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9 Attorney for Plaintiff

10 **IN THE**
 11 **UNITED STATES DISTRICT COURT**
 12 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

13 A.V., a minor by and through his parent
 14 CONCEPCION VARELA

15 Plaintiff,

16 v.

17 PANAMA BUENA VISTA UNION SCHOOL
 18 DISTRICT,

19 Defendant.

CASE NO: 1:15-cv-00246—MCE-JLT

20 **ORDER GRANTING PETITION FOR**
 21 **MINOR’S COMPROMISE**

22 **Judge: Morrison C. England Jr.**

23 **Date: none**

24 **Time: 2 p.m**

25 **Courtroom: 7**

26 Plaintiff A.V, through his guardian ad litem, Concepcion Varela, filed a Petition to Approve
 27 Compromise of Minor’s Claim on January 16, 2018. (ECF No. 150). On April 12, 2018, the Court held
 28 a hearing on the Petition with counsel and Ms. Varela in attendance, and tentatively approved the
 minor’s compromise subject to Defendant’s written confirmation to the Court that it would pay tuition
 and school attendance costs incurred on behalf of A.V. (ECF No. 160). On April 30, 2018, counsel for
 Defendant filed a Supplemental Case Status Report (ECF No. 163) indicating that it was prepared to pay
 the full \$62,000 in reimbursement for tuition and school attendance costs and/or attorney’s fees as

1 delineated in Plaintiff’s Petition for Approval. For the reasons set forth below, the Petition will now be
2 granted.

3 **BACKGROUND**

4 On or about October 6, 2014, Plaintiff, Concepcion Varela, the guardian of A.V., who is a minor
5 Student filed a request for due process hearing against Panama Buena Vista Union School District. The
6 Expedited Administrative Proceeding began on January 6- January 8, 2015 with a decision on January
7 23, 2015 and non-expedited hearing decision dated June 11, 2015. As part of its Decision, OAH made
8 a determination as required by California Education Code Section 56507(d) that A.V. did not prevail on
9 its expedited complaint at hearing but did prevail on portions of the non-expedited complaint. A.V.
10 appealed the decisions of the administrative law judge, sought attorney’s fees and filed a civil suit for
11 disability and national origin discrimination in the United States Court Eastern District. On December
12 4, 2017, the minor filed his 3rd Amended Complaint. On December 5, 2017, the Honorable Morrison C.
13 England, Jr. granted Panama Buena Vista’s Motion for summary judgment and overturned the
14 administrative decision that student had prevailed upon. A.V. filed an appeal to the 9th Circuit Court of
15 Appeals on January 2, 2018. On January 9, 2018, the Honorable Morrison C. England Jr. denied
16 student’s Summary Judgment and closed the appeal of the Administrative case and the civil complaint.
17 Student filed an appeal of the January 9, 2018 Order on January 9, 2018. On January 11, 2018, the
18 Court Ordered the Case to be reopened to proceed on the remaining civil claims.

19 On January 10, 2018, the parties entered into a written settlement agreement.
20

21 **LEGAL STANDARDS**

22 “District courts have a special duty, derived from Federal Rule of Civil Procedure 17(c), to safeguard the
23 interests of litigants who are minors.” Robidoux v. Rosengren, 638 F.3d 1177, 1181 (9th Cir. 2011). “In
24 the context of proposed settlements in suits involving minor plaintiffs, this special duty requires a
25 district court to ‘conduct its own inquiry to determine whether the settlement serves the best
26 interests of the minor.’” Id. However, in Robidoux, the Ninth Circuit cautioned that this inquiry
27 “requires only that the district court consider whether the net recovery of each minor plaintiff is fair and
28

1 reasonable, without regard to the amount received by adult co-plaintiffs and what they have agreed to
2 pay plaintiffs' counsel." Id. at 1182 (holding that district court erred in denying settlement based solely
3 on the proportion of the settlement going to plaintiffs' counsel).

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5 **ORDER**

6 Accordingly, IT IS HEREBY ORDERED that:

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8 1. The Petition to Approve Compromise of Minor's Claim, filed January 16, 2018, is
9 GRANTED;


10 2. The settlement reached by the parties is APPROVED;

11 3. From the minor's settlement proceeds, fees and expenses in the amount of \$62,000 shall be
12 paid by one or more checks or drafts, drawn payable to the order of "Concepcion Varela,
13 Guardian ad litem for A.V, and their attorneys, Law Office of Nicole Hodge Amey".

14 4. Within twenty-one (21) days of the date of service of this Order, the parties shall file the
15 appropriate stipulation for voluntary dismissal with this Court.

16 IT IS SO ORDERED.

17 Dated: May 16, 2018

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19 MORRISON C. ENGLAND, JR.
20 UNITED STATES DISTRICT JUDGE
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