

**Suazo v Eastchester Rehabilitation & Health Care
Ctr., LLC**

2020 NY Slip Op 34305(U)

November 30, 2020

Supreme Court, Bronx County

Docket Number: 21971/17e

Judge: Wilma Guzman

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This opinion is uncorrected and not selected for official publication.

At an IAS Part 7 of the Supreme Court of the State of New York, County of Bronx, at the Courthouse located at 851 Grand Concourse, Bronx, New York on the 30th day of November, 2020.

PRESENT:

HON. WILMA GUZMAN, J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
MIGUELINA SUAZO, as Administrator of the Estate of
CLEMENTINA SUAZO,

Index No.: 21971/17e

Plaintiff(s),

ORDER

-against-

EASTCHESTER REHABILITATION AND HEALTH
CARE CENTER, LLC,

Defendant(s).

-----X

Upon the reading and filing of the Affidavit of MIGUELINA SUAZO, Administrator of the Estate of CLEMENTINA SUAZO, deceased, duly verified the 4th day of August, 2020, and upon Affirmation of MATTHEW VOELPEL, ESQ., affirmed the 5th day of August, 2020, and the exhibits thereto; and after inquiry into the merits of the action and the amount of damages proposed as a settlement; and it appearing to the Court that such amount of damages is adequate; and due deliberation having been made thereon.

Now on motion of VALDEBENITO & ASSOCIATES, PC, attorneys for plaintiff it is;

ORDERED, that the causes of action against defendant EASTCHESTER REHABILITATION AND HEALTH CARE CENTER, LLC are hereby discontinued with prejudice and without costs upon the payment of ONE HUNDRED EIGHTY FIVE

THOUSAND (\$185,000.00) DOLLARS and ZERO CENTS by their representative(s) and/or insurance company, and it is further;

ORDERED, that MIGUELINA SUAZO, as Administrator of the Estate of CLEMENTINA SUAZO, deceased, be and is hereby authorized and empowered to accept from defendant, EASTCHESTER REHABILITATION AND HEALTH CARE CENTER, LLC and/or their insurance representative(s), the sum of ONE HUNDRED EIGHTY FIVE THOUSAND (\$185,000.00) DOLLARS and ZERO CENTS which the Court determines to be adequate, in full settlement, release and discharge of any and all claims against defendants, EASTCHESTER REHABILITATION AND HEALTH CARE CENTER, LLC, had by the Estate of Decedent, and it is further;

ORDERED, that MIGUELINA SUAZO, as Administrator of the Estate of CLEMENTINA SUAZO, deceased, be permitted to execute whatever closing papers are necessary to obtain the settlement funds which are to be put in escrow, and it is further;

ORDERED, that MIGUELINA SUAZO, as Administrator of the Estate of CLEMENTINA SUAZO, deceased, be and hereby authorized, permitted and directed to execute and deliver to the paying defendant, EASTCHESTER REHABILITATION AND HEALTH CARE CENTER, LLC, such release and stipulation of discontinuance required to evidence satisfaction and release of all claims arising them on behalf of the Estate of the Decedent, and it is further;

ORDERED, that defendant, EASTCHESTER REHABILITATION AND HEALTH CARE CENTER, LLC and/or their insurance representative(s), upon receipt of any attorney-certified copy of this Order and releases and stipulation of discontinuance, shall pay the

following sum within the time frames set forth in CPLR Section 5003-a to wit, twenty-one (21) days:

Defendant, EASTCHESTER REHABILITATION AND HEALTH CARE CENTER, LLC and/or their insurance representative(s) shall pay to VALDEBENITO & ASSOCIATES, PC, as attorneys for the Estate of CLEMENTINA SUAZO to be held in an interest-bearing escrow account, pursuant to this Order, and thereafter pending further direction by the Surrogate's Court, New York County ONE HUNDRED EIGHTY FIVE THOUSAND (\$185,000.00) DOLLARS and ZERO CENTS and it is further;

ORDERED, that the Court hereby approves disbursements and attorney's fees and other payable expenses, as follows:

<u>Creditor and Claim</u>	Amount
VALDEBENITO & ASSOCIATES, PC as and for disbursements advanced in connection with the prosecution of this action.	\$8,474.50
VALDEBENITO & ASSOCIATES, PC as and for Attorney's fees in connection with the prosecution of this action	\$58,841.83

And it is further;

ORDERED that out of the sum of ONE HUNDRED EIGHTY FIVE THOUSAND (\$185,000.00) DOLLARS and ZERO CENTS so held in escrow, VALDEBENITO & ASSOCIATES, PC, shall, upon submitting proof to this Court that a Petition for distribution of the settlement amount has been filed with the Surrogate's Court, New York County, New York,

immediately collect the foregoing disbursements in the amount of \$8,474.50 and the foregoing attorneys' fees in the amount of \$58,841.83 out of the gross settlement amount; and it is further;

ORDERED, that this matter is referred to the Surrogate's Court, New York County, New York for distribution of the net settlement proceeds among Decedent's distributees, and plaintiff shall seek such relief accordingly within sixty (60) days of this Order, and it is further;

ORDERED, that the Estate of CLEMENTINA SUAZO, deceased, shall petition the Surrogate's Court, New York County, New York to allocate the settlement proceeds to the decedent's conscious pain and suffering;

ORDERED, that in such proceeding for distribution, VALDEBENITO & ASSOCIATES, PC, shall continue to serve as attorneys for the Estate of CLEMENTINA SUAZO, deceased, until the entry of a final Decree in the Surrogate's Court, New York County, New York, and it is further;

ORDERED, that the filing of a bond be and the same is hereby dispensed with.

ENTER:



HON. WILMA GUZMAN, J.S.C.