

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

|                                 |   |                          |
|---------------------------------|---|--------------------------|
| Margaret Thomas, as special ad- | ) |                          |
| ministrator for Nephus Thomas,  | ) |                          |
| deceased,                       | ) |                          |
|                                 | ) |                          |
| <i>Plaintiff</i>                | ) | 19-cv-133                |
|                                 | ) |                          |
| <i>-vs-</i>                     | ) | <i>(Judge Pallmeyer)</i> |
|                                 | ) |                          |
| City of Chicago, et al.,        | ) |                          |
|                                 | ) |                          |
| <i>Defendants</i>               | ) |                          |

**PLAINTIFF'S MOTION TO APPROVE  
SETTLEMENT AND DISTRIBUTION**

Plaintiff, by counsel, moves the Court to approve the monetary settlement of \$598,356.16 and approve disbursements as follows:

|                                                                          |              |
|--------------------------------------------------------------------------|--------------|
| Fees to plaintiff's counsel                                              | \$239,342.46 |
| To be distributed through decedent's estate in Cook County Probate Court | \$359,013.70 |

Grounds for this request are as follows:

**A. Background**

1. This case arises from the prosecution of Nephus Thomas following an arrest in 2008, for which Mr. Thomas served about eighteen months.
2. The defendants include former Chicago Police Sergeant Ronald Watts and officers who were members of his tactical team.

3. This case was one of more than 170 cases that the parties have referred to as the “Watts cases.”

4. The parties have vigorously litigated these cases since the first cases were filed in 2017.

5. Mr. Thomas filed this case, through counsel, in 2019 after his conviction was vacated.

6. Mr. Thomas passed away in 2020.

7. Margaret Thomas, Mr. Thomas’s sister, engaged Joel Flaxman and Kenneth Flaxman of the Law Office of Kenneth N. Flaxman P.C. to continue Mr. Thomas’s claims. The written contingent fee agreement provides, *inter alia*, that the estate would pay fees equal to 40% of the recovery.

8. On December 30, 2021, this Court entered an order appointing Margaret Thomas as Special Administrator for the Estate of Nephus Thomas.

9. On September 26, 2025, Margaret Thomas filed a petition to open an estate in Cook County Probate Court, Case Number 2025P006555.

## **B. Applicable Law**

10. Plaintiff seeks an Order from this Court determining that the settlement amount and the allocation of charges against the proceeds are fair and reasonable to obtain the Probate Court’s approval to distribute the

proceeds to the Decedent's Estate in accordance with Cook County Circuit Court Local Rules 6.5 and 12.15.

11. Cook County Circuit Court Local Rule 6.5(1)(a) states: "The judge hearing the case, upon the approval of a settlement as fair and reasonable or upon the entry of a judgment, shall adjudicate liens, determine the expenses, including attorneys' compensation, to be deducted from the settlement or judgment and shall determine the net amount distributable to each person entitled thereto pursuant to the provisions of the Wrongful Death Act or the Probate Act."

12. Cook County Circuit Court Local Rule 12.15(d) governs the role of Probate Courts when there is a pending action in relation to a Decedent in another court:

The guardian of the estate of the ward or the representative of the decedent's estate, as the case may be, shall file a petition in the court for an order authorizing the guardian or representative to take whatever action is required by the other court. If that action involves approval of a settlement or the payment of fees or expenses that have not been passed on by the other court, the petitioner shall provide evidence of the propriety of the proposed action.

13. This Court oversaw the pending cause of action and is familiar with the facts and circumstances. As explained below, this Court is the appropriate one to approve the settlement and allocation of settlement proceeds.

14. District Courts routinely enter similar orders in cases like this one. *E.g.*, *Schaeffer v. Chicago*, 19-cv-7711 (Dow, J.); *Butler v. Chicago*, 18-cv-4918, ECF No. 104 (Kendall, J.); *Vargas v. Cook County*, 18-cv-1865, ECF No. 198 (Seeger, J.); *Johnson v. Sheriff of Cook County*, ECF No. 97 (Gilbert, M.J.).

### **C. Settlement**

15. Defendant City of Chicago has agreed in good faith to settle this case for a total of \$598,356.16.

16. The parties reached this settlement through arms-length negotiations as part of a global settlement in the Watts cases that was facilitated through numerous settlement conferences with Magistrate Judge Valdez.

17. The parties agree that this settlement is fair and reasonable; counsel for plaintiff believes that this settlement is in the best interests of decedent's heirs.

18. Plaintiff respectfully requests that the Court find that the settlement was made in good faith.

### **D. Distribution**

19. The contingent fee contract entitles the Law Office of Kenneth N. Flaxman P.C. to 40% of the award, or \$239,342.46.

20. Plaintiff, on behalf of the estate, agrees to counsel's attorney fees.

21. A contingent rate of 40% is a standard and reasonable amount in civil rights litigation. As the Seventh Circuit wrote in *Kirchoff v. Flynn*, 786 F.2d 320, 328 (7th Cir. 1986), “[t]he use of contingent fees is appropriate in cases that enforce old precedents and allow effective compensation as a percentage of the total recovery.” *Id.* at 328. A 40% contingency is reasonable because “the risks plaintiffs face in § 1983 litigation are greater and the rewards smaller [than in] ordinary tort litigation.” *Id.* at 323.

22. Plaintiff asks this Court to approve counsel’s fees because this Court has overseen this litigation, is familiar with the risks of pursuing Section 1983 on a contingent basis, and is knowledgeable about the accepted and ordinary fees in federal civil rights litigation.

23. Plaintiff respectfully requests that the Court allocate 40% of the settlement (\$239,342.46) to the Law Office of Kenneth N. Flaxman P.C.

24. The remainder of the settlement, the client portion, is \$359,013.70.

25. Plaintiff respectfully requests that the Court allocate this amount to be distributed to decedent’s heirs and for other debts and expenses of the estate as ordered by the Cook County Probate Court pursuant to Illinois Law.

26. Plaintiff's counsel conferred with counsel for defendant City of Chicago about this motion. The City takes no position regarding the motion.

It is therefore respectfully requested that the Court find the settlement was made in good faith, approve the distribution of \$239,342.46 to the Law Office of Kenneth N. Flaxman, and order that the remaining \$359,013.70 be allocated to decedent's heirs and for other debts and expenses of the estate as ordered by the Cook County Probate Court pursuant to Illinois Law.

Respectfully submitted,

/s/ Joel A. Flaxman  
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