



### **New Ethics Opinion Addresses Conflicts in GAL Work**

Guardians ad litem represent the best interest of the ward, and do not represent the ward personally. This situation can create difficult conflicts questions, which must be appropriately resolved to avoid the risk of later claims or complaints. There isn't much guidance out there on this topic, so Wisconsin's new [Ethics Opinion EF-23-02](#) will likely be of assistance to those of you who do GAL work. While much of the opinion relies on Wisconsin case law, the analysis is both instructive and useful in resolving your own conflicts issues.

First, if you're a lawyer, conflict rules apply when you serve as a GAL. This is not really a surprise.

Second, as we know, conflicts of interest can be resolved through informed consent. However, because it's not practically possible to obtain informed consent from the ward's best interests, the opinion directs lawyers to present the matter to the trial court and "allow the court to decide whether the conflicted GAL should be permitted to continue to act in the matter."

Third and finally, the opinion surveys other rules that apply to GALs, including the rules of confidentiality (1.6), advocate as witness (3.7), and communicating with a represented person (4.2).

For guidance in other states, see [Illinois Advisory Opinion 18-02](#) and [Kentucky Formal Ethics Op. KBA E-454](#), among others.

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