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8 **UNITED STATES DISTRICT COURT**

9 EASTERN DISTRICT OF CALIFORNIA

10 RICARDO VASQUEZ, et al.,

11 Plaintiffs,

12 v.

13 COUNTY OF STANISLAUS, et al.,

14 Defendants.

Case No. 1:19-cv-01610-AWI-SAB

ORDER REQUIRING PETITIONER TO
SUBMIT SUPPLEMENTAL BRIEFING IN
SUPPORT OF PETITION TO
COMPROMISE MINOR PLAINTIFF J.V.'S
CLAIMS

(ECF No. 42)

FOURTEEN DAY DEADLINE

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17 On March 16, 2021, minor Plaintiff J.V. through their guardian ad litem Jessica Santos
18 (“Petitioner”), filed a petition to compromise Plaintiff J.V.’s claims in this action. (ECF No. 42.)
19 The matter is currently set for hearing before the undersigned on April 21, 2021. (ECF No. 43.)
20 The Court has identified certain deficiencies in the petition as filed and the Court shall order
21 supplemental briefing in advance of the hearing.

22 Pursuant to Local Rule 202, a petition for approval of a proposed settlement of a minor’s
23 claims must disclose, among other things, the following:

24 the age and sex of the minor or incompetent, the nature of the causes of action to
25 be settled or compromised, the facts and circumstances out of which the causes of
26 action arose, including the time, place and persons involved, the manner in which
27 the compromise amount or other consideration was determined, including such
28 additional information as may be required to enable the Court to determine the
fairness of the settlement or compromise, and, if a personal injury claim, the
nature and extent of the injury with sufficient particularity to inform the Court
whether the injury is temporary or permanent. If reports of physicians or other
similar experts have been prepared, such reports shall be provided to the Court.

1 The Court may also require the filing of experts' reports when none have
2 previously been prepared or additional experts' reports if appropriate under the
3 circumstances. Reports protected by an evidentiary privilege may be submitted in
a sealed condition to be reviewed only by the Court in camera, with notice of such
submission to all parties.

4 L.R. 202(b)(2).

5 While the petition states J.V. is a son of Plaintiff Ricardo Vasquez, the petition does not
6 specifically disclose the age and sex of the minor as required by the Local Rule. While the
7 petition generally describes the facts, date, and actors involved in the incident underlying this
8 action, the petition does not specifically identify the nature of the individual causes of action that
9 are being settled, as required by the Local Rules. The Court notes the second amended
10 complaint currently reflects that Plaintiff J.V. is a party to seven (7) of the total of ten (10) causes
11 of action brought. (ECF No. 38.) The supplemental briefing shall disclose the information
12 required under the Local Rules. See L.R. 202(b); Hughey v. Camacho, No. 2:13-CV-02665-
13 TLN-AC, 2019 WL 1208987, at *3 (E.D. Cal. Mar. 14, 2019) (Plaintiffs have met the procedural
14 requirements of Local Rule 202(b)(2) . . . Plaintiffs have identified the Minor, G.H., as a six-
15 year-old male; and have identified the claims to be settled in the pending action, all relevant
16 background facts, and the manner in which the proposed settlement was determined.”).

17 Further, while the petition generally states that J.V. suffered emotional distress, to the
18 extent Plaintiff J.V. is alleging personal injury, for example through the seventh cause of action
19 for negligence, the supplemental briefing shall provide sufficient information for the Court to
20 determine whether the injury is temporary or permanent, and any expert reports if those have
21 been prepared. Id.

22 The Local Rules also provide the following guidelines for disbursements of money to
23 minors:

24 **(e) Payment of Judgment.** Whenever money or property is recovered on behalf
25 of a minor or incompetent person, the money or property will be (1) disbursed to
26 the representative pursuant to state law upon a showing that the representative is
27 duly qualified under state law, (2) disbursed otherwise pursuant to state law, or
28 (3) disbursed pursuant to such other order as the Court deems proper for the
protection of the minor or incompetent person.

(f) Interim Disbursements. Applications for orders authorizing interim
disbursements shall be heard by the appropriate state court judge or by the

1 assigned Magistrate Judge. See L.R. 302(c)(14). In the event of a hearing by a
2 state court judge concerning interim disbursements, a copy of the order shall be
3 filed with a copy to the Magistrate Judge and shall be reviewed by the Magistrate
4 Judge in accordance with (b)(1).

4 L.R. 202(e)-(f).

5 The petition does not describe the manner of how the payment to the minor will be
6 disbursed. Petitioner shall also address the manner of disbursement of the payment to the minor
7 in supplemental briefing. See, e.g., Dumas v. City of Elk Grove, No. 2:09-CV-01573-GEB,
8 2012 WL 2116390, at *1 (E.D. Cal. June 6, 2012) (structuring payments to minors into fixed
9 annuities in blocked accounts payable on eighteenth birthdays); Parson v. City of Bakersfield,
10 No. 107CV01468OWW DLB, 2009 WL 453118, at *1–2 (E.D. Cal. Feb. 23, 2009) (depositing
11 payment to minor into insured account subject to withdrawal only upon authorization of the court
12 until reaching age of eighteen); Lobaton v. City of San Diego, No. 15-CV-1416 GPC (DHB),
13 2017 WL 2298474, at *3 (S.D. Cal. May 26, 2017) (settlement payment placed in blocked
14 account, with restriction on withdrawal without court order).

15 Additionally, the petition proffers that Plaintiff Ricardo Vasquez will pay for the legal
16 costs related to the case instead of apportioning part of such costs to Plaintiff J.V., however, the
17 petition does not identify the amount of legal costs to be paid. Petitioner shall provide such
18 information in supplemental briefing.

19 Finally, the petition provides no caselaw demonstrating the appropriateness of the
20 settlement amount here. The Ninth Circuit has directed that “[s]o long as the net recovery to
21 each minor plaintiff is fair and reasonable in light of their claims and average recovery in similar
22 cases, the district court should approve the settlement as proposed by the parties.” Robidoux v.
23 Rosengren, 638 F.3d 1177, 1181 (9th Cir. 2011). The Petitioner shall provide supporting
24 caselaw demonstrating the net recovery is fair and reasonable in light of the average recovery in
25 similar cases.

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Accordingly, IT IS HEREBY ORDERED that Petitioner shall file supplemental briefing in support of the petition that addresses the issues discussed in this order, within fourteen (14) days of entry of this order.

IT IS SO ORDERED.

Dated: March 31, 2021


UNITED STATES MAGISTRATE JUDGE