

Michigan Compiled Laws Annotated
Michigan Court Rules of 1985
Chapter 5. Probate Court (Refs & Annos)
Subchapter 5.100. General Rules of Pleading and Practice

MI Rules MCR 5.121

RULE 5.121 GUARDIAN AD LITEM; VISITOR

Currentness

(A) Appointment.

(1) *Guardian Ad Litem.* The court shall appoint a guardian ad litem when required by law. If it deems necessary, the court may appoint a guardian ad litem to appear for and represent the interests of any person in any proceeding. The court shall state the purpose of the appointment in the order of appointment. The order may be entered with or without notice.

(2) *Visitor.* The court may appoint a visitor when authorized by law.

(B) Revocation. If it deems necessary, the court may revoke the appointment and appoint another guardian ad litem or visitor.

(C) Duties. Before the date set for hearing, the guardian ad litem or visitor shall conduct an investigation and shall make a report in open court or file a written report of the investigation and recommendations. The guardian ad litem or visitor need not appear personally at the hearing unless required by law or directed by the court. Any written report must be filed with the court at least 24 hours before the hearing or such other time specified by the court.

(D) Evidence.

(1) *Reports, Admission Into Evidence.* Oral and written reports of a guardian ad litem or visitor may be received by the court and may be relied on to the extent of their probative value, even though such evidence may not be admissible under the Michigan Rules of Evidence.

(2) *Reports, Review and Cross-Examination.*

(a) Any interested person shall be afforded an opportunity to examine and controvert reports received into evidence.

(b) The person who is the subject of a report received under subrule (D)(1) shall be permitted to cross-examine the individual making the report if the person requests such an opportunity.

(c) Other interested persons may cross-examine the individual making a report on the contents of the report, if the individual is reasonably available. The court may limit cross-examination for good cause.

(E) Attorney-Client Privilege.

(1) *During Appointment of Guardian Ad Litem.* When the guardian ad litem appointed to represent the interest of a person is an attorney, that appointment does not create an attorney-client relationship. Communications between that person and the guardian ad litem are not subject to the attorney-client privilege. The guardian ad litem must inform the person whose interests are represented of this lack of privilege as soon as practicable after appointment. The guardian ad litem may report or testify about any communication with the person whose interests are represented.

(2) *Later Appointment as Attorney.* If the appointment of the guardian ad litem is terminated and the same individual is appointed attorney, the appointment as attorney creates an attorney-client relationship. The attorney-client privilege relates back to the date of the appointment of the guardian ad litem.

Credits

[Adopted July 12, 2001, effective January 1, 2002, 464 Mich.]

Editors' Notes

COMMENTS

Comment

This rule was [MCR 5.201](#). Subrule (C) is amended by adding a requirement that a guardian ad litem file any written report with the court 24 hours before a hearing. This will provide the court and interested persons with some notice of the contents of the report. Any more notice would often be impractical. The 24 hour provision contains an exception that the court might specify another time for filing a report in an emergency.

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Current with amendments received through 4/1/2013

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