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*We want you to know...*

### **When Parents Can't Agree – the Role of the Guardian *ad Litem***

Couples often find themselves at odds over issues pertaining to how they will raise their children as a separated family. Most parents are able to work through these disagreements by talking with each other, using their attorneys to negotiate or mediating with a skilled professional.

When there are parenting issues that cannot be resolved, the court may appoint a Guardian ad litem (a term that describes a guardianship for the limited purpose of the case at hand), often referred to as a GAL, or just Guardian, to investigate, report and recommend a plan that will best serve the interests of the children. The choice of Guardian ad litem is often left to the attorneys for each party unless they cannot agree. Family division courts have lists of GALs for review. Most lawyers pick Guardians who are familiar to them or are recommended by colleagues familiar with their qualifications.

The court determines how the GAL will be paid. Typically the parties are each responsible for one-half the costs and fees incurred by the GAL, but the court may decide to assign responsibility differently, depending on the parties' ability to pay.

The court also determines what issues the GAL should investigate. Sometimes a dispute is about a discrete issue, such as school choice or a proposed relocation out of state. Sometimes the parents disagree on many issues. The attorneys in a case will work to narrow the issues so that the Guardian ad litem will focus only on the issues that are in dispute.

The GAL generally interviews the parents as well as the children, and will interview other persons who may have knowledge about the family. Most Guardians ask for additional documentation concerning any claims made that are relevant to the children's best interests. Sometimes the GAL will seek to engage an evaluator to help with the final recommendations.

The Guardian ad litem cannot make court orders concerning the children's residence or other issues. The Guardian's recommendations, however, are very important to the judge or marital master in charge of the case. Your attorney will help you identify areas where you are particularly strong and areas of weakness that may impact your ability to achieve your desired parenting plan or parenting time schedule.

Parents need to understand that the role of the Guardian ad litem is to investigate, report and recommend a plan that will serve the best interests of the children involved. The GAL must make every effort to do so objectively; the Guardian does not represent the interests of either parent and must strive to eliminate any bias or personal opinions from the process.

Following the final report, the court will encourage resolution, but if the case goes to a hearing before a judge, the Guardian ad litem will participate fully in the hearing, asking questions, submitting evidence and making final recommendations.