

FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE
STATE OF NEW MEXICO

No. SF 96-2430(c)

ERMELINDA WILLIAMS, et al.,

Plaintiffs,

vs.

MICHAEL W. STEWART, M.D.

Defendant.

**ORDER GRANTING PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AGREEMENT AND RELEASE, IDENTIFYING
SUBCLASS AND APPROVING THE FORM AND MANNER OF NOTICE**

THIS MATTER HAVING COME BEFORE THE COURT upon the joint submission of Plaintiffs Ermelinda Williams, Nasario Lopez, Lillian Starzyk, Olivama Sandoval, and Erlinda Trujillo ("Class Representatives"), and Defendant Michael W. Stewart, M.D. ("Settling Defendant Stewart") for preliminary approval of the Class Action Settlement Agreement and Release ("Settlement Agreement") entered into by Class Representatives and Settling Defendant Stewart, and the Court having considered the matter and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Court preliminarily approves the Settlement Agreement as fair, reasonable, and adequate;
2. The members of the class who potentially have claims against Settling Defendant Stewart (hereinafter, "Subclass Members") are those members whose decedents

Exhibit 3 to Stewart Settlement Agreement

were subjected to autopsies during the time that Stewart was performing autopsies in Northern New Mexico. Those decedents are identified in Exhibit 1 to the Settlement Agreement.

3. The Court approves the Notice of Proposed Settlement ("Class Notice") in the form attached to the Settlement Agreement as Exhibit 4;
4. The Court approves the Claim Form and Opt-Out Form in the forms attached to the Settlement Agreement as Exhibits 5 and 6;
5. Class Counsel (or designated claims administrator) are directed to mail the Class Notice to the Subclass Members in the manner described in Paragraph 9 of the Settlement Agreement;
6. Such dissemination of the Class Notice is the best notice practicable under the circumstances, within the meaning of Rule 1-023(c)(2) NMRA 2001;
7. The Court will conduct a fairness hearing on _____ [60 days after the date of this order, or as soon as practicable thereafter] to determine whether the Settlement Agreement should be finally approved as fair, reasonable, and adequate to the Subclass, and whether judgment should be entered accordingly;
8. Any Subclass Member who so desires may object to the proposed settlement, the proposed form of final judgment, or the proposed award of attorneys' fees and costs, provided that the Subclass Member refrains from opting out of the Subclass and otherwise complies with the procedures described in the Class Notice;
9. The fairness hearing may be continued or adjourned by order of the Court without

Exhibit 3 to Stewart Settlement Agreement

further notice to the Subclass;

10. If the Settlement Agreement is finally approved by the Court, then upon the occurrence of the effective date, all Subclass Members who do not timely exclude themselves from the Subclass - whether or not they file a timely and valid claim, or any claim at all - shall be barred and enjoined from asserting any of the claims released in the Settlement Agreement against Settling Defendant Stewart, shall conclusively be deemed to have released any and all such claims against Settling Defendant Stewart, and shall be subject to and bound by the provisions of the Settlement Agreement and the final judgment; and
11. Until the Court finally determines whether the Settlement Agreement should be approved, the Subclass shall not commence or prosecute any action or proceeding in any forum asserting any of the claims that are the subject of the Settlement Agreement against Settling Defendant Stewart.

IT IS SO ORDERED.

DATED: _____

DISTRICT JUDGE

APPROVED BY:

John C. Bienvenu
Attorney for the Class Representatives

Gary L. Gordon
Attorney for Defendant Michael
W. Stewart

Exhibit 3 to Stewart Settlement Agreement