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HONORABLE THOMAS O. RICE

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

DANIELLE TEUSCHER, an
individual; and DANIELLE
TEUSCHER, as mother and natural
guardian of Z.F., a minor,

Plaintiffs,

vs.

CCB-NWC LLC, a California limited
liability company, d/b/a, NW
CRYOBANK,

Defendants.

No. 19-cv-00204-TOR

**PETITION FOR APPROVAL
OF SETTLEMENT AND
COMPROMISE OF
MINOR'S CLAIMS**

Date: December 11, 2020
Time: 10:00 a.m.

Pursuant to Local Rule 17, Plaintiff, Danielle Teuscher hereby requests
that the Court approve the proposed distribution of the minor's funds as set forth
below in this petition for approval of settlement and compromise of minor's

1 claims and as detailed in the independent report to be submitted by John Allison,
2 the duly appointed Settlement Guardian Ad Litem (SGAL) for minor Plaintiff
3 Z.F.
4

5 I. NATURE OF THE CASE

6 1. This is a combined personal injury, replevin, breach of contract and
7 consumer protection action brought by a customer and a donor conceived
8 offspring of gametes that were sold by Defendant, CCB-NWC, LLC,
9 (hereinafter, "NW Cryobank"). NW Cryobank revoked Ms. Teuscher's access
10 to her gametes that she had in storage for years. NW Cryobank revoked her
11 access to these gametes after Ms. Teuscher tested her Z.F., her donor conceived
12 daughter's DNA. Gametes from the same donor were used by Ms. Teuscher to
13 conceive Z.F. Ms. Teuscher tested Z.F.'s DNA through 23andMe, the direct to
14 consumer DNA testing service, to search for her half siblings. Ms. Teuscher
15 connected with a relative of the donor through 23andMe's email server. As a
16 result, NW Cryobank sent Ms. Teuscher a Cease and Desist Letter threatening a
17 sum of \$20,000 plus legal fees and revoked Ms. Teuscher's access to her
18 remaining 5 vials of donor's gametes, shut down its sibling registry, removed
19 the donor's profile from its website, and restricted Ms. Teuscher's access to her
20 own profile containing health updates for the donor she used.
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1 2. Plaintiffs assert that NW Cryobank breached an agreement and was
2 otherwise against the law by wrongly seizing Ms. Teuscher’s property (her
3 gametes) and misrepresenting the communication status (for the benefit of Z.F.)
4 of the donor. Ms. Teuscher has been emotionally and medically damaged by
5 NW Cryobank’s actions. Ms. Teuscher developed manifestations of her
6 underlying autoimmune diseases and has suffered from anxiety and depression,
7 which were proximately caused by NW Cryobank.
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11 3. Z.F., has not yet exhibited the manifestations of the emotional
12 harm, but she may have already suffered as a result of her mother’s anguish and
13 loss. Z.F. will suffer the loss of access to medical information about her donor
14 and her own genetics as the “Open ID” donor that Ms. Teuscher was promised
15 was false and misrepresented by NW Cryobank. Z.F. now will never have any
16 100% genetic sibling(s). Plaintiffs have made several claims under
17 Washington State law under theories of conversion, breach of contract, and
18 breach of the consumer protection law asserting unconscionability of NW
19 Cryobank’s business dealings, as it relates to Z.F. Plaintiffs sought economic
20 and non-economic damages for Plaintiffs’ losses. No counterclaim was ever
21 brought by NW Cryobank.
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1 4. Plaintiff Z.F. is a 6 year-old female born on December 18, 2013.

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4 5. Plaintiff Danielle Teuscher is Plaintiff Z.F.’s biological mother and
5 the court-appointed guardian ad litem for Z.F. *See ECF 51.*

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7 **II. CIRCUMSTANCES, NATURE, AND TERMS OF**
8 **SETTLEMENT**

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10 6. After Plaintiffs obtained partial answers to their discovery demands
11 and after an inordinate amount of pretrial motion practice, Plaintiffs and
12 Defendant arrived at a settlement.

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14 7. Ms. Teuscher and NW Cryobank agreed to a settlement; in return
15 for the consideration of \$75,000.00, Plaintiffs will fully release Defendants from
16 all claims arising out of or related to the facts underlying this suit, with the
17 exception of section 7(a) and 7(b) of the parties’ Confidential Settlement and
18 Release Agreement. The Plaintiffs have agreed to dismiss their lawsuit filed in
19 this Court with prejudice.

20
21 8. The issues raised in this case are novel and the discovery was just
22 beginning; all to say that there would have been protracted discovery disputes
23 had the case proceeded.

1 9. The attorney’s fees and all litigation costs and prior local counsel
2 fees, will be paid solely from Petitioner’s settlement share. Carmen Bremer,
3 principal of Bremer Law Group, PLLC, (BLG) prior local counsel for the
4 Plaintiffs. Ms. Teuscher further contracted with BLG to assist in the litigation
5 and BLG charged her reduced hourly rate. BLG is owed \$6,104.50, all of which
6 Ms. Teuscher proposes that such sum will be paid solely from her share.
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9 10. Both Plaintiffs will not be responsible for NW Cryobank’s
10 attorneys’ fees or costs of NW Cryobank.
11

12 11. Because Z.F. is a minor, Petitioner proposes to the Court that, she
13 deposit Z.F.’s portion of the settlement in an interest bearing account at Bank of
14 America, to be opened in Z.F.’s name which would be inaccessible to Z.F. until
15 Z.F. turns 18 years old on December 18, 2032. Prior to that time, Z.F.’s mother,
16 Plaintiff Danielle Teuscher, will be the custodian and will have no authority to
17 make investment decisions on behalf of Z.F. Further, Plaintiff Danielle
18 Teuscher proposes that she will not be able to make any withdrawals from the
19 account, absent compliance with Local Rule 17, specifically, by obtaining a
20 court order.
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24 12. All Plaintiffs, including Plaintiff Z.F., are represented in this matter
25 by Jill H. Teitel of Law Offices of Jill H. Teitel, PLLC (LOJT) and local
26 counsel, Darrell Cochran of the law firm Pfau Cochran Vertetis Amala.

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2 13. Plaintiff Danielle Teuscher hired LOJT for Plaintiffs on a
3 contingency-fee basis, with the fee being 33% of the total recovery amount for all
4 Plaintiffs. However, LOJT will cap attorney’s fees in the amount of 20% of the
5 full recovery, just to be allocated to Petitioner’s settlement portion. Pursuant to
6 LOJT’s engagement, LOJT is further entitled to recovery of its costs incurred in
7 prosecuting the litigation. LOJT has not been fully reimbursed for its costs. BLG
8 has outstanding legal fees and expenses. The following is the breakdown:
9
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11	LOJT Total Expenses:	\$10,323.64
12	Plaintiff’s Retainer payments for costs:	\$10,001.17
13	Owed to LOJT:	\$ 322.47
14	Owed to BLG:	\$ 6,104.50
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18 14. Darrell Cochran became involved in this lawsuit and graciously
19 agreed to assist on a *pro bono* basis.
20

21 15. Petitioner, Ms. Teuscher proposes that all disbursements to LOJT
22 and BLG be allocated to her share of the settlement only.
23

24 **III. SETTLEMENT IS IN THE BEST INTEREST OF THE MINOR**
25 **PLAINTIFF**

26 16. A careful and diligent inquiry and investigation has been
undertaken to ascertain the facts relating to the incident giving rise to the

1 minor's claims, the parties responsible for the incident, and the nature, extent,
2 and seriousness of the minor's claims.

3
4 17. Since this Litigation focuses on Defendant's actions and harm
5 targeted at Ms. Teuscher, we propose that it is reasonable and fair that 85% be
6 allocated to Ms. Teuscher and 15% to Z.F. Z.F. is a third party beneficiary of
7 the contract and promises between Ms. Teuscher and NW Cryobank. Z.F.'s
8 damages including but not limited to: the loss of the ability to connect to half
9 siblings who are also donor conceived (NW Cryobank's sibling registry), the
10 loss of easily accessible and updated medical information from her donor, and
11 the loss of the communication status of her mother's chosen, Open ID donor.
12 All of these losses encompass part of the negotiated settlement herein.

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17 18. Petitioner fully understands that if the compromise proposed in this
18 petition is approved by the Court and such proceeding is compromised, all
19 Plaintiffs, including Z.F., will be forever barred and prevented from seeking any
20 further recovery of compensation, with the exception of sections 7a and 7b of
21 the parties' Confidential Settlement and Release Agreement.

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24 19. Petitioner recommends this compromise settlement and the
25 proposed distribution to the minor to the Court as being fair, reasonable, and in
26 the best interest of the minor, and requests that the Court approve this

1 compromise settlement and make such other and further orders as may be just
2 and reasonable.

3
4 **IV. PROPOSED DISBURSEMENT**

5 20. LOJT has represented Plaintiff Danielle Teuscher for over a year
6 and a half. LOJT represented the Plaintiffs according to a standard 1/3
7 contingency fee agreement. However, the Petitioner is proposing a reduction to
8 the amount of 20% in attorneys' fees plus the reimbursement of advanced costs
9 in the amount of \$322.47.
10

11 21. The above referenced deductions for attorneys' fees and costs,
12 leaves Z.F. with \$11,250.00. The undersigned proposes that Z.F.'s funds be
13 placed into a blocked account for release to her on her 18th birthday.
14

15 22. Petitioner requests that the SGAL such sum be paid by NW
16 Cryobank. Defendant has not agreed to pay this cost; however it is reasonable
17 and customary for Defendant to pay such costs.
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20 **WHEREFORE**, Petitioner prays as follows:

21 A. That Plaintiff, Danielle Teuscher, the natural mother and individual who originally
22 brought the claim on behalf of Z.F., shall be authorized to enter into a full and complete
23 settlement with the Defendant for settlement of any and all damages and personal injuries to
24 Z.F., as a result of the aforesaid incidents by acceptance of the above-described settlement.
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1 B. That the cash funds specified in the settlement be sent to LOJT and placed into the LOJT
2 Escrow account to be set forth in the report of Settlement Guardian Ad Litem, John Allison.
3 Specifically, Petitioner proposes that the Court grant LOJT to disburse the \$75,000.00 as
4 follows:

5	Proposed Gross Settlement	\$75,000.00
6		
7	15% to Z.F.	\$11,250.00
8	85% to Plaintiff Teuscher	\$63,750.00
9	Costs to LOJT	\$ 322.47
9	Attorney’s Fees to BLG	\$ 6,104.50
10	20% Contingency Fee to LOJT	\$15,000.00
11	Net Funds to Plaintiff Danielle Teuscher	\$42,323.03

12 C. That the net funds to minor Z.F. are to be placed in an interest bearing account
13 maintained by Bank of America for the sole benefit of Z.F.

14 D. That the fees and expenses to be incurred by Settlement Guardian Ad Litem, John
15 Allison, in reviewing the settlement to determine its adequacy on behalf of the minor child as
16 stated in his report filed, are being paid for by Defendant within thirty (30) days of entry of this
17 order.
18

19 E. That Defendant pay the settlement of \$75,000.00 to LOJT within twenty-one (21) days
20 of entry of this order and that interest will accrue at 9% per annum for any day beyond the
21 twenty-one (21) day requirement.
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23 Signed this 12th day of November, 2020, in Tacoma, Washington.

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25 By: /s/ Darrell Cochran
26 Darrell L. Cochran, WSBA No. 22851
Attorney for Plaintiffs

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STIPULATION

Plaintiffs and Defendants hereby stipulate to extend deadlines:

PFAU COCHRAN VERTETIS ALMALA, PLLC

/s/ Darrell L. Cochran
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/s/ Jill H. Teitel
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WITHERSPOON KELLEY

/s/ Brian T. Refofke
BRIAN T. REKOFKE, WSBA # 13260
MATTHEW W. DALEY, WSBA # 36711
422 West Riverside Avenue, Suite 1100
Spokane, Washington 99201

PAUL HASTINGS, LLP

/s/ William F. Sullivan
WILLIAM F. SULLIVAN, *pro hac vice*
TIMOTHY D. REYNOLDS, *pro hac vice*
515 South Flower Street, 25th Floor
Los Angeles, California 90071

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ORDER

THIS MATTER, having come on the Motion, Stipulation, and Order to Extend Deadlines, and the Court being fully appraised after reviewing the record and finding the motion to be in order; **NOW THEREFORE**,

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the current deadlines will be extended 3 months from the original dates that were scheduled while keeping the intervals between the deadlines adjusted for the trial date which the Court will need to set at its earliest date.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that a new case schedule shall issue with dates that commensurate with the new trial date.

JUDGE THOMAS O. RICE

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CERTIFICATE OF SERVICE

I, **Sarah Awes**, hereby certify that on the 12th day of November, 2020, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following:

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/s/ Sarah Awes _____
Sarah Awes
Legal Assistant