

Hunt et al. v. Home Depot USA, Inc. (Case No. 24CV03854)

Hearing Date: May 6, 2026

Nature of Proceeding:

1. Petition for Approval of Compromise of Claim (Minor Emmalyn Hunt);
2. Petition for Approval of Compromise of Claim (Minor Olivia Hunt)

Attorneys:

For plaintiffs: NordstrandBlack PC by Renee J. Nordstrand

For defendant: Manning & Kass, Ellrod, Ramirez, Trester LLP by Karen Liao and Arghavan Sharifan

Tentative Ruling:

Appearances required. (CRC 7.952.)

For the reasons discussed below, the court finds the settlement amount and apportionment to be reasonable; that attorneys' fees are set at 35% of the gross settlement amount, which represents a reduction to the requested 40% fee; and that petitioners are required to appear to discuss the disposition of the additional amount.

Background:

On July 13, 2022, minor plaintiffs Emmalyn Hunt and Olivia Hunt accompanied their father, Aaron Hunt, to Home Depot in Santa Maria, California. While there a large cardboard box positioned on a high shelf fell and struck Emmalyn Hunt and Olivia Hunt, injuring them. Plaintiffs' complaint included a cause of action for negligence and premises liability on behalf of Emmalyn Hunt and Olivia Hunt for the personal injuries, negligence on behalf of Aaron Hunt for emotional distress, and loss of consortium on behalf of Megan Hunt, Aaron's spouse. Home Depot offers to settle this suit for \$500,000.00.

Analysis:

1. Reasonableness of Settlement Amount

The court's primary concern when approving a minor's compromise is "whether the compromise is sufficient to provide for the minor's injuries, care and treatment." (*Goldberg v. Superior Court* (1994) 23 Cal.App.4th 1378, 1382.) The petition must contain "a full disclosure of all relevant information bearing upon the reasonableness of the compromise." (Calif. Rules Court, rule 7.950; *Espericueta v. Shewry* (2008) 164 Cal.App.4th 615, 626.) Courts evaluate reasonableness from the

perspective of the total settlement and the minor's best interests (*Tapia v. Pohlmann* (1998) 68 Cal.App.4th 1126, 1132, fn. 9.) Information about the minor's injuries, liability analysis, and whether the settlement adequately compensates the minor for damages are critical considerations. (See *Espericueta v. Shewry, supra*, at 626.) The court must be informed of all facts that could affect whether the settlement amount is reasonable, including any disputes over liens that might reduce the minor's net recovery (*Id.*)

Emmalyn was 3 years old at the time of the incident. She sustained a concussion, immediate impact amnesia, temporary incontinence, and sub syndromal PTSD. It is reported that, while she continues to demonstrate anxiety in stores and during storms, she otherwise appears to be fully recovered. The parents are advised to watch for attention deficits through second grade. Olivia was 6 years old at the time of the incident. She sustained a bruise and an abrasion and has fully recovered from these injuries.

Home Depot offers to settle this suit for \$500,000.00. This will be apportioned as follows: \$220,000 to Emmalyn; \$30,000.00 to Olivia, \$125,000 to Aaron, and \$125,000 to Megan. This was apportioned based on the specific injuries and damages attributable to each plaintiff.

Both the settlement and the apportionment appear reasonable. As attorney Nordstrand acknowledges, Olivia's injuries were relatively minimal. Emmalyn's injuries required experts to evaluate and determine if any brain injury or PTSD resulted. The result achieved appears to be in the minors' best interests and accounts for the possibility that Emmalyn might need future care. (See Nordstrand Decl., ¶ 9, Attachment 13a.)

2. Attorney Fees and Expenses

The petitioners here signed a contingency fee agreement with their attorney that provided for fees as follows: "Attorney shall receive thirty-three and one third percent (33 1/3%) of any gross recovery prior to filing a lawsuit or prior to demand for arbitration, forty percent (40%) of any gross recovery after a lawsuit is filed or a demand for arbitration is made, and forty-five percent (45%) of any gross recovery made within 60 days prior to the initial trial or arbitration date or any gross recovery made thereafter." (Petition, Attachment 17a.) Commensurate with this agreement, petitioners request fees amounting to 40% of each minor's gross settlement be awarded. As to Emmalynn, petitioners request attorney fees be awarded in the amount of \$88,000. As to Olivia, petitioners request \$12,000 in attorney fees be awarded.

In any case in which a trial court approves a settlement involving the payment of funds to a minor, the court must make an order for the payment of

reasonable attorney fees. (See Prob. Code, §§ 3600-3601.) Rule 7.955 of the California Rules of Court establishes the procedure the court must follow and factors it may consider in determining whether an attorney's proposed fee is reasonable.

California Rules of Court, rule 7.955(a) provides that, in the absence of a fee agreement *previously approved by the court*, “the court must use a reasonable fee standard when approving and allowing the amount of attorney's fees payable from money or property paid or to be paid for the benefit of a minor.” (Cal. Rules of Court, rule 7.955(a)(1).) In determining whether a proposed fee is reasonable, “[t]he court must give consideration to the terms of any representation agreement made between the attorney and the representative of the minor . . . and must evaluate the agreement based on the facts and circumstances existing at the time the agreement was made.” (Cal. Rules of Court, rule 7.955(a)(2).)

Rule 7.955(b) provides a “nonexclusive” list of factors the court may consider in determining a reasonable attorney's fee. The first of these factors is “[t]he fact that a minor . . . is involved and the circumstances of that minor.” (Cal. Rules of Court, rule 7.955(b)(1).) The remaining factors pertain mostly to the nature of the legal work involved.¹

“California Rules of Court, rule 7.955 does not dictate a presumptively reasonable percentage or mathematical method of determining the appropriate attorney fees under a contingency agreement. Indeed, in adopting the rule, the Judicial Council explicitly preempted local rules regarding attorney fees for minors, many of which had established a baseline recovery of 25 percent We acknowledge that what is reasonable in applying the factors in California Rules of Court, rule 7.955 in any particular case may comprise a range of percentages.”

¹ Thus, a court may consider “[t]he amount of the fee in proportion to the value of the services performed” (Cal. Rules of Court, rule 7.955(b)(2)), “[t]he novelty and difficulty of the questions involved and the skill required to perform the legal services properly” (Cal. Rules of Court, rule 7.955(b)(3)), and “[t]he amount involved and the results obtained” (Cal. Rules of Court, rule 7.955(b)(4)). Other factors pertain to other aspects of the representation, including “[t]he time limitations or constraints imposed by the representative of the minor . . . or by the circumstances” (Cal. Rules of Court, rule 7.955(b)(5)); “[t]he nature and length of the professional relationship between the attorney and the representative of the minor” (Cal. Rules of Court, rule 7.955(b)(6)); “[t]he experience, reputation, and ability of the attorney or attorneys performing the legal services” (Cal. Rules of Court, rule 7.955(b)(7)); and “[t]he time and labor required” (Cal. Rules of Court, rule 7.955(b)(8)). In addition, the court may consider factors relating to the minor's representative, including “[t]he informed consent of the representative of the minor” (Cal. Rules of Court, rule 7.955(b)(9)); “[t]he relative sophistication of the attorney and the representative of the minor” (Cal. Rules of Court, rule 7.955(b)(10)); and “[t]he likelihood, if apparent to the representative of the minor . . . when the representation agreement was made, that the attorney's acceptance of the particular employment would preclude other employment” (Cal. Rules of Court, rule 7.955(b)(11)). The court may also consider “[w]hether the fee is fixed, hourly, or contingent” (Cal. Rules of Court, rule 7.955(b)(12)) and, if contingent, the court may consider “(A) [t]he risk of loss borne by the attorney; [¶] (B) [t]he amount of costs advanced by the attorney; and [¶] (C) [t]he delay in payment of fees and reimbursement of costs paid by the attorney” (Cal. Rules of Court, rule 7.955(b)(13)(A)-(C)). Finally, the court may consider “[s]tatutory requirements for representation agreements applicable to particular cases or claims.” (Cal. Rules of Court, rule 7.955(b)(14).)

(*Schulz v. Jeppesen Sanderson, Inc.* (2018) 27 Cal.App.5th 1167, 1175—overruling court award of 10% of the settlement amount because it was not reasonable under the facts of the case.) The *Schulz* court went on to observe: “Although the trial court would be acting within its discretion to award less than 31 percent [the requested fee amount], we note that 31 percent is not out of line with awards in class actions, which, like this case, involve attorney fees to be paid by a protected class and that require court approval.” (*Id.*) The *Schulz* court ultimately criticized the court for giving “too little consideration to California Rules of Court, rule 7.955(a)(2), which required it to take into account the terms of [the attorney’s] representation agreement with [the client] from the perspective of when the agreement was signed. In addition, the court did not acknowledge the factors listed in California Rules of Court, rule 7.955(b). Although these factors are not mandatory, they provide a guide to the considerations relevant to determining whether a fee protects the interests of a minor while allowing an attorney to obtain a fair recovery. Instead of balancing the relevant factors, the court gave overwhelming weight to a single concern, the expense of the children’s extensive medical needs.” (*Id.* at 1176.)

Attorney Nordstrand thoroughly and satisfactorily addressed each of the factors in rule 7.955. (Nordstrand Declaration, ¶¶ 10-20.) The court has carefully considered these points and finds that while attorney Nordstrand has demonstrated her considerable experience and significant skill in this case, the record does not support a fee that amounts to 40% of the settlement. The lawsuit was filed on July 10, 2024; the complaint was not challenged, and an answer was filed on November 8, 2024; and the parties attended case management conferences until February 25, 2026, when a settlement of the entire case was announced. The petitions to compromise the claims were filed the next day. This is a fairly uncomplicated litigation record, and while the court is aware that services were performed outside the courtroom, the escalated fee was intended to cover the added burden of litigation. Balancing attorney Nordstrand’s extensive skill and the good result achieved, the court will allow a fee that amounts to 35% of the gross settlement. That amounts to \$77,000 for Emmalynn and \$10,500 for Olivia. The court finds this to be reasonable based on all the factors in California Rules of Court, rule 7.955.

The reported expenses appear to be reasonable and are approved.

3. Disposition of Balance

Petitioners propose that the balance of each settlement be used to purchase a single-premium deferred annuity. Since the attorney fee request has been modified, the available balance has increased. Petitioners’ attorney should appear at the court to discuss whether the excess balance should be used to increase the investment or whether some other solution exists.