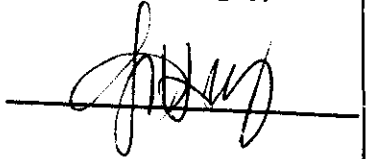


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ORIGINAL

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

AUG 24 2007



AUG 27 2007

6 Telephone: (951) 789-1832
7 Facsimile: (951) 789-1480

8 Attorney for Defendants, MATTHEW GREY,
9 RICK GAY and KASIA GAY

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF RIVERSIDE

12 TEDD W. MASON,)
13)
14 Plaintiffs,)
15 vs.)
16 MATTHEW GREY, RICK GAY, KASIA GAY,)
17 RIVERSIDE UNIFIED SCHOOL DISTRICT,)
18 Defendants.)

CASE NO: RIC 443002

Assigned for all purposes to:
Hon. Edward D. Webster, Dpt 5

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR SUMMARY
JUDGMENT AND/OR SUMMARY
ADJUDICATION BY DEFENDANTS
RICK GAY AND KASIA GAY**

DATE: 11/15/07
TIME: 8:30 AM
DEPT: 05

Complaint filed: 1-10-06
Trial: 12-17-07

19 ///
20 //
21 /

1 **INTRODUCTION**

2 This is a personal injury case brought by Tedd Mason with regard to injuries that he allegedly
3 sustained during an altercation with Defendant Matthew Grey. In addition to suing Matthew Grey, Plaintiff
4 also sued the Riverside Unified School District and Matthew Grey’s parents, Rick Gay and Kasia Gay.

5 Plaintiff’s complaint contains eight purported causes of action. Only one of those causes of action
6 is directed toward the moving parties, Rick Gay and Kasia Gay, the Sixth Cause of Action for “liabilityL
7 of Parent for Torts of Minor under California Civil Code, Section 1714.1(A).” [See Plaintiff’s Complaint,
8 page 13.] In the Sixth Cause of Action, Plaintiff alleges that Defendants Rick and Kasia Gay are liable
9 for Defendant Matthew Grey’s willful misconduct pursuant to Civil Code, Section 1714.1.

10 Civil Code Section 1714.1(A) provides that any willful misconduct of a minor which results in the
11 injury or death of another person shall be imputed to the parent or guardian having custody or control of
12 the minor for all purposes of civil damages. However, the liability imposed under 1714.1 of the Civil Code
13 is limited to \$25,000 and is further limited “to medical, dental, and hospital expenses incurred by the
14 injured person, not to exceed \$25,000.” See Civil Code Section 1714.1(a).

15 On May 6, 2006, Plaintiff filed a Statement of Damages indicating that the Plaintiff had medical
16 expenses totaling \$4,836.00 [See Exhibit A].

17 On or about July 11, 2007, Plaintiff entered into a settlement with the Riverside Unified School
18 District whereby the District agreed to pay Plaintiff the total sum of \$75,000.00. [See Exhibit B].

19 By reason of the settlement with the Riverside Unified School District, all remaining Defendants
20 including the moving parties have a right of off set. See CCP § 877(a)Further, the amount of the
21 settlement (\$75,000.00) exceeds the amount of medical expenses recoverable by Plaintiff against Rick and
22 Kasia Gay under Civil Code Section 1714.1(a). Therefore, Defendants Rick and Kasia Gay are entitled
23 to judgment as a matter of law.

24 **ARGUMENT**

25 Code of Civil Procedure § 437c(a) provides that any party may move for summary judgment in any
26 action if it is contended that the action has no merit. Subsection (f)(1) provides that a party may move for
27 summary adjudication as to one or more causes of action within an action if that party contends that the

1 cause of action has no merit.

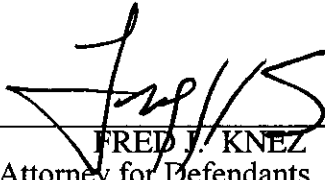
2 Code of Civil Procedure § 437c(c) provides that the motion shall be granted if all of the papers
3 submitted show that there is no triable issue as to any material fact and that the moving party is entitled
4 to judgment as a matter of law.

5 In this case, Defendants Kasia Gay and Rick Gay are entitled to Judgment has a matter of law on
6 the Sixth Cause of Action since the Sixth Cause of Action is limited to recovery of medical expenses and
7 Plaintiff's entire claim for medical expenses is off set by the settlement with the Riverside Unified School
8 District.

9 DATED: August 24, 2007

Respectfully submitted,

10
11 BY: _____



FRED J. KNEZ
Attorney for Defendants, MATTHEW GREY,
RICK GAY and KASIA GAY

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

3 I am employed in the County of Riverside, State of California. I am over the age of 18 years and
4 not a party to the within action; my business address is: 18493 Halter Lane, PO Box 70090, Riverside, CA
5 92513.

6 On August 24, 2007, I served the foregoing document described as **MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT AND/OR SUMMARY
7 ADJUDICATION BY DEFENDANTS RICK GAY AND KASIA GAY** on all parties to this action by placing a
8 true copy thereof enclosed in a sealed envelope addressed as follows:

9 **WILLIAM C. KENNEDY, ESQ.**
10 **KENNEDY JIMENEZ & PANKRATZ**
4001 Eleventh St.
Riverside, CA 92501
Fax: 951-784-8930 Ph: 951-784-8920

Attorneys for Plaintiff, TEDD W. MASON

11 **THOMPSON & COLEGATE**
12 John W. Marshall/Lisa V. Todd
13 3610 Fourteenth St.
14 PO Box 1299
Riverside, CA 92502
Fax: 951-681-4012 Ph: 951-682-5550

Attorneys for Defendant: RIVERSIDE UNIFIED
SCHOOL DISTRICT

15 _____(BY FACSIMILE TRANSMISSION) I caused said document to be served via facsimile
transmission on the parties as noted above.

16 _____(BY PERSONAL DELIVERY) I caused said document to be served via personal delivery on the
17 parties as noted above.

18 XXXXX(BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United
States mail at Riverside, California.

19 _____(BY FED EXP) I placed a true and correct copy thereof in Federal Express envelope(s) with air
20 bill(s) addressed as indicated above, sealing said envelopes, and placing them for collection by Federal
21 Express on that same date following the ordinary business practices of the Law Offices of Fred J. Knez,
at its place of business at Riverside, California.

22 I am readily familiar with the firm's practice of collection and processing correspondence
23 for mailing. Under that practice it would be deposited with the US Postal service or at a
collection box of Federal Express which ever is noted above on the same day in the
ordinary course of business.

24 (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true
25 and correct. Dated August 24, 2007, at Riverside, California.

26 
27 MYRA L. KNEZ