

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Metropolitan Life Insurance Company v. Concepcion Flores Molina,
et al.

Molina · No. 1:23-cv-01553-CDB · Decided October 23, 2025

SUMMARY

The United States District Court for the Eastern District of California granted the renewed motion to appoint Dawn Harris as guardian ad litem for Lupe C. Flores, whom the Court had previously found incompetent to pursue the action. The Court found that Harris, Flores’s daughter and attorney-in-fact, was competent and qualified to serve and authorized her to prosecute the action on Flores’s behalf. The Court also directed the parties to meet and confer and submit proposed dates for a status conference within 30 days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Christopher D. Baker
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	October 23, 2025
DOCKET	1:23-cv-01553-CDB
DISPOSITION	other
PROCEDURAL POSTURE	Renewed motion for appointment of a guardian ad litem for cross-defendant Lupe C. Flores after the court previously found her incompetent to pursue the action and ordered a renewed application identifying a suitable guardian.
STANDARD OF REVIEW	The appointment of a guardian ad litem is ordinarily committed to the sound discretion of the trial court.
PRECEDENTIAL VALUE	Unknown; district court order with no reported citation

TOPICS

- guardian ad litem
- guardianship procedure
- guardianships
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Dawn Harris should be appointed guardian ad litem for incompetent cross-defendant Lupe C. Flores under Federal Rule of Civil Procedure 17(c)(2) and Eastern District of California Local Rule 202(a).
2. Whether Lupe C. Flores, through a non-attorney guardian ad litem, must be represented by counsel to continue litigating the action.

HOLDINGS

1. Dawn Harris satisfied the requirements for appointment as guardian ad litem because Flores had been found incompetent, Harris was willing and qualified to serve, and the record did not show an impermissible conflict of interest.
2. A party represented by a non-attorney guardian ad litem must be represented by counsel in order to litigate the case.

KEY QUOTATIONS

“A Court shall take whatever measures it deems appropriate to protect the interests of the individual during the litigation.” (at 2)

“The guardian need not possess any special qualifications, but must “be truly dedicated to the best interests of the person on whose behalf he seeks to litigate.”” (at 2)

“However, as is the case here, a party with a non-attorney guardian ad litem must have counsel in order to litigate a case.” (at 5)

FACTUAL BACKGROUND

The court had previously determined after a competency hearing that Lupe C. Flores was incompetent to pursue the action. Dawn Harris, Flores's daughter, sought appointment as guardian ad litem and submitted healthcare and durable powers of attorney, medical documentation, and a supplemental declaration stating that she was unaware of any conflict of interest. No opposition to the renewed motion was filed.

PROCEDURAL HISTORY

Following a competency hearing on January 17, 2025, the court found Lupe C. Flores incompetent to pursue the action under Federal Rule of Civil Procedure 17 and stayed the case. After several prior unsuccessful applications, Dawn Harris, Flores's daughter and holder of her healthcare and durable powers of attorney, filed a renewed request to serve as guardian ad litem and submitted a supplemental declaration. The court granted the motion, appointed Harris, directed the clerk to update the docket, and ordered the parties to meet and confer regarding a status conference.

DISPOSITION

other

CASES CITED

- Jurgens v. Dubendorf, No. 2:14-cv-2780-KJM-DAD, 2015 WL 6163464, at *3 (E.D. Cal. Oct. 19, 2015)
- United States v. 30.64 Acres of Land, More or Less, Situated in Klickitat Cnty., State of Wash., 795 F.2d 796 (9th Cir. 1986)
- AT&T Mobility, LLC v. Yeager, 143 F. Supp. 3d 1042, 1054 (E.D. Cal. 2015)
- Whitmore v. Arkansas, 495 U.S. 149, 163-64 (1990)
- Elliott v. Versa CIC, L.P., 328 F.R.D. 554, 556 (S.D. Cal. 2018)
- Johns v. County of San Diego, 114 F.3d 874, 876 (9th Cir. 1997)

OPINION

Molina

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 METROPOLITAN LIFE INSURANCE Case No. 1:23-cv-01553-CDB

COMPANY,

12 ORDER GRANTING RENEWED MOTION

Plaintiff, FOR APPOINTMENT OF GUARDIAN AD 13 LITEM FOR CROSS-DEFENDANT
LUPE C.

14 v. FLORES

15 CONCEPCION FLORES MOLINA, (Docs. 64, 66)

16 Defendant/Cross-Plaintiff, 30-Day Deadline 17 v. 18

LUPE C. FLORES,

19 Defendant/Cross-Defendant. 20 21 22 Pending before the Court is a notice from Dawn Harris,
power of attorney for Cross- 23 Defendant Lupe C. Flores. (Doc. 64). The Court, construing the
notice as a renewed motion for 24 appointment of guardian ad litem, directed Dawn Harris to file a
supplemental declaration. (Doc. 25 65). On October 9, 2025, Dawn Harris filed her supplemental
declaration. (Doc. 66)

26 I. BACKGROUND

27 Lupe Flores has filed six prior motions for appointment of a guardian ad litem, each one 1 in
the guardian ad litem capacity. See (Docs. 31, 39, 48, 50, 55, 58). After a competency hearing 2
held on January 17, 2025, the Court issued an order on March 11, 2025, finding Lupe Flores 3
incompetent to pursue this action pursuant to Rule 17 of the Federal Rules of Civil Procedure, and
4 staying the case. (Doc. 62). The Court ordered Lupe Flores to re-file “a motion for appointment

5 of guardian ad litem upon her identification of a suitable individual willing to serve as guardian
ad litem, with any such application complying with Local Rule 202 and this Court's prior orders
7 denying her earlier applications." See *id.* at 9. 8 On September 2, 2025, Dawn Harris, power of
attorney for Lupe Flores, filed a document 9 titled "Notice to Judge," in which she states that Lupe
Flores has been hospitalized and requests to 10 be appointed guardian ad litem on her behalf.
(Doc. 64). Dawn Harris represents that she "will be 11 reaching out to Mr. Knitters office [sic]
tomorrow (28 August 2025) as well, letting them know I 12 would like to bring all of this to an
end." *Id.* at 1. Attached to the filing are letters from physician 13 Victoria R. Shada discussing
Lupe Flores' medical diagnosis (*id.* at 2, 11, 33); a healthcare power 14 of attorney form
designating Dawn Harris as Lupe Flores' designated healthcare agent, notarized, 15 and signed by
Lupe Flores as well as two witnesses (*id.* at 3-10), a durable power of attorney form 16
designating Dawn Harris as attorney-in-fact, notarized, and signed by Lupe Flores (*id.* at 12-32);
17 and an authorization for release of protected health information form designating Dawn Harris
as 18 an authorized recipient for disclosure, notarized, and signed by Lupe Flores (*id.* at 34-36). 19
The Court directed Dawn Harris to file a supplemental declaration in support of her motion 20 to
be appointed guardian ad litem. (Doc. 65). Dawn Harris timely filed her supplemental 21
declaration on October 9, 2025. (Doc. 66).

22 II. GOVERNING AUTHORITY

23 Under Rule 17 of the Federal Rules of Civil Procedure, a representative of an incompetent 24
person may litigate on that person's behalf. Fed. R. Civ. P. 17(c)(2). "The court is under a 'legal 25
obligation' to consider whether an incompetent person is adequately protected." *Jurgens v.* 26
Dubendorf, No. 2:14-cv-2780-KJM-DAD, 2015 WL 6163464, *3 (E.D. Cal. Oct. 19, 2015) (citing
27 *United States v. 30.64 Acres of Land, More or Less, Situated in Klickitat Cnty., State of Wash.*,
795 1 The appointment of the guardian ad litem is more than a mere formality. *30.64 Acres of 2*
Land, 795 F.2d at 805. A Court shall take whatever measures it deems appropriate to protect the 3
interests of the individual during the litigation. See *id.* (noting, "[a] guardian ad litem is authorized
4 to act on behalf of his ward and may make all appropriate decisions in the course of specific 5
litigation"). The guardian need not possess any special qualifications, but must "be truly dedicated
6 to the best interests of the person on whose behalf he seeks to litigate." *AT&T Mobility, LLC v.* 7
Yeager, 143 F. Supp.3d 1042, 1054 (E.D. Cal. 2015) (quoting *Whitmore v. Arkansas*, 495 U.S.
149, 8 163-64 (1990)). This means that the guardian cannot face an impermissible conflict of
interest with 9 the ward, and courts consider the candidate's "experience, objectivity and
expertise" or previous 10 relationship with the ward. *Id.* (citations omitted). 11 Further, the Local
Rules of the Eastern District of California provide: 12 (a) Appointment of Representative or
Guardian. Upon commencement of an action or upon initial appearance in defense of an action by
or on behalf of a minor or 13 incompetent person, the attorney representing the minor or
incompetent person shall present (1) appropriate evidence of the appointment of a representative
for the 14 minor or incompetent person under state law or (2) a motion for the appointment of a

guardian ad litem by the Court, or (3) a showing satisfactory to the Court that no such appointment is necessary to ensure adequate representation of the minor or incompetent person. See Fed. R. Civ. P. 17(c). E.D. Cal. Local Rule 202(a). The decision to appoint a guardian ad litem “must normally be left to the sound discretion of the trial court.” 30.64 Acres of Land, 795 F.2d at 804.

III. DISCUSSION

A. Guardian ad Litem Here, the Court determined following a competency hearing that Lupe Flores is incompetent to pursue this action pursuant to Rule 17. See Fed. R. Civ. P. 17. Dawn Harris represents her willingness to be appointed as guardian ad litem for Lupe Flores. Dawn Harris is the daughter of Lupe Flores and presents documents setting forth that she possesses healthcare power-of-attorney and durable power-of-attorney for Lupe Flores. See (Doc. 64). In her supplemental declaration, provided in the form of a California state court application for appointment of a guardian ad litem (form CIV-010/FL-935), Dawn Harris represents that she is not aware of any conflicts of interest that might arise from her appointment as guardian ad litem. (Doc. 66 at 2). Cross-Plaintiff 2 Concepcion Flores Molina has not filed any opposition to Dawn Harris’ motion. See generally docket. Thus, the Court finds that the standards for the appointment of Dawn Harris as guardian ad litem for Lupe C. Flores have been met and that she is competent and qualified to serve as guardian ad litem for Lupe Flores. See, e.g., *Elliott v. Versa CIC, L.P.*, 328 F.R.D. 554, 556 (S.D. Cal. 2018) (finding appropriate appointment of plaintiff’s adult daughter, also acting as her power of attorney, as guardian ad litem where plaintiff was found incompetent to pursue the action due to Alzheimer’s disease); E.D. Cal. Local Rule 202(a). Thus, the Court shall grant the motion to appoint Dawn Harris as guardian ad litem for Lupe Flores.

B. Requirement for Guardian ad Litem to be Represented by Counsel A guardian ad litem is authorized to act on behalf of the incompetent party, “make all appropriate decisions in the course of specific litigation,” “make binding contracts for the retention of counsel and expert witnesses and may settle the claim ...” 30.64 Acres of Land, 795 F.2d at 805. However, as is the case here, a party with a non-attorney guardian ad litem must have counsel in order to litigate a case. See *Johns v. Cnty. of San Diego*, 114 F.3d 874, 876 (9th Cir. 1997) (“While a non-attorney may appear pro se on his own behalf, he has no authority to appear as an attorney for others than himself.”) (quotation and citation omitted). Accordingly, the Court will direct the parties to confer and propose dates of mutual availability to appear for status conference (via Zoom) to further address the parties’ intentions for proceeding with this case.

IV. CONCLUSION AND ORDER

For the foregoing reasons, it is HEREBY ORDERED that: 1. Cross-Defendant Lupe C. Flores’ motion to appoint Dawn Harris as guardian ad litem (Docs. 64, 66) is GRANTED; 2. Dawn Harris is appointed to act as guardian ad litem for Cross-Defendant Lupe C. Flores and is authorized to prosecute the action on Lupe C. Flores’ behalf; 3. The Clerk of the Court is

DIRECTED to update the docket to reflect the name and 2 address (as listed in Doc. 66 at 1) of Dawn Harris as guardian ad litem for Cross- 3 Defendant Lupe C. Flores; and 4 4. Within 30 days of entry of this order, the parties shall meet and confer and file a joint 5 report proposing dates of mutual availability to appear for status conference. 6 | ITIS SOORDERED. Dated: _ October 23, 2025 | hwrnrD Pr

8 UNITED STATES MAGISTRATE JUDGE

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