

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

FILED

2011 AUG 29 P 3: 22

WILLIAM R. SCHUBERT and DELISA)
SIMPSON-SCHUBERT,)
)
Individually and on behalf of)
their minor daughters,)
S.M.S.1 and)
S.M.S.2,)
)
Plaintiffs,)
)
v.)
)
BRUCE LAY, CHARLES "SYD")
GIBSON, DAVID SHERROD, TOM)
BAILEY, BOARD OF EDUCATION FOR)
OAK RIDGE, TENNESSEE, CITY OF)
OAK RIDGE,)
)
Defendants.)

U.S. DISTRICT COURT
EASTERN DIST. TENN.
____ DEPT. CLERK

No.: 3:06-cv-0092
Phillips/Shirley

**FINAL JUDGMENT APPROVING THE COMPROMISE SETTLEMENT OF THE
CLAIMS OF THE MINOR S.M.S.2**

The cause of S.M.S.2 came to be heard on the ___ day of August 2011 before the Honorable Thomas W. Phillips, U.S. District Judge for the Eastern District of Tennessee at Knoxville, in the above-referenced case, in which all matters and controversies between the minor petitioner, S.M.S.2, and by next friends, guardians and parents, William R. Schubert and Delisa Simpson-Schubert, William R. Schubert, Delisa Simpson-Schubert and Savanna M. Schubert, individually, have been fully compromised and settled by agreement. The parties now present to the Court the terms of said agreement by the Motion filed in this cause and offer to the Court the testimony of witnesses examined under Oath in open Court. Further offered was the presence and interrogation of S.M.S.2's natural parents and natural guardians, William R. Schubert and Delisa Simpson-Schubert. On this testimony, and upon the record as a whole, it appears to the Court as follows:

1. The total money settlement, to fully and finally settle the claim of S.M.S.2 and the individual claims of her natural parents and natural guardians, William R. Schubert and Delisa Simpson-Schubert and the individual claim of her sister Savanna M. Schubert, is Eighty-Five Thousand and 00/100 Dollars (\$85,000.00).

2. It is ordered that the total settlement amount of Eighty-Five Thousand and 00/100 Dollars (\$85,000.00) be paid as follows:

(1) the sum of \$7,500.00 to S.M.S. 2 c/o William R. Schubert and Delisa Schubert, as her parents and guardians and next friends;

(2) the sum of \$7,500.00 to Savanna M. Schubert;

(3) the sum of \$19,530.56 to Delisa Simpson-Schubert;

(4) the sum of \$19,530.55 to William R. Schubert; and

(5) the sum of \$30,938.89 to their attorney, Ronald A. Rayson, as attorneys fees and expenses, as well as for all other persons or entities claiming legitimate interests in said funds. After the payment of all such attorneys' fees, expenses and related obligations, that portion of the settlement proceeds distributed to the minor plaintiff, S.M.S.2, shall be managed by her parents and natural guardians for her use and benefit pursuant to the provisions of Tenn. Code Ann. § 34-1-101 *et. seq.*

3. The \$85,000.00 is tendered in full and final settlement to the above-mentioned plaintiffs for the full and complete satisfaction of all of their claims, including, but not limited to medical expenses, pain and suffering, future pain and suffering, emotional distress, loss of services and loss of society and companionship of the minor plaintiff, S.M.S.2, with the sum remaining from payment of the above listed expenses to be used exclusively for S.M.S.2's benefit as provided for in Tenn. Code Ann. §34-1-101 *et. seq.*, and more specifically for S.M.S.2's support, maintenance, or education.

4. It is ordered that the plaintiffs, as individuals and as the natural parents and guardians of S.M.S.2 shall, jointly and severally, satisfy any and all outstanding medical bills or other expenses that arose as a result of this incident. It is further ordered that William R. Schubert, Delisa Simpson-Schubert, Savannah M. Schubert and S.M.S.2, individually and as the minor plaintiff's natural parents and guardians, will, jointly and severally, hold Bruce Lay, Charles "Syd" Gibson, Thomas E. Bailey and the Board of Education for Oak Ridge, Tennessee, harmless from any and all outstanding liens, subrogation claims, attorneys' liens, medical expenses or any and all other third party claims however described, if any, on the settlement amount, such that, under the terms of the settlement, Bruce Lay, Charles "Syd" Gibson, Tom Bailey and the Board of Education for Oak Ridge, Tennessee will not have to remit any amount in addition to the settlement payment tendered on their behalves as referenced above.

5. It is ordered that Bruce Lay, Charles "Syd" Gibson, Thomas E. Bailey and the Board of Education for Oak Ridge, Tennessee, shall be and are fully and finally discharged from any and all liability of any type or character to the plaintiffs herein, including, but not limited to, William R. Schubert and Delisa Simpson-Schubert, as individuals and as the natural parents and guardian of S.M.S.2, or from the minor child, S.M.S.2, or from her sister Savanna M. Schubert, or to any health care provider or third-party claimant however described.

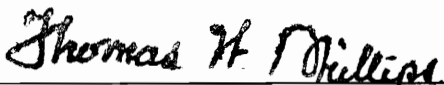
6. The Joint Movants involved herein therefore move this Court to review the final settlement between the minor S.M.S.2, her parents and natural guardians William R. Schubert and Delisa Simpson-Schubert and William R. Schubert, Delisa Simpson-Schubert and Savanna M. Schubert individually, and Bruce Lay, Charles "Syd" Gibson, Thomas E. Bailey and the Board of Education for Oak Ridge, Tennessee, and move the settlement to be approved in all respects.

Accordingly, the Court, having found the settlement to be in the best interest of S.M.S.2, therefore **ORDERS** and **APPROVES** this minor's settlement in accordance with Tenn.Code.Ann. § 34-1-101 *et. seq.* It is therefore

ORDERED that the causes of S.M.S.2, the minor, by her parents, guardians and next friends William R. Schubert and Delisa Simpson-Schubert and William R. Schubert, Delisa Simpson-Schubert and Savanna M. Schubert, individually, are fully and finally settled and the claims are **dismissed with full prejudice**. It is, further,

ORDERED that Bruce Lay, Charles "Syd" Gibson, Thomas E. Bailey and the Board of Education for Oak Ridge, Tennessee, are held harmless by the plaintiffs, jointly and severally, for any pending medical expenses, healthcare liens, subrogation claims, attorneys' lien or any other third party claim, however described, on the Eighty-Five Thousand and 00/100 Dollars (\$85,000.00) settlement amount such that Bruce Lay, Charles "Syd" Gibson, Thomas E. Bailey and the Board of Education for Oak Ridge, Tennessee, will not have to pay any money above the total settlement paid for S.M.S.2.

ENTERED this 29th day of August 2011.



THOMAS W. PHILLIPS
UNITED STATES DISTRICT JUDGE

APPROVED FOR ENTRY:

/s/ Ronald A. Rayson /s/ by Lawrence F. Giordano w/permission
Ronald A. Rayson (BPR #013393)
David A. Burkhalter, II, Esq.
BURKHALTER, RAYSON & ASSOCIATES
111 S. Central Street
P.O. Box 2777
Knoxville, TN 37901-277
Attorney for Plaintiffs

/s/ Lawrence F. Giordano

Lawrence F. Giordano (BPR. # 0006104)
LEWIS, KING, KRIEG & WALDROP, P.C.
620 Market Street, Fifth Floor
P. O. Box 2425
Knoxville, Tennessee 37902
(865) 546-4646

*Attorneys for Defendants Bruce Lay,
Charles "Syd" Gibson, Thomas E. Bailey and
the Board of Education for Oak Ridge, Tennessee*