

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

“DJ,” A MINOR, BY AND THROUGH HIS
NEXT FRIEND AND MOTHER, ROBIN
HUGHES, AND HIS NEXT FRIEND AND
FATHER, QUENTIN JOHNSON,

Plaintiff,

v.

Case No. 3:19-cv-00905-MHL

SCHOOL BOARD OF HENRICO COUNTY
AND THOMAS MCAULEY AND SCOTT
BOWERS AND JOHN DOES 1-3,

Defendants.

ORDER APPROVING SETTLEMENT

THIS CAUSE came to be heard on June 10, 2021, on the joint petition of Plaintiff, “DJ,” a minor, by and through his next friend and mother, Robin Hughes, and his next friend and father, Quentin Johnson (“collectively Plaintiffs”), and the School Board of Henrico County (“School Board”), Thomas McAuley (“McAuley”), and Scott Bowers (“Bowers”) (collectively “Defendants”), by and through their undersigned counsel, for settlement approval in accordance with Virginia Code § 8.01-424¹ and Federal Rule of Civil Procedure 41.

¹ Virginia Code § 8.01-424 provides, in part, “A. In any action or suit wherein a person under a disability is a party, the court in which the matter is pending shall have the power to approve and confirm a compromise of the matters in controversy on behalf of such party... if such compromise is deemed to be to the interest of the party.”

The Section further provides, in part:

“D. In any compromise action the court shall direct the payment of the proceeds of the compromise agreement, when approved, as follows:

...

2. To a duly qualified fiduciary of the person under a disability, after due inquiry as to the adequacy of the bond of such fiduciary;

...

for the reasons stated on the bench

UPON CONSIDERATION WHEREOF, having heard the statements of the parties and the guardian *ad litem*, and having reviewed the Release and Settlement Agreement, which shall be maintained in the clerk's file *under seal*, the Court finds that all interested parties required by law to be convened have been convened;

that DJ, was a student at Short Pump Middle School in 2017;

that Plaintiffs allege that DJ was injured as a result of an incident that occurred at the school on October 13, 2017;

that Plaintiffs filed suit against the School Board, McAuley, and Bowers, alleging violations of his 14th Amendment rights to bodily integrity, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, § 504 of the Vocational rehabilitation Act of 1973, and common law gross negligence and willful and wanton negligence;

that on September 18, 2020, the Court granted Defendants' Motion to Dismiss as to the claim for violation of § 504 of the Vocational Rehabilitation Act of 1973, leaving four federal claims and two state law claims;

that Defendants expressly deny liability for the incident and DJ's alleged injuries;

that Defendants, however, have offered to compromise the Plaintiffs' claims for injuries in the amount stated in the confidential Settlement Agreement and Release;

E. Payments made under this section, in the case of damage to the person or property of a minor, may be made payable in the discretion of the court to the parent or guardian of the minor to be held in trust for the benefit of the minor. Any such trust shall be subject to court approval and the court may provide for the termination of such trust at any time following attainment of majority which the court deems to be in the best interest of the minor. In an order authorizing the trust or additions to an existing trust the court may order that the trustee thereof be subject to the same duty to qualify in the clerk's office and to file an inventory and annual accountings with the commissioner of accounts as would apply to a testamentary trustee.

that Plaintiffs, the Guardian *ad litem*, Defendants, and their respective counsel, consider this settlement to be fair and reasonable under all of the circumstances, and so stated in open court at the June 10, 2021 hearing, and request that the Court approve the compromise;

and the Court, being of the opinion that the compromise offer for the injuries of DJ, as set forth above, is in the best interest of the minor plaintiff and should be accepted, the Court does hereby ORDER AND ADJUDGE that said compromise is APPROVED AND CONFIRMED.

Defendants shall pay the foregoing settlement amount to The Krudys Law Firm's Client Trust Account, for subsequent distributions as set forth in the attached confidential Disbursements Sheet, which shall be maintained in the clerk's file *under seal, for the reasons stated from the bench.*

The Disbursements Sheet provides for, and this Court ORDERS the payment of attorneys' fees, in the collective amount of one-third of the foregoing settlement amount, to B.I.G. Legal Services, PLLC and The Krudys Law Firm, PLC, as well as the reimbursement of costs incurred by those firms – \$725.00 incurred by B.I.G. Legal Services, PLLC, and \$7,822.88 incurred by The Krudys Law Firm, PLC. The foregoing sums are deemed by the Court to be appropriate.

The Defendants have agreed to separately compensate Lynn Robinson, Esq. for her services as guardian *ad litem* to DJ in this matter.

Utilizing the services of Christopher M. McCarthy, Esq., an attorney with ThompsonMcMullan P.C., Robin Hughes will establish a trust for DJ's benefit (the "Trust"). Mr. McCarthy will serve as trustee of the Trust. As requested by DJ's parents, the Trust shall distribute funds, beginning after DJ turns 18 years old, to pay for DJ's educational expenses, and other appropriate needs as determined by the Trustee pursuant to Virginia law, and thereafter, to DJ, when he reaches an age that is better suited to manage the balance of the settlement

proceeds, but not to exceed 25 years of age. Mr. McCarthy has informed the Court that he will file an inventory and annual accounting with the appropriate commissioner of accounts.

The Court further ORDERS that Mr. McCarthy is entitled to receive, and shall be paid, \$3,000.00 for the preparation of the Trust. He shall additionally be entitled to receive reasonable compensation for the administration of the Trust. The Krudys Law Firm, PLC shall maintain the balance of the proceeds of the settlement in its firm's trust account until the Trust is properly established, at which time it shall transfer such balance to the Trust.

It is understood and agreed that Robin Hughes and Quentin Johnson, the parents of DJ and next friends in the underlying action, are authorized to enter into the settlement on behalf of their minor child.

All sums set forth herein or in the confidential Release and Settlement Agreement and Disbursements Sheet constitute damages on account of personal physical injuries or physical sickness, within the meaning of section 104(a)(2) of the Internal Revenue Code of 1986, as amended.

Upon Defendants, or their agent, making the payments as directed herein above, and without further order, the Court by this order does hereby release and forever discharge Defendants, and their Board members, employees, agents, attorneys, insurers, and representatives, ("Released Parties") from any and all claims, lawsuits, demands, liabilities, causes of action or charges, whether in law or in equity, whether judicial, administrative, or otherwise, including without limitation all claims arising under the Constitution of the United States, common law of Virginia, and any other state and federal law, whether asserted or unasserted, and whether known or unknown, which Plaintiffs have, had, or may have had against the Released Parties up to the date the Agreement between the parties was executed that arise

from or are related to DJ's education in Henrico County Public Schools, including those claims asserted in the underlying action.

The Court does further order this action DISMISSED WITH PREJUDICE; and, all matters in controversy having been settled, directs the clerk to file the papers in this matter among the ended causes after providing all counsel with certified copies of this Order.

It is so ORDERED.

Date:

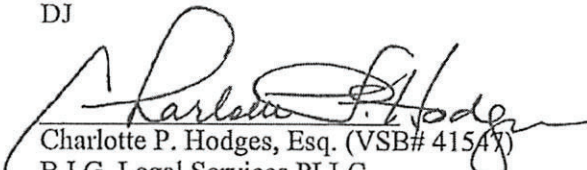
6/16/21

/s/
M. Hannah Lauck
United States District Judge

U.S. District Judge

WE ASK FOR THIS:

Robin Hughes, Next Friend and Mother of
DJ


Charlotte P. Hodges, Esq. (VSB# 41541)
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Quentin Johnson, Next Friend and Father of
DJ

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Counsel for Plaintiffs

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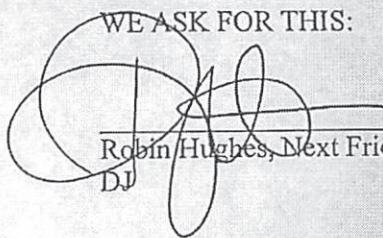
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Quentin Johnson, Next Friend and Father of
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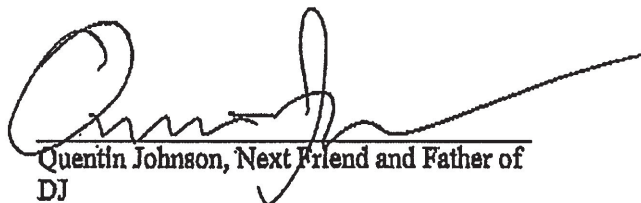
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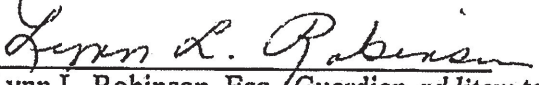


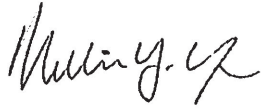
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Counsel for Plaintiffs


Lynn L. Robinson, Esq., Guardian *ad litem* to DJ



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Melissa Y. York (VSB# 77493)

Briana Jackson, Esq.

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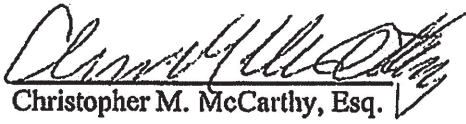
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Counsel for School Board of Henrico County and Thomas McAuley and Scott Bowers

I ACKNOWLEDGE THE FOREGOING:


Christopher M. McCarthy, Esq.