

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CUPERTINO UNION SCHOOL
DISTRICT,

CASE NO. 5:13-cv-04659 EJD

ORDER TO SHOW CAUSE

Plaintiff(s),

v.

K.A., a minor, by and through his parents,
S.A. and J.S.,

Defendant(s).

In this action brought under the Individuals with Disabilities Act, 20 U.S.C. § 1400 et. seq., Plaintiff Cupertino Union School District ("Plaintiff") seeks an order vacating the decision of an administrative law judge issued in favor of Defendants K.A., a minor, and his parents, S.A. and J.S. ("Defendants"). See Docket Item No. 1. Defendants, on their own behalf, filed an Answer and Counterclaims, affirmatively requesting the court affirm in part and vacate in the part the decision of the administrative law judge. See Docket Item No. 7.

Having reviewed this action, the court has determined an individual must be appointed by the court to represent K.A.'s interests in this action (most likely one of his parents). See Fed. R. Civ. P. 17(c)(1); Johns v. Cnty. of San Diego, 114 F.3d 874, 876 (9th Cir. 1997); Neilson v. Colgate-Palmolive Co., 199 F.3d 642 (2d Cir. 1999) ("[O]nly one party may act in a representative capacity with respect to an infant or incompetent who comes before the court.) In addition, K.A.'s representative, if and when appointed, must retain an attorney for K.A.'s benefit. Johns, 114 F.3d at

1 877 (“[W]e hold that a parent or guardian cannot bring an action on behalf of a minor child without
2 retaining a lawyer.”).

3 Accordingly, the court issues the instant Order to Show Cause with the following
4 instructions to Defendants:


- 5 1. On or before **March 31, 2014**, either S.A. or J.S., if they so choose, or another
6 individual qualified to represent K.A.’s interests, shall file an administrative motion
7 pursuant to Civil Local Rule 7-11 for appointment of guardian ad litem. The motion
8 should identify the individual seeking to become K.A.’s representative for the
9 purposes of this case and explain why that individual is a suitable representative.
- 10 2. On or before **April 28, 2014**, an attorney retained by the guardian ad litem to
11 represent K.A.’s interests shall file a Notice of Appearance.

12 Defendants are notified that failure to comply with this order by filing or causing to be filed
13 the documents identified above, or failure to otherwise show good cause in writing for such a failure
14 by either deadline, may result in an order striking the Answer filed November 5, 2013. No hearing
15 will be held on the Order to Show Cause unless otherwise ordered by the court.

16 The court further advises Defendants that they may benefit from contacting The Federal
17 Legal Assistance Self-Help Center at the San Jose Courthouse (FLASH). Appointments can be
18 made Mondays through Wednesdays by calling (408) 297-1480.

19 **IT IS SO ORDERED.**

20
21 Dated: March 12, 2014


EDWARD J. DAVILA
United States District Judge