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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 HUDSON SPECIALTY INSURANCE
12 COMPANY,

13 Plaintiff,

14 v.

15 SCOTT HOFER, an individual; FLOR
16 HOFER, an individual; and SUZANNE
17 WADSWORTH, Guardian ad Litem for
18 L.H., a minor,

19 Defendants.

Case No.: 20-cv-0852-BAS-RBB

**ORDER GRANTING JOINT
MOTION FOR APPROVAL OF
MINOR'S SETTLEMENT**

[Doc. No. 55]

20 Plaintiff Hudson Specialty Insurance Company (“Hudson” or “plaintiff”) brought
21 this action against defendants Scott and Flor Hofer and their minor child, L.H. (hereafter
22 “Scott”, “Flor”, “L.H.” or collectively “defendants”) seeking declaratory judgment as to
23 Hudson’s rights and duties related to the defense of a state action tort suit against
24 defendants. *See generally* Doc. No. 32. On December 8, 2021, the parties informed the
25 Court that they reached a settlement. *See* Doc. No. 46. Pursuant to Civil Local Rule 17.1(a),
26 the parties seek the Court’s approval of the proposed settlement. On January 3, 2022, the
27 Honorable Cynthia Bashant conferred jurisdiction to the undersigned for limited purpose
28 of approving the minor’s compromise. *See* Doc. No. 53.

1 Now before the Court is the parties' Joint Motion for Approval of Minor's
2 Settlement (hereafter "Joint Motion" or "Jt. Mot."). *See generally* Doc. No. 55. The Joint
3 Motion is supported by the parties' settlement agreement and a completed Judicial Council
4 form MC-350. The court has carefully reviewed the Joint Motion and the supporting
5 documents. For the reasons stated below, the Joint Motion is **GRANTED**.

6 **I. BACKGROUND**

7 **A. The Underlying Action**

8 This action arises out of an incident on June 1, 2019, when Scott allowed L.H. to
9 drive a Jeep with two minor passengers. *See* Doc. No. 32 at 2-4, 11-20. L.H. lost control
10 of the vehicle, causing it to roll over. *Id.* The two minor passengers sustained multiple and
11 serious injuries in the crash. *Id.* On November 14, 2019, the injured minor passengers and
12 their parents sued defendants for damages caused by the accident (hereafter the
13 "Underlying Action"). *Id.*

14 Hudson provided defendants with a defense of the Underlying Action "pursuant to
15 a reservation of rights to file a declaratory relief action declaring that Hudson had no duty
16 to defend the Underlying Action." Jt. Mot. at 2. Ultimately, Hudson paid \$999,998.00 on
17 behalf of defendants to settle the Underlying Action (which was within the insurance policy
18 limit), subject to the reservation of rights. *Id.* at 3, 11. In return, plaintiffs in the Underlying
19 Action dismissed the action and all claims against defendants were released. *Id.*

20 **B. The Instant Declaratory Relief Action**

21 Following resolution of the Underlying Action, Hudson filed the instant action,
22 seeking a declaratory judgment that it had no duty to defend or indemnify defendants in
23 the Underlying Action. *See generally* Doc. No. 32. Hudson argued that the terms of Scott's
24 Comprehensive Personal Liability Policy (hereafter "Policy") excluded payments for
25 bodily injury arising out of operation or ownership of a motor vehicle, entrustment of a
26 motor vehicle to another, or vicarious liability for the actions of a minor child using a motor
27 vehicle, and that the accident that gave rise to the Underlying Action was within the scope
28 of one or more of these exclusions. In addition to declaratory judgment, Hudson sought

1 reimbursement from defendants for sums paid as indemnity in the Underlying Action. *See*
2 *Id.* at 8. By operation of the Policy’s terms, L.H. was an insured under the Policy, and was
3 “sued as a nominal defendant in order that the judgment would be binding on all insureds.”
4 *See* Jt. Mot. at 29-30.

5 **C. The Parties’ Settlement**

6 The Joint Motion and supporting papers reflect that the parties have agreed Hudson
7 will pay a total of \$65,000 directly to defendants’ counsel for attorney’s fees, expert
8 expenses, and costs incurred from defending this action, and the parties will exchange
9 mutual releases of all past and present claims related to the declaratory relief or
10 reimbursement of sums paid as indemnity in the Underlying Action, and any other related
11 claim. Jt. Mot. at 12-14. The parties also agree to file a Joint Motion to dismiss the
12 declaratory action pursuant to this Court’s approval of the settlement. *Id.* at 3.

13 **II. LEGAL STANDARDS**

14 District Courts have a duty to safeguard the interests of minors in litigation.
15 *Salmeron v. United States*, 724 F.2d 1357, 1363 (9th Cir. 1983); *see also* Fed. R. Civ. P.
16 17(c) (requiring district courts to “appoint a guardian ad litem...to protect a minor or
17 incompetent person who is unrepresented in an action”). Where the parties settle an action
18 involving a minor litigant, the Court must “conduct its own inquiry to determine whether
19 the settlement serves the best interest of the minor.” *Robidoux v. Rosengren*, 638 F.3d
20 1177, 1181 (9th Cir. 2011) (quoting *Dacanay v. Mendoza*, 573 F.2d 1075, 1080 (9th Cir.
21 1978)); *see also* CivLR 17.1(a) (providing that “[n]o action by or on behalf of a minor or
22 incompetent will be settled, compromised, voluntarily discontinued, dismissed or
23 terminated without court order or judgment.”). The Court must conduct this inquiry “even
24 if the settlement has been recommended or negotiated by the minor’s parent or guardian
25 ad litem.” *Salmeron*, 724 F.2d at 1363 (citation omitted).

26 Where, as here, a federal court exercises diversity jurisdiction over the minor
27 plaintiffs’ state law claims, the settlement should be evaluated with reference to applicable
28 state law. *See DeRuyver v. Omni La Costa Resort & Spa, LLC*, No. 3:17-cv-0516-H-AGS,

1 2020 WL 563551, at *2 (S.D. Cal. Feb. 4, 2020) (citation omitted); *accord Manzarek v. St.*
2 *Paul Fire & Marine Ins. Co.*, 519 F.3d 1025, 1031 (9th Cir. 2008) (insurance contracts are
3 interpreted under state law).

4 Under California law, the court must determine whether the compromise is “in the
5 minor’s best interests.” *Goldberg v. Superior Court*, 23 Cal. App. 4th 1378, 1382 (1994).
6 Although this case is somewhat unusual in that the minor litigant is not an injured plaintiff
7 but a nominal defendant, the Court concludes that the overarching concerns of fairness and
8 due consideration of the minor’s interests are still applicable. With these principles in
9 mind, the Court addresses the proposed settlement.

10 III. DISCUSSION

11 A. The Settlement is Reasonable and in the Minor’s Best Interests

12 As stated in the Joint Motion and completed proposed settlement, plaintiff has
13 agreed to dismiss the declaratory relief action with prejudice, pay defendants’ counsel
14 \$65,000, and exchange mutual releases of all claims. Jt. Mot. at 12. These released claims
15 include the claims for declaratory relief, the reimbursement claims for the defense and
16 settlement in the Underlying Action, and any other related claim. *Id.* at 13. Pursuant to
17 Section 3500 of California Probate Code, the payment to defendants’ counsel will be
18 delivered for the benefit of the minor.

19 The parties state that they believe the settlement is within the best interests of the
20 minor, because it removes the uncertainty of trial and provides finality to the dispute
21 without any financial obligation on L.H.’s part. *See id.* at 3, 5. The Court agrees, and finds
22 that the proposed settlement is fair and in the best interest of the minor.

23 First, the Court considers the timing of the settlement agreement. Here, the parties
24 reached a settlement after completing fact and expert discovery and were close to filing
25 dispositive motions. *Id.* at 3. L.H. and his parents, and their counsel, were well-informed
26 of the facts in support of, and undermining, their defenses at the time of settlement. The
27 Court therefore concludes defendants made a well-informed decision to settle.

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1 In addition, this settlement was reached after the Underlying Action was resolved.
2 According to the agreement, the parties agree to dismiss the action with prejudice,
3 exchange mutual release of claims, and waive rights and benefits afforded by California
4 Civil Code Section 1542. Thus, once this settlement is approved, L.H. is relieved of any
5 ongoing or latent liability arising out of the accident, which is within L.H.'s best interest.

6 Second, the Court considers the negotiation process. Throughout this litigation, the
7 parties have engaged in arm-lengths negotiations in which L.H. was represented by
8 counsel. There is nothing before the Court to suggest any evidence of coercion or an unfair
9 negotiation process. The Court concludes that L.H. and his counsel had a fair opportunity
10 to negotiate the terms of the settlement.

11 Third, the Court considers the benefit of the payment. Here, the settlement authorizes
12 plaintiff to pay defendants' counsel directly for the benefit of all defendants including L.H.
13 Since the Joint Motion does not reflect any outstanding sums other than the attorney's fees
14 and costs, which total \$65,000, L.H. and his parents would not need to pay additional funds.
15 Thus, the payment is reasonable.

16 Fourth, the Court looks at similar cases. The parties and the Court alike have been
17 challenged to find cases addressing the fairness of a minor's compromise on facts similar
18 to those at bar - i.e., where the minor litigant is a nominal defendant who was not injured
19 and does not stand to receive a monetary payout from the proposed settlement.
20 Nevertheless, the few cases the Court has reviewed support the Court's finding that the
21 proposed settlement is in L.H.'s best interest.

22 In *Escondido Union School District v. Chandrasekar*, No. 18-cv-02873-JLB-NLS,
23 2019 WL 3945356 (S.D. Cal. August 21, 2019), the court reasoned that the settlement
24 agreement proposing to only pay minor defendant's attorneys' costs was within the best
25 interest of the minor for the foregoing reasons. First, the agreement settled a related action
26 in state court. *See id.*, at *8. Second, the settlement payment relieved the defendants from
27 paying attorneys' fees incurred. *Id.* Third, both parties exchanged general releases of

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1 claims. *Id.* Fourth, due to the uncertainty of litigation, it was unclear whether defendants
2 would have been the prevailing party and therefore, recover fees. *Id.*

3 The settlement agreement in the case at hand is analogous to the terms in
4 *Chandrasekar*. Here, similarly, the terms of the settlement relieve all the defendants from
5 all attorney's fees, claims related to this action, and the uncertainty of litigation. In fact,
6 here, the settlement is in a better position, because as mentioned above, the Underlying
7 Action was resolved before this agreement was formed. Jt. Mot. at 11. Thus, this settlement
8 is not contingent on another pending action.

9 In *D.G. v. Antioch Unified School District*, No. 19-cv-01576-HSG, 2019 WL
10 4838693 (N.D. Cal. October 1, 2019), the court reasoned that the settlement proposing to
11 only pay the parents' attorney fees incurred in pursuing minor's rights was within the best
12 interest of the minor due to the uncertainty of litigation and defendant complying with a
13 decision in an underlying action. There, the defendant agreed to pay minor and his parents'
14 attorney's fees incurred while pursuing his rights. *See id.*, at *2. In exchange, the minor
15 plaintiff and his family were to release any claims related to the issue. Here, similarly,
16 Hudson agreed to pay for L.H. and his parents' attorney's fees that were incurred while
17 defending his rights.

18 Additionally, L.H. has no financial obligation to plaintiff relating to the Underlying
19 Action because plaintiff has already paid for representation and settled the Underlying
20 Action within the policy limits. Jt. Mot. at 11. Considering that plaintiff is no longer
21 seeking reimbursement for representation and settlement in the Underlying Action and has
22 agreed to pay the defendants' attorney's fees, the Court finds that the settlement is
23 reasonable and within the best interest of the minor.

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1 **CONCLUSION AND ORDER**

2 For the above reasons, and upon consideration of the facts of the case, the Court
3 concludes that the settlement is fair and reasonable, and in the minor’s best interests. The
4 Joint Motion for Approval of Minor’s Settlement [Doc. No. 55] is **GRANTED**.

5 Dated: February 25, 2022

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7 Hon. Karen S. Crawford
8 United States Magistrate Judge
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