

SETTLEMENT AGREEMENT

THIS AGREEMENT is made as of the 16th day of November, 2005, by and between the **STATE OF NEW JERSEY** (the "State") and **WILLIAM M. TAMBUSSI, ESQ.**, **Guardian Ad Litem** for **BRUCE L. JACKSON**, whose address is Brown and Connery 360 Haldon Avenue, Westmont, New Jersey 08108 ("Guardian Ad Litem").

WHEREAS, Bruce L. Jackson, an incapacitated person, is represented by Michael Critchley, Esq. and intervened pursuant to an Order dated November 16, 2005, in a legal proceeding initiated by K.J., T.J. and M.J. Jackson venued in the United States District Court, District of New Jersey (Civil No.: 04-CV-3553) against the State, the New Jersey Division of Youth and Family Services, the New Jersey Department of Human Services; and other defendants; and

WHEREAS, the Guardian Ad Litem was appointed by the Honorable Joel B. Rosen, U.S.D.J., United States District Court, District of New Jersey, pursuant to an Order dated November 16, 2005, to represent **BRUCE L. JACKSON** in all matters pertaining to his property, including the execution of this Agreement;

WHEREAS, **KIMBERLY R. FRIEND**, Chief of the Bureau of Guardianship Services, was appointed as the Temporary Guardian of **BRUCE L. JACKSON** (the "Guardian") pursuant to an Order dated December 24, 2004;

WHEREAS, in an effort to avoid a costly trial, the State and the Guardian Ad Litem desire to amicably resolve the Action;

WHEREAS, the parties enter into this Agreement without the admission of liability by any party; and

WHEREAS, the State and the Guardian Ad Litem wish to memorialize the terms of their agreement.

NOW THEREFORE, in consideration of the promises and mutual covenants herein contained, the parties agree as follows:

1. **Distribution of Settlement to Trust.** In order to compensate Bruce L. Jackson for various personal physical injuries he has suffered, the State shall pay for the benefit of Bruce L. Jackson, a gross cash sum in the amount of \$5,000,000.00, the net amount (after deducting court approved costs and fees) of which shall be deposited in the BRUCE L. JACKSON SPECIAL NEEDS TRUST DATED November 16, 2005 (the "Trust"), a copy of which is attached hereto as Exhibit A.

2. **Continuity of Care.** Bruce L. Jackson is currently receiving medical care from several physicians and other caregivers for a variety of conditions.¹ Bruce L. Jackson and his Guardian Ad Litem are highly satisfied with the quality of the medical care that is currently being provided. It is the intention of all parties that Bruce L. Jackson continue to receive this level of care through Medicaid from the current treating physicians. The parties agree that Medicaid is primarily responsible for providing medical care and services to Bruce L. Jackson. If, however, continuation of such quality care is not available under Medicaid for any reason, and the Trustee of the Trust determines that it is in Bruce's best interest that any and all provisions of care are paid for privately rather than through the Medicaid program, or any other public benefit program, the Trustee is authorized in its sole and absolute discretion to pay for such needs from the principal and income of the trust and the Trustee shall be held harmless for having made such payments notwithstanding that such services may have been available through the Medicaid

¹ In order to maintain the privacy rights of Bruce L. Jackson and the confidentiality of his medical treatment, the identities of the treating physicians and the related conditions that they are treating are being filed with the Court under seal.

program or other public benefit program.

3. **Existing Medicaid Liens.** The State shall waive any and all Medicaid liens and rights of reimbursement with respect to any and all Medicaid benefits provided to Bruce L. Jackson from the time of his birth up to and including the date of the execution of this Agreement.

4. **Attorneys Fees.** Michael Critchley, Esq., counsel to Bruce L. Jackson, has agreed to prosecute Bruce L. Jackson's case on a *pro bono* basis. Therefore, Michael Critchley and his firm, Michael Critchley and Associates, have voluntarily agreed to waive any potential legal fees they may have earned in this case. Michael Critchley, Esq. and Michael Critchley and Associates will be reimbursed for costs incurred in connection with this case. These costs include, but are not limited to, the fee associated with retaining the law firm Mantell & Prince, P.C., to structure and prepare this Agreement and the Trust, as well as any necessary ancillary documents.

5. **Approval Contingent on Court Approval.** The State and the Guardian Ad Litem agree that their willingness to enter into this Agreement is contingent upon the approval of Magistrate Judge Joel B. Rosen, following a hearing conducted in a manner akin to a "friendly" hearing conducted pursuant to New Jersey Court Rule 4:44-3, of each and every provision of this Agreement. In the event that Magistrate Judge Joel B. Rosen declines to approve any of the provisions of this Agreement or declines to approve any of the terms of the trust as set forth in Exhibit A, this entire Agreement shall be null and void.

6. **Continuing Jurisdiction; Exclusive Forum.** The State and the Guardian Ad Litem agree that the United States District Court for the District of New Jersey (the "DNJ") shall retain jurisdiction over the Action and shall continue to be empowered to compel compliance

with the terms and provisions of this Agreement. The parties agree that the DNJ shall be the sole and exclusive forum for any proceeding to enforce this Agreement and consent to the disposition of any such proceeding by Magistrate Judge Joel B. Rosen. The prevailing party in any proceeding to enforce this Agreement shall be entitled to an award of attorney's fees, litigation expenses, and court costs against the non-prevailing party.

7. **Limited Releases.** The State and the Guardian Ad Litem agree to execute, simultaneously with the execution of this Agreement, the limited releases attached hereto as Exhibit B.

8. **Choice of Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of New Jersey as if the Agreement were performed wholly within such State and without regard to its conflict of laws principles and the venue of this matter shall be Camden County, New Jersey.

9. **Counsel.** By signing this Agreement, the parties acknowledge and agree that:

a. they have been afforded a reasonable and sufficient period of time to review and deliberate on this Agreement;

b. they have consulted with and been represented by counsel of their choice in connection with this matter, or have declined to retain counsel;

c. they have carefully read and understand the terms of this Agreement, which they have reviewed with their counsel, if any;

d. they have signed this Agreement freely and voluntarily and without duress and coercion and with full knowledge of its significance and consequences and of the rights relinquished and released hereunder;

e. they will cooperate in carrying out the terms of this Agreement; and

f. the only consideration for signing this Agreement are the terms stated herein, and no other promises, agreements or representations of any kind have been made to induce them to sign this Agreement.

10. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. If this Agreement is executed in counterparts, no signatory hereto shall be bound until each of the parties signs the agreement.

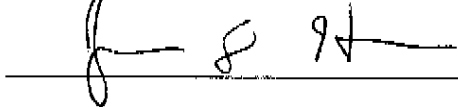
11. **Entire Agreement.** This Agreement contains the entire agreement of the parties regarding the subject matter hereof and supersedes all prior agreements, understandings and negotiations regarding the same.

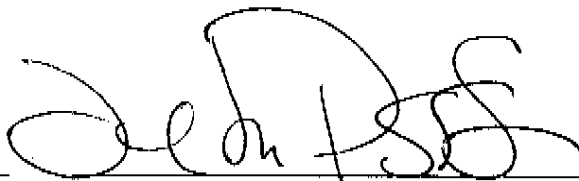
12. **Successors and Heirs.** This Agreement shall be binding upon the parties and their successors, heirs, assigns, personal representatives and transferees.

13. **Waiver, Alteration or Modification.** Any waiver, alteration or modification of any of the provisions of this Agreement or cancellation or replacement of this Agreement, shall not be valid unless in writing and signed by the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

WITNESS:





WILLIAM M. TAMBUSI, ESQ.,
Guardian Ad Litem for BRUCE L. JACKSO

ATTEST:

JAMES M. DAVY
Commissioner, Department of Human Services

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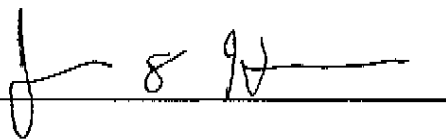
Jane E. McHenry

Jim Davy

JAMES M. DAVY
Commissioner, Department of Human Services

ATTEST:

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Defendants



A handwritten signature in black ink, appearing to read 'P. C. Harvey', is written above a solid horizontal line.



A handwritten signature in black ink, appearing to read 'Howard J. McCoach', is written above a solid horizontal line.

HOWARD J. McCOACH
Assistant Attorney General

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