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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 Chassidy NESMITH, individually and
12 as guardian ad litem on behalf of S.N.,
13 Plaintiffs,
14 v.
15 COUNTY OF SAN DIEGO, et al.,
16 Defendants.
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Case No.: 15-CV-629 JLS (AGS)

**ORDER (1) ADOPTING REPORT
AND RECOMMENDATION;
(2) GRANTING MOTION FOR
APPROVAL OF MINOR'S
COMPROMISE; (3) APPROVING
DECLARATION OF TRUST; AND
(4) DISMISSING ACTION**

(ECF Nos. 227, 233, 234)

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20 Presently before the Court is Plaintiffs' Unopposed Ex Parte Motion for Approval
21 of an Expedited Minor's Compromise and Dismissal of Claims ("Mot.," ECF No. 227), as
22 well as Defendants' Notice of Non-Opposition thereto (ECF No. 229). Magistrate Judge
23 Andrew G. Schopler issued an Order Requiring Additional Briefing Concerning the
24 Minor's Compromise ("Order," ECF No. 231). In response, Plaintiffs filed an Unopposed
25 Supplement (ECF No. 232). Thereafter, Judge Schopler issued a Report and
26 Recommendation advising the Court to grant Plaintiff's Motion ("R&R," ECF No. 233).
27 Defendants have filed a Notice of Non-Opposition to the R&R (ECF No. 234). Having
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1 considered the Parties’ briefing, Judge Schopler’s Order and R&R, and the law, the Court
2 **ADOPTS** the R&R and **GRANTS** the Motion.

3 **BACKGROUND**

4 Judge Schopler’s Order contains an accurate and thorough recitation of the relevant
5 background, as well as the terms of the Declaration of Trust (ECF No. 232 Ex. 1) at issue.
6 *See* Order at 1–2. This Order incorporates by reference the background as set forth therein.

7 Judge Schopler’s Order was “inclined to approve the settlement as fair and
8 reasonable,” but sought additional briefing in light of the Declaration of Trust’s failure to
9 comply with Civil Local Rule 17.1(b)(1) by making the trust automatically revoked, rather
10 than revocable, upon the minor’s attainment of the age of eighteen. Order at 4–5.
11 Thereafter, Plaintiffs filed their Supplement, informing the Court that the Declaration of
12 Trust had been modified to make it revocable rather than automatically revoked. *See* ECF
13 No. 232. The R&R followed.

14 **LEGAL STANDARD**

15 Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1) set forth a district
16 court’s duties in connection with a magistrate judge’s R&R. The district court must “make
17 a de novo determination of those portions of the report or specified proposed findings or
18 recommendations to which objection is made,” and “may accept, reject, or modify, in
19 whole or in part, the findings or recommendations made by the magistrate judge.” 28
20 U.S.C. § 636(b)(1); *see also United States v. Raddatz*, 447 U.S. 667, 673–76 (1980); *United*
21 *States v. Remsing*, 874 F.2d 614, 617 (9th Cir. 1989). However, in the absence of timely
22 objection, the Court “need only satisfy itself that there is no clear error on the face of the
23 record in order to accept the recommendation.” Fed. R. Civ. P. 72 advisory committee’s
24 note (citing *Campbell v. U.S. Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974)).

25 **ANALYSIS**

26 The Parties seek approval of the Declaration of Trust and dismissal of the action
27 with prejudice. *See* Mot. at 2. The R&R concludes that the Declaration of Trust is fair,
28 reasonable, and in the minor’s best interest, and therefore recommends that the Court

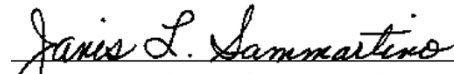
1 approve it. *See generally* R&R; Order. No Party objects to the R&R. *See* ECF No. 234.
2 The Court therefore reviews the R&R for clear error and finds none. Accordingly, the
3 Court finds it appropriate to approve the Declaration of Trust.

4 **CONCLUSION**

5 In light of the foregoing, the Court **ADOPTS** the R&R (ECF No. 233); **GRANTS**
6 Plaintiff's Motion (ECF No. 227); finds the Declaration of Trust (ECF No. 232 Ex. 1) to
7 be fair, reasonable, and in the minor's best interest and therefore **APPROVES** it; and
8 **DISMISSES** this action in its entirety **WITH PREJUDICE**. As this concludes the
9 litigation in this matter, the Clerk of the Court **SHALL CLOSE** the file.

10 **IT IS SO ORDERED.**

11 Dated: April 8, 2022

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13 Hon. Janis L. Sammartino
14 United States District Judge
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