LACKAWANNA COUNTY

GUARDIAN AD LITEM PROGRAM REVIEW

ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS
JUDICIAL PROGRAMS DEPARTMENT

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RECOMMENDATION 51: The President Judge should consider the appointment of an individual such as a special master to coordinate the review of this report and implementation of any recommendations.

PURPOSE OF REVIEW

In May 2011, Lackawanna County President Judge Thomas J. Munley contacted Zygmont A. Pines, Court Administrator of Pennsylvania to request that the Administrative Office of Pennsylvania Courts (AOPC) review the court's child custody guardian ad litem program (GAL program) and make recommendations for improvement and corrective action, if necessary. President Judge Munley and the common pleas judges want to ensure the GAL program is operating effectively and efficiently, and that appropriate safeguards exist for monies received and expended on behalf of the program and its family service providers. The purpose of this review is to assess the GAL program programmatically and financially, review other family court ordered services and make recommendations for improvement and corrective action.

I. Methodology

At Mr. Pines's request, the AOPC's review of the GAL program was conducted by its Judicial Programs Department (JPD). The recommendations contained in this report are based upon the observations and findings of JPD staff.

From July through October 2011, twenty-nine in-person and telephone interviews were conducted with judges, masters, court and County personnel, family law attorneys, child custody litigants and GAL program family service providers. Nine follow-up interviews with court staff and judges were held in February and March 2012. While most of the interviewees were selected by JPD staff, several individuals contacted the AOPC to offer information.

The attorneys interviewed were suggested by a member of the Lackawanna County Bar Association's Family Law Section. Many persons interviewed requested to remain anonymous in order to speak freely, and the AOPC is grateful for their candor. Interviewees were asked for their suggestions to improve the GAL program, and those suggestions are incorporated in the review.

Child custody case files; local and state court rules, statutes and court orders; billing records and invoices; contracts; emails; websites; continuing legal education presentations; and letters from child custody litigants were reviewed and

analyzed. Note: The review does not include an examination of GAL involvement in the dependency case process.

A survey of court practices involving GALs in the Commonwealth's other third class counties was conducted, and is attached (Appendix 1).

II. Background

President Judge Munley, shortly after assuming his duties as president judge, was made aware of complaints concerning the GAL program. He requested William Browning, Executive Director of Lackawanna County Human Services, to examine the practices of the court's Kids First program and determine the efficacy of divorce and custody parent education programs generally. During the information gathering process for his report on these programs, Mr. Browning received information criticizing the GAL program. These criticisms included allegations of financial inefficiencies and improprieties as well as concerns about the effectiveness of the program itself. Many of the criticisms were directed specifically at GAL Danielle Ross, but the entire program itself was called into question. Much of the criticism stemmed from custody litigants, often made anonymously. Lackawanna County officials contacted President Judge Munley to express their concerns about the program.

In March 2011, President Judge Munley and County officials conducted an investigation of the GAL program based on allegations the program is a "Kids for Cash" scheme, and complaints about Ms. Ross's billing practices. Mr. Browning was the main investigator.

In May 2011, President Judge Munley contacted Mr. Pines for assistance in assessing the GAL program. Independently, Mr. Pines had received communications complaining about the GAL program. After the JPD's assessment began, it was learned that local and federal law enforcement officials were investigating the program and a number of individuals connected with it.

III. The Child Custody Case Process in Lackawanna County

Pennsylvania law vests the courts of common pleas with jurisdiction to resolve disputes regarding custody, partial custody and visitation of minor children. 23 Pa. C.S.A. §§ 5321 - 5340. The Pennsylvania Supreme Court has adopted general

procedural rules to be followed in these cases. Pa.R.C.P. Nos. 1915.1 – 1915.24 and Nos. 1930.1 – 1940.9. The Supreme Court has also authorized common pleas courts to establish local rules of court not inconsistent with state rules. Pa. R.C.P. No. 239. The Lackawanna County Court of Common Pleas has adopted local procedural rules regarding, among other things, cases involving custody, partial custody and visitation of minor children. The rules are available at: http://www.pacourts.us/T/SpecialCourts/ LocalRules.htm.

In certain cases, the court may appoint an attorney for a child. See e.g., Pa. R.C.P. 1915.11(a). In Lewis v. Lewis, 414 A.2d 375 (Pa. Super. 1979), the Superior Court noted, "In some custody disputes the children do need someone to advance and protect their interests." 414 A.2d at 379. More recently, the Superior Court wrote, "[A] guardian ad litem is appointed by the court to represent a minor child in particular litigation. The function of the guardian is to represent and protect unrepresented minors and their interests." C.W. v. K.A.W., 774 A.2d 745, 748-49 (Pa. Super. 2001).

In 2010, Pennsylvania law governing actions for custody, partial custody and visitation was amended to specify the powers and duties of a guardian ad litem. 23 Pa. C.S.A.§5224, effective January 24, 2011.

A petition for child custody may be prepared by a private attorney or a self-represented (pro se) litigant and filed with the Clerk of Judicial Records (clerk) at the family court building located at 220 Adams Avenue, Scranton. A pro se litigant with limited or no financial resources may file a motion to request to proceed in forma pauperis (IFP). If IFP status is granted by a judge, certain court costs such as filing and program fees are waived.

When a custody petition is filed in Lackawanna County, the parents are generally ordered to attend the Kids First class presented by Dr. Chet Muklewicz. Kids First is a four hour educational program designed for parents to help their children cope with the difficulties of divorce and family conflict. The court may issue a contempt order for a parent's failure to appear.

After completing the Kids First class, the parents (and counsel, if represented) must appear for a parenting conference before a custody master. Custody or

visitation may be affected if they fail to appear. The parents must complete and file a parenting plan with the clerk and court administration office at least two days prior to the conference.

The parenting conference is generally held on a Tuesday one month after the petition is filed, and the case is assigned to the next available custody master. The custody masters are attorneys George Seig and Alexandra Kokura. They hear cases involving partial visitation, partial custody, modifications of custody, relocation petitions, petitions for special relief and unsuccessful mediations.

Masters may conciliate custody cases (which includes meeting with the parents, counsel and children, if appropriate); take limited testimony if necessary; and issue recommendations for temporary relief and/or other additional actions. They may also order the parties to avail themselves of services (e.g., drug and alcohol treatment).

If the parents agree on a parenting plan at or prior to the conciliation conference, the plan may be entered as an order of court effective on the date of the conference. If an agreement is not reached, the master will issue a recommendation that will serve as the temporary order and remain in effect until a final court order.

If the parents do not agree on a parenting plan, they can be ordered to attend a mediation orientation session with the court's mediator, Anthony Libassi. Mediation is an alternative to litigation. The mediator's role is to facilitate communication and the resolution of issues between the parties. The goal of mediation is for the parties to reach an agreement. Parties can terminate mediation at any time and return to court.

Since November 2008, a Five Step Sequential Evaluation has applied to any and all custody filings pursuant to Order No. 08-CV-6514 issued by then-President Judge Harhut (Appendix 2). The order has not been incorporated into the court's local rules. The stated purpose of the new procedure is to "channel the focus on custody cases in Lackawanna County on two main objectives: (1) self-settlement; and (2) to insure that every child involved in the Lackawanna County Family Court system is provided with a lifeline, a Guardian Ad Litem."

Cases filed prior to November 1, 2008 were to follow the "old" procedure, and the "existing" appointed GAL was to continue to serve. Sanctions were to issue if the new procedure was not followed. The 2008 order does not reference Ms. Ross.

In Step One, at the conciliation conference before the master, or at the initial appearance before a judge, the facts of the case are assessed. Should any of the following 13 "indicators" be involved, a GAL is supposed to be automatically appointed: current Children and Youth Services (CYS) involvement; substance abuse; mental health issues; domestic violence; past and/or present PFA; visitation refusal; lack of communication between parties; pending criminal charges; allegations of physical or sexual abuse; supervised visits; domestic instability; relocation; and a high degree of volatility. A GAL may also be appointed in a drug court case (if a custody issue is involved), and in a dependency case.

Ms. Ross has been the court's full-time GAL since 2008. She is the appointed GAL in almost all custody cases. The court maintains a list of several GALs (conflict GALs) who are appointed in the event Ms. Ross has a conflict.

Whether the court or a family pays for the GAL is determined by a judge, based on a review of the IFP form completed by the parent(s). If IFP status has not been requested, within ten days of the GAL's appointment, the parents are to each make an initial deposit of $300 the GAL. The court retains the power to order the parents to pay any additional fees of the GAL and reallocate the parents' responsibilities for such fees. The costs may be borne by the plaintiff, the defendant, shared by the parents, assigned to the parents by percentage or the County may pay the GAL's costs.

In Step Two, the GAL is to meet with the parents and minor child, if age appropriate, to obtain the necessary facts/issues and build a relationship with them. By court order, a GAL in Lackawanna County may, if necessary: collect and review information and documentation; interview parents, children and others; consult with professionals; obtain collateral information; conduct home visits/assessments (scheduled or unannounced); monitor the case to ensure compliance; recommend/authorize referrals; petition the court as necessary; and submit a comprehensive written report to counsel and the court. In each case, the

court's order spells out what the GAL is to do, and includes any specific instructions or areas of concern.

In Step Three, within ten days of meeting with the parents and minor child(ren), the GAL is to contact counsel of record to report the services, if any, recommended for the family. Services include, but are not limited to: parenting coordination; drug and alcohol evaluation; drug testing; individual counseling; family counseling; reunification therapy; therapeutic visitation; anger management; the domestic violence intervention program; parenting classes; a psychological evaluation; and supervised visitation. If the parties do not agree to comply with the services, the GAL is to seek a court order to compel them to do so.

When appropriate, the GAL (or a judge or the parties) can request a custody evaluation. A home inspection may be conducted at the GAL's request. The GAL may also request a court-ordered supervised visit between a parent and child(ren).

Step Four requires the GAL, family service providers, attorneys and/or parties (if pro se), to share information pertaining to the services in which the parents and/or children are participating.

Under Step Five, within forty-five days from the date the parents and/or minor child(ren) begin services, the GAL is to contact the parties and/or attorneys to schedule a GAL conference. The GAL conference is held with the parents, with or without counsel present. The GAL's preliminary recommendations are provided at this conference.

If a settlement is reached at the conference, a court order will be sought by the GAL. If a settlement is not reached, a hearing before a master or judge will be scheduled. The GAL's formal recommendations will be submitted to the court prior to the hearing. However, nothing is filed until the attorneys have read the GAL's preliminary recommendations.

IV. History of the GAL Program in Lackawanna County

In 2003, at the direction of Judge Harhut, Ann Marie Termini (parenting coordinator) was charged with developing training programs and a "certification" process for attorneys who wanted to work as a GAL in custody cases. GALs were required to have between ten and twelve hours of specialized training and had to

apply to the court. Once their qualifications were approved, they were added to the GAL list. That year, twenty-three attorneys were on the list. In October 2005, Ms. Ross attended the training and was included on the list of qualified GALs. Ms. Ross received approximately one case every two weeks.

In 2007, Judge Harhut, who was concerned about the responsiveness and work products of a number of GALs, determined a full-time GAL was needed. He decided the court would benefit from a full-time GAL who was a licensed attorney, had a social science/family law/psychology background and would agree to not practice family law in the County.

On November 26, 2007, a contract for $18,000 per year with no benefits was signed between Ms. Ross and the Lackawanna County Court Administrator for the provision of GAL services. The agreement was for one year with automatic renewal (Appendix 3). In January 2008, Judge Harhut entered an order that appointed Ms. Ross "Guardian Ad Litem to Family Court" (Appendix 4).

On February 12, 2008, Ms. Termini circulated a document entitled, "Guardian Ad Litem In Situations Involving The Family" (Appendix 5). Ms. Ross is referred to as "independent contractor for Lackawanna County Court." The document says: "Please assign cases to Danielle Ross, Esquire that requires [sic] an immediate investigation and recommendation. In addition, assign her cases that are paid by the County. She is also available for other cases involving custody."

On June 17, 2008, Ms. Ross, Judge Harhut and Lackawanna County District Court Administrator Ronald Mackay agreed on a contract for Ms. Ross to be: "The sole GAL appointed by the Court for any and all custody cases, dependency cases, juvenile cases and/or any other type of the cases [sic] the Court deems a GAL appointment is necessary." The contract reads: "The Court Administrator shall make payable to the GAL a set amount as compensation for services rendered. That amount was $38,000, payable in monthly installments. The AOPC was advised the amount approximated a law clerk's salary. In return, Ms. Ross agreed to not practice family law in Lackawanna County. Ms. Ross's 2008 contract was similar to 2007's, but provided: "The GAL shall be available full-time...; be entitled to bill the County and private pay parties of the cases, for which she is appointed...." (Appendix 6).

As a result of Ms. Ross's appointment, the court's list of GALs was to be utilized in the event Ms. Ross could not serve. The list is referred to as the Conflict GAL list. According to Ms. Termini, the attorneys currently on the list are: Marjorie DeSanto Barlow, Donald J. Frederickson, Brenda M. Kobal, Theresa J. Malski-Pezak and Kim Giombetti.

After family court administration moved to the family court building, it became apparent the court would need to hire a receptionist. In addition, Ms. Ross advised that as a full-time GAL, she could use the assistance of a paralegal. Judge Harhut eliminated one position from his staff and hired an individual to work as a part-time receptionist for the family court, and a part-time paralegal for Ms. Ross. In 2009, this position was taken over by Sue McIlwee.

On July 21, 2009, Ms. Ross signed a contract with the family court that "is an extension of said GAL's services set forth in a previous contract..." The contract stated Ms. Ross would be: "The sole GAL appointed by the court for any and all custody cases, Protection from Abuse cases and/or any other type of cases..." and it extended her agreement for services to three years (Appendix 7). The salary continued to be $38,000.

In January 2010, a task force comprised of family law attorneys, Ms. Ross, Deputy Court Administrator for Family Court Claire Czaykowski and Ms. Termini met to discuss modifications to the GAL program. The program had been discussed in meetings of the Lackawanna County Family Law Rules Committee, and was to be included in a redraft of the court's local rules. Nothing has happened since because of the transition of president judges and the 2010 changes to the custody statute.

V. Rationale for the Current GAL Program

As part of his caseload as a new judge in 1987, Judge Harhut was assigned to hear custody and PFA cases. He was authorized by then-President Judge Walsh to create a system for these cases utilizing ideas from the Association of Family and Conciliation Courts. Judge Harhut instituted the appointment of a GAL in custody and PFA cases after he noticed attorneys were not getting work done on these cases quickly enough, PFAs were being filed in divorce cases and fathers were not seeing their children. The Judge would rule on the PFA action, appoint a GAL for

the child and have the parties return in sixty days. Within five years, the number of trials for full custody fell from fifty a year to four.

Judge Harhut's long standing belief in guardian ad litem representation of a child's best interest is reflected in an article he wrote for the Juvenile and Family Court Journal:

> After sitting as a family court judge for only a short while, it became obvious that very often litigation does not serve the best interest of the child...Since the court has a duty to protect the child's best interest and welfare, it is important to establish a structure within which the judge can best ascertain how to meet that standard. The appointment of a GAL can be a significant step toward providing such a structure...The GAL can be the court's assurance that the child's needs will be independently investigated, adequately addressed and protected. The GAL can provide relevant information which the parties have not or cannot reveal. More importantly, a GAL can help the court grasp a clearer picture of the psychological and social framework within which the parents are operating...In both PFA and custody cases, a GAL can perform a number of important services aimed at accomplishing the primary goal of providing a safe and stabilized family environment for the children.
>
> A GAL, though no guarantor of success, is the court's best assurance that it has taken all possible steps to gain the needed information and insight as to what is in fact the child's best interest. At the same time, the GAL can function as the catalyst toward achieving the court's ultimate goal: establishing a long term change in the family dynamic by affording the parents themselves the opportunity to recognize and act in accordance with their child's best interest.

An Expanded Role for the Guardian Ad Litem, Judge Chester T. Harhut, Juvenile and Family Court Journal, Summer 2000. pp. 31-35.

Judge Harhut's 2008 order establishing the Five Step Sequential Evaluation embodies his core belief that, "It's the cost of doing business - a child needs to have an attorney appointed." The Judge developed the program because of his view that fairness requires that the parties in litigation before the family court need representation, and a fairer decision can be reached with the appointment of a

GAL. Several judges were adamant that Judge Harhut's vision and passion for the GAL program brought them to the court. They have a lot of respect for him, and for Ms. Ross.

These judges also said the GAL program developed because of the family court bench's view that fairness required parties in litigation have representation. One commented, "In custody battles, each parent has zealous advocacy, and both believe they are acting in the best interest of the child. They are literally splitting the baby. The role of the GAL is to come in and advocate for the child."

Another judge said, "People come in at 4 p.m. on a Friday afternoon slinging accusations to stop the other parent from visiting. In other counties, a judge stops the visit and hopes a GAL will jump on it. Here, the GAL or GAL's home inspector goes to the house right away and reports to the judge on the situation, and the kid is able to go on the visit. How will I know when to appoint a GAL? It's the easiest decision."

Persons interviewed for this review do not disagree there is value appointing a GAL for a child in certain instances. Their concerns are about how the GAL program is administered, both programmatically and financially.

Several judges commented the GAL program was set up with the best of intentions by Judge Harhut. They believe there was insufficient attention paid to the administration and oversight of the program during the implementation of other cutting edge programs at the family court. The court has served as the "beta test site" for a number of programs, "and the structure of the GAL program did not catch up with the therapies put in place."

Judges and court staff also noted the family court is held up as a national model for innovative programs. One judge said, "My question to other counties is 'why don't you have a system like ours?' Lackawanna should never go back to the periodic representation of a child with a whole group of attorneys."

The AOPC was asked how the GAL program compares to others in the state. The Lackawanna County Family Court's approach to custody cases appears to be more conciliatory. Because its GAL program is so different - by design - from how GALs are utilized in other third class counties, a fair comparison cannot be made.

The Lackawanna program is an outlier because no other third class county has a full-time GAL working at the courthouse, and the annual number of cases to which the full-time GAL is appointed appears to exceed the total number of GAL appointments in the other counties.

This review assesses the programmatic and financial aspects of the Lackawanna County GAL program. Most of the information contained in the assessment was obtained from interviews conducted last summer and fall. However, many persons interviewed were contacted in recent weeks to ensure the information they provided regarding practices and procedures is still current.

REVIEW AND RECOMMENDATIONS

VI. PROGRAMMATIC

The assessment of the programmatic aspects of the GAL program includes an examination of perceived benefits of the system, the criticisms leveled against it by attorneys and families, and the administration of the program.

A. The Lackawanna County GAL Program Model

According to several judges and Ms. Czaykowski, anecdotally the GAL system in Lackawanna County has proven to be "extremely successful." Lawyers have told them things are working better because of their access to Ms. Ross. Cases settle and there is no further involvement by the parties in the court system. Ms. Ross said as a result of the GAL conference, many more cases are "reviews" by a judge rather than a trial. Ten custody trials have occurred since 2005.

Several judges cited the "unbelievable" benefit of having a full-time GAL who is located in the courthouse and is on call for PFA court. Because of Ms. Ross's immediate availability, if a judge is in the middle of a PFA hearing and needs a GAL to represent the child, she can provide a quick assessment and recommendation. Under the old system, the judge would have to continue the hearing.

A benefit to utilizing a GAL is that very few custody evaluations are conducted in Lackawanna County. An evaluation can cost between $4,000 and $8,000. The judges and Ms. Czaykowski said evaluations are not needed because of the clear

picture of what is happening in a case provided by the GAL. The AOPC was advised that many custody evaluations are conducted in some neighboring counties.

Ms. Czaykowski reported that when the family court judges were asked for their position on the GAL program as it currently operates and Ms. Ross's role, they were overwhelmingly positive. In his May 2011 letter to the AOPC, President Judge Munley noted, "This court deems the GAL's work to be very favorable." He recently advised he has appointed Ms. Ross to many cases. The court also reported anecdotally that when members of the bar have been asked their opinion of the GAL program, nearly all responses have been positive.

One master said everyone in the GAL program works well together and as a team. The program is believed to be functioning efficiently and is "a very good system." Another master agreed the program works well, and that there is consistency in having one GAL. "Ms. Ross is prepared and thorough, and you know what kind of information you get."

Data about the GAL program has not been collected in a systemic or measurable way. As a result, it is difficult to make decisions about the program and the court's budget based on fact rather than on anecdotal information. The statistics that have been collected (custody trials fell from fifty a year to four when Judge Harhut began appointing GALs, ten custody trials occurred in the past seven years) are indicators that the GAL/conference may be effective in reducing the number of trials. However, without collecting and evaluating additional data, the court will be unable to quantify how successful its program is or measure progress toward its goals.

Ms. Czaykowski, as the deputy court administrator for family court, should be responsible for the collection of GAL program data. Her office should issue regular reports to the family court judges. It is recommended the family court engage professional assistance to help it determine how to structure its data collection effort and identify feasible and systematic measures that can be used to monitor and continually improve progress towards program goals.

RECOMMENDATION 1: DATA ABOUT THE GAL PROGRAM SHOULD BE COLLECTED AND EVALUATED.

B. Authority of the Full-Time GAL in Lackawanna County

There was widespread agreement among the family court's judges, staff and service providers that Ms. Ross is extremely dedicated to her GAL work. Among other things they stated: "Her work has been 'exemplary'," "She is more conscientious than other GALs," "I am impressed-she always strikes a balance," "She has never had a case fall through the cracks," "She is efficient and responsive," "She does a fabulous job" and "She is very passionate, and I have a lot of respect for her."

The judges mentioned several protracted custody cases in which Ms. Ross dealt with very tough circumstances and effected good outcomes. She did not dodge the many difficulties in these cases. One judge was thanked for getting Ms. Ross involved to help children in a particularly contentious case. Another judge stated Ms. Ross was appointed in a case in which two therapists had quit, and "things went really well." The judges also reported when members of the bar have been asked their opinion of Ms. Ross's performance, nearly all responses have been positive.

Families were equally complimentary about Ms. Ross's work. The AOPC reviewed letters sent to the court in which Ms. Ross received praise and thanks from parents: "You are a Godsend to my children-thank you." "If not for Danielle, we would be in court more often ...she would help us negotiate...she was patient, kind, persistent and professional...her number one focus was the children...I hold Danielle Ross in the highest esteem," "Danielle is more than helpful..." and "I have the utmost respect for Atty. Ross because of the challenges she faces with child custody litigation." Parents who had custody cases with Ms. Ross have called her and Ms. McIlwee to let them know things went well after their cases were over, and they have sent photographs of their children.

However, a number of complaints were also heard from attorneys about how the GAL program has led to a change in their relationship with the court, namely that they have less access to a judge. Several attorneys grumbled a hierarchical system – "a wall"– has been created to get to a judge. One noted the court has become so reliant on GALs, "it can take attorneys out of the equation."

Criticism of the GAL program reached a new level in 2011. Relevant criticisms heard by the AOPC include: Ms. Ross appropriates a judge's role; the "automatic" appointment of a GAL is inappropriate; Ms. Ross is appointed as GAL in all custody cases; judges give too much weight to Ms. Ross's recommendations; Ms. Ross's workload is too much for one person and Ms. Ross's office in the family court building creates an appearance issue.

1. Does the GAL Appropriate the Role of the Judge?

Although attorneys acknowledged there is a place for a GAL to participate in the child custody case process, some were disgruntled about Ms. Ross's role as the court's full-time GAL. They stated judges are side-stepping their role in process and need to be more involved. One attorney said lawyers like to ply their craft before a judge, and "the GAL is usurping the judge's function." Another attorney commented he gets to see a judge and the case is resolved sooner in other counties.

Ms. Ross has received withering criticism from attorneys that she is acting in a "quasi-judicial capacity" in her role as the full-time GAL. The "authority" she has in the GAL conference appears to be a particular irritant. According to Ms. Ross, she does not have any decision-making authority at the conference. "The conference isn't anything more than sitting down and discussing my preliminary recommendations in hopes of collaborating towards a settlement." Ms. Ross said the GAL conference "is completely discretionary for attorneys."

As the result of an unsubstantiated complaint from a litigant, Ms. Ross received an educational letter from the Disciplinary Board of the Supreme Court of Pennsylvania. The disciplinary counsel wrote: "...While the GAL is expected to assist the court in the process, the GAL is clearly not in any quasi-judicial capacity, which could conflict with at least some of the duties of the GAL as set forth by Judge Harhut." (Emphasis added by the AOPC.)

The court, not Ms. Ross, determined her role and scope of authority as a GAL. While Ms. Ross may have been asked to provide input into how her role was structured, the court, not Ms. Ross, is responsible for establishing the role and authority of a GAL.

Given the Disciplinary Board's letter stated some of Ms. Ross's duties may conflict with judicial lines of authority, the family court judges should review a GAL's duties to ensure they do not infringe on the duties and authority of the judge.

RECOMMENDATION 2: THE COURT SHOULD REVIEW THE ROLE AND RESPONSIBILITIES OF A GAL TO ENSURE JUDICIAL AUTHORITY AND DISCRETION ARE NOT USURPED.

2. The "Automatic" Appointment of a GAL

Pursuant to Judge Harhut's 2008 order, the first step of the Five Step Sequential Evaluation requires the automatic appointment of a GAL if a master or judge finds any of the thirteen indicators listed previously. The automatic appointment of a GAL has been controversial since the order was issued.

Several attorneys observed the judges appoint Ms. Ross "way too often." They pointed out a GAL is not needed to resolve (for example) a holiday schedule; "It's a waste of litigants' money to pay for that." One attorney said there are lots of cases (especially with older children) that don't need a GAL. Another stated, "In Luzerne County and neighboring rural counties, an attorney needs to file a motion. In Lackawanna County, a GAL is 'overly appointed.'" Ms. Ross believed there were about ten cases to which she was appointed but should not have been.

One of the court's mental health professionals said, "On average, 10-12% of the cases are likely 'high conflict' cases necessitating the appointment of a GAL," and that the judges may benefit from more training on when the appointment of a GAL is appropriate.

Attorneys also stated the masters are encouraged to appoint a GAL even when attorneys say one is not needed (e.g., "If a child is three, there is no benefit to having a GAL."). One master said a GAL was appointed in custody cases if: a third party was needed to investigate the real story, there was a situation involving abuse, CYS was involved, a case manager was needed to gather information from agencies and when the parties were battling over who was going to be the primary custodian. Out of the ten to thirteen cases she handled on a given day, the master would appoint a GAL in two of them. Another master stated he generally appoints

a GAL if the parties request one, and will certainly do so if he believes one is needed.

There needs to be a collaborative process among the judges as to how they want the GAL program to operate going forward. As the court explores how it wishes to proceed, input from the masters and practitioners may be valuable.

An experienced, independent court consultant (such as the National Center for State Courts or the National Council for Juvenile and Family Court Judges) with nothing to gain financially should be engaged to help the court ascertain the efficacy of the GAL program, determine whether to continue the current approach to custody cases, and suggest the most cost-effective and non-duplicative way to provide services and desired outcomes.

RECOMMENDATION 3: THE COURT, WITH THE ASSISTANCE OF AN INDEPENDENT COURT CONSULTANT, SHOULD CONSIDER WHETHER TO RETAIN THE FIVE STEP SEQUENTIAL EVALUATION ORDER AS THE FOUNDATION OF ITS GAL PROGRAM.

3. Allegation: Ms. Ross is Appointed as GAL in All Custody Cases

A frequent criticism of the GAL program was that Ms. Ross is assigned to <u>all</u> custody cases.

According to Mr. Browning, it was the belief of practicing attorneys and court personnel that Ms. Ross routinely receives GAL referrals if an agreement is not reached during a conciliation conference. He said initial statements from court personnel and private attorneys indicated Ms. Ross receives approximately twenty-five cases per month.

The AOPC was told judges and masters are using their discretion to appoint other GALs at the request of the parties in cases in which Ms. Ross does not have a conflict. Two judges, one master and several attorneys confirmed other GALs have been appointed.

a. Frequency of GAL Appointments to Ms. Ross Since 2008 – Anecdotal Evidence

Given the concern that Ms. Ross is appointed in nearly 100% of the cases, and the allegations by litigants and others that Ms. Ross is making an exorbitant amount of money from GAL appointments, the AOPC tried to ascertain how often Ms. Ross is appointed as GAL.

According to Mr. Browning's report to Ms. Elkins, the County's chief of staff:

"Initial statements from court personnel and private attorneys indicated that Ms. Ross receives approximately 25 cases per month through direct judicial referrals. The family court judges were not sure how often Ms. Ross or other GALs have been appointed, and neither was Ms. Czaykowski. She said masters and judges are responsible for tracking their cases.

Ms. Czaykowski advised the family court administration office does not track the appointments of GALs because judges do not involve the office in the appointment process. Although her office assists the masters with GAL appointments, those appointments aren't tracked, and statistical reports are not generated. Ms. Czaykowski mentioned an old report she put together in which it appeared 7% of custody cases before the masters had a GAL appointed.

Without information about how often GALs are appointed, the court is making decisions about the GAL program and its budget without the benefit of data. While Ms. Ross and other GALs can keep their own statistics, the family court administration office should generate reports about the appointment of GALs. These reports should be distributed to the judges and masters on a regular basis for their review. The independent court consultant recommended earlier can provide guidance about how to collect the data, generate the reports and transition to a new case management information system. The family court administration office should track the information manually in the interim.

b. Frequency of GAL Appointments to Ms. Ross Since 2008 – Sample of Case Files

In September 2011, Ms. Ross told the AOPC she was appointed in 629 cases in total, and had 87 active cases. These appointments were in custody cases, PFA

cases, involuntary terminations of parental rights cases, drug court cases, special relief hearings and emergency special relief hearings. A court order exists for every case to which she has been appointed, and Ms. Ross keeps a copy of each order in her GAL files. She estimated she is appointed in 98% of all GAL cases.

In January, 2012 the AOPC reviewed case files in the Clerk of Judicial Records' (clerk's) office. The purpose of the review was to get a sense of how many family court cases Ms. Ross was actually appointed to as a GAL; find out how many conflict and contempt petitions had been filed; review any documentation available on home inspections and bills; and obtain any other information relevant to this review. Custody cases, PFA cases and divorce cases in which custody was an issue were reviewed.

Nine months of cases were chosen at random.

The sample of cases showed Ms. Ross was appointed as follows:

October 2008 – 38 new cases filed. Ms. Ross appointed in 9 of them (23.68 %);

December 2008 – 24 new cases filed. Ms. Ross appointed in 5 of them (20.8%);

March 2009 – 37 new cases filed. Ms. Ross appointed in 10 of them (27 %);

July 2009 – 38 new cases filed. Ms. Ross appointed in 11 of them (28.9 %);

November 2009 – 30 new cases filed. Ms. Ross appointed in 9 of them (30.0%);

February 2010 – 27 new cases filed. Ms. Ross appointed in 10 of them (37.0%);

September 2010 – 26 new cases filed. Ms. Ross appointed in 13 of them (50.0%);

December 2010 – 29 new cases filed. Ms. Ross appointed in 7 of them (24.1 %); and

January 2011 – 31 new cases filed. Ms. Ross appointed in 10 of them (32.3%).

Based on these numbers, it appears Ms. Ross was appointed as GAL in approximately 30% of family court cases.

The clerk's office was asked to provide the total number of custody cases, PFA cases and divorce cases in which custody was an issue for 2008-2011. The numbers provided were:

2008 – 385 new cases filed
2009 – 330 new cases filed
2010 – 350 new cases filed
2011 – 416 new cases filed

Utilizing the numbers gathered by the AOPC during the case audits and the total number of custody-related cases filed as reported by the clerk's office, an estimate of the number of cases to which Ms. Ross was appointed may be reached. Ms. Ross was appointed to between 86 and 116 cases in 2008[1]; 94 and 99 cases in 2009[2]; 105 and 130 cases in 2010[3]; and between 125 and 134 cases in 2011[4].

These numbers suggest Ms. Ross was appointed to (approximately) between 7.2 and 9.7 family court cases per month in 2008; 7.8 and 8.3 cases per month in 2009; 8.8 and 10.8 cases per month in 2010; and 10.4 and 11.2 cases per month in 2011. Thus, on average, it appears Ms. Ross has been appointed as GAL in approximately 8.6 to 10 cases per month, or between 2 and 2.5 cases per week.

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[1] For 2008: (23.68 + 20.8) / 2 = 22.3. 385 x .223 = 85.9 vs. 385 x .30 = 115.5.
[2] For 2009: (27 + 28.9 + 30) / 3 = 28.6. 330 x .286 = 94.4 vs. 330 x .30 = 99.
[3] For 2010: (37 + 50 + 24.1) / 3 = 37.0. 350 x .37 = 129.5 vs. 350 x .30 = 105.
[4] For 2011: 416 x .323 = 134.4 vs. 416 x .30 = 124.8

This, of course, is far fewer than the allegation that she is appointed in all family court custody cases.

RECOMMENDATION 4: REPORTS THAT TRACK THE NUMBER OF APPOINTMENTS OF GALS SHOULD BE GENERATED BY THE FAMILY COURT ADMINISTRATION OFFICE.

4. Weight Given to Ms. Ross's Recommendations

The family court judges were perceived by some attorneys to give too much weight to Ms. Ross's recommendations. Among the criticisms were the judges "rubber stamp" her decisions, rely too much on her recommendations, look to her to make the decisions and are substantially moved by her recommendations. Attorneys complained if the judges rely on what Ms. Ross says, "They are giving up the function of the court to assess the case themselves." One stated the judges should consider a GAL's report as an element, not a tipping point or the end of the case, and still be prepared to hear testimony.

The judges were adamant Ms. Ross's recommendations are only one factor in their decisions. Ms. Ross commented that although the masters usually adopt her recommendations, the judges "hardly ever" accept them fully; they are almost always tweaked. Ms. Ross and Judge Moyle have had debates on the record. Ms. Ross also advised several cases were appealed because of her role or recommendations: Yates v. Yates, Soa v. McClosky, Korning v. Korning and Judge v. Judge.

During the AOPC's review of family court case files, it was observed that sometimes judges adopted Ms. Ross's recommendations in court orders, and sometimes they did not. There is no evidence judges give too much weight to Ms. Ross's recommendations or otherwise simply endorse her proposals.

5. Ms. Ross's Workload

Several attorneys claimed Ms. Ross has too many cases to handle - that one person can't manage her caseload. They complained she can't get her work done with just one staff person, she does not put time into her reports and her reports are submitted late. One attorney said these issues are not Ms. Ross's fault. "She is a

victim of a system that is bursting at the seams due to the sheer volume of cases. She is flying by the seat of her pants and is pulled in too many directions at once."

The perception by some families that Ms. Ross is deliberately dragging out proceedings was belied by the attorneys. They said proceedings are not deliberately protracted, but complaints about Ms. Ross's availability are legitimate. "Because Ross is in court every day, she can't be available for appointments."

Ms. Termini, Ms. Czaykowski, the masters and the judges disputed the assertions Ms. Ross is overloaded with cases. Ms. Termini stated Ms. Ross's reports and performance are excellent, her caseload is not overwhelming and that she can assume as many cases as her time allows. Ms. Czaykowski noted, "If Ms. Ross has been too busy, the judges and masters would hear complaints that she is not getting her work done," and "Ms. Ross would advise if she was too busy."

The masters stated Ms. Ross handles her caseload well. The judges emphatically said Ms. Ross is not overworked; she is very thorough, and has been exceptional in particularly difficult cases; she prepares a thorough written report in every case; her reports are submitted timely; and she has performed the same level of work for several years. They also emphasized Ms. Ross would advise if she could not handle her caseload.

One judge initially wondered how Ms. Ross – as the one full-time GAL - would work out, "but it has worked out beautifully." Another said if Ms. Ross was overworked, it would be reflected in the timelines and quality of her work products, and that has not been seen.

When asked the maximum number of cases one GAL can reasonably carry, the responses from the masters and judges differed. "I can't give an answer because each case is different." "A GAL can have 100 easy cases and one full-time case." "100 or so cases, depending upon the complexity of each." "I'm not sure, because some appointments require a lot of time."

According to her count last September, Ms. Ross has a caseload of 87 active cases. The new custody statute enacted in January 2011 placed additional responsibilities on a GAL, including attendance at every court hearing, which affects a GAL's availability. Given these new responsibilities, it is difficult to envision that one

GAL, regardless of how competent, can perform all the duties required for a caseload the size of Ms. Ross's. Attorneys asked how Ms. Ross can work on cases if she is in court so frequently.

If the court continues to make broad use of Ms. Ross, it may wish to consider utilizing more than one GAL. The costs and benefits of utilizing: 1) an additional full-time GAL or 2) the conflict GALs more frequently should be weighed by the court.

RECOMMENDATION 5: THE COURT SHOULD DETERMINE WHETHER TO CONTINUE TO ASSIGN THE MAJORITY OF CUSTODY CASES TO ONLY ONE GAL.

6. Ms. Ross's Office in the Family Court Building

Ms. Ross has an "office" in the family court building at the request of Judge Harhut. In actuality, it is a small, crowded cubicle located with the family court administration office suite on the first floor.

Judge Harhut determined having the GAL on site would be beneficial and convenient for the court and the litigants. According to the judges and court administration staff, the arrangement has worked well. If a judge is in the middle of a PFA hearing and needs a GAL to represent the child, Ms. Ross is summoned to provide a quick assessment and recommendation. Without her immediate availability, the judge would have to continue the hearing to obtain a GAL.

Ms. Czaykowski said Ms. Ross and Ms. McIlwee have often assisted the court and family court administration staff by intervening with parents with whom Ms. Ross is involved, thereby stopping needless filings and averting potentially dangerous situations for children. There is a room specifically designed to be child friendly that Ms. Ross uses to meet with litigants before and after hearings.

Ms. Czaykowski also pointed out there is security in the building, which lessens the chance of an incident (e.g., child snatching) occurring in highly volatile custody matters. Unlike at a private law firm, there is no possibility of a weapon being brought into the office. Ms. Czaykowski noted the family court building is conveniently located in downtown Scranton within walking distance of many areas, and is served by public transportation.

a. Appearance/Conflict of Interest

Several attorneys asserted that by providing Ms. Ross with an office in the family court administration office, the court has created an appearance of impropriety and/or a conflict of interest issue. One said "it looks bad. Her paralegal's voice is on the court administration answering machine, and she sits at the office's front desk." Others said while they understood the convenience for the judges, the physical arrangement of the family court building makes it appear the GAL is part of the court system, and that Ms. Ross should be moved out. They commented other GALs would be able to get to the courthouse quickly.

Comments were also made regarding Ms. Ross's "identification badge," and how members of the bar do not have similar badges. The identification badge is a County "swipe" access card/identification badge that opens secured family court doors.

The court should weigh the pros and cons of having an independent contractor working in the family court building because of the perception created that there is a relationship between the adjudicator and the independent contractor. Great care needs to be taken by the court to emphasize its neutrality.

b. Privacy Issues

Despite a sign in Ms. Ross's area that says "No unauthorized people allowed," attorneys regularly walk up to her desk to obtain appointments. Ms. Ross was concerned they may see confidential case documents on her desk. She also worried about being overheard on speaker phone conferences with families.

Family court administration staff do not have access to Ms. Ross's GAL files. The paper files are kept in a row of locked file cabinets near Ms. Ross's cubicle. Her electronic files are password protected.

One attorney complained anyone in the family court administration office can hear what Ms. Ross says about cases in conversations she has on the telephone or in person with litigants. Another questioned whether Ms. Ross's cubicle is the proper environment in which to talk to families given all the "traffic."

Ms. McIlwee and family court administration staff noted President Judge Munley wanted a wall to be erected to provide privacy for Ms. Ross's files. They said measurements for the wall were taken but that nothing has happened since.

Ms. Ross needs privacy not afforded by a cubicle to carry out her duties as the court's full-time GAL. Ideally, she should have an enclosed office that can accommodate her file cabinets and be locked. Adequate security measures for her office should be provided, e.g., a "panic" button that can summon security personnel.

RECOMMENDATION 6: IF THE COURT IS GOING TO MAINTAIN A FULL-TIME GAL IN THE FAMILY COURT BUILDING, A SEPARATE, SECURE AREA SHOULD BE PROVIDED.

C. Supervision by the Deputy Family Court Administrator

1. Oversight of the GAL Program

Considerable confusion exists among some attorneys, judges and court personnel about who is responsible for the administrative activities of the GAL program, particularly since Ms. Ross became the full-time GAL. It appears the administration of the program has been languishing for some time, and one judge flatly stated, "There is no one in charge."

The court administrators said Ms. Termini is the GAL program's administrator. Ms. Termini confirmed that as part of her consulting specialist position, she is the administrator, and she "keeps oversight of the GAL system." Oversight includes: maintaining the lists of conflict GALs and private professional visitation supervisors, and handling complaints about GALs from parents. In past years she worked with family law attorneys on guidelines/standards for GALs, developed the form used during home inspections, conducted trainings for GALs and created a system for recruiting people who wished to serve as private professional visitation supervisors.

When asked whether anyone is keeping track of how the GAL program has been working since the utilization of a full-time GAL, Ms. Termini responded not formally, but anecdotally.

It is recommended the administrative oversight of the GAL program should be supervised by Ms. Czaykowski as Deputy Court Administrator for Family Court. While her specific duties should be directed by President Judge Munley and Mr. Mackay, they may include: transmitting program information, policies, procedures and program changes to relevant individuals on a timely basis; screening complaints against GALs; developing and overseeing GAL trainings; participating in the drafting of GAL guidelines; ensuring complete and current program information is posted on the County's court administration web page; overseeing and monitoring the home inspectors' and private professional visitation supervisors' compliance with court policies and procedures; monitoring the family court service providers' compliance with contract requirements and invoicing procedures; and collecting data and generating statistical and management reports about the program's outcomes and its service providers.

Ms. Czaykowski should communicate frequently with President Judge Munley, the family court judges and Mr. Mackay about the operations of the GAL program. In order to ensure she is able to carry out her new responsibilities, Ms. Czaykowski should be allowed to reallocate the duties of the family court administration office's staff. She may require additional staff to fulfill her obligations. The "return" on the investment of additional staff will come from the daily monitoring of the programmatic and financial aspects of the GAL program and the transparency of its operations.

Although Ms. Czaykowski has the title of deputy court administrator for family court, her job description on file with the AOPC does not reflect any of the work she does for the family court. An updated job description should be forwarded.

RECOMMENDATION 7: THE DEPUTY FAMILY COURT ADMINISTRATOR SHOULD BE RESPONSIBLE FOR THE ADMINISTRATIVE FUNCTIONS OF THE GAL PROGRAM.

2. Complaints about the GAL Program

By their nature, custody cases generally involve contention and conflict. Parents may be rigid in their perceptions, and attempt to enlist the GAL to advocate for their position as to what is best for the child. They may have diametrically opposed viewpoints, and their emotions can run high. These dynamics can

influence how the parties perceive actions taken by the court or the GAL, particularly if the outcome is not what was desired. Therefore, it is not surprising that judges, masters, GALs, attorneys and family court service providers are the subject of complaints by litigants.

The AOPC has learned that formal complaints about Ms. Ross are rare. Some have gone to Ms. Czaykowski, who has forwarded them appropriately. Mr. Mackay has received "one to three complaints" about Ms. Ross. Ms. Ross has received six formal complaints. Ms. Termini has received one "official" complaint about Ms. Ross three years ago, but "numerous parents have complained about the conflict GALs." Judges reported that complaints about Ms. Ross are rare.

Complaints about all the GALs have been received by a master, who recounted the parties' litany: "They are not getting back to me, they are taking money and not doing anything and they are not on top of the case." Another master said complaints against Ms. Ross are very rare. "Sometimes attorneys just don't want any GAL, and sometimes they just don't want her."

Attorneys raised two concerns about actions taken by Ms. Ross. Several observed her to follow judges and masters outside the courtroom, which one attorney said gives the parties the perception their case is being discussed, even if it is not. "Ms. Ross represents a party, and it is inappropriate for her to have conversations with a judge or master. Things should be determined by what is on the record, not by ex parte communication."

The court's process for the receipt of complaints about GALs is fragmented. Ms. Czaykowski should screen complaints about GALs and refer them to the proper entity.

RECOMMENDATION 8: COMPLAINTS ABOUT GALS SHOULD BE DIRECTED TO THE DEPUTY FAMILY COURT ADMINISTRATOR FOR SCREENING AND REFERRAL TO THE PROPER ENTITY.

D. **Qualifications of GALs**

Some attorneys and litigants questioned Ms. Ross's qualifications and experience. They asked what training and background she has "to get appointed to the position

as someone who will determine outcomes and have the authority she does in family law cases."

Ms. Ross has a B.A. in psychology from the Pennsylvania State University, an M.A. in Forensic Psychology from the University of North Dakota and a law degree from Widener University. She is currently a doctoral student in the clinical psychology PhD program at Fielding University. She has completed coursework towards an MBA. Ms. Ross has been a practicing attorney since 1994.

There is widespread agreement among the family court's judges that Ms. Ross does excellent work and is qualified to be a GAL. Several said Ms. Ross's additional education in the social sciences is very helpful.

The qualifications of attorneys on the conflict GAL list were not examined for this review, so it is unknown how they compare with Ms. Ross's. To avoid criticism, the court should establish minimum qualifications for all GALs, e.g., five years' experience practicing family law.

RECOMMENDATION 9: MINIMUM QUALIFICATIONS FOR A GAL APPOINTED TO FAMILY COURT CASES SHOULD BE ESTABLISHED.

E. Continuing Education and Training of GALs

1. Training

Judge Harhut established mandatory continuing education and training for GALs that began in 2003. Ms. Termini was charged with developing and overseeing the training program. The last "training" was an informational seminar about the new GAL program conducted by Ms. Ross and Judge Harhut at the October 2008 bench bar conference.

When asked why there has been no mandatory continuing education and training provided during the last several years, no one seemed to know. Judge Harhut advised he told Ms. Termini to "go back to providing training." It is unclear why that was not done.

An attorney commented there used to be a court policy about attending continuing legal education programs, but now "there is no training oversight from the court." Judges and attorneys said the system would operate better with specialized training

to prepare GALs for what the job is going to be, and that attorneys on the court's current GAL list require training. A judge commented that GAL work is "specialized work, and a high level of training is needed to talk to seven or eight year olds."

Comment: Some of the complaints made about the GAL program suggest topics for future trainings. A custody evaluator expressed concern that some GALs are confusing their role as a GAL with being a child advocate. The evaluator said - given the highly contentious nature of custody cases - a new GAL "can get in trouble" if s/he is not mentored, "because it is easy to get lost in a case." The evaluator strongly suggested new GALs be mentored.

As part of her administrative functions for the GAL program, Ms. Czaykowski should develop and oversee-GAL training with input from the judges. If the court is going to broaden its use of GALs, an orientation program for new GALs should be held as necessary.

RECOMMENDATION 10: MANDATORY CONTINUING EDUCATION AND TRAINING FOR ALL GALS SHOULD BE REINSTITUTED.

2. Guidelines/Standards for GALs

In 2005, Judge Harhut asked Ms. Termini to work with his law clerks on a protocol to give the GAL program structure. Under the Judge's guidance, they surveyed national programs and developed guidelines for GALs. These guidelines, which were drafted with local family law practitioners, were presented to the Lackawanna County Bar Association's Family Law Section that year and put into practice. Different versions of the guidelines are currently being used by some attorneys and GALs.

The guidelines purport to establish the authority and goals of a GAL; criteria for becoming eligible to serve as a GAL; procedures to be followed if service is to be terminated or if a conflict of interest arises; case development procedures; guidelines governing reports and recommendations; mandates for continuing education and training; fees; and the "rights of a GAL."

After the focus of the GAL program shifted to the Five Step Sequential Evaluation in 2008, a task force comprised of Ms. Ross, Ms. Termini and several family law

attorneys met to revise and turn the guidelines into "standards" for GALs. The task force met several times to discuss the pros and cons of the new GAL program, and sought input from the family court judges. It is unclear who authorized the task force or its work.

The task force did not finish its revisions to the guidelines. The AOPC was told worked halted because of Act 112 of 2010, and uncertainty about the court's plans for the GAL program.

The court needs to clearly establish its expectations for a GAL's performance, and should do so through published guidelines or standards. The previous work of the task force should be completed.

The guidelines/standards should be consistent with Act 112, state and local procedural court rules, as well as any standing orders of court, such as Order No. 08-CV-6514, which has governed all custody cases filed on or after November 1, 2008. The guidelines/standards should be reviewed by the judges assigned to family law cases before they are adopted by the court. Any guidelines/standards adopted by the court should be made available to the public.

An "old" document entitled "Guardian ad Litem Program – Role & Responsibilities of the Guardian and Parent," was reviewed. This document, which is instructive, should be updated and provided to parents by all GALs. The fee section should explain in detail fees charged by a GAL, a home inspector, a private professional visitation supervisor and any court-ordered family services provider.

RECOMMENDATION 11: GUIDELINES OR STANDARDS FOR GALS SHOULD BE ESTABLISHED.

F. **Judicial Evaluation of GALs**

Ms. Termini was asked how the performance of a GAL is evaluated. She was unaware of a formal evaluation process, but said measures are in place and judges have input on who to use. "A review process takes place during a case. The judges review their work all the time. For example, if an attorney doesn't show or submits an untimely report, s/he is not appointed." Ms. Termini said if concerns are raised about an attorney's performance, she will look into them.

Based on the observations of judges and attorneys that certain GALs need training, it appears the informal review process described by Ms. Termini isn't working very well. All GALs should meet the court's expectations for performance as stated in the guidelines/standards for GALs.

The list of conflict GALs should be reviewed annually by the judges to determine who should remain on the list. The judges should consider: whether time frames established by the court for the submission of reports and other documents are met by a GAL, a GAL's compliance with the GAL guidelines/standards and continuing education requirements, the number of substantive complaints received about the GAL, etc.

RECOMMENDATION 12: ALL GALS SHOULD BE REQUIRED TO MEET THE COURT'S EXPECTATIONS FOR PERFORMANCE.

G. Lackawanna County Local Rules

The Lackawanna County Rules of Civil Procedure governing custody and visitation that appear on the court administration page of the County's website and on the Unified Judicial System local rules website are not up to date. The posted rules do not accurately reflect current practice and changes made to court procedure as a result of administrative orders.

RECOMMENDATION 13: THE CURRENT LOCAL RULES OF CIVIL PROCEDURE GOVERNING CUSTODY AND VISITATION SHOULD BE SUBMITTED FOR PUBLICATION ON THE UJS WEBSITE AND ON THE COUNTY'S COURT ADMINISTRATION WEB PAGE.

H. Family Court Information on the Web

Only two of the court's forms appear on the court administration page of the County's website, neither of which relate to family court practice. By not fully utilizing and updating all of the court's pages with resources and information about the work of all its divisions, the court administration office is losing an opportunity to provide a service to attorneys and the public. The District Court Administrator, in conjunction with the judges, should review the court's pages and decide what information to post. In addition, accurate information about family court practice

and procedures should be provided to the Lackawanna County Bar Association for publication on its website.

RECOMMENDATION 14: COURT INFORMATION POSTED ON THE COUNTY'S WEBSITE SHOULD BE CORRECT AND UPDATED REGULARLY.

VII. FINANCIAL

The assessment of the financial concerns about the GAL program includes an examination of: the court's review of IFP invoices submitted by GALs, Ms. Ross's billing practices, Ms. Ross's annual income from her work as the GAL and County payment of Ms. Ross's operating expenses.

A. Cost of the GAL Program

Many who work in the family court believe the GAL program costs less to operate with a full-time GAL, and that the program is cost-effective. The AOPC was advised, "If the court went back to the old GAL procedure, it would involve more money."

The belief that a full-time GAL reduces the program's cost is based on anecdotal information rather than data. In March 2011, President Judge Munley and County officials conducted an investigation of the GAL program based on allegations the program is a "Kids for Cash" scheme, and complaints about Ms. Ross's billing practices. Mr. Browning was the main investigator. His report clearly stated the information he gathered was "largely anecdotal, with limited documentary back-up and without formal investigation of individual records [and] should be viewed only as a baseline for which to determine the validity of the various claims made."

In order to determine the GAL program's true cost, the family court administration office should collect and monitor cost data and issue regular reports to the Court.

RECOMMENDATION 15: DATA ABOUT THE COST OF THE GAL PROGRAM SHOULD BE COLLECTED, TRACKED AND REVIEWED.

The financial concerns expressed about the GAL program are examined in the sections below to the extent the AOPC's skills and limited staff resources allowed. Some issues may benefit from additional study by financial professionals.

1. Court Review of IFP Invoices Submitted by GALs

The old and new procedures for the payment of IFP invoices were discussed with GALs, court administration staff and judges. Neither procedure is in writing.

a. Old Procedure

Until December 2011, Ms. Ross submitted IFP invoices directly to the County for payment without judicial review and approval. No one knew why her invoices were not reviewed. Ms. Ross advised that parties have never challenged her invoices.

According to court administration staff, prior to March 2005, GAL invoices for IFP cases were submitted to each judge for their approval and initials. Invoices were then sent to court administration for review before they were forwarded to the controller. Custody masters did not review invoices.

When asked what involvement she had in reviewing GAL invoices as the GAL program's administrator, Ms. Termini said, "Historically, a GAL submitted invoices to either the court administration office, the treasurer's office or 'maybe' to President Judge Harhut." Ms. Czaykowski did not have any involvement with reviewing GAL invoices.

According to President Judge Munley's law clerk, after March 2005, GALs who worked before Ms. Ross became full-time submitted their invoices to the judges who appointed them for review and signature of the IFP litigants. Several GALs said their invoices went to judges, whom they assumed reviewed them. None of their bills were reduced, although they did not know if that was "because of a lack of oversight or whether the invoices were OK."

b. New Procedure

In December 2011, President Judge Munley instituted new invoicing procedures for Ms. Ross. Mr. Mackay explained Ms. Ross separates her IFP invoices according to the judge or master who was assigned to the case. She obtains their

signatures and sends the invoices to President Judge Munley, who signs for each group of invoices and for Ms. Ross's contracted monthly retainer. Mr. Mackay then processes the invoices, and his staff enters them into the County's financial accounts payable system and creates a batch.

When a batch is ready, Mr. McLane is the second level of approval. He reviews the invoices to "see if they make sense" and contain the necessary signatures. If so, he approves the batch and forwards it to the controller. After approval by the controller, the invoices are paid by the finance department and mailed by the treasurer.

According to President Judge Munley's law clerk law, conflict GALs "have been in the practice of submitting their bill to the judge who appointed them for review and signature of IFP litigants. On occasion, Judge Munley, in his capacity as President Judge, received bills from other GALs appointed by other judges, but that is rare." It is unclear that all conflict GALs submit IFP invoices to the judges for review.

There should be one procedure used by the court to review GAL IFP invoices submitted to the County for payment. Ms. Ross's invoices should not be reviewed using a different standard.

RECOMMENDATION 16: IFP INVOICES SUBMITTED BY MS. ROSS AND THE CONFLICT GALS SHOULD BE SUBJECT TO THE SAME REVIEW PROCEDURE.

2. Ms. Ross's Billing Practices

Invoicing and other financial activities pertaining to her work as a GAL are managed by Ms. Ross alone. Ms. Ross completes time slips to record the services she provides for the parties.

As noted earlier, Ms. Ross works under a contract that pays her $38,000 per year. In addition, when Ms. Ross is appointed to a case, a court order directs which party or parties shall be responsible for paying her compensation. Typically, each party is ordered to pay to Ms. Ross a retainer of $300.00. The judge issuing the order has discretion to order one party or the other to pay this retainer, pay a reduced amount, or order the costs to be borne by the County for one or the other party. If

the initial retainer is depleted, Ms. Ross may invoice the party for any additional work, but does so rarely. In situations where a case is closed and subsequent action is required for her to be reappointed as a GAL, Ms. Ross does not charge an additional $300.

The County pays Ms. Ross's invoices for parties granted IFP status. Pursuant to the new procedure instituted by President Judge Munley last December, Ms. Ross submits her IFP invoices to the judges and masters for approval on a monthly basis.

One month of Ms. Ross's 2011 invoices that was chosen at random were reviewed. Ms. McIlwee had advised Ms. Ross does not bill for her work as a paralegal, and the invoices reviewed appear to confirm her statement.

Ms. Ross was asked why the payment terms of some bills differed. It appeared some parties received 30 days to pay while others didn't. She responded it was due to her lack of knowledge about how to fix the standard language option in the software. If Ms. Ross is having difficulty getting the software to reflect her invoicing system accurately, she should consult with the software's technical assistance provider.

RECOMMENDATION 17: BILLING AND PAYMENT TERMS ON MS. ROSS'S INVOICES SHOULD BE CONSISTENT.

Ms. Ross was also asked how she bills for consultations in cases in which she and Ms. Termini are both involved. She does not charge for consulting or discussing cases with Ms. Termini unless she is: 1) specifically reviewing and circulating one of Ms. Termini's reports, or 2) calling Ms. Termini to discuss a parent's progress in Ms. Termini's sessions on a case to which Ms. Ross has been appointed. In those situations, Ms. Ross bills for the phone call or time it takes her to review and circulate the report, which in both cases is approximately ten minutes at the $50 an hour rate.

Ms. Ross rarely files contempt petitions. She has filed seven since 2004, and only does so if the parent is showing disregard or disrespect to the court. Neither the family court administration office nor clerk's office keep track of contempt petitions filed, so there are no independent statistics to confirm the number.

Several judges pointed out that, in the past, GALs would not work on cases if the parties weren't paying them. They noted Ms. Ross works on cases and submits reports to them even though she has not been paid. One judge said Ms. Ross has never filed a contempt petition before her.

No evidence has been uncovered that would suggest Ms. Ross is billing either the County or private parties in a manner inconsistent with her contract.

B. Ms. Ross's Annual Income From Her Work as the GAL

President Judge Munley's May 2011 letter to the AOPC stated that Ms. Ross is paid approximately $70,000 per year by the County. According to Mr. Browning, "Ms. Ross is paid via County voucher at a rate of $1583.33 per month for a total of $18, 999.96 annually. In addition, she was paid an additional $48,182.89 for FY210 to cover a review of records, meetings and other billable activities."

Ms. Ross also receives income from private parties, as authorized by her contract.

A great deal of speculation exists concerning the amount of money Ms. Ross actually earns as the court's full-time GAL. Some have estimated her income as high as $500,000 or $600,000 per year.

In an attempt to ascertain an independent estimate of Ms. Ross's total income from serving as the family court's full-time GAL, the AOPC estimated Ms. Ross's annual income from its review of cases in which she was appointed as GAL.

According to AOPC estimates based on a review of family court records over nine months, Ms. Ross was appointed to between 86 and 116 cases in 2008; 94 and 99 cases in 2009; 105 and 130 cases in 2010 and between 125 and 134 cases in 2011.

These numbers suggest Ms. Ross was appointed to between 7.2 and 9.7 cases per month in 2008; 7.8 and 8.3 cases per month in 2009; 8.8 and 10.8 cases per month in 2010; and 10.4 and 11.2 cases per month in 2011. Averaging these numbers suggests Ms. Ross was appointed, on average, to between 8.6 and 10 cases per month, or between 2 and 2.5 cases per week.

During its case reviews, the AOPC also examined the liability for payment of Ms. Ross's GAL fees. The case review showed:

October 2008	Defendants were ordered to pay fees in 5 cases Plaintiffs were ordered to pay fees in 5 cases The County was ordered to pay fees in 1 case In three cases, there was no record of fee distribution.
December 2008	Defendants were ordered to pay fees in 3 cases Plaintiffs were ordered to pay fees in 3 cases The County was ordered to pay fees in no cases In one case, the court directed the parties to sign a GAL release, but made no mention of payments. In another case, the GAL was assigned to the case, but no order appointing Ms. Ross was in the file.
March 2009	Defendants were ordered to pay fees in 7 cases Plaintiffs were ordered to pay fees in 7 cases The County was ordered to pay fees in 3 cases
July 2009	Defendants were ordered to pay fees in 5 cases Plaintiffs were ordered to pay fees in 5 cases The County was ordered to pay fees in 5 cases In one case, there was no record of fee distribution.
November 2009	Defendants were ordered to pay fees in 5 cases Plaintiffs were ordered to pay fees in 4 cases The County was ordered to pay fees in 3 cases In two cases, there was no order appointing a GAL. However, Ms. Ross worked on the case as evidenced by reports in the files.

February 2010	Defendants were ordered to pay fees in 7 cases Plaintiffs were ordered to pay fees in 7 cases The County was ordered to pay fees in 3 cases
September 2010	Defendants were ordered to pay fees in 5 cases Plaintiffs were ordered to pay fees in 7 cases The County was ordered to pay fees in 6 cases In two cases, no orders appointing a GAL appeared in the files.
December 2010	Defendants were ordered to pay fees in 4 cases Plaintiffs were ordered to pay fees in 4 cases The County was ordered to pay fees in 2 cases In one case, there was no record of fee distribution.
January 2011	Defendants were ordered to pay fees in 8 cases Plaintiffs were ordered to pay fees in 8 cases The County was ordered to pay fees in 1 case In one case, the costs of the GAL were ordered to be split three ways: father-one third, mother-one third and grandmother-one third. In another case, the plaintiff and defendant were ordered to pay half of the GAL fee. The other half was to be paid by the County.

Note: In some case files, there was no clear order specifying who should pay the GAL fees. While this should not occur, there may be a simple explanation, such as misfiled documents or cases that were related to earlier filings in which Ms. Ross was already appointed. Examples of both were seen during the two case reviews. Nevertheless, it would seem prudent that care be taken to clearly specify the division of costs in each case.

In one or two other cases, the order appointing Ms. Ross and ordering fees to be paid by the parties included a notation that fees were "at the discretion of the GAL." If it was the judge's or master's intent for Ms. Ross to determine if the parties should pay, this is not necessarily appropriate, and the practice is discouraged.

In summary, combining the findings from the case reviews:

Defendants were ordered to pay Ms. Ross in:

5 of 9 cases in October 2008 (56%)
3 of 5 cases in December 2008 (60%)
7 of 10 cases in March 2009 (70%)
5 of 11 cases in July 2009 (45%)
5 of 9 cases in November 2009 (56%)
7 of 10 cases in February 2010 (70%)
5 of 13 cases in September 2010 (38%)
4 of 7 cases in December 2010 (57%)
8 of 10 cases in January 2011 (80%)

Plaintiffs were ordered to pay Ms. Ross in:

5 of 9 cases in October 2008 (56%)
3 of 5 cases in December 2008 (60%)
7 of 10 cases in March 2009 (70%)
5 of 11 cases in July 2009 (45%)
4 of 9 cases in November 2009 (44%)
7 of 10 cases in February 2010 (70%)
7 of 13 cases in September 2010 (54%)
4 of 7 cases in December 2010 (57%)
8 of 10 cases in January 2011 (80%)

Based on these numbers, on average, private parties were ordered to pay Ms. Ross's fees in approximately 59% of the cases. Based on this percentage and the average number of cases in which a GAL was appointed, it is estimated that private

parties were ordered to pay Ms. Ross for services as a GAL in approximately 5½ cases per month, or 66 cases per year.

If it is assumed all parties actually paid Ms. Ross, and she did not bill more than the initial $300 retainer per party, it is estimated she would make on average $39,600 per year from private parties (5.5 cases per month x 12 month = 66 cases per year x $600 per case = $39,600). This compensation would be in addition to any amounts paid to her by the County (in both base salary and IFP payments).

Ms. Ross's IRS Form 1099s were reviewed. She was paid $6,333 in 2008, $71,839 in 2009, $72,815 in 2010 and $70, 167 in 2011. Presumably these figures include both Ms. Ross's contracted payment amounts per the January 2008 court order establishing her "salary" at $18,000 per year; the June 17, 2008 contract establishing her retainer in the amount of $38,000 per year; and the July 21, 2009 contract establishing her retainer in the amount of $38,000 per year.

Ms. Ross was appointed as the court's full-time GAL in 2008, so presumably payments to her during that year would have been less. The figures from the 2009-2011 Form 1099s average approximately $71,600 per year. If this amount is added to the estimated income Ms. Ross received from private parties, $39,600 per year, it is then estimated that Ms. Ross's pre-tax income from the GAL program – at least since 2009 – has been approximately $111,200.00 per year. This estimated amount is higher than the approximately $70,000 Ms. Ross was paid by the County alone, but lower than the hundreds of thousands of dollars per year some have suggested Ms. Ross earns.

RECOMMENDATION 18: THE FAMILY COURT ADMINISTRATION OFFICE SHOULD TRACK PAYMENTS MADE TO GALS.

As recommended earlier, the family court administration office should track the appointments and work of GALs, and generate reports. It should do the same for County payments to GALs.

Whether the family court administration office should also track private party payments to Ms. Ross is debatable. Ms. Ross is an independent contractor whose fees are arguably her own business, subject to the litigants seeking relief from the judge who appointed her to their case. However, in evaluating the cost of access to justice, the court arguably has an interest in determining the true cost of Ms. Ross's services to litigants, which would mean the court arguably has an interest in keeping track of how much Ms. Ross is charging for her services.

The AOPC concurs with Mr. Browning's statement in his report, "While there is no direct evidence linking Ms. Ross to any improprietous [sic] or illegal acts, the lack of independent oversight will continue to fuel speculation about the true cost of the GAL program."

RECOMMENDATION 19: THE COURT AND COUNTY SHOULD WORK WITH MS. ROSS TO IMPLEMENT A FINANCIAL ACCOUNTABILITY PROCESS.

The process should meet the parties' respective requirements, contain appropriate confidentiality provisions and be auditable. It should not be unduly burdensome to Ms. Ross. She (and the court's other independent contractors) deserve to be paid timely by the County for services rendered.

No evidence was seen that Ms. Ross is charging, or that she has received, hundreds of thousands of dollars per year as alleged by some, or that she is billing in a manner inconsistent with her contract.

C. **County Payment of Ms. Ross's Operating Expenses**

In his May 2011 letter to the AOPC, President Judge Munley wrote, ". . .the GAL operates from an office and with virtually all other overhead expenses supplied by Lackawanna County." Since Ms. Ross became the court's full-time GAL, her "office" (cubicle) has been located within the family court administration office suite at Judge Harhut's direction.

Ms. Ross pays for her office supplies and paper. She purchased the bookshelves and file cabinets in her cubicle. The County provides the cubicle walls and desk,

heat, electricity, cleaning services, and the phone/fax and computer equipment "because it is their network."

Ms. Ross maintains an office in the courthouse because that is a component of the system established by Judge Harhut. As noted in this report, there are many benefits realized my Ms. Ross's office location. However there is also an appearance of impropriety when independent contractors are provided office space in court facilities.

RECOMMENDATION 20: THE COURT SHOULD DETERMINE IF THE BENEFITS OF KEEPING MS. ROSS'S OFFICE IN THE FAMILY COURT BUILDING OUTWEIGH INCURRING HER INCIDENTAL OVERHEAD EXPENSES AND THE APPEARANCE OF IMPROPRIETY.

VIII. OTHER PROGRAMS AND PROCESSES REQUIRED IN CUSTODY CASES

Although the AOPC was requested to review the GAL program, the review of that program revealed information concerning other programs and processes for litigants in custody cases about which there have been problems and criticisms similar to those surrounding the GAL program. Attorneys and litigants complained about the "hoops" they have to jump through in the GAL program before they see a judge, including Kids First, mediation and parenting coordination.

Some litigants ascribed wrongdoing to the independent contractors who provide these family services to the GAL program, Dr. Chet Muklewicz (Kids First), Anthony Libassi (mediation), and Ann Marie Termini (parenting coordination). The litigants asserted that: the three contractors have offices in the courthouse and their operating expenses are paid by the County; Ms. Termini and Mr. Libassi benefit from cases referred to them by Ms. Ross; and the court forces parties to these providers. They also alleged the court forces them into these services and "makes them pay enormous fees so the providers can enrich themselves." Attorneys complained their clients don't have money for all the programs and that some are too expensive.

In his May 2011 letter to the AOPC, President Judge Munley wrote questions had been raised regarding the expenditure of funds by the County and party litigants in child custody matters, and that it appeared "there has been minimal accountability for these expenditures."

When asked if a court organization chart exists that shows to whom the three contractors report, court administration staff responded they have never seen one. Many were uncertain whether the family service providers report to anyone.

RECOMMENDATION 21: A REPORTING STRUCTURE SHOULD BE CREATED FOR THE COURT'S FAMILY SERVICE PROVIDERS.

While it is recommended that Ms. Czaykowski be responsible for the administrative functions of the GAL program, the independent contractors who provide family services should ultimately be accountable to the bench.

A. Kids First

Kids First is a mandatory parent education program for all parents who file for custody. The court may issue contempt proceedings for failure to appear. The program is presented by Dr. Chet Muklewicz, a licensed psychologist trained in family therapy, divorce mediation and custody evaluation, who has a private practice. Dr. Muklewicz also provides services to the Status Offense Review Court (SORC), a joint effort between Children and Youth Services (CYS) and the Juvenile Probation Office, for the Family Peace Program, which attempts to keep children out of placement.

Dr. Muklewicz said a family court's processing of the legal and physical custody of one's child during a time of conflict in a litigation environment has been well documented to be a tragedy. "The process tears children apart, causes money to be spent and uses hurtful instruments like custody evaluations." Kids First is designed for parents to help their children cope with the effects of divorce and family conflict. Parents are presented with information to help them learn how their relationships have a direct effect on children, free themselves of entrenched conflict and develop a functional co-parenting relationship, among other things. "The program empowers parents and reinforces that they love their children." Dr.

Muklewicz was not aware that he or Kids First has been the subject of a formal complaint.

In 1995, Dr. Muklewicz contacted Judge Harhut, who was trying to start an education program for divorcing parents. Together they developed the Kids First program. Dr. Muklewicz is the author of the booklet Kids First, Children Coping with Divorce and Family Conflict, which parties are required to purchase for the program.

Dr. Muklewicz has two contracts with the County, one to present the Kids First program, and the other to provide therapeutic services to the SORC. The Kids First program takes 10-15% of his work week.

The County posted bids for providers to present the Kids First program. Dr. Muklewicz was the only bidder. "For the first time, the Kids First program has a contract," he said. The contract is between Dr. Muklewicz and the County, not the court, and runs from September 1, 2011-August 31, 2012. The contract is dated September 14, 2011.

The contract states Kids First will be conducted "under the guidance of the Domestic Relations Office (DRO)," which will "review each case individually and will recommend class attendance, where necessary. The Domestic Relations Office will direct any and all recommendations for attendance to the Family Court Administration." However, Dr. Muklewicz is required to submit year-to-date quarterly reports to the family court administration office. It is unclear why the contract does not specify how often Dr. Muklewicz is required to present the program.

It is unknown why Dr. Muklewicz's contract is administered by the DRO, particularly when the contract states attendance at the program "is not mandatory for parties to domestic relations matters." It is also unclear if it is appropriate for DRO funds to be used to pay for a court-ordered education program.

If a person re-files for custody within five years, files new litigation or remarries and has another child, s/he must retake the Kids First class. Dr. Muklewicz said this provision is not contained within the contract, but it is the practice.

Presumably the court has approved this practice; it should also be reflected in the contract.

RECOMMENDATION 22: THE KIDS FIRST CONTRACT SHOULD BE ADMINISTERED BY THE FAMILY COURT ADMINISTRATION OFFICE.

Dr. Muklewicz is required to "maintain an accurate list denoting the names and docket numbers of participants, including: (a) those ordered to attend; (b) those who did attend; (c) those who did not attend; (d) those who rescheduled; and (e) those who have been issued a completion certification. Professional shall also keep a record of fees collected, fees waived and method of payment...and maintain year-to-date quarterly reports...[that] will include a total dollar amount of fees collected to date." While these statistics are important, they do not provide information about the program's outcomes. Data that helps the court evaluate whether the program is meeting its goals should be collected. Reports should be generated and circulated to the judges on a regular basis.

A request was made to review the quarterly reports required since the contract went into effect. Neither Ms. Czaykowski nor Mr. Mackay had seen any reports. Mr. Mackay found a court administration staff person had "a pile of papers sitting on a file cabinet," which were not organized. After he reviewed the reports, Mr. Mackay realized there were deficient. He contacted Dr. Muklewicz, "who thought he was doing everything he was supposed to be doing." Mr. Mackay emailed him his contract and President Judge Munley's July 15, 2011, both of which clearly state what his reporting obligations are.

Dr. Muklewicz subsequently produced the quarterly reports. However, on the Kids First Class List, the columns "payment method" and "payment amounts" are blank. These deficiencies must be remedied. The family court administration office should regularly cross-check attendance and payment amounts on the reports.

RECOMMENDATION 23: OUTCOME DATA ABOUT THE KIDS FIRST PROGRAM SHOULD BE COLLECTED AND REVIEWED.

An average Kids First class has forty-seven persons. The classes used to meet in the jury lounge of the courthouse, but his contract specified Dr. Muklewicz must

hold them outside the courthouse. Since September 2011, classes have been held Saturday mornings at Lackawanna College's Student Union.

In his report to President Judge Munley, Mandated Divorce and Custody Education in the Lackawanna County Family Court, Mr. Browning pointed out, " ...allowing a provider with a vested fiduciary interest to determine the necessity, appropriateness and scope of the program appears to be contrary to the methodology of the vast majority of programs delivered throughout the Commonwealth or the nation." He also noted in Pike County, "the local rules mandate attendance to Kids First or an equivalent program approved by the court rather than subject to the approval of Dr. Muklewicz as stated in Lackawanna County's local rules."

Dr. Muklewicz's interaction with Ms. Ross has been limited to a few cases in which he was a private therapist (via a court order or when he was sought out by the parents). Prior or subsequent to those therapy session(s), the parties had a GAL appointed, so Ms. Ross was involved. He has worked most prominently with Judge Harhut.

Dr. Muklewicz does not receive payment from the court for the Kids First program. After receiving the court's order, each parent submits a $30 class fee together with a registration form directly to him. The fee has remained $30 since the program's inception. It is waived for parents who are granted IFP status, have an Access Card or are on SSDI. On average, 20% of the fees are waived, and Dr. Muklewicz does not receive reimbursement for them from the County. If an IFP petition has not been filed by the time the parties attend the program, the court's local rule authorizes Dr. Muklewicz to determine if the party is indigent for purposes of reducing or waiving the program fee.

The issues of whether the program fee should remain $30, who determines if the fee should be waived and how the fee should be collected (and by whom) should be reviewed by the court in conjunction with any new contracts for the program.

RECOMMENDATION 24: THE KIDS FIRST FEE COLLECTION STRUCTURE AND PROCESS SHOULD BE REVIEWED BY THE COURT.

Mr. Browning suggested "...The court might benefit from multiple providers delivering court approved content [for divorce education]," and "To offset Court Administrative filing activities and contempt proceedings related to attendance at court-approved classes, an increase in the fee for every pleading containing a count for custody may be warranted."

It is unclear how much Dr. Muklewicz was paid from Kids First fees prior to his contract. According to the program's year-to-date quarterly report through December 2011, Dr. Muklewicz was paid $6,930. He noted the value of fees waived was $1,890, but that he still incurs expenses for administration, rent, security, books, handouts, etc.

Dr. Muklewicz has never had an office at the courthouse. He has always paid for his office space and administrative assistant. He has a County "swipe" access card/identification badge, presumably for his work with the SORC.

B. Mediation

Mediation is an alternative process to litigation. A neutral person who does not have a stake in the process – the mediator - helps the parties negotiate their differences with the ultimate goal of reaching an agreement. Research has shown mediation is effective because the parties themselves formulate solutions that meet their needs. Parties can terminate mediation at any time and go back to court. Anthony J. Libassi provides mediation services to the family court and CYS. He has a master's degree and is a certified rehabilitation counselor.

Cases are referred to mediation by an order from a master or a judge, typically in lieu of or prior to Ms. Ross's appointment as GAL. Ms. Ross does not refer cases to mediation. Mr. Libassi keeps a copy of each order for mediation in his files for three to four years. He did not know whether the AOPC would find copies of court orders in the clerk's office's case files.

In 1997, Mr. Libassi began working for the court after attending a training during which Judge Harhut invited interested persons to "sit in on custody cases." He accepted the invitation and observed several mediations, although he had a full-time job. Judge Harhut noticed Mr. Libassi and asked him to mediate a dispute, which he did successfully. The Judge then began referring cases to Mr. Libassi for

about a year. Mr. Libassi was not paid for those mediations, and he did not ask for payment. The mediations were held in the clerk's office in the courthouse.

On May 30, 1997, Judge Harhut filed an order that appointed Mr. Libassi as "special master in all areas of the family court." Judge Harhut referred increasingly difficult cases to him. Mr. Libassi conducted mediations part-time in his Clarks Summit office, and was paid for them. He worked non-traditional hours that ran as late as 8 p.m. Mr. Libassi said Judge Harhut, who wanted him to be closer than Clarks Summit, "made him move" to the family court building in 2011. Judge Harhut confirmed he wanted Mr. Libassi at the courthouse because "buses don't go to Clarks Summit." The Judge posted sheriff's deputies at the courthouse doors to accommodate mediations that ran into the evening (4 p.m. to 6 p.m.).

"I never wanted to have an office at the courthouse and be 'part of the system.' I wanted to be an alternative to the system," said Mr. Libassi. Parking is an issue for the parties at the family court building. The sheriff's deputies lock the doors and leave at 6 p.m., which creates a problem for mediations scheduled later. Mr. Libassi wants to return to Clarks Summit.

Mr. Libassi was questioned about the court's local rule that states, "...if desired by the parties, the parents may choose an appropriate mediator." In practice, parties are being required to attend mediation after the conciliation conference before a master. Mr. Libassi provided a copy of a January 22, 2001 memorandum from Alan Wandalowski to Judge Harhut entitled, "Amendment to Rule 1915.1 requiring mediation before the court will set a hearing date to resolve claims in actions for custody, partial custody and visitation."

This amendment is not contained in the local rules posted on the court administration page of the County's website or the Unified Judicial System's website.

The amendment states if a claim for custody, partial custody, visitation or modification of an existing order is raised during the course of an action of divorce or for support, the following procedures apply:

A. The parties must schedule a conference to resolve the claim. The conference must take place within forty-five days after the complaint or petition is filed.

B. If the claim is not resolved at the conference, the parties must participate in mediation within fifteen days after the conference.

C. If the claim is not resolved in mediation or by other appropriate means, the court must order a hearing to address the merits of the claim. The hearing must take place within forty-five days after mediation.

Mr. Libassi was unhappy with the court's standard order referring litigants to mediation, and has asked that it be changed. He objected to the language, "... the parties shall resolve their disputed issues through mediation," and "The parties shall split the cost of mediation." Mr. Libassi would prefer that parents be ordered to attend a mediation session to see if they want to resolve their issues via mediation.

Litigants are currently asked to come to a mediation orientation session. They are not obligated to participate in mediation. Mr. Libassi advises in the orientation session that either party can terminate mediation and go back to the court without prejudice. Anything said during mediation cannot be used in the court process.

When asked about the difference between a conciliation conference and a mediation session, Mr. Libassi advised the conference is a court hearing during which the master tries to broker a deal between the parties and imposes a decision. The parents are empowered to make decisions in a mediation session. The parties' adherence to an agreement reached in mediation is higher than to an agreement in a court order.

Mr. Libassi mentioned "thousands" of custody evaluations were ordered prior to the mediation program. Judge Harhut wanted to remove custody cases from the court system with mediation and parenting coordination. The Judge wanted to empower the parents to make their own decisions with regard to their children.

Although he has provided custody mediation services since 1997, Mr. Libassi has only had one contract with the court from September 1, 2010 through August 31, 2011. The services required by the contract were: " ...provide Divorce and

Custody Mediation, at no charge, to parents who reside in Lackawanna County…; Provide Dependency Mediation for families and Lackawanna County Children and Youth Services by resolving issues between the involved parties, establishing Dependency, creating Family Service Plans and visitation schedules, and presenting treatment options; Provide Dispute Resolution services to all specialty courts, Juvenile Probation, Adult Probation and Domestic Relations when requested; Provide Co-Parenting services and Family Group Decision Making sessions, as needed; Represent Lackawanna County on the House Resolution 126 committee which is creating legislation for Alternative Dispute Resolution."

Mr. Libassi was requested to allocate percentages to the time he spends on each service listed in the expired court contract:

1. Divorce and custody mediation – 95%
2. Dependency mediation – 0% because that is done under his CYS contract
3. Mediation for specialty courts, juvenile probation, adult probation and domestic relations office – 5%
4. Co-parenting (parenting coordination) and family group decision-making – 0%
5. Represent Lackawanna County at House Resolution 126 Committee which is creating legislation for alternative dispute resolution – 0%

Mr. Libassi has not done co-parenting (parenting coordination) or family group decision making in ten years.

Mr. Browning advised Mr. Libassi's contract with CYS to provide dependency mediation services "is a separate and distinct program from the court-administered custody mediation program."

In any future contract with Mr. Libassi, care must be taken to segregate custody mediation services from dependency mediation services provided under his CYS contract. Dependency mediation services should not be included in two contracts.

RECOMMENDATION 25: MR. LIBASSI'S COURT CONTRACT SHOULD DELINEATE THE CUSTODY MEDIATION SERVICES TO BE PROVIDED.

When asked whether dependency mediation, which must be conducted within specific time frames, impacts his ability to provide custody mediation timely, Mr. Libassi advised all dependency mediations occur during the work day. He does custody mediation in the evenings on Monday, Tuesday and Thursday. "Premium" custody mediation appointments for working parents are night appointments.

Although his court contract did not require him to provide outcome reports, Mr. Libassi provided Judge Harhut with reports about mediation when department head meetings were held. Those reports weren't kept, and meetings are no longer held. He mediated about 100 custody cases a year, and had a 66% success rate. One third of the remaining 34% of cases were inappropriate for mediation because of domestic violence or mental health issues.

Information about the program's outcomes is not collected currently. Data that helps the court evaluate whether the program is meeting its goals should be collected. Reports should be generated and circulated to the judges on a regular basis

RECOMMENDATION 26: OUTCOME DATA ABOUT THE CUSTODY MEDIATION PROGRAM SHOULD BE COLLECTED AND REVIEWED.

Mr. Libassi maintains a paper filing system for custody mediation that is separate from his dependency mediation filing system, which is automated. When asked who substitutes for him when he is ill or on vacation, Mr. Libassi responded no one, and that it has never been discussed with him.

The AOPC heard two complaints about the mediation program. Mr. Libassi was accused of "overreaching" in mediations by one attorney. The court would send her clients for a custody mediation, "but Mr. Libassi would resolve support or divorce issues instead 'so the parties don't need an attorney.'" The attorney claimed Mr. Libassi is "conducting the unauthorized practice of law – he is a mediator, not an attorney." Another attorney said he has not had parents tell him that mediation was meaningful. "Because the attorney is not allowed to observe, they can't see the results. Counsel should receive a report about the mediation." As the AOPC did not talk to any families that went through the mediation program, it is unknown how they perceived it.

Mr. Libassi's only contract with the court to provide custody mediation services was from September 1, 2010 through August 31, 2011. The contract was for $30,000 and specified he would receive bi-monthly payments of $1,250, regardless of how many mediations he facilitated. Although he continues to provide custody mediation services and submit invoices to the court pursuant to the 2001 local rule amendment about mediation, Mr. Libassi does not have a contract with the court. Mr. Libassi sent a memorandum to Mr. Mackay requesting a new contract.

According to Mr. Mackay, since January 2011, Mr. Libassi's invoices have been approved by President Judge Munley. Mr. Mackay then approves the invoices and his staff enters them into the County's financial accounts payable system and creates a batch.

When a batch is ready, Mr. McLane is the second level of approval. He reviews the invoices to "see if they make sense" and contain the necessary signatures. If so, he approves the batch and forwards it to the controller's office. After approval by the controller, the invoices are paid by the finance department and mailed by the treasurer.

A review of Mr. Libassi's invoices showed there was no case information on them. Invoices should include the case name, a description of the services provided, and to whom the services were provided.

RECOMMENDATION 27: MR. LIBASSI'S INVOICES SHOULD INCLUDE CASE INFORMATION AND A DESCRIPTION OF SERVICES PROVIDED.

Mr. Libassi was asked to explain the fee structure for custody mediation. The first three sessions are free to the parties. The parents are advised by Mr. Libassi that he will try to assist them in three sessions. Pursuant to the terms of the court's standard Agreement to Mediate (signed by the parents), additional sessions are $140 per hour, and are payable directly to Mr. Libassi. The $140 is required to be split between the parties, who each pay $70 an hour. In the last seven to eight years, Mr. Libassi has not collected a fee for a fourth or fifth mediation session.

The court should review the fee schedule and also examine whether paying a flat rate to Mr. Libassi for mediation services is equitable and fair given: 1) the

number of sessions a mediation may involve and 2) the actual number of custody mediations held during an average week.

RECOMMENDATION 28: THE FEE SCHEDULE FOR MEDIATION SHOULD BE REVIEWED BY THE COURT.

Mr. Libassi has a contract with CYS to provide dependency mediation services and services to the intensive reunification court. The current contract runs from July 1, 2011 through June 30, 2012 and is for $140,000. Any services required beyond that rate must be pre-approved by the CYS director.

According to the County's director of revenue and finance, Mr. Libassi's invoices "for mediation services" are entered into the County's financial accounts payable system by CYS staff and approved by the CYS director. Invoices are required to have the number of hours and a per diem listed. They are then forwarded to the controller's office for approval. After approval by the controller, the invoices are sent to the finance department for payment and mailed by the treasurer.

When asked how $140,000 is justified for one person to provide dependency mediation services, Mr. Libassi explained he pays four people: himself, two secretary/typists and a part-time bookkeeper. In addition, Mr. Libassi pays four attorneys for the intensive reunification court as independent contractors. The attorneys receive a flat fee.

Mr. Libassi's previous CYS contracts were for: $192,711.96 in 2008-2009, $192,711.96 in 2009-2010 and $183,926.62 in 2010-2011. The reduction in the contract amounts occurred when he was taken out of the intensive reunification court. Mr. Libassi's IRS Form 1099s from 2008-2011 were reviewed. He was paid $24,840 in 2005, $153,569 in 2006, $153,748 in 2007, $221,461 in 2008, $237, 521 in 2009, $223,444 in 2010 and $191,355 in 2011.

Lackawanna County's FY 2011-12 Needs Based Plan and Budget Narrative Template for CYS was reviewed. On page 56, it states, "two of the largest providers of In-Home Services" are Mr. Libassi and Dr. Muklewicz. Mr. Libassi was asked what "in-home services" he provides. He was unfamiliar with the document and said he doesn't provide in-home services.

A county's plan is required to be approved by the court's president judge. Then-President Judge Harhut and Mr. Browning put mediation into the plan originally. It is not clear if President Judge Munley reviewed the most recent plan submitted to the state. Judge Harhut said mediation should still be included in the County's plan.

Mr. Libassi has an office in the family court building because of Judge Harhut's concern about the lack of bus service to Clarks Summit. However, Ms. Termini provides parenting coordination services from an office at Clarks Summit, and the AOPC did not hear any concerns that parents can't get to her office. (Ms. Termini also has an office at the courthouse, but it intended for her work as consulting specialist.) Regardless, the court needs to be cognizant of the pros and cons of having an independent contractor working in the family court building because of the perception created that there is a relationship between the adjudicator and the contractor. Great care needs to be taken by the court to emphasize its neutrality. As noted previously, Mr. Libassi would prefer to have an office in Clarks Summit.

Mr. Libassi pays for his own benefits, secretary, accountant, parking and unemployment compensation. He purchased his own furniture (with the exception of the table in the room where dependency mediations are held). The County provides the cleaning services, heat, electricity and a bathroom, which he shares. Mr. Libassi has a County "swipe" access card/identification badge.

C. Parenting Coordination

In 1998, Ms. Termini was offered a part-time contract position by Judge Harhut to assist him in implementing the holistic as opposed to litigious approach in family court. She currently works for the court in two capacities, as a "consulting specialist," and as a parenting coordinator. There is no single document that details all of the services she provides. Ms. Termini "doesn't really report to anyone."

Although she has been paid by the County for years, Ms. Termini hasn't had a contract with the court for either position. She believed there is a court order that serves as a contract, but didn't know where it was.

RECOMMENDATION 29: MS. TERMINI'S CONTRACT SHOULD DELINEATE THE SERVICES TO BE PROVIDED.

Ms. Termini works on Monday, Tuesday and Thursday from 9:30-3:30 p.m. as a consulting specialist. In that capacity, she consults with Ms. Ross and the judges, and she interviews parents and children. These services are performed for custody cases, CYS matters and juvenile proceedings.

As part of her consulting specialist position, Ms. Termini said she serves as the GAL program's administrator, and "keeps oversight of the GAL system." Oversight includes: maintaining the lists of conflict GALs and private professional visitation supervisors, and handling complaints about GALs from parents.

In past years Ms. Termini worked with family law attorneys on different iterations of the guidelines for GALs, developed the form used during home inspections, conducted trainings for GALs and created a system for recruiting individuals who wished to serve as private professional visitation supervisors.

Ms. Termini's current primary function for the GAL program is to "consult with Danielle about different things on cases (e.g., "brainstorm ideas about what is appropriate for referrals outside the family system or develop systems for kids") and how procedures are working." When asked how much interaction she has with Ms. Ross, Ms. Termini responded there are some cases to which they are both assigned, but did not provide specifics. She used to consult with Ms. Ross more frequently in cases they both were not assigned to, but now consults with her about one hour a month.

The AOPC does not know how often Ms. Termini consults with the judges and CYS or interviews families and children in custody cases, and is unclear about how much consultation occurs with Ms. Ross on cases to which they are both assigned.

Ms. Ross was asked how many hours a month she consults with Ms. Termini, on average. She typically only consults on cases in which Ms. Termini is involved, and such consultation is sporadic and limited.

RECOMMENDATION 30: THE COURT SHOULD DETERMINE WHETHER THE CONSULTING SPECIALIST SERVICES CURRENTLY PROVIDED BY MS. TERMINI ARE SUFFICIENT TO JUSTIFY THAT POSITION.

According to Ms. Termini, parenting coordination is "a psycho-educational program that addresses the relationship between separate households created as a result of divorce or family separation." If the parties fail to meet the requirements of the program, contempt proceedings may be instituted by the court.

In her capacity as parenting coordinator, Ms. Termini is directly involved in "toxic" cases for which parenting coordination is ordered. Her parenting coordinator responsibilities include "educating the parents, monitoring arrangements for the child and mediating parenting concerns." Ms. Termini may also provide unification therapy or family counseling, but they are ordered separately by the court. Parenting coordination work is generally done at Ms. Termini's Clarks Summit office.

Ms. Termini makes recommendations to the court and the parents about family functioning. If other services are needed, she will tell the parties and/or their attorneys, and, if necessary, meet with a judge or Ms. Ross. She may also withdraw as parenting coordinator if she feels that effective change is no longer occurring in keeping with the best interest of the child. In Lackawanna County, a parenting coordinator "does not make any binding decisions that due process would be called into question" –Ms. Termini just makes recommendations. Ms. Ross was asked how often she refers cases to Ms. Termini, and wasn't sure. She does not keep a list of cases in which she makes recommendations for parenting coordination.

The AOPC reviewed the old "co-parenting" Informed Consent Program Overview and Agreement and new version (Appendix 8) in use as of January 21, 2012. Ms. Termini noted, "The impetus to change the agreement is ongoing, as working with high conflict cases (that parenting coordination is designed for), requires concrete, clear and detailed protocols."

The new agreement has a number of provisions not found in the previous version, including: the initiation of the parenting coordination process, the procedure and rights of the parenting coordinator, communications with the parenting

coordinator, confidentiality, compensation and privilege. Ms. Termini said Judge Harhut did not approve the agreement but gave her license to draft it. It is unknown whether any family court judge reviewed and approved the version that is in use.

RECOMMENDATION 31: THE NEW PARENTING COORDINATION AGREEMENT SHOULD BE REVIEWED AND APPROVED BY THE COURT.

No parenting coordination orders were found during the AOPC's reviews of custody case files in the clerk's office. There were rare, occasional notations that the parents were to participate in co-parenting courses in court orders or on sheets used by the masters. More often, there were notes in the GAL reports mentioning reports from Ms. Termini.

Ms. Termini said she worked as a parenting coordinator in 41 cases in 2009. One is still active, and the parents were non-compliant in 15. In 2010, she was assigned to 43 cases. Five are still active, and seven involved non-compliant parents. In 2011, she was assigned to 47 cases. In 11, the parents were non-compliant.

According to Ms. Termini, differences exist between the parenting coordination, Kids First and mediation programs. Her program handles only high conflict cases, and works with families much more intensively than Kids First does. Kids First is a designed to give parents strategies to help their children cope with divorce and family conflict. Mediation consists of a few sessions and usually only involves one or a few issues. Parenting coordination takes between eight and twelve months or longer. Mr. Libassi handles most mediation cases, the exception being cases that involve domestic violence. Those cases are sent to Ms. Termini.

It is unknown whether reports are generated about the parenting coordination program. In the absence of a contract with Ms. Termini, there is no formal requirement for her to produce reports. Data that helps the court evaluate whether the program is meeting its goals should be collected. Reports should be generated and circulated to the judges on a regular basis.

RECOMMENDATION 32: OUTCOME DATA ABOUT THE PARENTING COORDINATION PROGRAM SHOULD BE COLLECTED AND REVIEWED.

Several attorneys criticized the parenting coordination program. "The program is a 'boondoggle' – the parties have to go for months." "She is too close to the action and runs her own little domain." "The process goes on and on and I don't understand the value of it. The court should get rid of Termini's kingdom." "A conflict of interest is created by the court making people go to her program." "Termini is nice and bright, but she qualifies everything and never makes a definitive statement. She is like a counselor."

Others complimented the program. A master said if a parent needs therapeutic setting, Ms. Termini is appointed, and cases are referred to her when the parties won't communicate. "She does good work, and can get through to people." One parent wrote, "She tried to help us, teaching us the fine art of negotiation...Ann Marie was persistent, kind and knowledgeable...her number one goal was to help us with effective co-parenting...I was pleased working with Ann Marie Termini. She was professional every step of the way."

Although Ms. Termini does not have a contract with the County, the County has been paying her since 1998. In the past, her bills were "simply approved" by Judge Harhut. Mr. McLane said when Ms. Termini was located in Judge Harhut's office, cash payments from the parties were mailed to her there. His understanding was the cash payments were taken to the treasurer by Judge Harhut's tipstaff, who received a receipt for the deposit. Ms. Termini would then submit a voucher to the County for payment.

During the interim period before the new invoice review procedure took effect, President Judge Munley reviewed and approved bills previously submitted by Ms. Termini. Mr. Mackay advised in January 2012, changes were made in the way invoices for Ms. Termini are processed. Ms. Termini now separates her invoices according to the judge or master who heard the case. She obtains their signatures on the invoices and forwards them to President Judge Munley, who signs for each group of invoices. Mr. Mackay then approves the invoices, and his staff enters them into the County's financial accounts payable system and creates a batch.

When a batch is ready, Mr. McLane is the second level of approval. He reviews the invoices to "see if they make sense" and contain the necessary signatures. If so, he approves the batch and forwards it to the controller's office. After approval by

the controller, the invoices are paid by the finance department and mailed by the treasurer.

Ms. Termini bills the court $20 an hour for the work she does as consulting specialist between 9:30 a.m. and 3:30 p.m. on Mondays, Tuesdays and Thursdays.

As recommended earlier, the court should determine whether the consulting specialist services Ms. Termini provides to the court are sufficient to justify that position. The court should also review her hourly rate arrangement.

RECOMMENDATION 33: THE "CONSULTING SPECIALIST" HOURLY RATE ARRANGEMENT SHOULD BE REVIEWED BY THE COURT.

Ms. Termini's work as parenting coordinator is billed to the court at $60 per hour for parties proceeding IFP (for whom costs are waived). She invoices the parties for reunification therapy or family counseling, and payment is made directly to her. When she does parenting coordination work at her courthouse office, Ms. Termini does not bill the court as consulting specialist, so there is no "double dipping."

The fee schedule outlined in the January 2012 Parenting Coordination Informed Consent Program Overview and Agreement (agreement) used by Ms. Termini reads:

> $300 retainer for each parent (the fee may be reduced at Ms. Termini's discretion)
>
> $40 per individual 50 minute session (if represented by Legal Aid, $20)
>
> $35 per parent for each 80 minute joint session (if represented by Legal Aid, $15)
>
> $15 per quarter hour telephone consultation with parent/guardian/professionals (if represented by Legal Aid, $15)
>
> $35 per hour for preparation of written reports (if represented by Legal Aid, $15)
>
> $35 per hour for home/school/work visits including travel to and from the location (if represented by Legal Aid, $15)

$35 per hour for court time including travel to and from the proceedings (if represented by Legal Aid, $15)

$35 per hour for reading extensive reports and records (if represented by Legal Aid, $15)

$20 per parent for the book Cooperative Parenting and Divorce: A Parent Guide to Effective Co-Parenting

These fees are waived if the parties are granted IFP status.

The agreement states the retainer is expected from each parent to initiate the process unless other arrangements have been made with Ms. Termini or are stipulated to differently in the court order. After the fees are received, Ms. Termini contacts the parents to schedule their first individual session. Parents are provided with an itemized copy of their bill on a monthly basis. An additional retainer may be requested as needed. The initial retainer of $300 is payable by money order only to the "Lackawanna Family Court." The book fee of $20 per parent is payable by money order only to Ms. Termini.

It was unclear how the fee schedule applies to non-IFP cases (cases in which people can afford to pay, and cases in which a Legal Aid attorney is involved) and requested clarification from Ms. Termini. She was asked when it applied, and if any or all of the fees were made payable directly to her or the court. Ms. Termini responded, "The $300 retainer, if one is supplied, is used to deduct session fees. I only charge by the hour for the sessions I offer. If someone has a $300 retainer and the session fee is $30, then the $30 gets deducted from the 300. The $300 is used, [Sic] then they pay monthly."

The AOPC is still unclear how the fee schedule applies or why the retainer is paid to the family court (rather than Ms. Termini), only to be "turned around" by the County and paid out to Ms. Termini.

According to Ms. Termini, Judge Harhut did not approve the new agreement but gave her license to draft it. Judge Harhut said he did not discuss the fees listed in the new agreement. It is unknown whether President Judge Munley was consulted about or reviewed the new agreement.

RECOMMENDATION 34: THE PARENTING COORDINATION FEE SCHEDULE AND PAYMENT PROCESS SHOULD BE REVIEWED AND APPROVED BY THE COURT.

All fees collected from the parties in cases for which the court is billed are recorded by Ms. Termini in a notebook. She submits invoices to the District Court Administrator that contain a summary of the hours worked and her hourly rates. Ms. Termini said she does some work for which she doesn't bill.

Ms. Ross was asked how she bills for consultations in cases in which she and Ms. Termini are both involved. She does not charge for discussing cases with Ms. Termini unless she is: 1) specifically reviewing and circulating one of Ms. Termini's reports or 2) calling Ms. Termini to discuss a parent's progress in Ms. Termini's sessions in a case to which Ms. Ross has been appointed. In those situations, Ms. Ross bills for the phone call or time it takes her to review and circulate the report, which in both cases is approximately ten minutes at the $50 an hour rate. It unclear if or how Ms. Termini bills for these consultations.

A number of Ms. Termini's 2011 invoices were reviewed. Very little detail was provided on the invoices. A representative sample invoice read:

> Services Rendered to Lackawanna Family Court for June 2011
>
> In the position of Consulting Specialist: 56.75 hours x $20 = $1,135
>
> In the position of Parenting Coordinator: 82.25 hours x $60 = $5,115
>
> Grand Total = $6,250

There was no itemization of the services provided for either position, nor were the case names listed to which the services pertained. On some invoices an amount was charged for "Services Rendered Without Client Payment," and for "Book Reimbursement." On one, there was a charge just for "Services." Ms. Termini also invoiced the court for travel reimbursement to a conference that presumably was work related.

It is not clear she is prohibited from providing more detailed invoices for services. Under HIPAA, otherwise protected health care information may be disclosed for certain purposes, such as, among other things, for payment. A full analysis of how

HIPPA applies to the services Ms. Termini provides, and answering what information she can disclose consistent with HIPPA, are beyond the scope of this assignment. However, as the court is paying for Ms. Termini's services, and doing so out of public funds, it seems unreasonable that the court cannot know what services are being provided in each case. Whether that information should be shielded from further (public) disclosure is another question.

At a minimum, all invoices should include case information and a description of the services provided, and to whom (or this information should be included on a separate sheet to be held confidentially by the family court administration office), or Ms. Termini should be required to explain in a thorough manner why such information should be withheld. A bald invocation of HIPPA should not be acceptable as a reason for keeping billing information secret. The burden should be on Ms. Termini to provide a legal justification for withholding the information.

RECOMMENDATION 35: MS. TERMINI'S INVOICES SHOULD INCLUDE CASE INFORMATION AND A DESCRIPTION OF SERVICES PROVIDED.

Ms. Termini's IRS Form 1099s were examined. She was paid $38,799 in 2009, $47,325 in 2010 and $61,165 in 2011. The AOPC does not know how much she was paid for parenting coordination work billed directly to the parties.

The family court also utilizes parenting coordination services provided by Jewish Family Services (JFS), but the JFS fee structure was not examined or compared to Ms. Termini's. Ms. Ross advised referrals to each are fairly equal, "in that there are many litigants whom are indigent and can't afford Anne Marie Termini despite her sliding fee scale, and the Jewish Family Services accepts Medicaid."

Ms. Termini has an office on the second floor of the family court building. It is generally used for her work as consulting specialist three days a week. "Occasionally" she will use it for parenting coordination work, but most of that work is done at her Clarks Summit office.

If the court determines Ms. Termini's work as consulting specialist is sufficient to justify an office in the family court building it should bear in mind Judge Harhut's decision that the lack of bus service to Clarks Summit justified providing Mr. Libassi with an office in the family court building. Regardless, the court should be

cognizant of the pros and cons of having an independent contractor working in the family court building because of the perception created that there is a relationship between the adjudicator and the contractor. Great care needs to be taken by the court to emphasize its neutrality.

The County provides the cleaning services, electricity and heat. Ms. Termini has a County "swipe" access card/identification badge.

D. Home Inspections

The court's standard order for the appointment of a GAL states, "The Guardian ad Litem may, if necessary...conduct home visits/assessments (scheduled or unannounced)..." A home inspection of a family's residence is done to determine its suitability for the child.

A number of family court employees perceive Ms. Termini is responsible for the administrative oversight of home inspectors. This perception may result from the practice of GALs utilizing individuals on the court's private professional visitation supervisor list to conduct home inspections. Other employees think President Judge Munley is in charge given the new home inspection payment procedures he instituted last June. Ms. Termini said although she developed a home inspection form that was given out at the 2005 mandatory orientation program for GALs, she "has nothing to do with home inspectors."

Ms. Czaykowski should be responsible for the administrative oversight of the inspectors. Oversight includes: qualifying and approving inspectors, monitoring their compliance with policies and procedures, reviewing invoices and providing training.

RECOMMENDATION 36: THE DEPUTY FAMILY COURT ADMINISTRATOR SHOULD BE RESPONSIBLE FOR THE ADMINISTRATIVE OVERSIGHT OF HOME INSPECTORS.

1. Qualifications

The AOPC was continually referred to the "list of home inspectors and visitation supervisors used by GALs." Court staff and GALs appear to be under the impression that home inspectors are the same individuals who are on the court's

list of private professional visitation supervisors. The supervisors are apparently under the impression they are "approved" to conduct home inspections. For example, Ms. Lisa Tisdel's fee schedule (Appendix 9) lists fees for both supervised visits and home inspections.

Ms. Termini said there is no court-approved list of home inspectors, "that is up to the GAL," and that she is only in charge of approving the appointments to and maintaining the list of the visitation supervisors.

It is not acceptable for unqualified persons to conduct inspections. Ms. Czaykowski, the GALs and a family court judge should determine the education requirements needed to be an inspector and interview interested persons. Applicants should provide an official transcript and submit to a criminal/child abuse background check.

RECOMMENDATION 37: A COURT-APPROVED LIST OF QUALIFIED HOME INSPECTORS SHOULD BE ESTABLISHED.

2. Policies and Procedures

Other than Ms. Termini's home inspection form, there are no written policies or procedures that provide guidance about how to conduct a home inspection or what should be contained in the report expected by the court. Thus, it is likely the "quality" of a report varies by the individual inspector.

One inspector said the court expects pictures and a written report of the home inspection. Ms. Termini's form does not specify that photographs are required by the court. Some inspectors are taking photographs, and the practice varies among inspectors whether the parties are charged for them. It is unclear if all inspectors are using Ms. Termini's form. All persons approved to conduct inspections should be required to sign an acknowledgement that they will comply with the court's policies, procedures and fee schedule.

The court should also consider developing a leaflet for families that explains what occurs during a home inspection. The leaflet should include a detailed explanation of the court's fee schedule for home inspections and be provided to the family by a GAL and/or when the inspector arrives at the home.

RECOMMENDATION 38: HOME INSPECTION POLICIES AND PROCEDURES SHOULD BE DEVELOPED.

3. Training

The court's standard order for the appointment of a GAL does not specifically state that a GAL may utilize a designee. However, the AOPC was advised GALs "find someone" to conduct inspections. One judge was told by a conflict GAL, "You may as well end our practice if we have to do home studies."

Both Ms. Ross and the conflict GALs utilize other persons to conduct inspections. The AOPC does not know if conflict GALs have conducted home inspections themselves, or whether all inspectors currently utilized by the conflict GALS are approved private professional visitation supervisors.

Ms. McIlwee conducts inspections after hours at the request of a judge, master or Ms. Ross. The request may be contained within a court order, or in a note from Ms. Ross attached to a case file. If Ms. Ross requests Lisa Bauman to conduct an inspection, Ms. McIlwee calls Ms. Bauman to make the request.

There is no training provided by the court for home inspections by non-GALs. Ms. Ross advised Ms. McIlwee how to conduct an inspection. All persons who are not GALs and who wish to be an inspector must undergo training.

RECOMMENDATION 39: MANDATORY TRAINING FOR HOME INSPECTORS SHOULD BE ESTABLISHED.

4. Alleged Home Inspection Scheme

It has been alleged that Ms. Ross was running a home inspection "scheme." It appears the allegation resulted from complaints about where cash payments went that her home inspectors, particularly Ms.McIlwee, "privately charged" and received from litigants.

No evidence has been seen that Ms. Ross is running a scheme using proceeds from home inspections conducted by Ms. McIlwee or other inspectors or that any other impropriety exists with these fees. Home inspections are only conducted if ordered by the court.

5. Home Inspectors' Cash Payments

Another complaint necessitating the AOPC's review of the GAL program was that court staff who conducted court-ordered home inspections demanded cash payments without the issuance of receipts. The method of payment for services provided by a GAL (such as a home inspection) is not specified in the court's standard order for the appointment of a GAL, and it is not clear how the fees for home inspections were established. Ms. Ross said the "fee schedule" inspectors followed was, to the best of her knowledge, established by the inspectors.

Ms. McIlwee confirmed she had taken cash and checks from parties for inspections. She initially charged for inspections according to a price list she received from Ms. Kobal's office. She now generally charges $50.00 for an inspection, but more if she has to travel a greater distance, which occurs infrequently. For example, she charged $60.00 to conduct an inspection in Carbondale, and $100.00 to conduct an inspection in Lancaster County, which is less than what has been charged by other inspectors.

Ms. McIlwee gave parties a receipt so they could prove to the court they paid. She did not keep copies of the receipts because she considered the reports she wrote a receipt. Her findings during an inspection are contained in reports placed in Ms. Ross's GAL files, and a memorandum was also placed in the "official" case file referencing the inspection.

It has been alleged that Ms. McIlwee has been paid tens of thousands of dollars for performing home inspections. A review of records shows this accusation has no basis in fact.

The lists of inspections conducted by Ms. McIlwee during 2010 and 2011 were reviewed. They show the case name, number and party for whom the inspection was conducted. Ms. McIlwee did not have a list for 2009, as that was the first year she began working for Ms. Ross and didn't do many inspections.

According to the lists of Ms. McIlwee's inspections, she conducted 20 in 2010, and 16 in 2011. Assuming an average charge of $50 per inspection, the total amount collected by Ms. McIlwee for those two years was $1,800 (36 inspections x $50). Further assuming Ms. McIlwee conducted 10 inspections in 2009 (the AOPC's

estimate), the total amount collected in three years is around $2,300, not the tens of thousands of dollars alleged.

On May 19, 2011, President Judge Munley issued an order and instituted a new policy regarding the payment of home inspection fees. An inspector is no longer allowed to take or handle cash.

Inspectors are to deposit fees received by check or money order with the Clerk of Judicial Records, Family Division. The inspector is to make the arrangements for the inspection and tell the family member "to make a check or money order payable for the appropriate amount (based on distance to be traveled)." The inspector must follow several steps in receiving the payment, and keep a list of all visits and fees collected.

While the court prohibited cash payments to inspectors, it apparently did nothing to prevent inspectors from charging as they see fit. The new policy did not define what the standard "appropriate amount" was or provide guidance as to the amount(s) of an additional fee(s) to be collected based on distance. It also did not require a receipt be given to the family by the inspector, presumably because the money order to be made out to the clerk's office has a tear off stub (containing the money order number) that can be used as a receipt.

The fee schedule should show the fee(s) to be charged for inspections in the Scranton area and outside the area (perhaps by mileage "zones"). It also should state the fees to be assessed for photographs of the inspection and for a court-ordered appearance of the inspector, if the court determines those fees can be charged. The fee schedule should be publicly available, and provided to the parties by the GAL and/or the inspector during the inspection.

A receipt should be given to the parties, a copy of which should be kept by the inspector and also attached to the inspector's report. The receipt should show the date of the inspection, where the inspection took place, all fee (s) charged and the inspector's name.

RECOMMENDATION 40: A STANDARD FEE SCHEDULE FOR HOME INSPECTIONS SHOULD BE ESTABLISHED BY THE COURT.

Ms. Czaykowski should be charged with the administrative oversight of the home inspectors. Until that occurs, there is no way to ensure procedures pertaining to home inspectors are being followed.

No evidence was seen that Ms. McIlwee tried to conceal how she was paid for home inspections. By her own admission, she received cash payments. There were no policies and procedures in effect that prohibited cash payments. Other inspectors also took payments in cash.

There is also no evidence that Ms. McIlwee performed home inspections during times when she was being compensated as a County employee.

E. Private Professional Visitation Supervisors

Private professional visitation supervisors supervise the visit of a parent with a child.to ensure the safety and security of the child. According to Ms. Termini, in years past families had limited options if a supervised visit was ordered. She was asked by Judge Harhut to develop a list of qualified individuals to supervise visits at other locations. Ms. Termini was put in charge of the supervisors when the guidelines for GALs were revised by a committee overseen by the court.

Ms. Ross said once a judge orders a visit, the parties and their counsel (and Ms. Ross, if she is involved), will "usually pick someone from the court's list" to supervise visitation. Ms. Ross has only performed three or four supervised visits in the past eight years.

Ms. Czaykowski should be responsible for the administrative oversight of the supervisors. Oversight includes: qualifying and approving supervisors, monitoring their compliance with policies and procedures, reviewing invoices and providing training.

RECOMMENDATION 41: THE DEPUTY FAMILY COURT ADMINISTRATOR SHOULD BE RESPONSIBLE FOR THE ADMINISTRATIVE OVERSIGHT OF PRIVATE PROFESSIONAL VISITATION SUPERVISORS.

1. Qualifications

According to Ms. Termini, the committee that worked on the GAL guidelines determined supervisors needed a bachelor's degree in education, social work, psychology or mental health. Persons interested in being a supervisor provided an official transcript, submitted to a criminal/child abuse background check and were interviewed by Ms. Termini. She noted, "We also use family members and friends or people known to the family to offer supervision for visitation when appropriate to the case in order to reduce costs."

Ms. Termini was authorized to approve supervisors. The Children's Advocacy Center and Scranton Area Family Center had been providing visitation services prior to her involvement, but they did not meet the committee's criteria. Supervisors may be removed from the list for "unprofessional services." There have been two removals, one for lying about events that occurred during a visitation, and the second for changing the date on a check.

A review of the resumes of several individuals on the supervisor list revealed that one has an associate's, not a bachelor's or a master's, degree. Ms. Termini said the supervisor was one of long standing who had been utilized prior to the approved protocol. Ms. McIlwee, who conducted two or three supervised visits, was not on the list. Ms. Termini was not aware Ms. McIlwee had supervised visits.

Ms. Ross explained that Ms. McIlwee performed approximately two supervised visits for her on the same case during a holiday weekend when an approved supervisor could not be found. Ms. Ross advised the parties she would ask if Ms. McIlwee was willing to supervise the visit, which Ms. McIlwee was. All parties agreed Ms. McIlwee could supervise the visit, so the children were able to see their father on Father's Day. Ms. McIlwee said she gave the parties a half an hour of her time for free.

The utilization of persons who have not been approved by the court, even in an effort to reduce costs, defeats the purpose of having qualifications, and is unacceptable. In order to accommodate judges' requests for visitations to be held at the family court building, the court may wish to revise its qualifications so that court personnel can apply for consideration.

RECOMMENDATION 42: ONLY PERSONS APPROVED BY THE COURT SHOULD BE UTILIZED FOR COURT-ORDERED SUPERVISED VISITS.

2. Policies and Procedures

There are no written policies or procedures to guide the supervisors. Some supervisors were confused about procedures and have asked Ms. McIlwee about them. When Ms. Termini interviews potential supervisors, they are told to keep notes of their observations of the visits and not to make interpretations or recommendations. She said, "If they choose to do so, it is without my consent."

All supervisors should be required to sign an acknowledgement that they will comply with the court's policies, procedures and fee schedule.

RECOMMENDATION 43: POLICIES AND PROCEDURES ABOUT COURT-ORDERED SUPERVISED VISITATION SHOULD BE DEVELOPED.

3. Training

According to Ms. Termini, supervisors are not required to have any training "outside of their degree." The AOPC was told by a supervisor the "training" is "eyes on the child at all times." All persons who are not GALs and who wish to be a supervisor should undergo training. Given that supervisors may be called to testify in court, they should receive specific instruction about taking notes, etc.

RECOMMENDATION 44: MANDATORY TRAINING FOR VISITATION SUPERVISORS SHOULD BE ESTABLISHED.

4. Cash Payments

Prior to the new payment policy for court-ordered supervised visits, it was "common practice" for visitation supervisors to take cash payments. Ms. Termini, who oversees the supervisors, did not know how they charged.

On June 14, 2011, President Judge Munley issued an order and instituted a new policy regarding the payment of fees for court-ordered supervised visitations. A supervisor is no longer allowed to take or handle cash. The hourly rate for a supervisor is $20 per hour. Supervisors are to deposit fees received by check or

money order with the Clerk of Judicial Records, Family Division. The supervisor must follow several steps in receiving the payment, and keep a list of all visits and fees collected.

The new policy does not require that a receipt be given to the family by the supervisor, presumably because the money order to be made out to the clerk's office has a tear off stub (containing the money order number) that can be used as a receipt. A receipt should be given to the parties, a copy of which must be kept by the supervisor. The receipt should show the date of the visit, where it took place, the fee charged and the name of the supervisor.

Mr. Mackay sent a memorandum explaining the new policy together with a copy of President Judge Munley's order to "persons performing private professional visitation supervisor duties" and the family court judges. The persons were requested to return a written acknowledgment that they would abide with the policy and other documentation to Ms. Czaykowski. When asked how the supervisors were informed of the change to the visitation payment process, Ms. Termini responded, "I do not know for sure how they were informed of the changes. I only knew of the changes made by Judge Munley after the fact. Therefore, I had nothing to do with informing anyone anything." She also had no input regarding the new hourly rate.

The court's order and accompanying memorandum should be amended to reflect the receipt requirement, and distributed to all family court judges, all GALs, Ms. Czaykowski, court administration staff involved with accounts payable, the clerk's office and all persons approved to conduct supervised visits. Supervisors should complete a new acknowledgment form and return all documentation to Ms. Czaykowski prior to supervising any visits.

One GAL complained, "The new payment order puts such an onus on the supervisors. The parties – in front of the children – are supposed to write a check and have the supervisors bring the money to the County. It is crazy to have a supervisor go to a house for two hours on a case for only $40 and the hassle. Supervisors have master's degrees and are getting peanuts to watch kids." The GAL spoke to President Judge Munley about her complaint.

Ms. Ross contacted President Judge Munley to confirm the new policy was to be followed, which he did. She notified all supervisors via email that they could not be "supervisors" unless they submitted the required documentation. Ms. Ross does not know whether everyone complied. To date, only Ms. McIlwee and Marcy McNamara returned the required documentation to Ms. Czaykowski. As recommended earlier, Ms. Czaykowski should be charged with the administrative oversight of private professional visitation supervisors. Until that occurs, there is no way to ensure that any procedures pertaining to the supervisors are being followed.

IX. FAMILY COURT ADMINISTRATION OFFICE OPERATIONS

A. General Operations

Responsibility for different administrative aspects of the GAL program is divided among Mr. Mackay, Ms. Czaykowski, President Judge Munley and Ms. Termini. Mr. Mackay has been signing contracts, approving service provider invoices, receiving program reports and issuing memoranda about new policies and procedures; Ms. Czaykowski has been supervising staff with program responsibilities, scheduling GAL cases and working with the service providers; President Judge Munley has been approving service provider invoices and issuing policies and procedures; and Ms. Termini has been "overseeing the GAL program" (maintaining the GAL conflict and private professional visitation supervisors lists and handling parents' complaints about GALs).

The bifurcation of responsibilities between the two court administration offices together with President Judge Munley's involvement and Ms. Termini's nominal "oversight" function is not conducive to the effective administrative management of the GAL program. Ms. Czaykowski should be responsible for the administrative functions of the GAL program. The delegation of these functions to Ms. Czaykowski does not constitute a loss of control by President Judge Munley, the family court judge(s) or Mr. Mackay. Rather, their knowledge of the administrative operations of the GAL program should increase because Ms. Czaykowski will be reporting regularly to them about the program's operations.

The administrative management of the GAL program has been affected by the "vacillation" in the court administration offices that has been apparent for some

time. This vacillation has its roots in the relocation of the family court administration office from the main courthouse and the resulting reduction in communications, and the January 2011 President Judge transition.

According to court personnel and the AOPC's observations, communication has been lacking between the two court administration offices, and between the two offices and the GAL program's family service providers.

President Judge Munley and Mr. Mackay need to establish an effective communications structure between the court administration offices, and conduct regular communication between those offices and the court. While he does not need to know every detail of court operations delegated to the deputy court administrators, it is expected Mr. Mackay will have general knowledge about all of the court's programs, including the GAL program.

As part of establishing an effective communications structure, Mr. Mackay should hold regular management meetings with the deputy court administrators and court department heads. Mr. Mackay, the deputy court administrators and the court's department heads must proactively, rather than reactively, address administrative issues that come to their attention, and keep the judges advised of any issues that require their involvement.

RECOMMENDATION 45: INCREASED COMMUNICATION BETWEEN THE COURT ADMINISTRATION OFFICES, PRESIDENT JUDGE MUNLEY AND THE FAMILY COURT JUDGES IS NEEDED.

Whenever there is a transition between president judges, it is not unusual for the leadership in a court administration office – the district court administrator and deputy court administrators - to be apprehensive about the new president judge's leadership style, and what it will mean for them. It appears Mr. Mackay and the deputy court administrators have been reluctant to take action on GAL program issues because they are unclear about how much authority they have been granted by President Judge Munley, and concerned about the future of the GAL program.

The functions of a district court administrator are to increase the amount of time a judge has for adjudication and bring professional court management knowledge to

the judiciary. A successful court administrator should be able to analyze problems, formulate recommendations, build consensus, empower people and foster change.

Whether a court administrator operates effectively depends on several factors, chief among them a clear delineation of the administrator's role and responsibilities; regular and open communication between the administrator and the president judge; and the knowledge, skills and abilities of the administrator. "Judges and court administrators work in a complex environment characterized by ambiguity and adherence to local custom, both political and organizational...how the chief [president] judge perceives the court administrator's role will determine, to a great extent, the exact duties of the court administrator."

It appears the administrative oversight for the GAL program has been lacking in part because of Mr. Mackay's uncertainty about the extent of his authority, role and responsibilities. It is not evident that President Judge Munley's expectations for Mr. Mackay have been explicitly stated, or that Mr. Mackay has requested clarification about them.

RECOMMENDATION 46: PRESIDENT JUDGE MUNLEY'S EXPECTATIONS FOR THE DISTRICT COURT ADMINISTRATOR'S AUTHORITY, ROLE AND RESPONSIBILITIES SHOULD BE CLARIFIED.

The judges and masters were positive about Ms. Czaykowski's management of the family court office. "She does a great job." "I've never had a complaint about her." "Court administration is responsive with regard to case processing." "Court administration works cooperatively with me." Attorneys were also positive about Ms. Czaykowski's performance. "She does a really good job." "She is on the job, responsive and accommodates counsel's schedules for prompt hearings."

The family court administration office utilizes different "case scheduling systems." The family court has a license for Trumba, a web-based calendar that functions like an Outlook calendar. Schedules for the judges, masters, visiting judges and jury rooms are kept on Trumba. The "family court system" is a Word document system housed on the County's server. It is used to schedule conferences and hearings before the masters and judges. This system does not show the docket sheet entries in a case. To access case docket sheets, court staff must use the clerk of judicial records' office's LACADA (AS400) software. None of these

scheduling systems are a caseflow management information system able to track the progress of a case, monitor whether deadlines are met, etc.

> An effective caseflow management information system focuses on the goals of the system, facilitates timely access to needed information and highlights departures from desired results. Standards and goals define the direction of the case-flow management system. Appropriate information enables the court to determine whether progress is being made." "A complete case-flow management system should provide at least: measures of activity, measures of inventory, measures of delay, measures of case scheduling accuracy, evaluation measures and individual case progress information.

Solomon, Maureen and Douglas K. Somerlot, Caseflow Management in the Trial Court, American Bar Association, Chicago, Illinois, 1987.

Without an effective caseflow management information system, it is more difficult for the family court to ascertain whether its approach to custody cases is working well. The judges and court administrators should consult with the recommended independent court consultant about the acquisition of a new, much needed caseflow management information system for the family court.

RECOMMENDATION 47: AN AUTOMATED CASEFLOW MANAGEMENT INFORMATION SYSTEM WILL BENEFIT THE FAMILY COURT.

During each visit to the family court administration office, the AOPC observed a number of people making inquiries to the receptionist, being assisted with paper work and waiting in the seating area. This observation was reinforced by family court personnel. "People don't realize how busy the office is." It appears the family court administration office needs a full-time receptionist. A workload analysis should be conducted to ensure there is sufficient justification for a full-time position.

RECOMMENDATION 48: A FULL-TIME RECEPTIONIST FOR THE FAMILY COURT ADMINISTRATION OFFICE SHOULD BE CONSIDERED.

B. Court Staff Working for Ms. Ross

Ms. McIlwee is a salaried court employee who works in the morning as the family court administration office's receptionist, and in the afternoon as Ms. Ross's paralegal. Her receptionist duties include: responding to telephone and walk-in inquiries from the public; assisting litigants who come to court for a PFA, custody case or special emergency relief; providing court forms to litigants; limited scheduling of custody case conciliation conferences; and entering information into the family court's computer systems.

As Ms. Ross's paralegal, Ms. McIlwee's duties include: making appointments for GAL conferences; responding to questions about Ms. Ross's fees and payment options; performing clerical functions; following up on case task lists; working on case files; receiving updates from doctors and counselors; proofing, filing, faxing and delivering Ms. Ross's reports and recommendations; creating memoranda for the files; and assisting generally assisting Ms. Ross's clients. Ms. McIlwee also conducts home inspections for Ms. Ross after court hours. Ms. Ross advised the AOPC she could use Ms. McIlwee's assistance full-time, because of the volume of work.

An "appearance" and/or conflict of interest issue is created when a court employee is paid with public funds to do work for an independent contractor.

RECOMMENDATION 49: COURT EMPLOYEES SHOULD BE ASSIGNED ONLY COURT DUTIES AND NOT PERFORM WORK FOR AN INDEPENDENT CONTRACTOR WHILE BEING SUPERVISED BY COURT OFFICIALS.

C. Office Security

Security for the family court administration office is lacking. It is too easy for anyone to walk past the reception desk and into the office suite, particularly when the receptionist is busy assisting the public. Attorneys routinely make their way to Ms. Ross's office in spite of the "No unauthorized people allowed" sign.

Increased security measures are strongly recommended for the family court administration office. They include: 1) "swipe" card access on the door by the Adams Avenue entrance (the one before the sheriff's security scanner); 2) "swipe"

card access on the glass door leading to the back of the office from the reception area; 3) a buzzer at the front reception desk that will activate the door into the court administration area, and 4) a "panic" button in the deputy family court administrator's office that can be pressed to summon security personnel.

RECOMMENDATION 50: INCREASED SECURITY IS REQUIRED FOR THE FAMILY COURT ADMINISTRATION OFFICE.

X. CONCLUSION

The utilization of a full-time GAL in the Lackawanna County Family Court arose from Judge Harhut's conviction that fairness demands parties in litigation, and especially children, require representation, and a GAL can help the court protect a child's best interest and welfare. The court's therapeutic approach and use of a full-time GAL to resolve custody cases are believed to effectuate the settlement of cases, empower families, diminish trauma to children and reduce costs for the litigants and court system. However, the efficacy and benefits of the GAL program are unclear because of a reliance on anecdotal information rather than data. Data about the program's operation and costs should be collected and evaluated.

The GAL program has been criticized by attorneys, particularly the role of the full-time GAL and the reduced access to a judge. The court should determine whether to continue to assign the majority of cases to one GAL or alter the system that has been in place since 2008. Local court rules should reflect actual practice. Also, the court should consider if the benefits realized by providing office space to independent service providers are outweighed by an arguable appearance of impropriety. If service providers are to remain in court/county facilities, steps should be taken to ensure any appearance of inappropriate influence is diminished.

It is recommended that President Judge Munley and the judges presiding over family court matters collaboratively determine if the program and its components are worth the cost, and ensure the services retained are non-duplicative, consistent and affordable for families. An independent court consultant charged with reviewing the program's family services, outcomes and therapeutic approach can help the court decide whether to retain the Five Step Sequential Evaluation as the foundation of the GAL program.

Administrative oversight of the GAL program is lacking. The deputy family court administrator should be responsible for the administrative functions of the program, including the administrative oversight of home inspectors and private professional visitation supervisors. The district court administrator needs to foster increased communication with the court. The court's contracts should be monitored for compliance.

The lack of administrative oversight of the GAL program has given rise to conjecture about financial misconduct and corruption by Ms. Ross, court staff and family services providers. The AOPC does not find evidence of criminal wrongdoing or malfeasance by these individuals. It cannot be discounted that professional disputes and jealousy, personal grievances, internal office maneuvering and disgruntled litigants have played a role in the allegations.

There should be increased financial oversight of the GAL program. IFP invoices submitted by all GALs should be reviewed by the court, as should the invoices from all family services providers. The court should work with its independent contractors and the County to implement a financial accountability process that is auditable.

Given the scope and breadth of this report, the review of it and decisions regarding its implementation will be a time-consuming task that will likely require the use of a committee or task force, and will also need the ongoing attention and guidance of one individual who has the time available and expertise needed.

RECOMMENDATION 51: THE PRESIDENT JUDGE SHOULD CONSIDER THE APPOINTMENT OF AN INDIVIDUAL SUCH AS A SPECIAL MASTER TO COORDINATE THE REVIEW OF THIS REPORT AND IMPLEMENTATION OF ANY RECOMMENDATIONS.

The AOPC's JPD is available to provide any assistance that is required by the President Judge and the Lackawanna County Family Court.

APPENDIX 1

THIRD CLASS COUNTY
CHILD CUSTODY GUARDIAN AD LITEM (GAL) SURVEY - OCTOBER 2011

Question #		BERKS	CHESTER	DAUPHIN	ERIE	LANCASTER	LEHIGH	LUZERNE	NORTHAMPTON	WESTMORELAND	YORK
1	Number of child custody GALs working for your court?	Appointed on a case-by-case basis. Five to ten each year	They don't use them. Judges believe it's their responsibility	Used once in a blue moon	Four total - One coordinating GAL @$5,000 per month - Three GALs @ $2,000 per month	2011 - Eight attorneys	One or two in 2011. Are appointed on an as needed basis	None - Appointed on a case-by-case basis	Court appoints attorneys, usually the same two or three	16	
2	Number of child custody GALs who are:										
a.	Full-time salaried court employees	0	0	0		0	0	0	0	0	n/a
b.	Part-time salaried court employees	0	0	0		0	0	0	0	0	n/a
c.	Independent contractors	0	Court shall appoint as needed. Chester County does not maintain a formal list. Judge will appoint members of the bar who have expressed interest in these matters	Two or three	X	All appointed are independent contractors	All appointed are independent contractors		All appointed are independent contractors	16	n/a
3	Annual salary of a full time child custody GAL?	n/a		n/a		n/a	n/a	n/a	n/a	n/a	n/a
4	Annual salary of a part time child custody GAL?	n/a		n/a		n/a	n/a	n/a	n/a	n/a	n/a
5	Standard hourly rate or flat fee a child custody GAL is allowed to charge to parties?										
a.	In court	$100	Nominal amount - $50	Determined on a case-by-case basis	$60	$50 hr. If paid by the court, judge may order parties to pay. Amount can vary	$50	$55	Court appointed attorneys receive $60 hr. $60-$150 hr. if charged to party	$45	n/a
b.	Out of court	$75		Determined on a case-by-case basis	$40	$50 hr. If paid by the court, judge may order parties to pay. Amount can vary	$50	$55	$60 hr. if court administration is paying	$45	n/a
6	Are the parties required to pay a retainer before a child custody GAL begins work on a case?	No		Determined on a case-by-case basis	No	The judge may order that parties pay a retainer	Generally yes. Amount determined by appointing judge	No	Not usually required	No	n/a
a.	Amount per party	No retainer									
7	Will a child custody GAL continue to work on a case if his/her fee is not current?	Yes		n/a		Yes, unless they request to be withdrawn	GAL brings fee issues to the attention of the appointing judge	Yes	Yes	n/a	n/a
8	The retainer is paid to:	n/a		Determined on a case-by-case basis		Payment is to be made to the prothonotary who then pays the GAL	The GAL	The GAL	The GAL		n/a
9	If money is paid by the parties directly to the child custody GAL, does the court/court administration receive an accounting of fees paid?	GAL submits an invoice that is approved by the court. The court decides if the parties should share the cost of the GAL or if the costs should be placed on the county		No		No	Yes	No	No	n/a	n/a

APPENDIX 1

THIRD CLASS COUNTY
CHILD CUSTODY GUARDIAN AD LITEM (GAL) SURVEY - OCTOBER 2011

Question #		BERKS	CHESTER	DAUPHIN	ERIE	LANCASTER	LEHIGH	LUZERNE	NORTHAMPTON	WESTMORELAND	YORK
10	Who reviews a child custody GAL's bills before they are sent to the parties for payment?										n/a
a.	Appointing judge	X		Possibly	X	X	X			X	
b.	Appointing master			No							
c.	Court administration	See comments		No		X, if paid by court					
d.	Other office (specify)			No							
e.	Bills are not reviewed		Chester County does not become involved in the financial process					X	X		
11	If the child custody GAL(s) is/are an independent contractors(s), does the court provide or pay for:	n/a									n/a
a.	Office space?		No	No	No	No	No	No	No		
b.	Furniture?		No	No	No	No	No	No	No		
c.	Computer equipment?		No	No	No	No	No	No	No		
d.	Clerical support staff?		No	No	No	No	No	No	No		
e.	Malpractice insurance?		No	No	No	No	No	No	May be covered on a case-by-case basis		
f.	Other (please describe)?										
12	The child custody GAL(s) office(s) is are/located:										n/a
a.	In the courthouse			n/a							
b.	Within the court administration office			n/a							
c.	In a county-owned building			n/a							
d.	Not in a courthouse/county-owned building	X	X	n/a	X	X	X	X	X	X	
13	Who conducts home investigations in child custody cases?	None are conducted. Private agency if needed				Unknown					n/a
a.	GAL(s)			Occasionally				X			
b.	GAL's court staff										
c.	Court administration staff										
d.	CYS staff				X				Independent contractors through CYS	Only if abuse or neglect is alleged	
e.	Non-court/county staff employed by a GAL										
f.	Other						Conducted by a private social worker acting on court order			Outside agency	
14	Who conducts supervised visits in the child custody cases?										n/a
a.	GAL(s)										
b.	GAL's court staff										
c.	Court administration staff										
d.	County personnel (specify)				CYS staff						
e.	County personnel (specify)										
f.	Other	Supervised visits with Kids First or Catholic Charities		Usually parties select a person or the YWCA for supervised visits		Unknown unless the parties agree on someone or the judge orders someone to supervise visits	Social welfare agency or private individual	Supervised visits are not available since visitation center is closed due to lack of funds	Independent contractors	Outside agency or an approved person by consent of parties	

APPENDIX 1

THIRD CLASS COUNTY
CHILD CUSTODY GUARDIAN AD LITEM (GAL) SURVEY - OCTOBER 2011

Question #		BERKS	CHESTER	DAUPHIN	ERIE	LANCASTER	LEHIGH	LUZERNE	NORTHAMPTON	WESTMORELAND	YORK
15	How are payments for investigations and supervised visits made by the parties?			Determined on a case-by-case basis		Unknown					n/a
a.	In cash to the home investigator/visitation supervisor										
b.	By check to the home investigator/visitation supervisor								If paid by court administration		
c.	By cash or check to the court administration office										
d.	By cash or check to the county treasurer										
e.	In cash to the GAL										
f.	By check to the GAL										
g.	Other (Specify)	Home investigations are not done. Supervised visits are paid by the parties directly to Kids First on a sliding fee scale. Catholic Charities conducts 13 free supervised visits as part of a grant	Chester County does not become involved in the financial process		Unknown		Home studies are paid to Clerk of Judicial Records; fees for supervised visits are paid to provider		Unknown for payment directly by parties	Determined between the parties and agency	
16	Are receipts given to the parties for home investigations and supervised visitations?	Yes - Kids First		Unknown. Court administration is not part of this exchange		Unknown	Yes	n/a	Unknown for payment directly by parties	Unknown	n/a
17	What is the maximum number of child custody cases a GAL(s) can reasonably carry?	n/a - So few cases with a GAL that a limit has not been set		n/a	Unknown	Unknown	One case at a time	Ten if attorney also has a private practice	Unknown	n/a	n/a
18	Does your court have:										
a.	Written guidelines for child custody GALs?	No	Appointment letter would contain parameters	No	Contract	No	No	No	No	No	n/a
b.	Written criteria/checklist for home investigations?	No		No	No	No	No	No	No	No	n/a
c.	Written criteria/checklist for supervised visitation?	No		No	No	No	No	No	No	No	n/a
19	After interviewing the parties, completing the investigation(s) and reaching preliminary recommendations, does/do the child custody GAL(s) meet with the attorneys to try and reach an agreement BEFORE the case is scheduled for a hearing before a master or a judge?	No - GAL submits a report to the court		This is handled on a case-by-case basis		Yes, if appointed prior to the conference/hearing. No, if appointed after the conference/hearing	No formal requirement for a meeting	Yes	May occur on a case-by-case basis	Yes	n/a

APPENDIX 1

THIRD CLASS COUNTY
CHILD CUSTODY GUARDIAN AD LITEM (GAL) SURVEY - OCTOBER 2011

Question #		BERKS	CHESTER	DAUPHIN	ERIE	LANCASTER	LEHIGH	LUZERNE	NORTHAMPTON	WESTMORELAND	YORK
20	**Is/are the child custody GAL(s) also appointed in:**										n/a
a.	**PFAs?**	No		No		Yes	If the defendant is a minor, he gets appointed counsel. Custody GALs are not involved	Yes	Yes	Only if custody is at issue	
b.	**Drug court cases?**	No		No		No	No drug court			A dependency GAL	
c.	**Dependency cases?**	No - Dependency court has three full-time GALs	CYS has own process for these cases	Yes	Yes	No	All dependent children have a GAL appointed. They are not the same as custody GALs	No	Yes	Yes, a dependency GAL	
d.	**Other (specify)**										
21	**Who has oversight/supervisory authority over a GAL(s)?**										n/a
a.	**Appointing judge**	X	X	X	X	For payment only	X	X	Has authority to remove GAL. No other oversight or actual supervision	X	
b.	**Appointing master**										
c.	**District court administrator**					For payment only if paid by court					
d.	**Other (specify)**										
22	**In how many cases were GALS appointed in 2010 and 2011?**	Nine - 2010 Six - 2011				2011 - 20 cases	Two cases, one to each GAL	30 - 2010 40 - 2011	Six cases		
23	**How much did the court (not the parties) pay to GALs in 2010 and 2011?**	See comments				$29,174		0	$3,669		
24	**Is there hiring criteria (written) for GALs?**						No	No	No		

Comments: **Berks** - Question 10 - Court administration receives the order after it has been reviewed and signed by a judge for those cases in which the county is responsible for payment to the GAL. Court administration processes the order so the GAL gets paid. Court administration does not receive the orders when the parties are responsible for payment.

Question 23 - Not all of the cases had fee information. On the ones that did, in 2010, $1,005 was paid by the county in one case. The parties paid $2,193.75 in another case (50/50). In a third case, the parties paid an undisclosed amount to the GAL directly. In 2011, the county paid $460 on one case. The parties paid $3,700 on another case (40/60 split). In a third case, the parties paid $1,680 (50/50).

Chester - It's very rare for a child to have an attorney appointed, and it's only done in litigious cases. If counsel is hired for a child without a court appointment, costs will be assessed on the parties.

Lehigh - 60% - 70% of the cases are pro se. The deputy family court administrator sees the validity of utilizing a GAL in pro se cases. She has been a GAL in Northampton County's dependency court, and was sometimes appointed in child custody cases. A GAL was appointed in extreme cases of abuse or total alienation. The deputy family court administrator commented that a GAL "muddies the water, and a judge should make the decision." She felt "of no value" as a GAL in custody cases, and didn't believe she had any business saying what was in the best interest of the child.

Northampton - Regarding malpractice insurance for GALs, there were issues with conflict attorneys not having such insurance and being independent contractors. A rider was procured so that court-appointed independent contractors are covered under the county's umbrella policy for public defenders' malpractice insurance.

In Re: : IN THE COURT OF COMMON PLEAS
: OF LACKAWANNA COUNTY
GUARDIAN ad LITEM :
PROCEDURE :
: No. 08-CV-6

ORDER

AND NOW this 22nd day of September, 2008, it is hereby ORDERED and DECREED as follows:

1. Effective November 1, 2008, a Five (5) Step Sequential Evaluation shall apply to any and all custody matters filed with the Lackawanna County Clerk of Judicial Records Family Division.

   A. Any cases filed prior to November 1, 2008 shall continue to work with the existing GAL appointed and follow the old procedure.

2. The purpose of this new procedure is to channel the focus on custody cases in Lackawanna County on two main objectives: (1) Self Settlement; and (2) to insure that every child involved the Lackawanna County Family Court system is provided with a life line, a Guardian Ad Litem.

3. In the event all parties, practitioners and Masters do not strictly abide by the procedure, set forth below, sanctions shall be assessed.

4. The Five (5) Step Sequential Evaluation is as follows:

   A. **STEP 1 – Automatic Appointment of a GAL:** At the conciliation conference, the Hearing Master or at the Initial appearance, the Judge shall assess the facts of the case and should any of the following thirteen (13) indicators be involved, automatically appoint a Guardian Ad Litem:

      1. current CYS involvement;
      2. substance abuse;
      3. mental health issues;
      4. domestic violence;
      5. past and/or present PFA;
      6. visitation refusal;
      7. lack of communication between parties;
      8. pending criminal charges;
      9. allegations of physical and/or sexual abuse;
      10. supervised visits;

11. domestic instability;
12. relocation;
13. cases involving high degree of volitility.

B. STEP 2 – Building a Relationship

Once G.A.L. is appointed, GAL will meet with parties and minor child(ren), if age appropriate, to obtain the necessary facts/issues and to familiarize the family with the GAL. The GAL will also conduct a fact finding investigation, i.e. contact collateral witnesses, family members, professionals, school officials, etc.

C. STEP 3 – Assessment

Within ten (10) days from the date the GAL has met with the parties and minor child(ren), the GAL will contact counsel of record to report the services the GAL recommends the parties and/or minor child(ren) participate.

1. List of Services, but not limited to:
   a. Parent Coordination;
   b. DATS Evaluation;
   c. Drug Testing;
   d. Individual Counseling;
   e. Family Counseling;
   f. Reunification Therapy;
   g. Therapeutic Visitation;
   h. Anger Management;
   i. Domestic Violence Intervention Program;
   j. Parenting Classes;
   k. Psychological Evaluation;
   l. Supervised Visits, etc.

      i. If the parties do not agree, then the G.A.L. will seek a court order by filing a Petition in accordance with the Rules of Court.

D. STEP 4 – Information Gathering/Network

The GAL, services providers and practitioners and/or parties, if Pro Se, shall share information pertaining to the services in which the parties and/or children are participating.

E. STEP 5 – G.A.L. Conference

Within forty-five (45) days from the date the parties and/or minor child(ren) begin services, the G.A.L. will contact the parties and/or practitioners of record to schedule a G.A.L. Conference. The G.A.L.'s preliminary recommendation will be provided at this Step.

1. In the event a settlement is reached at the G.A.L.

Conference, the G.A.L. will seek a Court Order.

2. In the event a settlement is not reached, the G.A.L. will schedule a hearing in front of a Hearing Master or Judge.
   a. The G.A.L.'s formal recommendation will be submitted, prior to the hearing and will include all information obtained throughout the entire Five (5) Step Sequential Evaluation.

   b. If settlement is not reached within five (5) days prior to the hearing, the hearing will proceed, regardless of the proposed agreement after that date.

5. Once the Five (5) Step Sequential Evaluation is applied to a case, before parties or practitioners file subsequent Petitions, the Moving Party must provide the G.A.L. with written notice to determination whether or not the matter can be resolved, prior to filing the Petition, unless an emergency.

   A. Within ten (10) days of being put on written notice, the G.A.L. will provide a preliminary recommendation as to whether or not the matter can be settled without the moving party filing the petition.

BY THE COURT,

CHIEF [illegible]
PRESIDENT JUDGE

CONTRACT

This Agreement is made on this 26th day of November 2007, by and between Danielle M. Ross, Esquire, "GAL" and the Lackawanna County Court Administrator, "Court Administrator."

The GAL shall act as an independent contractor for the Lackawanna County Court subject to the following terms and conditions.

1. Services for the above GAL, under the terms of this Agreement shall commence on Monday, November 26, 2007.

2. The GAL shall serves as a Guardian Ad Litem, in accordance with the terms set forth in the Guidelines for Guardian Ad Litems in Lackawanna County, and shall be available at all times for the Court to appoint, when it deems necessary, by entering a Order of Court.

3. The Court will provide a copy of said Order to the GAL and in said order, the Court will direct the GAL as to the Court's expectation of the GAL for each individual case.

4. The GAL shall comply with all stated guidelines of performance, policies, rules, and regulations, as set forth in the Guidelines for Guardian Ad Litem in Lackawanna County. At this time, the GAL acknowledges receipt of the guidelines manual. The GAL shall also comply with such future Court policies, rules, regulations, performance standards and manuals as may be published or amended from time to time.

5. The Court Administrator shall make payment to the GAL a set amount as compensation for services rendered. The GAL agrees to accept a retainer of the sum of eighteen thousand dollars ($18,000.00) per year, payable in accordance with the Lackawanna County contract payment schedule The sum of $18,000.00 is the GAL's retainer until July 2008, when this sum will be renegotiated. In addition to the above compensation, the GAL will be entitled to bill the parties of the cases for which she is appointed in the same manner as set forth in the Guidelines for Guardian Ad Litems in Lackawanna County.

7. This agreement for services is for a period of one (1) year from the date of commencement, but shall renew from year to year without interruption, unless written notice of termination is given by either party within thirty (30) days prior to the termination of this Agreement. This Agreement may also be terminated upon the occurrence of any of the following events: (a) the death of the GAL; (b) the failure of the GAL to perform her duties satisfactorily after notice or warning thereof; (c) for just cause based upon nonperformance of duties by GAL; (d) economic reasons of the Court Administrator which may arise during the term of this Agreement and which may be beyond the control of the Court Administrator.

8. In the event that a conflict of interest shall arise, the GAL is required to notify the appointing Judge within five (5) days from receipt of the order appointing her GAL.

10. This Agreement may not be assigned without prior notice by either party. Such assignment is subject to the mutual consent and approval of any such assignment.

11. This Agreement constitutes the complete understanding between the parties, unless amended by a subsequent written instrument signed by the Court Administrator and the GAL.

Danielle M. Ross

Lackawanna County Court Administrator

Danielle M. Ross, Esquire

IN RE:	:	IN THE COURT OF COMMON PLEAS
APPOINTMENT OF GUARDIAN AD	:	OF LACKAWANNA COUNTY
LITEM DANIELLE ROSS, ESQUIRE	:	FAMILY DIVISION
TO FAMILY COURT	:	2008 FC 4/0105

ORDER

NOW, this 24 day of January, 2008, It is hereby Ordered that Danielle Ross, Esquire is hereby appointed Guardian Ad Litem to Family Court effective January 23, 2008 at a salary of $18,000.00 per year with no benefits.

BY THE COURT:

_____, P.J.

MARY F. RINALDI
LACKAWANNA COUNTY
2008 JAN 28 A 9:51
CLERK OF
JUDICIAL RECORDS
FAMILY COURT DIVISION

GUARDIAN AD LITEM IN SITUATIONS INVOLVING THE FAMILY

Revised February 12, 2008

Removal: Michael J. Marrazzo, Esquire

Independent Contractor for Lackawanna County Court

Danielle M. Ross, Esquire
108 North Washington Avenue
Suite 400
Scranton, PA 28503
Tel: 570-504-3200
Fax: 570- 504-3209

Please assign cases to Danielle Ross, Esquire that requires an immediate investigation and recommendation. In addition, assign her cases that are paid by the County. She is also available for other cases involving custody.

Marjorie DeSanto Barlow, Esquire
Scranton Electric Building
507 Linden Street
Suite 601
Scranton, PA 18503-1634
Tel: 570-344-6543
Fax: 570-344-0792

Donald J. Frederickson, Esquire
435 Main Street
Moosic, PA 18507
Tel: 570-451-0600
Fax: 570-451-2976

Brenda M. Kobal, Esquire
435 Main Street
Moosic, PA 18507
Tel: 570-451-0600
Fax: 570-451-2976

Theresa J. Malski-Pezak, Esquire
907 Church Street
Jessup, PA 18434
Tel: 570-383-9608
Fax: 570-383-9608

CONTRACT

This Agreement is made on this 17 day of June, 2008, by and between Danielle M. Ross, Esquire, "GAL" and the Lackawanna County Court Administrator, "Court Administrator."

The GAL shall act as an independent contractor for the Lackawanna County Court subject to the following terms and conditions:

1. Services for the above GAL, under the terms of this Agreement shall commence on Monday, September 1, 2008.

2. The GAL shall serve as a Guardian Ad Litem, in accordance with the terms set forth in the Guidelines for Guardian Ad Litems in Lackawanna County, and shall be available full time for the Court to appoint, when it deems necessary, by entering an Order of Court.

3. The Court will provide a copy of said Order to the GAL and in said order, the Court will direct the GAL as to the Court's expectation of the GAL for each individual case.

4. The GAL will be the sole GAL appointed by the Court for any and all custody cases, dependency cases, juvenile cases and/or any other type of the cases the Court deems a GAL appointment is necessary. In the event of a conflict of interest, as defined in the Guidelines for Guardian Ad Litems in Lackawanna County, the GAL will notify the Court within five (5) days from the date of the appointment and make a recommendation to the Court as to an alternative GAL.

5. The GAL shall comply with all stated guidelines of performance, policies, rules, and regulations, as set forth in the Guidelines for Guardian Ad Litem in Lackawanna County. In addition, the GAL will be responsible for implementing the policies, rules and regulations, as set forth in the GAL Intermediary Mediation Program outline. The GAL shall also comply with such future Court policies, rules, regulations, performance standards and manuals as may be published or amended from time to time.

6. The Court Administrator shall make payment to the GAL a set amount as compensation for services rendered. The GAL agrees to accept a retainer of the sum of thirty-eight thousand dollars ($38,000.00) per year, payable in monthly installments. In addition to the above compensation, the GAL will be entitled to bill the county and private pay parties of the cases, for which she is appointed, in the same manner as set forth in the Guidelines for Guardian Ad Litems in Lackawanna County.

7. This agreement for services is for a period of one (1) year from the date of commencement, but shall renew from year to year without interruption, unless written notice of termination is given by either party within thirty (30) days prior to the termination of this Agreement. This Agreement may also be terminated upon the

the occurrence of any of the following events: (a) the death of the GAL; and (b) for just cause based upon nonperformance of duties by GAL.

7. This Agreement may not be assigned without prior notice by either party. Such assignment is subject to the mutual consent and approval of any such assignment.

8. This Agreement constitutes the complete understanding between the parties, unless amended by a subsequent written instrument signed by the Family Court and the GAL.

Lackawanna County Family Court

Danielle M. Ross, Esquire

CONTRACT

This Agreement made on this 21st day of July, 2009, by and between Danielle M. Ross, Esquire, "GAL" and the Lackawanna County Family Court "Family Court" and is an extension of said GAL's services set forth in a previous contract with a commencement of services on September 1, 2008.

The GAL shall continue to act as an independent contractor for the Lackawanna County Family Court subject to the following terms and conditions:

1. The GAL shall serve as a Guardian Ad Litem, in accordance with the terms set forth in the Guidelines for Guardian Ad Litems in Lackawanna County and the Five (5) Step Sequential Evaluations of custody cases, and shall be available full time for the Court to appoint, when it deems necessary, by entering an Order of Court.

2. The Court will provide a copy of said Order to the GAL and in said order, the Court will direct the GAL as to the Court's expectation of the GAL for each individual case.

3. The GAL will be the sole GAL appointed by the Court for any and all custody cases, Protection from Abuse cases and/or any other type of the cases the Court deems a GAL appointment is necessary. In the event of a conflict of interest, as defined in the Guidelines for Guardian Ad Litems in Lackawanna County, the GAL will notify the Court within five (5) days from the date of the appointment and make a recommendation to the Court as to an alternative GAL.

4. The GAL shall comply with all stated guidelines of performance, policies, rules, and regulations, as set forth in the Guidelines for Guardian Ad Litem in Lackawanna County. In addition, the GAL will be responsible for implementing the policies, rules and regulations, as set forth in the GAL Intermediary Mediation Program outline. The GAL shall also comply with such future Court policies, rules, regulations, performance standards and manuals as may be published or amended from time to time.

5. Family Court shall make payment to the GAL a set amount as compensation for services rendered. The GAL agrees to accept a retainer of the sum of thirty-eight thousand dollars ($38,000.00) per year, payable in biweekly installments. In addition to the above compensation, the GAL will be entitled to bill the county and private pay parties of the cases, for which she is appointed, in the same manner as set forth in the Guidelines for Guardian Ad Litems in Lackawanna County and personally retain said payments.

6. This agreement for services is for a period of three (3) years from the date of commencement, but shall renew from year to year without interruption, unless written notice of termination is given by either party within thirty (30) days prior to the termination of this Agreement. This Agreement may also be terminated upon

occurrence of any of the following events: (a) the death of the GAL; (b) the failure of the GAL to perform her duties satisfactorily after notice or warning thereof; (c) for just cause based upon nonperformance of duties by GAL; (d) economic reasons of the Court Administrator which may arise during the term of this Agreement and which may be beyond the control of the Court Administrator.

8. In the event that a conflict of interest shall arise, the GAL is required to notify the appointing Judge within five (5) days from receipt of the order appointing her GAL, at which time, the appointing Judge shall then utilize the GAL list to appoint another GAL.

9. This Agreement may not be assigned without prior notice by either party. Such assignment is subject to the mutual consent and approval of any such assignment.

10. This Agreement constitutes the complete understanding between the parties, unless amended by a subsequent written instrument signed by the Court Administrator and the GAL.

Lackawanna County Court Administrator

Danielle M. Ross, Esquire

PARENTING COORDINATION INFORMED CONSENT PROGRAM OVERVIEW & AGREEMENT

Parenting Coordination

A program for separating or separated parents

Parenting Coordination is a psychoeducational program that addresses the relationship between separate households created as a result of divorce or family separation. Parenting Coordination is a service designed to improve the quality of the parental relationship by minimizing conflict. The overall emphasis is to offer children the opportunity to grow in a home environment free from the devasting stress of being caught in the middle of parental conflict.

The goals of Parenting Coordination are to:

1. Educate parents regarding the impact of their behaviors on their child(ren)'s development.
2. Reduce parental conflict through anger management, communication and conflict resolutions skills.
3. Decrease inappropriate parental behaviors to reduce stress for the child(ren).
4. Diminish the child(ren)'s sense of loyalty binds.
5. Help parents identify their contribution to conflict while increasing impulse control.
6. Encourage both parents to maintain an ongoing relationship with their child(ren).
7. Work with parents in developing a detailed plan for issues such as discipline, decision-making, communication, etc.
8. Create a more relaxed home atmosphere allowing the child(ren) to adjust more effectively with the new family structure.
9. Collaborate with professionals involved with the family in order to offer coordinated services.

Parenting Coordinator

Responsibilities:

The role of the parenting coordinator is to assist both parents and any significant others in resolving conflict in a manner that is beneficial to their child(ren). The parenting coordinator has the following responsibilities:

Educational Responsibilities

- Educates parents regarding the impact of parental conflict on the child's development.
- Teaches parents anger management, communication and negotiation skills and children's issues in divorce.
- Covers the concepts highlighted in the eight chapters in the Parent Guide – *Cooperative Parenting & Divorce: Parent Guide to Effective Co-Parenting.*

Parenting Responsibilities

- Assists parents in shifting their role from former partners to co-parents.
- Reduces the emotional attachment to the marital relationship.
- Helps parents identify their contribution to conflict while increasing impulse control.
- Identifies the impasses to effective communication.
- Recognizes the therapeutic needs of family members and makes recommendations for additional educational or therapeutic resources, evaluation and supervised visitation.

Monitoring Responsibilities

- Advocates for the child and safeguards their emotional and physical needs.
- Monitors time-sharing arrangements and, when necessary, temporarily modifies the plans as a means of reducing parental conflict.

- Encourages both parents to maintain on ongoing relationship with their child(ren).
- Records and monitors family progress and compliance.
- Consults with all professionals involved with the family.

Mediation Responsibilities

- Mediates parenting concerns in order to reach a mutually satisfying resolution that is in the child(ren)'s best interest.
- Works with parents in developing a detailed parenting plan for issues such a discipline, transitions between homes, decision-making procedures, communication, etc.

(4)

The parenting coordinator is impartial and facilitates a non-confidential process regarding issues where the parties are unable to reach agreement. The parenting coordinator is not employed for the benefit of either parent but rather for the benefit of the child/ren.

The role of parenting coordinator also includes the responsibility of documenting parental compliance with any court order, program agreements and program guidelines. The parenting coordinator may determine if and when to video tape joint sessions. The purpose of video-taping will allow the parties to view their behavior for educational purposes, and for the parenting coordinator to assess progress. Any video tapes shall remain in the parenting coordinator's possession unless ordered to be released by the Court.

Unless otherwise indicated by the court order, the parenting coordinator's responsibilities include those outlined above. The parenting coordinator has full discretion regarding program implementation including, but not limited to, frequency of sessions, session participants, the type of session, sessions with the children, "temporary" modification of time-sharing plans (visitation), holiday and vacation planning as well as recommending additional educational and/or therapeutic resources, evaluations and therapeutic or supervised visitation. The parenting coordinator may utilize consultants as necessary to assist in the performance of the duties herein. The parenting coordinator cannot change the legal or physical custody status of the child(ren) nor offer a recommendation on custody arrangements.

In the event that parents are unable or unwilling to reach a mutual decision after two or three joint sessions have been dedicated to the issue under mediation, the parents may wish to involve their attorneys in the resolution of this specific parenting matter. In the meantime, the process of parenting coordination will continue as it relates to parenting of the children.

Withdrawal of the Parenting Coordinator:

The parenting coordinator may withdraw from the role as parenting coordinator should he or she feel that effective change is no longer occurring in keeping with the best interests of the child(ren). The parents, as well as their respective attorneys, will be given 30 days' notice of the decision to withdraw. The names of two professionals competent to assume the role of coordinator will be provided to both parents. If the parenting coordinator resigns, counsel for the parties may attempt to agree on a replacement. If they are unable to agree upon the next parenting coordinator then they may allow the current parenting coordinator to select the replacement. The parenting coordinator reserves the right to confer with any subsequent parenting coordinators, under any circumstance, and bill for their time, to ensure continuity of care for the parties and child(ren) prior to the commencement of the service of the new parenting coordinator. The parenting coordinator will continue to act as coordinator until parents have established contact with the new parenting coordinator.

The parenting coordinator reserves the right to withdraw at any time without 30 days' notice as required elsewhere in this agreement for non-payment of fees, harassment by either party, or unreasonable, harassing or disrespectful

behavior of either attorney toward the parenting coordinator, who has sole authority to designate it as such. The parenting coordinator is not obligated to prepare any documentation or reports if the fees have not been paid.

The parenting coordinator may issue a recommendation with regard to any matters under consideration at the time of resignation or end of the parenting coordinator's term.

Program Implementation

Initiation of the Parenting Coordination Process:
The parenting coordination *process* will begin only when the information noted below is received from each parent, the initial retainer is paid, and each parent has participated in the initial intake appointment.

The initial meetings with the parties will not be scheduled until the parenting coordinator receives:

a. Consent order signed by the judge;
b. Retainer from both parents;
c. Parenting Coordination Intake & Assessments forms from both parents;
d. Current court orders regarding parenting time and custody and other decrees and judgments including protective orders;
e. Parenting Plan;
f. Copies of all evaluations that have been performed on both the parties and their children.

Procedure and Rights of Parenting Coordinator:
The parenting coordinator may conduct sessions that are informal in nature, by telephone, email or in person. The parties are expected to schedule sessions when requested by the parenting coordinator.

The parties understand that the parenting coordinator will attempt to facilitate disputes. Settlement discussions conducted by the parenting coordinator are not considered mediation. As such, they are not confidential.

The Parenting Coordinator shall have:

a. The authority to determine the protocol of all interviews and sessions, including, in the case of meetings with the parties, the power to determine who attends such meetings, including individual and joint sessions with the parties, interviews with collateral contacts, the children, significant others or both
b. Reasonable access to the children;
c. Notice of all proceedings, including requests for examinations affecting the children;
d. Access to any therapist or psychological evaluator of any of the parties or children, and access to school or medical records;
e. Copies of all evaluations and psychological test results performed on any children or any parent or custodian or guardian of the children, including Friend of the Court reports, psychological evaluations, etc.
f. Access to any psychological testing or test results performed on the children or any parent, custodian, or guardian of the children and access as needed to speak with the evaluator personally;
g. Access to principal/teachers/teacher's aides of the children;
h. The ability to use consultants as necessary to assist the Parenting Coordinator in the performance of the duties in this Order;
i. Copies of all past and future pleadings relating to custody and parenting issues within seven (7) calendar days after filing.

Time Commitment:

The parenting coordination program consists of an average of sixteen 80-minute sessions. The sessions are usually held over a period of approximately eight to twelve months. Sessions are scheduled in this manner to better ensure a positive and cooperative transition over an extended period of time. The parenting coordinator reserves the right to adjust the schedule based on the unique needs of the participants. In addition, the parenting coordinator may deem it necessary to request that the parents attend additional sessions. Other significant individuals (ie: grandparents, aunts, etc.) in the life of the child(ren) may be asked by the coordinator to attend joint sessions.

Joint follow-up sessions may be scheduled at three, six and twelve months. Parents are encouraged to return to the parenting coordinator in the future to address any difficulties interfering with their ability to co-parent prior to seeking legal counsel. Under these circumstances, both parents are expected to work in good faith under the direction of the parenting coordinator for at least four sessions, and will share the expenses associated with this service. This acknowledges that co-parenting improvements do not have to end with the completion of the program or that future issues do not have to create a setback for the child(ren).

Telephone Contact:
All telephone contact initiated by a parent should be limited. Only emergency calls and change of appointment calls will be returned. An emergency is defined as any situation that seriously endangers the child(ren) emotionally or physically. In order to remain objective, the parenting coordinator must maintain an attitude of open-mindedness and objectivity. The parenting coordinator must be able to have the freedom to view the situation free from fixed preconceptions, biases and expectations. Therefore, telephone consultations will be at the discretion of the parenting coordinator. Parents are discouraged from calling the coordinator as a replacement for problem-solving and conflict resolution. Letter writing and phone messages used in this same way are discouraged. Likewise, all matters and concerns of the parents must be disclosed during joint sessions.

Communication with the Parenting Coordinator:
The parents and their attorneys have the right to initiate communications with the Parenting Coordinator. Any party may initiate contact in writing with the Parenting Coordinator, provided that copies are submitted to the other party.

The Parenting Coordinator may discuss with either attorney, the process of parenting coordination and details regarding their own client. The other party shall not be discussed unless joint conference calls with attorneys, joint meetings, status memos are used or by deposition or testimony. The Parenting Coordinator will not communicate *ex parte* to the court except in the case of an as stated above.

The Parenting Coordination process is non-confidential and the Parenting Coordinator may exchange information with any screener, evaluator, therapist or guardian ad litem or other party. The Parenting Coordinator may speak with any combination of parties, counsel, and collateral contacts (including but not limited to therapists, teachers, caregivers, relatives, friends and employers) outside of the presence of other parties or counsel. The Parenting Coordinator will contact and discuss the family situation with any person involved with the family. An "Authorization for Release of Information" will be utilized for obtaining information. Although issues discussed during sessions might be discussed with other professionals involved with the family, the principle of confidentiality as it relates to parenting coordination implies that all consultations are intended for the direct benefit of the child(ren). This arrangement will not be exploited or abused. Parenting Coordinator may not casually communicate information learned in her performance of these responsibilities to those who are not involved with the family.

The Parenting Coordinator may communicate with the children outside the presence of the parties. The Parenting Coordinator may communicate with the therapists who are treating the parties' children. If the Parenting Coordinator is of the opinion that the information or notes generated by the Parenting Coordinator's communication with the children or with the children's therapists contain information that may be detrimental to the children or that may be damaging to the children's relationship with his or her therapist or with either

parent, the Parenting Coordinator may withhold that information in her discretion. If either parent wishes to review such information, a review may only be allowed on a noticed Motion, after an *in camera* review of the information by the Court, in consultation with the Parenting Coordinator. If, after such a review, the Judge agrees with the Parenting Coordinator that the divulging of such information could be detrimental to the children or damaging to the children's relationship with his or her therapist or either parent, the Court may order that such information need not be divulged.

If necessary the Parenting Coordinator may function as a communication conduit between the two parties until they are able to successfully do so without the assistance of the Parenting Coordinator.

Confidentiality
The Parenting Coordinator's notes and transcriptions of communications between confidential sources and notes with the children will be kept confidential and are not subject to discovery or subpoena, unless required by the Judge, if the Parenting Coordinator determines it would not be in the best interest of the children or the parties.

In the following situations, the Parenting Coordinator is required by law to reveal information to other persons or agencies without permission from the participant:

- If a parent threatens grave bodily harm or death to self or another person.
- If there is any reasonable suspicion that a minor is being neglected or abused.

Mandated Reporting: Pennsylvania law requires that all health care practitioners (Physicians, Marriage Counselors, Family and Child Counselors, Psychologists, Teachers, Social Workers and others) report to Child Protective Services any information regarding suspected child abuse.

Health care practitioners who are required to report allegations of child abuse are immune from civil suits or liability for making their required reports. They may not be sued either for the report or for the violation of the confidentiality privilege. Specific statutes provide for the immunity for civil suits and also provide an exception to the confidentiality privilege. Others, including attorney Parenting Coordinators, are also immune from prosecution, civil suits, or liability for good-faith reporting of suspected child abuse.

Privilege Does Not Apply:
Although the parenting coordinator is a psychotherapist, the nature of confidentiality as it applies to the parenting coordination program is substantially and qualitatively different from confidentiality as it pertains to therapist-client privilege in situations of psychotherapy.

The Parenting Coordinator is not acting as therapist or attorney to the parties, and as such, no client-therapist relationship or client- attorney relationship is established with the Parenting Coordinator, and that communication is not privileged.

No attorney-client relationship or privilege is created between the Parenting Coordinator and the parents. When the Parenting Coordinator is a mental health provider the parties recognize that no legal information is being offered but rather experience. Therefore, the parties are encouraged to speak with their attorney.

Confidentiality and the Courts:
Since written reports may be submitted to the Court, and the Court may require testimony from the parenting coordinator, it is understood that parenting coordination is <u>not</u> a confidential process. Parents are encouraged <u>not</u> to subpoena the parenting coordinator to produce notes or person for the purposes of litigation. Parenting coordination is a process that provides services designed to promote a cooperative relationship between parents on behalf of their child(ren). It is not the intent of the parenting coordination process to gather information that can be used in the attempt of one parent to discredit the other. The parenting coordinator is not employed for the benefit of either parent.

Therefore, the parenting coordinator who is subpoened by an attorney or the Court to testify in either a court of law or by deposition will do so only in the child(ren)'s behalf pursuant to their best interests. All testimony requested from the parenting coordinator will be focused solely on the interactions observed between co-parents or between parents and child(ren). If any records or information are needed or helpful to the Presiding Judge in order to make an informed decision, they will provided for a processing fee. The party requesting the appearance of the parenting coordinator will be responsible for the fees associated with this request.

Unless ordered by a Court or other lawful authority to release records or portions thereof, records will not be released if requested by only one individual. The records are the property of both parents. Therefore, the release of records will only be released if both parents approve and sign an authorization to release information with the exception of the children's records as noted above.

The parent who desires the Parenting Coordinator to testify on any matter, must file a Motion and Notice of Hearing and show good cause in the Motion and at the hearing why the Court should require the PC to testify. The Parenting Coordinator must be given a copy of the Motion and Notice of Hearing. If called to testify, all testimony shall be for the best interest of the child rather than for either party. The parent who chooses to subpoena the parenting coordinator to testify or be deposed shall be responsible for the full fees associated with testimony. A four (4) hour minimum payable seven (7) business days in advance is required. The balance shall be due seven (7) business days from the date of testimony. No written material will be presented and no work will be performed without the presence of a retainer. The Judge, at their discretion may determine if the cost of testimony shall be shared by both parties. The Parenting Coordinator shall not be required to testify at any hearing, deposition or trial between the parties, except under court order.

It may be required or permitted to disclose personal information without the parents' written authorization. The following examples of when such disclosures may or will be made:

1. If disclosure is compelled by court pursuant to an order of that court.
2. If disclosure is compelled by a board, commission or administrative agency for purposes of adjudication pursuant to its lawful authority.
3. If disclosure is compelled by a board, commission, or administrative agency.
4. If disclosure is compelled by a search warrant lawfully issued to governmental law enforcement agency.
5. If disclosure is compelled or by the Pennsylvania Child Abuse and Neglect Reporting Act (for example, if I have a reasonable suspicion of child abuse or neglect).
6. If disclosure is required or permitted to a health oversight agency for oversight activities authorized by law, including but limited to, audits, criminal or civil investigations, or licensure or disciplinary actions.

Written Reports:

All information shared during the parenting coordination process may be requested and/or ordered by the Court, and will be provided promptly. If reports are written, copies of all reports will be sent to each of the parent's attorneys and guardian for the child(ren). Timing and frequency of these reports will be at the discretion of the Court and/or the Parenting Coordinator.

The Parenting Coordinator's written recommendations and/or memos shall be mailed, emailed or faxed to each party, their attorneys and guardian ad litem. The Parenting Coordinator may send status memos to document any impasse or non-compliance by either parent. If required by the Judge, the Parenting Coordinator shall mail, e-mail or fax a copy of recommendations and memos to the Judge with copies to the attorneys, guardian ad litem and the parents.

In the case of an emergency, the Parenting Coordinator shall have discretion to issue oral emergency recommendations, if they believe they are warranted. Emergency recommendations, including the need for an emergency hearing, shall be communicated to the parents, their attorneys and the Court by the means most likely to ensure that each is aware of the request, with a confirming letter, fax or email to follow as soon as possible.

The Parenting Coordinator may subsequently issue a written recommendation, as described in the paragraph preceding. An emergency recommendation may also address the potential need for visitation to be changed to supervised visitation.

The Presiding Judge may request a final written report along with the Parenting Plan. Parents are required to pay for all fees including the fee for the final report prior to the conclusion of the program.

Disruption

The intent of the parenting coordination process is to provide services agreed by all participants as outlined in this document. While every precaution – short of physical intervention – shall be taken to secure the safety of participants, it cannot be assured. Appropriate medical and law enforcement notification are the extent of the Parenting Coordinator's responsibilities at times of physical danger to any one participant involved in the program. A guarantee that no harm will occur during each session is neither stated nor implied.

Should a parent choose to engage in disruptive behaviors, the Parenting Coordinator may:

1. Ask the parent to stop.
2. Ask the parent if they would like to leave the room for a short break.
3. End the session. The disruptive parent will be responsible for the full fee for the session. In situations in which a parent has made alternative financial arrangements with the court, the disruptive parent will still be responsible for the full session fee.

Either parent may request that an additional coordinator be involved in the process. If requested by a parent, it is the parent's responsibility to pay for the services of the second coordinator. However, if the level of the conflict indicates that the process is being compromised, the Parenting Coordinator may make this recommendation. Under these circumstances, both parents shall split the cost of the second coordinator. The fees for the second coordinator are $80.00 per 80-minute session.

At any time, either parent is welcome to invite their attorney and the guardian ad litem to be an observer in the process as long as arrangements are made with the parenting coordinator a minimum of one week ahead of the scheduled session. In the event that one parent invites their attorney to attend a joint session, the other parent's attorney shall also be invited to attend the session.

Responsibilities of the Parents

One of the goals of the parenting coordination process is for both parents to learn strategies for problem-solving and conflict resolution. Therefore,

-Parents shall employ these strategies in solving their conflict and will delay the impulsive expression of anger.
-Parents shall schedule appointments in advance. Appointments will be held during business hours.
-Parents shall attend appointments on time and prepared.
-Parents shall abide by all program requirements and expectations.

When applicable, one parent must provide a copy of the Court Order and any psychological reports prior to the first session. The parents must provide all reasonable records, documentation, and information requested by the Parenting Coordinator.

The parents have seven (7) business days from the receipt of the paperwork provided to them by the Parenting Coordinator to return such forms and initial retainer

Parents are encouraged not to initiate any legal action after beginning the process of parent coordination with the exception of matters governed by Domestic Relations. Since one of the program goals is to increase trust and cooperation, parents must advise their respective attorneys not to do anything that might be conceived as adversarial. However, as noted above, in the event that parents are unable or unwilling to reach a mutual decision after two or three joint sessions have been dedicated to the issue under mediation, the parents may wish to involve their attorneys in the resolution of this specific parenting matter. In the meantime, the process of parent coordination will continue as it relates to parenting of the children.

Parents are encouraged to return to the Parenting Coordinator at any point in the future as a means of resolving parenting issues that they have been unable to resolve on their own. Both parents will participate and share the costs of any future sessions.

Process Regarding Complaints:
If either parent is dissatisfied with the performance of the Parenting Coordinator they can make their opinion known by following these procedures:
Step 1: Discuss the problem with the Parent Coordinator in a joint session.
Step 2: Request an individual session with the Coordinator in an attempt to work through any difficulties.
Step 3: Request that their attorney or the guardian be invited into a joint session.

If either parent files any form of complaint, suit or grievance against the Parenting Coordinator, he/she agrees to fully compensate and reimburse the Parenting Coordinator for her time and expenses incurred in defending any frivolous complaints ("frivolous" is defined as a complaint that is dismissed as unfounded), including attorney fees.

Compensation of the Parenting Coordinator:
A retainer of $300.00 is expected from each parent to initiate the parent coordination process unless other arrangements have been made with the Parent Coordinator or stipulated differently in the Court Order. On a monthly basis, both parents will be provided with an itemized copy of their bill. An additional retainer will be requested as needed. Otherwise, payment may be due each month or at the beginning of each session.

The Parenting Coordinator shall not be required to perform any services until the retainers have been paid.

If there is any retainer balance at the conclusion of the Parenting Coordinator's work, the Parenting Coordinator shall return the balance to the parties when the Parenting Coordinator deems the work complete.

If, a balance occurs, the parties shall pay the additional fees within ten (10) days of the receipt of a bill sent for services.

In either situation of individual or joint sessions, if either parent must cancel, it must be done within 24-hours of the scheduled session. It is the canceling parent's responsibility to reschedule the session. When the session is a joint session, the canceling parent must notify all participants of this change and the date and time of the rescheduled session. If cancellation is not done within 24-hours of the scheduled session, the entire session fee will be charged to the canceling parent. This provision will be reinforced in all circumstances regardless of the financial arrangements with the Court.

In the situation of a joint session, if a parent is fifteen minutes late, the session will be canceled and the absent parent will be charged the full session fee. This provision will be reinforced in all circumstances regardless of the financial arrangements with the Court.

The fee schedule is:

_____ Individual Session (50-minutes)
_____ Per Parent for each Joint Session (80-minutes)
_____ Per Quarter Hour: Telephone consultations with parent/guardian or professionals.
_____ Per Hour: Preparation of written reports.
_____ Per Hour: Home/School/Work Visits including travel to and from the location
_____ Per Hour: Court time including travel to and from the proceedings
_____ Per Hour: Reading extensive reports and records
$20.00 Book: *Cooperative Parenting and Divorce: A Parent Guide to Effective Co-Parenting* per parent

Since the process of parenting coordination is not therapy no third party insurance reimbursement shall be accepted.

The Parent Coordinator shall be reimbursed for any expenses he or she incurs in association with his or her role as a Parent Coordinator. These costs may include, but not limited to, the following: photocopies, messenger service, reading and responding to email correspondence, long distance telephone and fax charges, express and/or certified mail expenses, parking, tolls, mileage, travel expenses and word processing. Payment for services involved in the intake process shall be deducted from the retainer prior to the initial meeting.

The amount charged for the program will be equally divided (with the exception of individual sessions) unless the Parent Coordinator is provided with a certified copy of the divorce decree or court order that states otherwise. Each party shall pay the full fee for their intake appointment, partner's or extended family member's intake appointment and any coaching sessions. The fees for reports, status memos, including non-compliance memos, shall be equally shared.

If the court order stipulates that only one parent is financially responsible for the fees and the non-paying parent cancels without 24-hour notice, the non-paying parent is responsible for the charge. The same procedure applies to termination of a session due to a parent's disruptive behavior and phone calls made by the non-paying parent. Phone calls will be billed to the parent who initiates the call. However, an emergency phone calls and services associated with emergencies will be billed at the discretion of the parenting coordinator.

If one parent insists that the Parent Coordinator read extensive reports and the Parent Coordinator agrees to do so, this parent alone will pay for the time involved. There may be times when the Parent Coordinator deems it appropriate to charge only one parent a particular fee.

The Parenting Coordinator may adjust the fee of each party based upon other circumstances such as one parent coming to joint meetings more than ten minutes late, for inappropriate behavior and misuse of the time during joint meetings, and other reasons deemed appropriate by the Parenting Coordinator. The Parenting Coordinator shall have the right to reallocate payment of her fees in her discretion, for example, if she believes the need former services is attributable to the unreasonable conduct and/or intransigence of one parent, or if one parent makes legitimate but disproportionate use of services.

Any objection to the Parent Coordinator's billing statements must be brought to the Coordinator's attention in written form within 10 business days of the billing date. Otherwise, the billing statement shall be deemed agreed to by the parent. and collectable. The Parenting Coordinator reserves the right to utilize a collection agency to obtain overdue balances. Fees associated with the use of the collection agency shall be charged to the delinquent party. If arbitration proceedings or a legal action become necessary to enforce any provision of this order, the non-prevailing party must pay any attorney fees and costs that are incurred

Summary

I understand that the Parent Coordinator cannot change the custody status of my child(ren). I understand that the Parent Coordinator has full discretion regarding program implementation including, but not limited to, the recommendation of additional therapeutic and education resources as well as therapeutic and supervised visitation.

I understand that my participation in the Parent Coordination Process is instrumental in reducing the conflict between the parents. I agree to maintain a serious commitment to the process by abiding by the guidelines and requirements of the program as noted herein. Furthermore, I agree to maintain scheduled appointments and will not interfere in the process by refusing to attend sessions or frequently rescheduling appointments.

I agree that I will not request the Parent Coordinator to produce records or require the Parent Coordinator to testify in Court against the other parent. Should the Parent Coordinator be requested to testify, I understand that he or she reserves the right to speak in the best interest of the child(ren).

In agree to abide by any new agreements made between me and the other parent during the parenting coordination process.

I agree to limit my telephone contact with the Parent Coordinator to only emergency situations and/or to change an appointment.

I understand that a therapist-client relationship in a therapeutic setting is not created by this agreement.

Signature Page
Keep this document and return the signature page on the next page

By their signatures below, the parties acknowledge their understanding that if either or

My signature reflects that I will abide by all the conditions outlined in this 8 page agreement.

This Parent Coordination Agreement is executed by

_____	_____
Mother	Father
On _____	On _____
Date	Date

PARENT COORDINATION
PROGRAM OVERVIEW & AGREEMENT

Parent Coordination
A program for separating or separated parents

Signature Page
Return this page with your paperwork

My signature reflects that I will abide by all the conditions outlined in this 8 page agreement.

This Parent Coordination Agreement is executed by

_____ _____
Mother Father

On _____ On _____
Date Date

Lisa Tisdel
Court Approved Supervisor
Phone: 570-690-7150
Email: lisa_tisdel@yahoo.com

Fee Schedule

Supervised Visits: $25.00 per hour in the Scranton area.
(A travel rate will be added outside of the Scranton Area)

Home Inspections: start at $50.00 and up
(A travel rate is also added pending location)
Scranton Area -$50.00
Clarks Summit/Waverly Area $65.00
Dalton/Factoryville -$100.00
Jermyn/Mayfield/Carbondale - $100.00
Moscow/Hamlin - $100.00

Photo of Home Inspection are as followed:
$35.00 up to 40 pictures, anything over 40 pictures will be an additional charge.
CD of photos-$10.00

Court Dates:
(Required three days prior to hearing and is non-refundable)
½ day -$100.00
Full day- $200.00
Phone Testimony-$30.00 per hour (Must be arranged prior to court date)

***fees are subjected to change at any time