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11 Attorneys for Plaintiff  
 12 KENNETH STEWART III

13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO/OAKLAND DIVISION

15 KENNETH STEWART III, a minor by and  
 16 through his Guardian Ad Litem, Beatriz  
 17 Abrego, individually and as successor in  
 interest to KENNETH E. STEWART, JR.,  
 deceased;

18 Plaintiff,

19 v.

20 STATE OF CALIFORNIA; SCOTT  
 21 KERNAN; RONALD DAVIS; ERIC E.  
 22 EVANS; JEFFREY M. CARLTON; APRIL D.  
 23 MAXFIELD; JACK E. DOUGERY; and  
 DOES 1-50, inclusive,

24 Defendants.

CASE NO. C18-01778-RMI

~~PROPOSED~~ ORDER APPROVING  
 SETTLEMENT

Action Filed: February 2, 2018  
 Removal: March 22, 2018  
 Trial Date: Vacated

1 Plaintiff KENNETH STEWART III, a minor by and through his Guardian Ad Litem, Beatriz  
2 Abrego, individually and as successor in interest to KENNETH E. STEWART, JR., deceased  
3 (“Plaintiff”) and Defendants STATE OF CALIFORNIA, SCOTT KERNAN, RONALD DAVIS,  
4 ERIC E. EVANS, JEFFREY M. CARLTON, APRIL D. MAXFIELD, and JACK E. DOUGERY  
5 (“Defendants”) have reached a final settlement of this matter.

6 After consideration of Plaintiff’s Motion to Approve Settlement, and the record as a whole, the  
7 Court finds that the proposed settlement for the benefit of Kenneth Stewart III, aka Kenneth Stewart,  
8 Jr., date of birth January 14, 2005, against defendants in the sum of \$900,000 (a copy of the proposed  
9 Agreement is attached as Exhibit C to the Declaration of Joseph S. May filed in support of Plaintiff’s  
10 motion), serves the best interests of the minor Plaintiff. Accordingly, the Court GRANTS the motion  
11 to approve the settlement. Pursuant to the Agreement, California Department of Corrections and  
12 Rehabilitation (“CDCR” or “Defendant”) shall prepare and deliver drafts for the settlement proceeds  
13 in accordance with paragraph 3 of the Settlement Agreement and Release, payable as follows:

14 (a) One check for \$186,926.75, made payable to Lepera + Associates, PC., mailed to  
15 Lepera + Associates, PC, 601 Montgomery Street, Suite 665, San Francisco, California 94111,  
16 representing \$180,000 in attorneys’ fees, and \$6,926.75 in costs;

17 (b) One check for \$181,806.41, made payable to Law Office of Joseph S. May, 1388  
18 Sutter Street, Suite 810, San Francisco, California 94109, representing \$180,000 in attorneys’ fees and  
19 \$1,806.41 in costs.

20 (c) One check for \$4,000, made payable to Beatriz Abrego, c/o Lepera + Associates,  
21 PC, mailed to Lepera + Associates, PC, 601 Montgomery Street, Suite 665, San Francisco, California  
22 94111, representing expenses incurred by Ms. Abrego, Plaintiff’s guardian ad litem, at the direction  
23 of counsel, to open probate for Decedent in order to obtain prison, medical, and mental health records  
24 that were necessary to prosecute this action;

25 (d) A check in the amount \$527,266.84 will be paid from Defendant to Mutual of  
26 Omaha Structured Settlement Company to fund an annuity for the benefit of Kenneth Stewart, III, aka  
27 Kenneth Stewart, Jr., through a policy issued by United of Omaha Life Insurance Company, rated A+

1 by AM Best, as further described below:

2           Periodic payments made to Kenneth Stewart, III aka Kenneth Stewart, Jr. (“Payee”) made  
3 according to the Schedule of Payments as follows (the “Periodic Payments”):

4                     \$249,387.99 lump sum payment on 01/14/2023 (age 18), guaranteed.

5                     \$150,000.00 lump sum payment on 01/14/2030 (age 25), guaranteed.

6                     \$201,119.61 lump sum payment on 01/14/2033 (age 28), guaranteed.

7 All the payments set forth herein constitute damages on account of personal physical injuries, arising  
8 from an occurrence within the meaning of Section 104(a)(2) of the IRS Code of 1986, as amended.

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11 **IT IS SO ORDERED.**

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13 DATED: June 2, 2020

  
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15 HON. ROBERT M. ILLMAN  
16 United States Magistrate Judge  
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