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7  
8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

10 Estate of NATHAN PRASAD, deceased, by and  
 through MARY PRASAD; MARY PRASAD; T.P.,  
 11 a minor; A.P., a minor; and N.S., a minor,  
 12 Plaintiffs,

13 v.

14 COUNTY OF SUTTER; J. PAUL PARKER,  
 Sutter County Sheriff's Department Sheriff;  
 15 DAVID SAMSON, Sutter County Jail Division  
 Commander; NORMAN BIDWELL, Sutter  
 County Jail Corrections Lieutenant; LOU ANNE  
 16 CUMMINGS, Sutter County Health Officer;  
 AMERJIT BHATTAL, Sutter County Assistant  
 Director of Human Services – Health Division;  
 17 BRENT GARBETT, Sutter County Jail Nurse  
 Program Manager; DORIS BROWN, Sutter  
 County Jail Advanced Registered Nurse  
 Practitioner; MELODY YOUNG, Sutter County  
 18 Jail Licensed Vocational Nurse; KIMBERLY  
 WEISS, Sutter County Jail Licensed Vocational  
 Nurse; GURKIRAT BHANGU, Sutter County  
 19 Jail Licensed Vocational Nurse; CHRISTINA  
 STOHLMAN, Sutter County Jail Correctional  
 Officer; LESTER EATON, Sutter County Jail  
 20 Correctional Officer; MIGUEL AGUILAR,  
 Sutter County Jail Deputy Officer; OLGA  
 21 TAHARA, Sutter County Jail Deputy Officer;  
 ROSA DIAZ, Sutter County Jail Deputy Officer;  
 22 ERIC CRAWFORD, Sutter County Jail Deputy  
 Officer; BALJINDER RAI, Sutter County Jail  
 23 Deputy Officer; SHANE DICKSON, Sutter  
 County Jail Deputy Officer; FREMONT-  
 24 RIDEOUT HEALTH GROUP; and MICHAEL  
 FRATERS, D.O.,  
 25  
 26  
 27 Defendants.

Case No. 2:12-CV-00592-TLN-CKD

**PLAINTIFFS' NOTICE OF  
MOTION AND MOTION FOR  
APPROVAL OF MINORS'  
COMPROMISE AND FOR  
ORDERS TO DEPOSIT MONEY  
INTO BLOCKED ACCOUNTS**

Judge: Hon. Troy L. Nunley  
Date: May 8, 2014  
Time: 2:00 p.m.  
Crtrm.: 2, 15th Floor

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on May 8, 2014, at 2:00 p.m., in Courtroom 2 of the  
3 above-entitled Court, located at 501 I Street, Sacramento, California, Plaintiffs, by and  
4 through plaintiff MARY PRASAD as Court-appointed guardian *ad litem* for plaintiffs  
5 T.P., a minor; A.P., a minor; and N.S., a minor (the “Minor Plaintiffs”), will move this  
6 Court for approval of the minors’ settlement compromise in this action pursuant to Eastern  
7 District of California Local Rule (“L.R.”) 202, and for orders to deposit money into  
8 blocked accounts for each of the Minor Plaintiffs.

9 This motion is based upon this notice of motion and motion; the declarations of  
10 Michael W. Bien and Mary Prasad filed herewith; the confidential declaration of  
11 Kathryn G. Mantoan, for which a notice of request to seal has been concurrently filed; the  
12 proposed orders filed herewith; and any oral or other evidence which may be introduced at  
13 the time of the hearing on this motion.

14 **MOTION**

15 Pursuant to L.R. 202, plaintiff MARY PRASAD, as Court-appointed guardian *ad*  
16 *litem* for the Minor Plaintiffs, hereby moves for approval of a proposed minors’  
17 compromise in this case and for orders to deposit money into blocked accounts as set forth  
18 below.

19 **FACTUAL AND PROCEDURAL BACKGROUND**

20 1. Plaintiff T.P. is a minor who was born in 2003, is male, and is currently ten  
21 years of age.<sup>1</sup> See Decl. of Mary Prasad in Supp. of Pls.’ Mot. for Approval of Minors’  
22 Compromise and for Orders to Deposit Money Into Blocked Accounts, filed herewith  
23 (“Prasad Decl.”) at ¶ 3.

24 2. Plaintiff A.P. is a minor who was born in 2005, is female, and is currently  
25 nine years of age. See Prasad Decl. ¶ 4.

26 \_\_\_\_\_  
27 <sup>1</sup> Only the initials and birth years of the Minor Plaintiffs are included in this motion,  
28 pursuant to Federal Rule of Civil Procedure 5.2 and L.R. 140(a)(i), (iv).

1           3.       Plaintiff N.S. is a minor who was born in 2007, is female, and is currently six  
2 years of age. *See* Prasad Decl. ¶ 5.

3           4.       Plaintiff and movant Mary Prasad is the mother of decedent Nathan Prasad  
4 and the grandmother of each of the Minor Plaintiffs. *See* Prasad Decl. ¶ 2.

5           5.       Decedent Nathan Prasad is the father of each of the Minor Plaintiffs, and he  
6 had no other known children. *See* Prasad Decl. ¶ 2.

7           6.       Mary Prasad was appointed by this Court as guardian *ad litem* in this action  
8 for the minors T.P. and A.P. on July 31, 2012, and for the minor N.S. on March 3, 2014.  
9 *See* Dkt. Nos. 28, 29, 135.

10          7.       Plaintiff Mary Prasad remains willing and able to act competently as  
11 guardian *ad litem* for the Minor Plaintiffs. *See* Prasad Decl. ¶ 6.

12          8.       The Minor Plaintiffs are represented by Rosen Bien Galvan & Grunfeld LLP  
13 (“RBGG”), as is plaintiff Mary Prasad (both in her individual capacity as a plaintiff and as  
14 administrator of plaintiff Estate of Nathan Prasad). *See* Prasad Decl. ¶ 7. RBGG was  
15 retained by plaintiffs who brought the causes of action that are asserted in the original and  
16 most recent complaint in this action (Third Amended Complaint; Dkt. No. 137). *See id.*  
17 ¶ 8. RBGG has no other relationship with any party or former party to this action, other  
18 than representing other persons who are suing some of the same defendants in a separate  
19 action. *See id.*; Decl. of Michael W. Bien in Supp. of Pls.’ Mot. for Approval of Minors’  
20 Compromise and for Orders to Deposit Money Into Blocked Accounts, filed herewith  
21 (“Bien Decl.”) at ¶ 6.

22          9.       The Minor Plaintiffs, plaintiff Mary Prasad, and plaintiff Estate of Nathan  
23 Prasad filed an action in this Court against defendants COUNTY OF SUTTER; J. PAUL  
24 PARKER, Sutter County Sheriff’s Department Sheriff; DAVID SAMSON, Sutter County  
25 Jail Division Commander; NORMAN BIDWELL, Sutter County Jail Corrections  
26 Lieutenant; LOU ANNE CUMMINGS, Sutter County Health Officer; AMERJIT  
27 BHATTAL, Sutter County Assistant Director of Human Services – Health Division;  
28 BRENT GARBETT, Sutter County Jail Nurse Program Manager; DORIS BROWN, Sutter

1 County Jail Advanced Registered Nurse Practitioner; MELODY YOUNG, Sutter County  
2 Jail Licensed Vocational Nurse; KIMBERLY WEISS, Sutter County Jail Licensed  
3 Vocational Nurse; GURKIRAT BHANGU, Sutter County Jail Licensed Vocational Nurse;  
4 CHRISTINA STOHLMAN, Sutter County Jail Correctional Officer; LESTER EATON,  
5 Sutter County Jail Correctional Officer; MIGUEL AGUILAR, Sutter County Jail Deputy  
6 Officer; OLGA TAHARA, Sutter County Jail Deputy Officer; ROSA DIAZ, Sutter  
7 County Jail Deputy Officer; ERIC CRAWFORD, Sutter County Jail Deputy Officer;  
8 BALJINDER RAI, Sutter County Jail Deputy Officer; SHANE DICKSON, Sutter County  
9 Jail Deputy Officer; FREMONT-RIDEOUT HEALTH GROUP; and MICHAEL  
10 FRATERS, D.O., alleging, among other things, defendants' involvement in the deprivation  
11 of the Minor Plaintiffs' liberty interest in the continued companionship and society of their  
12 father, decedent Nathan Prasad, as guaranteed by the Fourteenth Amendment to the  
13 Constitution of the United States. *See* Dkt. No. 137, *passim*.

14       10. This action arises from the care and treatment of Nathan Prasad in the Sutter  
15 County Jail (the "Jail") and Rideout Memorial Hospital prior to his death at the age of 30  
16 on January 28, 2011. In the operative Third Amended Complaint, Plaintiffs alleged that  
17 the defendants were deliberately indifferent to Mr. Prasad's serious medical needs – to wit,  
18 a life-threatening infection – during his detention at the Jail and through his discharge from  
19 Rideout Memorial Hospital back to the the Jail on January 26, 2011, and that Mr. Prasad's  
20 life could have been saved had he received timely and needed treatment. *See* Dkt.  
21 No. 137, *passim*. Plaintiffs alleged liability on the part of individual defendants and  
22 supervisors and *Monell* liability on the part of defendant Sutter County. *See id.*

23       11. Each of the twenty-one named defendants brought a motion to dismiss  
24 and/or strike. *See* Dkt. Nos. 52, 56, 61. This Court denied in whole or in part all of those  
25 motions, finding that the then-operative complaint stated claims against each named  
26 defendant. *See* Dkt. No. 105.

27       12. No reports of physicians or other similar experts have been prepared in this  
28 case that relate to any injuries of any of the Minor Plaintiffs. *See* Bien Decl. ¶ 8.

1           13.     On January 20, 2013, the parties commenced mediation of the case with  
2 Judge Raul Ramirez (Ret.). Plaintiff Mary Prasad, as well as representatives of each  
3 defendant and counsel for each party, were present at this mediation. *See* Prasad Decl.  
4 ¶ 10; Bien Decl. ¶ 10. All discovery in the case closed on February 10, 2014 (*see* Dkt. No.  
5 126), at which point the parties had conducted 21 total depositions and exchanged  
6 thousands of pages of discovery. Bien Decl. ¶¶ 9, 12. As a result of the mediation and  
7 subsequent negotiations, Plaintiffs reached agreements to settle with each of the  
8 defendants. *See* Prasad Decl. ¶ 11; Bien Decl. ¶ 11.

9                           **DETAILS OF PROPOSED SETTLEMENT ALLOCATION**

10           14.     Plaintiffs have entered into settlement agreements by which they will receive  
11 a total sum of \$824,999 in compensation for all Plaintiffs' claimed injuries in this action.  
12 *See* Prasad Decl. ¶ 11; Bien Decl. Exs. A, B, and C.

13           15.     Plaintiffs propose to allocate the total settlement fund as follows:

14                   a.     \$272,249.67 for RBGG's attorneys' fees, totaling 33% of the  
15 settlement fund (*see* Bien Decl. ¶ 12);

16                   b.     \$102,101.74 for RBGG's litigation costs, with the entire \$18,022.50  
17 previously awarded in July 2013 for reasonable expenses incurred by RBGG in connection  
18 with Plaintiffs' amended motion to compel (*see* Dkt. No. 103) applied in full to cover the  
19 remainder of RBGG's costs incurred in this action (*see* Bien Decl. ¶ 12);

20                   c.     \$10,386.59 to Mary Prasad to reimburse her for expenses she and her  
21 husband incurred associated with Nathan Prasad's funeral and burial (*see* Prasad Decl.  
22 ¶ 13);

23                   d.     \$1,601.50 to pay the probate attorney who established the estate of  
24 Nathan Prasad and secured Mary Prasad's appointment as administrator of the estate prior  
25 to commencement of this action (*see* Bien Decl. ¶ 14(b));

26                   e.     \$766.23 to reimburse Medi-Cal for the lien it has asserted over the  
27 proceeds of any settlement in this action (*see* Bien Decl. ¶ 14(c));

28                   f.     \$43,789.33 to plaintiff Mary Prasad in compensation for her injuries

1 and loss (*see* Prasad Decl. ¶ 14; Bien Decl. ¶ 14(d)); and

2 g. \$394,103.94 collectively to the Minor Plaintiffs in compensation for  
3 their injuries and loss, divided evenly amongst them (for an amount of \$131,367.98 each)  
4 (*see* Bien Decl. ¶ 14(e)).

5 16. Plaintiffs propose to allocate the Minor Plaintiffs' settlement shares as  
6 follows:

7 a. Plaintiff T.P.

8 (i) \$3,400 to Kids Smile Dental and Orthodontics (*see*  
9 Confidential Decl. of Kathryn G. Mantoan in Supp. of Pls.' Mot. for Approval of Minors'  
10 Compromise and for Orders to Deposit Money Into Blocked Accounts, notice of request to  
11 seal filed herewith ("Confidential Mantoan Decl.") at ¶ 2);

12 (ii) \$9,999 to establish and fund a blocked account in T.P.'s name,  
13 to be used for the benefit of T.P. if and as the Court approves withdrawals before the age  
14 of majority; and

15 (iii) \$117,968.98 to fund future periodic payments for T.P.'s  
16 benefit, as described *infra*.

17 b. Plaintiff A.P.

18 (i) \$9,999 to establish and fund a blocked account in A.P.'s name,  
19 to be used for the benefit of A.P. if and as the Court approves withdrawals before the age  
20 of majority; and

21 (ii) \$121,368.98 to fund future periodic payments for A.P.'s  
22 benefit, as described *infra*.

23 c. Plaintiff N.S.

24 (i) \$9,999 to establish and fund a blocked account in N.S.'s name,  
25 to be used for the benefit of A.P. if and as the Court approves withdrawals before the age  
26 of majority; and

27 (ii) \$121,368.98 to fund future periodic payments for N.S.'s  
28 benefit, as described *infra*.

**PAYMENTS BY DEFENDANTS**

17. By way of settlement, the defendants have agreed to pay the following sums to the Plaintiffs.

18. Defendant Rideout Memorial Hospital (sued herein as Fremont-Rideout Health Group): \$20,000. Plaintiffs request that this amount be made payable to plaintiff Mary Prasad.<sup>2</sup>

19. Defendant Michael Fraters, D.O.: \$29,999. Plaintiffs request that this amount be made payable to plaintiff Mary Prasad.

20. Defendants County of Sutter (the “County”), Sheriff J. Paul Parker, David Samson, Norman Bidwell, Lou Anne Cummings, Amerjit Bhattal, Brent Garbett, Doris Brown, Melody Young, Kimberly Weiss, Gurkirat Bhangu, Christina Stohlman, Lester Eaton, Michael Aguilar, Olga Tahara, Rosa Diaz, Eric Crawford, Baljinder Rai, and Shane Dickson (collectively, the “Sutter County Defendants”):

a. An immediate cash payment of \$414,293.06 by the County to be paid as follows:

(i) Payment to Client Trust Account at Rosen Bien Galvan & Grunfeld LLP for Attorneys’ Fees & Costs; Funding for Blocked Accounts for T.P., A.P. and N.S.; Payment to Current Medical Provider for T.P.; Payment to Probate Attorney for Estate of Nathan Prasad; and Medi-Cal Lien Reimbursement: \$410,116.14

(ii) Payment to plaintiff Mary Prasad: \$4,176.92 (the remainder due to Mary Prasad).

b. A check from the County in the amount of \$360,706.94 (\$117,968.98 allocated for T.P.; \$121,368.98 allocated for A.P.; and \$121,368.98 allocated for N.S.)

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<sup>2</sup> The amounts described in paragraphs 18, 19 and 20(a)(ii) total \$54,175.92 to Mary Prasad – the sum of \$10,386.59 to reimburse for funeral and burial expenses (*see* paragraph 15(c)) and \$43,789.33 in compensation for her injuries and loss (*see* paragraph 15(f)).



1 payable to BHG Structured Settlements, Inc. to fund the Periodic Payments listed below.

2 c. Periodic payments made according to the Schedule of Payments as  
3 follows (the "Periodic Payments"):

4 (i) Payee: Mary Prasad for the use and benefit of T.P.

5 \$5,000.00 guaranteed lump sum payable on 10/15/2017\*

6 \$5,000.00 guaranteed lump sum payable on 10/15/2019\*

7 *\*Benefits to be deposited into a blocked account.*

8 (ii) Payee: T.P.

9 \$20,000.00 guaranteed lump sum payable on 10/15/2021

10 \$25,000.00 guaranteed lump sum payable on 10/15/2024

11 \$30,000.00 guaranteed lump sum payable on 10/15/2027

12 \$35,000.00 guaranteed lump sum payable on 10/15/2030

13 \$83,000.00 guaranteed lump sum payable on 10/15/2033

14 (iii) Payee: Mary Prasad for the use and benefit of A.P.

15 \$5,000.00 guaranteed lump sum payable on 01/30/2017\*

16 \$5,000.00 guaranteed lump sum payable on 01/30/2019\*

17 \$5,000.00 guaranteed lump sum payable on 01/30/2021\*

18 *\*Benefits to be deposited into a blocked account.*

19 (iv) Payee: A.P.

20 \$20,000.00 guaranteed lump sum payable on 01/30/2023

21 \$25,000.00 guaranteed lump sum payable on 01/30/2026

22 \$30,000.00 guaranteed lump sum payable on 01/30/2029

23 \$35,000.00 guaranteed lump sum payable on 01/30/2032

24 \$95,500.00 guaranteed lump sum payable on 01/30/2035

25 (v) Payee: Mary Prasad for the use and benefit of N.S.

26 \$5,000.00 guaranteed lump sum payable on 07/22/2017\*

27 \$5,000.00 guaranteed lump sum payable on 07/22/2019\*

28 \$5,000.00 guaranteed lump sum payable on 07/22/2021\*



- 1 \$5,000.00 guaranteed lump sum payable on 07/22/2023\*
- 2 \*Benefits to be deposited into a blocked account.
- 3 (vi) Payee: N.S.
- 4 \$25,000.00 guaranteed lump sum payable on 07/22/2025
- 5 \$30,000.00 guaranteed lump sum payable on 07/22/2028
- 6 \$35,000.00 guaranteed lump sum payable on 07/22/2031
- 7 \$40,000.00 guaranteed lump sum payable on 07/22/2034
- 8 \$90,000.00 guaranteed lump sum payable on 07/22/2037

9 d. The County’s obligation to make the Periodic Payments described  
10 herein shall be assigned to BHG Structured Settlements, Inc. through a Qualified  
11 Assignment and funded by annuity contracts issued by Berkshire Hathaway Life Insurance  
12 Company of Nebraska, rated A++XV by A.M. Best. *See* Bien Decl. ¶ 20.

13 21. All the payments set forth herein constitute damages on account of personal,  
14 physical injuries, arising from an occurrence within the meaning of Section 104(a)(2) of  
15 the IRS Code of 1986, as amended. All sums paid herein constitute damages on account of  
16 personal injuries or sickness arising from injuries that resulted from the allegations made  
17 in the Action, and no portion of the proceeds paid herein represent exemplary or punitive  
18 damages nor pre-judgment or post-judgment interest. *See* Bien Decl. ¶ 21.

19 **THE PROPOSED SETTLEMENT AND COMPROMISE OF THE MINORS’**  
20 **CLAIMS IS FAIR, REASONABLE, AND IN THE MINORS’ BEST INTERESTS**

21 22. The settlement represents an appropriate, fair, and reasonable settlement and  
22 compromise of the Minor Plaintiffs’ claims in this action, and is in their best interests. *See*  
23 *Shannon A. v. Orland Unified*, No. 2:11-cv-00718-TLN-DAD, 2013 WL 4828140, at \*2  
24 (E.D. Cal. Sept. 6, 2013) (citations omitted) (noting court’s “special duty to safeguard the  
25 interests of litigants who are minors” by “conduct[ing] its own inquiry to determine  
26 whether the settlement serves the best interests of the minor”); *Robidoux v. Rosengren*, 638  
27 F.3d 1177, 1179 (9th Cir. 2011) (holding that court’s duty to safeguard interests of minor  
28 plaintiffs requires a determination whether net amount allocated to each minor plaintiff is

1 fair and reasonable without regard to proportion of settlement for adult co-plaintiffs or  
2 counsel). Plaintiff and movant Mary Prasad, who as guardian *ad litem* for the Minor  
3 Plaintiffs has been extensively involved in litigation of this case, has carefully considered  
4 the proposed settlement and determined that it is in the best interests of the Minor  
5 Plaintiffs. *See Prasad Decl.* ¶¶ 9, 12.

6         23. It is fair and reasonable to allocate the majority of the settlement shares of  
7 the Minor Plaintiffs to fund structured settlements that will provide payments to them at  
8 age 18 and beyond. *See Prasad Decl.* ¶ 15. It is also fair and reasonable in this particular  
9 case to place a smaller portion of their settlement shares into blocked accounts to cover  
10 major expenses that may arise during their minority, with such funds being accessible only  
11 on further order of the Magistrate Judge of this Court under the procedure authorized by  
12 L.R. 202(f) and set forth in the proposed order filed herewith, with any remaining balance  
13 payable in full to the minor plaintiffs once they reach age 18. *See id.*; *Bien Decl.* ¶ 18;  
14 *Confidential Mantoan Decl.* ¶ 5.

15         24. Under the settlements agreed to by the parties and the compromise proposed  
16 herein, RBGG will receive a share of the total settlement fund, to be paid on account of  
17 Plaintiffs' claims for statutory attorneys' fees. *See Bien Decl.*, Ex. A at 2, Ex. B at 5, Ex.  
18 C at 3. RBGG will also be reimbursed for costs they have advanced to fund the litigation.  
19 *See Bien Decl.* ¶ 12. The compensation Plaintiffs' attorneys will receive in fees has been  
20 adjusted downward from the percentage agreed-upon in the retainer agreement, and totals  
21 33% of the total settlement fund recovered. Plaintiff Mary Prasad, as guardian *ad litem* for  
22 the Minor Plaintiffs, approves of RBGG's recovery of the attorneys' fees and costs set  
23 forth herein based on the representation they provided to all of the plaintiffs in this case,  
24 including the Minor Plaintiffs. *See Prasad Decl.* ¶ 16.

25         25. Plaintiffs further request issuance of the orders needed to open the blocked  
26 accounts for the benefit of the Minor Plaintiffs described *supra*. Filed concurrently with  
27  
28

1 this motion are three proposed orders, one for each of the Minor Plaintiffs, to allow Mary  
2 Prasad to deposit funds into the blocked accounts.<sup>3</sup>

3         26. Plaintiffs submit that good cause exists to excuse the personal attendance of  
4 the Minor Plaintiffs—the oldest of whom is ten years old—at any hearing that may be held  
5 on this motion, and ask that the Court excuse their attendance pursuant to L.R. 202(d). *See*  
6 Prasad Decl. ¶¶ 3-5, 17; Confidential Mantoan Decl. ¶ 6. Plaintiff Mary Prasad, who has  
7 taken an active role throughout this case, including personally attending numerous  
8 depositions of defendants and the January 20, 2014 mediation with Judge Ramirez, will be  
9 in attendance at the hearing to address any questions the Court may have about the nature  
10 or fairness of the settlement of the Minor Plaintiffs’ claims. *See* Prasad Decl. ¶¶ 9-10, 17.

11  
12 DATED: April 10, 2014

Respectfully submitted,

ROSEN BIEN GALVAN & GRUNFELD LLP

13  
14  
15 By: /s/ Michael W. Bien  
16 Michael W. Bien

17 Attorneys for Plaintiffs  
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25 <sup>3</sup> L.R. 140(a)(i) and (iv) require redaction of full names of minors, and of dates of birth to  
26 include only the year. In order to open the blocked accounts, however, the depository  
27 institution may require an order setting forth the exact date of birth so that the date of un-  
28 blocking the accounts can be determined. For this reason, Plaintiffs will request that their  
Proposed Order containing the minors’ full names and dates of birth be filed under seal.