

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

IN RE:

NO. 07-00001

**RESCISION OF MONTGOMERY COUNTY LOCAL RULE OF CIVIL
PROCEDURE 2039(a)* - COMPROMISE, SETTLEMENT, DISCONTINUANCE
AND DISTRIBUTION**

**ADOPTION OF MONTGOMERY COUNTY LOCAL RULE OF CIVIL
PROCEDURE 2039(a)* - MINOR'S COMPROMISE**

ORDER

OFFICE OF THE
PROTHONOTARY
MONTGOMERY COUNTY, PA
07 MAY 24 AM 11:33

AND NOW, this 23rd day of May, 2007, the Court rescinds Montgomery County Local Rule of Civil Procedure 2039(a)* - Compromise, Settlement, Discontinuance and Distribution, and approves and adopts the attached Montgomery County Local Rule of Civil Procedure 2039(a)* - Minor's Compromise. This Amendment shall become effective thirty days after publication in the *Pennsylvania Bulletin*.

The Court Administrator is directed to publish this Order once in the Montgomery County Law Reporter and in The Legal Intelligencer. In further conformity with Pa.R.C.P. 239, seven (7) certified copies of the within Order shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) certified copy shall be filed with the Civil Procedural Rules Committee. One (1) copy shall be filed with the Prothonotary, one (1) copy with the Clerk of Courts, and (1) copy with the Court Administrator of Montgomery County, one (1) copy with the Law Library of Montgomery County and one (1) copy with each Judge of this Court.

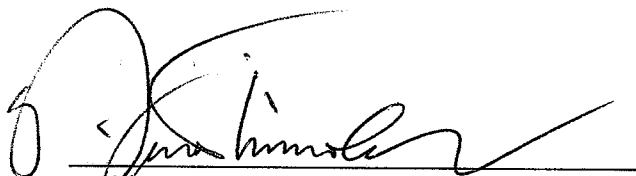
BY THE COURT:

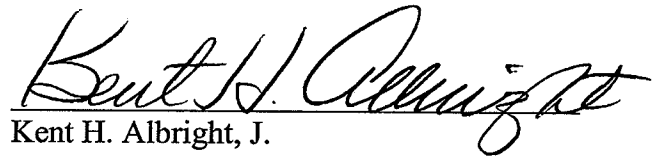
CERTIFIED FROM THE RECORDS OF THE
PROTHONOTARY, COURT OF COMMON PLEAS,
MONTGOMERY COUNTY, PA.

WILLIAM E. DONNELLY, PROTHONOTARY

DATE: 5/24/07 Hepones CLERK


RICHARD J. HODGSON, P.J.

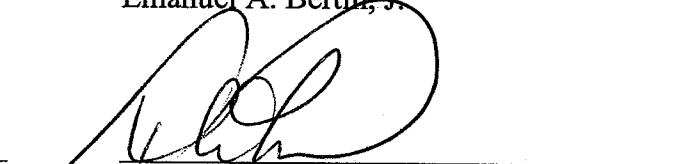

William T. Nicholas, J.


Kent H. Albright, J.

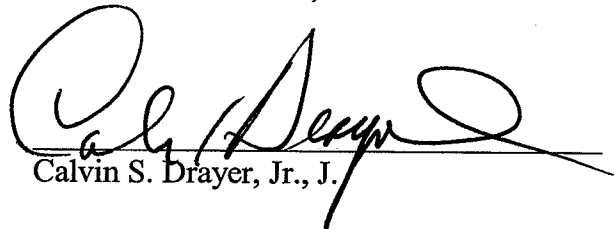
Paul W. Tressler, J.


Emanuel A. Bertin, J.

Joseph A. Smyth, J.


Thomas M. DelRicci, J.

S. Gerald Corso, J.



Calvin S. Drayer, Jr., J.


Stanley R. Ott, J.

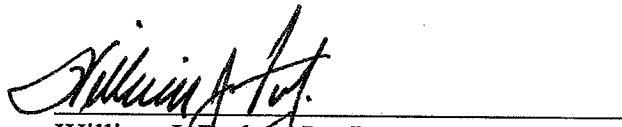
R. Stephen Barrett, J.

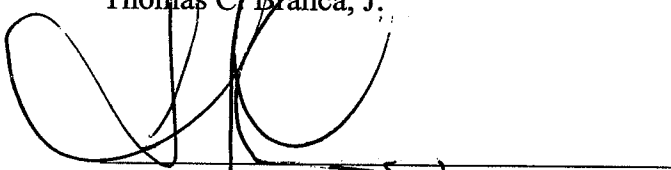

Maurino J. Rossanese, Jr., J.

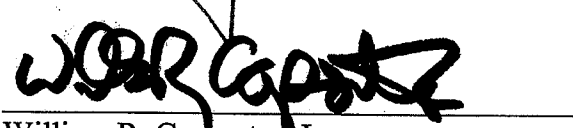

Arthur R. Tilson, J.

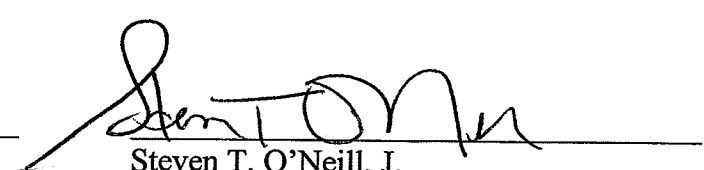

Bernard A. Moore, J.

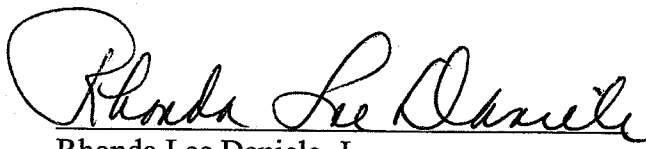
Thomas C. Branca, J.

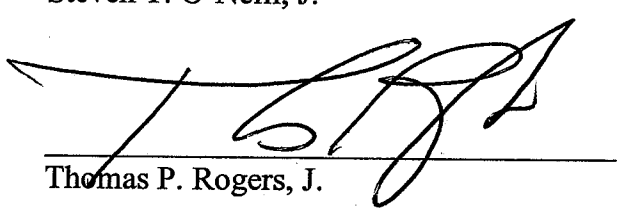

William J. Furber, Jr., J.


Toby Lynn Dickman, J.


William R. Carpenter, J.


Steven T. O'Neill, J.


Rhonda Lee Daniele, J.


Thomas P. Rogers, J.

Rule 2039(a)*. Compromise, Settlement, Discontinuance and Distribution.

Rescinded.

Rule 2039(a)*. Minor's Compromise.

No personal injury action in which a minor has an interest shall be settled without court approval.

(1) Contents of Petition, Exhibits, and Proposed Decrees:

(A) Petition. A petition for approval of settlement shall set forth:

- (1) The date of birth, social security number, and address of the minor plaintiff, the name and address of the minor's parent(s) or guardian(s);
- (2) The facts out of which the cause of action arose;
- (3) The elements and items of damages sustained;
- (4) A list of all expenses incurred or to be incurred, whether or not they have been paid, by whom payment was made, and arrangements for payment of unpaid bills;
- (5) Any limits on the financial responsibility of the defendant(s);
- (6) A statement as to whether or not a lien or claim has been raised on behalf of any health care supplier, medical supplier, health insurer, worker's compensation carrier or government entity, including the Department of Public Welfare;
- (7) The fees of counsel, which shall not exceed 25% of the present value of a structured settlement, or 25% of the gross recovery of any other settlement, unless counsel has rendered extraordinary services;
- (8) The present status of the minor's health and injuries; and
- (9) Any other circumstances relevant to the propriety of granting the petition.

(B) Exhibits. The petition shall also contain the following exhibits:

- (1) A written report from attending health care providers stating the extent of the injury, the treatment given and the prognosis for the injured minor, except that in cases where the gross settlement does not exceed \$5,000.00, or in other cases where the Court is satisfied that the treating physician's office notes and/or records set forth adequately the injury, the treatment given and the prognosis, such notes and/or records may be provided in lieu of a written report;
- (2) The written consent of the minor, if (s)he is sixteen (16) years of age or older; and
- (3) Copies of counsel's time sheets and other supporting documentation showing the nature and extent of services rendered, if counsel is claiming fees in excess of 25%.

(C) **Decrees.** If the gross settlement exceeds \$2,500.00, counsel shall submit both a preliminary decree setting a hearing date and a proposed final decree setting forth the proposed distribution of the settlement proceeds. If the gross settlement is \$2,500.00 or less, counsel need submit only the proposed final decree.

- (2) **Filing of Petition.** In any action where a civil suit has been initiated by writ of summons or complaint, the petition shall be filed with the Prothonotary under the caption of the civil suit. No motions court cover sheet is required. In any action where no civil suit has been initiated, the petition shall be filed with the Clerk of the Orphans' Court under the caption "ABC, a minor."
- (3) **Hearing.** All petitions for gross settlements in excess of \$2,500.00 shall be set for hearing before a Judge of the Orphans' Court. The minor's presence is required at the hearing, unless (s)he is excused by the Court for cause shown. Petitions for settlements of \$2,500.00 or less may be approved without hearing, unless the Judge assigned to the matter, in his or her discretion, determines that a hearing is necessary.
- (4) **Affidavit of Deposit.** When a compromise settlement is approved by the Court, an Affidavit of Deposit of Minor's Funds shall be filed with the division of the Court where the petition was filed within 30 days of the date of the order approving the settlement. The Affidavit shall be substantially in the following form:

See Form
