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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

D.F., a minor, by and through his
Guardian Ad Litem, TASHINA
AMADOR, individually and as successor
in interest to Alexis Fontalvo, deceased,
and T.L., a minor, by and through her
Guardian Ad Litem, TASHINA
AMADOR,

Plaintiffs,

vs.

SIKORSKY AIRCRAFT
CORPORATION; et al.,

Defendants.

Case No. 13-cv-00331-GPC-KSC

Judge: Hon. Gonzalo P. Curiel
Magistrate: Hon. Karen S. Crawford

**ORDER APPROVING
STIPULATION REGARDING
DISMISSAL OF SURVIVOR
ACTION**

Plaintiffs D.F. and T.L., minors, by and through their Guardian Ad Litem,
TASHINA AMADOR (collectively, “Plaintiffs”); Defendants SIKORSKY
AIRCRAFT CORPORATION, SIKORSKY SUPPORT SERVICES, INC., and
UNITED TECHNOLOGIES CORPORATION (collectively, “Sikorsky”);
Defendant E.I. DU PONT DE NEMOURS AND COMPANY; Defendant GE

1 AVIATION SYSTEMS, LLC; and Defendant PKL SERVICES, INC. (collectively,
2 the “Parties”) have stipulated and agreed to the Stipulation Regarding Dismissal of
3 Survival Action as follows:

4 1. On January 25, 2013, Plaintiff D.F. filed a Complaint in the California
5 State Superior Court, County of San Diego. On February 11, 2013, Sikorsky
6 removed the case to federal court. (Doc. Nos. 1, 31.)

7 2. On August 22, 2013, Plaintiff D.F. filed an Amended Complaint in the
8 United States District Court for the Southern District of California. (Doc. No. 39.)

9 3. On September 23, 2014, Plaintiff D.F. filed a motion for leave to file a
10 further amended complaint, which sought to substitute D.F.’s mother, Tashina
11 Amador, as his guardian ad litem and join Ms. Amador’s minor daughter from a
12 previous relationship as an additional plaintiff, pursuant to CCP section 377.60(c).
13 (Doc. Nos. 64, 64-1.) The Court granted Plaintiff’s motion for leave on October 9,
14 2014, and Plaintiffs D.F. and T.L. thereafter filed the Second Amended Complaint.
15 (Doc. Nos. 70, 71.)

16 4. Plaintiffs’ Second Amended Complaint (Doc. No. 71) is the operative
17 complaint in this action.

18 5. In the Sixth Cause of Action of the Second Amended Complaint,
19 Plaintiffs assert a Survivor Action pursuant to California Code of Civil Procedure
20 (“CCP”) section 377.11 *et seq.* (Doc. No. 71 at ¶¶ 54–60; *see also id.* at 22–23
21 (prayer for relief as to Sixth Cause of Action).)

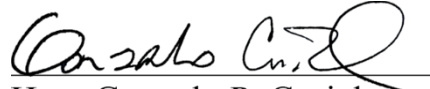
22 6. The Parties agree that the evidence in this case is insufficient to
23 establish the elements of a survival action pursuant to CCP section 377.11 *et seq.*
24 Accordingly, the Parties stipulate to the dismissal with prejudice of Plaintiffs’ Sixth
25 Cause of Action of the Second Amended Complaint (Survivor Action) and prayer
26 for relief as to the Sixth Cause of Action, including their demand for punitive and
27 exemplary damages, in exchange for a mutual waiver of fees and costs related to
28 that cause of action.

1 The Court hereby approves the Parties' Stipulation Regarding Dismissal of
2 Survival Action.

3 Plaintiffs' Sixth Cause of Action of the Second Amended Complaint
4 (Survivor Action) and prayer for relief as to the Sixth Cause of Action are hereby
5 dismissed with prejudice.

6 **IT IS SO ORDERED.**

7 Dated: April 21, 2016


8 Hon. Gonzalo P. Curiel
9 United States District Judge

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