

APR 27 2018

Please Read Instructions on Reverse Side of Yellow copy
Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

Mr. Mrs. Ms. Miss
Estate of Essie Mae Cox, Deceased
by its Special Administratrix Lecia R. Hunt
Claimant
vs.
State of Arkansas, Respondent

Do Not Write in These Spaces
Claim No.
Date Filed (Month) (Day) (Year)
Amount of Claim \$
Fund

COMPLAINT

Estate of Essie Mae Cox, Deceased, the above named Claimant, of Little Rock
AR, 72209 (501) 952-3058 County of Pulaski represented by Darren O'Quinn
36 Rahling Circle, Suite 4, Little Rock, AR 72223 (501) 817-3124 (501) 817-3128

State agency involved: University of Arkansas for Medical Sciences (UAMS) Amount sought: \$1,000,000
Month, day, year and place of incident or service: August 30, 2016

Explanation: Essie Mae Cox, age 76, was being treated at UAMS for chest pain and low blood sugar. She was scheduled to be discharged the next day when she was placed on a bedside commode and left unattended. According to her care plan and medical condition, however, Ms. Cox was supposed to be supervised by two staff members while on the bedside commode because she was a known high fall risk. See Exhibit "A" attached hereto. Predictably, Ms. Cox fell, lacerated her face, and severely fractured her right hip. Despite her comorbidities, given her hip fracture and its potential to cause her death with delayed treatment, Ms. Cox needed an immediate surgical intervention. During surgery, however, Ms. Cox suffered multiple cardiac arrests and died. UAMS and its employees were responsible for Ms. Cox's care and treatment and was negligent by failing to provide Ms. Cox with adequate supervision, care, services, and assistance to prevent her fall resulting in her death; by failing to protect and promote Ms. Cox's right to a safe environment free of abuse and neglect; by failing to adequately assess, evaluate, and supervise staff to ensure that Ms. Cox received appropriate care in accordance with her care plan and professional standards of quality; by failing to provide, implement, and assure an adequate, comprehensive, and accurate care plan based on the needs and functional capacity of Ms. Cox that met her physical, mental, and psychosocial needs as identified in a comprehensive assessment with revisions and modifications as her needs changed; by failing to use the degree of skill and care required of a hospital when faced with the conditions of Ms. Cox; and other failures as set forth in the deposition testimony and discovery in this action. A reasonably prudent hospital operating under the same or similar conditions, as well as one following the standards of care as set forth in the (continued on attachment)

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof? Yes; when? February 27, 2018; to whom? Sherri L. Robinson, UAMS Associate General Counsel; and that the following action was taken thereon: a reasonable settlement could not be reached without the involvement of the Claims Commission.
and that \$ was paid thereon: (2) Has any third person or corporation an interest in this claim? No; if so, state name and address
and that the nature thereof is as follows:
and was acquired on
in the following manner:

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.
Darren O'Quinn, Attorney
(Print Claimant/Representative Name) Signature of Claimant/Representative

SWORN TO and subscribed before me at Little Rock, Arkansas
Billy Allen Jarvis SALINE COUNTY NOTARY PUBLIC - ARKANSAS
My Commission Expires Aug. 11, 2021 Commission No. 12383888
27th day of April 2018
My Commission Expires: Aug 11 2021

ARKANSAS STATE CLAIMS COMMISSION
NON VEHICLE PROPERTY DAMAGE/PERSONAL INJURY INCIDENT REPORT FORM

SECTION I Estate of Essie Mae Cox, Deceased
CLAIMANT 36 Rahling Circle, Suite 4 **CITY & STATE** Little Rock, AR **ADDRESS** c/o Law Offices of Darren O'Quinn
ZIP CODE 72223

DATE OF INCIDENT: August 30, 2016 **TIME** 1530

Give a brief description of incident, showing how incident happened, exact loss and extent of damage to property and/or injury to person:
Ms. Cox fell off of a bedside commode at UAMS while unsupervised. She was supposed to be supervised by two staff members while on the bedside commode. She suffered a facial laceration and fractured right hip. The hip required sugery and Ms. Cox died during and as a result of the surgery.

(If personal injury claim only, move on to Section IV)

SECTION II

Has this property been repaired? Yes () No () If repairs have been made, give the following information: Amount: \$ _____ Have you paid for the repairs? Yes () No ()
NOTE: Attach a copy of repair bill.

If repairs have not been made, list three estimates below and **attach copies** of each of them.

NAME	ADDRESS	AMOUNT
1. _____	_____	\$ _____
2. _____	_____	\$ _____
3. _____	_____	\$ _____

SECTION III

Was property covered by insurance? Yes () No ()
If yes, what is the deductible? \$ _____

NAME OF INSURANCE CARRIER	ADDRESS
_____	_____

SECTION IV

Is injured covered by medical insurance? Yes () No (X)
If yes, what is the deductible? \$ _____

NAME OF INSURANCE CARRIER	ADDRESS
<u>N/A other than Medicaid and Medicare</u>	_____

SECTION V

If incident was investigated by the police or by some other agency, give name and title of officer/person making the investigation: UAMS Risk Management Department

SECTION VI

The undersigned states on oath that he/she is familiar with the matters and things set forth in the above statement, and that he/she verily believes that they are true.

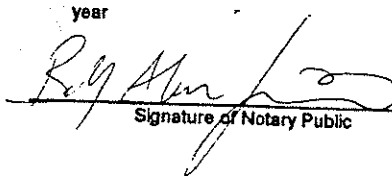

Signature of Claimant

Little Rock, AR
City & State

Billy Allen Jarvis
SALINE COUNTY
NOTARY PUBLIC - ARKANSAS
My Commission Expires Aug. 11, 2021 on this
Commission No. 12333969

Sworn to and subscribed before me at _____ day of _____, 2018
day month year

My Commission Expires Aug 11, 2021


Signature of Notary Public

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

ESTATE OF ESSIE MAE COX

CLAIMANT

V.

NO. 180900

UNIVERSITY OF ARKANSAS
FOR MEDICAL SCIENCES

RESPONDENT

JOINT MOTION TO APPROVE SETTLEMENT

Come now, the Estate of Essie Mae Cox through Special Administratrix Lecia Hunt, by and through her attorney Darren O'Quinn, and the University of Arkansas for Medical Sciences (UAMS), by and through its attorney Sherri Robinson, and for their Joint Motion to Approve Settlement, state as follows:

1. The parties appeared at mediation on April 5, 2019 and reached an agreement to resolve this claim for \$175,000. See Exhibit 1, Mediation Settlement Agreement.
2. The parties will also be executing a Release and Settlement Agreement containing the specific terms of the agreement.
3. Per the Release and Settlement Agreement, the Board of Trustees of the University of Arkansas and UAMS deny that they or any current or former officers, officials, representatives, physicians or employees committed any act of negligence.
4. The parties request that the Commission approve settlement of this claim in the amount of \$175,000 and recommend its approval to the Claims Review Subcommittee or other appropriate legislative committee of the Arkansas General Assembly.
5. Respondent provides the following payment code information:

Agency 150

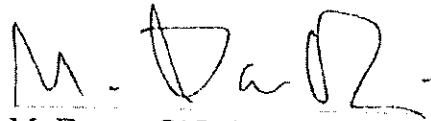
Fund CCA 0000

Fund Center 429

Cost Center 147011

WHEREFORE, the parties respectfully request that the Arkansas State Claims Commission approve the settlement of this matter in the amount of \$175,000 and recommend approval of the settlement by the Claims Review Subcommittee or other appropriate legislative committee of the Arkansas General Assembly.

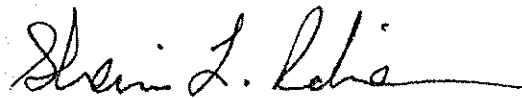
Respectfully submitted,



M. Darren O'Quinn, #87125
Law Offices of Darren O'Quinn, PLLC
Suri Professional Building
36 Rahling Circle, Suite 4
Little Rock, AR 72223
(501) 817-3124
Darren@DarrenOQuinn.com

Attorney for Claimant,
Lecia Hunt, Administratrix for the Estate
of Essie Mae Cox

And



SHERRI L. ROBINSON, #97194
Associate General Counsel
Univ. of Arkansas for Medical Sciences 4301
West Markham, Slot 860
Little Rock, AR 72205
(501) 686-7608
Sl.Robinson@uams.edu

Attorney for Respondent

ESTATE OF ESSIE MAE COX, DECEASED
BY ITS SPECIAL ADMINISTRATRIX LECIA R. HUNT

PLAINTIFF

v

UAMS

DEFENDANT

MEDIATION SETTLEMENT AGREEMENT

We have participated in a mediation session, Friday, April 5, 2019, and are satisfied that we have reached a fair and reasonable settlement. The settlement agreement is as follows:

UAMS ("Defendant"), contingent upon approval by the appropriate legislative sub-committee as required by law, agrees to settle any and all claims related to the above-referenced matter, under the following terms:

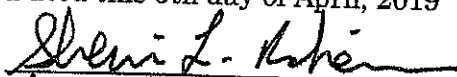
- a. Without undue delay of the Probate Court's approval of the settlement, checks will be issued by the Commission, as directed by the Probate Court, totaling \$175,000.00;
- b. UAMS agrees to provide annual in-service training to all its in-patient clinical care nurses, and in-patient care PCT employees, regarding fall management training;

In exchange for the foregoing, Plaintiff agrees to dismiss the pending claim with prejudice upon approval of the settlement by the legislative sub-committee and the Probate Court, to sign a supplemental Settlement Agreement/Release (which will be promptly provided to Plaintiff's counsel by counsel for the Defendant) in full, and be responsible for payment of any valid medical and subrogation liens as may be directed by the Probate Court. It is understood and agreed by the parties however, that any outstanding bills or lien claims arising from the care or treatment of Essie Mae Cox at UAMS are considered null and void and/or satisfied as part of this settlement. It is further understood that each party shall be responsible for their own costs and attorney's fees.

We acknowledge that neither the mediator nor Hamlin Dispute Resolution, LLC has given us legal advice. We further acknowledge that we have had the right to consult with an attorney at any time and to have an attorney review the terms of this agreement before signing it.

We intend the above agreement to be a legally binding and enforceable contract.

Dated this 5th day of April, 2019


Associate General Counsel, UAMS


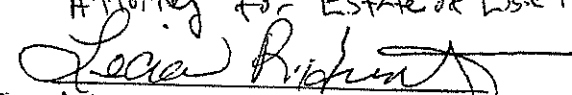

Attorney for Estate of Essie Mae Cox

Spec. Administratrix of Estate of Essie Mae Cox

EXHIBIT 1

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RELEASE AND SETTLEMENT AGREEMENT

THIS AGREEMENT is entered into between Claimant, Estate of Essie Mae Cox, Deceased, by its Special Administratrix, Lecia Hunt, hereinafter referred to as "the Estate;" and the Board of Trustees of the University of Arkansas, hereinafter referred to as "the Board," on behalf of the University of Arkansas for Medical Sciences, hereinafter referred to as "UAMS." Collectively, the Estate, the Board and UAMS may be referred to in this Agreement as "the parties."

WITNESSETH:

WHEREAS, Essie Mae Cox, hereinafter referred to as "Cox," was a patient at UAMS from August 24, 2016 until her death on September 1, 2016;

WHEREAS, Cox fell at UAMS on August 30, 2016, suffered a fracture, and died on September 1, 2016, following surgery to repair the fracture;

WHEREAS, the Estate alleges that UAMS failed to prevent Cox from falling which constitutes negligent treatment and her death constitutes a wrongful death;

WHEREAS, the Board and UAMS deny that they or any current or former officers, officials, agents, representatives, physicians or employees committed any act of negligence, are liable for any act of negligence, or are liable for any of the acts as alleged by the Estate in *Estate of Essie Mae Cox v. University of Arkansas for Medical Sciences*, Claim No. 180900, before the Arkansas State Claims Commission;

WHEREAS, the parties desire to resolve all potential claims, demands and causes of action which the Estate has asserted, or may assert, against the Board, the University of Arkansas, UAMS, or any current or former officers, officials, agents, representatives,

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physicians or employees resulting from or arising out of Cox's hospitalization from August 24, 2016 until her death on September 1, 2016; and

WHEREAS, this agreement resolves all potential claims, demands and causes of action which the Estate has asserted, or may assert, against the Board, the University of Arkansas, UAMS, or any current or former officers, officials, agents, representatives, physicians or employees, resulting from or arising out of Cox's hospitalization from August 24, 2016 until her death on September 1, 2016.

NOW THEREFORE, in consideration of the mutual promises of the parties contained herein, the parties agree as follows:

1. ACTION TO BE TAKEN BY THE PARTIES. The parties agree to file a Joint Motion to Approve Settlement in *Estate of Essie Mae Cox v. University of Arkansas for Medical Sciences*, Claim No. 180900, before the Arkansas State Claims Commission, for settlement of this matter in the amount of \$175,000 and UAMS agrees to provide annual training to all of its in-patient clinical care nurses and in-patient clinical care PCT employees regarding fall management. The parties agree to jointly request approval of the agreement by the Arkansas State Claims Commission and the Claims Review Subcommittee, or other appropriate legislative committee or subcommittee, of the Arkansas General Assembly.
2. COMPLETE RELEASE AND WAIVER. This Agreement constitutes the entire agreement between the parties and is accepted by the Estate in full compromise, settlement and satisfaction of, and as sole consideration for the final release and discharge of all potential actions, rights, causes of action, claims and demands whatsoever that now exist or might have been asserted against the Board, the

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University of Arkansas, UAMS, or any current or former officers, officials, agents, representatives, physicians or employees, resulting from or arising out of Cox's hospitalization from August 24, 2016 until her death on September 1, 2016.

3. ENTIRE AGREEMENT. The performance of item 1 shall constitute the entire settlement, monetary or otherwise, to be paid by the Board, the University of Arkansas, UAMS, or any current or former officers, officials, agents, representatives, physicians or employees to the Estate, and neither the Estate nor any heir of the Estate shall receive any other sums from the Board, UAMS, or any current or former officers, officials, agents, representatives, physicians or employees for any alleged damages or injuries, fees and costs, or any other matter resulting from or arising out of Cox's hospitalization from August 24, 2016 until her death on September 1, 2016, which the Estate or any other heir on behalf of the Estate may have asserted. Neither party has relied upon any promise or statement, oral or written that is not set forth in this Agreement.
4. NO ADMISSION OF LIABILITY. This is a compromise settlement of disputed claims. This settlement and any action undertaken by the Board pursuant thereto, shall never be construed as an admission of liability on the part of the Board, the University of Arkansas, UAMS, or current or former officers, officials, agents, representatives, physicians or employees, each of whom expressly denies any such liability or any violation of any Federal or State law. The Board, the University of Arkansas, UAMS, current or former officers, officials, agents, representatives, physicians and employees have denied and continue to deny all

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claims and allegations raised in *Estate of Essie Mae Cox v. UAMS*, Claim No. 180900, before the Arkansas State Claims Commission. The Estate, its heirs and its attorneys agree not to suggest or construe this Agreement as an admission or implication of wrongdoing and agree that the Agreement is not admissible in any court or administrative body except as necessary to enforce its terms or as otherwise required by law.

5. NONDISCLOSURE. The Estate, its heirs and its attorneys agree not to disclose the terms of this agreement to anyone unless compelled to do so by legal process.
6. LIENS AND TAXES. The parties agree that the Estate shall be responsible for the satisfaction of any liens asserted against the settlement proceeds, if any, and shall be responsible for any and all tax consequences of the settlement proceeds, if any. The Board and its attorneys make no representation regarding the tax consequences or liability, if any, arising from payment of the settlement proceeds.
7. MODIFICATION. This Agreement may not be modified, amended, or altered except by written agreement executed by all parties.
8. CONTRACTUAL NATURE. All parties agree that the terms of this Agreement are contractual in nature and that a breach of any portion of the Agreement shall give the non-breaching party a cause of action for breach of contract in an appropriate forum possessing jurisdiction, with the understanding that by this paragraph, the Board, the University of Arkansas, UAMS, or any current or former officers, officials, agents, representatives, physicians or employees do not waive any immunities or other defenses to which they might be entitled.

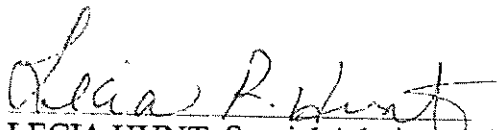
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9. VOLUNTARY AGREEMENT. Lecia Hunt, Special Administratrix on behalf of the Estate of Essie Mae Cox, acknowledges that she has read and understood all of the provisions of this Agreement and had the opportunity to consult an attorney. She further acknowledges that she is entering into this Agreement voluntarily, free of undue influence, coercion or duress of any kind.
10. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon the parties and each of their respective agents, executives, administrators, heirs, successors and assigns.
11. NO RESCISSION FOR MISTAKE. The parties acknowledge that each has had the opportunity to investigate the facts and law relating to the claims raised by the Estate and any additionally waived and released claims to the extent each deems necessary and appropriate. The parties assume the risk of any mistake of fact or law and agree that any mistake of fact or law shall not be grounds for rescission or modification of any part of this Agreement.
12. CHOICE OF LAW. This Agreement shall be governed by and construed in accordance with the substantive law of the State of Arkansas.
13. EFFECTIVE DATE. This Agreement is effective upon execution by both parties and approval of the agreement by the Arkansas State Claims Commission and the Claims Review Subcommittee, or other appropriate legislative committee or subcommittee, of the Arkansas General Assembly.
14. COUNTERPARTS. This Agreement may be executed in counterparts and the counterparts taken together will have binding effect.


IN WITNESS WHEREOF, we have set our hands on the dates indicated below:

Claimant

Board of Trustees of the University
of Arkansas on behalf of UAMS



LECIA HUNT, Special Administratrix
For the Estate of Essie Mae Cox



CAM PATTERSON, M.D., MBA
Chancellor

4-30-19

Date

5/1/2019

Date

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

ESTATE OF ESSIE MAE COX

CLAIMANTS

V.

CLAIM NO. 180900

**UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the "Claims Commission") is the Release and Settlement Agreement (the "Settlement Agreement") signed by Lecia Hunt, special administratrix for the Estate of Essie Mae Cox, and the Board of Trustees of the University of Arkansas on behalf of UAMS.

Based upon a review of the pleadings and the Settlement Agreement, the Claims Commission hereby APPROVES the Settlement Agreement.

As such, the Claims Commission refers the award of \$175,000.00 to the General Assembly for review and placement on an appropriations bill pursuant to Ark. Code Ann. § 19-10-215(b).

IT IS SO ORDERED.

Henry C. Kinslow

ARKANSAS STATE CLAIMS COMMISSION

Courtney Baird
Dexter Booth
Henry Kinslow, Co-Chair
Paul Morris, Co-Chair
Sylvester Smith

DATE: May 7, 2019

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b)(3). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. See Ark. Code Ann. § 19-10-211(b). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).