

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

PETER W. ALFERT, SBN 83139  
**HINTON ALFERT & KAHN LLP**  
200 Pringle Ave., Suite 450  
Walnut Creek, California 94596  
Telephone: (925) 279-3009  
Facsimile: (925) 279-3342

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

Attorneys for PLAINTIFFS JENNIFER HUGUNIN, PATRICK HUGUNIN, D.H., KEITH CALDWELL, NICOLE HILL, X.C., TRISHA PITTS, CARL PITTS, and N.P.

ALLISON S. HYATT, SBN 217567  
**HYATT LAW, PC**  
915 Highland Pointe Drive, Suite 250  
Roseville, CA 95678  
Telephone: (916) 724-5205  
Facsimile: (916) 724-5201

Attorney for PLAINTIFFS TODD VROOMAN LAURA VROOMAN, and S.V., RICHARD ROGERS, TERRILL ROGERS and P.R., MICHELE MANCOUR and G.I.

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,

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.

Case No: 2:15-cv-00939-MCE-DAD

**ORDER GRANTING MOTION TO APPOINT MICHELE MANCOUR AS GUARDIAN AD LITEM OF PLAINTIFF G.I.**

1 **INTRODUCTION**

2  
3 In this case, six minor children, and the parents of those children, have commenced an  
4 action against defendants Rocklin Unified School District, Sherry McDaniel, Charles Thibideau,  
5 Betty Jo Wessinger, Janna Cambra, Kevin Brown, Roger Stock and Dr. Todd Culter under 42  
6 U.S.C. § 1983 for violation of their Fourth and Fourteenth Amendment rights and other federal and  
7 state laws. The substance of their Complaint is that the minor plaintiffs’ special education teacher,  
8 Defendant Sherry McDaniel, subjected her students to repeated verbal and physical abuse during  
9 class, that they suffered physical and emotional injuries as a result, and that Defendant Charles  
10 Thibideau, the principal of the school, Defendant Janna Cambra, the Director of Special Education,  
11 and other Rocklin Unified School District administrators responded to the incidents improperly.  
12 Plaintiff Michele Mancour moves this Court for an order appointing her as guardian ad litem for  
13 her son, minor plaintiff G.I. No party has opposed the motion.

14  
15 **STANDARD**

16  
17 Rule 17(c) of the Federal Rules of Civil Procedure provides that a minor or an incompetent  
18 person who does not have a duly appointed representative may sue by a next friend or by a  
19 guardian ad litem and “[t]he court must appoint a guardian ad litem -- or issue another appropriate  
20 order -- to protect a minor or incompetent person who is unrepresented in an action.” *See*  
21 *Fed.R.Civ.P. 17(c)(2)*.

22 An individual’s capacity to sue is determined by the law of the individual’s domicile. *Fed.*  
23 *R. Civ. P. 17(b)*. Under California law, an individual under the age of eighteen is a minor. *Cal.*  
24 *Fam. Code § 6502*. A minor may bring suit if a guardian conducts the proceedings. *Cal. Fam.*  
25 *Code § 6601*. In making the determination concerning the appointment of a particular guardian ad  
26 litem, the court shall consider whether the minor and the guardian have divergent interests. *Cal.*  
27 *Code Civ. P. § 372(b)(1)*.

1           “‘When there is a potential conflict between a perceived parental responsibility and an  
2 obligation to assist the court in achieving a just and speedy determination of the action,’ a court has  
3 a right to select a guardian ad litem who is not a parent if that guardian would best protect the  
4 child’s interests.” *Williams v. Super. Ct.*, 147 Cal.App.3d 36, 49 (2007) (quoting *M.S. v. Wermers*,  
5 557 F.2d 170, 175 (8th Cir. 1977).

6           A parent may serve as a minor plaintiff’s guardian ad litem provided that the parent does  
7 not have interests adverse to those of the child, and “[g]enerally, when a minor is represented by a  
8 parent who is a party to the lawsuit and who has the same interests as the child there is no inherent  
9 conflict of interest.” *Burke v. Smith*, 252 F.3d 1260, 1264 (11th Cir. 2001); *see also Gonzales v.*  
10 *Reno*, 86 F.Supp.2d 1167, 1185 (S.D. Fla. 2000), *aff’d* 212 F.3d 1338 (11th Cir. 2000) (“[W]hen a  
11 parent brings an action on behalf of a child, and it is evident that the interests of each are the same,  
12 no need exists for someone other than the parent to represent the child’s interests under Rule  
13 17(c).”)

14           According to the Declaration of Michele Mancour filed in support of Plaintiffs’ Motion,  
15 G.I. is a minor and is currently ten years of age. Because G.I. is under the age of eighteen, he is a  
16 minor under California law. Cal. Fam. Code § 6502. As a minor, his ability to bring suit is  
17 contingent upon appointment by the Court of a guardian ad litem. Michele Mancour is G.I.’s  
18 mother and is also a Plaintiff in this action. Ms. Mancour may serve as G.I.’s guardian ad litem  
19 provided that she does not have any interests that are adverse to G.I.

20           Upon review of the Complaint, the Notice of Motion and Motion to Appoint Michele  
21 Mancour as Guardian ad Litem of Plaintiff G.I., argument of counsel, and the Declaration of  
22 Michele Mancour submitted in support thereof, the Court finds that Plaintiff Michele Macour has  
23 no interests adverse to the interests of G.I. Ms. Mancour brought this action on behalf of her minor  
24 son, and thus the Court finds no conflict with G.I.’s claims.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CONCLUSION**

Based on the foregoing, Plaintiffs Motion to Appoint Michele Mancour as Guardian ad Litem for Plaintiff G.I. is **GRANTED**. The Court hereby appoints Michele Mancour as the guardian ad litem for G.I.

**IT IS SO ORDERED.**

**Dated: August 10, 2015**



MORRISON C. ENGLAND, JR., CHIEF JUDGE  
UNITED STATES DISTRICT COURT