

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Munoz v. United States

No. 1:24-cv-01371-KES-BAM (E.D. Cal. Apr. 2, 2025) · No. 1:24-cv-01371-KES-BAM · Decided April 2, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Maritsa Molina’s motion to be appointed guardian ad litem for her minor children, Bryan Munoz, Jerry Munoz-Molina, and Angelene Munoz-Molina. The court finds no conflict of interest that would preclude her appointment and vacates the previously scheduled hearing. The underlying action arises from injuries allegedly sustained when Bryan Munoz fell onto hot ashes at a recreation area.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Barbara A. McAuliffe
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 2, 2025
DOCKET	1:24-cv-01371-KES-BAM
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff Maritsa Molina moved under Federal Rule of Civil Procedure 17(c) for appointment as guardian ad litem for her minor children, who are plaintiffs in this Federal Tort Claims Act action. The court resolved the motion without oral argument and granted it.
STANDARD OF REVIEW	Appointment of a guardian ad litem is committed to the sound discretion of the trial court.
PRECEDENTIAL VALUE	unpublished and nonprecedential district court order

TOPICS

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

PRACTICE AREAS

- civil procedure
- guardianship procedure
- Federal Tort Claims Act

QUESTIONS PRESENTED

1. Whether Maritsa Molina should be appointed guardian ad litem for her minor children under Federal Rule of Civil Procedure 17(c)(2).
2. Whether Molina's status as both a party and parent created a conflict of interest that precluded her appointment as guardian ad litem.

HOLDINGS

1. A district court must protect an unrepresented minor in litigation by appointing a guardian ad litem or issuing another appropriate order, and the court appointed Maritsa Molina as guardian ad litem for Bryan Munoz, Jerry Munoz-Molina, and Angelene Munoz-Molina.
2. Molina's status as a party did not preclude her appointment because the court found no conflict that would prevent her from serving the best interests of her children.

KEY QUOTATIONS

“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.” (at 4)

“The decision to appoint a guardian ad litem “must normally be left to the sound discretion of the trial court.”” (at 5)

FACTUAL BACKGROUND

On June 21, 2023, Bryan Munoz encountered what appeared to be a dirt mound at the Tule Recreation Area near Lake Success in Tulare County, California. The mound was actually a large pile of hot ashes, and Bryan fell onto it, sustaining burns to his lower extremities. His family members, including his mother Maritsa Molina and the three minor plaintiffs, allegedly suffered emotional distress as a result. Molina had also been appointed guardian ad litem for the minor plaintiffs in the parallel state-court action arising from the same incident.

PROCEDURAL HISTORY

Plaintiffs previously filed related claims in Tulare County Superior Court against California, Tulare County, the U.S. Army Corps of Engineers, and the U.S. Department of Agriculture Forest Service. After removal and dismissal of the federal defendants, the action was remanded to state court. Plaintiffs commenced this parallel Federal Tort Claims Act action on November 7, 2024, and Molina then sought appointment as guardian ad litem for the three minor plaintiffs.

DISPOSITION

other

CASES CITED

- United States v. 30.64 Acres of Land, 795 F.2d 796, 804-05 (9th Cir. 1986)

- H.D.A. v. County of Stanislaus, No. 1:22-cv-00384-DAD-SAB, 2022 WL 992990, at *1 (E.D. Cal. Apr. 1, 2022)
- Gonzalez v. Reno, 86 F. Supp. 2d 1167, 1185 (S.D. Fla.), aff'd, 212 F.3d 1338 (11th Cir. 2000)
- Anthem Life Ins. Co. v. Olguin, No. 1:06-cv-01165 AWI NEW (TAG), 2007 WL 1390672, at *2 (E.D. Cal. May 9, 2007)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 BRYAN MUNOZ, et al., Case No. 1:24-cv-01371-KES-BAM 12 Plaintiffs,
ORDER VACATING APRIL 18, 2025 HEARING 13 v. ORDER GRANTING MOTION TO 14
UNITED STATES OF AMERICA, APPOINT GUARDIAN AD LITEM FOR PLAINTIFFS
BRYAN MUNOZ, JERRY 15 Defendant. MUNOZ-MOLINA, AND ANGELENE MUNOZ-
MOLINA 16 (Doc.

14) 17 18 Currently before the Court is the motion of Plaintiff Maritsa Molina to be appointed as
19 guardian ad litem for minor plaintiffs Bryan Munoz, Jerry Munoz-Molina, and Angelene
Munoz- 20 Molina. (Doc. 14.) Defendant United States of America did not file any opposition
within the 21 time prescribed by Local Rule 230(c).

The matter was referred to the undersigned pursuant to the 22 Standing Order issued on November
8, 2024. (Doc. 4-1.) The Court finds the motion appropriate 23 for resolution without oral
argument pursuant to Local Rule 230(g), and the hearing on the 24 motion is HEREBY
VACATED. 25 RELEVANT BACKGROUND 26 The claims in this action arise from the
following common allegations: On June 21, 2023, 27 Plaintiffs Bryan Munoz, Maritsa Molina,
Jerry Munoz-Molina, Gerardo Munoz, and Angelene 28 Munoz-Molina were at the Tule
Recreation Area at Lake Success near the City of Porterville in 1 Tulare County, California.

Plaintiff Bryan Munoz came upon what appeared to be a dirt hill or a 2 large mound of dirt.
However, what appeared to be a dirt hill was really a large pile of hot ashes. 3 As Plaintiff Bryan
Munoz approached the unrestricted pile of hot ashes, he fell onto the ashes 4 causing burns to his
lower extremities. Plaintiff Bryan Munoz's family, Plaintiffs Maritsa 5 Molina, Jerry Munoz-
Molina, Gerardo Munoz, and Angelene Munoz-Molina allegedly sustained 6 emotional distress as
a result of the incident.

(See generally Complaint, Doc. 1.) 7 According to the moving papers, on April 2, 2024, Plaintiffs
filed a complaint against the 8 State of California, County of Tulare, U.S. Army Corps of
Engineers, and U.S. Department of 9 Agriculture – Forest Service in Tulare County Superior
Court. (Doc. 14 at 3; Declaration of 10 Mary L. Caruso (“Caruso Decl.”) ¶ 3.)

The federal defendants—U.S. Army Corps of Engineers 11 and U.S. Department of Agriculture –
Forest Service—removed the action to this court. (Caruso 12 Decl. ¶ 4.) Following removal, the

State of California reportedly advised Plaintiffs that it could not be sued in federal court pursuant to the Eleventh Amendment. (Id. ¶ 5.)

As a result, on June 14, 2024, the parties stipulated to dismissal of the federal defendants, and the case was remanded to state court. (Id. ¶ 6.) On November 7, 2024, Plaintiffs commenced this parallel action under the Federal Tort Claims Act against the United States of America. (Doc. 1.) Plaintiff Maritsa Molina now seeks to be appointed as guardian ad litem for her children, minor plaintiffs Bryan Munoz (born in 2012, age 13), Jerry Munoz-Molina (born in 2017, age 8), and Angelene Munoz-Molina (born in 2018, age 7).

DISCUSSION Federal Rule of Civil Procedure 17 provides that “[t]he 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.” Fed. R. Civ. P. 17(c)(2). This requires a district court to take whatever measures it deems proper to protect the individual during litigation.

United States v. 30.64 Acres of Land, 795 F.2d 796, 805 (9th Cir. 1986). Local Rule 202(a) of this Court further states: 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 a 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 L.R. 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*, 795 F.2d at 804. “[W]hen a parent brings an action on behalf of a child, and it is evident that the interests of each are the same, no need exists for someone other than the parent to represent the child’s interests under Rule 17(c).” *H.D.A. v. County of Stanislaus*, No. 1:22-cv-00384-DAD-SAB, 2022 WL 992990, at *1 (E.D.

Cal. Apr. 1, 2022) (quoting *Gonzalez v. Reno*, 86 F. Supp. 2d 1167, 1185 (S.D. Fla.), *aff’d*, 212 F.3d 1338 (11th Cir. 2000)). “While a parent is generally appointed as a guardian ad litem, there are situations where the best interests of the minor and the interests of the parent conflict.” *Id.* (citing *Anthem Life Ins. Co. v. Olguin*, No. 1:06-cv-01165 AWI NEW (TAG), 2007 WL 1390672, at *2 (E.D.

Cal. May 9, 2007)). Therefore, a parent is not entitled as a matter of right to act as guardian ad litem for the child. *Id.* The Court has considered the motion of Plaintiff Maritsa Molina to be appointed as guardian ad litem for her children, minor plaintiffs Bryan Munoz, Jerry Munoz-Molina, and Angelene Munoz-Molina, and finds no conflict that would preclude her from serving as guardian ad litem.

As acknowledged by the moving papers, Plaintiff Maritsa Molina may have a potential 20 conflict of interest with her children because she is also a party to this action. (Doc. 14 at 6.) 21 However, her claims are the same as those of her children, including the claim for negligent 22 infliction of emotional distress. According to her counsel, “she is fully committed to prioritizing 23 and acting in the best interests of her children throughout the case.” (Doc.

14 at 6; see also 24 Caruso Decl. ¶ 10.) She also will act on their behalf in this action, “ensuring that their legal rights 25 and interests are fully protected.” (Doc. 14 at 4; see also Caruso Decl. ¶ 10.) Moreover, she has 26 been appointed as the guardian ad litem for the minor plaintiffs in the parallel state court action 27 arising from the same incident.

(See Ex. 1 to Caruso Decl.) 28 1 Given her appointment in the state court action, evidencing her consent to serve as 2 guardian ad litem for her children, the Court will grant the motion. 3 CONCLUSION AND ORDER 4 Based on the above, IT IS HEREBY ORDERED that Maritsa Molina is appointed in this 5 action as guardian ad litem for minor plaintiffs Bryan Munoz, Jerry Munoz-Molina, and Angelene 6 Munoz-Molina.

7 IT IS SO ORDERED. 8 9 Dated: April 2, 2025 /s/ Barbara A. McAuliffe _ UNITED STATES MAGISTRATE JUDGE 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28