

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION

COREY JARREL JOHNSON,)
)
Plaintiff,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Defendant.)

CIVIL ACTION NO.
1:14cv220-MHT
(WO)

AMANDA JO PEACOCK,)
)
Plaintiff,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Defendant.)

CIVIL ACTION NO.
1:14cv221-MHT
(WO)

KA.I.P., a minor, by and)
through her maternal)
grandmother, custodian and)
next friend, Stephanie)
Jones,)
)
Plaintiff,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Defendant.)

CIVIL ACTION NO.
1:14cv222-MHT
(WO)

OPINION AND ORDER

This lawsuit, in which a proposed settlement has been reached involving all plaintiffs, is before the court on the parties' request for a pro ami hearing to approve the proposed settlement for the minor plaintiff Ka.I.P.. Based on the representations of the parties made during the conference call on the record on December 16, 2015, the court will appoint a guardian ad litem to evaluate and advocate for the minor plaintiff's best interests, for two reasons. First, the plaintiffs' attorney--who represents all three plaintiffs and has determined the division of the proposed lump-sum settlement amongst his clients--faces a conflict in dividing the settlement proceeds because his clients potentially have 'zero sum' competing interests--that is, because the case was settled for a lump sum, one plaintiff's gain could be another plaintiff's loss. Additionally, because the minor plaintiff's legal guardian, her grandmother, is also

the mother of one of the other plaintiffs who will share in the lump-sum settlement, the guardian has a conflict as well, for her grandchild's loss could be her daughter's gain. Further, based on the statements of plaintiffs' counsel at the hearing, the grandmother has not advocated for the minor plaintiff in discussions with counsel about the division of the settlement proceeds but instead merely agreed to his suggestions; her reticence reinforces the court's concern about her conflict.

The parties are not in agreement as to who will bear the cost of the guardian ad litem's fees and expenses. As plaintiffs' counsel will earn \$ 1 million from the settlement of this case, and given the injuries suffered by the plaintiffs, it is fair that plaintiffs' counsel bear the fees and expenses of the guardian ad litem.

* * *

Accordingly, it is ORDERED as follows:

(1) Honorable Karen Laneaux, P.O. Box 686, Montgomery, Alabama 36101, 334.269.5930, <kmastin@bellsouth.net>, is appointed as guardian ad litem to represent minor plaintiff Ka.I.P..

(2) Plaintiffs' counsel is to pay the attorney's fees and expenses of the guardian ad litem, with those fees and expenses not to be subtracted from the amount of the proposed settlement.

(3) The clerk of the court is to arrange for the guardian ad litem to receive a copy of the file in this case.

(4) An on-the-record fairness hearing on the proposed settlement is set for January 25, 2016, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama. Counsel for all parties, the minor plaintiff's grandmother, and the guardian ad litem are to be present at the hearing.

(5) On or before noon on January 20, 2016, the guardian ad litem is to file, under seal, a report as to whether and, if so, why the court should approve the proposed settlement for the minor.

DONE, this the 22nd day of December, 2015.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE