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LETTERS

To The Editor

Zeal Seems Misguided On Children's Behalf

In *Aguino v. St. Steven's of Hungary School*, (NYLJ, July 18), Justice Emily Jane Goodman rejected a proposed Infant's Compromise Order made pursuant to CPLR §1208 as insufficient, noting that the "court is not a rubber stamp and [its] role in ensuring that the interests of infant plaintiffs are fully protected, is one of the more serious responsibilities presented to the courts'. However noble that may sound, the judiciary's inclination to scrutinize such orders merely begs the question.

Behind the cloak of their role as *parens patriae*, the courts too often compound an ever-burgeoning caseload with a zeal that gets them involved in tasks best suited for a child's parents. Indeed, settling a personal injury action on behalf of a child is just one of the many parental obligations that must be exercised with a child's best interest in mind. Whether to raise a child in a particular religion or to elect on his or her behalf to undergo a serious operation, are far more challenging questions that have been historically left to parents. Hence, given the Constitutional mandate that requires a state to defer to parental decision-making absent a compelling state interest, second guessing a fit parent's determination of when to settle a personal injury case should be actively discouraged. For in the end, who will reimburse the Aquinos for the amount that they would have otherwise settled for, in the event a defendant's verdict is rendered.

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To The Editor

Worker's Comp. Law's Retroactivity Issue

If I see another letter, article or case seeking to interpret the legislative history of the Omnibus Workers' Compensation Reform Act of 1996, I think I will be bored into retirement. Notwithstanding the recent Appellate Division ruling in *Morales v. Gross*, denying retroactivity, there still remains a large captive audience awaiting what the Court of Appeals decides on that issue. The inexplicable part of all this is the Legislature's inaction in the face of all of this costly litigation.

Why the Legislature does not simply issue an amendment to its legislation when confronted with differing interpretations of a statute's application would probably make little sense to the public, were they alerted to this waste. Indeed, it is ultimately the public that pays for the unnecessary attorney time spent debating whether the Omnibus Workers' Compensation Reform Act of 1996 should be applied retroactively or not. A line in the statute, such as "The Act will only be applied prospectively," would suffice.

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