

REPRESENTING CHILDREN IN CONNECTICUT

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GETTING PAID

Selected Cases:

Rubenstein v. Rubenstein, 107 Conn. App. 488 (2008)

Defendant Mother appealed from award of fees to GAL as unreasonable and excessive and claimed that GAL should be paid at state rate. GAL charged for time, among other things, to travel to Florida to retrieve child whom Mother had taken from the jurisdiction against orders. Held: hourly rate was in line with local practice; certain time in every case not strictly "legal"; fees awarded were reasonable. [fn9] "We note that although General Statutes § 46b-62 addresses only the issue of *attorney's fees*, we previously have recognized that the same criteria properly informs the court's exercise of discretion regarding fees for a guardian ad litem appointed for a minor child in a dissolution of marriage action or in an action seeking a modification of custody and visitation." (Emphasis in original.) Lamacchia v. Chilinsky, 79 Conn.App. 372,375 n.3, 830 A.2d 329 (2003).

Lamacchia v. Chilinsky, 79 Conn. App. 372 (2003)

On GAL's motion for fees at judgment, Court ordered Father to pay 80% of current and future fees of GAL. Father appealed. Held: there was no abuse of discretion in allocating GAL fees between parents where Court considered financial resources of parties and CGS § 46b-82 criteria. However, anticipatory allocation of future fees is error. Cites Ruggiero as authority to award GAL fees pursuant to CGS § 46b-62.

Ruggiero v. Ruggiero, 76 Conn. App. 338 (2003)

Defendant Mother brought post-judgment motion to modify asking for sole custody and a suspension of Plaintiff Father's visitation. Court reappointed GAL. Among other orders, the Court ordered Plaintiff Father to pay 100% of GAL fees. Father appealed, claiming that the Court did not consider the financial circumstances of the parties. "The court may order either party to pay the fees of the guardian ad litem pursuant to [CGS § 46b-62] and how such expenses will be paid is within the court's discretion..." Here, the court determined that "the plaintiff had behaved inappropriately and, therefore, should be required to pay for the fees of" the GAL, but that the court is also required to, and did, consider the total financial resources of the parties.

[Note: Lamacchia cites Ruggiero and Merritt v. Merritt, 2 Conn. App. 425 (1984) as authority to award GAL fees under CGS § 46b-62. Ruggiero cites Roach v. Roach, 20 Conn. App. 500 (1990) as authority. Merritt does not discuss GAL fees at all. Roach, in which there were no minor children, discusses the award of fees to the Wife's attorney and Wife's GAL only as requiring consideration as part of the overall financial picture on remand.]

Statutes:

Conn. Gen. Stat. § 46b-62 Orders for payment of attorney's fees in certain actions

...If, in any proceeding under this chapter and said sections, the court appoints an

attorney for a minor child, the court may order the father, mother or an intervening party, individually or an any combination, to pay the reasonable fees of the attorney or may order the payment of the attorney's fees in whole or in part from the estate of the child. If the child is receiving or has received state aid or care, the compensation of the attorney shall be established and paid by the Commission on Child Protection.

Conn. Gen. Stat. § 45a-132 Appointment of guardian ad litem for minors and incompetent, undetermined and unborn persons

(a) In any proceeding before a court of probate or the Superior Court including the Family Support Magistrate Division, whether acting upon an appeal from probate or otherwise, the judge or magistrate may appoint a guardian ad litem for any minor or incompetent, undetermined or unborn person, or may appoint one guardian ad litem for two or more of such minors or incompetent, undetermined or unborn persons, if it appears to the judge or magistrate that one or more persons as individuals, or as members of a designated class or otherwise, have or may have an interest in the proceedings, and that one or more of them are minors, incompetent persons or persons undetermined or unborn at the time of the proceeding...

(g) Any guardian ad litem appointed under the provisions of this section may be allowed reasonable compensation by the judge or magistrate appointing him and shall be paid as a part of the expenses of administration.

Conn. Gen. Stat. § 46b-123(c)(i) Commission on Child Protection. Membership. Duties

The commission may establish such requirements for the submission of billing statements, receipts and other documentation by not-for-profit legal services agencies, individual attorneys and private law firms as the commission deems necessary in furnishing compensation to such agencies, attorneys and law firms for providing legal services and serving as guardians ad litem pursuant to subdivision (1) of subsection (a) of section 46b-123d, as amended by this act.

Practice Book:

Practice Book § 25-62 Appointment of Guardian Ad Litem

The judicial authority may appoint a guardian ad litem for a minor involved in any family matter. Unless the judicial authority orders that another person be appointed guardian ad litem, a family relations counselor shall be designated as guardian ad litem. The guardian ad litem is not required to be an attorney. If the guardian ad litem is not a family relations counselor, the judicial authority may order compensation for services rendered in accordance with the established judicial branch fee schedule.