

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

I.A., by and through his guardian ad litem,
ADRIANA ACUNA,

Plaintiff,
v.

UNITED STATES OF AMERICA,

Defendant.) Case No.: 1:11-cv-00406 - LJO - JLT
)
) ORDER DIRECTING PLAINTIFF TO FILE
) SUPPLEMENTAL BRIEFING IN SUPPORT OF
) THE MOTION TO APPROVE SETTLEMENT
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The plaintiff (“I.A.”) is a minor appearing in this proceeding by and through his guardian ad litem (“GAL”) Adriana Acuna, who has requested approval of the settlement agreement with the Government. (Doc. 32).

No settlement or compromise of “a claim by or against a minor or incompetent person” is effective unless it is approved by the Court. Local Rule 202(b). A petition seeking approval of the settlement must disclose:

the age and sex of the minor, the nature of the causes of action to be settled or compromised, the facts and circumstances out of which the causes of action arose, including the time, place and persons involved, the manner in which the compromise amount . . . was determined, including such additional information as may be required to enable the Court to determine the fairness of the settlement or compromise, and, if a personal injury claim, the nature and extent of the injury with sufficient particularity to inform the Court whether the injury is temporary or permanent.

1 Local Rule 202(b)(2). Here, although the petitioner filed more than two hundred pages in support of
2 the motion, the information above is not identified for the Court in the moving papers.¹ Further,
3 Plaintiff's counsel has not explained how the fee award of \$726,923.00 was calculated nor have they
4 offered any support for this figure.^{2,3} *See* California Rule of Court 7.955(b) (to determine whether a
5 request for attorney's fee is reasonable, the Court may consider the time and labor required, whether
6 the minor's representative consented to the fee, the amount of money involved and the results
7 obtained, and whether the fee is fixed, hourly, or contingent).

8 In addition, it is unclear why the petitioner believes the state court's approval of the settlement
9 terms was necessary or why she believes it is relevant to this action. A settlement or compromise
10 must be approved by the state court *only* "[i]n actions in which the minor or incompetent is
11 represented by an appointed representative pursuant to appropriate state law." Local Rule 202(b)(1).
12 Here, the District Court has exclusive jurisdiction over the complaint, and the guardian ad litem was
13 appointed by this Court on March 30, 2011. (Doc. 8).

14 Accordingly, Plaintiff **SHALL** file supplemental briefing that supports its request for fees and
15 costs and explains how the state court approval of the compromise bears on this Court's determination.
16 The supplemental brief shall be no more than ten pages in length, including exhibits, and filed within
17 fourteen days of the date of service of this order.

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19 IT IS SO ORDERED.

20 Dated: November 21, 2012

21 /s/ Jennifer L. Thurston
22 UNITED STATES MAGISTRATE JUDGE

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24 ¹ Given the volume of papers filed, it is not reasonable to expect the Court to cull through all of them to find the
25 nuggets of information pertinent to the issues. *United States v. Dunkel*, 927 F.2d 955, 956 (7th Cir.1991) "Judges are not
like pigs, hunting for truffles buried in briefs."

26 ² The parties appear to have agreed no more than twenty-five percent of the settlement amount may be awarded as
27 attorney fees, as provided in the Federal Tort Claims Act. (Doc. 32-3 at 58). However, Plaintiff reports the amount was
calculated pursuant to Cal. Bus. & Prof. Code § 6146(a), which allows for "[f]ifteen percent of any amount on which the
recovery exceeds six hundred thousand dollars (\$600,000)." *Id.* at 46.

28 ³ Plaintiffs assert also "the separate attorney fee for th[e] recovery is \$730,213.67 (16.6%)." (Doc. 32-3 at 55).
Thus, it remains unclear how much counsel seeks in attorney fees.