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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 YARET MORALES, as next friend of
12 E.L.M., the real party in interest,
13 Plaintiff,

14 v.

15 PALOMAR HEALTH; BRUCE
16 FRIEDBERG; CEP AMERICA LLC;
17 KELLY PRETORIOUS; RADY
18 CHILDREN'S HOSPITAL SAN DIEGO;
19 WENDY HUNTER; and CHILDREN'S
20 SPECIALISTS OF SAN DIEGO, a
21 Medical Group, Inc.,
22 Defendants.
23

Case No.: 3:14-cv-0164-GPC-MDD

**ORDER REQUIRING
SUPPLEMENTAL BRIEFING RE:
EX PARTE PETITION FOR
MINOR'S COMPROMISE**

[ECF No. 182]

24
25 Before the court is the *ex parte* petition of Yaret Morales, the next friend and
26 mother of minor Plaintiff Estela Laredo Morales, for approval of the compromise of
27 Estela's medical negligence claim. Dkt. No. 182. United States Magistrate Judge
28 Dembin filed a Report and Recommendation granting the petition. Dkt. No. 185.

1 On April 12, 2016, Plaintiff filed a joint notice of settlement. ECF No. 177. A
2 month and a half later, Plaintiff filed the instant *ex parte* petition for the Court to approve
3 the settlement and to distribute the settlement funds. ECF No. 182. In it, Plaintiff
4 indicates that the parties have agreed to settle the dispute for \$300,000, contingent upon
5 approval by the Court. *Id.* Pursuant to the agreement, Defendants RCHSD and
6 Children’s Specialists will both pay Plaintiff \$150,000. *Id.* Because Estela currently
7 receives medical services through Medi-Cal, Plaintiff has additionally proposed that her
8 portion of the settlement be paid into a special needs trust, which was approved on May
9 19, 2017. *Id.* The joint settlement also contemplates that \$107,069.11 of Plaintiff’s
10 settlement will be paid to Plaintiff’s counsel for litigation costs and that \$59,899.39 will
11 be paid to Plaintiff’s counsel for attorney’s fees. *Id.*

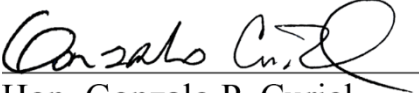
12 Under California law, the court is to evaluate the reasonableness of the settlement
13 and determine whether the compromise is in the best interest of the minor. *See*
14 *Espericueta v. Shewry*, 164 Cal. App. 4th 615, 617 (Cal. Ct. App. 2008); *Anderson v.*
15 *Latimer*, 166 Cal. App. 3d 667, 676 (Cal. Ct. App. 1985). Attorney’s fees to be paid for
16 representing the minor must also be approved by the court. Cal. Fam. Code § 6602 (“A
17 contract for attorney’s fees for services in litigation, made by or on behalf of a minor, is
18 void unless the contract is approved . . . by the court in which the litigation is pending . . .
19 .”). The court has “broad power” to “authorize payment from the settlement—to say who
20 and what will be paid from the minor’s money—as well as direct certain individuals to
21 pay it.” *Goldberg v. Superior Court*, 23 Cal. App. 4th 1378, 1382 (Cal. Ct. App. 1994)
22 (citing Cal. Prob. Code § 3601); *see also* Cal. Civ. Code P. § 372 (“Money or property to
23 be paid or delivered pursuant to the order or judgment for the benefit of a minor . . . shall
24 be paid and delivered as provided in Chapter 4 (commencing with Section 3600) of Part 8
25 of Division 4 of the Probate Code).

26 Upon reviewing the materials submitted by Plaintiff, the Court has concluded that
27 does not have the information it requires to make a reasonableness determination
28 regarding Plaintiff’s counsel’s litigation costs. Exhibit 3 of the settlement, entitled “Cost

1 Summary Report with Details,” ECF No. 182-2, lists various costs incurred, to whom,
2 and on what date, but does not provide any detail concerning the nature of the costs or
3 their purpose. Absent such detail, the Court cannot approve Plaintiff’s request for
4 \$107,069.11 in litigation costs for Plaintiff’s counsel. The Court notes that it is
5 particularly concerned with the paucity of information contained within the section listing
6 fees for “Expert Consultations.” The summary of costs merely lists that certain experts
7 were paid for their services, but does not indicate what the expert was hired for or what
8 expertise they imparted. Accordingly, the Court hereby **ORDERS** that Plaintiff submit a
9 supplemental “Cost Summary Report with Details” that provides the Court with the
10 information it needs to make a determination about the reasonableness of the litigation
11 costs and, in particular, the reasonableness of the expert fees amassed. Plaintiff shall
12 submit the supplemental briefing on or before **Thursday, August 3, 2017.**

13 **IT IS SO ORDERED.**

14 Dated: July 27, 2017

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16 Hon. Gonzalo P. Curiel
17 United States District Judge
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