

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

**CASE NO. 1:14-cv-23323-RNS
Consolidated Case No. 1:14-cv-24140-RNS**

ANDRE CHAPMAN, as Personal
Representative of the ESTATE OF
DARREN RAINEY, on behalf of the
Estate, and on behalf of Darren Rainey's
Surviving Relatives, Andre Chapman,
Renee Chapman, Deborah Johnson,
Chineaquia BreeLove and Harold Marr,

Plaintiff,

vs.

FLORIDA DEPARTMENT OF
CORRECTIONS, an Agency of the State
of Florida, CORIZON, L.L.C., an out-of-
state limited liability corporation doing
business and registered in Florida,
ROLAND CLARKE, CORNELIUS
THOMPSON and JERRY CUMMINGS,

Defendants.

_____/

**PLAINTIFF ANDRE CHAPMAN'S MOTION FOR ENTRY OF ORDER
AUTHORIZING RELEASE OF SETTLEMENT PROCEEDS
TO SUTTON LAW GROUP, P.A. TRUST ACCOUNT**

COMES NOW, Andre Chapman, as Personal Representative of the Estate of
Darren Rainey, and files this Motion For Entry of Order Authorizing Release of

Settlement Proceeds to “Sutton Law Group, P.A. Trust Account.” As grounds it is alleged:

1. On February 26, 2018, this Court entered an order approving a \$4,500,000 settlement of this case and designating Sutton Law Group to receive the funds into its trust account. (Dkt. #266). For reasons stated below, that order was later vacated. Plaintiff hereby requests that the Order be reinstated or a new Order authorizing same be issued such that the settlement funds are ordered released to “Sutton Law Group, P.A. Trust Account.”

2. Probate Circuit Judge Maria Korvick found that the settlement funds were not an estate asset and approved the settlement on July 24, 2018.

3. This Court has jurisdiction to determine matters in this case because an earlier appeal by Linda Commons to the Eleventh Circuit Court was dismissed on October 4, 2018. (Dkt. #333).

4. Counsel participated in a “meet and confer” on October 19, 2018 before the filing of this motion and the following were the respective positions:

All defense counsel (Greg A. Toomey, Lourdes Espino Wydler, Monica Stinson, and Sheri K. Weissenborn) had no opposition to the motion except they requested 30 days from the date of this Court’s order to make payment of their respective settlement funds.

Christopher Q. Wintter, on behalf of Estate of Daralyn Joyce Anderson, does

not disagree with the gross settlement amount, but will oppose the motion for other reasons.¹

5. While a Motion to Intervene filed by Joyce Anderson as Personal Representative of Daralyn Joyce Anderson is pending in this Court, and Linda Commons still claims entitlement to some attorney's fees (even though she has no standing), on information and belief, they do not object to the amount of the gross settlement, but object to the apportionment of the settlement proceeds.

6. Pending resolution of the apportionment, and in view that defendants do not object to the release of the settlement funds, settlement proceeds should be released to the "Sutton Law Group P.A. Trust Account" so that the defendants and their counsel can be relieved from further participation in this action.

7. In addition, Plaintiffs contend that for the following further reasons the funds should be released as requested herein:

A. Ms. Commons lacks standing to object to the gross amount of the settlement. Her Attorney Charging Lien was stricken by order of this Court on April 13, 2018. (Dkt. #279). She dismissed her Eleventh Circuit Court appeal of the order. (Dkt. #333).

B. Joyce Anderson's only interest, if any, is limited by Fla. Stat.

¹Linda Commons, who is not a party to this action and whose attorney lien was stricken by this Court and who dismissed her appeal re same, also participated in the meet and confer and objects to the motion.

768.24 to eight months loss of support and services Darren Rainey may have provided to her deceased daughter, Daralyn Joyce Anderson, who died eight months after Darren Rainey. Darren Rainey was incarcerated and would have been incarcerated during this entire eight month period (had he not died), so the claim is questionable since he could not have provided any support or services to her. The claim, even if valid, is limited to eight months because Daralyn died eight months after Darren Rainey when she was 28 years old, and this case had not even been filed or this settlement obtained. (Fla. Stat. 768.24 - Death of a Survivor Before Judgment).

8. Andre Chapman signed the settlement "Release" document as ordered by the probate court and it was delivered to Defendants' counsel on July 30, 2018.

9. This Court first approved the gross amount of settlement and directed Andre Chapman to deliver a signed release and that settlement proceeds be deposited in the Sutton Law Group trust account in February 2018. That order was vacated when, in an abundance of caution, Chapman sought probate court approval of the settlement first which has now been obtained.

10. For the reasons stated, Andre Chapman requests that this Court reinstate its Order, or issue a new Order, that Defendants deliver to John R. Sutton of the Sutton Law Group P.A. their respective portion of the gross settlement amount of \$4,500,000 via settlement drafts payable to "Sutton Law Group P.A. Trust

Account,” within 30 days of such Order.

Dated: 10/19/18

By: /s/ Milton C. Grimes

MILTON C. GRIMES, Esq. (CA Bar No. 59437)

(admitted *pro hac vice*)

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 19, 2018 a true and correct copy of the foregoing **PLAINTIFF ANDRE CHAPMAN'S MOTION FOR ENTRY OF ORDER AUTHORIZING RELEASE OF SETTLEMENT PROCEEDS TO SUTTON LAW GROUP, P.A. TRUST ACCOUNT** and all attachments has been filed with the Court utilizing its CM/ECF system, which will transmit a notice of electronic filing to all counsel or parties of record registered with the Court for that purpose.

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