

1 In addition, the Magistrate Judge recommended payment in the amount of \$61,213.52 to the
2 Department of Health Care Services to refund costs of medical services advanced by Medi-Cal.
3 (Doc. 39 at 6). Although Plaintiff’s counsel requested twenty-five percent of the original lien
4 amount be paid as attorney fees and costs, the Magistrate Judge determined “counsel has failed to
5 demonstrate the child is not paying twice for the same legal effort, or that the costs awarded above
6 do not include costs related to recovery the amount due on the Medi-Cal lien.” Id. (citing Diamond
7 v. John Martin Co., 753 F.2d 1465, 1467 (9th Cir. 1985) (“[T]he burden of proof is on the party
8 seeking the attorney fee award.”)). Therefore, the Magistrate Judge recommended the additional
9 award for attorney fees and costs from the Medi-Cal lien be denied.

10 The parties were granted fourteen days from the date of service to file objections to the
11 Magistrate’s Amended Findings and Recommendations. (Doc. 39 at 7). On December 11, 2012,
12 Plaintiff and Defendant filed a “Notices of Non-Objection” to the Findings and Recommendations.
13 (Docs. 40-41).

14 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C) and *Britt v. Simi Valley*
15 *United School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983), this Court has conducted a *de novo* review of
16 the case. Having carefully reviewed the entire file, the Court finds that the findings and
17 recommendation are supported by the record and by proper analysis.

18 Accordingly, **IT IS HEREBY ORDERED:**

- 19 1. The Amended Findings and Recommendations issued December 7, 2012, are
20 **ADOPTED IN FULL;**
- 21 2. The settlement of \$4,550,000.00 for the claims of I.A. is **APPROVED;**
- 22 3. The motion to approve attorney fees is **GRANTED** in the amount of \$730,213.67;
- 23 4. The motion to approve costs is **GRANTED** in the amount of \$83,534.30;
- 24 5. Payment to the Department of Health Care Services is **ORDERED** in the amount of
25 \$61,213.52;
- 26 6. The balance of the initial payment amount attributable to the child (\$1,750,000 of
27 \$4,550,000) after the lien, fees and costs are paid—which equals \$875,038.51—is
28 **ORDERED** deposited in the “[] . A[] . Special Needs Trust;” and

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

7. The remainder of the settlement proceeds, \$2,800,000, is **ORDERED** to be used to purchase installment refund annuity contracts which pay at least \$4,535.65 monthly and increase at least by 3 percent compounded annually, after the first year of payments.

This Court VACATES all pending matters and dates, including the January 16, 2013 pretrial conference and February 25, 2013 trial, and FURTHER ORDERS the parties, no later than January 18, 2013, to file papers to dismiss this action in its entirety or to show good cause why this action has not been dismissed.

IT IS SO ORDERED.

Dated: December 11, 2012

/s/ Lawrence J. O'Neill

UNITED STATES DISTRICT JUDGE