

387.305 Appointment of guardian ad litem -- Qualifications -- Duties -- Fees.

- (1) No appointment of a guardian ad litem shall be made until the defendant is summoned, or until a person is summoned for him, as is authorized by law; nor until an affidavit of the plaintiff, or of his attorney, be filed in court, or with the clerk, showing that the defendant has no guardian, curator, nor conservator, residing in this state, known to the affiant.
- (2) A guardian ad litem must be a regular, practicing attorney of the court and may be appointed by the court, whether a guardian, curator, or conservator appear for the defendant or not. The guardian ad litem may be appointed upon the motion of the plaintiff or of any friend of the defendant; but neither the plaintiff nor his attorney shall be appointed, nor be permitted to suggest the name of the proposed guardian ad litem; and the court may change the guardian so appointed whenever the interest of the infant may appear to require such change.
- (3) It shall be the duty of the guardian ad litem to attend properly to the preparation of the case; and in an ordinary action he may cause as many witnesses to be subpoenaed as he may think proper, subject to the control of the court; and in an equitable action he may take depositions, not, however, exceeding three (3), without leave of the court.
- (4) The court shall allow to the guardian ad litem a reasonable fee for his services, to be paid by the plaintiff and taxed in the costs. The affidavit of such guardian, or of another person, or other competent evidence, is admissible to prove the services rendered, but not to prove their value. The court must decide concerning such value, without reference to the opinions of parties or other witnesses.
- (5) Whether appointed pursuant to this statute or pursuant to a provision of the Kentucky Unified Juvenile Code, the duties of a guardian ad litem shall be to advocate for the client's best interest in the proceeding through which the guardian ad litem was appointed. Without an appointment, the guardian ad litem shall have no obligation to initiate action or to defend the client in other proceedings.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 294, sec. 1, effective July 15, 1996. -- Amended 1982 Ky. Acts ch. 141, sec. 142, effective July 1, 1982. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 345, effective January 2, 1978. -- Transferred 1952 Ky. Acts ch. 84, sec. 1, effective July 1, 1953, from C.C. sec. 38.