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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DONNA FLETCHER; NATHAN
FLETCHER; and N.F., a minor by and
through his Guardian Ad Litem, DONNA
FLETCHER,

Plaintiffs,

v.

CITY OF MODESTO; TOM FARA; BRENT
SALYER; and DOES 1 through 50,

Defendants.

Case No. 1:16-CV-01512-LJO-EPG

ORDER DENYING MOTION TO APPOINT
GUARDIAN AD LITEM

(ECF No. 8)

Plaintiffs filed this civil rights case pursuant to 42 U.S.C. § 1983 on October 5, 2016. Plaintiffs Donna Fletcher (“Mother”), Nathan Fletcher (“Father”), and N.F. (“Child”) are related to Christopher Fletcher, who died allegedly as a result of gunshot wounds inflicted by Defendants. Plaintiff Donna Fletcher has filed an application for appointment as guardian ad litem for Plaintiff N.F., her minor grandson. (ECF No. 8.) The application is unopposed. The Court held a hearing regarding the application on November 18, 2016. (ECF No. 16.)

During the hearing, it was it was revealed that Donna and Nathan Fletcher are the legal guardians of N.F. Thus, the Court directed Plaintiffs to submit a status report as to whether it would be more appropriate for N.F. to proceed with a representative pursuant to Rule 17(c)(1) or without a representative pursuant to Rule 17(a)(2) of the Federal Rules of Civil Procedure. (*Id.*)

1 Rule 17(c) provides as follows:

2 (c) Minor or Incompetent Person.

3 (1) With a Representative. The following representatives may sue or
4 defend on behalf of a minor or an incompetent person:

5 (A) *a general guardian;*

6 (B) a committee;

7 (C) a conservator; or

8 (D) a like fiduciary.

9 (2) Without a Representative. A minor or an incompetent person
10 who does not have a duly appointed representative may sue by a
11 next friend or by a guardian ad litem. The court must appoint a
12 guardian ad litem—or issue another appropriate order—to protect a
13 minor or incompetent person who is unrepresented in an action.

14 FED. R. CIV. P. 17(c) (emphasis added).

15 Plaintiffs filed a status report as directed on November 29, 2016. (ECF No. 17.)

16 Plaintiffs report as follows:

17 Plaintiff N.F. should proceed with a representative pursuant to Federal Rule of
18 Civil Procedure Rule 17(c)(1)(A) because Plaintiffs Donna Fletcher and Nathan
19 Fletcher are the legal guardians of Plaintiff N.F. and the individuals with whom he
20 resides. Plaintiff N.F. should not proceed under Federal Rule of Civil Procedure
21 Rule 17(c)(2) because he has two duly appointed representatives that may sue on
22 his behalf.

23 Thus, Plaintiffs Donna Fletcher and Nathan Fletcher, as the legal guardians, shall
24 represent the interests of Plaintiff N.F in this case pursuant to Rule 17(c)(1). Accordingly,
25 it is no longer necessary to appoint a guardian ad litem pursuant to Rule 17(c)(2), and the
26 application for appointment of a guardian ad litem is DENIED as moot.

27 IT IS SO ORDERED.

28 Dated: December 1, 2016

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE

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