

**CIVIL COURT OF THE CITY OF NEW YORK**

**ADVISORY NOTICE**

Subject: Settlements in GAL Cases

Class: AN-7

Category: LT-10

Eff: Date: March 8, 2007

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**SETTLEMENT OF GAL CASES**

In light of the recent actions of a few Guardians Ad Litem in housing cases which have adversely affected the interests of their wards the following best practices are strongly advised:


The responsibility for insuring that a stipulation settling the case of a person for whom a GAL has been appointed is appropriate rests ultimately with the Judge who so orders the stipulation. BML Realty Group v. Jack Samuels. 2007 WL 58197, N.Y.L.J., March 2, 2007, 29:1 (N.Y.Sup.App.Term 1<sup>st</sup> Dep't.). To that end, it is advised that the Judge should, prior to approving a stipulation recommended by a GAL, ascertain if the GAL has at a minimum :

1. Met with the ward and attempted to make a home visit
2. Determined what the ward desires as an outcome of the case
3. Investigated and weighed all factors in the case and is recommending a settlement that is in the best interests of the ward and which also has taken into account the ward's desires if feasible.
4. Developed a plan to assist the ward in obtaining repairs, monies or other assistance needed to comply with the proposed stipulation.
5. Taken all steps to follow through with the plan to assist the ward
6. Informed the court if the ward agrees or disagrees with the proposed settlement
7. Taken all steps to get the ward to come to court or to locate the ward if the ward is missing.

In ascertaining the above a Judge either may require the GAL to submit the GAL Case Summary form( CIV-LT-57-2/2007 ) that GALs are now required to fill out for every case or may query the GAL on the record. In the event that the Judge requires the submission of the GAL Case Summary, the Judge may order such on the Order Appointing a GAL form (CIV-GP-112-02/07). A GAL Case Summary should not be placed in a court file unless the form is made a sealed record, as the form may contain personal information which should not be made available to the general public. It is noted that the APS referral form, psychiatric reports etc., should also not be retained in the court file unsealed when the case is resolved, as these documents also may contain health information that should not be made available to the general public.

Each and every stipulation recommended by a GAL should be reviewed by the Judge. A Judge should insure that stipulations recommended by GALs, who are also admitted attorneys are reviewed by the Judge in the same manner as stipulations recommended by non-attorney GALs. Attorney GAL stipulations should not be treated as two attorney stipulations. The Judge should insure that all claims and defenses are addressed in the stipulation following the guidelines set forth in the Advisory Notice on Allocuting Stipulations (AN-10/26/2006) and that the GAL has taken all the steps listed above.

Date March 5, 2007

  
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Fern A. Fisher, Administrative Judge