

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

TARA GARLICK, et al.,	)	Case No.: 1:13-cv-01051 - LJO - JLT
Plaintiffs,	)	
v.	)	ORDER ADOPTING IN FULL THE FINDINGS
COUNTY OF KERN, et al.,	)	AND RECOMMENDATIONS GRANTING
Defendants.	)	APPROVAL OF THE COMPROMISE ON
	)	BEHALF OF MINOR PLAINTIFFS MLS, CJS,
	)	CRS, AND EZS
	)	

This matter arises out of the death of David Silva which, it is claimed, was caused by the application of excessive and unreasonable use of force by various law enforcement officers. Minor Plaintiffs MLS, CJS, CRS and EZS, are surviving children of the decedent, and seek approval of the settlement reached with Defendants, by and through their guardian ad litem Judy Garlick. (Doc. 238) On July 22, 2016, the magistrate judge recommended the settlement be approved, and the funds distributed as proposed by the parties. (Doc. 245)

The parties were given fourteen days to file any objections to the recommendation. (Doc. 245 at 7-8) In addition, the parties were “advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order.” (*Id.* at 8, citing *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991)). To date, no objections have been filed.

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C) and *Britt v. Simi Valley United School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983), this Court conducted a de novo review of the case.

1 Having carefully reviewed the file, the Court finds the Findings and Recommendations are supported  
2 by the record and proper analysis.

3 Based upon the foregoing, **IT IS HEREBY ORDERED:**

- 4 1. The Findings and Recommendations dated July 22, 2016 (Doc. 245) are **ADOPTED**  
5 **IN FULL;**
- 6 2. The petition to approve settlement of the minors' claims is **GRANTED;**
- 7 3. Defendants, County of Kern and its insurer, Starr Indemnity and Liability Company,  
8 Starr Companies and Defendants State of California and their insurer are **DIRECTED**  
9 to pay the combined sum of \$3,400,000 in consideration of a full and final release and  
10 discharge of and from all claims arising from this action.

11 The allocation between the defendants of the total overall settlement of the  
12 entire case is \$2,992,000.00 to the County of Kern and its insurer, Starr Indemnity and  
13 Liability Company, and \$408,000.00 to the State of California. It is agreed that under  
14 no circumstances shall the negotiated contribution and allocation of the overall total  
15 settlement by the defendants exceed these sums;

- 16 4. Of the full settlement, that \$3,000,000 is directed to settle the claims, charges, and  
17 demands of Plaintiffs MLS, CJS, CRS, EZS and Merri Silva and Chris Silva;
- 18 5. From the above settlement money, the defendant County of Kern is **DIRECTED** to pay  
19 \$1,200,000.00—to be paid by Starr Indemnity and Liability Company; Starr  
20 Companies—for the purchase of a annuities on behalf of CJS, CRS, EZS. The parties  
21 **SHALL** purchase a tax free structured settlement annuity policy from Berkshire  
22 Hathaway Life Insurance Company of Nebraska through broker Tom Stevenson of  
23 Atlas Settlements. The defendants County of Kern, Sgt. Douglas Sword, Deputy Ryan  
24 Greer, Deputy Tanner Miller, Deputy Jeffrey Kelly, Deputy Luis Almanza, Deputy  
25 Brian Brock and Deputy David Stephens shall execute a Settlement Agreement and  
26 Release and execute a “Qualified Assignment” of their obligation to make periodic  
27 payments pursuant thereto in compliance with I.R.C. Section 104(a)(2) and Section  
28 130(c) of the Internal Revenue Code of 1986, as amended. Said assignment shall be

1 made to BHG Structured Settlements, Inc. (“Assignee”). Upon doing so, the defendants  
2 will no longer be obligated to make further periodic payments and the Assignee will be  
3 the plaintiffs’ sole obligor with respect to the future periodic payments;

- 4 6. The Assignee is **DIRECTED** to purchase structured settlement annuities for  
5 \$300,000.00 each for MLS, CJS, CRS, and EZS through Berkshire Hathaway Life  
6 Insurance Company of Nebraska. The payments shall be assigned to BHG Structured  
7 Settlements, Inc. by way of a Qualified Assignment by the County's Insurer Starr  
8 Indemnity and Liability Company, Starr Companies. The payments will be guaranteed  
9 through the issuance of a Letter of Guarantee from Berkshire Hathaway Life Insurance  
10 Company of Nebraska, assumed under the Qualified Assignment. In accordance with  
11 the structured settlement agreement, the Assignee will fund the obligation to make  
12 payments through the purchase of annuities from BHG Structured Settlements, Inc.  
13 Said annuities shall provide guaranteed periodic payments (subject to annuity rates in  
14 effect at the time of purchase);
- 15 7. The Assignee is **DIRECTED** to file receipt of the purchase of the annuities within  
16 sixty days of the date of service of this Order;
- 17 8. The County Defendants is **DIRECTED** to pay the sum of \$1,440,000.00 to Chain |  
18 Cohn | Stiles, Chris Silva and Merri Silva for the payment of attorney fees and costs,  
19 and the settlement amount owed to Chris Silva and Merri Silva;
- 20 9. The State of California, on behalf of CHP Officers Michael Phillips and Michael Bright  
21 is **DIRECTED** to pay the sum of \$360,000.00 to Chain | Cohn | Stiles, Chris Silva and  
22 Merri Silva.

23 Although this required payment is being made at the request of the affected  
24 plaintiffs and their counsel, this court recognizes and finds that the State’s required  
25 payment provides adequate consideration for settlement of the claims of all requesting  
26 plaintiffs, including Plaintiffs MLS, CJS, CRS, EZS, Merri Silva and Chris Silva;

- 27 10. Payment to Chain | Cohn | Stiles and the Law Office of Dale K. Galipo in the sum of  
28 \$1,330,000.00 representing all claims for attorney fees and costs incurred on behalf of

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

the plaintiffs MLS, CJS, CRS, EZS, Merri Silva and Chris Silva (in the amount of \$1,200,000) and costs (in the amount of \$130,000), is **APPROVED**; and

11. The parties **SHALL** file a stipulation for dismissal of the action with prejudice, and lodge a separate order, within ten days of the date of service of this Order.

IT IS SO ORDERED.

Dated: August 22, 2016

/s/ Lawrence J. O'Neill  
UNITED STATES CHIEF DISTRICT JUDGE