

Guardian Ad Litem Conveys Minor's Wishes

By K. Dean Kantaras and Anita Abraham



K. Dean Kantaras, Esq.

Oftentimes in divorce and child custody cases, the minor child gets stuck in the middle. During court proceedings, parents may not be able to voice how their minor child might feel or what they have been going through. This is one of the many reasons Florida courts may appoint a guardian ad litem. A guardian ad litem, also known as GAL in the Florida Statutes, "is appointed by the court to represent the best interests of a child in a legal proceeding." Appointment of guardians ad litem are required in cases where the child is going through abuse, abandonment or neglect. They are a neutral party whose goal is to ensure that the minor child is physically safe and emotionally/psychologically well.

An appointed guardian's role is to act as a friend of the child, investigator or evaluator, not as an attorney or advocate. According to the Florida Statutes, "The duties and rights of non-attorney guardians do not include the right to practice law." Additionally, any participation by the guardian ad litem in trial proceedings must be through counsel.

Among the many other duties of the guardian ad litem are: talking to the parents of the minor children to get a better idea of what is best for the minor child, conducting interviews with individuals that are part of the minor child's life such as teachers, friends, and family members,

and most importantly, speaking to the minor child. The purpose of all this is so that the guardian ad litem can understand what the child wants and what their needs are. Furthermore, it helps the guardian ad litem get a better idea of what is in the best interest of the child regarding issues such as permanent housing, child custody and timesharing.

At times, the minor child or parent may voice that the minor child needs a therapist or doctor. How can a guardian ad litem help in this situation? If the guardian ad litem senses that the minor child needs examination by a medical doctor, dentists, other providers of health care including psychiatrists, psychologists, or other mental health professionals, they can request the court to order it.

The Florida Statutes specify the role of the guardian ad litem. "The guardian ad litem may address the court and make written or oral recommendations to the court. The guardian ad litem shall

file a written report which may include recommendations and a statement of the wishes of the child. The report must be filed and served on all parties at least 20 days prior to the hearing at which it will be presented unless the court waives such time limit. The guardian ad litem must be provided with copies of all pleadings, notices, and other documents filed in the action and is entitled to reasonable notice before any action affecting the child is taken by either of the parties, their counsel, or the court. "

If parties going through a divorce or child custody case feel that their minor child needs to be heard, it is best to reach out to your family law attorney so that the concerns can be voiced to the court and a guardian ad litem can be appointed. ❖

EDITOR'S NOTE: K. Dean Kantaras is the managing partner of K. Dean Kantaras, P.A., a firm handling cases in family law and immigration. Mr. Kantaras is board certified in marital and family law by the Florida Bar. He has been practicing for over 30 years and is "AV" rated by Martindale-Hubbell. Anita Abraham is an associate attorney at the firm and a graduate of Ave Maria School of Law. Their offices are located at 3531 Alternate 19, Palm Harbor, 34683, (727) 781-0000; 1930 East Bay Drive, Largo, 33771; and 111 S. Albany Ave., Suite 200, Tampa, 33606, kantaraslaw.com.