

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Judge Philip A. Brimmer**

Civil Action No. 10-cv-00868-PAB-CBS

MARIA GALLARDO and  
D.R.G., a minor child by and through  
her natural mother and next best friend, MARIA GALLARDO,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

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**ORDER**

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This matter is before the Court on a review of the docket. Plaintiffs' original complaint in this action violated Fed. R. Civ. P. 5.2(a) by including the full name of a minor. See Docket No. 1. Subsequently, the captions of additional filings by plaintiff, see Docket Nos. 7, 89, as well as the Court and a now-terminated party also violated Rule 5.2(a). See Docket Nos. 2, 3, 4, 8, 9, 10, 13, 15, 27, 58, 62, 63, 71; see *also* Docket No. 49 (Hrg. Tr.) at 18, l.6.<sup>1</sup>

Pursuant to Fed. R. Civ. P. 5.2(h), "[a] person waives the protection of Rule 5.2(a) as to the person's own information by filing it without redaction and not under

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<sup>1</sup>Because a minor's name was included in the original complaint, the full name also appeared in the Electronic Case Filing Caption and text entry references to the filer of various documents. See Docket Nos. 1, 3, 17, 22, 35, 44, 45, 46, 56, 60, 61, 64, 67, 68, 70, 79, 82, 85, 86.

seal.” Despite some authority to the contrary,<sup>2</sup> the Court does not believe it is clear that plaintiff Maria Gallardo has the authority to waive the protections of Rule 5.2(a) on behalf of D.R.G. Moreover, the Court has since appointed a guardian *ad litem* to “advocate for and represent the best interests of D.R.G. in this action.” Docket No. 73 at 2. Therefore, it is

**ORDERED** that, on or before **Friday, March 2, 2012**, D.R.G.’s guardian *ad litem* shall indicate whether he believes the protections of Fed. R. Civ. P. 5.2(a) have been waived and, if not, whether D.R.G. requests that an order issue pursuant to Fed. R. Civ. P. 5.2(d).

DATED February 21, 2012.

BY THE COURT:

s/Philip A. Brimmer  
PHILIP A. BRIMMER  
United States District Judge

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<sup>2</sup>*Orlandi ex rel. Colon v. Navistar Leasing Co.*, 2011 WL 3874870, at \*1 n.1 (S.D.N.Y. Sep. 2, 2011) (“Although actions brought in the name of a minor should identify the minor only by her initials, see Fed.R.Civ.P. 5.2(a), this case was filed in 2009 with the infant Plaintiff’s full name in the caption and throughout the Complaint. There is little point, therefore, in the Court’s referring to the infant Plaintiff merely by her initials.”); *Stein v. Sparks*, 2009 WL 5066661, at \*1 n.1 (E.D. Tenn. Dec. 16, 2009) (“Although [two of the plaintiffs] are minors, since Plaintiffs have failed to redact their names and use initials, the privacy protections are waived pursuant to Fed.R.Civ.P. 5.2(h).”).