

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION**

**AMERICAN GENERAL LIFE
INSURANCE COMPANY,**

Plaintiff,

v.

Case No.: 1:22cv213-MW/ZCB

KENDAL E. WILSON, JR. et al.,

Defendants.

_____ /

**ORDER APPROVING SETTLEMENT
AND ENTERING FINAL JUDGMENT**

This Court has considered, without hearing, Defendant Crosby's motion for approval of minors' settlement and entry of final judgment. ECF No. 30. This Court has also reviewed the attached settlement agreement, which identifies a death benefit calculated as the \$500,000 face amount of the Policy, plus applicable interest, less \$6,000 the Parties have agreed may be withheld by Plaintiff as reimbursement for Plaintiff's reasonably attorney's fees and costs incurred in bringing this interpleader suit. *See* ECF No. 30-1 at 2. The agreement allocates 10% of the death benefit paid to Defendant Cook, 10% paid to Defendant Crosby, and the remaining 80% to be

split equally between the two minors and paid to Defendant Crosby's counsel for the benefit of Defendant Crosby¹ as trustee of the minors' trust. *Id.* at 2–3.

With respect to the settlement agreement, this Court must determine whether the appointment of a guardian ad litem is necessary to protect the minors' interests and whether the settlement agreement is in the best interests of the minors. *See Fall v. Curran*, Case No. 3:19-cv-609-J-39JBT, 2020 WL 9597491, *1 (M.D. Fla. Dec. 23, 2020). “The appointment of a guardian ad litem is a procedural question controlled by Rule 17(c) of the Federal Rules of Civil Procedure.” *Id.* at *1 n.3 (quoting *Burke v. Smith*, 252 F.3d 1260, 1264 (11th Cir. 2001)). “Unless a conflict of interest exists between the representative and minor, a district court need not even consider the question of whether a guardian ad litem should be appointed.” *Cress ex rel. R.L.C. v. Brighthouse Life Ins. Co.*, 2021 WL 2930830, *2 (M.D. Fla. July 7, 2021) (quoting *Burke*, 252 F.3d at 1264)). And “when a minor is represented by a parent who is a party to the lawsuit and who has the same interests as the child there is no inherent conflict of interest.” *Meyers v. United States*, No. 6:13-cv-1555, Orl-41TBS, 2014 WL 5038585, *3 (M.D. Fla. Sept. 29, 2014) (quoting *Burke*, 252 F.3d at 1264)).

This Court recognizes that Defendant Crosby, the minors' father, stands to receive 10% of the death benefit under the proposed settlement; however, I do not

¹ Defendant Crosby is the father of both Defendant minors.

find that this fact, alone, creates a conflict of interest with his children's interests. Indeed, as counsel points out in the motion for approval of settlement, the minor children would each be allocated 40% of the death benefit—which is “an outcome that matches their best case scenario should the case proceed to dispositive motions or trial, without exposure to any risk of loss.” ECF No. 30 at 3. No other facts have come to this Court's attention that would cause this Court to find a conflict of interest such that this Court should consider appointing a guardian ad litem under Rule 17. Were this Court to do otherwise and appoint a guardian ad litem, this would serve to needlessly deplete the minors' ultimate recovery. Accordingly, this Court finds it is not necessary to appoint a guardian ad litem to protect the minors' interests as they are adequately represented by their father in this case for purposes of this Court's approval of the settlement agreement.

Next, this Court considers whether the settlement agreement is in the best interests of the minors. Upon review of the proposed settlement agreement, this Court finds it is fair, adequate, and reasonable settlement of the disputed benefits and not a product of collusion of the parties. The agreement was negotiated, in part, by attorneys hired by the minors' father, who share an interest in maximizing the settlement amount. In addition, as noted above, the percentage allocated for the minors' benefit is the best case scenario given the history of beneficiary allocation requests that had been submitted prior to Ms. Crosby's death.

Accordingly, the unopposed motion, ECF No. 30, is **GRANTED**. The parties must comply with their settlement agreement. The Clerk shall enter judgment stating, “The parties are ordered to comply with their settlement agreement. All claims in this case are voluntarily dismissed with prejudice under Federal Rule of Civil Procedure 41.” The Clerk must close the file.

SO ORDERED on March 6, 2023.

s/Mark E. Walker

Chief United States District Judge