

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

J.D. and Z.D., individually and as decedent Juan De La Torre's successors in interest, minors by and through their Guardian Ad Litem, VIVICA GONZALEZ; VIVICA GONZALEZ, an individual; and GRACIELA ARELLANO, an individual;

NO. 2:13-CV-1786-GEB-DAD

ORDER GRANTING EACH MINOR
PLAINTIFF'S APPLICATION FOR
COMPROMISE OF DISPUTED CLAIMS,
REMANDING THE MATTERS INVOLVING
MINORS AND SETTLEMENT TRUSTS,
AND CLOSING FEDERAL ACTION

Plaintiffs,

v.

SWIFT TRANSPORTATION COMPANY, a publicly traded Delaware corporation; SWIFT TRANSPORTATION SERVICES, LLC, a Delaware Limited Company; SWIFT TRANSPORTATION CO. OF ARIZONA, LLC, a Delaware Limited Liability Company; INTERSTATE EQUIPMENT LEASING, LLC, a Delaware Limited Liability Company; EDWARD GREER, JR., an individual; SWIFT LEASING CO., LLC (DOE No. 1); FIERRO TRUCKING II, LLC (DOE No. 2); and JOSE ANGEL MARTINEZ (DOE No. 3).

Defendants.

Plaintiffs J.D. and Z.D., through their mother and
guardian ad litem Vivica Gonzalez; Vivica Gonzalez; and Graciela

1 Arellano seek unopposed approval of a compromise settling their
2 claims against all Defendants. (Appl. for Compromise of Disputed
3 Claims by Minor Pls. ("Application"), ECF No. 59.) Gonzalez was
4 appointed guardian ad litem by the Superior Court of California,
5 in the County of San Joaquin, where the action was filed as No.
6 39-2013-00296353-CU-PO-STK; Defendants removed that case to
7 federal court under 28 U.S.C. §§ 1332, 1441.

8 Plaintiffs allege Defendants contributed to the
9 wrongful death of Juan De La Torre, the father of J.D. and Z.D.,
10 who was killed after his passenger vehicle collided with a
11 tractor-trailer driven by Defendant Geer. The proposed settlement
12 awards J.D. and Z.D. each \$1,100,000, with a net settlement of
13 \$599,399 for J.D. and \$599,400 for Z.D. after attorneys' fees and
14 costs are reduced from the referenced gross settlement amounts.
15 (Decl. Shea ISO Pls.' Application ("Shea Decl.") Ex. 3, ECF No.
16 64-4 (state court order regarding J.D.); Shea Decl. Ex. 4, ECF
17 No. 64-5 (state court order regarding Z.D.))

18 The referenced settlements were approved by the state
19 court from which this case was removed, as required by Local Rule
20 202(b)(1), which prescribes:

21 In actions in which the minor . . . is
22 represented by an appointed representative
23 pursuant to appropriate state law, excepting
24 only those actions in which the United States
25 courts have exclusive jurisdiction, the
26 settlement or compromise shall first be
27 approved by the state court having
28 jurisdiction over the personal
representative. Following such approval, a
copy of the order and all supporting and
opposing documents filed in connection
therewith shall be filed in the District
Court with a copy to all parties and to the
Judge or Magistrate Judge who may either
approve the settlement or compromise without

1 hearing or calendar the matter for hearing.

2 The state court approved J.D.'s and Z.D.'s compromises
3 on April 21, 2015. (Shea Decl. Exs. 3-4.) I concur in the
4 approval of the settlements. The remaining issue is whether the
5 federal court or state court should exercise jurisdiction over
6 the two trusts created by approval of the settlements.

7 Each trust will be remanded to the state court from
8 which this lawsuit was removed, since the trusts are established
9 by this order and "both as a matter of comity and to promote
10 justice [for J.D. and Z.D.]," all matters involving J.D. and Z.D.
11 and the administration of each trust should be handled by the
12 state court from which the state case was removed. United Mine
13 Workers of Am. v. Gibbs, 383 U.S. 715, 726 (1966). Each trust
14 includes language concerning the administration of the trusts.
15 Z.D.'s trust states in part that "[w]hen required by the Court or
16 application of the California Probate Code, the Trustee shall
17 file a periodic Account and Report in compliance with the
18 procedures and schedule set forth in the California Probate Code.
19 (Shea Decl. Ex. 4, Ex. 1 p. 7-1.) J.D.'s trust states in part
20 that "[u]nless waived by the Court, the Trustee shall file a
21 periodic Account and Report for court approval in compliance with
22 the procedures and schedule set forth in the California Probate
23 Code." (Shea Decl. Ex. 3, Ex. 1 p.8.)

24 For the stated reasons, the referenced matters and
25 trusts are remanded to the Superior Court of California, San
26 Joaquin County, where the action was filed as No. 39-2013-
27 00296353-CU-PO-STK.

3 Dated: April 30, 2015



GARLAND E. BURRELL, JR.
Senior United States District Judge