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 7 WENDY STEVENS, individually and as Guardian ad Litem for K.S., a minor

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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA

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WENDY STEVENS, individually and as  
 Guardian ad Litem for K.S., a minor

Case No.: 4:17-cv-05312-DMR

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Plaintiff,

**ORDER GRANTING MOTION FOR  
 ORDER APPROVING COMPROMISE OF  
 MINOR’S CLAIM**

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vs.

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UNITED STATES OF AMERICA,

Date: May 10, 2018

Time: 11:00 a.m.

Dept: TBA

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Defendant.

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**INTRODUCTION**

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Plaintiff-minor, K.S., by and through her Guardian Ad Litem and natural mother, WENDY  
 22 STEVENS filed this action against defendant United States of America on September 13, 2017.  
 23 (Docket #1) arising out of an automobile collision which occurred on November 28, 2012 with a  
 24 federal employee. The parties, after negotiations, have agreed to settle the lawsuit. Plaintiff-minor  
 25 thereafter filed the instant motion for this court’s approval of compromise with respect to K.S.’  
 26 claim. The motion is unopposed and the Court finds the motion appropriate for determination  
 27 without oral argument. Civil L.R. 7-1(b). Having considered the papers filed by Plaintiff, the

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1 Court GRANTS the motion.

2 **BACKGROUND**

3 According to the complaint, this lawsuit arises from an accident which occurred on  
4 Wednesday, November 28, 2012, in Brentwood, California, at approximately 7:00 p.m. Plaintiff  
5 Wendy Stevens was driving the family’s 2011 Ford Focus, headed northbound on Brentwood  
6 Boulevard approaching its intersection with Balfour Road. Her then 11-year-old daughter, K.S.,  
7 was seated in the right front passenger seat. Theresa Faga Jang, a federal employee, was driving a  
8 2007 Ford Expedition owned by DHS ICE US Government. Ms. Jang was also headed  
9 northbound and made an unsafe lane change into our client’s path of travel, sideswiping the  
10 Stevens’ Ford Focus.

11 The reporting officer, Christopher Friedmann, cited Ms. Jang as the cause of the collision,  
12 having made an unsafe lane change in violation of California Vehicle Code Section 21658(a).

13 The plaintiff-minor sustained injury to her right elbow and incurred medical bills of  
14 \$6,269.45 which have been paid. The parties have stipulated to settle the instant action for the total  
15 sum of \$100,000.00, allocated as follows: 1) to Wendy Stevens the sum of \$75,000.00; 2) to  
16 plaintiff-minor K.S., the sum of \$25,000.00. After paying the lien reduced to \$2,500.00, attorneys’  
17 fees of \$6,083.69 and costs of \$845.21, there remains a balance of \$15,571.10 which shall be kept  
18 in a blocked savings account until the minor reaches the age of 18 on September 26, 2019.

19 **LEGAL STANDARD**

20 “District courts have a special duty, derived from Federal Rule of Civil Procedure 17(c) to  
21 safeguard the interests of litigants who are minors.” *Rubidoux v. Rosengren*, 638 F.3d 1177, 1181  
22 (9<sup>th</sup> Cir. 2011). “Rule 17(c) provides, in relevant part, that a district court ‘must appoint a guardian  
23 ad litem—or issue another appropriate order—to protect a minor or incompetent person who is  
24 unrepresented in an action.’ *Id.* (quoting Fed.R.Civ.P. 17(c)). “In the context of proposed  
25 settlements in suits involving minor plaintiffs, this special duty requires a district court to “conduct  
26 its own inquiry to determine whether the settlement serves the best interests of the minor.” *Id.*  
27 (quoting *Dacanay v. Mendoza*, 573 F.2d. 1075, 1080 (9<sup>th</sup> Cir. 1978).

1 As the Ninth Circuit has recently made clear, in cases involving the settlement of minor's  
2 federal claims, district courts should "limit the scope of their review to the question whether the  
3 net amount distributed to each minor plaintiff in the settlement is fair and reasonable, in light of the  
4 facts of the case, the minor's specific claim, and recovery in similar cases" and should "evaluate  
5 the fairness of each minor plaintiff's net recovery without regard to the proportion of the total  
6 settlement value designated for adult co-plaintiffs or plaintiffs' counsel—whose interests the district  
7 court has no special duty to safeguard." *Id.* at 1181-82, citing *Dacanay*, 573 F.2d at 1078.)

8 **ORDER**

9 Upon review of the papers submitted, the Court finds the net recovery to K.S. to  
10 be reasonable and the settlement to be in the best interest of the minor. Based on the foregoing,  
11 the Court GRANTS the Motion for Order Approving Compromise of Minor's Claim.  
12 Specifically, IT IS HEREBY ORDERED that:

13 1. The settlement of K.S.' claim against Defendant United States of America in the sum of  
14 \$25,000.00 is APPROVED.

15 2. Defendant will pay a total of \$100,000.00 by check drawn on the Treasury of the United  
16 States and made payable to WENDY STEVENS, Guardian ad Litem of the minor and the  
17 Mastrangelo Law Offices, A Professional Corporation, EIN#94-2973320. The funds will be  
18 deposited in Mastrangelo Law Offices, A Professional Corporation, Client Trust Account. The  
19 \$100,000.00 is in settlement of both claims for Wendy Stevens and K.S., the minor. The  
20 \$100,000.00 settlement shall be apportioned as follows: to plaintiff Wendy Stevens, and the  
21 Mastrangelo Law Offices, A Professional Corporation, the sum of \$75,000.00; to Wendy Stevens,  
22 as Guardian ad Litem for the minor, K.S., the sum of \$25,000.00. The settlement funds of  
23 \$25,000.00 for the minor, K.S., will then be distributed as follows:

24 a) to Mastrangelo Law Offices, A Professional Corporation, the sum of \$6,083.69  
25 for attorneys' fees and costs of \$845.21, a total of \$6,928.90;

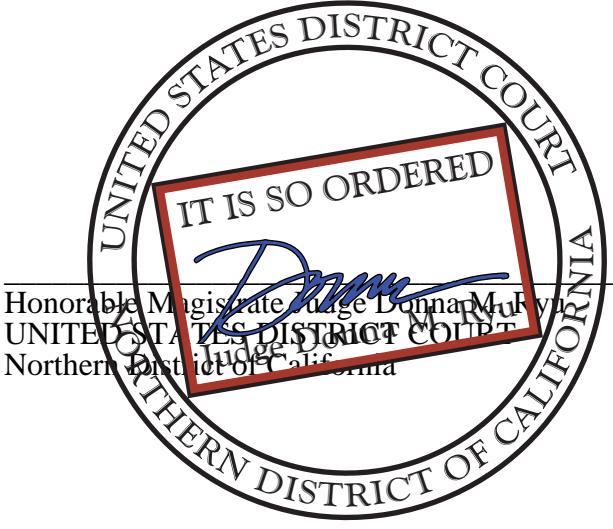
26 b) to State Farm Insurance, the sum of \$2,500.00 for payment of the medical  
27 payments lien;

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c) the balance of the proceeds to WENDY STEVENS, as Guardian ad Litem of the minor, K.S. in the sum of \$15,571.10 which will be kept in an interest-bearing, federally insured blocked account at First Republic Bank, Orinda, California. This blocked account belongs to the minor. The minor was born on September 26, 2011. No withdrawals of principal or interest shall be made from the blocked account or accounts without a written order under this case name and number, signed by a judge, and bearing the seal of this court, until the minor attains the age of 18 years. When the minor attains the age of 18 years, the bank shall, without further order of this Court, shall pay by check or draft directly to K.S., the former minor, upon demand, all monies including interest deposited under this order. The money on deposit is not subject to escheat. The attorney for plaintiff-minor shall deliver a copy of this order to the Bank in which the funds are to be deposited under this order. Proof of the deposit of these funds shall be filed with the Court within ninety (90) days of this Order.

**IT IS SO ORDERED.**

Date: April 20, 2018



Honorable Magistrate Judge Donna M. Ryan  
UNITED STATES DISTRICT COURT  
Northern District of California