

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE, WESTERN DIVISION**

A-LANDRIA PATTERSON, a minor, by her mother
And next friend, TANDRA PATTERSON and
TANDRA PATTERSON

Plaintiff,

v.

No. 09-cv-2823
JURY DEMANDED

AMERICAN MANAGEMENT SERVICES, LLC,
VILLAGE SQUARE I, LLC, and
VILLAGE SQUARE II, LLC,

Defendants.

**JOINT MEMORANDUM REGARDING PROPOSED SETTLEMENT
OF CLAIMS FOR PERSONAL INJURIES TO A MINOR**

The Parties, by and through counsel, respectfully show unto the Court as follows:

Tandra Patterson, who now goes by the name of Tandra S. McGhee, is a resident of Memphis, Shelby County, Tennessee, and is the mother and next friend of A-landria Patterson, who resides with her in Shelby County, Tennessee.

A-landria Patterson's date of birth is April 9, 2004.

On August 28, 2008, A-landria Patterson and her mother lived at Cambridge Court Apartments, located in Memphis. Cambridge Court Apartments are owned and operated by the Defendants. A-landria Patterson, age four (4), was in the bathroom of Apartment number six (6) in Building 3367, on August 28, 2008, when the wall-mounted porcelain sink fell and broke into pieces. At the time of the incident, A-landria Patterson was using the sink, in a manner that was the issue of some dispute. The Plaintiffs alleged that the sink fell unexpectedly while she was

washing her hands. The Defendants contended that the sink broke because of Ms. Patterson climbing or sitting on, or otherwise misusing, the sink. Regardless of the cause, A-landria Patterson sustained a complex laceration and near amputation of her left hand and wrist in the incident. At the time of the incident, A-landria Patterson was left-handed.

Upon presentation to the emergency room at LeBonheur Children's Medical Center on August 28, 2008, A-landria had severe bleeding and was unable to move her left hand. On August 29, 2008, Dr. James Calandruccio, a hand specialist with Campbell Clinic, performed surgery, repairing A-landria's left median nerve, ulnar motor nerve, 4th digit webspace common nerve, ulnar digital nerve to the small finger, performing open reduction/internal fixation of intercarpal fracture/dislocation, extensor digitorum communis to the small finger, extensor digiti quinti proprius, flexor digitorum profundus (FDP) middle finger, FDP ring finger, FDP small finger, flexor digitorum communis (FDS) middle finger, FDS ring finger, FDS small finger, and debridement and irrigation of open wrist injury. A-landria presented for follow-up medical treatment with Dr. Calandruccio, who also prescribed physical therapy.

Several months after the initial surgery, A-landria still had difficulty flexing her small finger. Dr. Calandruccio recommended surgical intervention, specifically flexor tendon adhesion release and flexor tendon shorting of small finger profundus. The second surgery was performed on July 14, 2009. A-landria returned to Dr. Calandruccio post-surgery for follow-up care. Dr. Calandruccio eventually released A-landria from care on January 12, 2010. A-landria has been released from the care of all physicians for her injuries.

The Plaintiff's medical expenses total \$68,718.12, issued by the following providers:

LeBonheur Children's Medical Center	\$6,543.80
Methodist Hospital South	\$3,701.20
Campbell Clinic	\$26,954.00
Midtown Surgery Center	\$31,519.12

TOTAL	\$68,718.12
--------------	--------------------

A-landria Patterson suffers permanent injuries from the incident. The fingers on her left hand can no longer be fully straightened. She had to learn to write and use writing implements, as well as do other activities of daily living with her non-dominant hand. To date, A-landria is still deficient using her left hand, but she does have limited residual ability to do so with difficulty. A-landria's medical providers are hopeful that due to her young age, she will continue to show improvement in her left hand as she grows, and that the growth process will heal some of the damage. However, Plaintiff has considered the possibility of additional physical therapy in the future to assist this process, although Plaintiff has no confirmed plans to do so at present.

Because of A-landria's young age, no claim for lost wages was made. Likewise, Tandra McGhee, A-landria's mother, was not working at the time and made no claim for lost wages. The parties would show that they have reached a proposed settlement, subject to the approval of this Honorable Court, whereby the Defendants will pay the sum of \$200,000.00 to Plaintiffs as full and final settlement of all claims. The Parties feel that this proposed settlement is fair and reasonable and is in the best interests of A-landria Patterson.

The Plaintiffs are represented by Christopher Gilreath of Gilreath & Associates and Irwin Magevney and Jean Holbert of the Law Office of Gary Green, all of whom have provided good and valuable services and whose fee was contracted to be 35% of the recovery value, or \$70,000. In prosecution of this case, Plaintiff has incurred case expenses of \$1,536.29, primarily consisting of deposition costs, filing fees, and costs to obtain medical proof of damages.

Plaintiff's medical treatment was covered by Medicaid, through TennCare. In compliance with T.C.A. § 71-1-123, Plaintiff has confirmed with TennCare that it does have a lien for medical care benefits in this case, and after negotiation, TennCare has agreed to accept a

full and final payment of \$7,063.73 for medical expenses and \$14.94 for prescription costs to satisfy its lien in this case. No medical providers have an outstanding owing balance for their medical treatment, nor are there any other outstanding liens involved in this case. Plaintiff agrees to be responsible for extinguishing the TennCare lien from the proceeds of this case in compliance with Tennessee law.

Excluding attorney's fees, case costs, and resolution of medical liens, the proposed net to Plaintiff from this case equals \$121,385.04.

Plaintiff Tandra McGhee, both currently and at the time of the incident giving rise to this case, was and is living in subsidized housing under the U. S. Department of Housing and Urban Development Section 8 Program, in conjunction with the Memphis Housing Authority. As such, Plaintiff has been dependent on Section 8 housing to provide shelter for A-landria and her younger daughter, Alexandria. Plaintiff Tandra McGhee is a single mother who has struggled to obtain a full high school education and secure employment. She is a Medicaid recipient, and is also a recipient of state income assistance. Currently, Tandra McGhee is enrolled in a vocational program through Porter-Leath, and has been working through that agency's CareerPlace program, designed to assist low-income parents with vocational assistance and training to assist adults in securing permanent employment. Ms. McGhee is working toward obtaining her G.E.D. as well as a career in culinary arts, with Porter Leath assisting with a placement program where Ms. McGhee would be temporarily placed in a hotel or similar kitchen on a trial basis, with the expectation of the job developing into a full time position. Ms. McGhee depends on public transportation for her daily needs, and A-landria Patterson receives state assistance for after school care. A-landria is currently in First Grade at Robert R. Church Elementary School, within the Memphis City School system. A-landria has good attendance, is a student in good standing,

and she receives grades of meeting expectations and exceeding expectations.

Plaintiff proposes that the net proceeds of this case be used in the following manner:

1. Plaintiff has enlisted the assistance of Michelle Hayes of Hayes Homes & Realty to secure a home in the Whitehaven area. This neighborhood is not only a safe environment for A-landria and the entire family, but it is located in the area near where A-landria is familiar, and nearby where her younger sister, Alexandria, attends daycare currently. Plaintiff proposes that the money be used to provide a permanent residence for A-landria, by purchasing a home, rather than have her continue to exist in Section 8 housing. Plaintiff proposes that based on current real estate market conditions, she can purchase a home for very good value, given the level of supply in the market, which also increases the likelihood that the investment would grow in value over time. Plaintiff expects that such a home could be purchased for less than \$100,000 dollars.

2. Plaintiff proposes that she use a portion of the money to purchase a modest but safe and reliable car. To date, Plaintiff has relied upon the grace of others, as well as public transportation, to provide any means of travel within the city. Securing more reliable transportation would allow Tandra McGhee to provide security for A-landria, and ensure that she could more efficiently attend class, work, and provide for A-landria's needs. Plaintiff anticipates that such transportation would cost between \$10,000 to \$20,000.

3. Plaintiff proposes that funds be made available to pay insurance and taxes on shelter and transportation.

4. Plaintiff proposes that the funds to be used in the short term be secured in the IOLTA account of Plaintiff's counsel, with the understanding that after securing a home, transportation, and collateral insurance and tax obligations, that funds remaining in the IOLTA account be moved to an interest bearing account with a FDIC secured bank for the benefit of

A-landria Patterson.

5. Plaintiff further proposes that, with the assistance of counsel, she work to secure proposed specific pricing on a home and transportation currently, as well as necessary insurance and taxes collateral to those obligations, and establish the funds necessary to secure such necessities. While doing so, Plaintiff proposes that the remaining funds be considered for investment in a structured settlement, if possible, with a company of Plaintiff's choosing, for the purpose of investing the funds for A-landria Patterson's benefit after she turns eighteen (18) years old. Defendant is agreeing to assist in the facilitation of the creation of such an appropriate structured settlement investment.

The Parties respectfully request that the Court approve this proposed minor's settlement. The Defendants further request that upon payment of the settlement proceeds proposed herein, that the Defendants and their insurers be relieved and released of any and all further liability arising out of the claims and injuries to A-landria Patterson, a minor.

Respectfully submitted this 26th day of January, 2011.

/s/ Christopher M. Myatt
Christopher M. Myatt (#024629)
Spicer Rudstrom, PLLC
Attorney for Defendants
175 Toyota Plaza, Suite 800
Memphis, Tennessee 38103
Telephone: (901) 523-1333
Facsimile: (901) 526-0213

/s/ R. Christopher Gilreath
R. Christopher Gilreath
Gilreath & Associates
Attorney for Plaintiffs
200 Jefferson Avenue, Suite 711
Memphis, TN 38103

/s/ M. Jean Holbert
M. Jean Holbert
Irwin Magevney
Law Offices of Gary Green
Attorneys for Plaintiffs
40 North Pauline St.
Memphis TN 38105