

Matter of Falu

2015 NY Slip Op 33007(U)

January 16, 2015

Surrogate's Court, New York County

Docket Number: File No. 2011-2107/A/B/C

Judge: Rita Mella

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This opinion is uncorrected and not selected for official publication.

SURROGATE'S COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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In the Matter of the Application of Monique Falu, as
Administrator of the Goods, Chattels and Credits which
were of

RAMON FALU,

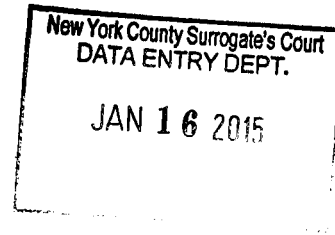
Deceased,

For leave to compromise and settle causes of action
arising out of the conscious pain and suffering and
wrongful death of decedent and to judicially settle her
account related to the proceedings thereof.

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M E L L A, S.

This is an application by decedent's daughter, Monique Falu, as Administrator of the Estate of Ramon Falu, to compromise causes of action arising from decedent's conscious pain and suffering and wrongful death and to judicially account for the recovery. The restrictions contained in the letters issued to the Administrator are removed and she is authorized to collect the compromise proceeds and to execute such receipts and releases as may be required. Statutory commissions are allowed (SCPA § 2307).

The fee and disbursements of petitioner's attorneys, Rappaport, Glass, Levine & Zullo, LLP, are fixed. The Administrator also seeks approval to pay Karen L. Dunne, Esq., her legal fee for estate administration services. In any action for personal injury or wrongful death, the amount of legal fees for counsel retained under a contingency fee arrangement is limited by court rule (22 NYCRR § 603.7[e]), and in this case, it is limited to one-third of the recovery (net of certain expenses). To allow any additional fees in the settlement of such an action would be to circumvent that rule (*see Matter of Kulaya*, NYLJ, Jan. 18, 2013, at 22, col 4 [Sur Ct, NY



DECISION

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County)]; *Matter of Lopez*, NYLJ, Nov. 21, 2008, at 39, col 2 [Sur Ct, New York County]; *Matter of Brown*, NYLJ, Feb. 8, 1995, at 29, col 5 [Sur Ct, Bronx County]). Accordingly, the fee of Ms. Dunn is to be paid from the legal fees approved for Rappaport, Glass, Levine & Zullo, LLP.

The Administrator is further authorized to reimburse herself the sum of \$1,657.00 for decedent's funeral expenses. The net proceeds, which are allocated 100 percent to the cause of action for decedent's conscious pain and suffering, shall be distributed in equal shares to decedent's adult children pursuant to EPTL §4-1.1(a)(3), all of whom have consented to the requested relief.

Decree settling Administrator's account is signed.

Dated: January 16, 2015



SURROGATE