

1 Here, the child resides in California (Doc. 8 at 2) and the law of the state governs. Under
2 California law, an individual under the age of eighteen is a minor, and a minor may bring suit only if a
3 guardian conducts the proceedings. Cal. Fam. Code §§ 6502, 6601. The Court may appoint a
4 guardian ad litem to represent the child’s interests. Cal. Code Civ. P. § 372(a).

5 **II. Discussion and Analysis**

6 Here, J.F. is a 3-year-old. (Doc. 8 at 2) Thus, under California law, he is a minor. *See* Cal. Fam.
7 Code § 6502. As a minor, his ability to pursue this action is contingent upon the appointment of a
8 guardian ad litem. In determining whether to appoint a particular guardian ad litem, the court must
9 consider whether the child and the guardian have divergent interests. Cal. Code Civ. P. § 372(b)(1).
10 “When there is a potential conflict between a perceived parental responsibility and an obligation to
11 assist the court in achieving a just and speedy determination of the action, a court has the right to select
12 a guardian ad litem who is not a parent if that guardian would best protect the child’s interests.”
13 *Williams v. Super. Ct.*, 147 Cal. App. 4th 36, 38 (Cal. Ct. App. 4th 2007) (internal quotation marks and
14 citation omitted). “[I]f the parent has an actual or potential conflict of interest with his child, the parent
15 has no right to control or influence the child's litigation.” *Id.* at 50.

16 Here, the case raises issues related to the appropriate educational opportunities for the child. *See*
17 *Burke v. Smith*, 252 F.3d 1260, 1264 (11th Cir. 2001) (“Generally, when a minor is represented by a
18 parent who is a party to the lawsuit and who has the same interests as the child there is no inherent
19 conflict of interest.”); *see also Anthem Life Ins. Co. v. Olguin*, 2007 U.S. Dist. LEXIS 37669, at *7
20 (E.D. Cal. May 9, 2007) (observing that “[a] parent is generally appointed guardian ad litem”). Thus, it
21 does not appear there are adverse interests between the child and his proposed guardian ad litem.

22 **III. Conclusion and Order**

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

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

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1. The motions for appointment of Jennifer Feige as guardian ad litem for J.F. (Doc. 8) is **GRANTED**;
2. Jennifer Feige is appointed to act as guardian ad litem for J.F.. and is authorized to prosecute this action on his behalf.

IT IS SO ORDERED.

Dated: February 11, 2016

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE