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

I. P., A MINOR, BY AND THROUGH HER GUARDIAN AD LITEM, FACUNDO PALACIO DIAZ; MICAELA PALACIO,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

CASE NO. 2:13-CV-01012 JAM-CKD

JOINT STIPULATION AND [PROPOSED] ORDER REGARDING DAMAGES

JUDGE: HON. JOHN A. MENDEZ CTRM.: 6, 14th Floor

TRIAL DATE: SEPTEMBER 24, 2015

Defendant the United States and Plaintiffs I.P. and Micaela Palacio respectfully submit the following Joint Stipulation and Proposed Order regarding damages. The parties have met and conferred to narrow the damages issues in order to streamline trial proceedings and conserve the parties' and the Court's time and resources. In the event of a liability finding following trial, the parties stipulate to the following:

- A. If the Court determines that Plaintiff I.P. has a life expectancy to age 23, and the Court applies the net discount rate offered by the United States' economist Erik Volk, the present cash value for I.P.'s future medical expenses for all items except for home attendant care would be \$517,882.
- B. If the Court determines that Plaintiff I.P. has a life expectancy to age 23, and the Court applies the net discount rate offered by Plaintiffs' economist Peter Formuzis, the present cash value for I.P.'s future medical expenses for all items except for home attendant care would be \$544,139.

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- C. If the Court determines that Plaintiff I.P. has a life expectancy to age 28, and the Court applies the net discount rate offered by the United States' economist Erik Volk, the present cash value for I.P.'s future medical expenses for all items except for home attendant care would be \$635,815.
- D. If the Court determines that Plaintiff I.P. has a life expectancy to age 28, and the Court applies the net discount rate offered by Plaintiffs' economist Peter Formuzis, the present cash value for I.P.'s future medical expenses for all items except for home attendant care would be \$676,471.
- E. If the Court determines that Plaintiff I.P. has a life expectancy to an age other than to age 23 or to age 28, the parties will need to submit revised damages figures based on the Court's life expectancy finding.

As a result of this joint stipulation, the parties further stipulate to the following:

- F. Because Plaintiffs accept the costs as presented in the life care plan of the United States' expert Tim Sells for items covered by this stipulation, insurance-related issues are no longer in dispute. The United States therefore will not present testimony at trial from its insurance expert, Paul Adams.
- G. The remaining damages issues to be tried at trial are the following:
  - 1) Plaintiff I.P.'s life expectancy;
  - 2) What type of attendant care Plaintiff I.P. needs;
  - 3) The present cash value for this future attendant care;
  - 4) The amount of Plaintiff I.P.'s projected lost earnings; and
  - 5) The net discount rate(s) to apply.
- H. The parties will present testimony at trial on these remaining damages issues from the following experts: Dr. Luis Montes (Plaintiffs' medical expert), Ms. Karen Preston (Plaintiffs' life care planner), Dr. Peter Formuzis (Plaintiffs' economist), Dr. Ira Lott (Plaintiffs' life expectancy expert), Dr. Joseph Capell (Defendant's medical expert), Mr. Tim Sells (Defendant's life care planner), Mr. Erik Volk (Defendant's economist), and Dr. Steven Day (Defendant's life expectancy expert).
- I. In the event of a liability finding and imposition of judgment against the United States, the United States will not request that the Court impose a reversionary trust that pays medical expenses only as they are incurred in structuring the damages payment.

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2		Respectfully submitted,
3		BENJAMIN B. WAGNER
4	7	United States Attorney
5	Dated: September 2015 By:	VICTORIA L. BOESCH
6		Assistant United States Attorney
7		Chison .
8		CHI SOO KIM Assistant United States Attorney
9		Attorneys for Defendant United States of America
10		LAW OFFICE OF DRUCE C. EACEL & ACCOCIATED
11	Dated: September 2015 By:	LAW OFFICE OF BRUCE G. FAGEL & ASSOCIATES
12	Dated. September 3., 2013 by.	BRUCE G. FAGEL Attorneys for Plaintiffs
13		Attorneys for Figureaus
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15	IT IS SO ORDERED.	—
16	Carland 20 2015	(ha)
17	DATED: Splember 28, 2015	All Jens
18		HON. JOHN A. MENDEZ UNITED STATES DISTRICT JUDGE
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