1 PETER W. ALFERT, SBN 83139 TODD BOLEY, SBN 68119 HINTON ALFERT & KAHN LLP ZOYA YARNYKH, SBN 258062 2 200 Pringle Ave., Suite 450 LAW OFFICE OF TODD BOLEY Walnut Čreek, California 94596 2381 Mariner Square Drive, Suite 280 Telephone: (925) 279-3009 Alameda, CA 94501 3 Facsimile: (925) 279-3342 Telephone: (510) 836-4500 4 Facsimile: (510) 649-5170 Attorneys for PLAINTIFFS JENNIFER HUGUNIN, PATRICK HUGUNIN, D.H., KEITH 5 CALDWELL, NICOLE HILL, X.C., TRISHA PITTS, 6 CARL PITTS, and N.P. 7 ALLISON S. HYATT, SBN 217567 **HYATT LAW, PC** 8 915 Highland Pointe Drive, Suite 250 Roseville, CA 95678 9 Telephone: (916) 724-5205 Facsimile: (916) 724-5201 10 Attorney for PLAINTIFFS TODD VROOMAN 11 LAURA VROOMAN, and S.V., RICHARD ROGERS, TERRILL ROGERS and P.R., MICHELE MANCOUR 12 and G.I. 13 UNITED STATES DISTRICT COURT 14 EASTERN DISTRICT OF CALIFORNIA 15 JENNIFER HUGUNIN, PATRICK HUGUNIN, Case No: 2:15-cv-00939-MCE-DAD D.H., a minor by and through his guardian ad 16 litem JENNIFER HUGUNIN; KEITH **ORDER GRANTING PLAINITFFS'** CALDWELL, NICOLE HILL, X.C., a minor by MOTION TO APPOINT TODD 17 and through his guardian ad litem KEITH VROOMAN AS GUARDIAN AD CALDWELL, TRISHIA PITTS, CARL PITTS, LITEM OF PLAINTIFF S.V. 18 N.P., a minor by and through his guardian ad litem TRISHIA PITTS, TODD VROOMAN, 19 LAURA VROOMAN, S.V., a minor by and through his guardian ad litem TODD 20 VROOMAN, RICHARD ROGERS, TERRILL ROGERS, P.R., a minor by and through his 21 guardian ad litem RICHARD ROGERS, 22 MICHELLE MANCOUR and G.I., a minor by and through his guardian ad litem MICHELLE 23 MANCOUR, Plaintiffs, 24 ROCKLIN UNIFIED SCHOOL DISTRICT, 25 SHERRY MCDANIEL, CHARLES THIBIDEAU, BETTY JO WESSINGER, 26 JANNA CAMBRA, KEVIN BROWN, ROGER STOCK, DR. TODD CUTLER, and DOES 1-30, 27 Defendants. 28 - 1 -

ORDER GRANTING MOTION TO APPOINT GUARDIAN AD LITEM

HUGUNIN, et al., v. RUSD, et al.,

INTRODUCTION

In this case, six minor children, and the parents of those children, have commenced an action against defendants Rocklin Unified School District, Sherry McDaniel, Charles Thibideau, Betty Jo Wessinger, Janna Cambra, Kevin Brown, Roger Stock and Dr. Todd Culter under 42 U.S.C. § 1983 for violation of their Fourth and Fourteenth Amendment rights and other federal and state laws. The substance of their Compliant is that the minor plaintiffs' special education teacher, Defendant Sherry McDaniel, subjected her students to repeated verbal and physical abuse during class, that they suffered physical and emotional injuries as a result, and that Defendant Charles Thibideau, the principal of the school, Defendant Janna Cambra, the Director of Special Education, and other Rocklin Unified School District administrators responded to the incidents improperly. Plaintiffs Todd and Laura Vrooman ("Plaintiffs") move this Court for an order appointing Todd Vrooman as guardian ad litem for minor plaintiff S.V. No party has opposed the motion.

STANDARD

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

An individual's capacity to sue is determined by the law of the individual's domicile. Fed.

R. Civ. P. 17(b). Under California law, an individual under the age of eighteen is a minor. Cal.

Fam. Code § 6502. A minor may bring suit if a guardian conducts the proceedings. Cal. Fam.

Code § 6601. In making the determination concerning the appointment of a particular guardian ad

litem, the court shall consider whether the minor and the guardian have divergent interests. Cal.

27 Code Civ. P. § 372(b)(1).

"When there is a potential conflict between a perceived parental responsibility and an

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obligation to assist the court in achieving a just and speedy determination of the action,' a court has a right to select a guardian ad litem who is not a parent if that guardian would best protect the child's interests." Williams v. Super. Ct., 147 Cal. App. 3d 36, 49 (2007) (quoting M.S. v. Wermers, 557 F.2d 170, 175 (8th Cir. 1977).

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

ANALYSIS

According to the Declaration of Todd Vrooman filed in support of Plaintiffs' Motion, S.V. is a minor and is currently eleven years of age. Because S.V. is under the age of eighteen, he is a minor under California law. Cal. Fam. Code § 6502. As a minor, his ability to bring suit is contingent upon appointment by the court of a guardian ad litem. Todd Vrooman is S.V.'s father and is also a Plaintiff in this action. Mr. Vrooman may serve as S.V.'s guardian ad litem provided that he does not have any interests that are adverse to S.V.

Upon review of the Complaint, the Notice of Motion and Motion to Appoint Todd Vrooman as Guardian ad Litem of Plaintiff S.V. and the declaration of Todd Vrooman submitted in support thereof, the Court finds that Plaintiff Todd Vrooman has no interests adverse to the interests of S.V. Mr. Vrooman brought this action on behalf of his minor son, and thus the Court finds no conflict with S.V.'s claims.

HUGUNIN, et al., v. RUSD, et al.,

1		CONCLUSION
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3	Based on the foregoing, Plaintiffs Motion to Appoint Todd Vrooman as Guardian ad Liten	
4	for Plaintiff S.V. is GRANTED . The Court hereby appoints Todd Vrooman as the guardian ad	
5	litem for S.V.	
6	IT IS SO ORDERED.	
7	Dated:	August 11, 2015
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9		MORRISON C. ENGLAND, JR., WHIEF JUDGE
10		UNITED STATES DISTRICT COURT
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