

BRUCE W. NICKERSON, C.B.N. 90760
231 Manor Drive
San Carlos, CA 94070
Tel: (650) 594-0195

Attorney for Plaintiffs

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF CALIFORNIA

Z.F., a minor, by and through his)
Guardian ad litem, GUY FISCHER,) NO: 2:07-CV-02780-WBS-GGH
Individually and on Behalf of Z.F.) AMENDED
and RICHARD CARILLO,) PETITION FOR COMPROMISE
Plaintiffs,) OF MINOR'S CLAIM
vs.) WITH ATTACHED ORDER
DAVIS JOINT UNIFIED SCHOOL DISTRICT,)
PRINCIPAL DAVID INNS, K.D. a minor, M.H.)
a minor, W.L. a minor, B.R. a minor and)
Does 1 through 20, inclusive,)
Defendants.)

)

Petitioner JUDITH CLARK, ESQ., the court appointed
Guardian ad Litem for the above captioned minor child, Z.F.,
hereby petitions this court to approve the following
compromise of the disputed claim against the Davis Joint
Unified School District, Principal David Inns, and all above
captioned defendants. It is the intent of the parties that the
claim be compromised without a trial on the merits of the
claim. Petitioner believes that this compromise is in the best
interests of the minor.

DETAILS OF THE CLAIM

The claim arose because of the failure of the defendants to adequately protect the minor child from homophobic harassment from fellow students at Harper Middle School, Davis Unified School District. The minor, Z.F., self-identifies as straight; however he is being raised by his father Guy Fischer and Richard Carillo who are gay and have a domestic partnership. Fellow students learned about the family situation and harassed the minor.

DAMAGES

The minor child suffered grievous emotional distress requiring him to withdraw from school for most of his eighth grade term. Although he received home tutoring by the district, the loss of the social interaction crucial at this age is irretrievable. He is presently receiving counseling and this is expected to continue for some time.

SETTLEMENT

The case was mediated by Stuart Katz, Esq. of Sacramento in a session lasting an entire day. At the conclusion of this mediation, a tentative agreement was reached to settle the matter for twenty-five thousand dollars. Problems arose however because of a second incident, not involving homophobic harassment, for which Guy Fischer, father of the minor child wanted additional settlement damages. Since settlement was now not imminent, a claim for the homophobic incidents was filed with this court to preserve the statute of limitations. Judith Clark, Esq. was named Guardian ad Litem by this court in an order dated March 4, 2008 (Document 7). Ms. Clark was

able to settle the case for thirty thousand dollars (\$30,000.00), payable to the minor child. It was agreed that the claims of Guy Fischer and Richard Carillo were extinguished. A notice of settlement was filed with this court December 11, 2008.

Attorney Fees

A dispute arose between Guy Fischer and the attorney for the minor, Bruce W. Nickerson over the amount of his compensation. This dispute was resolved to the satisfaction of all parties for the sum of seven thousand five hundred dollars, (\$7,500.00). On March 17, 2009, this court ordered the compensation to be for that amount. As this was a civil rights lawsuit and liability was contested from the outset, this case took considerable expertise to resolve.

AMOUNT AND TERMS OF THE SETTLEMENT

The Davis Joint Union School District shall pay to Judith Clark, Esq. the court appointed guardian ad litem the sum of thirty thousands dollars (\$30,000.00). From that sum, the guardian Ad Litem will pay the sum of seven thousand five hundred dollars (\$7,500.00) to Bruce W. Nickerson, attorney for the minor child. As there is no guardianship of the estate of the minor child, the remaining funds shall be deposited in a blocked, interest bearing account. Withdrawals must be pursuant to Order of this court. When the minor attains the age of eighteen (18) he may access the funds at his discretion.

Dated: April 1, 2009

ss Judith Clark

GUARDIAN AD LITEM

ORDER

GOOD CAUSE THERE APPEARING AND IT BEING AGREED BY ALL PARTIES, the claim of the minor Z.F. is hereby compromised for the sum of thirty thousand dollars, (\$30,000.00). The court, having reviewed the signed settlement agreement, finds that this compromise is fair and in the best interests of the minor. Defendant DAVIS JOINT UNIFIED SCHOOL DISTRICT is ordered to pay that sum to JUDITH CLARK, appointed Guardian Ad Litem for the minor after the case was filed. Ms. Clark is to dispense to Bruce W. Nickerson, attorney for the minor, the sum of seven thousand five hundred dollars (7,500.00) for attorney fees pursuant to a previous Order of this court. The balance is to be deposited in a blocked interest bearing bank account for the exclusive use and benefit of the minor, any withdrawals being subject to court approval if prior to the minor's 18th birthday. Once the check is paid, the attorney for the minor child and the guardian ad litem shall dismiss this action with prejudice. All claims of Guy Fischer and Richard Carillo are permanently extinguished as evidenced by the Settlement Agreement. The minor and the guardian ad litem acknowledge that all of the minor's claims are permanently extinguished.

Approved as to form:

ss Bruce A. Kilday

Angelo, Kilday & Kilduff
Attorney for Defendants

Approved as to Form:

ss Judith Clark
Guardian Ad Litem

Approved as to Form:

ss Bruce W. Nickerson
Attorney for the Minor

It is so Ordered:

Dated: April 2, 2009

William B. Shubb
WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE