

1 distributed to each minor plaintiff in the settlement is fair and reasonable, in light of the facts of
2 the case, the minor's specific claim, and recovery in similar cases.” *Ribodoux*, 638 F.3d at 1182.
3 This evaluation must be made “without regard to the proportion of the total settlement value
4 designated for adult co-plaintiffs or plaintiffs' counsel.” *Id.*

5 No settlement or compromise of “a claim by or against a minor or incompetent person” is
6 effective unless it is approved by the Court. Local Rule 202(b). The purpose of requiring the
7 Court’s approval is to provide an additional level of oversight to ensure that the child’s interests
8 are protected. Toward this end, a party seeking approval of the settlement must disclose:

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

17 Local Rule 202(b)(2).

18 **II. ANALYSIS**

19 The child was born on March 8, 2001 and lives with her mother in Oxnard, California.
20 (Doc. 123 at 2; Doc. 123-2) The California Department of Corrections and Rehabilitation has
21 agreed to pay the sum of \$2,650 to each Plaintiff which equates to a combined total of \$68,900.
22 After attorney fees, the proposed minor's compromise would result in a net amount of \$1,987.50¹
23 to the child. (Doc. 140 at 2.)

24 Here, the deprivation at issue did not cause the death of the child’s father. Rather, the
25 award stems from Mr. Zavala’s claims that he was not provided sufficient outdoor exercise time.
26 Cases of this type frequently do not succeed² and the Court is unaware of the extent of the

27 ¹ This amount is arrived at by subtracting twenty-five percent, or \$662.50, for attorney’s fees from \$2,650. (*See* Doc.
28 140, p. 2.) Plaintiffs’ counsel waives costs from minor Sanchez.

² *See Thomas v. Ponder*, 611 F.3d 1144, 1152 (9th Cir. 2010) [Genuine issue of material fact whether denial of
outdoor exercise for 11 months was reasonable.]; *Spain v. Procunier*, 600 F.2d 189, 199 (9th Cir. 1979) [Affirming
the trial court’s order for regular exercise for inmates deprived of outdoor exercise for years but not deciding whether
denial of outdoor exercise is a per se violation of the Eighth Amendment.]; *LeMaire v. Maass*, 12 F.3d 1444, 1458
(9th Cir. 1993) [Denial of outdoor exercise for extended periods is reasonable where the inmate’s conduct justifies
it.]

1 physical or mental damages Mr. Zavala suffered, if any, assuming he could prove his case.
2 Moreover, if the case proceeds to trial, the Court finds that the risk of loss—especially in light of
3 the inability of the child to present evidence of the impacts on Mr. Zavala caused by the
4 deprivation alleged—is great. Thus, the Court finds that the net amount of the proposed
5 settlement to be distributed to the child is fair and reasonable in light of the facts of the case,³ the
6 specific claims and the recoveries in other cases. *See Doe ex rel. Scott v. Gill*, Nos. C 11-4759
7 CW, C 11-5009 CW, C 11-5083 CW, 2012 WL 1939612 (N.D. Cal. May 29, 2012) (approving
8 minor's compromise in the net amount of \$7,188.85 in a § 1983 case involving the shooting and
9 killing of plaintiff's mother by police officers); *Swayzer v. City of San Jose*, No. C10-03119-
10 HRL, 2011 WL 3471217 (N.D. Cal. Aug.5, 2011) (approving minor's compromise for net amount
11 of \$2,054.17 in a § 1983 case involving the alleged wrongful death of plaintiff's father during his
12 arrest).

13 CONCLUSION

14 Accordingly, the Court **RECOMMENDS** that the motion to approve compromise of
15 minor's claims (Doc. 140) be **GRANTED**.

16 These Findings and Recommendations will be submitted to the United States District
17 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). **Within 30**
18 **days** after being served with these Findings and Recommendations, the parties may file written
19 objections with the Court. Local Rule 304(b). The document should be captioned "Objections to
20 Magistrate Judge's Findings and Recommendations."

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26 The parties are advised that failure to file objections within the specified time may result
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28 ³ Again, there is no claim that the Mr. Zavala's death was related to the claims made in this litigation.

1 in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing
2 *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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4 IT IS SO ORDERED.

5 Dated: October 5, 2016

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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