UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

S.V., by and through her Guardian ad Litem CLAUDIA VALENCIA, Plaintiff, v. DELANO UNION ELEMENTARY SCHOOL DISTRICT, et al., Defendants.	) Case No.: 1:17-cv-00780- LJO-JLT)) ORDER TO PLAINTIFF'S COUNSEL TO SHOW) CAUSE WHY THE MATTER SHOULD NOT BE) DISMISSED BASED UPON THE CHILD'S) LACK OF CAPACITY TO SUE AND) COUNSEL'S FAILURE TO COMPLY WITH) LOCAL RULE 202)))

Claudia Valencia initiated this action on behalf of S.V. in Kern County Superior Court, and named herself as the child's guardian ad litem. (*See* Doc. 1 at 6) However, Ms. Valencia has failed to comply with applicable rules. Notably, Local Rule 202 provides,

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

Here, there has been no showing that Ms. Valencia was named as the child's guardian ad litem in state court, and the Court's review of the state court docket does not indicate such an order was issued. Further, Ms. Valencia has not sought this appointment in this court, and fails to demonstrate that no such appointment is required by Fed. R. Civ. P. 17(c).

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1   Accordingly, the Court **ORDERS**:

2   1.   Within 14 days of this order, counsel SHALL show cause in writing why the matter

3 should not be dismissed without prejudice;

4   2.   Alternatively counsel SHALL comply with Local Rule 202.

5 **Failure to comply with this order will result in a recommendation that the matter be dismissed**

6 **without prejudice.**

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8 IT IS SO ORDERED.

9   Dated: **September 22, 2017**   **/s/ Jennifer L. Thurston**
10   UNITED STATES MAGISTRATE JUDGE

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