



BOB RILEY
Governor

BILL NEWTON
Acting Director of Finance

STATE OF ALABAMA
DEPARTMENT OF FINANCE
OFFICE OF THE STATE COMPTROLLER

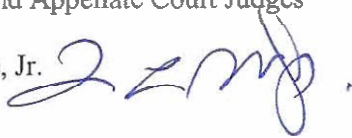
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THOMAS L. WHITE, JR.
CPA (Inactive)
State Comptroller

October 25, 2010

MEMORANDUM

TO: All District, Circuit and Appellate Court Judges

FROM: Mr. Thomas L. White, Jr. 
State Comptroller

RE: Payment of Guardian Ad Litem Fees from the Fair Trial Tax Fund

Recently, a question was posed to this office regarding whether the fee owed to a guardian ad litem in a domestic relations case could be paid from the Fair Trial Tax Fund, in the same manner as fees and expenses paid to attorneys appointed to represent either indigent criminal defendants or minors in juvenile cases, pursuant to § 15-12-21 of the Code of Alabama. In determining the answer to this question, the Comptroller's Office found that, over a period of some years, there have been instances where guardian ad litem fees have been approved by a judge, submitted to the Comptroller, and have been paid from the Fair Trial Tax Fund. The Legal Division of the Department of Finance advised me that there is no provision in either the Code of Alabama or the Alabama Rules of Civil Procedure that authorizes the payment of guardian ad litem fees by the State of Alabama in domestic relations cases.

Rule 17(d), Ala.R.Civ.P. states:

"In all cases in which a guardian ad litem is required, the court must ascertain a reasonable fee or compensation to be allowed and paid to such guardian ad litem for services rendered in such cause, to be taxed as a part of the costs in such action, and which is to be paid when collected as other costs in the action, to such guardian ad litem."

I understand that there are attorney fee declarations for guardian ad litem fees pending in my office. Those will be paid in accordance with the current practice. However, effective November 1, 2010, the Comptroller will no longer accept attorney fee declarations for payment of guardian ad litem fees in domestic relations cases. Guardian ad litem fees in domestic relations cases are considered as part of the costs of the case to be taxed by the trial court.

Contact Ellen Eggers at 334-242-7052 if you have any questions or need additional information concerning this matter.