



## **State of New Hampshire Guardian ad Litem Board**

### **Public Hearing Minutes**

**April 17, 2015**

Legislative Office Building Room 101

Members Present: Susan Duncan, Chair, Chris Keating, Vice-Chair & Presiding Officer, Betsy Paine, Representative David Welch, Representative Deanna Rollo pursuant to RSA 490:C 3 IV

Members Absent: Alan Cantor (recused), Master Henrietta Luneau, Senator David Pierce, Dave Robbins, David Villiotti

Also Present: Don Nason, Prosecutor, Sara Ecker, Respondent, Miriam Newman, counsel for Respondent, Al Patterson, complainant & witness, Kristin Nason, witness.

A quorum was present.

Presiding officer Chris Keating called the hearing of Sara Ecker Docket #2014-C0008 to order at 1:04pm.

Board Members were asked to introduce themselves.

Presiding Officer Keating went over the rules of the hearing.

Attorney Newman made a request for sequestration of the witness. Mr. Nason did not object. Presiding Officer Keating instructed the witnesses to leave the room and advised them not to discuss the case. Mr. Nason stated that Barbara Patterson's testimony was going to be the same as Al Patterson's therefore he was removing her from the witness list so that she does not have to be sequestered.

Al Patterson and Kristin Nason left the room in sequestration.

Presiding Officer Keating thanked the parties for being flexible and allowing a 30 minute recess in the middle of the hearing. It was also explained that the case would not be discussed during this recess by the Board members.

Mr. Nason proceeded to present his case by calling his first witness Sara Ecker. Mr. Keating swore in Sara Ecker. Mr. Nason asked Sara Ecker to state her name and address for the record. Sara Ecker responded, "Sara Ecker 199 Stowell Road Thetford Center, VT 05075." Mr. Nason asked how long Sara Ecker had been a GAL. She responded 8 years. Mr. Nason asked if she had any other GAL experience. Sara Ecker stated that she was a volunteer GAL in Vermont for over 8 years. Mr. Nason asked Sara Ecker if she had any other positions she worked. Sara Ecker responded that she runs a family owned business in VT and has been a Lacrosse Coach at Lebanon High School for 20 years. Mr. Nason asked Sara Ecker if she was appointed in 2012 to

the Patterson case by the Lebanon Court. Sara Ecker affirmed. Mr. Nason asked if Sara Ecker had any communication with the court prior to accepting the case. Sara Ecker testified that the clerk called her as she usually did and gave her a brief synopsis of the case and the parties involved, Sara Ecker agreed to take the case but told the clerk that she knew of Mr. Patterson, they went to the same high school, however he was 5 or 6 years ahead of her and she knew he was a local police officer. The clerk was Miriam Wood formerly Hood said she would bring this information to the attention of the judge. Sara Ecker received the Order of Appointment approximately two weeks later and assumed that Ms. Wood passed on the information of notoriety. Sara Ecker noted that it was a longer turnaround time between talking with the clerk and getting the Order of Appointment in the mail. Sara Ecker did not notify the parties involved of the potential conflict once she received their contact information. She believes that the GAL Rules state you need to notify the court either verbally or in writing. She does not recall whether or not the rules state to tell the parties. Sara Ecker believes that by notifying the court before accepting the case she fulfilled her requirement.

Mr. Nason stated that Sara Ecker told the court she knew Mr. Patterson previously and asked what exactly she knew about him. Attorney Newman objected on the grounds that Sara Ecker did not testify that she knew him just that she knew of him. Mr. Nason withdrew his question. Mr. Nason rephrased and asked Sara Ecker how she knew of Mr. Patterson. Sara Ecker stated that she did not know who he was but knew that he went to Hanover High School as did she however she did not know at the time that Mr. Patterson attended the same school. Sara Ecker stated that sometime after her return to the area from college between 1994 and 2012 she was made aware that Mr. Patterson was a local cop and that he had also attended Hanover High School. She believes he was a cop for the Hartford, Vermont Police for a period of time, she could have seen him around as her family business is on a bad intersection where accidents occur all the time and the police are involved. Mr. Patterson's name is in the paper a lot. Sara Ecker stated that they live in a small community so it is not surprising that she knew of him.

Mr. Nason asked Sara Ecker if she had formed any opinions of Mr. Patterson before she took the case. Sara Ecker responded that she did not know him so she did not have any impressions of him. She never met Mr. Patterson until this case. Mr. Nason asked Sara Ecker if she had ever been told anything about Mr. Patterson by her mother. She denied the allegation. Sara Ecker said that her mother had not known about Mr. Patterson until the investigation by the GAL Board in January 2015.

Mr. Nason asked if Sara Ecker's husband knew Mr. Patterson. Sara Ecker testified that her husband works in Hanover and as part of his job has had interactions with the police department but she is unsure if he knows Mr. Patterson. Mr. Nason asked Sara Ecker if she every discussed Mr. Patterson with her husband. She stated that she had after the January 9<sup>th</sup> email discussion with the GAL Board Office. Attorney Newman asked Sara Ecker to clarify what year she spoke with her husband. Sara Ecker said 2015. Mr Nason asked what Sara Ecker discussed with Mr. Ecker. Sara Ecker said she told her husband that she had a case with Mr. Patterson who did not agree with the Sara Ecker's findings and there was an active investigation by the GAL Board. Sara Ecker testified that she felt like it was important for her husband to know in case there was ever an encounter with Mr. Patterson. Mr. Nason asked if Sara Ecker felt like there would be a confrontation if she saw Mr. Patterson in public. Sara Ecker said that she didn't know. The

original complaint against her involved some serious allegations from Mr. Patterson. Sara Ecker was concerned because some of the things he said were untrue and she did not want a confrontation. She doesn't want anything to happen in front of her children.

Mr. Nason asked Sara Ecker to explain the newspaper article she saw and her actions there after she filed an ex-parte motion on December 20<sup>th</sup>. Sara Ecker explained that on the 24<sup>th</sup> she saw a newspaper article that Mr. Patterson was on Lebanon school board. This was news to her, she had no idea Mr. Patterson was on the School Board. Immediately, Sara Ecker sent notification to all parties reminding them that she was a lacrosse coach at Lebanon High School and that she just read an article that Mr. Patterson was on the school board. In her email she asked if it was a conflict of interest for her to stay on the case. All parties agreed that it was not a conflict. She does not know how long he has been on the School Board. She knows he just re-ran. She doesn't pay attention to Lebanon school politics. Mr. Stevenson is current athletic director; Sara Ecker is asked at the end of every season what she needs for next year. Sara Ecker has never had a conversation with any of the athletic director about budget cuts. Mr. Hayes, (Mr. Patterson's attorney), daughters had Sara Ecker as a lacrosse coach in the late 1990's and early 2000's.

Sara Ecker did not advise the court once she found out that Mr. Patterson was on school board. She felt like the communication with attorneys was sufficient. Mr. Nason reiterated GAL 503.06b and pointed out that this time she let the parties know but not the court. Sara Ecker responded that this was a different situation. Sara Ecker confirmed that she did not consult rules either time.

Mr. Nason asked Sara Ecker if she recalled saying anything regarding Mr. Patterson's color of skin or referencing that he was a bad boy at her interview with Nason Investigations on January 14<sup>th</sup>. Ms. Newman objected to the compound question. Mr. Nason rephrased and asked Sara Ecker if she spoke at all about the color of Mr. Patterson's skin. Sara Ecker responded that she believed she said he is the only black cop around. She also recalls that in his original complaint Mr. Patterson's claimed that Sara Ecker was a racist.

Mr. Nason asked Sara Ecker if she recalls calling Mr. Patterson a bully. Sara Ecker stated that she did not call Mr. Patterson a bully. She relayed to Mr. Nason a conversation from a newspaper article. The article was about the Ferguson, Missouri verdict in the Fall of 2014 after this case and Mr. Patterson was quoted in the article. The person she was with said isn't it ironic that the biggest bully on police force is being interviewed regarding community relations. Sara Ecker does not recall the exact individual who said this as there was a group of people. She did confirm that it was not her mother making the statement.

Mr. Nason asked Sara Ecker if she recalled telling him that she was hesitant to take the case. Sara Ecker confirmed her statement. She also went on to say they live in a small town. She is always hesitant to take a case with someone who she might see. She goes to Hanover a lot and sees Mr. Patterson. She would never take a case involving a teacher at Lebanon High.

Mr. Nason had not further questions for this witness.

Attorney Newman reaffirmed Sara Ecker's background. Sara Ecker testified that she was a volunteer GAL in Vermont for 8 years under a CASA program. Sara Ecker had between 30-50 cases in VT as volunteer. 98% of those cases were Abuse and Neglect. She only had one parenting case. No complaints were filed against her in Vermont as a Guardian ad Litem. Mary Hayden was supervisor in Vermont and she was never disciplined. In 2007 Sara Ecker stopped being volunteer GAL because birth of first child. In 2006 she became certified in New Hampshire. Sara Ecker stated that she wanted to continue the work but couldn't in VT do to scheduling. NH was more flexible. Sara Ecker believes in the work in both states and feels strongly towards making a difference in lives of kids. Sara Ecker has had her NH certification renewed in 2009 & 2012. She is up for renewal again in November 2015. She is not aware of any other complaints filed against her in NH besides this one.

Attorney Newman asked Sara Ecker if the Prosecution's Exhibit 5 an email from the Lebanon Court Clerk describes the conversation Sara Ecker had with Clerk Wood regarding knowledge of Mr. Patterson. Sara Ecker testified that the substance of the email is correct with the exception of it being Mr. Patterson and not his sister. Ms. Newman asked for admission of Exhibit 5. Presiding Officer Keating granted the motion with no objection from Mr. Nason.

Attorney Newman asked Sara Ecker what the original Order of Appointment was for in this case. Sara Ecker said it was a modification of parenting rights and responsibilities. Mr. Patterson wanted revision of parenting time. Sara Ecker testified that she has done modification cases before. Attorney Newman asked Sara Ecker if she had a routine she followed once assigned a case. Sara Ecker testified that she does have a routine but did not follow the routine in this case. Sara Ecker stated that she received Mrs. Patterson's retainer and signed stipulation in November. She did not receive Mr. Patterson's signed stipulation until December his retainer was coming via his attorney. Since she had the retainer from the mother Sara Ecker met with Mrs. Patterson who brought up the bowling alley incident and the fact that Mr. Patterson had filed a report with the Hartford, Vermont Police Department. This allegation changed Sara Ecker's normal routine. Instead of investigating parenting time she felt now she needed to try and find out if the child was in harm from mother. Sara Ecker stated that normally she meets with each parent then meets with the parent and child, she then talks to parents again and if necessary meet with child, then meet with references. Attorney Newman asked Sara Ecker spoke with any third parties about this case. Sara Ecker testified that she spoke with Erika Bacon the child's therapist, the child's pediatrician, DCYF and followed up with the Hartford Police Sergeant.

Mr. Nason objected to Ms. Newman's line of questioning. He stated that the hearing is strictly about the issues outlaid in the notice of hearing. If Ms. Newman is going to bring other issues in the case than it would only be fair to bring in the other issues going on in this case and the subsequent GAL reports. Attorney Newman stated that it appeared that one of Mr. Patterson's concerns is that Sara Ecker did not contact his references. Mr. Keating stated that implicit in the notice of hearing some sort of preconception of the parties and there should be some latitude to explore this. Ms. Newman agreed to move on.

Ms. Newman moved for admission of the amended preliminary report labeled Respondent Exhibit A. Mr. Keating granted the motion with no objections. Mr. Nason questioned the hearing procedures. He was under the impression he would present his case and then Attorney

Newman would present hers. He is confused why she is being allowed to question Sara Ecker about things other than what the prosecution had asked about. Mr. Keating said there is a logic to allow Sara Ecker to respond to questions asked by her counsel.

Attorney Newman read GAL rule 503.06(b) *A guardian ad litem who is aware that he or she possesses a prior acquaintance of any type, including but not limited to a professional, personal or financial relationship, with any party in a case, shall: (1) At or before the time of appointment, disclose such fact to the parties and the appointing court, either orally or in writing; and (2) If such an acquaintance becomes known only after appointment, immediately disclose such fact to the parties and the appointing court, either orally or in writing.* Attorney Newman then asked Sara Ecker if she had a present or prior acquaintance with Mr. Patterson when she spoke with Court Clerk Wood before accepting the case. Sara Ecker testified that she did not have a present nor prior acquaintance with Mr. Patterson. Sara Ecker testified that Mr. Patterson attended Hanover High School as did she but they were not there at the same time. When Mr. Patterson was at Hanover High School Sara Ecker was in 7<sup>th</sup> or 8<sup>th</sup> grade at Richmond Middle School. At the time the schools were adjacent to one another. Also at that time both schools shared the Grill which was more of an a la carte not a cafeteria. Sara Ecker testified that she was at Richmond Middle School 32 years ago. She recalls no interaction with Mr. Patterson at Hanover High School. After graduation Sara Ecker did not have any contact with Mr. Patterson until this case. Sara Ecker testified that at the time of her appointment Mr. Patterson was not an acquaintance of hers neither was he a prior acquaintance; therefore there was no conflict to disclose.

Attorney Newman referenced GAL rule 503.06(c) *If it is alleged by a party to any proceeding in which a guardian ad litem is appointed that the guardian ad litem has failed to disclose any present or prior acquaintance of any type that impacts upon his or her objectivity, or upon his or her ability to perform the functions of a guardian ad litem in accordance with these rules or in accordance with requirements of the appointing court, the guardian ad litem shall: (1) Inform the appointing court that the allegation has been made; and (2) Respond either orally or in writing to the appointing court and to all parties regarding the nature of the present or prior acquaintance, if any.* Sara Ecker testified that there was no conflict to disclose as there was no present or prior acquaintance with Mr. Patterson. If there was a conflict Sara Ecker would have been the first person to let the court know.

Attorney Newman stated she had more issues to explore with Sara Ecker but feels they will be better served on rebuttal. Attorney Newman had no further questions for Sara Ecker at this time.

On redirect Mr. Nason said the rule states acquaintance of any type. He went on to say that Sara Ecker felt the need to tell court she went to school with Mr. Patterson. Attorney Newman objected, that Sara Ecker testified she went to the same school as Mr. Patterson but not at the same time. Mr. Nason referenced Prosecution Exhibit 5 in which Court Clerk Woods recalls that Sara Ecker stated she went to school with either Mr. Patterson or his sister. Mr. Nason asked Sara Ecker to clarify her testimony. Sara Ecker testified that she never went to school with Mr. Patterson they were 5 or 6 years apart. Sara Ecker brought it to the attention of the court because she didn't want appearance of impropriety later in the case. Sara Ecker felt like she did her due diligence in telling the court and they did not see a problem with it. Sara Ecker felt that the issue of discovering Mr. Patterson was on the school board was big enough to tell parties, however,

she did not think it was an issue. Sara Ecker told the parties because she was concerned for the future of the children.

Mr. Nason had no further questions for Sara Ecker.

Sara Ecker was released from the witness stand.

The hearing was suspended at 1:53pm.

The hearing was called back to order at 2:42pm.

Mr. Nason called Kristin Nason called to stand. Mr. Nason asked Ms. Nason to state her name and address, she responded, "Kristin Nason Concord, NH". Mr. Nason noted for the record that Ms. Nason is his daughter. In regards to her background Ms. Nason testified that she has worked as licensed private investigator for Nason Investigations for four years. She has a Bachelor's and Master's degree from Plymouth State College in Business. Ms. Nason stated that she has done many investigations over the past four years. When asked by Mr. Nason, Ms. Nason said she was present at interview of Sara Ecker at a law office in Lebanon on January 14, 2015. Ms. Nason testified that she did not write report, Mr. Nason did. Ms. Nason recalls reading the report for accuracy and recalls that report correctly represents what was said in the meeting.

She went to high school with him; she was shocked that he was police officer as he was a bad boy bully in high school. She did not go to high school with Mr. Patterson her sisters, she knew of Mr. Patterson because not a lot of dark people in the area.

Ms. Nason confirmed that she was present at the interview of Joan Ecker. Mr. Nason asked Ms. Nason what she recalled from the interview. Attorney Newman objected to the questioning as it was here say and Joan Ecker was not present to confirm or deny what was being said. Mr. Nason responded stating that he was informed that with the absence of Joan Ecker he could question a witness who was present at the interview. Presiding Officer Keating allowed the testimony to continue.

Ms. Nason continued her testimony about the interview with Joan Ecker by saying that Joan Ecker came into room and informed the Mr. Nason that she heard through door who case was about and was scared for daughters safety. Ms. Nason stated that when asked who the case was about Joan Ecker said Al Patterson's name and reiterated that she heard it through the door. According to Ms. Nason, Joan Ecker clarified that did not know Mr. Patterson was involved in this case until she heard his name through the door. Ms. Nason testified that Joan Ecker stated that Mr. Patterson was a bad boy and a terrible person. Ms. Nason stated that in her opinion Joan Ecker was dramatic and not sincere about situation. Joan Ecker went on to call Mr. Patterson a bully.

Mr. Nason had no further questions for Ms. Nason.

Attorney Newman asked Ms. Nason how many cases has she investigated for GAL Board? Ms. Nason responded that she doesn't work for Board but was present for this interview. Ms. Nason

believes there was one other case investigated for the Board but does not recall being on any other case. Ms. Nason confirmed she has never worked in law enforcement. When asked about her father Don Nason she responded that he was police officer in many places she doesn't recall all of them. Ms. Nason established that she attended and graduated from Lebanon High School in 2008. Ms. Nason also affirmed that she did not know Mr. Patterson and had not heard anything about him while living in Grantham. She believed that her father did not know of him either. Ms. Nason confirmed that along with her father Don Nason she met with Mr. Patterson at his home in Lebanon, the same day they met with Joan Ecker and Sara Ecker at a law firm. Ms. Nason stated that she works together with her father and doesn't recall what other cases they could have been working on that day. Ms. Nason did not ask any questions in interviews of all three parties. Ms. Nason does not recall requested Mr. Patterson to submit written testimony. Mr. Nason stated that he was the one who asked for this as he was preparing for the hearing and that Ms. Nason knew nothing about it.

Attorney Newman asked Presiding Officer Keating if she would have the opportunity to question Mr. Nason since he was the prosecutor. Mr. Keating did not see any reason why Ms. Nason could not offer testimony. Mr. Nason had no objection to being called as a witness.

Attorney Newman asked Ms. Nason if the investigation report stated that Sara Ecker was removed as GAL from this case. Ms. Nason did not know if Sara Ecker was removed, she did not see a court order removing her. Ms. Nason explained that her role in this case was sitting in on the interviews and reviewing the report once it was written.

Attorney Newman questioned Ms. Nason about the attempt to serve subpoenas to Sara Ecker and Joan Ecker. Ms. Nason stated she went to the Fat Hat Clothing Company store in VT to serve Sara and Joan Ecker but could not remember the exact date. Ms. Nason objected to the line of questioning as it is not relevant to what the Board is there to hear. Attorney Newman responded stating that the subpoenas were not properly served and she believes that the Board does not have the authority to serve subpoenas to people out of state. Mr. Keating responded that the Board does have the authority to issue subpoenas including people out of state. Mr. Keating also stated the issue of improperly served subpoenas does not pertain to the question before the Board. Attorney Newman explained she was trying to find the scope of the investigation. Mr. Keating ruled the objection was granted and advised Attorney Newman to keep her questioning to the matter at hand.

Attorney Newman had no further questions for Ms. Nason.

Mr. Nason had no further questions on rebuttal.

Mr. Keating confirmed Ms. Nason's testimony.

Mr. Nason and Attorney Newman both said that Ms. Nason would not be subject to recall and therefore was allowed to stay in the room.

Mr. Nason called his next witness Al Patterson. Mr. Keating swore in Mr. Patterson. Mr. Nason asked Mr. Patterson to state his name and address for record. Mr. Patterson responded, "Alan K. Patterson Sr. 70 Farr Road Lebanon, NH." Mr. Patterson said his education included: graduating high school, working as a Police Officer for 21 years, military training, working for DCYF in Vermont, and is currently a Police Office in Hanover, NH.

Mr. Patterson testified that the first time he met Sara Ecker was at daughter's counseling appointment in Lebanon, NH. Originally he was to pick up his daughter at school but Sara Ecker insisted that Mrs. Patterson pick up the daughter at school and meet Sara Ecker. Then Sara would bring the daughter to the counseling appointment and have Mr. Patterson pick her up. When Mr. Patterson walked into the lobby of the counselor Sara Ecker aggressively got up and walked over Mr. Patterson. She introduced herself and then left. Mr. Patterson waited for his daughter to finish her appointment and took her home.

At some point after the counseling appointment Mr. Patterson received a phone call from Sara Ecker to arrange a meeting with him and his daughter. The date that Sara suggested Mr. Patterson's daughter was in a church pageant. Sara became agitated that date was not going to work and that Mr. Patterson would not pull his daughter from the pageant. Sara said she did not have time to work around Mr. Patterson's schedule and she only gets \$500 for doing this and has other things to do.

Mr. Nason directed the Board's attention to Prosecution Exhibit III page 2. He then asked Mr. Patterson if he recognized the email. Mr. Patterson affirmed. Mr. Patterson started to read the email from Sara Ecker to Mr. Patterson's former attorney Patrick Hayes. Attorney Newman objected on the ground that the document is in front of everyone as it has been submitted as evidence and does not need to be read aloud. Mr. Nason agreed and took the document back from Mr. Patterson.

Mr. Nason then asked Mr. Patterson to explain the gist of the email he received from his attorney. Mr. Patterson testified that the email from his attorney stated that Sara Ecker had just learned that Mr. Patterson was school board member and she was a lacrosse coach at Lebanon high school. Mr. Patterson's response to his attorney was that he felt that Sara Ecker had extreme dislike for him from the beginning and ax to grind. Mr. Patterson felt that Sara Ecker could not be impartial based on her aggressive demeanor. Mr. Patterson voiced his opinion to Attorney Hayes that he felt like he was being discriminated against by Sara Ecker and that she could not hear this case. Mr. Patterson did not give permission to Attorney Hayes to agree that there was no conflict of interest that Mr. Patterson was school board member and Sara Ecker was a lacrosse coach in the same district. After this incident Mr. Patterson obtained new counsel.

Mr. Patterson last saw Sara Ecker in Grafton Superior Court for the Ex-Parte Hearing. Mr. Patterson said that Sara Ecker came into court disheveled appeared out of sorts. When Mr. Patterson's Attorney presented the evidence to remove Sara Ecker she was inconsolable and was consoled by Mr. Patterson's ex-wife.

Before Sara Ecker was appointed Mr. Patterson did not receive notice from the court or Sara Ecker that she knew of him from high school.

Mr. Nason had no further questions for Mr. Patterson.

Attorney Newman asked Mr. Patterson if he recognized Prosecution exhibit II. Mr. Patterson affirmed. He said it was a document he wrote to support the investigation purpose in this case. Mr. Patterson testified that he was instructed by Mr. Nason to write how he knew Sara Ecker. Mr. Patterson confirmed that the ex-parte hearing took place in January 2013 and this document was written in March 2015.

Attorney Newman asked Mr. Patterson if he agreed to meet Sara Ecker at the counselor's office. Mr. Patterson denied that statement. Attorney Newman rephrased and asked if it was a scheduled meeting between Mr. Patterson and Sara Ecker. Mr. Patterson testified that he was told by Sara Ecker to meet at the counselor's office and not given an option. Mr. Patterson went on to say that once he arrived at the counselor's office Sara Ecker had an aggressive manner when introducing herself to him. Attorney Newman stated that Mr. Patterson was scheduled to meet Sara Ecker at the counselor's office and asked Mr. Patterson if it was surprising that Sara Ecker thought he was Al Patterson. Mr. Patterson responded that he is not the only black male in NH or the upper valley. Mr. Patterson would not assume that any black man was him and would introduce himself in a different demeanor. Mr. Patterson stated that Sara Ecker's demeanor was aggressive and appeared as she had dislike for Mr. Patterson. Mr. Patterson confirmed that Sara Ecker picked up his daughter from her mother and drove her to the counseling appointment.

Mr. Patterson affirmed that he had a telephone conversation with Sara Ecker the purpose of which was to set up a time to meet Mr. Patterson's daughter while she was in his care. Attorney Newman asked Mr. Patterson if he recognized Prosecution Exhibit IV page 1. Mr. Patterson affirmed. Mr. Patterson confirmed that it was an email stating that Mr. Patterson and his daughter would be home on Saturday and Sunday in afternoon.

Mr. Patterson confirmed that Sara Ecker made a visit to his home on December 16<sup>th</sup> which was after the telephone conversation before the ex-parte hearing. Mr. Patterson testified that he tried to accommodate Sara Ecker's schedule over the weekend. He said his email does not represent the feelings he had or changing of his schedule to accommodate her.

Attorney Newman had no further questions for Mr. Patterson.

Mr. Nason requested that the exhibits that have been discussed so far be admitted into evidence. Attorney Newman had no objection. Mr. Keating granted the request.

On rebuttal, Mr. Patterson affirmed that he was able to write Prosecution Exhibit II by his base of knowledge of what happened in this case and the exorbitant amount of notes and documents in case.

Mr. Patterson testified that he was school board member for 5 years and is now on the zoning board.

Mr. Nason had no further questions for Mr. Patterson.

Due to the fact that Mr. Patterson is the complainant in this case Mr. Keating opened up questioning from the Board to Mr. Patterson. It was asked whether or not there was an order removing Sara Ecker from the case. Both parties agreed there was no order to remove Sara Ecker but there was a proposed order stipulated by the parties that Sara Ecker would voluntarily resign from the case. When asked, Mr. Patterson confirmed that he was aware that a Guardian ad Litem would be appointed in this case. Mr. Patterson also asserted that he was made aware that Sara Ecker was appointed as the Guardian ad Litem. He had no knowledge of who Sara Ecker was and never met her before the counselor's office.

The Board had no further questions for Mr. Patterson.

Both parties agreed that he could be subject to recall and therefore he left the room in sequestration.

Mr. Nason took the stand. Mr. Keating swore in Mr. Nason.

Mr. Nason testified that when he and Kristin Nason were in the interview with Sara Ecker she distinctively said certain things that Mr. Nason remembers as he took the notes wrote the report and was also there. Mr. Nason requested that his investigation report be submitted into evidence. Attorney Newman had no objections. Mr. Keating granted the request. Mr. Nason testified that during the interview on amongst other things Sara Ecker was in fear of her husband's safety that is why she told her husband of the complaint from Mr. Patterson, this point was not elaborated on. Mr. Nason further stated the Sara Ecker knew of Mr. Patterson growing up from high school he was five years ahead of her and a bad boy.

Mr. Keating asked Mr. Nason to use surnames and dates as the Board deserves clarity as to what and when transpired.

Mr. Keating asked Mr. Nason if he was testifying from his recollection or if he was using his notes to refresh his recollection. Mr. Nason said he was refreshing his recollection.

Mr. Nason stated that during the January 14<sup>th</sup> interview Sara Ecker said she was familiar with Mr. Patterson from going to high school. Mr. Nason stated that he believes that Sara Ecker did not know Mr. Patterson before this case and that she was telling the truth. Mr. Keating reminded Mr. Nason that he is testifying based on facts and not opinions. Mr. Keating recapped to Mr. Nason to save his comments until closing.

Mr. Nason recounted the interview with Sara Ecker on January 14, 2015. In that interview Sara Ecker stated that she knew Mr. Patterson because of high school, he was a bad boy and a bully. According to Mr. Nason, Sara Ecker went on to say that she was surprised that Mr. Patterson was a police officer since he was a bad boy in high school. Sara Ecker also told Mr. Nason that she knew Mr. Patterson because he was the only black cop in town.

Mr. Nason recounted the interview with Joan Ecker that took place directly after the interview of Sara Ecker. Joan Ecker spoke of Mr. Patterson saying she didn't know Mr. Patterson was the subject of interview until hearing his name through the door during Sara Ecker's interview. Joan

Ecker then said she was afraid for daughter's safety now knowing the complainant was Mr. Patterson. Joan Ecker went on to say that Mr. Patterson was a bully in the past. Mr. Nason did not discuss this issue any further as to not violate privacy issues. Mr. Nason testified that at the time of the investigation the focus was different than the issues being testified to today. Mr. Nason started to talk about Joan Ecker's demeanor at the interview in his professional opinion.

Attorney Newman objected based upon the fact that Joan Ecker was not here for the Board to witness her demeanor. Mr. Nason rebutted that we are not discussing facts just demeanor and his professional experience as an investigator should be allowed. Attorney Newman rebutted that the credibility of the witness is up to the Board to decide not the Prosecutor. Mr. Keating ruled that Mr. Nason could talk about factual attributes of her demeanor but no interpretations of her demeanor will be allowed.

Mr. Nason rested.

Attorney Newman questioned Mr. Nason.

Attorney Newman asked Mr. Nason about Prosecution Exhibit 2. Mr. Nason confirmed that he asked Mr. Patterson to write a summary about his nuts and bolts of the complaint. Mr. Nason affirmed that he did not give Sara Ecker the same opportunity. He felt like he already had the information he needed from her. Mr. Nason confirmed that he only received part of the original complaint from Mr. Patterson. He got that information from Jennifer Heinrich the Board's Administrative Assistant. Mr. Nason testified that he did not receive all the attachments to the complaint he only received the complaint and the answer to the complaint. Mr. Nason asked Sara Ecker for documents that were pertinent to the investigation. Mr. Nason testified that he had more information from Sara Ecker in detail and didn't feel like he needed more information. Attorney Newman asked Mr. Nason about the Prosecution Exhibit 1. Attorney Newman pointed out that nowhere in Mr. Nason's notes does it say the word bully or bad boy. Mr. Nason stated that his report is a compilation of notes and memory.

Attorney Newman rested.

The hearing was recessed for 5 minutes.

Attorney Newman recalled Sara Ecker to the stand. Sara Ecker testified that she does not remember if she made the plan to meet at the counselor's office with Mr. or Ms. Patterson. Sara Ecker stated there were multiple complaints from both sides about the influence each one had upon the child. Sara Ecker picked up the child from school and was able to have an hour to meet with the child without any prior influence from either parent. Sara Ecker reaffirmed that as she testified before she knew who Mr. Patterson was; she has seen him around town. She also said that the child looks just like him. Sara Ecker did not see it as a big stretch to assume that it was Mr. Patterson who walked into the counselor's office. Sara Ecker said she knew he was coming and no one else was in the waiting room. She doesn't recall it being an agitated, surely, or rude interaction with Mr. Patterson.

Sara Ecker stated that she doesn't recall telling Mr. Patterson she only gets \$500. Sara Ecker said that there is a \$1,000 cap but that this is her job and she makes herself available. She is fortunate that her other job is flexible and allows her to do the work of a Guardian ad Litem. Sara felt that she did need to meet with the child sooner than later after talking with the counselor. She also testified that she spoke with Mr. Patterson on the phone for approximately 45 minutes and had 4-5 pages of notes. Sara Ecker reaffirmed that she met with the child on December 16<sup>th</sup>. Mr. Nason objected to this line of questioning as it is not relevant to scope of the hearing. If Attorney Newman is allowed to continue than it opens up other issues. Attorney Newman responded that there is a description in Exhibit 2 that is relevant but she will stop this line of questioning.

Attorney Newman gave Sara Ecker the opportunity to respond to the accusation of the term bully or bad boy. Sara Ecker testified that she already testified about the word bully and that it did not come out of her mouth. She also said that she does not recall the words bad boy coming from her mouth or having that feeling. When asked by Attorney Newman Sara Ecker asserted that she has never before been accused of being racially bias and she did not have a preconceived notion about Mr. Patterson.

Attorney Newman had not further questions.

Mr. Nason had no questions.

Mr. Keating made a clarification that the bully comment came out after Sara Ecker's involvement in this case. Sara Ecker stated that she would not accept an appointment as a GAL if she felt that they were a bully. Sara Ecker clarified that her mother has a business in the town that Mr. Patterson was a police officer and it was possible that he responded to many an accidents outside the business. Sara Ecker was not made aware of the accusation of racial bias until Sara Ecker walked into the ex-parte hearing.

Mr. Keating had no further questions.

Mr. Patterson returned to the room for closing arguments.

Mr. Keating reviewed the admitted exhibits. It was agreed by all parties that the following were considered part of the record: Prosecution Exhibits 1-5, Respondent Exhibit A, and the Investigation Report.

It was also explained that during closing arguments both parties were to only address the issues in the Notice of Hearing. The Board can only consider evidence and testimony provided at the hearing to determine whether or not violations were made.

Attorney Newman closed her case by suggesting to the Board that there has been no shown preponderance of the evidence that Sara Ecker violated 503.06(b) or 503.06(c). The rules state that there must be a prior or present acquaintance. Sara Ecker testified that she did not have an acquaintance with Mr. Patterson. Sara Ecker did mention to the court clerk in this case that she had familiarity with Mr. Patterson. This is a consequence of living in a small community. Mr.

Patterson happens to be a prominent member of the community. Mr. Patterson is distinct in the community because of his race as there are not many people of color in the area. There was no communication between Sara Ecker and Mr. Patterson prior to this case. The familiarity or knowledge that Sara Ecker had of Mr. Patterson does not meet the threshold of 503.06(b) or 503.06(c). Sara Ecker went out of her way to disclose her familiarity with Mr. Patterson's name to the court clerk prior to receiving the order of appointment. This knowledge of Mr. Patterson does not constitute as an acquaintance. Once Sara Ecker found out that Mr. Patterson was on the School Board of the district in which she was a lacrosse coach, Sara immediately notified the lawyers in this case. Neither lawyer had an objection. There was at no time a concern from Sara Ecker that she had attended the same high school five years apart, Mr. Patterson was also unaware of this knowledge. Once she found out about Mr. Patterson being a School Board member she withdrew from the case.

In closing, Mr. Nason told the Board that Sara Ecker is not entitled to make her own conclusion regarding 503.06(b) & 503.06(c). Mr. Nason stated that even when Sara Ecker testified today she did not have knowledge of these rules. The rules distinctly say that a GAL needs to tell both the parties and the court of a conflict of interest. Sara Ecker felt important enough to disclose to the court that she had knowledge of Mr. Patterson and they went to the same school five years apart. She did not notify the parties upon receipt of the Order of Appointment. Once Sara Ecker found out that Mr. Patterson was on the School Board she notified the parties but not the court. There is no entitlement for a GAL within the rules. The rules are specific and Sara Ecker did not follow them. There was a lot of testimony from Sara Ecker that she could not recall things. Sara Ecker also testified that she did not take a lot of notes it was more important to get the job done. Mr. Nason stated there is a difference of opinion of the definition of the word acquaintance. The rules say an acquaintance of any kind. Sara Ecker felt it important enough to notify the courts of her acquaintance of Mr. Patterson and did not notify the parties. Mr. Nason ended by saying it is clear that Sara Ecker did not demonstrate knowledge of the rules.

Mr. Keating thanked both parties for their presentations.

The hearing was recessed for 2 minutes.

Mr. Keating read GAL 503.06(b) *A guardian ad litem who is aware that he or she possesses a prior acquaintance of any type, including but not limited to a professional, personal or financial relationship, with any party in a case, shall: (1) At or before the time of appointment, disclose such fact to the parties and the appointing court, either orally or in writing; and (2) If such an acquaintance becomes known only after appointment, immediately disclose such fact to the parties and the appointing court, either orally or in writing.* Mr. Keating then opened up discussion to the Board on whether or not Sara Ecker violated this rule.

Rep. Welch stated that when he was in high school he did not have knowledge of those in higher grades than him. Rep. Rollo agreed with Rep. Welch that she did not believe the time frame they were in high school meets the threshold of an acquaintance. She went on to say that she also lives in a small town and while she doesn't know everyone by face she does know them by name. B. Paine is concerned that Sara Ecker had a professional relationship with Mr. Patterson as he was a police officer in the town where her business was located. Ms. Paine also stated that she advises all of her CASAs to let her know immediately if there is even the slightest bit of possible conflict. Then she drafts a letter to the court to err on the side of caution. Ms. Paine went on to say that she does not believe the high school issue rises to a

violation of the rules. S. Duncan agreed that Sara Ecker did notify the courts who did not have an issue but she did not notify the parties. If the parties are going to have faith in the GAL then their perception is crucial. Ms. Duncan is troubled by the lack of disclosure to the parties. Mr. Keating stated that even Mr. Patterson had no familiarity with Ms. Ecker.

Rep. Rollo made a motion that Sara Ecker did not violate GAL 503.06(b). B. Paine seconded. Vote: 4-1. S. Duncan opposed. Motion passes.

Mr. Keating read 503.06(c) *If it is alleged by a party to any proceeding in which a guardian ad litem is appointed that the guardian ad litem has failed to disclose any present or prior acquaintance of any type that impacts upon his or her objectivity, or upon his or her ability to perform the functions of a guardian ad litem in accordance with these rules or in accordance with requirements of the appointing court, the guardian ad litem shall: (1) Inform the appointing court that the allegation has been made; and (2) Respond either orally or in writing to the appointing court and to all parties regarding the nature of the present or prior acquaintance, if any.* Mr. Keating then opened up discussion to the Board on whether or not Sara Ecker violated this rule.

S. Duncan said there were allegations and fears of racial bias. We do live in NH where it is primarily white. She is sensitive to the issue as she grew up in the south. B. Paine said that the issue was frequently raised between Mr. Patterson and his lawyer. The Board did not see any indication in the record that the issue was raised prior to the ex-parte hearing. In the evidence presented today there was nothing raised to present the case for racial bias. Rep. Welch doesn't see any difference whether or not they attended the same high school. Mr. Keating stated that the allegation is that the GAL accepted the case having a negative impression of one of the parties. This allegation does not come with clarity, as they were denied by the GAL. The GAL also said she would not accept a case if she thought negative of someone. It appears that Joan Ecker has an opinion of negativity about Mr. Patterson. Mr. Keating recalled the testimony of Sara Ecker that the bully comment was made after her involvement in the case and was not said by her about Mr. Patterson. Mr. Keating felt like Sara Ecker did not have an opinion of Mr. Patterson when she accepted the case. B. Paine struggles with the fact that Sara Ecker did not notify the parties. There is nothing in the evidence that Sara Ecker's alleged bias was interfering with the investigation. Rep. Welch does not see how attending high school years apart can cause someone to have a negative opinion on another. S. Duncan is struggling with the fact that everyone is brought up differently which affects their perception of others.

Rep. Welch made a motion that Sara Ecker did not violate GAL 503.06(c). Rep. Rollo seconded. Vote: 4-1. S. Duncan opposed. Motion passes.

Mr. Keating read 503.04(b)(4) *A guardian ad litem's competency shall include Knowledge of these rules.* Mr. Keating then opened up discussion to the Board on whether or not Sara Ecker violated this rule.

Rep. Welch said that in Sara Ecker's testimony she stated she could not recall the rules. B. Paine said there was a best practice issue, Sara Ecker thought it was important enough to notify the courts of her knowledge of Mr. Patterson but did not notify the parties upon receipt of the Order of Appointment.

B. Paine made a motion that Sara Ecker violated 503.04(b)(4) by not demonstrating knowledge of 503.06(b) & (c). S. Duncan seconded. Vote: 4-1. Rep. Rollo opposed. Motion passes.

S. Duncan made a motion to allow C. Keating to sign the order on behalf of the Board. B. Paine seconded. Vote: 5-0. Motion passes.

Mr. Keating asked Attorney Newman and Mr. Nason to submit sanction suggestions to the Board office within the next two weeks.

The hearing was recessed until May 15, 2015 at 12:00pm.

**Friday, May 15, 2015**  
**Room 101 of Legislative Office Building**

Present: Chris Keating, Presiding Officer, Susan Duncan, Chair, Betsy Paine,  
Representative Deanna Rollo, Representative Dave Welch

C. Keating resumed the hearing at 12:01pm.

It was noted for the record that the same quorum was present.

Attorney Newman, Sara Ecker, and Don Nason were not present.

Mr. Keating reminded the Board that they voted that Sara Ecker violated GAL 503.03.04(b)(4) Competency A guardian ad litem's competency shall include Knowledge of these rules by not demonstrating knowledge of GAL 503.06 (b) & (c).

Mr. Keating then summarized the sanction suggestions from both parties. Mr. Nason requested that the Board suspend Sara Ecker and impose supplemental education and training. Attorney Newman on behalf of Sara Ecker offered that there be no sanctions due to extenuating circumstances or at the most a reprimand.

S. Duncan pointed out that Attorney Newman did not specify how extenuating circumstances existed. Mr. Keating read aloud the rules regarding extenuating circumstances.

S. Duncan is concerned about the message it sends if no sanction were imposed. Rep. Rollo agreed. B. Paine does not feel that extenuating circumstances exist. Rep. Welch doesn't believe any harm was done. S. Duncan is troubled by the fact that there was nothing in the record to show if this alleged bias was brought to Sara Ecker's attention. The Board does not know if there was harm done as evidence was not presented. Rep. Rollo said the Board could speculate just on the body language that they saw at the hearing from Sara Ecker. S. Duncan is not comfortable without any sanction as GALs are expected to have knowledge of the rules. She would be fine with a letter of reprimand. Rep. Rollo believes that Sara Ecker got training from the hearing. B. Paine wondered how many cases Sara Ecker had open at this time. GAL Board Administrative Assistant stated that she did not know.

C. Keating asked if it was possible to reprimand her in a letter and send a separate letter to keep doing this work. He felt like Sara Ecker was in the middle of a disaster and it is hard work. S. Duncan suggested sending a letter of reprimand in it requiring her to take an ethics course and

encourage her to keep doing the work and her services are valuable. C. Keating said that this hearing was an education for her and she spent a lot of money on an attorney for this hearing. S. Duncan does not know what lesson she got from the hearing. The Board has an obligation to make sure that GALs understand and abide by the rules. S. Duncan is not sure if the Board should suspend her license, fine her, or just issue reprimand. Rep. Rollo indicated that she felt it did not rise to the level of a fine or suspension. The testimony of Sara Ecker was that she did notify the court in the beginning and the parties in the middle of the case. The Board needs to relay to GALs that you must disclose and leave it up to the Judge or the parties to decide. The Board does know that the case was held up because a new GAL was appointed and had to start over from scratch.

It was explained how the case came about and only ended up with these issues.

Rep. Welch indicated that he felt that Sara Ecker was guilty of not knowing the rules. B. Paine explained the CASA process in which they disclose everything and leave it up to the Judge.

S. Duncan made a motion to sanction Sara Ecker by issuing a letter of reprimand. Rep. Rollo seconded. Vote: 5-0. Motion passes.

Mr. Keating opened up discussion as to what to put in the letter of reprimand. S. Duncan suggested the fact that not all votes were unanimous in this case. B. Paine suggested using language during the course of the hearing there were a number of concerns generated regarding her conduct during the hearing which raised the concern about her conduct as a GAL. S. Duncan removed her suggestion for the letter of reprimand and asked that it be in the Decision and Order. C. Keating does not think Sara Ecker needs to participate in any additional training.

C. Keating proposed sending a letter from the Board to Sara Ecker indicated that being a GAL is a tough job and she is clearly genuinely concerned about doing her job, we as the Board value your service as a GAL and hopes she continues. C. Keating specified his proposal for the letter is contingent upon the Board being in full agreement. The point was raised if a letter was sent to Sara Ecker does it set a precedent for future hearings. Is it the role of the GAL Board to encourage GALs who have violated the rules? It is a dangerous precedent to set to send an encouragement letter. The Board agreed to not send the extra letter proposed by Mr. Keating.

It was decided that after the reprimand was drafted it would be circulated to the Board members present via blind carbon copy email from Ms. Heinrich. Board members were to respond to Ms. Heinrich. If there was discord about the contents then another meeting would be scheduled. If everyone was in agreement with the language then it would be sent.

B. Paine made a motion to authorize C. Keating to sign the Decision and Order and the Letter of Reprimand on behalf of the board. Rep. Welch seconded. Vote: 4-1. C. Keating opposing. Motion passes.

Presiding Officer Keating closed the hearing.