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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

Bridgman, et al.,

Case No. 1:13-cv-00753-SKO

Plaintiffs,

**ORDER THAT THE PETITION FOR  
COMPROMISE OF THE CLAIM OF  
MINOR SEAN JENNINGS BE GRANTED**

v.

(Doc. 41)

United States of America,

Defendant.

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**I. INTRODUCTION**

On November 3, 2014, James Bridgman (“Petitioner”), as the court-appointed guardian *ad litem* of the named minor, Plaintiff Sean Jennings (“Sean”), filed a petition to approve the proposed settlement between Sean and the United States of America (“United States”).<sup>1</sup> (Doc. 41.) On November 17, 2014, Defendant United States filed a response setting forth its non-opposition to the petition for approval of the proposed settlement between Sean and the United States, and requesting that payment of the settlement be ordered according to the terms agreed to by the parties in the Settlement Agreement. (Doc. 43.) No oral argument was requested.

After reviewing the petition and reviewing the terms of the settlement, the Court finds that the proposed settlement agreement is fair and reasonable. For the reasons that follow, the Court **ORDERS** that the “Petition for Compromise of the Claim of Minor Sean Jennings Pursuant to

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<sup>1</sup> The parties consented to the jurisdiction of a U.S. Magistrate Judge. (Docs. 44; 45; 46.)

1 Settlement with Defendant United States of America” (“petition”) BE APPROVED and is  
2 GRANTED.

## 3 **II. FACTUAL BACKGROUND**

4 The case was originally filed on May 21, 2013, by Plaintiffs James Kenneth Bridgman,  
5 Janie Bridgman, and Sean Jennings, a minor, against the United States. (Doc. 1.) Petitioner was  
6 appointed guardian *ad litem* for Sean on October 8, 2013. (Doc. 8.)

7 Plaintiffs’ claims arise from an incident on December 10, 2009, in the City of Atwater,  
8 County of Merced, in the State of California, when a vehicle driven by Defendant’s employee  
9 Nathan Daniel Yocom, a sailor with the United States Department of the Navy, collided with the  
10 side of a vehicle driven by Plaintiff James Bridgman in which Plaintiffs Janie Bridgman and Sean  
11 Jennings were passengers. (Docs. 1, 1-2; 41, 2.) According to Plaintiffs, Defendant’s employee  
12 “carelessly and negligently drove, operated, maintained, controlled, inspected and repaired” his  
13 vehicle, “thereby proximately causing [the vehicle] to collide” with Plaintiffs’ vehicle.

14 On or about November 23, 2011, Plaintiffs submitted claims for damages pursuant to the  
15 Federal Tort Claims Act, and the Department of the Navy responded with offers to settle, none of  
16 which were accepted by Plaintiffs. (Doc. 1, 2.) As a proximate result of the accident, Plaintiffs  
17 allege that each suffered from physical injuries, physical and mental pain, lost income or wages,  
18 and incurred medical expenses. (Doc. 1, 2.) Plaintiffs demand \$20,000.00 damages for Sean’s  
19 injuries, specifically. (Doc. 1, 3.)

## 20 **III. DISCUSSION**

### 21 **A. The Settlement Between Minor Sean Jennings and the United States**

22 As a derivative of Federal Rule of Civil Procedure 17(c), district courts have a special duty  
23 to safeguard the interests of litigants who are minors. Rule 17(c) provides, in pertinent part, that a  
24 district court “must appoint a guardian *ad litem*—or issue another appropriate order—to protect a  
25 minor or incompetent person who is unrepresented in an action.” Fed. R. Civ. P. 17(c). In the  
26 context of proposed settlements in suits involving minor plaintiffs, the district court’s special duty  
27 requires it to “conduct its own inquiry to determine whether the settlement serves the best  
28 interests of the minor.” *Robidoux v. Rosengren*, 638 F.3d 1177, 1181 (9th Cir. 2011) (quoting

1 *Dacanay v. Mendoza*, 573 F.2d 1075, 1080 (9th Cir.1978)).

2 In the Ninth Circuit, this “inquiry” is limited “to the question whether the net amount  
3 distributed to each minor plaintiff in the settlement is fair and reasonable, in light of the facts of  
4 the case, the minor’s specific claim, and recovery in similar cases.” *Robidoux*, 638 F.3d at 1181-  
5 82. The fairness of each minor plaintiff’s net recovery is evaluated “without regard to the  
6 proportion of the total settlement value designated for adult co-plaintiffs or plaintiffs’ counsel –  
7 whose interests the district court has no special duty to safeguard.” *Id.* at 1182 (citing *Dacanay*,  
8 573 F.2d at 1078).

9 In addition to the substantive requirements in considering the compromise of a minor’s  
10 claim, Local Rules (“L.R.”) in the Eastern District of California govern the procedure for  
11 submitting requests for approval of a proposed settlement or compromise of a minor. L.R.  
12 202(b)(2); *see also* L.R. 202(b)(1) (in actions in which a minor is represented by an appointed  
13 representative where the United States courts have exclusive jurisdiction, “the motion for approval  
14 of a proposed settlement or compromise shall be filed and calendared pursuant to L.R. 230.”) An  
15 application for approval of a settlement of a minor

16 ...shall disclose, among other things, the age and sex of the minor or incompetent,  
17 the nature of the causes of action to be settled or compromised, the facts and  
18 circumstances out of which the causes of action arose, including the time, place  
19 and persons involved, the manner in which the compromise amount or other  
20 consideration was determined, including such additional information as may be  
21 required to enable the Court to determine the fairness of the settlement or  
22 compromise, and, if a personal injury claim, the nature and extent of the injury  
with sufficient particularity to inform the Court whether the injury is temporary or  
permanent. If reports of physicians or other similar experts have been prepared,  
such reports shall be provided to the Court. The Court may also require the filing  
of experts’ reports when none [has] previously been prepared or additional  
experts’ reports if appropriate under the circumstances . . . .

23 The petition tracks the language of the California Judicial Council form MC-350EX, which  
24 contains the “Expedited Petition to Approve Compromise of Pending Action or Disposition of  
25 Proceeds of Judgment for Minor or Person with a Disability” that is applicable in state-court  
26 proceedings. Here, the petition offers a comprehensive overview of the terms of the settlement  
27 and sets forth the information necessary to consider approval of the settlement pursuant to the  
28 Federal Rules of Civil Procedure, the Eastern District of California’s Local Rules, and the Ninth

1 Circuit's instruction in *Robidoux*.

2 **1. Terms of the Proposed Settlement and Sean's Net Recovery**

3 Defendant United States has offered consideration in the amount of \$35,000 in exchange  
4 for a release of all Plaintiffs' claims. Under the terms of the settlement, \$11,200 will be paid to  
5 Petitioner and \$18,900 will be paid to Janie Bridgman, in consideration of their release of their  
6 claims for injuries from the vehicle accident.

7 The remainder of the settlement amount -- 4,900 -- will be paid in consideration of release  
8 of Sean's claim against the United States. Sean's medical expenses have been paid by the medical  
9 payments coverage under a State Farm Insurance Automobile Policy in which Sean was a  
10 passenger. State Farm has paid \$2,137.00 of Sean's bills, and requests reimbursement of \$725.00.  
11 (Doc. 41-2, 2.) Of the \$4,900.00 proposed settlement amount, \$725.00 will be deducted as  
12 satisfaction of the medical expenses reimbursement. (Doc. 41, 4.)

13 Additionally, \$1,129.47 in attorney's fees will be paid to Plaintiffs' counsel out of the  
14 gross settlement amount. (Doc. 41-4, 5.) The amount to be paid in attorney's fees is less than 25%  
15 of the total settlement, and conforms to the requirements of 29 U.S.C. § 2678. Also deducted  
16 from the gross settlement amount will be \$382.10 as payment for costs and cost reserves. (Doc.  
17 41-5, 2-5.) The net amount of the settlement to Sean, therefore, is \$2,663.43 (\$4,900.00 less the  
18 sum of \$725.00, \$1,129.47 and \$382.10.). (Docs. 41; 42.)

19 Sean's net settlement amount will be deposited into an insured account with Chase Bank,  
20 located at 1641 Bellevue Road in the City of Atwater, State of California (Doc. 41-7, 2), to be  
21 withdrawn only upon authorization of the Court, until the minor attains the age of 18 years.  
22 (Docs. 41, 7; 42, 4.)

23 **2. The Reasonableness and Fairness of the Settlement Amount**

24 District courts considering the compromise of a minor's claim are required to examine the  
25 fairness and reasonableness of the net settlement amount in view of the facts of the case, the  
26 minor's specific claim, and the recovery in similar cases. *Robidoux*, 638 F.3d at 1181-82. The  
27 settlement amount was reached during a settlement conference on July 2, 2014, before Magistrate  
28 Judge Sandra M. Snyder. (Doc. 38.) The facts of the case were developed during the discovery

1 phase, and were known to the parties when the settlement conference was held, and a settlement  
2 was reached between Plaintiffs and the United States.

3 In addition to consideration of the facts obtained and developed, Petitioner asserts that the  
4 net recovery to Sean is also reasonable and fair in light of the facts of the case. (Doc. 41, 8.)  
5 Thus, despite Plaintiffs' assertion that that Sean sustained damages of \$20,000, Petitioner contends  
6 that the \$2,663.43 net settlement of Sean's claim is reasonable and fair. Upon reviewing the facts  
7 of the case and Sean's claim against the United States, the Court finds that the proposed  
8 settlement, and more specifically Sean's net recovery of \$2,663.43, is fair and reasonable.

9 **3. Payment Will Be Made According to the Terms Agreed to by the Parties in the**  
10 **Settlement Agreement**

11 Petitioner requests that the Court order the United States to disburse the proceeds of the  
12 settlement approved by this order in the following manner: \$1,129.47 in attorney's fees made  
13 payable to the "Law Offices of Frank M. Nunes, Inc.," \$382.10 in reimbursement of expenses, and  
14 \$725.00 in reimbursement of medical expenses made payable to "State Farm Mutual Automobile  
15 Insurance Company," with the balance of \$2,663.43 made payable to the Petitioner as Trustee.  
16 (Doc. 42.) The United States filed a Response to the Petition, requesting that payment be ordered  
17 according to the terms of the Settlement Agreement reached by the parties at the July 2, 2014,  
18 Settlement Conference, which provided for the payment of the settlement amount "by check  
19 payable to Plaintiffs' attorney, Frank M. Nunes, Esq.," and "Plaintiffs' attorney agrees to  
20 distribute the settlement proceeds, and to obtain a dismissal of the above-captioned action with  
21 prejudice, with each party bearing its own fees, costs, and expenses." (Doc. 43, 1.) The Court  
22 will order the parties to comply with the agreed-upon terms of the Settlement Agreement.

23 **IV. CONCLUSION AND ORDER**

24 The Court finds that the \$2,663.43 net settlement of minor Sean's claim against the United  
25 States is fair and reasonable.

26 IT IS HEREBY ORDERED that:

- 27 1. The proposed settlement between minor Sean Jennings and the United States, as set forth  
28 under the terms of the Settlement Agreement, IS APPROVED as fair and reasonable;

- 1 2. The “Petition for Compromise of the Claim of Minor Sean Jennings” is GRANTED;  
2 3. The United States of America, subject to the approval of the Attorney General of the  
3 United States, shall provide payment of the settlement in the following manner:

4 The United States of America will pay by check to Frank M. Nunes, Esq., Client Funds  
5 Account, the sum of four thousand nine hundred dollars (\$4,900);

- 6 4. Frank M. Nunes, Esq., shall disburse the settlement payment as follows:

7 a. The sum of seven hundred twenty-five dollars (\$725) from the Client Funds  
8 Account to State Farm Insurance as satisfaction of the medical expenses  
9 reimbursement;

10 b. The sum of one thousand one hundred twenty-nine dollars and forty-seven cents  
11 (\$1,129.47) from the Client Funds Account to Plaintiffs’ attorney of record, Frank  
12 M. Nunes, as satisfaction for legal services rendered;

13 c. The sum of three hundred eighty-two dollars and ten cents (\$382.10) from the  
14 Client Funds Account to Plaintiff’s attorney of record, Frank M. Nunes, as  
15 satisfaction for costs advanced;

16 d. The balance of the settlement, in the sum of two thousand six hundred sixty-three  
17 dollars and forty-three cents (\$2,663.43), shall be deposited into an insured account  
18 for the benefit of minor Sean Jennings; and

- 19 5. Within twenty-one (21) days the parties shall file final dispositive documents.  
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21 IT IS SO ORDERED.

22 Dated: November 20, 2014

/s/ Sheila K. Oberto  
23 UNITED STATES MAGISTRATE JUDGE  
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