

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

GILBERTO LOPEZ, by and through the)	
CUMBERLAND TRUST AND)	
INVESTMENT COMPANY, as next friend)	3:07-CV-799
and trustee of THE GILBERTO KELLY)	
LOPEZ IRREVOCABLE TRUST,)	JURY DEMAND
)	
Plaintiff,)	Judge Echols
)	
v.)	Magistrate Judge Griffin
)	
GENESIS LEARNING CENTERS,)	
)	
Defendant.)	

JOINT PETITION FOR AN ORDER APPROVING MINOR SETTLEMENT

Come the Petitioners, Plaintiff Cumberland Trust and Investment Company ("Plaintiff") and Defendant Genesis Learning Centers ("Defendant"), by and through counsel, and respectfully petition this Court for an Order approving a settlement between the parties. As support, the Petitioners would show as follows:

1. Following an extended jury trial resulting in a verdict in Defendant's favor, the Petitioners each filed appeals to U.S. Court of Appeals for the Sixth Circuit. As part of the appellate process, the Petitioners participated in a mediation telephone conference pursuant to Rule 33, Rules of the Sixth Circuit. As a result of initial discussions under this process, the Petitioners have reached an agreement to settle this matter, subject to approval by this Court, without continued appeal.

2. Prior to the trial of this cause, the Plaintiff reached a settlement with then-Defendant the Metropolitan Government of Nashville and Davidson County ("Metropolitan Government"). (Docket Entry No. 502) This settlement, which provided for the Metropolitan

Government to pay Plaintiff \$1,475,000.00, was approved by the Honorable Robert L. Echols, United States District Judge.

3. While Defendant continues to adamantly deny any liability whatsoever to the Plaintiff and/or Gilberto Lopez for the actions/inactions described in the Plaintiff's Complaint, the Petitioners acknowledge that continued appeal of the jury's verdict in this case will require them to accrue additional attorney's fees and litigation expenses. As a result, it is in the Petitioners' mutual interest to settle this case, if this Court is agreeable, for payment by Defendant to the Plaintiff in the amount of \$25,000.00.

4. Based upon all that is known and reasonably could have been discovered, Petitioners respectfully submit that settlement of this case upon payment by the Defendant to the Plaintiff in the amount of \$25,000.00 is manifestly in the best interest of Gilberto Lopez, especially given the previous settlement with the Metropolitan Government. The parties to this settlement would also show that all liens have been satisfied through the previous settlement and Plaintiff will indemnify and hold the Defendant harmless therefrom any remaining liens, to the extent they exist, if any.

5. In accordance with the foregoing, the Plaintiff will dismiss its appeal with prejudice, Defendant will dismiss its cross appeal with prejudice, and the cost bill will be waived.

6. As further support for this Petition, the Petitioners incorporate herein by reference the previous Petition for an Order Approving Minor Settlement filed by the Plaintiff. (Docket Entry No. 502)

For the reasons stated above, therefore, the Petitioners move this Court to approve the settlement as herein described and specifically authorized payments of the following amounts:

- | | | |
|----|---|-------------|
| 1. | To Cumberland Trust | \$25,000.00 |
| 2. | To Blackburn, McCune,
Happell & Zenner, PLLC | \$ 0 |

Respectfully submitted,

s/ Ben M. Rose

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically on this 30th day of August, 2010. Notice of this filing will be sent by operation of the Court's Electronic Filing System to all parties listed below. Parties may access this filing through the Court's Electronic Filing System.

s/ Ben M. Rose

Ben M. Rose