**OPINION SUMMARY**

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

**SOUTHERN DIVISION**

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| CARL WATKINS AND MATTHEW WATKINS, LIMITED CO-GUARDIANS AND FULL CO-CONSERVATORS FOR RICHARD WATKINS, | ) | No. ED107966 |
| Appellants, | ) | |
| | ) | Appeal from the Circuit Court of St. Francois County |
| vs. | ) | Cause No. 10SF-CC00255 |
| GOOSE CREEK LAKE TRUSTEES, INC. | ) | Honorable Robin E. Fulton |
| Respondent. | ) | Filed: April 21, 2020 |

Carl and Matthew Watkins, as limited co-guardians of Richard Watkins ("Appellant") and full co-conservators of his estate, appeal the trial court's judgment dismissing Appellant's claims against Goose Creek Lake Trustees, Inc. ("Respondent") and entered in Respondent's favor on Respondent's counterclaims against Appellant. Appellant raises three points on appeal. In his first point, Appellant argues that the trial court erred in awarding attorney's fees to Respondent based on Respondent's declaratory judgment counterclaim because Respondent did not allege any "special circumstances" justifying that award and no such special circumstances were present in the case. In his second point, Appellant asserts that the trial court erred in proceeding with trial after the trial date was continued and Appellant's counsel thereafter filed a motion to withdraw, which was granted prior to the continued trial date. Appellant argues that, under such procedural circumstances, he did not receive proper notice of the continued trial date. And in his third point, Appellant argues that the trial court erred in granting the motion to withdraw of the guardian ad litem ("GAL") appointed to represent Appellant's interests in the case.

REVERSED AND REMANDED.

**Southern Division Holds:** We find that the trial court misapplied the law in granting the GAL's motion to withdraw from the case, as the GAL filed his motion to withdraw based upon his own determination that Appellant was not incompetent and did not require representation in the litigation. Because our conclusion on Appellant's third point on appeal is dispositive of his first and second points, we do not address those points. The judgment of the trial court is reversed and we remand for a new trial on Appellant's claims contained within his petition that was dismissed by the trial court and on Respondent's counterclaims.

Opinion by: Colleen Dolan, C.J.

Robert G. Dowd, Jr., J., and Lisa P. Page, J., concur.

Attorney for Appellant: Clinton B. Roberts

Attorney for Respondent: Kenneth K. Schmitt

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.**