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9 Attorneys for Plaintiffs
10 LISA CASTILLO, B.U. a Minor, and L. V. a Minor, by and through their *Guardian*
11 *Ad Litem*, LISA CASTILLO

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12 UNITED STATES DISTRICT COURT

13 CENTRAL DISTRICT OF CALIFORNIA

14 LISA CASTILLO, B.U. a Minor, and L.)
15 V. a Minor, by and through their
16 *Guardian Ad Litem*, LISA CASTILLO

Case No.: CV14-07702BRO(VBKx)

*[Assigned for all matters to the
Honorable Judge Beverly Reid
O'Connell, Courtroom 7C]*

17 Plaintiffs,

**PLAINTIFF'S NOTICE OF
PETITION AND PETITION TO
APPROVE COMPROMISE OF
MINORS B.U. AND L.V.'S
CLAIMS; MEMORANDUM OF
POINTS AND AUTHORITIES;
DECLARATIONS OF LISA
CASTILLO AND VINCENT W.
DAVIS IN SUPPORT**

18 vs.

19 COUNTY OF LOS ANGELES,
20 RIHANA ACKLIN, LANA ADRIAN,
21 ERASMO AGUILAR, NORMA
22 WARD, VIRGINIA ESPINOZA,
23 CHRISTINA ALFARO, and Does 1
24 through 9

*[Filed concurrently with [Proposed]
Order]*

25 Defendants.

Date: January 9, 2017
Time: 1:30 p.m.
Courtroom: 14

26 /././

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MEMORANDUM OF POINTS AND AUTHORITIES

1. INTRODUCTION

Plaintiff Lisa Castillo’s infant son died of sudden infant death syndrome (SIDS), a tragedy that was in no way caused by Plaintiff or any other external factors. The baby’s treating physicians at the time of death unanimously confirm this. Nonetheless, Defendants County of Los Angeles and its social workers used Ms. Castillo’s son’s death as an excuse for “detaining” Ms. Castillo’s minor daughters B.U. and L.V. from her custody for *half a year*. This unwarranted intrusion into Plaintiff’s home life obviously caused permanent damage to the fabric of their family cohesiveness, leaving severe emotional scars for all of them in the process.

At the private mediation held on May 27, 2016, with all Plaintiffs present, a settlement was reached for the total sum of \$999,999.00, to be divided among the three plaintiffs in equal one-thirds each. (Declaration of Lisa Castillo filed herewith (“Castillo Decl.”), ¶ 2; Declaration of Vincent W. Davis filed herewith (“Davis Decl.”), ¶ 2) Two of the Plaintiffs, identified as B.U. and L.V. above, are minors and therefore authorization from this Court is required to approve and confirm the settlement as to them.

2. LOCAL RULE 83-5.2 REQUIRES COURT APPROVAL OF MINORS’ COMPROMISES

CDCA Local Rule 83-5.1 states:

Minors or Incompetents—Settlement of Claim of Minor or Incompetent. No claim in any action involving a minor or an incompetent person shall be settled, compromised or dismissed without leave of the Court embodied in a judgment, order or decree.

CDCA Local Rule 83-5.2 goes on to elaborate:

Minors or Incompetents—Settlement of Claim Procedure. Insofar as practicable, hearings on petitions to settle, compromise or dismiss a claim in an

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action involving a minor or incompetent person shall conform to Cal. Code Civ. Proc. § 372 and California Rule of Court 3.1384.

C.C.P. § 372 and *CRC Rule* 3.1384 provide for a statutory scheme for court oversight and approval of minor’s compromises as manifested in Judicial Council form MC-350. However, it is believed that it would be inappropriate to file said form MC-350 in this federal proceeding so the following petition reflects the essential elements of said form so that this Court may provide its oversight and approval.

3. THE GENERAL NATURE OF PLAINTIFFS’ CLAIMS

Petitioner, Plaintiff Lisa Castillo, is the biological mother and the guardian ad litem of minor plaintiffs B.U. and L.V. in this action. B.U. is presently seventeen (17) years old and L.V. is seven (7) years old and both girls have lived with Petitioner throughout the pendency of this litigation and for virtually their entire lives.

As set forth in more detail in the Complaint filed in this action, Defendants County of Los Angeles and its social workers detained and removed B.U. and L.V. from her care and custody for six (6) months from October 2012 through May 2013. The removal of the girls from Petitioner was purportedly based upon the death of her youngest infant son, who was hospitalized when the girls were detained, even though there were no signs of abuse or neglect to the child and all signs pointed to SIDS. Defendants later produced purported documents signed by the Petitioner dated October 4, 2012 in an attempt to falsely establish that she also consented to the removal of her minor daughters. Plaintiffs’ family unit was devastated by this tearing asunder and all plaintiffs suffered irreparable harm and extreme emotional distress as a result of the Defendants’ unwarranted actions. All Plaintiffs required extensive counseling to deal with the trauma inflicted upon them.

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2 **4. PETITIONER SEEKS COURT APPROVAL OF THE PENDING**
3 **SETTLEMENT FOR MINORS B.U. AND L.V.**

4 Petitioner, on her own part and by and through her counsel of record, has made
5 a careful and diligent inquiry and investigation to ascertain the facts relating to the
6 incident in which the claimants, minor plaintiffs B.U. and L.V., were injured; the
7 responsibility for the incident; and the nature, extent, and seriousness of the claimants'
8 injuries. (Castillo Decl. ¶ 3; Davis Decl., ¶ 3) Petitioner fully understands that if the
9 compromise proposed in this petition is approved by the Court and is consummated,
10 the claimants will be forever barred from seeking any further recovery of
11 compensation from the settling Defendants named below even though the claimants'
12 injuries may in the future appear to be more serious than they are now thought to be.
13 (*Id.*)

14 **5. THE AMOUNT AND THE TERMS OF THE SETTLEMENT**

15 By way of settlement, the Defendants County of Los Angeles, and any and all
16 of its employees, agents, attorneys, and representatives, including but not limited to
17 individually named Defendants Rihana Acklin, Erasmo Aguilar, Norma Ward,
18 Virginia Espinoza, and Christina Alfaro have agreed to pay the total amount of
19 \$999,999.00 to the Plaintiffs.

20 The terms of the settlement and retainer agreement provide that the settlement
21 is to be divided into equal one-thirds after the deduction of costs. (Castillo Decl., ¶ 4)
22 Payment will be made via a single check in the total amount to Plaintiff Lisa Castillo
23 and to her counsel of record, the Law Offices of Vincent W. Davis & Associates'
24 Client Trust Account. (*Id.*) Defendants indicated that the settlement requires Board
25 approval and that they would strive to obtain said approval within one hundred and
26 twenty (120) days of the May 27, 2016 settlement. (*Id.*) Plaintiffs are not aware of any
27 medical liens on the recovery in this action. (*Id.*)

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1 **6. ATTORNEYS' FEES AND COSTS**
2 **PAYABLE FROM THE SETTLEMENT**

3 Plaintiff's counsel advanced costs of \$20,109.98 in this litigation, primarily
4 consisting of reporters for depositions of defendants and the costs for retained experts
5 Terry Greenstein and Keith Price. (Castillo Decl., ¶ 5; Davis Decl., ¶ 5, and Exhibit
6 "1" thereto)

7 Said costs of \$20,109.98 are to be divided into equal one-thirds of \$6,703.33,
8 which will be deducted from each of the three settlement shares of \$333,333.00.
9 (Castillo Decl., ¶ 6; Davis Decl., ¶ 6) After deduction of said costs from each share,
10 the amount remaining to be disbursed to each of the party plaintiffs is equal one-third
11 shares of \$326,629.67. (*Id.*) Petitioner and Plaintiff Lisa Castillo is an adult and her
12 one-third share of the settlement and payment of contingency attorneys' fees from her
13 share is not subject to this petition to approve minor's compromise. (*Id.*)

14 Each of the minor plaintiffs B.U. and L.V. are to receive equal \$326,629.67
15 one-third shares of the global settlement. (Castillo Decl., ¶ 7; Davis Decl., ¶ 7)
16 Plaintiffs' counsel, the Law Offices of Vincent W. Davis & Associates, are to receive
17 twenty-five percent (25%) of each minor's share, or \$81,657.42 from each share for a
18 total of \$163,314.84 to be paid to Plaintiffs' counsel from the minors' share of the
19 global settlement. (*Id.*)

20	Minor B.U.'s Share:	\$326,629.67
21	<u>25% Contingency Fee:</u>	<u>-81,657.42</u>
22	Remaining Balance for Minor B.U.	\$244,972.25
23	Minor L.V.'s Share:	\$326,629.67
24	<u>25% Contingency Fee:</u>	<u>-81,657.42</u>
25	Remaining Balance for Minor B.U.	\$244,972.25 (<i>Id.</i>)

26 As set forth above, the net balance of proceeds payable to each minor after
27 attorneys' fees are deducted will be \$244,972.25 each to B.U. and L.V. (Castillo
28

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1 Decl., ¶ 8; Davis Decl., ¶ 8) Plaintiffs are not aware of any other liens, expenses, or
2 deductions from the minors' shares of the settlement. (*Id.*)

3 **7. SUMMARY**

4 The global settlement to all three (3) Plaintiffs is \$999,999.00, to be divided
5 into equal one-third shares. The one-third to Plaintiff and Petitioner Lisa Castillo is
6 not subject to this petition as she is an adult. The remaining one-third shares to B.U.
7 and L.V. of \$326,629.67 each are subject to this petition. Plaintiffs' counsel shall
8 receive twenty-five percent (25%) of each minor's share, or \$81,657.42 each. Each
9 minor, B.U. and L.V., shall receive a net balance of \$244,972.25 from their share of
10 the settlement.

11 **8. INFORMATION ABOUT ATTORNEY**
12 **REPRESENTING OR ASSISTING PETITIONER**

13 Petitioner has been represented and assisted by an attorney in preparing this
14 petition with respect to the claim asserted. (Castillo Decl., ¶ 9; Davis Decl., ¶ 9)
15 Petitioner and the attorney do have an agreement for services provided in connection
16 with the claim giving rise to this petition. (*Id.*)

17 The attorneys who have represented and assisted the petitioner are the Law
18 Offices of Vincent W. Davis at 150 N. Santa Anita Ave., Suite 200, Arcadia,
19 California 91006 Telephone: (626) 446-6442 Facsimile: (626) 446-6454. (Castillo
20 Decl., ¶ 10; Davis Decl., ¶ 10) The principal of the firm is Vincent W. Davis, Esq.,
21 with State Bar Number 125399. (*Id.*)

22 The attorneys have not received attorneys' fees or other compensation in
23 addition to that requested in this petition for services provided in connection with the
24 claim giving rise to this petition, except for the contingency fees payable from the
25 separate one-third of the settlement payable to Plaintiff and Petitioner Lisa Castillo.
(Castillo Decl., ¶11; Davis Decl., ¶ 11)

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1 The attorneys did not become concerned with this matter, directly or indirectly,
2 at the instance of a party against whom the claim is asserted or a party's insurance
3 carrier. (Castillo Decl., ¶ 12; Davis Decl., ¶ 12)

4 The attorneys are not represented or employed by any other party, except for
5 the other co-plaintiffs, or any insurance carrier involved in the matter. (Castillo Decl.,
6 ¶ 13; Davis Decl., ¶ 13)

7 The attorneys do not expect to receive attorneys' fees or other compensation to
8 that requested in this petition for services provided in connection with the claim
9 giving rise to this petition, except for the contingency fees payable from the separate
10 one-third of the settlement payable to Plaintiff and Petitioner Lisa Castillo. (Castillo
11 Decl., ¶ 14; Davis Decl., ¶ 14)

12 **9. DISPOSITION OF BALANCE OF PROCEEDS OF SETTLEMENT**

13 Petitioner requests that the balance of the proceeds of the settlement be
14 disbursed as follows:

15 There is no guardianship of the estate of the minor. (Castillo Decl., ¶ 15)
16 Petitioner requests that the balance of the proceeds be disbursed as follows:

17 The funds shall be paid into the registry of the Court and deposited by the Clerk
18 in accordance with *CDCA Local Rules* 83-5.4, 67-1 and 67-2. (*Id.*) The funds shall be
19 so held until such time as each of the minors B.U. and L.V. each attain the age of
20 majority, at which time the funds shall be distributed to them per *CDCA Local Rule*
21 83-5.5. (*Id.*)

22
23 **10. CONCLUSION**

24 For the foregoing reasons, Plaintiffs respectfully submit that it would be
25 appropriate to approve the pending settlement of the minors B.U. and L.V.'s claims as
26 set forth hereinabove.

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DECLARATION OF LISA CASTILLO

I, LISA CASTILLO, declare as follows:

1. I am the Plaintiff in the herein action, both on my own behalf and as *Guardian Ad Litem* for my two daughters identified as B.U. and L.V. herein. If called as a witness, I could and would competently testify to the following facts, all of which are within my personal knowledge, except as to those matters alleged on information and belief.

2. My daughters and I were personally present at the private mediation held on Friday, May 27, 2016, when a settlement was reached for the total sum of \$999,999.00, to be divided among the three plaintiffs in equal one-thirds each: one share for myself, one share for my daughter B.U. and a third share for my daughter L.V.

3. On my own part and through my counsel of record, I have made a careful and diligent inquiry and investigation to ascertain the facts relating to the incident in which the claimants, minor plaintiffs B.U. and L.V., were injured; the responsibility for the incident; and the nature, extent, and seriousness of the claimants' injuries. I fully understand that if the compromise proposed in this petition is approved by the Court and is consummated, the claimants will be forever barred from seeking any further recovery of compensation from the settling Defendants even though the claimants' injuries may in the future appear to be more serious than they are now thought to be.

4. The terms of the settlement and retainer agreement provide that the settlement is to be divided into equal one-thirds after deduction of costs. Payment will be made via a single check in the total amount to myself and to our counsel of record, the Law Offices of Vincent W. Davis & Associates' Client Trust Account. Defendants indicated that the settlement requires Board approval and that they would strive to obtain said approval within one hundred and twenty (120) days of the May 27, 2016 settlement. I am not aware of any medical liens on the recovery in this action.

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1 9. I have been represented and assisted by an attorney in preparing this
2 petition with respect to the claim asserted. My attorneys and I have an agreement for
3 services provided in connection with the claim giving rise to this petition.

4 10. The attorneys who have represented and assisted me are the Law Offices
5 of Vincent W. Davis at 150 N. Santa Anita Ave., Suite 200, Arcadia, California
6 91006 Telephone: (626) 446-6442 Facsimile: (626) 446-6454. The principal of the
7 firm is Vincent W. Davis, Esq., with State Bar Number 125399.

8 11. The attorneys have not received attorneys' fees or other compensation in
9 addition to that requested in this petition for services provided in connection with the
10 claim giving rise to this petition, except for the contingency fees payable from the
11 separate one-third of the settlement payable to me.

12 12. The attorneys did not become concerned with this matter, directly or
13 indirectly, at the instance of a party against whom the claim is asserted or a party's
14 insurance carrier.

15 13. The attorneys are not represented or employed by any other party, except
16 for the other co-plaintiffs, or any insurance carrier involved in the matter.

17 14. The attorneys do not expect to receive attorneys' fees or other
18 compensation to that requested in this petition for services provided in connection
19 with the claim giving rise to this petition, except for the contingency fees payable
20 from the separate one-third of the settlement payable to me.

21 15. I request that the balance of the proceeds of the settlement be disbursed
22 as follows:

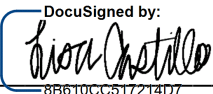
23 There is no guardianship of the estate of the minor. I request that the balance of
24 the proceeds be disbursed as follows:

25 The funds shall be paid into the registry of the Court and deposited by the Clerk
26 in accordance with *CDCA Local Rules* 83-5.4, 67-1 and 67-2. The funds shall be so
27 held until such time as each of the minors B.U. and L.V. each attain the age of
28 majority, at which time the funds shall be distributed to them per *CDCA Local Rule*
83-5.5.

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I declare the above to be true under penalty of perjury dated this 9th day of December 2016, at Arcadia, California.

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DocuSigned by:

By: _____
Lisa Castillo, Declarant

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DECLARATION OF VINCENT W. DAVIS

I, VINCENT W. DAVIS, declare as follows:

1. I am the counsel for the Plaintiff in the herein action, both on her own behalf and as *Guardian Ad Litem* for her two daughters identified as B.U. and L.V. herein. If called as a witness, I could and would competently testify to the following facts, all of which are within my personal knowledge, except as to those matters alleged on information and belief.

2. I was personally present at the private mediation held on Friday, May 27, 2016, when a settlement was reached for the total sum of \$999,999.00, to be divided among the three plaintiffs in equal one-thirds each: one share for Plaintiff Lisa Castillo, one share for her daughter B.U. and a third share for her daughter L.V.

3. I have made a careful and diligent inquiry and investigation to ascertain the facts relating to the incident in which the claimants, minor plaintiffs B.U. and L.V., were injured; the responsibility for the incident; and the nature, extent, and seriousness of the claimants' injuries. I fully understand that if the compromise proposed in this petition is approved by the Court and is consummated, the claimants will be forever barred from seeking any further recovery of compensation from the settling Defendants even though the claimants' injuries may in the future appear to be more serious than they are now thought to be.

4. The terms of the settlement provide that the settlement is to be divided into equal one-thirds after deduction of costs. Payment will be made via a single check in the total amount to Plaintiff and my firm, the Law Offices of Vincent W. Davis & Associates' Client Trust Account. Defendants indicated that the settlement requires Board approval and that they would strive to obtain said approval within one hundred and twenty (120) days of the May 27, 2016 settlement. I am not aware of any medical liens on the recovery in this action.

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12. I was a Certified Public Accountant which makes me uniquely qualified to deal with financial issues in Family Law matters.

13. In 1983, I was admitted to the State Bar of California. I am admitted to practice as an attorney and counselor before: all the courts in California, as well as the United States District Court for the Central District of California; the United States District Court of Appeals for the 9th Circuit and the United States Supreme Court.

14. I and my firm have acted as both trial *and* appellate counsel in more than 1000 family law type cases.

15. I and my firm have two the family law published cases of: *Marriage of David and Martha Melendrez*, (2006) 140 Cal.App.4th 96 and *Papakosmas v. Papakosmas*, (2007) 483 F.3d 617. *Melendrez* involved issues of modifying child custody and visitation, and *Papakosmas* involved issues international child custody and visitation and the Federal Treaty, *The Hauge Convention*. We acted as trial and appellate counsel in both cases.

16. I and my firm have taken numerous family law continuing education classes through such providers as: the Los Angeles County Bar Association, the Beverly Hills Bar Association and the Orange County Bar Association.

17. In 2008, I received a diploma from the National Institute for Trial Advocacy, for trial advocacy skills.

18. In 2008, I graduated from the prestigious Gerry Spence Trial Lawyers College. I was one of 50 lawyers selected nationwide to live, for 22 days on Gerry Spence’s Thunderhead Ranch just outside of Dubois, Wyoming. The College and its lawyers are committed to helping people.

19. I am currently in good standing with the State Bar of California. I am also a member of the Los Angeles County Bar Association, the Beverly Hills Bar Association, the Orange County Bar Association, and the State Bar of California Family Law Section.

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20. About 50% of my firm’s practice is dedicated to family law actions. 100% of my practice is dedicated to litigation. We represent clients going through divorce and we handle issues such as child custody and visitation, child support and spousal support and division of property. We also handle domestic violence, paternity and adoption matters.

21. A majority of my associate attorneys and staff members are bilingual and fluent in various languages such as Spanish and Mandarin Chinese. I provide direct supervision to 10 associate attorneys in my firm.

22. My associates and I practice law in the following counties: Los Angeles; San Bernardino; Riverside; Orange; Ventura; and San Diego.

23. My firm and I have not received attorneys’ fees or other compensation in addition to that requested in this petition for services provided in connection with the claim giving rise to this petition, except for the contingency fees payable from the separate one-third of the settlement payable to Plaintiff not subject to this petition.

24. My firm and I did not become concerned with this matter, directly or indirectly, at the instance of a party against whom the claim is asserted or a party’s insurance carrier.

25. My firm and I are not represented or employed by any other party, except for the other co-plaintiffs, or any insurance carrier involved in the matter.

26. My firm and I do not expect to receive attorneys’ fees or other compensation to that requested in this petition for services provided in connection with the claim giving rise to this petition, except for the contingency fees payable from the separate one-third of the settlement payable to Plaintiff not subject to this petition.

27. I respectfully request that this petition to confirm minors’ compromise be granted by the Court accordingly.

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I declare the above to be true under penalty of perjury dated this 7th day of December 2016, at Arcadia, California.

By: /s/ Vincent W. Davis
Vincent W. Davis, Declarant

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 150 North Santa Anita Avenue, Suite 200, Arcadia, California 91106.

On December 2016, I served the foregoing document described as:

PLAINTIFFS’ NOTICE OF PETITION AND PETITION TO APPROVE COMPROMISE OF MINORS B.U. AND L.V.’S CLAIMS; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF LISA CASTILLO IN SUPPORT; DECLARATION OF VINCENT W. DAVIS IN SUPPORT on interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED MAILING LIST

- BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed document(s) with the Clerk of the Court by using the CM/ECF system. Participants in this case who are registered CM/ECF users will be served by the CM/ECF system. Participants in this case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.
- BY MAIL:** I deposited such envelope in the mail at Arcadia, California. The envelope was mailed with postage thereon fully prepaid. As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Burbank, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- FEDERAL:** I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction.

Executed on December , 2016, at Arcadia, California.

/s/ Ruby Silva
Ruby Silva

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SERVICE LIST

RE: Castillo, Lisa v. County of Los Angeles
Case No.: CV14-07702 BRO (VBKx)

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