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9 UNITED STATES DISTRICT COURT
 10 EASTERN DISTRICT OF CALIFORNIA

11 TAMARA KEMPER, Guardian ad Litem for
 K. K. a Minor,
 12
 13 Plaintiff,

Case No.: 2:09-CV-03222-FCD-EFB

**STIPULATION AND ORDER
 REGARDING BINDING HIGH/LOW
 ARBITRATION**

14 vs.

15 FOLSOM CORDOVA UNIFIED SCHOOL
 DISTRICT, ROBERT SCHLEGEL and
 DOES 1 to 20,
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 17 Defendants.

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 19 The parties, by and through their respective counsel of record, hereby agree and stipulate as
 20 follows:

- 21 1. The above-entitled matter will be decided by binding high/ low arbitration.
- 22 2. The parties have agreed to utilize the services of Nicholas Lowe as arbitrator.
- 23 3. The high is \$25,000 and the low is \$5,000.
- 24 4. If the arbitrator were to issue an award under \$5,000 then plaintiffs would receive
 25 the low number of \$5,000 as the minimum. If the arbitrator were to issue an award
 26 above \$25,000 then plaintiffs would receive an award of \$25,000 as the maximum. If
 27 the arbitrator issues an award between the high and low numbers, then that number will
 28 be the award. If the arbitrator issues an award under \$5,000 which then entitles plaintiff

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to the low number of \$5,000, plaintiffs agree that they would not be able to seek and recover any attorney’s fees under any cause of action in this matter. However, any award over \$5,000 would allow plaintiff to seek attorney’s fees, if applicable, pursuant to the procedure set forth below.

5. Should the arbitrator, Nicholas Lowe, render an award under the 42 U.S.C. §1983 cause of action and said award is over \$5,000, he would then decide what attorney’s fees and costs plaintiffs would be entitled to, if any. This would be done by presenting the arbitrator, post award, with a fee and cost bill. Defendants would then have the opportunity to contest the fee and cost bill with a briefing schedule set by the arbitrator similar to the procedure of a motion to tax costs and fees. The arbitrator would then make a decision on recoverable fees and costs, if any.

6. Neither party shall conduct discovery, with the exception of obtaining plaintiff’s medical records which defendants have subpoenaed from Mercy Medical Center.

7. Two weeks prior to the scheduled arbitration date the parties will exchange witness list and all documents that each side intends to introduce as evidence at the arbitration hearing.

8. The decision of arbitrator on the underlying case and the issue of fees and costs, if any, is binding, and not reviewable by the District court and not appealable. The arbitrator’s award is enforceable by the District court should enforcement be required.

9. Filing of the arbitration award with proof of satisfaction of the award with this court will result in the dismissal of the action with prejudice as to all defendants.

10. By this stipulation, the parties fully understand and agree that they are relinquishing their right to a trial by jury as to this entire matter.

11. The attorneys for the parties herein represent that they have full and complete authority to enter into this stipulation and bind their clients fully to all terms of this stipulation.

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This stipulation may be signed in counterparts to facilitate its timely filing with this court.

Dated: May 10, 2010

CYRUS ZAL, PROFESSIONAL CORPORATION

By: /s/ Cyrus Zal
CYRUS ZAL
Attorneys for Plaintiffs Tamara Kemper,
Guardian Ad Litem for K. K., a Minor

Dated: May 10 , 2010


LAPLANTE, SPINELLI, DONALD & NOTT

By: /s/ Domenic D. Spinelli
DOMENIC D. SPINELLI
Attorneys for Defendants, FOLSOM CORDOVA
UNIFIED SCHOOL DISTRICT and
ROBERT SCHLEGEL

ORDER

IT IS SO ORDERED.

Dated: May 12, 2010


FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE