

JUVENILE RULE 27. GUARDIAN AD LITEM

The Court of Common Pleas, Domestic Relations Division, Juvenile Branch may appoint Guardians Ad Litem to represent the best interest of the minor children/incompetents in matters regarding the allocation of parental rights and responsibilities, not arising out of abuse, neglect or dependency filings, wherein said Branch has jurisdiction.

(A) Eligibility

The Court, through its Administrative Domestic Magistrate, will maintain a list of attorneys who have completed the required training and are eligible to serve as a Guardian ad Litem. The Franklin County CASA Program may also serve as Guardian ad Litem.

In order to be eligible, attorneys shall attend a three-hour training program concentrating solely on the duties of a Guardian ad Litem. Attending an Ohio approved Continuing Legal Education course on the subject of Guardians ad Litem or viewing a video of such shall automatically qualify for eligibility. Other equivalent training may be approved by the Domestic Administrative Magistrate. Upon completion, a letter verifying completion and requesting placement on the list shall be sent to the Domestic Administrative Magistrate. In sending this letter requesting placement on the list of eligible attorneys, the attorney is indicating a commitment to the acceptance of an appointment on a pro bono basis at least once a year.

Eligible attorneys shall notify the court of changes in their status, address or telephone number.

(B) Appointment

In order to superintend the best interest of minor children/incompetents in any action over which this Court has jurisdiction, the Court may appoint a Guardian ad Litem upon its own motion or the motion of either party. Appointments shall be in the dual capacity of attorney and Guardian ad Litem for the child, so long as those roles do not conflict. Said appointment shall be made by the required entry attached hereto and incorporated herein.

Counsel for the party requesting the Guardian ad Litem shall be required to notify the assignment commissioner of said appointment. The Assignment Commissioner and all counsel shall notify the Guardian ad Litem of all proceedings. It shall be the responsibility of counsel in the case to copy the Guardian ad Litem with all pleadings, notices of hearings and depositions, entries and any other necessary documents. Any additional expense incurred by the Guardian as a result of counsel's failure to notify, including the costs of transcripts, shall be charged to the party(ies) responsible for such failure.

(C) Fees / Deposit to Secure Fees

When an Attorney/Guardian ad Litem requires fee arrangements inconsistent with those set forth in the required entry, he/she shall so notify the Court prior to accepting an appointment.

The court shall require the parties to post a deposit to secure the fees of the Guardian ad Litem. The total deposit shall be at least \$800.00 unless otherwise agreed upon by the Guardian ad Litem. If

any party has filed an affidavit of indigency, the court may, in its discretion, not require that party to pay an initial deposit.

Additional sums may be ordered and apportioned to the respective parties upon the Court's own motion or motion of the Guardian ad Litem, who may submit to the Court a request for an additional deposit, or a monthly affidavit of fees for approval and an order regarding payment of said deposit/fees. Said request shall be served on the parties, or their counsel if they are represented, and if there is no objection, an order regarding payments of said deposit/fees may be issued after seven days.

No later than seven (7) days after final hearing in the matter on which the Guardian ad Litem has been appointed, the Attorney/Guardian ad Litem shall submit an affidavit of fees to the Court. If approved by the Court, said fees shall be made a part of the final entry. Nothing herein shall delay the filing of said entries, and they shall be filed in accordance with the Rules of the Supreme Court as to Civil Procedure and Superintendence. In order to protect the fee for the services of the Attorney/Guardian ad Litem, the Court may require additional deposits, and shall have the discretion to issue a lump sum Judgment against the party or parties for the attorney fees due and owing at the time of the final adjudication.

(D) Duties of the Guardian ad Litem

Upon appointment, the Attorney/Guardian ad Litem in every case should perform certain basic duties, identified below. The feasibility of some of the duties will depend upon the age(s) of the children and the specific circumstances of each case. Therefore, it is within the discretion of the Guardian ad Litem to tailor each to the facts of the individual case.

- a. Interview the children and observe each parent with the child(ren);
- b. Review pleadings and consult with each attorney as to position and issues;
- c. Investigate all significant persons and interview independently;
- d. Obtain records e.g., school, criminal, medical, psychological, child protective agency;
- e. Perform home visits (this may be combined with the interview process);
- f. Evaluate the necessity, if any, of psychological evaluations or counseling; and file a motion requesting the same;
- g. Communicate with the Family Assessment worker;
- h. Attend all depositions concerning the best interest of the child(ren)/incompetent.
- i. Be cognizant that the duty of an attorney to his/her client and the duty of a Guardian ad Litem to his/her ward are not always identical and, in fact, may conflict. The role of the Guardian ad Litem is to investigate the

ward's situation and then to ask the court to do what the Guardian ad Litem feels is in the ward's best interest. The role of the attorney is to zealously represent his/her client within the bounds of the law. The first and highest duty of an attorney appointed in a dual capacity is to zealously represent his client within the bounds of the law and to champion his client's cause. When appointed in the dual capacity of Attorney and Guardian ad Litem for the child, or solely as Guardian ad Litem for the child, notify the court and counsel when a conflict arises.

(E) Powers

The powers of the Attorney/Guardian ad Litem shall be wide-ranging, including but not limited to, the right to file motions and to review all confidential records involving the child(ren) by request, through deposition, and by subpoena.

(F) Reports and Court Appearances

The Guardian ad Litem may prepare and file written reports detailing observations and recommendations on both an interim basis and at the conclusion of hearing, but in all cases shall be present at all hearings pertaining to the children. The Attorney/Guardian ad Litem may subpoena and examine independent witnesses.

The Guardian ad Litem has a duty to notify the Court and counsel if the child's wishes are in opposition to the Guardian's recommendation.

(G) Filing Fees and Court Costs

All filing fees and court costs are waived as to Guardians ad Litem.

(H) Termination of Appointment

The Guardian ad Litem shall represent the best interest of the minor child(ren) until discharged by the court. At the conclusion of the litigation, the Attorney/Guardian ad Litem shall prepare an entry withdrawing as the Guardian ad Litem.

Motions to remove a Guardian ad Litem shall be scheduled for hearing before the assigned judge or magistrate.

Effective 7/1/95; Amended eff. 12/1/04