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At an I.A.S. Term, of the Supreme Court of the State of New York, held in and for the County of Westchester at the Courthouse located at 111 Dr. Martin Luther King Jr. Boulevard, White Plains, New York, 10601 on the ~~19th~~ day of January, 2009 ~~2010~~

PRESENT:

HONORABLE NICHOLAS COLABELLA

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

JOHN COLOMBINI, As Administrator of the Estate of
MICHAEL COLOMBINI, Deceased, and JOHN COLOMBINI
and BARBRA COLOMBINI, Individually,

Plaintiffs,

TIMOTHY C. IDONI
COUNTY CLERK
COUNTY OF WESTCHESTER
COMPROMISE ORDER
PURSUANT TO EPTL 5-4.6

- against -

WESTCHESTER COUNTY HEALTH CARE CORPORATION,
JIAN HOU, M.D., UNIVERSITY IMAGING AND MEDICAL
ASSOCIATES, P.C., VALHALLA ANESTHESIA
ASSOCIATES, P.C., NEW YORK MEDICAL COLLEGE,
MARY NADLER, R.N., PATRICIA LAURIA, PAUL DANIELS,
GENERAL ELECTRIC COMPANY, and TERENCE
MATALON, M.D.,

Defendants.

Index Number: 011101/2002

Motion Decision
Motion Date: 1/8/10

[Signature]

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Upon the annexed Affirmation of Thomas A. Moore, dated December 17, 2009, the Affidavit of John Colombini as Administrator of the Estate of Michael Colombini, Deceased, and John Colombini, Individually, sworn to the 17th day of December, 2009, and the Affidavit of Barbra Colombini, sworn to the 17th day of December, 2009, and upon the exhibits

COLOMBINI v WESTCHESTER

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[Signature]

FILED

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CHIEF CLERK
WESTCHESTER SUPREME
AND COUNTY COURTS

annexed hereto, and upon the pleadings and proceedings had hereto and it appearing that Michael Colombini was born on May 1, 1995 and died on November 21, 2002, and it further appearing in the best interests of the Estate and next of kin will be served if this action is settled for \$2,900,000.00, and it appearing to the Court that no distributee of the Estate of Michael Colombini are infants, incompetents, or incarcerated, or persons under a disability, it is Now,

ORDERED, that the causes of action of John Colombini as Administrator of the Estate of Michael Colombini, Deceased, and John Colombini and Barbra Colombini, Individually, against defendant Westchester County Health Care Corporation are hereby discontinued, with prejudice, without costs, disbursements or expenses, and it is further,

ORDERED, that the cause of actions of John Colombini as Administrator of the Estate of Michael Colombini, Deceased, against defendant Westchester County Health Care Corporation is hereby settled and discontinued in the total sum of \$2,900,000.00 with Westchester County Health Care Corporation, and that upon receipt of a so ordered compromise order, a general release, a stipulation of discontinuance, and a hold harmless agreement said amount shall be paid by defendant Westchester County Health Care Corporation, or its insurance entity, within the prescribed statutory, within 90 days, as follows:

1) the total sum of \$900,000.00 to Kramer, Dillof, Livingston & Moore, Esqs. for their approved attorney's fee, which amount shall be held in escrow until proof of filing of the

petition for distribution in Surrogate's Court, Westchester County is filed with the Clerk's Office, Westchester County, the attorneys' disbursements are waived \$0, and

2) the remaining balance of \$2,000,000.00 shall be paid to Kramer, Dillof, Livingston & Moore, Esqs., as escrow agents for the Estate of Michael Colombini which shall be deposited in an attorney's interest bearing escrow account, and it is further,

ORDERED, that plaintiffs' loss of services actions shall be discontinued as to all defendants; and it is further

ORDERED, that all actions have been previously discontinued as to General Electric, with prejudice; and it is further

ORDERED, that all actions are discontinued, with prejudice, as against Jian Hou, M.D., University Imaging Medical Corporation and Medical Associates, P.C., Valhalla Anesthesia Associates, P.C., New York Medical College, Mary Nadler, R.N., Patricia Lauria, Paul Daniels, and Terence Matalon, M.D.; and it is further

ORDERED, that the plaintiffs' firm will hold harmless Defendant Westchester County Health Care Corporation, its insurance entity on its behalf, and Martin Clearwater & Bell, LLP for any liens known or unknown; and it is further

ORDERED, that Kramer, Dillof, Livingston & Moore, Esqs. shall file a petition for the distribution of said escrow funds with the Surrogate's Court of Westchester County within sixty days of the receipt of the settlement funds; and it is further

ORDERED, that the attorneys' fees here shall be released to Kramer, Dillof, Livingston & Moore, Esqs., upon proof of filing said petition in the Surrogate's Court, Westchester County, is submitted to the Westchester County Clerk; and it is further

ORDERED, that upon payment of all sums necessary under the terms of this Order, the rights, responsibilities and obligations of Defendant Westchester County Health Care Corporation are totally extinguished and satisfied; and it is further

ORDERED, that all issues pertaining to allocation and distribution of remaining settlement funds are reserved to the Surrogate's Court; and it is further

ORDERED, that any restrictions in the Letters of Administration are lifted to the extent necessary to carry out the provisions of this Order; and it is further

ORDERED, that John Colombini as Administrator of the Estate of Michael Colombini, Deceased, and John Colombini and Barbra Colombini, Individually, are authorized and empowered to execute and deliver any and all documents necessary to effectuate this settlement, together with general release, stipulations of discontinuance, and whatever other documents that may be necessary to compromise and settle this matter; and it is further

ORDERED, that the filing of a bond is dispensed with.

ENTER

HON. NICHOLAS COLABELLA
SUPREME COURT JUSTICE