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14 *Attorneys for Plaintiffs*

15 UNITED STATES DISTRICT COURT
 16 DISTRICT OF NEVADA

17 TAMMARA TIMS and H.H., a minor by and
 18 through his Guardian Ad Litem, GENEVA
 ATTEBERRY,

19 Plaintiffs,

20 v.

21 CLARK COUNTY SCHOOL DISTRICT,
 22 KASEY GLASS, MARK CONNORS, and
 DOES 1-50,

23 Defendants.

Case No. 2:18-cv-00021

**PETITION FOR ORDER APPOINTING
 GUARDIAN AD LITEM FOR MINOR IN
 INTEREST AND ORDER (Proposed)**

25 Pursuant to Sections 12.050 of the Nevada Revised Statutes and Rule 17(c) of the Federal
 26 Rules of Civil Procedure, Petitioner GENEVA ATTEBERRY (“Attebery”), natural grandmother
 27 of H.H., the minor child in interest of a civil rights and injury claim, by and through her counsel,
 28

1 Michael A. Burke of Robison, Simons, Sharp & Brust, hereby petitions this Court for an order
2 appointing Atteberry *guardian ad litem* for H.H., minor child in interest. This Petition is based
3 upon the Declaration of Atteberry, attached hereto as **EXHIBIT 1**, the contents of which are
4 incorporated as if fully set forth herein:

5 1. Atteberry was and is a resident of Clark County, Nevada, and is the natural
6 grandmother of H.H. *See* Declaration of Geneva Atteberry (“Atteberry Dec.”) at ¶3.

7 2. H.H. was born on August 16, 2007, in Henderson, Nevada. *See* Atteberry Dec. at
8 ¶4.

9 3. H.H. has been diagnosed with Autism Spectrum Disorder and has difficulty
10 communicating verbally. *Id.*

11 4. H.H. was assigned to the special education classroom of Kasey Glass, in the Clark
12 County School District, beginning on or about August, 2016. *See* Atteberry Dec. at ¶6.

13 5. On information and belief, on March 15, 2017, Defendant GLASS aggressively
14 and intentionally grabbed, pulled and pushed H.H., repeatedly pushed his head down with her
15 foot and kicked him in the head, deprived him of food and liquid by removing it at mealtime
16 before he was able to consume it by throwing it away, restrained and pinned H.H. into his chair
17 by pushing a table up against his seated body, and intentionally triggered his behaviors by
18 taunting and humiliating him when he indicated through sounds and hand gestures that he
19 wanted his food. GLASS also grabbed H.H.’s hands and bent them, causing him to drop onto
20 the floor and she intentionally kicked H.H.’s hands. *See* Atteberry Dec. at ¶7.

21 6. On information and belief, as a result of Defendants’ actions, H.H. sustained
22 personal injuries and emotional distress. *See* Atteberry Dec. at ¶8.

23 7. Rule 17(c) of the Federal Rules of Civil Procedure provides as follows:

24 (c) *Minor or Incompetent Person. (1) With a Representative. The following*
25 *representatives may sue or defend on behalf of a minor or an incompetent person:*

26 (A) a general guardian; (B) a committee; (C) a conservator; or (D) a like

27 fiduciary. (2) *Without a Representative. A minor or an incompetent person who*
28

1 *does not have a duly appointed representative may sue by a next friend or by a*
2 *guardian ad litem. The court must appoint a guardian ad litem—or issue another*
3 *appropriate order—to protect a minor or incompetent person who is*
4 *unrepresented in an action.*

5 FRCP 17(c) (emphasis added).

6 The minor child in interest, H.H., does not presently have any representative or other
7 fiduciary appointed for him. It is appropriate in this matter for a *guardian ad litem* to be
8 appointed for him.

9 8. Atteberry appropriately files this petition pursuant to FRCP 17(c) and NRS
10 12.050, which provides that a *guardian ad litem* may be appointed for the minor under the age of
11 14 years upon the application of a relative or friend of the infant.

12 9. At the time of the filing of this Petition, H.H., is 10 years old. *See* Atteberry Dec.
13 at ¶4.

14 10. No previous application for appointment of a *guardian ad litem* for H.H., minor
15 child in interest, has been made in this matter. *See* Atteberry Dec. at ¶9.

16 11. Petitioner Atteberry is qualified and competent to act as *guardian ad litem* for her
17 natural grandchild and minor in interest, H.H. *See* Atteberry Dec. at 3.

18 12. Petitioner has not been convicted of a felony. *Id.*

19 13. Petitioner requests that this Court appoint her *guardian ad litem* for H.H., minor
20 child in interest, for the purpose of protecting, asserting and defending the rights and interests of
21 H.H. for the above-described physical and mental abuse case which occurred at Kirk Adams
22 Elementary School in the Clark County School District in or around March 2017. *See* Atteberry
23 Dec. at ¶10.

24 WHEREFORE, Petitioner requests that this Court enter its order as follows:

25 1. Finding that the appointment of a *guardian ad litem* for H.H., minor child in
26 interest, is necessary and appropriate for the purpose of protecting, asserting, and defending the
27 rights and interests of the minor child.
28

1 2. Finding that petitioner Atteberry is qualified and competent to act as *guardian ad*
2 *litem* for H.H.

3 3. Appointing petitioner Atteberry *guardian ad litem* of H.H., minor child in
4 interest, in the above captioned proceeding, filed in the United States District Court, District of
5 Nevada, Southern Division, without bond.

6 4. For such other and further relief as this Court deems just and proper in the
7 proceedings.

8 AFFIRMATION: The undersigned does hereby affirm that the preceding document does
9 not contain the social security number of any person.

10 DATED this 30th day of December, 2017.

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GENEVA ATTEBERRY, natural grandmother of H.H.

14 ROBISON, SIMONS, SHARP & BRUST
15 a Professional Corporation
16 71 Washington Street
17 Reno, Nevada 89503

18 By: 
MICHAEL A. BURKE

19
20 **ORDER**

21 The Petition for Order Appointing Geneva Atteberry as the Guardian Ad Litem for
22 Minor, H.H., is approved, and Geneva Atteberry is permitted to bring forth the claims of H.H. in
23 this case without bond.

24 
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UNITED STATES ~~DISTRICT COURT~~ JUDGE
Magistrate

26 Dated this 5th day of January, 2018.
27
28

EXHIBIT 1

1 **DECLARATION OF GENEVA ATTEBERRY**

2 I, Geneva Atteberry, declare under penalty of perjury under the laws of the State of
3 Nevada that the following assertions are true and correct:

4 1. I am over the age of 18 and am competent to testify as to the statements contained
5 herein, which are made on my own personal knowledge.

6 2. I make this declaration in support of my Petition to be appointed as my grandson,
7 H.H.’s, Guardian Ad Litem in his claims against Clark County School District; Kasey Glass; and,
8 Mark Connors which are being brought in the United States District Court, District of Nevada.

9 3. I am a resident of Clark County, Nevada, and I am the natural grandmother of
10 H.H. I am qualified and competent to act as guardian ad litem and I have never been convicted
11 of a felony.

12 4. My grandson, H.H., was born on August 16, 2007, in Henderson, Nevada and he
13 is currently 10 years old. H.H. has been diagnosed with Autism Spectrum Disorder and has
14 difficulty communicating verbally.

15 5. In order to assist with H.H., I currently reside with H.H. and my daughter-in-law,
16 Tammara Tims. Tammara Tims is H.H.’s natural mother and is also a Plaintiff in the above
17 referenced case.

18 6. In or about August of 2016, H.H. was assigned to the special education classroom
19 of Kasey Glass, in the Clark County School District.

20 7. I’m informed and believe, that on March 15, 2017, Defendant Kasey Glass
21 aggressively and intentionally grabbed, pulled and pushed H.H. Defendant Glass repeatedly
22 pushed H.H.’s head down with her foot and kicked him in the head, deprived him of food and
23 liquid by removing it at mealtime before he was able to consume it, restrained and pinned H.H.
24 into his chair by pushing a table up against his seated body, and intentionally triggered his
25 behaviors by taunting and humiliating him when he indicated through sounds and hand gestures
26 that he wanted his food. Defendant Glass also grabbed H.H.’s hands and bent them, causing him
27 to drop onto the floor and she intentionally kicked H.H.’s hands.

28 8. I’m informed and believe that as a result of Defendants’ actions, H.H. sustained

1 personal injuries and emotional distress.

2 9. No previous application for appointment of a *guardian ad litem* for H.H. has been
3 made in this matter.

4 10. Therefore, based upon the foregoing, I request that this Court appoint me as the
5 guardian ad litem for H.H., the minor child in interest, for the purpose of protecting, asserting
6 and defending the rights and interests of H.H. for the above-described physical and mental abuse
7 case which occurred at Kirk Adams Elementary School in the Clark County School District in or
8 around March 2017.

9 Dated this 30 day of December, 2017.

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GENEVA ATTEBERRY