

1 **4A-515. Order appointing guardian ad litem.**

2
3 STATE OF NEW MEXICO
4 COUNTY OF [BERNALILLO] _____
5 [~~SECOND~~] _____ JUDICIAL DISTRICT
6

7 _____,
8 Petitioner,
9 No: _____
10

11 IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

12
13 _____, (a) Child(ren) (*use initials only*), and concerning
14 [_____, Respondent(s).]
15 _____, Respondent #1,
16 _____, Respondent #2.
17

18 **ORDER APPOINTING GUARDIAN AD LITEM**

19
20 **THIS MATTER** came before the court on _____, 20____.
21 Petitioner(s), _____ (*name(s) of*
22 *Petitioner(s)*), appeared pro se. Respondent #1, _____ (*name of*
23 *Respondent #1*), [] appeared pro se [] did not appear. Respondent #2, _____
24 (*name of Respondent #2*), [] appeared pro se [] did not appear. The court having reviewed the
25 motion, heard testimony, and being sufficiently advised, **FINDS:**
26

27 1. The court has jurisdiction over the parties and subject matter. The court has
28 jurisdiction under the Kinship Guardianship Act, Sections 40-10B- 1 to -15 NMSA 1978.
29

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

31
32 _____, year of birth _____, age _____;
33 _____, year of birth _____, age _____;
34 _____, year of birth _____, age _____;
35 _____, year of birth _____, age _____;
36

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

41 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**

42
43 1. Appointment and duties to the court: _____ is hereby appointed as
44 GAL.
45

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

- 1
2 a. If the appointment is to determine if a petition for kinship guardianship
3 should be granted or denied
4 (i) make a diligent investigation of the circumstances surrounding the
5 petition for guardianship;
6
7 (ii) visit the[child] [children] in the home;
8
9 (iii) if the [child] [children] are six (6) years old or older, interview the
10 [child] [children] face to face;
11
12 (iv) interview the person(s) proposed as guardian(s);
13
14 (v) interview the parents of the [child] [children], if available;
15
16 (vi) interview any mental health professionals working with the [child]
17 [children], Petitioner(s), and Respondent(s); and
18
19 (vii) recommend an appropriate transition plan if the [child] [children]
20 is/are residing with Petitioner(s) and the petition for kinship guardianship is not granted or is
21 revoked.
22
23 b. If the appointment is to determine if a petition or motion for revocation of
24 a guardianship should be granted or denied,
25
26 (i) conduct an investigation of the [child] [children]’s best interests as
27 described in Subsections (a)(ii) through (vi) above; and
28
29 (ii) recommend an appropriate transition plan in the event the
30 guardianship is revoked; and
31
32 c. In any kinship guardianship case
33
34 (i) submit, but do not file, a written report of investigation and separate
35 written recommendations to all parties and counsel at least eleven (11) days before the
36 recommendations are filed with the court, except in the case of emergency;
37
38 (ii) file the recommendations, but not the report, with the court; and
39
40 (iii) at a hearing held in connection with proceedings described in
41 sections (a) or (b) above, report to the court concerning the best interests of the [child] [children]
42 and the [child] [children]’s position on the requested relief.
43
44 d. In addition to the foregoing, the court directs the GAL to: _____
45 _____
46

1 3. Adoption of GAL recommendations.
2

3 a. If the parties are willing to adopt the GAL's recommendations, they shall
4 submit a stipulated order adopting the recommendations within eleven (11) days after the
5 recommendations are filed.
6

7 b. If any of the parties are not willing to adopt the recommendations, that party
8 may file objections to the recommendations within eleven (11) days after the recommendations
9 are filed along with a request and notice for hearing on the objections. The objections shall
10 specifically state what recommendations are objected to and the basis for the objection. The court
11 may set a hearing on the objections.
12

13 c. A party's failure to file timely objections to the recommendations of the
14 GAL shall be deemed a waiver of the right to object, and the court shall, without the necessity of
15 a hearing, enter an order adopting the GAL's recommendations.
16

17 4. Acceptance of appointment. If the named GAL is willing to serve, the named GAL
18 shall forthwith file an entry of appearance. If the named GAL is unable or unwilling to serve, the
19 named GAL shall promptly advise the court.
20

21 5. Expiration of appointment. This appointment shall expire on _____.
22

23 6. Immunity of GAL. The GAL serves as an arm of the court and assists the court in
24 discharging its duty to adjudicate the [child's] [children's] best interests.
25

26 7. Duties of parties. The parties and minor children over the age of fourteen (14) shall
27 assist the GAL in carrying out the duties set forth in this order, including providing information
28 and documents requested by the GAL and signing any releases requested by the GAL.
29

30 8. GAL fees.
31

32 a. On or before _____, 20___, Petitioner(s) shall advance
33 \$_____, Respondent #1 shall advance \$_____, and Respondent #2
34 shall advance \$_____ to the GAL as a retainer toward the GAL's fees and expenses.
35 The GAL shall be paid at an hourly rate of \$_____. When the GAL fees exceed
36 the retainer, Petitioner(s) shall pay_____% , Respondent #1 shall pay _____%, and
37 Respondent #2 shall pay _____% of the additional GAL fees.
38

39 b. The GAL shall submit itemized monthly invoices for professional services
40 to the parties.
41

42 c. The GAL may recommend reallocation of GAL fees and expenses.
43

44 d. Either party or the GAL may request a hearing on the GAL fees and costs.
45 The GAL shall request a review hearing if the GAL fees and expenses exceed \$_____.
46

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

2
3 f. The GAL shall not begin work until receiving an endorsed copy of the order
4 appointing the GAL and full payment of the retainer.

5
6 The court finds that the parties are unable to pay for the services of a GAL and
7 therefore, the court directs that Administrative Office of the Court funds shall be used to pay
8 for the GAL or the GAL takes the case pro bono.

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

12
13 10. The parties shall immediately contact the GAL to set up an initial appointment. The
14 GAL's name is _____, phone number is _____, and email is _____.

15
16 _____
17 District Court Judge

18
19 CERTIFICATE OF MAILING

20
21 I, _____, certify that I caused an endorsed copy of this order
22 appointing guardian ad litem to be served on the following persons by *(delivery) (mail) (or email)*
23 on this

24
25 _____ day of _____, _____:

26
27 _____
28 (Name of Petitioner)

29
30 _____
31 (Name of Petitioner's attorney)

32
33 _____
34 (Name of Respondent #1)

35
36 _____
37 (Name of Respondent #1's attorney)

38
39 _____
40 (Name of Respondent #2)

41
42 _____
43 (Name of Respondent #2's attorney)

44

(Name of guardian ad litem)

(Name of person signing certificate)

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