

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: 17 Aug 2007

CIVIL ACTION NO. 05 CV 4371 (DAB)

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SHAMEKIA COOK, individually and on behalf
of TARJARAE McNAIR, JASMINE OWENS,
QUANISHA McNAIR and QUANAJAE COOK
minors and on behalf of all others similarly situated,
Plaintiffs,

RESETTLED ORDER OF
COMPROMISE

-vs-

THE CITY OF NEW YORK ADMINISTRATION
FOR CHILDREN'S SERVICES, JOHN B. MATTINGLY,
individually, under color of state law, and in his official
capacity as Commissioner of Administration for Children's
Services; LEAKE & WATTS; JENNIFER LYONS,
individually, under color of state law, and in her official
capacity as an employee, Caseworker, Administration for
Children's Services, CARRIE HENDRICKS, individually
under color of state law, and in her official capacity as an
employee, Supervisor II, Administration for Children's
Services, EMMANUEL OKON, individually, under
color of state law, and in his official capacity as an
employee Transportation Worker, Administration for
Children's Services; DEBRA MCCALL, individually,
under color of state law, and in her capacity as an
employee, Supervisor, Leake & Watts; DEBRA
MENDEZ, individually, under color of state law, and
in her official capacity as an employee, Caseworker,
Leake & Watts; MARTHA DUMENG, individually,
under color of state law, and in her official capacity as
an employee Child Evaluation Specialist, Administration
for Children's Services; DARIEN DOUGLAS, individually,
under color of state law, and in his official capacity as an
employee, Caseworker, Leake & Watts; JUDY ALVAREZ,
individually, under color of state law, and in her official
capacity as an employee, Manager, Administration
for Children's Services; REGINA AJUBA, individually, under
color of state law, and in her official capacity as an employee,
Case Planner Supervisor Administration for Children's Services;
MALCOLM ARMSTRONG, individually, under color of state
law, and in his official capacity as an employee, Caseworker,
Administration for Children's Services; and, UCHE OKAFOR,
individually, under color of state law, and in his official capacity
as an employee, Supervisor, Administration for Children's Services,
Defendants.

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Cook et al v. The City of New York; Administration for Children's Services et al

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Upon reading the annexed Affirmation of Thomas Hoffmàn, affirmed June 29, 2009, it is

ORDERED that the Order of this Court dated November 20, 2007 be and is hereby

resettled to read as follows:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHAMEKIA COOK, individually and on behalf
of TARJARAE McNAIR, JASMINE OWENS,
QUANISHA McNAIR and QUANAJAE COOK
minors and on behalf of all others similarly situated,
Plaintiffs,

CIVIL ACTION NO. 05 CV 4371(DAB)

ORDER OF COMPROMISE

-vs-

THE CITY OF NEW YORK ADMINISTRATION
FOR CHILDREN'S SERVICES, JOHN B. MATTINGLY,
individually, under color of state law, and in his official
capacity as Commissioner of Administration for Children's
Services; LEAKE & WATTS; JENNIFER LYONS,
individually, under color of state law, and in her official
capacity as an employee, Caseworker, Administration for
Children's Services, CARRIE HENDRICKS, individually
under color of state law, and in her official capacity as an
employee, Supervisor II, Administration for Children's
Services, EMMANUEL OKON, individually, under
color of state law, and in his official capacity as an
employee Transportation Worker, Administration for
Children's Services; DEBRA MCCALL, individually,
under color of state law, and in her capacity as an
employee, Supervisor, Leake & Watts; DEBRA
MENDEZ, individually, under color of state law, and
in her official capacity as an employee, Caseworker
Leake & Watts; MARTHA DUMENG, individually,
under color of state law, and in her official capacity as
an employee Child Evaluation Specialist, Administration
for Children's Services; DARIEN DOUGLAS, individually,
under color of state law, and in his official capacity as an
employee, Caseworker, Leake & Watts; JUDY ALVAREZ,
individually, under color of state law, and in her official
capacity as an employee, Manager, Administration
for Children's Services; REGINA AJUBA, individually, under
color of state law, and in her official capacity as an employee,

Case Planner Supervisor Administration for Children's Services;
MALCOLM ARMSTRONG, individually, under color of state
law, and in his official capacity as an employee, Caseworker,
Administration for Children's Services; and, UCHE OKAFOR,
individually, under color of state law, and in his official capacity
as an employee, Supervisor, Administration for Children's Services,
Defendants.

-----X

Upon reading and filling the annexed declaration of Shamekia Cook signed on October 10, 2007 and the declaration of Thomas Hoffman signed on October 10, 2007, attorney for plaintiff who drafted the Supplemental Needs Irrevocable Trusts and upon notice to The Department of Social Services of the City of New York (The Human Resources Administration of the City of New York), and all pleadings and proceedings heretofore had herein, and it appearing to the Court's satisfaction that the best interest of the minor plaintiffs' Tarjarae McNair, Jasmine Owens, Quanisha McNair and Quanajae Cook will be served by the settlement and compromise of the cause of action herein,

Now on the application of Thomas Hoffman, Esq., of the Law Offices of Thomas Hoffman, P.C. attorney for the plaintiffs; it is hereby

ORDERED, that supplemental needs irrevocable trusts, as shall be approved by this Court, shall be established for the benefit of TARJARAE MCNAIR, QUANISHA MCNAIR and JASMINE OWENS for the placement of the net proceeds of this action; and it is further

ORDERED, that THE TARJARAE MCNAIR SUPPLEMENTAL NEEDS IRREVOCABLE TRUST, THE QUANISHA MCNAIR SUPPLEMENTAL NEEDS IRREVOCABLE TRUST and THE JASMINE OWENS SUPPLEMENTAL NEEDS IRREVOCABLE TRUST attached hereto are hereby approved and ordered to be created and

SHAMEKIA COOK, as Guardian of TARJARAE MCNAIR, QUANISHA MCNAIR AND JASMINE OWENS, is hereby authorized, ordered and permitted as settlor to execute the THE TARJARAE MCNAIR SUPPLEMENTAL NEEDS IRREVOCABLE TRUST, THE QUANISHA MCNAIR SUPPLEMENTAL NEEDS IRREVOCABLE TRUST and THE JASMINE OWENS SUPPLEMENTAL NEEDS IRREVOCABLE TRUST annexed hereto for the placement of the net proceeds of this action; and it is further

ORDERED, that SHAMEKIA COOK, residing at 4014 Amundson Avenue, Bronx, New York 10466 and THOMAS HOFFMAN, ESQ., with offices at 250 West 57 Street, New York, New York 10107, are hereby appointed co-trustees of THE TARJARAE MCNAIR SUPPLEMENTAL NEEDS IRREVOCABLE TRUST, THE QUANISHA MCNAIR SUPPLEMENTAL NEEDS IRREVOCABLE TRUST and THE JASMINE OWENS SUPPLEMENTAL NEEDS IRREVOCABLE TRUST (collectively the "Trusts"); and it is further

ORDERED, that Shamekia Cook, as guardian of TARJARAE MCNAIR, QUANISHA MCNAIR AND JASMINE OWENS be and she is hereby authorized to settle and compromise plaintiff's claims as described and set forth in the Stipulation and Order of Settlement and Discontinuance in the litigation dated October 31, 2007 against THE CITY OF NEW YORK ADMINISTRATION FOR CHILDREN'S SERVICES , JOHN B. MATTINGLY, individually, under color of state law, and in his official capacity as Commissioner of Administration for Children's Services; LEAKE & WATTS; JENNIFER LYONS, individually, under color of state law, and in her official capacity as an employee, Caseworker, Administration for Children's Services, CARRIE HENDRICKS, individually under color of state law, and in her official

capacity as an employee, Supervisor II, Administration for Children's Services, EMMANUEL OKON, individually, under color of state law, and in his official capacity as an employee Transportation Worker, Administration for Children's Services; DEBRA MCCALL, individually, under color of state law, and in her capacity as an employee, Supervisor, Leake & Watts; DEBRA MENDEZ, individually, under color of state law, and in her official capacity as an employee, Caseworker, Leake & Watts; MARTHA DUMENG, individually, under color of state law, and in her official capacity as an employee Child Evaluation Specialist, Administration for Children's Services; DARIEN DOUGLAS, individually, under color of state law, and in his official capacity as an employee, Caseworker, Leake & Watts; JUDY ALVAREZ, individually, under color of state law, and in her official capacity as an employee, Manager, Administration for Children's Services; REGINA AJUBA, individually, under color of state law, and in her official capacity as an employee, Case Planner Supervisor Administration for Children's Services; MALCOLM ARMSTRONG, individually, under color of state law, and in his official capacity as an employee, Caseworker, Administration for Children's Services; and, UCHE OKAFOR, individually, under color of state law, and in his official capacity as an employee, Supervisor, Administration for Children's Services, in accordance with the following settlement:

- A. A lump sum cash payment in the amount of Three Hundred Thousand (\$300,000.00) Dollars to be paid by the insurers for Leake and Watts on behalf of the City of New York and Foster Care Agency, Leake and Watts and said monies are to be distributed as follows:
 1. The sum of Fifty Thousand (\$50,000) Dollars to be paid to THOMAS HOFFMAN, plaintiff's attorney, for his legal fee in the representation of

this matter, including all costs and disbursements; and

2. The sum of Twenty-Two Thousand Eight Hundred and Ninety-Five (\$22,895) Dollars to be paid to THOMAS HOFFMAN, plaintiff's attorney, for his legal fee in the representation of the underlying Family Court action; and
3. The sum of Fifty-Nine Thousand Two Hundred and Seventy-Seven (\$59,277) Dollars to be paid to SHAMEKIA COOK; and
4. The sum of Fifty-Nine Thousand Two Hundred and Seventy-Seven (\$59,277) Dollars to be paid to the Trustees of THE QUANISHA McNAIR SUPPLEMENTAL NEEDS IRREVOCABLE TRUST; and
5. The sum of Fifty-Nine Thousand Two Hundred and Seventy-Seven (\$59,277) Dollars to be paid to the Trustees of THE TARJARAE McNAIR SUPPLEMENTAL NEEDS IRREVOCABLE TRUST; and
6. The sum of Fifty-Nine Thousand Two Hundred and Seventy-Seven (\$59,277) Dollars to be paid to the Trustees of THE JASMINE OWENS SUPPLEMENTAL NEEDS IRREVOCABLE TRUST; and
7. The sum of Five Thousand (\$5,000) Dollars to be paid to Shamekia Cook on behalf of the infant, QUANAJAE COOK, which sum shall be used to establish a certificate of deposit in an interest-bearing savings account at North Fork Bank located at 151 East Fordham Road, Bronx, New York 10468 and held for Quanajae Cook, according to the terms of the settlement herein, and

ORDERED that the sums used to establish the accounts for each minor child shall be held until each child's 18th birthday or earlier release by application to the Court; and it is further

ORDERED that the rights, responsibilities and obligations of the defendants, THE CITY OF NEW YORK ADMINISTRATION FOR CHILDREN'S SERVICES and LEAKE & WATTS, and its insurer are totally extinguished and satisfied upon payment of the sums specified in Section "A" above, and it is further

ORDERED, that upon compliance with the terms of this Order, SHAMEKIA COOK, as natural mother of QUANAJAE COOK and Guardian of TARJARAE MCNAIR, QUANISHA MCNAIR AND JASMINE OWENS, be and she is hereby empowered to execute and deliver a General Release and any other papers required in order to effectuate such compromise; and it is further

ORDERED that a surety bond, paid from the corpus of THE TARJARAE MCNAIR SUPPLEMENTAL NEEDS IRREVOCABLE TRUST, THE QUANISHA MCNAIR SUPPLEMENTAL NEEDS IRREVOCABLE TRUST and THE JASMINE OWENS SUPPLEMENTAL NEEDS IRREVOCABLE TRUST shall be purchased for the co-trustees in the amount of Fifty Thousand (\$50,000) Dollars and such surety bond shall be adjusted in May of each year in accordance with paragraph (b) of Article VII of each trust; and it is further

ORDERED, that, within fifteen (15) days of the signing of this order and prior to the trustees' collection of any funds into the Trusts, the trustee THOMAS HOFFMAN, ESQ., shall serve this Order upon the Department of Human Resources of the City of New York, with proof of service filed with this Court; and it is further

ORDERED, that, within sixty (60) days of the signing of this Order and prior to the Trustees' collection of any funds into the Trusts, the trustees' shall execute and file with the Department of Human Resources of the City of New York, a copy of each fully executed Trusts, and oath and designation of the trustees and surety bond payable from each trust's assets.

ORDERED that this Court retains jurisdiction of this action for enforcing this infant compromise order and for entering this infant compromise order directing the disposition of funds, and for hearing and determining applications for the release of funds under this infant compromise order.

Dated:

New York, New York
July 2009

ENTER

Deborah A. Batts
Hon. Deborah A. Batts 8/26/09
United States District Judge