STATE OF MINNESOTA

IN SUPREME COURT

CO-95-1475

ORDER FOR HEARING TO CONSIDER PROPOSED MINNESOTA RULES OF GUARDIAN AD LITEM PROCEDURE

ORDER

IT IS HEREBY ORDERED that a hearing be had before this Court in Courtroom 300 of the Minnesota Supreme Court, Minnesota Judicial Center, on March 13, 1997, at 2:00 p.m. to consider the recommendations of the Minnesota Supreme Court Guardian Ad Litem Task Force to establish Minnesota Rules of Guardian Ad Litem Procedure.. A copy of the proposed rules is annexed to this order and may also be found at the Court's World Wide Web site: (www.courts.state.mn.us).

IT IS FURTHER ORDERED that:

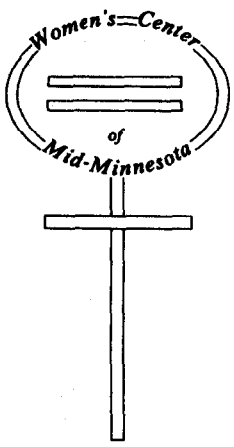
1. All persons, including members of the Bench and Bar, desiring to present written statements concerning the subject matter of this hearing, but who do not wish to make an oral presentation at the hearing, shall file 12 copies of such statement with Frederick Grittner, Clerk of the Appellate Courts, 305 Judicial Center, 25 Constitution Avenue, St. Paul, Minnesota 55155, on or before March 7, 1997, and

2. All persons desiring to make an oral presentation at the hearing shall file 12 copies of the material to be so presented with the aforesaid Clerk together with 12 copies of a request to make an oral presentation. Such statements and requests shall be filed on or before March 7, 1997.

Dated: December 18, 1996

BY THE COURT:

A.M. Keith
Chief Justice



March 5, 1997

Frederick Grittner
Clerk of the Appellate Courts
305 Judicial Center
25 Constitution Avenue
St. Paul, Minnesota 55155

Dear Mr. Grittner:

We are sending a written statement for the Minnesota Supreme Court to consider before acting on the recommendations of the Minnesota Supreme Court Guardian Ad Litem Task Force.

We have included the required additional copies of our statement.

Sincerely,

Ronda Boileau-LaPointe
Children's Advocate
Mid-Minnesota Women's Center, Inc.

Jacque Koski

Kathy J. Northburg
Woman's Advocate
Mid-Minnesota Women's Center, Inc.

Melanie Austin

P.O. Box 602, Brainerd, Minnesota 56401 • (218) 828-1216 — TDD Access

March 5, 1997

To: Minnesota Supreme Court

From: Ronda Boileau-LaPointe, Children's Advocate, Mid-Minnesota Women's Center, Inc., Brainerd, Minnesota 56401;

Kathy J. Northburg, Woman's Advocate, Mid-Minnesota Women's Center, Inc., Brainerd, Minnesota 56401;

Jacque Koski; Melanie Austin; an anonymous woman.

In Re: The Recommendations of the Guardian Ad Litem Task Force.

Dear Honorable Justices of the Minnesota Supreme Court:

We thank you for the opportunity to present our statement in regard to the above mentioned Rules of Guardian Ad Litem Procedure. Our statement includes both the professional views of two women working on a daily basis with battered women and their children and the personal experiences of four women who are, or who have been, involved in divorce, custody and visitation cases in which Guardians Ad Litem have been appointed by the Court. Although the details of our experiences with Guardians Ad Litem vary to some degree, we all agree that the lack of structure, training, code of professional ethics, and accountability in the current use of Guardians Ad Litem in Family Court have been detrimental to the mental and physical well-being of the children involved, the safety and security of their homes, and the performance of the Judicial System as to their best interests.

It is our opinion that Rule 2. [MINIMUM QUALIFCATIONS.] in its entirety, adequately addresses the vital need for standard minimum qualifications of all persons serving as guardians Ad Litem in Minnesota. A position in the Courts that carries the responsibility for children's safety, security and well-being demands a high standard of qualification from all its participants. Guardians Ad Litem we have had contact with have addressed their qualifications as follows:

"When I asked her (the Guardian Ad Litem) what her qualifications were she stated, 'I am a grandmother.'" Anonymous.

"She (the Guardian Ad Litem) stated that as a newly practicing attorney, this was her first case as a Guardian Ad Litem and that she was not familiar with the issues of domestic violence, sexual assault or child abuse as she had experienced a 'model childhood in an affluent family.'" K.J.N.

"She (the Guardian Ad Litem) stated that though she had only completed twenty (20) hours of the forty (40) hours of training required by the Volunteer Guardian Ad Litem Program, the Judge had already assigned her to this case." K.J.N.

"The Guardian Ad Litem said to me, 'I haven't had time to work on this case, I have a full-time job and I just do this in the evenings.'" R.B.L.

It is our opinion as to Rule 5. [OATH OR AFFIRMATION.] that a Code of Professional Ethics, similar in content and intent to those adopted by professionals in human service fields of practice, i.e. *Code of Ethics of the National Association of Social Workers: Professional Standards*, be appended to the oath or affirmation as set forth in appendix E. It has been our experience that persons acting as Guardians Ad Litem who have not had prior knowledge of such codes of professional ethics have acted in ways that would be deemed unethical by others holding similar positions.

"During this conversation, she (the Guardian Ad Litem) leaned back in her chair and tried to imitate the mother's way of talking. It was humiliating to the mother and embarrassing to me for her to act in such an unprofessional and unethical manner." R.B.L.

"She (the Guardian Ad Litem) called me and stated that she had been in contact with my ex-partner in reference to him having unsupervised contact with my children in the form of dinner at a local restaurant even though the Court Order stated that all visitation be supervised by Social Services. I refused to cooperate with this arrangement. Upon meeting my ex-partner at Social Services later for an arranged visitation according to the Court Order, he again requested unsupervised visitation, or visitation supervised by our eighteen year old daughter, at a local restaurant and stated that he had been advised to request such visitation 'to see how it goes.' It was clear to me that the Guardian had been meeting with him and giving him legal advice in conflict with her directive by the Court to represent the best interest of the children." K.J.N.

It is our opinion as to Rule 6. [SUPERVISON AND EVALUATION OF GUARDIANS AD LITEM.] and Rule 7. [COMPLAINT PROCEDURE; REMOVAL OF GUARDIAN AD LITEM FROM PARTICULAR CASE.] that

these rules are intrinsic to the institution and enforcement of performance and accountability, such being absolutely necessary to professional conduct, ethical practice, and positive outcome of the stated responsibilities of Guardians Ad Litem to the Court and to their clients. We find the evaluation tool to be a comprehensive and concise method of measuring the performance of persons acting in this capacity.

It is our opinion as to Rule 8. [GENERAL RESPONSIBILITIES OF GUARDIANS AD LITEM; OTHER ROLES DISTINGUISHED; CONTACT WITH COURT.] that it is of the utmost importance to all concerned to have these responsibilities enumerated as it is our experience that much confusion exists as to what a Guardian Ad Litem's role is and to lend consistency to methods of discerning the best interests of children.

"I was contacted in late August, 1996, by a woman who had stayed at the shelter for four (4) months. She requested that I speak to the Guardian Ad Litem that had been appointed to her case. At that time she signed a Release Of Information. I expected to be contacted by the Guardian shortly after this, however she did not contact me until mid-December, stated that she would call again, but did not call again until January. I was not interviewed by her, instead she engaged in a casual conversation, confiding to me how difficult the case was. I knew that there was information that would be important for her to know and proceeded to give it to her in the format of the thirteen (13) points of custody determination. She seemed uninterested and continually tried to share her very negative opinions about the woman. She repeatedly told me about a school counselor's information, which again seemed irrelevant since it was during the time the couple was together and the father was extremely violent and controlling. I expressed to her, several times, that the information I was sharing was first hand observation of the woman's interaction with her children during their extended stay at the shelter; that I felt very confident in this information in that we did have around the clock contact with the mother and her children.

I felt that it would have been appropriate for the Guardian to have at least visited the facility once during the family's residence at the shelter for battered women and their children. Her report to the Court was submitted before she spoke to any of the shelter staff; moreover, her only contact with me occurred after she had submitted her report to the Court and the Judge felt it was necessary for her to do more information gathering and to file an addition report." R.B.I..

"My daughters, then ages twelve and six, made individual video taped reports to the Sheriff's Department concerning sexual abuse perpetrated upon them by their father during visitation in September, 1987. My attorney filed an Ex Parte Motion to stop visitation in October of that same year, as I could not get an Order For Protection on behalf of my children because their father's legal address of residence was in Wisconsin, even though he resided part-time with his mother in Minnesota. At the first hearing in regards to this issue, both the investigating Deputy and a Sexual Assault Advocate testified to the information my daughters had given them about sexual contact their father had had with them. The Judge suspended visitation and appointed a Guardian Ad Litem to the case.

The next six years were a nightmare for my children and myself. My elder daughter was hospitalized twice for suicidal behavior and diagnosed with a dissociative disorder. This diagnosis was concurred with by three psychiatrists, stating that it was the direct result of long term, ongoing sexual assault and recommended that she be placed in foster care outside of our county of residence due to her overwhelming fear of retaliation by her father for telling about the abuse. This was done and she remained in foster care for a year. During this time and for the next three years she received intensive therapy herself and we, my younger daughter and myself participated in family counseling with her.

The Guardian Ad Litem who was appointed to our case was a newly practicing attorney with no formal training in child development or the dynamics of domestic abuse and no life experience in these areas to draw conclusion from. I was accompanied, at my request, by a sexual assault advocate to our first interview at the Guardian's office. She stated at that meeting that she had no experience in this area and we spent the first half hour of that session discussing the roles of sexual assault advocates and battered women's advocates (my profession at the time.) She subsequently interviewed me one other time, and my children two other times in the course of the next six years. She interviewed my son, who is older than my daughters and not a biological child of my ex-partner, who told her of his experiences of physical and sexual abuse at the hands of my ex-partner and of his having witness several instances of physical abuse of both of his sisters at the hand of their father. She made no other contact with my daughter's sexual assault advocates or the battered women's shelter staff who had ongoing contact with us, although she spoke on a regular basis to my ex-partner.

This Guardian Ad Litem made several reports and recommendation to the Court from 1988 though 1994. At one point she recommended that the children and their father separately participate in several session of therapy intended to culminate in joint counseling. his already completed sessions with a therapist addressing pain management to be accepted as his separate therapy sessions, although they did not in any way address issues of alleged sexual abuse of the

At the final hearing in this matter, the Guardian Ad Litem again insisted that no supervision of visitation was recommended as there was no there documentation, to her knowledge, of any risk to these children. This recommendation was echoed nearly verbatim by my ex-partner's attorney. At this point in the proceedings my attorney directed the Judge to documentation already in the nearly ten pound case file: an Order For Protection issued by him in 1985 including finding of domestic abuse perpetrated by him against myself and my children (the use of a loaded hand gun, physical and sexual assault, and threats to leave the state with the children); to the initial reports of sexual abuse by my children to law enforcement in 1987; the more than a one hundred pages of reports and case notes from mental health workers who had had ongoing intensive contact with both children insisting that any unsupervised contact with their father would be detrimental to their well being; and the reports and case notes of my ex-partners mental health workers documenting major mental health issues and admitted recurring incidents of domestic abuse in successive intimate relationships. Immediately the Judge ordered that any further visitation be supervised by Social Services, discharged the Guardian Ad Litem and closed the case. The Guardian Ad Litem continued for two years after discharge from the case to have ongoing contact with my ex-partner, calling and writing to me to urge me to allow him to have unsupervised contact with my daughters.

I feel that this untrained, misinformed, biased and unethical woman put my children through six years of unnecessary pain and fear of harm by their father. She prolonged this case out of her commitment to 'uniting this family' at any cost and certainly at the cost of my children's mental and physical well being and at great expense of time and money to the Court. At no time was it evident that those children's best interest was put above her own agenda." K.J.N.

"Even though the Court Order states that visitation is to be supervised by Social Services due to my ex-husband's chemical use and history of endangerment of the children, she (the Guardian Ad Litem) has insisted on supervising the visitation herself at her office. She's an attorney, not a trained, licensed Social Worker." J.K.

"My ex-husband had arranged for our children to be enrolled in as many extracurricular activities as possible, effectively interfering with any attempt at visitation on my part. The Guardian Ad Litem stated that this was best for the children as 'sports are important for kids.' Being with their mother was important to my children, too, but no one listened to them or me." Anonymous.

As to Rule 10. [PRE-SERVICE TRAINING REQUIREMENTS FOR NEW GUARDIANS AD LITEM.] it is our opinion that the training requirements are comprehensive and requisite to performance of the duties of Guardians Ad Litem. It

is of concern to us that training relating to issues of Domestic Violence and its effects on women and children be specifically presented by those who have developed and put forward expertise in this area, i.e. staff of battered women's advocacy programs and shelters as available in each Judicial District. It is also our opinion that the stated Internship Requirements for Guardians Ad Litem serving in Juvenile Court and Family Court should include Subd.3. [INTERSHIP REQUIREMENTS.] items (a) through (e) as well as several hours of observation at a shelter for battered women and their children. It is our experience that a vast majority of Juvenile Court cases involve women and children who are victims of domestic violence and whose issues of abuse are also addressed in Family Court. It is important that Guardian's Ad Litem are aware of the overlapping of these issues and the great extent to which domestic violence and it's effects on women and children has bearing on their work.

Once again we thank you for the time and concern you have given us to address the Guardian Ad Litem Task Force's proposed rules. We hope that our statement is of use to you in considering their adoption.

INTRODUCTION

This case study is brought before the Supreme Court of the State of Minnesota in support of the Court's adoption of the findings and recommendations contained in the Final Report of the Minnesota Supreme Court's Advisory Task Force on the Guardian Ad Litem System dated February 16, 1996.

The findings indicated in the report closely resemble the actual experience I have and continue to experience with the Guardian ad Litem program in Carlton County, Minnesota (located just outside of Duluth).

DUTIES AND RESPONSIBILITIES OF THE GUARDIAN AD LITEM

In Minnesota Statues #518.165:

A guardian ad litem shall carry out the following responsibilities:

(a) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; interviewing parents, caregivers, and others with knowledge relevant to the case;

(b) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(c) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

(d) monitor the child's best interests throughout the judicial proceeding; and

(e) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

A. Discrimination was the factor here. The Guardian ad-litem had her mind made up before she even met me.

B. Everything having to do with the Custody Case was ~~suppose~~ to be kept Confidentially And the Guardian Ad litem was discussing my Case with people who had nothing to do With the Custody Case.

C. Facts. She can't keep the facts straight At All. She has twisted the facts Around

D. The Guardian Ad litem has made threats towards myself and my family members.

E. The Guardian ad-litem makes their own rules. It doesn't matter what the ~~Ju~~ Judge has ordered.

F. Visitation has been supervised when it was suppose to be unsupervised. I see my children once a week at the Visitation Center for a hour.

Kay Aho

On behalf of the
Child Group Carlton County.

C-children ~~Hunt~~ N- hunting S. Sn L- legal
D-Dispute

In Carlton County We have a group Called the Child Group.
C- Children H- hunting I- In L- legal D- dispute.

There is about 30 - 35 members of us that is going through the Same thing. Where the Guardian Ad- Litem is tearing all of the families Apart. No stops to Consider how the Children feel. After the Children have been taken away from their families and Put in Fosters homes, Group homes, + etc; they decide the Children need to see theripst, because the Child has problems.

When the Child has been sexually Molested. And there is Doctor's reports, And theripst to back up the Child's Story. And All the Guardian Ad- Litem has to do is say that never happen. And the Judge takes the Guardian Ad- Litems Word over the doctor's + the theripst.

The Guardian Ad- Litem has more Power over the Judge.

The C.H.I.L.D. Group.

A 'dangerous place' for children

Dear Editor,

This is in response to the letter printed in the *Cloquet Pine Knot* from Judith Kellett on Feb. 27.

As a member of the CHILD (Child Hurting in Legal Disputes) group, the recent publicity for our organization has caused my phone to ring off the hook. The first telephone conversation came from an elderly man who said that Mrs. Kellett's letter 'just turned my stomach,' as he put it. It's good to know the general public is not duped by letters like Mrs. Kellett wrote.

Another call came from an anonymous social worker who said, 'our county is known as the 'little Mississippi' down at the state capital, we are an embarrassment to the rest of the state. It should be equally embarrassing to be a social worker, guardian ad litem, judge or county board member. This county has become a very dangerous place for children to live.'

Some information that was discussed at a presentation, at the Minnesota Guardian ad Litem Conference that was held in Minneapolis in September 1995, was that anyone who gets into the system gets destroyed. Families are torn apart. The court system/government agencies are anti-family and not child friendly. Power to the GAL is supreme. In many cases, the GAL doesn't see or talk to the child before reporting to the court. There is no mechanism to change a GAL if they are not doing their job. There should be equal rights for all parties, but when does the court listen to the children?

Because of these problems within the GAL program, a group of us from CHILD will be attending a hearing before the Minnesota Supreme Court on March 13, at 2 p.m. in courtroom 300 of the Minnesota Judicial Center.

A case study is being brought before the supreme court of the State of Minnesota in support of the court's adoption of the findings and recommendations contained in the final report of the Minnesota Supreme Court's Advisory Task Force on the Guardian ad Litem System dated Feb. 16, 1997.

These findings indicated in the report, closely resemble the actual experience people have and continue to experience with the Guardian ad Litem program in this county.

Neal B. Richards
Cloquet

cer.

C.H.I.L.D. group disputes guardian ad litem program

by Keith Hansen
Cloquet Journal

A small contingency of citizens appeared at last Monday's Carlton County Board meeting to protest the workings of Carlton County's guardian ad litem and social workers within the human services department.

A group calling itself Children Hurting in Legal Dispute (C.H.I.L.D.) accused the commissioners of siding with judges, social services and the guardian ad litem.

A guardian ad litem is established to be an unbiased third party and is usually called in when two sides fail to agree on an issue regarding child custody to protect the interests of the child. They are intended to represent the child or children in a dispute.

Rochelle Halvorson recounted the story of her granddaughter. Halvorson alleges that her granddaughter was taken from her daughter and placed in the custody of paternal grandparents. Halvorson told the Board that the paternal grandfather was allegedly molesting the grandchild.

"The guardian ad litem (Sarah Lucas) is running the judges," Halvorson told the Commissioners.

"You should refrain from commenting on any pending case," Carlton County Attorney Marv Ketola told the Board. "What are you asking the county board for?" Ketola asked members of the group.

"You are providing the funding for the guardian ad litem and social services and they have taken our grandchildren away from us," said Halvorson.

"Two therapists from Duluth said the children were abused, but the judge (Dale Wolf) took the word of Lucas and the social worker," Halvorson contended.

Halvorson alleges that her attorney caught the guardian ad litem in five

See C.H.I.L.D. on page A3

Sn
Ray S
ing. I

—conditions.

C.H.I.L.D.

From page A1

lies during the custody hearing, and the judge refused to "do anything about it!"

Halvorson accused members of the Board of refusing to meet with her and the group. "I don't think that it's a fair statement," countered Board Chair Ted Pihlman. "I attended your meeting," he said.

"You are on tape saying the guardian ad litem is not being fair," Halvorson told Pihlman. "You were running down the guardian ad litem," Halvorson claimed.

"Your legal remedy is to appeal the court's decision," said Ketola.

Events of 1000

R-KIDS

P.O. Box 21-482 • Eagan, Minnesota 55121 • 612-770-6164

"Remember Kids in Divorce Settlements"

March 6, 1997

Minnesota Supreme Court
Minnesota Judicial Center
25 Constitution Avenue, Suite 120
St. Paul, MN 55155

RE: The hearing on the consideration of the purposed Minnesota Rules of the Guardian Ad Litem procedure

Dear Supreme Court,

We would like to thank you for this opportunity to comment on the Guardian Ad Litem task force recommendations for purposed Supreme Court rules. The R-KIDS organization would like to request the opportunity to make an oral presentation. The people who would like to speak on our behalf are Diane Anderson and Robert Carrillo. We have also provided you with the copies you requested of the material we wish to cover.

We understand that this is all that you need. If there is anything else we need to do please let us know.

Sincerely,

Diane Anderson and Robert Carrillo

Diane Anderson
Vice President, R-KIDS
Robert Carrillo
Director of Communications

March 6, 1997

Minnesota Supreme Court
Minnesota Judicial Center
25 Constitution Avenue, Suite 120
St. Paul, MN 55155

RE: Written comments regarding the purposed Minnesota Rules developed by the Advisory Task Force on the Guardian Ad Litem system

I would like to bring to the attention of the Supreme Court that there was no representative for non-custodial parents on the Task Force. Due to this lack of representation many of the problems that non-custodial parent's have with GAL's have not been addressed in the proposed rule changes.

The purpose for which this Task Force was enacted was because of all of the problems that custodial and non-custodial parents have with GAL's. However, the report does not specifically address how to handle these problems and what should be done when these issues occur. One other major problem with GAL's is the amount of unlimited power and unchecked authority they have. This issue was raised by the battered women at the hearing. The report does not address how to solve this power problem. They still have ultimate power to decide what they **feel** is best for the child with no guidelines as to what that is.

There is a problem whenever the phrase "best interest of the child" is used. Different people view what is best for the child differently. Parents are the ones who should determine how they want to raise their children. People may have different values and morals than the government (GAL's and Judges). GAL's and Judges should not have the right or authority to determine what they feel is the standard of morals and values for all children or what they feel is in the "best interest" of children. It is parents who have the right to determine how their children are to be raised and what type of religious training and activities that they will or will not participate in.

Concerns regarding the Rules.

Rule 2: The qualifications and training requirements are too minimal. GAL's draft a lot of written reports and meet with numerous people. They should be required to have excellent speaking and writing skills with some post secondary education regarding writing reports and communication skills. They should also be required to take post secondary classes on child development, sociology, psychology, classes that train someone on how to communicate with people, counselling classes that family social workers have to take and some education on family dynamics. They should have one or two years of similar training as licensed social workers or licensed family and marriage therapists.

Rule 4: We feel that the GAL should be able to be selected by the Judge in any circumstance not just for special conditions. We also feel that the parties should be allowed to select the GAL if they agree on the same one.

Rule 6: It should not be the sole responsibility of the program coordinator to decide if the GAL is removed from the panel or not. A judge or other appropriate review board should sign off on the review of the GAL. There should be a list of specific actions of a GAL that will constitute a GAL from being removed from the panel.

A list of actions we feel constitute the removal of a GAL are:

1. Stating or writing in court documents false or misleading information.
2. Sharing confidential information, such as information in a private diary, with another party.
3. A pattern of not completing their work in a timely manner and costing people lots of money in legal fees.
4. Demonstates a strong bias.
5. Misinforms any of the parties or the court.

Rule 7: Subdivision 1. You should set up uniform actions that need to be taken by a program coordinator when there is a complaint against the GAL. The wording, "the program coordinator will determine the appropriate action" is too vague. Program coordinators will not all have the same opinion as to what "appropriate action" means and GAL's will not be treated equally. There should be some standards set as to what is not appropriate behavior and what the consequences will be. There should be some guidance for the program coordinator on what procedure should be followed.

What are the appropriate actions and consequences to GAL's who do the following:

1. The person is biased or has an inability to work or communicate with one of the parties.
2. The person did not get the report done by the court hearing so the parties incurred thousands of dollars in extra legal fees.
3. The GAL forgot he or she made an appointment with the parties and their attorneys. The parties incurred legal fees due to this error.
3. The GAL falsified information in a written report to the court or gave untruthful information during a hearing.
4. The GAL lied to one of the parties or to the court.
5. The GAL makes recommendations to the parties or the court over issues they have no moral or legal authority over.
6. Reports and meetings with parties are not done in a timely manner.
7. Both parties are not given equal interview time.
8. A GAL refuses to deal with a concern of one of the parties.
9. The GAL provides confidential information to the other party.
10. The GAL recommends something that is not in the best interest of the child.
11. The GAL makes recommendations about the child's religious activities.

Subdivision 2. If both parties agree to remove a guardian they should be allowed to do so. Also, a GAL should have the option to remove themself from the case.

Rule 8: It states that the GAL shall advocate for the best interests of the child. What does that mean. Who decides what are the best interests of the child? Whose values and opinions are you considering? For example, does what the doctor says is best for the child take presidence over what the GAL feels is best for the child?

The GAL should be required to have specific interviewing requirements. A minimum amount and types of meetings should be established. It should be required to personally meet with the parties on an equal bases. For instance, the GAL should not be allowed to meet with one party and not the other party.

Rule 9: The GAL's have too much power as stated in this rule and they have too much power now. A problem with GAL's is their abuse of the power they have. We do not feel that GAL's should have the power to have access to all of the records listed without the consent of the parents.

Rule 10: We would like the GAL's to receive pre-service training on Parental Alienation Syndrome.

Rule 12: Since there are no members on the Advisory Task Force that represent non-custodial parents, we would like at least one person that represents non-custodial parents to be included in developing the core curriculum to be used in the pre-service training of GAL's.

One other issue not addressed by the Advisory Task Force rules is the problem that many GAL's have too high of a case load. Because they have too many cases they do not have the time they need to spend on each of their cases. There should be a maximun number of cases that a GAL should be allowed to have.

Thank you for this opportunity to address these issues with you. Many of these same issues were given in writing to the Advisory Task Force in December of 1995. Other people wrote similar comments to the Advisory Task Force as well. These issues are very important for our children and we would appreciate your support in helping to correct these problems that are occurring with GAL's. Thank you again for taking your time to deal with these issues.

Exhibit #1

chart

UNIVERSITY OF MINNESOTA

Twin Cities Campus

Division of Child and Adolescent Psychiatry
Department of Psychiatry
Medical School

Box 95
420 Delaware Street S.E.
Minneapolis, MN 55455
612-626-6577
Entrance at 420 Delaware Street S.E.

August 1, 1996

No Response

Mary Catherine Lauhead
Guardian Ad Litem
3986 Clover Avenue
St. Paul, MN 55127-7015

RE: Joseph Carillo

Dear Ms. Lauhead:

Several years ago I conducted a diagnostic evaluation of Joseph Carillo upon request of his parents. At that time, Joseph was experiencing problems with attention and task performance in school. The results of the evaluation suggested the likely presence of an Attention Deficit Hyperactivity Disorder (ADHD). Recommendations for school and home accommodations were made and the potential benefits of a trial of stimulant medication were offered. Some time later Joseph did receive stimulant medication and showed a positive response.

Also noted at the time of the original evaluation was an ongoing custody "battle" for Joseph involving his mother and father. Upon interviewing both parents, it was my judgement that serious acrimony existed and reconciliation was unlikely. I stressed the importance of stability in Joseph's life and his need to be raised in a home environment that provided structure, consistency, predictability and support.

It is my understanding that there continues to be discussion regarding a schedule of parent visitation at the present time. I have discussed this matter with Joseph's father and have recommended that efforts be taken to minimize an erratic course of visitation. More specifically, it is preferable that Joseph remain with the same parent during the school week (Monday through Friday). Changes will be less stressful when initiated at the start of a weekend or during school vacation periods. Children with ADHD have a very difficult time with transitions, such as change of schools and change of parents. The fewer the transitions and the more preparation that can be made prior to transitions will result in less behavioral difficulties.

Thank you for attending to this letter. If I can be of further help please contact me 626-6577.

Sincerely,

Gerald J. August, Ph.D.
Assistant Professor of Psychiatry

Exhibit #2

ROBERT A. CARRILLO
5408 Clinton Avenue South
Minneapolis, MN 55419
(612) 823-0330

No Response

October 29, 1996

Mr. Mark Thompson
Hennepin County Court Administrator
C-1251
300 S. 6th Street / 12th floor
Minneapolis, Minnesota 55487

Mr. Mark Andrew / Commissioner
Office of the Hennepin County Commissioners
A - 2400 Government Center
Minneapolis, Minnesota 55487

Re: Court Appointed Guardian ad Litem / Mary Catherine Lauhead

Dear Sir(s):

After five years and five months of my involvement in the Hennepin County Court system under the file number of DC - 178993 I have now reached the outer limits of my patients relating to this matter.

I am, and have been, the custodial parent of my eleven and one half year old son Joseph for the past two years and three months, per the overwhelming recommendation of Hennepin County Family Court Services. As an aside however, and perhaps a small clue in this case, I am also still the obligor and a child support payor in this case, and in spite of the preceeding fact.

However, and more importantly, my family has been subjected to unnecessary and overwhelming hardship, emotionally and financially due to the relentless and oftentimes incompetent intrusion of government into our lives. More specifically, my children have suffered, and continue to suffer immeasurably at the hands of some who collect tax payor dollars as salary for their part in this tragic circumstance, allthewhile claiming to perform some useful purpose in this near disastrous reality in which we find ourselves, but at the same time taking no responsibility for it.

Even more specifically, my son Joseph Christopher Carrillo, whom I love dearly, continues to be the ultimate victim of the reality I have described above, and a reality I can no longer accept as his father and caring parent.

Attached is a filed affidavit relating to our experience during the past nineteen months of the aforementioned total of this five years and five month process relating specifically to one of the individuals somewhat responsible for the situation in which we find ourselves. Although the affidavit is in no way a complete picture of what has truly gone on during this time frame, it will certainly give you a flavor for the truth in this matter. We are now entering our 15th month of pretrial/trial relating to this matter.

At this point I am pursuing this course of action because I am left with little choice. I am of the opinion now that my son's mental and emotional health; and therefore his very life may be at stake here---- and for that tragic possibility I will ultimately be the one to answer to God should I not attempt to put an end to this insanity for Joseph's sake.

Feel invited to do with this information what you will. It is however now filed documentation for the record of a circumstance which only you can or may do something about. My decision has already been made for me.

In closing I would only add that I find it truly appalling that for all of this time I have had to fight some individuals directly or indirectly connected with my government simply to satisfy the most basic and common sense based needs for my children's welfare; all without asking for a penny of public assistance help from any of you. I am however now asking for help in order to address this problem toward a sensible conclusion.

The best of luck to you with regard to your thought process relating to this communication. And, thank you for your time and consideration of this effort.

Respectfully,

Robert A. Carrillo

cc: all interested parties

Exhibit #3

David Opsahl, M.D.
3400 W. 66th Street
Suite 370
Edina, MN 55435
(612) 925-9252
Fax (612) 926-9749

January 20, 1997

No Response
Over 30 days

Mary Lauhead
Guardian Ad Litem
3985 Clover Avenue
St. Paul, MN 55127

Re: Joseph Carrillo
DOB: 06-12-85

Dear Ms. Lauhead:

As you know, I have had the opportunity of meeting with Joseph Carrillo, and with his parents, Robert Carrillo and Sandy Larson, over the course of the past 18 months. Joseph was first referred to me when he shared with the Hennepin County Court mediation evaluator (Mary Ellen Bauman) his level of distress and discouragement. He described in the course of that assessment in early June 1995, his episodic feelings of despair, demoralization, and those feelings occasionally taking on a wish for his own demise.

His parents very properly and altruistically determined that in order for a course of therapy to be supportive to Joseph, it was imperative that that therapy be removed from the course of custody determinations and court hearings. Joseph's parents and the courts were very respectful of this very prudent decision.

The court hearings have come to conclusion, and it is my understanding that they will not be renewed at any time in the foreseeable future.

I am writing to you, therefore, not to exert any influence on the court hearing, and not to breach any agreements of confidentiality regarding my therapeutic relationship with Joseph. I am instead writing to request your careful and thoughtful consideration of Joseph's needs that are determined in part by his Attention-Deficit/Hyperactivity Disorder. It is my recommendation that some form of objective assessment of Joseph's response to the current custody determination and visitation schedule be initiated, and follow-up reviews be scheduled. It is recommended that these assessments and reviews pay particular attention to the potentially disruptive effect the custody/visitation schedule may have on Joseph's academic and social development. Both parents have raised concerns regarding Joseph

showing these past few months uncharacteristic and quite troubling signs and symptoms of wear and tear, or stress reaction. These signs and symptoms have shown up in his adjustment to school, socially as well as his accomplishments at school academically.

It would be my thought that you as Joseph's guardian ad litem could effect an evaluation with an individual well versed in the effects of Attention-Deficit/Hyperactivity Disorder, as well as well versed in the effects of shared custody and various visitation schedules. I do think it would be very much in Joseph's best interest, however, to have this assessment as a "baseline" within the next several weeks, and as a follow-up within the next few months, given the emerging signs and symptoms that his parents have noticed, and about which his parents have expressed their concern.

Yours sincerely,

David Opsahl, M.D.
Child and Adolescent Psychiatry

DO/wl

Exhibit #4

MARY CATHERINE LAUHEAD
Guardian Ad Litem
3985 Clover Avenue
Saint Paul, Minnesota 55127-7015
(612) 426-0870
Fax Use Restricted

Legal Assistant:
Dana L. Bartley

Office Hours: Telephones Answered, Hearings and Appointments Scheduled:
Monday through Thursday: 9:00 a.m. to 4:00 p.m.
Friday: Scheduled Telephone Appointments Only

February 19, 1997

David Opsahl, M.D.
3400 W. 66th Street
Suite 370
Edina, MN 55435

Re: CARRILLO, Robert Anthony, Petitioner and Sandra Gail Larson, Respondent.
Hennepin County District Court File No. DC 178-993

Dear Dr. Opsahl:

I am enclosing for your information a copy of the custody Judgment and Decree that was entered by the court last December, 1996. You should be aware that Ms. Larson raised the question to me in December, 1996, whether you should be continued, as the available insurance network did not include you as an authorized provider.

For your information, I have taken the position and intend to maintain my position as the guardian ad litem that I really am indifferent to the question of the expense resulting to the parties from your medical services being uncovered by available insurance, since you are in the unique position of having been able to establish a working relationship with both parents and this child. When I look down the long road of parental shifting alliances with the professionals, myself included, you simply cannot appreciate how unique that position truly is. I would note that the unqualified support expressed throughout the trial for your services to Joseph by both parties and myself resulted in the court's order maintaining you as Joseph's therapist, as contained in Number 11 of the order at pages 60 and 61. In fact, to ensure the involvement of both parents with you, the appointments are even specified in the court order.

I am also providing both parties and the remaining attorney of record, Timothy Grathwol for Mr. Carrillo, with a copy of your letter dated January 20, 1997. I did discuss this letter with Mr. Grathwol in a telephone conversation today. One reason that I did not immediately respond to this communication was that I was waiting for the next shoe to drop, so I could confirm my own sense as to which parent prompted your letter. I am virtually certain that I shall be promptly informed that Sandra Larson did not know that your letter was sent out nor does she have an understanding of the concerns that prompted the letter. I shall wait to see if that surmise is correct, following your separate discussion with her.

In response to your letter of January 20, 1997, as stated above, I will argue in any court at any time the absolute necessity of your being maintained as Joseph's therapist. In that context I will advise you that you were referred to that position given the joint recognition of Ms. Bauman and myself

of your credentials in the area of attention-deficit/hyperactivity disorder, coupled with your experience in working with children caught up in acrimonious and extended divorces. This case was in trial well over 17 days. Each party had the opportunity to present to the court any and all information relative to Joseph's needs, including but not limited to his medical needs, and their positions on the possible schedules. Ms. Larson initially argued for the continued two-week rotation of schedules between the parental homes; at the conclusion of the trial, she argued for a more traditional schedule for a weeknight and alternating weekends and holidays for Mr. Carrillo, with an award of sole legal and physical custody to her. Mr. Carrillo argued for the same traditional visitation schedule for Ms. Larson, adamantly contending that she should not have any overnights during the school week. I believe that the findings more than adequately track the information presented to Judge Howard. However, absent parental agreement for an evaluation, I do not intend to initiate that process. Since the parties were in court for over 17 days over a fight about structuring the schedule for Joseph, you can be assured that while Mr. Carrillo might be unhappy with Ms. Larson having Joseph in her home on school nights, particularly Wednesday night for religion education in her parish rather than available for wrestling, those points of view were vehemently argued by both sides and considered in Judge Howard's ultimate decision.

I am not surprised that Joseph has been demonstrating uncharacteristic and quite troubling signs and symptoms of stress reaction the past few months. This child's life has been defined by his parents' recurring "dates" in court. Now all of a sudden, the fight is over, forcing the parental conflict to go underground. Mr. Grathwol advised me in our telephone conversation today that your letter was prompted by an episode that occurred at school on a day that Ms. Larson brought Joseph to school. It was reported that Joseph spat out his Ritalin and ended up in the principal's office for some unusually defiant behavior. [1/] Since both parties professed in court their unqualified support of Joseph's Ritalin as beneficial to the child in organizing and completing a school day, I am hopeful that in conjunction with you as Joseph's therapist, the Ritalin question can be put to bed in terms of the parental expectation to be firmly enunciated to this child that he will in fact take his medication, with defined consequences that you can establish, in conjunction with the parents, in the event of similar behavior at home or at school. In fact, while you are at it, I would strongly recommend that you discuss with the parents that the same consequences should be imposed upon Joseph for any transgression and should be implemented in whichever household he might be located, with such consequences to be supported by both parents. This might be a useful endeavor for you to address with the parties.

Let me assure you unequivocally that I am open to any and all information that you, the school, Joseph's doctors, his minister and any professional might wish to offer me about this child. However, I do not intend to initiate a new round of litigation for still another evaluation of Joseph's medical needs as an end run to implement a parental desire to relitigate the schedule that was established in the court order. I do not intend to obtain a baseline for the parties' future use in the court system. I do not know exactly what you are referring to in the last sentence of your

---

[1/] I am puzzled by why Joseph would be even taking his medicine at school, in view of the court order requiring each parent to administer it prior to the child's arrival at school. See Conclusion of Law Number 9 at page 52.

letter because neither party has written to me stating their concerns or identifying problems for Joseph.

By copy of this letter to the parties and Mr. Grathwol, I am requesting that information be promptly provided to me with the other side copied with that transmittal, as the parties are each separately and jointly required to do, consistent with the court order at paragraph 12(2) (at pages 61 to 62); 12(3)(d) and (e) at page 62.

Please do call and schedule a telephone conference with my secretary, should you believe we should further discuss your concerns about Joseph. I am requesting that the parties copy you with their respective responses to this letter so that our conversation does not occur in a vacuum wherein one side has not provided full disclosure of parental concerns to the other party.

Thank you for your attention to these issues.

Sincerely,

Mary Catherine Lauhead

Mary Catherine Lauhead
Guardian Ad Litem for Carrillo Minor Child

MCL/dlb

Enclosure: Court Order to Dr. Opsahl only
Dr. Opsahl's letter of January 20, 1997 to persons copied below:

cc: Robert A. Carrillo, Petitioner
Timothy Grathwol, Attorney for Petitioner
Sandra G. Larson, Respondent

Exhibit #5

David Opsahl, M.D.
3400 W. 66th Street
Suite 370
Edina, MN 55435
(612) 925-9252
Fax (612) 926-9749

February 24, 1997

Mary Catherine Lauhead
Guardian Ad Litem
3985 Clover Avenue
St. Paul, MN 55127-7015

Re: Joseph Carrillo
DOB: 06-12-85

Dear Ms. Lauhead:

Thank you for your letter of response dated February 19, 1997. I appreciate the clarification of the maintenance of my role as Joseph's therapist. The level of litigation and its attendant side-effects are quite remarkable with Joseph. I especially appreciate your very clear statement against any intention of initiating further litigation.

It is of course complex, as Joseph's medical needs are real and deserve address. Based on the history of litigation to date, and the very cumbersome nature of litigation to address any of these concerns.

In any case, I appreciate your response. I believe we are entirely in agreement that the greatest likelihood for these questions and disturbances to be addressed is within the confines of the working together relationship of the therapy. I certainly appreciate your support of the working alliance that Joseph's parents have allowed to develop within this particular setting.

Yours sincerely,

David Opsahl, M.D.
Child and Adolescent Psychiatry

DO/wl

Exhibit #6

David Opsahl, M.D.
3400 W. 66th Street
Suite 370
Edina, MN 55435
(612) 925-9252
Fax (612) 926-9749

February 24, 1997

Sandy Larson
5077 - 144th Street W.
Apple Valley, MN 55124

Robert Carrillo
5408 Clinton Ave. S.
Minneapolis, MN 55419

Re: Joseph Carrillo
DOB: 06-12-85

Dear Sandy Larson and Bob Carrillo:

This letter is prompted by a letter I recently received from Mary Catherine Lauhead, Guardian Ad Litem through Hennepin County Courts. You both have received carbon copies of Ms. Lauhead's letter, as well as copies of my initial letter to her dated January 20. Ms. Lauhead's response imbedded in the legal formalities and the history of all legal proceedings becoming and remaining adversarial, is at least to my reading, rather simple and perhaps even promising. The response that I take from the letter is:

1. The working relationship that we have all established with each other is a positive and promising one.

2. The idea of "a new round of litigation" or "still another evaluation" is not at all positive from anyone's perspective.

3. Ms. Lauhead will be some form "last resort" if and only if other avenues of consideration, agreement, discussion, and so forth, are unsuccessful.

After receiving Ms. Lauhead's letter and looking back at my letter of January 20, I think how very naive that first letter was. I thought it would be a rather straightforward and simple matter to have some observations of Joseph's progress in school and community activities and at each of his parent's homes made, and to use these in a rather cautious way regarding the status of his wear and tear and

stress reactions. I imagine in some ways that my naivete, hoping and expecting simple and straightforward responses from court services, echoes the many instances that each of you have had when you approached court services or guardian ad litem services in the hopes of a straightforward response to what on the surface seemed like a simple request.

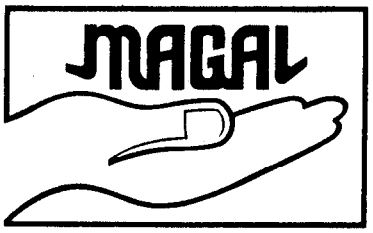
My response to Ms. Lauhead's letter is enclosed to each of you. I intend no further response, other than to worry with you as to Joseph's progress, to have regular contact with Joseph's school, to have regular contact with each of you regarding your observations, concerns and wishes, as well as my meetings with Joe at a frequency indicated by concerns, observations and events.

I apologize to each of you for initiating a process that I'm certain has engendered substantial responses and anxiety in you. I'll look forward to hearing from you, and scheduling visits jointly on Joseph's behalf in the near future.

Yours sincerely,

David Opsahl, M.D.
Child and Adolescent Psychiatry

DO/wl
Enc.



Minnesota Association of Guardians ad Litem

March 6, 1997

Frederick Grittner
Clerk of the Appellate Courts
305 Judicial Center
25 Constitution Avenue
St. Paul, Minnesota 55155

Dear Mr. Grittner:

In accordance with Minnesota Supreme Court Order CO-95-1745 for a hearing to consider proposed Minnesota rules of guardian ad litem procedure, enclosed please find 12 copies of a written statement from the Minnesota Association of Guardians ad Litem.

As per our telephone conversation earlier this week, since no one else has asked to testify, our association has decided to submit remarks only in writing. Therefore, please discard the earlier request for an oral presentation by Rochelle Scheevel and Susanne Smith (for MAGAL).

Thank you very much for your attention to these matters.

Sincerely,

Susanne K. Smith
Secretary for Minnesota Association of Guardians ad Litem
(612) 348-8475

626 South 6th Street, Minneapolis, MN 55415-1582

Minnesota Association of Guardians ad Litem

March 5, 1997

Frederick Grittner,
Clerk Of the Appellate Courts
305 Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

In re: Proposed Minnesota Rules of Guardian ad Litem Procedure

The Minnesota Association of Guardians ad Litem (MAGAL) supports the recommendations of the task force contained in the proposed rules. Several MAGAL members participated in the task force and as an association, we agree absolutely that there should be uniform expectations of both guardians ad litem and programs. We support the proposed rules with regard to selection, training, supervision and evaluation. We also believe it is necessary and appropriate to require every guardian ad litem to come under a program umbrella and be responsible to that program.

At this time, there are three areas of particular concern:

Additional Funding is Critical

It will be difficult, if not impossible, to comply with these rules unless sufficient funding is attached. Many programs are already having difficulty simply meeting current caseload demands--and the caseloads are increasing. We urge you not to enact these rules unless the funding is provided to carry them out. Absent money, these rules will become just another unfunded mandate in a long list of mandates counties are already struggling to fulfill.

Complaint Procedure, Double Jeopardy for Attorneys

With regard to the complaint procedure, we agree absolutely that written complaints should be investigated by the program coordinator. The Task Force, however, did not address the situation attorneys who act as guardians ad litem may confront. In addition to scrutiny from the program coordinator, these attorneys may also have complaints lodged with the Lawyers Board of Professional Responsibility. This is akin to "double jeopardy" for this class of guardians ad litem. We recommend that complaints against guardians ad litem, even if they are attorneys, be handled solely through the appropriate channels in the local guardian ad litem program.

Need for State-wide Direction and Leadership

There should be some authorized entity under the auspices of the Supreme Court to provide direction and leadership on guardian ad litem issues. The current diversity of practice and lack of direction has contributed in large part to the need for these rules. Program coordinators, in particular, need education, guidance and support in implementing these new rules:

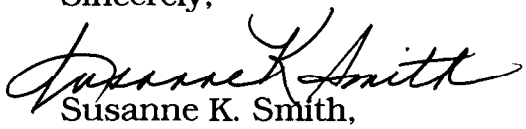
- How will disagreements about whether a current or prospective guardian ad litem meets the qualifications be resolved?
- Will there be training for program coordinators about how to conduct evaluations or carry out a complaint investigation?
- What must be disclosed (legally) of the results of an investigation?
- How will data practices questions be answered?
- Once the training curriculum is developed, who will be responsible for updates (e.g. changes in case law, statutes, rules, social services regulations, new trends/philosophies in child welfare) and for on-going training of the trainers?

It is unrealistic to expect the chief judge of the judicial district to also be an expert in the fine details of guardian ad litem practice. We believe there will be evolving issues in other guardian ad litem contexts which will need to be addressed as well as an on-going need for a means to support and enhance the work of guardians ad litem in Minnesota.

The task force has accomplished a significant body of work, but there are a number of issues yet to be resolved. At the very least, the task force should continue through the implementation process in order to evaluate the effectiveness of these rules. Questions to be answered include: Will sufficient program coordinators be designated? Is this model of administration effective and appropriate? Will improved selection, training, support and supervision correct the identified problems? Have there been unanticipated results? Are additional changes in statutes or rules necessary to address issues which arise after implementation?

The Minnesota Association of Guardians ad Litem wishes to thank each member of the task force for the time and effort that has been devoted to the development of these proposed rules. We appreciate what an arduous and thoughtful process this has been and we look forward to the implementation of these rules.

Sincerely,



Susanne K. Smith,
Secretary for the Minnesota Association of Guardians ad Litem
(612) 348-8475
626 South 6th Street, Minneapolis, MN 55415-1582

DISTRICT COURT OF MINNESOTA
TENTH JUDICIAL DISTRICT

HONORABLE TIMOTHY R. BLOOMQUIST
JUDGE OF DISTRICT COURT

CHAMBERS
KANABEC COUNTY COURTHOUSE
18 NORTH VINE
MORA, MN 55051
~~(612)~~ 679-1022
(320)

March 5, 1997

Frederick Grittner
Clerk of Appellate Courts
305 Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

Re: Proposed Minnesota Rules of Guardian Ad Litem Procedure

Dear Mr. Grittner:

Please consider this letter to be my request to testify at the public hearing regarding the adoption of these proposed rules on March 13, 1997. This letter will also serve as the requested summary of what it is I wish to say at that public hearing.

To begin, I want to make it clear that no one, including me, can have any dispute with the underlying goal of the proposed rules. It is obvious that the purpose of the rules is to ensure that the guardians ad litem who are appointed to advocate the best interests of children are qualified, competent, trained and neutral. Certainly, that is the goal of all of us who work in the juvenile and family courts.

My concern is that implementing this laudable goal in small, rural, remote counties like mine will, from time to time, be difficult, if not impossible. I am asking that the Supreme Court consider the impossibility of compliance with all of the rules in some of the small and remote counties of the state, and build some flexibility into the rules to accommodate that impossibility of compliance.

I would anticipate that the large metropolitan counties, such as Hennepin and Ramsey, would have little trouble complying with the proposed rules, since they have such a large pool of talent from which to draw. However, that is certainly not the case in rural Minnesota. I am the only judge chambered in Kanabec County, and I am frequently assigned to assist in Pine County, which is also otherwise a one-judge county. My comments on the proposed rules come from my experience in these two rural counties.

In Kanabec County, I have access to exactly one qualified lay guardian ad litem. There are no others available to me. I consider myself lucky to have access to this one guardian ad litem because she is uncommonly able, but she is a local resident and must disqualify herself with some frequency, since she often knows the parties involved. When that happens, I have no choice but to find an attorney to appoint as guardian ad litem.

In Pine County, a similar situation exists. There is only one lay guardian ad litem to cover this county, which is large in geographic size, although small in population. Fortunately, this guardian is also uncommonly conscientious, and has been willing to take on what most would consider to be an unreasonable caseload.

The problem is that serving as a guardian ad litem is often emotional, demanding and stressful work. The guardians ad litem in Kanabec and Pine counties will burn out, or they will find more regular and better paid employment. My concern is that when they leave, unless there is at least an exception in the rules which allows the appointment of attorneys as guardians ad litem, even if they have not completed the training process under proposed Rule 10, the practical end result of applying the proposed rules in counties like mine will be to ensure that we simply have no guardians ad litem.

In my view, the proposed rules, however well-intentioned, run the risk of making the job so exclusive that it means that counties like mine simply cannot comply and thus will be denied the use of a guardian ad litem. The rules seem to assume that if the position is advertised and applications are solicited, we will be inundated with applications from qualified persons. Let me assure you that in counties like Kanabec and Pine, that is simply not the case. As you know, it takes a rather unique person to be a guardian ad litem. That person must be part psychologist, part social worker, part cop, part lawyer, and part teacher, among other things. They must be flexible and willing to work evenings and weekends, they must be willing to put up with irate and difficult family members, and they must be willing to walk into family settings and situations which most people would choose to avoid at all costs. In counties like Kanabec and Pine, suitable guardians ad litem are hard to come by, regardless of what kind of training or qualifications one requires. When we have turnover in small counties like mine, it is necessary that we have some flexibility, such as being able to appoint attorney guardians, until a new lay guardian can be found.

As I read the proposed rules, they do not appear to exempt attorneys at law from the Rule 10 Preservice Training Requirements. My expectation is that there is going to be little incentive for attorneys to obtain the necessary preservice training. They would be required to take at least a week away from their private practice, unpaid, to attend the minimum 40 hours of training. Apparently, they would also be required to attend an additional training course regarding family law and an additional training course regarding juvenile law. It is difficult to envision many attorneys doing all of this so that they can take on a stressful and emotional job for which they

will be paid approximately one-half of what they can bill in private practice.

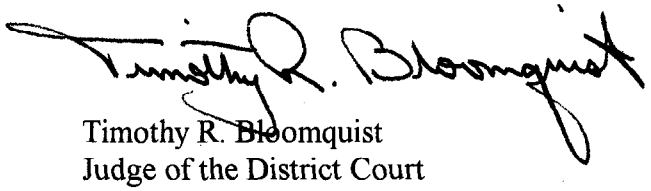
My bottom-line request is that if you choose to adopt the proposed rules, that you at least acknowledge and accommodate the impossibility of consistent compliance by including an exception allowing appointment of attorney guardians ad litem who have not received the Rule 10 Preservice Training. Perhaps the exception could read as follows: "All reasonable efforts shall be made to comply with these rules. However, if no guardian ad litem as certified and trained under these rules is available, the court may appoint a licensed attorney at law to serve as a guardian ad litem."

I also have another, much smaller, concern which I would ask that you consider. The proposed rules envision the appointment of a guardian ad litem program coordinator. The rules provide that in a district such as mine, one program coordinator could be appointed to serve for all of the counties in the district. My district administrator tells me that in the Tenth Judicial District such a program coordinator would cost approximately $100,000 per year, including salary, benefits, office space, secretarial services, et cetera. If the state would decide to pay for this program, then we have no funding concerns. However, if the rules are adopted with no state funding, then the costs obviously fall upon the individual counties, and I suggest that you must once again consider the potential for impossibility or unwillingness to comply.

Kanabec County, for example, is a poor county with a small population. Historically, it has one of the highest unemployment rates in the state. If Kanabec County's share of the cost of the program coordinator was calculated to be even as small as $5,000 per year, there is the distinct possibility that the county board would simply decide that there are no monies available for this purpose. If the board would simply refuse to budget the money to pay for the program coordinator, then I would find myself once again in the position of being simply unable to comply with the rules. If you do decide to adopt the proposed rules, I ask that you consider making the adoption contingent upon the state providing funding for the program coordinators.

Thank you for your consideration of the issues I have raised. I appreciate this opportunity to communicate my concerns.

Respectfully submitted,



Timothy R. Bloomquist
Judge of the District Court

TRB/ljr

3-3-97

To Whom It May Concern

Some of the guardian ad litem proposed rules that are listed gives the G. A. L. more power in legal matters than the parents and attornies on a case.

I believe there should be more than one coordinator or a panel who decides the G. A. L. job performance on a case. When G. A. L. are not investigating child abuse but babysitting, getting resumes for a job interview for a parent, offering information to obtain free assistance or legal advice and see to it that women's rights are enforced instead of protecting the children's rights---- I think the system is failing the children. When the G. A. L. assist a parent in making doctor appointments at a medical facility with the purpose of putting the child on ritalin [a dangerous drug] rather than investigate the child's school reports on academic accomplishments and behavior, I think the G. A. L. program is detrimental to the safety of children.

In my opinion, G. A. L. should not be able to write judges to remove a restraining order on a person who is not a member of the family when the children involved have expressed their wishes not to have contact with that person. Especially in cases when judges have concluded the need for the protection thru court hearings which were not attended by the G. A. L. Judges should make those decisions based on information obtained thru court hearings.

If a complaint of favortism is filed against a G. A. L. as grounds for her removal, I think she should be held accountable instead of hiring another person to be used because of the conflict of interest.

Some of the proposed rules are fine; such as training internship requirements, continuous education and community education is given. All G. A. L. should have them because of the power and control they are given to be the " eyes and ears" of the judges.

Also before being appointed their background should be checked to see what organizations they belong to [such as United Way Committees, Green Thumb] or what other jobs they have [such as probation officers] that would give them access to using their power in such a way that children or parents would be intimidated to accomplish the goals of the G. A. L. In my opinion, any appearence of using their influence in organizations [volunteer or paid] to obtain funding or control in their counties is inappropriate and detrimental to the G. A. L. program and the children they represent.

Sincerely,

Elsie V. Robinson

Elsie Robinson
Waseca, Minnesota
56093

Comments Regarding Proposed Rules for Guardians ad Litem

TO: **Fred Grittner, Clerk of Appellate Courts**

FROM: **Leslie M. Metzen, Judge, First Judicial District**

Rule 1. Subd. 2

Who will pay this person to administer the program and supervise their work?

Rule 4. Subd. 4

I support having orders that list "case specific duties" and also "deadlines."

Rule 5. Subd. 2

A six-month evaluation may be too soon for a new GAL.

Rule 7.

Grievances should also be shared with the appointing judge. At a minimum, if some substantiation of wrongdoing or improper conduct is found, it should be communicated to the appointing judge.

Rule 8. Subd. 2

I would oppose this limitation of GAL duties. Although we have a resource to do custody evaluations, sometimes they are backlogged or a full-blown investigation is not necessary. A GAL can also be very helpful as the voice of reason to settle visitation disputes. A Guardian ad Litem should be able to serve as visitation expediter. I support the minority report in App. B to this report.

*Consider including the section in the comment titled **"Inappropriate GAL Responsibilities"** in the actual rule.

Rule 10. Subd. 1

It would be helpful to determine the number of hours required for additional training in the area of family law.

Judy Anderson
627 Park Ave.
Litchfield, MN 55355

Mr. Fred Grittner
Clerk Of Appellate Courts
Minnesota Judicial Center
25 Constitution Ave.
St. Paul, MN

March 4, 1997

RE: Public Comments re: the GAL program

Dear Mr. Grittner;

My attorney, John Kallestad, of Willmar, Minnesota, informed me several weeks ago of the upcoming public hearings to be held in regard to the Guardian ad Litem program, and suggested I add my voice to the process.

I have found the writing of this letter to be a very difficult and painful task, nearly overwhelming in emotional intensity, and thus, I have put off this letter to the last possible moment.

In 1992, my former spouse and I separated for the final time after 14 years of marriage. During this time, we were involved at length in counseling, specifically for domestic abuse. Despite years of therapy, the abuse merely escalated. Despite repeated threats to kill me, I was was assured by my former spouse that if I dared leave him, he would take our children away from me. Complicating the matter is the fact that my former spouse is an attorney.

After the marital split, the children sporadically spent time with their father for visitation. They usually came home upset and anxious.In 1993, my son, then 12, and daughter, then 10, ran away from their father at a local high school hockey game, when he became enraged at my son's request to leave the game. The kids ran to our home. I subsequently requested a GAL be appointed. The woman appointed to fill that role proceeded to make my life, and the lives of my children, a living nightmare for the next $2\frac{1}{2}$ years. We were subjected to degradation, humiliation and emotional abuse by a woman completely ignorant of the psychology of domestic abuse, and who had never heard of the Domestic Abuse Project.

One of the very first items on her agenda was to order the children that if they became afraid of their father's displays of temper - and keep in mind here that they had witnesssed much of the physical violence - they were to "just stay there and take it." I called the DAP and asked a counselor there about that order, and they absolutely disagreed. The DAP counselor said the children should rate their fear on a 1-10 scale, and if they rated it as a 7 or more, they needed to know how to obtain help to feel safe, whether it be to return home, or to call the police. When I told the GAL that the children would follow the DAP advice, not hers, she became quite hostile and defensive.

The GAL demanded psychological evaluations of both parents, insisting it

had to be done by Dr, Ed Nadolny, at Woodland Mental Health Center, despite my request it be done by someone experienced and trained specifically in the psychology of domestic abuse. The GAL steadfastly and adamantly refused to contact the therapists we had seen for the domestic abuse counseling. She was in frequent and lengthy contact with my former spouse's best friend, a psychologist in town who never witnessed the abuse, who is well known for his hatred of women, and who has repeatedly admitted to me his extra-professional lunches and dates with his female clients. I have filed a complaint with the Board of Psychology over his "professional" involvement in this case. This same psychologist illegally came into possession of private material about me via the evaluting psychologist at Woodland, which he gave to my former spouse, who gave it to the GAL, who sent it to the JUdge in our case; Dr. Nadolny invented a new social history for me, that was such a blatant distortion of the facts, and so apparently biased, that I thought Woodland Centers had sent out the report on some other patient, by mistake. I didn't recognize myself as the subject of the report, in other words.My formal, written disagreement to Nadolny's report was spirited to the GAL as an example of how "crazy" I allegedly am. I most assuredly am not crazy; my investigation of Nadolny's background showed disciplinary action against him in Iowa, for, among other things, falsifying patient records.

I informed the GAL of my intention of obtaining therapy for the children in 1994. She thought that was a good idea, and told me not to tell the childrens' father about it. She then immediately informed him the children were to start counseling, unbeknownst to me. When he objected, she wrote a letter to the JUdge demanding a Court Order forbidding me from taking the children to counseling, on the grounds that I was abusing them by doing so..

In point of fact, the real objection to the children obtaining counseling was based in the fact that they could verify the years of abuse, which my ex minimized and denied.

The Judge ignored the GAL's demand.

The GAL then insisted she had to speak to the childrens' therapists. I discussed this with the kids, and they agreed to it only if NO informatio was given to their father. This was firmly and repeatedly stated to the GAL, and she assured me she would keep it confidential. During the evening phone conversation when I finally told the GAL the names and address of the kids' therapists, the GAL cut the conversation short, as she was catching a plane for a vacation, and needed to get to the airport.
Two days later, I received a call from my son's therapist, advising me the childrens' father had called the counseling cenyter repeatedly, demanding information about the childrens' therapy. The GAL had immediately given the names and address of the childrens' therapists to their father, before she left to catch her plane, after promising me and the children she would not reveal the information.

By this time, I had begun to tape record all of my phone conversations

with the GAL. I called her and confronted her, and she justified her behavior by saying that since there was joint legal custody, the father had the right to know. The children filed formal requests with their counselors to have no information given to their father, and that was honored by the agency.

Fourteen months into the GAL involvment in the case, I demanded to know why the GAL hadn't contacted any of the therapists involved in the marital counseling, or any of my personal contacts. The GAL got very disgusted with that request, and finally contacted one of my friends. My friend was extremely upset by her conversation with the GAL, and informed me that the GAL made very derogatory comments about me, and about battered women, to wit: You know how angry those battered women are". When I confronted the GAL, she informed me that this was a part of the training she had attended at the annual GAL conference, conducted by Mpls. psychologist MIndy MItkin, a woman who, without ever examining the parties in this case, told the GAL that I should not have custody of my children, a statement the GAL included in her report to the JUdge.

Let me digress. Mitkin again conducted training sessions this year for the GAL meeting in Willmar. She apparently is on a mission against battered women, and is teaching the GAL's her own, scientifically unsubstantiated theory called the "Parent Alienation Syndrome", insisting women lie about domestic abuse, and use it to alienate the children from the other parent. This is NOT accepted psychological theory, yet this woman is paid by the state of Minnesota to train GALs. I suggest it is imperative that MItkin's theories and philosophies be investigated, AND that the GALs be trained by counselors from the Domestic Abuse Project. Despite substantiated studies that in fact show that the majority of victims of domestic abuse never report the abuse, as well as studies that show that 70% of children of victims of domestic abuse are also abused, Mitkin is appallingly ignorant, or in blatant denial, of the entire pattern of domestic violence.

My opinion is not just based on my case. My attorney just completed another custody case with a different GAL that he reports was worse than mine, and that the GAL was caught perjuring herself on the stand by the tape recordings of phone conversations between herself and the mother. My therapist also told me he has a client who has pictures of her injuries, and written documentation of the violence, but the GAL in that case has flatly stated she doesn't believe the woman in question. These GALs are all from the Eighth District and all attend the same training sessions. THIS NEEDS TO BE CLOSELY EVALUATED.

In my own case, as feared, my ex spouse filed a custody case against me with the full knowledge and support of the GAL. I convinced my attorney to file for sole custody, at the last moment. I informed the GAL that I did not want her to contact anyone on my behalf, as I would have my son's therapist and the psychologist who reevaluated me after the false report done by Nadolny. The GAL then called the parent of a high school hockey 11th grader, in an attempt to get information about me, because my then 8th grade son' best friend was named JOsh. The woman contacted had a then 11th grade son named Josh, and his name was in the paper for hockey. While this was not the family the GAL wanted the woman contacted knows me, and had overheard an instance of a violent

argument between myself and my ex spouse several years ago. This woman was so upset at the GAL's attitude towards me that she testified at the custody hearing. Interestingly, neither she, nor the friend the GAL contacted 14 months into the case were mentioned in the GAL's report to the JUdge.

The GAL could have put a stop to the custody case at the hearing to consider the motion for a custody hearing. She refused to do so. She assured me that the JUdge would order my former spouse to pay all expenses of the Hearing, but my lawyer assured me otherwise. I had to refinance the house to pay the expenses and fees.

During all this time, the GAL fees were ordered to be paid by the childrens' father and myself. The GAL has submitted thousands of dollars in fees, but has been unable to provide me with a detailed, itemized list as to what I am being charged for. She claims the Court Clerks have her itemizations, but the COurt Clerks showed me the file, and there was no itemized bill.They say the GAL never submitted an itemized billing. I have refused to pay much of the bill.

The custody case was decided in my favor. At the end of the Hearing, the JUdge said he didn't want to hear the GAL's opinion. When his decision came out, the GAL wrote a letter to the Judge stating her opinion should have been considered, and she thought the childrens' father should have custody. She also included statements from the childrens' father's girlfriend who alleged I was leaving the children at home alone while I worked nights as an LPN, swearing she'd seen me driving home at 7:30 in the morning, on specific dates. The GAL never contacted me about the allegations, she simply submitted it to the JUdge as fact. HOwever, I wasn't working on the dates stated, and in fact, the children and I were in the cities visiting my parents on the dates in question; the childrens' father had been informed of our trip prior to our leaving.

The JUdge responded to the GAL with the fact that the custody decision was his to make, not the GAL's, and that her opinion was only one of many factors to be considered. He did not change his decision.

There are many other disturbing issues to be considered re: the GAL's behavior, which are too numerous to go into. However, one of the GAL's demands of me when I completed nursing school and obtained my first job was that if I worked days, evenings or nights, I had to take the children, then ages 11 and 13, to stay at their father's home, because she insisted they could not be left home alone. In other words, the punishment for completing the nursing program as the top student in my class, at the age of 42, obtaining a position to support myself and my children, was to give up the kids, and force them to live with their father, who was spending his parenting time perched on a barstool until all hours of the night, leaving them to fend for themselves as it was.

I consider myself damned lucky. I have had many years of working in mental health, plus I am 2 quarters shy of a B.A. in psych. I am intelligent, well informed about domestic violence due to the years of therapy I've had, and the subsequent courses I've taken on domestic violence.

I am appalled at reading "Help WAnted: GAL" ads in the HUtchinson newspaper, where any yahoo off the street without a criminal background can be hired to be at the right hand of a JUdge, with no long term professional background, and with what apparently is a very poor training system in place. I have heard of and personally experienced what amounts to an abuse of perceived power by GALs, having been informed that the GAL in my case would just "get the JUdge to order you" to comply with whatever lamebrain idea she had. My therapist has known the GAL in my case for years, and he says this GAL has a definite problem with personal boundaries. IN this case, as in many, many domestic abuse cases, the GAL is flimflammed by the abuser, who can appear to be quite smooth and charming to everyone but his victims, a scenario which is the norm in cases of domestic violence, yet is a point obviously omitted from the GAL training.

I believe the GAL program needs to be entirely revamped; that the GALs need to be very closely monitored and assessed for personal prejudices; that the limitations of their role needs to be made clear to them; that their training be re-evaluated and completely rethought. I believe the issues in cases where GALs are involved are too serious to put into the hands of amateurs who get a few hours of inservices that are blatantly biased. And I believe the taxpayers deserve alot more for their money, since the fees are usually picked up by the state.

Sincerely,

Judy Anderson

Judy Anderson

March 4, 1997

Box 215
Spicer, MN 56288

Mr. Frederick Grittner
Clerk Of Appellate Courts
305 Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

Re: Proposed Guardian Ad Litem Rules

To The Minnesota Supreme Court Guardian ad Litem Task Force:

My name is Rochelle Scheevel and I have been a Guardian ad Litem for ten years. Presently I am serving my second year on the Board of Directors of The Minnesota Association of Guardians Ad Litem as the Eighth District Representative. The purpose of this letter is to comment on the Proposed Guardian Ad Litem Rules from my perspective as a guardian ad litem.

The Minnesota Supreme Court Advisory Task Force has completed the very difficult assignment of presenting a uniform standard of policies and procedures pertaining to guardians ad litem throughout the State of Minnesota. I believe overall the thirteen proposed rules will facilitate the guardians to improve advocating for the best interest of the child. Although I generally agree with the proposed rules, there are a few rules which caught my attention. Rule 6.[SUPERVISION AND EVALUATION OF GUARDIANS AD LITEM.] Subd.2. [PERFORMANCE EVALUATION; REMOVAL FROM PANEL.] There is no doubt about the appropriateness of evaluating each guardian ad litem once during the first six months after the first appointment and then annually, however, there seem to be no alternatives between the evaluation and the actual removal from the panel of approved guardians. An example of an alternative could be a temporary suspension of service as a guardian ad litem because that individual may need more training. Also, determined unsatisfactory performance would be reviewed by an advisory board that included at least one peer instead of leaving the sole decision for removal up to the program coordinator. There appears to be no appeal process for the guardian ad litem.

Concerning Rule 8. [GENERAL RESPONSIBILITIES OF GUARDIANS AD LITEM; OTHER ROLES DISTINGUISHED; CONTACT WITH COURT.] Subd.2. [OTHER ROLES DISTINGUISHED.], I believe the guardian ad litem should be permitted to serve as a visitation expeditor because the guardian ad litem knows the parties, child(ren) and dynamics of a case and because resolving a visitation dispute is in the best interest of the child(ren). In some counties there are as few as one or two guardians ad litem who service that county and not every county or district has set up a separate core of trained

individuals who would be responsible for visitation expediting. Would it only be under those circumstances that one person serve in both roles? I feel the best interest of the child(ren) would be served if the Court had discretion to permit the guardian ad litem to also serve as visitation expeditor. I cannot speak for all guardians ad litem on this issue and I believe this subject will continue to be debated.

Concerning Rule 7. [COMPLAINT PROCEDURE; REMOVAL OF GUARDIAN AS LITEM FROM PARTICULAR CASE,] Subd. 2. [REMOVAL OF GUARDIAN AD LITEM FROM PARTICULAR CASE.], it would seem to me that removal without cause would create a dilemma for the guardian ad litem to advocate in the best interest of the child(ren) knowing that in many case the parties do not understand the role of the guardian ad litem and one party will almost always disagree with recommendations of the guardian ad litem. Many times the guardian ad litem is appointed following the initial hearing, in which one or the other party may already be agitated over the stipulations in a Temporary Order. Guardians ad litem need to be responsible for their work and therefore the complaint procedure along with a motion to show cause appears to be a more appropriate procedure for requesting removal of a guardian ad litem from a case.

Before the Proposed Guardian Ad Litem Rules are implemented, will there be enough manpower to implement adequate training? Who will absorb the costs for " training the trainers " and training future guardians ad litem? There is mention of continuing education requirements for guardians ad litem, how do you determine who absorbs that cost when there are volunteer guardians ad litem and paid guardians ad litem? Since the Proposed Guardian Ad Litem Rules are meant to provide unified standards and expectations of the roles and responsibilities for each guardian ad litem throughout the State of Minnesota, does it follow that part of the funding issues would include looking at the discrepancies in payment of the guardians ad litem in different districts? How will funding issues affect the programs and guardians ad litem in the Eighth District? The Eighth District continues under the pilot program of the State of Minnesota. My understanding is that costs associated with guardians ad litem in the Eighth District are not individual county responsibilities.

I appreciate the opportunity to comment on the Proposed Guardian ad Litem rules and the opportunity to ask questions and state my concerns as a guardian ad litem.

Respectfully,

Rochelle Scheevel

Rochelle Scheevel
Guardian ad Litem
Eighth District Representative

To Whom It May Concern

After reviewing the new proposed rules for guardian ad litems, I am concerned that many of the rules will only legalize problem areas I have observed in the program now. I will list some of the pros and cons I have observed in the rules.

I think parents should be mailed an explanation of why a G. A. L. is neccessary, what her role and goals to obtain are, time span required to accomplish them and how she plans to accomplish them. I also think parents should be given the qualifications of the G. A. L. determining why she is qualified to handle the case. I think this is essential when children's childhoods and futures are effected by their recommendations.

In my observation of the program, G. A. L. are given too much power based on too little training. Issues of abuse, neglect, family relationships and impact of divorces are too complicated for one person to analyze and make legal recommendations on with limited training such as foury hours. Many independent opinions from numerous sources are needed.

Requiring attorneys and other agencies to submit all legal documents to the G. A. L. would remove the system of " checks and balances " leaving the children unprotected. Many times women's rights are protected to the extent of denying men and children their rights. In small communities " friendships " develope that cause the G. A. L. to show favortism toward one parent and if all documents are submitted to the G. A. L. , in my opinion, that information would be shared with the parent to block any adverse judgements. Children will not establish a beneficial therapeutic relationship with a doctor or psychologist if that information is not kept confidential by the medical provider. I consider the G. A. L. access to that an invasion of their privacy and defeating the theory of counseling. The provider himself should be qualified to submit an evaluation of the case and recommendations to the attorneys involved without revealing confidential information. Trust of the children involved is the main goal--- not providing G. A. L. with specific details that her training is not extensive enough to evaluate.

I don't think the judges or coordinators are able to monitor their own programs. From my experience when I asked a coordinator to investigate my concerns about inappropriate behavior and my concerns that the G. A. L., in my opinion, had placed the children in dangerous situations----- I was told that my inquiry and any information I had regarding the family was "intrusive" and not welcome. I concluded that she based her investigation on the G. A. L. who based her information on one parent [not the children] and one outdated legal document. I requested the coordinator read more legal documents to better understand my concerns and since I had read numerous legal documents, attended many court hearings involving the children, daycared for the children, researched topics pertinent to the children for hours and witnessed many incidents regarding the children, I feel my input would be beneficial but I was told she would not spend hours reading the documents or investigating. How do you protect the children if they refuse to help? I recommend an independent board, such as an osmundson board, be established for complaints to eliminate inefficiencies,

intimidations and " small tomn" politics so the children are protected instead of the coordinators and judges paychecks.

I personally think the G. A. L. program is not protecting the children now and the proposed rules will not solve the problem, only protect the employees. My preference would be to abolish the program and invest the money in attorneys to defend the children in court proceedings. They should be accountable for their representations and be disbarred if the children are not protected.

Sincerely,

Cheryl Frederick

Cheryl Frederick
34630 145 Street
Waseca, Minnesota
56093

Kevin M. Van Loon
974 Lydia Avenue
Roseville, MN. 55113
(612)486-8358 Home
(612)337-1039 Work
March 5, 1997

FREDERICK GRITTNER
CLERK OF THE APPELLATE COURTS
305 Judicial Center
25 Constitution Avenue
St. Paul, MN. 55155

Mr. Grittner:

Enclosed are 12 bound reports (and 1 unbound copy) for the ORDER FOR HEARING TO CONSIDER PROPOSED MINNESOTA RULES OF GUARDIAN AD LITEM PROCEDURE, scheduled to be heard at 2:00 p.m. on Thursday, March 13, 1997, before the Supreme Court of the State of Minnesota.

I request that the enclosed be presented to the Supreme Court for consideration by the Court with regards to the above hearing. I also formally request to make the attached oral presentation.

As indicated, 12 copies of this letter and attached oral presentation are enclosed.

Sincerely,

Kevin M. Van Loon

"The Honorable A.M. Keith, Chief Justice; Honorable Associate Justices:

My name is Kevin Mark Van Loon, and I reside at 974 Lydia Avenue in Roseville, Minnesota with my two daughters. I bring this case study involving a court ordered guardian ad litem before the Supreme Court of the State of Minnesota in support of the Court's adoption of the findings and recommendations for the Guardian ad Litem system contained in the Final Report of the Minnesota Supreme Court's Advisory Task Force on the Guardian Ad Litem System dated February 16, 1996.

The findings indicated in the Task Force's report closely resemble the actual experience I have and continue to have with the Guardian ad Litem program in Carlton County, Minnesota (located just outside of Duluth).

The documentation will show that the Program Coordinator assigned herself as the Guardian ad Litem in my case, and that the Program Coordinator / Guardian ad Litem:

a) failed to conduct an independent investigation due to her involvement as a visitation expediter on behalf of my ex-wife; failed to meet with and observe the Children in their home in Roseville; did not accurately represent the Children's wishes; failed to interview the Children's father; failed to interview the Children's caregivers, teachers, or others with knowledge relevant to the case,

b) was involved in suspect aspects of the case due to her assuming the visitation expediter role,

c) failed to maintain equally the confidentiality of information relating to the case by presenting to the Court as supporting evidence comments allegedly made by the Children to the Coordinator while in the mother's care, yet having the Court seal and exclude from evidence the comments, preferences, and wishes the Children made to Ramsey County's evaluator while in my care,

d) did not monitor the Children's best interests by failing to investigate any of the incidents regarding the welfare of the Children that I brought to her attention, and

e) presented written reports to the Court that misrepresented and omitted relevant facts which had a detrimental effect on my case.

Because the Program Coordinator of the Carlton County Guardian ad Litem program assigned to herself the role of guardian ad litem, I was left with no contact person in the Carlton County Guardian ad Litem program to whom I could bring any of my concerns. My only recourse was to bring a motion before the Carlton County Court's presiding judge to have the Program Coordinator removed from my case - a motion which is being heard this day in Carlton County - which will cost me additional unnecessary time and legal expense. Had the recommendations contained in the Task Force's report been adopted earlier, the Program Coordinator would not have been able to serve as the Guardian on my case, and would have then been the person to whom I could have brought my "...signed, written complaint regarding the performance of a guardian ad litem...".

In short, the Program Coordinator negligently failed to discharge the statutory duties as prescribed by law for a court appointed Guardian ad Litem, functioned primarily as an advocate before the Court for my ex-wife, which when combined had a detrimental and negative impact on my relationship with my ex-wife and my Children.

The submitted report contains the documents and facts which support my recommendation for the Supreme Court's adoption of the proposed rules of Guardian ad Litem procedure.

I urge the Supreme Court of the State of Minnesota to adopt the Task Force's proposed Rules of Guardian ad Litem Procedure in their entirety.

Thank you for your time."

PRESENTATION TO THE SUPREME COURT

OF THE STATE OF MINNESOTA

MARCH 13, 1997

PRESIDED OVER BY

THE HONORABLE A.M. KEITH

CHIEF JUSTICE, MINNESOTA SUPREME COURT

IN SUPPORT OF ADOPTING THE

RECOMMENDATIONS OF THE ADVISORY TASK FORCE

ON THE GUARDIAN AD LITEM SYSTEM

FINAL REPORT DATED FEBRUARY 16, 1996

A CASE STUDY

PRESENTED BY

KEVIN M. VAN LOON

INTRODUCTION

This case study is brought before the Supreme Court of the State of Minnesota in support of the Court's adoption of the findings and recommendations for the Guardian ad Litem system contained in the Final Report of the Minnesota Supreme Court's Advisory Task Force on the Guardian Ad Litem System dated February 16, 1996.

The findings indicated in the report closely resemble the actual experience I have and continue to have with the appointed guardian ad litem for my case, Sara Lucas, (**Coordinator**) in the Guardian ad Litem program in Carlton County, Minnesota (located just outside of Duluth).

DUTIES AND RESPONSIBILITIES OF THE GUARDIAN AD LITEM

From MS #518.165: A guardian ad litem shall carry out the following responsibilities:

(a) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; interviewing parents, caregivers, and others with knowledge relevant to the case;

(b) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(c) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

(d) monitor the child's best interests throughout the judicial proceeding; and

(e) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

SUMMARY

In summary, the following will show that the Coordinator:

a) failed to conduct an independent investigation due to her involvement as a visitation expediter; failed to meet with and observe Kymberly and Amy Van Loon (**Children**) in their home in Roseville; did not accurately represent the Children's wishes; failed to interview the Children's father; and failed to interview the Children's caregivers, teachers, or others with knowledge relevant to the case,

b) was involved in suspect aspects of the case due to her visitation expediter role,

c) failed to maintain equally the confidentiality of information related to the case by presenting to the Court comments made by the Children while in the Petitioner's care but blocking the comments, preferences, and wishes the Children made to Ramsey County's evaluator while in the Respondent's care,

d) failed on numerous occasions to monitor the Children's best interests regarding incidents raised by the Respondent, and

e) presented written reports that both misrepresented and omitted relevant facts of the case.

ASSIGNMENT OF THE GUARDIAN

A motion was brought before the Carlton County Court (**Court**) by Kevin M. Van Loon (**Respondent**) to modify the provisions of a stipulated dissolution order dated February 27, 1995, regarding the custodial arrangements for the Children. The motion was opposed by Debbie L. Senarighi, f.k.a. Debbie L. Senarighi-Van Loon (**Petitioner**) by affidavit (instead of a counter-motion). Respondent's motion was heard on April 10, 1996, and the Court issued its initial findings in the order attached as Exhibit A (**Order**).

In the Order (point #2) the Carlton County Guardian ad Litem Program Coordinator was to appoint a guardian ad litem for the minor children. The Coordinator of the Guardian ad Litem program was present at the hearing.

RESPONDENT'S INITIAL CONTACT WITH THE COORDINATOR

Respondent's contact with the Coordinator began 2 days after the hearing on April 12, 1996. Coordinator called to modify the visitation schedule set forth in the new Order on behalf of Petitioner. Coordinator did not yet know who would be assigned as the guardian on the case, but indicated there would be no need to appoint a guardian ad litem from Ramsey County - the Carlton County guardian ad litem would be sufficient.

With one exception all subsequent contacts with me initiated by the Coordinator were in her assumed role as a visitation expediter (or advocate) and message service for the Petitioner. Coordinator later also assumed the role of guardian ad litem, rather than appointing a guardian ad litem from the eligible guardians in Carlton and Ramsey County.

The above fall under the area of inappropriate activities for guardian ad litems as indicated under the proposed Minnesota Rules of Guardian Ad Litem Procedure, Rule 8, Comments:

Serving as Custody or Visitation Evaluator, Mediator, or Visitation Expediter: "...Specifically, the responsibilities of ... visitation expediters ... conflict with the responsibilities of guardians ad litem to advocate for the best interests of the child." and

Inappropriate Guardian ad Litem Responsibilities: (include) "(d) supervise visits between the child and parent or third parties ... (h) provide a "message service' for parents to communicate with each other."

Because of the nature of the program coordinator's duties and role it is an inherent conflict of interest for a program coordinator to serve as the coordinator of a guardian ad litem program and serve as a guardian ad litem concurrently.

COORDINATOR'S INTERVENTION WITH PSYCHOLOGICAL EVALUATION

Coordinator strongly recommended that I utilize the psychological services of a Twin Cities psychologist, Joel Peskay, Ph.D., to perform the psychological evaluation that the Petitioner had demanded I undergo. See Exhibit B.

Exhibit C is my response.

However, in her report to the Court (Exhibit G), the Coordinator implied that I was hindering the process because I used a Twin Cities psychologist instead of using a Carlton County psychologist, despite the Coordinator strongly recommending that I use a Twin Cities psychologist.

COORDINATOR'S EFFECT ON COMMUNICATION BETWEEN PETITIONER AND RESPONDENT

The Coordinator insisted on Petitioner's behalf that all my communication with the Petitioner go through her office. The Coordinator's communication with me focused solely on visitation issues (See Exhibits F, H, Jb, P, Q, S, T, and W).

The intervention by the Coordinator severed the lines of communication that had existed between the Petitioner and myself; Petitioner would hang up whenever I attempted to contact her; I was unable to contact my Children when they were visiting the Petitioner. Due to the Coordinator's intervention the Petitioner to this day refuses to communicate with me.

The Petitioner also refused to acknowledge or respond to any of my written communications with her; on more than one occasion the Coordinator reminded me that the Petitioner would not communicate with me until the final order was signed.

In Exhibit U the Coordinator indicated that "both parents would benefit ... if they could do some communication counseling." The Coordinator neglected to mention that it was at the Petitioner's sole request (coupled with the Coordinator's insistence on mediating communication) that the lines of communication between the Petitioner and I had ceased to exist.

In Exhibit T the Coordinator specifically stated "Once they have a schedule there is no reason for any Guardian to be involved." The Coordinator should have been discharged by the Court from the case when the final order was signed (Exhibit X). Yet, she was not discharged, even for cause.

COORDINATOR'S EFFECT ON RESPONDENT'S RELATIONSHIP WITH THE CHILDREN

The Coordinator's job as guardian was to "monitor the child's best interests throughout the judicial proceeding". In Exhibit Ja the Carlton County custody evaluator commented negatively regarding me involving the Children in the custody dispute. I attempted to have the

Coordinator interview the Children regarding situations surrounding their alleged involvement in the dispute - but the interviews were not performed. For the mental and physical well-being of the Children I took the necessary steps to ensure their continued well-being. This included directly refuting derogatory comments that the Petitioner made to the Children regarding me while they were visiting her.

COORDINATOR AS VISITATION EXPEDITER / ADVOCATE FOR PETITIONER

Several exhibits previously mentioned document the communication from the Coordinator to me regarding visitation.

In Exhibit C, I indicated to the Coordinator that the Petitioner had requested some additional time with the Children which I granted, but that my willingness to compromise was not reciprocated by the Petitioner nor appreciated by the Coordinator.

In Exhibit F I indicated to the Coordinator what the Children's summer schedule would be like, in order to arrange summer time for the Children with the Petitioner.

Exhibit H is a copy of a letter dated May 10, 1996, that was sent to Petitioner's counsel, with summer visitation time information. 5 weeks later Petitioner's counsel responded with the letter dated June 12, 1996, which did not include any summer visitation request.

Also in Exhibit H is a copy of a letter dated March 11, 1996, that I sent to the Petitioner, in which I outlined the Children's summer schedule for her and asked for a response on summer visitation. I also offered her the Children during their Easter break. The Petitioner made no response either directly or through counsel to this letter.

In Exhibit G the Coordinator implied to the Court that I was not being generous with summer visitation. The Coordinator neglected to mention that on at least the aforementioned occasions prior to the beginning of summer the Petitioner was specifically asked what summer visitation she wanted with no response. Petitioner also made no request for summer visitation at the time of the April 1996 hearing. The Coordinator was aware at the time of all these facts.

Also in Exhibit G, the Coordinator represented that the Petitioner offered me the first and third weekends in June and I declined. There was no offer from the Petitioner directly, through the Petitioner's counsel, or through the Coordinator, for this switch. Rather, I had asked the Coordinator if I could pick the Children up in the morning of Father's Day (Sunday), a request that the Coordinator denied for the Petitioner.

Exhibit H also rebuts the inaccuracies contained in Exhibit G. Exhibit H reiterates an offer for summer visitation, an offer that I had initially communicated to the Coordinator on June 13, 1996 (Exhibit F), but to which I had not yet had any response (elapsed time: 4 weeks).

Exhibit H, point #2, makes an additional offer for extended weekends. Neither of these

weekend offers were accepted.

On the morning of July 9, 1996, I contacted the Carlton County Guardian ad Litem office. Identifying myself only as a divorced non-custodial father who wanted to see his kids more, I asked the Carlton County Guardian ad Litem office to assist me to arrange extra time for my kids to be with me. I was told that since I was represented by counsel the guardian ad litem could not assist me in arranging visitation. This directly contradicted the Coordinator's statement in Exhibit Ja that "one of the things we do as Guardians ... (is as a) ... "go-between" ... (for) un-coupling parents".

Exhibit Ia is my attempt to confirm with the Petitioner the specifics of the first accepted extended visitation week for later in July. There was no response to this correspondence.

Exhibit Ib is my attorney's attempt to confirm when the Children would be returned from the July week of visitation, because the Coordinator had neglected to send written confirmation regarding the visitation as she had promised in early July. There was no reply.

In Exhibit Ja the Coordinator again implied to the Court that I was hindering summer visitation with the Petitioner. In direct contradiction to the facts (that I and my counsel had made several specific requests regarding summer visitation to the Petitioner either directly, through her counsel or through the Coordinator), the Coordinator represented that I was preventing visitation ("(Respondent) seems extremely reluctant to share the girls with their mother"), rather than accurately representing that the Petitioner had refused to respond to the numerous visitation requests, had made no direct request for visitation at any time, and had exercised minimal visitation during the prior summer of 1995.

In Exhibit Ja the Coordinator stated that I had agreed to an extended weekend visitation for August 1, but that I neglected to show up. The Coordinator knew this was not true from a telephone conversation she had with my counsel directly after that weekend (and prior to the date of her letter): that my counsel had not relayed to me the weekend had been accepted. My counsel pointed this out again to the Coordinator in a letter included as Exhibit Jb.

Exhibit M are more offers extended by myself to Petitioner for visitation.

Exhibit N is the "report" offered to the Court by the Coordinator. The Coordinator had only met with the Petitioner and the Children while they were with the Petitioner, which served as her basis or "independent investigation" for the report.

In Exhibit N, the Coordinator again misrepresented the visitation issues, stating that I would "only agree to some weekends and a couple of weeks." when in fact the Coordinator knew that numerous offers were made to the Petitioner that had not been accepted or responded to by the Petitioner.

The Coordinator also implied that my family hindered the visitation process, by "wanting some days out of the time (the Children) were up here." when in fact my family had offered (to the Coordinator for relaying to the Petitioner) to watch the Children during the day when the Petitioner was at work so the Children would not have to go to daycare and the Petitioner would not incur daycare expenses.

The Coordinator also referenced a mediated agreement that the Petitioner had indicated (in a sworn affidavit filed in this matter) that she had not signed and did not wish to adhere to - which was the reason for my requesting a formal and legal custody change of the Court.

Again, in Exhibit O, my counsel points out for the Coordinator the fact that several requests were made of the Petitioner regarding summer visitation - all of which were ignored.

Exhibit P is a letter from the Coordinator again regarding visitation.

Exhibits Q, R, S, T, and W contain more visitation examples.

The only attempt made by the Coordinator to meet with me was a request made 13 days before trial, when she asked to view a visitation exchange in Hinckley. This, however, would not satisfy "meeting with and observing the child in the home setting..." as the statutes require.

In Exhibit S, the Coordinator relayed a request from the Petitioner to again shorten her visitation time with the Children: instead of Friday evening through Sunday afternoon the Petitioner wanted only Saturday morning through Sunday afternoon.

In Exhibit U the Coordinator referenced a Saturday exchange in which the Petitioner neglected to call and inform me that she was driving all the way to the Twin Cities - which made me drive unnecessarily to Hinckley. The Coordinator implied that I was lying and that the Petitioner was telling the truth when the Petitioner claimed to have had Amy contact me with that information. The Coordinator claimed the Petitioner would supply a phone bill with proof of the call. No bill was sent. The fact that the Coordinator felt compelled to label me a liar and the Petitioner truthful without any proof either way exposed her bias for Petitioner. The Coordinator also ignored the Petitioner's involvement of Amy in the dispute to communicate for Petitioner with me.

COORDINATOR'S ADHERENCE TO STATUTORY RESPONSIBILITIES OF GUARDIANS

As stated earlier, I had requested (in April) of the Coordinator that a Ramsey County guardian be appointed, because I did not believe that the Carlton County guardian would do any traveling to the Twin Cities to perform the necessary interviews with myself or the Children. The Coordinator assured me this was not necessary, that she would be in the Twin Cities area very frequently and would have no problem doing the interviews. The Coordinator's failure to request a Ramsey County guardian ad litem compounded the inability

of the Coordinator to render an "independent investigation".

Exhibit D is a list containing 5 names of individuals who had recent intimate contact with the Children (and hence would have significant "knowledge relevant to the case"); 6 names of the Children's daycare providers; and 4 names of the Children's teachers, as well as their principal's name. In addition, the Coordinator was provided with the name of our married renter (a person who would be moving out at the end of summer 1996 into a house she and her husband were buying),as well as the name of the Children's nanny.

The Coordinator neglected to contact any of these individuals, either directly by phone or by correspondence, as required in part (a) of the guardian's duties.

Exhibit E are copies of the Children's report cards furnished to the Coordinator, showing their outstanding work and standing in the Roseville school.

Included in Exhibit E is a page from Kymberly's notebook from school that her 3rd grade teacher arranged for her to use to write down things that were bothering her. In this notebook Kymberly specifically worried about having to move, stating "I hope we get to live with our Dad. He's nice and a good parent, but my mom says some mean things about him. 4/8/96". This was made available to the Coordinator as well.

Despite also having access to this letter, the Carlton County custody evaluator (**Evaluator**), stated in Exhibit Ja that "Kym stated that she wants to live in Esko with her mother..." a statement that was vigorously denied by Kymberly and which is counter to the evidence from Kym's notebook. It took Kymberly several weeks before she was able to convince the Coordinator (Exhibit P), that the Coordinator was wrong: that Kym really did not want to live with the Petitioner, but that she preferred to remain with her father.

Several direct requests were made of the Coordinator, verbally and in correspondence (Exhibits Jb and O) to meet with myself and the Children in our home. We also made ourselves available for the entire weekend of September 13, 1996, for the Coordinator to visit and interview us while at home. The Coordinator declined to visit or interview us.

Despite several requests, the Coordinator made no attempt to interview or verify with the Children incidents that greatly affected their mental well-being. Specifically:

- During the July 1996 extended visitation time the Children called me on Monday. Kymberly wanted to come home right away (instead of Thursday); Amy (age 8) informed me that the Petitioner had told her that I was responsible for burning down the home in Esko. Amy was very angry at me because I had told her I was not responsible and now the Petitioner told her that I was to blame.

  Because this was extremely upsetting for Amy and my relationship with her, I called the

Coordinator that same night (July 24, 1996), and made a direct request that the Coordinator speak to Amy regarding: the accusation of arson - that in fact there was no evidence that I was responsible and that the Petitioner was not acting in the Children's best interests by submitting the Children to this mental anguish; Amy's anger towards me while repeating the accusations of Petitioner; Amy's psychological scars from being forced by Petitioner to tour the burned-out house in 1995 (despite the recommendations from the Children's school counselor that they **not** view the house until it was rebuilt), and being forced to bring a burned stuffed animal to show and tell in school. The Children were in the Carlton area at the time so the Coordinator would not have had to travel to Roseville to talk with them, yet the Coordinator refused my request; instead, she claimed this would be a "He said / she said" issue - that there would be nothing to gain from her speaking with Amy about the incident, and there would be no proof for the Coordinator to use to confirm who was telling the truth (yet this did not stop the Coordinator from relating Petitioner's allegations regarding "She said he said" to the Court without proof - Exhibits U and Y). The Coordinator stated that if I was still concerned I should request that the Court order my phone conversations recorded, which would then put an end to the whole "He said / she said" issue. A direct request for guardian ad litem duties was flatly denied. (At this time the Coordinator had already met with the Children in the Petitioner's home at least twice. In addition, the custody evaluator had also interviewed the Children in the Petitioner's residence, and was supposedly through with her interviews.)

- Exhibit Jb referenced exhibits the Petitioner had the Children enter in a local county fair - exhibits in which the Petitioner had the Children use false last names. This confused the Children and made them all the more concerned that they were going to be forced out of their custodial home and made to move to the Duluth area. The Coordinator completely ignored this incident and our request to follow-up on it.
- Exhibits K and L are incidents of physical abuse related to me by the Children which I forwarded to the Coordinator for investigation (on the recommendation of the Ramsey County custody evaluator). The Coordinator did not respond to these notifications.
- Exhibit M is another incident brought to the Coordinator's attention, regarding viewing of the movie "JAWS". Again, there was no response by the Coordinator.

Despite the Coordinators complete failure to follow the prescribed statutory duties assigned to a guardian ad litem, the Coordinator nonetheless recommended, based solely upon her interview with the Petitioner, that the Children be removed from my custody.

Had the Coordinator done her job as prescribed by statute, she would have learned that, contrary to her statements in Exhibit N:

- I did not share a bedroom with either of my daughters. I temporarily slept on a couch (from June through August) and gave each of my daughters their own bedroom, while I waited for the renter to move to her new home in September, which opened up my bedroom. The girls had complete privacy. Trial testimony supported me.
- I had sought family therapy at a local UBS clinic for myself and the Children, due to my concerns over their mental well-being from Exhibits K, L, and M. Both the Children and I were released from this treatment, with Kymberly expressing confidence in speaking with me, and Amy not willing to speak with the Coordinator or a therapist, but would talk to me if things bothered her. The Coordinator had been informed of this treatment (Exhibit L) and knew of its existence at the time she penned Exhibit N.
- The Coordinator's verbal testimony at trial focused on the Children's fear of thunderstorms, which are frequent in the Twin Cities area during the summer. The Coordinator knew that the Children would request that I sleep on the floor in their rooms in order to comfort them. The Coordinator indicated that the girls were being developmentally hindered by being in my custody: according to her "charts" 8 and 9 year old girls should not be afraid of thunderstorms. Should I deny comfort to 8 and 9 year old girls when they are scared of thunder and lightning because of the Coordinator's belief that being scared of thunderstorms showed developmental delay?
- The Coordinator was successful in having the statements the Children made to the Ramsey County custody evaluator sealed and not introduced as evidence at trial. This made it impossible for the Court to know anything the Children said or did while in my custody. The Court only knew what the Children allegedly said while in the Petitioner's care.
- Exhibit O is a response to the Coordinator's letter of Exhibit N.
- In Exhibit Ja, the Coordinator referenced a gymnastics academy that was found for the Petitioner in the Duluth area and that "(the Petitioner) is very willing to have Amy continue working while she is up here." (In all of 1996 the Petitioner brought Amy and Kym to one gymnastics session in Duluth.) This involvement by the Coordinator appeared to be more of a "Big Sister" nature, rather than as a neutral and un-biased guardian ad litem.
- Exhibit Q is another instance of inappropriate behavior by the Petitioner towards the Children brought to the Coordinator's attention. It, too, was ignored.

At the request of the Court, the Coordinator met with the Children after the trial to explain that it would take up to 90 days to have a decision rendered. After the Coordinator had spoken with her, Amy voluntarily confided to me that the Coordinator told her that I was responsible for the divorce of her parents (despite the fact that the Petitioner filed for divorce), **and** that the Coordinator said she did not like me. These comments were made to Amy while she was at the Petitioner's house. This was brought to the Coordinator's attention in Exhibit T.

The Coordinator denied making the statements that Amy related to me. However, I believe my Children are truthful and would have no reason to make up these statements. The Coordinator also implied again that I lied about trying to get hold of her by phone one Sunday morning, and that her honest husband can vouch for her honesty.

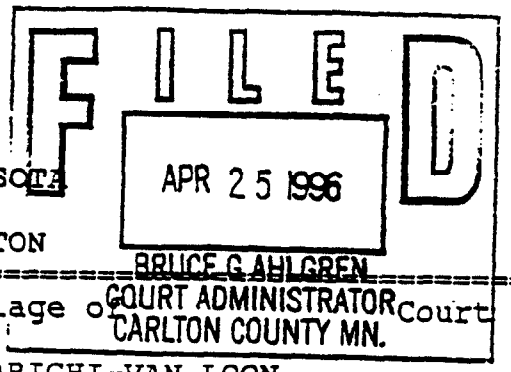
Exhibit U is the Coordinator's letter to the Court after the trial, with my counsel's response. There had still been no attempt made by the Coordinator to meet with or interview either the Children or I at home.

Exhibit V includes the Children's report cards, showing continued excellence not only in school but also on the California Achievement Test.

Exhibit Y is another letter from the Coordinator to the Court. At this time a decision had been rendered, yet the Coordinator relayed additional allegations detrimental to me without bothering to verify if any of the allegations were true. By merely presenting the allegations of the Petitioner to the Court (and refusing to bring to the Court's attention any of the myriad issues I brought to her attention) the Coordinator showed that she was not advocating for the Children's best interests as required by Minnesota Statutes, but that she was functioning as an advocate for the Petitioner.

Exhibit Z is my direct request of the Coordinator to present my side of the new allegations to the Court. There was no response from the Coordinator.

In Tindell v. Rogosheske (428 N. W.2d 386 (Minn. 1988)) the Minnesota Supreme Court found that "A guardian ad litem, acting within the scope of his (her) duties, is entitled to absolute immunity from claims arising from alleged negligent performance of those duties." The facts presented support my position that the Coordinator did **not** act within the scope of her duties, but in fact failed to perform those duties prescribed by statute for a guardian ad litem. In fact, the documentation shows that the Coordinator's principal role in this case was to function as a visitation expediter / message service for the Petitioner, and advocate to the Court for the Petitioner. By failing to perform her statutory duties, the Coordinator would appear to have exempted herself from the "absolute immunity" normally granted to Court officials, and has cost me in excess of $2,000 in legal fees to respond to her visitation expediter role.



STATE OF MINNESOTA DISTRICT COURT

COUNTY OF CARLTON SIXTH JUDICIAL DISTRICT

In Re the Marriage of: Court File No. F3-94-643

DEBBIE LOU SENARIGHI-VAN LOON,

Petitioner, **ORDER**

and

KEVIN MARK VAN LOON,

Respondent.

The above-entitled matter came on for hearing before the Court in the Courthouse in the City of Carlton, Minnesota, on the 10th day of April, 1996 at 3:30 p.m., the Honorable Dale A. Wolf, Judge of District Court, presiding. Petitioner appeared personally and with her attorney, William Sweeney, 301 West First Street, Duluth, Minnesota 55802. Respondent appeared personally and with his attorney, Dennis Korman, 6 - 11th Street, Cloquet, Minnesota 55720. The Court, having reviewed the motion of the Respondent, the Petitioner's Responsive Affidavit, and all of the pleadings herein and having heard the arguments of counsel, makes the following Order:

1. The Respondent has made a prima facie showing of integration of the children into his home with consent of the Petitioner within the meaning of M.S. 518.18(d)(ii) and Nice-Peterson v. Nice Peterson, 310 N.W.2d 4, and accordingly this matter shall be set for contested evidentiary hearing. The Court makes no finding at this time as to whether or not Respondent has made a prima facie showing of "endangerment" within the meaning of M.S. 518.18(d)(iii). Neither party shall be precluded from

submitting evidence regarding "endangerment" or evidence regarding the need for clarification of the joint legal and physical custody order at the evidentiary hearing to be held herein.

2. The Carlton County Guardian ad Litem Program shall appoint a guardian ad litem for the minor children herein. The parties hereto are directed to cooperate in all respects with the guardian ad litem including, but not limited to, signing necessary authorizations so that the guardian ad litem can complete an investigation and report herein.

The Carlton County Human Services Department is ordered to do a complete custody evaluation herein and shall file their written report and evaluation with the Court with copies to counsel and to the guardian ad litem. Counsel may show copies of such evaluation to their clients, but shall not give copies of the evaluation to their clients without further order of this Court.

The parties hereto shall undergo complete psychological evaluations with a qualified psychologist(s) and such psychological evaluations shall be filed with the Court and copies shall be made available to counsel for the parties and to the guardian ad litem. Counsel for the parties may show such psychological evaluations to their clients, but may not give copies of such evaluations to their clients without further order of this Court.

3. That pending further Order of this Court, the Respondent shall have the temporary physical placement of the minor children. Petitioner shall be entitled to reasonable visitation with the children on alternate weekends from Friday at 8:00 p.m. until Sunday at 4:30 p.m. commencing with the weekend of April 19-21,

1996. The parties shall exchange the children at the commencement of and termination of each visitation period at the Hardees Restaurant located in Hinckley, Minnesota.

4. The Petitioner is ordered to forthwith meet with the Support and Collections Division of the Carlton County Human Services Department to review and establish her temporary child support obligation for the minor children of the parties, such obligation to commence with the month of April 1996. Child support shall be withheld by immediate automatic income withholding order.

5. That as additional child support, commencing with the month of April 1996 and continuing thereafter until further Order of this Court, the Petitioner shall pay the sum of $50 as and for her proportional share of Respondent's daycare costs. Such daycare contribution shall be paid directly by the Petitioner to the Respondent until automatic income withholding is established for child support and, thereafter, such daycare contribution shall be automatically withheld from Petitioner's income. Pending implementation of automatic withholding, such daycare contributions shall be paid no later than the 30th day of each month.

6. The Respondent shall maintain group health and hospitalization insurance through his employment for the minor children of the parties. The parties shall divide equally any medical, dental, orthodontia, eye care, optical, psychological or psychiatric counselling, or other health costs for the minor children of the parties not covered by such insurance. Pursuant to M.S. 518.171, payments ordered under this paragraph are subject to income withholding under M.S. 518.611. Pending implementation of

automatic income withholding for child support, the Petitioner shall reimburse the Respondent for her share of such expenses directly.

7. The Court shall reserve for consideration at the evidentiary hearing the issues of attorneys fees to be paid by either party on behalf of the other. The issues raised by Respondent with respect to past child care contributions owed to the Respondent, amounts owed under paragraph 15 of the Judgment and Decree to Respondent and set-off issues raised by the Petitioner are reserved for consideration at the evidentiary hearing.

8. The respondent shall be entitled to claim the minor children of the parties as exemptions on his 1995 state and federal income tax returns. The parties shall sign whatever documents are needed to allow the respondent to claim the exemptions.

IT IS SO ORDERED.

Dated: April 24th, 1996.

BY THE COURT:

By: _____
The Honorable Dale A. Wolf
Judge of District Court

Approved as to form and content:

_____
William Sweeney
Attorney for Petitioner

_____
Dennis Korman
Attorney for Respondent

Exhibit A

Here is the information from Dr Peskay — Sara

LORING PARK OFFICE BUILDING
SUITE 403

ENT FOR SERVICE AS AN RT IN CHILD CUSTODY LITIGATION

Whenever possible, I, Joel Peskay, Ph.D., Licensed Psychologist, make every effort to serve the court as an impartial (neutral) expert, rather than as an advocate, in child custody litigation. To serve optimally in this capacity, I must be free to investigate and consider all interests of the children and the parents involved in such conflicts. Accordingly, before I agree to serve in the capacity of impartial custody evaluator, both parents must indicate their agreement to the conditions outlined below by signing a copy of the Acceptance and Signature page at the end of this Agreement.

1) **FEE:** My fee for conducting a custody evaluation is $125.00 per fifty-minute hour of my time, plus any reasonable disbursements and out-of-pocket expenses that I incur. Included in this are time spent interviewing, testing, and observing participants and collaterals, reading and reviewing records and other documents, time in necessary consultation with other professionals, pertinent telephone conversations, preparation for court, writing letters and reports, and any other time expended in direct association with the evaluation. Most charges will reflect the individual use of my time by each parent. Common-use time such as working with the children, letter and report writing, conjoint meetings, conference calls, etc., will be charged equally to both parents.

My fee for in-state court appearances and depositions is $150.00 per hour from the time I leave my office until the time I return ("portal to portal"). Any extraordinary expenses such as transportation, meal and hotel costs, etc., will be in addition to the hourly fee. Upon the canceling or rescheduling of a deposition or court appearance with less than three days prior notice, I reserve the right to bill for any time that I am reasonably unable to fill with other clients.

Before the intake interview -- typically done with both parents together -- the parent payer(s) shall deposit with me a retainer of $2,000.00 (usually $1,000 apiece). I will draw against the retainer for all services provided. When the balance of the retainer reaches below $500.00, the parent payer(s) must replenish the retainer to the original amount before the evaluation will proceed. During the evaluation, a statement reflecting charges and payments will be sent to the parent

payer(s) each month. To insure that the evaluation is neither interrupted nor delayed because of financial problems, the amount required to replenish the retainer should be paid by one week from date of notification. I reserve the right on written notice, mailed to the parents and the attorneys, to end my evaluation at any time with no responsibility for further services, including rendering my report or testifying, if these payment arrangements are not followed.

The amount remaining in the retainer at the end of the evaluation will be refunded promptly to the parent payer(s) after I have received a letter from the court, or from both attorneys, stating that my services are no longer required. This retainer procedure usually serves to reassure a nonpaying parent that my objectivity will not be compromised from the fear that if I do not support the paying parent, my fee will not be paid. Please note: if it is agreed that one parent will pay for the entire study, no particular benefit accrues to that parent payer.

The average total cost for an evaluation is in the $3,000 to $5,000 range. It is very difficult, if not impossible, to predict in advance the cost of a particular evaluation, because I cannot know beforehand: (1) how many interviews will be needed, (2) how many documents will need to be read, (3) how much testing will be required, (4) how many collaterals will need to be contacted, (5) the degree of cooperation and flexibility of the parents, and (6) whether I will be asked to prepare a report or to testify in court. Extensive copying done in this office is billed at 75 cents per page plus a $10.00 service charge for secretarial time.

2) TIME: Similarly, it is almost impossible to predict how long a particular study will take. Six weeks is typically the shortest time, with four to six months being about the average from intake interview to publication of the final report. Because of the uncertainties inherent in the evaluation process, I will not commit to a specific total cost nor to the completion of an evaluation by a particular date.

3) COURT ORDER: After I have received signed copies of this Agreement and the retainers, I will proceed with the custody evaluation as rapidly as feasible. I suggest, but do not require, that a Court Order referencing this agreement be drawn up and submitted to the presiding judge.

4) **DOCUMENTS:** Both attorneys are invited to send me any material they believe will be helpful to me in doing the study. To save money, typically one parent's attorney provides me with copies of all documents. I will then submit a list of the documents I have received to the other party for review and comment.

5) **CONFIDENTIALITY:** To allow me the freedom of inquiry necessary for optimally serving families involved in child custody litigation, the parents shall agree to a modification of the traditional rules of confidentiality. Specifically, I must be given the freedom to reveal to one parent what has been told to me by the other (at my discretion) so that I will have full opportunity to explore all issues I deem pertinent with both parents. This does not mean that I will automatically reveal all information provided me, only that I reserve the right to make such revelations if I consider them necessary for collecting the most meaningful data specific to the issue of custody and visitation. Further, I may freely testify in the custody proceeding as to my opinion and report, including any information provided to me during my evaluation by any party. Apart from the custody proceeding I will, of course, observe all applicable rules of confidentiality.

7) **PARTICIPANTS:** I will be allowed to interview all members of the immediate family -- that is, the mother, father, and children -- for as many interviews as I consider necessary. In addition, I will have the freedom to interview any other parties whom I consider possible sources of useful information. Generally, these would include such persons as present or prospective parental surrogates with whom either parent may be involved and the children's teachers or out-of-home day-care providers and/or family housekeepers, nannies, etc. Usually, I do not interview friends and relatives because these persons, from the outset, are often partial to one parent, but I reserve the right to invite such parties if I consider it warranted.

8) **RELEASES:** Each parent shall agree to sign all releases necessary for me to obtain reports and information from others, that is: psychiatrists, psychologists, social workers, teachers, school officials, mental hospitals, criminal courts, attorneys, collaterals, etc.

9) **FEEDBACK SESSION:** Upon completion of the evaluation -- but before the preparation of my final report -- I customarily meet with both parents together

(or with the parents and their attorneys together) to present the findings and recommendations of the study. This three-hour session gives the parents the opportunity to identify any asserted errors of fact contained in the report, to persuade me to rectify any distortions they believe I may have made regarding their presentation, and to persuade me to alter any findings and recommendations before they are published. I will indicate to both parents where I will make corrections or changes and I reserve the right to do so at my own discretion. At this session the parents will also have the opportunity to tell me their thoughts and feelings about both the evaluation process and the final report. The feedback session saves the parents from unnecessary and prolonged anxiety about my findings and recommendations.

In most cases, prior to the publication of the final report, the parents will be given the option of having their attorneys attend the feedback conference. To save the cost of my writing the report, often the most expensive single aspect of the study, the parents and the attorneys may choose to use the information from the feedback conference rather than request a written report.

10) **FINAL REPORT:** If, following the feedback session a written report is requested, the final report is prepared and sent simultaneously to the two attorneys, and, if applicable, to the court or Guardian Ad Litem. I do not give the final report to the parents. After submission of the final report, I refrain from any further communication with either parent or other parties involved in the evaluation. However, I am willing to discuss any aspect of my report with the attorneys, preferably simultaneously, either personally or by conference call. This practice enables me to continue to provide information to the attorneys regarding what I consider to be in the family and children's best interests. However, to preserve my status as an impartial evaluator, any information I provide to either attorney is done only when the other attorney has been invited to participate.

Experience has shown that conducting the evaluation in the manner described above provides this examiner with optimum conditions for providing the parents, the attorneys, and the court with a thorough and objective neutral report and recommendations.

Kevin M. Van Loon
3020 N. Chatsworth Street
Roseville, MN. 55113
(612)486-8358 Home
(800)327-9335 x1039 Work
May 07, 1996

Ms. Sara Lucas
%Carlton County CourtHouse
P.O. Box 190
Carlton, MN. 55718

Dear Ms. Lucas:

I have received the copies of the fax from Joel Peskay, Ph.D. To be perfectly honest, I am shocked at the average total cost quoted on the second page: $3,000 to $5,000. I do understand that these prices are for more services than what was indicated in the Court order.

When Ms. Senarighi's counsel requested the psychological evaluation, I assumed from prior legal advice that this expense would be borne either by Ms. Senarighi (since she had requested it) or Carlton County. Apparently, since the Court order does not indicate otherwise, these expenses are borne by each party. My insurance does not cover this type of service as I have previously informed you, and I am surprised that Ms. Senarighi's insurance (being with the same company and virtually identical mental/nervous benefits) has agreed to cover hers.

In the interim, I have had an MMPI performed in 1992 that I can submit to you in lieu of having to incur these expenses. If this is not sufficient, however, I really cannot afford to pay $900+ for a psychological evaluation, so would you please send me a couple names of psychologists in Carlton or St. Louis County who would be acceptable to the Court? I will need to contact them to attempt to arrange some type of reduced fee, and then request that the Court order Ms. Senarighi to reimburse me for this unnecessary expense. Hopefully, though, this unnecessary expense, continued litigation and the associated expenses can be avoided, since Ms. Graves did forward a settlement offer to Mr. Sweeney prior to the April 10 hearing, and will reiterate that offer to Mr. Sweeney within the next couple of weeks.

Want to pass along to you some items regarding this past weekend's visitation.

As you may be aware, Ms. Senarighi requested that she be able to keep the girls for a couple hours longer on April 21, 1996. I agreed, and Ms. Senarighi drove the girls home that weekend after they were able to spend a couple hours longer at a swimming party.

Ms. Senarighi also requested that she take the girls to Dairy Queen on Thursday, April 25, 1996 for an hour. I agreed, and Ms. Senarighi returned the girls two hours later.

Ms. Senarighi also requested that she see the girls for an hour on Sunday, April 28, 1996, to which I also agreed.

Then, since I was driving up this past weekend, I asked Ms. Senarighi to be able to have the girls come over for a couple hours on Sunday to see their grandparents, aunt, uncles, and nephews. There was tentative agreement with Ms. Senarighi. When I dropped the girls off Friday night at Ms. Senarighi's apartment, Ms. Senarighi would not commit to a time for me to pick the girls up Sunday morning, but told me that she would call me on Saturday to tell me the time she would drop the girls off on her way to her dad's cabin after her church on Sunday (church ends at 9:45am).

She did not call on Saturday, she was not at her apartment Saturday, her phone messaging machine was turned off, nor did she answer repeated phone calls. The same was true for Sunday morning. I suspected she had the girls with her where she had moved, but I did not and do not know the location of this new house because Ms. Senarighi has declined to inform me of the address when I asked. Because her vehicle was not at her apartment, she was not answering the phone (I believe she was home, because I received

frequent busy signals, and then a few seconds after a busy signal there was no answer), and because we had verbal agreement for the girls to come over, I called the sheriff's office to see if they could locate her, either at her apartment or wherever she was now living. Within 20 minutes of my call, she had called and left a message on my parent's answering machine saying that the girls were going to the cabin with her, and she would drop them off sometime around 3pm. She did not, however, say where she was or where she had been. This was not what had been agreed upon between Ms. Senarighi and I. This troubles me, since I had been willing to let her see the girls when she requested, but that consideration was not reciprocated. Further, when she did drop the girls off, she again declined to inform me where she was living.

I believe I am entitled to know Ms. Senarighi's new address, so that I may know where the girls are spending their time.

Anyway, with regards to Memorial Day weekend. There still remain a few items of disagreement for that weekend. Because Kymberly does not want to go to Esko that weekend (she wants to stay to move into the new home), and because Ms. Senarighi cannot agree to drive that weekend, the visitation schedule should stay as it was ordered by the judge, the exceptions being:

1. May 10th - 12th, which is my weekend, the girls will be with Ms. Senarighi because of Mother's Day. She has agreed to drive to pick up the girls on Friday evening at our home. At this point we are still meeting at Hinckley on Sunday, but since I drove both ways this past weekend it would be nice if she would reciprocate and drive both ways this weekend.
2. May 17th - 19th, which is Ms. Senarighi's weekend, is switched with the prior weekend (May 10th - 12th), so the girls will be with me this weekend.
3. May 24th - 26th the girls are with me per the original schedule.

The every other weekend schedule will continue as ordered until the hearing, or as agreed upon through you, Ms. Lucas, since I cannot be certain that what Ms. Senarighi and I agree upon will be honored by her.

For your records, the girls and I are moving as I have indicated Memorial Day weekend. Our new home will be only four houses away from where we live now:

Kevin, Kymberly, Amy Van Loon
974 Lydia Avenue
Roseville, MN. 55113

The address should be the only change in connection with this move.

Finally, Kymberly has been recommended by her teacher to be in the Gifted and Talented Program at Roseville. I thought you might find the attached letter and checklist interesting.

Sincerely,

Kevin M. Van Loon

Kevin M. Van Loon

cc: Kathryn Graves

Roseville Area Schools • District 623
Serving the Communities of Arden Hills, Falcon Heights, Lauderdale, Little Canada, Maplewood, Roseville, and Shoreview

May 2, 1996

To the Parents of Kym Van Loon :

The Roseville Area Schools offers a program called Journeys to service the needs of gifted and talented students. This program serves fourth through sixth grade students whose profile of abilities and performance suggest a need for additional programming. Students may be nominated for Journeys by their classroom teacher or parents. Your child has been nominated for consideration.

If you want your child evaluated for Journeys services, you can indicate that by completing and returning the enclosed "multiple intelligence checklist" form. This is one piece of information that will be used to create a profile of your child's learning strengths. Other pieces of information that will be compiled and evaluated are: 1) Multiple Intelligences Checklist completed by the teacher; 2) California Achievement Test scores; 3) Products and Performances Assessment completed by the teacher; 4) Test of cognitive abilities. No individual testing of students is done for Journeys identification. Students are not aware that we are in the process of developing a Journeys learning profile and we would recommend that this not be shared with them at this time.

The enclosed checklist is an assessment that is based on Howard Gardner's theory of Multiple Intelligences. While there is no perfect way to determine all of the gifts a person possesses, this suggests several areas in which a person may demonstrate strengths. At the end of each intelligence area you will notice the words "Other strengths". Please feel free to use the space provided to share more details about your child. A school committee made up of teachers, the principal and I will meet during the latter part of May to discuss each student's assessment information and to make a decision about needs for service. After this committee meets, you will receive a letter indicating the committee's recommendations.

Please return the Multiple Intelligences checklist to your child's school office by May 10th. If you do not wish for your child to be considered for Journeys, please contact your school principal or me with your concerns or questions.

Sincerely,

Dottie Hoel

Dottie Hoel, Coordinator
Gifted and Talented Program
604-3742

Enclosure

Fairview Educational Development Center • 1910 County Rd B W • Roseville, MN 55113-5493
PHONE 612/604-3733 • FAX 612/604-3501

Kevin M. Van Loon
974 Lydia Avenue
Roseville, MN. 55113
(612)486-8358 Home
(612)327-1039 Work
May 16, 1996

LORI L. TIMLIN
%RAMSEY COUNTY COMMUNITY CORRECTIONS DEPARTMENT
50 West Kellogg Boulevard, Suite 655
St. Paul, MN. 55102

Ms. Timlin:

This is in response to your letter dated May 7, 1996, and will acknowledge our scheduled appointment for 2:00pm on Thursday, June 6, 1996. I will also await your call to schedule the first visit with the Ramsey County Mental Health counselor at a mutually convenient time. I have had Kara Witt recommended - is she part of RCMH?

I will principally be responding with respect to the time period immediately preceding the dissolution up to the present time.

As requested in your letter here are:

1. Names, addresses, phone numbers of individuals who can answer questions regarding my parenting:

   - Wilford & Marlene Van Loon
     5182 LaVaque Junction Road
     Hermantown, MN. 55811
     (218)729-9082
   - Susan Van Loon
     5182 LaVaque Junction Road
     Hermantown, MN. 55811
     (218)729-9082
   - Lauren Van Loon
     5182 LaVaque Junction Road
     Hermantown, MN. 55811
     (218)729-0208
   - Joel Gainsley
     767 7th Street NW
     New Brighton, MN. 55112
     (612)633-5806
   - Pastor Duane Cross
     %Roseville Covenant Church
     Hamline Avenue
     Roseville, MN. 55113
     (612)633-5526

2. Names, addresses, and phone numbers of daycare providers:

   - Patti Hewitt
     2923 Hamline Avenue
     Roseville, MN. 55113
     Care from 8/94 to 10/94

- Esko Winterquist LatchKey (aka Cool Kids)
  %Winterquist School
  Highway 61
  Esko, MN. 55733
  Care from 10/94to 6/95

- Susan Van Loon
  5182 LaVaque Junction Road
  Hermantown, MN. 55811
  (218)729-9082
  Care from 6/95 to 9/95

- Friendship Connection
  %Emmet D. Williams Elementary School
  County Road D
  Shoreview, MN. 55113
  (612)482-8624
  Care from 10/95 to 2/96

- Christina Raph (Live-in before-school nanny)
  3020 North Chatsworth Street
  Roseville, MN. 55113
  (612)486-8358
  Before-school care from 2/96 to present
  Prefer minimal contact with her, as she is college student. Call to discuss with me.

- Katie O'Connor, (In-home care for summer 1996)
  %974 Lydia Avenue
  Roseville, MN. 55113
  (612)486-8358 at children's home
  Copy of daycare agreement is attached.

3. Names, address of children's schools:

   - Emmet D. Williams Elementary School
     County Road D
     Shoreview, MN. 55113
     Amy's 2nd grade teacher: Mrs. Susan Bates
     Kymberly's 3rd grade teacher: Mrs. Kathy Hagen
     Principal: Dr. Sally Thomas
     (612)482-8624

   - Winterquist Elementary School
     Highway 61
     Esko, MN. 55733
     Amy's 1st grade teacher: Mrs. Kennedy
     Kymberly's 2nd grade teacher: Mrs. Thudin
     Copy of letter sent to each teacher is attached.

4. I've completed in this letter as much of the parent's questionnaire as I could. First, though, a little history of events.

Roseville Area Schools

Physical Education

Your Best Health Insurance

VAN LOON, KYMBERLY
WILLIAMS ELEMENTARY SCHOOL
TEACHER: HAGEN GR: 03
1995-96
SPECIALIST: JUELICH

Grade 3

Key: S - Satisfactory Progress I - Improvement Shown
O - Outstanding N - Improvement Needed

Minimum Passing Score = Physical Best Fitness Test Standard
Outstanding Score = 90th Percentile or above

Physical Fitness	Boys	Girls	Reporting Period 2nd	4th
Abdominal (sit-ups)	S = 26 O = 42	S = 26 O = 41	26 S	22 N
Flexibility (stretching)	S = 25 cm O = 31 cm	S = 25 cm O = 33 cm	24 S-	21 N
Endurance (mile run) optional	S = 10:00 O = 8:12	S = 11:30 O = 9:30		

Body Control and Coordination	S	S
Demonstrates control of body while moving about the gymnasium		
Demonstrates coordination of body while long rope jumping		
Ball Skills	S	S
Throws with opposition		
Can dribble ball with dominant hand for 30 seconds while traveling		
Effort	S	S
Attitudes		
Stays on task		
Consistently	X	X
Usually		
Needs frequent reminders		
Shows respect toward others		
Consistently	X	X
Usually		
Needs frequent reminders		
Basic Locomotor Skills	S	S
Running		
Hopping		
Skipping		
Galloping		

Comments: _____

MUSIC a sound investment

Roseville Area Schools

VAN LOON, KYMBERLY
WILLIAMS ELEMENTARY SCHOOL
TEACHER: HAGEN GR: 03
1995-96
MUSIC TEACHER: SANGER

Grade 3

EFFORT

O - Outstanding I - Improvement Shown
S - Satisfactory N - Needs Improvement

O	O

Stays on Task

Consistently	X	X
Usually		
Needs frequent reminders		

Cooperates

Consistently	X	X
Usually		
Needs frequent reminders		

ACHIEVEMENT

Singing

Sings pitches accurately in a wide range	X	X
Usually sings accurately in a narrow range		
Uses a limited vocal range		

Understanding Music Concepts and Symbols

(x indicates successful completion of item)

Identifies music symbols	X
Reads rhythms accurately	X
Identifies instruments of the orchestra	X

Strong leader in music class!

E. D. WILLIAMS SCHOOL - ROSEVILLE AREA SCHOOLS
ACADEMIC DEVELOPMENT - GRADES 2 AND 3

Explanation of Symbols

O - Exceeds expectations
S - Meets expectations
N - Needs Improvement
I - Improvement shown
NA-Not applicable

Marks given indicate your child's academic progress, effort, and skill development according to his/her ability.

KYMBERLY VAN LOON
Grade: 3 1995-96
Teacher Mrs. Hagen
Principal: Dr. Thomas

Semester Marking Period		1	2
COMMUNICATIONS			
Reading	Achievement	O	O
	Effort	O	O
Uses strategies to read new words		O	O
Understands what is read		O	O
Participates in independent reading		O	O
Writing	Achievement	O	O
	Effort	O	O
Expresses ideas fluently		S+	O
Develops ideas		S+	S+
Uses editing skills			
punctuation and capitalization		S+	O
spelling skills		O	O
grammar skills		O	O
Writes legibly		O	O
Speaking	Effort	S	S
Expresses ideas		S	S
Participates in discussions		S	S

Semester Marking Period		1	2
MATHEMATICS	Achievement	O	O
	Effort	O	O
Understands concepts		O	O
Applies problem-solving skills		O	O
Applies computation skills		O	O
UNIT			
Social Studies	Effort	O	S
Participates		O	S
Understands concepts		O	O
Science	Effort	O	O
Participates		O	O
Understands concepts		O	O
Health	Effort	O	O
Participates		O	O
Understands concepts		O	O
ART	Effort	O	O
Shows Creativity		O	O

1-24-96 Kymberly, Congratulations on your outstanding progress! Dr. Thomas

E.D. WILLIAMS SCHOOL - ROSEVILLE AREA SCHOOLS
PERSONAL DEVELOPMENT - GRADES 1, 2 AND 3

Explanation of Symbols

O - Exceeds expectations
S - Meets expectations
N - Needs improvement
I - Improvement shown

KYMBERLY VAN LOON
Grade: 3 1995-96
Teacher Mrs. Hagen
Principal: Dr. Thomas

Exhibit E

WORK SKILLS:	1st	2nd	3rd	4th
Completes class assignments on time	O	O	O	O
Completes home assignments on time	O	O	O	O
Follows directions	O	O	O	O
Demonstrates active listening	O	O	O	O
Shows pride and care in work	O	O	O	O
Organizes work space and materials	O	O	O	O
Stays on task	O	O	O	O
Shows self-direction in learning	O	O	O	O

LIFE SKILLS:	1st	2nd	3rd	4th
Participates actively and thoughtfully in small group activities	S	S	S+	S+
Cooperates with staff in working towards classroom and school expectations	S+	S+	O	O
Interacts positively with peers	S	S+	S+	S+
Maintains self-control	O	O	O	O
Uses appropriate problem solving skills to solve conflicts	S+	S+	S+	S+

11-7-95
Kymberly Mrs. Hagen tells me you're doing an excellent job. We're glad you've come to our school!! Dr. Thomas

READING END-YEAR TEST (GRADE 3)

NAME: Kym V.

DATE: 6/4/96

Decoding and Phonics: 21 / 24

Comprehension and Vocabulary: 20 / 24

Literature and Language: 9 / 9

Study Skills: 11 / 12

TOTAL TEST: 61 / 69 PERCENTAGE: 88%

Exhibit E

Roseville Area Schools

Music as a sound investment

VAN LOON, AMY
WILLIAMS ELEMENTARY SCHOOL
TEACHER: BATES GR: 02
1995-96
MUSIC TEACHER: SANGER

Grade 2

EFFORT

O - Outstanding I - Improvement Shown
S - Satisfactory N - Needs Improvement

1st	2nd
S+	S+

Stays on Task

	1st	2nd
Consistently	X	X
Usually		
Needs frequent reminders		

Cooperates

	1st	2nd
Consistently	X	X
Usually		
Needs frequent reminders		

ACHIEVEMENT

Singing

	1st	2nd
Sings pitches accurately in a wide range	X	X
Usually sings accurately in a narrow range		
Uses a limited vocal range		

Understanding Music Concepts and Symbols

(x Indicates successful completion of item)

	1st
Identifies music symbols	X
Reads rhythms accurately	X
Maintains a simple ostinato pattern	X

Good progress in music!

Exhibit E

Roseville Area Schools

Physical Education

VAN LOON, AMY
WILLIAMS ELEMENTARY SCHOOL
TEACHER: BATES GR: 02
1995-96
SPECIALIST: JUELICH

Your Best Health Insurance

Grade 2

Key: S - Satisfactory Progress I - Improvement Shown
O - Outstanding N - Improvement Needed

Minimum Passing Score = Physical Best Fitness Test Standard
Outstanding Score = 90th Percentile or above

Physical Fitness	Boys	Girls	Reporting Period 2nd	Reporting Period 4th
Abdominal (sit-ups)	S = 24 O = 39	S = 24 O = 37	31 S	28 S
Flexibility (stretching)	S = 25 cm O = 31 cm	S = 25 cm O = 33 cm	36 O	37 O

	1st	2nd
Balance	S	S
Can walk the length of a balance beam		
Can balance on one foot for 10 seconds		
Body Control and Coordination	S	S
Demonstrates control of body while moving about the gymnasium		
Demonstrates coordination of body while long rope jumping		
Ball Skills	S	S
Can dribble ball with dominant hand for 30 seconds		
Effort	S	S
Attitudes		
Stays on task		
Consistently	X	X
Usually		
Needs frequent reminders		
Shows respect toward others		
Consistently	X	X
Usually		
Needs frequent reminders		
Basic Locomotor Skills	S	S
Running		
Hopping		
Skipping		
Galloping		

Comments: _____

E.D. WILLIAMS SCHOOL - ROSEVILLE AREA SCHOOLS
PERSONAL DEVELOPMENT - GRADES 1, 2 AND 3

Explanation of Symbols

O - Exceeds expectations
S - Meets expectations
N - Needs improvement
I - Improvement shown

AMY VAN LOON
Grade: 2 1995-96
Teacher Mrs. Bates
Principal: Dr. Thomas

WORK SKILLS:	1st	2nd	3rd	4th
Completes class assignments on time	O	O	O	O
Completes home assignments on time	O	O	O	O
Follows directions	O	O	O	O
Demonstrates active listening	O	O	O	O
Shows pride and care in work	O	O	O	O
Organizes work space and materials	I	O	O	O
Stays on task	O	O	O	O
Shows self-direction in learning	O	O	O	O

LIFE SKILLS:	1st	2nd	3rd	4th
Participates actively and thoughtfully in small group activities	S+	S+	O	O
Cooperates with staff in working towards classroom and school expectations	O	O	O	O
Interacts positively with peers	S+	S+	O	O
Maintains self-control	O	O	O	O
Uses appropriate problem solving skills to solve conflicts	S+	S+	O	O

Exhibit E

E. D. WILLIAMS SCHOOL - ROSEVILLE AREA SCHOOLS
ACADEMIC DEVELOPMENT - GRADES 2 AND 3

Explanation of Symbols

O - Exceeds expectations
S - Meets expectations
N - Needs Improvement
I - Improvement shown
NA-Not applicable

Marks given indicate your child's academic progress, effort, and skill development according to his/her ability.

AMY VAN LOON
Grade: 2 1995-96
Teacher Mrs. Bates
Principal: Dr. Thomas

Semester Marking Period		1	2
COMMUNICATIONS			
Reading	Achievement	O	O
	Effort	O	O
Uses strategies to read new words		O	O
Understands what is read		O	O
Participates in independent reading		O	O
Writing	Achievement	O	O
	Effort	O	O
Expresses ideas fluently		O	O
Develops ideas		O	O
Uses editing skills		O	O
punctuation and capitalization		O	O
spelling skills		O	O
grammar skills		O	O
Writes legibly		S	S+
Speaking	Effort	S	S+
Expresses ideas		S	S+
Participates in discussions		S	S+

Semester Marking Period		1	2
MATHEMATICS	Achievement	O	O
	Effort	O	O
Understands concepts		O	O
Applies problem-solving skills		O	O
Applies computation skills		O	O
UNIT			
Social Studies	Effort	S	S
Participates		S	S
Understands concepts		S	S
Science	Effort	S	S
Participates		S	S
Understands concepts		S	S
Health	Effort	S+	O
Participates		S+	O
Understands concepts		S+	O
ART	Effort	S+	O
Shows Creativity		S+	O

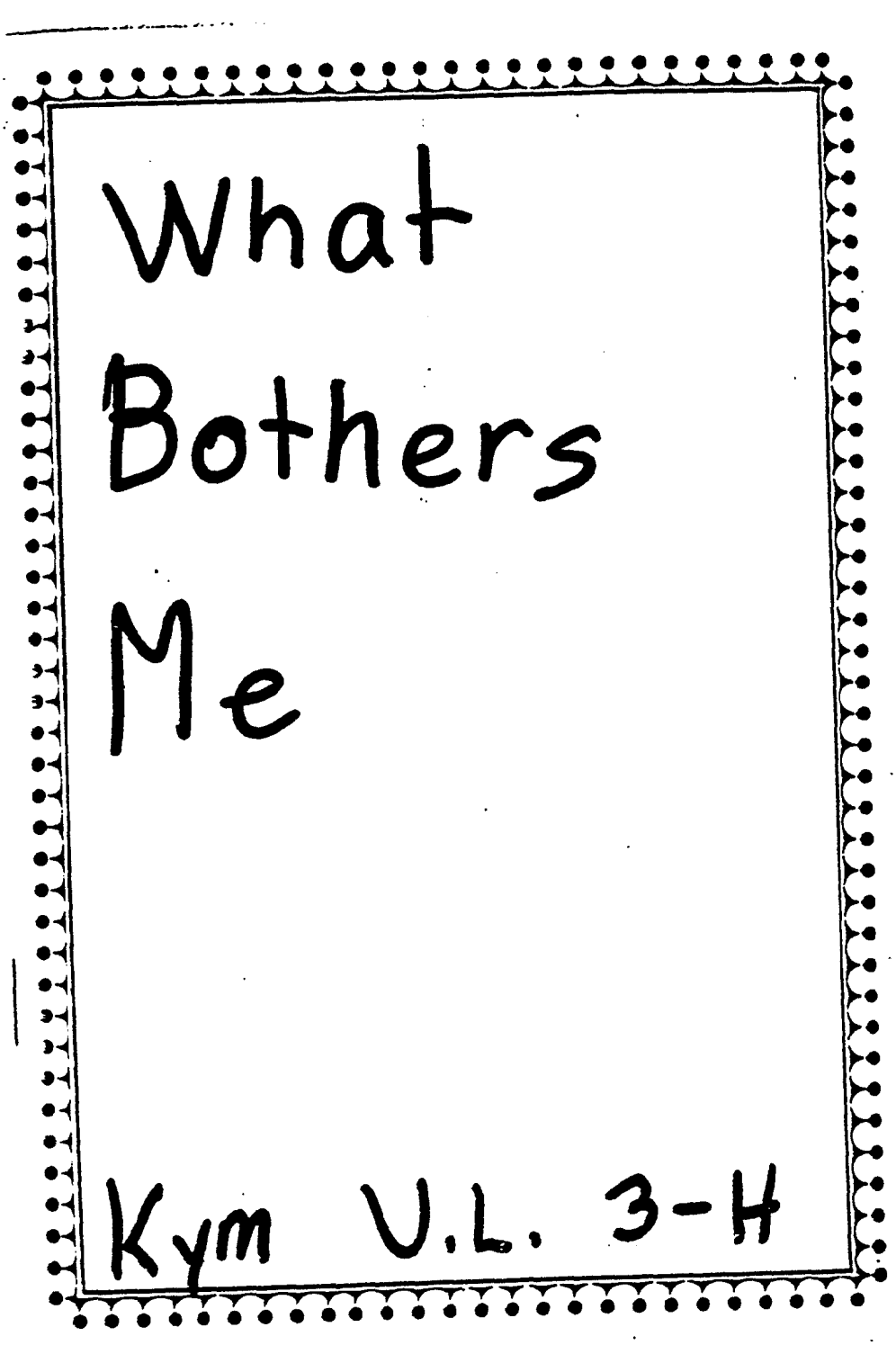


Exhibit E

my parents divorce bothers me. I'm worried about who I'm going to have to live with. I hope we get to live with our Dad. He's nice and a good parent, but my mom says some mean things about him. 4/8/96 12:17 pm

Exhibit E

MCG HEALTHCARE COMPENSATION, INC.
1-800-327-9335
FAX COVER SHEET

Date:	June 13, 1996
Pages:	2
To:	Sara Lucas, Guardian ad litem
Fax Phone:	1-218-384-9182
From:	Kevin M. Van Loon
Re:	Visitation for Ms. Senarighi

In an attempt to settle the summer visitation issues, I will put down in writing what the rest of the summer looks like, schedule-wise, for the girls and I.

As you know, Ms. Graves sent a settlement proposal to Ms. Senarighi's attorney in early May; a proposal which was copied and sent by myself to Ms. Senarighi on June 4, 1996. Neither proposal has even been acknowledged, much less responded to. Mr. Korman, Ms. Graves, and myself have to assume that Ms. Senarighi and her attorney are not interested in settling this matter short of litigation due to the lack of response on either request.

In any event, regularly scheduled activities and social events for the summer for the girls are:

- Summer Academy for Gifted & Talented Students — Amy on M-F, 6/13 - 7/3/96.
- Summer Bible Camp — Kymberly on 6/17 - 6/22/96
- Valleyfair Trip — Myself, Kym, Amy & friends on 7/5/96
- Roseville Team Gymnastics, Level 4 — Amy on M-W-Th, 6/10 - 8/22/96
- Vacation Bible School — Kym & Amy, 8/12 - 8/16/96
- SeaWorld of Ohio & East Coast trip — Myself, Kym & Amy, 8/22 - 9/2/96

With regards to this weekend and the 4th of July, I have had the time around the 4th scheduled for PTO for some time now. I'd rather leave this weekend's schedule as is, rather than gain a few hours on Sunday and lose two days when I am on PTO.

Kym and Amy are being cared for by a nanny at our home during the summer. She is a recently graduated high school senior from our Roseville Covenant Church, Katie O'Conner. Katie is also caring for one of Amy's friends at our home on M-W-Th (this because Amy is getting a ride to gymnastics from her friend's dad on these days). Katie is not available, as mentioned, the week of July 22 - 26. In order to minimize the number of gymnastic training sessions Amy may miss, I have offered Ms. Senarighi the girls from after Amy's gymnastics on 7/18 (pick up around 7:15 at home) to before Amy's gymnastics on 7/25 (gymnastics starts at 4:15pm). I have originally scheduled this week for PTO to be home with the girls, but will change to work M-Th but keep Friday off. This will mean that both girls may miss their last softball game of the season on 7/23, and Amy may miss two gymnastic sessions if Ms. Senarighi does not bring them. Since the weekend of 7/19 - 7/21 is the weekend the girls are scheduled to be home with me, it would be appropriate, then, to switch the visitation on the weekends of 7/19 and 7/26. In other words, Ms. Senarighi would have the 7/19 visitation and the girls would then be at home the weekend of 7/26.

I am looking at being on vacation about the last two weeks in August, and am requesting that the visitation weekends of 8/16 and 8/23 be switched: Ms. Senarighi has visitation on the weekend of 8/16, and the girls home then the weekend of 8/23 (we will hopefully be heading to the East coast on 8/22).

Knowing the above, please advise me what time Ms. Senarighi is looking to have visitation with the girls in addition to the week in July above. I know that Ms. Senarighi (based upon a letter from her attorney dated 11/17/94) will agree that "(t)here are regularly scheduled social events, and other matters, that the children ... are involved with." Therefore, I know that Ms. Senarighi will make sure that the children do attend their "regularly scheduled social events" during the time that Ms. Senarighi has visitation with the girls. I'm also sure Ms. Senarighi will agree that it is important to show Kym and Amy that both Ms. Senarighi and myself can cooperate, not only in settling this matter short of litigation and without unnecessary expense, but also in visitation matters, as well as making sure that the girls continue to attend and do not miss out on the extra-curricular activities and regularly scheduled social events that the girls are involved with. It is especially important for Amy to attend her gymnastics training sessions, to help Amy keep in pace and continue to progress and improve along with the rest of her teammates.

I look forward to Ms. Senarighi's reply.

Kevin M. Van Loon

MCG HEALTHCARE COMPENSATION, INC.
1-800-327-9335
FAX COVER SHEET

Date:	June 28, 1996
Pages:	2
To:	Sara Lucas, Guardian ad litem
Fax Phone:	1-218-384-9182
From:	Kevin M. Van Loon
Re:	Visitation for Ms. Senarighi

Remaining regularly scheduled activities and social events for the summer for the girls are:

- Summer Academy for Gifted & Talented Students — Amy on M-F, 6/13 - 7/3/96.
- Valleyfair Trip — Myself, Kym, Amy & friends on 7/5/96
- Roseville Team Gymnastics, Level 4 — Amy on M-W-Th, 6/10 - 8/22/96
- Vacation Bible School — Kym & Amy, 8/12 - 8/16/96
- SeaWorld of Ohio & East Coast trip — Myself, Kym & Amy, 8/22 - 9/2/96

I am not interested in switching the overall alternate weekend visitation at this time. I am, however, requesting that:

1. the visitation weekends of 8/16 and 8/23 be switched to facilitate our planned vacation: Ms. Senarighi would have visitation on the weekend of 8/16, and the girls would be home then the weekend of 8/23 (we will hopefully be heading to the East coast on 8/22).

2. the visitation weekends of 7/19 and 7/26 be switched: Ms. Senarighi has the 7/19 weekend with the girls home the weekend of 7/26.

Under the current circumstances, and upon the advice of counsel, I cannot agree that it is in the children's best interest to spend the rest of the summer with Ms. Senarighi. Despite Ms. Senarighi making no discernible attempts at compromise on any issue in this dispute, I nonetheless offer the following two weeks initially for Ms. Senarighi to have visitation with the girls (her response to these offers will help determine when the third week will be; please have her state her preference):

3. Ms. Senarighi would pick up the girls the evening of 7/18 about 7:30pm at home, and would return them home by 3:30pm on 7/25. I request that Ms. Senarighi make every attempt to have Amy attend her gymnastics preparation sessions. Amy is excited about and enjoys being part of the Roseville Gymnastics Team (competitive level) by her own statements. Continued uninterrupted participation is in Amy's best interests, will keep Amy on pace with the rest of her teammates, and will certainly show Amy that Ms. Senarighi is also concerned with and interested in Amy's continued growth and success in gymnastics on the Roseville team. Having Amy miss too many practice sessions will jeopardize her continued participation on the team (attendance is mandatory year-round), and is definitely not something that Amy wants to have happen.

4. Assuming the switch of weekends in August (8/16 & 8/23), Ms. Senarighi would pick up the girls on 8/9 at 7:30pm, and would return them by 4:30pm on 8/18. Again, I ask that Ms. Senarighi bring Amy to her team gymnastics preparation sessions.

Both girls also want to spend some time with their Aunt Sue, so if daycare is necessary, I request that the girls would be cared for again by their Aunt Susan Van Loon, just like they were last summer, rather than being placed in unfamiliar daycare. This low-cost daycare alternative for Ms. Senarighi is the option that both girls prefer and would obviously best serve the interests of the girls. (Having the girls stay at the cabin under the "care" of Ms. Senarighi's basically invalid father is unacceptable to me.) Please have Ms. Senarighi inform me what her plans are for this time (girls in daycare or Ms. Senarighi on vacation).

I look forward to Ms. Senarighi's reply by 7/8/96. In light of the numerous apparent discrepancies in communication, as well as for clarity, I ask that her response be in writing. My fax # is 1-612-339-2569. Please call before sending anything, for obvious confidentiality reasons.

Kevin M. Van Loon

cc: Kathryn Graves

CARLTON COUNTY
Guardian Ad Litem Program

COURTHOUSE
P.O. Box 280
CARLTON, MINNESOTA 55718
TELEPHONE 218-384-9164

SARA LUCAS
Co-ordinator

Date: July 8, 1996

To: The Honorable Dale A. Wolf

From: Sara Lucas, Coordinator
Guardian ad Litem Program

RE: SUMMER SCHEDULE OF KYMBERLY AND AMY VAN LOON
FILE#: F3-94-643

Dear Judge Wolf:

I have been working with both parents to help arrange a summer schedule. Both parents have been cooperative and willing to make minor adjustments in the every other weekend schedule.

Kevin offered Deb Mother's Day, so she had the girls the 1st two weekends in May. Kevin had them the 2nd two weekends in May and they split Memorial Day weekend, exchanging on Sunday at noon.

Deb offered Kevin the 1st and 3rd weekends in June so he would get Father's Day. He declined. He has requested that the weekends of the 19th and 26th of July and 16th and 23rd of August be switched (Mom to have 7-19 and Dad 7-26 in July and Mom to have 8-16 and Dad 8-22 in August). Deb is fine with that.

In addition to talking to the parents, I spent some time with the girls--just talking to them about summer and their activities.

Kymberly was looking forward to Bible Camp and a trip to DC at the end of August. Both girls enjoyed the summer school which is now over. Amy was not interested in Bible Camp and suggested every weekend with her mother would be better than every other weekend. Neither girl seemed to feel that softball was of special importance, Amy said that gymnastics was fun, but did not seem passionately committed to three days a week til the end of August. Deb has checked and the gymnastics school up here will work with her at whatever her level.

I have talked to Mrs. Burr/Albertson and she would like to have the girls here for a block of time so she can do her custody evaluation.

Kevin has offered the weeks of July 17-25 and Aug 9-18 as summer time with their mother. I feel that at 8 and 9 years old, the girls ought to have more time with their mother and summer is going by quickly.

I request: that the girls remain with their mother after her July 19th weekend and go to their father on the 26th and return to their mother on the 28th.

That the girls return to their father on Aug 9th and to their mother on Aug 11th. They would return to their father on Aug 22nd for their DC trip.

Unfortunately the court trial is not scheduled until September 19th--after school begin.

Kevin could have had his psychological assessment done in July by the same therapist who saw Deb. He chose to wait until an appointment is available in the cities. It is my understanding that he will not have either his assessment nor custody evaluation by the trial date.

I think the girls deserve a decision before school starts or as soon thereafter as possible--not six months down the road. Is there any way to speed up the process?

Yours truly,

Sara Lucas

Sara Lucas, Coordinator
Guardian ad Litem Program

SL/pap

cc: William R. Sweeney, Atty.
Dennis J. Korman, Atty.
Ms. Deb Senarighi-Van Loon, mother
Mr. Kevin Van Loon, father
Carlton County Human Services
file

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*ALSO LICENSED IN WISCONSIN

July 10, 1996

Ms. Sara Lucas
Coordinator, Guardian
Ad Litem Program
Carlton County District Court
Carlton County Courthouse
P.O. Box 190
Carlton, MN 55718

Re: Kymberly and Amy Van Loon

Dear Ms. Lucas:

This letter will be a follow up to our telephone conversation of July 9, 1996 and a response to your letter of July 8, 1996 to Judge Wolf. I would first like to address the issue of Mr. Van Loon's position on summer vacation. In previous correspondence to you he specified two weeks that were available for Ms. Senarighi to take the children and indicated that an additional week would also be available. (See paragraph 2 of his letter to you dated June 28, 1996). I asked Kevin to identify specifically what additional time he would propose for visitation. The following is his offer for the remainder of the summer:

1. That the children would be with Ms. Senarighi during the time period July 18, 1996 from 7:30 p.m. until July 25, 1996 at 3:30 p.m. and August 8, 1996 at 7:30 p.m. until August 18, 1996 at 4:30 p.m.

2. In addition to the above weeks and the already scheduled weekends, the children would be with their mother for two additional weekends, from July 11, 1996 at 7:30 p.m. until July 14, 1996 at 7:30 p.m. and August 1, 1996 from 7:30 p.m. until August 3, 1996 at 7:30 p.m. Adding these two weekends will give Ms. Senarighi 5 of the next 6 weekends with the girls.

The above schedule would allow the girls to have significant time with both parents for the remainder of the summer with minimal interruption to activities which were scheduled for the girls before the additional vacation time was requested. Please have Ms. Senarighi respond as soon as possible as the first additional weekend is

this weekend. Mr. Van Loon also requests that the visitation exchange take place at the Burger King located in Shoreview.

Also, Lori Timlin of Ramsey County Court Services is scheduled to have her home visit with the girls on July 26, 1996, so obviously the girls will have to go back home with their father no later than July 25, 1996.

I would also like to address our concern that the letter to Judge Wolf implies that Mr. Van Loon is attempting to prevent the children from spending time with their mother. First, the Court's Order of April 24, 1996 awarded temporary custody of the children to Mr. Van Loon, subject to an alternating weekend visitation. The Order does not contain a summer visitation schedule, nor is there any indication that such an issue was to be negotiated by the parties or the guardian ad litem.

On May 10, 1996 we sent a settlement proposal to counsel for Ms. Senarighi, which included a proposal for the summer schedule. Attached is a copy of the two sentence response which we received to this proposal, dated June 12, 1996. As you can see no mention is made of requested time for the summer (or any other specific response).

Since Ms. Senarighi did not request any summer visitation after the Court entered its Order in April, 1996, she had chosen to spend little time with the children during the summer of 1995, and in reliance on the schedule set forth by the Court, Mr. Van Loon went ahead and scheduled daycare and activities for the children this summer, all at his expense. Had the issue of summer visitation been dealt with prior to the beginning of the summer, it would have been easier to schedule the summer visitation with Ms. Senarighi which you are recommending. Now, however, Mr. Van Loon has hired a daycare provider, who will have to be.paid even if the girls are not there, scheduled his own vacation time with the girls and signed the girls up for gymnastics and softball (also at additional expense to him).

Next year, after the custody issue is resolved, the issue of the summer schedule can be dealt with sufficiently ahead of time to address any requests for visitation which Ms. Senarighi may have. Hopefully, by then Ms. Senarghi will also be providing some financial support for the girls, so that Kevin will not be in a situation where he is solely responsible for the additional summer expenses which he is currently committed to pay.

I understand that there is an issue as to the importance to the girls of their summer activities. Mr. Van Loon informs me that Amy <u>does</u> wish to continue with her gymnastics, and he is proposing a schedule which will cause minimal interference with this important activity. While your letter states that Ms. Senarghi has

checked with the gymnastics school in her area, we have been provided no specifics as to the name or type of program, which would enable Amy to determine if this class would allow her to keep up with her gymnastics group. Moreover, Ms. Senarighi does not have a good track record on following through with getting the girls to their scheduled activities. As to the softball, Mr. Van Loon does feel that it is important that the girls participate in a program to which they have made a committment, but is willing to work around that activity as well.

As to the issue of the trial date and the psychological evaluation, as I indicated in my telephone conversation, it was Ms. Senarighi and her attorney, and not my client who demanded the evaluation as a part of the custody evaluation. Thus, any delay caused by this evaluation is the result of her request. I advised Mr. Van Loon to use Ramsey County Mental Health to conduct the evaluation because I was familiar with the good quality of the work performed by their psychologist, Dr. Kara Witt, the lower cost, and the convenience to him. Also, since Ramsey County is conducting Kevin's part of the evaluation, I felt it was important that the evaluator work with a psychologist with whom she is familiar.

As you indicate in your letter, Ramsey County will not be done with its part of the evaluation by the scheduled trial date of September 19 and 20, 1996. At this time I have not gotten a committment from the County as to when the evaluation will be completed, but Ms. Timlin indicated that it will not be done by the above dates. We will be asking Mr. Korman to request a continuance of the trial date. While we appreciate your concern that this matter be resolved before the new school year, there simply is no way this can be accomplished.

Please advise us as to whether the above schedule is acceptable to the Ms. Senarighi. If the schedule is not acceptable, and you will be sending a recommendation to the Court concerning a summer schedule, please let us know, as we would like the opportunity to advise the Court as to our position. Thankyou.

Sincerely,

Kathryn A. Graves

cc: Kevin Van Loon
Dennis Korman
William Sweeney

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May 10, 1996

Mr. William R. Sweeney
628 Board of Trade
301 West First Street
Duluth, MN 55802

Re: Debbie Lou Senarighi v. Kevin VanLoon

Dear Mr. Sweeney:

I have been authorized by Mr. VanLoon to restate his offer set forth in our letter of March 15, 1996, concerning a settlement in this matter. Specifically, he offers the following:

1. That he be awarded sole legal and physical custody of the parties' minor children subject to the Petitioner's right of reasonable visitation.

2. Reasonable visitation would include every other weekend, taking into account the children's activities, and two weeks during the summer. Mr. VanLoon will provide Ms. Senarighi with a proposed schedule for the children's summer by April 1 of each year. Ms. Senarighi will then let Mr. VanLoon know by May 1 of each year the two weeks that she request the children be with him during the summer. [He is also open to splitting the childrens' Spring and Christmas vacation time if your client is interested.]

3. The issue of child support and daycare contributions would be reserved at this time.

4. In light of Mr. Van Loon's agreement to waive child support at this time, Ms. Senarghi would be responsible for visitation transportation.

5. Mr. Van Loon will provide the medical and dental insurance coverage for the children. Each of the parties would be responsible for one-half of any unreimbursed medical and dental expenses for the children.

6. A judgment in the amount of $846 will be entered against Ms. Senarighi for

the amounts owed under the Judgment and Decree.

7. A judgment in the amount of $1,879.61 would be entered against Ms. Senarighi for the amounts that she owes for her court-ordered share of child care expenses. Mr. VanLoon has applied for the services of Carlton County Support and Collections and would be entitled to collect the child care arrears through automatic income withholding.

8. That Mr. VanLoon would be awarded the income tax exemptions for the children.

Please address the above proposal with Ms. Senarighi and let us know her response within the next week. The custody evaluation process is beginning and the parties could save some significant expense at this time if a resolution could be reached. As you are aware, Ramsey County Court Services will be conducting the evaluation here in the Twin Cities at the request of Carlton County. Mr. Van Loon's psychological evaluation will therefore be conducted at the St. Paul-Ramsey Mental Health Center. There is currently about a six months waiting list to get in for such evaluations, meaning that the evidentiary hearing in this matter will have to be continued in order to complete this portion of the evaluation. Your client may wish to take this time delay into consideration in deciding how to respond to our proposal.

Sincerely,

Kathryn A. Graves

KAG:jnb
Enclosure(s)
cc: Kevin VanLoon
Dennis Korman

William R. Sweeney
Attorney At Law
628 Board Of Trade
301 West First Street
Duluth, Minnesota 55802
(218) 727-0898

June 12, 1996

Ms. Kathryn A. Graves
Attorney at Law
4150 First Bank Place
601 Second Avenue
Minneapolis, MN 55402

RE: Senarighi vs. Van Loon

Dear Ms. Graves:

This is to give you formal notification that my client, Debbie Senerighi, is not interested in settling the above matter along the lines which you propose in your May 10, 1996, letter. Thank you.

Sincerely yours,

William R Sweeney /ms.

William R. Sweeney

cc: Ms. Debbie Senarighi
Mr. Dennis Korman
WRS/ms

Kevin M. Van Loon
3020 North Chatsworth Street
Roseville, MN. 55113
(612)486-8358 Home
(612)337-1039 Work
March 11, 1996

D. Senarighi
P.O. Box 193
Esko, MN. 55733

Ms. Senarighi:

The scheduling for the girls spring school conferences is March 22 through March 29. I will be signing up for a time for me to have a conference. If you have any interest in seeing how the girls are doing in school, you will need to sign up at the school in person for another time slot. Since you have not bothered to contact the school at all previously, nor attended any of the girl's events at the school that have already occurred, my guess is that you will not be attending these conferences as well.

Both girls are doing extremely well in school by all accounts, and have really fit in well now that they know their future is in Roseville. Teachers, music instructors, gym teachers, all have stopped me in the school hall and have "gushed" to me about how wonderful the girls are doing, and how glad they are that the girls are attending school in Roseville. Both girls' class sizes are under 25, and with the addition to the high school nearing completion, class sizes all the way through high school will be under 30. Once I have received their report cards, I will forward a copy of these to you for you to do with what you will.

Both girls have been invited to attend a summer academy at Irondale High School this summer. The academy is for identified gifted and talented students who show high learning potential. Both wish to attend and will be able to do so, if I can schedule this around their Roseville softball schedule and their summer Bible Camp through Roseville Covenant Church.

The girls are off school Friday March 29 through Monday April 7. I would prefer not to have them in daycare, so are you interested in having them? If I don't hear from you, I will assume you have no interest and will have my sister Sue watch them.

The plan for the Easter weekend is at our house for now. You may pick the girls up for Saturday dinner at your mom's if you like. If I don't hear from you by the last weekend in March, I'll assume that this is acceptable. Of course, if I don't hear anything at all about the Easter weekend from you by the end of March, I will have to assume that you are not planning on seeing the girls that weekend.

Our summer vacation this year will be during the 4th of July weekend, and will be a trip to Washington D.C. We will be gone for approximately two weeks, traveling to SeaWorld of Ohio, and then on to DC.

Kym's summer Bible Camp is the week of June 17-22, and Amy's is July 1-3, I think. The summer academy runs for three weeks, to July 3 as well. Softball registration is on April 9, and both girls have been given pre-approval to be on the team that I will be coaching here in Roseville. In addition, Amy's gymnastics continues into Level IV through the summer for 3 nights a week.

Kevin M. Van Loon

Kevin M. Van Loon
974 Lydia Avenue
Roseville, MN. 55113
(612)486-8358 Home
(612)337-1039 Work
July 12, 1996

D. Senarighi
P.O. Box 193
Esko, MN. 55733

Ms. Senarighi:

I have been informed that you have accepted the additional visitation offered you for the month of July as presented to your guardian ad litem, Sara Lucas, in my facsimile to her dated 7/3/96.

It is my understanding that you have agreed to:

1. Switch the visitation weekends of 7/19/96 and 7/26/96. You would have the girls the weekend of 7/19/96, and the girls would be at home the weekend of 7/26/96.

2. Switch the visitation weekends of 8/16/96 and 8/23/96. You would have visitation the weekend of 8/16/96, and the girls would be at home the weekend of 8/23/96.

3. Pick up the girls at 7:30pm on 7/18/96 at home, and return them to home by 3:30pm on 7/25/96.

I suggest that, rather than meeting at our home, we meet at the Burger King on Lexington Avenue in Shoreview. I will assume this is your understanding as well unless I hear from you.

Amy will discuss with you this weekend her desire to attend the Roseville gymnastics sessions. Both the girls have expressed their acceptance of staying with Dustin overnight in order to facilitate Amy's attendance. Just in case Ms. Lucas has not informed you, Amy has been accepted onto the Roseville Gymnastics Association elite competitive team, a team which sent several gymnasts to state, and one to nationals this past year. This is an honor for Amy, and she is justifiably proud of this accomplishment. I trust you will cooperate in assuring that Amy's continued participation is not jeopardized by non-attendance.

Both girls would like to have Sue care for them should you need to work, and Sue has indicated she is available to watch the girls. Any financial arrangements, however, are your responsibility, as I have already arranged for full summer care for the girls.

Kevin M. Van Loon

Is your RETURN ADDRESS completed on the reverse side?

SENDER:
- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):
1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
Kevin Van
D. Senarighi
PO Box 193
Esko, MN 55733

4a. Article Number
P 333 025 640

4b. Service Type
☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery
7-15-96

5. Received By: (Print Name)
D Senarighi 7/15

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)
X

Thank you for using Return Receipt Service.

PS Form 3811, December 1994 Domestic Return Receipt

Exhibit Ia

KATZ & MANKA, LTD.
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July 23, 1996

William R. Sweeney, Esq.
628 Board of Trade
301 W. First Street
Duluth, MN 55802

RE: Senarighi v. Van Loon
Court File No. F3-94-643

Dear Mr. Sweeney:

Mr. Van Loon has requested that I contact you concerning the children's schedule, since Ms. Senarighi refuses to respond to his requests for clarification of the schedule. The children are currently with their mother, and scheduled to be returned on July 25, 1996 at 3:30 p.m. at the Burger King located by Mr. Van Loon's home. When Mr. Van Loon attempted to verify this arrangement with your client at the time the children were exchanged last week she refused to state whether she would be returning the children at that time.

I advised Mr. Van Loon that he should expect to pick up the children as provided above, since no alternative arrangements had been made or suggested by your client. He will therefore plan on picking up the girls as provided above.

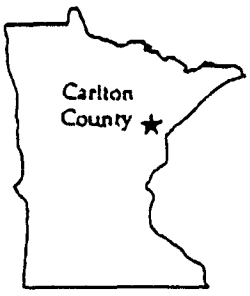
Ms. Senarighi has repeatedly failed to communicate with my client concerning the children, causing the guardian ad litem, Sara Lucas, to become unnecessarily involved in the visitation issue. One of the reasons Mr. Van Loon is seeking sole legal and physical custody of the children is because of your client's refusal to communicate with him. Your client's actions support his concerns. Please encourage Deb to discuss future scheduling issues directly with Kevin so that we can avoid the costly and unnecessary involvement of attorneys and the Court.

Sincerely,

Kathryn A. Graves

:kag

cc: Kevin Van Loon ✓
Sara Lucas
Dennis Korman



CARLTON COUNTY HUMAN SERVICES

William K. Pinsonnault, Human Services Director

August 9, 1996

The Honorable Dale A. Wolf
Judge of District Court
Carlton County Courthouse
PO Box 190
Carlton, MN 55718-0190

RE: Debbie Senarighi-VanLoon vs. Kevin VanLoon
Custody Evaluation
Court File #F3-94-643

Dear Judge Wolf:

I have met with Debbie Senarighi-VanLoon on July 3, 1996 and July 23, 1996, and Kymberly and Amy on July 23, 1996. I am concerned about the situation that Kym and Amy are in in their father's home. I spoke with each girl separately.

Kym stated that she wants to live in Esko with her mother, although she does prefer going to school in Roseville. Kym told me that at her dad's home, their dad does not have his own bedroom. Kevin has two young women who live in the home and they each have their own separate bedroom. Kym and Amy also each have their own separate bedroom. I asked Kym where Dad slept and she states he "takes turns" sleeping in Amy's and her room. These girls are 8 and 9 years old. In a four bedroom home there should be ways to make sleeping arrangements so Kevin does not have to share a bedroom with either of his daughters.

Amy told me she wants to live in Roseville with dad, but go to school in Esko. She was hostile during the interview and told me she did not "want to talk". She also said her dad wants to know why "they always go the woman's way" in courts. From this statement, it sounds as if Kevin is talking to her about the custody dispute, when she needs to be left out of it.

Both girls seemed at ease and happy in their mother's home. I did not pick up anything from either of them that would indicate that their mother is involving them in the dispute. They both

☒ Reply to:
Administration
Child Support
Family Services
Income Maintenance
1215 Avenue C
Cloquet, MN 55720-1663
(218) 879-4583
Fax: (218) 878-2500

TTY/TDD (Hearing Impaired Calls)
(218) 878-2340

☐ Reply to:
Disabilities &
Adult Social Services
Health Services
30 - 10th St. N.
Cloquet, MN 55720-1660
(218) 879-4511
FAX: (218) 879-1925

said they wanted to spend more time with their mother. I have also read Debbie's completed psychological evaluation and at this time I see no reason why these girls should not be living with their mother.

Sincerely,

Pat Burr Albertson
Licensed Social Worker

/js

cc: Sara Lucas, Guardian ad Litem Coordinator
Dennis Korman, Attorney
William Sweeney, Attorney

CARLTON COUNTY
Guardian Ad Litem Program

COURTHOUSE
P.O. Box 280
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TELEPHONE 218-384-9164

SARA LUCAS
Co-ordinator

Date: August 13, 1996

To: The Honorable Dale A. Wolf

From: Sara Lucas, Coordinator
Guardian ad Litem Program

RE: KIMBERLY AND AMY VAN LOON
FILE#: F3-94-643

Dear Sir:

It is unfortunate that the issue of summer visitation was not addressed at the April hearing. It is my impression that Kevin thought since she didn't ask, she didn't want any additional time. Deb thought that since he had them all winter (per their mediated agreement), she would have them all summer. By the time Deb asked for help, we were well into June, and Kevin did not want the girls to miss any of their scheduled activities--which would make any block of time up here nearly impossible.

I was told by Kevin that if Amy missed too many practices, she would risk being off the gymnastics team. I suggested to Deb that she take Amy to the academy up here to see if they could provide appropriate substitute training. Unfortunately, Kevin did not mention there was a break in Amy's summer gymnastics--that might have made a longer visit possible. When I spoke to the Roseville Gymnastics director in July, she mentioned that they were just starting after their break. She also said that missing practice sessions would not exclude Amy from the team. They have one girl, she told me, who spends the entire summer with her father in another state--and she remains on the team. Deb did have Amy tested at the Gymnastics Academy up here and is very willing to have Amy continue working while she is up here.

The weekend of August 1st had been agreed upon as time with their mother. Deb drove to Hinckley and the children weren't there. On August 9th, a day later than originally agreed to (because he had scheduled a pool party I understand), he was late with the exchange but had asked me to let Deb know he'd be late because the girls had a doctor's appointment. Deb's only concern was that he might not come at all.

Deb is attending Sue Wojciehowski's support group and is seeing a therapist to work on her problems. Until she feels able to talk to Kevin on an equal basis, she has asked if I would be the "go between". Often un-coupling parents need space between them--at least temporarily--and that's one of the things we do as Guardians.

I have no doubt both parents love their children and the girls clearly love both parents. Both parents expressed fears that the other parent would somehow keep the children away.

Kevin seems extremely reluctant to share the girls with their mother. I was unable to get him to agree to as much time with her as the girls wanted. I have read the file and spoken to Mrs. Pat Burr-Albertson and have some concerns about Kevin's apparent lack of appropriate boundaries (the sleeping arrangement).

If the court leaves the children with their father, I ask that part of the order be a schedule so the children are assured of some time with their mother and that he be prohibited from scheduling activities, parties, etc. on her weekends.

Kymberly and I both felt that during the school year the parent that doesn't have the children during the week should have three weekends a month (plus MEA, Thanksgiving, etc.)

Yours truly,

Sara Lucas

Sara Lucas, Coordinator
Guardian ad Litem

SL/pap

cc: William R. Sweeney, Atty.
Dennis Korman, Atty.
file

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August 22, 1996

Ms. Sara Lucas
Coordinator, Guardian
Ad Litem Program
Carlton County District Court
Carlton County Courthouse
P.O. Box 190
Carlton, MN 55718

Re: Kymberly and Amy Van Loon

Dear Ms. Lucas:

The purpose of this letter is to advise you of some significant developments in this matter over the previous weekend and to again respond to a concern you addressed in your letter of August 13, 1996.

As you know, the children were scheduled for an extended visitation with their mother between August 9 and August 18. On the evening of Friday the 16th, Kymberly called my client and asked him to come and pick her up that evening. He responded that he would pick her up however he would need to speak with her mother. Amy then got on the phone with him and talked about some of their activities and then Amy told him that her mother wanted to talk with him. Ms. Senarighi then asked my client if he would come and get the girls that evening. He told her he would love to and he did. He picked up Kymberly at 9:45 p.m. Amy, when she found out Mr. Van Loon intended to return back to the Twin Cities in the morning, decided to stay the evening with her mother.

The next morning, Ms. Senarighi dropped Amy off at the Target in Duluth, prior to the completion of the scheduled visitation. This early drop off was initiated by Ms. Senarighi, not Mr. Van Loon.

Mr. Van Loon learned from his sister, Susan Van Loon, that the girls had two items which were entered in the Carlton County Fair. It appears that Ms. Senarighi registered the girls under the names Kymberly Senarighi and Amy Senarighi. See attached. The address on the entries does not match the address Ms. Senarighi had previously identified as her home. Mr. Van Loon also informs me that Amy was not brought to the local gymnastics program during the time that she was with her mother.

We call the above circumstances to your attention because it is inconsistent with Ms. Senarighi's prior indication that she wishes to have additional time with the children.

Mr. Van Loon also asked that we restate our request that you meet with him and the children while the children are under his care prior to the trial.

With reference to your letter of August 13, 1996. I explained in an earlier telephone conversation to you, the mix up concerning that weekend was my fault. We had sent to you a letter sometime in July proposing some dates for additional visitation with the children. We agreed upon the July dates but we received no confirmation of the August dates. It is my recollection that a couple of days before the August 1 schedule, you contacted my office and left a voice message concerning a drop-off and pick-up time for August 1, 1996. I was unfortunately extremely busy and neglected to forward this message onto my client. I apologize for this mix-up. However, it was not Mr. Van Loon's decision not to deliver the children that weekend, but rather a miscommunication between him and me.

Finally, I wanted you to be aware that we will once again be forwarding a settlement proposal onto Ms. Senarighi and her counsel with the hope of resolving this matter prior to the September 19 and 20 hearing dates. We have also spoken to both Kara Witt, the psychologist, and Lori Timlin, the Ramsey County Evaluator, and both of them have indicated they will do their best to get their parts of the reports done prior to trial.

Thank you for your attention to the above matters.

Sincerely,

Kathryn A. Graves

KAG/jnb
Enclosure(s)
cc: Kevin Van Loon
Dennis Korman, Esq.
William Sweeney, Esq.

V.	Class	Lot	Entry	Fees Collected	Premiums Award	Premiums Amount
R	12	12	Wall hanging - unicorn	x	2nd	1 00
R	12	5	Color pencil - horse + birds	x		
R	12	15	Drawing - snake	x		
			Totals			1 00

Total Fees Collected $ _____ Total Premiums $ 1.00 Amount of Check $ 1.00 Check No. 511

Name Amy Senavaitis

Address 3959 Hwy 33 Cloquet 55720

EXHIBITOR Nº 4166

Exhibit Jb

No.	Class	Lot	Entry	Fees Collected	Premiums Award	Premiums Amount
1	12	5	color pencil (Cat)	X	2nd	1 00
			Totals			

Total Fees Collected $_____ Total Premiums $ 1.00 Amount of Check $_____ Check No.____

Name Kun Senarighi

Address 2959 Hwy 33 Oregon 55720

EXHIBITOR Nº 415

Exhibit Jb

MCG HEALTHCARE COMPENSATION, INC.
1-800-327-9335
FAX COVER SHEET

Date:	September 4, 1996
Pages:	1
To:	Sara Lucas, Guardian ad litem
Fax Phone:	1-218-384-9182
From:	Kevin M. Van Loon KVL
Re:	Amy Van Loon

While driving Amy to view the new Roseville Gymnastics Center last night, Amy informed me she is (present tense) afraid of Ms. Senarighi's boyfriend, Kevin Martin (a.k.a. "Leo"). She has mentioned this a few times in the past, but I have not pursued the reasons. (Amy's comment arose during our conversation of the gymnastics center in Hermantown: who brought her the first time, and why did she not go to gymnastics during the last extended visitation with Ms. Senarighi.) Last night I specifically asked why Amy is afraid of Leo.

Amy informed me that she has asked Leo why he wants to marry her mother, and Leo responded by angrily "throwing" Amy up against the wall and yelling at her! I got the impression that Leo held Amy against the wall while verbally accosting her. (I then moved the conversation on to the upcoming gymnastics season at Roseville in the new center, and the busy competitive season ahead, to keep Amy from dwelling on Leo's actions.)

Amy has had bruises on her arms and backside, but I have always attributed these to her active lifestyle (gymnastics, running, biking, etc.). Now I am not so sure.

Ms. Timlin has been advised of this, but I don't know if there's anything she can do at this point, since she has already finished (I believe) typing up her report. I will, however, have Dana Fox (the private psychologist who is seeing the girls) attempt to confirm this with Amy during their session this Thursday.

cc: Kathryn Graves
Dennis Korman

MCG HEALTHCARE COMPENSATION, INC.
1-800-327-9335
FAX COVER SHEET

Date:	September 9, 1996
Pages:	1
To:	Sara Lucas, Guardian ad litem
Fax Phone:	1-218-384-9182
From:	Kevin M. Van Loon KVL
Re:	Amy Van Loon

Kym met with Dana Fox last Thursday, with the following result: Kym feels comfortable talking to me about stuff that is bothering her, and told Ms. Fox this. Therefore, Kym and I have set aside 15 minutes each Monday evening before her piano lesson (which I teach) to discuss any of the issues that are bothering her. This is our private time, since Amy is at gymnastics. Ms. Fox approves of the arrangement - and no further sessions are scheduled with her.

I spoke with Dana Fox regarding Amy's comments regarding Ms. Senarighi's boyfriend, Kevin Martin (a.k.a. Leo). She indicated it was not her role to ascertain whether this incident occurred, but that I should have Ramsey County investigate the incident.

Then, while driving home after picking up the girls at Hinckley last night, I had an opportunity to speak with Kymberly while Amy slept. Kym related two items which I have referred (along with the above incident related by Amy), to Ramsey County for a professional investigation:

1. Kym related that Ms. Senarighi told them that Kevin Martin (a.k.a. Leo), Ms. Senarighi's current boyfriend, and Scott (don't know the last name), one of Ms. Senarighi's recent boyfriends, met at the River Inn (a bar in the Cloquet area). While Ms. Senarighi was there, apparently Leo fought with Scott - as Kym related it, "Mom told me that Leo and Scott were fighting over her!" Kym seemed to think that Ms. Senarighi was somehow proud of the fact that two men were having a fistfight over her. (Kym privately confided to me that she wished that Scott were Ms. Senarighi's boyfriend, because he's not "mean" like Leo.)

2. On a recent visit, Kym and Amy had delayed going to bed. This apparently upset Leo, because Kym informed me that Leo pushed Amy into the stairway wall as the two girls were going up to bed, hurting Amy's shoulder. (I recall Amy complaining of shoulder pain a while back (late summer), but cannot recall exactly when that was.)

cc: Kathryn Graves
Dennis Korman

MCG HEALTHCARE COMPENSATION, INC.
1-800-327-9335
FAX COVER SHEET

Date:	September 10, 1996
Pages:	1
To:	Sara Lucas, Guardian ad litem
Fax Phone:	1-218-384-9182
From:	Kevin M. Van Loon
Re:	Visitation

MS. LUCAS, PLEASE ACKNOWLEDGE RECEIPT OF THIS FACSIMILE AT 1-612-337-1039.

Putting this in writing will help alleviate any misunderstandings, I hope.

I have had a dinner/pool party for this Sunday planned for some weeks now with my best friend and his new girlfriend (a widow and her two daughters). My girls are, I think, still unaware of it - since I hope for it to be a surprise. (This was planned back in early August based upon the every other weekend visitation from the April hearing.) In addition, the girls' fall Sunday School schedule starts this weekend - and since they don't attend church when they are up north, it's nice to have them attend on a regular basis at home.

Therefore, in lieu of this weekend: the girls would instead spend the extended MEA weekend in October (the 17th through the 20th) with Ms. Senarighi. This is her visitation weekend per the every other weekend schedule, so her visitation time with the girls would then be equivalent (actually better, since 6 hours of driving are eliminated). Indeed, this type of arrangement (every other weekend plus MEA and inservice time) is precisely the protocol we presented in our settlement proposal sent in late August to her attorney - a proposal that has not yet been acknowledged. Ms. Senarighi can communicate with me to set the exchange time and place for this weekend in October.

Since Ms. Senarighi prefers not to speak with me, when you speak to her would you please also convey to her that I believe movies like "JAWS" are totally inappropriate viewing for children (especially my girls) and that I ask that she show better judgment in her selection of movies to rent for the girls to watch when they visit? (Fortunately, her VCR malfunctioned and the girls did not have to watch this movie.) Thanks!

cc: Kathryn Graves
Dennis Korman

CARLTON COUNTY
Guardian Ad Litem Program

COURTHOUSE
P.O. Box 280
CARLTON, MINNESOTA 55718
TELEPHONE 218-384-9164

SARA LUCAS
Co-ordinator

Date: September 16, 1996

To: The Honorable Dale A. Wolf

From: Sara Lucas, Coordinator
Guardian ad Litem Program

RE: KYMBERLY AND AMY VAN LOON
FILE#: F3-94-643

Dear Judge Wolf:

Time and distance complicated this file. I have only been able to meet with the girls three times and have not been able to coordinate my schedule with Kevin's to spend any time with him and the girls together. Except for a couple of very brief contacts in the courthouse, all of my contact with Kevin has been over the phone or by Fax.

In addition to reading the court file, I have had telephone contact with Mr. Moen, Dr. Witt, and the Roseville gymnastics school. I have spoken to Ms. Wojciehowski who coordinates the weekly Women's Support Group. When I talked to the girls their mother was not present. If we were inside the house, she was outside and vice versa.

Both parents were always polite and I am positive they both love their daughters deeply. Each has some real parenting strengths as well as weaknesses. The second time I saw the girls, they made clear that they do not want any part in the decision process.

My experience negotiating contact with their mother was that it was difficult to make Kevin understand that the activities he had scheduled for the girls were less important than their spending time with their mother--even after the girls clearly expressed a desire for more time with her. The mediated agreement gave her all summer, but he would only agree to some weekends and a couple of weeks. And then to complicate the problem, Kevin's family called me wanting some days out of the time they were up here.

On the other hand, when Deb had a recurrence of a back injury when the girls were with her and was unable to do much with them, she called Kevin and gave him the girls early. Kevin seems to assume that this shows she doesn't really want the girls, I think it indicates much more willingness to share and acknowledges the importance of a father. It seems to me that she considered their best interests--not her own.

After some contact with these parents and reading Deb's psychological, I suggested she get some individual therapy and also attend the Women's Support Group. It is my understanding that she has done both.

A real concern is that Kevin does not understand his sleeping arrangements are unsuitable. At their age, the girls have a need for privacy and parents ought be the models for setting appropriate boundaries. Kevin is unable to do this.

Reading Dr. Witt's psychological reinforces my perception that Kevin is unwilling--or unable--to acknowledge that he has problems. Until he has addressed his issues, he is not a suitable custodial parent for his daughters.

I recommend:

1) That primary physicial custody of the girls be returned to their mother.
2) That a very detailed visitation schedule be part of any order.
3) That Deb continue in her individual therapy until the therapist feels it is no longer needed.
4) That the recommendations of Dr. Witt and Ms. Timlin of Kevin's participation in the Well Family Clinic be followed.
5) That Dr. Witt's recommendation for Kevin's individual therapy and for an assessment at the U of MN's Program for Human Sexuality be followed.

If a decision is not reached today, I request that a very specific visitation schedule be ordered and enforced. It should provide specific dates and times (remembering MEA and any release days from school).

Yours truly,

Sara Lucas

Sara Lucas, Coordinator
Guardian ad Litem Program

SL/pap

Exhibit N

cc: William R. Sweeney, Atty., Kathryn Graves, Atty., Dennis

KATZ & MANKA, LTD.
ATTORNEYS AT LAW
4150 FIRST BANK PLACE
601 SECOND AVENUE SOUTH
MINNEAPOLIS, MINNESOTA 55402

A. LARRY KATZ
GARY L. MANKA
BRIAN L. SOBOL
SCOTT A. TEPLINSKY*
ROBERT W. DUE
GARY STONEKING
CAROLE M. MEGARRY
KATHRYN A. GRAVES
ELIZABETH B. BOWLING
ERIC J. BRAATEN*

TELEPHONE
(612) 333-1671

FACSIMILE
(612) 333-1608

*ALSO LICENSED IN WISCONSIN

September 16, 1996

Ms. Sara Lucas
Carlton County
Guardian Ad Litem Program
P.O. Box 280
Carlton, MN 55718

Re: Kymberly and Amy Van Loon

Dear Ms. Lucas:

In our telephone conversation of September 13, 1996 you indicated to me that Ms. Senarighi has accused my client of sneaking out of town with the girls when he moved last September to Roseville, and then refusing to let her have access to the girls. Since you have not met with Mr. Van Loon you have not had an opportunity to hear his response to these claims. I have therefore attached copies of numerous memos which Kevin sent to Deb over the past year which disprove her claim that he is trying to keep her out of the girls lives. I also understand that you will not have another chance to meet with the girls and discuss with Amy the concerns she stated to Kevin about her fear of Ms. Senarighi's boyfriend or how they felt when their mother sent them home early from the August, 1996 extended visitation.

First, I've attached memos dated July 28, 1995 and August 25, 1995, where Kevin restates his intention to go forward with the change to the parenting schedule provided in the parties' mediated agreement, and to move the girls for the 1995-96 school year. The second letter was sent and received by certified mail. Kevin reports that Ms. Senarighi was initially very angry when she received his letter. Two days later, however, around August 30, 1995, she called Mr. Van Loon and asked him if he would take the girls cats with him when they moved. She offered to pay the cost to get the cats neutered, which apparently she later did. She also informed Kevin that she was moving into a one bedroom apartment. Neither of these actions are consistent with a woman who was opposing the move. Kevin also made arrangements for the girls to stay with her during part of the Labor Day weekend that year. Deb did nothing to prevent Kevin from bringing the girls back to Roseville after that visit.

Second, I've attached seven memos written to Deb over the past year in which Kevin apprises her of how the kids are doing in school and notifying her of his schedule. In his memo of March 11, 1996 he asked her if she wanted the girls over the spring break, but received no response. In his letter of April 4,1996 he asked her what her summer vacation plans were, advised him of his own, but again received no response from Ms. Senarighi. In his letter of September 4, 1996 he invites her to attend the dedication of the new gymnastics center on September 28, 1996. Note that this memo was sent before our agreement last Thursday that Deb would have the girls during this weekend. Ms. Senarighi apparently indicated to you that she did not know about this event, however, this letter clearly indicates that Kevin gave her prior notice of the event.

The final memos I've included include Mr. Van Loon's efforts to keep Ms. Senarighi informed of what his plans were so that if she wished to see the girls she could contact her. It also demonstrates what efforts he has had to make to get Ms. Senarighi to contribute to the financial support of the girls.

I request that you consider these memos when making your report. Kevin can also make himself available by telephone if you wish to ask him any further questions. Thankyou.

Sincerely,

Kathryn A. Graves

:kag
Encl.

cc: Kevin Van Loon
Dennis Korman
William Sweeney

CARLTON COUNTY
Guardian Ad Litem Program

COURTHOUSE
P.O. Box 280
CARLTON, MINNESOTA 55718
TELEPHONE 218-384-9164

SARA LUCAS
Co-ordinator

Date: September 30, 1996

To: Kevin and Debb

From: Sara Lucas, Coordinator
Guardian ad Litem Program

RE: PROPOSAL (KYMBERLY & AMY VAN LOON

Dear Kevin and Debb:

October 4-6th with Dad.
October 11-13th with Mom.
October 16-20th (MEA) with Mom. Exchange at 8:30 p.m. Wednesday the 16th and return 6:00 p.m. Sunday the 20th at Hinckley.
October 25-27th with Dad.
November 1-3rd with Mom.
November 8-10th with Mom.
November 15-17th with Dad.
November 21-23rd exchange at 7:00 p.m. on the 21st and return at 6:00 p.m. on the 24th.

Split Thanksgiving with Dad Thursday and Sunday with Mom Friday and Saturday. (I think Kevin is planning to drive up so not a Hinckley exchange).

December 6-8th, 13-14th with Mom.
December 20-24th with Dad exchange at noon on the 25th and return to Dad on December 30th.

Both parents have agreed that Kym may choose to "pass" on one of the weekends with her Mother because of activities with school and/or friends. Dad is not to schedule or suggest exciting fun things to do on Mom's weekends.

Unless specified exchanges are at 8:30 on Fridays and 6:00 p.m. on Sundays at Hinckley.

Yours truly,

Sara

Sara Lucas, Coordinator
Guardian ad Litem Program

Exhibit P

MCG HEALTHCARE COMPENSATION, INC.
1-800-327-9335
FAX COVER SHEET

Date:	October 9, 1996
Pages:	1
To:	Sara Lucas, Visitation Coordinator for Debbie Senarighi
Fax Phone:	1-218-384-9182
From:	Kevin M. Van Loon
Re:	Visitation

I have RSVP'd Amy's attendance at the birthday party referenced in my fax of October 7th, 1996, since I did not hear any objection from Ms. Senarighi through you. At this point, I still have not heard any objections regarding the visitation proposal beyond this weekend. Therefore, I assume the proposal is acceptable to Ms. Senarighi as outlined in my fax of September 30th, 1996, along with the modifications contained in my fax of October 1st, 1996 and will be proceeding with that schedule.

Here, then, is my understanding of the next three weekends visitation:

October 11th: Both girls visiting in Esko. Exchange 8:30pm Friday in Hinckley, 6:00pm Sunday in Hinckley. Note that this Friday is my employer's annual dinner / show at the Chanhassen for the employees - but I will not be attending because Ms. Senarighi will not drive to pick up the girls on Friday.

October 16th: Kymberly will be remaining in Roseville. Amy is planning on going to Esko, but does not wish to spend Thursday and Friday in daycare. I trust Ms. Senarighi will arrange for these days off work, as I am off work. Exchange in Hinckley at 8:30 on Wednesday, October 16th, 1996, unless Ms. Senarighi wishes to pick up Amy at home. I will pick up Amy at Hinckley at 2:00pm on Saturday, October 19th, 1996, to bring her to the birthday party. (Amy will miss her Friday gymnastics - much to her chagrin.)

October 25th: Both girls will be home in Roseville.

FYI: The last visitation with the girls had Ms. Senarighi in the Twin Cities area to bring Amy to her RGA grand opening. Ms. Senarighi stayed at the Radisson St. Paul under the name of Debbie Martin, which made it extremely difficult for me to have her located. This was an issue as Kymberly went with Ms. Senarighi on Saturday to go swimming, and was to return Saturday evening. However, the desk clerk could not find any Debbie Senarighi registered at the hotel, and insisted I had the wrong hotel on Saturday. It was not until Sunday morning when I was able to convince another desk clerk to check their register for all guests registered with the first name of Deb that I learned that she had registered under an assumed name.

When the girls did come home, I learned that Amy slept with Leo and Ms. Senarighi in the same bed. It is inappropriate for an 8-year old girl to sleep in the same bed with her mother's "business partner". Ms. Senarighi's "business partner" should have slept on the floor, or in a cot.

I am most displeased with the above two items, and trust that they will not occur again.

I trust you will recommend to Ms. Senarighi that she begin communicating with me regarding visitation sometime soon.

cc: Kathryn Graves
Dennis Korman

MCG HEALTHCARE COMPENSATION, INC.
1-800-327-9335
FAX COVER SHEET

Date:	October 28, 1996
Pages:	2
To:	Sara Lucas
Fax Phone:	1-218-384-9182
From:	Kevin M. Van Loon KVL
Re:	Bankruptcy

Please note from the attached documentation that Ms. Senarighi has just filed for bankruptcy protection, just after the Carlton County Court finally set the actual monthly child support amount for income withholding from her paycheck (that was initially ordered in the April 10th, 1996 hearing).

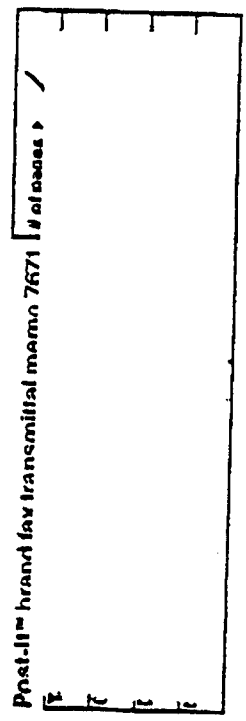
"Van Loon" was listed as one of the names under which she has debt and is seeking protection, so I will be taking appropriate steps to insure that there are no debts under the above filing that may impact my credit rating (debts secured using my social security number, name, or income, for example). I will also seek legal assistance so that the unpaid liabilities due me from any of the Court orders associated with Ms. Senarighi's divorce filing that have accrued and that may accrue are not summarily discharged.

I trust you will note the file with the above.

cc: Kathryn Graves

Financial Record of Saint Louis County - Minnesota

OFFICIAL WEEKLY PAPER NO. 41 DULUTH OCTOBER 25, 1996 OUR 103rd YEAR



HAYI
DULI
ST
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LAR
TREE CIRCLE,
MUD LAKE
BEAR ISLAND
8689 SPRUCE
STREET, SAN
7 LANE 56A,
STREET, SILVIS,
OS ANGELES,
RLY BLVD., LOS
15 9TH STREET
DE LAKE ROAD,

NDERSON, CLARENCE T., 14 NORTH 39TH AVENUE WEST, DULUTH.

SON, GORDON W., 1317 EAST 10TH STREET, LUTH.

BANKRUPTCIES

ES, NANCY M., 5311 E. SUPERIOR ST., PO X 311, DULUTH: sec claims 3,500.00; unsec laims 13,312.00; assets 6,600.00.

SETH, ROBERT T. & JOANNE E., 2844 TCHINSON RD., DULUTH: sec claims 44,116.00; nsec claims 53,807.00; assets 74,050.00.

URGEAULT, ROBERT A. & JANICE A., DBA URGEAULT PROCTOR BAKERY, 4528 SOL-Y RD., HERMANTOWN: sec claims 154,276.00; unsec claims 40,652.00; assets 138,800.00.

Y, TONY R., 1106 E. 3RD ST. #5, DULUTH: sec ms 7,459.00; unsec claims 15,563.00; assets 42.00.

AHLIN, RANDY M., & SHELLEY M., F/K/A SHEL-Y M. SJOBLOM, 2111 - 3RD AVE. E., APT 303, . FALLS: sec claims 8,100.00; unsec claims 46,748.36; assets 13,650.00.

CHIBALD, JAMES C., 15 CUYUNA DRIVE, VIR-IA: sec claims -0-; unsec claims 30,095.79; assets 50.00.

BEDNAREKI, DIANE L., 513 NORTH ROAD, CLO-QUET: sec claims 100,422.82; unsec claims 34,606.14; assets 101,550.00.

LEAS, RITA L., 404 - 9TH STREET NORTH, APT 121, VIRGINIA: sec claims 2,738.00; unsec claims 68,483.42; assets 13,185.00.

ANDERSON, CHARLES MORGAN III, D/B/A LAKE COUNTRY TRUCKING, 14 MAGNOLIA DRIVE, LOT 14, PROCTOR: sec claims 2,352.76, unsec claims 159,088.95; assets 161,451.71.

MORSE, GREGORY ALLEN, 8719 LAWN STREET, PO BOX 1017, PROCTOR: sec claims 24,615.19; unsec claims 37,533.92; assets 22,818.95.

ZIEGLER, WILLIAM CHRISTIAN, 555 SECOND AVENUE SW, MILACA: sec claims 21,659.75; unsec claims 30,441.61; assets 41,901.00.

FIETEK, CHARLES A. & CHARLOTTE L., 707 HOWE AVE., MORA: sec claims 72,949.35; unsec claims 15,223.47; assets 80,010.00.

KENNELLY, RAMONA L., A/K/A RAMONA L. FRANSEN, ROUTE 2, BOX 170, ROYALTON: sec claims 46,774.96; unsec claims 73,495.50; assets 56,325.00.

LYONS, DONALD L. SR. & DOROTHY J., 3883 GULL LAKE DAM ROAD NW, BRAINERD: sec claims 180.00; unsec claims 42,117.00; assets 18,555.00.

ERICKSON, GEORGE HARVEY, D/B/A GEO'S PAINT & [illegible] RD., DEER-WOOD & ERICKSON, HOLLY J., 704 [illegible] ST., BRAINERD: sec claims 64,618.26; unsec claims 203,095.74; assets 76,736.11.

SENARIGHI, DEBBIE L., A/K/A DEBBIE L. VAN-LOON, PO BOX 193, 33 KANGAS RD., ESKO: sec claims 59,211.00; unsec claims 16,108.00; assets 77,148.00.

[illegible] DARLENE M., 463 18TH ST., CLOQUET: sec claims 3,500.00; [illegible]; assets 6,632.00.

HOLMES, BRIAN R., BOX 483, FLOODWOOD: sec claims 12,944.00; unsec claims 24,284.00; assets 20,420.00.

MASON, PATRICIA HERBERT A/K/A PETER HER-BERT MASON, 2702 WOODLAND AVENUE, PO BOX 3223, DULUTH: sec claims 6,061.68; unsec claims 19,126.06.

FORECLOSURES

NOTICE OF MTGE FORECLOSURE & SALE: BRUCE R. & JACQUELINE E. PUGLISI to Norwest Bank Duluth, NA, Lots 11 & 12, Blk 74, West Duluth Sixth Division, 36,000; sold to State Street Bank and Trust Company, as Trustee for Ryland Mortgage Securities for 45,085.64.

Exhibit R

Kindness is a language which the deaf men can hear and

RELEASE OF COUNTY TAX LIENS

PROULX, DONALD J., 1833 NORTON RD., DULUTH.

STATE TAX LIENS

LLOYD CURRIE & SONS INC, 4907 LIGHTNING DRIVE, DULUTH; 704,410.35.

PARSON, LESTER A., D/B/A BIRCH ANGEL INC, 8316 ROBERTS DRIVE, BABBITT; 7,404.08.

KOCHEVAR, JOHN W. & DINA L. 4807 HIGHWAY 33, PO BOX 92, SAGINAW; 1,228.09.

ARROWHEAD ELECTRIC INC, 4112 W. SUPERIOR ST., DULUTH; 14,674.44.

RELEASE OF STATE TAX LIENS

DUNCAN, KEVIN N., 824 E. 2ND ST., DULUTH; 2,440.00.

ILSE, RICHARD C., 619 W. SKYLINE PKY, DULUTH; 8,086.10.

FEDERAL TAX LIENS:

BAUMCHEN, TED D/B/A BAUMCHEN CONSTRUCTION, 4033 SAARI RD., HIBBING; 83,807.95.

APPLETREE LEARNING CENTER, 409 1ST ST. N., VIRGINIA; 35,916.80.

HAWLEY MUSIC INC, 1131 EAST 4TH ST., DULUTH; 9,816.38.

RELEASE OF FEDERAL TAX LIENS:

EVENSON, ROBERT V. & CAROLE, 212 E. ARROWHEAD RD, DULUTH; 317,512.68.

DISTRICT COURT

VONSTROM, MILO, 304 3RD AVE. S., VIRGINIA by Montgomery Ward Credit Corp; judg for 1,005.62.

NELSON, LINDA, 4531 TWIN LAKE DR., BROOKSTON by same; judg for 2,325.25.

DAVIDSON, HARLEY T., 8909 SWENSON AVENUE, by Michele M. Viele; judg for 1,698.82.

CARUTH, JOHN, 3426 GRAND AVE. DULUTH, by Security Jewelers; judg. for 784.37.

DISTRICT COURT - RANGE

CHENEY, WAYNE ROBERT, 30 15TH AVENUE W., #234, EVELETH by Virginia Regional Medical Center; judg for 502.41.

CHURCH, JEFFERY, 901 CLAY COURT, EVELETH by Richard Baker; judg for 85.00.

COLLIE, STEVE, D/B/A COLLIE ENTERPRISES INC, 7212 HIGHWAY 53 NORTH, BRITT by Italian Bakery Inc; judg for 796.00.

CARLTON COUNTY
Guardian Ad Litem Program

COURTHOUSE
P.O. Box 280
CARLTON, MINNESOTA 55718
TELEPHONE 218-384-9164

SARA LUCAS
Co-ordinator

Date: October 31, 1996

To: Kevin and Deb

From: Sara Lucas, Coordinator
Guardian ad Litem Program

RE: SHARING KYMBERLY AND AMY

Dear Kevin and Deb,

Because winter weather is becoming a factor in plans, both parents have agreed to a Saturday morning exchange. Amy can attend her gymnastics Friday evening in Roseville.

Saturday, November 2nd, exchange at 9:15 - 9:30 a.m. at Hinckley. Return 6:00 p.m. Sunday, November 3rd. (The girls will be fed and Deb will inquire more closely about any homework.)

A 9:30 Saturday a.m. exchange means that the girls will not be able to attend the appropriate session of the Gymnastics Academy up here. If both parents agree and weather conditions permit and a Friday evening 8:30 exchange is arranged, Deb will take the girls to Saturday gymnastics.

Deb will notify her attorney and change the bankruptcy figures regarding girls' times with her to conform to the Judge's most recent order.

Yours truly,

Sara

Sara Lucas, Coordinator
Guardian ad Litem Program

SL/pap

cc: file

MCG HEALTHCARE COMPENSATION, INC.
1-800-327-9335
FAX COVER SHEET

Date:	October 31, 1996
Pages:	1
To:	Sara Lucas
Fax Phone:	1-218-384-9182
From:	Kevin M. Van Loon
Re:	Visitation

This is to confirm your request on behalf of Ms. Senarighi to change the visitation exchange from Friday evening to Saturday morning, at 9:30am, beginning with this Saturday, November 2nd, 1996. The Sunday evening exchange will remain at 5:00, unless Ms. Senarighi desires an earlier exchange in order to drive in daylight.

From the attached attachment to Ms. Senarighi's bankruptcy filing, it appears that Ms. Senarighi expects visitation with Kymberly and Amy to be every other weekend, per the April 10th, 1996 order. I would assume then that the every other weekend would begin this weekend, and we will alternate weekends beginning with the weekend of November 8th, 1996, when the girls would be with me. Since Ms. Senarighi wishes you to handle her visitation communication for now, please confirm this with her. Hopefully, once the order is entered, Ms. Senarighi will be able to communicate with me directly to arrange the weekends that the girls will be visiting her.

cc: Kathryn Graves

In re SENARIGHI, DEBBIE L.
Debtor

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTORS

DEBTOR MARITAL STATUS: Divorced

DEPENDENTS OF DEBTOR

Living with debtor(s):	KIMBERLY VANLOON, AGE 9, DAUGHTER AMY VANLOON, AGE 8, DAUGHTER STAYS WITH DEBTOR EVERY OTHER WEEKEND
Child support paid for:	KIMBERLY, AGE 9, DAUGHTER AMY, AGE 8, DAUGHTER

EMPLOYMENT:	DEBTOR/JOINT-1	
Occupation:	CLAIMS COORDINATOR	
Employer name:	UNITED HEALTH CARE	
How long employed:	1992 TO PRESENT	
Employer address:	DULUTH MN	

INCOME: (Estimate of average monthly income)

Current monthly gross wages, salary, and commissions.....	1,748.50	
Estimated monthly overtime.....	0.00	
SUBTOTAL		1,748.50
LESS PAYROLL DEDUCTIONS		
a. Payroll taxes and social security.....	368.33	
b. Insurance.....	80.17	
c. Union dues.....	0.00	
d. Other (specify):	0.00	
SUBTOTAL OF DEDUCTIONS		448.50
TOTAL NET MONTHLY TAKE HOME PAY		1,300.00
Regular income from operation of business or profession or farm...		

KATZ & MANKA, LTD.
ATTORNEYS AT LAW
4150 FIRST BANK PLACE
601 SECOND AVENUE SOUTH
MINNEAPOLIS, MINNESOTA 55402

A. LARRY KATZ
GARY L. MANKA
BRIAN L. SOBOL
SCOTT A. TEPLINSKY*
ROBERT W. DUE
GARY STONEKING
CAROLE M. MEGARRY
KATHRYN A. GRAVES
ELIZABETH B. BOWLING
ERIC J. BRAATEN*

TELEPHONE
(612) 333-1671

FACSIMILE
(612) 333-1608

*ALSO LICENSED IN WISCONSIN

November 1, 1996

Ms. Sara Lucas
Coordinator, Guardian
Ad Litem Program
Carlton County District Court
Carlton County Courthouse
P.O. Box 190
Carlton, MN 55718

Re: Kymberly and Amy Van Loon

Dear Ms. Lucas:

My client requested that I contact you in reference to your fax of October 31, 1996. Mr. Van Loon did not agree to the later 6 p.m. exchange time which is noted in your fax. The existing court order provides for a 4:30 p.m. exchange time; however, he is agreeable to a 5 p.m. exchange on Sundays.

Mr. Van Loon also reported to me that his children have told him that you informed them that you did not like their father. I recognize that both prior to and since the trial there has been a high level of animosity between yourself and Mr. Van Loon. I believe that animosity has caused you to lose your objectivity and to overlook your responsibility to the children, Amy and Kymberly Van Loon, in favor of supporting Ms. Senarighi's cause. Under the circumstances, I feel it would be appropriate for you to recuse yourself and request that another guardian at litem be appointed to this case. Please give serious consideration to our request. At a minimum, we will be requesting that the services of the guardian be terminated once this proceeding is ended.

Sincerely,

Kathryn A. Graves

KAG/jnb
cc: Kevin Van Loon
Dennis Korman, Esq.
William Sweeney, Esq.

Exhibit T

CARLTON COUNTY
Guardian Ad Litem Program

COURTHOUSE
P.O. Box 280
CARLTON, MINNESOTA 55718
TELEPHONE 218-384-9164

SARA LUCAS
Co-ordinator

November 5, 1996

Kathryn A. Graves
Attorney at Law
4150 First Bank Place
601 Second Avenue South
Minneapolis, MN 55402

RE: KYMBERLY AND AMY VAN LOON

Dear Ms. Graves:

In response to your letter of November 1st, I was aware that Mr. Van Loon did not like to speak to me and my experience showed that he was very comfortable with communicating VIA FAX, so I FAXED him on Thursday, October 31st arrangements for the weekend. He had requested an earlier exchange because he said the girls hadn't done their homework or eaten or bathed the Sunday before. Ms. Senarighi indicated she would make sure all three things happened before the 6:00 exchanges, so Mr. Van Loon's concerns were addressed.

Mr. Van Loon did not call, leave a message on either of my answering machines, nor fax me any indication he disagreed.

There was a long message on my courthouse machine left by Kevin about 11:30 Sunday morning (he gave the time and date). He said he was unable to reach me at home. I was home all Sunday morning til 2:00 p.m. and answered every call. None were from him. (You can verify this with my husband--and you can check out his honesty by asking any Judge or attorney in the area.)

The most distressing part of your letter was the allegation that I told the girls I did not like their father. I have never and would never--criticize a parent to a child. The only thing I can think of that could have been distorted in my last contact with them was when Amy, towards the end of my brief visit, asked out of a clear blue sky (she was peeling bark off a branch and we were talking about their activities), "Do you like your job?" I laughed and said truthfully, "I really enjoy the kids." My best memory is that I added "sometimes the parents are a bit difficult--because they hurt so much. Divorce is hard on everybody involved."

Exhibit T

The girls and I were outside. Ms. Senarighi was inside the house. At the Judges request, I just explained to them that there was a legal issue about which attorneys would submit briefs and that the Judge had 90 days after receiving the briefs to make a decision--but that he would try to make it sooner, even though he was busy, because he understood it was really hard for kids to wait in suspense.

About getting another Guardian ad Litem to get involved, I think it is late in the process. Ms. Senarighi has said she will communicate directly with Mr. Van Loon once a decision is made. Mr. Van Loon is aware of that. I told him. The only thing that remains is to get a firm schedule for the next three months. I had already discussed this with both parents and they were not too far from agreeing.

November 8th-10th - Mom
November 15th-17th - Dad
November 21st-24th Mom (the 22nd is a school holiday)

Thanksgiving split - with Dad Thursday exchange at noon on Friday. Back to Dad Saturday at 8:00 p.m. (Mr. Van Loon is planning to drive up I believe so exchanges would be up here at The Scoop.

December 6th-8th and 13th-14th - Mom
December 20th - til noon on the 25th with Dad. With Mom until the 30th.

Unless specified, exchanges would be at 9:30 a.m. Saturdays (can be Fridays at 8:30 if weather permits) and 6:00 p.m. on Sundays.

Once they have a schedule there is no reason for any Guardian to be involved.

Yours truly,

Sara Lucas

Sara Lucas, Coordinator
Guardian ad Litem Program

SL/pap

cc: Kevin Van Loon
Debbie Senarighi
Dennis Korman, Atty.
William Sweeney, Atty.
file

CARLTON COUNTY
Guardian Ad Litem Program

COURTHOUSE
P.O. Box 280
CARLTON, MINNESOTA 55718
TELEPHONE 218-384-9164

SARA LUCAS
Co-ordinator

Date: October 23, 1996

To: The Honorable Dale A. Wolf

From: Sara Lucas, Guardian ad Litem Coordinator

RE: KYMBERLY AND AMY VAN LOON (FILE# F3-94-643)

Dear Sir:

After my initial phone contacts with Kevin and Deb, to find out their expectations for a summer exchange schedule, I spent time with the girls to get their perspective. Both girls said they wanted more time with their mother. They not only told me, they told both their parents. My attempt to get expanded summer time in Esko, was as an advocate for the children. They made a reasonable request and I tried to help it happen.

On the basis of information in the file and conversations with Deb, I suggested she needed to do some individual therapy and that Sue Wojciehowski's Women's Group would be helpful. She has followed both suggestions. I am unaware of services available in the Roseville area, nor do I know if Kevin followed the recommendations of Dr. Witt and Ms. Timlin. Clearly both parents would benefit (and the children most of all) if they could do some communication counselling. It appears that Kevin is used to "telling" and Deb is used to "giving in".

Because the "she said/he said" is difficult to sort out, I tried to verify information as much as possible. I attach a letter from Deb's therapist and from her doctor (to show that on the weekend she offered to return the girls early, she was suffering). On the Saturday exchange of October 19th, Deb said Amy and she left a message on Kevin's machine that she would be driving down to the cities and did he want a later exchange there. Kevin said there was no message. I have asked Deb to give me her phone bill when it comes to see if there was a call to Kevin's phone between 12:00 and 12:30 that day.

Yours truly,

Sara Lucas

OCT 24 1996

Sara Lucas, Coordinator
Guardian ad Litem Program

Exhibit U

Cielia 5
11/6

Dennis Korman

Attorney at Law

6 - 11th Street
Cloquet, MN 55720
Telephone: 218-879-1990
Fax: 218-879-1588

November 5, 1996

The Honorable Dale A. Wolf
Judge of District Court
Carlton County Courthouse
P.O. Box 190
Carlton, MN 55718

RE: Debbie Lou Senarighi-Van Loon vs. Kevin Mark Van Loon
Court File No. F3-94-643

Dear Judge Wolf:

On October 23, 1996, Ms. Lucas, the guardian for the children, wrote a letter to the Court wherein she made some observations that are supportive of Ms. Senarighi and detrimental to my client. My client would like to respond to those allegations, but unfortunately all of the evidence is already submitted to the Court and, therefore, he does not have the opportunity to do so. On his behalf, however, I would like to point out to the Court that there is "another side to the story" with regard to Ms. Lucas's comments. If the Court wishes to hear my client's position regarding her comments, he would certainly welcome the opportunity to do so.

In my client's Final Argument, he points out that Ms. Lucas has not only gotten herself into the position of being an advocate for the children (which is her statutory duty), but has gotten herself into the unfortunate position of being an advocate for Ms. Senarighi (which is not within her statutory duties). Her letter of October 23, 1996 is merely another instance of her advocacy for Ms. Senarighi.

Respectfully submitted,

Dennis Korman

DJK:jw
c: Mr. Kevin Van Loon
Ms. Kathryn Graves
Mr. William Sweeney
Ms. Sara Lucas

Exhibit U

Kevin M. Van Loon
974 Lydia Avenue
Roseville, MN. 55113
(612)486-8358 Home
(612)337-1039 Work
November 16, 1996

D. Senarighi
P.O. Box 193
Esko, MN. 55733

Ms. Senarighi:

I have attached copies of the girls report cards from my conferences for your files, with some comments.

Kym: She did her self-assessment on November 5th, 1996. She obviously has very high self-esteem, judging by the number of "O's" she gave herself. Her teacher, likewise, holds Kym in very high regard, and basically gushed over Kym's abilities. Kym's CAT scores were exceptional from the test she took last April 24th, 1996: 97th percentile for reading comprehension, and the 92nd percentile for math. She was so proud to be able to show me the outstanding work she's done!

Amy: The only surprise here for the self-labeled "wild" Amy is the "S" in participates actively and thoughtfully in small group activities (mainly because she has no problem being assertive at home!). Mrs. Chlebeck indicated that Amy is very studious, well-liked by all the kids, and very self-assured, although somewhat quiet and reserved in school! Anyway, just outstanding results in all categories, as anyone should be able to see. Amy's CAT scores were even better than Kym's, scoring in the 99th percentile in total reading, and the 98th percentile in math.

Both girls are extremely well-adjusted, emotionally and developmentally above average, are doing exceptionally well in school, and have no apparent deficiencies, according to both Mrs. Chlebeck and Mrs. Salmon.

Despite my not wanting to admit it, I believe that both these girls scored higher on the CAT tests than I did when I was in third and fourth grade!

Regarding this weekend, both girls want to attend their gymnastics. Kym, because she missed 6 weeks with her ankle sprain / tibia tip fracture (it will be only her second week back), and Amy because, well, because she's so close to being a Level 5 (and competition!), that she's is really putting a lot of effort into it! Why, last Friday, she was so pumped that she did something that apparently Anna said no other Level 4 or Level 5 did at RGA: 2½ tuck jump off the springboard into the foam pit! (That's 2½ somersaults in the air without touching!) Awesome! Of course Level 5 means an additional 15-30 minutes each session above the 2½ she spends now.

Anyway, the girls will call and let you know that they want you to be pick them up after gymnastics on Friday (we get home ≈ 7:15pm) so that they can attend the dance - but Kym then wants to come back home Saturday. I trust you will then discuss with me how we will accomplish having the girls attend their gymnastics, attend the dance, as well as getting Kym home on Saturday (instead of the girls going to Esko on Saturday morning as usual).

By the way, what did you do with the checks the insurance company sent you for the prescriptions I bought for Kymberly and Amy? I believe the insurance recovery should belong to me, since I paid for the drugs.

Kevin M. Van Loon

cc: Sara Lucas
Kathryn Graves

E. D. Williams Elementary School – Roseville Area Schools
Personal Development – Grades 4 and 5

Kim V.L
11-5-96

Explanation of Symbols
- O – Exceeds expectations
- S – Meets expectations
- N – Does not meet expectations

Grade: 4
Teacher: Mrs. Salmon
Principal: Dr. Thomas

Classroom Work Responsibilities: The student...	Marking Periods 1st	2nd	3rd	4th
Works independently	O			
Follows oral and written directions	S+			
Completes tasks and turns work in on time	O			
Uses learning time effectively, focusing on the task	S+			
Completes tasks without unnecessary assistance	O			
Actively and thoughtfully participates in group settings	O			
Produces work of a quality consistent with their ability	O			
Follows classroom time schedules by having necessary materials ready and organized for easy access	O			
Listens actively	O			
Writes legibly for ease of reading	O			
Meets neatness expectations	O			

Self-Management Responsibilities: The student...	Marking Periods 1st	2nd	3rd	4th
Meets classroom behavior expectations	O			
Maintains self-control	O			
Is verbally and physically considerate of others	O			
Interacts respectfully and positively with adults	O			
Follows through on expected responsibilities	O			
Displays a positive attitude	O			
Considers alternative choices and makes appropriate decisions when problem solving	O			

Exhibit Y

E. D. Williams Elementary School – Roseville Area Schools
Personal Development – Grades 4 and 5

Explanation of Symbols
- O – Exceeds expectations
- S – Meets expectations
- N – Does not meet expectations

KYMBERLY VAN LOON
Grade: 4
Teacher: Mrs. Salmon
Principal: Dr. Thomas

Classroom Work Responsibilities: The student...	Marking Periods 1st	2nd	3rd	4th
Works independently	O			
Follows oral and written directions	O			
Completes tasks and turns work in on time	O			
Uses learning time effectively, focusing on the task	O			
Completes tasks without unnecessary assistance	O			
Actively and thoughtfully participates in group settings	O			
Produces work of a quality consistent with their ability	S+			
Follows classroom time schedules by having necessary materials ready and organized for easy access	O			
Listens actively	O			
Writes legibly for ease of reading	S+			
Meets neatness expectations	S+			

Self-Management Responsibilities: The student...	Marking Periods 1st	2nd	3rd	4th
Meets classroom behavior expectations	O			
Maintains self-control	O			
Is verbally and physically considerate of others	O			
Interacts respectfully and positively with adults	O			
Follows through on expected responsibilities	O			
Displays a positive attitude	O			
Considers alternative choices and makes appropriate decisions when problem solving	O			

Exhibit V

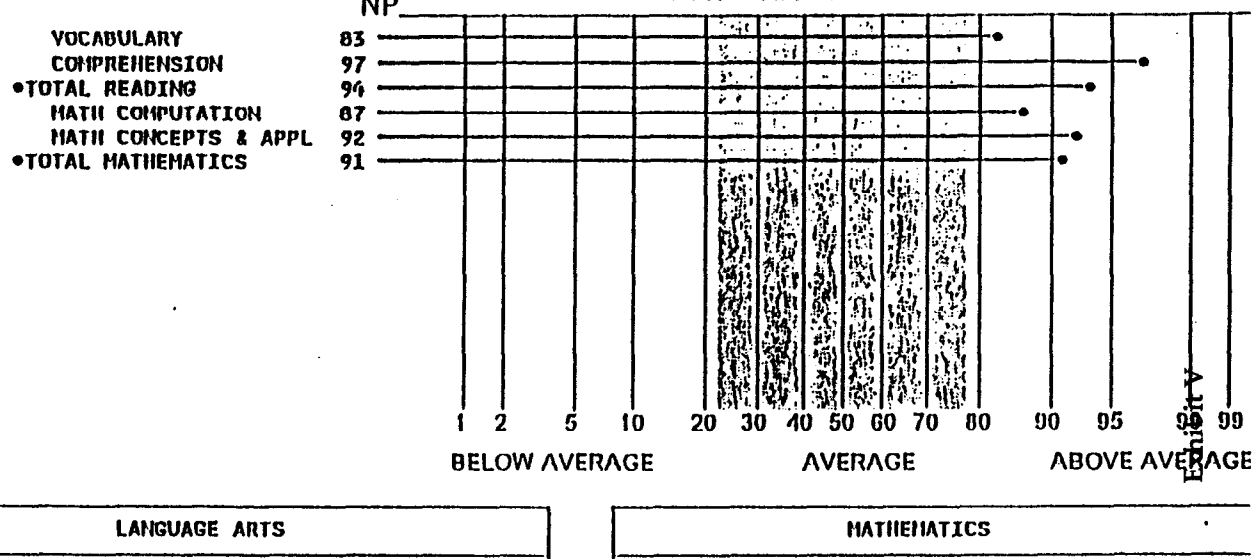
REPORT FOR THE PARENTS OF
KYM D VAN LOON

TEST DATE: 04/29/96

DEAR PARENT:

YOUR DAUGHTER TOOK THE CALIFORNIA ACHIEVEMENT TEST (CAT) DURING APRIL 1996, AS PART OF YOUR SCHOOL'S ACHIEVEMENT TESTING PROGRAM. THE TEST RESULTS GIVE YOU INFORMATION ABOUT HER LEVEL OF ACHIEVEMENT AT THAT TIME. BELOW IS A GRAPH OF HER SCORES FOR EACH TEST TAKEN. THE THREE BOXES AT THE BOTTOM OF THE PAGE COMPARE HER TEST SCORES FOR READING, LANGUAGE ARTS AND MATHEMATICS, WITH 3RD GRADE TEST RESULTS NATIONALLY.

YOUR DAUGHTER'S TEST SCORES ARE GRAPHED TO HELP YOU SEE THE DIFFERENCES AMONG THEM. EACH SCORE IS DISPLAYED IN NATIONAL PERCENTILES. (THE BOTH NATIONAL PERCENTILE IS THE MIDDLE SCORE.) THE SHADED AREA ON THE GRAPH IS FOR AVERAGE SCORES, WITH SCORES TO THE LEFT OF THE SHADED AREA BELOW AVERAGE AND THOSE TO THE RIGHT OF THE SHADED AREA ABOVE AVERAGE.



X = NO SCORE AVAILABLE

READING	LANGUAGE ARTS	MATHEMATICS
YOUR DAUGHTER SCORED HIGHER THAN 94% OF ALL 3RD GRADE STUDENTS IN THE NATION IN TOTAL READING. READING VOCABULARY WAS HIGHER THAN 83%; READING COMPREHENSION WAS HIGHER THAN 97%. SHE HAS MASTERED ALL OF THE SKILLS MEASURED BY THE READING TEST.	YOUR DAUGHTER DID NOT COMPLETE THIS PORTION OF THE TEST.	YOUR DAUGHTER SCORED HIGHER THAN 91% OF ALL 3RD GRADE STUDENTS IN THE NATION IN TOTAL MATH. MATH COMPUTATION WAS HIGHER THAN 87%; MATH CONCEPTS AND APPLICATIONS WAS HIGHER THAN 92%. SHE HAS MASTERED ALL OF THE SKILLS MEASURED BY THE MATHEMATICS TEST.

THE PARENT REPORT IS DESIGNED TO PROVIDE YOU WITH AN OVERALL PICTURE OF YOUR DAUGHTER'S TEST PERFORMANCE. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT YOUR SCHOOL, WHICH CAN PROVIDE YOU WITH ADDITIONAL EXPLANATIONS OF HER PROGRESS.

TEACHER: HAGEN
CITY/ST: ROSEVILLE IN
SCHOOL: WILLIAMS
PATTERN (IRT)
NORMS FROM: 1984-85
DISTRICT: ROSEVILLE
QTR MTH: 32
GRADE: 3.8
FORM/LEVEL: E/13
CTBID: N025460001-03-028-01

Exhibit V

E.D. WILLIAMS SCHOOL - ROSEVILLE AREA SCHOOLS
PERSONAL DEVELOPMENT - GRADES 1, 2 AND 3

Explanation of Symbols

O - Exceeds expectations
S - Meets expectations
N - Needs Improvement
I - Improvement shown

AMY VAN LOON
Grade: 3
Teacher: Mrs. Chlebeck
Principal: Dr. Thomas

WORK SKILLS:	1st	2nd	3rd	4th
Completes class assignments on time	O			
Completes home assignments on time	O			
Follows directions	O			
Demonstrates active listening	O			
Shows pride and care in work	S+			
Organizes work space and materials	S+			
Stays on task	O			
Shows self-direction in learning	O			

LIFE SKILLS:	1st	2nd	3rd	4th
Participates actively and thoughtfully in small group activities	S			
Cooperates with staff in working towards classroom and school expectations	O			
Interacts positively with peers	S+			
Maintains self-control	O			
Uses appropriate problem solving skills to solve conflicts	S+			

Exhibit V

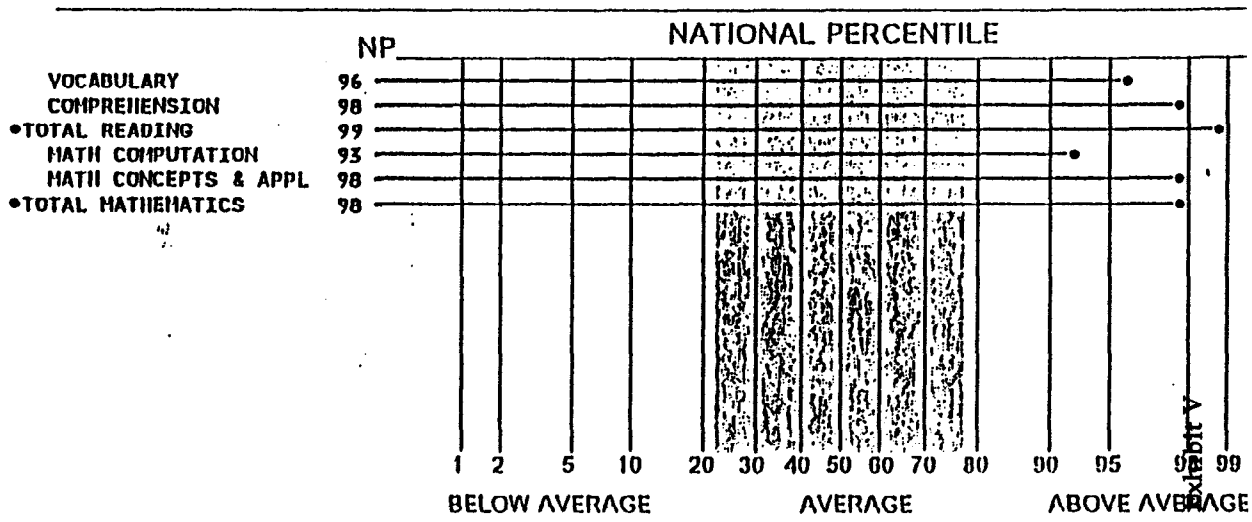
REPORT FOR THE PARENTS OF
AMY S VAN LOON

TEST DATE: 04/24/96

DEAR PARENT:

YOUR DAUGHTER TOOK THE CALIFORNIA ACHIEVEMENT TEST (CAT) DURING APRIL 1996, AS PART OF YOUR SCHOOL'S ACHIEVEMENT TESTING PROGRAM. THE TEST RESULTS GIVE YOU INFORMATION ABOUT HER LEVEL OF ACHIEVEMENT AT THAT TIME. BELOW IS A GRAPH OF HER SCORES FOR EACH TEST TAKEN. THE THREE BOXES AT THE BOTTOM OF THE PAGE COMPARE HER TEST SCORES FOR READING, LANGUAGE ARTS AND MATHEMATICS, WITH 2ND GRADE TEST RESULTS NATIONALLY.

YOUR DAUGHTER'S TEST SCORES ARE GRAPHED TO HELP YOU SEE THE DIFFERENCES AMONG THEM. EACH SCORE IS DISPLAYED IN NATIONAL PERCENTILES. (THE 50TH NATIONAL PERCENTILE IS THE MIDDLE SCORE.) THE SHADED AREA ON THE GRAPH IS FOR AVERAGE SCORES, WITH SCORES TO THE LEFT OF THE SHADED AREA BELOW AVERAGE AND THOSE TO THE RIGHT OF THE SHADED AREA ABOVE AVERAGE.



X = NO SCORE AVAILABLE

READING	LANGUAGE ARTS	MATHEMATICS
YOUR DAUGHTER SCORED HIGHER THAN 99% OF ALL 2ND GRADE STUDENTS IN THE NATION IN TOTAL READING. READING VOCABULARY WAS HIGHER THAN 96%; READING COMPREHENSION WAS HIGHER THAN 98%. SHE HAS MASTERED ALL OF THE SKILLS MEASURED BY THE READING TEST.	YOUR DAUGHTER DID NOT COMPLETE THIS PORTION OF THE TEST.	YOUR DAUGHTER SCORED HIGHER THAN 98% OF ALL 2ND GRADE STUDENTS IN THE NATION IN TOTAL MATH. MATH COMPUTATION WAS HIGHER THAN 93%; MATH CONCEPTS AND APPLICATIONS WAS HIGHER THAN 98%. SHE HAS MASTERED ALL OF THE SKILLS MEASURED BY THE MATHEMATICS TEST.

THE PARENT REPORT IS DESIGNED TO PROVIDE YOU WITH AN OVERALL PICTURE OF YOUR DAUGHTER'S TEST PERFORMANCE. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT YOUR SCHOOL, WHICH CAN PROVIDE YOU WITH ADDITIONAL EXPLANATIONS OF HER PROGRESS.

TEACHER: BATES
CITY/ST: ROSEVILLE IN

SCHOOL: WILLIAMS
PATTERN (IRT)

NORMS FROM: 1984-85
DISTRICT: ROSEVILLE
QTR HIT: 32

GRADE: 2.8
FORM/LEVEL: E/12

CTB ID: [illegible]

Kevin M. Van Loon
974 Lydia Avenue
Roseville, MN. 55113
(612)486-8358 Home
(612)337-1039 Work
December 11, 1996

D. Senarighi
P.O. Box 193
Esko, MN. 55733

Ms. Senarighi:

Letter to let you know the girls continue to do well in school, and have a couple accomplishments therein to pass along.

Kymberly was nominated for Student of the Month by her teacher for November, and she is really proud of it! Amy has received commendations from her teacher for her excellence (virtually 100% results) in her math testing in the area of multiple digit subtraction.

I've attached a copy of a letter that Amy penned to Santa Claus, that she wrote a while ago. My point is the sentence regarding the $2,000. Amy had the impression that it is my fault that you lost your car and are short of money - and she was blaming me for it. I don't appreciate that, and want you to refrain from doing this to her (and Kym). What you do with your finances is your business - but when you mess up your financial situation don't go blaming it on me to the girls. (Fortunately neither girl has accused me of this in the last few weeks, so perhaps it is forgotten.)

The second issue is Kym's birthday party, which is being planned for Saturday, January 4th, 1997. Since the girls will have spent the previous two weekends with you (December 21st and December 28th), this won't be a problem. Kym is planning on about 7-8 friends. We will be having the party in the mid-afternoon; you may want to come to town and take Kym and Amy out that evening for a birthday celebration.

Finally, MEDICA is processing secondary benefits for the girls medical expenses under your file, but they have not had a release executed and signed by you authorizing them to pay these secondary benefits to me, since I have paid for them. When may I expect that you will execute this release? MEDICA indicates that they have processed all secondary benefits, but will not tell me what or to whom they paid (with the one exception that checks are not going to me), so I assume that you are receiving these checks?

I trust that you will be able to communicate directly with me now, since you are almost 40 years old. I also assume this is okay with your coordinator, so that I may avoid incurring additional legal fees. I do insist that you <u>not</u> use the girls as your courier or messenger to communicate with me, as that is most inappropriate. However, fax or letter is fine, since you profess fear of talking with me.

Kevin M. Van Loon KVL

cc: Sara Lucas
Kathryn Graves

11-17-76

Dear Santa,

I have so much to ask you I don't know where to start. How are you and your reindeer? I'm fine. How have you been doing this year? Are you ready for Christmas I am. How is Xlemy? What time are you going to come to our house on Christmas Eve? Are you going to go to our mom's house? Would you please go to our mom's house. PLEASE! I know its a bit early to be writing a Christmas list, but I don't really care, Christmas is one of my favorite holidays. Have you had a blizard at the North Pole yet? Can you make real money? If you could you send my mom about $2000.00. PLEASE! Well its been nice talking to you. Bye!

Sincerely,

Amy Van Loon

P.S. Merry Christmas!

Exhibit V

CARLTON COUNTY
Guardian Ad Litem Program

COURTHOUSE
P.O. Box 280
CARLTON, MINNESOTA 55718
TELEPHONE 218-384-9164

SARA LUCAS
Co-ordinator

RE: CHRISTMAS for KYMBERLY & AMY VANLOON
F3-94-643

FRI DEC 20 - SUNDAY DEC 22 - Regular exchange
CHRISTMAS DAY - NOON exchange at Hinkley (unless Dad is going to be up here - then a 10 AM exchange at The Soap in Esko)
Sunday Dec. 29th at 7 PM in Hinkley

Sara Lucas

my secretary is on vacation this week but I need to be sure we're all in agreement for dates & times - Please call if a problem

RE DEC 20-21

P.S. weekend exchange will be Sat AM unless weather would be a problem. If snow is predicted & a FRI. evening exchange is necessary, Deb will call Kevin on Fri.

KATIE GRAVES
KEVIN VANLOON
DEB SENTAREALI

Exhibit W

STATE OF MINNESOTA

COUNTY OF CARLTON

DISTRICT COURT

SIXTH JUDICIAL DISTRICT

Debbie Lou Senarighi-Van Loon
Petitioner,

vs.

Kevin Mark Van Loon
Respondent.

THIRD AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER FOR JUDGMENT AND THIRD AMENDED JUDGMENT AND DECREE

File No. F3-94-643

The above-entitled matter came on for an Evidentiary Hearing before the Honorable Dale A. Wolf, Judge of District Court, County of Carlton, Minnesota, on September 19TH and 20TH, 1996. This matter was before the Court based upon the parties' opposing motions for modification of the present stipulated custody arrangement. Petitioner appeared with her attorney, William Sweeney. Respondent appeared with his attorney, Dennis Korman, and was also represented in this action by Kathryn Graves, who did not appear. Respondent moved the Court for an amended custody Order, granting Respondent sole physical custody of the parties' minor children with Petitioner to receive liberal visitation. Respondent further moved for an Order requiring Petitioner to pay child support to reflect the change in physical custody, if granted. Petitioner also moved the Court for sole legal and physical custody with Respondent to receive visitation and to pay child support.

Based upon all of the arguments, witnesses, exhibits, files and records herein, the Court makes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That on February 28, 1995, the parties' stipulated Judgment and Decree was entered herein. The Decree provided that the parties would share joint legal and physical custody of their minor children. Neither party was to pay child support.

2. At the time of the 1995 Decree, both parties worked and resided in the Duluth/Superior - Esko/Hermantown area. Respondent subsequently moved to the Minneapolis/St. Paul area. Relying on what he believed to be a binding mediated agreement modifying the February 28, 1995 Decree, Respondent moved the parties' minor children to his Roseville residence in late August of 1995. The children have resided continuously with Respondent since that time, with Petitioner having weekend, holiday and summer vacation visitation in Esko.

3. Petitioner took no action to change the actual physical custody of the children until early 1996. After Respondent moved the parties' children to Roseville, Petitioner moved into a one-bedroom apartment and sent the children's cats to live with them. Only after Respondent filed a motion for a Court Order reflecting the change in physical custody and requiring Petitioner to pay child support, did Petitioner

assert that she objected to the custody arrangement and wanted sole physical custody herself. Prior to that time, Petitioner took no legal action to change the children's placement. Nor did she utilize the "self-help" measure she had taken earlier when dissatisfied with the custody arrangement; simply retaining actual physical possession of the children once she had them with her for visitation.

4. Respondent did not kidnap the parties' minor children; did not fraudulently obtain the children, and; did not coerce Petitioner into the actual placement arrangement that existed at the time Respondent's motion was filed. The children were integrated into Respondent's home and primary physical custody with the implied consent of Petitioner.

5. The children are not physically or mentally endangered while in the physical custody of either parent.

6. The children are doing well academically, physically, emotionally and spiritually while in Respondent's primary physical custody.

7. A change has occurred in the circumstances of the children and the parties which necessitates a modification of the original Judgment and Decree as it pertains to physical custody and child support. This modification is in the best interests of the children. The best interests of the children are served by retaining the current primary physical placement of the children with Respondent.

ORDER

1. Respondent and Petitioner shall share the joint legal custody of their minor children and Respondent shall retain primary physical custody, subject to Petitioner's right as secondary physical custodian to liberal and reasonable visitation. Petitioner's secondary physical custody of the parties' minor children shall include the following:

a. Every other weekend from Friday at 8:00 p.m. until Sunday at 6:00 p.m.;

b. Alternate holidays;

c. Eight weeks during summer school vacations, with arrangements to be scheduled by agreement of the parties. During any period of time when the children are with Petitioner for three or more consecutive weeks, Respondent shall have visitation one weekend during such period, from Friday at 8:00 p.m. until Sunday at 6:00 p.m. During any period when the children are with Petitioner for six or more consecutive weeks, Respondent shall have visitation two weekends during such period. Petitioner shall notify Respondent no later than April 15TH of each year as to which weeks she intends to have summer custody of the children.

2. Petitioner shall pay to Respondent the sum of $361.58 per month in child support, payable one-half on the first and one-half on the fifteenth days of each month following entry of judgment herein. Except that, during times when Petitioner has custody for a week or more at a time, her child support obligation shall be decreased on a prorated basis. Said payments shall be retroactive to April 1, 1996 and shall be payable pursuant to an Amended Automatic Income Withholding Order to be entered in this matter. Child support shall continue at that rate, as adjusted by the cost of living, until the occurrence of one of the following events, whichever occurs first:

a. The child attains 18 years of age or graduates from high school, whichever occurs last; provided, however, that support will not continue past the child's 20TH birthday;

b. The child becomes self-supporting, is emancipated, marries, serves on a full-time basis in the Armed Forces of the United States, or is deceased; or,

c. Further Order of the Court.

As soon as any of the foregoing events occurs for either of the parties' minor children, child support shall decrease from the amount then payable by 16.33%, and shall continue at that level, subject to cost of living adjustments, until the remaining minor child is no longer entitled to support as set forth above.

3. Petitioner shall pay to Respondent the sum of $53.58 per month as her contribution to the children's day care expenses, such sum to be paid by immediate Automatic Income Withholding to commence with the first month following entry of this Order. Except that, when Petitioner has custody for a week or more at a time pursuant to this Order, her day care obligation shall be decreased on a pro-rated basis. This support shall be cut in half when Kymberly reaches the age of fourteen and shall cease entirely when Amy reaches the age of fourteen.

4. The provisions of "Appendix A" attached hereto are incorporated herein by reference, subject to the typewritten provisions contained within this Order.

5. Respondent shall maintain medical, health and hospitalization insurance for the benefit of the minor children, as long as such insurance is available to him on a group basis through employment or membership in a labor union, or otherwise on a group basis, or through a group health plan governed under ERISA and included within the definitions relating to health plans found in §62A.001, 62A.048, or 62E.06, subd.2, until the parties owe no further obligation for child support. The parties shall divide equally any medical, dental, orthodontia, eye care, optical, psychological, psychiatric, or other health costs for the minor children, which are not covered by insurance. Pursuant to M.S. 518.171, payments ordered under this paragraph are subject to income withholding under M.S. 518.611.

6. In Order to insure the continued payment of child support in the event of Petitioner's death, with respect to any basic (non-optional) life insurance that Petitioner has on her life which is provided to her through her employment and any additional coverage which she is presently carrying through her employment, or privately, Petitioner shall designate Respondent for the benefit of the minor child(ren), as sole beneficiary on said policies until she no longer owes an obligation for support. Petitioner shall not borrow or make any other encumbrance against said policies while her obligation to name Respondent is in effect. When requested by Respondent, Petitioner shall furnish evidence that said insurance is still in force.

7. Respondent shall be entitled to claim one minor child (Amy) as an exemption on his state and federal income tax returns in the year 1996 and subsequent years. Petitioner shall be entitled to claim one minor child (Kymberly) as an exemption on her state and federal income tax returns in the year 1996 and subsequent years. If requested by either party, the other party shall execute the necessary documents to permit the other to make such claim.

8. An award in favor of Respondent and against Petitioner shall be entered in the sum of $1,979.61 for Petitioner's share of the children's day care expenses incurred during the time period April 1, 1995 through February 1996, and for $58.00 for Petitioner's share of the children's uninsured medical expenses to date of hearing herein pursuant to paragraph four of the Judgment and Decree. If this award is not paid in full by April 30, 1997, it shall be reduced to a money judgment and docketed in favor of Respondent. Such judgment shall constitute additional child support and the amount of $72.21 per month shall be withheld from Petitioner's earnings through employment by Amended Automatic Income Withholding Order until said amount is paid in full. Such amounts shall be withheld for this purpose after child support arreages accrued for the period from April 1, 1996 are paid in full.

9. An award in favor of Respondent is granted Petitioner in the amount of $846 for amounts owed on the parties' homestead pursuant to paragraph 15 of the Judgment and Decree. If this award is not paid in full by April 30, 1997, it shall be reduced to a money judgment and docketed in favor of Respondent.

10. Neither party shall be required to contribute toward the other party's attorney's fees.

11. Any provisions of the Judgment and Decree of this Court dated February 28, 1995, not specifically amended by this Order, shall remain in full force and effect.

ORDER FOR AMENDED JUDGMENT

LET AMENDMENT TO JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT

This 9th day of January, 1997.

D. A. Wolff

Honorable Dale A. Wolff
Judge of District Court

AMENDMENT TO JUDGMENT

I hereby certify that the above Order constitutes the Amendment to Judgment and Decree of this Court.

Dated this 9th day of January, 1997.

Bruce G Ahlgren

Bruce Ahlgren, Court Administrator
Carlton County, Minnesota

By. Deborah Deller

Deputy Court Administrator

FORMS 3. APPENDIX A

NOTICE IS HEREBY GIVEN TO THE PARTIES:

I. PAYMENTS TO PUBLIC AGENCY. Pursuant to Minnesota Statutes, section 518.551, subdivision 1. Payments ordered for maintenance and support must be paid to the public agency responsible for child support enforcement as long as the person entitled to receive the payments is receiving or has applied for public assistance or has applied for support and maintenance collection services. Mail payments to: Carlton County Support and Collections at 1215 Avenue C, Cloquet, MN 55720.

II. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS - A FELONY. A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or visitation rights), pursuant to Minnesota Statutes, section 609.26. A copy of that section is available from any court administrator.

III. RULES OF SUPPORT, MAINTENANCE, VISITATION.

A. Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

B. Payment of support must be made as it becomes due, and failure to secure or denial of rights of visitation is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.

C. Nonpayment of support is not grounds to deny visitation. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.

D. The payment of support or spousal maintenance takes priority over payment of debts and other obligations.

E. A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.

F. Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.

G. If there is a layoff or pay reduction, support may be reduced as of that time, but any such reduction must be ordered by the court. The court is not permitted to reduce support retroactively, except as provided in Minnesota Statutes, section 518.64, subdivision 2, part (c).

IV. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17, SUBDIVISION 3. UNLESS OTHERWISE PROVIDED BY THE COURT:

A. Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor children. Each party has the right of access to information regarding health or dental insurance available to the minor children. Presentation of a copy of this order to the custodian of a record or other information about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.

B. Each party shall keep the other informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.

C. In case of an accident or serious illness of a minor child, each party shall notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.

D. Each party has the right of reasonable access and telephone contact with the minor children.

V. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE. Child support and/or spousal maintenance may be withheld from income with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, sections 518.611 and 518.613, have been met. A copy of those sections is available from any court administrator.

VI. CHANGE OF ADDRESS OR RESIDENCE. Unless otherwise ordered, the person responsible to make support or maintenance payments shall notify the person entitled to receive the payment and the public authority responsible for collection, if applicable, of a change of address or residence within 60 days of the address or residence change.

VII. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE. Child support and/or spousal maintenance may be adjusted every two years based upon a change in the cost of living (using the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index Mpls. St. Paul, for all urban consumers (CPI-U), unless otherwise specified in this order) when the conditions of Minnesota Statutes, section 518.641, are met. Cost of living increases are compounded. A copy of Minnesota Statutes, section 518.641, and forms necessary to request or contest a cost of living increase or available from any court administrator.

VIII. JUDGMENTS FOR UNPAID SUPPORT; INTEREST. Pursuant to Minnesota Statutes, section 548.091:

A. If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain entry and docketing of the judgment **without notice** to the person responsible to make the payment.

B. Interest begins accruing on a payment or installment of child support whenever the unpaid amount due is greater than the current support due.

IX. JUDGMENTS FOR UNPAID MAINTENANCE. A judgment for unpaid spousal maintenance may be entered when the conditions of Minnesota Statutes, section 548.091, are met. A copy of that section is available from any court administrator.

X. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT. A judgment for attorney fees and other collection costs incurred in enforcing a child support order will be entered against the person responsible to pay support when the conditions of Minnesota Statutes, section 518.14, subdivision 2, are met. A copy of that section and forms necessary to request or contest these attorney fees and collection costs are available from any court administrator.

XI. CAPITAL GAIN ON SALE OF PRINCIPAL RESIDENCE. Income tax laws regarding the capital gain tax may apply to the sale of the parties' principal residence and the parties may wish to consult with an attorney or tax advisor concerning the applicable laws. These laws may include, but are not limited to, the exclusion available on the sale of a principal residence for those over a certain age under section 121 of the internal revenue code of 1986, or other applicable law.

XII. VISITATION EXPEDITER PROCESS. On request of either party or on its own motion, the court may appoint a visitation expediter to resolve visitation disputes under Minnesota Statutes, section 518.1751. A copy of that section and a description of the expeditor process is available from any court administrator.

XIII. VISITATION REMEDIES AND PENALTIES. Remedies and penalties for wrongful denial of visitation rights are available under Minnesota Statutes, section 518.175, subdivision 6. These include compensatory visitation, civil penalties, bond requirements, contempt, and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any court administrator.

(SCAO rev. 96)

CARLTON COUNTY
Guardian Ad Litem Program

COURTHOUSE
P.O. Box 280
CARLTON, MINNESOTA 55718
TELEPHONE 218-384-9164

SARA LUCAS
Co-ordinator

Date: January 24, 1997

To: The Honorable Dale A. Wolf

From: Sara Lucas, Coordinator
Guardian ad Litem Program

RE: KYMBERLY AND AMY VAN LOON
FILE#: F3-94-643

Dear Sir:

The order of January 9th, did not include where the exchange of the children should take place. Ms. Senarighi tells me that Mr. Van Loon has told her that she must drive the whole way everytime to get the children unless he is planning to come up. The last order does not specify Hinckley. I request that you amend the order to designate a specific place.

I also request you amend the order and require Mr. Van Loom to attend the Well Family Clinic recommended by both Dr. Witt and Ms. Timlin. I have no doubt that he loves the girls and if he could understand the importance of their contact with their mother, he would be more generous about sharing parent time.

Yours truly,

Sara Lucas

Sara Lucas, Coordinator
Guardian ad Litem Program

SL/pap

cc: William R. Sweeney, Atty.
Kathryn A. Graves, Atty.
file
BOTH PARENTS

Exhibit Y

MCG HEALTHCARE COMPENSATION, INC.
1-800-327-9335
FAX COVER SHEET

Date:	January 30, 1997
Pages:	2
To:	Sara Lucas
Fax Phone:	1-218-384-9182
From:	Kevin M. Van Loon KVL
Re:	Your letter dated January 24th, 1997 to Judge Wolf

I am in receipt of your letter to Judge Wolf, in which you relate additional allegations made against me by Ms. Senarighi, and in which you request on behalf of Ms. Senarighi that the order be amended.

In all fairness, I trust you will also provide Judge Wolf the following in rebuttal to the untrue allegations contained in your letter so that both sides of the issue are available for his review, as well as relay my request that the changes proposed by you on Ms. Senarighi's behalf be denied:

1. Copy of letter sent to Ms. Senarighi dated January 28th, 1997, in which I specifically indicate my willingness to drive the girls to Duluth when I visit my family.

2. On December 29th, 1996, Ms. Senarighi called and told me that if I wanted the girls back that I had to come to Esko to get them. I was able to convince her to drive at least to Barnum (40 miles while I drove 260).

3. On January 26th, 1997, at 3:30 in the afternoon I believe, Ms. Senarighi called and told me that her vehicles weren't operable, and that again if I wanted the girls home I had to come and get them, because she wasn't going to drive them home. I later learned that Ms. Senarighi was not truthful regarding her vehicles, that in fact both her car and her boyfriend's truck were operable - she just didn't want to drive. This got the girls home after 10:00pm when they had school and I had work the next day. Ms. Senarighi neglected again to send Amy's homework back with her.

4. To order psychiatric treatment contradicts the Court's findings which specifically state (#5 and #6 of the order dated January 9th, 1997) that "The children are not physically or mentally endangered while in the physical custody of either parent." and "The children are doing well academically, physically, emotionally and spiritually while in Respondent's ... physical custody." This seems to be a waste of money which could be better spent on the girls.

If the Judge grants Ms. Senarighi's request for amending the order which you presented without allowing me due process to present evidence that contradicts Ms. Senarighi's allegations and without allowing me to contest the proposed changes, I intend to appeal any changes made that are based solely upon your representation of Ms. Senarighi's allegations. I believe our justice system provides that both parties to a dispute are allowed to present supporting evidence for their position.

Please copy Ms. Graves when you present the above to the Judge.

Exhibit Z

Kevin M. Van Loon
974 Lydia Avenue
Roseville, MN. 55113
(612)486-8358 Home
(612)337-1039 Work
January 28, 1997

D. Senarighi
P.O. Box 193
Esko, MN. 55733

Ms. Senarighi:

Amy has a 1960's style dance for Girl Scouts next Saturday evening (February 8th, 1997) and plans on attending with me. She is okay with switching her visitation to this weekend (February 1st, 1997), and she says you told her this was okay - but you need to let me know this directly if it is okay with you. I've indicated that I'm available to drive and chaperone some of the other girl scouts to the dance providing you will cooperate and let Amy attend - but I need to let them know. Please leave a message on my work voicemail if this is acceptable. If I don't hear from you directly prior to Friday I'll assume you are not interested in letting Amy attend the dance, and I will not be expecting you to pick up Amy this Friday.

Amy is beginning a Gifted and Talented program called Junior Great Books this week, which will meet once a week on Tuesday mornings for twelve weeks, and she has also been recommended by her teacher to do artwork for the school yearbook! The art project begins this week also, after school.

Her gymnastics will be expanding to 3 hours a day / three days a week now, from 4:30 - 7:30 on MWF, to match the Level 5 practice time. In order to keep their class together, RGA has decided not to move individual girls to Level 5 until the whole class can move together at the end of spring - although Amy is very close right now (I would have to say that, based upon their exhibition last Friday, that Amy is either #1 or #2 in her class!)! Summer will then be spent in intense team preparation for Level 5 competition beginning in the fall - something Amy has been training for and eagerly awaiting for over a year!

Kymberly has a Gifted and Talented math workshop (we enrolled for chemistry / physics but it was full) this Saturday, February 1st, 1997, so if you will be switching to this weekend, know that Kym will not be coming as she has elected to pass on this weekend (as we agreed she could do months ago) to attend this extended learning session.

The girls quarterly report cards are out, and if you are interested contact the school for copies. Both girls had slightly higher marks than last time - all O's and S+'s.

You need to provide reliable transportation for the girls for your visitation weekends. Your excuses Sunday were not truthful, and both girls know it. Long ago you lost the respect of Kymberly due to your words and actions - and Sunday your words and actions regarding the vehicles and Amy's homework pushed Amy a long ways along the path to also losing respect for you. If this is your goal you are well on your way to achieving it. Your lies aren't going to make me lose any more respect for you - you are only hurting your relationship with the girls.

You should spend your money to fix the car, rather than spending money on hotel rooms (why not use some of the money that you took from your credit cards and are trying to avoid paying back?). I trust that you will have your car's problems fixed before you next exercise visitation so that you will be able to transport the girls safely not only to visit you but to return them from visitation as well. When I visit the Duluth area I will be more than happy to transport them up, but I am not going to be put in the position like I was Sunday of having to cancel my pre-arranged activities so that I can 'come and get the girls if I want to get them home' simply because you claimed not to have reliable transportation. In the Court order the judge left us responsible as mature adults for arranging (prior to the weekend visitation) the place and times for the pick up and return home of the girls. Are you able to handle this responsibility?

Kevin M. Van Loon

Exhibit Z

I am submitting this testimony anonymously because my case is still in litigation and I fear retaliation from the guardian ad litem assigned to my case. I have also modified it somewhat from the written testimony I submitted last week in order to be more clear. I have not addressed the proposed rules point by point, because I don't really know how to do that, but I hope that my experiences will demonstrate to you how important it is that the guardian ad litem system be reformed.

About two-and-a-half years ago, my husband held our four-year-old son upside down by the ankles from a stairway bannister. My son was badly frightened by this event. When my attorney suggested a guardian ad litem be appointed to protect my son's interests, I readily agreed. I was totally unprepared for what the next two-and-a-half years would bring.

Even though I have had sole legal and physical custody of my children since my separation from their father, the GAL has coerced me into agreeing to an arrangement where my children are split up and divide their time between their father and me. He has our daughter one week while I have our son, and the next week the schedule is reversed, creating a situation where our children rarely are together. This arrangement was to have been a 90-day trial, but has been in place now for 14 months. Despite the fact that I have sole custody, the GAL opposes and will not grant permission for my children to be reunited and live with me.

The guardian ad litem was originally appointed for a 2-year period. More than 30 days after that time had expired, she called a meeting with my husband, our lawyers, the children's psychologist, and me to discuss her continued involvement. She told me outright that if I opposed her continued involvement with the case, she would immediately pull custody from me and give it to my children's father within 24 hours. I was afraid that she might have enough influence with the judge to accomplish this, so my attorney and I agreed to continue her involvement for 90 days with a review by the court at that time. This to have been reviewed in January 1997, and there has been no review, yet she is still on the case.

Some time later, the guardian went to the judge without telling my children's father and me, or our attorneys. She had prepared an order for the judge to sign regarding the split custody arrangement I have already described. The judge did not sign the order. About a week later, we were in court for some divorce matters. As we were walking into the courtroom, the GAL handed my attorney some papers claiming that my children were in danger and stating she was going to file a CHIPS petition. My attorney objected because we had received no notice. The only complaints the GAL had put in the papers pertained to incidents that had happened 9-10 months before. My attorney pointed out that if these things really were emergencies, they should have been dealt with at that time, and that since they were not, they could not be used to claim immediate risk to the children. The judge agreed with my attorney. The GAL appeared to be very angry over this, and demanded of me after the hearing to know where I lived so she could make a home visit, even though she had already been to my home.

C0-95-1475

Please do

not read this

After returning home from this hearing, the guardian ad litem appeared outside my home in her car. She stayed in her car for several hours, driving up and down in front of the house and even changing cars at one point. The neighbors were concerned about who this person was who was hanging around the neighborhood. One of my neighbors became very concerned and called police, who came out to investigate. The officer approached the guardian and asked her to produce ID. The GAL hung around for approximately 7 or 8 hours, until after 9:30 that night.

The guardian ad litem exercises tremendous control over my children's lives for reasons that I don't understand. At one point she made me get rid of the children's dogs which they had just received as Christmas gifts. The children really enjoyed the dogs and were upset that they had to go. She also required me to drop the children out of their ballet classes. They have been involved in ballet since they were about 2 or 3 years old. They enjoy ballet and have shared this activity together since they were toddlers. The GAL thought they should go to Boy and Girl Scouts instead. I don't understand why they can't do both, or why Scouting is better than ballet.

In the spring of 1996, the guardian made an unannounced visit to my home at about 8:15 on a Friday night. She walked in without being invited and went straight into the kitchen, announcing that she wanted a drink of water. I told her I would get it for her, but she insisted on getting it herself. I had two unwashed items in the sink, a bowl and a spoon. I think she was looking for dirty dishes because later in a report, she said I had a sinkful of dirty dishes. She started yelling and shouting at me, using very rude and disrespectful language, and made threats to take my children away from me. She called me a liar and paranoid. I was very uncomfortable about being treated this way, especially because I had a business associate present. We had been in the middle of a meeting when the GAL appeared. My associate became very uncomfortable because of the way the GAL was treating me, and left after about half an hour. I was so upset by this encounter that I had to call in sick to work, resulting in loss of income.

At one point, the GAL decided my children needed to see a therapist. She would only give permission for the children to see the person she recommended. Unfortunately, this individual was not covered under my insurance plan, so I had to change insurance. I found out much later that this GAL uses this particular therapist often. It seemed to me that the therapist was taking too much direction from the GAL. I did not think my children's needs were being met, and felt that the GAL was directing their care more than the therapist. My attorney has repeatedly asked for the therapy records, but in the past 90 days, we have been unable to get them.

At one point, my daughter began to develop some behavioral problems. I asked the GAL for permission to take her to a child neurologist or psychiatrist but she refused permission, insisting that I see only the therapist she had recommended. When a year-and-a-half went by with no improvement, I took my daughter to her regular medical doctor. He witnessed an episode of my daughter's behavior, and directed me to take her

to a neurologist immediately. He also recommended a change in therapists. I explained to the doctor that I wanted to do both of those things, but that the guardian ad litem refused to grant permission. He called the GAL while I was still in the office and explained the situation, but the GAL later reprimanded me for permitting him to call her. I did take my daughter to the neurologist and she was diagnosed at the first office visit. Since that time, I have been able to get my daughter the help she needs. It makes me angry that she had to suffer for a year-and-a-half because of the guardian's refusal to let her get the help she needed.

This guardian ad litem has been paid approximately $50,000 for our case in two-and-a-half years. My children's father and I owned horses. He sold one without notice to me and the money went into his attorney's trust account. As I understand it, the money has gone to the GAL. She sends statements sporadically to my attorney, and includes with the statements a signed order from the judge for her fees. I don't know what the money is going for. It seems to me that she does whatever she wants to do and bills me whatever she sees fit. I am going broke paying for her services.

My children's father has a history of violent and sexually inappropriate behavior. He has had several incestuous sexual encounters, he was a sex offender as a juvenile, and as an adult he has been charged with soliciting a prostitute. He has been violent not only with me and our children, but also his girlfriend's son, a children's nanny, and an older couple who were his tenants. He has pled guilty and been on probation for his violent behavior. The GAL knows about these things, but does not seem to be concerned about the harmful effects these behaviors have on my children. She is currently recommending custody to my ex-husband.

This guardian ad litem has made my life a nightmare. I urge you to place limits on the way that guardians do their jobs. It is very important that the following issues be addressed:

*the court order should state clearly what the guardian can and cannot do
*the guardian should not be able to change a court order by himself or herself
*the guardian should have mandatory training on domestic violence
*there should be a limit on how long a guardian can be on a case
*there should be a better process for removing a guardian
*the guardian's behavior should be monitored more closely by the court
*there should be limits on how much money the guardian can bill for

These guardians have a lot of power over people's lives and they are not held accountable for that power. I have met and talked with many other women who have had similar problems with this same GAL. Their lives have been devastated as mine has. Please protect our children by implementing rules that will correct the problems we have experienced. Thank you for your time.

Respectfully submitted,

An anonymous mother

STATE OF MINNESOTA
DISTRICT COURT OF MINNESOTA
EIGHTH JUDICIAL DISTRICT

JUDGE BRUCE W. CHRISTOPHERSON

CHAMBERS AT
YELLOW MEDICINE COUNTY COURTHOUSE
GRANITE FALLS, MINNESOTA 56241
TELEPHONE (612) 564-3326

March 4, 1997

Minnesota Supreme Court
135 Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

RE: Proposed Guardian Ad Litem Rules

Dear Justices of the Minnesota Supreme Court:

As requested by the judges of the Eighth Judicial District, I am submitting comments regarding the proposed Guardian Ad Litem Rules which are being considered by the Supreme Court for adoption. It is evident that the task force which proposed the rules examined many issues and were conscientious in addressing the recommendations contained in the report of the Legislative Auditor relating to the delivery of guardian ad litem services in Minnesota. The proposed rules are quite comprehensive and significant effort was made to explore the various training, evaluation, and supervisory needs of guardians ad litem throughout the State of Minnesota.

As you are aware, the Eighth Judicial District is funded by legislative appropriation and is completely reliant upon state funds to cover operational and employee expenses, as contrasted with other district in which the counties bear these costs. The total cost of guardian ad litem services in the Eighth Judicial District are funded by these appropriations. The task force recommended that the State Court Administrator prepare a fiscal impact analysis of the proposed Guardian Ad Litem Rules and the Eighth Judicial District worked diligently to project these costs. The projected fiscal impact for the Eighth Judicial District for FY1998 is estimated at $266,704. This amount has been included in the Eighth Judicial District's budget increase requests to the 1997 Legislature for the biennium beginning July 1, 1997 in anticipation of adoption and implementation of the proposed rules.

The Eighth Judicial District requests that your deliberations regarding the adoption of the proposed rules include the understanding that the additional costs which would be incurred by the rules must be funded by the Legislature. If our budgetary request is unsuccessful, the Eighth Judicial District would be unable to fully fund the implementation of the Rules.

Thank you for the opportunity to give our input.

Sincerely,

Bruce W. Christopherson
Chief Judge
Eighth Judicial District

ending Violence

Minnesota Coalition for Battered Women
450 N. Syndicate St., Suite 122, St. Paul, MN 55104
612/646-6177 Voice/TDD 646-1527 FAX

March 03, 1997

Frederick Grittner
Clerk of the Appellate Courts
305 Judicial Center
24 Constitution Avenue
St. Paul, MN 55155

Dear Mr. Grittner:

On behalf of the Minnesota Coalition for Battered Women, I am sending a written statement for the Minnesota Supreme Court to consider before acting on the draft of the Proposed Rules for Guardians ad litem as recommended by the Minnesota Supreme Court Guardian ad Litem Task Force. Pursuant to Supreme Court Order CO-95-1475, I have included the required additional copies of my written statement.

Sincerely,

Patricia J. Schneider

Patricia J. Schneider
Legal Advocacy Coordinator

Enclosures

ending Violence

Minnesota Coalition for Battered Women
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March 03, 1997

Frederick Grittner
Clerk of the Appellate Courts
305 Judicial Center
24 Constitution Avenue
St. Paul, MN 55155

Dear Mr. Grittner:

On behalf of the Minnesota Coalition for Battered Women, the following is a written statement for the Minnesota Supreme Court to consider before acting on the draft of the Proposed Rules for Guardians ad litem as recommended by the Minnesota Supreme Court Guardian ad Litem Task Force. The Minnesota Coalition for Battered Women (MCBW) was represented by one seat on the Task Force, first by myself and then by Eileen Hudon; however, a few vital concerns remain that were either not addressed at all, or have not been appropriately addressed in the final draft of the proposed rules. The following are the concerns/issues we-as a collective voice through the Minnesota Coalition for Battered Women (MCBW)-have regarding the proposed rules:

1) **Rule 2.** A statement should be added to this section addressing **current** guardians ad litem (GAL) who have numerous complaints that have been placed against them, to no avail, due to inadequate supervision of GAL's, biased judges, and inappropriate uncontrolled authority given GAL's by the judicial system. There are current GAL's that have caused great harm, injustice, endangerment, and shame to many battered women and their children. The anecdotal information relayed to MCBW is shocking and horrific. Many of these anecdotes were not gathered during the inception of the Task Force or during the original Guardian ad Litem Legislative Audit which is unfortunate because the Task Force then lacked critical information about the deterioration of the Guardian ad Litem system we see today. The language we suggest would be some form of confidential process where before a judicial district or county completes final selection of guardians ad litem, there would be an avenue for the

general public to submit concerns about possible candidates for GAL's to a selection committee. This way, if a GAL selection committee was seeing the same name coming before them with one complaint after another, that candidate will hopefully be removed from consideration as a GAL or a review would be held to further investigate the complaints. We cannot wait another 2 to 3 years for current unethical, unprofessional, and abusive guardians ad litem to continue to ruin children's lives. (This process can be added under Subdivision 3 - Screening Process.)

2) **Rule 4, Subd. 2.** We would like to see some protections in this subdivision about Orders for Protection. If the judicial branch would consider Orders for Protection as "an emergency exists", then judges would be selecting GAL's in Order for Protection cases. We would not like to see that occurring because many of the case scenarios relayed to MCBW involve Orders for Protection and judges selecting a guardian ad litem they favor. Appointment of guardians ad litem in Order for Protection cases is abused by our judicial branch and at least one half of the costs are usually incurred by battered women. We suggest some language that would exempt most Order for Protection cases from Direct Selection by Court to prevent bias and overuse of guardians ad litem.

3) **Rule 7, Subd. 1.** The complaint procedure is very helpful in that there will finally be some form of complaint procedure; however, it is very intimidating and threatening to the person making the complaint. If the complaint is found to be unwarranted, how will the person making the complaint be assured that the guardian ad litem will not be further biased against her/him? Possibly language should be added that once a complaint is made about a GAL, warranted or not, the GAL shall be removed from the case to assure that there will not be bias against the person making the complaint. The only protections currently in this subdivision apply to the GAL whereas the written report relating to the complaint "shall not be introduced as evidence or used in any manner in any case...." What happens if a GAL makes recommendations based on retaliation? The person making the complaint has no recourse in a situation like this.

5) **Rule 7, subd. 2.** Language should be added here similar to a judge removal form where a party could fill out a guardian ad litem removal form for the first guardian appointed and ask for a removal without giving a reason. This would certainly help in situations of conflict of interest, bias, concerns about a guardians unethical, unprofessional conduct, etc. When a second GAL is appointed, then follow the recommendations about a written statement to the judge presiding over the case; however, keep in mind the impact refusal of removing the guardian ad litem will have on the person asking for the removal.

6) **Comments Section, pg. 17.** We would like to see the proposed language deleted that reads: "Rule 8,, subdivision 2, however, does not preclude a guardian ad litem from facilitating visitation, or from negotiating or mediating on an informal basis." The reason we suggest this is, any notation that opens up the possibility for a guardian ad litem to do mediation will in essence make it happen. Minn. Stat. 518.619 Subd. 2., clearly states "**Exception.** If the court determines that there is probable cause that one of the parties, or a child of a party, has been physically or sexually abused by the other

party, the court **shall** not require or refer the parties to mediation **or any other process that requires parties to meet and confer without counsel, if any, present."** It is extremely dangerous for mediation to occur in cases involving domestic violence. We believe a guardian ad litem could make recommendations about facilitating visitation based on the facts of each individual case and any safety concerns that may exist due to domestic violence and/or child abuse prevalent in each case. Also, on page 18, we recommend taking out the language "except as ordered by the court;" under item (d). We believe it is a conflict of interest and a situation that would create bias to have a GAL supervise visits.

7) **Rule 10, subd. 2.** This correlates with our comments to Rule 2 regarding existing guardians ad litem. How is written proof defined? It should be apparent that some current unethical guardians ad litem would know just what to write to satisfy this rule - especially if that guardian ad litem has kept up on the Task Force process. Our concern is that written proof needs to be defined and the public needs to have an avenue to give comment to a selection committee before an existing guardian ad litem is listed on the docket of approved guardians ad litem. Unless some actions are taken to assure this, this process has been futile for the hundreds of families that have been terribly affected by <u>some</u> existing biased, untrained, unethical and/or abusive guardians ad litem.

The seven issues raised herein reflect the main complaints we have fielded at the Minnesota Coalition for Battered Women. Generally, an overall comment we have about this process is that it was not inclusive of communities of color and other under represented populations. The overall population of the Task Force was white and mainly comprised of judges, attorneys, and guardians ad litem, and one representative from battered women and children and no other members of the community at large. The open hearing process last year was unsafe and intimidating for the people who are affected most by guardians ad litem. The Minnesota Coalition for Battered Women appreciated the opportunity to be part of the Task Force; however, we were dismayed by the exclusion of many others.

We thank you for the opportunity to provide this written testimony regarding the Proposed Rules for Guardians ad Litem and sincerely hope you will take into consideration the recommendations given within this statement.

Sincerely,

Patricia J. Schneider
Legal Advocacy Coordinator

Enclosures

March 06, 1997

Frederick Grittner
Clerk of the Appellate Courts
305 Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

Dear Mr. Grittner:

This is my formal request to make an oral presentation to the Minnesota Supreme Court on March 13, 1997, regarding the Minnesota Supreme Court Guardian Ad Litem Task Force's proposed rules.

I have included additional copies of my request to make a presentation along with copies of the materials I wish to present to the Court.

Sincerely,

Tracie M. Svien
17277 North Creek Lane
Farmington, MN 55024
(612) 460-8017

enclosures

Minnesota Supreme Court Guardian Ad Litem Task Force's proposed rules
presented by Tracie M. Svien
March 06, 1997

The issues that I plan on focusing on regarding the Minnesota Supreme Court Guardian Ad Litem Task Force's proposed rules are:

1. Extensive Training for Guardian Ad Litems, especially focusing on Domestic Abuse Issues.
2. The power of the Guardian Ad Litem and accountability.

Guardian Ad Litem's have a lot of power and no one to answer too. Judges make decisions based on what guardians recommend, sometimes those decisions are uninformed because the guardian may not be fulfilling their obligation due to: a) inept knowledge of domestic abuse and how it affects the women and children involved; b) workload; c) bias; or d) other outlying circumstances. Since guardians do not answer to anyone, the judges are often unaware of the whole picture and make decisions regarding the children that actually is extremely detrimental to their emotional/mental/physical growth, along with putting women in danger.

If we continue to allow Guardian Ad Litem's to make recommendations regarding what is in the 'best interest of the children' without having the knowledge of domestic violence and its effect on women and children, we will continue to spiral down the tunnel of disaster. How can we stop domestic abuse if we continually place children and women in situations where they feel unsafe? We are in essence telling our children that it's 'OK'

Studies have shown that the majority of abuse goes unreported. This is true not only in adult relationships, but also teenage relationships. **A Hidden World: What the numbers don't say.** *In a 1992 study at the University of Illinois, at a representative high school outside Chicago, 36 percent of students reported some form of violence in a dating relationship. Perhaps more startling is that only 4 percent had talked about it with an authority figure.*[1] Children who encounter violence inside their homes, more than likely will become victims or abusers themselves. Children learn how to behave by the adults who raise them. This is a proven fact. If children see their father beating their mother, or hear their father speaking to their mother in a degrading manner, they will grow up believing that is the acceptable way to behave. They will bring that behavior into the relationships that they have in their teenage years, continue through their adult relationships, and their children will see that behavior and think it's acceptable. This is how the vicious circle of domestic abuse continues on. Until we stop it at the level of the children and let the children know that it is not acceptable to treat another in an abusive manner, that there are consequences for behaving that way, we will not be able to solve the problem of domestic abuse. Children today really need to be protected from adults. The rates of abused and neglected children in this country have more than doubled from 1980 to 1993, according to federal estimates.[2]

We are all aware of the fact that the majority of domestic abuse goes unreported. This is why domestic abuse is often referred to as "A hidden world." Just because abuse is not reported, DOES NOT mean that it did not happen. I really want to stress that statement. Just because abuse is not reported, does not mean that it did not happen.

I believe that extensive training should focus on the above statement and that Guardian Ad Litem's training should entail the sensitive issue of how and why women and children are highly reactive to the people and/or person who abuse them. They react because they are afraid and feel unsafe. They also react do to the flashbacks they may have of the abuse. Even after 6 years of being separated and divorced from my abuser, I still get shaky and scared when I hear him speak in a particular manner or the way I read his body language. Currently, battered women are often penalized for their fear, how they react in the quest to

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[1] Saint Paul Pioneer Press, Parade Magazine, Dating Violence, by Lynn Harris, September 22, 1996.
[2] Saint Paul Pioneer Press, What Do We Owe Our Children, by Richard Chin, December 15, 1996.

protect themselves and their children, and they are perceived to be uncooperative. Family courts frequently minimize the harmful impact of children witnessing violence between their parents and sometimes are reluctant to believe mothers, especially if the abuse goes unreported. Mothers and their children do not fabricate or exaggerate claims about abuse, yet they are not believed if the abuse is not reported.
I have never yet met an abused child (of whatever age), or woman, who was not crying to be heard and to be believed, to be validated and (eventually) assured that there was nothing "special" about him or her that brought on the abuse.[3] Domestic abuse is not an 'issue' like gun control, education, or welfare reform. Domestic abuse is a fact that traumatizes our children, their mothers, and our culture.

Abusive fathers are far more likely to fight for custody of their children and violence occurs in at least 70% of all contested custody cases. Visitation pick-ups and drop-offs are prime opportunities for these abusers to perpetuate physical and emotional violence towards women and their children. This is a dangerous position for a woman to be in since she is already extremely reactive to this person who abused her, and her biological imperative is to protect her children and herself. They then are often penalized for reacting in a 'typical' manner in relation to domestic abuse, by the same system that is supposed to protect them. Guardian Ad Litem's, Judges, Custody Evaluators who devalue the importance of violence against the mother, or pathologize her responses to it, may accuse her of alienating the children from the father and may recommend giving the father custody in spite of claims or history of abuse.[4][5] The 1996 report by the APA is clear that so-called parental alienation syndrome - which has been one source of prevalent reasoning behind granting an abuser joint custody or even sole custody DOES NOT EXIST.

The NCADV receives numerous calls from women who have been in court for years and who have lost custody of their children to the abusive father. We all need to remember that these fathers continue to abuse their children at the same time that they hold the mother hostage to a judicial battle that she usually does not have the resources to fight. Many abusers discover that using the children is the best way to hurt their former partners. Five percent of abusive fathers threaten during visitation to kill the mother, 34% threaten to kidnap their children, and 25% threaten to hurt their children. (1996 Zorza 1119).[6]

Some final facts to consider concerning the training required for Guardian Ad Litems.

a) majority of domestic abuse goes unreported, that does not mean it did not occur.

b) women and children do not fabricate or exaggerate claims of abuse.

c) women react out of fear and the strong instinct to protect their children and are often perceived to be unreasonable or uncooperative which is an unwarranted perception given the circumstances surrounding the fact of domestic abuse.

d) Abusers are excellent manipulators, they are calm, collective individuals. Training must consist of learning how to read these people.

For example: My ex-husband spent months following me around with a video camera mounted on a tripod in the front seat of his truck. I was terrified during this time and asked the police for help. The police knew he was harassing me, they knew that I was terrified, they talked with him and could tell he was playing a

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[3] Saint Paul Pioneer Press, Parade Magazine, Crying To Be Heard, by Andrew Vachss, November 03, 1996

[4] The Family Violence Project of the National Council of Juvenile and Family Court Judges. "Family Violence in Child Custody Statutes: An Analysis of State Codes and Legal Practice". Family Law Quarterly (Summer 1995)

[5] Davidson, Howard. "Child Abuse and Domestic Violence: Legal Connections and Controversies". Family Law Quarterly 29:2 (Summer 1995). Minn. Stat. Ann. § 609.378 (Supp. 1995).

[6] Zorza, Joan. "Protecting the Children in Custody disputes When One Parent Abuses the Other". Clearinghouse Review 29:12 (April 1996).

horrible, tormenting game with my mind, they gave me suggestions on how to protect myself. The police even admitted to me that these types of individuals are the most dangerous because they walk the gray line of the law. All my ex-husband had to do was claim that he was trying to prove that I was an unfit mother because he was fighting me for custody of our daughter. That reason gave him the OK to terrorize my children and myself.

Another example: Abusive men are good at manipulating people and the system, what they cannot manipulate are the psychological tests. Guardian Ad Litem's need to be educated on those tests. There are built in questions in those tests that can detect when somebody tries to lie on the tests. Hennepin County Family Court Services and Psychological Services had my ex-husband pegged. They could see his manipulation and expressed their concerns in the trial. The custody decision was made based on the recommendation of a bias/unethical guardian ad litem and the independent psychologist that was hired by my ex-husband.

The second issue I would like to focus on is the power that a Guardian Ad Litem has with absolutely no accountability.

A judge needs to take back the power when a Guardian Ad Litem behaves in an unethical/bias manner. Especially if this behavior is expressed in open court. The judge should automatically terminate the guardian and dismiss any recommendations made by that guardian, in conjunction with reprimanding that guardian in some fashion, whether it be putting the guardian on a probationary period, or terminating her guardianship all together.

EXAMPLE: During my custody trial in June 1996, my ex-husband shared with the court that the secretary to the guardian assigned to our case provided child care for him. The guardian assigned to my case, Ms. Mary Catherine Lauhead, acknowledged the facts that her secretary did provide child care for my ex-husband. This was documented by the court reporter as it was stated during the custody trial. The guardian in my case recommended that my ex-husband get custody of our daughter, which the judge honored.

Another example was when my son told the guardian that he and his sister were being abused by this man. The guardian chose not to listen or believe him. She accused him of lying, in front of other professionals (my son's therapist). My son came home from a court ordered visit with my ex-husband with bruises on him. Dakota County Child Protection and Eagan Police were involved, found positive maltreatment, and the guardian continued to threaten me stating that she would recommend a change in custody of my daughter if I did not force my son to continue to visit the man that beat him. Ms. Lauhead stated to me, in front of my outreach advocate from the H.B. Lewis House, "A bruise is just a bruise, he is not dead or in the hospital so it is not a big deal." I did not buckle under her idle threats, she did recommend a change in custody of my daughter, which the judge honored, and now my two children are separated and they see each other every other weekend.

My daughter is coping as well as she can. She is 5 years old and tells everyone that she wishes my boyfriend was her real daddy because her daddy is not nice to her. She asked me if I could talk to the judge and tell the judge that she wants to live with her mommy, her brother, and her soon-to-be step dad. I tell her that I tried and now she needs to wait until she's older and that when she is her brother's age, she can tell the judge where she wants to live. A 5 year old does not comprehend that though.

My son, her half brother who is 12 years old, is not fairing so well. My ex-husband had us tied to the system since before I gave birth to my daughter, over 5 years ago. Because the guardian ad litem continued to force my son into visiting a man that would beat him, instead of protecting him, he started to run-away

on the weekends that he was supposed to go. He just got through with extensive testing down at the Mayo Clinic in Rochester because of the anger that he is exhibiting in school since his sister left our home. The psychiatrist down there told me that my son is falling apart, that he has literally been terrorized over the last 5 plus years and he is scared for his sister. He no longer is in main-stream classes in school. The school put him in a Level 3 classroom on February 03, 1997. (A level 3 classroom consists of about 10 students and they typically does not leave that one classroom all day.)

I am trying my best to help my son, bringing him to therapy on a weekly basis, talking with his teacher daily, talking with him about how things happen that are not fair but we must do our best to work through them, we need to make the best out of a bad situation and we need to be strong so that his sister can be strong through us. At 12 years old, he can comprehend a lot of what I say, but he still sees things in black and white. He knows that the system was supposed to protect him and his sister, and it didn't. He knows that the guardian ad litem was supposed to be someone he could trust and talk honestly to, but she wasn't. He knows that his therapist tried to help him and his sister, but the guardian ad litem would not listen to even him. My son's therapist wanted to testify at the custody trial in June about the guardian's behavior and the statements that she made to him but he was not allowed to state anything of the sort. Before the custody trial, my son told me that he was afraid of loosing his sister because the guardian was not a nice lady and didn't like us. I told my son that this is true but that the judge was a fair person, so he wanted to talk to the judge himself but was not allowed to.

I am not giving you these examples for sympathy but to inform you of the in justices out there that need to be stopped right now. If we don't step up to the plate and put a stop to these types of injustices now, whether it be from bias behavior, unethical behavior, or just plain ignorance, we will lose our children who is our future. I am afraid for my son and daughter and for their futures given the lessons that they have learned from the very system that were supposed to protect them.

Please help solve the epidemic of domestic violence in our nation with requiring extensive training and tough guidelines for accountability, and help these children learn that there is zero-tolerance and stiffer penalties for violent behavior whether it be physical/emotional/mental abuse and also for the people who are supposed to protect them and don't.

In closing, I would like to dedicate this paper to my son and daughter, Adam and Chelcie, so they can grow up knowing that I fought extremely hard to protect them, and keep them from harms way, and that I love them more than life itself. Mommy

First National Bank Building, Suite E-1434, 332 Minnesota Street, Saint Paul, MN 55101 (612) 290-9004

Pastoor Law Office, Ltd.

March 6, 1997

Frederick Grittner
Clerk of Appellate Courts
305 Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

Re: Guardian Ad Litem Rules and Hearing

Dear Mr. Grittner:

Please include me on the agenda for the public hearings scheduled for March 13, 1997, beginning at 2:00 p.m.

I also enclose twelve copies of my written comments.

Very Truly Yours,

Maria K. Pastoor

MKP:km

Enclosures

First National Bank Building, Suite E-1434, 332 Minnesota Street, Saint Paul, MN 55101 (612) 290-9004

Pastoor Law Office, Ltd.

March 6, 1997

Supreme Court of Minnesota
25 Constitution Avenue
St. Paul, MN 55155

Re: Guardian Ad Litem Rules

Dear Justices:

As a family law practitioner since 1986 and an activist in the battered women's movement since 1983, I make the following comments on the proposed rules. My comments are confined to the family law aspects. After discussing background information, I address training, removal, complaints, coordinators, mediation, duties, and deadlines.

BACKGROUND

The idea of a guardian *ad litem* sounds terrific: Someone whose only role in the legal system is to look out for the best interests of children. Unfortunately, it often does not work out that way. I have heard from battered women throughout the state of serious problems involving guardians *ad litem*:

- Many do not inquire in-depth into the effects on children of abuse of their mothers by their partners.

- Some abuse their power, for instance threatening to remove children from long-term custodial parents if the parent does not comply with their recommendations about the terms and conditions of visitation.

- A few conduct themselves outrageously. I have heard from approximately one dozen women about one particular guardian who repeatedly yells at length at parents. Because of this guardian's power and inexplicable credibility with judges, challenging her or attempting her removal always proves futile. This guardian has a large caseload and affects the lives of many children and parents.

Increasing caseloads challenge the bench. Custody and visitation decisions present very difficult challenges. Thus, judges rely heavily on the recommendations of guardians and follow them probably 95% of the time. This results in great power and awesome responsibility in guardians. The proposed rules make a small beginning to placing accountability in the exercise of that power. Much more is needed.

TRAINING—Rules 10 & 12

The requirement of 40 hours of training in Rule 10 is an improvement, but seems like a bare minimum.

Many guardians buy into myths about battering which can result in dangerous custody and visitation recommendations. Many guardians believe that as long as the child wasn't physically hurt, assaults on the mother are irrelevant.[1] Worse, many guardians mistake a battered woman's setting of limits on her abuser as a lack of cooperation disqualifying her from primary parenting.

The single change in the rules that would improve guardians the most is requiring a minimum of six hours of training on a topic already included in the curriculum, dynamics of domestic violence, including impact upon the children and the victim. The rules should require that training be developed in consultation with battered women's advocates and that no one be grandmothered in on this topic.

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[1] Baker v. Baker, 494 N.W.2d 282, 290 n.8 (Minn. 1992) recognized that:

> Even in cases such as this one where no physical abuse of the child has been alleged, the child suffers emotional distress at seeing a parent abused by another. Quinn, Ex Parte Protection Orders: Is Due Process Locked Out, 58 Temp.L.Q. 843, 844 (1985). In addition, children exposed to violence "may reproduce their parents' behavior as adults." Taub, Ex Parte Proceedings in Domestic Violence Situations: Alternative Frameworks for Constitutional Scrutiny, 9 Hofstra L.Rev. 95, 96 (1980).
>
> One study estimated that up to 50% of those involved in domestic violence grew up in violent homes. Quinn, Ex Parte Protection Orders: Is Due Process Locked Out, 58 Temp.L.Q. 843, 844 n. 4. See also, United Nations, Violence Against Women in the Family, 24 (1989) (citing a 30 year longitudinal study that showed ongoing parental conflict and violence as "significantly predictive of serious adult personal crimes (e.g., assault, attempted rape, rape, attempted murder, kidnapping and murder)"). In a study involving families that experienced domestic violence, 87% of the women reported that their children were aware of the violence. Note, Keenan, Domestic Violence and Custody Litigation: The Need for Statutory Reform, 13 Hofstra L.Rev. 407, 418 n. 80 (1985).

Many professionals mistakenly believe that they understand the dynamics of abuse. They think that their exposure to a battered friend, or client, or litigant has taught them everything they need to know. While listening to battered women is an important first step, many professionals nevertheless develop harmful myths about battering (e.g. it doesn't make any difference as long as he didn't hit the kids; she provoked his assault; she needs to just get over it and cooperate for the good of the kids). Many guardians do not understand that threatening a battered woman with loss of custody or yelling at her only replicates the experience of abuse. Existing guardians must be trained. The professional expertise of battered women's advocates should be recognized and used.

I note that "family law facilitative neutrals" must complete a minimum of six hours of certified training in domestic abuse. Minn. R. Gen. P. 114.13(c) (effective July 1, 1997). We must expect at least that amount of training for those who will ultimately decide the parenting arrangements for most children for whom they advocate. If necessary, the length of the 40-hour training should be increased to accommodate the domestic violence training.

The rules should provide that training must be developed in consultation with battered women's advocates. The actual trainers should be battered women's advocates and battered mothers. Rule 12, subd. 3 should be clarified so that such trainers are not excluded. A training model I have seen work well is one that starts with a panel of battered women who tell their stories and answer questions, followed by interactive training on topics specific to the professionals being trained. Excellent videos including survivors' and perpetrators' perspectives are available to supplement any training, but should not replace the elements previously described.

RIGHT TO ONE REMOVAL—Rule 7

In reality, guardians exercise more power over children and parents than judges in most cases. It is therefore appropriate to allow a right to remove within 10 days of notification of who the guardian is, with no need to prove cause. Compare the similar right to remove judicial officers. Minn. Stat. § 487.40, subd. 2; Minn. R. Civ. P. 63.03.

Neutrals appointed by the court under Minn. Gen. R. Pract. 114.05 (c)(effective July 1, 1997) may be removed once upon 10 days notice once for no reason. We owe no less to our children when it comes to their guardians. I support the Hugh McLeod alternative in the Appendix to the task force report.

CAUSE FOR REMOVAL—Rule 7

Proposed Rule 7 allowing removal of a guardian "for cause" makes no improvement on the current state of matters. Right now one can attempt to remove a guardian for cause—it's within the inherent powers of the court. Grounds for removal must be spelled out.

This issue was raised early in the task force's deliberations. I do not understand why the task force did not even develop a minority position with specific grounds for removal. I urge the court to answer a question frequently asked of me—what does it take to get a guardian removed from a case? Negligent discharge of duties? Gross incompetence? Disrespectful behavior toward a parent? *Ex parte* communication with the court? Failure to meet applicable deadlines? Failure to ascertain a 15-year-old's wishes?

COMPLAINT PROCEDURE—Rule 7

The complaint scheme in Rule 7 seems designed primarily to protect guardians. Complainants should be protected from retaliation and allowed to use complaints and related records in cross-examining a guardian about bias.

CHOICE OF GUARDIAN BY COORDINATOR—Rule 3

Rule 3, subd. 4 must not be weakened. Battered women's experiences ring true to the findings of the legislative auditor quoted in the Final Report of the Advisory Task Force on the Guardian Ad Litem System:

> "The perception of parents and others of the independence of the judge and guardian is important, and judges should try to limit their involvement in the selection of a specific guardian for a case." (p. 72)

> "Among the complaints most often expressed by parents and attorneys, however, was that 'guardians have too much power, and that they are too close to the judge.'" (p. 74)

The proposed rule does not differ from existing procedures in parallel situations. Courts do not currently have the power to name particular custody evaluators in counties that maintain a department of court services. They simply order a custody evaluation, and the head of the department assigns the evaluator.

If this court nevertheless grants judges sole authority to choose guardians, it must add a one-time right to remove.

MEDIATION—Rule 8

I strongly urge removal of the clause in the commentary to Rule 8 (p. 17 of proposed rules) which states, "Rule 8, subdivision 2, however, does not preclude a guardian ad litem from facilitating visitation, or from negotiating or mediating on an informal basis." Four reasons support this:

1. The enormous power guardians have makes the process of mediation feel very coercive to parents. Frequently guardians are granted the power to decide terms and conditions of visitation, on a temporary or even permanent basis. Imagine as a parent how you would respond to a guardian who wants you to agree to joint legal custody, knowing that the guardian is about to decide whether to allow overnight visits of your children with the man who has abused you. You might be reluctant to anger a guardian by refusing to agree. This and worse has happened under the current system. The pressure to settle cases and move them through the courts should not result in guardians being given the power to mediate in any form.

2. The comment contradicts the rule. Rule 8, subd. 2 clearly states, "the guardian ad litem may not be ordered to, and may not perform the role of mediator."

3. Because guardians are most often appointed in cases involving abuse of children, woman abuse is often present as well. Existing and new rules generally prohibit mediation in such instances, yet many guardians persist. See Gen. R. Pract. 310.01, 114.04 (effective July 1, 1997); Minn. Stat. § 518.619 subd. 2. Do the

policy reasons no longer apply when the mediation is "informal"? What does "informal" mediation mean?

4. If guardians may mediate, formally or informally, they should be required to obtain placement on the roster of facilitative neutrals first.

DUTIES—Rule 8

Rule 8, subd. 2 seems to have overlooked the standard for custody modification in Minn. Stat. § 518.18. This must be added to the statutes listing factors guardians must address in modification cases. The higher standard applied in custody modifications is sometimes overlooked by less-experienced guardians.

DEADLINE FOR RECOMMENDATIONS—Rule 9

Current Gen. R. Pract. 108.01 requires that guardians' recommendations be in writing and be submitted to the parties and the court at least 10 days prior to any hearing at which the recommendations will be made. This is an important due process protection for parents. This rule must be retained, and would best be incorporated into Rule 9, subd. 2(d).

CONCLUSION

The proposed rules take minimal steps to improve the guardian *ad litem* system. They must not be weakened. Rather, they should be strengthened by increasing training about domestic violence, tightening restrictions on mediation, improving accountability via meaningful rights to remove, setting deadlines, and adding protections from retaliation for those who file complaints.

I look forward to addressing the Court and answering any questions.

Respectfully Submitted,

Maria K. Pastoor

Maria K. Pastoor
MKP:km

March 7, 1997

Frederick Grittner
Clerk of the Appellate courts
305 Judicial Center
25 constitution Avenue
St. Paul, Minnesota 55155

Dear Mr. Grittner:

I am sending a written statement for the Minnesota Supreme Court to consider before acting on the recommendations of the Minnesota Supreme Court Guardian Ad Litem Task Force.

I have included the required additional copies of my statement.

Sincerely,

Selah Taylor

March 7, 1997

To: The Minnesota Supreme Court

In Re: the Recommendations of the Guardian Ad Litem Task Force.

My name is Selah Taylor. I am currently involved in divorce and child custody proceedings pending in Morrison County, Minnesota. The Guardian Ad Litem assigned to my children's case is Theresa Ringwelski.

Ms. Ringwelski was appointed by the court on September 3, 1996. When I learned of her appointment on September 23, 1996, I telephoned her from the Women's Shelter, where my children and I were staying at the time. She stated that she "was too busy to talk" and she "would call me back" at a more convenient time. This return phone call never occurred. This became a recurring pattern from September 23, 1996 to present. I would call and leave a message and Ms. Ringwelski would state that she would return my call, however the return phone calls never happened. Additionally during this same time frame, my children were present at their father's residence when Ms. Ringwelski would telephone and speak with him. The children stated that this occurred on a

weekly basis, with Ms. Ringwelski phoning their father and he would go to his room to speak with her in private for approximately an hour at a time. The Guardian Ad Litem called my children's father at least sixteen times during September 23, 1996 to November 16, 1996.

The single opportunity for me to speak with my children's Guardian Ad Litem occurred sometime during the last half of October, 1996. Ms. Ringwelski visited with my children and me for approximately twenty minutes. During this brief time, I asked her to verify the accusations made, in reference to me, by my husband. At this time she had not verified any of the accusations. Also at this interview, I had documentation verifying the inaccuracies of the accusations. In her opinion the documentation was not relevant to my children's case. The entire interview was with my children present. This was very uncomfortable for me because I did not feel at ease to discuss some of the delicate issues concerning the case. I did not feel at all comfortable talking about too many details concerning issues that would have been detrimental with my children listening. I also requested that she examine or investigate my husband's financial status, workers compensation claims, and social security claim. I asked her to speak with people who had relevant opinions concerning my parenting abilities, such as; my parents, my children's teachers, the advocates at the Brainerd Women's Shelter, my counselor - Cathy Liane, or to verify my involvement with the Girl Scouts of America. She spoke with none of these witnesses to my character. Instead she issued a report on December 30, 1996

comprised of untruths and misleading statements to include; that my children would have to change schools when they moved with me to a different residence, statements in reference to my counseling from a person who was not my counselor, etc.

When I spoke with Ms. Ringwelski after January 2, 1997 and after I had read her report, she admitted to me that her report did contain the untruths and misstatements. However, she also stated that, in her opinion, her misstatements of fact did not warrant a retraction from the original report concerning my children's best interest.

On January 29, 1997, a hearing was held in Morrison County to dispute the Guardian Ad Litem's report. I was sitting outside the court room with Ronda LaPointe, the children's advocate from the Women's Shelter in Brainerd. Ms. Ringwelski walked by us. I did not recognize her as I had only seen her once briefly in late October, 1996. When my husband and his attorney appeared, she went immediately over to them to discuss how she should write her next report that the court had ordered. Ms. Ringwelski did not speak to me once on this day.

I am personally very frustrated with this Guardian Ad Litem and her unprofessional behavior. I have been informed by my attorney that she can not be removed from my children's case. I do not feel that this person has in any

manner acted in the best interest of my children. I was under the impression that this is the sole purpose of a court appointed Guardian Ad Litem. I do not know if she has any training in child psychology of anything else pertaining or relevant to the well being of children. Ms. Ringwelski is a professional hall monitor for an elementary school. I do not feel that this is sufficient professional training to be a court appointed Guardian Ad Litem.

The impact of this inaccurate report is that on March 2, 1997, the police were sent by Mr. Thoele to my home to remove my three children and turn them over to his custody. They have had to change schools and their lives have been disrupted.

Selah Taylor 3-7-97

Selah Taylor Date

FACSIMILE TRANSMISSION

■ TO

Frederick Grittner
Clerk of Apellate Court
25 Constitution Ave
St Paul, MN 55155

PHONE FAX 612-297-4149

DATE 3/7/97

☒ URGENT
If box is checked, notify recipient immediately.

■ FROM

Selah Taylor
To Mid-MN Women's Center
P.O. Box 602 Brainerd MN
218 828 1216

PHONE FAX

NUMBER OF PAGES

including this one

Please contact sender if you do not receive facsimile in full.

■ SUBJECT MN Supreme Ct. Guardian Ad Litem Task Force Rules

■ MESSAGE

Beccue & Kallestad, Attorneys

(320) 235-1864

Boyd Beccue
John Kallestad
Jennifer K. Fischer

Mailing Address: P.O. Box 1126
316 West Fourth Street
Willmar, Minnesota 56201
FAX (320) 231-2706

March 6, 1997

Frederick K. Grittner
Clerk of Appellate Courts
245 Minnesota Judicial Center
25 Constitution Ave.
St. Paul, MN 55155-6102

RE: Public Comment on Proposed Minnesota Rules of Guardian Ad Litem Procedure

Dear Mr. Grittner:

Our thanks to the Court for the opportunity to make a statement regarding the proposed Minnesota Rules of Guardian Ad Litem Procedure. We collaborated to put our thoughts in a joint comment.

Nancy Carlson is an Associate of the law firm of Anderson and Burgett, P.O. Box 306, Willmar, Minnesota 56201-0306. She has been practicing Family Law, among other areas, for approximately 3 years. She has had numerous contacts with Guardians Ad Litem in the Eighth Judicial District.

Jennifer Fischer is an Associate of Beccue and Kallestad. She has been practicing Family Law for approximately 2 years. Previous to beginning practice, Fischer was a Judicial Law Clerk for the Hon. Allen D. Buchanan in Willmar. Fischer was also a Guardian Ad Litem in Ramsey County prior to moving to the Willmar area in 1993.

Our worries regarding the current Guardian Ad Litem procedures are significant. Plus, we think that there are problems that arise in an area the size of Willmar and the Eighth Judicial District that are distinct from those of the metro area.

First, we are concerned that the proposed rules continue to assume that the individual districts' program coordinators are able or willing to adequately control "problem" guardians. Perhaps with the anonymity of a larger metro program this is less of a problem. However, in a smaller community, there are fewer Guardians Ad Litem enlisted, less turnover and a more intimate relationship between the Guardians and the Program Coordinator. Attorneys who regularly practice in Family Law frequently have the same Guardian appointed to more than one case, and/or have had contact with most of the Guardians employed by the district.

As such, we are concerned that the PERFORMANCE EVALUATION and COMPLAINT PROCEDURE set forth in proposed Rule 6 subdivision 2 and Rule 7 subdivision 1 are not sufficient to protect parties in family court. We feel that it would be better if a panel was involved in the review process rather than simply one individual. We believe that the current proposal will lead to error and decisions involving bias. This is because the program coordinator in a sparsely populated area is likely to be partial to the Guardian that he or she hired and with whom he or she has an ongoing close working relationship. We suggest a panel of about 5 appointed, volunteer persons, with a mixed-makeup of attorneys, lay people, the program coordinator, and other persons with experience in family or juvenile issues, such as county custody evaluators or social workers.

Also, we have concerns about the proposed Rule 7 subdivision 2 REMOVAL OF GUARDIAN AD LITEM FROM PARTICULAR CASE. Both of us have had serious problems with a particular Guardian Ad Litem. No existing complaint procedures have helped to remove this Guardian from the panel. As such, we are both faced with the potential of having this Guardian appointed to a future case and being unable to secure a removal. We believe this subdivision should work similar to the request for removal of a judge. That is, on the first occasion, the party would not have to show bias for removal, but rather would simply be allowed one automatic removal. A motion for second removal would require a showing of bias. This would make it easier for lawyers to protect the interests of their clients.

Rule 8 subdivision 1(g) provides for potential problems. We suggest a standard destruction of documents policy upon discharge from the case, rather than "the Guardian Ad Litem should exercise reasonable discretion". Too often, we have dealt with Guardians who are unable to exercise reasonable discretion regarding any matter. Relying on the Guardian to decide what to do with documents leaves room for abuse and/or neglect. Also, once the Guardian is discharged, there is a question of where private data would be stored. It would be safer to merely destroy everything, since the originals are kept in the court file.

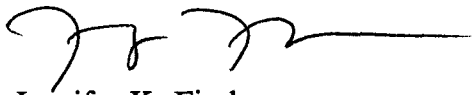
We are very pleased with Rule 8 subdivision 2 OTHER ROLES DISTINGUISHED. One of our biggest concerns as family law attorneys has been that unqualified Guardians make recommendations, painted with too broad of a brush, concerning which party should receive physical and/or legal custody. This new rule will require the Guardian to be qualified as a custody evaluator before being allowed to make a custody recommendation. We think this will open the door for attorneys to argue for exclusion of a Guardian's report if the Guardian crosses the line from reporting facts about "best interests" to giving a custody evaluation.

Also, we are alarmed that Guardians often play too big of a role in the children's lives (especially young children), becoming a significant person to them. Thus, the restrictions on transporting and entertaining the children are appreciated. Recently, one of my clients found out at trial that the Guardian Ad Litem had frequently been taking her children to the Dairy Queen, the park and other places while the other parent had visitation. It was an alarming situation and my client had a right to expect more professional behavior.

We are very pleased that these Rules are being promulgated. We appreciate the work that has gone into creating these rules and value the opportunity to comment on them.

Sincerely,

Nancy J. Carlson



Jennifer K. Fischer

Battered Women's Legal Advocacy Project, Inc.

March 7, 1997

Frank Grittner
Supreme Court
25 Constitution Avenue, RM 301
St. Paul, MN 55155-6102

Dear Mr. Grittner:

Attached please find my proposed list of issues concerning public testimony on the Proposed Rules of Guardian ad litems. I am requesting to testify at this public hearing.

Any question you reach me at the address below.

Sincerely,

Michelle Therese Paquin

c: file

1885 University Avenue West, Suite 50
St. Paul, Minnesota 55104
1-800-313-2666 612-649-3620
fax 612-649-3625

Comments on Proposed Rules for Guardian ad Litem
March 7, 1995

Rules for Guardians ad litem unfortunately need to be a necessary part to our legal cases. The current parameters of any guardian leave too much room for abuse. In my experience, too many times GALs are appointed and weld too much power. In some cases, GAL who are attorneys abuse their position and favor litigious solutions which represent their personal agendas rather than the children their are appointed to serve. In rural areas where there are few GALs may who fill the position as visitation expeditator. It seems that these GALs blur their role and no longer keep the best interests of the child at the forefront.

When cases were known to end, many women say that the GAL remain in their lives several years after the cases may have last been heard in court. It appears that there is no clear message on closure of a GAL duties.

In cases of Indian Children, the role of the GAL can play an important role. In order to achieve statutory compliance, I fully advocate for Indian GAL in order to achieve best possible results for Indian children.

Here are some specific issues with the proposed rules:

Rule 1, subd. 2: There must be powers set out to oversee, discipline, or review GALs.

Rule 2: Should include requirement that if previously removed or stricken that the GAL should not be reappointed. Also for requirements -- that part of their training include Domestic Abuse. GALs may not understand the effects of Domestic Abuse on women and erroneously recommend custody arrangements.

Rule 3, subds. 2. and 3: require GALs to disclose whether they were ever parties to action involving custody. Such a requirement may be telling if the GAL have a particular platform or may have abused the power delegated to them. Further, all references should be checked out instead of one of three references.

Rule 7, subd. 1: A copy of the report should be distributed to the judge of the case also, who may wish to remove or discipline a GAL for unethical conduct or remove the GAL. It is important for a judge to have this information especially when the case involves a custody determination as to remove any taint of one-sidedness that a GAL may have created. Further, that information in the personnel file should be disclosed to judges considering appointing a GAL.

Rule 8, subd. 1 (k): GAL should be careful as to not show bias in any evaluation decisions.

KISSOON, CLUGG, LINDER & DITTBERNER LTD

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LEGAL ASSISTANTS
TERESA A. MIESSEN
MINH T. PHAM
NICOLE J. MAJKRZAK
ELIZABETH D. RETZLAFF
SUZANNE S. NELSON

VIA FACSIMILE AND U.S. MAIL

March 10, 1997

Mr. Frederick Grittner
Clerk of Appellate Courts
305 Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

Re: Public Hearing on the Final Report of the Minnesota Supreme Court Advisory Task Force on the Guardian Ad Litem System

Dear Mr. Grittner:

In the Comments of the Guardian Ad Litem Task Force Report Committee of the Family Law Section of the Minnesota State Bar Association on the Final Report of the Minnesota Supreme Court Advisory Task Force on the Guardian Ad Litem System, which were submitted on March 7, 1997, I stated that I would advise the Court whether the Family Law Section approves the Comments or makes amendments thereto at its regular monthly meeting on March 8, 1997.

At the March 8, 1997, meeting the Family Law Section passed a motion to adopt, as the position of the Section, the reasoning set forth by Judge Baland at Appendix B to the Proposed Minnesota Rules of Guardian Ad Litem Procedure with respect to guardians ad litem also serving as visitation expeditors. The Section also passed a motion to approve the written Comments submitted on March 7, 1997, in their entirety.

I would greatly appreciate it if you would convey these actions of the Family Law Section to the Supreme Court.

Respectfully,

Karen I. Linder, Esq.
Chair, Guardian Ad Litem Task Force
Report Committee of the Family Law
Section of the Minnesota State Bar
Association
Attorney I.D. No. 140508

cc: JoMarie Alexander, Chair, Family Law Section

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OFFICE OF
APPELLATE COURTS

MAR 10 1997

FILED

VIA FACSIMILE AND U.S. MAIL

March 10, 1997

Mr. Frederick Grittner
Clerk of Appellate Courts
305 Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

Re: Public Hearing on the Final Report of the Minnesota Supreme Court Advisory Task Force on the Guardian Ad Litem System

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Respectfully,

Karen I. Linder, Esq.
Chair, Guardian Ad Litem Task Force
Report Committee of the Family Law
Section of the Minnesota State Bar
Association
Attorney I.D. No. 140508

cc: JoMarie Alexander, Chair, Family Law Section

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VIA MESSENGER

March 7, 1997

Mr. Frederick Grittner
Clerk of Appellate Courts
305 Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

Re: Public Hearing on the Final Report of the Minnesota Supreme Court Advisory Task Force on the Guardian Ad Litem System

Dear Mr. Grittner:

Enclosed herewith for filing relative to the above-referenced matter please find an original and 12 copies of the following documents:

a) Comments of the Guardian Ad Litem Task Force Report Committee of the Family Law Section of the Minnesota State Bar Association on the Final Report of the Minnesota Supreme Court Advisory Task Force on the Guardian Ad Litem System; and

b) Request to Make Oral Presentation.

Sincerely,

Karen I. Linder

Karen I. Linder

:mtp

Enclosures

STATE OF MINNESOTA
IN SUPREME COURT
CO-95-1475

COMMENTS OF THE GUARDIAN AD LITEM TASK FORCE REPORT COMMITTEE
OF THE FAMILY LAW SECTION
OF THE MINNESOTA STATE BAR ASSOCIATION
ON THE FINAL REPORT
OF THE MINNESOTA SUPREME COURT
ADVISORY TASK FORCE ON THE GUARDIAN AD LITEM SYSTEM

****

Members of the Family Law Section of the Minnesota State Bar Association hold varied opinions about certain aspects of the Proposed Minnesota Rules of Guardian Ad Litem Procedure contained within the Minnesota Supreme Court Advisory Task Force on the Guardian Ad Litem System Final Report dated February 16, 1996 (hereafter, "Proposed Rules"). Strong consensus exists on only one issue: members of the family law bar firmly believe that parties to a proceeding should be allowed, with the approval of the court, to select the guardian ad litem on their case. These Comments will address this, and other, issues. Changes to the Proposed Rules recommended by the Guardian Ad Litem Task Force Report Committee of the Family Law Section of the Minnesota State Bar Association (hereafter, "Committee"), are in italic type.

I. PARTIES SHOULD BE ALLOWED TO SELECT THEIR OWN GUARDIAN AD LITEM, WITH THE APPROVAL OF THE COURT.

The Committee believes that in those cases in which the parties can agree upon the appointment of a guardian ad litem, and are allowed to select the guardian ad litem, with the approval of the court, cooperation on other issues will be fostered and the parties will develop a greater sense of true participation in the proceedings. As a result, the parties may be more willing to

voluntarily comply with recommendations made by the guardian ad litem and ordered by the court. Mutual selection of a guardian ad litem acceptable to both parties is often the first step toward some cooperation between the parties concerning their children.

The Committee recommends that Proposed Rule 4, Subdivisions 1 and 3, be amended as set forth below to give parties the right to agree upon a guardian ad litem, if they so choose, with the approval of the court.

Rule 4. [APPOINTMENT OF GUARDIANS AD LITEM.]

Subdivision 1. [REQUEST BY COURT; RECOMMENDATION OF GUARDIAN AD LITEM FOR APPOINTMENT.] Except as provided in subdivision 2, when the court determines that the appointment of a guardian ad litem is appropriate in a particular case, *and the court and counsel, or a party, if pro se, cannot agree upon a guardian ad litem,* the court shall request that the program coordinator recommend a guardian ad litem for appointment. In cases where the appointment of a guardian ad litem is statutorily mandated, the request shall be made at the earliest practicable time. Upon receipt of a request, the program coordinator shall promptly recommend a guardian ad litem to the court, applying the factors set forth in subdivision 3. Unless the court determines, in the exercise of judicial discretion and applying the factors set forth in subdivision 3, that the guardian ad litem recommended is not appropriate for appointment, the court shall enter a written order pursuant to subdivision 4 appointing the guardian ad litem recommended. If the court communicates a determination to not appoint the guardian ad litem recommended, the program coordinator shall promptly recommend another guardian ad litem for appointment.

* * *

Subd. 3. [FACTORS TO BE CONSIDERED IN SELECTION.] All pertinent factors shall be considered in the identification and selection of the guardian ad litem to be appointed, including the age, gender, race, cultural heritage, and needs of the child; the cultural heritage, understanding of ethnic and cultural differences, background, and expertise of each available guardian ad litem, as those factors relate to the needs of the child;

the caseload of each available guardian ad litem; and such other circumstances as may reasonably bear upon the matter. In every case, the goal is the prompt appointment of an independent guardian ad litem to advocate for the best interests of the child. To be appointed pursuant to subdivision 4, a guardian ad litem must meet the minimum qualifications set forth in Rule 2, must have no conflict of interest regarding the case, and must be listed on a panel of approved guardians ad litem maintained pursuant to Rule 3, subdivision 4. *The parties to a case may recommend that a particular guardian ad litem be appointed and may, by agreement and with the approval of the court, select a particular guardian ad litem for appointment.* No person shall be appointed as a guardian ad litem in any case governed by the Indian Child Welfare Act or the Minnesota Indian Family Preservation Act unless that person demonstrates knowledge and an appreciation of the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.

* * *

The Committee also recommends deleting from Proposed Rule 4, Subdivision 1, the requirement that the court communicate to the program coordinator its reasons for declining to appoint a guardian ad litem recommended by the program coordinator. In the view of the Committee, the court should have the authority to reject a guardian ad litem recommended by the program coordinator without reciting the reasons therefor.

II. OTHER RECOMMENDED CHANGES

A. The requirement of background checks for guardian ad litem applicants should be deleted.

The Committee recommends deletion of the personal background check requirement from Proposed Rule 3, Subdivision 3. A requirement that guardian ad litem applicants be subject to background checks is vague and might easily be abused. Such a

requirement would unduly burden and invade the privacy of applicants, resulting in a decrease in guardian ad litem applicants. The rule would continue to require a criminal history of all guardian ad litem applicants. This should provide a sufficient basis for protecting the parties and their children from unqualified and undesirable applicants.

The Committee recommends that the Proposed Rule 3, Subdivision 3, be amended as set forth below:

Rule 3. [SELECTION OF GUARDIANS AD LITEM.]

* * *

Subd. 3. [SCREENING PROCESS.] Before an applicant is approved by the program coordinator for inclusion on a panel of guardians ad litem maintained pursuant to subdivision 4, (a) the written application shall be reviewed, (b) the applicant shall be interviewed, (c) the applicant's references shall be contacted, and (d) a criminal history shall be obtained.

* * *

B. The court should determine whether a guardian ad litem is removed from the panel of approved guardians ad litem.

The Committee believes that Proposed Rule 6, Subd. 2, concerning performance evaluations and removal of guardians ad litem from a panel, should be amended to provide that the court, not the program coordinator, make the decision whether to retain a guardian ad litem on the panel of approved guardians ad litem. The court should have the authority to determine an issue as serious as whether to remove a guardian ad litem from the approved panel.

The Committee recommends that Proposed Rule 6, Subd. 2, be amended to read as follows:

Rule 6. [SUPERVISION AND EVALUATION OF GUARDIANS AD LITEM.]

* * *

Subd. 2. [PERFORMANCE EVALUATION; REMOVAL FROM PANEL.] The program coordinator(s) shall provide for the periodic evaluation of the performance of guardians ad litem serving in the judicial district. The evaluation shall be objective in nature and shall include a review of the cases assigned to the guardian ad litem; a review of the guardian ad litem's compliance with the continuing education requirements set forth in Rule 11; inquiries to judges presiding over cases in which the guardian ad litem was appointed; a review of complaints filed against the guardian ad litem, if any; follow-up checks pursuant to Rule 2, clause (c), if warranted; and such other information as may have come to the attention of the program coordinator. The evaluations shall be undertaken, at least in part, by means of a written performance evaluation instrument, which may be in the form set forth in Appendix F. A written record of the completed evaluation shall be maintained in the guardian ad litem's personnel file. The performance of each guardian ad litem shall be evaluated once during the first six months after the guardian ad litem is first appointed as a guardian ad litem and, thereafter, at least annually. *On the basis of the evaluation, the program coordinator shall recommend to the chief judge whether to retain the guardian ad litem on the panel of approved guardians ad litem maintained pursuant to Rule 3, subdivision 4.* A guardian ad litem removed from a panel of approved guardians ad litem following an unsatisfactory performance evaluation shall not be eligible for service as a guardian ad litem in any judicial district. When a guardian ad litem is removed from a panel of approved guardians ad litem following an unsatisfactory performance evaluation, notice of the removal shall be given by the program coordinator to the State Court Administrator. The State Court Administrator shall maintain a list of guardians ad litem removed from panels of approved guardians ad litem following unsatisfactory performance evaluations.

C. In some cases, copies of reports investigating complaints against guardians ad litem should be provided to the person making the complaint, all parties, and the guardian ad litem, while use of the reports is left to the discretion of the court.

Proposed Rule 7, Subdivision 1, concerning the complaint procedure should be amended to provide that program coordinators provide written reports to the court upon the completion of an investigation of a complaint against a guardian ad litem and that, in certain circumstances, copies of the written report be given to the person making the complaint, all parties, and the guardian ad litem. Once again, the Committee believes that the court should have the ultimate authority to address an issue as serious as that of a complaint lodged against a guardian ad litem.

Moreover, if the program coordinator does not determine after investigation that a complaint is unsubstantiated, copies of the report should be provided to all parties, not just the person making the complaint and the guardian ad litem, although the use of such a report should be determined only by the court. Providing a copy of the report only to the person making the complaint, the guardian ad litem, and the court, may result in an information imbalance that may be detrimental to one or more of the parties or the children.

As a result, the Committee recommends that Proposed Rule 7, Subdivision 1, be amended as follows:

Rule 7. [COMPLAINT PROCEDURE; REMOVAL OF GUARDIAN AD LITEM FROM PARTICULAR CASE.]

Subd. 1. [COMPLAINT PROCEDURE.] A person who has concerns regarding the performance of a guardian ad litem may present those concerns to the program coordinator. Upon receipt of a signed, written complaint regarding the performance of a guardian ad litem, the program coordinator shall promptly conduct an investigation into the merits of the complaint. In conducting the investigation, the program coordinator shall seek information from the person making the complaint and the

guardian ad litem, and may seek information from any other source deemed appropriate by the program coordinator. Upon completion of the investigation, the program coordinator shall *prepare a written report to the appointing judge or the judge assigned to the case describing the nature of the complaint and the nature and extent of the investigation conducted. If the program coordinator does not conclude that the complaint is unsubstantiated, then copies of the written report shall be provided to the person making the complaint, all parties, and the guardian ad litem.* Unless authorized by written order following an in camera review by the court, neither the report nor the subject matter of the report shall be introduced as evidence or used in any manner in any case in which the guardian ad litem is serving, has served, or may serve in the future.

* * *

The comments contained herein are the comments of this Committee only and have not, to date, been approved by the Family Law Section. As chair of the Committee, the undersigned will advise the Court whether the Family Law Section approves these Comments or makes amendments thereto at its regular monthly meeting on March 8, 1997.

Respectfully submitted this 7th day of March, 1997.

Karen I. Linder, Esq.
Chair, Guardian Ad Litem Task Force Report Committee of the Family Law Section of the Minnesota State Bar Association
Attorney I.D. No. 140508
Kissoon, Clugg, Linder & Dittberner
3205 West 76th Street
Edina, MN 55435
(612)896-1099

STATE OF MINNESOTA

IN SUPREME COURT

CO-95-1475

REQUEST TO MAKE ORAL PRESENTATION

****

The Guardian Ad Litem Task Force Report Committee of the Family Law Section of the Minnesota State Bar Association respectfully requests that it be permitted to make an oral presentation at the public hearing to consider the recommendation of the Advisory Task Force on the Guardian Ad Litem System to adopt the Proposed Minnesota Rules of Guardian Ad Litem Procedure on March 13, 1997, at 2:00 p.m., in Courtroom 300, Minnesota Judicial Center, 25 Constitution Avenue, St. Paul, MN 55155.

Respectfully submitted this 7th day of March, 1997.

Karen I. Linder

Karen I. Linder, Esq.
Chair, Guardian Ad Litem Task Force Report Committee of the Family Law Section of the Minnesota State Bar Association
Attorney I.D. No. 140508
Kissoon, Clugg, Linder & Dittberner
3205 West 76th Street
Edina, MN 55435
(612)896-1099

Dear Sirs, 3/7/97

Thank you for listening to public opinion about the rules for guardian ad lightems in the state of Minnesota.

Unfortunately, I did not have an opportunity to read the proposed rules before writing this letter; hence, some of my issues may have already been addressed.

I have had 5 years experience (recent) as a public health nurse in outstate MN. My caseload was almost entirely young families, handicapped children, and pregnant women. I made frequent visits to homes with social workers for abuse and neglect. I need to express very strongly to you the importance of the role of these guardian ad lightems. Our children need these adults for protection and as a neutral party!

A recent incident in my personal life made me aware of some of the problems with this system. About 1 year ago I had a message on my home answering machine from a guardian ad lightem in a nearby county. I became involed with the case and testified for the first time in my life. There were several issues with the system or process that concerned me. I will try to keep personal issues out of the concerns.

1. Who regulates these people? I never did get an answer and I asked several people. I was told call the judge. This seems very inappropriate to me. Did other professionals wash thier hands because of the individual involved? I was amazed that 2 County Attorneys, a supervisor, and 2 judges not involved told me this. There were some very unprofessional situations concerning this guardian ad lightem. They needed to be reported and someone who was monitoring this behavior needed to be aware of this. Who could I go to? No one at the county level in outstate MN.

2. What is the status of information collected? Is it public, private, or privileged? No one, including the judges and the judge on the task force could answer this? As a nurse, I know a birth certificate is public data. No one needs permission to look at one on file at our courthouse. The medical record of the delivery however, is private. A release is needed to read a medical chart. The information on any abuse of the baby is privileged and protected by the courts. HOW IS INFORMATION COLLECTED BY A GUARDIAN AD LIGHTEM CLASSIFIED? I am very uncomfortable with the state of MN collecting information under the protection of the court system and judges cannot tell me how it is classified (by the way the 2 county attorneys and 2 private attorneys couldn't either!). Everyone told me,"That is a good question!"

3. What rules govern the role of these people in a courtroom? When I was on the wittness stand the attorneys did their objection sustained overruled routine just like on TV. When I was questioned by the guardian ad lightem (which by the way I did not even know she could do - it would have been nice to be aware of that) neither attorney said a word! I was very surprised that 2 people who were

very good at their jobs both sat down and shut up. The message was very clear : hands off the guardian ad lightem. This woman intoduced new topics, almost harrassed the other person who testified, and misquoted my statements. I had to correct her twice on 3 different statements. Neither attorney did that to me.

4. Who authorizes these people to contact individuals? I had information that I would consider private left on my unidentified home answering machine! I was not involved with the case. The guardian ad lightem got my name out of the phone book based on my son's picture in a nearby newspaper. My son is an excellent athelete and was written up in a regional paper. He plays the same sport as one of the children on her caseload and the guardian ad lightem thought my son was the best friend of her child. My son is 5 years older than the child involved! She was calling names out of a phone book, had no idea who I was, and discussed the case freely with me without meeting me in person or showing identification. This woman asked very leading questions, tried to get me to side with one parent, and when I did not, told me she couldn't use any of my information. I had knowledge of the parents because we live i n a small town and ended up testifying for the mother. UNDER THE PROTECTION OF THE COURTS, THIS WOMAN TOOK MY SON'S NAME OUT OF THE PAPER AND CONTACTED US. I TRIED TO REPORT THIS INCIDENT BUT NO ONE WOULD LISTEN. I have kept the tape, the documentation and I still feel like reporting it to some state agency. I am very proud of my son's athletic ability but this has made me fearful. This is almost stalking. Look at the child molesters in prison and all the attention they got. This woman violated my privacy and did it with the protection of the court system.

In closing I would like to comment at your public meeting next week and am available to come to St. Paul. Thank you for addressing these issues and please feel free to contact me at 320 693-6472 or 320 234-4937.

Sincerely,

Darlene Kotelnicki
425 North Gorman
Litchfield, MN 55355

Mildred S. Hanson, M.D.
6308 Knoll Drive
Edina, Minnesota 55436

March 7, 1997

The honorable Frederick Gritner
Clerk Appellate Courts
305 Judicial Center
25 Constitution Avenue
St. Paul, Mn. 55155

Re: Guardian ad Litem Task Force

To whom it may concern:

I am Godmother to two children of divorcing parents, the children being under the guardian-ad-litemship of Ms. Mary Lauhead. It appears to me that GALs have inappropriately unlimited powers

Specifically, one of the children--the little girl--was having disruptive temper tantrums. I suggested that the child be checked for chronic lead poisoning since the father lives in a 100 plus year-old house, certainly containing lead paint and possibly lead plumbing. I also thought the child should see a child psychiatrist and perhaps be medicated so that she would be more functional socially and perform better at school.

The child's mother told me that she did not "dare" to have the child see anyone except Ms. Lauhead's designated health-care professionals. I don't think that such broad powers should be part of a guardian ad litem's role.

Also, when I suggested lead poisoning as a possible etiology of the child's poor behavior, Ms. Lauhead ridiculed me about my "far fetched" ideas--entirely unprofessional and inappropiate for an attorney to address a physician. Thanks for letting me share this info with you.

Sincerely,

Mildred S. Hanson, M.D.

March 5, 1997

Frederick Grittner
Clerk of the Appellate Courts
305 Judicial Center
25 Constitution Avenue
St. Paul, MN. 55155

Dear Mr. Grittner:

I am sending a written statement for the Minnesota Supreme Court to consider before acting on the recommendations of the Minnesota Supreme Court Guardian Ad Litem Task Force.

I am the writing this report anonymously as I am involved in a custody battle with our GAL who might use these statements against me if I identify myself. I want to cite some of the abusive experiences that both my children and I have endured while under this GAL control. My testimony is documented with all my counselors in detail on a weekly basis. These are some of my personal experiences:

--The GAL ordered that "the children be split up from each other. . . one would live with the dad and the other with the mother for a period of ninety days." This arrangement was done without any prior advance arrangement made with the party's attorney's or the parents. To date, this is still in place (14 months later) and the GAL refuses to restore the children back to their mother who has sole legal and physical custody. This was incited only as an "experiment" to last no longer than 90 days. Note: These children are in their developmental years and this arrangement is totally unhealthy!

--This woman has terrorized me to the fullest. She has stalked me at my home (even changed vehicles) up to over 7 1/2 to 8 hours . . . waiting for me to come home so that she could do a "home visitation." (this was documented by third parties).

--The GAL called a meeting (lawyers and the children's psychologist present) after her two years GAL court stay order was over. . . to continue her involvement. She threatened the mother, "if you intend to remove me from this case for whatever reason, I will pull custody from you immediately and give it to the dad within 24 hours because I have that kind of clout with the courts." I will type up an "order removing you from: sole physical and legal custody of your children." The mother's attorney agreed to extend the Gal's involvement for another 90 days with a review at that time.
Ninety days came and went and no review. But the GAL went to Court (no advance notice to the mother's attorney that the GAL wanted to change custody immediately. . . and handed the mother and her attorney a notice of intent for an evidentiary hearing (This was done as the mother and her attorney were walking into the courtroom). The Judge received his copy in the back chambers earlier. Note: No advance two week's notice to the lawyers as part of the professional legal standards.

--One week before: this GAL went behind all the parties backs (before this court meeting took place) and met with the Judge alone with an order in her hand to extend her (GAL) involvement and about this split-up of the children to continue with this same present arrangement. To date: The Judge has not signed this Gal's Order! Totally unethical to meet and talk with the Judge without all concerned parties present!

--The GAL insisted and ordered that the mother sell the children's dogs which they had just received them as a Christmas gifts) the mother complied and sold the animals.

-- The GAL insisted and ordered that the mother discontinue the children's ballet classes after they had been involved since both 2 -3 years old and which activity they shared and enjoyed. So the mother complied and dropped the children out.

--The GAL came to the mother's home (Spring - 1996 unannounced with the mother having company), and walked right in and headed for the kitchen sink (to exam it for dirty dishes). . . only to find one ice cream bowl & spoon. Then proceeded to start in accusing her of all these terrible allegations. The GAL screamed and hollered at her for over l 1/2 hours, threatening to take her children away (not because of the condition of the house, but just to bully show who has the power and control with these children).She walked throughout the entire living area and even inspected the freshly cleaned refrigerator for 10 minutes (looking for fault)! The mother's company finally left (after half an hour) and after listening to the abusive language and the unprofessional attitude of "cutting down his friend the mother."
Note: The GAL cited in report thereafter that there was a "sink full of dishes" . . .
The mother was preparing to rest as she was supposed to work the night shift. . . but was so upset after that abusive disrespectful treatment that she had to cancel her shift! She ended up calling her doctor to find out what to do for her nerves! (She was crying her heart out).

--Before enlisting with the GAL the parents had a health insurance. . . The GAL" insisted that the children had to be taken to "only her psychologist only so the parents had to change insurance companies." Later on, the mother finds out that this GAL uses this psychologist often. . . as the psychologist who will do exactly, say exactly, and type exactly what the GAL wants on each case. Why? Is that for support for the GAL when they go to Court? Why is it not done fairly. . . with an independent therapist, instead of the GAL designed one? The mother's lawyer asked for the records of this psychologist and to date this psychologist has not provided them to her counselor (90 days later) Why?? In fact 90 days ago when asked and when the pressure was being put on this therapist for her professional performance. . . she in turn quit this case!

--The mother had some behavioral problems with her daughter, so she asked the GAL for permission to seek an outside Child Psychiatrist or a Child Neurologist for an evaluation. The GAL refused and prohibited the mother's consulting another psychologist! After 1 l/2 years with no improvement in these children, the mother took the daughter to the

family doctor who saw the girl in one of her bad behavior spells and insisted that the mother change the child's counselor and see a child neurologist "immediately!" The mother explained to the doctor, about the Gal's restrictions on her as a parent seeking outside medical help and so he insisted on talking to the GAL on the phone. He did, and the mother got reprimanded by the GAL for thinking of such an idea and calling her! That same week: The mother did take her to a Child Neurologist and within 45 minutes had her diagnosed. This diagnose gave the mother something to research on her condition and see how to deal with this type of behavior problems. The mother went and purchased books and started to study this condition. What a relief to have some positive input & help. . . after waiting and living through over 1 1/2 year of hell for this child!

--The mother decided to put the children together in a Catholic School finding an opening for both at the same school: the GAL and dad were furious. So the mother worked extra night shifts and days shifts to pay the tuition, uniform costs, and the extras that came with private school education. Her educated guess and hopes became reality. . . and her daughter's behavioral fits were lessening and lessening. Both children's grades were going up. The second year in this same school only proved to be more positive. The little girl is doing honor role work and is getting along socially 100% better. . . with lots of friends to boot!
Her brother is likewise picking up speed. . . the last report card both children had five B's and good remarks! If the mother would have listened to the GAL or the dad. . . who knows what shape these children would be today!

--This GAL has taken all of my horse proceeds: $15,000 plus $20 - $35,000 in cash for her services for the past 2 1/2 years or approximately: $50,000.00. I think this is outrageous.

--This GAL knows that for the past 5 years, I have not received any child support or maintenance as the court had order. There is no reason for this dad not paying the child support. . . as the home he lives in a $800,000.00 home with income property and generates well over $5,000+ dollars per month!
On top of this rental income the dad makes a good strong income that he is sheltering!

--This GAL knows of all the sexual problems that the dad has been involved in as well as police matters since his youth, and allows these children to be alone with him. . . in fact one child at a time per whole week with this child split arrangement. This GAL is suggesting to: "change custody to the dad (for no real concrete reasons at all) except that he is a good talker and liar, and therefore the GAL believes him."
Note: The dad has had current police reports to include: domestic abuse, assaulting an eleven year old child, a nanny, and twice an older couple who were his tenants. . . in which the dad was put on probation. Why is this GAL ignoring these issues and only finding fault with the mother?

Two and one half years ago, the GAL did initially award me custody of my two children after going through extensive testing with several different counselors and psychologists.

Now she wants to take the children away from me . . . my children, my family, whom I love with all my heart! This is not right and in fact its down right mean!

-The dad has not followed any of the Judge's court orders and chooses to continue avoiding any legal orders. . . This particular GAL has trouble sorting out the truths, and uses her legal powers as a GAL to manipulate, control, abuse the women in her cases. There is no logic or rational thought process in her thinking. She likes to have everyone afraid of her to include the lawyers, Judges, and especially the mothers in her cases. I feel that extensive psychological testing should be done annually (if not more) on those Gal's who are controlling other people's lives. This particular GAL is running "out of control" and is not giving constructive guidance and criticisms in the best interest of the children. . . and the children's lives with their family unit, but only to tear them apart and watch especially the mothers "jump through hoops" in order to regain the children back. The forceful behavior of this GAL has taken it's toll. . . to the point that women have disappeared with their children (as there was no other way out. . .). Either you agree with her. . . or this GAL will put the mother on supervised visitations or change custody or restrict her visitation schedules!

Communication with my GAL is impossible. When I had originally asked for a GAL the dad was hanging my son by his ankles upside over the banister (leaving no marks or bruises) to gain power and control over my child's mine and use scare tactics. Therefore, I asked my attorney to have the Judge order a GAL.

Personally, I have never experienced such a horrible nightmare as when this GAL came into our lives. I basically have no say so over my children, their activities, their future, and I am restricted from even vacationing with my children, as I was this last summer. Why? I am an older mother, well educated, and she is dictating to me how to run my life and my family's life. I feel there should be limitations on a Gal's authority and his/her fees.

I believe in God and the Justice System. . . and I have investigated this GAL to see if my case was unique and it wasn't. I have heard and met other women who have experienced the same or similar problems that I have been with this same GAL. They can hardly talk, and they eventually end up in crying as their children were taken away due to this GAL abusive control tactics. I am writing this memo with the understanding that new policies will be established to correct the above problems that I have shared with you with. Tomorrow can not come soon enough to pass these into practice. Please think about what I have said, and "please, please help us mothers who are still involved with this GAL to date. Thank you for your time!

Sincerely,

--Anonymous--

SOJOURNER PROJECT, INC.

Serving Battered Women and Their Children

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P.O. Box 272
Hopkins, MN 55343

March 7, 1997

Frederick Grittner
Clerk of the Appellate Courts
305 Judicial Center
25 Constitution Ave.
St. Paul, MN 55155

Dear Mr. Grittner:

I am respectfully requesting the opportunity to present oral testimony regarding the Proposed Rules for Guardians ad Litem on March 13, 1997. I am enclosing 12 copies of my written testimony.

Sincerely,

Denise L. Eng

Denise L. Eng
Community/Intervention Coordinator

Thank you for the opportunity to address the proposed rules for *Guardians ad Litem* in Minnesota. This is one of the most serious issues facing battered women and their children today. Many, many women have lost their children to abusive husbands and partners in part as a result of the actions of a guardian ad litem. These children are now being raised in homes where their major parental influence is one who has demonstrated a propensity toward violence against their family members. Advocates know that battered women fear losing their children to the batterer more than anything else. Yet they often find that when they seek protection for themselves, they face the loss of their children. Not only do they often lose physical custody of the children, but also virtually every decision a parent can be called upon to make on behalf of their children is taken from them. Guardians exercise tremendous power over the lives of women and children. If the State is going to take action to remove parental authority over their children, it must make certain that the influence of the GAL is superior to that of the parent. The current system allows for the worst kind of abuses.

As an advocate for battered women and their children for nearly fifteen years, I have worked with dozens of women who have had *guardians ad litem* assigned to them and their families. Unfortunately, the ideal of providing someone who will advocate solely for the needs of the children is rarely realized within the current system that employs guardians. Guardians are subject to the same prejudices and biases that everyone else has, and function with minimal oversight by the judicial system or anyone else, yet they wield tremendous power over the lives of parents and children. The new rules proposed by the task force might have some impact on the problems inherent in the system, but they do not go far enough, and I fear that in many instances they will codify some of the existing problems. Let me address them point by point.

Rule 1, Subd. 2. Implementation. If the program coordinator is appointed by the chief judge of the judicial district, the risk exists that the program coordinator's position will become somewhat of a patronage position, in that it leaves room for the judge to appoint his or her friends or associates to the position. This problem already exists to some extent in the selection of individuals to serve as guardians. Although it may not be the chief judge who hires them, the selection process is often not very open, resulting in individuals being selected more on the basis of who they know than whether they would make good guardians. The selection process should be an open competitive process which allows for participation by a member or members of the public.

Rule 2. Minimum qualifications. In general, I support the proposed qualifications, but they should be more specific. For example, the rule does not state how one demonstrates a "deep and abiding interest in children and their rights and needs." There are many differences of opinion that exist among well-intentioned people about children's needs. Of course, children unfortunately do not have <u>legal</u> rights because of their minor status, so the question of children's "rights" is open to interpretation. How is "good judgment and common sense" manifested? I could name many situations where I would question the judgment and common sense of the guardian, but there is no clear standard for this analysis.

Current practices, at least in Hennepin County, rarely if ever really challenge whether the guardian would meet any of the qualifications listed in this rule. For example, a guardian told a battered woman who lost custody of her children due in part to the guardian's recommendation that she didn't care if the children were being abused by their father or not, she would see to it that the mother never got custody. The father has continued to abuse the children, and Child Protection has made at least one finding of maltreatment against him, but the guardian will not take action against him. Presumably, this guardian does not believe that children's "rights" include the right to be safe from harm. Another guardian told a mother that he was not qualified to judge whether a child was being abused and so he would not respond to the child's request for protection from his father. We hear many stories of children who are crying and pleading not to be forced into visitation situations where guardians turn a deaf ear. These instances are significant because the court tends to take the recommendations of the guardian at face value. The rationale seems to be that since the guardian is to represent the children's interests, that s/he must be doing just that. Therefore, the guardian seldom faces much if any scrutiny from the court.

Rule 3, Subd. 3. Screening process. The screening process should include a psychological evaluation. We have seen many situations where it would appear that the GAL is responding to some sort of personal issue rather than the case at hand. Individuals who have significant psychological issues should not be eligible for service as a GAL. One guardian ad litem has made numerous sexual references in her reports to the courts. For example, she stated that when the parties in a case were in the same room, there was a great deal of sexual tension in the room. She went on to state that since she worked as a cocktail waitress putting herself through graduate school, she was qualified to judge people's sexual behavior. I don't know if this is an indication of a psychological problem, or simply an inability to recognize her own areas of expertise, but either way, this guardian's comments were at best highly inappropriate.

Rule 4. Appointment of Guardians ad Litem, Subd. 1. I support the appointment of the GAL by the program coordinator rather than the judge. While the judge may have more extensive knowledge of the case, s/he often does not have such knowledge at the time of the appointment. Also, the program coordinator is in a better position to assess the level of skill of the individual guardian as well as have better knowledge of what if any complaints have been lodged against that person, etc.

Subd. 4. ...Specification of duties. This is a critical requirement. Too often the duties of the guardian are ambiguous at best, creating a situation where s/he does little but collect fees, or, on the other extreme, exercises extreme control over children and families. We have seen numerous situations where guardians have required children to receive haircuts over their objections, drop out of their organized activities, get rid of their pets, forego planned vacations, etc. We have also seen situations where the GAL on his or her own authority changes custody or visitation requirements, over-riding the judge's order. Guardians should be expressly forbidden to do this. I am of the belief that if the duties of the GAL are expressly directed by court order, there will be fewer GAL assignments. In general, in our county, the GAL functions essentially as a duplication of the custody evaluator or as a visitation expeditor. If the GAL no longer fulfills either of these functions, I frankly am not certain what the GAL would do.

Rule 6. Supervision and evaluation of *guardians ad litem*. It has been said that it is inevitable that at least one party will be unhappy with the GAL's work performance. While this may be true, a parties' lack of satisfaction cannot by itself be construed as evidence that the GAL is doing a good job. It is also important to separate issues of work performance from case outcome. We see many situations where *guardians ad litem* treat people with rudeness or a lack of respect, where they overstep their boundaries by superceding court orders on their own authority, or where they do incomplete or inadequate research on a case. Many times GAL's do a cursory review of case information and make up their minds without talking to all parties involved. We have had several women who, on their first conversation with the GAL will be told, "I've heard all about you from [the other party, the adverse attorney, the professionals involved, etc.], and I am not interested in talking to you." One problem is that due to the way the court functions, this type of information rarely gets to the judge, and when it does, the judge is often easily persuaded that it is based on "sour grapes" because a party is dissatisfied with the guardian's recommendations against him or her. Evaluations of GAL's should include input from litigants who have had the guardian assigned to their cases.

Rule 7. Complaint procedure; Removal of guardian ad litem from particular case. This rule allows far too much discretion to the program coordinator. The coordinator could do a very cursory review and satisfy the requirement. If the program coordinator has a good relationship with the guardian, s/he might be unwilling to perceive information about them in a critical light. Rather a panel should be appointed to investigate at least the more serious allegations, including representation from outside the court system. The rule should also provide for specific actions that should be taken by the coordinator in the event the guardian is deemed to be guilty of misconduct. Finally, in the event that the report finds against the GAL. some sort of review should be required to determine whether his or her conduct unfairly prejudiced one of the parties or caused the court to take action that might not be in the best interests of the children.

Rule 8. General responsibilities of the *guardian ad litem*; other roles distinguished; contact with court. This rule exemplifies the problems with the current system. Subd. 1 (a) states that the guardian ad

litem shall advocate for the best interests of the child. The trouble is, this requirement really defines something by its own terms. The question of how one determines whether the GAL is actually advocating for the child(ren)'s best interests is never really addressed. The guardian ad litem advocates for the children's best interests because that's what they do. Since the GAL walks into the courtroom wearing the mantle of the one who represents the children's interests, s/he has instant credibility with the court, even if s/he knows nothing about the child.

Subd. 2 distinguishes the role of the GAL from other roles, but does so ineffectively. While it is clear that a GAL should not be a visitation expeditor, mediator, or custody evaluator because of the potential conflict, it is unclear what the guardian would do if s/he is not filling one of these roles. To say that s/he represents the children/s interests is not sufficient, because no clear definition of the children's best interests has been put forward. It remains unclear how a GAL can purport to present information regarding the best interests of a child he or she has never met. Not only should GAL's be required to meet with children, but also the court should exercise its own independent judgment to determine whether the amount ofontact with the child is sufficient to make a determination.

Rule 10. Pre-service training requirements. All guardians ad litem should be required to complete the pre-service training curriculum implemented in their jurisdiction. Since the body of knowledge of many of the proposed training topics changes over time, past training experiences should not be construed as an indication that the GAL has received the necessary information. Also, advocates are aware that many GAL's have a wholly inadequate understanding of domestic violence, yet some even train others on this subject—giving inadequate and incorrect information.

Subd. 3. Internship requirements. Visiting a shelter is intrusive; the women who live there should not be subjected to such visits. If the GAL candidate is truly interested in learning about domestic violence, there are other more effective and less intrusive means of gaining this knowledge.

These brief comments address some of the specific rules proposed by the task force. I think they would result in some minimal reform, but I do not think they go far enough. If the state is truly concerned about the welfare of children, the whole premise of the need for *guardians ad litem* needs to be examined. The vast majority of the time, at least one of the parents is in a much better position to make determinations about the interests of the child than a stranger employed by the court.

Thank you for your consideration.

Respectfully submitted,

Denise L. Eng

Denise L. Eng
Community/Intervention Coordinator
Sojourner Project
Hopkins, MN

OFFICE OF
KANABEC COUNTY COORDINATOR
ALAN B. PETERSON, COORDINATOR
18 North Vine Street, Mora, Minnesota 55051
Phone: (320) 679-5367

January 27, 1997

Frederick Grittner
Clerk of Appellate Courts
305 Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

Re: Written Comments
Proposed Guardian Ad Litem Rules

Dear Mr. Grittner,

Enclosed are 12 copies of a Resolution by the Kanabec County Board of Commissioners regarding the proposed Guardian Ad Litem Rules.

We expect this to be written comment only. If you have any questions regarding this resolution, please call me.

Sincerely,

Alan B. Peterson
County Coordinator

Enclosures

RESOLUTION

WHEREAS the Guardian Ad Litem Task Force has recommended new Guardian Ad Litem Rules which would impose unknown, but substantial increases to local property tax levies, and

WHEREAS the Guardian Ad Litem program is one that is beyond local control and is unilaterally imposed by the State and the Judicial System, and

WHEREAS there has been no analysis of the cost to the taxpayer vs. public benefit achieved;

BE IT RESOLVED that the Kanabec County Board of Commissioners ask that no Guardian Ad Litem Rules be adopted until two things take place:

1. a source of funding other than property tax levies be committed, and

2. an analysis of the cost to the taxpayer vs. public benefit be done.

adopted this 22nd day of January, 1997,

signed - Chairperson of the Kanabec County Board of Commissioners

attest: County Coordinator (board clerk)