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

MAURICE WOODSON,

Plaintiff,

v.

P. SAHOTA, et al.,

Defendants.

Case No. 2:11-cv-01589 MCE KJN P
**FINDINGS AND RECOMMENDATIONS
APPROVING THE SETTLEMENT
AGREEMENT**

I. BACKGROUND

Inmate-Plaintiff, Maurice Woodson filed a civil rights action alleging that the sole remaining defendant, Dr. A. Nangalama, denied him sufficient medication to manage the chronic pain in his elbows.¹ Before the case was concluded, plaintiff suffered a debilitating stroke unrelated to the claim in his first amended complaint, and the Court appointed his daughter, Mauriceana Woodson, as his guardian ad litem. The guardian ad litem, with the assistance of her Court-appointed limited term counsel, Joshua Kaizuka, join the defendant in seeking the Court’s approval of a settlement agreement. The Court recommends that the settlement be approved

¹ Plaintiff earlier consented to the dismissal of the other named defendants who were dismissed on July 18, 2014. (ECF Nos. 18, 19.)

1 because the proposed settlement of the plaintiff's claim is in the plaintiff's best interests and is
2 fair and reasonable. E.D. Cal. L.R. 202(b).

3 **II. LEGAL STANDARD**

4 The Court has a special duty to safeguard the interests of incompetent persons. Fed. R. Civ.
5 P. 17(c). The Court must conduct its own inquiry to determine whether a proposed settlement
6 serves the best interests of an incompetent person. Robidoux v. Rosengren, 638 F.3d 1177, 1181-
7 1182 (9th Cir. 2011); Smith v. City of Stockton, 185 F.Supp.3d 1242, 1243 (E.D. Cal. 2016)
8 (applying Robidoux inquiry to incompetent persons). The Court should approve the settlement as
9 proposed by the parties as long as the plaintiff's recovery is fair and reasonable in light of the
10 facts of the case, the claim, and the average recovery in similar cases. Robidoux, 638 F.3d at
11 1182. The settlement of an incompetent person's claim is not effective unless approved by the
12 Court. E.D. Cal. L.R. 202(b).

13 **III. ANALYSIS**

14 On July 10, 2018, counsel for the parties, along with plaintiff's guardian ad litem
15 participated in a settlement conference with the Court. Defendant agreed to pay plaintiff the sum
16 of \$2,500 in exchange for dismissal of the action in its entirety with prejudice, with each party
17 maintaining responsibility for their own costs and attorney fees.

18 Plaintiff's First Amended Complaint alleges that defendant did not provide him with his
19 preferred pain management medication. Alternatively, defendant argues that there was no
20 medical indication for continuing Tramadol, a highly-addictive medication with dangerous side
21 effects, and that he prescribed plaintiff alternative medications, Tylenol and Ibuprofen, based on
22 his medical judgment and knowledge of plaintiff's health. Plaintiffs do not frequently succeed in
23 cases of this type because a disagreement over the course of treatment does not rise to the level of
24 deliberate indifferent care. Jackson v. McIntosh, 90 F.3d 330, 332 (9th Cir. 1996); Sanchez v.
25 Vild, 891 F.2d 240, 242 (9th Cir. 1989). Juries however, can be unpredictable, and defendant
26 substituted Tramadol, a narcotic medication used to treat moderate to severe pain, with an over-
27 the-counter pain reliever, Tylenol, used to treat mild to moderate pain. If the case proceeds to
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1 trial, the Court finds that plaintiff's risk of loss, given the deliberate indifference standard and
2 plaintiff's inability to present evidence, is great.

3 The parties agreed to a settlement of \$2,500. The settlement monies will first be used to
4 pay plaintiff's restitution balance of approximately \$947.14. Cal. Pen. Code § 2085.5. The
5 estimated remaining amount of \$1,552.86 will be plaintiff's net recovery, and those funds will be
6 distributed to plaintiff's daughter and guardian ad litem. Plaintiff's guardian ad litem approves of
7 the proposed settlement. The Court has considered the plaintiff's likelihood of recovery
8 compared to similar cases. The Court finds that the net amount of the proposed settlement to be
9 distributed to plaintiff is fair and reasonable in light of the facts of the case, the specific claims,
10 and recoveries in other cases. See, e.g., Magarrell vs. Mangis, 50 Trials Digest 16th 5 (E.D. Cal.
11 Sept. 30, 2011) (defense verdict where inmate-plaintiff claimed prison doctor did not review his
12 chart or prescribe any medication to treat his kidney stone pain); Ashker vs. Sayre, 41 Trials
13 Digest 12th 5 (N.D. Cal. May 22, 2009) (\$6,500 jury verdict for inmate-plaintiff who alleged
14 prison doctor improperly managed his pain with Tylenol and Ibuprofen instead of Tramadol).

15 **IV. CONCLUSION**

16 Accordingly, the Court **FINDS** that the proposed settlement agreement is in plaintiff's best
17 interests, and **RECOMMENDS** that the joint motion to approve the settlement agreement be
18 **GRANTED**.

19 These findings and recommendations are submitted to the United States District Judge
20 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
21 after being served with these findings and recommendations, any party may file written
22 objections with the court and serve a copy on all parties. Such a document should be captioned
23 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
24 objections shall be filed and served within fourteen days after service of the objections. The
25 parties are advised that failure to file objections within the specified time may waive the right to

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1 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991);
2 Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d
3 1391, 1394 (9th Cir. 1991)).

4 Dated: August 13, 2018

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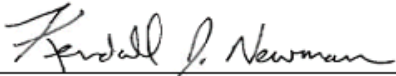
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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE