



Cuyahoga County Juvenile Court

A Practitioner's Guide to GAL Fees in Private Custody Cases

Table of Contents

| | |
|--|----------|
| INTRODUCTION | 1 |
| GAL FOR A PARENT | 1 |
| INSTRUCTIONS | 1 |
| GAL FOR THE CHILD—INTRODUCTION | 2 |
| GAL FOR THE CHILD—ALL PARTIES ARE INDIGENT | 2 |
| INDIGENCY FINDING MADE PRIOR TO OR AT DISPOSITIONAL HEARING/TRIAL..... | 2 |
| <i>Instructions</i> | 2 |
| INDIGENCY FINDING MADE AFTER DISPOSITIONAL HEARING/TRIAL | 2 |
| <i>Instructions</i> | 3 |
| EXAMPLE #1 | 3 |
| <i>Scenario</i> | 3 |
| <i>Answer</i> | 3 |
| EXAMPLE #2 | 3 |
| <i>Scenario</i> | 3 |
| <i>Answer</i> | 3 |
| GAL FOR THE CHILD—ALL PARTIES ARE NOT INDIGENT | 4 |
| INSTRUCTIONS | 4 |
| EXAMPLE #1 | 5 |
| <i>Scenario</i> | 5 |
| <i>Answer</i> | 5 |
| EXAMPLE #2 | 6 |
| <i>Scenario</i> | 6 |
| <i>Answer</i> | 6 |
| EXAMPLE #3 | 6 |
| <i>Scenario</i> | 6 |
| <i>Answer</i> | 7 |
| GAL FOR THE CHILD—SPLIT BILLING | 7 |
| INSTRUCTIONS | 7 |
| <i>Important Note</i> | 8 |

| | |
|--|-----------|
| EXAMPLE #1 | 9 |
| <i>Scenario</i> | 9 |
| <i>Answer</i> | 9 |
| <i>Why doesn't the Court pay the full amount of the indigent party's portion, up to the cap?</i> | <i>9</i> |
| <i>Why can't I bill all my hours at the Court's indigent GAL rate?</i> | <i>10</i> |
| EXAMPLE #2 | 10 |
| <i>Scenario</i> | 10 |
| <i>Answer</i> | 10 |
| EXAMPLE #3 | 11 |
| <i>Scenario</i> | 11 |
| <i>Answer</i> | 11 |
| FURTHER GUIDANCE | 12 |

Introduction


Guardian *ad Litem* (“GAL”) fees are handled differently in private custody matters¹ because parties are responsible for payment of the GAL’s fees in such cases. This requires the Court to make extra findings prior to the GAL getting paid. This Guide illustrates how GAL fees are handled in private custody cases.

This Guide uses the term “parent” generically and interchangeably with “party” because they are the most common parties involved in private custody matters in Juvenile Court. However, there are of course many instances where other interested third parties are involved in such cases (e.g., legal custodians/guardians, grandparents, aunts, uncles, etc.) and the information in this Guide applies equally to non-parent parties.

GAL for a Parent

Where a GAL is appointed to represent an adult parent (or other adult party who is not the child subject to the custody order)—typically for mental health issues or incompetence—no finding of indigence is required, and the GAL may bill the Court directly upon disposition of the case. Fees will be paid at the Court’s GAL hourly rate and cap in effect at the time of the filing of the fee bill (aka the Fee Schedule, available on the Court’s website).

Instructions

 Submit a fee bill per the usual Court Fee Bill Policy within thirty (30) calendar days of the date the dispositional hearing was conducted. If a hearing spans more than one day, the deadline begins to run from the final hearing date.

¹ Defined as a case where the Cuyahoga County Division of Children and Family Services (“CCDCFS”) is not *currently* a party in the matter.

GAL for the Child—Introduction


All parties are presumed not indigent unless and until a specific indigency finding is made as to that person. There are three possible billing scenarios when a GAL is appointed to represent the best interests of the child: (1) all parties are indigent; (2) all parties are not indigent; or (3) at least one party is indigent and at least one party is not indigent (referred to as “split billing”).

GAL for the Child—All Parties are Indigent

Indigency Finding Made Prior to or at Dispositional Hearing/Trial

When all parties are found indigent prior to or at the dispositional hearing, no further action is required on the GAL's part beyond submission of the fee bill. Fees will be paid at the Court's GAL hourly rate and cap in effect at the time of the filing of the fee bill.

Instructions


 Submit a fee bill per the usual Court Fee Bill Policy within thirty (30) calendar days of the date the dispositional hearing was conducted. If a hearing spans more than one day, the deadline begins to run from the final hearing date.

Indigency Finding Made After Dispositional Hearing/Trial

If the parties are found indigent after the dispositional hearing, they will be considered not indigent until that time (which means they are responsible for payment of GAL fees unless and until they are found indigent).


Typically, the Court only withholds such a finding until the parties submit specific documentation. If all the parties are ultimately found indigent, the GAL may proceed to bill the Court per the instructions below. If the parties are not found indigent, or only some are and it results in a split billing situation, follow the applicable instructions in the other sections of this Guide.

Instructions


 Submit a fee bill per the usual Court Fee Bill Policy within thirty (30) calendar days of the date of the journal entry finding the parties indigent.

Example #1

Scenario


 You are GAL for the child and both parents were found indigent prior to trial. There are no other parties involved in the case. You have spent a total of 10.0 hours of work in the matter, and the Court's current fee schedule sets GAL work at \$60/hour with a cap of \$1,000.

Answer


 Submit a fee bill within thirty (30) calendar days after trial for 10.0 hours at \$60/hour for a total of \$600, all of which will be paid by the Court.

Example #2

Scenario

 You are GAL for the child and both parents were found indigent after trial. There are no other parties involved in the case. You have spent a total of 20.0 hours of work in the matter, and the Court's current fee schedule sets GAL work at \$60/hour with a cap of \$1,000.

Answer

 Submit a fee bill within thirty (30) calendar days after the date of the journal entry finding the parties indigent for 20.0 hours at \$60/hour for a total of \$1,200. The Court will only pay you \$1,000 (the current cap) unless you file for, and are granted, a Motion for Extraordinary Fees. Motions for Extraordinary Fees must be filed at the same time as and together with the fee bill.

GAL for the Child—All Parties are Not Indigent

When no party is found indigent in a case, the parties are solely responsible for paying the GAL's fees. In such instances, parties may be required to post a bond at the beginning of the case to contribute towards these fees. If a party posts a bond, it will be held in escrow with the Cashier's Office until it is ordered released by the Court.

The Court must approve the total hours spent plus the GAL's hourly rate prior to the GAL billing the parties. Cuyahoga County Juvenile Court does not currently have a local rule establishing a specific GAL rate, and it is therefore up to the GAL to identify their rate (subject to final Court approval).² The Court must also identify the allocation of fees amongst the parties—for example, a 50/50 split or some other allocation. These findings can be made at the time of the dispositional hearing or after, depending on when the jurist orders the GAL to file such information.

Instructions

1. File a Motion for GAL Fees.

Unless otherwise ordered, this should be filed after trial so that the hours spent in trial can be included in the motion and calculations. Your motion must include an itemized statement of the total number of hours spent in the case, your hourly rate, and the total fees (the hours multiplied by your rate).

2. The Court will rule on your Motion.

Assuming there are no issues, the Court will issue an entry making the following findings: (1) that your hourly rate is reasonable and customary; (2) the services performed were necessary and approving the total number of hours; (3) allocating the portion of fees attributable to each party; and (4) releasing any bonds currently on deposit.

² Compare this with Cuyahoga County Court of Common Pleas, Domestic Relations Division's Local Rule 35(E)(1), which establishes a rate of \$150.00/hour for GALs.

3. Collect any bond monies from the Cashier's Office.


Once the journal entry releasing the bond monies has been journalized (which may require waiting for the judge's entry approving the magistrate's decision), you may go to the Cashier's Office at any time with your ID and they will process a check for you.

4. Collect your Fees from the Parties Directly.


You may now pursue collecting your fees from the parties directly. Unless the journal entry indicates otherwise, you are free to make any mutually agreeable payment terms between you and the party directly (e.g., a monthly payment plan, etc.). The Court cannot collect this money on your behalf but can issue a Certificate of Judgment or rule on a Motion to Show Cause.

Example #1

Scenario


 You are GAL for the child and both parents are not indigent. There are no other parties involved in the case. You have spent a total of 10.0 hours of work in the matter, and your hourly rate is \$150/hour. You submitted a Motion for GAL Fees reflecting the 10.0 hours of work for a total of \$1,500. The Court found your hourly rate reasonable and approved the total hours. It also ordered the fee to be split equally (50/50) between the parents. No bond was deposited.

Answer


 Bill both parents directly for their share of the fees—\$750 per person. Should either or both parents fail to pay, you may obtain a Certificate of Judgment from the Clerk's Office and pursue collections in the applicable court. You may also file a Motion to Show Cause in the Juvenile Court.

Example #2

Scenario


 You are GAL for the child and both parents are not indigent. There are no other parties involved in the case. You have spent a total of 10.0 hours of work in the matter, and your hourly rate is \$150/hour. You submitted a Motion for GAL Fees reflecting the 10.0 hours of work for a total of \$1,500. The Court found your hourly rate reasonable and approved the total hours. It also ordered the fee to be split with 75% attributed to the mother and 25% to the father. Mother previously deposited a \$500 bond, but father did not. The Court ordered the \$500 bond released to you directly.

Answer


 Obtain the \$500 bond from the Cashier's Office. You will then bill both parents directly for their share of the fees—\$375 for father (2.5 hours at \$150/hour), and the remaining \$625 balance for mother (her original \$1,125 minus the \$500 bond). Should either or both parents fail to pay, you may obtain a Certificate of Judgment from the Clerk's Office and pursue collections in the applicable court. You may also file a Motion to Show Cause in the Juvenile Court.

Example #3

Scenario

 You are GAL for the child and both parents are not indigent. There is also a maternal grandmother who properly intervened and is not indigent. You have spent a total of 12.0 hours of work in the matter, and your hourly rate is \$150/hour. You submitted a Motion for GAL Fees reflecting the 12.0 hours of work for a total of \$1,800. The Court found your hourly rate reasonable and approved the total hours. It also ordered the fee to be split equally with 1/3 of the fees attributable to each party. Mother previously deposited a \$500 bond and maternal grandmother deposited \$250, but father did not. The Court ordered the \$750 bond released to you directly.

Answer

 Obtain the \$750 bond from the Cashier's Office. You will then bill all three parties directly for their share of the fees—\$600 for father (4.0 hours at \$150/hour), the remaining balance of \$350 for maternal grandmother (her original \$600 minus the \$250 bond), and the remaining \$100 balance for mother (her original \$600 minus the \$500 bond). Should any or all of the parties fail to pay, you may obtain a Certificate of Judgment from the Clerk's Office and pursue collections in the applicable court. You may also file a Motion to Show Cause in the Juvenile Court.

GAL for the Child—Split Billing

When at least one party is indigent and at least one party is not indigent, this results in split billing: meaning the Court will be responsible for the indigent party's portion and the non-indigent party is responsible for their portion. This requires splitting the GAL's hours, not dollars, because the Court only guarantees a specific hourly rate for hours worked up to the cap—not a guarantee of a specific fee amount. The timing of when the indigent party is found indigent (i.e., before, at, or after disposition) does not matter for purposes of these types of billings, other than to dictate when the thirty (30) day deadline to submit a fee bill begins (see distinction clarified above in the section GAL for the Child—All Parties Are Indigent).

Instructions

1. File a Motion for GAL Fees.

Unless otherwise ordered, this should be filed after trial so that the hours spent in trial can be included in the motion and calculations. Your motion must include an itemized statement of the total number of hours spent in the case, your hourly rate, and the total fees (the hours multiplied by your rate).

2. The Court will rule on your Motion.

Assuming there are no issues, the Court will issue an entry making the following findings: (1) that your hourly rate is reasonable and customary; (2) the services performed were

necessary and approving the total number of hours; (3) allocating the portion of fees attributable to each party; (4) releasing any bonds currently on deposit; and (5) indicating which party/ies is/are indigent (if not previously determined).

3. File your fee bill for the indigent party's portion.

Only submit the total number of hours attributable to the indigent party, billed at the Court's current GAL hourly rate. If there is more than one indigent party, combine their total hours on one fee bill. Remember that fee bill hours must be submitted in one tenth of an hour (0.1) increments, so if the percentage results in an odd fraction (e.g., 0.25, 0.33, 0.66, etc.), you must round up or down (and adjust for the difference elsewhere). Note that bills directly to parties do not have this restriction. The fee bill is also subject to all the other rules of the Fee Bill Policy, including the thirty (30) day filing deadline.

4. Collect any bond monies from the Cashier's Office.

Once the journal entry releasing the bond monies has been journalized (which may require waiting for the judge's entry approving the magistrate's decision), you may go to the Cashier's Office at any time with your ID and they will process a check for you.

5. Collect your Fees from the Parties Directly.

You may now pursue collecting your fees from the non-indigent parties directly. Unless the journal entry indicates otherwise, you are free to make any mutually agreeable payment terms between you and the party directly (e.g., a monthly payment plan, etc.). The Court cannot collect this money on your behalf but can issue a Certificate of Judgment or rule on a Motion to Show Cause.


Important Note

⚠ The Court cannot process your fee bill for the indigent party without a journal entry (or combination of journal entries) making the requisite findings: (1) which party/ies is/are indigent; (2) the percentage split of the fees between all parties; and (3) your total hours of work spent that are approved. The total hours of work spent must be somewhere in the record—either in the journal


entry itself or attached to your Motion for GAL Fees that is then referenced and granted in the journal entry.

Example #1

Scenario

 You are GAL for the child and father is indigent, but mother is not. There are no other parties involved in the case. You have spent a total of 10.0 hours of work in the matter, and your hourly rate is \$150/hour. You submitted a Motion for GAL Fees reflecting the 10.0 hours of work for a total of \$1,500. The Court found your hourly rate reasonable and approved the total hours. It also ordered the fee to be split equally (50/50) between the parents. No bond payments were made, and the Court's current fee schedule sets GAL work at \$60/hour with a cap of \$1,000.

Answer

 Bill mother directly for her share of the fees—5.0 hours at your \$150 rate for a total of \$750. You will then submit a fee bill for father's share of the fees—5.0 hours at the Court's \$60 rate for a total of \$300. Should the mother fail to pay, you may obtain a Certificate of Judgment from the Clerk's Office and pursue collections in the applicable court. You may also file a Motion to Show Cause in the Juvenile Court.

Why doesn't the Court pay the full amount of the indigent party's portion, up to the cap?


The Court pays a specific hourly rate multiplied by hours worked, not a specific fee. Therefore, only the portion of hours attributable to the indigent party are used to bill the Court at the current GAL hourly rate.

Why can't I bill all my hours at the Court's indigent GAL rate?


This results in double-billing. Not all of your hours are attributable to the indigent party, so the Court is not responsible for paying all of your hours. Otherwise, doing this would result in some of your hours being simultaneously paid by both the Court and the non-indigent party. In the above example, the GAL performed a total of 10.0 hours of work. Half of the hours (5.0) were attributed to the indigent father, and the other half (5.0) were attributed to the non-indigent mother. The mother is thus billed 5.0 hours at the GAL's rate of \$150, resulting in her paying \$750 directly to the GAL. If the GAL also billed all 10.0 hours to the Court at the \$60 indigent rate, that would result in the GAL being paid for 15.0 total hours of work, when they only performed 10.0 hours. The mother's 5.0 hours are being paid twice to the GAL—once by the mother at \$150/hour, and again by the Court at \$60/hour. The Court can't pay the GAL all \$750 of the indigent father's "portion" (that he otherwise would have paid had he not been indigent), as that amount is derived from the GAL's rate of \$150/hour, not the Court's permitted rate of \$60/hour.

Example #2

Scenario

 You are GAL for the child and father is indigent, but mother is not. There are no other parties involved in the case. You have spent a total of 10.0 hours of work in the matter, and your hourly rate is \$150/hour. You submitted a Motion for GAL Fees reflecting the 10.0 hours of work for a total of \$1,500. The Court found your hourly rate reasonable and approved the total hours. It also ordered the fee to be split equally (50/50) between the parents. Mother paid a \$500 bond, which was ordered released to you. The Court's current fee schedule sets GAL work at \$60/hour with a cap of \$1,000.


Answer

 Obtain the \$500 bond from the Cashier's Office. You will then bill mother directly for her share of the fees—5.0 hours at your \$150 rate (\$750) minus the \$500 on deposit, for a total of


\$250. Then submit a fee bill for father's share of the fees—5.0 hours at the Court's \$60 rate for a total of \$300. Should the mother fail to pay, you may obtain a Certificate of Judgment from the Clerk's Office and pursue collections in the applicable court. You may also file a Motion to Show Cause in the Juvenile Court.

Example #3

Scenario

 You are GAL for the child and father is indigent, but mother is not. There are no other parties involved in the case. You have spent a total of 25.0 hours of work in the matter, and your hourly rate is \$150/hour. You submitted a Motion for GAL Fees reflecting the 25.0 hours of work for a total of \$3,750. The Court found your hourly rate reasonable and approved the total hours. It also ordered the fee to be split with 80% of the fees attributable to father and 20% to mother. Mother paid a \$500 bond, which was ordered released to you. The Court's current fee schedule sets GAL work at \$60/hour with a cap of \$1,000.

Answer

 Obtain the \$500 bond from the Cashier's Office. You will then bill mother directly for her share of the fees—5.0 hours at your \$150 rate (\$750) minus the \$500 on deposit, for a total of \$250. Then submit a fee bill for father's share of the fees—20.0 hours at the Court's \$60 rate for a total of \$1,200. The Court will only pay you \$1,000 (the current cap) for father's fees unless you file for, and are granted, a Motion for Extraordinary Fees. Motions for Extraordinary Fees must be filed at the same time as and together with the fee bill. Should the mother fail to pay, you may obtain a Certificate of Judgment from the Clerk's Office and pursue collections in the applicable court. You may also file a Motion to Show Cause in the Juvenile Court.

Further Guidance

This Guide does not and cannot contemplate every possible scenario or set of facts and circumstances that may occur in private custody cases. For questions or concerns that aren't addressed here, please contact one of the Court's Senior Account Clerks for assistance.