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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

DUBRIN et al.,)	Case No.: 1:11-cv-01484 DAD JLT
Plaintiffs,)	
v.)	ORDER REQUIRING TO GUARDIAN AD LITME
MICHAEL STAINER, et al.,)	FOR THE SUBSTITUTE HEIR FOR JUAN
Defendants.)	ZAVALA TO FILE THE DECLARATION
)	REQUIRED BY CCP 377.32

In noting their condition non-opposition to the motion to substitute the heir for Decedent Juan Zavala, Defendants note she has failed to to file the declaration required by California Code of Civil Procedure § 377.32. This section reads,

- (a) The person who seeks to commence an action or proceeding or to continue a pending action or proceeding as the decedent's successor in interest under this article, shall execute and file an affidavit or a declaration under penalty of perjury under the laws of this state stating all of the following:
 - (1) The decedent's name.
 - (2) The date and place of the decedent's death.
 - (3) “No proceeding is now pending in California for administration of the decedent's estate.”
 - (4) If the decedent's estate was administered, a copy of the final order showing the distribution of the decedent's cause of action to the successor in interest.
 - (5) Either of the following, as appropriate, with facts in support thereof:
 - (A) “The affiant or declarant is the decedent's successor in interest (as defined in Section 377.11 of the California Code of Civil Procedure) and succeeds to the decedent's interest in the action or proceeding.”
 - (B) “The affiant or declarant is authorized to act on behalf of the decedent's successor in interest (as defined in Section 377.11 of

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the California Code of Civil Procedure) with respect to the decedent's interest in the action or proceeding.”

(6) “No other person has a superior right to commence the action or proceeding or to be substituted for the decedent in the pending action or proceeding.”

(7) “The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.”

(b) Where more than one person executes the affidavit or declaration under this section, the statements required by subdivision (a) shall be modified as appropriate to reflect that fact.

(c) A certified copy of the decedent's death certificate shall be attached to the affidavit or declaration.

Thus, the Court **ORDERS**:

1. **No later than April 8, 2016**, the guardian ad litem counsel **SHALL** file the declaration required by California Code of Civil Procedure § 377.32

IT IS SO ORDERED.

Dated: **March 25, 2016**

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE