

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

JARED HIGGS, *Individually and as
Special Administrator of the Estate of
HEATHER HIGGS, Deceased*

PLAINTIFFS

v.

Civil No. 4:16-cv-04079

PNK, INC. *et al*

DEFENDANTS

ORDER

Pending now before the Court is Plaintiffs' Motion to Withdraw Motion to Approve Settlement, Approve Attorney Fees, and Distribute Settlement Proceeds. ECF No. 38. The parties have consented to the jurisdiction of a United States Magistrate Judge to conduct any and all proceedings in this case, including conducting the trial, ordering the entry of a final judgment, and conducting all post-judgment proceedings. ECF No. 33.

I. Background:

This lawsuit involves a motor vehicle collision which occurred on August 11, 2016. ECF No. 5. As a result of this accident, Heather Higgs was killed when a 18 wheeler, being driven by Defendant Jerry Freeman and owned by Defendant PNK, Inc., collided with Mrs. Higgs' vehicle. *Id.*

On August 23, 2016, Plaintiff Jared Higgs, husband of Heather Higgs, was appointed Special Administrator of the Estate of Heather Higgs. ECF No. 34. As the Special Administrator of the Estate of Heather Higgs, Jared Higgs brings this action on behalf of himself and the surviving family members. ECF No. 5. The surviving family members of Heather Higgs are: (1) H. C., minor daughter, (2) Cynthia Beck, mother, (3) Jerry Beck, father, and (4) Heath Beck, brother. *Id.*

On August 2, 2018, Plaintiff filed a Motion to Approve Settlement, Approve Attorney Fees, and Distribute Settlement Proceeds. ECF No. 34. Following this, in order to assist in the Court's

responsibility to review the settlement agreement, this Court appointed Mark Burgess as a guardian *ad litem* to represent the interests of the minor H.C. ECF No. 35. According to Plaintiff, a resolution has now been reached in this matter, and as part of the resolution, Plaintiff has agreed to withdraw the Motion to Approve Settlement, Approve Attorney Fees, and Distribute Settlement Proceeds and request approval of settlement through the Nevada County Probate Court that appointed Jared Higgs Special Administrator of the Estate of Heather Higgs. ECF No. 38.

II. Conclusion:

Based on the foregoing, the Court **GRANTS** Plaintiffs' Motion to Withdraw Motion to Approve Settlement, Approve Attorney Fees, and Distribute Settlement Proceeds (ECF No. 38) and Plaintiffs' Motion to Approve Settlement, Approve Attorney Fees, and Distribute Settlement Proceeds (ECF No. 34) is **DENIED AS MOOT**.

Further, the parties are directed to file appropriate dismissal materials with this Court within thirty (30) days of the date of entry of the Circuit Court of Nevada County, Arkansas's order granting approval of the settlement and distributing the settlement proceeds.

Additionally, Mr. Burgess shall be discharged from any further duties in this matter in his capacity as guardian *ad litem*.¹

ENTERED this 25th day of October 2018.

/s/ Barry A. Bryant

HON. BARRY A. BRYANT
U.S. MAGISTRATE JUDGE

¹The Court has been informed Mr. Burgess has been compensated by the Defendants for his work.