

1 JOHN L. BURRIS, Esq./ State Bar #69888
2 BENJAMIN NISENBAUM, Esq./State Bar #222173
3 LAW OFFICES OF JOHN L. BURRIS
4 Airport Corporate Centre
5 7677 Oakport Street, Suite 1120
6 Oakland, California 94621
7 Telephone: (510) 839-5200 Facsimile: (510) 839-3882

8 Attorneys for Plaintiffs

9 UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 ALVINA VASQUEZ, individually and as co-
12 successor-in-interest to Decedent JASON
13 VASQUEZ; GABRIELLE VASQUEZ,
14 individually and as co-successor-in-interest to
15 Decedent JASON VASQUEZ; JASON
16 VASQUEZ, JR., individually and as co-
17 successor-in-interest to Decedent JASON
18 VASQUEZ; S.V., a minor, by and through her
19 guardian ad litem Geri Urbano, individually and
20 as co-successor-in-interest to Decedent JASON
21 VASQUEZ; So.V., a minor, by and through her
22 guardian ad litem Geri Urbano, individually and
23 as co-successor-in-interest to Decedent JASON
24 VASQUEZ; and ORALIA MASON,
25 individually,

26 Plaintiffs,

27 vs.

28 COUNTY OF SANTA CLARA, a municipal
corporation; LAURIE SMITH, individually;
VICTOR CRUZ, individually and in his official
capacity as a peace officer for the COUNTY OF
SANTA CLARA; MIGUEL JAUREGI,
individually and in his official capacity as a
peace officer for the COUNTY OF SANTA
CLARA; RYAN REYES, individually and in
his official capacity as a peace officer for the
COUNTY OF SANTA CLARA; NICHOLAS
HOLLY, individually and in his official capacity
as a peace officer for the COUNTY OF SANTA
CLARA; SAYAD HUSSAIN, individually and
in his official capacity as a peace officer for the
(caption continues on following page)

Case No. C 11-05812 LHK

**TGFCEVGF PLAINTIFFS' PETITION
TO APPOINT GUARDIAN AD LITEM
AND APPROVE MINORS' COMPROMISE**

1 COUNTY OF SANTA CLARA; DUNG
2 TRAN, individually and in his official capacity
3 as a peace officer of the COUNTY OF SANTA
4 CLARA; ERIC TAYLOR, individually and in
5 his official capacity as a peace officer for the
6 COUNTY OF SANTA CLARA; ALBERTO
7 LOIZA, individually and in his official capacity
8 as a peace officer for the COUNTY OF SANTA
9 CLARA; and DOES 8-25, individually,
10 inclusive,

11 Defendants.

12 /

13 Petitioner GERIA URBANO respectfully represents:

14 1. Petitioner GERI URBANO is the natural mother of minor plaintiffs S [REDACTED] Vasquez
15 and S [REDACTED] Vasquez. She also has custody of both minor plaintiffs. Minor Plaintiff S [REDACTED]
16 VASQUEZ is the daughter of decedent JASON VASQUEZ, and was born on July [REDACTED] 1996. Minor
17 Plaintiff S [REDACTED] VASQUEZ is also the daughter of decedent JASON VASQUEZ, and was born on
18 October [REDACTED] 2002. Plaintiffs ALVINA VASQUEZ, GABRIELLE VASQUEZ, and JASON
19 VASQUEZ, JR. are the adult children of Decedent, while Plaintiff ORALIA MASON is the mother
20 of Decedent.

21 2. Minor Plaintiffs have causes of action against the named defendants herein on which a
22 lawsuit was brought in this court for violation of civil rights under Federal and State statutes.

23 3. Minor Plaintiffs' causes of action arise out of the death of decedent JASON
24 VASQUEZ, while in the custody of defendants on November 6, 2010. As alleged in their Complaint,
25 Minor Plaintiffs suffered loss of the relationship with their father, caused by deliberate indifference to
26 Decedent's serious medical needs, in violation of the 14th Amendment, and alternatively for state law
27 negligence by said Defendants.

28 4. No previous petition for appointment of guardian ad litem with respect to these minors
has been filed in this matter.

1 5. Petitioner is willing to serve as the minors Guardian Ad Litem as denoted above.
2 Petitioner is fully competent to understand and protect the rights of the minors, and has no interest
3 adverse to that of the minors.

4 6. Petitioner requests that she be appointed guardian ad litem for her children, as denoted
5 above, to prosecute the above-described causes of action on behalf of her children as denoted above,
6 and for such other relief as the Court may deem just and proper.

7 7. Plaintiffs and Defendants have reached settlement in this matter. The total settlement
8 is in the amount of \$700,000. The settlement will distributed as follows: Each minor Plaintiff,
9 S [REDACTED] VASQUEZ and S [REDACTED] VASQUEZ, shall each receive gross settlement funds of
10 \$150,000.00 apiece, before costs and attorneys fees. The remaining four adult Plaintiffs shall each
11 receive gross settlements funds of \$100,000.00 apiece, before costs and attorney's fees.

12 8. Minor Plaintiffs settlement will be structured as set forth below, and in the attached
13 Exhibit A. The Minor Plaintiffs' share of settlement proceeds is as follows:

- 14 a. S [REDACTED] VASQUEZ : \$150,000.00
15 Share of costs (21% of total costs): (\$882.54)
16 Attorneys fees (25%): (\$37,500)
17 Total net Settlement: \$111,617.45

18 \$11,617.45 shall be placed in an interest-bearing blocked trust account at an FDIC insured
19 banking institution for the benefit of Minor Plaintiff S [REDACTED] VASQUEZ, remainder payable on her
20 18th birthday. From this account, the Court shall authorize on Minor Plaintiff S [REDACTED] VASQUEZ's
21 17th birthday, July [REDACTED] 2013, release of funds in the amount of \$400.00 to said Minor Plaintiff.

22 Of Minor Plaintiff S [REDACTED] VASQUEZ's net recovery, \$100,000.00 will be placed in a
23 structured settlement through [REDACTED] for
24 annuitant Minor Plaintiff S [REDACTED] VASQUEZ as further set forth and described in the Petition and
25 Order attached as Exhibit A, with guaranteed lump sum payments according to the following
26 schedule:
27
28

1
2 9. This petition was prepared by the Law Offices of John L. Burris, the lead counsel
3 representing plaintiffs in this action. Ben Nisenbaum, Esq. of Law Offices of John L. Burris also
4 represents plaintiff and is in agreement with the terms of this Petition. John L. Burris, Esq. and Ben
5 Nisenbaum, Esq. hereby represent to the Court that they became involved in this case at the request
6 of plaintiffs, and have not received, and do not expect to receive any compensation for their services
7 in connection with this action from any person other than the parties whom they represent in this
8 action.

9 10. Petitioners and their counsel have made a careful and diligent inquiry and
10 investigation to ascertain the facts relating to the subject incidents, the responsibility therefore, and
11 the nature and extent of injury to the minor plaintiffs, and fully understand that if the compromise
12 herein proposed is approved by the Court and is consummated, said minor plaintiffs will be forever
13 barred and prevented from seeking any further recovery of compensation as against defendants
14 COUNTY OF SANTA CLARA, et al., in this action, even if said minors' losses and injuries might
15 in the future prove to be more serious than they are now thought to be.

16 11. Petitioners recommend this compromise settlement to the Court as being fair, reasonable, and
17 in the best interests of said minor plaintiffs.

18 I declare under penalty of perjury that the foregoing is true and correct.

19
20 Dated: October 10, 2012

LAW OFFICES OF JOHN L. BURRIS

21
22 /s/ Benjamin Nisenbaum

23 Benjamin Nisenbaum
24 Attorney for Plaintiffs
25
26
27
28

