

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JANE DOE, *by her parents and guardians*)
Sabra Smith and Mark Smith,)

Plaintiff,)

v.)

JOHN SOBECK, et al.,)

Defendants.)

Case No. 3:12-cv-1222-JPG-DGW

ORDER

WILKERSON, Magistrate Judge:

Now pending before the Court is the Motion to Approve Settlement filed by Plaintiff, Jane Doe, on September 9, 2013 (Doc. 47). The Motion is **GRANTED** and the Settlement amount is hereby **APPROVED as to amount only**.

The parties in this matter have settled for a sum certain on August 27, 2013. They now seek approval of that settlement. The representative of an incompetent person must secure leave of Court before any claim or interest of the person may be settled or compromised. 755 ILL. COMP. STAT. § 5/19-8; *In re Guardianship of Mabry*, 666 N.E.2d 16, 21 (Ill. App. Ct. 1996). Pursuant to this requirement, this Court held a Fairness Hearing on September 17, 2013 in which Jane Doe's attorneys, Thomas R. Kennedy and Roshni C. Shikari, and Defendants' attorneys, Richard Waris and Donad Eckler, appeared. Sabra Smith, Jane Doe's guardian, testified as to the nature and circumstances of the settlement agreement between the parties and Plaintiff's attorneys represented that they will be petitioning the state probate court to approve the creation of a Special Needs Trust, pursuant to the Omnibus Budget Reconciliation Act of 1993, into which the settlement proceeds will be placed. The parties represented that the state probate court will be

reviewing the trust documents, including the trustee designation and the terms of the trust, at a hearing to be held within 30 days. As such, Plaintiff limited her request to Court approval of the settlement amount. This Court finds that the amount of the settlement is sufficient and in Plaintiff's, Jane Doe's, best interests. The Court defers to the state probate court as to approval of the trust itself.

This Court accordingly finds that the settlement amount is fair and reasonable and in Jane Doe's best interests and hereby **APPROVES** the same. Pursuant to 755 ILL. COMP. STAT. § 5/25/-2, Defendants shall pay the settlement amount into the trust upon approval by the state probate court.

IT IS SO ORDERED.

DATED: October 1, 2013

DONALD G. WILKERSON
United States Magistrate Judge