

State of New Hampshire

Court

Superior Court

In the matter of xx v. xx
Docket Number xx

**Guardian *ad litem* Stipulation
Parties' Acknowledgement and Agreement to Terms and Limitations**

This document sets forth the terms and limitations under which parties agree to appoint and support Benjamin D. Garber, Ph.D., to function in the role of Guardian *ad litem*. Please read through this document thoroughly and consult with an attorney as you deem necessary. By initialing each page, signing and returning one full copy of this document to Dr. Garber, you are agreeing to the terms and limitations detailed here in full.

What is a Guardian *ad litem*?

1. A Guardian ad litem (GAL) is a professional appointed by the Court to investigate matters relevant to the well-being of a child or children for the purpose of assisting the Court in making decisions relevant to the child or children's future status. Most commonly, the GAL is charged with assisting the Court in determining the terms of a child or children's custody and/or visitation when co-parents live apart.
2. The GAL is NOT any party's advocate. The GAL is NOT the child's attorney and may not be charged with advising the Court regarding the child's wishes or desires. The GAL is NOT serving as a mediator, arbitrator, counselor or therapist and will not offer solutions to the parties in the course of the investigation. The GAL retains discretion to respond to crises in the child(ren)'s best interests.
3. Because the GAL will need to observe and/or meet with and interview the child(ren), it is important to agree in advance how describe the GAL's role to the child(ren): The GAL is a "helper." The GAL's job is to help ["the court"], ["the judge"] ["mommy and daddy"] to make decisions. The child must be reassured that s/he can speak openly to the GAL and that s/he will not "get in trouble" for speaking to the GAL. It is important that no one tell the child what to say, script the child's words or otherwise contaminate the child's view in speaking with the GAL. It is important that no one try to debrief or otherwise interrogate the child after meeting with the GAL. It is important that no one mislead the child regarding confidentiality or privacy. The GAL cannot promise the child that his or her words will not be repeated. Finally, it is important that this document and its contents not be shared with the child(ren).

Regarding privacy and confidentiality:

4. By bringing your concerns before a Court, by requesting that a GAL investigate these concerns, and by signing this agreement you are waiving your confidentiality. The GAL will gather information about you, your home, your family, your child(ren) and your child(ren)'s other caregivers. This information will be shared with the Court and may be shared with others for the purpose of corroboration and further inquiry. Although the GAL will take every reasonable step to respect the sensitivity of the very personal matters at issue, please be aware that matters brought before the Court can enter the public record.

- 5. The GAL's investigation will routinely require receipt and review of and/or interviews with professionals involved in your life and in your child(ren)'s lives. This includes but is not limited to physicians, psychotherapists and educators. You will be required to sign informed consent forms allowing such professionals to release records and/or be interviewed at the GAL's discretion. Any such consents must be signed and returned to the GAL within ten (10) days of receipt.
- 6. **Parties are advised that Dr. Garber is mandated under the law to report any perceived threat to any individual's safety.** More specifically, any concern that a child may be subject to neglect or abuse of any kind will be reported to the New Hampshire Division for Children, Youth and Families (DCYF) at 1-800-894-5533 or to the local police at Dr. Garber's discretion.

The present investigation:

- 7. Court records dated _____ indicate that the GAL is responsible to advise the Court regarding the following matters:

- 8. Dr. Garber will make every reasonable effort to conduct this investigation in a time efficient manner. Your willingness and ability to provide data in a thorough, organized and unemotional manner will facilitate this goal. Your prompt and conscientious effort to arrange appointments, provide materials and complete tasks will further facilitate this goal.
- 9. In acknowledgement of the rapidity with which children grow and change and of the dynamic nature of family relationships, parties must allow that prolonged delays in the course of this investigation due to any cause including but not limited to illness, travel, non-compliance and schedules may invalidate data. Under these circumstances, the GAL reserves the right to re-interview or otherwise update such data. Parties accept the responsibility to keep the GAL abreast of any changes throughout the course of the investigation including but not limited to the introduction or loss of a caregiver or parenting partner, illness, commencement or cessation of any treatment, intervention or support, relocation and changes in educational matters.
- 10. Under extreme conditions of non-compliance and/or prolonged and unreasonable delay, the GAL reserves the right to request an Enforcement Hearing and/or to motion the Court to withdraw.

Your responsibility within the scope of the GAL's investigation:

11. By agreeing to appoint a GAL, you accept the responsibility to pay all fees as described below, to answer all questions, written and spoken, in a truthful and complete manner. You accept the responsibility to provide the GAL with documentation, materials, data and access to properties and/or persons upon request. You further accept the responsibility to appear for appointments and to transport the child(ren) to and from appointments when and where they are arranged.
12. Your initial responsibility in commencing this investigation will include completion and return to Dr. Garber of the GAL Questionnaires, enclosed with this agreement.
13. Your further responsibility is to make every reasonable effort to support the child(ren) in communicating openly, fully and without fear of exposure or repercussion with the GAL. This includes reassuring the child that the GAL is a trusted helper and taking care NOT to suggest that the GAL is partisan to the co-parental dispute.

Regarding the GAL’s fees:

14. The present investigation will be conducted as a private pay matter. This means that parties are responsible to pay for the GAL’s fees in full, in the percentages allocated by the Court as follows:

Party	Percent of all fees
Sum of all parties’ financial responsibilities to the GAL	100%

15. The parties agree that the usual maximum per hour billing rate established by the Courts will be exceeded. The GAL will be paid at a rate of \$XXX.00 per hour, inclusive of all time including, but not limited to reviewing documentation, interviewing informants, home visits and observations, appearances in Court, filing of pleadings, depositions, phone calls, copying, writing the final report, and preparations for, travel to and from each of these as necessary.
16. The GAL’s time will be billed per quarter hour. The GAL will maintain a record of all costs incurred and will make such statements available to parties upon request. A total billing record will be submitted to parties and to the Court accompanying the GAL’s final report.
17. The parties agree that the GAL need not submit a motion asking the Court to approve a waiver of the usual hourly fee. In lieu of that requirement, the Court’s approval and/or acceptance of this stipulation shall suffice.
18. The parties further agree that the usual fee limits associated with the GAL’s investigation are waived and that the GAL need not submit a motion asking the Court to approve such a waiver. In lieu of that requirement, the Court’s approval and/or acceptance of this stipulation shall suffice.
19. An initial retainer in the amount of \$XXXX.00 is to be paid to the GAL proportioned as per the Court ordered allocation identified in item #7, above, as a precondition for commencement of this investigation. This retainer will be drawn down as costs are incurred. Should further time be anticipated in advance of the depletion of these funds, the GAL will contact parties promptly in writing requesting that the retainer be replenished as a precondition to the continuation of this

- work and in an amount equal to anticipated costs. Should excess funds be held on account at the termination of this work, that balance will be returned promptly to parties and in proportion to payments received.
20. In the interest of time and cost efficiency, parties agree to automatically excuse the GAL from attending any hearing not directly concerned either with the child(ren)'s well-being or the GAL's work.
 21. If any party at any time requests of the Court a reallocation of the responsibility for the GAL's expenses, such request will not in and of itself be grounds for any party to suspend payment under these terms and consistent with the Court's extant order. It is agreed that payment will continue to be made to the GAL as per this agreement until issuance of any subsequent order by the Court regarding such request at which time subsequent payments will be made in accord with that order.
 22. Parties acknowledge that the GAL will make every reasonable effort to address the child(ren)'s best interests in a conscientious, thorough and professional manner. Parties acknowledge that the precise course and the associated number of hours and costs associated with this investigation are likely to vary with the degree of conflict extant between parties, the complexity of the issues involved, the need for travel to and from homes, schools and/or interviews with relevant parties and with the need for time spent in travel to, preparation for and appearances in Court. Finally, costs may be incurred by specific arrangement should the GAL require consultation with allied professionals in the course of seeking to fulfill the responsibilities assigned by the Court.

Consultants to the GAL

23. As a New Hampshire licensed psychologist, Dr. Garber brings expertise in child development, family functioning and matters specific to co-parental conflict, separation and divorce to the course of this investigation. However, serving as a non-attorney GAL commonly requires consultation with the Court and/or with professionals in allied fields.
24. Dr. Garber reserves the right to consult with __Attorney XXXX__ in matters of court procedure. Attorney XXXX's time in this matter will be billed as "Attorney Consultant" and will be reimbursed at the same rate and under the same conditions as those described above. Payment for Attorney XXXX's time will be drawn from the retainer and paid directly to Attorney XXXX through Dr. Garber's office on a periodic basis.
25. Parties acknowledge that, although any such Attorney Consultant may be consulted in matters of court procedure in the course of this investigation, Dr. Garber accepts full responsibility and accountability for his own actions, observations and recommendations in fulfilling his role as GAL under the terms and limits of this agreement. The Attorney Consultant will be held harmless should any concern arise related to the course or outcome of Dr. Garber's work in the role of GAL.

The substance of this investigation

26. The GAL will exercise his discretion in determining how best to fulfill the responsibilities assigned by the Court. Parties acknowledge that the GAL may determine whether and how to review specific materials and/or to interview specific individuals, allowing that some such efforts may be redundant, beyond the scope of the investigation or otherwise unnecessary to the process. By the same token, the GAL reserves the right to request additional materials and/or access to individuals at any time and by any means above and beyond those sources initially identified.

27. The parties acknowledge and allow that Dr. Garber may seek to protect from discovery and disclosure any of the information, materials or records gathered during the course of this investigation pursuant to any existing statutory, common law, administrative, guideline, Court rule or other authority. The GAL may do so by filing a motion to seek appropriate protective orders from the Court. If such a motion is filed, the parties agree that the Guardian may withhold discovery and disclosure until the Court has ruled upon the motion and until any subsequent requests for reconsideration or appeals have been finally resolved.
28. Generally, the GAL will file a Report and Recommendations with the Court prior to the Final Hearing. Portions of the report may be filed as confidential and available for Court access only until and unless the Court specifically orders release of such materials. Such protections will most typically be sought for materials deemed confidential to the child(ren), to the child(ren)'s therapies and/or relevant to the medical and/or substance/abuse and/or HIV/AIDS status of any relevant party.
29. Parties acknowledge that Dr. Garber is a child centered mental health professional certified by the Court to serve as GAL and non-partisan to the matters under investigation. In this capacity, Dr. Garber will make recommendations to the Court in the child(ren)'s best interests. Parties acknowledge and accept that such recommendations may or may not be consistent with their own wishes and perceptions of the child(ren)'s best interests.
30. Dr. Garber's obligation as GAL and the terms of this agreement expire as of the conclusion of the Final Hearing and/or any subsequent appeal in this matter or upon his withdrawal, as described in item #10. Parties acknowledge that Dr. Garber refrains from engaging in any therapeutic role with any individual or group of individuals party to this investigation subsequent to its conclusion.

It is understood that Dr. Garber will not commence investigation of this matter until the following materials are completed and returned in full from each party:

- (a) This complete Agreement, initialed on each page and signed below.
- (b) Completed and signed initial questionnaires (enclosed)
- (c) All Informed Consent Release forms deemed necessary, also enclosed
- (d) Receipt and deposit of the retainer as described in item #19

CONTACT INFORMATION: Dr. Garber is typically available in his Harris Pond (Merrimack, New Hampshire) office between 8:00 a.m. and 6:00 p.m. Tuesday through Friday. Please reach Dr. Garber directly or via voice mail during these hours at 603-879-9100, via facsimile transmission to 603-879-9070 or via electronic mail at papaben@healthyparent.com. Please post all deliveries through the United States Postal Service to Dr. Garber at 32 Daniel Webster Highway, Suite 17, Merrimack, NH 03054-4859.

For further information about Dr. Garber, please visit www.healthyparent.com.

By initialing each of the foregoing pages individually and by signing below, you acknowledge complete understanding of and agree to the terms and limitations of the proposed GAL investigation

Please print your full name

Today's date

Please sign your name

What is your relationship to the
child(ren)?
(for example: Mother, Father, Legal
Guardian)

(_____) _____
Your day time phone

Please print your complete mailing address

(_____) _____
Alternate phone number

_____ @ _____ . _____
Please print your e-mail address