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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEFFREY A. JURGENS, JR.,
Plaintiff,
v.
M. DUBENDORF, et al.,
Defendants.

No. 2:14-cv-02780-KJM-DB

ORDER

Plaintiff Jeffrey Jurgens, Jr., by and through his biological mother and guardian ad litem, Joanna Jurgens, brings this excessive force civil rights action against several law enforcement officers. Just days before the final pretrial conference, and after significant discovery, the parties settled. Plaintiff now moves for approval of the settlement and requests the court establish a special needs trust to maintain Jeffrey Jurgens’ eligibility for public benefits. The motion is unopposed. After holding a hearing on March 23, 2018, and for the following reasons, the court GRANTS both motions.

I. BACKGROUND

Plaintiff Jeffrey Jurgens, Jr. (“Jurgens”) was diagnosed with bipolar and schizoaffective disorder at age 14. Mot., ECF No. 58 at 5. On December 10, 2012, when Jurgens was 21 years old, California Highway Patrol Officers Saukkola and White observed Jurgens driving the wrong way down a one-way street. *Id.* A high-speed chase followed. *Id.* The pursuit

1 ended when Jurgens drove down a dead end road and stopped his car. *Id.* Jurgens then opened
2 his driver side door while keeping his feet in the car and raising his hands. *Id.* The officers
3 approached with their guns drawn. *Id.* Officer Saukkola kicked Jurgens in the face. *Id.* Officer
4 White began striking Jurgens with his baton. *Id.* Two other officers, Newman and Dubendorf,
5 arrived and “join[ed] in.” *Id.* The officers pulled Jurgens from his car by his feet and continued
6 to strike him with their batons, knees and feet as Jurgens tried to shield his head with his arms.
7 *Id.* White struck Jurgens at least 23 times with his baton. *Id.* At the end of the incident, White
8 and Saukkola high-fived. *Id.* Jurgens indicates the entire incident was captured on the officers’
9 mobile video and audio recording system. *Id.* Jurgens was then arrested and booked. *Id.* at 6.
10 After Jurgens spent 79 days in custody, the district attorney dropped all charges and the case was
11 dismissed. *Id.*

12 In addition to suffering a fractured hand, Jurgens sustained lacerations to his head,
13 a concussion, loss of consciousness and mild traumatic brain injury. *Id.* He has since suffered
14 from cognitive impairment, memory problems and psychological trauma, all of which impair his
15 overall ability to function independently and care for himself. *Id.*

16 Following significant pre-litigation investigation efforts and settlement
17 discussions, Jurgens filed suit on November 26, 2014, alleging excessive force under 42 U.S.C.
18 § 1983. *See* ECF No. 1; *see also* Mot. at 6 (describing pre-litigation investigation efforts). The
19 case proceeded through extensive fact and expert discovery. Mot. at 7. Just days before the
20 pretrial conference, after discovery ended and counsel had begun preparing for trial, the parties
21 settled. *Id.* Jurgens now moves for approval of the settlement agreement and an order
22 establishing a special needs trust. *See* Pet., ECF No. 61. The court submitted the motions after
23 hearing on March 23, 2018, ECF No. 72 (hr’g mins.) and resolves them here.

24 II. LEGAL STANDARD

25 District courts have a duty to protect the interests of litigants who are minors or
26 incompetent. *See* Fed. R. Civ. P. 17(c)(2) (requiring a district to “appoint a guardian ad litem—or
27 issue another appropriate order—to protect a minor or incompetent person who is unrepresented
28 in an action.”). This special duty requires a district court to “conduct its own inquiry to determine

1 whether the settlement serves the best interests of the [plaintiff].” *Robidoux v. Rosengren*, 638
2 F.3d 1177, 1181 (9th Cir. 2011) (quoting *Dacanay v. Mendoza*, 573 F.2d 1075, 1080 (9th Cir.
3 1978)); *see also* E.D. Cal. L. R. 202(b) (“No claim by or against a minor or incompetent person
4 may be settled or compromised absent an order by the Court approving the settlement or
5 compromise.”).

6 The Ninth Circuit has instructed district courts to “limit the scope of their review
7 to the question whether the net amount distributed to each minor [or incompetent] plaintiff in the
8 settlement is fair and reasonable, in light of the facts of the case, the minor’s specific claim, and
9 recovery in similar cases.” *Robidoux*, 638 F.3d at 1181-82; *see Smith v. City of Stockton*, 185 F.
10 Supp. 3d 1242, 1243–44 (E.D. Cal. 2016) (applying *Robidoux* standard where plaintiff was an
11 adult with disabilities). The court must “evaluate the fairness of each [incompetent] plaintiff’s net
12 recovery without regard to the proportion of the total settlement value designated for adult co-
13 plaintiffs or plaintiffs’ counsel—whose interests the district court has no special duty to
14 safeguard.” *Robidoux*, 638 F.3d at 1182.

15 III. DISCUSSION

16 A. Fair and Reasonable

17 The proposed settlement is fair and reasonable, as explained below. Defendants
18 agree to pay Jurgens \$999,999.00. Mot. at 9. Jurgens’ counsel requests a 40 percent contingency
19 fee totaling \$399,999.00, as set forth in Jurgens’ contingency fee retainer agreement. *Id.*;
20 Martinez Decl., ECF No. 59 ¶ 4. Counsel advanced litigation costs of \$127,905.63 on Jurgens’
21 behalf, including the cost of establishing a special needs trust. Martinez Decl. ¶ 5; Ex. A,
22 Martinez Decl. (itemization of costs). If approved, the net settlement amount to Jurgens will be
23 \$472,094.37. Mot. at 9.

24 The facts of this case confirm the proposed settlement is fair and reasonable. The
25 parties litigated for nearly three years. *See* ECF No. 1 (complaint filed Nov. 26, 2014). This
26 settlement, reached on the eve of trial, spares Jurgens the time, cost and risk of trial. *See, e.g.*,
27 Mot. at 7 (noting Jurgens’ counsel retained four experts to testify on his behalf at trial). In
28 addition, Jurgens’ guardian ad litem approves of the proposed 40 percent contingency fee and

1 Jurgens’ net recovery, further supporting finding the sum fair and reasonable. *See* Joanna Jurgens
2 Decl., ECF No. 62 ¶¶ 12, 17.

3 The court has also considered “recovery in similar cases,” which confirm the net
4 settlement here is reasonable in light of Jurgens’ injuries and the facts of this case. *See Robidoux*,
5 638 F.3d at 1181. For example, in the recent *Smith* case, a police officer tackled and restrained an
6 adult with developmental disabilities, without cause. 185 F. Supp. 3d at 1243. The officer then
7 sicced a police dog on the plaintiff before arresting him and taking him to jail. *Id.* Plaintiff broke
8 two teeth and suffered extensive bite marks on his arms, legs and torso, as well as lasting
9 emotional injuries including a “deep fear” of local police. *Id.* The court approved a gross
10 settlement of \$280,000, with plaintiff recovering a net settlement of \$165,721.88. *Id.* at 1244.
11 Here, Jurgens’ \$472,094.37 net recovery significantly exceeds that of the plaintiff in *Smith*.
12 Further, the court finds *Smith* sufficiently analogous to support the court’s determination that the
13 settlement in this case is fair and reasonable. Jurgens’ motion for approval of the settlement
14 agreement is GRANTED.

15 B. Preservation of Eligibility for Need-Based Benefits

16 Jurgens currently is entitled to receive “needs based” Supplemental Security
17 Income (“SSI”) benefits from the Social Security Administration and Medi-Cal. Pet. at 1-2.
18 Should Jurgens receive the settlement funds directly, he will be ineligible for SSI payments and
19 Medi-Cal benefits. SNT Pet. at 2; *see* 20 C.F.R. § 416.202(c)-(d); Cal. Code Regs., tit. 22 §§
20 50513, 50515 and 50517. Under certain circumstances, placing permitted assets in a special
21 needs trust allows an SSI beneficiary to maintain eligibility for benefits. SNT Pet. at 3; *see* 42
22 U.S.C. § 1396p(d)(4)(A); Cal. Prob. Code § 3604(b).

23 Jurgens submits a proposed special needs trust, ECF No. 65, and the declaration of
24 Juliette Robertson, an attorney focused on assisting individuals with disabilities in estate and
25 settlement planning, ECF No. 63 ¶ 1. Robertson charged a flat fee of \$2,500 to draft the special
26 needs trust documents. *Id.* ¶ 3. Her declaration confirms the trust complies with all legal
27 requirements. *See generally id.* The trust designates Deryk Walcott, a professional trustee, as the

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1 initial trustee. Pet. at 3. Walcott is a California licensed professional fiduciary who has worked
2 with several special needs trust beneficiaries in the past. *Id.* at 4.

3 C. State Hospitals Bill

4 After Jurgens filed this petition, Jurgens' counsel notified the court that Jurgens
5 received a \$579,554.90 patient bill from the Department of State Hospitals for medical treatment
6 "completely unrelated to the incident giving rise to this civil rights suit." ECF No. 67 ¶¶ 3-5.
7 Jurgens' supplemental brief confirms the bill is not a "statutory lien" that must be satisfied before
8 funding the special needs trust and therefore poses no relevant impediment to the requested action
9 here. *See* ECF No. 74 (citing California Probate Code § 3604(d)).

10 The court finds good cause to allow Jurgens' net settlement proceeds be
11 distributed to a special needs trust. The petition is GRANTED.

12 IV. CONCLUSION

13 As explained above, the court finds the proposed settlement and special needs trust
14 serve Jurgens' best interests. The court therefore GRANTS the motions to approve settlement
15 and establish a special needs trust and further ORDERS as follows:

- 16 1. The Court authorizes the establishment of the Jeffrey A. Jurgens, Jr., Special
17 Needs Trust, which Joanna Jurgens shall execute as Settlor;
- 18 2. The Trust shall be under the continuing jurisdiction of the Sacramento County
19 Probate Court as the principal place of administration;
- 20 3. Deryk Walcott, CLPF, shall serve as the initial Trustee with bond to be filed in the
21 amount required by California Rules of Court 7.207;
- 22 4. Defendants will pay the entirety of the settlement proceeds (\$999,999.00) to
23 "Weiner Martinez LLP Attorney-Client Trust Account" within 90 days of this
24 order or within 90 days of defendants' receipt from Weiner Martinez LLP of a
25 fully completed "Payee Data Record, STD 204," whichever date is later. If
26 defendants are unable to comply with these time restrictions, the parties shall seek
27 an extension and explain the basis for the delay before the 90-day period expires;

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5. Either Lilka B. Martinez or Beau D. Weiner will distribute the funds identified above from the Weiner Martinez LLP Attorney-Client Trust Account as follows:
- (a) \$399,999.00 to Weiner Martinez, LLP for their fees;
 - (b) \$127,905.63 to Weiner Martinez, LLP for litigation costs; and
 - (c) \$472,094.37 to the Trustee of the Jeffrey A. Jurgens, Jr. Special Needs Trust; and
6. Upon payment of all sums due under this order, the parties shall promptly file a stipulation to dismiss the entire action with prejudice.

IT IS SO ORDERED.

Dated: April 26, 2018.


UNITED STATES DISTRICT JUDGE