

**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

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 13 not be sued in federal court pursuant to the Eleventh Amendment. (Id. ¶ 5.)

As a result, on June 14 4, 2024, the parties stipulated to dismissal of the federal defendants, and the case was remanded 15 to state court. (Id. ¶ 6.) 16 On November 7, 2024, Plaintiffs commenced this parallel action under the Federal Tort 17 Claims Act against the United States of America. (Doc. 1.) 18 Plaintiff Maritsa Molina now seeks to be appointed as guardian ad litem for her children, 19 minor plaintiffs Bryan Munoz (born in 2012, age 13), Jerry Munoz-Molina (born in 2017, age 8), 20 and Angelene Munoz-Molina (born in 2018, age 7).

21 DISCUSSION 22 Federal Rule of Civil Procedure 17 provides that “[t]he court must appoint a guardian ad 23 litem—or issue another appropriate order—to protect a minor or incompetent person who is 24 unrepresented in an action.” Fed. R. Civ. P. 17(c)(2). This requires a district court to take 25 whatever measures it deems proper to protect the individual during litigation.

United States v. 26 30.64 Acres of Land, 795 F.2d 796, 805 (9th Cir. 1986). Local Rule 202(a) of this Court further 27 states: 28 Upon commencement of an action or upon initial appearance in defense of an 1 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 2 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 3 showing satisfactory to the Court that no such appointment is necessary to ensure adequate representation of the minor or incompetent person.

4 5 See L.R. 202(a). The decision to appoint a guardian ad litem “must normally be left to the sound 6 discretion of the trial court.” 30.64 Acres, 795 F.2d at 804. 7 “[W]hen a parent brings an action on behalf of a child, and it is evident that the interests 8 of each are the same, no need exists for someone other than the parent to represent the child’s 9 interests under Rule 17(c).” H.D.A. v. County of Stanislaus, No. 1:22-cv-00384-DAD-SAB, 2022 10 WL 992990, at *1 (E.D.

Cal. Apr. 1, 2022) (quoting *Gonzalez v. Reno*, 86 F. Supp. 2d 1167, 1185 11 (S.D. Fla.), *aff’d*, 212 F.3d 1338 (11th Cir. 2000)). “While a parent is generally appointed as a 12 guardian ad litem, there are situations where the best interests of the minor and the interests of the 13 parent conflict.” *Id.* (citing *Anthem Life Ins. Co. v. Olguin*, No. 1:06-cv-01165 AWI NEW (TAG), 14 2007 WL 1390672, at *2 (E.D.

Cal. May 9, 2007)). Therefore, a parent is not entitled as a matter 15 of right to act as guardian ad litem for the child. *Id.* 16 The Court has considered the motion of Plaintiff Maritsa Molina to be appointed as 17 guardian ad litem for her children, minor plaintiffs Bryan Munoz, Jerry Munoz-

Molina, and 18 Angelene Munoz-Molina, and finds no conflict that would preclude her from serving as guardian 19 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