

Best interest of the child: Guardian ad litem offers neutral input in custody cases

By Judge GREG GALLER

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I am sometimes asked how a judge can make a decision in cases where both parents seek custody of children. These are some of the hardest decisions that a judge must make. In addition to the guidance set out in Minnesota law, judges are sometimes given input by a guardian ad litem (or GAL). A GAL is a neutral person whose sole duty is to advocate for the best interests of the children.

The term "ad litem" simply means "for the lawsuit." Because of this, a GAL's authority typically ends when the case is over. Unlike a traditional guardian, a GAL's authority is far more limited. A GAL has no control over a child's property or person. This means that the GAL can't decide where a child will live or how the child's property is handled. The GAL is an advocate for the child.

You might wonder why a GAL is needed when the parents also advocate for the child's best interests. Unfortunately, sometimes parents seem to seek only what is in their own best interests. For example, a parent might seek custody to avoid paying child support. Other times, a parent may want custody to fill an emotional or psychological need, or even to punish the other party. The GAL advances recommendations independent of the position of either parent.

How does a GAL do this? First, the GAL gathers information. Normally, the GAL speaks with each of the parents. An initial interview takes place at a neutral site. Later, the GAL will go to each of the parent's homes - both to insure that the home is safe and to watch the interaction between the parent and the children. GAL's also frequently speak to extended family members, teachers, daycare providers, and medical providers to learn as much about the family as is possible. Sometimes GAL's recommend that parents be evaluated for psychological or chemical health issues to learn even more.

After all of the information is gathered, the GAL prepares a written report that everyone receives. The report outlines the GAL's work. The report also makes recommendations outlining what the GAL believes will be in the best interests of the children. These recommendations can include which parent should be granted custody, what parenting time (visitation) schedule should be established, what services or treatment plans should be made available to the family, and a wide variety of other recommendations tailored specifically to the family's needs.

The GAL report is a not binding on the court. However it does provide helpful information that a judge may use to make a decision. GAL's receive rigorous and extensive training before they are allowed to undertake this work. GAL's come from a wide variety of backgrounds. The most important qualification is to have a genuine desire to look after the best interests of children. The best GAL's carry with them a lot of maturity, common sense, and life experience. Because of this, their role in our court system is invaluable.

Greg Galler is a District Court Judge chambered in Washington County. Before that he practiced law in Stillwater. These columns provide general legal information and do not constitute legal advice. If you have a general question about the law or courts for Judge Galler, send your question to the editor of this newspaper. Learn more about Judge Galler at www.judgegreggaller.com.

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