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Attorneys for Defendant A.M., A Minor
Appearing Through Guardian Ad Litem
INGERLISHA MARTINEZ

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA,

Plaintiff,

v.

A.M, a minor; D.P., a minor; ANDREA
MORGAN in her personal capacity;
INGERLISHA MARTINEZ, as mother and
next friend of the minor child A.M.; and
ANDREA MORGAN, in her capacity as
mother and next friend of the minor child
D.P.;

Defendants.

No. 2:13-cv-00820-MCE-AC

**ORDER RE: MOTION FOR APPROVAL
OF PROPOSED SETTLEMENT,
DISBURSEMENT OF FUNDS, AND
DISMISSAL OF ACTION**

An Interpleader Complaint was filed by The Prudential Insurance Company of America ("Prudential") to resolve a dispute regarding life insurance proceeds governed by federal law. Through the Office of Servicemembers' Group Life Insurance, Prudential provides group life insurance benefits to the Department of Veterans Affairs of the United States, pursuant to Servicemembers' Group Life Insurance, under group policy number G-32000 ("SGLI Policy"). Xantavia was covered under the SGLI Policy in the amount of

1 \$400,000 (the "Death Benefit"). See Complaint, ECF No. 1, at Exhibit B. Pursuant to 38
2 U.S.C section 1965 *et seq.*, federal law governs the policy at issue.

3 Xantavia never executed an SGLI form designating his beneficiaries, although his file
4 did contain an unsigned SGLI form that listed his (former) wife, Andrea Morgan ("Andrea")
5 and their son D.P. as co-equal beneficiaries of the Death Benefit. See *id.*, at Exhibit D. At
6 the time of his death, Xantavia was divorced from Andrea and unmarried. See *id.*; see
7 Waiver And Withdrawal Of Claim To Death Benefit ("Waiver"), ECF No. 41, at Exhibit A.

8 Pursuant to 38 U.S.C. section 1970, if no qualifying beneficiary designation exists at
9 the time of an insured's death, the death benefit under the SGLI policy is payable to the
10 insured's surviving spouse and, if none, to the insured's surviving children, in equal shares.

11 For purposes of a SGLI Policy determination, a child of an insured is defined as
12 either (1) a legitimate child or (2) an illegitimate child of the alleged father only if (a) he
13 acknowledged the illegitimate child in a writing signed by him; or (b) he had been judicially
14 ordered to contribute to the illegitimate child's support; or (c) he had been, before his death,
15 judicially decreed to be the father of such child; or (d) proof of paternity has been
16 established by a certified copy of the public record of birth or church record of baptism
17 showing that the insured was the informant and was named as the father of the illegitimate
18 child; or (e) proof of paternity was established from service department records, such as
19 school or welfare agencies, which show that with his knowledge the insured was named as
20 the father of the child. See 38 U.S.C. § 1970(8).

21 Ingerlisha Martinez ("Ingerlisha"), who had a relationship with Xantavia prior to his
22 marriage to Andrea, submitted a claim to the Death Benefit on behalf of her child A.M.. See
23 Complaint, ECF No. 1, at Exhibit F. Andrea, both individually and on behalf of her child
24 D.P., also submitted claims to the Death Benefit. See *id.*, at Exhibits G and L. Thus, initially,
25 there were three claimants: (a) Andrea individually, (b) D.P., and (c) A.M. Due to the
26 dispute over entitlement to the Remaining Death Benefit, Prudential named all three
27 claimants as defendants in this action. See Complaint, ECF No. 1.

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1 Proof of paternity between D.P. and Xantavia was un-contested. See Complaint,
2 ECF No. 1, at Exhibit L. D.P., as Xantavia's issue, therefore was entitled to one-half of the
3 Death Benefit under either the unsigned beneficiary form or pursuant to 38 U.S.C. section
4 1970. Because there was no guardian of D.P.'s property or estate, Prudential caused
5 D.P.'s undisputed 50% share of the Death Benefit, or \$200,000, to be paid into a Letter of
6 Indebtedness to be held by Prudential and which may be surrendered when D.P. reaches
7 the age of 18 or when a guardian of D.P.'s property or estate is appointed. See *id.*

8 Pursuant to this Court's Order, Prudential deposited the other one-half of the Death
9 Benefit, plus accrued interest, or \$206,957.47, with the Court on or about May 7, 2014
10 ("Remaining Death Benefit"). See Order, ECF No. 44, and Receipt.

11 The parties have settled. Pursuant to their settlement agreement, A.M. is entitled to
12 one-half of the insurance proceeds. Her guardian ad litem seeks the Court's approval of the
13 proposed settlement and disbursement plan, including an award of attorneys' fees.

14 "District courts have a special duty, derived from Federal Rule of Civil Procedure
15 ("FRCP") 17(c), to safeguard the interests of litigants who are minors. [. . .] In the context of
16 proposed settlements in suits involving minor plaintiffs, this special duty requires a district
17 court to 'conduct its own inquiry to determine whether the settlement serves the best interest
18 of the minor.' *Dacanay v. Mendoza*, 573 F.2d 1357, 1080 (9th Cir. 1978); see also
19 *Salmeron v. United States*, 724 F.2d 1357, 1363 (9th Cir. 1983) (holding that 'a court must
20 independently investigate and evaluate any compromise or settlement of a minor's claims to
21 assure itself that the minor's interests are protected, even if the settlement has been
22 recommended or negotiated by the minor's parent or guardian ad litem')." *Robidoux v.*
23 *Rosengren*, 638 F.3d 1177, 1181 (9th Cir. 2011). Referencing FRCP 17(c), Local Rule
24 202(b) provides that no claim by or against a minor may be settled absent an order by the
25 Court approving the settlement. In actions in which the United States courts have exclusive
26 jurisdiction, a motion for approval of a proposed settlement must be filed and shall disclose
27 such information as may be required by the Court to determine the fairness of the
28 settlement. See *id.*, at 202(b)(2).

1 In *Robidoux v. Rosengren*, 638 F.3d 1177 (9th Cir. 2011), the Ninth Circuit provided
2 guidance for a district court considering whether to approve a proposed settlement involving
3 minors. In cases involving the settlement of a minor’s federal claim, a court should
4 determine “whether the net amount distributed to each minor plaintiff in the proposed
5 settlement is fair and reasonable, in light of the facts of the case, the minor’s specific claim,
6 and recovery in similar cases. Most importantly, the district court should evaluate the
7 fairness of each minor plaintiff’s net recovery without regard to the proportion of the total
8 settlement value designated for . . . Plaintiffs’ counsel” *Id.*, at 1179. If the net recovery
9 of each minor plaintiff under the proposed settlement is fair and reasonable, the district
10 court should approve the settlement as proposed.” *Id.*, at 1179. The Court has original
11 jurisdiction over this Interpleader action under the provisions of 28 U.S.C. section 1331.
12 Therefore, the court will be guided by *Robidoux’s* holding.

13 Each of the minors filed claims to the Death Benefit. See Complaint, ECF No. 1. If
14 the unsigned beneficiary form is operative, D.P. would be entitled to all of the Death Benefit
15 as a designated beneficiary (since Andrea waived her claim) and A.M.’s claim would have
16 no value. If it is not operative, then Xantavia’s children should divide the Death Benefit
17 equally. See 38 U.S.C. § 1970(a) (if the insured did not designate a beneficiary in a writing
18 received prior to death, and no widow, proceeds to the child or children).

19 The parties entered into a Settlement Agreement wherein, subject to court approval,
20 A.M. is entitled to the Remaining Death Benefit (or \$200,000 plus interest). Thus, the net
21 amount distributed to each minor in the proposed settlement is as follows: \$200,000 plus
22 interest to D.P.; \$200,000 plus interest to A.M. (less attorneys’ fees).

23 Petitioner has provided the Court with similar cases wherein the order of
24 beneficiaries, as set forth in 38 U.S.C section 1970, has been utilized when a
25 servicemember fails to execute an SGLI beneficiary designation form. See *Prudential Ins.*
26 *Co. of America v. West*, 324 F. Supp. 1049 (W.D. Ark. 1971). In another case cited by
27 Petitioner, the court determined that evidence of the decedent’s intent should not be used to
28 determine the beneficiary of SGLI proceeds, as that practice would be inconsistent with

1 federal law. See *Mixsooke v. Prudential Life Ins. Co.*, 2013 WL 600237 (D. Alaska 2013).
2 In each of those cases cited by Petitioner, only the claimant whose name appeared on a
3 fully executed SGLI form, or who was the designated beneficiary based upon the order of
4 beneficiaries set forth in 18 U.S.C. section 1970, recovered any portion of the SGLI life
5 insurance proceeds.

6 Considering the facts of the case, the minors' claims and recoveries in similar cases,
7 the court finds the net recovery to each minor is fair and reasonable

8 Since this matter arises under federal law, the court will use the lodestar method to
9 evaluate the fairness of the requested award of attorneys' fees. Counsel has provided
10 billing entries evidencing that the amount of time worked on this case, exclusive of the time
11 incurred by A.M.'s other counsel, attorneys Mack and Paxton, totals 150.2 hours. Based
12 on the legal services provided and the legal issues addressed, the court finds the hours
13 billed in this case are reasonable.

14 Counsel has charged \$350 per hour in this case and has provided the court with a
15 declaration regarding the prevailing market rate in the Eastern District of California for work
16 done by experienced attorneys in similar civil cases. The court finds \$350 per hour a
17 reasonable rate for attorney Fields in this case.

18 By multiplying a total of 150.2 hours reasonably incurred by attorney Fields times a
19 reasonable rate of \$350 per hour, reasonable attorneys' fees in this case total \$52,570.
20 While fees incurred are slightly greater than the \$50,000 Contingency Fee called for in the
21 Contingency Fee Contract (25% of the remaining gross amount, after deduction for cost
22 advanced, of any recovery obtained by the way of settlement or compromise), counsel for
23 A.M. (Attorney Fields and Mack) waives fees that exceed the contracted amount. Further,
24 counsel waives any claim for recovery of costs and waives any claim to accrued interest on
25 A.M.'s net recovery. The court finds that reasonable attorneys' fees in this case total
26 \$52,570. In light of attorney Fields and Mack waive fees in any amount greater than 25%,
27 the court awards attorney Fields the reduced sum of \$50,000 (from which 10%, or \$5,000,
28 shall be paid to attorney Mack).

1 The Louisiana state court is best suited to determine, under that state's laws, the
2 reasonableness of attorney Paxton's requested award in the amount of \$5,000. Therefore,
3 this Court will issue a ruling concerning the reasonableness of attorney Paxton's award
4 upon review of the state court order in this regard.

5 The court notes that Prudential has been dismissed and waived any claim for an
6 award of fees or costs. See Memorandum and Order ECF No. 53. The court further notes
7 that D.P. is not represented by counsel and his guardian has waived any claim for fees or
8 costs. See Settlement Agreement, Exhibit A to Fields Dec., at ¶ 2.

9 Pursuant to Local Rule 202(e), money that is recovered on behalf of a minor must be
10 (1) disbursed to the representative pursuant to state law upon a showing that the
11 representative is duly qualified under state law, (2) disbursed otherwise pursuant to state
12 law, or (3) disbursed pursuant to such other order as the Court deems proper for the
13 protection of the minor. A.M. and her mother reside in Richland Parish, Louisiana.

14 The court finds that it would be in A.M.'s best interest, and make the most sense, to
15 obtain state court approval of a plan for the distribution of A.M.'s net recovery in this action.
16 The court acknowledges the draft Petition to Withdraw the Minor's Funds and to Set Court
17 Approval of Payments on Behalf of the Minor ("state court Petition") drafted by Louisiana
18 attorney James E. Paxton, who has been retained by A.M.'s mother. See Petition, Exhibit
19 F to Fields Dec. The court directs attorney Fields to ensure that the Petition is filed in the
20 Fifth Judicial District Court In And For The Parish Of Richland - State Of Louisiana.

21 Attorney Paxton asks this Court to waive Local Rule 202(f), which requires state
22 court orders authorizing interim disbursements to be reviewed by an assigned Magistrate
23 Judge in the Eastern District of California, based upon the procedural safeguards that
24 Louisiana has in place sufficiently protect the property of a minor. See Declaration of
25 James E. Paxton at ¶¶ 3 - 5. The court finds that it is appropriate to waive future
26 compliance with Local Rule 202(f).

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1 Based upon the courts findings herein, the motion is GRANTED. The court approves
2 the settlement of the minors' claims. Further, the court approves a fee award to attorney
3 Fields in the amount of \$50,000.

4 The Court hereby waives future compliance with Local Rule 202(f).

5 Upon receipt and approval of a properly fashioned state court order, the Court shall
6 direct the Clerk to disburse funds deposited into the Court's Registry (Order, ECF 44), as
7 follows: the Remaining Death Benefit plus accrued interest, less \$50,000, to the registry of
8 the Fifth Judicial District Court In And For The Parish Of Richland – State Of Louisiana.

9 Attorney Fields shall provide this court with proof that the that the minor's money has
10 been deposited in a blocked interest-bearing account held with a banking institution that is
11 insured with the Federal Deposit Insurance Corporation until the minor reaches the age of
12 18, within 20 days of deposit.

13 Upon the Court's confirmation that the state court distribution plan has been
14 completed, the Court shall direct the Clerk to disburse the remaining balance, in the amount
15 of \$50,000, to attorney Fields.

16 If what is ordered occurs, this action shall be dismissed with prejudice with each side
17 to bear its own cost.

18 Dated: December 22, 2014

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22 MORRISON C. ENGLAND, JR., CHIEF JUDGE
23 UNITED STATES DISTRICT COURT
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