

4A-515. Order appointing guardian ad litem.

STATE OF NEW MEXICO

COUNTY OF _____
_____ JUDICIAL DISTRICT

_____,
Petitioner,

No: _____

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

_____, (a) Child(ren) (*use initials only*), and
concerning

_____, Respondent #1,
_____, Respondent #2.

ORDER APPOINTING GUARDIAN AD LITEM

THIS MATTER came before the court on _____,
20____. Petitioner(s), _____,
(*name(s) of Petitioner(s)*), appeared pro se. Respondent #1, _____,
(*name of Respondent #1*), [] appeared pro se [] did not appear. Respondent #2,
_____ (*name of Respondent #2*), [] appeared pro se [] did not appear.
The court having reviewed the motion, heard testimony, and being sufficiently advised,
FINDS:

1. The court has jurisdiction over the parties and subject matter. The court has jurisdiction under the Kinship Guardianship Act, Sections 40-10B- 1 to -15 NMSA 1978.

2. This action concerns the following minor [child] [children]:

_____	, year of birth _____	, age _____;
_____	, year of birth _____	, age _____;
_____	, year of birth _____	, age _____;
_____	, year of birth _____	, age _____;

3. Good cause exists to appoint a guardian ad litem (GAL) under the Kinship Guardianship Act, Section 40-10B-9 NMSA 1978, and Rule 1-152 NMRA to represent the [child's] [children's] best interests in this case.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. Appointment and duties to the court: _____ is hereby appointed as GAL.

2. The GAL shall perform each of the following duties on behalf of the court:

- a. If the appointment is to determine if a petition for kinship guardianship should be granted or denied
 - (i) make a diligent investigation of the circumstances surrounding the petition for guardianship;
 - (ii) visit the [child] [children] in the home;
 - (iii) if the [child] [children] are six (6) years old or older, interview the [child] [children] face to face;
 - (iv) interview the person(s) proposed as guardian(s);
 - (v) interview the parents of the [child] [children], if available;
 - (vi) interview any mental health professionals working with the [child] [children], Petitioner(s), and Respondent(s); and
 - (vii) recommend an appropriate transition plan if the [child] [children] is/are residing with Petitioner(s) and the petition for kinship guardianship is not granted or is revoked.
- b. If the appointment is to determine if a petition or motion for revocation of a guardianship should be granted or denied,
 - (i) conduct an investigation of the [child] [children]'s best interests as described in Subsections (a)(ii) through (vi) above; and
 - (ii) recommend an appropriate transition plan in the event the guardianship is revoked; and
- c. In any kinship guardianship case
 - (i) submit, but do not file, a written report of investigation and separate written recommendations to all parties and counsel at least eleven (11) days before the recommendations are filed with the court, except in the case of emergency;
 - (ii) file the recommendations, but not the report, with the court;and
 - (iii) at a hearing held in connection with proceedings described in sections (a) or (b) above, report to the court concerning the best interests of the [child] [children] and the [child] [children]'s position on the requested relief.

d. In addition to the foregoing, the court directs the GAL to: _____

3. Adoption of GAL recommendations.

a. If the parties are willing to adopt the GAL's recommendations, they shall submit a stipulated order adopting the recommendations within eleven (11) days after the recommendations are filed.

b. If any of the parties are not willing to adopt the recommendations, that party may file objections to the recommendations within eleven (11) days after the recommendations are filed along with a request and notice for hearing on the objections. The objections shall specifically state what recommendations are objected to and the basis for the objection. The court may set a hearing on the objections.

c. A party's failure to file timely objections to the recommendations of the GAL shall be deemed a waiver of the right to object, and the court shall, without the necessity of a hearing, enter an order adopting the GAL's recommendations.

4. Acceptance of appointment. If the named GAL is willing to serve, the named GAL shall forthwith file an entry of appearance. If the named GAL is unable or unwilling to serve, the named GAL shall promptly advise the court.

5. Expiration of appointment. This appointment shall expire on _____.

6. Immunity of GAL. The GAL serves as an arm of the court and assists the court in discharging its duty to adjudicate the [child's] [children's] best interests.

7. Duties of parties. The parties and minor children over the age of fourteen (14) shall assist the GAL in carrying out the duties set forth in this order, including providing information and documents requested by the GAL and signing any releases requested by the GAL.

8. GAL fees.

a. On or before _____, 20____, Petitioner(s) shall advance \$ _____, Respondent #1 shall advance \$ _____, and Respondent #2 shall advance \$ _____ to the GAL as a retainer toward the GAL's fees and expenses. The GAL shall be paid at an hourly rate of \$ _____. When the GAL fees exceed the retainer, Petitioner(s) shall pay _____%, Respondent #1 shall pay _____%, and Respondent #2 shall pay _____% of the additional GAL fees.

b. The GAL shall submit itemized monthly invoices for professional services to the parties.

c. The GAL may recommend reallocation of GAL fees and expenses.

d. Either party or the GAL may request a hearing on the GAL fees and costs. The GAL shall request a review hearing if the GAL fees and expenses exceed \$ _____.

e. GAL fees are considered in the nature of support of the child.

f. The GAL shall not begin work until receiving an endorsed copy of the order appointing the GAL and full payment of the retainer.

☐ The court finds that the parties are unable to pay for the services of a GAL and therefore, the court directs that ☐ Administrative Office of the Court funds shall be used to pay for the GAL or ☐ the GAL takes the case pro bono.

9. Hearings. The GAL may request an expedited hearing if there is non-compliance with this order.

10. The parties shall immediately contact the GAL to set up an initial appointment. The GAL's name is _____, phone number is _____, and email is _____.

District Court Judge

CERTIFICATE OF MAILING

I, _____, certify that I caused an endorsed copy of this order appointing guardian ad litem to be served on the following persons by *(delivery) (mail) (or email)* on this

_____ day of _____, _____:

(Name of Petitioner)

(Name of Petitioner's attorney)

(Name of Respondent #1)

(Name of Respondent #1's attorney)

(Name of Respondent #2)

(Name of Respondent #2's attorney)

(Name of guardian ad litem)

(Name of person signing certificate)

[Adopted by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022; as amended by Supreme Court Order No. S-1-RCR-2023-00052, effective for all cases pending or filed on or after December 31, 2024.]