

1 CHAVEZ & GERTLER LLP
 JONATHAN E. GERTLER (Bar No. 111531)
 2 JOSEPH R. IGELMUND (Bar No. 52493)
 42 Miller Avenue
 3 Mill Valley, California 94941
 Telephone: (415) 381-5599
 4 Facsimile: (415) 381-5572

5 Attorneys for Plaintiffs
 SUSAN WYCKOFF and ALEXANDER WYCKOFF
 6
 7

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

<p>10 SUSAN WYCKOFF, individually, and as) Administratrix of the Estate of PETER) 11 WYCKOFF; ALEXANDER WYCKOFF by) and through his Guardian ad Litem, SUSAN) 12 WYCKOFF,) 13 Plaintiffs) 14 vs.) 15 UNITED STATES OF AMERICA; DANIEL) EARL SPERL and DOES 1 through 10,) 16 Defendants.) 17 _____)</p>	<p>Case No. C-07-3600 SI Date: April 14, 2010 Time: 4:30 p.m. Court: Hon. Susan Illston</p>
<p>18 And Consolidated Action:) CHARLIE EAP vs. UNITED STATES OF) 19 AMERICA AND DANIEL EARL SPERL.) 20 _____)</p>	<p>Case No. C-07-2301 SI</p>

21 **[AMENDED PROPOSED] ORDER APPROVING (1) COMPROMISE OF**
 22 **PENDING ACTION BY MINOR ALEXANDER WYCKOFF THROUGH**
 23 **GUARDIAN AD LITEM SUSAN WYCKOFF; (2) ALLOCATION OF**
 24 **SETTLEMENT PROCEEDS TO MINOR ALEXANDER WYCKOFF; (3)**
 25 **ADMINISTRATION OF NET SETTLEMENT PROCEEDS TO MINOR**
 26 **ALEXANDER WYCKOFF; (4) COMPROMISE OF PENDING ACTION BY SUSAN**
 27 **WYCKOFF; (5) ATTORNEYS' FEE AGREEMENT EXECUTED BY GUARDIAN**
 28 **AD LITEM SUSAN WYCKOFF FOR MINOR ALEXANDER WYCKOFF; AND (6)**
PAYMENT OF FEES AND EXPENSES OF MINOR ALEXANDER WYCKOFF,
INCLUDING ATTORNEYS' FEES AND EXPENSES

1 The Verified Petition of Susan Wyckoff, Guardian ad Litem for minor Alexander
2 Wyckoff, and individually, for an order approving (1) the compromise by minor Alexander
3 Wyckoff, through Guardian ad Litem Susan Wyckoff, of the pending action, (2) the
4 allocation of settlement proceeds as between minor Alexander Wyckoff and Petitioner,
5 (3) the administration of the net settlement proceeds for the benefit of minor Alexander
6 Wyckoff, (4) the compromise of the pending action by Susan Wyckoff, as required by
7 defendant United States and ordered by the Court on the filed Stipulation for Compromise,
8 (5) the attorneys' fee agreement executed by Guardian ad Litem Susan Wyckoff for the
9 benefit of minor Alexander Wyckoff; and (6) payment of fees and expenses of minor
10 Alexander Wyckoff, including attorneys' fees and expenses, as set forth in the Petition, came
11 on for hearing on April 14, 2010 before the United States District Court for the Northern
12 District of California, the Honorable Susan Illston presiding.

13 Jonathan E. Gertler, Chavez & Gertler LLP, appeared for Susan Wyckoff as Guardian
14 ad Litem for minor Alexander Wyckoff and individually. James A. Scharf, United States
15 Attorney's Office, appeared for defendant United States of America. Kristina Velarde,
16 Cesari Werner & Moriarty, appeared for defendant Daniel Sperl.

17 The Court having considered the Petition and supporting papers filed therewith, and
18 the matters stated at hearing, and good cause appearing:

19 IT IS ORDERED that the settlement by Petitioner of this action, including without
20 limitation settlement for the total amount of \$3,100,000, shall be and it hereby is approved;

21 IT IS FURTHER ORDERED that the requested allocation of 30%, or \$930,000, of
22 the settlement amount for the benefit of minor Alexander Wyckoff, and 70%, or \$2,170,000,
23 of the settlement amount to Petitioner individually, shall be and it hereby is approved; the
24 Court finds that the settlement, the \$3,100,000 settlement amount, and the allocation of 30%
25 of the settlement amount for the benefit of minor Alexander Wyckoff, are fair and reasonable
26 to his interests;

27 IT IS FURTHER ORDERED that the attorneys' fee agreement, between Petitioner
28 individually and as Guardian ad Litem for minor Alexander Wyckoff on the one hand and

1 Petitioner's attorneys on the other, shall be and it hereby is approved; the Court finds that the
2 fee agreement is fair and reasonable to minor Alexander Wyckoff's interests;

3 IT IS FURTHER ORDERED that the costs advanced by Petitioner's attorneys in the
4 total amount of \$148,559.09, and the requested allocation of 30%, or \$44,567.73, of the costs
5 for the benefit of minor Alexander Wyckoff, and 70%, or \$103,991.36, of the costs to
6 Petitioner individually, shall be and they hereby are approved; the Court finds that said costs,
7 and the allocation of 30% of said costs for the benefit of minor Alexander Wyckoff, are fair
8 and reasonable to his interests;

9 IT IS FURTHER ORDERED that the attorneys' fees requested by Petitioner's
10 attorneys in the total amount of \$737,860.23 pursuant to the attorneys' fee agreement, and
11 the requested allocation of 30%, or \$221,358.06, of said attorneys' fees for the benefit of
12 minor Alexander Wyckoff, and 70%, or \$516,502.17, of said attorneys' fees to Petitioner
13 individually, shall be and they hereby are approved; the Court finds that said attorneys' fees,
14 and the allocation of 30% of said attorneys' fees for the benefit of minor Alexander Wyckoff,
15 are fair and reasonable to his interests;

16 IT IS FURTHER ORDERED, as to the proposed administration of the settlement
17 proceeds for minor Alexander Wyckoff, that:

18 (a) Petitioner shall endorse defendant United States' settlement check (payable to
19 "Susan Wyckoff as Guardian ad Litem for Alexander Wyckoff, and her attorneys,
20 Chavez & Gertler") over to Petitioner's attorneys, Chavez & Gertler LLP, and
21 Petitioner's attorneys, Jonathan E. Gertler, Chavez & Gertler LLP, shall cause the
22 endorsed check to be deposited in the Chavez & Gertler LLP trust account at
23 Citibank, Mill Valley, California;

24 (b) Petitioner's attorneys, Jonathan E. Gertler, Chavez & Gertler LLP, after
25 deposit and clearing of defendant United States' settlement check in the Chavez &
26 Gertler LLP trust account, shall cause Chavez & Gertler LLP to be reimbursed from
27 its trust account its expenses in the total amount of \$44,567.73, and attorneys' fees in
28 the total amount of \$221,358.06, concerning the representation of Alexander's

1 interests;

2 (c) Petitioner's attorneys, Jonathan E. Gertler, Chavez & Gertler LLP, after
3 payment of the expenses and attorneys' fees concerning the representation of
4 Alexander's interests as aforesaid, shall cause to be issued its trust account check for
5 \$664,074.21 ("Alexander's Net Settlement Proceeds") payable to "Susan Wyckoff as
6 Guardian ad Litem for Alexander Wyckoff," and shall cause said check to be
7 deposited in an insured account ("Alexander's Account"), under the title "Susan
8 Wyckoff as Guardian ad Litem for Alexander Wyckoff," at Citibank, 130
9 Throckmorton Avenue, Mill Valley, California;

10 (d) Citibank shall be authorized to purchase, for Alexander's Account, insured
11 certificates of deposit or "money market" funds, pending further investment of
12 Alexander's Net Settlement Proceeds upon further order of the Court;

13 (e) Funds in Alexander's Account shall be subject to withdrawal only upon
14 authorization of the Court, pursuant to Cal.Prob.C. § 3611(b) and notwithstanding any
15 prior order of the Court; and

16 (f) Petitioner's attorneys, Jonathan E. Gertler, Chavez & Gertler LLP, shall cause
17 a copy of the Court's order to be served on the registered agent of and a manager of
18 the financial institution at which Alexander's Account is held, prior to deposit of
19 Alexander's Net Settlement Proceeds in Alexander's Account;

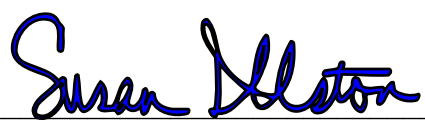
20 IT IS FURTHER ORDERED, pursuant to § 3612(a) of the California Probate Code
21 and any other relevant provision therein, and notwithstanding any Stipulation For
22 Compromise executed by the parties or any order of the Court, this Court shall have
23 continuing jurisdiction of the money paid or to be paid, delivered, deposited, or invested for
24 the benefit of Alexander, until he reaches 18 years of age;

25 IT IS FURTHER ORDERED, pursuant to the Stipulation for Compromise and the
26 Court's prior order thereon, that the settlement by Petitioner Susan Wyckoff of her individual
27 claims in this action shall be and it hereby is approved; the Court finds that the settlement as
28 to Petitioner Susan Wyckoff individually is fair and reasonable to her interests; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS FURTHER ORDERED that, notwithstanding any prior order of the Court, the settlement check by defendant United States in the amount of \$2,170,000 shall be made payable to “Susan Wyckoff and her attorneys, Chavez & Gertler” only.

Dated: March 11, 2010



THE HONORABLE SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE