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20 UNITED STATES DISTRICT COURT
 21 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

22	CURTIS LYNN STEELE, an individual,)	No. C 05-2511 TEH
23	Plaintiff,)	
24	vs.)	(Lead Case; Consolidated with <i>John</i>
25)	<i>DeMartini, as Guardian Ad Litem for</i>
26)	<i>R.A.D. and C.M.S.; and Irene Steele and</i>
27)	<i>Darryl Steele as Co-guardians Ad Litem for</i>
28)	<i>B.I.S. 05-4399 TEH)</i>
)	
	UNITED STATES OF AMERICA,)	STIPULATION AND PROPOSED
	Defendant.)	ORDER APPROVING SETTLEMENT
)	DISBURSEMENT TO PLAINTIFFS

1 THE PARTIES, BY AND THROUGH THEIR ATTORNEYS OF RECORD, HEREBY
2 SUBMIT THE FOLLOWING STIPULATION:

3 WHEREAS, on September 21, 2004, Curtis Steele and Tracy DeMartini were involved in
4 a motor vehicle accident with a federal employee;

5 WHEREAS, Tracy DeMartini died on or about September 23, 2004;

6 WHEREAS, following the events of September 21, 2004, Curtis Steele made an
7 administrative claim for tort damages on December 21, 2004;

8 WHEREAS, on June 21, 2005, Curtis Steele filed this lawsuit against the United States of
9 America, alleging damages under the Federal Tort Claims Act;

10 WHEREAS, on or about May 16, 2005, John DeMartini filed administrative claims on
11 behalf of Minors R.A.D. and C.M.S and on or about June 14, 2005 Irene and Darryl Steele filed
12 an administrative claim on behalf of Minor B.I.S;

13 WHEREAS, on or about October 20, 2005, John DeMartini named the United States of
14 America as defendant in his state court, alleging damages under the Federal Tort Claims Act,
15 said action was removed to federal court on October 28, 2005, and Irene Steele and Darryl Steele
16 filed a lawsuit on or about October 24, 2005;

17 WHEREAS, all lawsuits were consolidated into the lead case no. C 05-2511 TEH;

18 WHEREAS, the Court dismissed defendants Lake County Tribal Health Consortium and
19 Thomas Rangel by order dated March 13, 2006;

20 WHEREAS, the parties attended a settlement conference before the Honorable Elizabeth
21 Laporte on June 9, 2006;

22 WHEREAS, the parties reached agreement on the terms of settlement recorded herein on
23 or about June 16, 2006;

24 IT IS HEREBY STIPULATED as follows:

25 1. By Stipulation and Order Approving Settlement, filed June 28, 2006 and
26 approved by the Court on June 29, 2006 (See Action 05-2511, Docket entry #60), the parties and
27 Nonprofits' Insurance Alliance of California (hereinafter, "NIAC" or "Insurer") agreed to settle
28 all of plaintiffs' claims or potential claims arising from the subject matter of this consolidated

1 litigation. The terms and conditions of the settlement agreement, as set forth in the Stipulation
2 and Order Approving Settlement, are incorporated herein by reference as though fully set forth,
3 including but not limited to the full release by plaintiffs of all claims or potential claims.

4 2. The purpose of this Stipulation of Settlement and Disbursement Of Funds is to set forth
5 the terms of disbursement of the settlement proceeds, consistent with the Stipulation and Order
6 Approving Settlement previously approved by the Court. In the Stipulation and Order
7 Approving Settlement, the parties provided that the United States would fund \$700,000 in lump
8 sum payments to plaintiffs and NIAC would fund \$1,000,000 to a combination of annuity
9 products and lump sum payments to be determined. The United States will make lump sum
10 payments only; all periodic payments described in this Stipulation shall be made under the terms
11 of annuities contracts to be purchased by NIAC.

12 This stipulation sets forth how the settlement will be funded and how the settlement funds
13 are to be disbursed.

14 **3. SETTLEMENT DISBURSEMENT FOR R.A.D.** For purposes of this agreement, the
15 parties will refer to plaintiff Rickie Ann DeMartini as R.A.D. The settlement amount of
16 \$600,000.00 for Plaintiff John DeMartini on behalf of R.A.D. will be disbursed as follows:

17 A) **Litigation Costs and Attorneys Fees:** A total of \$6,390.56 in litigation costs have
18 been incurred on behalf of plaintiff John DeMartini as Guardian ad litem for R.A.D and C.M.S.
19 R.A.D.'s pro rata share of the total litigation costs equals \$3,834.34. Plaintiff John DeMartini as
20 Guardian Ad Litem for R.A.D. and C.M.S. has a fee agreement with his attorneys Abbey
21 Weitzenberg Warren & Emery and Tibor Major for services provided in pursuing the subject
22 claims on a contingency fee basis for twenty five percent (25%) of the total recovery after
23 reduction of litigation costs. The attorneys fees for the R.A.D. portion of the subject settlement
24 proceeds is twenty five percent (25%) of (\$600,000.00 less \$3,834.34 in litigation costs) or
25 \$149,041.41. Attorneys fees and Litigation Costs will be funded by a check from the United
26 States of America made payable to Abbey Weitzenberg Warren & Emery and Tibor Major in the
27 sum of **\$152,875.75.**

28 B) **Purchase of an Annuity for the Benefit of R.A.D.:** The **\$424,520.70** of remaining

1 settlement proceeds will be paid by Nonprofits Insurance Alliance of California directly to
2 American General Annuity Service Corporation for the purchase an annuity for the benefit of
3 R.A.D as compensation for the settlement of the above entitled action. The terms of the annuity
4 are detailed in **Exhibit A**.

5 **C) Deposit into Blocked Account Available to R.A.D. at Age 18:** The remaining
6 **\$22,603.54** of the settlement proceeds will be paid by a check from the United States of America
7 made payable to R.A.D. and shall be deposited into an interest bearing federally insured account
8 with the San Francisco Police Credit Union located at 2550 Irving Street, San Francisco,
9 California 94122, which withdrawals will not be permitted until R.A.D. turns eighteen (18) years
10 of age.

11 3.1 Payments

12 In consideration of the release set forth above, NIAC and the United States agree to pay to
13 the individuals named below (the “payees”) the sums outlined in this section below:

14 3.2 Payments due at the time of settlement as follows:

15 (A) The United States will tender a check made payable for attorneys fees
16 and litigation costs to Abbey Weitzenberg Warren & Emery and
17 Tibor Major in the sum of **\$152,875.75**.

18 (B) Nonprofits Insurance Alliance of California will purchase an annuity
19 for the cost of **\$424,520.70**, payable directly to American General
20 Annuity Service Corporation, which an annuity will be for the benefit
21 of R.A.D as compensation for the settlement of the above entitled
22 action.

23 (C) The United States will tender a check made payable to R.A.D. in the
24 amount of **\$22,603.54** which will be delivered to her attorneys of
25 record for deposit in accordance with this stipulation.
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1 3.3 Periodic payments made according to the schedule as follows (the "Periodic
2 Payments"):

3 3.3a Payable to RAD:

4 \$1,475.00 per month for the life of RAD, guaranteed 20 years, beginning on
5 November 8, 2012, increasing at 3% compounding annually. Compounding benefits
6 begin November 8, 2013. The last guaranteed payment will be made on October 8,
7 2032.

8 \$25,000.00 guaranteed lump sum payable on November 8, 2019.

9 \$50,000.00 guaranteed lump sum payable on November 8, 2024.

10 \$102,019.73 guaranteed lump sum payable on November 8, 2029.

11 3.4 Payee's Rights to Payments

12 Plaintiffs acknowledges that the Periodic Payments cannot be accelerated, deferred,
13 increased or decreased by the Plaintiffs or any payee, nor shall the plaintiffs or any payee have the
14 power to sell, mortgage, encumber, or anticipate the Periodic Payments, or any part thereof, by
15 assignment or otherwise.
16

17 3.5 Payee's Beneficiary

18 Any payments to be made after the death of any Payee(s) pursuant to the terms of this
19 Settlement Agreement shall be made to such person or entity as shall be designated in writing by
20 Plaintiff(s) to the insurer or the Insurer's Assignee. If no person or entity is so designated by
21 Plaintiff(s), or if the person designated is not living at the time of the Payee's death, such payments
22 shall be made to the estate of the Payee. No such designation, nor any revocation thereof, shall be
23 effective unless it is in writing and delivered to the Insurer or the Insurer's Assignee. The
24 Designation must be in a form acceptable to the Insurer or the Insurer's Assignee before such
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1 payments are made, but in no event shall the request of the payee be unreasonably withheld or
2 denied.

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4 3.6 Consent to Qualified Assignment

5 3.6a Plaintiffs acknowledge and agree that the Defendants and/or the
6 Insurer may make a “qualified assignment”, within the meaning of
7 Section 130 of the Internal Revenue Code of 1986, as amended, of
8 the Defendants and/or the Insurer’s liability to make the Periodic
9 Payments set forth in Section 3.3a to American General Annuity
10 Service Corporation (“the Assignee”). The Assignee’s obligation for
11 payment of the Periodic Payments shall be no greater than that of the
12 Defendants and/or the Insurer (whether by judgment or agreement)
13 immediately preceding the assignment of the Periodic Payments
14 obligation.
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16
17 3.6b Any such assignment, if made, shall be accepted by the plaintiffs
18 without right of rejection and shall completely release and discharge
19 the Defendants and the Insurer from the Periodic Payments obligation
20 assigned to the Assignee. The Plaintiffs recognize that, in the event
21 of such an assignment, the Assignee shall be the sole obligor with
22 respect to the Periodic Payments obligation, and Plaintiffs agrees that
23 such assignments shall constitute a full release and discharge of all
24 of the Defendants and Insurer’s obligations relative to the Periodic
25 Payments set forth above.
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27
28 3.7 Right to Purchase Annuity

1 The Defendants and Insurer, itself or through American General Annuity Service
2 Corporation (“the Assignee”) reserve the right to fund the liability to make the Periodic Payments
3 in Section 3.3a through the purchase of an annuity policy from American General Life Insurance
4 Company. The Assignee shall be the sole owner of the annuity policy and shall have all rights of
5 ownership. The assignee may have American General Life Insurance Company mail payments
6 directly to the Payee(s). The plaintiffs shall be responsible for maintaining a current mailing address
7 for Payee(s) with American General Annuity Service Corporation.
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9 3.8 Discharge of Obligation
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11 The obligation of the assignee to make each Periodic Payment shall be discharged upon the
12 mailing of a valid check in the amount of such payment to the designated address of the Payee(s)
13 named in Section 2 of this Settlement Agreement.
14

15 4. **SETTLEMENT DISBURSEMENT FOR C.M.S.** For purposes of this
16 agreement, the parties will refer to plaintiff Courtney Marie Steele as C.M.S.
17 The settlement amount of \$400,000.00 for Plaintiff John DeMartini on behalf
18 of C.M.S. will be disbursed as follows:
19

20 A) **Litigation Costs and Attorneys Fees:** A total of \$6,390.56 in litigation costs have
21 been incurred on behalf of plaintiff John DeMartini as Guardian ad litem for R.A.D and C.M.S.
22 C.M.S.’s pro rata share of the total litigation costs equals \$2,556.22. Plaintiff John DeMartini as
23 Guardian Ad Litem for R.A.D. and C.M.S. has a fee agreement with his attorneys Abbey
24 Weitzenberg Warren & Emery and Tibor Major for services provided in pursuing the subject claims
25 on a contingency fee basis for twenty five percent (25%) of the total recovery after reduction of
26 litigation costs. The attorneys fees for C.M.S.’s portion of the subject settlement proceeds is twenty
27 five percent (25%) of (\$400,000.00 less \$2,556.22 in litigation costs) or \$99,360.95. Attorneys
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1 fees and Litigation Costs will be funded by a check from the United States of America made payable
2 to Abbey Weitzenberg Warren & Emery and Tibor Major in the sum of **\$101,917.16**.

3
4 **B) Purchase of an Annuity for the Benefit of C.M.S.: \$275,479.30** of the
5 settlement proceeds will be paid by Nonprofits Insurance Alliance of California directly to American
6 General Annuity Service Corporation for the purchase an annuity for the benefit of C.M.S. as
7 compensation for the settlement of the above entitled action. The terms of the annuity are detailed
8 in **Exhibit B**.

9
10 **C) Deposit into Blocked Account Available to C.M.S. at Age 18:** The remaining
11 **\$22,603.54** of the settlement proceeds will paid by a check from the United States of America made
12 payable to C.M.S. and shall be deposited into an interest bearing federally insured account with the
13 San Francisco Police Credit Union located at 2550 Irving Street, San Francisco, California 94122,
14 which withdrawals will not be permitted until C.M.S turns eighteen (18) years of age.

15
16 4.1 Payments

17 In consideration of the release set forth above, NIAC and the United States agree to pay to
18 the individuals named below (the “payees”) the sums outlined in this section below:

19 4.2 Payments due at the time of settlement as follows:

20
21 (A) The United States will tender a check made payable for attorneys fees
22 and litigation costs to Abbey Weitzenberg Warren & Emery and
23 Tibor Major in the sum of **\$101,917.16**.

24 (B) Nonprofits Insurance Alliance of California will purchase an annuity
25 for the cost of **\$275,479.30**, payable directly to American General
26 Annuity Service Corporation, which an annuity will be for the benefit
27 of C.M.S. as compensation for the settlement of the above entitled
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1 action.

2 C) The United States will tender a check made payable to C.M.S. in the
3 amount of **\$22,603.54** which will be delivered to her attorneys of
4 record for deposit in accordance with this stipulation.
5

6 4.3 Periodic payments made according to the schedule as follows (the "Periodic
7 Payments"):

8 4.3b Payable to CMS:

9 \$760.00 per month for the life of CMS, guaranteed 20 years, beginning on October
10 10, 2006, increasing at 2% compounding annually. Compounding benefits begin
11 October 10, 2007. The last guaranteed payment will be made on September 10,
12 2026.
13

14 \$15,000.00 guaranteed lump sum payable on October 10, 2013.

15 \$30,000.00 guaranteed lump sum payable on October 10, 2018.

16 \$92,942.87 guaranteed lump sum payable on October 10, 2023.
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18 4.4 Payee's Rights to Payments

19 Plaintiffs acknowledges that the Periodic Payments cannot be accelerated, deferred,
20 increased or decreased by the Plaintiffs or any payee, nor shall the plaintiffs or any payee have the
21 power to sell, mortgage, encumber, or anticipate the Periodic Payments, or any part thereof, by
22 assignment or otherwise.
23

24 4.5 Payee's Beneficiary

25 Any payments to be made after the death of any Payee(s) pursuant to the terms of this
26 Settlement Agreement shall be made to such person or entity as shall be designated in writing by
27 Plaintiff(s) to the insurer or the Insurer's Assignee. If no person or entity is so designated by
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1 Plaintiff(s), or if the person designated is not living at the time of the Payee's death, such payments
2 shall be made to the estate of the Payee. No such designation, nor any revocation thereof, shall be
3 effective unless it is in writing and delivered to the Insurer or the Insurer's Assignee. The
4 Designation must be in a form acceptable to the Insurer or the Insurer's Assignee before such
5 payments are made, but in no event shall the request of the payee be unreasonably withheld or
6 denied.
7

8 4.6 Consent to Qualified Assignment

9 4.6a Plaintiffs acknowledge and agree that the Defendants and/or the
10 Insurer may make a "qualified assignment", within the meaning of
11 Section 130 of the Internal Revenue Code of 1986, as amended, of
12 the Defendants and/or the Insurer's liability to make the Periodic
13 Payments set forth in Section 4.3b to American General Annuity
14 Service Corporation ("the Assignee"). The Assignee's obligation for
15 payment of the Periodic Payments shall be no greater than that of the
16 Defendants and/or the Insurer (whether by judgment or agreement)
17 immediately preceding the assignment of the Periodic Payments
18 obligation.
19

20 4.6b Any such assignment, if made, shall be accepted by the plaintiffs
21 without right of rejection and shall completely release and discharge
22 the Defendants and the Insurer from the Periodic Payments obligation
23 assigned to the Assignee. The Plaintiffs recognize that, in the event
24 of such an assignment, the Assignee shall be the sole obligor with
25 respect to the Periodic Payments obligation, and Plaintiffs agrees that
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1 such assignments shall constitute a full release and discharge of all
2 of the Defendants and Insurer's obligations relative to the Periodic
3 Payments set forth above.
4

5 4.7 Right to Purchase Annuity

6 The Defendants and Insurer, itself or through American General Annuity Service
7 Corporation ("the Assignee") reserve the right to fund the liability to make the Periodic Payments
8 in Section 4.3b through the purchase of an annuity policy from American General Life Insurance
9 Company. The Assignee shall be the sole owner of the annuity policy and shall have all rights of
10 ownership. The assignee may have American General Life Insurance Company mail payments
11 directly to the Payee(s). The plaintiffs shall be responsible for maintaining a current mailing address
12 for Payee(s) with American General Annuity Service Corporation.
13

14 4.8 Discharge of Obligation
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16 The obligation of the assignee to make each Periodic Payment shall be discharged upon the
17 mailing of a valid check in the amount of such payment to the designated address of the Payee(s)
18 named in Section 2 of this Settlement Agreement.
19

20 5. SETTLEMENT DISBURSEMENTS FOR B.I.S. The settlement amount
21 of \$400,000.00 for Plaintiffs Irene Steele and Darryl Steele on behalf of B.I.S. will be disbursed as
22 follows:

23 A) **Litigation Costs and Attorney Fees:** A total of \$2,354.60 in litigation
24 costs have been incurred on behalf of Plaintiffs Irene Steele and Darryl Steele on behalf of B.I.S.
25 Plaintiffs Irene Steele and Darryl Steele as co-guardians ad litem for B.I.S. have a fee agreement
26 with their attorney Nold & Associates for services provided in pursuing the subject claims on a
27 contingency fee basis for twenty-five percent (25%) of the total recovery after reduction of litigation
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1 costs. The attorney fees for B.I.S.’ portion of the subject settlement proceeds is twenty five percent
2 (25%) of (\$400,000.00 less \$2,354.60 in litigation costs) or \$99,411.35. Attorney fees and
3 Litigation Costs will be funded by a check from the United States of America made payable to Nold
4 & Associates, PLLC in the sum of **\$101,765.95**.

5
6 B) **Purchase of an Annuity for the Benefit of B.I.S.: \$200,000.00** of the
7 settlement proceeds will be paid by Nonprofits Insurance Alliance of California directly to EPS
8 Settlements Group, Inc. for the purchase of an annuity for the benefit of B.I.S. as compensation for
9 the settlement of the above entitled action. The terms of the annuity are detailed in **Exhibit C**.

10
11 C) **Deposit into Trust Account Available to B.I.S. at Age 18:** The
12 remaining **\$98,234.05** of the settlement proceeds will be paid by a check from the United States of
13 America made payable to B.I.S. Marvin Steele, as guardian of B.I.S. will serve as Trustee over this
14 account at the First National Bank of Montana, Libby, Montana.

15
16 5.1 Payments

17 In consideration of the release set forth above, NIAC and the United States agree to pay to
18 the individuals named below (the “payees”) the sums outlined in this section below:

19 5.2 Payments due at the time of settlement are as follows:

20 (A) The United States will tender a check made payable for attorneys
21 fees and litigation costs to Nold & Associates in the sum of
22 **\$101,765.95**.

23 (B) Nonprofits Insurance Alliance of California will purchase an annuity
24 for the cost of **\$200,000.00**, payable directly to EPS Settlements
25 Group, Inc. which annuity will be for the benefit of B.I.S. as
26 compensation for the settlement of the above entitled action.
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1 (C) The United States will tender a check made payable to B.I.S. in the
2 amount of **\$98,234.05** which will be delivered to her attorneys of
3 records for deposit in accordance with this stipulation.
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5 5.3 Periodic payments made according to the schedule as follows (the
6 “Periodic Payments):

7 5.3c Payable to B.I.S.:
8 \$100,000.00 guaranteed lump sum payable on November 8, 2020
9 \$150,000.00 guaranteed lump sum payable on November 8, 2026
10 \$397,925.00 guaranteed lump sum payable on November 8, 2029
11

12 5.4 Payee’s Rights to Payments

13 Plaintiffs acknowledges that the Periodic Payments cannot be accelerated, deferred,
14 increased or decreased by the Plaintiffs or any payee, nor shall the plaintiffs or any payee have the
15 power to sell, mortgage, encumber, or anticipate the Periodic Payments, or any part thereof, by
16 assignment or otherwise.
17

18 5.5 Payee’s Beneficiary

19 Any payments to be made after the death of any Payee(s) pursuant to the terms of this
20 Settlement Agreement shall be made to such person or entity as shall be designated in writing by
21 Plaintiff(s) to the insurer or the Insurer's Assignee. If no person or entity is so designated by
22 Plaintiff(s), or if the person designated is not living at the time of the Payee's death, such payments
23 shall be made to the estate of the Payee. No such designation, nor any revocation thereof, shall be
24 effective unless it is in writing and delivered to the Insurer or the Insurer's Assignee. The
25 Designation must be in a form acceptable to the Insurer or the Insurer's Assignee before such
26 payments are made, but in no event shall the request of the payee be unreasonably withheld or
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1 denied.

2 5.6 Consent to Qualified Assignment

3 5.6a Plaintiffs acknowledge and agree that the Defendants and/or the
4 Insurer may make a “qualified assignment”, within the meaning of
5 Section 130 of the Internal Revenue Code of 1986, as amended, of
6 the Defendants and/or the Insurer’s liability to make the Periodic
7 Payments set forth in Section 5.3a to Prudential Assigned Settlement
8 Services Corporation (“the Assignee”). The Assignee’s obligation
9 for payment of the Periodic Payments shall be no greater than that of
10 the Defendants and/or the Insurer (whether by judgment or
11 agreement) immediately preceding the assignment of the Periodic
12 Payments obligation.

13 5.6b Any such assignment, if made, shall be accepted by the plaintiffs
14 without right of rejection and shall completely release and discharge
15 the Defendants and the Insurer from the Periodic Payments obligation
16 assigned to the Assignee. The Plaintiffs recognize that, in the event
17 of such an assignment, the Assignee shall be the sole obligor with
18 respect to the Periodic Payments obligation, and Plaintiffs agrees that
19 such assignments shall constitute a full release and discharge of all
20 of the Defendants and Insurer’s obligations relative to the Periodic
21 Payments set forth above.

22 5.7 Right to Purchase Annuity

23 The Defendants and Insurer, itself or through Prudential Assigned Settlement Services

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1 Corporation (“the Assignee”) reserve the right to fund the liability to make the Periodic Payments
2 in Section 5.3a through the purchase of an annuity policy from The Prudential Insurance Company
3 of America. The Assignee shall be the sole owner of the annuity policy and shall have all rights of
4 ownership. The assignee may have The Prudential Insurance Company of America mail payments
5 directly to the Payee(s). The plaintiffs shall be responsible for maintaining a current mailing address
6 for Payee(s) with Prudential Assigned Settlement Services Corporation.
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8 5.8 Discharge of Obligation
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10 The obligation of the assignee to make each Periodic Payment shall be discharged upon the
11 mailing of a valid check in the amount of such payment to the designated address of the Payee(s)
12 named in Section 5 of this Settlement Agreement.

13 6. **SETTLEMENT DISBURSEMENTS FOR CURTIS STEELE.** The settlement
14 amount of \$300,000.00 for Plaintiff Curtis Steele will be disbursed as follows:
15

16 A) **Litigation Costs and Attorney Fees:** A total of \$7,798.97 in litigation
17 costs have been incurred on behalf of Plaintiff Curtis Steele. Plaintiff Curtis Steele has a fee
18 agreement with his attorney Nold & Associates for services provided in pursuing the subject claims
19 on a contingency fee basis for twenty-five percent (25%) of the total recovery after reduction of
20 litigation costs. The attorney fees for Curtis Steele’s portion of the subject settlement proceeds is
21 twenty five percent (25%) of (\$300,000.00 less \$7,798.97 in litigation costs) or \$73,050.26.
22 Attorney fees and Litigation Costs will be funded by a check from the United States of America
23 made payable to Nold & Associates, PLLC in the sum of **\$80,849.22.**
24

25 B) **Medi-Cal Lien:** Medi-Cal has asserted a lien against the settlement
26 proceeds of Plaintiff Curtis Steele in the amount of **\$108,433.09.**
27

28 C) **Purchase of an Annuity for the Benefit of Curtis Steele: \$100,000.00** of

1 the settlement proceeds will be paid by Nonprofits Insurance Alliance of California directly to EPS
2 Settlements Group, Inc. for the purchase of an annuity for the benefit of Curtis Steele as
3 compensation for the settlement of the above entitled action. The terms of the annuity are detailed
4 in **Exhibit D**.

5
6 **D) Deposit into Bank Account Belonging to Plaintiff Curtis Steele:** The
7 remaining **\$10,717.69** of the settlement proceeds will be paid by a check from the United States of
8 America made payable to Curtis Steele and shall be deposited into an interest bearing federally
9 insured account with the Bank of America located at 500 Main Street in Lakeport, California.

10
11 6.1 Payments

12 In consideration of the release set forth above, NIAC and the United States agree to
13 pay to the individuals named below (the “payees”) the sums outlined in this section below:

14 6.2 Payments due at the time of settlement are as follows:

15 (A) The United States will tender a check made payable for attorneys fees
16 and litigation costs to Nold & Associates in the sum of **\$80,849.22**.

17 (B) Nonprofits Insurance Alliance of California will purchase an annuity
18 for the cost of **\$100,000.00**, payable directly to EPS Settlements
19 Group, Inc., which annuity will be for the benefit of Curtis Steele as
20 compensation for the settlement of the above entitled action.

21 (C) The United States will tender a check made payable to Medi-Cal in
22 the amount of **\$108,433.09** which will be delivered to his attorneys
23 of records for disbursement in accordance with this stipulation.

24 (D) The United States will tender a check made payable to Curtis Steele
25 in the amount of **\$10,717.69** which will be delivered to his attorneys
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1 of records for deposit in accordance with this stipulation.

2 6.3 Periodic payments made according to the schedule as follows (the

3
4 “Periodic Payments):

5 6.3d Payable to Curtis Steele.:

6 \$795.00 per month, guaranteed for 15 years, beginning on September 1, 2006

7 6.4 Payee’s Rights to Payments

8 Plaintiffs acknowledges that the Periodic Payments cannot be accelerated, deferred,
9 increased or decreased by the Plaintiffs or any payee, nor shall the plaintiffs or any payee have the
10 power to sell, mortgage, encumber, or anticipate the Periodic Payments, or any part thereof, by
11 assignment or otherwise.

12
13 6.5 Payee’s Beneficiary

14 Any payments to be made after the death of any Payee(s) pursuant to the terms of this
15 Settlement Agreement shall be made to such person or entity as shall be designated in writing by
16 Plaintiff(s) to the insurer or the Insurer's Assignee. If no person or entity is so designated by
17 Plaintiff(s), or if the person designated is not living at the time of the Payee's death, such payments
18 shall be made to the estate of the Payee. No such designation, nor any revocation thereof, shall be
19 effective unless it is in writing and delivered to the Insurer or the Insurer's Assignee. The
20 Designation must be in a form acceptable to the Insurer or the Insurer's Assignee before such
21 payments are made, but in no event shall the request of the payee be unreasonably withheld or
22 denied.

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24
25 6.6 Consent to Qualified Assignment

26 6.6a Plaintiffs acknowledge and agree that the Defendants and/or the
27 Insurer may make a “qualified assignment”, within the meaning of
28

1 Section 130 of the Internal Revenue Code of 1986, as amended, of
2 the Defendants and/or the Insurer’s liability to make the Periodic
3 Payments set forth in Section 6.3a to American General Annuity
4 Service Corporation (“the Assignee”). The Assignee’s obligation for
5 payment of the Periodic Payments shall be no greater than that of the
6 Defendants and/or the Insurer (whether by judgment or agreement)
7 immediately preceding the assignment of the Periodic Payments
8 obligation.
9

10
11 6.6b Any such assignment, if made, shall be accepted by the plaintiffs
12 without right of rejection and shall completely release and discharge
13 the Defendants and the Insurer from the Periodic Payments obligation
14 assigned to the Assignee. The Plaintiffs recognize that, in the event
15 of such an assignment, the Assignee shall be the sole obligor with
16 respect to the Periodic Payments obligation, and Plaintiffs agrees that
17 such assignments shall constitute a full release and discharge of all
18 of the Defendants and Insurer’s obligations relative to the Periodic
19 Payments set forth above.
20
21

22 6.7 Right to Purchase Annuity

23 The Defendants and Insurer, itself or through American General Annuity Service
24 Corporation (“the Assignee”) reserve the right to fund the liability to make the Periodic Payments
25 in Section 6.3a through the purchase of an annuity policy from American General Life Insurance
26 Company. The Assignee shall be the sole owner of the annuity policy and shall have all rights of
27 ownership. The assignee may have American General Life Insurance Company mail payments
28

1 directly to the Payee(s). The plaintiffs shall be responsible for maintaining a current mailing address
2 for Payee(s) with American General Annuity Service Corporation.

3 6.8 Discharge of Obligation
4

5 The obligation of the assignee to make each Periodic Payment shall be discharged upon the
6 mailing of a valid check in the amount of such payment to the designated address of the Payee(s)
7 named in Section 6 of this Settlement Agreement.

8 7. The parties agree that the district court shall retain jurisdiction over this matter for
9 the purposes of resolving any dispute alleging a breach of this Stipulation and
10 Agreement.
11

12 8. Each party acknowledges that they have been represented by and have relied upon
13 independent counsel in negotiating, preparing and entering into this Stipulation and
14 Agreement and that they have had the contents of this Stipulation and Agreement
15 fully explained by counsel and that they are fully aware of and understand all of the
16 terms of the agreement and the legal consequences thereof. It is further
17 acknowledged that the parties have mutually participated in the drafting of this
18 Stipulation and Agreement and it is agreed that no provision herein shall be
19 construed against any party hereto by virtue of the drafting of this Stipulation and
20 Agreement.
21

22 9. If any provision of this Stipulation and Agreement shall be held invalid, illegal, or
23 unenforceable, the validity, legality, and enforceability of the remaining provisions
24 shall not in any way be affected or impaired thereby. This instrument together with
25 the Stipulation and Order Approving Settlement, filed June 28, 2006 and approved
26 by the Court on June 29, 2006 (See Action 05-2511, Docket entry #60), which is
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28

1 incorporated herein by reference, shall constitute the entire agreement between the
2 parties. It is expressly understood and agreed that this agreement has been freely and
3 voluntarily entered into by the parties hereto with the advice of counsel, who have
4 explained the legal effect of this agreement. The parties further acknowledge that no
5 warranties or representations have been made on any subject other than as set forth
6 in this agreement.
7

8 10. The parties agree that, should any dispute arise with respect to the implementation
9 of the terms of this Agreement, Plaintiffs shall not seek to rescind the Agreement and
10 pursue any of the original causes of action. Plaintiffs' sole remedy in such a dispute
11 is an action to enforce the Agreement in district court. This settlement agreement
12 may be signed in counterparts.
13

14 11. The parties further agree that the filing of this executed Stipulation and
15 Agreement shall notify the Court of the parties' agreement to vacate all pending
16 discovery, motion hearing dates, settlement or pretrial deadlines or trial date
17 associated with this litigation, but this provision does not indicate any agreement to
18 dismiss NIAC's complaint-in-intervention.
19

20 12. The parties to this stipulation request that the Court sign the proposed order
21 approving the disbursement of funds in settlement and the compromise of the minor
22 plaintiff's settlements.
23

24 13. Tibor Major has asserted a lien against the attorneys fees portion of the settlement
25 proceeds of B.I.S. That lien is disputed. David Nold has agreed to deposit the sum
26 of \$13,600 into his law firm trust account pending the decision of this court
27 regarding such lien. In the event that no action is taken to enforce such lien by
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DATED: July 27, 2006

/s/
Plaintiff John DeMartini, As Personal Representative
of the Estate of Tracy DeMartini and/or Successor-In-
Interest to Tracy DeMartini

DATED: July 27, 2006

ABBEY WEITZENBERG WARREN & EMERY

/s/
Michael D. Green, Esq.
Attorney for Plaintiff John DeMartini as Guardian ad
Litem for R.A.D. and C.M.S

DATED: July 27, 2006

LAW OFFICES OF TIBOR E. MAJOR

/s/
Tibor E. Major, Esq.
Attorney for Plaintiff John DeMartini as Guardian ad
Litem for R.A.D. and C.M.S

DATED: July 31, 2006

CLAPP, MORONEY, BELLAGAMBA &
VUCINICH

/s/
Christopher J. Beeman, Esq.
Erica Berterello, Esq.
Attorneys for Defendant UNITED STATES

DATED: July 28, 2006

HAIGHT BROWN & BONESTEEL LLP

/s/
Robert N. Schiff
Attorneys for NONPROFITS' INSURANCE
ALLIANCE OF CALIFORNIA

