



State of New Hampshire Guardian ad Litem Board

25 Capitol Street - Room 120, Concord, New Hampshire 03301
TDD Access: Relay NH 1-800-735-2964
Web site: www.nh.gov/gal

Phone: (603) 271-1199
Fax: (603) 271-6600
E-mail: gal.board@nh.gov

**In the Matter of the Adjudicatory Hearing
On Docket Number 2013-C0004
Regarding Guardian ad Litem Ann Thompson Bennett
April 18, 2014**

DECISION AND ORDER

Before the Guardian ad Litem Board (hereinafter, the Board) is the matter of Ann Thompson Bennett (hereinafter Ms. Thompson Bennett), following a complaint to the Board that Ms. Thompson Bennett did not act in a sufficiently timely manner on behalf of the recipient of services. An adjudicatory hearing was held on April 18, 2014 in room 101 of the Legislative Office Building, Concord. Present were: Board Members Susan Duncan, Chair, Chris Keating, Presiding Officer, Alan Cantor, Ann Larney, Representative Deanna Rollo, David Villiotti

FINDINGS OF FACT:

- On January 17, 2013, Ms. Thompson Bennett was appointed GAL in the Matter of Kevin Coutreau and Victoria Ashby.
- Mr. Coutreau timely paid his portion of the retainer and spoke for a considerable period of time on the telephone with Ms. Thompson Bennett explaining the family's dynamics. Mr. Coutreau desired a speedy resolution of the matter before the Court because of his concern about his child's welfare and because of financial concerns regarding his monthly support obligation.
- Ms. Ashby did not timely pay her share of the retainer.
- The Court's Order on Appointment states that "unless otherwise ordered, a Guardian ad Litem is not required to commence an investigation until the retainer is paid in full."
- Mr. Coutreau had a reasonable belief that Ms. Thompson Bennett had begun her investigation for three reasons:
 1. There appears to be an understanding, (supported by case law), among members of the public that Guardians ad Litem are officers of the court and serve at the direction and under the control of the judge, and that despite what the court forms say, the expectation is that when a court orders a GAL to begin an investigation, the GAL begins an investigation.
 2. Mr. Coutreau had paid his share of the retainer.
 3. Attorney Thompson Bennett had spent a considerable period of time talking on the phone with Mr. Coutreau about his perspective on the parenting situation.
- Ms. Thompson Bennett had a reasonable basis to believe that she had not been formally retained and therefore had no obligation to begin her investigation. Under the express terms of the court order, both parties had not taken the steps necessary to retain her services.
- For reasons not entirely clear to the Board, Ms. Thompson Bennett did not take affirmative steps to dispel any potential misunderstanding that Mr. Coutreau may have had that she had begun her investigation.

RULINGS OF LAW

1. **Ms. Thompson Bennett did not violate GAL RULE 503.03(a) Timeliness.**

Given the court order that explicitly provided that the Guardian ad Litem is not required to commence an investigation until the retainer is paid in full, it cannot be found by a preponderance of the evidence that Ms. Thompson Bennett knowingly failed to undertake actions on behalf of a recipient of services in a manner that is sufficiently timely to avoid prejudice to the recipient of services.

THEREFORE IT IS ORDERED that the evidence presented at the adjudicatory hearing did not support a finding that Ann Thompson Bennett knowingly violated the GAL rules related to timeliness in the commencement of her investigation in this case. It is noted for the record that this was not a unanimous vote by the Board (4-2).

IT IS FURTHER ORDERED that the GAL Board explain its concerns to the Chief Administrative Judge of the Circuit Court that the standard Order on Appointment of the Guardian ad Litem contains contradictory language that has the potential to create misunderstandings concerning when a GAL will commence his or her work. Litigants who find themselves in positions like the one Mr. Coutreau was in should be entitled to clear instructions about how their important cases will progress.

Appeals from orders of the Board may be taken pursuant to RSA 541. See RSA 490-C:8. Within 30 days of the date of this decision, the respondent may appeal by petition for a writ of certiorari to the New Hampshire Supreme Court. See RSA 541:6.

BY ORDER OF THE BOARD

DATE:

April 25, 2014


Christopher Keating
Presiding Officer

cc: Kevin Coutreau
111 Baboosic Lake Road Merrimack, NH 03054
Ann Thompson Bennett
PO Box 5398 Manchester, NH 03108
Don Nason, Nason Investigations
17 Frost Lane Concord, NH 03303
Amanda Godlewski, Assistant Attorney General;
NH Department of Justice, 33 Capitol Street, Concord, NH 03301