

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

M., et al.,  
Plaintiffs,  
v.  
SCHWARZENEGGER, et al.,  
Defendants.

Case No. 1:15-cv-01709-LJO-SAB  
ORDER CONTINUING HEARING ON  
MOTION TO WITHDRAW TO AUGUST  
31, 2016; DIRECTING PLAINTIFFS TO  
PROVIDE PROOF OF APPOINTMENT OF  
GUARDIAN AD LITEM; AND DIRECTING  
DEFENDANTS TO FILE AN OPPOSITION  
OR STATEMENT OF NON-OPPOSITION  
(ECF No. 18)

Plaintiffs Ramona Talamantez and minors C. M and I. M filed this civil rights action on November 9, 2015, pursuant to 42 U.S.C. § 1983 alleging deliberate indifference in violation of the Eighth Amendment caused the death of their son/father. While the complaint was filed “by and through her guardian ad litem” neither minor plaintiff has sought to have this court appoint a guardian ad litem to represent them in this action or submitted any documentation that a guardian ad litem was appointed by the state court. On May 23, 2016, Plaintiffs’ counsel filed a motion to withdraw as attorney of record. The motion to withdraw is currently set to be heard on June 29, 2016 at 10:00 a.m.

Upon review of the motion to withdraw, the Court determines that it is necessary to have Plaintiff Talamantez, Helen Cervantes, and Adelita Montes present for the hearing. Therefore,

1 the hearing shall be continued to August 31, 2016, and Plaintiffs' counsel shall be required to  
2 personally serve the Plaintiffs with a copy of this order to appear for the August 31 hearing.

3 Based on the foregoing, IT IS HEREBY ORDERED that:

- 4 1. The hearing on counsel's motion to withdraw is CONTINUED from June 29,  
5 2016, to **August 31, 2016 at 10:00 a.m.** in Courtroom 9;
- 6 2. Ramona Talamantez, Helen Cervantes and Adelita Montes **SHALL APPEAR at**  
7 **the Robert Coyle Federal Courthouse, 2500 Tulare Street, Fresno, CA on**  
8 **August 31, 2016 at 10:00 a.m. in Courtroom 9;**
- 9 3. Plaintiffs' counsel shall personally serve a copy of this order on Ramona  
10 Talamantez, Helen Cervantes and Adelita Montes and file proof of service at least  
11 fourteen (14) days prior to the August 31, 2016 hearing;
- 12 4. Plaintiffs C. M. and I. M. shall file proof of appointment of a guardian ad litem  
13 within fourteen (14) days from the date of entry of this order;
- 14 5. Defendants shall file an opposition or a statement of non-opposition to the motion  
15 to withdraw within fourteen (14) days from the date of entry of this order, Local  
16 Rule 230(c); and
- 17 6. Plaintiffs are forewarned that failure to appear at the August 31, 2016 hearing in  
18 compliance with this order may result in the issuance of sanctions, up to and  
19 including dismissal of this action.

20 IT IS SO ORDERED.

21  
22 Dated: June 21, 2016

  
\_\_\_\_\_  
UNITED STATES MAGISTRATE JUDGE