

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

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 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 be appointed guardian ad litem on her behalf. (Doc. 64). Dawn Harris represents that she “will be reaching out to Mr. Knitters office [sic] tomorrow (28 August 2025) as well, letting them know I would like to bring all of this to an end.” Id. at 1. Attached to the filing are letters from physician Victoria R. Shada discussing Lupe Flores’ medical diagnosis (id. at 2, 11, 33); a healthcare power of attorney form designating Dawn Harris as Lupe Flores’ designated healthcare agent, notarized, and signed by Lupe Flores as well as two witnesses (id. at 3-10), a durable power of attorney form designating Dawn Harris as attorney-in-fact, notarized, and signed by Lupe Flores (id. at 12-32); and an authorization for release of protected health information form designating Dawn Harris as an authorized recipient for disclosure, notarized, and signed by Lupe Flores (id. at 34-36). The Court directed Dawn Harris to file a supplemental declaration in support of her motion to be appointed guardian ad litem. (Doc. 65). Dawn Harris timely filed her supplemental declaration on October 9, 2025. (Doc. 66).

II. GOVERNING AUTHORITY

Under Rule 17 of the Federal Rules of Civil Procedure, a representative of an incompetent person may litigate on that person’s behalf. Fed. R. Civ. P. 17(c)(2). “The court is under a ‘legal obligation’ to consider whether an incompetent person is adequately protected.” *Jurgens v. Dubendorf*, No. 2:14-cv-2780-KJM-DAD, 2015 WL 6163464, *3 (E.D. Cal. Oct. 19, 2015) (citing *United States v. 30.64 Acres of Land, More or Less, Situated in Klickitat Cnty., State of Wash.*, 795 F.2d at 805). The appointment of the guardian ad litem is more than a mere formality. *30.64 Acres of Land*, 795 F.2d at 805. A Court shall take whatever measures it deems appropriate to protect the interests of the individual during the litigation. See id. (noting, “[a] guardian ad litem is authorized to act on behalf of his ward and may make all appropriate decisions in the course of specific litigation”). 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&T Mobility, LLC v. Yeager*, 143 F. Supp.3d 1042, 1054 (E.D. Cal. 2015) (quoting *Whitmore v. Arkansas*, 495 U.S. 149, 8163-64 (1990)). This means that the guardian cannot face an impermissible conflict of interest with the ward, and courts consider the candidate’s “experience, objectivity and expertise” or previous relationship with the ward. Id. (citations omitted). Further, the Local Rules of the Eastern District of California provide: (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 incompetent person, the attorney representing the minor or incompetent person shall present (1) appropriate evidence of the appointment of a representative for the 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.

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 | hwrnrD Pr

8 UNITED STATES MAGISTRATE JUDGE

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