

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:12 CV 334**

P.B., as lawful Guardian *ad litem* of)
Minor Child, JANE DOE,)
)
Plaintiff)
)
v)
)
BURKE COUNTY PUBLIC SCHOOLS)
BOARD OF EDUCATION, LINDA)
BRADSHAW, JOHN ROES 1-10, and)
MICHAEL ANDREW ALEXANDER,)
)
Defendants)

ORDER

THIS MATTER has come before the undersigned pursuant to a Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan (#17). In reviewing the file in this matter, it appears to the undersigned there is no record that shows the appointment of a guardian ad litem for the alleged minor child in this matter. Rule 17(c) of the Federal Rules of Civil Procedure provides as follows:

Rule 17(c) Minor or Incompetent Person.

- (1) **With a Representative.** The following representatives may sue or defend on behalf of a minor or an incompetent person:
 - (A) a general guardian;
 - (B) a committee;

- (C) a conservator; or
- (D) a like fiduciary.

- (2) **Without a Representative.** A minor or an incompetent person who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem. The court must appoint a guardian ad litem---or issue another appropriate order---to protect a minor or incompetent person who is unrepresented in an action.

Counsel for Plaintiff shall be given a period of time to produce and file in this Court documentation showing that a guardian ad litem has been appointed for the minor child in this matter by a judge of this Court, or counsel for Plaintiff will be allowed, pursuant to Rule 17(a)(3), to file a motion for the appointment of a guardian ad litem for the minor child in this case. The motion may be filed under seal and should establish the status of the minor child and further establish good cause for the appointment of the person selected to serve as guardian ad litem.

ORDER

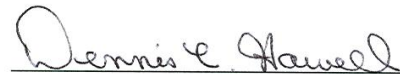
IT IS, THEREFORE, ORDERED that on or before **March 8, 2013** Plaintiff's counsel shall either:

- 1) Produce and file with this Court documentation showing that a Motion for Appointment of a Guardian Ad Litem was presented and signed by a judge of this Court appointing a guardian ad litem for the minor child in this case; or
- 2) On or before March 8, 2013 file a motion seeking the appointment of

a guardian ad litem for the minor child in this case. The motion may be filed under seal and should establish the status of the minor child and further establish good cause for the appointment of the person selected to serve as guardian ad litem.

Pending the filing of the above referenced documents, the undersigned shall stay the entry of a scheduling order in this case.

Signed: February 28, 2013



Dennis L. Howell
United States Magistrate Judge

