

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

IN RE: GUARDIAN AD LITEM FEES FROM PUBLIC FUNDS

ADMINISTRATIVE ORDER NO. 2011-021

ADMINISTRATIVE ORDER
GUARDIAN AD LITEM FEES FROM PUBLIC FUNDS

WHEREAS, Section 452.423 R.S.Mo. governs the appointment of guardians ad litem in Missouri, and the award of fees to the guardians ad litem for services rendered in performing the obligations of the guardian ad litem; and

WHEREAS, Section 452.423 R.S.Mo. grants discretion to the Court to order guardian ad litem fees to be paid out of public funds in appropriate cases, to wit:

452. 423. Guardian ad litem appointed, when, duties--disqualification, when--fees

1. In all proceedings for child custody or for dissolution of marriage or legal separation where custody, visitation, or support of a child is a contested issue, the court may appoint a guardian ad litem...
2. The court shall appoint a guardian ad litem in any proceeding in which child abuse or neglect is alleged...
5. The guardian ad litem shall be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may:
 - (1) Issue a direct payment order to the parties. If a party fails to comply with the court's direct payment order, the court may find such party to be in contempt of court; or
 - (2) Award such fees as a judgment to be paid by any party to the proceedings or from public funds. Such an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem. Such final judgment shall be enforceable against the parties in accordance with chapter 513, RSMo.

WHEREAS, Missouri Case Law defines "public funds" to mean County funds Meyer v Meyer, 842 SW2d 184 (Mo.App. E.D.); and

WHEREAS, there are cases in which a guardian ad litem is required to be appointed where one or more of the parents are indigent; and

WHEREAS, Jackson County has limited public funds from which to pay guardian ad litem fee awards; and

WHEREAS, it is appropriate to establish a process for determining when public funds should be used to pay guardian ad litem fees;

NOW, THEREFORE, IT IS ORDERED that, in a case where one or more of the parties seek to obtain an order requiring payment of guardian ad litem from public funds Jackson County shall be joined as a party to the action; and

IT IS FURTHER ORDERED that the Court shall, as soon as practicable, give notice to the Office of the Jackson County Counselor that a request for an order directing payment for guardian ad litem fees from public funds has been made; and

IT IS FURTHER ORDERED that the Court shall set a hearing, with notice to all parties, including notice to the Jackson County Counselor, to determine whether or not public funds should be used to pay part or all of the guardian ad litem's fees; and

IT IS FURTHER ORDERED that the Court shall hear evidence regarding the financial status of the parties, including, but not limited to, Income and Expense Statements, Statements of Assets, income from other persons living in the party's household, and other relevant evidence, and shall determine whether or not either, or both, of the parents are indigent under the guidelines of Legal Aid of Western Missouri; and

IT IS FURTHER ORDERED that in cases in which, after consideration of all of the income and assets of the party, either, or both, parents are indigent under the guidelines of Legal Aid of Western Missouri, the Court may order payment of guardian ad litem fees from public funds, as follows:

WHERE BOTH PARENTS ARE INDIGENT

1. **The hourly rate to be used for calculation of guardian ad litem fees shall not exceed ONE HUNDRED AND NO/100s DOLLARS (\$100.00) per hour; and**

2. The total amount ordered to be paid out of public funds shall not exceed **THREE THOUSAND FIVE HUNDRED AND NO/100s DOLLARS (\$3,500.00)** per case.

WHERE ONE PARENT IS INDIGENT

3. The hourly rate to be used for calculation of guardian ad litem fees shall not exceed **ONE HUNDRED AND NO/100s DOLLARS (\$100.00)** per hour; and
4. The total amount ordered to be paid out of public funds shall not exceed **ONE THOUSAND SEVEN HUNDRED FIFTY AND NO/100s DOLLARS (\$1,750.00)** per case.

IT IS FURTHER ORDERED that, when a guardian ad litem files an appeal and either, or both of the parents are indigent as defined in this Administrative Order, the Court, after notice to all parties, including the Jackson County Counselor, and after hearing, upon a finding of good cause, may order payment of guardian ad litem fees related to the appeal in an amount not to exceed **FIVE HUNDRED AND NO/100s DOLLARS (\$500.00)**; and

IT IS FURTHER ORDERED that, when an appeal is filed by an indigent parent as defined in this Administrative Order, on an issue of custody, terms of a Parenting Plan, visitation, parenting time or child support and the Guardian Ad Litem remains on the case, the Court, after hearing, upon a finding of good cause, may order payment of guardian ad litem fees related to the appeal based upon an hourly rate not to exceed **ONE HUNDRED AND NO/100s DOLLARS** per hour, in an amount not to exceed **TWO THOUSAND FIVE HUNDRED AND NO/100s DOLLARS (\$2,500.00)**; and

IT IS FURTHER ORDERED that, in exceptional circumstances, the Court, after notice to all parties, including the Jackson County Counselor, after hearing evidence and upon entering an order containing written findings demonstrating the Court's reasoning for ordering additional fees to be paid out of public funds, may order additional fees to be paid out of public funds; and

IT IS FURTHER ORDERED that Copies of all orders shall be sent by the Court's Judicial Administrative Assistant to all parties and to the County Counselor of Jackson County, Missouri; and

IT IS FURTHER ORDERED that the foregoing shall be the policy, procedure and practice regarding payment of guardian ad litem fees from public funds; and

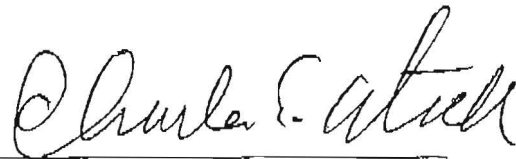
IT IS FURTHER ORDERED that the Director of Family Court Services shall from time to time update and distribute the "poverty guidelines" used by Legal Aid of Western Missouri to be used herein for the determination of indigency; and

IT IS FURTHER ORDERED that the Director of Family Court Services shall forward a copy of this Administrative Order to the Office of the County Counselor, the Chair of the Family Law Committee of the KCMBA and the Presidents of the Eastern Jackson County Bar Association and the Jackson County Bar Association; and

IT IS FURTHER ORDERED that a copy of this Administrative Order shall be published on the Jackson County Family Court web site and shall also be published on the Jackson County Circuit Court web site; and

IT IS FURTHER ORDERED that Administrative Order 02-31 is hereby set aside and held for naught.

Dated: March 1, 2011



CHARLES E. ATWELL
Presiding Judge

Certificate of Service

This is to certify that a copy of
the foregoing was mailed postage
pre-paid, faxed, e-mailed or hand-delivered
to the following this 25 day of

May, 2011.

Copies to:

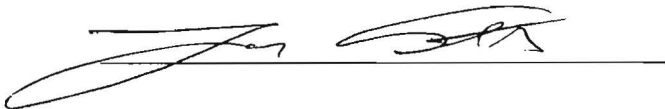
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A handwritten signature in black ink, appearing to read 'Koriambanya Carew', is written over a horizontal line.