

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

H.T., et al.,	:	
	:	
Plaintiffs,	:	CIVIL ACTION
	:	
v.	:	NO. 3:09-CV-357
	:	
CIAVARELLA, et al.,	:	The Honorable A. Richard Caputo
	:	
Defendants.	:	

CONWAY, et al.,	:	
	:	
Plaintiffs,	:	CIVIL ACTION
	:	
v.	:	NO. 3:09-CV-291
	:	
CONAHAN, et al.,	:	The Honorable A. Richard Caputo
	:	
Defendants.	:	

WALLACE, et al.,	:	
	:	
Plaintiffs,	:	CIVIL ACTION
	:	
v.	:	NO. 3:09-CV-0286
	:	
POWELL, et al.,	:	The Honorable A. Richard Caputo
	:	
Defendants.	:	

within the range of reasonableness, such that notice of the Settlement in the form presented to this Court as Exhibit A to the MSA should be disseminated to all members of the proposed Settlement Classes.

4. The Court preliminarily finds for settlement purposes only, and subject to final determination at the Settlement Hearing provided for below, that the proposed Settlement Classes meet the requirements of Rule 23(b)(3) of the Federal Rules of Civil Procedure. Therefore, for purposes of settlement only, and pending Final Judicial Approval, the Court conditionally certifies the Settlement Classes, and in particular,

(1) the Juvenile Settlement Class consisting of:

all juveniles who appeared before former Luzerne County Court of Common Pleas Judge Mark A. Ciavarella Jr. between January 1, 2003 and May 28, 2008 who were adjudicated or placed by Ciavarella; and

(2) the Parent Settlement Class consisting of:

all parents and/or guardians of all juveniles who appeared before former Luzerne County Court of Common Pleas Judge Mark A. Ciavarella Jr. between January 1, 2003 and May 28, 2008 and who, in connection with their child's appearance: (i) made payments or had wages, social security or other entitlements garnished or withdrawn, (ii) had costs, fees, interest and/or penalties assessed against them or their child; (iii) suffered any loss of companionship and/or familial integrity.

For purposes of Fed. R. Civ. P. 23(c)(1)(B), all claims asserted in the Actions are certified for class treatment, for settlement purposes only.

5. The Court finds on a preliminary basis that the Representative Plaintiffs are proper class representatives for the Settlement Classes as their claims are typical of those of other all members of the proposed Settlement Classes and involve common questions of law and fact. Further, Representative Plaintiffs appear to have no conflicts of interest with other all members of the proposed Settlement Classes.

6. The Court finds on a preliminary basis that the law firms of Hanglely Aronchick Segal Pudlin & Schiller; Caroselli, Beachler, McTiernan & Conboy, LLC; Anapol Schwartz; and Juvenile Law Center, acting as Class Counsel, are competent and experienced counsel and as such will adequately represent the interests of the all members of the proposed Settlement Classes.

7. If the MSA is terminated, the foregoing conditional certification of the Settlement Classes, appointment of Representative Plaintiffs as class representatives, and approval of Class Counsel shall be void and of no effect and the Parties to the MSA shall be returned to the status each occupied before entry of this Order.

8. Pursuant to Rule 23(e)(1) of the Federal Rules of Civil Procedure, Class Counsel and Individual Plaintiffs' Counsel shall cause the Notice to be given to the all members of the proposed Settlement Classes.

(a) The Court finds that the Mailed Notice and the Published Notice, attached to the MSA at Exhibit A, and the Settlement Hearing provide appropriate notice to the conditionally certified Settlement Classes.

- (b) Class Counsel and Individual Plaintiffs' Counsel shall disseminate the Mailed Notice to the last known addresses of all individuals in the Settlement Classes.
- (c) The Luzerne County Juvenile Probation Department shall, within ten (10) days of the date of this Order, provide to Class Counsel a list of the last known mailing address of each juvenile whose adjudications were vacated and/or records expunged in accordance with the Pennsylvania Supreme Court's October 29, 2009 and March 29, 2010 orders. See *In re J.V.R.*, 81 M.M. 2008, Order ¶¶ 3-4 (Pa. Oct. 29, 2009) and Order, ¶ 3 (Pa. Mar. 29, 2010). The Luzerne County Juvenile Probation Department and the Domestic Relations branch of the Luzerne County Court of Common Pleas shall also promptly provide to Class Counsel its complete files for all individuals for whom Class Counsel provide signed releases.
- (d) Class Counsel and Individual Plaintiffs' Counsel shall disseminate the Published Notice via publication in the *Times Leader* and the *Citizens Voice*.
- (e) The dissemination of notice described above shall occur within fourteen (14) days of the date of the entry of this Order.
- (f) Class Counsel and Individual Plaintiffs' Counsel shall bear the costs of notice.

9. Settlement Class Members of the conditionally approved Settlement Classes will have until the Opt-Out Deadline, or May 13, 2012 (seventy-five (75) days from the date of entry of this Preliminary Approval Order) to exclude themselves from the Juvenile Settlement Class or Parent Settlement Class. To do so, Settlement Class Members shall adhere to the provisions set forth in the Mailed Notice, the Published Notice and the Proof of Claim Form attached at Exhibits A and C to the MSA.

10. Any Settlement Class Member who does not properly and timely Opt-Out pursuant to the provisions set forth in the Mailed Notice, the Published Notice and the Proof of Claim Form attached at Exhibits A and C to the MSA, shall be included in the Juvenile Settlement Class or Parent Settlement Class and shall be bound by the MSA, regardless of whether such person participates in the Cash Settlement Fund.

11. Any Settlement Class Member who properly and timely Opts-Out pursuant to the provisions set forth in the Mailed Notice, the Published Notice and the Proof of Claim Form and intends to pursue a separate claim against the Released Parties shall be required to participate in confidential non-binding mediation with the Mericle Defendants prior to the Opt-Out Termination Deadline, which shall be ninety (90) days after the Opt-Out Deadline. Richard G. Fine of Scranton, Pennsylvania is approved as the mediator.

12. On or before May 13, 2012 ("Proof of Claim Deadline"), each Settlement Class Member who wishes to claim against the Cash Settlement Fund shall be required to submit a timely Proof of Claim, with the required documentation, as directed in the MSA and in the form attached at Exhibit C to the MSA.

13. Any Settlement Class Member who fails to file a proper and timely Proof of Claim shall forever be barred from receiving any distribution from the Cash Settlement Fund but will in all other respects be bound by the MSA if it is finally approved. Each Settlement Class Member that submits a proper and timely Proof of Claim shall be bound by the MSA if it is finally approved.

Settlement Hearing

14. Pursuant to Rule 23(e)(2) of the Federal Rules of Civil Procedure, a hearing on final settlement ("Settlement Hearing") will be held before this Court on Monday, September 10, 2012 at 10:00 a.m. EST. At the Settlement Hearing, the Court will consider the following issues: (a) the fairness, reasonableness and adequacy of the MSA; (b) whether the Settlement Classes should remain certified for settlement purposes; (c) whether the Court should approve awards of costs and attorneys' fees as described in fee applications submitted by Class Counsel; (d) whether entry of a Final Approval Order terminating the Actions should be entered; and (f) such other matters as the Court may deem necessary or appropriate.

15. All briefs and materials of any party in support of the Final Judicial Approval, as well as the fee petition and supporting papers, shall be served on the Court and all Parties at least ten calendar days prior to the Settlement Hearing.

16. Any Settlement Class Member wishing to object to the MSA must submit to the Claims Committee a letter stating that he or she objects to the MSA, together with his or her Proof of Claim Form. The letter must be sent so that it is received by the Claims Committee no later than May 12, 2012 (seventy-four (74) days after the Court

has entered the Preliminary Approval Order). Service on the Claims Committee shall be by first class mail. No later than May 13, 2012 (seventy-five (75) days after the Court has entered the Preliminary Approval Order), the Claims Committee must cause all such objections to be filed with the Court. All responses by the Parties to objections shall be filed and served by first class mail on the objecting person or his or her attorney no later than ten (10) days before the Settlement Hearing. Any Settlement Class Member who does not serve an objection as described in the Notice and this Order shall be deemed to have waived any such objection by appeal, collateral attack, or otherwise.

17. Judge Marina Corodemus (Ret.) is approved as the Special Master for Allocation Appeals, to resolve the claims of any Settlement Class Members who dispute the award made to them by the Claims Committee.

18. The parties shall utilize any necessary procedures in order to ensure that the settlement complies with Pennsylvania state law regarding settlements by minors.

19. Nothing in this Order shall be construed as, or deemed to be, evidence of an admission or concession by the Released Parties as to the validity of any claim that was or could have been asserted or as to any liability by them as to any manner set forth in this Order. Neither this Order nor the MSA nor any other Settlement-related document shall constitute any evidence of admission of liability by the Released Parties, nor shall either the MSA, this Order or any other Settlement-related document be offered in evidence or used for any other purpose in this or any other matter or proceeding except as may be necessary to consummate or enforce the MSA or the

terms of this Order, or if offered by the Released Parties in, *inter alia*, responding to any action purporting to assert Released Claims; provided, however, the Released Parties may use such documents insofar as it may be necessary or appropriate to establish the terms thereof.

IT IS SO ORDERED.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge