

IN THE DISTRICT COURT OF TETON COUNTY, WYOMING

NINTH JUDICIAL DISTRICT

*,)
) Civil Action No. *
Plaintiff,)
) ORDER APPOINTING GUARDIAN AD
vs.) LITEM
)
*,)
)
Defendant.)

It appearing to the Court that one of the issues raised herein concerns the custody of the minor child of the parties; and it further appearing to this Court that a guardian ad litem (G.A.L.) should be appointed to represent the best interest of this minor child;

IT IS ORDERED:

1. * is hereby appointed to serve as G.A.L. for the minor child of the parties, and shall represent the best interests of the child before this Court. The G.A.L. shall be an officer of the Court, shall be an attorney for the minor whom she is appointed to serve, and shall assist the Court in reaching a decision as to which party shall be awarded temporary and/or permanent legal custody of said minor child. The G.A.L. has the same ethical responsibilities in these proceedings as any other attorney. In order to perform her functions, the G.A.L. shall have full right and authority to completely investigate all aspects of the case and to interview all parties and other persons with an interest in the custody, visitation, maintenance and/or education of the minor child upon request by the G.A.L. with reasonable notice.

2. In the event that a party or other person shall refuse to cooperate or be interviewed, the G.A.L. shall so report to the Court and shall prepare the case without the assistance of the party or witness unless the Court otherwise directs.

3. The G.A.L. shall have the right to inspect all records relating to the minor child maintained by the Clerk of the District Court, the Department of Family Services, the Juvenile Court, any school, hospital, doctor or other medical service provider, any mental health agency or other

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mental health provider, and any other social or human services agency without necessity of written consent by the parents or the Court. This Order authorizes any individual or organization to release those records to the G.A.L. The G.A.L. shall have the right upon reasonable notice to examine any residence wherein any person seeking custody proposes to house the minor. The G.A.L. is entitled to request financial, medical, mental health and other records of the parties. The G.A.L. may request this Court to order examination of the child by the medical or mental health professional, if appropriate.

4. The G.A.L. shall be entitled to notice of, and shall be entitled to participate in, all hearings, trials, investigations, depositions or other proceedings concerning the child and counsel for both parties are responsible for insuring that the guardian receives this notice at the earliest possible time. The G.A.L. shall be served with copies of all pleadings, notices, discovery, reports and any other documents filed in this action.

5. The G.A.L. shall be notified of and shall participate in settlement negotiations and offers of settlement as they affect the best interests of the child.

6. The G.A.L. shall be paid at the rate of \$150.00 per hour. The fees of the G.A.L. shall be equally apportioned between the parties unless and until otherwise ordered by the Court. The parties are each to make an initial deposit against the fees of the G.A.L. in the amount of \$750.00, which deposit shall be made to * within twenty (20) days from the date of this Order. The G.A.L. shall keep a record of time expended on the case and bill against the initial deposit. The G.A.L. shall periodically bill the parties directly, with copies to counsel, and the parties shall promptly pay the fees. The G.A.L. shall give notice to the Court for a party's failure to timely meet his/her obligations under this paragraph.

7. The appointment of the G.A.L. shall continue until such time as the matters pertaining to custody, visitation, maintenance or education raised in this action are settled, dismissed or otherwise adjudicated.

8. The G.A.L. shall at all times conduct herself in accordance with the standards enumerated in *Clark v. Alexander*, 935 P.2d 145 (Wyo. 1998) and *Moore v. Moore*, 809 P.2d 261 (Wyo. 1991).

a. The G.A.L. is not bound by the client's expressed preferences, but by the client's best interests. If the G.A.L. determines that the child's expressed preference is not in the best interests of the child, both the child's wishes and the basis for the G.A.L.'s disagreement must be presented to the Court.

b. The confidentiality normally required in the attorney-client relationship must be modified to the extent that relevant information provided by the child may be brought to the Court's attention. While it is always best to seek consent prior to divulging otherwise confidential information, a G.A.L. is not prohibited from disclosure of client communications absent the child's consent. As legal counsel to the child the G.A.L. is obligated to explain to the child, if possible, that the G.A.L. is charged with protecting the child's best interest and that information may be provided to the Court which would otherwise be protected by the attorney-client relationship.

c. The G.A.L. is to be an advocate for the best interests of the child and actively participate at the proceedings. The G.A.L. has the opportunity and the obligation to conduct all necessary pretrial preparation and present all relevant information through the evidence offered at trial.

d. Recommendations from the G.A.L. can be made to the Court through closing argument based on the evidence received.

e. The credibility of the G.A.L. will not be placed at issue.

f. The G.A.L. may not be a fact witness at a hearing in this matter.

g. The G.A.L. shall submit a detailed written report which timely informs the parties of the relevant facts and the basis of the G.A.L.'s recommendations prior to the trial of this matter. If the parties so stipulate, the report may be presented to the Court. The report should not be filed with the Court or received into evidence without the express agreement of the parties.

h. There shall be no ex parte communications between the G.A.L. and the Court. The recommendations of the guardian shall be made in open court, or to counsel for the parties in writing in advance of the trial.

DATED the * day of *, 2010.

Timothy C. Day
District Judge