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2 Attorneys for Plaintiffs

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10 **UNITED STATES DISTRICT COURT**
11 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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13 SHAWNA BROWN, individually and as
14 successor-in-interest for Decedent LUTHER
15 BROWN; S.S.J., a minor, by and through her
16 guardian ad litem, SHAWNA BROWN; D.P., a
17 minor, by and through her guardian ad litem,
18 RITA ALMENDAREZ; S.S.J., a minor, by and
19 through her guardian ad litem, RITA
20 ALMENDAREZ; D.P., a minor, by and through
21 his guardian ad litem, RITA ALMENDAREZ;
22 S.S.J., a minor, by and through her guardian ad
23 litem, GAYLE JOHNSON; and QUEEN E.
24 BROWN, individually.

25 Plaintiffs,

26 v.

27 CITY OF STOCKTON, a municipal corporation;
28 WESLEY GRINDER, individually; RYAN
TAIRIOL individually; LOREEN GAMBOA,
individually; 'FNU' SCOTT, individually; and
DOES 1-50, inclusive, individually,

Defendants.

Case No. 2-13-CV-01007-KJM-KJN

**PETITION APPOINTING GUARDIAN AD
LITEM AND APPROVING MINOR'S
COMPROMISE FOR MINOR PLAINTIFF
S.S.J. AND ORDER**

No hearing date set

Hon. Kendall J. Newman
United States Magistrate Judge

1 Petitioner GAYLE JOHNSON respectfully represents:

2 1. Petitioner GAYLE JOHNSON is the natural mother of Minor Plaintiff S.S.J. Minor
3 Plaintiff S.S.J. was born in 2010 and is presently nine years old.

4 2. Minor Plaintiff S.S.J. has a Fourteenth Amendment substantive due process cause of
5 action for interference with familial relationship is a co-successor-in-interest on the Fourth
6 Amendment claim. Due to the CITY's bankruptcy, there are not state law claims. All Plaintiffs have
7 the same Fourteenth Amendment claim, while Plaintiffs SHAWNA BROWN (Decedent's wife) and
8 all Minor Plaintiffs have claims under the Fourth Amendment as co-successors-in-interest to
9 Decedent.

10 3. Plaintiffs' causes of action arise out an incident that occurred on April 6, 2012, in
11 which Decedent LUTHER BROWN died after being shot numerous times by Defendants GRINDER
12 and TAIRIOL.

13 4. No previous petition for appointment of Guardian Ad Litem has been filed in this
14 matter.

15 5. Petitioner is willing to serve as the minor's Guardian Ad Litem. Petitioner is fully
16 competent to understand and protect the rights of the minor and has no interest adverse to that of the
17 minor.

18 6. Petitioner requests that she be appointed Guardian Ad Litem for her daughter, as
19 denoted above, to prosecute the above-described causes of action on behalf of her daughter, as
20 denoted above, and for such other relief as the Court may deem just and proper.

21 7. The parties in this case have reached settlement in this matter. The total settlement of
22 the case is in the amount of \$550,000.00, including all costs and attorneys' fees. The parties have
23 agreed on apportionment of the settlement. Of the total gross settlement amount, Minor Plaintiff
24 S.S.J.'s gross settlement shall be \$71,500.00 (13% of the total settlement).

25 a. Attorney fees for Minor Plaintiff S.S.J. shall be at 25% of her total gross
26 recovery, in the amount of \$17,875.00, pursuant to the contingency fee agreement in this case.

1 b. Proportionate with Minor Plaintiff S.S.J.'s share of the \$550,000.00 recovery,
2 Minor Plaintiff shall bear 13% of the total \$13,280.17 in litigation costs incurred by her
3 counsel in this action: \$1,726.42.

4 c. Minor Plaintiff S.S.J.'s net settlement is in the amount of \$51,898.58.

5 d. Of Minor Plaintiff S.S.J.'s net settlement, \$10,000.00 shall be place in an
6 FDIC insured court-blocked account, with distributions made by Court order, and as follows:
7 on each of Minor Plaintiff S.S.J.'s birthdays until she reaches age 17 (in 2027), Minor
8 Plaintiff shall receive disbursement from the court-blocked account in the amount of \$500.
9 All funds remaining in this FDIC insured court-blocked account, if any, shall be made
10 available to Minor Plaintiff on her 18th birthday (in 2028).

11 e. The remainder of Minor Plaintiff S.S.J.'s net settlement shall be placed in the
12 structured settlement lump sum plan set forth in attached exhibit A, with two guaranteed lump
13 sum payments as follows: \$25,000.00 paid on her birthday in 2035 and \$46,108.00 payable
14 on her birthday in 2040.

15 9. This petition was prepared by the Law Offices of John L. Burris, the lead counsel
16 representing plaintiff in this action. Benjamin Nisenbaum, Esq. and James Cook, Esq. of the Law
17 Offices of John L. Burris also represents plaintiff and is in agreement with the terms of this Petition.
18 John L. Burris, Esq., Benjamin Nisenbaum, Esq., James Cook, Esq. hereby represent to the Court that
19 they became involved in this case at the request of plaintiffs, and have not received, and do not
20 expect to receive any compensation for their services in connection with this action from any person
21 other than the parties whom they represent in this action.

22 10. Petitioner and her counsel have made a careful and diligent inquiry and investigation
23 to ascertain the facts relating to the subject incidents, the responsibility therefore, and the nature and
24 extent of injury to the Minor Plaintiff, and fully understand that if the compromise herein proposed is
25 approved by the Court and is consummated, said Minor Plaintiff will be forever barred and prevented
26 from seeking any further recovery of compensation as against all Defendants in this action, even if
27 said minor's losses and injuries might in the future prove to be more serious than they are now
28 thought to be.

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11. Petitioner recommends this compromise settlement to the Court as being fair, reasonable, and in the best interests of said Minor Plaintiff.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 16, 2019

/s/ Benjamin Nisenbaum
Ben Nisenbaum
Attorney for Plaintiffs

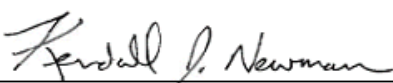
1 **ORDER**

2 Plaintiffs' Petition to appoint GAYLE JOHNSON as the guardian ad litem of her daughter,
3 Minor S.S.J., in the instant matter is hereby granted.

4 The Court hereby approves the minor's compromise according to the terms set forth in the
5 instant petition to approve the minor's compromise.

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7 IT IS SO ORDERED.

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9 Dated: July 26, 2019

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KENDALL J. NEWMAN
13 UNITED STATES MAGISTRATE JUDGE
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