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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALONDRA ZARATE, and minors N.Z.
and A.Z., by and through their legal
guardian JOSÉ G. FIGUEROA,

Plaintiffs,

v.

FARMERS NEW WORLD LIFE
INSURANCE COMPANY and DOES 1–
10,

Defendants.

No. 1:17-cv-00954-DAD-JLT

ORDER GRANTING AMENDED JOINT
MOTION TO APPROVE MINOR’S
SETTLEMENT

(Doc. No. 21)

Before the court is the parties’ joint motion to approve a compromise of the minors’ claims in this action. (Doc. No. 17.) A hearing on the motion was held on May 30, 2018. Attorney Craig A. Edmonston appeared telephonically on behalf of plaintiffs, and attorney Michael Newman appeared telephonically on behalf of defendant. Following the hearing, the parties filed an amended motion as discussed at the hearing. (Doc. No. 21.) Having considered the parties’ amended request and heard oral argument, and for the reasons set forth below, the court grants the amended motion to approve the minors’ compromise.

FACTUAL AND PROCEDURAL BACKGROUND

Defendant Farmers New World Life Insurance Company (“Farmers”) issued a term life insurance policy, Policy No. 007874584-OR, to Jose Zarate (the “insured”). (See Doc. No. 21-2

1 at Ex. A.) The insured was covered under the term life policy in the amount of \$250,000.00.
2 (Doc. No. 21 at ¶ 3.)

3 The insured died on or about April 11, 2008, and as a result the death benefit became
4 payable. (*Id.* at ¶ 4.) Maricela Zarate, the wife of the insured, was designated as the beneficiary.
5 (*Id.* at ¶ 5.) On October 4, 2010, Maricela Zarate was convicted of the homicide of the insured.
6 (*Id.* at ¶ 6.) Pursuant to California law:

7 A named beneficiary of a bond, life insurance policy, or other
8 contractual arrangement who feloniously and intentionally kills the
9 principal obligee or the person upon whose life the policy is issued
10 is not entitled to any benefit under the bond, policy, or other
contractual arrangement, and it becomes payable as though the
killer had predeceased the decedent.

11 Cal. Prob. Code § 252. Accordingly, Maricela Zarate was disqualified from the \$250,000 life
12 benefit. (*Id.* at ¶ 6.)

13 Plaintiff Alondra Zarate, born January 13, 1997; plaintiff N.Z., born December 20, 2005;
14 and plaintiff A.Z., born February 13, 2002, are the natural daughters of Jose Zarate and Maricela
15 Zarate. (*Id.* at ¶ 5.) N.Z. will reach the age of majority on December 20, 2023, and A.Z. will
16 reach the age of majority on February 13, 2020. (*Id.* at ¶ 23.) Pursuant to the subject policy,
17 plaintiffs are entitled to the \$250,000 life benefit as the surviving issue and contingent
18 beneficiaries of the insured. (*Id.* at ¶ 6.)

19 On April 21, 2017, plaintiffs commenced this action for breach of contract and declaratory
20 relief in Kern County Superior Court. (Doc. No. 3-1 at Ex. A.) On or about April 26, 2017, Jose
21 G. Figueroa was appointed as guardian *ad litem* for N.Z. and A.Z. (Doc. No. 21 at ¶ 8.) On July
22 18, 2017, defendant removed this action from state court. (Doc. No. 1.) On August 22, 2017,
23 defendant filed an answer. (Doc. No. 10.) On February 16, 2018, the plaintiffs filed a notice of
24 settlement. (Doc. No. 13.) On April 25, 2018, the parties filed a joint motion to approve a
25 compromise of the minors' claims in this action. (Doc. No. 17.) Following a hearing on the
26 motion, the parties filed the instant amended motion to approve a compromise of the minors'
27 claims in this action on May 30, 2018. (Doc. No. 21.)

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1 by minors . . . be settled in accordance with applicable state law. California law requires court
2 approval of the fairness and terms of the settlement.”). A settlement for a minor and attorney’s
3 fees to represent a minor must be approved by the court. Cal. Prob. Code § 3601; Cal. Fam. Code
4 § 6602. Reasonable expenses and court costs to be paid out of the settlement also must be
5 approved by the court. Cal. Prob. Code § 3601. In addition, the Local Rules of this court require
6 disclosures regarding the minors involved, the nature of the controversy, the manner in which the
7 compromise was determined, and whether a conflict of interest may exist between the minor and
8 her attorney. *See* Local Rules 202(b)–(c).

9 Here, the proposed settlement agreement provides that defendant Farmers will pay each of
10 Jose Zarate’s surviving children a one-third share of the death benefits under the life insurance
11 policy at issue. Thus, each minor will receive an amount similar to that which she could likely be
12 entitled as a beneficiary under the plan, in the absence of a qualified surviving spouse or
13 registered domestic partner. Having carefully reviewed the parties’ submissions, the court finds
14 that the proposed settlement is fair and reasonable.

15 In addition, the instant petition seeks an order awarding attorneys’ fees amounting to 25%
16 of the total recovery for each minor. It has been the practice in the Eastern District of California
17 to consider 25% of the recovery as the benchmark for attorneys’ fees in contingency cases
18 involving minors. *See, e.g., Mitchell v. Riverstone Residential Grp.*, No. 2:11-cv-02202-LKK-
19 CKD, 2013 WL 1680641, at *2 (E.D. Cal. Apr. 17, 2013); *McCue v. South Fork Union Sch. Dist.*,
20 No. 1:10-cv-00233-LJO-MJS, 2012 WL 2995666, at *2 (E.D. Cal. Jul. 23, 2012); *Welch v.*
21 *County of Sacramento*, No. 2:07-cv-00794-GEB-EFB, 2008 WL 3285412, at *1 (E.D. Cal. Aug.
22 5, 2008); *Red v. Merced County*, No. 1:06-cv-01003-GSA, 2008 WL 1849796, at *2 (E.D. Cal.
23 Apr. 23, 2008); *Schwall v. Meadow Wood Apartments*, No. 2:07-cv-00014-LKK, 2008 WL
24 552432, at *1 (E.D. Cal. Feb. 27, 2008); *Walden v. Moffett*, No. 1:04-cv-06680-LJO-DLB, 2007
25 WL 2859790, at *3 (E.D. Cal. Sept. 20, 2007). The court finds the award of attorney’s fees
26 sought to be reasonable under the circumstances.

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1 **ORDER**

2 Accordingly, for the reasons stated above, the court grants the amended joint motion for
3 minors' compromise (Doc. No. 21), and further orders the following:

- 4 1. Defendant Farmers shall pay each of Jose Zarate's surviving children a one-third
5 share of the death benefit (an amount totaling \$351,375.38, inclusive of interest)
6 under the life insurance policy at issue, in the manner described herein;
- 7 2. Within twenty-one (21) days of the date of this order, Farmers shall issue payment
8 of \$117,125.13 to Alondra Zarate and her attorney Craig A. Edmonston;
- 9 3. Within twenty-one (21) days of the date of this order, Jose G. Figueroa shall
10 establish a blocked account at Chase Bank, Delano Branch located at 917 Main
11 Street, Delano, CA 93215, for the benefit of N.Z. (the "N.Z. Restricted Account").
12 Funds deposited into the N.Z. Restricted Account shall not be withdrawn without
13 further order of this court until N.Z. reaches the age of majority;
- 14 4. Within ten (10) days of establishing the N.Z. Restricted Account, Jose G. Figueroa
15 shall provide Farmers, Craig A. Edmonston, Esq., and the court with the exact
16 name of the account holder for the N.Z. Restricted Account;
- 17 5. Within twenty-one (21) days of receipt by Farmers of the exact name of the
18 account holder for the N.Z. Restricted Account, Farmers shall mail a check in the
19 amount of \$87,523.85, which includes 1/3 of the applicable interest accrued on the
20 total Death Benefit, payable to "[N.Z.], a minor" to Craig A. Edmonston, Esq.
21 (The referenced \$87,523.85 figure represents N.Z.'s 1/3 share of the Death
22 Benefit, plus interest (\$117,125.13) less her attorney's 25% contingency fee and
23 \$320.00 in costs. These attorneys' fees and costs are separately payable to Craig
24 A. Edmonston, Esq. pursuant to a certain Contingency Agreement by and between
25 Craig A. Edmonston, Esq. and Jose G. Figueroa, and payment of same is
26 addressed below.). Within ten (10) days of receiving Farmers' check, Craig A.
27 Edmonston, Esq. shall deposit the amount payable to N.Z. into the N.Z. Restricted
28 Account, and provide confirmation of the deposit to the court and Farmers.

- 1 6. Within twenty-one (21) days of the date of this order, Jose G. Figueroa shall
2 establish a blocked account at Chase Bank, for the benefit of A.Z. (the “A.Z.
3 Restricted Account”). Funds deposited into the A.Z. Restricted Account shall not
4 be withdrawn without further order of this court until A.Z. reaches the age of
5 majority.
- 6 7. Within ten (10) days of establishing the A.Z. Restricted Account, Jose G. Figueroa
7 shall provide Farmers, Craig A. Edmonston, Esq., and the court with the exact
8 name of the account holder for the A.Z. Restricted Account;
- 9 8. Within twenty-one (21) days of receipt by Farmers of the exact name of the
10 account holder for the A.Z. Restricted Account, Farmers shall mail a check in the
11 amount of \$87,523.85, which includes 1/3 of the applicable interest accrued on the
12 total Death Benefit, payable to “[A.Z.], a minor” to Craig A. Edmonston, Esq.
13 (The referenced \$87,523.85 figure represents A.Z.’s 1/3 share of the Death
14 Benefit, plus interest (\$117,125.13) less her attorney’s 25% contingency fee and
15 \$320.00 in costs. These attorneys’ fees and costs are separately payable to Craig
16 A. Edmonston, Esq. pursuant to a certain Contingency Agreement by and between
17 Craig A. Edmonston, Esq. and Jose G. Figueroa, and payment of same is
18 addressed below.). Within ten (10) days of receiving Farmers’ check, Craig A.
19 Edmonston, Esq. shall deposit the amount payable to A.Z. into the A.Z. Restricted
20 Account, and provide confirmation of the deposit to the court and Farmers;
- 21 9. Within twenty-one (21) days of (a) the date of this order, (b) receipt of a W-9 form
22 properly executed by Craig A. Edmonston; and (c) Jose G. Figueroa providing the
23 names of the account holders for the N.Z. Restricted Account and the A.Z.
24 Restricted Account, Farmers shall mail to Craig A. Edmonston, Esq., 2204
25 Truxtun Avenue, Bakersfield, CA 93301 a check payable to “Craig A. Edmonston,
26 Esq.” in the amount of \$59,202.56. (The referenced \$59,202.56 figure represents
27 Craig A. Edmonston, Esq.’s 25% contingency fee on the portions of the Death
28 Benefit being paid to N.Z. and A.Z., plus an aggregate of \$640.00 in court costs


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allocated to the minors, pursuant to certain Contingency Agreements by and between Craig A. Edmonston, Esq. and Jose G. Figueroa;

- 10. Upon Farmers mailing the checks as set forth above, Jose G. Figueroa, Alondra Zarate, N.Z., a minor, and A.Z., a minor, through their guardian Jose G. Figueroa, release any and all claims each asserted or could have asserted against Farmers arising out of the term life insurance policy, and are forever barred and restrained from bringing further actions or proceedings against Farmers as to any and all acts, omissions, or occurrences transpiring prior to the date of this motion;
- 11. Via this settlement, N.Z. and A.Z. will each receive one-third of the term life insurance policy Death Benefit plus accrued interest. Minors N.Z. and A.Z. through their legal guardian Jose G. Figueroa hereby release Farmers from any further liability for known or unknown claims arising from the Farmers subject policy. Farmers hereby in turn waives any claims for attorneys' fees and costs;
- 12. This case is dismissed with prejudice; and
- 13. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: June 5, 2018



UNITED STATES DISTRICT JUDGE