

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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BRADLEY D. STEVENS and MARLO R. STEVENS,

Plaintiffs,

ORDER

v.

15-cv-762-wmc

WISCONSIN CVS PHARMACY, LLC,

Defendant.

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Plaintiff Marlo R. Stevens has filed a petition for appointment of guardian ad litem for plaintiffs' minor children. (Dkt. #14.) Plaintiff contends that appointment is appropriate pursuant to Wis. Stat. § 803.01(3). That section, however, provides for appointment of a guardian ad litem under certain circumstances if “a *party* to an action or proceeding is a minor.” Wis. Stat. § 803.01(3)(a). While plaintiffs contend that their minor children have a claim for damages, they are not parties to this action, and have no claim for damages absent seeking leave of this court to amend the complaint to add them as parties. (The deadline for amending pleadings passed some six months ago, on May 13, 2016.)

Even putting aside that impediment, the statutory provision does not require appointment of a guardian ad litem unless the children are parties to a settlement; indeed, assuming their mother Marlo Stevens' interests are not adverse to that of her children, the statute expressly prohibits appointment. *See* Wis. Stat. § 803.01(3)(a) (“Except as provided in s. 807.10 [concerning settlements with minor parties], if the

guardian does appear and act and the interest of the guardian are not adverse to the minor . . . , a guardian ad litem may *not* be appointed.” (emphasis added)).

All of this is to say that the court sees no basis for appointing a guardian ad litem at this time. Accordingly, plaintiff’s petition is DENIED without prejudice.

Entered this 8th day of November, 2016.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge