

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10

11 V.C., a minor child, by and through her
12 Guardian ad litem, Sheyla Aracely Crespo
13 Anaya,

14 Plaintiff,

15 v.

16 HUNTERWOOD TECHNOLOGIES
17 USA, LTD., et al.,

18 Defendants.

Case No.: 21cv888-AJB(LR)

**REPORT AND
RECOMMENDATION FOR
ORDER GRANTING MINOR'S
COMPROMISE PETITION**

[ECF No. 39]

19 Currently before the Court is Minor Plaintiff V.C.'s January 19, 2023 Petition for
20 Approval of Minor's Compromise ("Petition"). (ECF No. 39 ("Pet.")) This Report and
21 Recommendation is submitted to United States District Judge Anthony J. Battaglia
22 pursuant to 28 U.S.C. § 636(b)(1) and Local Civil Rule 17.1 of the United States District
23 Court for the Southern District of California. After reviewing the Petition and all
24 supporting documents, and for the reasons discussed below, the Court **RECOMMENDS**
25 that District Judge Battaglia **GRANT** the Petition.

26 **I. BACKGROUND & PROCEDURAL HISTORY**

27 This is a wrongful death case originally filed in Imperial County Superior Court
28 that was removed to this Court on May 7, 2021. (See ECF No. 1.) Minor Plaintiff V.C.

1 (“Plaintiff), by and through her guardian *ad litem* Sheyla Crespo alleges strict products
2 liability, negligence, and breach of warranty claims against Defendant Hunterwood
3 Technologies (“Defendant”) arising from a 2019 incident in which Plaintiff’s father,
4 Ysamar Diaz, was killed while attempting to repair a malfunction on a hydraulic cylinder
5 hose underneath the magazine clamp elevator of a hay press manufactured by Defendant.
6 (See ECF No. 1-3 at 6.) The Complaint alleges that while performing maintenance on
7 the hay press in the course of his duties as a mechanic at K&M Press in El Centro, the
8 clamp elevator on the press actuated suddenly and without warning, crushing Mr. Diaz to
9 death. (Id.) Plaintiff was four months old at the time of the accident. (See Pet. at 2.)

10 Defendant filed an answer to Plaintiff’s Complaint on May 14, 2021 (see ECF No.
11 3) and an Early Neutral Evaluation Conference was held before then Magistrate Judge
12 Ruth B. Montenegro on August 21, 2021. (See ECF No. 19.) After two modifications to
13 the Scheduling Order extending various discovery deadlines (ECF Nos. 30; 34), the
14 parties filed a notice of settlement in principle on November 17, 2022. (ECF No. 37.)
15 The instant Petition was filed on January 19, 2023 (ECF No. 39), and Defendant filed a
16 Notice of Non-Opposition to the Petition on February 8, 2023. (See ECF No. 40.)

17 **II. LEGAL STANDARD**

18 Courts have a special duty to safeguard the interests of litigants in civil litigation
19 who are minors. See Robidoux v. Rosengren, 638 F.3d 1177, 1181 (9th Cir. 2011); see
20 also Fed. R. Civ. P. 17(c)(2) (district courts “must appoint a guardian ad litem—or issue
21 another appropriate order—to protect a minor or incompetent person who is
22 unrepresented in an action.”). For proposed settlements in suits involving minor
23 plaintiffs, this duty requires a district court “conduct its own inquiry to determine
24 whether the settlement serves the best interests of the minor.” Robidoux, 638 F.3d at
25 1181 (quoting Dacanay v. Mendoza, 573 F.2d 1075, 1080 (9th Cir. 1978)); see also
26 Salmeron v. United States, 724 F.2d 1357, 1363 (9th Cir. 1983) (holding that “a court
27 must independently investigate and evaluate any compromise or settlement of a minor's
28 claims to assure itself that the minor's interests are protected . . . even if the settlement

1 has been recommended or negotiated by the minor's parent or guardian ad litem.”). Civil
2 Local Rule 17.1(a) contemplates that the Court will help satisfy the duty to safeguard a
3 minor’s interests by providing that “[n]o action by or on behalf of a minor or incompetent
4 will be settled, compromised, voluntarily discontinued, dismissed or terminated without
5 court order or judgment.” CivLR. 17.1(a). The rule requires the Court to determine if the
6 settlement is in the best interests of the minor and consider not only the fairness of the
7 amount of the settlement, but the structure and manner of distribution of the assets from
8 the settlement agreement.

9 The Ninth Circuit has explained that courts reviewing the settlement of a minor’s
10 federal claims should “limit the scope of their review to the question whether the net
11 amount distributed to each minor plaintiff in the settlement is fair and reasonable, in light
12 of the facts of the case, the minor's specific claim, and recovery in similar cases.”
13 Robidoux, 638 F.3d at 1181–82. Courts should “evaluate the fairness of each minor
14 plaintiff's net recovery without regard to the proportion of the total settlement value
15 designated for adult co-plaintiffs or plaintiffs’ counsel—whose interests the district court
16 has no special duty to safeguard.” Id. at 1182 (citing Dacanay, 573 F.2d at 1078). “So
17 long as the net recovery to each minor plaintiff is fair and reasonable in light of their
18 claims and average recovery in similar cases, the district court should approve the
19 settlement as proposed by the parties.” Id.

20 The Robidoux decision was limited by the Ninth Circuit to “cases involving the
21 settlement of a minor’s *federal* claims.” Id. at 1179 n.2 (emphasis added). Where a
22 settlement involves state law claims on the other hand, federal courts are generally guided
23 by state law, rather than the principles in Robidoux. See, e.g., J.T. by & through Wolfe v.
24 Tehachapi Unified Sch. Dist., No. 1:16-cv-01492-DAD-JLT, 2019 WL 954783, at *2
25 (E.D. Cal. Feb. 27, 2019) (noting that federal courts generally require that claims by
26 minors be settled in accordance with applicable state law and that California law requires
27 court approval of the fairness and terms of the settlement); see also A.M.L. v. Cernaianu,

1 No. LA CV12-06082 JAK (RZx), 2014 WL 12588992, at *3 (C.D. Cal. Apr. 1, 2014)
2 (collecting cases).

3 The California Probate Code provides the applicable statutory scheme for approval
4 of a minor’s compromise under state law. See Cal. Prob. Code § 3601. Under California
5 law, the Court must evaluate the reasonableness of the settlement and determine whether
6 the compromise is in the best interest of the minor. See Doe v. Lincoln Mil. Prop. Mgmt.
7 LP, Case No.: 3:20-cv-00224-GPC-AHG, 2020 WL 5587488, at *4 (S.D. Cal. Sept. 18,
8 2020) (citing A.M.L., 2014 WL 12588992, at *3), report and recommendation adopted,
9 2020 WL 5810168 (S.D. Cal. Sept. 30, 2020). California law also requires a court to
10 approve any reasonable expenses, costs, and attorneys’ fees deducted from the settlement.
11 See Cal. Prob. Code § 3601(a). The Court is given “broad power . . . to authorize
12 payment from the settlement—to say who and what will be paid from the minor’s
13 money—as well as direct certain individuals to pay it.” Goldberg v. Super. Ct., 23 Cal.
14 App. 4th 1378, 1382 (Cal. Ct. App. 1994); see also Pearson v. Super. Ct., 136 Cal. Rptr.
15 3d 455, 459 (Cal. Ct. App. 2012) (noting that the purpose of the court approval process
16 “allows the guardians of a minor to effectively negotiate a settlement while at the same
17 time protect the minor’s interest by requiring court approval before the settlement can
18 have a binding effect on the minor.”).

19 District courts are split as to whether Robidoux applies when evaluating the
20 settlement of a minor’s state law claims. See A.M.L., 2014 WL 12588992, at *3.
21 Although courts like the one in A.M.L. have noted that claims by minors should
22 generally “be settled in accordance with applicable state law,” the Ninth Circuit in
23 Robidoux held that such an approach “places undue emphasis on the amount of
24 attorneys’ fees provided for in a settlement, instead of focusing on the net recovery of the
25 minor plaintiffs.” Id. at *2 (quoting Robidoux, 638 F.3d at 1181) (internal citations
26 omitted). Some courts have placed more emphasis on applying Robidoux to the
27 settlement of state law claims, while others have opted to only focus on state law when
28 evaluating the settlement of state law claims. See, e.g., McLure v. Cyberonics, Inc., Case

1 No. SACV 20-1242 JVS(JCGx), 2021 WL 4935159, at *1 n.1 (C.D. Cal. Feb. 4, 2021)
2 (collecting cases using both approaches).

3 Because the claims in this case are governed by California law, the Court will
4 review the settlement with an emphasis on the state standard, which focuses on the best
5 interests of the minor. To ensure that all potentially relevant factors are considered,
6 however, the Court will also apply the Robidoux standard of evaluating whether the net
7 amount distributed to the minor plaintiff—without regard to proportion of the settlement
8 allocated to adult co-plaintiffs or attorneys’ fees—is “fair and reasonable.” 638 F.3d at
9 1182. The Court need not decide whether Robidoux controls if the settlement meets both
10 federal and state standards. See, e.g., Greenberg v. Puppy Dogs & Ice Cream, Inc., Case
11 No.: 20-cv-2125-LAB (DEB), 2021 WL 1753640, at *2 n.1 (S.D. Cal. Mar. 19, 2021)
12 (citing A.M.L., 2014 WL 12588992, at *3) (collecting cases concluding that it is
13 unnecessary to resolve whether Robidoux or state rules apply to the approval of a minor’s
14 compromise in cases involving state tort law claims where the proposed settlement would
15 satisfy both standards), report and recommendation adopted, 2021 WL 2117192 (S.D.
16 Cal. May 25, 2021).

17 III. DISCUSSION

18 The Petition notes that after attending private mediation, Plaintiff has decided to
19 settle the case with the understanding that if the settlement is approved by the Court,
20 Plaintiff will be forever barred from seeking any further recovery or compensation from
21 Defendants on the claims that are proposed to be dismissed. (See Pet. at 3.) To
22 safeguard the interests of the minor plaintiff in this case, the Court will evaluate the
23 proposed settlement, the method of disbursing the minor plaintiff’s net recovery, and the
24 proposed attorneys’ fees and costs.

25 A. The Proposed Settlement

26 The precise terms and conditions of the Settlement are set forth in the Petition
27 (ECF No. 39), the parties’ Settlement Agreement (ECF No. 39-1, Lee Cirsch Decl.
28 (“Cirsch Decl.”), Ex. A), and the terms and conditions of the disbursement of settlement

1 funds through an annuity agreement for the minor plaintiff. (Cirsch Decl., Ex. B). In
 2 summary, Plaintiff agrees to release her claims against Defendants in exchange for gross
 3 consideration of \$600,000. (Pet. at 3.) The gross settlement amount will be allocated as
 4 follows:

Payee or Instrument	Amount	Use of Funds
Brock & Gonzales, LLP	\$199,980	Payment of attorneys' fees
Brock & Gonzales, LLP	\$61,995.72	Payment of attorneys' costs
Zenith Insurance Company	\$55,000	Payment of lien for death benefits already received by Plaintiff
Structured Settlement Annuity	\$272,738	Monthly payments of \$2,250 beginning when Plaintiff turns 18 and continuing for seven years certain Lump sum payments of \$50,000 at age 18, \$100,000 at age 25, \$100,000 at age 27, \$150,000 at age 30, \$250,000 at age 35
Blocked Account	\$10,286.28	Blocked account for the remainder of the net settlement funds that can only be withdrawn through an order of the Court after a showing of good cause until Plaintiff reaches age 18
Total	\$600,000	

25
 26 See id. at 3-5.

27 In reviewing minor's compromise petitions, "courts typically consider such
 28 information as the relative worth of the settlement amount, the circumstances of the

1 settlement, counsel’s explanation of their views and experiences in litigating these types
2 of actions, and other, similar compromises that have been approved by courts.” J.T.,
3 2019 WL 954783, at *2. Taking all relevant considerations into account, the Court
4 concludes that Plaintiff’s proposed net recovery of \$283,024.28 (the amount to be paid
5 into the structured settlement annuity plus the remainder to be deposited in the blocked
6 account) is fair, reasonable, and in Plaintiff’s best interest considering the facts and
7 circumstances of this case.

8 First, the proposed Settlement allows for certainty of recovery for Plaintiff,
9 compared with the uncertainty associated with a potential jury trial in this case.
10 Plaintiff’s counsel notes that there was a significant risk of “comparative and third-party
11 fault in this matter” due to an investigation into the employer’s conduct related to the
12 incident at issue in this case, which could have limited Plaintiff’s recovery if the action
13 had proceeded to trial. (Cirsch Decl. at 5.) Essentially, there was substantial risk that
14 Plaintiff might have recovered much less than the amount obtained or nothing at all if the
15 case had proceeded to trial. Additionally, the Settlement as it is currently structured gives
16 Plaintiff the additional assurance of multiple periodic payments to be used once she
17 reaches the age of the majority.

18 Second, Plaintiff’s counsel notes that he is “satisfied with the result obtained for
19 [his] client” given the factors discussed above. (Cirsch Decl. at 4.) Although the Court
20 was unable to find caselaw directly analogous to this case (and none were provided by
21 counsel), an independent review of wrongful death cases with similar facts to those at
22 issue here lend support to Plaintiff’s counsel’s assertion—and confirm that the recovery
23 here is in line with other wrongful death cases within the Ninth Circuit. See, e.g., Popal
24 v. Nat’l Passenger R.R. Corp., Case No. 15-cv-00553-JSW (KAW), 2016 WL 9114149,
25 at *2-3 (N.D. Cal. Oct. 24, 2016) (concluding that a net recovery of \$22,638.87 for each
26 minor appropriate after their father was struck and killed by an Amtrack train
27 appropriate); B.L. v. California, Case No. CV 20-11135-JVS (PVCx), 2022 WL
28 16888524, at *2 (C.D. Cal. July 27, 2022) (concluding that a net recovery of \$52,545.85

1 for minor child after their father was struck and killed by an Amtrack train was
2 appropriate); Garcia v. Cty. of Kern, Case No.: 1:20-cv-0093 NONE JLT, 2021 WL
3 3674519, at *7 (E.D. Cal. Aug. 19, 2021) (concluding that annuity payments in excess of
4 \$60,000 for each minor after their parents were killed in a vehicle chase with law
5 enforcement were appropriate and collecting net settlement awards in other wrongful
6 death cases), report and recommendation adopted, 2021 WL 3813414 (E.D. Cal. Aug. 26,
7 2021).

8 Based upon the above referenced recoveries in similar actions, consideration of the
9 facts, and the risks associated with taking this case to trial, the Court concludes that the
10 proposed net settlement amount of \$283,024.28 is fair and reasonable under both
11 California and federal law standards. The Court therefore **RECOMMENDS** that the
12 proposed settlement amount be approved.

13 **B. Method of Disbursement**

14 Under the California Probate Code, various alternative methods are available for
15 disbursement of the funds related to a settlement that affects a minor. See Cal. Prob.
16 Code §§ 3602; 3611. Here, the Settlement Agreement reflects that that the parties have
17 agreed to the purchase of a structured annuity and payments as set forth above, which the
18 Court finds appropriate. Specifically, the parties agree that Defendant will issue a
19 settlement check in the amount of \$272,738 to fund and purchase a structured annuity for
20 Plaintiff. (See Cirsch Decl., Ex. A at 1.¹) The check will be made payable to “Pacific
21 Life & Annuity Services, Inc.,” which will provide periodic payments to be made by
22 “Pacific Life Insurance Company,” rated an A+ Class XV by A.M. Best Company.² (See
23

24
25 ¹ The Court cites to internally generated pagination rather than the page numbers created by the
CM/ECF system here.

26
27 ² The Court's typical protocol is to require that annuities be purchased from an annuity company rated at
28 least “A+” (Superior) by A.M. Best rating service. See Burns v. United States, Case No. 12-CV-2957-
DMS (MDD), 2015 WL 12564299, at *2 n.3 (S.D. Cal. May 13, 2015).

1 id.; Cirsch Decl., Ex. B at 1.) Periodic payments will be mailed or initiated through an
2 electronic funds transfer directly to Plaintiff. (See Cirsch Decl., Ex. A. at 18.³) The
3 Court concludes that the structured annuity is reasonable and in the best interests of
4 Plaintiff. In particular, the structured annuity spreads the distribution of funds over a
5 lengthy period of time and delays the largest lump sum payments until Plaintiff is thirty-
6 five years old, which increases the total payout,⁴ and protects the minor from the potential
7 loss of a single lump sum payment upon reaching the age of majority. See, e.g., E.S. v.
8 City of Visalia, Case No. 1:13-cv-1697-LJO-BAM, 2015 WL 6697927, at *3 (E.D. Cal.
9 Nov. 3, 2015) (noting that periodic payments are helpful to avoid potential loss from a
10 lump sum payment when the minor reaches eighteen), report and recommendation
11 adopted, 2015 WL 13215675 (E.D. Cal. Nov. 20, 2015).

12 Additionally, the Petition provides that the remainder of the settlement proceeds
13 not being used in the structured annuity or to pay for costs (\$10,286.28) will be deposited
14 in an account, subject to withdrawal only upon authorization of the Court (i.e., a “blocked
15 account”) until Plaintiff turns eighteen. (See Pet. at 4.) This procedure of placing funds
16 in a financial institution subject to withdrawal only by court order complies with the
17 requirements of Section 3611(b) of the California Probate Code, which authorizes the
18 Court, if it is in the best interests of the minor, to approve of settlement funds being
19 deposited “in an insured account in financial institution in this state . . . subject to
20 withdrawal only upon the authorization of the court[.]” The terms of the blocked account
21 properly protect Plaintiff’s interests by providing that no withdrawal of the net settlement
22 proceeds can be made from the account absent a court order until Plaintiff reaches
23 eighteen. See, e.g., Star & Crescent Boat Co. v. L.M. by & through Martinez, Case No.:
24 3:21-cv-00482-WQH-BLM, 2021 WL 4843822, at *5 (S.D. Cal. Oct. 18, 2021) (noting

26 ³ CM/ECF generated pagination cited here.

27
28 ⁴ The structured annuity will result in \$839,000 of total payments being made to Plaintiff between the
ages of eighteen and thirty-five.

1 that a blocked account prevents waste or unauthorized disbursement until the minor
2 reaches the age of majority), report and recommendation adopted, 2021 WL 4974612
3 (S.D. Cal. Oct. 26, 2021).

4 The Petition’s proposed methods of disbursing Plaintiff’s net settlement proceeds
5 is fair, reasonable, and complies with both federal and state standards. The structured
6 annuity payments provide an appropriate recovery for Plaintiff that is spread over time
7 without the risk of significant loss, and the blocked account protects against the loss of
8 the excess funds until Plaintiff reaches the age of majority. Accordingly, the Court
9 **RECOMMENDS** that the proposed distribution of Plaintiff’s net settlement be
10 approved.

11 **C. Attorneys’ Fees, Costs, and Insurance Lien**

12 In addition to assessing whether the settlement is fair and reasonable, the Court
13 must evaluate the apportionment of attorneys’ fees and costs to be paid in the Settlement
14 Agreement. See Cal. Prob. Code § 3601; Cal. R. of Ct. 7.955. Attorneys’ fees and costs
15 are typically controlled by statute, local rule, or local customs. See Castro v. United
16 States, Case No.: 19-cv-02240-AJB-JLB, 2022 WL 594545, at *5 (S.D. Cal. Feb. 28,
17 2022), report and recommendation adopted, 2022 WL 959649 (S.D. Cal. Mar. 30, 2022).

18 **1. Attorneys’ fees**

19 In contingency fee cases, attorneys’ fees for representing a minor have historically
20 been limited to 25% of the gross recovery. See, e.g., DeRuyver v. Omni La Costa Resort
21 & Spa, LLC, Case No.: 3:17-cv-0516-H-AGS, 2020 WL 563551, at *2 (S.D. Cal. Feb. 4,
22 2020); Napier by & through Quiroz v. San Diego Cty., No. 3:15-cv-00581-CAB-KSC,
23 2017 WL 5759803, at *3 (S.D. Cal. Nov. 28, 2017); Welch v. Cty. of Sacramento, No.
24 2:07-cv-00794-GEB-EFB, 2008 WL 3285412, at *1 (E.D. Cal. Aug. 5, 2008). “[M]ost
25 courts require a showing of good cause to award more than 25% of any recovery” and
26 such an award is “rare and justified only when counsel proves that he or she provided
27 extraordinary services.” Schwall v. Meadow Wood Apts., No. CIV. S-07-0014 LKK,
28 2008 WL 552432, at *1-2 (E.D. Cal. Feb. 27, 2008) (internal quotation marks omitted).

1 To determine whether a request for attorney's fee is reasonable, the Court may consider
2 factors such as the time and labor required, whether the minor's representative consented
3 to the fee, the amount of money involved, the result obtained, and whether the fee is
4 fixed, hourly, or contingent. See California R. of Ct. 7.955(b).

5 Here, Plaintiff's attorneys are seeking a contingency fee of \$199,980, which is one
6 third (33.33%) of Plaintiff's share of the gross recovery and exceeds the historical limits
7 allowing twenty-five percent of the gross recovery for cases involving minors.

8 Accordingly, Plaintiff's counsel must provide good cause for the request. In support of
9 their proposed fees, Plaintiff's counsel cites to a number of factors under California Rule
10 of Court 7.955(b), stating that they have "spent hundreds of hours" collaborating with
11 experts to develop the failure to warn and design defect theories of liability that
12 ultimately led to settlement, conducting investigations into the incident, and working with
13 structured settlement professionals to determine the best approach to disburse the
14 settlement proceeds to Plaintiff. (Cirsch Decl. at 4.) Counsel argues that the requested
15 fee is reasonable by noting that they were required to spend "tens of thousands of dollars
16 on experts to develop the failure to warn and design defect theories of liability that led to
17 settlement," and that there was a significant risk of a lower recovery, even after counsel
18 had advanced all of the costs of prosecuting the case to date. (Id. at 5-7.) Counsel further
19 explains that Plaintiff's guardian *ad litem* signed a retainer agreement consenting to a
20 forty percent (40%) contingency fee, but that they have agreed to reduce their fees to one
21 third (33.33%) of the recovery, which reflects the nature of contingency fee arrangements
22 in this type of case. (See Id. at 3, 7.)

23 Based on the information provided in the declaration attached to the Petition, the
24 Court notes that counsel appears to have expended significant time and resources to
25 obtain a favorable result for their client in this products liability case. Although
26 discussed in more detail below, it also appears that counsel advanced significant costs in
27 obtaining experts, structuring the annuity payments to maximize the recovery for their
28 client, and negotiating the lien on the settlement proceeds asserted by K&M Press's

1 worker's compensation insurance company. Related to the time spent litigating this
2 matter, counsel states that by the time the case settled, depositions had been taken, and
3 counsel spent a significant amount of time presenting the strengths of their case through
4 expert reports in private mediation. (Cirsch Decl. at 4.) Moreover, Plaintiff's guardian
5 *ad litem* did sign a retainer agreement consenting to the forty (40%) contingency fee,
6 which counsel subsequently discounted to one third of the gross recovery in this case.
7 (See Cirsch Decl., Ex. C.) Accordingly, the Court concludes that a fee award of one third
8 (33.33%) of the gross settlement—slightly more than eight percent over the standard
9 recovery in settlements involving minors—is a reasonable award for counsel's services in
10 this case. See Clines v. Cty. of San Diego, Case No.: 20cv2504-W(BLM), 2022 WL
11 16851818, at *4 (S.D. Cal. Nov. 10, 2022) (concluding that a reduction of attorneys' fees
12 to 33% was appropriate when the minor plaintiff's guardian *ad litem* signed a retainer
13 agreement consenting to a 40% contingency fee), report and recommendation adopted,
14 2022 WL 17097422 (S.D. Cal. Nov. 21, 2022).

15 **2. Litigation costs**

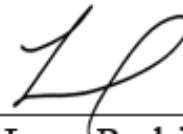
16 In addition to attorneys' fees, Plaintiff's counsel sets forth costs accrued over the
17 course of the litigation totaling \$61,995.72.⁵ See Section III.A., supra. Counsel attaches
18 a ledger of all costs that they have incurred in litigating this matter, which represent,
19 amongst other expenses, one-half of the mediation fees for private mediation to reach a
20 settlement, costs for depositions, and expert fees of over \$40,000. (See Cirsch Decl. at 7;
21 Ex. D.) Plaintiff's counsel notes that this litigation, which was initiated in April of 2021
22 in state court, settled after counsel expended substantial time conducting site inspections
23 with experts, conducting additional investigations and discovery, taking depositions, and
24 preparing for mediation through collaboration with experts. (See Cirsch Decl. at 4.) This
25 litigation settled after a significant amount of discovery had taken place and after the
26

27
28 ⁵ The Court notes for purposes of comparison that \$61,995.72 represents 10.3% of the gross settlement amount in this case.

1 **RECOMMENDS** that Judge Battaglia issue an Order: (1) adopting this Report and
2 Recommendation, (2) approving the proposed settlement, and (3) granting the Petition.
3 (ECF No. 39.) **IT IS HEREBY ORDERED** that any objections to this Report and
4 Recommendation must be filed with the Court and served on all parties no later than
5 April 26, 2023. The document should be captioned “Objections to Report and
6 Recommendation.”⁶ The parties are advised that failure to file objections within the
7 specified time may waive the right to appeal the district court's order. Martinez v. Ylst,
8 951 F.2d 1153, 1157 (9th Cir. 1991).

9 **IT IS SO ORDERED.**

10 Dated: April 11, 2023

11
12
13 

14 _____
Honorable Lupe Rodriguez, Jr.
United States Magistrate Judge

15
16
17
18
19
20
21
22
23
24 _____
25
26 ⁶ Although the federal statutory scheme provides for a 14-day objections period to a Magistrate Judge's
27 Report and Recommendation, the undersigned notes that the Petition in this case is unopposed. (ECF
28 No. 40.) Accordingly, if all parties wish to waive the objections period, they should file a joint
stipulation to that effect immediately, to allow the Court to adopt this Report and Recommendation
without further delay. There will be no adverse consequences to any party who files objections or
otherwise chooses not to waive the objection period.