



1 under the age of eighteen is a minor, and a minor may bring suit as long as a guardian conducts the  
2 proceedings. Cal. Fam. Code §§ 6502, 6601. A guardian ad litem may be appointed to represent the  
3 minor's interests. Cal. Code Civ. P. § 372(a).

4 In determining whether to appoint a particular guardian ad litem, the court must consider  
5 whether the minor and the guardian have divergent interests. Cal. Code Civ. P. § 372(b)(1). "When  
6 there is a potential conflict between a perceived parental responsibility and an obligation to assist the  
7 court in achieving a just and speedy determination of the action, a court has the right to select a  
8 guardian ad litem who is not a parent if that guardian would best protect the child's interests." *Williams*  
9 *v. Super. Ct.*, 147 Cal. App. 4th 36, 38 (Cal. Ct. App. 4th 2007) (internal quotation marks and citation  
10 omitted). "[I]f the parent has an actual or potential conflict of interest with his child, the parent has no  
11 right to control or influence the child's litigation." *Id.* at 50.

## 12 **II. Discussion and Analysis**

13 Here, Plaintiff A.V. is the son of Concepcion Varela and is a minor under California law. *See*  
14 Cal. Fam. Code § 6502. As a minor, his ability to bring suit is contingent upon appointment by the  
15 court of a guardian ad litem. Upon review of the Complaint, it does not appear there are adverse  
16 interests. Ms. Varela does not have competing claims with Plaintiff, because A.V. is the only plaintiff  
17 in this action, and the only claims are asserted on his behalf. Accordingly, appointment of Ms. Varela  
18 as guardian ad litem for her son is appropriate. *See Burke v. Smith*, 252 F.3d 1260, 1264 (11th Cir.  
19 2001) ("Generally, when a minor is represented by a parent who is a party to the lawsuit and who has  
20 the same interests as the child there is no inherent conflict of interest."); *see also Anthem Life Ins. Co.*  
21 *v. Olguin*, 2007 U.S. Dist. LEXIS 37669, at \*7 (E.D. Cal. May 9, 2007) (observing "[a] parent is  
22 generally appointed guardian ad litem").

## 23 **III. Conclusion and Order**

24 The decision whether to appoint a guardian ad litem is "normally left to the sound discretion of  
25 the trial court." *United States v. 30.64 Acres of Land, etc.*, 795 F.2d 796, 804 (9th Cir. 1986). Here, it  
26 does not appear Ms. Varela has conflicting interests, and as such she may be appointed to represent the  
27 interests of her son. Therefore, the Court is acting within its discretion to grant the application.

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Based upon the foregoing, **IT IS HEREBY ORDERED:**

1. The Order to Show Cause dated February 24, 2015 (Doc. 4) is **DISCHARGED**;
2. The motion for appointment of Concepcion Varela as guardian ad litem for A.V. is **GRANTED**; and
3. Concepcion Varela is appointed to act as guardian ad litem for plaintiff A.V., and is authorized to prosecute this action on his behalf.

IT IS SO ORDERED.

Dated: March 12, 2015

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE