

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

FLORENCE WALLACE, ET AL.	:	CONSOLIDATED TO:
	:	
Plaintiffs,	:	CIVIL ACTION NO. 3:09-cv-0286
	:	
v.	:	
	:	(JUDGE CAPUTO)
ROBERT J. POWELL, ET AL.	:	
	:	
Defendants.	:	

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

WILLIAM CONWAY, ET AL.	:	
	:	
Plaintiffs,	:	CIVIL ACTION NO. 3:09-cv-0291
	:	
v.	:	
	:	(JUDGE CAPUTO)
MICHAEL T. CONAHAN, ET AL.	:	
	:	
Defendants.	:	

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

H.T., ET AL.	:	
	:	
Plaintiffs,	:	CIVIL ACTION NO. 3:09-cv-0357
	:	
v.	:	
	:	(JUDGE CAPUTO)
MARK A. CIAVARELLA, ET AL.	:	
	:	
Defendants.	:	

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SAMANTHA HUMANIK,

Plaintiffs,

v.

MARK A. CIAVARELLA, JR.,
ET AL.

Defendants.

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CIVIL ACTION NO. 3:09-cv-0630

(JUDGE CAPUTO)

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FINAL JUDGMENT AND ORDER OF DISMISSAL WITH PREJUDICE

AND NOW, this __ day of _____, 2016, this matter having come before the Court for hearing pursuant to an Order of this Court, dated December 16, 2015 on the application of the Parties for approval of the Settlement set forth in the Master Stipulation and Agreement of Settlement dated March 10, 2015 (the "Agreement"), and due and adequate notice having been given of the Settlement as required in said Order, and the Court having considered all papers filed and proceedings held herein and otherwise being fully informed in the premises and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. This Order and Final Judgment incorporates by reference the definitions in the Agreement, and all terms used herein shall have the same meanings set forth in the Agreement.

2. This Court has jurisdiction over the subject matter of the Actions and over all parties to the Settlement, including all members of the Settlement Classes.

3. This Court's order dated May 14, 2013 (Docket No. 1410 in the *Wallace* Action) is vacated as to the Powell Defendants.

4. Except as to any individual claim of those persons (identified in Exhibit 1 attached hereto) who have validly and timely requested exclusion from the Settlement Classes, the Actions, and all claims contained therein, including all of the Released Claims, are hereby dismissed as against the Powell Defendants without costs and with prejudice in full and final discharge of any and all claims

belonging to Plaintiffs and the other members of the Settlement Classes that were or could have been asserted as against each and all of the Releasees. The parties are to bear their own costs, except as otherwise provided in the Agreement.

5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby approves the Settlement set forth in the Agreement and finds that said Agreement is, in all respects, fair, reasonable and adequate to, and is in the best interests of, the Plaintiffs, the Settlement Classes and each member of the Settlement Classes. This Court further finds the Settlement set forth in the Agreement is the result of arm's-length negotiations between experienced counsel representing the interests of the Plaintiffs, the members of the Settlement Classes and the Powell Defendants. Accordingly, the Settlement embodied in the Agreement is hereby approved in all respects and shall be consummated in accordance with its terms and provisions. The Parties are hereby directed to perform the terms of the Agreement.

6. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court hereby certifies (a) a Class of all juveniles who appeared before former Luzerne County Court of Common Pleas Judge Mark A. Ciavarella between January 1, 2003 and May 28, 2008 who were adjudicated delinquent or placed by Ciavarella; and (b) a Class of all parents and/or guardians of juveniles who appeared before former Luzerne County Court of Common Pleas Judge Mark A. Ciavarella between January 1, 2003 and May 28, 2008, and who, in connection with their

juvenile's appearance: (i) made payments or had wages, social security or other entitlements garnished or withdrawn, (ii) had costs, fees, interest and/or penalties assessed against them or their juvenile, or (iii) suffered any loss of companionship and/or familial integrity. Excluded from the Settlement Classes are any putative members of the Settlement Classes who timely and validly excluded themselves from the Settlement Classes in accordance with the requirements set forth in the Mailed Notice and the Proof of Claim.

7. With respect to the Settlement Classes, this Court finds, for the purposes of effectuating this Settlement, that: (a) the members of the Settlement Classes are so numerous that joinder of all members of the Settlement Classes in the Actions is impracticable; (b) there are questions of law and fact common to the Settlement Classes which predominate over any individual questions; (c) the claims of the Juvenile Representative Plaintiffs are typical of the claims of the Juvenile Settlement Class; (d) the claims of the Parent Representative Plaintiffs are typical of the claims of the Parent Settlement Class; (e) the Juvenile Representative Plaintiffs, Parent Representative Plaintiffs, Class Counsel and Individual Plaintiffs' Counsel have fairly and adequately represented and protected the interests of all of the members of the Settlement Classes; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy, considering: (i) the interests of the members of the Settlement Classes in individually controlling the prosecution of the separate actions; (ii) the extent and

nature of any litigation concerning the controversy already commenced by members of the Settlement Classes; (iii) the desirability or undesirability of continuing the litigation of these claims in this particular forum; and (iv) the difficulties likely to be encountered in the management of the Actions.

8. Upon the Effective Date, the Plaintiffs and each of the members of the Settlement Classes, on behalf of themselves, their successors and assigns, and any other person claiming (now or in the future) through or on behalf of them, and regardless of whether the Plaintiff or any such member of the Settlement Classes ever seeks or obtains by any means, including, without limitation, by submitting a Proof of Claim, any distribution from the Cash Settlement Fund, shall be deemed to have, and by operation of this Order and Final Judgment shall have, fully, finally, and forever released, relinquished and discharged all Released Claims against the Releasees and shall have covenanted not to sue the Releasees with respect to all such Released Claims, and shall be permanently barred and enjoined from instituting, commencing or prosecuting any such Released Claims, whether or not such Plaintiff or member of the Settlement Classes executes and delivers the Proof of Claim.

9. All Plaintiffs and members of the Settlement Classes are hereby forever barred and enjoined from instituting or prosecuting any other action against the Releasees in any court or tribunal asserting any Released Claim.

10. Upon the Effective Date, to the maximum extent allowed by applicable state or federal law, the Court bars and enjoins, and discharges the Releasees from, any and all claims for contribution, and indemnification or the like, however styled (including any claim where the injury to the person asserting the claim is such person's threatened or actual liability to Plaintiffs or any member of the Settlement Classes), by any Person (including, without limitation, the Non-Released Parties), whether arising under state, federal local statutory or common law, or any other law, rule or regulation, based upon, arising out of, relating to, or in connection with the Released Claims.

11. The distribution of the Mailed Notice and the publication of the Published Notice as provided for in the Preliminary Approval Order constituted the best notice practicable under the circumstances, including individual notice to all members of the Settlement Classes who could be identified through reasonable effort. Said notice provided the best notice practicable under the circumstances of those proceedings and of the matters set forth therein, including the proposed Settlement set forth in the Agreement, to all persons entitled to such notice, and said notice fully satisfied the requirements of Federal Rule of Civil Procedure 23, the requirements of due process, and any other applicable law.

12. Any plan of allocation submitted by Class Counsel and Individual Plaintiffs' Counsel or any order entered regarding the Fees and Expenses

Application shall in no way disturb or affect this Order and Final Judgment and shall be considered separate from this Order and Final Judgment.

13. Neither the Agreement nor the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Agreement or the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Powell Defendants; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Powell Defendants in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal; or (c) is admissible in any proceeding except an action to enforce or interpret the terms of the Agreement, the Settlement contained therein, and any other documents executed in connection with the performance of the agreements embodied therein. The Powell Defendants and/or the other Releasees may file the Agreement and/or this Order and Final Judgment in any action that may be brought against them in order to support a defense or counterclaim based on the principles of *res judicata*, collateral estoppel, full faith and credit, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

14. Without affecting the finality of this Order and Final Judgment in any way, this Court hereby retains continuing jurisdiction over (a) implementation of

this Settlement and any award or distribution of the Cash Settlement Fund, including interest earned thereon; (b) disposition of the Cash Settlement Fund; (c) hearing and determining applications for attorney fees and expenses in the Actions; and (d) all parties hereto for the purpose of construing, enforcing and administering the Agreement and/or the Settlement.

15. This Order and Final Judgment is a final judgment in the Actions as to all claims among the Powell Defendants, on the one hand, and the Plaintiffs and all members of the Settlement Classes. This Court finds, for purposes of Rule 54(b) of the Federal Rules of Civil Procedure, that there is no just reason for delay and expressly directs entry of judgment as set forth herein.

16. In the event that the Settlement does not become effective in accordance with the terms of the Stipulation or the Effective Date does not occur, or in the event that the Cash Settlement Fund, or any portion thereof, is returned to the Powell Defendants, then this Order and Final Judgment shall be rendered null and void to the extent provided by and in accordance with the Agreement and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation.

IT IS SO ORDERED.

A. RICHARD CAPUTO
UNITED STATES DISTRICT JUDGE

Exhibit “1”

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

FLORENCE WALLACE, ET AL.	:	CONSOLIDATED TO:
	:	
Plaintiffs,	:	CIVIL ACTION NO. 3:09-cv-0286
	:	
v.	:	
	:	(JUDGE CAPUTO)
ROBERT J. POWELL, ET AL.	:	
	:	
Defendants.	:	

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

WILLIAM CONWAY, ET AL.	:	
	:	
Plaintiffs,	:	CIVIL ACTION NO. 3:09-cv-0291
	:	
v.	:	
	:	(JUDGE CAPUTO)
MICHAEL T. CONAHAN, ET AL.	:	
	:	
Defendants.	:	

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

H.T., ET AL.	:	
	:	
Plaintiffs,	:	CIVIL ACTION NO. 3:09-cv-0357
	:	
v.	:	
	:	(JUDGE CAPUTO)
MARK A. CIAVARELLA, ET AL.	:	
	:	
Defendants.	:	

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SAMANTHA HUMANIK,	:	
	:	
Plaintiffs,	:	CIVIL ACTION NO. 3:09-cv-0630
	:	
v.	:	
	:	(JUDGE CAPUTO)
MARK A. CIAVARELLA, JR.,	:	
ET AL.	:	
	:	
Defendants.	:	

**PLAINTIFFS' UNOPPOSED MOTION FOR FINAL APPROVAL OF
POWELL DEFENDANTS' SETTLEMENT AND CLASS CERTIFICATION**

Pursuant to Federal Rule of Civil Procedure 23, Plaintiffs, through their undersigned counsel, move for certification of a settlement class and final approval of the partial settlement that fully resolves all of their claims against the Releasees, as defined in the Master Stipulation and Agreement of Settlement (“Settlement Agreement” or “Agreement”). For the reasons more fully set forth in Plaintiffs’ Memorandum of Law, the Motion should be granted.

1. Plaintiffs have now reached a settlement with Robert J. Powell, Powell Law Group, P.C. and Vision Holdings, LLC (hereinafter the “Powell Defendants”), which received preliminary approval from this Court on August 10, 2015.

2. The Settlement Agreement provides for a resolution of this litigation

against the Powell Defendants in exchange for benefits to the Class including the following:

The Powell Defendants established a settlement fund of no less than \$4,750,000.00.¹ The full amount of the settlement fund will be placed in escrow for the benefit of this settlement once it is approved pursuant to a schedule more fully described in the Master Stipulation and Agreement of Settlement; and

The net settlement proceeds (after the payment of common benefit attorneys' fees, common benefit litigation expenses, escrow fees and expenses, and any taxes or tax expenses related to the escrow account) shall be distributed pursuant to the plan of allocation previously preliminarily approved by this Court and discussed further below, to all qualifying Juvenile and Parent Plaintiff Class Members.

3. The proposed form of Notice ("Notice") of the class action settlement and Proof of Claim form ("POC") were also approved by this Court and were disseminated, in accordance with this Court's Order, by first class mail directly to the last known addresses of all individuals in the Settlement Classes, defined below, along with published notice via publication in the *Times Leader* and the *Citizens Voice*. Finally, Notice was also disseminated by internet publication. This Notice regime complied with Rules 23(c)(2) and 23(e) and the Due Process Clause of the United States Constitution, because it constituted the best notice practicable under the circumstances.

¹ The Settlement Agreement provides that the Powell Defendants may be required to make an additional payment, which under no circumstances shall be greater than \$2,750,000.00, based upon Robert J. Powell's net worth.

4. There were no objections to the Settlement by any Class Member. In addition, only 12 Class Members chose to exclude themselves from the Settlement by opting out.

5. The proposed Settlement Classes are:

a. all juveniles who appeared before former Luzerne County Court of Common Pleas Judge Mark A. Ciavarella between January 1, 2003 and May 28, 2008 who were adjudicated or placed by Ciavarella (the "Juvenile Settlement Class"); and

b. all parents and/or guardians of all juveniles who appeared before former Luzerne County Court of Common Pleas Judge Mark A. Ciavarella between January 1, 2003 and May 28, 2008 and who, in connection with their child's adjudication or placement:

(i) made payments or had wages, social security or other entitlements garnished or withdrawn;

(ii) paid costs, fees, interest and/or penalties in their own names;

(iii) suffered any loss of companionship and/or familial integrity (the "Parent Settlement Class"), and

(iv) who were not fully reimbursed as a result of claims made in connection with the Mericle Settlement, defined in the MSA.

6. The proposed settlement is fair, reasonable and adequate and amply satisfies the required standards set forth in *Girsh v. Jepson*, 521 F.2d 153 (3d Cir. 1975). Plaintiffs therefore respectfully request that the Court grant final approval to the Settlement.

7. The proposed Settlement Classes, clearly satisfy the four elements of Rule 23(a), and the predominance and superiority requirements of Rule 23(b)(3). Finally, Plaintiffs' motion (filed separately) for a combined award of attorneys' fees and costs in the amount of \$1,456,357.91, should be approved as reasonable, considering the time expended by Class Counsel in litigating this case, and the superb result obtained for the Class.

8. Further support for this Motion is set forth, at length, in Plaintiffs' Brief in Support of Final Approval of Settlement and Class Certification.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court grant their Motion for Final Approval of Settlement and Class Certification.

Dated: November 25, 2015

Respectfully submitted,

By: /s/ William R. Caroselli

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**CERTIFICATION OF CONCURRENCE PURSUANT TO
LOCAL RULE 7.1**

I, David S. Senoff Esquire, do hereby certify that I sought concurrence for the within Motion from each and every party who has standing to object to this motion and all of said parties concur in this motion.

RESPECTFULLY SUBMITTED,

ANAPOL WEISS

BY: /s/ DAVID S. SENOFF

DAVID S. SENOFF, ESQUIRE

One Logan Square

130 North 18th Street

Suite 1600

Philadelphia, PA 19103

(215) 735-1130

Date: November 25, 2015

CERTIFICATE OF SERVICE

I, David S. Senoff, Esquire, hereby certify that, a true and correct copy of the Plaintiffs' Unopposed Motion for Final Approval of Settlements and Class Certification, was filed electronically on November 25, 2015 and is available for viewing electronically. Additionally, the foregoing Motion was served by First Class Mail upon the following *pro se* parties:

Mark Ciavarella 15008-067
FCI Williamsburg
8301 Highway 521
Salters, SC 29590

Michael Conahan 15009-067
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