

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LINDA UNRUH as Personal Representative
of the Wrongful Death ESTATE OF
ROBERT L. UNRUH, JR., Deceased and as
next friend on behalf of Robert L. Unruh's
minor children, Destiny Unruh, Robert Lee
Unruh and Leland Merle Unruh,

Plaintiff,

vs.

Cause No. 1:17-cv-00422-JCH-SMV

JAMES D. VANDEVER TRUCKING, INC.,
a Texas corporation and EARL ROGER GARRETT,

Defendants.

STIPULATED ORDER APPOINTING GUARDIAN AD LITEM

THIS MATTER having come before the Court on the parties' Joint Motion to Appoint Guardian *Ad Litem* to assist the Court in evaluating a proposed settlement of this pending litigation, the Court having reviewed the file and being otherwise fully advised, hereby finds:

1. A Guardian *Ad Litem* should be appointed by this Court in connection with the Court's approval of a settlement involving Destiny Unruh, Robert Lee Unruh and Leland Merle Unruh, minors.
2. The Guardian *Ad Litem* should be appointed to investigate on behalf of the Court into the fairness and reasonableness of the settlement and its effect on the minors.
3. The Guardian *Ad Litem*'s appointment does not contemplate representation of the minors as an advocate, but only as a functionary of the Court and the Guardian *Ad Litem*'s responsibilities under this appointment are to the Court. The Guardian *Ad Litem* under this appointment should not be requested to invade or interfere with the Petitioners' representation of the children.

4. There are strong public policy reasons to grant immunity to the Guardian *Ad Litem* in this case, who is acting as an “Arm of the Court” and is performing an essential role in this Court’s Administration of Justice, as the Judge’s assistant.

5. All immunities and privileges available to the Guardian *Ad Litem*, as articulated by the New Mexico Supreme Court in *Collins v. Tabet*, 111 N.M. 391, 806 P.2d 40 (1991) should be extended to the Guardian *Ad Litem* in this matter.

6. Donald Schutte, Esq. is qualified to perform as a Guardian *Ad Litem* in this matter.

7. The reasonable fees for the Guardian *Ad Litem* shall be paid by James D. Vandever Trucking, Inc.

8. As the Court appointed Guardian *Ad Litem*, Donald Schutte, Esq. shall be deemed a party entitled to participate, to have notice of all proceedings, and to receive copies of all pleadings and correspondence among the parties

9. The Guardian *Ad Litem* shall be discharged from his duties as Guardian *Ad Litem* upon settlement and conclusion of any litigation herein.

THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED, Donald Schutte, Esq. shall be appointed Guardian *Ad Litem* as an “Arm of the Court,” appointed in connection with this Court’s consideration of a settlement involving the minor children, Destiny Unruh, Robert Lee Unruh and Leland Merle Unruh, and shall be absolutely immune from any liability for his actions taken pursuant to this appointment, in so far as his conduct in the case is as a result of an investigation on behalf of this Court into the fairness and reasonableness of the settlement, the manner in which the settlement monies will be held or used on behalf of the minor child, and in its effect on the minor children.

The Guardian *Ad Litem*'s duties and obligations in this Court are owed to the Court, and not to the minor children. This appointment of Donald Shutte, Esq. is intended to convey upon him in all of the immunities and protections allowed or provided under *Collins v. Tabet*, 111 N.M. 391, 806 P.2d 40 (1991).



HONORABLE STEPHAN M. VIDMAR
United States Magistrate Judge

SUBMITTED & APPROVED BY:

BUTT THORNTON & BAEHR PC

By /s/ Amy E. Headrick

Raúl P. Sedillo

Amy E. Headrick

Jay J. Athey

PO Box 3170

Albuquerque, NM 87190-3170

Telephone: (505) 884-0777

rpsedillo@btblaw.com

aeheadrick@btblaw.com

jjathey@btblaw.com

Attorneys for Defendants, James D. Vandever Trucking, Inc., and Earl Roger Garrett

GARRETT LAW FIRM

By Approved 7/26/17

Michael T. Garrett, Esq.

920 North Main Street

Clovis, New Mexico 88101-5931

Telephone: (505) 762-4545

garrettlaw@aol.com

Attorney for Petitioner,

Linda Unruh

SCHUTTE LAW OFFICE

By Approved 7/25/17

Donald Schutte

Guardian Ad Litem for

Destiny Unruh, Robert Lee Unruh, and Leland Merle Unruh, minors

112 W. Main St

Tucumcari, New Mexico 88401

Telephone: (575) 461-6111

schutte@aol.com