IN THE CHANCERY COURT OF WAYNE COUNTY, MISSISSIPPI

IN THE CHANCERY COURT OF FORREST COUNTY, MISSISSIPPI

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ PLAINTIFF

VS. CIVIL ACTION NO: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DEFENDANT

**ORDER APPOINTING GUARDIAN AD LITEM**

THIS CAUSE came on for hearing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ before the Court in response to the request and agreement of the parties through counsel for an Order appointing a Guardian ad Litem for the following minor child(ren) involved in these proceedings and list dates of birth:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_The Court, being fully advised in the premises, finds that the minor child(ren) are under the jurisdiction of this Court, should have a Guardian ad Litem appointed in this Cause to investigate the allegations raised in these proceedings, and make recommendations to this Court as to what would be in the best interest of the minor child(ren). The Court finds that the appointment of a Guardian ad Litem is \_\_\_\_\_\_\_\_\_\_\_\_\_ (discretionary/mandatory).

The Court finds that Hon. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(city), \_\_\_\_\_\_\_\_\_\_\_\_(state), \_\_\_\_\_\_\_\_\_\_\_\_\_(zip), telephone \_\_\_\_\_\_\_\_\_\_\_\_\_, is an attorney licensed to practice law in this state, completed the requisite training, has no interests adverse to the child(ren), and is duly certified to serve as Guardian ad Litem for the best interests of the minor child(ren) in this case. The Court is of the opinion that Hon. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ should be, and hereby is, appointed as Guardian ad Litem for the minor child(ren).

**IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED** that:

1. Attorney \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is appointed as Guardian ad Litem to represent the best interest of the minor(s) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the above-styled cause, to investigate and ascertain the facts, and make a recommendation to this Court as to what is in the best interest of the minor child(ren).

Specifically, the Guardian ad Litem shall investigate all allegations in the pleadings concerning custody, visitation, support, termination of parental rights and/or any and all other issues or concerns affecting the welfare and best interests of the minor child(ren).

2. The Guardian ad Litem shall prepare a written report to this Court containing the investigation and shall make a recommendation as to what would be in the best interest of this child(ren), in view of the claims and allegations that have been asserted by the parties.

3. Copies of the Report and Recommendations and any Supplemental Reports prepared by the Guardian ad Litem shall be served on counsel for the parties. All reports prepared by the Guardian ad Litem shall be filed under seal with the Clerk of Court. The report(s) shall not thereafter be released without an Order from this Court. The Report and/or any Supplemental Report shall be submitted to counsel and filed on MEC at least seven (7) days prior to trial.

4. To fulfill his/her duties, the Guardian ad Litem shall have immediate access to the minor child(ren) in this case, as well as access to all otherwise privileged or confidential information regarding the minor child(ren) and/or the parties, without the necessity of any further Order by this Court or release by the parents of the minor child(ren).

5. Such information includes but is not limited to medical records, psychological records, counseling records, social services records, drug and alcohol treatment, law enforcement records, school records, records of trusts and accounts of which the child(ren) is/are a beneficiary, evaluations, and other records relevant to the case, including court records concerning the parties or their household members.

6. Upon presentation of this Order by the Guardian ad Litem to any doctor, psychiatrist, psychologist, hospital, medical care provider, agency, organization, school, social service agency, counselor, therapist, law enforcement agency, bank or financial institution, including the Clerk of this Court, the Department of Human Services, the Department of Child Protective Services and any other person, private entity or public entity, the aforementioned shall permit the Guardian ad Litem to inspect and/or copy any records relating to the minor child(ren), without the necessity of formal consent or release by the minor child(ren), or the child(ren)s parents or guardians.

7. The Guardian ad Litem shall maintain any information received from any such source as confidential and shall not disclose such information except in reports presented to this Court and the parties in this Cause.

8. The Guardian ad Litem shall have full access to all evidence, depositions, and discovery materials prepared or propounded in regard to these proceedings.

9. The Guardian ad Litem is expressly authorized to communicate directly with each party in this matter and shall not be required to communicate through their respective attorneys. The Guardian ad Litem is directed to send a copy of all correspondence with any party simultaneously to that partys counsel of record. The Guardian ad Litem may interview any witnesses and participate in discovery and pretrial preparations in this case as necessary for his/her investigation. The Guardian ad Litem shall be provided notice and have the right to appear and participate on behalf of the minor child(ren) at any hearings, interviews, investigations, depositions or other proceedings in the case. If at any time during the Guardian ad Litems investigation the Guardian ad Litem finds that modification or dissolution of a previously entered order is appropriate, she must notify the court immediately so that a hearing may be held on the Guardian ad Litems written motion.

10. The Guardian ad Litem shall be served with copies of all pleadings, discovery, notices and other papers filed or served by any party. The Guardian ad Litem shall be a party to any agreement or plan entered into on behalf of or that affects the minor child(ren).

11. The Court specifically recognizes that the Guardian ad Litem shall be designated as an expert witness under Rule 706, Miss.R.Evid. and Mississippi Law, as provided in *S.G. v. D.C.*, 13 So.3d 269 (Miss.2009) and *McDonald v. McDonald*, 39 So.3d 868 (Miss.2010). Therefore, the opinions and recommendations offered by the Guardian ad Litem, and the factual basis for these opinions derived in the course of the investigation, shall be governed by Rule 702, Rule 703, Rule 803(6), (8), (24) and (25); and Rule 804 of the Mississippi Rules of Evidence, and any other applicable rules governing the presentation of expert opinions.

12. Any objections by any party to the appointment of the Guardian ad Litem as an expert witness in this case, and any challenges to the qualifications of the Guardian ad Litem, shall be filed within thirty (30) days after the date of this Order and promptly scheduled for hearing.

13. The Parties shall be equally responsible for payment of the Guardian ad Litems attorneys fee for the services rendered in this case. Each party shall within ten (10) days after the entry of this Order pay to the Guardian ad Litem the sum of $\_\_\_\_\_\_\_\_\_\_ as a retainer for services to be rendered at the rate of $\_\_\_\_\_\_\_\_\_ per hour, plus reimbursement for expenses. Any additional fees or expenses incurred by the Guardian ad Litem shall be presented to the Court for consideration and approval prior to such fees be assessed to the parties.

Guardian ad Litem fees ordered paid by the parties pursuant to this Order Appointing Guardian ad Litem, and pursuant to Order and Judgment of the Court as approved by the Court in these proceedings, shall constitute a lawful payment and judgment obligation of each party owed to the Guardian ad Litem.

Upon non-payment of any fees owed, the Guardian ad Litem shall file his/her written certification under oath with the Clerk of the Court as to the unpaid balance due the Guardian ad Litem by the payment date ordered from the delinquent party, whereupon the Clerk of the Court shall issue an Abstract of Judgment for said balance due to the Guardian ad Litem against the delinquent party for enrollment and collection proceedings as allowed by law. The unpaid balance shall bear interest at 4% per annum from the payment due date of the Order/Judgment approving the Guardian ad Litem fees and directing payment thereof.

Nothing contained herein shall prohibit the Guardian ad Litem from seeking any other relief from this Court, or otherwise allowed by law, for any unpaid fees as approved and ordered by the Court in these proceedings.

14. Within ten (10) days after the date of this Order, each party is hereby ordered and directed to provide the following information in writing to the Guardian ad Litem:

A. A brief statement of the party's position on the issues concerning child(ren) custody, placement, visitation, support, termination of parental rights and any other matters relating to the said Minor Child(ren)'s welfare and best interest.

B. A copy of each and every document in the party's possession upon which the party relies to support the party's position on child custody, placement and support, including but not limited to, psychological or other professional reports or records.

C. A list of all witnesses, including but not limited to, medical, psychological and mental-health professionals, who have information supporting the party's position on child custody, placement and support, providing for each the name, address and telephone number.

D. A list of the parties' employers for the preceding five years, together with a statement of the work performed, hours and days regularly worked, and gross and net pay.

E. A list of all counselors, psychiatrists, psychologists, and other mental health professionals with whom the parties and/or the said Minor Child(ren) have consulted within the past five years.

F. A list of each street address at which the parties and/or the said Minor Child(ren) have resided within the past five years.

G. The names, addresses and telephone numbers of all persons who have relevant knowledge concerning the issues raised by the allegations that have been asserted by any person or entity in this case.

H. The names, addresses and telephone numbers of references, other than relatives, with whom the said Guardian ad litem may discuss the party's parenting ability and relationship with the said Minor Child(ren).

I. The parties are directed to supplement the productions of this information to the Guardian ad litem as additional information becomes available.

15. The Guardian ad Litems report shall, at minimum, address the following:

A. Interviews with the child(ren), the parties, siblings of the child(ren), school personnel, social workers, community contacts (including church), and any potential witnesses made known to the Guardian ad Litem by the parties, their counsel, or any other potential witnesses - specifying where and when conducted and under what circumstances.

B. A review of relevant legal authority and analysis of its applicability to the facts and procedure of this case; a review of the sufficiency of the pleadings; review of physical evidence (including photos, police reports, or other evidence as exhibits); and review of medical or psychological evidence. A review of financial status (if child(ren) has property). Observation of child(ren) with parents and/or at school.

C. Conclusions reached by the Guardian ad Litem based upon the applicable

legal authority and upon the facts and procedure of this case.

D. A concise final statement of the Guardian ad Litems recommendation

based on the best interest of the child(ren) and the duration of the applicable legal authority and of the facts and procedure of this case.

E. The role of the Guardian ad Litem shall be to serve as witness, examine

witness statements and carry out any further orders of the Court.

16. The Clerk of Court is hereby directed to provide copies of this Order to all parties and/or their attorneys, and to the Guardian ad Litem.

SO ORDERED, ADJUDGED, AND DECREED, this the \_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

C H A N C E L L O R