the delivery of One Million and 00/100 (\$1,000,000.00) Dollars to Linda Green, as Personal Representative of the Estate of Nicolette Tanyja Eugenia French; the Personal Representative is authorized and directed to make the disbursements approved above; and the Petitioner, upon receipt of the net settlement proceeds, is authorized and directed to execute a Release in favor of American Aluminum Accessories, American Casualty Co of Reading, PA, and The Continental Insurance Company ending and terminating all claims and actions surviving to the Personal Representative or any beneficiaries arising, asserted or brought under or by virtue of any South Carolina, or Federal statute or by common law against the personal assets of the Defendant as well as the proceeds of American Casualty Co of Reading, PA Policy Number 6071981769 issued to American Aluminum Accessories, Inc and the proceeds of The Continental Insurance Company Policy Number CUE 6071981755 issued to American Aluminum Accessories, Inc., their agents, employees, servants, heirs, executors, personal representatives, administrators, officers, subsidiaries, parent corporations, affiliated companies, directors, successors and assigns. This release is not to be a general release and in no way releases any other parties that Plaintiff has brought suit against or may bring suit against, including but not limited to, Horry County, Horry County Sheriff's Office, Daniel Flood, Sheriff Phillip Thompson, Elizabeth Orlando and Joshua D. Bishop. It is intended to and would only release American Aluminum Accessories, American Casualty Company of Reading, PA and the Continental Insurance Company.

IT IS SO ORDERED.

Michael G. Nettles
Presiding Circuit Court Judge
Horry County



Horry Common Pleas

Case Caption: Linda Green , plaintiff, et al VS American Aluminum Accessories Inc

Case Number: 2021CP2603677

Type: Order/Approval Of Settlement

So Ordered

s/ The Honorable Michael G. Nettles #2140