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

BRITTNEY REYES, on behalf of minor child  
Seth Joseph Reyes,  
  
Plaintiff,  
  
v.  
  
COMMISSIONER OF SOCIAL SECURITY.  
  
Defendant.

Case No. 1:16-cv-00013-SAB  
  
ORDER REQUIRING PLAINTIFF TO  
COMPLY WITH LOCAL RULE 202(a)

Seth Joseph Reyes filed a complaint on January 4, 2016, along with an application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. (ECF Nos. 1, 2.) On January 7, 2016, the Court issued an order requiring Plaintiff to submit a motion for appointment of a guardian ad litem. (ECF No. 3.) On January 21, 2016, Brittney Reyes filed the first amended complaint in this action, naming Brittney Reyes as Plaintiff on behalf of minor child Seth Joseph Reyes. (ECF No. 5.) However, Plaintiff has not filed a motion for guardian ad litem, which is now past due.

The capacity of a litigant is determined “by the law of the state where the court is located.” Fed R. Civ. P. 17(b). Under California law, a minor “shall appear either by a guardian or conservator of the estate or by a guardian ad litem appointed by the court in which the action or proceeding is pending, or by the judge in each case.” Cal. Code of Civ. P. § 372.

1 Consequently, a minor cannot maintain an action on his own.

2 Local Rule 202(a) of the Local Rules of the Eastern District of California states:

3 Upon commencement of an action or upon initial appearance in  
4 defense of an action by or on behalf of a minor or incompetent  
5 person, the attorney representing the minor or incompetent person  
6 shall present (1) appropriate evidence of a representative for the  
7 minor or incompetent person under state law or (2) a motion for  
8 the appointment of a guardian ad litem by the Court, or, (3) a  
9 showing satisfactory to the Court that no such appointment is  
10 necessary to ensure adequate representation of the minor or  
11 incompetent person. See Fed. R. Civ. P. 17(c).

12 Here, Plaintiff's counsel has not provided evidence that Plaintiff has a representative, not  
13 filed a motion with the court for the appointment of a guardian ad litem, and not made a  
14 satisfactory showing that no such appointment is necessary to ensure adequate representation of  
15 the minor. While the first amended complaint states that Brittney Reyes is the Plaintiff on behalf  
16 of minor child Seth Joseph Reyes and that Plaintiff's son is Seth Joseph Reyes, there is no  
17 evidence of the appointment of a representative under California law. There is no evidence that  
18 Brittney Reyes is the guardian of Seth Joseph Reyes. Plaintiff must comply with Local Rule  
19 202(a) in order to pursue this action by presenting "(1) appropriate evidence of a representative  
20 for the minor or incompetent person under state law or (2) a motion for the appointment of a  
21 guardian ad litem by the Court, or, (3) a showing satisfactory to the Court that no such  
22 appointment is necessary to ensure adequate representation of the minor or incompetent person."  
23 Local Rule 202(a).

24 Accordingly, IT IS HEREBY ORDERED that Plaintiff is DIRECTED to comply with  
25 Local Rule 202(a) within **seven (7)** days of the date of entry of this order.

26 IT IS SO ORDERED.

27 Dated: January 26, 2016

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UNITED STATES MAGISTRATE JUDGE