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5 Attorneys for Plaintiffs TRACY ROSS, as
 6 Prospective Guardian ad Litem of MAGGIE
 7 CHRISTINE ROSS, a minor; INA PATE

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

10 TRACY ROSS, as Guardian ad Litem of
 11 MAGGIE CHRISTINE ROSS; INA
 12 PATE,

CASE NO. 1:09-CV-01732-OWW-SMS

12 Plaintiffs,

13 v.

**PETITION AND ORDER FOR
GUARDIAN AD LITEM**

14 ATICO INTERNATIONAL USA, INC.;
 15 WALGREEN COMPANY; and DOES 1 to
 16 50, inclusive.

16 Defendants.

17 Petitioner and Plaintiff Real Party In Interest herein, MAGGIE CHRISTINE
 18 ROSS, through her parent and caregiver TRACY ROSS, states the following:

19 1. Petitioner is a minor, whose date of birth is September 22, 2005. Her
 20 sustained injuries as alleged were proximately caused by Defendant's negligence.

21 2. Petitioner alleges that the injury to MAGGIE CHRISTINE ROSS was
 22 caused by defects and/or negligence or other principles of legal fault in the sale, design,
 23 fabrication, assembling, testing, modifying, selling, and/or distributing of children's folding
 24 chairs as more fully described hereinafter.

25 3. The minor has no general guardian and no previous petition for
 26 appointment of guardian ad litem has been filed in this matter.

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1 4. TRACY ROSS, whose address is 5509 Parker Drive, Mariposa,
2 California 95338, is a competent and responsible person, and she is fully competent to act
3 as Maggie’s Guardian ad Litem.

4 5. California law provides that a minor cannot sue in his or her own name.
5 Rather, litigation must be conducted through a guardian ad litem. (Cal. Fam. Code § 6601;
6 Cal. Code of Civ. Pro. § 372.) Rule 17 (c) of the Federal Rules of Civil Procedure likewise
7 provides for the appointment of a guardian ad litem or similar next friend of a minor in order
8 to protect the minor’s interests.

9 6. TRACY ROSS is willing to serve as Maggie’s Guardian Ad Litem on
10 a prospective basis, as appears by her consent attached hereto.

11 WHEREFORE, Petitioner moves this Court for an order appointing TRACY
12 ROSS as Petitioner’s Guardian as Litem for the purposes of pursuing this action against
13 Defendants.

14
15 DATED: September 30, 2009.

CORNWELL & SAMPLE, LLP

16
17 By: /s/ Stephen R. Cornwell

18 Stephen R. Cornwell
19 Attorney for Plaintiffs
20 TRACY ROSS, as Guardian ad Litem of
21 MAGGIE CHRISTINE ROSS; INA PATE

22 **DECLARATION OF TRACY ROSS IN SUPPORT OF PETITION FOR**
23 **GUARDIAN AD LITEM**

24 I, Tracy Ross, state:

25 1. I am an adult and a resident of Mariposa County, California. I have
26 personal knowledge of the matters set forth in this declaration. If called, I would be
27 competent to testify to the truth of these matters.

28 2. Petitioner Real Party in Interest, MAGGIE CHRISTINE ROSS is a minor.

1 Her date of birth is September 22, 2005. I am her parent and caregiver.

2 I declare under penalty of perjury that the foregoing is true and correct and this
3 declaration was executed on September 30, 2009, in Fresno County, California.

4
5 _____ /s/ Tracy Ross
6 Tracy Ross

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10 **CONSENT TO ACT AS GUARDIAN AD LITEM**

11 I, Tracy Ross, consent to act as Guardian ad Litem for minor Petitioner
12 MAGGIE CHRISTINE ROSS in the above action.

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14 Dated: September 30, 2009. _____ /s/ Tracy Ross
15 Tracy Ross

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18 **ORDER**

19 GOOD CAUSE APPEARING, the Petition for an order appointing Tracy Ross
20 as Guardian ad Litem for Maggie Ross for purposes of this action is GRANTED.

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25 IT IS SO ORDERED.

26 Dated: October 5, 2009 _____ /s/ Sandra M. Snyder
27 UNITED STATES MAGISTRATE JUDGE