

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

H.W., a minor, by and through)	
Guardian ad Litem HEIDI NELSON;)	2:11-cv-00531-GEB-GGH
and M.K., a minor, by and)	
through Guardian ad Litem ROBERT)	
KOELLING,)	<u>ORDER</u>
)	
Plaintiffs,)	
)	
v.)	
)	
CODY CARLISLE,)	
)	
Defendant*.)	
_____)	

Plaintiffs' motion for entry of default judgment was referred to a United States Magistrate Judge pursuant to Local Rule 302(c)(19) and 28 U.S.C. § 636(b)(1). On February 16, 2012, the Magistrate Judge filed findings and recommendations, which contained notice that any objections to the findings and recommendations were to be filed within fourteen days. No objections were filed.

The court finds the findings and recommendations to be supported by the record and by proper analysis except as to the amount of general damages awarded to each plaintiff, and consequently, the amount of attorneys' fees counsel may recover from each plaintiff's damages award (1/3 of each plaintiff's damages award). The record does not support an award of \$1,000,000 in non-economic damages per

* The caption has been amended in accordance with the January 19, 2012 Order dismissing Defendants Eastern Sierra Unified School District, Jason Reed, and Don Clark. See ECF No. 34.

1 plaintiff. Although the verdict search results submitted by Plaintiffs
2 include verdicts which awarded general damages exceeding \$1,000,000,
3 those cases involved a different degree of misconduct than that alleged
4 in this action. The results which involved conduct most similar to the
5 alleged conduct in this case awarded \$450,000.00 - \$750,000.00 in
6 general damages per plaintiff.² Therefore, based on the record and
7 considering each plaintiff's injuries, five hundred thousand dollars
8 (\$500,000.00) per plaintiff is sufficient compensation for the emotional
9 injury suffered as a result of Defendant's conduct. The amount of
10 attorneys' fees recoverable is reduced accordingly.

11 Therefore, IT IS ORDERED that:

12 1. The February 16, 2012 Findings and Recommendations are
13 ADOPTED IN PART;

14 2. Each plaintiff's motion for default judgment against
15 defendant Cody Carlisle is GRANTED;

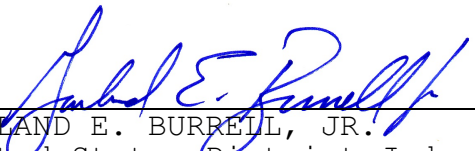
16 3. Judgment is rendered to Plaintiff H.W. in care of her
17 Guardian, if H.W. has not attained majority status when payment is made,
18 and to H.W. directly if she has attained majority status, in the total
19 amount of \$632,743.67 damages, and \$2,459.31 in costs. Counsel shall
20 recover \$210,703.64 out of full recovery of the above damages from
21 Carlisle when paid to H.W. The attorneys' fee amount shall be offset by
22 any award granted under 42 U.S.C. § 1988.

23 4. Judgment is rendered to Plaintiff M.K. in care of her
24 Guardian, if M.K. has not attained majority status when payment is made,
25 and to M.K. directly if she has attained majority status, in the amount

27 ² The verdict search results which awarded \$750,000 per
28 plaintiff were settlements, rather than verdicts, which may include
damages in addition to non-economic damages.

1 of \$660,000.00 damages and \$2,459.31 in costs. Counsel shall recover
2 \$219,780.00 out of full recovery of the above damages from Carlisle when
3 paid to M.K. The attorneys' fee amount shall be offset by any award
4 granted under 42 U.S.C. § 1988.

5 Dated: May 21, 2012

6
7 
8 _____
9 GARLAND E. BURRELL, JR.
10 United States District Judge
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28