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8 Attorney for Plaintiffs

9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN FRANCISCO DIVISION

12 VALERIE THAMES, an individual,
 13 CHRISTOPHER SMITH, a minor, by and
 14 through his Guardian ad Litem, AISHA
 15 ROACH,

16 Plaintiffs,

17 vs.

18 UNITED STATES OF AMERICA; SAN
 19 FRANCISCO VETERANS
 20 ADMINISTRATION MEDICAL CENTER,
 21 DOES 1 through 50, inclusive,

22 Defendants.

No. C 08-2617 SC

[PROPOSED] ORDER ON PETITION FOR
 ORDER APPROVING (1) COMPROMISE
 OF DISPUTED CLAIM/PENDING ACTION
 OF MINOR AND A PERSON WITH A
 DISABILITY, (2) ALLOCATION OF ASSETS
 BETWEEN MINOR AND ADULT WITH A
 DISABILITY, (3) PAYMENT OF ATTORNEY
 FEES AND LITIGATION COSTS, AND (4)
 PAYMENT OF BALANCE OF SETTLEMENT
 TO (A) GUARDIANSHIP OF THE ESTATE
 OF MINOR AND (B) SPECIAL NEEDS
 TRUST FOR ADULT WITH DISABILITY

23 The verified Petition of Aisha Roach, Guardian ad Litem of minor plaintiff,
 24 CHRISTOPHER SMITH, and VALERIE THAMES, adult plaintiff, (hereinafter "Petitioner"
 25 and/or "Plaintiffs") for an Order Approving Compromise with Defendants United States of
 26 America (hereinafter "defendants"), that money be paid to the Guardianship Estate of
 27 CHRISTOPHER SMITH and to the VALERIE THAMES Special Needs Trust, and for
 28 Allowance of Attorneys Fees and Costs, came on for hearing this date, before the above-
 entitled Court. GOOD CAUSE APPEARING,

IT IS HEREBY ORDERED:

1 1. The claims of Plaintiffs, including the Minor CHRISTOPHER SMITH shall be
 2 compromised, settled, apportioned, and attorney's fees and costs paid in the amounts as
 3 set forth in the Petition and as hereinafter stated. The Court finds that Petitioner has made
 4 a careful and diligent inquiry and investigation related to the claims made and the
 5 damages suffered. The Court is further satisfied that the Plaintiffs/Petitioner fully
 6 understand that with the approval of the compromise herein, the minor and adult plaintiff
 7 will be forever barred and prevented seeking any further recovery or compensation from
 8 the Defendants.
 9

10 2. The compromise being approved, upon the execution of the terms of the
 11 compromise, Defendants shall be fully and forever released and discharged of and from all
 12 claims, charges and demands arising from the facts alleged in the Complaint on file herein.
 13 Petitioner and Plaintiff are hereby authorized to execute Stipulated Compromises,
 14 Releases and any other documents necessary to effectuate the settlement.
 15

16 3. Said settlement and compromise provides for the payment of Five Hundred
 17 Thousand Dollars (\$500,000). The Court finds this compromise and settlement and the
 18 allocation provided herein to be fair, reasonable, and in the best interests of the minor and
 19 the adult plaintiff. Furthermore, the allocation and distribution set forth herein is consistent
 20 with the law of the State of California.
 21

22 4. The settlement proceeds shall be apportioned as follows:

GROSS RECOVERY	\$500,000.00
Minor Christopher Smith	\$250,000. 00
Valerie Thames	\$250,000.00
Costs allocated to CHRISTOPHER SMITH	\$10,358.16
Costs allocated to VALERIE THAMES	\$10,358.16
Attorneys Fees for CHRISTOPHER SMITH	\$59,910.46
Attorneys Fees for VALERIE THAMES	\$59,910.46

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 27 5. That of the Five Hundred Thousand Dollars (\$500,000.00) being paid in
 28 settlement of the Plaintiffs' claims, the sum of \$119,820.92 be paid to J Niley Dorit, Esq.,

1 attorney for the Plaintiffs, as attorney's fees for the claim, a sum which is within the
2 provisions of Federal law under 28 USC Sec. 2678; the sum of \$20,716.32 be paid to J
3 Niley Dorit, Esq. as reimbursement of costs incurred herein; and the sum of \$15,000 be
4 held in reserve in the State Bar registered Attorney Trust Account maintained by the Dorit
5 Law Firm for the payment of outstanding expenses. On or before sixty days following the
6 receipt of the settlement funds, half of the balance of said reserve funds shall be paid to
7 the trustee of the Guardianship Estate of Christopher Smith and half shall be paid into the
8 Valerie Thames Special Needs Trust.
9

10 6. The facts set forth in the petition are true and it is in the best interests of
11 CHRISTOPHER SMITH that the net proceeds of the settlement in the above-captioned
12 proceedings be paid to the Guardianship Estate of CHRISTOPHER SMITH; the net proceeds
13 for VALERIE THAMES of the settlement in the above captioned proceedings be paid to the
14 VALERIE THAMES SPECIAL NEEDS TRUST. All of said funds shall be payable upon the
15 approval of the Guardianship Estate and Special Needs Trust by the Superior Court of the
16 State of California, County of San Francisco.
17

18 7. None of the proceeds of the settlement shall be considered to have been received
19 by, or available to, or to have come into the possession of VALERIE THAMES for purposes
20 of her qualification for programs of public benefits.
21

22 8. Notice has been provided to the State Department of Health Services, State
23 Department of Mental Health, and State Department of Developmental Services. All
24 statutory liens in favor of the State Department of Health Services, State Department of
25 Mental Health, State Department of Developmental Services, and any county or city in the
26 state shall first be satisfied prior to the payment of settlement proceeds to the VALERIE
27 THAMES SPECIAL NEEDS TRUST.
28

1 9. All monies payable to CHRISTOPHER SMITH pursuant to the settlement in this
2 matter shall be paid to the trustee of the Guardianship Estate of minor CHRISTOPHER
3 SMITH to be held, administered and distributed for the benefit of CHRISTOPHER SMITH
4 under the terms of said Guardianship.

5
6 10. It is further Ordered that Petitioner is authorized to settle this claim on behalf of
7 the Minor and that the Petitioner receives and negotiates funds as set forth herein, and
8 execute a full release and dismissal against all defendants. The \$500,000.00 settlement
9 shall be paid as set forth in the Stipulation for Compromise Settlement and Releases upon
10 the Court's approval of this Petition and the Stipulation for Compromise Settlement and
11 Releases.

12 The Court thus hereby makes its order approving the settlement and compromise
13 and for such other and further Order as the Court may deem proper.

14 DATE: June 12, 2009

15 Hon. Samuel Conti

