

03-1791-CD

KAREN NICHOL, et al. vs. SCOTT McCARTINCH

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

KAREN NICHOL and :
WILLIAM K. NICHOL, III, Guardians :
of DANIEL NICHOL, a minor, :
Plaintiffs :
vs. : No. 03-1791-CJ
SCOTT McANINCH, :
Defendant : Type of Pleading: Petition for Leave to
Compromise Minor's Action
: Filed on behalf of: William K. Nichol, III
and Karen Nichol, Plaintiffs
: Counsel of Record for this party:
: DAVID J. HOPKINS, ESQUIRE
: Attorney at Law
: Supreme Court No. 42519
: 900 Beaver Drive
: DuBois, Pennsylvania 15801
: (814) 375-0300

FILED

DEC 03 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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:
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:
SCOTT McANINCH, :
Defendant :
:

PETITION FOR LEAVE TO COMPROMISE MINOR'S ACTION

AND NOW, comes Plaintiffs, Karen Nichol and William K. Nichol, III, husband and wife, and natural parents of Daniel Nichol, by and through their attorney, David J. Hopkins, Esquire, and petitions this Court to enter an Order permitting settlement in compromise of this action and in support thereof sets forth the following:

1. Petitioners, William K. Nichol, III and Karen Nichol, are the natural parents of Daniel Nichol who reside at R.D. #3, Box 61, DuBois, Clearfield County, Pennsylvania. Daniel Nichol is a minor with a date of birth of October 3, 1986. He is age 17.
2. The Respondent is Scott McAninch. Mr. McAninch is an adult individual with an address at Wilcox Road, P.O. Box 331, Johnsonburg, Pennsylvania 15845.
3. On January 26, 2002, Daniel Nichol was 15 years old. He was a passenger in a motor vehicle driven by his brother, William Nichol who was age 21. The Nichol boys were traveling south on Route 219 after a day of skiing. William Nichol was driving in his southbound lane within the posted speed limit. Respondent, Scott McAninch was operating a motor vehicle in a northerly direction along Route 219. Respondent left the northbound lane of

traffic and struck a southbound bus, careened off the bus and struck the Nichol motor vehicle head on. Photocopies of the motor vehicle are attached hereto.

4. Respondent, Scott McAninch, was arrested for driving under the influence of alcohol. He plead guilty and served two (2) days in the Clearfield County Jail. Inasmuch as Mr. McAninch was driving under the influence of alcohol, Daniel Nichol possessed a full tort case.

5. Daniel Nichol was a ninth grader at the DuBois Area High School at the time of the collision. He was taken from the scene to Elk County Regional Medical Center.

6. Daniel Nichol was examined at the Elk County Regional Medical Center where he was discharged. After some initial soreness, trepidation when driving a motor vehicle and sleep problems, he has completely recovered.

7. Daniel Nichol has not sought or required additional medical treatment outside the emergency room treatment he received on the night of the collision. He did not miss any school and nearly twenty-two (22) months post accident has suffered no problems. Daniel was and continues to be an "A" student and consistently qualifies for honor roll at the DuBois High School.

8. All medical expenses have been paid by the Nichol automobile first party benefits.

9. Defendant has offered to settle this case for payment of \$1,000.00. Petitioners believe this is a reasonable settlement in light of the hazards of litigation and the minimal injuries Daniel suffered in the collision.

10. In light of the small settlement, the Hopkins Law Firm has not charged any legal fee nor reimbursement for any expenses. Mr. McAninch's insurance company is paying the cost of the filing of this action.

WHEREFORE, your Petitioners, William K. Nichol, III and Karen Nichol, request the Court enter an Order approving the settlement in compromise and authorizing William K. Nichol, III and Karen Nichol, natural parents of Daniel Nichol, to sign and execute a full release to the Respondent and to his insurance company and further authorizing them to discontinue the case and ordering a distribution as set on the attached Order as the Court may deem appropriate.

Respectfully submitted,



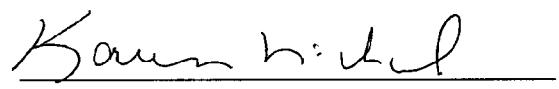
David J. Hopkins, Esquire

VERIFICATION

With full understanding that false statements herein are made subject to the penalties of
18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities, I verify that the
statements made in this pleading are true and correct.



William K. Nichol, III



Karen Nichol

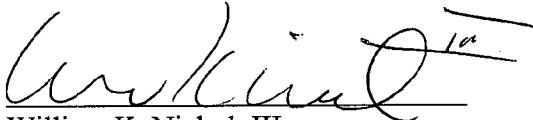
Dated: 12-2-03

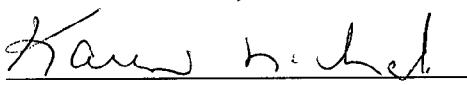
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AFFIDAVIT OF GUARDIAN IN SUPPORT OF PETITION
FOR LEAVE TO COMPROMISE MINOR'S ACTION

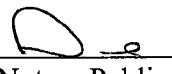
William K. Nichol, III and Karen Nichol, being duly sworn and according to law deposes and says that they are the mother and father of Daniel Nichol, who is presently seventeen (17) years of age; that the minor Plaintiff has recovered significantly from the injuries he sustained in an accident on January 26, 2002. Your Petitioners are cognizant of his current medical condition and that the Petitioners have reviewed the facts set forth on the attached Petition for minor's compromise and those facts are true and correct to the best of his and her knowledge, information and belief; and that Petitioners have reviewed the proposed settlement with counsel and recommend same to the Court.



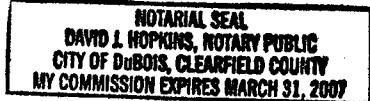
William K. Nichol, III


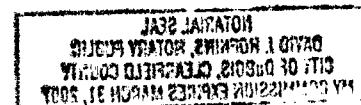
Karen Nichol

Sworn to and subscribed before
me this 2nd day of November, 2003
December



Notary Public





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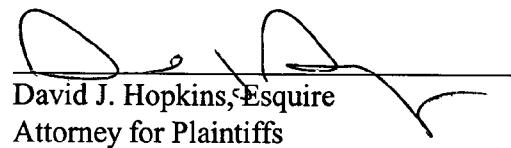
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CERTIFICATE OF SERVICE

AND NOW, this 3rd day of December, 2003, I, David J. Hopkins, Esquire, being duly sworn according to law, deposes and says that I served a certified copy of the Petition Leave for Compromise Minor's Action in the above-captioned matter, by depositing the same with the United States Postal Service, postage prepaid on the 3rd day of December, 2003 to the following:

Mr. Scott McAninch
Johnsonburg Road
Wilcox, PA 15870

Ms. Diane M. Warholak
The Phoenix Insurance Company
Travelers Insurance
P.O. Box 1538
Pittsburgh, PA 15230-1538



David J. Hopkins, Esquire
Attorney for Plaintiffs

FILED

Atty ad. 85.00

Oct 26 2003

DEC 03 2003

3cc Atty Hopkins

William A. Shaw
Prothonotary/Clerk of Courts

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:

ORDER APPROVING SETTLEMENT AND
DISTRIBUTION OF SETTLEMENT FUNDS

AND NOW, upon the Court's consideration of the foregoing Petition for Leave of Compromise of Minor's Action, filed by William K. Nichol, III and Karen Nichol, husband and wife, and natural parents of Daniel Nichol, age 17; and it appearing that the proposed settlement of \$1,000.00 to Daniel Nichol represents full and fair settlement of the case, recognizing the hazards of litigation, and is equal to or greater than that which may be obtained should the matter be litigate; and for good cause shown

It is on this 8th day of December, 2003, ORDERED and ADJUDGED as follows:

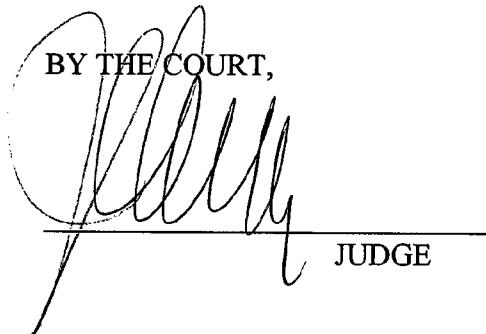
1. The compromised settlement is approved and William K. Nichol, III and Karen Nichol, husband and wife and natural parent of Daniel Nichol are authorized to execute a general release unto Scott McAninch and his insurance company in exchange for payment of \$1,000.00.

FILED

DEC 08 2003

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2. The settlement amount of \$1,000.00 and the full amount of \$1,000.00 shall be deposited in a financial institution pursuant to the Rules of Civil Procedure concerning minor's settlement as established by the Pennsylvania legislature and the Pennsylvania Supreme Court.

BY THE COURT,


JUDGE

FILED 2cc
10:06 AM
DEC 08 2003
Amy Hopkins
Clerk
William A. Shaw
Prothonotary/Clerk of Courts