

STATE OF SOUTH CAROLINA)
 COUNTY OF CHARLESTON)
 _____,)
 Plaintiff(s),)
 vs.)
 _____,)
 Defendant(s),)
 _____)
 child(ren):)

IN THE FAMILY COURT OF THE
 NINTH JUDICIAL CIRCUIT
 Case No.: 2011-DR-10-

ORDER APPOINTING A
 GUARDIAN AD LITEM

IT IS ORDERED that _____ is appointed to serve as the Guardian ad Litem to protect the interests of the minor child(ren) above.

IT IS FURTHER ORDERED that the Guardian ad Litem shall:

- 1) Be allowed private access to the child(ren) by the caretakers of the child(ren), whether caretakers are individuals, authorized agencies, or health care providers;
- 2) Upon proof of appointment as Guardian ad Litem and upon request, have access to information in the possession of medical and dental authorities, psychologists, social workers, counselors, schools, law enforcement personnel, and any private or public service providers about the child(ren) for whom they are Guardian ad Litem;
- 3) Maintain the confidences of the child(ren) except as needed to protect the child(ren)'s best interests. The Guardian ad Litem may only disclose a confidential communication when it is in the best interest of the child(ren) to do so, and then only in relation to the proceedings to which the Guardian ad Litem is appointed;
- 4) Be given notice of all hearings and proceedings involving this case, multi-disciplinary teams, interagency staffings, and any other hearings or meetings where the child(ren)'s interests might be affected, or any meetings or hearings the Guardian ad Litem may request;
- 5) Have party status on behalf of the child(ren) in this action and in any agreement or plan entered into on behalf of the child(ren); and
- 6) Perform the following functions listed in the S.C. Code Ann. §63-3-830, et seq., including but not limited to the following:
 - a) Represent the best interest(s) of the child(ren);
 - b) Conduct an independent, balanced and impartial investigation to determine the facts relevant to the situation of the child(ren) and the family. The investigation must include, but is not limited to;
 - 1) act as an independent fact finder for the children by obtaining and reviewing relevant documents, except that the Guardian ad Litem must not be compensated for reviewing documents that relate solely to financial matters not relevant to the suitability of the parents as to custody, visitation, or child support;

- 2) meet, observe and interview the child(ren), at home if appropriate, consider the child(ren)'s wishes if appropriate and interview parents, caregivers, school officials, law enforcement, and others with knowledge relevant to the case;
 - 3) obtain the criminal history of each party when determined necessary, and;
- c) Advocate for the child(ren)'s best interest by making clear and specific recommendations for evaluation, services and treatment for the child(ren) and the family;
 - d) Attend all court hearings related to custody and visitation issues, except when attendance is excused by the Court or the absence is stipulated by both parties. The Guardian ad Litem is not required to attend a hearing related solely to a financial matter if the matter is not relevant to the suitability of the parties as to custody, visitation, or child support. The Guardian ad Litem must provide accurate, current information directly to the court, and that information must be relevant to matters pending before the Court. The Guardian ad Litem must serve as a full participant in the court proceeding with the duty to protect the child(ren)'s needs and interests and assume the role of an advocate for the child(ren)'s interests and in no way represent the plaintiff or the defendant;
 - e) Maintain a complete file, including notes;
 - f) Provide the family court with clear and comprehensive written reports, including but not limited to, a final written report regarding the child(ren)'s best interest. The final report may contain conclusions based upon the facts contained in the report. The final written report must be submitted to the Court and all parties no later than twenty (20) days prior to the merits hearing, unless that time period is modified by the Court, but in no event later than ten (10) days prior to the merits hearing. The ten day requirement for the submissions of the final written report must not include a recommendation concerning which party should be awarded custody, nor may the Guardian as Litem make a recommendation as to the issue of custody at the merits hearing unless requested by the Court for reasons specifically set forth on the record. The Guardian ad Litem is subject to cross examination on the facts and conclusions contained in the final written report. The final written report must include the names, addresses and telephone numbers of those interviewed during the investigation;
 - g) Determine the interests of the child(ren) taking into account the child(ren)'s age, maturity, culture, and ethnicity and maintain the confidences of the child(ren) except as needed to protect the best interest of the child(ren).
 - h) Participate in negotiations to seek cooperative resolutions to the child(ren)'s situation within the scope of the child(ren)'s interest and welfare.
 - i) Advocate for a clear and specific custody and/or visitation plan, for the evaluation, assessment, services, and treatment of the child(ren) and the child(ren)'s family.
 - j) Monitor implementation of court orders to determine whether services are actually provided in a timely manner and are accomplishing the desired goals.
 - k) Inform the court promptly through counsel, if necessary, if the services are not being made available to the child(ren) or families; if the family fails to take advantage of such services; or if such services are not achieving their purposes. Bring to the court's attention any violation of orders, new developments, or changes.

l) In advance of each proceeding, consult with the parties' counsel to review recommendations; consider the need for subpoenas, pre-trial motions, or other documents; and jointly determine strategy for the proceeding.

m) Guardian ad Litem shall be entitled to request a hearing on any matter necessary to protect the child(ren) or if Guardian ad Litem feels any matter should be brought to the Court's attention in order to allow performance of the mandates of this Order;

n) Perform such other duties as directed by the court.

IT IS FURTHER ORDERED that these appointments shall continue to be in effect until formal discharge by the court.

IT IS FURTHER ORDERED that upon receipt of this Order, the Guardian ad Litem shall make all filings and disclosures to the Court and the parties pursuant to S.C. Ann. §63-3-820(D) and §63-3-860 (Supp. 2009).

IT IS FURTHER ORDERED that the parties shall execute all releases necessary for the Guardian ad Litem to obtain records to investigate this case, or obtain and provide such records at the request of the Guardian ad Litem.

IT IS FURTHER ORDERED that the Guardian ad Litem is to be given access to all of the child(ren) and parties' financial, medical, psychological, and intellectual testing records. The Guardian ad Litem is entitled to obtain copies of all relevant documents.

IT IS FURTHER ORDERED that the Guardian ad Litem is authorized to have access to records prepared or related to any medical and psychiatric treatment with any appropriate medical or health care professionals. This access is authorized by this Order, as provided by 45 CFR 164.512(e)(I)(I), 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.

IT IS FURTHER ORDERED that the Guardian ad Litem shall be authorized to receive, subpoena, and transmit "Protected Health Information", as well as, patient confidences, certificates, applications, records and reports pertaining to the minor child(ren) and parties to this case, to the extent and subject to the conditions outlined herein.

IT IS FURTHER ORDERED that for the purposes of this Order, "Protected Health Information" shall include but not be limited to, health information, including demographic information, relating to, (a) the past, present, or future physical or mental condition of the individual, (b) the provision of care to an individual, and/or (c) the payment for care provided to an individual, which identifies the individual or which reasonably could be expected to identify the individual. Patient "confidences" shall have the same scope and definition as set forth in South Carolina Code §19-11-95 and shall include but not be limited to, private communication between patient and provider or information given to a provider in the patient-provider relationship. Certificates, applications, records and reports shall include those documents referenced in Title 44, Chapter 22 of the South Carolina Code.

IT IS FURTHER ORDERED that all "Covered Entities" as defined by 45 C.F.R. §160.103, "Provider" as defined by South Carolina Code §19-11-95 and/or "mental health professionals" as set forth in Title 44, Chapter 22 of the South Carolina Code are hereby authorized to disclose to the Guardian ad Litem all "Protected Health Information" patient confidences, applications, records and reports pertaining to the child(ren) and the parties.

IT IS FURTHER ORDERED that at the conclusion of the litigation (defined as the point at which a final Order disposing of the entire case has been entered and all trial and appellate proceedings have been exhausted) the Guardian ad Litem shall either return all "Protected Health Care Information" patient confidences, certificates, applications, records and reports to the "Covered Entity," "provider" and/or "mental health professionals" patient confidences, certificates, applications, Records and reports from which it was received or destroy such "Protected Health Information," including all copies made.

IT IS FURTHER ORDERED that the Guardian ad Litem is specifically authorized by this Order to utilize the information obtained pursuant to this Order, Including "Protected Health Information," to prepare and/or include in any report or testimony concerning the Guardian ad Litem's investigation required by this Order.

IT IS FURTHER ORDERED that the Guardian ad Litem shall not retain an attorney without prior approval of the Court, after notice to all parties and a hearing

IT IS FURTHER ORDERED that any out-of-state travel costs for the Guardian ad Litem, if such travel is deemed necessary by the parties or the Guardian ad Litem, shall be paid prior to any travel.

IT IS FURTHER ORDERED that the parties shall deposit with the Guardian ad Litem the sum of \$ _____ as a deposit toward the fees authorized in this matter, within 10 days of the date of this Order. The Guardian ad Litem may charge a reasonable fee not to exceed \$ _____ for performing the tasks assigned herein. The Guardian ad Litem shall submit itemized periodic bills to the parties and their attorneys on a monthly basis, including hours, expenses, costs and fees. The Guardian ad Litem's hourly rate is \$ _____. The Guardian ad Litem must provide notice to both parties and obtain the Judge's written authorization or the consent of both parties to charge more than \$ _____.

IT IS FURTHER ORDERED that the Plaintiff shall pay \$ ____ (____ %) percent of the initial retainer and subsequent fees, and the Defendant shall pay \$ ____ (____ %) percent of the initial retainer and subsequent fees. These payments by either party shall not prevent either party from requesting a reallocation of fees at the final hearing in this matter. All parties shall remain current with the periodic bills to be submitted by the Guardian ad Litem within 30 days of receipt.

AND IT IS SO ORDERED.

Charleston, South Carolina

_____, 2011

Judge of the Family Court
Ninth Judicial Circuit