

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

JENNIFER CAMACHO,)
Individually and as Mother and)
Next Friend of T.C.; and EMILY)
CAMACHO, Individually,)
)
Plaintiffs,)
)
v.)
)
DANIEL CARL FERRELL,)
)
Defendant.)

Case No. 3:16-cv-24-DAB

OPINION AND ORDER¹

On November 16, 2015, Plaintiff Jennifer Camacho, individually and as mother and next friend of T.C., a minor, and Plaintiff Emily Camacho initiated this lawsuit in the Circuit Court of Lee County, Alabama, for personal injuries resulting from a motor vehicle accident occurring on October 13, 2015. Plaintiffs allege Defendant negligently, recklessly, and wantonly operated his vehicle causing a collision with the vehicle driven by Jennifer Camacho and in which T.C. was a passenger. (Doc. 1-4). Defendant denies these allegations. (Doc. 6). On January

¹ This case was originally assigned to United States District Judge Myron Thompson. On January 5, 2017, Judge Thompson referred this matter to the undersigned Magistrate Judge for disposition and recommendation on all pretrial matters in accordance with 28 U.S.C. § 636(b). On April 12, 2017, the parties consented to the exercise of full dispositive authority by the Magistrate Judge pursuant to 28 U.S.C. § 636(c), and Judge Thompson entered an order reassigning the case to the undersigned as the presiding judge of record. (Docs. 26, 27, 28).

12, 2016, the matter was removed to this court pursuant to 28 U.S.C. § 1332, on the basis of diversity of citizenship jurisdiction. (Doc. 1).

Before the court is the parties' sealed Motion to Approve *Pro Ami* Settlement. (Doc. 39). The court conducted a fairness hearing on August 15, 2017. The Court having the benefit of the Motion to Approve *Pro Ami* Settlement, along with its exhibits, the report that was prepared by the minor T.C.'s Guardian Ad Litem, W. Allen Sheehan, live testimony from T.C.'s Guardian Ad Litem, and telephone testimony of T.C. and Jennifer Camacho, mother and next friend of T.C., hereby enters the following order:

1. The parties are represented before this Court by their attorneys of record. Also present, via telephone, is Jennifer Camacho, legal guardian of the minor plaintiff, T.C. and the minor Plaintiff. The Court expressly finds that Jennifer Camacho, as the legal guardian of the minor plaintiff, T.C., is the proper party Plaintiff to prosecute any claims which T.C. may have as a result of the injuries he sustained on or about October 13, 2015.

2. The minor plaintiff, T.C., is under the age of 19 years and was injured in the motor vehicle accident on October 13, 2015.

3. The minor plaintiff's legal guardian, Jennifer Camacho, has incurred and sustained medical bills for the treatment of the minor, T.C.

4. The Court has further been informed that the minor plaintiff, T.C., by and through his legal guardian, Jennifer Camacho, has negotiated a proposed settlement of the claims for personal injuries against the Defendant, Daniel Carl Ferrell. The terms of this settlement are a “lump sum” payment of Five Thousand Five Hundred Dollars (\$5,500.00) to be paid as outlined in this Order. In consideration of the terms set forth in this Order, all the claims of T.C., by and through his legal guardian, Jennifer Camacho, against the Defendant, Daniel Carl Ferrell, will be dismissed with prejudice upon the entrance of this Order.

5. The Court has appointed W. Allen Sheehan as Guardian Ad Litem for the minor plaintiff, T.C. (Doc. 36). Attorney Sheehan has communicated and discussed this case with both T.C., the minor, and with Jennifer Camacho, the legal guardian. He has reviewed all of the relevant medical records pertaining to the care and treatment of T.C. Based on his representation, he is satisfied that the settlement is in the best interests of the minor.

6. The Court has conducted a thorough hearing and a detailed review of the materials submitted to familiarize itself with the facts and circumstances of the minor Plaintiff’s claims. The Court has been tendered and has considered the medical records concerning the minor Plaintiff’s injuries.

7. The Court has had the ability to question the minor Plaintiff via telephone and is fully cognizant of the nature and severity of T.C.’s injuries.

8. The Court is also aware, however, of the questions as to whether Defendant, Daniel Carl Ferrell, is liable for the minor Plaintiff's injuries.

9. The Court has reviewed these matters, via telephone, with Jennifer Camacho, the legal guardian of the minor plaintiff, T.C., and is satisfied that she understands them and understands and approves the proposed settlement agreement.

10. The Court understands that the proposed settlement on behalf of the minor plaintiff, T.C., is a "lump sum" payment of \$5,500.00, and the Court finds that in considering all the factors including the type of injury sustained and the disputed liability that the settlement is fair and reasonable, and the Court specifically approves the form of such settlement.

11. Based on the foregoing considerations, the Court finds that the proposed settlement of the minor Plaintiff's personal injury claims against Defendant, Daniel Carl Ferrell, is clearly in the best interest of the minor Plaintiff and should be approved. Of the \$5,500.00 lump sum settlement amount, the breakdown is as follows:

Settlement Amount:	\$5,500.00
Attorney Fee/Expenses:	\$2,079.88
Less BCBS Lien	\$ 271.73
Less EAMC-EMS:	\$ 455.00

Total Amount Due Minor: \$2,693.39

12. At the hearing, the Guardian ad Litem submitted an exhibit with a break-down of his attorney's fees and costs associated with the work performed as

Guardian ad Litem on behalf of the minor, T.C., in this case. The Court has reviewed the exhibit and finds the fees and costs to be reasonable and fair. Pursuant to agreement of the parties, Defendant shall bear the fees and costs of the Guardian ad Litem. (Doc. 33 at 2).

13. The settlement is hereby ratified and approved by the Court. In accordance with the terms of the proposed settlement agreement reached between the aforementioned parties, it is hereby **ORDERED, ADJUDGED** and **DECREED;**

The Motion to Approve *Pro Ami* Settlement (Doc. 39) is hereby **granted** and judgment is entered on behalf of the minor plaintiff, T.C., and he shall be entitled to receive from Defendant, Daniel Carl Ferrell, the lump sum payment of \$5,500.00.

14. The Court awards a fee to the Guardian Ad Litem in the amount of \$813.00, to be paid to W. Allen Sheehan by Defendant, Daniel Ferrell, within twenty (20) days of the date of this order.

15. The settlement draft made payable to Bence Law Firm is ordered to be dispersed as follows:

(a) \$ 2,079.88 paid to Bence Law Firm, P. O. Box 3737, Phenix City, Alabama 36868 for attorney's fees and expenses;

(b) \$ 271.73 to Blue Cross Blue Shield of Alabama, 450 Riverchase Parkway East, Birmingham, Alabama 35244 for benefits paid on behalf of T.C.;

(c) \$ 455.00 to East Alabama Medical Center – EMS, Post Office Box 700, Lincoln, Alabama 35096; and

(d) The remainder of \$2,693.39 to Jennifer Camacho, as mother and legal guardian of minor plaintiff, T.C., for the use and benefit of T.C.

16. All Court costs are taxed as paid.

DONE and **ORDERED** this 16th day of August, 2017.

A handwritten signature in black ink, appearing to read "David A. Baker", written over a horizontal line.

DAVID A. BAKER
UNITED STATES MAGISTRATE JUDGE