

05-1390-CD
In Re: Casey Lynn Madinger

In Re: Casey Lynn Madinger et al
2005-1390-CD

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

IN RE: CASEY LYNN MADINGER,
by her parents and natural guardians,
Jeffrey Scott Madinger and
Cindy L. Madinger.

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) No. 05 -1390- -CD
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)

Type of Pleading:

**PETITION TO APPROVE
MINOR'S SETTLEMENT**

Filed By:

Plaintiff

Counsel of Record:

Theron G. Noble, Esquire
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D.#: 55942

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William A. Shaw
Prothonotary/Clerk of Courts

IN RE: CASEY LYNN MADINGER,)
by her parents and natural guardians,) No. 05 _____-CD
Jeffrey Scott Madinger and)
Cindy L. Madinger.)

NOW COMES, comes Casey Lynn Madinger, by and through her parents and natural guardians, Jeffrey Scott Madinger and Cindy L. Madinger, represented by Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows:

1. That Casey Lynn Madinger, born on November 1, 1990, will reach majority on November 1, 2008, resides, and at all times did reside with her parents and natural guardians, Jeffrey Scott Madinger and Cindy L. Madinger at their home located at 472 Woodward Rd., Huston Township (Penfield), Clearfield County, Pennsylvania.
2. On October 11, 2004, in the afternoon, Casey was riding her bicycle, in the proximity of her home, along State Route 255 in a northerly direction, but in the west berm of said road.
3. Cristy Henderson, upon information and belief, was operating an automobile on State Route 255, in a southerly direction, and the right mirror of said vehicle did strike Casey and her bicycle, knocking Casey to the ground.
4. That after the impact, Cristy Henderson did not stop, which resulted in a police investigation and a criminal prosecution, which upon information and belief has resulted in a plea agreement to some misdemeanor charge.

5. As a result of said collision, Casey, besides some minor bruises and contusions, did suffer a broken arm, which required casting, and scarring on Casey's left arm and stomach.
6. That the broken arm has properly healed and required only the normal procedure for treatment, i.e. casting, although Casey was directed and did go to specialized medical providers, being pediatric orthopedics providers in Pittsburgh because there was some initial concern about the type of fracture she had suffered.
7. That the scarring has somewhat dissipated, although still noticeable, it is hoped that with time the scarring will become even less visible.
8. That as a result of this accident, Cristy Henderson's insurance carrier, Bristol West, has offered to pay her policy limits, \$15,000, as settlement of this claim.
9. That although counsel for the Madingers' believe that this claim has slightly more value than the policy limits, it is believed that Cristy Henderson, who is now only 20 years of age herself, would be judgment proof and therefore recommended acceptance of the offer.
10. That the Madingers do not have "under-insurance" benefits on their own auto insurance policy such that the offer and payment of Cristy Henderson's policy limits will be the only compensation Casey receives.
11. Considering all of the relevant factors, Mr. and Mrs. Madinger do agree it is best to accept the offer of settlement and execute the general release required for settlement.
12. That as of this date no subrogation notice has been received concerning any medical bills for Casey's treatment, it being believed that all such bills were billed to the Madinger's first party auto benefits such that no subrogation exists.

13. That the Madingers do not seek any portion of this settlement to recoup lost income, travel expenses or out of pocket expenses associated with Casey's treatments.

14. That although counsel for the Madingers entered into the typical fee agreement calling for a 1/3 fee of any recovery, plus reimbursement for costs, he has agreed to reduce the same to 1/4 of the recovery and seeks \$42.82 as costs, representing those costs associated with retrieval of the various medical records.

15. That the funds will be maintained in a separate account, established for Casey and will remain in said account until Casey reaches 18 years of age, at which time the proceeds of the account, including any interest or other accumulation, will be given to her, unless otherwise ordered by the court..

16. That as such, Petitioners request this honorable court to approve this settlement, upon these circumstances, and approve distribution of the proceeds as follows: (i) for the benefit of Casey Lynn Madinger, to be held as herein stated, \$11,207.18; and (ii) Theron G. Noble, Esquire, \$3,792.82, representing fees and costs as herein stated.

17. That Bristol West has also graciously agreed to also pay the filing fee associated with the filing of this request for approval, said sum to be advanced by counsel for Mr. and Mrs. Madinger.

**WHEREFORE, Petitioners request the Court grant their PETITION TO
APPROVE SETTLEMENT.**

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'T. G. Noble', written over a horizontal line.

Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. #: 55942

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IN RE: CASEY LYNN MADINGER,
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ORDER

AND NOW this 8th day of September, 2005, upon

presentation of Petitioners' PETITION TO APPROVE SETTLEMENT, the Court hereby

ORDERS as follows:

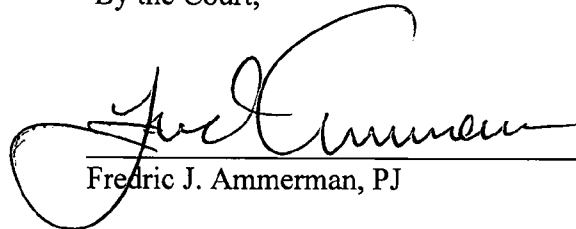
1) That Petitioners, being the parents and natural guardians of Casey Lynn Madinger shall accept the sum of \$15,000 as full and complete settlement of her claims against Cristy Henderson concerning an automobile/bicycle crash which occurred on October 11, 2004, along State Route 255 in Huston Township, Clearfield County, Pennsylvania; and

2) Said payment shall be made by Bristol West, the insurance carrier of Cristy Henderson to Theron G. Noble, Esquire, counsel for Petitioners, who shall distribute the same as follows:

A) \$3,792.82 to Theron G. Noble, Esquire, representing his fees at the rate of 1/4 and costs of \$42.82 for gathering and reproduction of medical records; and

B) \$11,207.18 to Jeffrey Scott Madinger and Cindy L. Madinger, as parents and natural guardians of Casey Lynn Madinger, which shall be held in a separate account in Casey's name and which shall remain in said account, along with interest and any other accumulation therefrom until Casey reaches the age of 18 years or further order of the Court.

By the Court,


Fredric J. Ammerman, PJ

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Atty Noble

William A. Shaw
Prothonotary/Clerk of Courts

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

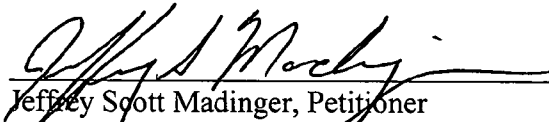
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VERIFICATION

We, Jeffrey Scott Madinger and Cindy L. Madinger, Petitioners, do hereby swear and affirm that we have read the foregoing PETITION TO APPROVE SETTLEMENT and that the averments therein contained are true and correct to the best of our knowledge, information and belief. Furthermore, we are over the age of 18 years of age and we give this unsworn statement knowing it is to authorities and subject to the penalties of 18 Pa.C.S.A. 4901.

So made this 8th day of September, 2005.

By,


Jeffrey Scott Madinger, Petitioner


Cindy L. Madinger, Petitioner