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4	UNITED STATES DISTRICT COURT		
5	NORTHERN DISTRICT OF CALIFORNIA		
6	LYNNETTE FRARY, et al.,	Case No. <u>12-cv-03928-MEJ</u>	
7 8 9	Plaintiffs, v.	ORDER DENYING WITHOUT PREJUDICE PETITION TO WITHDRAW FUNDS FROM BLOCKED ACCOUNT; ORDER TO FILE DOCUMENTS UNDER SEAL	
10 11	COUNTY OF MARIN, et al., Defendants.	Re: Dkt. Nos. 235, 236	
12 13	BACKGROUND		

The Court previously approved two minor's compromises in the above-captioned case on 14 15 behalf of the minor Plaintiff, A.C. Dkt. Nos. 189 (Order Approving Minor's Compromise Against City Defendants); 230 (Order Approving Minor's Compromise Against County Defendants). 16 Among other things, the minor's compromises established a federally insured, blocked account in 17 18 the total amount of \$76,205.08 (\$66,975.97 from the County Settlement and \$9,229.11 from the 19 City Settlement). Id. The Orders approving the minor's compromises state: "No withdrawals of 20 principal or interest shall be made from the blocked account without a written order under this case name and number, signed by a judge, and bearing the seal of this Court, until the minor 22 attains the age of 18 years on April 3, 2024." Dkt. No. 189 at 6; Dkt. No. 230 at 4.

23 On July 22, 2015, Plaintiffs' attorney, David L. Fiol, submitted an affidavit attesting to his 24 and Plaintiffs' compliance with the Court's Orders on the minor's compromises. Dkt. No. 235. 25 He attached copies of redacted exhibits showing how he and Plaintiffs had directed the settlement funds. Id., Exs. 1-2. 26

Days later, on July 27, 2015, the minor's mother and guardian ad litem, Jamie Ball 27 28 ("Petitioner"), proceeding without a lawyer, filed a Petition for Withdrawal of Funds from

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Blocked Account. Dkt. No. 236. Petitioner seeks to withdraw \$3,665.00 to take the minor Plaintiff on a seven day package vacation to Hawaii. Pet. at 2. She states "[t]he two of us will go there alone and I will describe the trip to [the minor] as something that is being paid for by the defendants as very partial compensation for [the minor's] loss of her father." Id. Petitioner attached a copy of the trip itinerary made through the travel agency California State Automobile Association and seeks that the funds be paid directly to that agency. Id., Ex. A. Petitioner also seeks to withdraw \$1,000.00 to be paid directly to her and "to be devoted to purchasing clothing and school supplies for [the minor]'s return to school in the fall." Id. at 2.

## DISCUSSION

The Court has carefully considered the Petition before it. The Court respects and recognizes a mother's important role in her child's life, and a parent's prerogative in making decisions on behalf of her child. At the same time, the Court's ultimate responsibility is to safeguard the funds on behalf of the minor Plaintiff. With that balance in mind, for the reasons discussed below, the Court has determined it must deny the Petitioner's present request, although she may file future petitions in compliance with the Court's orders below.

16 First, in situations involving a blocked account reserved for the benefit of a minor plaintiff, courts have limited withdrawal of those funds needed to pay for academic and counseling needs. See, e.g., J. et al v. County of Alameda et al., Case. No. 11-4123, Dkt. No. 56 (N.D. Cal. filed Nov. 1, 2013). Given that the minor Plaintiff in this case is of such a young age, the Court finds such limitations are in her best interests here. Accordingly, the Court advises Petitioner that the Court will only consider the withdrawal of funds for the minor Plaintiff's academic, health, and counseling needs, or for some other purpose if Petitioner demonstrates a compelling need for the benefit of the minor. See also 2015 CALIFORNIA COURT ORDER 0213, CA R MERCED SUPER CT Rule 300 (C.O. 0213) ("Parents are advised that monies in blocked accounts are not available for payment of services ordinarily provided by parents."). In light of this decision, the Court finds that the pending Petition should be denied as it does not obviously relate to an academic, health, or counseling need, and Petitioner has not otherwise shown a compelling reason to withdraw those funds. While school supplies may fall under the category of an academic need, there is no

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itemization of these expenses or other specific indication as to how the \$1,000 will be spent.

Second, to aid the orderly administration of the minor Plaintiff's funds, the Court **DIRECTS** Petitioner to use the form attached to this Order as Attachment 1 when and if she makes any future requests to withdraw funds. This form is intended to be equivalent to California Judicial Council Form MC-357 (Petition for Withdrawal of Funds from Blocked Account) and to comply with the substantive requirements of California Rules of Court 3.1384 and 7.954. The Petition should preserve the confidentiality of the minor's identity, by among other things, not using the child's surname (last name) or mailing/home addresses in any document sent to the Court.

Finally, Plaintiffs' counsel's recently-filed affidavit of compliance with the Court's Orders only attaches redacted copies of the documents indicating that the proper accounts have been established on the minor's behalf. The Court **ORDERS** Plaintiffs' counsel to file unredacted copies of those documents under seal.

## CONCLUSION

For the foregoing reasons, it is hereby **ORDERED** that:

The Petition to Withdraw Funds (Dkt. No. 236) is **DENIED WITHOUT PREJUDICE**; the Court will consider future petitions that comply with the requirements set forth in this Order.

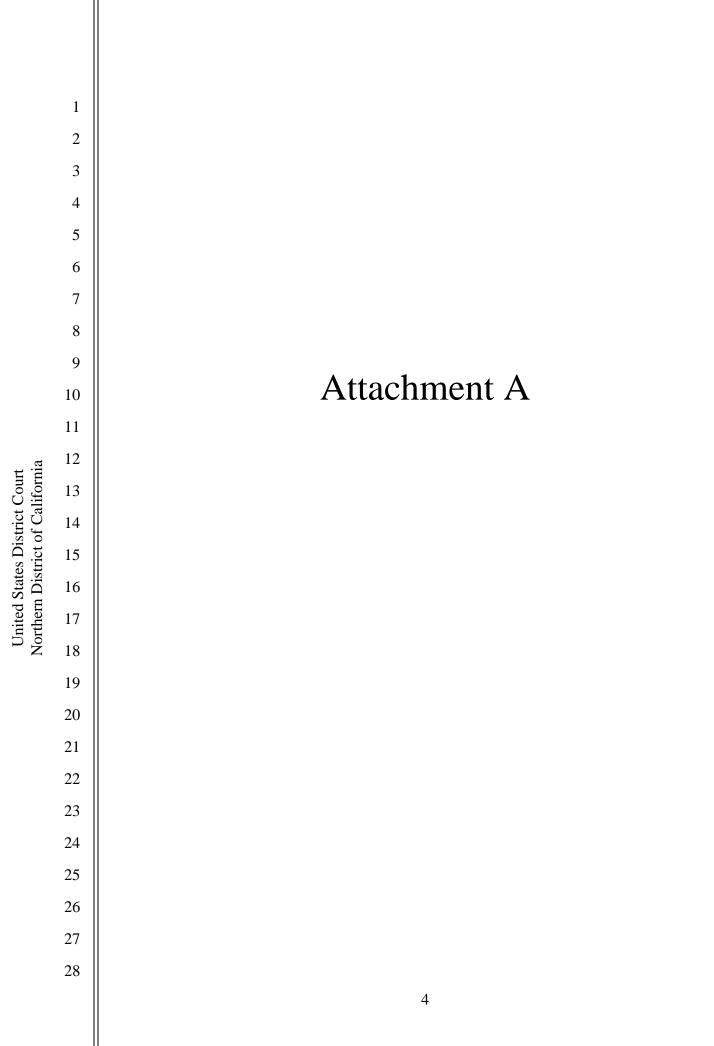
- (2) Petitioner is **DIRECTED** to use the form attached hereto as Attachment 1 to make any future requests to withdraw funds from the minor Plaintiff's blocked account.
- (3) Plaintiffs' counsel is **ORDERED** to file under seal unredacted copies of the documents attached as exhibits to his Affidavit at Dkt. No. 235 by August 10, 2015.
- IT IS SO ORDERED.

Dated: July 31, 2015

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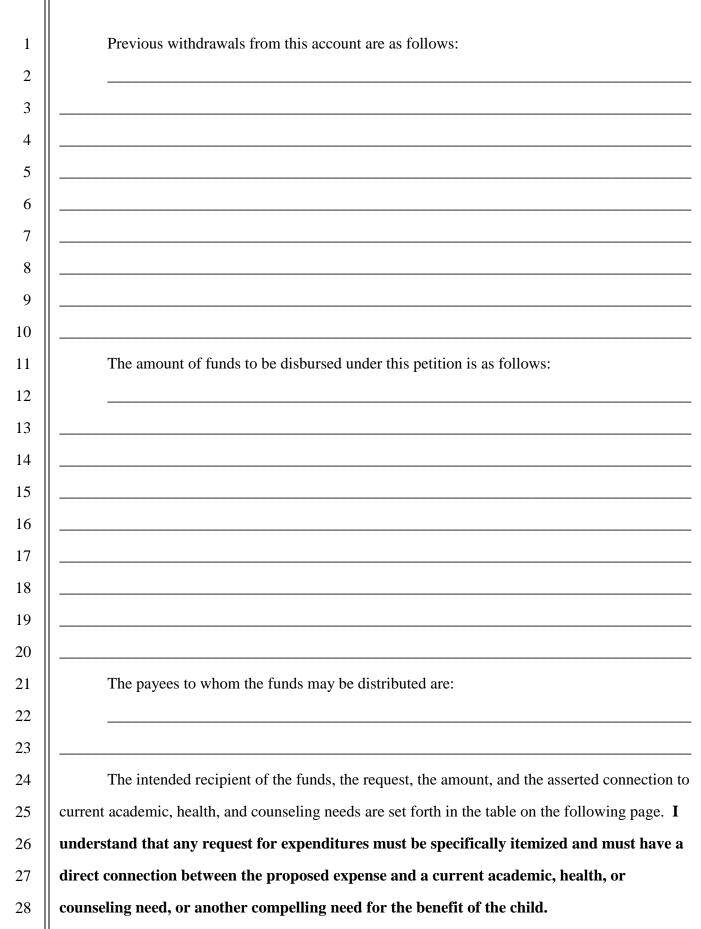
27 28

MARIA-ELENA JAMES United States Magistrate Judge

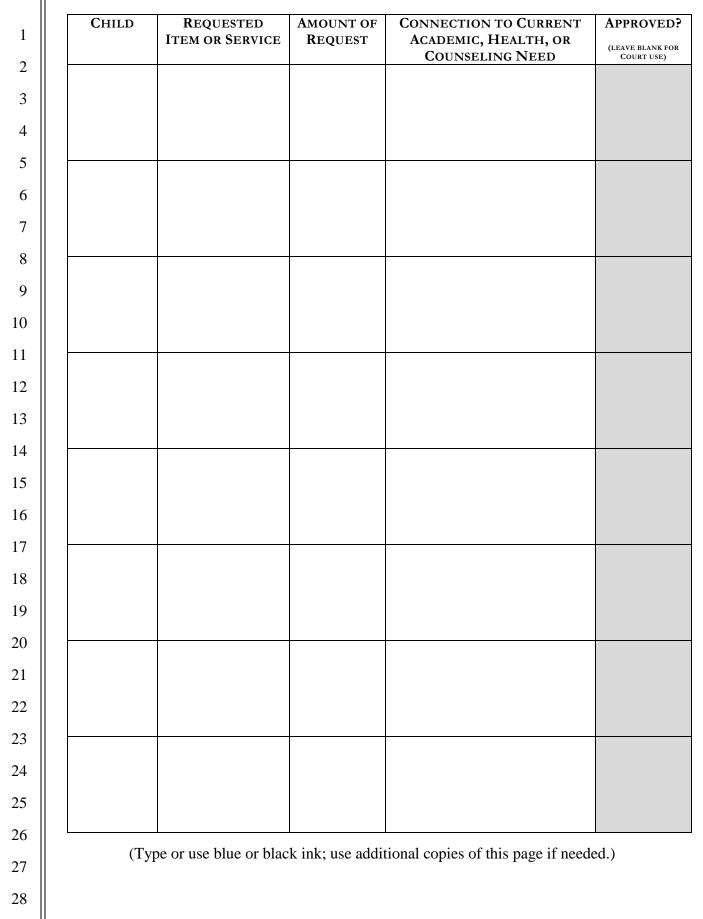


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2	Street Address:		
3	City/State/ZIP:		
4	Guardian(s) ad Litem		
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8	UNITED STATES DISTRICT COURT		
9	NORTHERN DISTRICT OF CALIFORNIA		
10			
11	LYNNETTE FRARY, et al.,	Case No. 12-cv-03928-MEJ	
12	Plaintiffs,	PETITION FOR WITHDRAWAL OF	
13	V.	FUNDS FROM BLOCKED ACCOUNT	
14	COUNTY OF MARIN, et al.,		
15	Defendants.		
16			
17	On behalf of the minor Plaintiff in the al	pove-captioned action, I, the guardian ad litem for	
18	the minor Plaintiff, petition this Court for an order permitting the withdrawal of funds from the		
19	blocked account belonging to the minor Plaintiff identified below. Petitioner brings this petition		
20	as both the parent and guardian ad litem. This document is a Court-provided form that is intended		
21	to be equivalent to California Judicial Council Form MC-357 and compliant with California Rules		
22	of Court 3.1384 and 7.954.		
23	The account in question is on deposit at Bank of America, Novato, located at 1600 Grant		
24	Avenue, Novato, CA, 94945 and is owned as follows:		
25	A.C.: account number 5996		
26			
27	(continued )		

United States District Court Northern District of California



United States District Court Northern District of California



United States District Court Northern District of California

I understand that any request to withdraw funds from the minor child's account must be specifically itemized and connected to a legitimate, current academic, health, or counseling need of that child, or another compelling need for the child's benefit. I will file documentation with the Court for the items and services purchased with authorized funds within 45 days of those expenditures. Date: \_\_\_\_\_ Signature of Guardian ad Litem [PROPOSED] ORDER For good cause appearing, the Petition is GRANTED/DENIED/GRANTED IN PART AND **DENIED IN PART**, as set forth in the table above. Funds shall be disbursed from the blocked accounts as follows: **IT IS SO ORDERED.** Dated: MARIA-ELENA JAMES United States Magistrate Judge 

United States District Court Northern District of California