

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

**United States District Court**  
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JUSTIN MERRIMAN,  
Plaintiff,

No. C 15-01715 WHA

v.

OFFICER FNU SMITH, OFFICER FNU  
TIERNEY, OFFICER FNU ROBINSON,  
Defendants.

**REQUEST FOR RESPONSE  
RE COMPETENCE**

The Court has reviewed the materials provided by both sides concerning plaintiff's competence. By **THURSDAY, OCTOBER 6 AT NOON**, both sides shall please respond to the following questions:

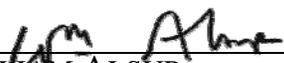
- Why is plaintiff's mother unqualified to serve as a guardian ad litem?
- Why can no other family member serve as a guardian ad litem?
- Dr. Macomber states that the anal bleeding from the alleged anal rape was documented in plaintiff's medical records. Is this true?
- Dr. Macomber also states plaintiff wrote about this to his mother but that his letters were destroyed and never delivered. Has this been confirmed by plaintiff's mother?
- Dr. Macomber further states plaintiff's mother sent money to his canteen for seven years but the money was stolen. Has this been confirmed by plaintiff's mother?

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

- Do both sides agree that the test for incompetence to sue under California law is “whether the party has the capacity to understand the nature of consequences of the proceeding, and is able to assist counsel in preparation of the case”? *In re Jessica G.*, 93 Cal. App. 4th 1180, 1186 (2001).
- The Court is inclined to require counsel to agree upon a neutral psychiatrist to examine plaintiff, his medical records, and his depositions to determine his competence. Counsel shall please state why this should not be done.

**IT IS SO ORDERED.**

Dated: September 22, 2016.

  
\_\_\_\_\_  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE