

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CASE NO. 5:07-CV-37-RLV-DCK**

EMILY M. ARMSTRONG, a minor,)
By and Through Her Guardian Ad Litem,)
STEPHANIE J. GIBBS,)
)
Plaintiff,)
)
v.)
)
LANIER M. CANSLER, in his)
official capacity as secretary of the)
North Carolina Department of Health)
and Human Services,)
)
Defendant.)
)

ORDER

THIS MATTER IS BEFORE THE COURT on the “Consent Motion to Substitute Guardian Ad Litem” (Document No. 22) filed by the Plaintiffs on September 30, 2009. Defendant consents to the proposed substitution. The motion has been referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having fully considered the record, the undersigned will **grant** the motion for the following reasons:

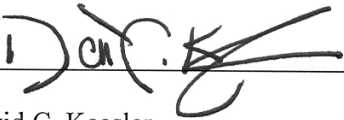
This action was filed on behalf of the minor Emily M. Armstrong, to determine whether certain settlement proceeds from a personal injury and medical negligence lawsuit should be paid to the North Carolina Medicaid program or to the Plaintiffs (Emily and her parents) in that lawsuit. Rule 17(c) of the Federal Rules of Civil Procedure authorizes a guardian *ad litem* to sue on behalf of a minor Plaintiff, and this Court appointed attorney Stephanie J. Gibbs as guardian *ad litem* for Emily M. Armstrong. However, Plaintiffs indicate that Ms. Gibbs recently married another attorney in one of the law firms in this case. Plaintiffs and Ms. Gibbs therefore ask this Court to appoint a

different guardian *ad litem* in order to avoid even the appearance of any conflict of interest. They suggest appointment of William W. Plyler, an attorney with extensive experience as guardian *ad litem* for injured minors. They indicate that Mr. Plyler is familiar with the facts of this case and has agreed to be guardian *ad litem* for Emily M. Armstrong, pending this Court's approval. The Defendant, Lanier M. Cansler, in his official capacity as secretary of the North Carolina Department of Health and Human Services, consents to the motion.

IT IS, THEREFORE, ORDERED that the "Consent Motion to Substitute Guardian Ad Litem" (Document No. 22) is **GRANTED**; Attorney William W. Plyler is hereby appointed and substituted for Attorney Stephanie J. Gibbs as guardian *ad litem* for Emily M. Armstrong in this case.

IT IS SO ORDERED.

Signed: October 2, 2009



David C. Keesler
United States Magistrate Judge

