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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHRISTINA CABRERA, et al.,
Plaintiffs,
v.
UNITED STATES OF AMERICA,
Defendants.

Case No. 1:17-cv-00019-LJO-SAB
ORDER APPOINTING PATRICIA
McGREW AS GUARDIAN AD LITEM FOR
JOSIAH CABRERA
(ECF No. 6, 8)

On January 4, 2017, Plaintiff Christina Cabrera filed a complaint in this action along with a motion to appoint her as guardian ad litem for her minor child in this action. (ECF Nos. 1, 2.) On January 10, 2017, an order issued denying the motion for appointment as guardian ad litem without prejudice. The Court expressed concern regarding a possible conflict of interest based on the allegations in the complaint and any further petition for appointment of a guardian ad litem needed to demonstrate that the guardian was dedicated to the best interest of the child and address any potential conflict of interest. (ECF No. 5.) On January 19, 2017, a motion was filed to appoint Patricia McGrew as guardian ad litem for Josiah Cabrera. (ECF No. 6.) At the direction of the Court, Patricia McGrew filed a supplemental declaration on February 2, 2017. (ECF No. 8.)

Pursuant to Rule 17 of the Federal Rules of Civil Procedure, a representative of a minor may sue or defend on the minor’s behalf. Fed. R. Civ. P. 17(c). This requires the Court to take

1 whatever measures it deems appropriate to protect the interests of the individual during the
2 litigation. United States v. 30.64 Acres of Land, More or Less, Situated in Klickitat Cty., State
3 of Wash., 795 F.2d 796, 805 (9th Cir. 1986). The appointment of the guardian ad litem is more
4 than a mere formality. Id. “A guardian ad litem is authorized to act on behalf of his ward and
5 may make all appropriate decisions in the course of specific litigation.” Id. A guardian ad litem
6 need not possess any special qualifications, but she must “be truly dedicated to the best interests
7 of the person on whose behalf he seeks to litigate.” AT&T Mobility, LLC v. Yeager, 143
8 F.Supp.3d 1042, 9 (E.D. Cal. 2015). This means that the guardian ad litem cannot face an
9 impermissible conflict of interest with the ward and courts consider the candidate’s “experience,
10 objectivity, and expertise” or previous relationship with the ward. Id. (citations omitted).

11 “A guardian ad litem is authorized to act on behalf of his ward and may make all
12 appropriate decisions in the course of specific litigation. For example, notwithstanding the
13 incompetency of a party, the guardian may make binding contracts for the retention of counsel
14 and expert witnesses and may settle the claim on behalf of his ward.” United States v. 30.64
15 Acres of Land, More or Less, Situated in Klickitat Cty., State of Wash., 795 F.2d 796, 805 (9th
16 Cir. 1986)

17 Due to his age, Josiah Cabrera is not competent to proceed in this action on his own
18 behalf and the Court has expressed a concern regarding a potential conflict if he is represented by
19 his mother in this action. Rather than addressing the conflict issue, a motion for appointment of
20 Patricia McGrew as guardian ad litem has been filed. Ms. McGrew has a degree in social work
21 from Fresno State University and has previously worked as a social worker. (Decl. of Patricia
22 McGrew, ECF No. 6-2.) Ms. McGrew is employed fulltime and has an adult daughter. (Id.)
23 Ms. McGrew is familiar with the court system and has experience working with children based
24 on her prior employment as a social worker. (Id.) Ms. McGrew has never declared bankruptcy,
25 has minimal unsecured debt, and no criminal convictions. (Id.) Having been advised of the
26 nature of this action, Ms. McGrew is willing to serve as guardian ad litem for Josiah Cabrera in
27 this action. (Id.) Ms. McGrew states that she has no conflict of interest with the minor or his
28 mother and will act in the minor’s best interest. (ECF No. 8.)

