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What is the Role of a Guardian Ad Litem in New Mexico Child Custody Cases?

A Guardian Ad Litem, often referred to as GAL, is a person appointed by the Court to represent the interests of a minor or a person who is unable to represent themselves by virtue of age or incompetence. In the case of child custody actions, the GAL is appointed to insure that the interests of the children are protected.

As in all child custody cases, the standard in New Mexico is the "best interests of the child." This is often hotly contested between the parties. In fact, if a GAL has been appointed, then the case probably has a very high level of conflict between the parties as to what is best for the children. Otherwise, there is no need for the GAL.

A GAL's job is to advocate zealously for their clients, which in this case is the children. The duty to represent the children is just as high as with any client. In high conflict child custody cases involving a GAL, the GAL can at times be overzealous often causing additional strain between the parties, and therefore on the child.

The GAL also acts as an investigative tool for the Court and, depending on the Court's order, may be charged with investigating the health care providers, teachers, coaches, counselors and others familiar with the child. As an arm of the court, what the GAL says goes. Therefore, if the parents cannot agree, the GAL decides and 9 times out of 10, the court will follow the advice of the GAL. This basically takes all the parenting decisions away from the parents where the parents cannot agree.

In New Mexico, a Judge may appoint a GAL in a wide variety of cases, including cases wherein a child has been a victim of abuse or neglect. Most often the GAL is appointed because the judge is fed up with the parties and the use of the GAL is the only option remaining for sorting out what is best for the children.

It is in your best interests and the best interests of your children to try to work with the other parent to work out a parenting plan without the intervention of a GAL. If a GAL is appointed, which we usually resist unless absolutely unavoidable, then you are in for a long, contentious, invasive and emotionally stressful ride. If that is not enough, the costs of the GAL will likely far exceed the costs of your attorney.

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Do yourself, your children and your wallet a favor, work things out with the other parent. The GAL path is one you want to avoid at all costs. Once you have gone down that path, there is often very little left to salvage for you, your ex, or the children.

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