

RULES OF THE SUPERIOR COURTS OF
THE CONASAUGA JUDICIAL CIRCUIT OF GEORGIA
FOR GUARDIAN AD LITEM APPOINTMENT
IN DOMESTIC RELATIONS CASES

RULE 1. APPOINTMENT

(a) The Guardian ad Litem ("GAL") is appointed to assist in a domestic relations case by the superior court judge assigned to hear that particular case, or otherwise having the responsibility to hear such case. The appointing judge has the discretion to appoint any person as a GAL so long as the person so selected has been trained as a GAL or is otherwise familiar with the role, duties, and responsibilities as determined by the judge and these rules. The judge shall notify the Superior Court Administrator's Office of his/her desire to appoint a GAL. Unless otherwise directed by the court, the GAL shall be selected for appointment from a list of qualified attorneys maintained by that office.

(b) The court may elect to appoint a Guardian ad Litem in the form of a team to represent the interests of a child(ren). The team shall consist of an attorney selected in accordance with provisions of RULE 1(a) and a psychologist designated by the court. It is desirable that the attorney be registered with the Georgia Office of Dispute Resolution as a domestic relations mediator. As the legal services component of the team, the attorney shall have the rights and authorities described within these rules to perform the duties and serve in the roles required by the court. As the psychological services component of the team, the psychologist shall be entitled to conduct psychological testing and interviews with the parties and the child(ren) and any other adult caretaker determined necessary for the purpose of completing required evaluations. The psychologist shall participate in the formulation of any reports prepared for the court and it is

expected that he/she shall be called as the court's witness at trial unless otherwise directed by the court. The psychologist shall be subject to examination by the parand the court.

RULE 2. QUALIFICATIONS

To serve as a GAL in this circuit and have fees paid from funds available to the Superior Court Administrator=s Office, the guardian must be a member in good standing of the State Bar of Georgia, have attended the circuit's Seminar For Divorcing Parents and have received training as provided by or approved by the judges of the Circuit. This training should include, but not be limited to, instruction in the following subjects: domestic relations law and procedure, including the appropriate standard to be applied in the case; domestic relations courtroom procedure; role, duties, and responsibilities of a GAL; recognition and assessment of a child's best interests; methods of performing a child custody/visitation investigation; methods of obtaining relevant information concerning a child's best interest; the ethical obligations of a GAL, including the relationship between the GAL and counsel, the GAL and the child, and the GAL and the court; recognition of cultural and economic diversity in families and communities; base child development, needs, and abilities at different ages; interviewing techniques; communicating with children; family dynamics and dysfunction, domestic violence and substance abuse; recognition of issues of child abuse; and available services for child welfare, family preservation, medical, mental health, educational, and special needs, including placement, evaluation, diagnostic and treatment services.

RULE 3. ROLE AND RESPONSIBILITIES

The GAL shall represent the best interests of the child. The GAL is an officer of the court and shall assist the court and the parties in reaching a decision regarding child custody,

visitation and other child-related issues. Should the issue of child custody and/or visitation be tried, the GAL shall be available to offer testimony in accordance with provisions of RULES 6 and 7 herein. The GAL holds a position of trust with respect to the minor child(ren) at issue, and must exercise due diligence in the performance of his/her duties. A GAL should be respectful of, and should become educated concerning, cultural and economic diversity as may be relevant to assessing a child(ren)'s best interests. A GAL's appointment, unless ordered otherwise by the court for a specific designated period, shall last until such time as the matters in the action are settled, dismissed, or otherwise adjudicated. The GAL shall have the authority to bring a contempt action, or other appropriate remedy, to recover court-ordered fees for the GAL's services.

RULE 4. DUTIES

By virtue of the order of appointment, a GAL shall have full right and authority to investigate completely all aspects of a case and to interview all parties and other persons deemed necessary to complete the investigation upon notice to the persons by the GAL. The GAL shall as well have full right and authority to inspect all records relating to the minor child(ren) maintained by the Department of Family and Children Services, Clerk of the Court in this and any other jurisdiction, the Juvenile Court, any school, hospital, medical care provider, mental health provider, and any other social or human services agency without the necessity of written consent by the parents or the court. The GAL shall have full right and authority, upon reasonable notice, to examine any residence wherein any person related to the case proposes to house the minor child(ren). The GAL may request the court to order an examination of the child(ren), parents or anyone seeking custody of the child(ren), by a medical or mental health professional, if appropriate. The GAL 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 is responsible for ensuring that the GAL receives notice of these proceedings at the earliest possible time.

RULE 5. PARTY RESPONSIBILITIES

The parties shall make every good faith effort to cooperate with the GAL by participating in interviews and by providing, in a timely manner, any financial, medical, mental health, employment or other records of the parties. The GAL is entitled to request a criminal history (NCIC and GCIC) on the parties and the parties shall sign any documents and pay any costs necessary to provide such to the GAL. In the event that a party or other person shall refuse to be interviewed or otherwise cooperate with the GAL, the GAL shall so report to the court and shall prepare the case without the assistance of the party or witness unless the court directs otherwise.

RULE 6. WRITTEN REPORT

Unless otherwise directed by the appointing judge, the GAL shall produce a written report to the court detailing the GAL's findings and recommendations and shall serve a copy of said report to the parties through counsel. In the event either party objects to the report or any portion thereof, the party shall, within ten (10) days of receiving the report, file objections with the court and serve a copy on the GAL. At trial, the report may be admitted into evidence for direct evidence and impeachment purposes, or for any other purposes allowed by the laws of this state. The court may consider the report, including the recommendations, in making its decision. However, the recommendations of the GAL are not a substitute for the court's independent discretion and judgment, nor is the report a substitute for the GAL's attendance and testimony at the final hearing, unless all parties otherwise agree.

(a) CONTENTS OF REPORT:

The report shall summarize the GAL's investigation; including identifying all sources contacted or relied upon in preparing the report. The GAL shall offer recommendations concerning child custody, visitation, and other child-related issues and the reasons supporting those recommendations.

(b) RELEASE OF REPORT TO COUNSEL AND PARTIES: The Report shall be released to counsel (including counsel's staff and experts) and parties only, unless otherwise ordered by the court.

(c) UNAUTHORIZED DISSEMINATION OF REPORT:

Any unauthorized dissemination of the GAL's report by a party or counsel to any person, shall be subject to sanctions, including a finding of contempt by the court.

(d) SEALING OF WRITTEN REPORT: If filed, the Report shall be filed under seal by the Clerk of Superior Court in order to preserve the security, privacy, and best interests of the child(ren) at issue.

RULE 7. ROLE AT HEARING AND TRIAL

It is expected that the GAL shall be called as the court's witness at trial unless otherwise directed by the court. The GAL shall be subject to examination by the parties and the court. The GAL is qualified as an expert witness on the best interest of the child(ren) in question. The GAL may testify as to the foundation provided by witnesses and sources, and the results of the GAL's investigation, including a recommendation as to what is in a child(ren)'s best interest. The GAL shall not be allowed to question witnesses or present argument, absent exceptional circumstances and upon approval of the court.

RULE 8. FILING MOTIONS AND PLEADINGS

If appropriate, the GAL may file motions and pleadings if the GAL determines that the filing of such motion or pleading is necessary to preserve, promote, or protect the best interest of a child(ren). This would include the GAL's right to file appropriate discovery requests and request the issuance of subpoenas. Upon the filing of any such motions or pleadings, the GAL shall promptly serve all parties with copies of such filings.

RULE 9. RIGHT TO RECEIVE NOTICE OF MEDIATION SESSIONS, HEARINGS AND TRIALS

Counsel shall notify the GAL of the date and time of all mediation sessions, depositions, hearings and trials or other proceedings concerning the child(ren). Counsel shall serve the GAL with proper notice of all legal proceedings, court proceedings wherein the child(ren)'s interests are involved and shall provide the GAL with proper and timely written notice of all non-court proceedings involving the child(ren)'s interests.

RULE 10. APPROVAL OF SETTLEMENT AGREEMENTS

If the parties reach an Agreement concerning issues affecting the best interest of a child, the GAL shall be so informed and shall have the right and opportunity to make objections to the court to any proposed settlement of issues relating to the children prior to the court approving the Agreement.

RULE 11. COMMUNICATIONS BETWEEN GAL AND COUNSEL

A GAL may communicate with a party's counsel without including the other counsel in the same conversation, meeting or, if by writing, notice of the communication. When communicating with the GAL, counsel is not required to notify opposing counsel of the

communication or, if in writing, provide opposing counsel with a copy of the communication to the GAL.

RULE 12. EX PARTE COMMUNICATION BETWEEN GAL AND THE COURT

The GAL shall not have Ex Parte communications with the court except only in matters of emergency concerning the child's welfare. Upon making such concerns known to the court, the GAL may request an immediate hearing to address the emergency. Notification shall be provided immediately to the parties and counsel of the nature of the emergency and time of hearing.

RULE 13. PAYMENT OF GAL FEES AND EXPENSES

It shall be within the court=s discretion to determine the amount of fees awarded to the GAL. Such determinations, including matters related to if and how payment of retainers and fees shall be apportioned between parties or if and how fees are to be paid from other sources shall be made at the time of appointment of the GAL by the court.

RULE 14. REMOVAL OF GAL FROM THE CASE

Upon motion of either party, the court may remove the GAL from the case for good cause.