

GLENN R. ANDERSON
ATTORNEY AT LAW
ROUTE 117 AT 4A
P. O. BOX 190
HOLLIS CENTER, MAINE 04042-0190

TEL. (207) 929-6621
FAX (207) 929-5521

(Date)

Maine District Court
(Address)
(City, State, Zip)

Re: X vs. X, Docket No. ABC-FM-00-000
Guardian Ad Litem for (Names of Kids)

To the Presiding Judge:

Thank you for providing me with the opportunity to serve as Guardian Ad Litem for *Daughter* and *Son X*, who are the children of *Mom* and *Dad X*. *Daughter* is a delightful six-year-old, upbeat and social, who has adapted well to her physical difficulties. She is mature and articulate. We developed an immediate rapport in our first meeting. *Son* is a sweet five-year-old. He's athletic and extremely handsome and despite developmental challenges, took to me readily and affectionately. Their parents are fortunate to share these special, wonderful children.

During the course of my review, I met with the children more than half a dozen times. I saw them in the presence of each parent. I also spoke with *Mom* and *Dad* at separate times when the children were not present. During one of my visits, I met *Mom's* mother, P. J., grandmother V. F., and aunt, A. H. I conducted telephone interviews with B. B. (*Daughter's* teacher), C. V. (*Daughter's* school guidance counselor), Dr. A. F. (psychologist for *Son*), K. C. (Child Development Services case worker for *Son*), D. C. (*Z School* Child Development teacher for *Son*), and Dr. B. B. (P. J.'s physician). I spoke by telephone with *Mom's* personal references: (list of names); and *Dad's* personal references: (list of names).

I reviewed extensive medical and developmental records for both children and viewed videotaped documentation of *Daughter's* operations and progress.

.....

BACKGROUND

Daughter X (D. O. B. 00-00-0000)

Daughter is a bright, positive six-year-old with a history of skeletal dysplasia. *Daughter* underwent knee surgery in August of 1997. Over the past year she has undergone repeated additional surgeries and physical therapy to enable her to walk more normally. She continues to remain upbeat and well adjusted to her condition, despite repeated medical intervention. The attached letters from Dr. J. K. summarize her condition and prognosis.

Daughter is in the first grade at the (name) School in (community). She is doing well in school academically. She is described by her teacher as “a real go-getter.” She is active as a Brownie in the Girl Scout Program.

Concerns have been raised about *Daughter’s* self-esteem. At the same time that she presents a very positive, self-assured manner, she is subject to lowered self-esteem, given her physical difficulties, and must be constantly supported by both parents to assure positive development.



Son X (D. O. B. 00-00-0000)

Son is a very special young boy who has been diagnosed as having Pervasive Developmental Disorder (PDD). PDD is on the continuum which includes autism, although his condition is not within the range to characterize him as autistic.

Son’s early difficulty in verbalization has been greatly enhanced through programs at *Z School*. He has been a student at *Z School* for the past two years. His development has increased dramatically with his programs and he is on the verge of entering kindergarten, albeit in a special education class.

Attached are *Son’s* Speech-Language Evaluation Report (date), *Z School* Assessment (date), and Psychological Evaluation (date) which summarize his condition.



Mom X (D. O. B. 00-00-0000)

Mom is a thirty-one-year-old from a traditional American-French-Catholic background. She has structured her life around providing for the care and support of her children and husband throughout their marriage. She works at (employer), primarily over

the weekends, when *Dad* is available for childcare. During the week, she remains available to attend to school, activity and doctors' appointments for the children.

Mom has been significantly invested in the special needs of her children. *Mom* confesses to occasional verbal outbursts, at times directed toward the children. Given their circumstances, it is not surprising that frustrations would result. To the extent that these tendencies exceed the expected frustrations of dealing with two children with special needs, this impulse control must be addressed and considered in the context of evaluating the best interests of the minor children.

.....

Dad X (D. O. B. 00-00-0000)

Dad is a thirty-five-year-old employed as an accountant with a (city) tax attorney. He has served as the primary breadwinner for the household, but has made himself available for the required surgical procedures *Daughter* has required and the ongoing developmental needs of *Son*.

Dad is an extremely easygoing and caring father. His nature is calming and gentle and he has had a positive effect on seeing *Daughter* and *Son* through their difficulties.

Because *Mom* has undertaken the bulk of childcare and attendance to the children's appointments, *Dad* has had less of this responsibility. He expresses a willingness for more interaction, but perceives that *Mom's* attitude has precluded his full involvement. He is convinced that he could undertake primary responsibility for the children and continue with his employment responsibilities.

.....

In reviewing the issues of parental rights and responsibilities and parent/child contact, I am considering the best interest of the children as set forth in M. R. S. A. 19-A§1653(3) as follows:

- A. The age of the child.** At their respective ages of 6 (*Daughter*) and 5 (*Son*) and considering their special needs, it is important for these children to have active parental involvement by both parents.

- B. The relationship of the child with the child's parents and any other persons who may significantly affect the child's welfare.** Both *Dad* and *Mom* have been significantly involved with their children. During their time together, *Mom* undertook the primary caretaker role and served as

disciplinarian, while *Dad*, also very involved with his children, served as the primary breadwinner for the family.

Dad has a gentle, calming influence with the children. He is supportive and reassuring, less strict and demanding, but he has less of the day-to-day care and drudgery of dealing with these special needs children. As he points out, *Mom* has asserted a maternal priority, and he could or would have been more involved but for their mutual accommodation that he provide the majority of family income while *Mom* provide the majority of childcare duties.

Mom's commitment to family speaks in her deeds. She has been vigilant in her follow through with *Daughter* and *Son*'s medical and developmental needs. She has accepted and more significantly embraced their limitations with regular attention and follow through with their numerous appointments and schedules. She perceives that *Dad* is less attentive to the requirements of their children, and he does present as an optimist, with some degree of denial about the continuing requirements for the children.

Concerns about *Mom*'s impulse control with the children must be addressed. *Dad* and some of his references provide examples of *Mom*'s verbal outbursts against the children which are of concern. Even without the children's difficulties, parental outbursts of the nature described could impair development and self-esteem. *Mom* must address this inclination or her children will suffer.

Mom has expressed plans to move to (city) following the divorce where she will share a home with her mother and grandmother. The home which is in a pleasant residential neighborhood, has a separate upstairs apartment in which *Mom* intends to reside, with her mother and grandmother sharing the downstairs. *Dad* raises concerns that *Mom*'s mother, P. J., whom *Mom* relies upon to assist with the children, has a history of emotional difficulties. Mrs. J.'s physician, Dr. B. B., confirmed that she has bi-polar disorder. He relates that she was probably inadequately diagnosed and treated for years. However, with an appropriate diagnosis and treatment she has been well for the past 6 or 7 years. Dr. B. fully supports Mrs. J.'s capacity to be a live-in caretaking grandmother to these children.

- C. **The preference of the child, if old enough to express a meaningful preference.** At their respective ages of 6 and 5, neither *Daughter* nor *Son* is of an age to express meaningful preference as to their residential arrangement.
- D. **The duration and adequacy of the child's current living arrangements and the desirability of maintaining continuity.** The children have

always lived in the (street) home which *Dad* intends to maintain. *Mom* plans to move to her grandmother's residence in (city) which is a very familiar and comfortable setting for the children. If the parties' plans are carried through, the children's lives would undergo minimal disruption with *Dad* in the (city) home and *Mom* in the (city) residence.

- E. The stability of any proposed living arrangements for the child.** Both parents are very solid, stable individuals and there is no concern about dramatic changes which might impact on the children.
- F. The motivation of the parties involved and their capacities to give the child love, affection and guidance.** Both *Dad* and *Mom* are motivated by their sincere love for their children. Not only do they devote themselves to *Daughter* and *Son*, they recognize the value of the other parent's involvement in the children's lives.

Through the pendency of this proceeding, the children have been exposed to information about the divorce. Both *Daughter's* teacher and guidance counselor, as well as another reference, report that *Daughter* was showing stress from overhearing statements by *Mom* and/or her mother blaming *Dad* or otherwise putting him in a bad light. *Daughter* worries that if she moves to (city) she won't have time with her dad because her grandmother won't let her. *Daughter's* worries about changes, about *Son*, etc. resulted in a daily need to talk to her school guidance counselor, who found she was undertaking a lot of responsibility to fix things in this divorcing family. Approximately one month ago the counselor called in both parents and advised them of her concerns, encouraging them to keep *Daughter* out of the fray.

These children love each of their parents dearly. Both parents and their extended families should foster and encourage a positive image and relationship with the other parent. Doing otherwise does not serve the best interest of *Daughter* or *Son*.

- G. The child's adjustment to the child's present home, school and community.** With *Mom's* intended move to (city), there may be a change in schools. This is not an issue for *Son*, as he will be transferring to a new kindergarten under any circumstance. *Daughter* is a resourceful and adaptive young girl and while a change might be disruptive, her optimism and resiliency indicate that she will successfully adapt to the (city) public school system. Her guidance counselor expressed concern that a private school such as (school name) which is not governed by the same state mandates, might be unable to meet her needs. The same concern would be true for *Son*. It is not *Mom's* present intention to enroll them in private school, but rather in the public school system.

- H. The capacities of each parent to allow and encourage frequent and continuing contact between the child and the other parent, including physical access.** Even with the stress of the impending divorce proceeding, these parties have been very accommodating in assuring contact and access with the other parent. This does not appear to be a significant issue in assessing parental rights and responsibilities.
- I. The capacity of each parent to cooperate or to learn to cooperate in childcare.** Both *Dad* and *Mom* have the ability to participate in childcare. *Dad* perceives that *Mom* assumes the role of childcare provider to his occasional exclusion. *Mom* perceives that *Dad* has failed to undertake responsibility for the children's needs. Despite their differing perspectives, both are devoted to the care of their children and acknowledge the importance of the other parent's involvement.
- These children present special childcare needs. Both *Daughter*, with her physical requirements, and *Son*, with his developmental needs, have required a great degree of parental involvement in childcare. *Mom's* regular weekly schedule is filled with appointments attending to her children. *Dad* asserts that he is fully able and available to attend to the children. He may be in some degree of denial of their needs or minimize the degree of time and attention required. He has conferred with a licensed daycare provider who has openings available for his two children should he be awarded residential contact during his work hours. This potential provider currently has three one-year-old infants in her daycare and was not willing to commit to accepting these special needs children without more information about their requirements.
- J. Methods for assisting parental cooperation and resolving disputes and each parent's willingness to use those methods.** *Dad* has completed the Kids First Program. *Mom's* Saturday work commitment has precluded her participation in that program. *Dad* perceives that *Mom* is unwilling to avail herself of outside programs to assist in parental cooperation. *Mom* asserts that *Dad* has failed to involve himself in *Daughter's* and *Son's* progress conferences at their respective schools. Both parents need to fully avail themselves of available opportunities to coparent for their children's better development.
- K. The effect on the child if one parent has sole authority over the child's upbringing.** This is not a case where either parent having sole authority is in the best interests of the children. Both parents are very dedicated care providers and they should continue to be mutually involved in their children's upbringing.

- L. The existence of domestic abuse between the parents, in the past or currently, and how that abuse affects: (1) the child emotionally; and (2) the safety of the child. N/A**
- M. The existence of any history of child abuse by a parent. N/A**
- N. All other factors having a reasonable bearing on the physical and psychological well being of the child. See above.**
- O. A parent's prior willful misuse of the protection from abuse process...
N/A**



Conclusions

The special needs of *Daughter* and *Son* will require both parents' regular and significant involvement. *Dad* and *Mom's* current job commitments allow for a full sharing of parental responsibilities on a weekly basis. *Dad* has a traditional day job Monday through Friday, although his employer is amenable to making adjustments to permit attention to his family. *Mom's* employment calls for weekend hours, which coincides with *Dad's* availability to care for the children. A continuation of primary responsibility for the children during the week with *Mom*, and primary responsibility with *Dad* over the weekend will be the least disruptive for the children, as it will continue the parenting pattern these parties have developed. Concerns about *Mom's* frustration and verbal outbursts may be addressed by giving her a regular break from the children on a weekly basis.



Recommendations

1. Shared parental rights and responsibilities.
2. Primary physical residency with *Mom* from Sunday evening through Thursday morning when the children leave for school.
3. Primary physical residency with *Dad* from Thursday afternoon until Sunday evening.
4. If the parties are amenable, it is recommended that on Sunday morning each parent have one child in his or her care to attend church services. By noon, both children

should be returned to *Dad's* care until the evening when they should return to *Mom* in preparation for the school week.

5. Holidays should be shared or altered according to the traditions of families.

Thank you for the opportunity to serve as Guardian Ad Litem for *Daughter* and *Son X*.

Sincerely,

Glenn R. Anderson

GRA/lg

cc: (Attorney 1)
(Attorney 2)