

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 13-cv-01949-BNB

(The above civil action number must appear on all future papers sent to the court in this action. Failure to include this number may result in a delay in the consideration of your claims.)

FERNANDA RIVERA,

Plaintiff,

v.

LITTLETON HOUSING AUTHORITY,

Defendant.

SECOND ORDER DIRECTING PLAINTIFF TO CURE DEFICIENCIES

At issue is the response, ECF No. 5, filed to the Court's Order to Cure Deficiencies. Previously, the Court reviewed the Complaint and entered an order instructing Plaintiff that if Ms. Reyes is acting as her guardian or conservator, under Fed. R. Civ. P. 17(c) she may elect to sue or defend on behalf, but Ms. Reyes is not able to assert the claims in this action *pro se* on her behalf. On August 5, 2013, Ms. Reyes filed a letter with the Court stating that she is Mr. Rivera's legal guardian and asking that Ms. Rivera be appointed counsel.

Although Ms. Reyes does not have a right to represent her mother in this action, courts have implied an exception for certain limited motions to be filed by Ms. Reyes, such as a request for appointment of counsel. See *Zhu v. Countrywide Realty Co.*, 148 F. Supp.2d 1154, 1155-56 (D. Kan. 2001). Otherwise, an individual found incompetent may be barred from obtaining counsel to represent their claims. *Id.* Nonetheless, in considering a motion for appointment of counsel, the Court must consider the financial status of the person acting as a legal guardian or conservator for the incompetent

plaintiff. *Id.* at 1156-57. Therefore, the Court will direct Ms. Reyes to submit a 28 U.S.C. § 1915 motion and affidavit. Accordingly, it is

ORDERED that Ms. Reyes obtain the Court-approved form used in filing a 28 U.S.C. § 1915 motion and affidavit, along with the applicable instructions, at www.cod.uscourts.gov. It is

FURTHER ORDERED that if Ms. Reyes fails to comply with directives of this Order **within thirty days from the date of this Order** the action will be dismissed without further notice.

DATED August 6, 2013, at Denver, Colorado.

BY THE COURT:

s/Boyd N. Boland
United States Magistrate Judge