

SEVENTH JUDICIAL DISTRICT OF COLORADO
ADMINISTRATIVE ORDER 96-6

Reimbursement to Guardians ad Litem

WHEREAS, It has been brought to the Court's attention that many persons who have accepted appointments from the Court to serve as Guardians ad Litem [GALs] in domestic and juvenile cases are experiencing difficulty in collecting their earned fees for such services;

AND WHEREAS, It is unreasonable to expect GALs appointed by the Court to be left to their own devices to try to collect unpaid fees from recalcitrant parties through contempt or collection proceedings;

AND WHEREAS, it is necessary to establish a procedure to address when a GAL may be permitted to withdraw if he/she is not being compensated for services rendered.

NOW THEREFORE, This Administrative Order is entered to apply throughout the Seventh Judicial District, to address the foregoing issues:

1. In cases in which the parties are indigent, the Court at the time of the appointment of the GAL shall state in the order of appointment that the GAL is to be paid by the state at the hourly rates authorized by the state; and in this situation, the GAL is authorized to submit to the appointing judge or magistrate, statements for the payment of fees earned as the case progresses, or the GAL may wait until the conclusion of the case and then submit a bill for the entire fee earned.

2. In cases in which the parties are partially indigent, the Court at the time of the appointment of the GAL shall state in the order of appointment that the GAL is to be paid by the state at the hourly rates authorized by the state. In this situation, the GAL is authorized to submit to the appointing judge or magistrate, statements for the payment of fees earned as the case progresses, or the GAL may wait until the conclusion of the case and then submit a bill for the entire fee earned. Under these circumstances, where the parties are partially indigent, the appointing judge or magistrate, to the extent he/she finds the fees claimed are reasonable, shall issue an order for the state to pay the claimed fees, to the extent they are reasonable. Said judge or magistrate shall also enter an order directing the parties to pay into the court's registry a portion of the state's share of said fees in such proportion between the parties as said judge deems to be equitable.

3. Where the Court appoints a GAL in a case in which the parties are not indigent, the Court may require one or both of the parties pay a retainer to the GAL. In this case the GAL shall advise the Court as to the amount of the retainer (which should be an amount which the GAL reasonably anticipates he/she will earn in his/her representation of the child/children in the case). The Court may order that payment of the retainer be made either directly to the GAL or through the registry of the Court for the benefit of the GAL. Further, the GAL shall not be expected to commence his/her services on behalf of the child/children until the required retainer has been fully paid.

a. If, at the conclusion of the case, the amount of the retainer exceeds the amount of the GAL's total fee, then the GAL shall be

responsible for refunding the overage to the parties in proportion to their respective contributions for the payment of the retainer.

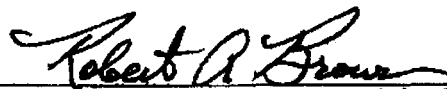
b. If, at the conclusion of the case, the amount of the retainer was insufficient to pay the GAL's total fee, then the GAL shall submit his/her bill to the parties for payment in the same proportion as that ordered by the Court for payment of the retainer. If the GAL is not fully paid by the parties within 30 days after mailing of the bill, then the GAL may submit his/her bill to the Court for approval at the state's hourly rate; and upon finding that the same is reasonable, the Court shall order payment of said amount by the state, and shall further order that the parties reimburse the state for said amount, in such proration between the parties as the Court deems fair and equitable.

c. If, under the provisions of ¶3b above, the GAL believes that the parties have wilfully failed to pay the GAL directly at his/her normal hourly rate, so as to be liable only for payment of the GAL's fees at the state rate, then the GAL may request a hearing on the issue, and if the Court finds such wilfully failure to pay, then the Court may enter judgment against either or both of the parties for the difference, and the GAL will be permitted to enforce said judgment as provided by law.

4. In any case in which the Court has ordered the parties to pay a portion or all of the GAL's fees, and the parties have the ability to pay the amount ordered or a portion thereof, and the GAL or the Court perceives that a party is wilfully failing or refusing to pay an amount which is within his/her ability to pay, then the Court acting either on its own initiative or upon application of the GAL may issue an order citing the party for contempt of court and requiring the party to appear and show cause why he/she should not be found in contempt for failing to pay pursuant to the Court's order. If the order to show cause is entered by the Court on its own initiative, then the initiating judge or magistrate shall recuse himself/herself, and shall refer the matter to the Chief Judge for assignment to another judge to conduct the show cause hearing.

5. If, prior to the completion of his/her services as GAL in a case in which the parties are not indigent, one or both of the parties fail or refuse to pay the GAL's reasonable fees pursuant to proper billings, then the GAL shall be permitted to apply to the Court for permission to withdraw from further representation of the child/children, unless satisfactory arrangements are made for the earned compensation to be paid.

DONE BY THE COURT, This 12th day of June, 1996.



Robert A. Brown, Chief Judge

cc: Judge JSP
Judge RJB
Magistrate
JDA EJC
GALs in 7th Judicial District