

2011 WL 3583251 (Tex.Dist.) (Trial Order)
District Court of Texas,
133rd Judicial District.
Harris County

Sylvia AGUILERA-BAPTISTE, Mother and Next Friend of Victoria G. De La Fuente, Juanita De La Fuente, and Jennifer Lee Simmons, Wife of Eduardo De La Fuente, Deceased, and the Estate of Eduardo De La Fuente, Deceased,
v.
Lorna Alonso LATAQUIN, BHL International, Inc. and Lakesha Bozeman.

No. 2009-06663.
February 28, 2011.

Judgment

Approved, Tucker Vaughan Gardner & Barnes, P.C., [Stephen M. Vaughan](#), 712 Main Street, Suite 1600, Houston, Texas 77002, Telephone: (713) 228-7425, Facsimile: (713) 228-7329, Attorney for Plaintiffs.

David Klosterboer & Associates, [Tracey R. Burrige](#), Texas State Bar No. 02134400, 4650 Westway Park Blvd., Ste. 150, Houston, Texas 77041, Telephone No.: (281) 606-8961, Facsimile No.: (281) 606-8970, Attorney for Defendant, Stella Applebaum.

Tammy Butler Kidd, P.C., Tammy Butler Kidd, SBN: 24012960, 8501 Katy Freeway, Ste. 201, Houston, Texas 77024, Telephone No.: (832) 476-4154, Facsimile No.: (713) 520-2525, Guardian AD Litem for Victoria G. De La Fuente, a [Minor](#).

On the 28 day of February, 2011, came onto be heard the above-entitled and numbered cause, wherein, SYLVIA AGUILERA-BAPTISTE, As Next Friend of VICTORIA G. DE LA FUENTE, a [Minor](#), JUANITA DE LA FUENTE, JENNIFER LEE SIMMONS, WIFE OF EDUARDO DE LA FUENTE, and THE ESTATE OF EDUARDO DE LA FUENTE, DECEASED are Plaintiffs and LORNA ALONSO LATAQUIN and BHL INTERNATIONAL, INC. are Defendants.

SYLVIA AGUILERA-BAPTISTE, As Next Friend of VICTORIA G. DE LA FUENTE a [Minor](#), appeared in person, though their attorney of record. VICTORIA G. DE LA FUENTE, a [Minor](#), appeared in person and by TAMMY KIDD, heretofore appointed guardian ad litem by the Court. JUANITA DE LA FUENTE, JENNIFER LEE SIMMONS, WIFE OF EDUARDO DE LA FUENTE, and THE ESTATE OF EDUARDO DE LA FUENTE, DECEASED appeared in person and/or by and through their attorney of record. The Defendants appeared by and through their attorney of record. All parties thereupon announced ready for trial. No jury having been demanded, all matters of fact and things in controversy were submitted to the Court.

After consideration of the pleadings, evidence, and arguments of counsel, the Court is of the opinion and finds that VICTORIA G. DE LA FUENTE was born on XX/XX/1998; that SYLVIA AGUILERA-BAPTISTE is the biological mother of the [Minor](#) Plaintiff, VICTORIA G. DE LA FUENTE; that the next friend and the guardian ad litem are fully informed with respect to the facts of liability; the doubtful and disputed nature of the cause of action; the liability of the Defendants is uncertain and disputed; the nature and extent of the injuries and damages claimed are disputed; and that, with the knowledge of the cause of action as above-said, the parties hereto have agreed to compromise and settle such cause of action in full settlement of the respective claims of all parties.

The Court is further of the opinion and finds that the agreement to settle all claims, demands and causes of action herein involved is reasonable, fair, just, and in the best interest of VICTORIA G. DE LA FUENTE, a **Minor**, and the same is hereby in all things approved, incorporated and made a part of this Judgment.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Settlement Agreement and Release is in all respects approved.

It is further ORDERED, ADJUDGED AND DECREED that from the total settlement of \$500,000.00 [FIVE HUNDRED THOUSAND AND 00/100 DOLLARS], the following disbursements shall be made:

\$150,000 [ONE HUNDRED AND FIFTY THOUSAND 00/100 DOLLARS] shall be paid to JUANITA DE LA FUENTE and JENNIFER LEE SIMMONS, collectively, and their attorney of record in the lawsuit.

\$350,000 [THREE HUNDRED AND FIFTY THOUSAND 00/100 DOLLARS] shall be allocated to VICTORIA G. DE LA FUENTE, the **Minor** Plaintiff, and funded as follows:

1. The sum of \$148,660.25 to SYLVIA AGUILERA-BAPTISTE, as next friend of VICTORIA G. DE LA FUENTE, and their attorney, in full payment of all medical and/or insurance liens, attorneys' fees and costs;
2. The sum of \$26,339.75 to SYLVIA AGUILERA-BAPTISTE as next friend of VICTORIA G. DE LA FUENTE, to be used for childhood necessities.
3. \$175,000.00 payable to Allstate Assignment Company to fund the periodic payments through the purchase of an **annuity** through Allstate Life Insurance Company which has an A.M.Best rating of A* 15 as follows:

Payee: Victoria De La Fuente

\$4,000.00 payable semi-annually, guaranteed for 6 years, beginning on 12/04/2016. The

last guaranteed payment will be made on 06/04/2022.

\$40,000.00 guaranteed lump sum payable on 12/04/2016.

\$50,000.00 guaranteed lump sum payable on 12/04/2023.

\$100,000.00 guaranteed lump sum payable on 12/04/2026.

\$40,000.00 guaranteed lump sum payable on 12/04/2033.

\$25,400.00 guaranteed lump sum payable 2/04/2038.

\$20,000.00 guaranteed lump sum payable on 12/04/2043.

The Court further finds and Orders that all sums set forth herein constitute damages on account of personal physical injuries or physical sickness arising from an occurrence within the meaning of [Section 104\(a\)\(2\) of the Internal Revenue Code of 1986](#), as amended.

It is further Ordered that pursuant to [Section 130 \(c\) of the Internal Revenue Code of 1986](#), as amended, Defendants' insurer, THE TRAVELERS INDEMNITY COMPANY OF AMERICA, shall make a "Qualified Assignment" of the obligation to

make the above-specified periodic payments to VICTORIA G. DE LA FUENTE, to be funded by an **annuity** contract issued by ALLSTATE ASSIGNMENT COMPANY. In connection therewith, Defendant's insurer, TRAVELERS INSURANCE COMPANY, shall deliver to ALLSTATE ASSIGNMENT COMPANY, the sum of \$175,000, to purchase an **annuity** contract to make future payments as specified above.

It is further Ordered that once the payments as set forth above are issued, the qualified assignment has been executed, the **annuity** is funded for the benefit of **Minor** Plaintiff, VICTORIA G. DE LA FUENTE, then Defendant, LORNA ALONSO LATAQUIN and BHL INTERNATIONAL, INC., and their insurer, THE TRAVELERS INDEMNITY COMPANY OF AMERICA, shall be fully relieved and discharged from this judgment and all liability, claims, demands and causes of action whatsoever asserted in this action.

It is further ORDERED, ADJUDGED AND DECREED that Tammy Kidd, the guardian ad litem for the subject **Minor** Plaintiff, be allowed a reasonable fee for her services in the amount of \$3,000.00.

All costs of Court are to be borne by the party incurring same. It further appears to the Court that all sums and costs herein concerned have been fully paid as aforesaid by Defendants. Accordingly, it is further ordered that no execution shall issue hereon, this Judgment being fully satisfied.

It is FURTHER ORDERED, ADJUDGED AND DECREED that any relief prayed for and/or which could have been sued for in this action arising from said occurrence, and not specifically granted herein, is hereby expressly refused and denied.

SIGNED this 28 day of February, 2011.

<<signature>>

JUDGE PRESIDING

APPROVED

TUCKER VAUGHAN GARDNER & BARNES, P.C.

<<signature>>

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TAMMY BUTLER KIDD, P.C.

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GUARDIAN AD LITEM FOR VICTORIA G. DE LA FUENTE, a **Minor**

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