

MEMORANDUM

March 30, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: JACK SCHULER, ESQ.
Schuler & Brown

NARBEH BAGDASARIAN
Senior Associate County Counsel,
Health Services Division

RE: Sonia Escobar, Israel Portillo v. County of Los Angeles, et al.
Los Angeles County Superior Court, Case No. SC 085338

DATE OF INCIDENT: April 16, 2004

AUTHORITY \$210,000.00, Plus Assumption of the Medi-Cal Lien Not to Exceed
REQUESTED: \$8,874.14

COUNTY DEPARTMENT: DEPARTMENT OF HEALTH SERVICES

CLAIMS BOARD ACTION:

Approve

Disapprove

Recommend to Board of Supervisors for Approval

_____, Chief Administrative Office

ROCKY ARMFIELD

_____, County Counsel

JOHN F. KRATTLI

_____, Auditor-Controller

MARIA M. OMS

on _____, 2006

SUMMARY

This is a recommendation to settle for \$210,000.00, the wrongful death/medical negligence lawsuit brought by the parents of Henry Portillo, who died as a result of the injuries he sustained while hospitalized at Harbor-UCLA Medical Center. The State, having paid \$8,874.14 for the provision of Medi-Cal care, has a claim for reimbursement, which will be settled by the County.

LEGAL PRINCIPLES

The County is liable for the failure of its hospital and medical staff to provide services consistent with the appropriate standard of care for the circumstances encountered.

SUMMARY OF FACTS

In April 2004, Henry Portillo, a 9-year-old boy, was diagnosed with leukemia (a type of a blood cancer). On April 13, 2004, Henry Portillo was transferred to Harbor-UCLA Medical Center for evaluation and treatment of his condition.

The patient was placed on a chemotherapy regimen (where potent anti-cancer medications are administered) to start on April 16, 2004. Several medications, including Thioguanine (a chemotherapy agent), were ordered, but due to the shortage of Thioguanine, that order was replaced with 6 Mercaptopurine (another chemotherapy agent). 6 Mercaptopurine is a potent medication and was intended to be prescribed for only four days per cycle.

Henry Portillo, however, received 6 Mercaptopurine for the entire cycle until April 23, 2004. On that day, another chemotherapy cycle was started which also contained 6 Mercaptopurine. The patient continued to receive 6 Mercaptopurine until May 13, 2004.

The patient's condition deteriorated, and he was transferred to the Intensive Care Unit where he began to show signs of liver failure.

Henry Portillo was then transferred to UCLA Medical Center for a higher level of treatment, including a possible liver transplant. The patient's condition further deteriorated, and on May 20, 2004, with the consent of his family, artificial life support was terminated.

An autopsy was performed which indicated that Henry Portillo's death was caused by advanced liver failure primarily as a result of Mercaptopurine toxicity for weeks.

DAMAGES

If this matter proceeds to trial, the plaintiffs will likely seek the following:

Pain and Suffering (MICRA Limit)	\$ 250,000.00
Medi-Cal Lien	\$ 8,874.14
Funeral Expenses	\$ 12,000.00
Attorney Fees and Costs	\$ 70,000.00
CCP 998 Damages	\$ <u>25,000.00</u>
 TOTAL	 \$ 365,874.14

The proposed settlement includes:

Pain and Suffering	\$ 142,083.33
Medi-Cal Lien	\$ 8,874.14
Attorneys Fees (MICRA Estimate)	\$ 62,916.67
Costs of Litigation	\$ <u>5,000.00</u>
 TOTAL	 \$ 218,874.14

STATUS OF CASE

This wrongful death lawsuit was brought by Henry Portillo's parents. The current trial date has been vacated pending approval of this settlement.

Expenses incurred by the County of Los Angeles in the defense of this case through November 30, 2005, are attorneys fees of \$27,150.91 and \$6,350.97 in costs.

The total cost to the County of Los Angeles, as a result of this settlement is as follows:

Indemnity (Settlement Amount)	\$ 210,000.00
County Attorneys Fees and Costs	\$ 33,501.88
Medi-Cal Lien	\$ <u>8,874.14</u>
 TOTAL	 \$ 252,376.02

EVALUATION

Medical experts will be critical of the failure to notice that the patient was receiving excessive amount of 6 Mercaptopurine. This failure fell below the standard of care, and is directly responsible for Henry Portillo's liver failure which led to his death.

We join with our private counsel, Jack Schuler, Esq., and our claims administrator, Octagon Risk Services, Inc., in recommending settlement in the amount of \$210,000.00, and payment of the Medi-Cal lien in the amount of \$8,874.14.

The Department of Health Services concurs in this settlement.

APPROVED:

RICHARD K. MASON
Assistant County Counsel

NB:bdv

Attachment