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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 MICHAEL MEYER, *an individual*, and
12 ANA VARCIA, *as Guadian Ad Litem for*
13 *minors K.P., P.U., and A.U.*,

14 Plaintiffs,

15 v.

16 UNITED STATES OF AMERICA,

17
18 Defendant.
19

Case No.: 23-cv-0396-W-MMP

**ORDER GRANTING MOTION FOR
APPROVAL OF MINOR'S
COMPROMISE**

[ECF No. 23]

20 Before the Court is Plaintiffs' Motion to Approve Minor's Compromise ("Motion").
21 [ECF No. 23.] Plaintiffs A.U., P.U., and K.P., minors, by and through their Guardian ad
22 Litem, Ana Varela, seek an order approving the proposed settlement of all their claims. [*Id.*
23 at 2.] After careful review Plaintiffs' motion, the declaration of counsel in support thereof,
24 and the applicable law, and for the reasons discussed below, the Motion is **GRANTED**,
25 and the minors' compromises are hereby **APPROVED**.¹
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28 ¹ The Parties consented to the undersigned's jurisdiction for the petition for approval of
minor's compromise. [ECF No. 26.]

1 **I. BACKGROUND**

2 The present case arises from a collision on March 28, 2021 between a U.S. Border
3 Patrol vehicle and Plaintiff Michael Meyer (“Plaintiff”) and his three minor children, K.P.,
4 P.U., and A.U., on the Otay Mountain Truck Trail (“Trail”), which is maintained by the
5 Bureau of Land Management. [ECF Nos. 1, 23.] Both Plaintiff and the U.S. Border Patrol
6 vehicles were operating at around fifteen miles per hour as they were reaching a bend from
7 opposite directions when the vehicles collided. [ECF No. 23 at 2–3.] Following the
8 collision, K.P., P.U., and A.U. were taken from the scene by ambulance to Rady Children’s
9 Hospital for emergency care. [*Id.* at 3–4.]

10 On March 1, 2023, Plaintiffs Michael Meyer and Ana Varela, as guardian ad litem
11 for K.P., P.U., and A.U., filed suit against the United States for negligence under the
12 Federal Tort Claims Act. [ECF No. 1.] On October 19, 2023, the Parties convened for an
13 Early Neutral Evaluation Conference before the undersigned but were unable to reach an
14 agreement. On March 15, 2024, the Parties filed a Joint Notice of Settlement, “notify[ing]
15 the Court that they have reached a settlement as to all claims and causes of action of the
16 complaint.” [ECF No. 21.]

17 **A. Injuries Sustained**

18 As a result of the collision, Plaintiffs report the following injuries.

19 1. Michael Meyer

20 Plaintiff “suffered from a 6mm disc protrusion at L5-S1 abutting the 1.5 nerve roots
21 along with an annular tear with 4mm disc protrusion at L4-L5 abutting the 1.5 nerve roots
22 . . . [and] received epidural injections during his course of treatment.” [ECF No. 23 at 3.]
23 Plaintiff further states surgical intervention is recommended for his injuries. [*Id.*]

24 2. A.U.

25 A.U. “suffered injuries, including but not limited to, pain in the right collar bone and
26 waist.” [*Id.* at 3.] At the hospital, A.U. “was diagnosed with pain in her left arm, injury to
27 her left forearm, and issues in her shoulder bone.” [*Id.* at 4.] Subsequently, A.U. has been
28 “seen for physical therapy and was treated for complaints of pain in her left wrist,”

1 including “an epidural steroid injection in her back . . .” [*Id.*] A.U.’s condition “has since
2 stabilized.” [*Id.*]

3 3. P.U.

4 P.U. was “diagnosed with chest pain along with an abrasion of her left lower leg.”
5 [*Id.* at 3, 5.] P.U.’s “condition has since stabilized.” [*Id.* at 5.]

6 4. K.P.

7 K.P. “suffered injuries, including, but not limited to, bruising and mild swelling of
8 the right big toe with limited range of motion.” [*Id.*] At the hospital, “examination revealed
9 bruising on his chest from the seat belt, tenderness over his left ankle, and significant
10 tenderness over his right big toe.” [*Id.* at 5.] K.P. “had abrasions on both his knees with
11 swelling and bruising” as well as “ecchymosis and swelling of his right big toe with a
12 limited range of motion due to pain.” [*Id.*] K.P.’s “condition has since stabilized.” [*Id.*]

13 **B. Proposed Settlement**

14 The Parties participated in private mediation on March 12, 2024, during which they
15 reached a settlement for a total sum of \$325,000, with the apportionment left for Plaintiffs
16 to determine. [*Id.* at 7.] Based on “the past medical expenses, injuries, and future treatment
17 recommendations,” Plaintiffs apportion \$275,000 for Plaintiff Michael Meyer, \$30,000 for
18 A.U., and \$10,000 for P.U. and K.P., respectively. After payment attorney’s fees, costs,
19 and medical liens, A.U. would receive \$20,096.22, P.U. would receive \$6,806.91, and K.P.
20 would receive \$2,625.13. [*Id.*; see also ECF No. 24.]² Plaintiff requests the net settlement
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23 ² A.U.’s settlement would be paid as follows:

24	Attorney Fees	\$7,500
25	Hard Costs	\$175.85
26	Select PT	\$1,383.72
27	Select PT Bureau of Acct Management	\$10.63
28	DHCS	\$833.58
	Deposited into account	\$20,096.22

P.U.’s settlement would be paid as follows:

28	Attorney Fees	\$2,500
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1 proceeds to the minor plaintiffs “be deposited in one or more interest bearing, federally
2 insured blocked accounts” which are “opened in the name of” Michael Meyer³ and have
3 restrictions on withdrawals of principal or interest under the minor reaches to age of 18.
4 [ECF Nos. 28 at 4–8, 30, 33.]

5 **II. LEGAL STANDARD**

6 District courts have a special duty to safeguard the interests of litigants who are
7 minors. *See Robidoux v. Rosengren*, 638 F.3d 1177, 1179 (9th Cir. 2011); *see also* Fed. R.
8 Civ. P. 17(c) (District courts “must appoint a guardian ad litem—or issue another
9 appropriate order—to protect a minor or incompetent person who is unrepresented in an
10 action.”). For proposed settlements, this duty requires a district court to “conduct its own
11 inquiry to determine whether the settlement serves the best interests of the minor.”
12 *Robidoux*, 638 F.3d at 1181 (quoting *Dacanay v. Mendoza*, 573 F.2d 1075, 1080 (9th Cir.
13 1978)); *see also Salmeron v. United States*, 724 F.2d 1357, 1363 (9th Cir. 1983) (“[A] court
14 must independently investigate and evaluate any compromise or settlement of a minor’s
15 claims to assure itself that the minor’s interests are protected . . . even if the settlement has
16 been recommended or negotiated by the minor’s parent or guardian ad litem.”). Civil Local
17 Rule 17.1(a) further provides:

20	Hard Costs	\$108.99
21	DHCS	\$584.10
22	Deposited into account	\$6,806.91
23	K.P.’s settlement would be paid as follows:	
24	Attorney Fees	\$2,500
25	Hard Costs	\$96,87
26	Mercy Med Trans, Inc.	\$3,000
27	Rady’s Child’s Hosp	\$1,346
28	Rady’s Child’s Phys.	\$432
	Deposited into account	\$2,625.13

³ Plaintiffs initially requested the settlement proceeds of the minor plaintiffs be deposited
in the name of Ana Varela, but subsequently requested the funds be deposited in the name
of Plaintiff Michael Meyer, the father of the minor plaintiffs. [*See* ECF Nos. 23, 28.]

1 No action by or on behalf of a minor . . . will be settled, compromised,
2 voluntarily discontinued, dismissed or terminated without court order or
3 judgment. All settlements and compromises must be reviewed by a magistrate
4 judge before any order of approval will issue.

4 CivLR 17.1(a).

5 However, courts reviewing the settlement of a minor’s claims should “limit the
6 scope of their review to the question whether the net amount distributed to each minor
7 plaintiff in the settlement is fair and reasonable, in light of the facts of the case, the minor’s
8 specific claim, and recovery in similar cases . . . without regard to the proportion of the
9 total settlement value designated for adult co-plaintiffs or plaintiffs’ counsel.” *Robidoux*,
10 638 F.3d at 1182–82 (citing *Dacanay*, 573 F.2d at 1078) (“So long as the net recovery to
11 each minor plaintiff is fair and reasonable in light of their claims and average recovery in
12 similar cases, the district court should approve the settlement as proposed by the parties.”).

13 **III. DISCUSSION**

14 The Parties request the Court find the settlement is fair and reasonable. [ECF No. 23
15 at 2.] The Court has conducted an independent inquiry of the proposed settlement. Taking
16 all relevant considerations into account, the Court finds the proposed net recoveries for
17 A.U., P.U., and K.P. are fair, reasonable, and in their respective best interests, considering
18 the facts and circumstances of this action. The settlement was reached after an Early
19 Neutral Evaluation Conference with the Court and a mediation with a third-party mediator.
20 Notice was provided as required by California Probate Code Section 3602(f) (“Section
21 3602”) to the State of California Department of Health Care Services, and the settlement
22 proceeds would satisfy any outstanding medical liens. Furthermore, A.U., P.U., and K.P.’s
23 injuries involved abrasions and bruising, and their conditions stabilized since the accident
24 with no long-term effects. District courts made such findings for similar net recoveries in
25 cases where minor plaintiffs were involved in a motor vehicle collision but did not sustain
26 long-term injuries. *See, e.g., Martinez v. Venegas*, No. 23-cv-0130, 2023 WL 5811837
27 (S.D. Cal. Sept. 7, 2023) (approving net settlement proceeds of \$1,223.01 and \$620 to
28 minor plaintiffs injured in a motor vehicle accident but who have since fully recovered);

1 *Castro v. United States*, No. 19-cv-02240, 2022 WL 594545 (S.D. Cal. Feb. 28, 2022)
2 (approving \$13,241.67, \$13,522.98, and \$12,630.46 in net settlement proceeds for minor
3 plaintiffs who suffered temporary back and neck pain, headaches, and mild concussions
4 from a car collision); *Progressive N. Ins. Grp. v. Perry*, No. 17-cv-00725, 2018 WL
5 5114137 (D. Nev. Oct. 19, 2018) (approving \$12,500 in net settlement proceeds for a minor
6 plaintiff was “uninjured” after a car collision); *Leon v. United States*, No. 09-cv-00439,
7 2011 WL 13239534 (E.D. Cal. Mar. 29, 2011) (approving \$8,500 in net settlement
8 proceeds for a minor plaintiff, whose injuries included a bruised forehead as a result from
9 a car accident); *De La Cruz v. U.S. Postal Serv.*, No. 08-cv-0018, 2010 WL 319670
10 (approving \$3,760 in net settlement proceeds for a minor plaintiff involved in a car accident
11 who suffered loss of consciousness, contusions, and a mouth laceration requiring stiches
12 but made a full recovery). Furthermore, if any future medical issues do arise, Plaintiffs
13 report A.U., P.U., and K.P. have “health insurance for any recommended future treatment.”
14 [ECF No. 23 at 5.]

15 Additionally, the method of disbursement of the settlement appears fair, reasonable,
16 and within the bounds of applicable law. Under Section 3602, various alternatives are
17 available for holding the settlement funds of a minor, including “an insured account in a
18 financial institution in this state . . .” Cal. Prob. Code § 3062(c)(1). Here, each minor
19 plaintiffs’ net settlement proceeds will be deposited in separate interest bearing, federally
20 insured blocked accounts, open under the name of Michael Meyer. There shall be no
21 withdrawal of principal or interest from the blocked accounts without a written judicial
22 order until the minors reach eighteen (18) years old. Then the minors may demand all
23 funds, including interest, after their eighteenth birthday.

24 Plaintiffs also request the Court also find the attorney fees are reasonable in light of
25 the work. In cases with federal claims where the attorney fees are part of the settlement
26 agreement, the Ninth Circuit has stated the district court’s special duty encompasses only
27 “evaluat[ing] the fairness of each minor plaintiff’s net recovery without regard to the
28 proportion of the total settlement value designated for adult co-plaintiffs or plaintiffs’

1 counsel.” *Robidoux*, 638 F.3d at 1181. Accordingly, some courts have found it is not
2 appropriate to address attorney fees, while others make findings specific to those fees. *See*,
3 *e.g.*, *Beck v. Camp Pendleton & Quantico Housing, LLC*, No.: 20-cv-579, 2022 WL
4 18460770 (S.D. Cal. Nov. 14, 2022); *Garcia v. Cnty. of San Diego*, No.: 15-cv-189, 2022
5 WL 2973429 (S.D. Cal. July 27, 2022); *Martinez v. Nienow*, No.: 23-cv-02338, 2024 WL
6 1619274 (S.D. Cal. Apr. 15, 2024). In this case, the Parties have agreed to set the attorney
7 fees at 25% of the recovery pursuant to 28 U.S.C. § 2678. The Court finds the total recovery
8 amounts to be reasonable, but the law under these facts does not require a specific finding
9 related to attorney fees.


10 **IV. CONCLUSION**

11 For the foregoing reasons, the Court **GRANTS** the Motion and **FINDS** the
12 compromise and terms of settlement as set forth in the Motion are in the best interests of
13 A.U., P.U., and K.P., and are hereby approved.

14 The net proceeds of \$20,096.22 to A.U., \$6,806.91 to P.U., and \$2,625.13 to K.P.
15 are to be deposited in an insured, interest-bearing account subject to withdrawal only upon
16 the authorization of the Court until A.U., P.U., and K.P. reach eighteen (18) years of age,
17 respectively.

18 **IT IS SO ORDERED.**

19 Dated: July 26, 2024

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21 HON. MICHELLE M. PETTIT
22 United States Magistrate Judge
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