

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In Re:)	Chapter 11
)	
TEHUM CARE SERVICES, INC.,)	Case No. 23-90086 (CML)
)	
Debtor.)	
)	

**NON-PARTY ALFRED VELA’S MOTION TO APPROVE LITIGATION
SETTLEMENT AND AUTHORIZE PAYOUT**

Non-Party ALFRED VELA, through one of his attorneys, Blake Horwitz, respectfully moves for the Honorable Court to approve a litigation settlement and authorize payout, and in support thereof, states as follows:

1. Alfred Vela brought suit in the Northern District of Indiana, case number 3:16-CV-51-JTM-CAN, against Dr. Joseph Thompson, the Indiana Department of Corrections, and Corizon Health, Inc. alleging claims related to a denial of medical care to his serious medical needs, which caused permanent paraplegia.
2. Pursuant to a negotiated resolution, the parties agreed to settle the above matter, with AIG/Lexington to pay \$1,000,000.00 (one million dollars) to Alfred Vela and his attorneys, Blake Horwitz and Jared Kosoglad, under Lexington policy number 6797600. *See* Exhibit A, Proposed Settlement Agreement.¹
3. While Corizon is no longer a party to the case, Corizon remains liable for any damages committed by Dr. Thompson, and while Corizon will not make any payment toward the settlement, the settlement will erode the aggregate limit of Lexington’s liability to Corizon’s creditors.

¹ The terms of the final settlement agreement are in the process of being finalized by the parties, and the material terms are agreed upon before the Northern District of Indiana court.



4. Pursuant to communications between counsel for Corizon Health, Inc. and AIG/Lexington, Mr. Vela's counsel were informed that AIG/Lexington required this motion to give permission to issues the check and approve the resolution of the litigation.
5. Accordingly, Alfred Vela respectfully requests that this Court approve the litigation settlement and authorize AIG/Lexington to make payment to Alfred Vela and his attorneys in the amount of \$1,000,000.00 (one million dollars).

WHEREFORE, Plaintiff requests that this Honorable Court approve the litigation settlement and authorize AIG/Lexington to pay to Plaintiff and his attorneys \$1,000,000.000 (one million dollars), and for any such other and further relief as this Court deems appropriate.

Respectfully Submitted,

s/Blake Horwitz

The Blake Horwitz Law Firm, Ltd.
111 W. Washington St., Ste. 1611
Chicago, IL 60602
T: (312) 676-2100
E: bhorwitz@bhlfattorneys.com

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on June 22, 2023, the attached pleading was served on all counsel of record via this Court's electronic filing system.

s/Blake Horwitz

Attorney for Alfred Vela

Exhibit A

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is entered into by and between the Estate of Dr. Thompson (“Defendant”) and Alfred Vela (“Plaintiff”).

NOW THEREFORE, in exchange for the mutual promises and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Plaintiff and Defendant hereby agree as follows:

1. In consideration of the promises set forth herein, Defendant promises to pay Plaintiff the total amount of One Million Dollars (\$1,000,000.00). All sums set forth herein constitute damages on account of personal physical injuries or sickness, within the meaning of §104(a)(2) of the Internal Revenue Code of 1986, as amended.

2. Plaintiff, together with any and all of his assignees, agents, servants, attorneys, and representatives, and on behalf of all those persons who may claim by, through or under Plaintiff, releases, remises, and forever discharges Defendant and its affiliated companies, including its current or former employees, employers, and contractors, and any and all of their current, former and future successors, predecessors, officers, directors, assignees, partners, agents, servants, representatives, independent contractors, attorneys, employees, and insurers, including AIG and Lexington, from any and all manner of liabilities, accounts, debts, liens, contracts, agreements, damages, claims, obligations and causes of action, including but not limited to claims for costs and attorneys’ fees, which exist or may exist or existed or may have existed at any time prior to the execution of this Settlement Agreement and Release, including but not limited to, all claims and causes of action which have been asserted or which could have been asserted in the Litigation (defined as all claims and causes of action which have been asserted or which could have been asserted in *Alfred Vela v. Estate of Dr. Joseph Thompson, Cause No. 3:16-cv-00051-JD* now

pending in U.S. District Court, Northern District of Indiana, South Bend Division) and all demands, actions, causes of action, statutory and/or common law claims, expenses, costs, attorneys' fees and liabilities of any and every kind or nature whatsoever, in law or in equity, whether known or unknown, suspected or claimed, matured or unmatured, and whether or not contingent, which Plaintiff or any person claiming by, through or under Plaintiff, now has or can or may have against Defendant in the future, arising from Alfred Vela's incarceration in the Indiana Department of Correction and the medical treatment he received therein, and any and all other matters which were litigated or could have been litigated between Plaintiff and Defendant as set forth in the Litigation. Plaintiff agrees to be responsible for all liens of any kind associated with Alfred Vela's medical treatment arising out of the events described in Plaintiff's Complaint, or any other form of lien relating to Alfred Vela arising out of the events described in Plaintiff's Complaint and agrees to indemnify and hold harmless Defendant, its attorneys, and insurers, from any such claims.

3. Plaintiff, together with any and all of his assignees, agents, servants, attorneys, and representatives, and on behalf of all those persons who may claim by, through or under Plaintiff, represents and warrants that he has duly considered Medicare's interests in accordance with applicable law and is responsible for identifying any existing Medicare liens or conditional payments relating to Alfred Vela for the injury/damages that is the subject of this settlement, and for advising Defendant of the amount of such liens or conditional payments. Plaintiff warrants that he is not aware of any Medicare liens, but he warrants that she will ensure that all such liens are satisfied from the proceeds of the settlement funds if such liens have not been satisfied prior to the date of settlement. Plaintiff acknowledges that payment of settlement funds is conditioned upon Plaintiff's agreement to reimburse the Centers for Medicare and Medicaid Services for any funds

that it would otherwise be entitled to recover under the Medicare Secondary Payer (“MSP”) statute at 42 U.S.C. §1395y(b)(2).

4. Upon execution of this Confidential Settlement Agreement by Plaintiff, Plaintiff and his attorneys shall file whatever papers are necessary to effect the dismissal of the Litigation. Plaintiff and Defendant further stipulate and agree that, upon issuance of the Court’s Order of Dismissal, the Litigation shall be dismissed with prejudice, except that the Court shall retain jurisdiction to enforce the settlement and adjudicate liens.

5. This Settlement Agreement and Release shall not in any way be construed as an admission of liability or wrongdoing by Defendant. Plaintiff and Defendant agree that the negotiation, formation, execution and performance of this Confidential Settlement Agreement and Release, have been done or are done without admission or adoption of any liability or lack of liability by Plaintiff and Defendant. Rather, this Settlement Agreement and Release is entered into to avoid the additional costs and expenses associated with further protracted litigation between Plaintiff and Defendant.

6. Plaintiff represents that he has not sold, assigned or otherwise transferred any of the demands, actions, causes of action, or statutory and/or common law claims which are released in this Settlement Agreement and Release. Specifically, Plaintiff represents that no attorney, other than the attorneys who have filed an appearance in the Litigation, has served or filed an attorneys’ lien against settlement proceeds by Plaintiff from Defendant. Plaintiffs represent that his attorneys will be paid out of the settlement proceeds. Plaintiff further agrees that he shall indemnify and hold Defendant, Defendant’s attorneys and insurers harmless from any successful claim or action by any attorney, to recover attorneys’ fees from Defendant in connection with the Litigation or this Settlement Agreement and Release. Plaintiff further agrees that he shall indemnify and hold

Defendant, Defendant's attorney and their insurers harmless from any successful claim or action by any person or entity, other than Plaintiff, seeking to recover fees or proceeds from Defendant in connection with the Litigation or this Settlement Agreement and Release.

7. Plaintiff and Defendant do hereby reciprocally execute and deliver this Settlement Agreement and Release and do hereby further represent unto each of them that they are fully informed of all the terms, contents and effects of this Settlement Agreement and Release and that no promises, inducements, or agreements not herein expressed have been made to them or anyone acting on their behalf and that the terms of this Settlement Agreement and Release are contractual and not a mere recital.

8. Plaintiff and Defendant further execute this Settlement Agreement and Release with the knowledge and understanding that they intend to be legally bound by the same and that this Settlement Agreement and Release shall be interpreted in accordance with the laws of the State of Indiana.

9. In reaching agreement on the terms of this Settlement Agreement and Release, the parties acknowledge Plaintiff's possible entitlement to Social Security disability benefits pursuant to 42 U.S.C. § 423, and receipt of Medicare benefits under 42 U.S.C § 1395y, as well as the entitlement of the Centers for Medicare and Medicaid Services ("CMS") to subrogation and intervention, pursuant to 42 U.S.C. § 1395y(b)(2) to recover any overpayment made by CMS. The parties to this Settlement Agreement and Release agree that this Settlement Agreement and Release is not intended to shift to CMS the responsibility for payment of medical expenses for the treatment of injury related conditions. The parties agree that this settlement is intended to provide Plaintiff a lump sum payment which will foreclose Defendant's responsibility for future payment of all injury related medical expenses.

Plaintiff acknowledges that any decision regarding entitlement to Social Security benefits or Medicare or Medicaid benefits, including the amount and duration of payments and offset reimbursement for prior payments is exclusively within the jurisdiction of the Social Security Administration, the United States Government, and the U.S. Federal Courts, and is determined by Federal law and regulations. As such, the United States Government is not bound by any of the terms of this Confidential Settlement Agreement and Release.

Plaintiff has been apprised of his right to seek assistance from legal counsel of his choosing or directly from the Social Security Administration or other government agencies regarding the impact this Settlement Agreement and Release may have on Plaintiff's current or future entitlement to Social Security or other governmental benefits. Plaintiff acknowledges that acceptance of these settlement funds may affect Plaintiff's rights to other governmental benefits, insurance benefits, disability benefits, or pension benefits. Notwithstanding this possibility, Plaintiff desires to enter into this Settlement Agreement and Release agreement to settle his injury claim according to the terms set forth in this Settlement Agreement and Release.

Plaintiff represents that there will be no future medical expenses payable by Medicare related to this incident, and based on this representation, no provision is made herein for such expenses. Plaintiff and Plaintiff's counsel accept full and sole responsibility to protect Medicare's interests by setting aside, or otherwise preserving, the monies to pay Plaintiff's future medical expenses payable by Medicare. Plaintiff acknowledges that failure to do so may result in the loss of future Medicare benefits. Plaintiff waives any claims for any damages, including a private cause of action provided in the MSPA, 42 U.S.C. Section 1395(y)(b)(3)(A).

Executed this ____ day of June 2023

Alfred Vela, Plaintiff

Carol A. Dillon, Attorney for Defendant

Approved as to form,

Blake Horowitz, Attorney for Plaintiff

Exhibit B



Jared Kosoglad <jsklaw1@gmail.com>

Alfred Vela v. Estate of Dr. Thompson

Carol Dillon <carol@bleekedilloncrandall.com>

Thu, Jun 8, 2023 at 9:49 AM

To: Blake Horwitz <bwhorwitz@yahoo.com>, Jared Kosoglad <jared@jaredlaw.com>

Blake/Jared:

The \$1 million Lexington policy is yours for the taking. Corizon has consented to the resolution. However, AIG/Lexington says you need to file a Motion with the Texas Bankruptcy court to give them permission to cut the check and have the resolution approved. Apparently you should do this very soon, as there is about to be a mediation for the remaining Lexington funds to be distributed on an aggregate level.

I am told that it should be a Motion a Motion to Approve Settlement and Authorize Payout and it should be clear that while Corizon is not a Defendant in the case, this settlement will erode the aggregate limit of Lexington money available to Corizon's creditors. The Motion should also reference the Lexington Policy number of 6797600.

Carol A. Dillon

Managing Partner



8470 Allison Pointe Boulevard, Suite 420
Indianapolis, IN 46250-4365
317.567.2222 office/317.567.2236 direct
317.567.2220 office fax/317.841.1663 direct fax

CONFIDENTIALITY NOTICE

This email and any documents accompanying this email transmission contain confidential information. The information is intended only for the use of the individual(s) or entity named above. If you are not the intended recipient, you are notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this emailed information is not permissible. If you have received this telecopy in error, please immediately notify us by telephone at the above number to arrange for the return of the email and documents to us at our expense.