

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.

OPINION

1 2 3 4 5 6 7 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 6 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 15 no such appointment is necessary to ensure adequate representation of the minor or 16 incompetent person.

See Fed. R. Civ. P. 17(c). 17 E.D. Cal. Local Rule 202(a). 18 The decision to appoint a guardian ad litem “must normally be left to the sound discretion 19 of the trial court.” 30.64 Acres of Land, 795 F.2d at 804. 20 III. DISCUSSION 21 A. Guardian ad Litem 22 Here, the Court determined following a competency hearing that Lupe Flores is incompetent 23 to pursue this action pursuant to Rule 17.

See Fed. R. Civ. P. 17. Dawn Harris represents her 24 willingness to be appointed as guardian ad litem for Lupe Flores. Dawn Harris is the daughter of 25 Lupe Flores and presents documents setting forth that she possesses healthcare power-of-attorney 26 and durable power-of-attorney for Lupe Flores. See (Doc. 64).

In her supplemental declaration, 27 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 1 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 3 docket. 4 Thus, the Court finds that the standards for the appointment of Dawn Harris as guardian ad 5 litem for Lupe C. Flores have been met and that she is competent and qualified to serve as guardian 6 ad litem for Lupe Flores. See, e.g., *Elliott v. Versa CIC, L.P.*, 328 F.R.D. 554, 556 (S.D. Cal. 2018) 7 (finding appropriate appointment of plaintiff’s adult daughter, also acting as her power of attorney, 8 as guardian ad litem where plaintiff was found incompetent to pursue the action due to Alzheimer’s 9 disease); E.D.

Cal. Local Rule 202(a). Thus, the Court shall grant the motion to appoint Dawn 10 Harris as guardian ad litem for Lupe Flores. 11 B. Requirement for Guardian ad Litem to be Represented by Counsel 12 A guardian ad litem is authorized to act on behalf of the incompetent party, “make all 13 appropriate decisions in the course of specific litigation,” “make binding contracts for the retention 14 of counsel and expert witnesses and may settle the claim ...” 30.64 Acres of Land, 795 F.2d at 805.

15 However, as is the case here, a party with a non-attorney guardian ad litem must have counsel in 16 order to litigate a case. See *Johns v. Cnty. of San Diego*, 114 F.3d 874, 876 (9th Cir. 1997) (“While 17 a non-attorney may appear pro se on his own behalf, he has no authority to appear as an attorney 18 for others than himself.”) (quotation and citation omitted).

19 Accordingly, the Court will direct the parties to confer and propose dates of mutual 20
available to appear for status conference (via Zoom) to further address the parties' intentions for
21 proceeding with this case. 22 IV. CONCLUSION AND ORDER 23 For the foregoing reasons,
it is HEREBY ORDERED that: 24 1. Cross-Defendant Lupe C. Flores' motion to appoint Dawn
Harris as guardian ad litem 25 (Docs.

64, 66) is GRANTED; 26 2. Dawn Harris is appointed to act as guardian ad litem for Cross-
Defendant Lupe C. 27 Flores and is authorized to prosecute the action on Lupe C. Flores' behalf; 1
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 | hwmrD Pr 8 UNITED STATES MAGISTRATE JUDGE 9 10 11 12
13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 «