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 Attorneys for the Plaintiffs

**UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA**

BLAKE and JENNA MILLER,
 Individually and on Behalf of **C.M.,**
 a Minor Child,

Plaintiffs

v.

**UNITED STATES OF
 AMERICA,**

Defendant

Case Number

2:19-cv-01293-APG-VCF

**UNOPPOSED AMENDED
 MOTION TO APPOINT
 GUARDIAN AD LITEM**

1 Plaintiffs request the Court appoint Chip Evans, Evans & Herlihy Law
 2 Firm, 4407 Bee Caves Rd., Suite 611, Austin, TX 78746 as guardian ad litem
 3 for minor child C.M., for the limited purpose of reviewing a settlement agree-
 4 ment affecting the resolution of this case and ensuring no conflict of interest
 5 exists.

1 **BACKGROUND**

2 This is a medical malpractice case. It is alleged that C.M. suffered severe
3 and irreversible injury during labor and delivery at Mike O’Callaghan Fed-
4 eral Medical Center. His parents, Blake and Jenna Miller, filed this lawsuit
5 individually and on behalf of C.M.

6 The Parties to this lawsuit reached a proposed settlement that requires
7 the Court’s approval prior to review and decision by the Attorney General or
8 his designee. Because C.M. is a minor child, Plaintiffs request that the Court
9 appoint a guardian ad litem to protect the interests of C.M. for the limited
10 purpose of reviewing the settlement agreement and determining that this
11 settlement is in C.M.’s best interest.

12 **ANALYSIS**

13 Under Fed. R. Civ. P. 17(c), the Court may appoint a guardian ad litem
14 where the Court believes the appointment to be in the best interest of a mi-
15 nor or disabled individual. *Scannavino v. Fla. Dep’t of Corrections*, 242 F.R.D.
16 662, 666-67 (M.D. Fla. 2007). The Court has “broad discretion to fashion ap-
17 propriate safeguards to protect the interests of incompetent persons and to
18 decide whether to appoint a guardian ad litem under Rule 17(c).” *J.B. v. Ban-*
19 *ning Unified Sch. List.*, No. EDCV 18-2134-JGB, 2018 WL 6164312, at *1
20 (C.D. Cal. Oct. 18, 2018).

21 Here, both parents are parties. As a term of settlement, the United
22 States requires Plaintiffs to obtain court approval of the settlement. An inde-
23 pendent guardian ad litem will help the Court determine whether the settle-
24 ment is within the best interests of C.M.

1 Plaintiffs request the Court appoint Chip Evans, Evans & Herlihy Law
2 Firm, 4407 Bee Caves Rd., Suite 611, Austin, TX 78746, as an appropriate
3 guardian ad litem for C.M. Plaintiffs currently live in the Killeen, Texas area
4 where they have purchased land and intend to live there permanently. Also,
5 their families live in Texas.

6 Plaintiffs have conferred with the United States, and they do not oppose
7 this appointment. Mr. Evans is a licensed attorney in Texas and has consid-
8 erable experience in serving as guardian for these types of cases. He is also
9 board certified by the Texas Board of Legal Specialization. Given C.M.'s sub-
10 stantial future medical needs in the local area of Texas where C.M. has his
11 permanent residence, it is important to provide a guardian ad litem who un-
12 derstands the availability of local medical care services. Plaintiffs contacted
13 Mr. Evans and he is willing to accept this appointment as guardian ad litem,
14 should the Court approve this motion.

15 CONCLUSION

16 Plaintiffs request that the Court appoint Chip Evans as guardian ad li-
17 tem to review the settlement in the above styled case and report to the Court
18 on his review.

Respectfully Submitted,

/s/ Jamal Alsaffar

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Attorneys for the Plaintiff

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CERTIFICATE OF CONFERENCE

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By my signature above, Plaintiffs have conferred with the Government

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and the Government does not oppose this motion.

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CERTIFICATE OF SERVICE

By my signature above, I certify that a copy of this pleading, Unopposed Amended Motion to Appoint Guardian ad Litem, has been sent to the following on December 23, 2021 via the Court’s CM/ECF notice system.

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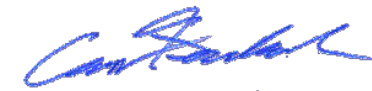
Defendant

Case Number
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ORDER

1 After reviewing the motion to appoint a guardian ad litem, the Court
2 **ORDERS** Chip Evans, Evans & Herlihy Law Firm, 4407 Bee Caves Rd.,
3 Suite 611, Austin, TX 78746, shall be appointed the Guardian Ad Litem to
4 protect the interest of C.M. and to review the proposed settlement in the
5 above styled case. Within two weeks of the entry of this Order, Mr. Evans will
6 issue his report to the Court.

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IT IS SO ORDERED.



Cam Ferenbach
United States Magistrate Judge

DATED 12-29-2021