

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
FAMILY COURT DIVISION

IN RE: Attorney and Guardian ad Litem
Appointments/Withdrawals in
Chapter 211, RSMo. Matters/
Attorney Appointments/Withdrawals
in Civil Contempt Actions Filed in the
Family Court Division

ADMINISTRATIVE ORDER: 19-03

ORDER REGARDING ATTORNEY AND GUARDIAN AD LITEM APPOINTMENTS/
WITHDRAWALS IN CHAPTER 211, RSMo MATTERS AND ATTORNEY
APPOINTMENTS IN CIVIL CONTEMPT ACTIONS FILED IN THE FAMILY COURT
DIVISION OF THE 16TH JUDICIAL CIRCUIT OF MISSOURI

Now on this 16th day of December, 2019, pursuant to Local Rules 21.4 (2014) and 21.6.1 (2010), and upon this Court's authority as Administrative Judge of the Family Court Division, and the Missouri Supreme Court Mandate in State of Missouri, ex rel. Family Support Division-Child Support Enforcement, and Tracy L. Stude v. Terry Lane, 313 S.W.3d 182 (Mo. App. W.D. 2010), the Court enters the following orders regarding the appointment and withdrawals of attorneys in Chapter 211 R.S.Mo. proceedings, and in civil contempt proceedings filed in the Family Court Division of the 16th Judicial Circuit of Missouri, in which the Court has determined that the defendant is indigent and that the offense may be of sufficient gravity that jail time may be warranted.

Appointment of Attorneys and Guardians ad litem

Local Rule 21.6.1 (2010) governs the appointment of attorneys and guardians ad litem to represent juveniles and parents/custodians in proceedings filed pursuant to Chapter 211 RSMo.

State of Missouri, ex rel. Family Support Division-Child Support Enforcement, and Tracy L. Stude v. Terry Lane, 313 S.W.3d 182 (Mo. App. W.D. 2010), requires the appointment of attorneys in civil contempt cases in which the Court has determined that the defendant is indigent and that the offense may be of sufficient gravity that jail time may be warranted.

Withdrawal of Attorneys and Guardians ad litem

Local Rules 21.4 (2014) and 21.6.1 (2010) govern the termination/withdrawal of attorneys and guardians ad litem in Chapter 211 RSMo. cases. Upon receipt of a Motion to Withdraw requesting that an attorney be relieved of an appointment in either a Chapter 211 case or a civil contempt case filed in the Family Court Division of the Circuit Court of Jackson County, Missouri, the application shall be presented to the Court for consideration, except:

1. If the attorney's request is based upon verified active participation in the Volunteer Attorney Project or the Kansas City Metropolitan Bar Foundation's Legal Connection: Military Matters program within the twelve month period preceding the date of the appointment; or
2. The attorney has served on two or more separate cases pursuant to an appointment under this rule within current calendar year; or
3. The attorney has ceased the practice of law and has changed his/her license status to inactive and is no longer licensed in Category (1), (2), or (3) of Supreme Court Rule 6.01(j) or the attorney is no longer authorized by the Missouri Supreme Court to practice law under Rule 6; or
4. The attorney has elected "inactive" status on the Missouri Minimum Continuing Legal Education-Attorney Annual Report of Compliance. Verification that the attorney is not authorized to practice law in the State of Missouri by the Supreme Court is required; or
5. The attorney is a sitting Judge, Commissioner, full-time prosecutor or assistant prosecutor, or is an attorney employed by the Court, Legal Aid, the Public Defender's Office, or the CASA Project of Jackson County, Missouri; or
6. If the attorney's request is based on a status which the Court has indicated shall be the basis for leave to withdraw, i.e. attorneys employed by the Missouri Court of Appeals, the Missouri Attorney General's office, the Division of Legal Services/Department of Social Services, United States Attorneys for the Western District of Missouri, their assistants, United States Attorneys for Kansas, their assistants, Federal Public Defenders, and other such status that may, from time to time, be included by the Administrative Judge of the Family Court Division; or
7. The attorney is serving as an attorney in any branch of the United States military.

Pursuant to local practice, the Docketing Unit of Family Court Services shall prepare a "leave to withdraw" for any attorney falling within the provisions of sections 1 through 6 above, and shall arrange for a new appointment from the list of attorneys provided by the Missouri Bar.

Termination of Appointment of Attorneys and Guardians ad litem

An attorney appointed for a parent in a §211.031 case shall receive a copy of the petition filed in any termination of parental rights case involving the same juvenile(s), but an attorney representing a parent in a §211.031 proceeding shall not automatically be appointed in a subsequent termination of parental rights case involving the same juvenile(s). If a parent requests appointment of an attorney in the termination of parental rights case involving the same juvenile(s), the Court will ordinarily appoint the attorney who currently represents the parent in the §211.031 case to represent the parent in the termination of parental rights case involving the same juvenile(s). The subsequent appointment of the attorney in a termination of parental rights case to represent the same parent represented in the §211.031 case shall constitute a new order of appointment for that attorney. The new order of appointment in the termination of parental rights case shall serve as a new appointment for purposes of satisfying the attorney's next

obligation for appointment to a §211.031 case (under the Missouri Supreme Court List of Attorneys in Good Standing in Jackson County, Missouri used for appointment to §211.031 cases).

An attorney appointed to represent an indigent party in a civil contempt proceeding filed in the Family Court Division of the 16th Judicial Circuit of Missouri shall receive a copy of the underlying judgment upon which the contempt proceeding is based, together with a copy of all pleadings filed with regard to the claim of contempt. The appointment of an attorney in a civil contempt case will terminate with the dismissal or final judgment in the case.

Any guardian ad litem appointed for the juvenile(s) or for the parent(s) in a §211.031 case shall automatically be appointed in a subsequent termination of parental rights case involving the same juvenile(s).

Upon the filing of a request to proceed in forma pauperis for appeal, a parent will be required to submit a current statement of their financial status to assess current eligibility for appointed counsel.

Motions for leave to withdraw shall be in writing and notice shall be served upon the client at least ten days in advance of such motion's presentation at a hearing.

Attorney and Guardian ad litem Fees in Section 211.031 RSMo. Proceedings

Local Rule 21.6.1 (2010) will govern the assessment of attorney fees, if any, in section 211.031 RSMo. proceedings.

Attorney and Guardian ad litem Fees in Termination of Parental Rights Proceedings

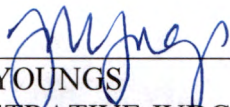
Pursuant to § 211.462 RSMo., the Court may order the county or the Children's Division to pay fees for attorneys and guardians ad litem appointed in termination of parental rights cases. The Court shall consider reasonable fees in taxing costs as attorney fees against either the county or the Children's Division. Generally, fees shall be taxed using the following guidelines:

- a. 13 C.S.R. 40-30.020 sets out fees to be paid by the Children's Division in termination of parental rights cases.
- b. For purposes of taxing attorney fees, a case is either one individual child or cases involving multiple children heard and tried at the same time, whether or not formally consolidated for trial.
- c. Appointment of pro bono counsel is based upon standard indigency guidelines established by the United States Department of Health and Human Services.
- d. Fees shall be similar for both attorneys and Court appointed guardians ad litem.
- e. Costs of extraordinary expenses must be approved in advance by the Court. Such extraordinary expenses include but are not limited to:
 - 1) Psychiatric/psychological/medical evaluations
 - 2) Expert witnesses
 - 3) Depositions of witnesses

Administrative Order No. 19-01 is hereby set aside and held for naught.

IT IS SO ORDERED.

12/16/19
DATE



J. DALE YOUNGS
ADMINISTRATIVE JUDGE
FAMILY COURT DIVISION

Copies to:

Court Administrator

Family Court Judges and Commissioners

Deputy Court Administrator/Family Court

Juvenile Officer

Family Court Directors and Assistant Directors

Assistant Legal Counsel/Family Court

CASA Project

Office of Guardian Ad Litem


Officer of the Public Defender

Division of Legal Services (DSS), Jackson County office

Children's Division, Jackson County offices

Volunteer Attorney Project

Chairs, Juvenile Law and Family Law Committees, KCMBA



Nena Simatta