

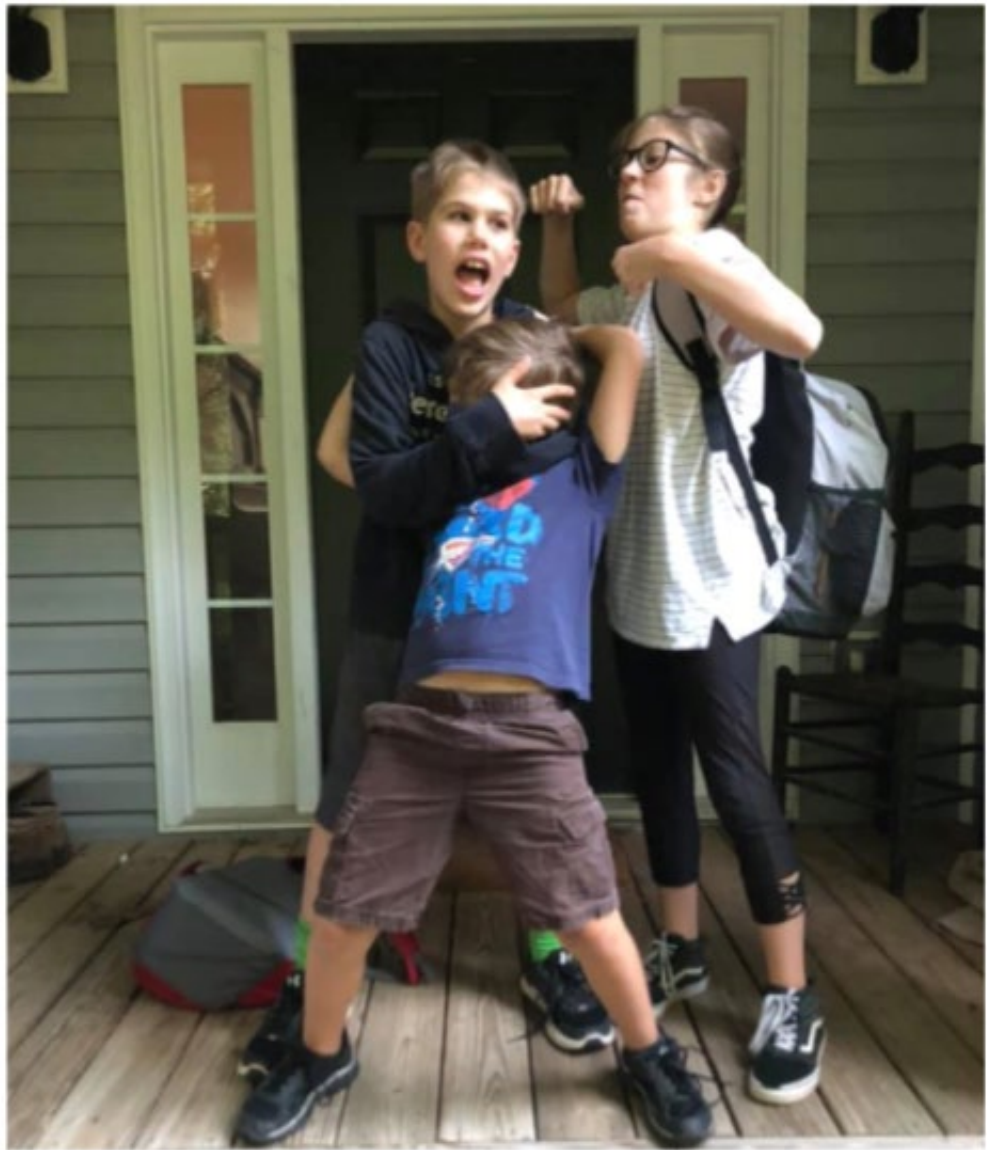
APPOINTED TO ADVOCATE

**STRENGTHENING YOUR
COURTROOM PRESENCE**

Carolyn Altman, CWLS

Judge, Paulding County Juvenile Court





BEST PRACTICES: EVIDENCE

Three Kinds of Evidence:

- 1. Stipulations of the Parties**
- 2. Sworn Testimony**
- 3. Properly admitted documents/exhibits**



LAWYERS' JOB



WHERE DO WE GO FROM HERE?

CONTENT OF THE REPORTS

The guardian ad litem shall provide written reports to the court and the parties on the child's best interests, including, but not limited to, recommendations regarding placement of such child, updates on such child's adjustment to placement, DFCS's and respondent's compliance with prior court orders and treatment plans, such child's degree of participation during visitations, and any other recommendations based on the best interests of the child.

- Carolyn Altman, expert at law

- OCGA §15-11-105(C)(15)



PIRATE CODE

THEY'RE MORE GUIDELINES, THAN ACTUAL RULES

JUST FOLLOW THE...

LAW

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HD
HISTORY.COM



**A GUARDIAN AD LITEM
SHALL ADVOCATE
FOR A CHILD'S BEST INTERESTS**

OCGA §15-11-105(a)

PURPOSE OF THE REPORT IS TO **MAKE RECOMMENDATIONS**

- Placement: Is it appropriate?

Are there any recommended changes to the placement? If so, why?

- Needs: What assessments does the child need?

What services does the child need?

Tangible goods – glasses, new book bag, clothes, etc.

- Visitation: Maintain as it is. Expand it. Recommend supervision.

- Permanency: What is the recommended permanency plan?

Continue reunification? Permanent Guardianship?

Termination/adoption?

CONNECT FACTS & RECOMMENDATIONS

Placement: The placement be changed to a therapeutic foster home.

WHY? What FACTS support this recommendation?

Services: Child needs trauma focused play therapy.

WHY? What FACTS support this recommendation?

Visitation: Visitation should return to supervised.

WHY? What FACTS support this recommendation?

Permanency: Permanency plan should be Termination & Adoption

WHY? What FACTS support this recommendation?

REVIEW HEARING FINDINGS

1. Whether the child continues to be dependent.
2. Whether the existing case plan is still the best one, or what changes need to be made. Whether a concurrent case plan is appropriate.
3. Extent of compliance
4. Appropriateness of any recommended changes to the placement
5. Whether appropriate progress is being made on the permanency plan
6. Whether all legally required services are being provided to the child, foster parents, and parents.
7. Whether visitation is appropriate
8. If 14 or older, what services are needed to assist the child to transition from foster care to Independent Living
9. Whether reasonable efforts continue to be made to prevent or eliminate the need for foster care.
10. Whether DFCS intends to proceed with TPR

PERMANENCY HEARING FINDINGS

1. Whether DFCS has made reasonable efforts to finalize the permanency plan
2. Continuing necessity for and the safety and appropriateness of the placement
3. Compliance with the permanency plan by DFCS, parties, and any other service providers
4. Efforts to involve appropriate service providers in addition to DFCS staff in planning to meet the special needs of the child or parents.
5. Efforts to eliminate the cause for the placement outside of the home and toward returning child safely to his or her home or obtaining permanent placement for the child.
6. The date by which it is likely that a child adjudicated as dependent will be returned, placed for adoption, placed with a permanent guardian, or in some other alternative placement.
7. If child is out of state, whether the out of state placement is appropriate.
8. If 14 or older, what services are needed to assist the child to transition from foster care to Independent Living
9. If APPLA, whether DFCS documented intensive, ongoing, and to date, unsuccessful efforts to return child to home or identify committed placement. Whether DFCS ensuring that placement is following reasonable and prudent parent standard & child has regular activities. Whether the child has been consulted on child's desired permanency outcome.
10. If 14 or older, whether the permanency plan was developed in consultation with the child.

WHEN REPORTS ARE NOT ADMISSIBLE:

A guardian ad litem's report shall not be admissible into evidence prior to the disposition hearing except in accordance with the rules of evidence applicable to the specific proceeding.

- OCGA §15-11-104(1)

PRACTICE POINT:

If unsure about admissibility, always put it in the report.

PRACTICE SUGGESTION:

Ask the child's attorney to admit the report into evidence.



TESTIFYING IN COURT

CASAs DO NOT HAVE TO TESTIFY



- The court, a child, or any other party may COMPEL a guardian ad litem for a child to attend a trial or hearing relating to such child and TO TESTIFY, if appropriate, as to the proper disposition of a proceeding.

OCGA §15-11-104(j)

- The court shall ensure that parties have the ability to challenge recommendations made by the guardian ad litem or the factual basis for the recommendations in accordance with the rules of evidence applicable to the specific proceeding.

OCGA §15-11-104(k)

- A guardian ad litem who is not also serving as an attorney for a child MAY BE CALLED AS A WITNESS for the purpose of cross-examination regarding the guardian ad litem's report, *even if the guardian ad litem is not identified as a witness by a party.*

OCGA §15-11-104(m)

CASAs SHOULD TESTIFY AT ALL CONTESTED HEARINGS

ADJUDICATION; NON-REUNIFICATION; TPR

Recommendation & Then Reasons:

- Example: I recommend that termination of parental rights is in the best interest of the child BECAUSE:

Reasons & Then Recommendation:

- Example: Based upon the child's young age, length of time in foster care, the minimal compliance with the caseplan and the parents' continued drug use, I support termination of parental rights.

SUBJECT TO CROSS EXAMINATION

THINGS THAT UNDERMINE CREDIBILITY

- Being overly subjective:

“I’ve never heard of anyone who ...”

“I just feel the mother can do better than this”

- Being overly emotional. Getting defensive
- Align too closely with the foster parent
- “Gotcha” information
- Arguing about the facts
- Talking after an objection is made

CREDIBILITY YOU HAD.



**LOST IT YOU
DID.**

INCREASING CREDIBILITY AS A WITNESS & ADVOCATE

- Listen to the question
- Answer the question that was asked
 - not the one you *want* to answer
- Be factual
- Acknowledge the good
- Be clear. Short answers; longer explanations
- Don't be afraid of silence

QUESTIONS YOU SHOULD ALWAYS BE PREPARED FOR ON CROSS-EXAMINATION

- When was the last time you saw the child?
- How often have you seen the child?
- Have you ever observed the child and parents together?
- What were your observations about the child and parents together?
- Did you consider the relatives?
- Did you consider [parents positive] compliance with the caseplan? Were you aware of?

QUESTIONS?

