

490  
P-10  
(6)B

NO. 2008-66845

MISTY LYNN CAMPOS, §  
INDIVIDUALLY AND AS §  
REPRESENTATIVE OF THE §  
ESTATE OF HER MINOR SON, §  
CONAR MATTHEW ROSE §  
  
VS. §  
  
NEW SUN COAST APARTMENTS, §  
L.L.C. AND NANIK BHAGIA §

**FILED**  
IN THE DISTRICT COURT OF HARRIS COUNTY, TEXAS  
District Clerk  
AUG 19 2009  
Time: \_\_\_\_\_  
By \_\_\_\_\_  
Harris County, Texas  
Deputy  
HARRIS COUNTY, TEXAS  
113<sup>th</sup> JUDICIAL DISTRICT

**FINAL JUDGMENT**

On the \_\_\_ day of \_\_\_\_\_, 2009, came on to be heard the above entitled and numbered cause wherein MISTY LYNN CAMPOS, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF HER MINOR SON, CONAR MATTHEW ROSE AND JUAN CAMPOS AS NEXT FRIEND OF DRAVEN XAVIER CAMPOS AND TRISTAN HUNTER CAMPOS, MINOR CHILDREN are Plaintiffs, CHRISTOPHER ROSE, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF HIS MINOR SON, CONAR MATTHEW ROSE is Intervenor and NANIK BHAGIA and VISTA BONITA APARTMENTS D/B/A VISTA BONITA APARTMENT, AND NEW SUN COAST APARTMENTS, L.L.C. are Defendants.

All parties appeared in person or by and through their attorneys of record.

It was announced to the Court that, subject to the approval of the Court, settlement had been reached amongst the parties. Under the terms of the settlement agreement, Defendants, NANIK BHAGIA and VISTA BONITA APARTMENTS D/B/A VISTA BONITA APARTMENT, and Plaintiff, MISTY LYNN CAMPOS, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF HER MINOR SON, CONAR MATTHEW ROSE and Intervenor, CHRISTOPHER

ROSE, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF HIS MINOR SON, CONAR MATTHEW ROSE have agreed to a full and final settlement of all matters involved herein.

This settlement agreement fully and finally disposes of all matters involved herein, and all injuries and damages claimed or which could have been claimed by any Plaintiff and Intervenor in this cause, in any capacity, as a result of the incident made the basis of this suit.

It having appeared to the Court that a possible conflict of interest may exist between the minor Plaintiffs, DRAVEN XAVIER CAMPOS AND TRISTAN HUNTER CAMPOS, Minors, and Plaintiffs, MISTY LYNN CAMPOS AND JUAN CAMPOS, the Court has appointed NORMAN ROSER, a licensed attorney in Texas, as the Guardian Ad Litem to represent the interests of the minor child Plaintiffs.

The settlement agreement having been made known to the Court, the Court thereupon called for further evidence upon such agreement, and, after hearing the evidence pertaining to the manner in which the incident occurred, the liability and fault of the parties, if any, the nature and extent of all injuries sustained by Plaintiffs, and after hearing all other evidence pertaining to the matters involved herein, the Court is of the opinion that such settlement agreement is in the best interest of the minors, DRAVEN XAVIER CAMPOS AND TRISTAN HUNTER CAMPOS. The Court hereby approves the settlement agreement whereby *Defendants will be and are hereby fully and finally released, discharged, and dismissed with prejudice as to any and all claims that have been brought or could have been brought in the past, and which may have accrued before entry of this judgment or which may accrue in the future after entry of this judgment arising from the accident of October 27, 2008.*

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Intervenor, CHRISTOPHER ROSE, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF HIS MINOR SON, CONAR MATTHEW ROSE, take nothing by reason of this suit.

As part of the settlement agreement between the parties, Defendants have agreed to pay Plaintiffs a periodic payment settlement plan. It is ORDERED that said periodic payment settlement plan shall be payable as follows:

1. **CASH At the Time of Settlement:**

For MISTY CAMPOS INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF HER MINOR SON, CONOR MATTHEW ROSE, the sum of \$507,000.

2. **PERIODIC PAYMENTS:**

Periodic Payments by Acceptance Indemnity Insurance Company, (“ACCEPTANCE”), or by their qualified assignee, Prudential Assigned Settlement Services Corporation, (“PASSCorp”), as provided in paragraph (6) below,

a. Lifetime Periodic Payments to MISTY CAMPOS, (born 08/25/1980), as follows:

Commencing October 1, 2009 at the rate of \$599.87 per month for 360 equal and consecutive monthly payments certain, or for the remaining lifetime of MISTY CAMPOS, whichever is longer.

b. Periodic Payments to DRAVEN XAVIER CAMPOS, the minor Plaintiff (born 12/27/2000) as follows:

Commencing July 1, 2019, at the rate of \$4,450.26 semi-annually, for 10 equal and consecutive semi-annual payments certain only (i.e 5 years certain).

c. Periodic Payments to TRISTAN HUNTER CAMPOS, the minor Plaintiff (born 12/27/2000) as follows:

Commencing July 1, 2019, at the rate of \$4,450.26 semi-annually, for 10 equal and consecutive semi-annual payments certain only (i.e 5 years certain).

3. **Nature of Payment:** RELEASING PARTIES presently intend and contemplate that all of the sums and payments made pursuant to this Agreement constitute damages on account of personal injury or sickness in a case involving physical injury or sickness within the meaning of §130(c) and 104(a)(2) of the Internal Revenue Code of 1986, as amended, arising from the Accident stated in Section I, Paragraph A of this Agreement. The RELEASING PARTIES represent that they will rely on the judgment and advice of their counsel or accountant with respect to the tax consequences of this Agreement and have not relied on any representation made by NANIK BHAGIA, VISTA BONITA APARTMENTS D/B/A VISTA BONITA APARTMENT AND NEW SUN COAST APARTMENTS, L.L.C. in this regard. The parties to this agreement intend that no portion of these amounts represent compensation for punitive damages as defined by the Internal Revenue Code of 1986, as amended.

4. **Periodic Payments are Fixed and Determinable.** The Periodic Payments described in

Paragraph (2) of this section are fixed and determinable as to amount and frequency of payment. Further, Plaintiffs (or by any other person(s) who become a recipient or successor payee of Periodic Payments pursuant to Paragraph (5) hereof or by operation of law) acknowledge that none of the Periodic Payments, and no rights to or interest in any of the Periodic Payments, (all of the foregoing being hereinafter collectively referred to as "Payment Rights") can be:

- a. Accelerated, deferred, increased or decreased by any recipient of any of the Periodic Payments; or,
- b. Sold, assigned, pledged, hypothecated or otherwise transferred or encumbered, either directly or indirectly, unless such sale, assignment, pledge, hypothecation or other transfer or encumbrance (any such transaction being hereinafter referred to as a "Transfer") has been approved in advance in a "Qualified Order" as defined in Section 5891(b)(2) of the Code (a "Qualified Order") and otherwise complies with applicable state law, including without limitation any applicable state structured settlement protection.
- c. Neither Plaintiff, nor any successor payee shall have the power to affect any Transfer of Payment Rights except as provided in sub-paragraph (4)(b) above, and any other purported Transfer of Payment Rights shall be wholly void, invalid and unenforceable. If Payment Rights under this Agreement become the subject of a Transfer approved in accordance with sub-paragraph (4)(b) above, the rights of any direct or indirect transferee of such Transfer shall be subject to the terms of this Agreement and any defense or claim in recoupment arising hereunder.

5. **Contingent Beneficiary Provisions for Periodic Payments:**

- a. Any payments as described in paragraph (2)(a) of this section, to be made after the death of MISTY CAMPOS pursuant to the terms of this Agreement, shall be made to such person(s) or entity as shall be designated in writing by MISTY CAMPOS, or if no such written designation is provided, or if the person(s) designated is(are) not living at the time of MISTY CAMPOS's death, such payments shall be made to the estate of MISTY CAMPOS. No such designation, nor any revocation thereof, shall be effective unless it is in writing and delivered to **ACCEPTANCE**, or in the event of a Qualified Assignment more fully described in Paragraph (6) below, to PASSCorp as **ACCEPTANCE**'s qualified Assignee. The designation must be in a form acceptable to **ACCEPTANCE** or **PASSCorp**, before such payments are made, but in no event shall the request of the payee be unreasonably withheld or denied.
- b. Should DRAVEN XAVIER CAMPOS die during his period of minority, any as yet unpaid periodic payments as described in Paragraph (2)(b) of this section, shall be payable to the Estate of DRAVEN XAVIER CAMPOS. However, upon attaining his majority, DRAVEN XAVIER CAMPOS may name his Beneficiary(s) to receive any as yet unpaid periodic payments that may be due and payable after his death. Upon

attaining his majority, any remaining periodic payments due after the death of DRAVEN XAVIER CAMPOS as described in Paragraph (2)(b) of this section, shall be made to such person(s) or entity as shall be designated in writing by DRAVEN XAVIER CAMPOS, or if no such written designation is provided, or if the person(s) designated is(are) not living at the time of DRAVEN XAVIER CAMPOS's death, such payments shall be made to the Estate of DRAVEN XAVIER CAMPOS. No such designation, nor any revocation thereof, shall be effective unless it is in writing and delivered to **ACCEPTANCE**, or in the event of a Qualified Assignment more fully described in Paragraph (6) below, PASSCorp as **ACCEPTANCE**'s qualified Assignee. The designation must be in a form acceptable to **ACCEPTANCE** or **PASSCorp** before such payments are made, but in no event shall the request of the payee be unreasonably withheld or denied.

- c. Should TRISTAN HUNTER CAMPOS die during his period of minority, any as yet unpaid periodic payments as described in Paragraph (2)(c) of this section, shall be payable to the Estate of TRISTAN HUNTER CAMPOS. However, upon attaining his majority, DRAVEN XAVIER CAMPOS may name his Beneficiary(s) to receive any as yet unpaid periodic payments that may be due and payable after his death. Upon attaining his majority, any remaining periodic payments due after the death of TRISTAN HUNTER CAMPOS as described in Paragraph (2)(c) of this section, shall be made to such person(s) or entity as shall be designated in writing by TRISTAN HUNTER CAMPOS, or if no such written designation is provided, or if the person(s) designated is(are) not living at the time of TRISTAN HUNTER CAMPOS's death, such payments shall be made to the Estate of TRISTAN HUNTER CAMPOS. No such designation, nor any revocation thereof, shall be effective unless it is in writing and delivered to **ACCEPTANCE**, or in the event of a Qualified Assignment more fully described in Paragraph (6) below, PASSCorp as **ACCEPTANCE**'s qualified Assignee. The designation must be in a form acceptable to **ACCEPTANCE** or **PASSCorp** before such payments are made, but in no event shall the request of the payee be unreasonably withheld or denied.

## **6. Qualified Assignment and Annuity Purchase**

- a. This Agreement conforms to or is intended to conform to the provisions of the 1986 Internal Revenue Code §130.
- b. Defendants, or their Insurer, **ACCEPTANCE**, for itself and its insureds, may make a "qualified assignment" (as defined by Internal Revenue Code §130(c)), of the liability to make Periodic Payments as outlined in paragraph (2)(a,b,c) of this section to the qualified assignee, Prudential Assigned Settlement Services Corporation, (hereafter referred to as "Assignee" and/or "**PASSCorp**"), through the execution of a Qualified Assignment and Release Agreement ("QARA"). *Assignee*'s obligation for payment of the Periodic Payments shall be no greater than that of Defendant and/or **ACCEPTANCE** (whether by judgment or agreement) immediately preceding the assignment of the Periodic Payments obligation. Any such qualified assignment, if

consummated, shall be accepted by the Plaintiffs without right of rejection and shall completely release and discharge the Defendants and their Insurer, **ACCEPTANCE**, from such periodic payment obligation hereunder as are assigned to the Assignee, **PASSCorp**.

- c. Defendants, or their Insurer, **ACCEPTANCE** for itself and its insureds, and/or Assignee, **PASSCorp**, reserve the right to fund any liability to make periodic payments as outlined in paragraphs (2)(a,b,c) of this section, through the purchase of one or more "Qualified Funding Asset"(s) as defined in Internal Revenue Code §130(d), in the form of an Annuity Contract from **Prudential Insurance Company of America**, ("**Prudential**").

7. **Rights in the Annuity Contract:** Upon the consummation of the QARA described in paragraph (6)(b) of this section, Assignee **PASSCorp**, shall be the sole owner of the **Prudential** Annuity Contract(s) referred to herein Paragraph (6)(c) of this section, and shall have all rights of ownership including, without limitation, the right to change the beneficiary of the Annuity Contract. This provision, which is a test of ownership rights over the Annuity Contract, does not conflict with beneficiary provisions with respect to the Periodic Payments, as provided in Paragraph (5) above.

8. **Discharge of Obligation:** The obligation of Defendants, or their Insurer, **ACCEPTANCE** for itself and its insureds, or in the event of a qualified assignment, Assignee **PASSCorp** (hereinafter either may be referred to as "Payor"), to make each Periodic Payment described in paragraph (2)(a,b,c) of this section, shall be fully discharged upon the mailing of a valid check or upon making of an electronic funds transfer (EFT) in the amount of such payment on or before the due date to the last address on record for each respective payee or beneficiary with the Annuity Contract issuer as set forth in paragraph (6)(c) of this section. If the respective payee or beneficiary notifies Payor that any check or electronic funds transfer was not received, the Payor shall direct the Annuity Contract issuer (**Prudential**) to initiate a stop payment action and, upon confirmation that such check was not previously negotiated or electronic funds transfer deposited, shall have the Annuity Contract issuer process a replacement payment. Upon entry of the QARA, the respective payee shall be responsible for maintaining a current address with Assignee **PASSCorp**. As of the making of this agreement, the current address for notice to the Assignee is as follows:

PASSCorp c/o Prudential Annuity Services  
Structured Settlements  
PO Box 13379  
Philadelphia, PA 19101-9872

9. **Reliance on Credit of Assignee for Collection of Payments and Release:** Upon the consummation of the QARA, Plaintiff, Misty Campos, individually and as Mother and Next Friend of her minor children, Draven Campos and Tristan Campos, hereby warrants

and agrees to rely exclusively on the credit of Assignee **PASSCorp** for payment of all periodic payments enumerated herein in Paragraphs B(2)(a,b,c) of this section, and its subparts, and Plaintiffs forever release Defendants and **ACCEPTANCE** from payment of any of the periodic payments and all obligations under said Paragraph (2)(a,b,c) of this section, and its subparts.

10. **Evidence of Annuity:** Defendants, or their Insurer, **ACCEPTANCE** for itself and its insureds, or Assignee **PASSCorp**, shall, upon consummation of the QARA described in Paragraph (6)(b) of this section, deliver to Plaintiff, Misty Campos, individually and as Mother and Next Friend of her minor children, Draven Campos and Tristan Campos, on behalf of each plaintiff payee as set forth in paragraph (2)(a,b,c), a copy of the respective **Prudential** annuity contract(s), together with a copy of the respective fully executed QARA, for safekeeping.

IT IS FURTHER ORDERED ADJUDGED AND DECREED that the Guardian Ad Litem, NORMAN ROSER is hereby awarded an Ad Litem Fee of \$ 5,000.<sup>00</sup>, which shall be paid by the Defendants and shall be paid directly to NORMAN ROSER.


IT IS FURTHER ORDERED ADJUDGED AND DECREED that any and all relief sought or prayed for by Plaintiffs, MISTY LYNN CAMPOS, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF HER MINOR SON, CONAR MATTHEW ROSE, and INTERVENOR, CHRISTOPHER ROSE, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF HIS MINOR SON, CONAR MATTHEW ROSE, against Defendant, NANIK BHAGIA AND VISTA BONITA APARTMENTS D/B/A VISTA BONITA APARTMENT AND NEW SUN COAST APARTMENTS, L.L.C., which could have been sought or prayed for, or which arises out of or is in any way connected with the incident made the basis of this suit, and which has not been specifically granted herein, is hereby denied.

All costs of court shall be paid by the party incurring same.

SIGNED this 24<sup>th</sup> day of August, 2009.

  
JUDGE PRESIDING

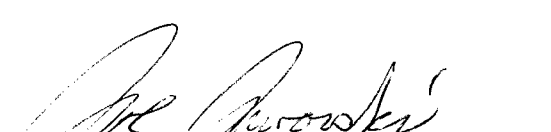
**APPROVED:**

  
**ROBERT C. HILLIARD** *RC*  
SBOT No. 09677700  
**JESUS E. GUERRA JR.**  
SBOT No. 24057877  
HILLIARD MUNOZ GUERRA, L.L.P.  
719 S. Shoreline Blvd., Suite 500  
Corpus Christi, Texas 78401  
Telephone No.: 361-882-1612  
Facsimile No.: 361-882-3015

ATTORNEY FOR PLAINTIFFS

**APPROVED:**

JAWORSKI LAW FIRM

  
**JOE JAWORSKI** *By permission*  
SBOT No. 10593200  
2301 Strand, Suite 200  
Galveston, Texas 77550  
409-763-0700 (office)  
409-763-6352 (fax)

ATTORNEY FOR INTERVENOR



**APPROVED:**



---

**JOHN F. ELWOOD**

SBOT No. 06594600

RAMEY, CHANDLER, MCKINLEY & ZITO, P.C.

750 Bering, Suite 600

Houston, Texas 77057

Telephone: 713-266-0074

Facsimile: 713-266-1064

ATTORNEY FOR DEFENDANTS,  
NANIK BHAGIA AND  
VISTA BONITA APARTMENTS  
D/B/A VISTA BONITA APARTMENT

**APPROVED:**



---

**DAVID B. HARBERG**

SBOT No. 08942450

THE LAW OFFICES OF DAVID B. HARBERG

1010 Lamar, Suite 4800

Houston, Texas 77002

Telephone: 713-752-2200

Facsimile: 832-553-7888

ATTORNEY FOR DEFENDANT,  
NEW SUN COAST APARTMENTS, L.L.C.

**APPROVED:**

A handwritten signature in cursive script, appearing to read "Norm Roser". The signature is written in black ink and is positioned above a horizontal line.

---

**NORMAN ROSER**

SBOT No. 17279250

3203 Mercer St.

Suite 200

Houston, TX 77027

Telephone: 713-877-8585

Facsimile: 713-877-8587

GUARDIAN AD LITEM