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TODD BOLEY, SBN 68119
ZOYA YARNYKH, SBN 258062
LAW OFFICES OF TODD BOLEY
2381 Mariner Square Drive, Suite 280
Alameda, CA 94501
Telephone: (510) 836-4500
Facsimile: (510) 649-5170

PETER W. ALFERT, SBN 83139
LAW OFFICES OF PETER ALFERT, APC
200 Pringle Ave., Suite 450
Walnut Creek, California 94596
Telephone: (925) 279-3009
Facsimile: (925) 279-3342

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JENNIFER HUGUNIN, PATRICK HUGUNIN,
D.H., a minor by and through his guardian ad
litem JENNIFER HUGUNIN; KEITH
CALDWELL, NICOLE HILL, X.C., a minor by
and through his guardian ad litem KEITH
CALDWELL, TRISHIA PITTS, CARL PITTS,
N.P., a minor by and through his guardian ad
litem TRISHIA PITTS, TODD VROOMAN,
LAURA VROOMAN, S.V., a minor by and
through his guardian ad litem TODD
VROOMAN, RICHARD ROGERS, TERRILL
ROGERS, P.R., a minor by and through his
guardian ad litem RICHARD ROGERS,
MICHELLE MANCOUR and G.I., a minor by
and through his guardian ad litem MICHELLE
MANCOUR, AYRELLA OSBY, B.E., a minor
by and through his guardian ad litem AYRELLA
OSBY; MELISSA GUIDERA, T.G., a minor by
and through his guardian ad litem MELISSA
GUIDERA; DANYELLE ELLIS; GREGORY
TODD ELLIS, AND A.E., a minor by and
through his guardians ad litem DANYELLE
ELLIS and GREGORY TODD ELLIS

Plaintiffs,

v.

ROCKLIN UNIFIED SCHOOL DISTRICT,
SHERRY MCDANIEL, CHARLES
THIBIDEAU, BETTY JO WESSINGER,
JANNA CAMBRA, KEVIN BROWN, ROGER
STOCK, DR. TODD CUTLER, and DOES 1-30,

Defendants.

2:15-cv-00939-MCE-DB

**ORDER GRANTING THE MOTION
TO APPOINT PLAINTIFF MELISSA
GUIDERA AS GUARDIAN AD LITEM
FOR T.G., DANYELLE ELLIS AS
GUARDIAN AD LITEM FOR A.E.,
AND AYRELLA OSBY AS GUARDIAN
AD LITEM FOR B.E.**

1 **I. INTRODUCTION**

2 In this case, Melissa Guidera, Danyelle Ellis, Ayrella Osby, and their children T.G., A.E.,
3 and B.E., respectively, sued Defendants ROCKLIN UNIFIED SCHOOL DISTRICT, SHERRY
4 MCDANIEL, CHARLES THIBIDEAU, BETTY JO WESSINGER, JANNA CAMBRA, KEVIN
5 BROWN, ROGER STOCK, DR. TODD CUTLER under 42 U.S.C. § 1983 for violation of their
6 Fourth and Fourteenth Amendment rights and other state and federal laws. The substance of their
7 complaint is that Ms. McDaniel, the special day class teacher, subjected the minor plaintiffs and
8 other students in her classroom to ongoing verbal, psychological and physical abuse during class,
9 that they suffered physical and emotional injuries as a result, and that the District and school
10 employees and administrators responded to the incidents improperly. Plaintiffs move for Melissa
11 Guidera to be appointed as guardian ad litem for her son T.G., Danyelle Ellis to be appointed as
12 guardian ad litem for her son A.E., and for Ayrella Osby to be appointed as guardian ad litem for
13 her son B.E.

14 **II. LEGAL STANDARD**

15 “A minor or an incompetent person who does not have a duly appointed representative may
16 sue by a next friend or by a guardian ad litem. The court must appoint a guardian ad litem – or
17 issue another appropriate order – to protect a minor or incompetent person who is unrepresented in
18 an action.” Fed. R. Civ. P. 17(c)(2)¹

19 An individual’s capacity to sue is determined by the law of the individual’s domicile. Fed.
20 R. Civ. P. 17(b). Under California law, an individual under the age of eighteen is a minor. Cal.
21 Fam. Code § 6502. A minor may bring suit as long as a guardian conducts the proceedings. Cal.
22 Fam. Code § 6601. The court may appoint a guardian ad litem to represent a minor’s interests in
23 the litigation. Cal. Code Civ. P. § 372(a). In making the determination concerning the

24 ¹ “A ‘next friend’ who initiates suit in federal court bears the burden of proving his
25 suitability according to three general factors that are independent of the law of the forum state.
26 These factors are: 1) an adequate explanation of why the minor may not bring suit himself; 2) a
27 true dedication to the best interest of the minor; and 3) some significant relationship with the
28 minor.” *Anthem Life Ins. Co. v. Olguin*, No. 1:6-cv-101165, 2007 WL 1390672, at *2 (E.D. Cal.
May 9, 2007) (citing *T.W. v. Brophy*, 954 F.Supp. 1306, 1309 (E.D. Wis. 1996), *aff’d*, 124 F.3d
893, 896-97 (7th Cir. 1997)). “It appears to be the common practice to appoint a parent to act as
next friend for a child.” *Anthem Life Ins. Co.*, 2007 WL 190672, at *2 (citing *Gonzalez v. Reno*,
212 F.3d 1338, 1352 (11th Cir. 2000)).

1 appointment of a particular guardian ad litem, the court shall consider whether the minor and the
2 guardian have divergent interests. Cal. Code Civ. P. § 372(b)(1).

3 “When there is a potential conflict between a perceived parental responsibility and an
4 obligation to assist the court in achieving a just and speedy determination of the action,’ a court has
5 the right to select a guardian ad litem who is not a parent if that guardian would best protect the
6 child’s interests.” *Williams v. Super. Ct.*, 54 Cal. Rptr. 3d 13, 22-23 (Cal. Ct. App. 4th 2007)
7 (citing *M.S. v. Wermers*, 557 F.2d 170, 175 (8th Cir. 1977)). “[I]f the parent has an actual or
8 potential conflict of interest with his child, the parent has no right to control or influence the child’s
9 litigation.” *Williams*, 54 Cal. Rptr. 3d at 23.

10 **III. DISCUSSION**

11 T.G., A.E., and B.E. are under the age of eighteen, and are minors under California law.
12 Cal. Fam. Code § 6502. As minors, their ability to bring suit is contingent upon appointment by
13 the court of a guardian ad litem. A parent may serve as their guardian ad litem so long as the
14 parent does not have an interest adverse to the child’s interests.

15 Upon review of the complaint and motion and supporting declarations, the Court finds that
16 the parents have no adverse interests to those of the minors. The parents brought this action on
17 behalf of themselves and their minor children, but the Court finds no conflict between the claims.
18 Therefore, their appointment as guardians ad litem for their children is appropriate. *See Burke v.*
19 *Smith*, 252 F.3 d 1260, 1264 (11 th Cir. 2001)(“Generally, when a minor is represented by a parent
20 who is a party to the lawsuit and who has the same interests as the child there is no inherent
21 conflict of interest.”); *see also Gonzalez v. Reno*, 86 F. Supp. 2 d 1167, 1185 (S.D. Fla. 2000), *aff’d*
22 212 F.3 d 1338 (11 th Cir. 2000)(“[W]hen a parent brings an action on behalf of a child, and it is
23 evident that the interests of each are the same, no need exists for someone other than the parent to
24 represent the child’s interests under Rule 17(c.)”); *Robidoux v. Wacker Family Trust*, No. CIVS-
25 06-2334 LKK-DAD, 2009 WL 1531785, at *1 (E.D. Cal. May 29, 2009), *rev’d on other grounds*
26 *by* No. 09-16674, 2011 WL 1136241 (appointing plaintiff mother as guardian ad litem for plaintiff
27 children in housing discrimination case).

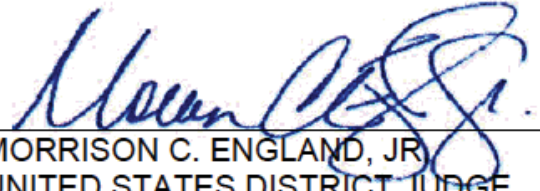
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IV. CONCLUSION

Based on the foregoing, the motion to appoint Melissa Guidera as guardian ad litem for T.G., Danyelle Ellis as guardian ad litem for A.E., and Ayrella Osby as guardian ad litem for B.E. is **GRANTED**.

IT IS SO ORDERED.

Dated: August 21, 2017


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE