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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ADRIANA LEDESMA; JESSICA LEDESMA; MARISSA LEDESMA, by and through her guardian ad litem Raquel Sierra; RONNIE MATTHEW LEDESMA, by and through his guardian ad litem Christina Garcia; and CHRISTINA HERRERA,

Plaintiffs,

v.

KERN COUNTY; KERN COUNTY SHERIFF'S DEPARTMENT; WARREN MARTIN; KARENA DELAGARZA; DWAYNE PERKINS; JAMES MELTON; and CHRISTOPHER WONG,

Defendants.

No. 1:14-cv-01634-DAD-JLT

ORDER GRANTING PLAINTIFFS' PETITION FOR APPROVAL OF MINORS' COMPROMISE

(Doc. No. 76)

Plaintiffs Marissa Ledesma and Ronnie Matthew Ledesma, minors by and through their respective guardians ad litem, petition the court for an order approving a compromise of their claims. (Doc. No. 76.) A hearing on the petition was held January 5, 2017. Attorney Benjamin Meiselas appeared with and on behalf of the minor plaintiffs and their respective guardians ad litem. Deputy County Counsel Andrew Thomson appeared on behalf of defendants. Having considered plaintiffs' requests and heard oral argument, and for the reasons set forth below, the court grants the petition for minors' compromise.

1 **BACKGROUND**

2 This case arises from an encounter between decedent Ronnie Ledesma, Jr. and several  
3 deputies of the Kern County Sheriff’s Office on August 19, 2013, in Bakersfield, California. Mr.  
4 Ledesma died eight days after the incident while in custody at Kern Medical Center. Plaintiffs,  
5 decedent Ledesma’s successors in interest, brought this civil rights action alleging constitutional  
6 violations under 42 U.S.C. § 1983, as well as state law civil rights and common law causes of  
7 action.

8 Following an order on summary judgment and a settlement conference before the assigned  
9 magistrate judge, the parties agreed to and executed a written settlement agreement with respect  
10 to all claims on December 5, 2016. (*See* Doc. Nos. 73, 76 at 2.) The total payment under the  
11 settlement agreement is \$1,000,000.00. (Doc. No. 76 at 4.) Of that amount, plaintiffs’ counsel  
12 has agreed to recovery of \$400,000.00 in attorney’s fees, representing 40% of the total payment  
13 amount.<sup>1</sup> (Doc. No. 76 at 4.) In addition, plaintiffs’ counsel will recover \$31,710.72 in costs.  
14 (*Id.*) The remaining \$568,289.28 will be distributed among the five plaintiffs according to the  
15 following criteria agreed to by the plaintiffs: (1) each plaintiff’s relationship, and the length of  
16 that relationship, with the decedent; (2) each plaintiff’s level of involvement and time spent in  
17 this litigation; (3) the time and expenses each plaintiff incurred in the preparation of the  
18 decedent’s funeral and related matters; and (4) the relative strengths and weaknesses of each  
19 plaintiff’s claims if the matter proceeded to trial. (*Id.* at 5.) Based on these factors, plaintiffs  
20 agreed to the following allocations:

- 21 • \$173,657.85 to Adriana Ledesma
- 22 • \$173,657.85 to Jessica Ledesma
- 23 • \$83,657.86 to Ronnie Matthew Ledesma
- 24 • \$68,657.86 to Marissa Ledesma
- 25 • \$68,657.86 to Christina Herrera

26 \_\_\_\_\_  
27 <sup>1</sup> Plaintiffs’ counsel notes that the 40% rate approximately reflects contingency fee rates of 45%  
28 for the three adult plaintiffs and 33% for the two minor plaintiffs. (Doc. No. 76-1 at 2.) At the  
hearing, plaintiffs’ counsel further noted that for the minor plaintiffs, the 33% contingency fee  
rate was reduced from the rate of 45% that was set forth in the retainer agreement.

1 (*Id.* at 5–6.) Plaintiffs Marissa Ledesma (age 15) and Ronnie Matthew Ledesma (age 4) now seek  
2 court approval of their respective distributions of the settlement proceeds.

### 3 **LEGAL STANDARD**

4 This court has a duty to protect the interests of minors participating in litigation before it.  
5 *Salmeron v. United States*, 724 F.2d 1357, 1363 (9th Cir. 1983). To carry out this duty, the court  
6 must “conduct its own inquiry to determine whether the settlement serves the best interests of the  
7 minor.” *Robidoux v. Rosengren*, 638 F.3d 1177, 1181 (9th Cir. 2011) (quoting *Dacanay v.*  
8 *Mendoza*, 573 F.2d 1075, 1080 (9th Cir. 1978)); *see also Salmeron*, 724 F.2d at 1363 (“[A] court  
9 must independently investigate and evaluate any compromise or settlement of a minor’s claims to  
10 assure itself that the minor’s interests are protected, even if the settlement has been recommended  
11 or negotiated by the minor’s parent or guardian ad litem.” (citation omitted)).

12 In examining the fairness of a settlement of a minor’s federal claims, the Ninth Circuit has  
13 held that a district court’s inquiry should focus solely on “whether the net amount distributed to  
14 each minor plaintiff in the settlement is fair and reasonable, in light of the facts of the case, the  
15 minor’s specific claim, and recovery in similar cases.” *Robidoux*, 638 F.3d at 1181–82; *see also*  
16 *id.* at 1179 n.2 (limiting the court’s holding to cases involving federal claims only). Where a  
17 settlement involves state law claims, federal courts generally are guided by state law. *See*  
18 *Tashima & Wagstaffe, California Practice Guide: Federal Civil Procedure Before Trial* ¶ 15:138  
19 (Cal. & 9th Cir. Eds. 2015) (“Federal courts generally require that claims by minors . . . be settled  
20 in accordance with applicable state law. California law requires court approval of the fairness  
21 and terms of the settlement.”). A settlement for a minor and attorney’s fees to represent a minor  
22 must be approved by the court. Cal. Prob. Code § 3601; Cal. Fam. Code § 6602. Reasonable  
23 expenses and court costs to be paid out of the settlement also must be approved by the court. Cal.  
24 Prob. Code § 3601. Finally, the Local Rules of this court require disclosures regarding the minors  
25 involved, the nature of the controversy, the manner in which the compromise was determined,  
26 and whether a conflict of interest may exist between the minor and her attorney. *See* Local Rules  
27 202(b)–(c).

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1 **DISCUSSION**

2 The proposed settlement agreement in this case provides that plaintiff Marissa Ledesma  
3 will receive \$68,657.86, and plaintiff Ronnie Matthew Ledesma will receive \$83,657.86. At the  
4 hearing on this matter, plaintiffs indicated that all named plaintiffs, including the minor plaintiffs  
5 by and through their guardians ad litem, met privately outside the presence of their counsel to  
6 arrive at a suitable agreement regarding the fair distribution of settlement proceeds. Furthermore,  
7 at the hearing the minor plaintiffs, through their respective guardians ad litem, expressed their  
8 satisfaction with the terms of the proposed settlement agreement, including the apportionment of  
9 attorney’s fees with respect to counsel’s representation on their behalf.

10 Accordingly, having carefully reviewed plaintiffs’ submissions and having discussed this  
11 matter at the hearing with the minor plaintiffs through their respective guardians ad litem, the  
12 court finds that the proposed settlement, including the attorney’s fee rate, is fair and reasonable in  
13 light of the facts and circumstances of this case and recoveries in similar cases.

14 **CONCLUSION**

15 For the reasons stated above,

- 16 1. The court grants plaintiffs’ petition for minors’ compromise (Doc. No. 76);
- 17 2. Plaintiff Marissa Ledesma, by and through her guardian ad litem Raquel Sierra, shall
- 18 a. Within fourteen days of receipt, deposit her settlement proceeds, in the net  
19 amount of \$68,657.86, in a blocked account at Kern Schools Federal Credit  
20 Union, whereby such proceeds may only be withdrawn by Marissa Ledesma,  
21 upon an order of this court or when she reaches the age of eighteen; and
- 22 b. Within fourteen days of the deposit, submit a proof of deposit to this court;
- 23 3. Plaintiff Ronnie Matthew Ledesma, by and through his guardian ad litem Christina  
24 Garcia, shall
- 25 a. Within fourteen days of receipt, deposit his settlement proceeds, in the net  
26 amount of \$83,657.86, in a blocked account at Kern Schools Federal Credit  
27 Union, whereby such proceeds may only be withdrawn by Ronnie Matthew  
28 Ledesma, upon an order of this court or when he reaches the age of eighteen;

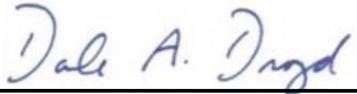
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and

- b. Within fourteen days of the deposit, submit a proof of deposit to this court; and
- 4. The parties are directed to file a request for dismissal of this action no later than February 27, 2017.

IT IS SO ORDERED.

Dated: January 6, 2017

  
UNITED STATES DISTRICT JUDGE