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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

R. LEYVA, ET AL.,
Plaintiffs,
v.
HOLLISTER SCHOOL DISTRICT, et al.,
Defendants.

Case No. [15-cv-00838-BLF](#)

**ORDER APPROVING SETTLEMENT
OF MINOR'S CLAIMS**

Plaintiffs R. Leyva and B.J., a minor, by and through his guardian ad litem, petition the Court for an order approving the parties' proposed settlement and of the minor's compromise included therein. Mot., ECF 49. For the reasons stated below, the Court GRANTS the motion.

I. BACKGROUND¹

Minor B.J., by and through his guardian ad litem R. Leyva² (collectively "Plaintiffs"), filed this action against Hollister School District (the "District"), Karen Lopes, Elaine Klauer, Gary L. McIntire, Dennis Kurtz, Jennifer Adamson, and Jane Bambrick, alleging six causes of action: (1) violations of B.J.'s constitutional rights under the Fourteenth Amendment, pursuant to 42 U.S.C. § 1983; (2) violations of Title II of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*; (3) violations of section 504 of the Federal Rehabilitation Act of 1973, 29 U.S.C. § 794; (4) negligent supervision; (5) negligent infliction of emotional distress; and (6) violations of the Unruh Act. First Am. Compl. ("FAC"), ECF 16.

B.J. is a fourteen year old student who has been diagnosed with autism. FAC ¶ 19. B.J. is mostly non-verbal and cannot communicate his thoughts or needs. *Id.* ¶ 20. B.J. entered into the seventh grade at Rancho San Justo Middle School, a middle school in the District, during the

¹ This section is based on allegations made in the First Amended Complaint. The Court accepts these allegations as true for the purposes of ruling on this motion.
² Leyva is also a party to this action.

1 2012–2013 school year. *Id.* ¶ 21. B.J. was placed in a classroom taught by Angela Draper, a
2 special education teacher. *Id.* Ms. Draper’s classroom was a special day class (“SDC”) for
3 children with moderate to severe disabilities. *Id.* ¶ 22. In October 2012, the District completed a
4 psycho-educational assessment of B.J. *Id.* ¶ 23. The assessment noted that B.J. was good at
5 writing and coloring, could write his first and last name, could fill in a number chart to 100, and
6 highlighted numerous other academic skills. *Id.* In the area of group instruction, it was noted that
7 B.J. could “actively” participate in group instruction for fifty minutes at a time, would participate
8 in sing-along in class, enjoyed looking at books during free time, and enjoyed reading instruction
9 when each student had his or her own book to follow along. *Id.* In the area of classroom routine,
10 the assessment noted that B.J. had “no” difficulty following the classroom instruction or
11 transitioning from one activity to another. *Id.* In the area of self-help skills, the assessment noted
12 that B.J. could navigate the school campus without difficulty, could get his own snack, use
13 scissors to open a container, throw away the trash, and eat without assistance. *Id.* During the
14 2012–2013 school year, B.J. had few behavioral issues in the school setting, and those he had
15 could easily be addressed. *Id.* ¶ 24.

16 In August 2013, B.J. began eighth grade at the same school but was placed in a new
17 classroom. *Id.* ¶ 26. Near the beginning of the school year, B.J. was removed from his assigned
18 SDC every morning about half an hour after the start of the school day. *Id.* ¶ 27. Two aides then
19 escorted B.J. to a room known as the “pod room,” which adjoined his assigned classroom. *Id.*
20 B.J. was kept out of his assigned classroom for the remainder of the day. *Id.* While in the pod
21 room, B.J. was often confined to a small narrow space known as his “pod,” which the District had
22 created for him. *Id.* B.J. was the only student at the school that was placed in the pod room. *Id.*

23 The District staff assigned to work with B.J. in the “pod room” was not appropriately
24 trained. *Id.* ¶ 29. As such, B.J. was often restrained, forced into the pod as a means of
25 punishment, and subjected to physical and emotional abuse. *Id.* The physical abuse resulted in
26 deep scratching and bruising on B.J.’s neck and other parts of his body in addition to causing
27 severe emotional trauma and behavioral regression. *Id.*

28 On February 24, 2015, Plaintiffs initiated this lawsuit against the District and various

1 employees. ECF 1. After substantial discovery, the parties reached an agreement resolving the
2 case. Shaw Decl. ¶ 5, ECF 49. The agreement was approved by all governing boards on or about
3 June 26, 2017. *Id.*

4 **II. LEGAL STANDARD**

5 “District courts have a special duty, derived from Federal Rule of Civil Procedure 17(c), to
6 safeguard the interests of litigants who are minors.” *Robidoux v. Rosengren*, 638 F.3d 1177, 1181
7 (9th Cir. 2011). “Rule 17(c) provides, in relevant part, that a district court ‘must appoint a
8 guardian *ad litem*—or issue another appropriate order—to protect a minor or incompetent person
9 who is unrepresented in an action.’” *Id.* (quoting Fed. R. Civ. P. 17(c)). “In the context of
10 proposed settlements in suits involving minor plaintiffs, this special duty requires a district court
11 to ‘conduct its own inquiry to determine whether the settlement serves the best interests of the
12 minor.’” *Id.* (quoting *Dacanay v. Mendoza*, 573 F.2d 1075, 1080 (9th Cir. 1978)).

13 In cases involving the settlement of a minor’s federal claims, a district court must consider
14 whether the proposed settlement is fair and reasonable as to each minor plaintiff. *Id.* at 1182.
15 “[T]he district court should evaluate the fairness of each minor plaintiff’s net recovery without
16 regard to the proportion of the total settlement value designated for adult co-plaintiffs or plaintiffs’
17 counsel—whose interests the district court has no special duty to safeguard.” *Id.*

18 While the *Robidoux* Court expressly limited its holding to settlement of a minor’s federal
19 claims, “district courts have found the *Robidoux* rule reasonable in the context of state law claims
20 and have applied the rule to evaluate the propriety of a settlement of a minor’s state law claims as
21 well.” *Frary v. Cnty. of Marin*, Case No. 12-cv-03928, 2015 WL 3776402, at *1 (N.D. Cal. June
22 16, 2015); *see also Mitchell v. Riverstone Residential Grp.*, No. S-11-2202, 2013 WL 1680641, at
23 *1 (E.D. Cal. Apr. 17, 2013) (collecting cases). California law, which governs the state law
24 causes of action, also requires that a settlement for a minor be approved by the court. *See* Cal.
25 Prob. Code § 3601; Cal. Fam. Code § 6602.

26 **III. DISCUSSION**

27 Under the proposed settlement, the District will pay \$399,000 to the Plaintiff’s attorney to
28 be held in trust, and \$139,691.36 of that amount will be retained by Plaintiff’s counsel for costs

1 and attorneys' fees. Shaw Decl. ¶ 6. The \$260,307.64 of the sum remaining after deduction of the
2 attorneys' fees and costs will be deposited and held in a special needs trust account. *Id.* ¶ 7. B.J.
3 will be the beneficiary of the account and R. Leyva will be the custodian. *Id.* The fund will be
4 used at parental discretion for expenses related to future counseling, therapy, educational and
5 recreational purposes, and social enrichment. *Id.* In addition, pursuant to a previous settlement of
6 B.J.'s special education claims only, the District paid B.J. \$100,000. *Id.* ¶ 12.

7 In light of the facts of the case, the minor's claims against the Defendants, and the
8 settlement of disputes regarding educational harm, the Court finds that the net amount to be
9 distributed is fair and reasonable. The terms achieve the goal that B.J. and his guardian ad litem
10 had for bringing the lawsuit. Accordingly, the Court APPROVES the settlement of B.J.'s claims.

11 **IV. ORDER**

12 Based on the foregoing, it is hereby ORDERED that:

13 1. The Court APPROVES the settlement on behalf of the minor as set forth herein and
14 in the parties' Settlement Agreement and Release.

15 2. R. Leyva, as guardian ad litem, shall execute, within fifteen calendar days, the
16 Release on behalf of Plaintiff B.J.

17 3. Rudderman & Knox shall use a portion of B.J.'s net proceeds held in trust to
18 establish a special needs trust on behalf of B.J. Once the trust is established, Rudderman & Knox
19 shall put B.J.'s remaining net proceeds in the special needs trust.

20 4. All future dates and deadline in this case are VACATED.

21 5. The parties shall file, within 60 days, a stipulation regarding dismissal of this case
22 or a written status report.

23 **IT IS SO ORDERED.**

24
25 Dated: July 19, 2017

26 
27 BETH LABSON FREEMAN
28 United States District Judge