

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
UNITED STATES DISTRICT COURT**DISTRICT OF NEVADA**

VICTOR PEREZ, as Special Administrator of the Estate of CARLOS PEREZ, deceased;
VICTOR PEREZ, as the Guardian Ad Litem for S.E.P., a minor; VICTOR PEREZ, as the Guardian Ad Litem for A.I.P., a minor,

Plaintiffs,

vs.

STATE OF NEVADA, ex. rel. NEVADA DEPARTMENT OF CORRECTIONS;
DIRECTOR JAMES GREG COX, individually;
WARDEN DWIGHT W. NEVEN, individually;
ASSISTANT WARDEN TIMOTHY FILSON, individually; COT. RAMOS, individually;
LIEUTENANT RONALD OLIVER, individually; CORRECTIONS OFFICER CASTRO, individually; CORRECTIONS OFFICER ISALIAH SMITH, individually,

Defendants.

CASE NO.: 2:15-cv-01572-APG-DJA

ORDER GRANTING PLAINTIFF'S EX-PARTE MOTION FOR COMPROMISE OF CLAIMS OF MINORS, S.E.P. AND A.I.P.

[ECF No. 267]

The plaintiffs filed an ex-parte motion to compromise the claims of the minor plaintiffs S.E.P. and A.I.P. ECF No. 267. The defendants do not oppose the motion. *Id.* at 1. I have conducted an independent inquiry and evaluation, and I find that the motion is supported by good cause so I will grant it. I hereby find as follows:

1. The amount of the settlement is fair and reasonable given the nature and status of the litigation and the general uncertainty that comes with jury trials (particularly claims against correctional officers).

2. The proposed settlement adequately safeguards the interests of the minors, and the minor's interests are protected by the proposed settlement. *See Doe by & Through Doe v. Clark Cnty.*, No. 17-CV-2380, 2019 WL 861402, at *3 (D. Nev. Feb. 15, 2019) (quoting *Robidoux v. Rosengren*, 638 F.3d 1177, 1181-82 (9th Cir. 2011)). The creation of a professionally managed

1 trust, which serves as a fiduciary, and having Victor Perez as Co-Trustee, is fair, reasonable, and
2 adequately protects the interests of the minors.

3 3. The plaintiffs' counsel advanced \$18,914.10 as costs and will be reimbursed,
4 making the net settlement \$1,581,085.90.

5 4. A forty-percent contingency fee (\$632,434.36) to the plaintiffs' counsel is
6 reasonable in light of the skill and experience required, the amount of work performed, the risk
7 assumed, and the delay in payment. That amount will be disbursed to the plaintiffs' counsel.

8 5. A lump sum of \$50,000 will be disbursed to the plaintiffs' counsel for the benefit
9 of Victor Perez as the guardian of the minor children. That amount is fair and reasonable to
10 reimburse him partially for the last 10 years of litigation and providing for the minor children.

11 6. The settlement net to the children (S.E.P. and A.I.P.) is \$682,434.36. Each child
12 is entitled to an equal share of \$341,217.18. I find the sum of \$341,217.18 (plus interest) per
13 minor plaintiff to be "fair and reasonable" under the circumstances.

14 7. The sums allocated to plaintiffs S.E.P. and A.I.P. will be used to purchase
15 annuities as provided in **Exhibits A and B** to the motion to compromise the minors' claims. ECF
16 No. 267. Each child will receive \$25,000 on their 18th birthday. Each child will receive
17 \$75,000 on their 21st birthday. Each child will receive \$100,000 on their 25th birthday. Each
18 child will receive \$323,868.10 on their 30th birthday. The total amount of payout for each child
19 shall be \$523,868.10, which includes interest.

20 8. The sums allocated to Victor Perez and Michelle Perez (jointly) of \$1,188.94 per
21 month beginning on December 1, 2023 and continuing for five years and nine months for S.E.P.
22 are fair and reasonable.

23 9. The sums allocated to Victor Perez and Michelle Perez (jointly) of \$1,188.94 per
month beginning on December 1, 2023 and continuing for six years and seven months for A.I.P.
are fair and reasonable.

10. The payment of the total settlement amount of \$1,600,000 from the State of
Nevada is fair and reasonable and the minors are similarly situated with respect to the decedent

1 (Carlos Perez, their father) such that an equal division between them is fair and reasonable.

2 11. The payment of the remaining funds of \$216,217.18 to be held in the plaintiffs'
3 counsel's trust account for any claim on the Estate of Carlos Perez as determined by the probate
4 court of the Eighth Judicial District Court, State of Nevada, is a fair and reasonable amount.

5 Accordingly, under Federal Rule of Civil Procedure 17, I ORDER that the Ex-Parte
6 Motion for Compromise (**ECF No. 267**) is **GRANTED** and the compromise of the minor
7 plaintiffs' claims is approved.

8 DATED this 18th day of September, 2023.

9 

10 _____
11 Hon. Andrew P. Gordon
12 United States District Judge
13
14
15
16
17
18
19
20
21
22
23