

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
WITHIN AND FOR SWEETWATER COUNTY, WYOMING

<hr style="border: 0; border-top: 1px solid black; margin-bottom: 10px;"/> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <hr style="border: 0; border-top: 1px solid black; margin-top: 10px;"/> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">Docket No. C-____-____-__</p>
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ORDER APPOINTING GUARDIAN AD LITEM

THIS MATTER having come before the Court; and the Court having reviewed and considered the pleadings filed herein; and the Court being fully advised in the premises; and it appearing to the Court that one of the issues raised herein concerns the custody of the minor child(ren) of the Parties; and it further appearing to this Court that a guardian *ad litem* should be appointed to represent the best interests of the minor child(ren),

NOW THEREFORE IT IS HEREBY ORDERED, DECREED AND ADJUDGED:

1. **Appointment** _____ is hereby appointed to serve as guardian *ad litem* for the minor child(ren), of the parties, and shall represent the best interests of the child(ren) before this Court. The guardian *ad litem* shall be an officer of the court and shall assist the Court in reaching its decision as to which party shall be awarded temporary and/or permanent legal custody and visitation of the minor child(ren). In order to perform these functions, the guardian *ad litem* 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 guardian *ad litem* with reasonable notice.
2. **Cooperation of Parties** The parties shall fully and completely comply and cooperate, in all respects, with the guardian *ad litem*, including, but not limited to: timely paying retainers and timely paying for the services rendered and costs incurred by the guardian *ad litem*; timely and responsively signing and delivering any and all releases, documents, instruments, or other items that the guardian *ad litem* may, from time to time, request; and, making themselves available for communication with, and personal visits by, the guardian *ad litem*, including providing the guardian *ad litem* with any and all means of contact between themselves and the guardian *ad litem* or persons supervising or otherwise caring for the parties' minor child(ren) (e.g., phone numbers, email addresses, mailing addresses, physical addresses, addresses of child care providers and others having any supervision or care of the

parties' minor child(ren), etc.).

- a. Within 15 days from the date of this Order, counsel for the parties and any unrepresented parties shall confer with the guardian *ad litem* so that the guardian *ad litem* may obtain copies of relevant pleadings, orders, filings, or other matters necessary or convenient to allow the guardian *ad litem* to become quickly acquainted with the nature of the case and issues in dispute.
 - b. **In the event that a party or other person shall refuse to cooperate or be interviewed, the guardian *ad litem* shall so report to the Court and shall prepare the case without the assistance of the party or witness unless the Court otherwise directs. The Court reserves the right to assess the entire fee of the guardian *ad litem* against a party who fails to cooperate with the obligations and conditions herein.**
3. **Discovery** The guardian *ad litem* shall recognize the representation of the best interests of the child(ren) as a role independent from all other parties. Thus, the guardian *ad litem* may pursue independent discovery, which may be informal or as provided by the Wyoming Rules of Civil Procedure.
- a. The guardian *ad litem* shall be given access, without further release, to all relevant privileged information concerning the parties and the child(ren) in this matter, without necessity of written consent by the parties or further order of the Court. This access shall include, but is not limited to, psychiatric, psychological, drug and alcohol treatment, medical protected health information, law enforcement, school, social services, and financial records, records maintained by the Clerk of District Court, the Department of Family Services, the Juvenile Court, any school, hospital, doctor or other medical health provider, and any other social or human services agency. This access is authorized by 45 CFR 164.512(e)(1)(i) and the Health Insurance Portability and Accountability Act (HIPAA) which authorizes covered entities to disclose protected health information in the course of any judicial or administrative proceeding when responding to an order of the court. This Order authorizes any individual or organization to release those records to the guardian *ad litem*. The guardian *ad litem* shall have the right to examine any residence wherein any person seeking custody proposes to house the minor child, so long as the person consents to this examination. The guardian *ad litem* is entitled to request financial, medical, mental health and other records of the parties.
4. **Pleadings** The guardian *ad litem* shall act as an attorney and shall file such pleadings and other papers and participate in the case as necessary to protect the best interest of the child(ren), including, but not limited to:
- a. Mental or physical examinations of a party or a child;

- b. Custody and/or visitation evaluations of experts pursuant to W.R.E. 706, or other parties' expert witness evaluations;
 - c. Temporary orders concerning care, custody, and maintenance of the child(ren);
 - d. Contempt for noncompliance of court orders against a party; and
 - e. Any other pleadings which address the best interests of the child.
5. **Attorney of Record** The guardian *ad litem* is an attorney of record, and shall be included with all other parties of record on all setting and certificates of mailing and hand delivery, shall be entitled to notice of, and shall be entitled to participate in, all hearings, trials, investigations, depositions or other proceedings concerning the child(ren) and counsel for both parties are responsible for insuring that the guardian *ad litem* receives this notice at the earliest possible time. The guardian *ad litem* shall be served with copies of all pleadings, notices, discovery, reports and any other documents filed in this action.
- a. There shall be no ex parte communication between the guardian *ad litem* and the Court.
 - b. The guardian *ad litem* shall be notified of and has the right to participate in settlement negotiations and offers of settlement as they affect the best interests of the child. The guardian *ad litem* should seek expeditious resolution if appropriate. The guardian *ad litem* should take notice of the effect of continuances on the child(ren) and advocate accordingly.
 - c. The guardian *ad litem* shall attend all hearings and participate in all telephone conferences with the Court unless the Court waives such appearance/participation. If a hearing involves issues unrelated to the best interests of the child(ren), the guardian *ad litem* may request in writing that attendance be waived.
 - d. The guardian *ad litem* may request authority from the Court to pursue issues on behalf of the child(ren) not specifically arising from this appointment, including but not limited to 1) child support, 2) delinquency matters, 3) custody, 4) guardianship, and 5) paternity.
 - e. The appointment of the guardian *ad litem* 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. **Failure of the parties to timely pay the guardian *ad litem* may result in the guardian *ad litem* being released from his or her duties in this matter.**
 - f. The guardian *ad litem* shall participate in all appeals unless excused by further order of Court.
6. **Report and Recommendation** The report and recommendations of the guardian *ad litem* shall be submitted to the attorneys of the parties in advance of trial. The report

and recommendations of the guardian *ad litem* shall be submitted to the Court if the parties so stipulate in writing. The guardian *ad litem* shall formulate an opinion concerning the best interest of the child(ren) after considering all relevant information, and must attempt to persuade the Court to that view. The report and recommendation shall address:

- a. The best interests of the child(ren), pursuant to the factors enumerated in Wyo. Stat. Ann. § 20-2-201(a) (LexisNexis 2011);
 - b. When applicable, material change in circumstances, if any, pursuant to Wyo. Stat. Ann. § 20-2-204(c) (LexisNexis 2011);
 - c. Whether the parties should be ordered to attend parenting classes or counseling;
 - d. Where there is evidence of child or domestic abuse, a specification of arrangements that best protect the child(ren) from harm;
 - e. Appropriate mechanisms for accessing the child(ren)'s school, medical, and dental records, and sharing information about the child(ren)'s teachers, parent teacher conferences, and activities.
7. **Presentation of Evidence** The guardian *ad litem* shall develop and present relevant evidence to the Court. The guardian *ad litem* shall prepare for hearings and subpoena and present witnesses and exhibits when necessary to protect the best interests of the child(ren). The guardian *ad litem* may present witnesses in person or by video conferencing or by telephone. The guardian *ad litem* should consider the time, cost, and impact of witnesses.
8. **Presentation of Legal Argument** The guardian *ad litem* shall advocate a clear legal position on behalf of the child(ren). The guardian *ad litem* shall present an opening statement, be entitled to cross-examine witnesses, and shall give a closing argument which shall include a final recommendation based on the evidence, which shall address the best interests of the child(ren) pursuant to Wyo. Stat. Ann. § 20-2-201(a) (LexisNexis 2011) and, when applicable, material change in circumstances, if any, pursuant to Wyo. Stat. Ann. § 20-2-204(c) (LexisNexis 2011).
9. **Compensation** The guardian *ad litem* shall be paid at the rate of \$_____ per hour. This Court shall determine how the fees of the guardian *ad litem* shall be apportioned between the parties. The parties are each to make an initial deposit against the fees of the guardian *ad litem* in the amount of \$_____ each, which deposit shall be made payable to the guardian *ad litem*'s trust account and deposited with the guardian *ad litem* within 30 days from the date of this Order to defray the initial fees and expenses of the guardian *ad litem*. Any subsequent fees will be divided equally between the Parties unless otherwise divided by the Court. A determination of all subsequent fees to be paid by the parties shall be made by the

Court time to time, or at the point at which custody ceases to be an issue in the case or at the settlement of the case, whichever comes first. The guardian *ad litem* shall seek prior court approval before incurring extraordinary expenses, such as expert witness fees. Reasonable attorney fees and costs shall be paid within 30 days of receipt. **Interim billings will be submitted to the parties monthly and shall be due and payable upon receipt.**

DATED this ____ day of _____, 2013.

By the Court,

RICHARD L. LAVERY
District Court Judge