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7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**
9 **SAN FRANCISCO DIVISION**

10 E. J., LISA HOULIHAN JOHNSON, AND
11 DONALD ARTHUR JOHNSON,

12 Plaintiffs,

13 v.

14 UNITED STATES OF AMERICA,

15 Defendant.

Case No. 13-cv-01923 NC

**ORDER GRANTING PETITION
FOR APPROVAL OF MINOR'S
COMPROMISE**

Re: Dkt. No. 43, 44

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17 Plaintiffs Lisa Houlihan Johnson and Donald Johnson, as guardians ad litem for
18 minor plaintiff E.J., petition the court for approval of a minor's compromise in this federal
19 tort action. The petition is unopposed and the Court finds the petition appropriate for
20 determination without oral argument. *See* Civil L.R. 7-1(b). Because the Court finds the
21 settlement fair and in the best interest of plaintiff E.J., the Court grants the petition.
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23 **I. BACKGROUND**

24 On April 26, 2013, plaintiffs filed a complaint alleging violations of the Federal Tort
25 Claims Act on behalf of plaintiff E.J., a minor, and E.J.'s parents, the Johnsons. Dkt. No. 1.
26 The Johnsons brought suit as E.J.'s guardian ad litem and on their own behalf. The
27 complaint alleged that E.J. was injured at a Coast Guard child care facility on June 17,
28 2010, and that her injury was a result of the Coast Guard's negligent supervision of E.J.,

1 negligent hiring and training of Coast Guard employees, and negligent maintenance of the
2 Coast Guard facility. Dkt. Nos. 12, 14.

3 Following a settlement conference before Magistrate Judge Maria-Elena James, the
4 parties entered into an agreement whereby defendant United States will pay plaintiffs
5 \$50,000 for complete and final satisfaction of all of their claims. Dkt. Nos. 43, 44. After
6 payment of 20% attorney’s fees, court costs, and a lien, plaintiff E.J. stands to receive
7 \$32,505.74 from the total settlement. Because E.J. is a minor, plaintiffs filed a petition for
8 approval of a minor’s compromise. Dkt. No. 43. The United States filed a statement of
9 non-opposition to the petition. Dkt. No. 46.

10 II. LEGAL STANDARD

11 “District courts have a special duty, derived from Federal Rule of Civil Procedure
12 17(c), to safeguard the interests of litigants who are minors.” *Robidoux v. Rosengren*, 638
13 F.3d 1177, 1181 (9th Cir. 2011). “Rule 17(c) provides, in relevant part, that a district court
14 ‘must appoint a guardian ad litem—or issue another appropriate order—to protect a minor
15 or incompetent person who is unrepresented in an action.’” *Id.* (quoting Fed. R. Civ. P.
16 17(c)). “In the context of proposed settlements in suits involving minor plaintiffs, this
17 special duty requires a district court to ‘conduct its own inquiry to determine whether the
18 settlement serves the best interests of the minor.’” *Id.* (quoting *Dacanay v. Mendoza*, 573
19 F.2d 1075, 1080 (9th Cir. 1978)); *see also Salmeron v. United States*, 724 F.2d 1357, 1363
20 (9th Cir. 1983) (holding that “a court must independently investigate and evaluate any
21 compromise or settlement of a minor’s claims to assure itself that the minor’s interests are
22 protected, even if the settlement has been recommended or negotiated by the minor’s parent
23 or guardian ad litem”).

24 As the Ninth Circuit has recently made clear, in cases involving the settlement of a
25 minor’s federal claims, district courts should “limit the scope of their review to the question
26 whether the net amount distributed to each minor plaintiff in the settlement is fair and
27 reasonable, in light of the facts of the case, the minor’s specific claim, and recovery in
28 similar cases,” and should “evaluate the fairness of each minor plaintiff’s net recovery

1 without regard to the proportion of the total settlement value designated for adult co-
2 plaintiffs or plaintiffs’ counsel—whose interests the district court has no special duty to
3 safeguard.” *Id.* at 1181-82 (citing *Dacanay*, 573 F.2d at 1078). “So long as the net
4 recovery to each minor plaintiff is fair and reasonable in light of their claims and average
5 recovery in similar cases, the district court should approve the settlement as proposed by the
6 parties.” *Id.* at 1182.

7 **III. DISCUSSION**

8 E.J., through her guardian ad litem, has agreed to settle her claims against the United
9 States in exchange for \$50,000. Of that total, E.J. will receive net proceeds of \$32,505.74.
10 In light of her specific injuries and the facts of her case, the Court finds this amount to be
11 reasonable and the settlement to be in the best interest of E.J.. The Court therefore grants
12 Plaintiffs’ petition.

13 **IV. CONCLUSION**

14 For the reasons explained, Plaintiffs’ petition for this Court’s approval of a minor’s
15 compromise is GRANTED.

16 The Court also acknowledges receipt of the Stipulation and Agreement of
17 Compromise and Settlement, at docket entry 44. In accordance with paragraph seven of
18 that Agreement, the parties should file a stipulated dismissal pursuant to Federal Rule of
19 Civil Procedure 41(a)(1)(A)(ii), which does not require an order of approval from the Court.

20 IT IS SO ORDERED.

21 Date: March 10, 2014

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24 Nathanael M. Cousins
25 United States Magistrate Judge
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