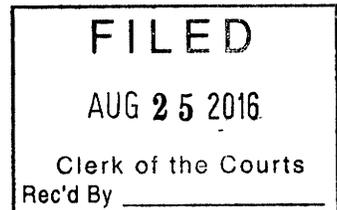


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

**IN RE PROPOSED AMENDMENT TO RULE 40A,
RULES OF THE TENNESSEE SUPREME COURT**

No. ADM2016-01004

ORDER



On May 16, 2016, the Court filed an order soliciting public comments on a proposed amendment to Rule 40A of the Rules of the Supreme Court, which governs the appointment of guardians ad litem in child custody proceedings. As stated in that earlier order, the Court was considering the adoption of the following amendment to Rule 40A(1)(a):

(a) “Custody proceeding” means a court proceeding, other than an abuse or neglect proceeding, in which legal or physical custody of, access to, or visitation or parenting time with a child is at issue, including but not limited to divorce, post divorce, paternity, domestic violence, and contested adoptions, ~~and contested private guardianship cases.~~

The public-comment period expired on July 15, 2016. The Court received no written comments during the comment period.

After due consideration, the Court concludes that the inclusion of “contested private guardianship cases” in the current definition of “custody proceeding,” as set out in Rule 40A(1)(a), results in an apparent conflict between Rule 40A(6)(b)¹ and Tennessee Code Annotated section 34-1-107(d)(1) (2015).² Accordingly, the Court hereby amends

¹ Rule 40A(6)(b) provides that “[t]he guardian ad litem shall not function as a special master for the court or perform any other judicial or quasi-judicial responsibilities.”

² Tennessee Code Annotated section 34-1-107 (2015) governs the appointment of guardians ad litem in guardianship and conservatorship proceedings. Tennessee Code Annotated section 34-1-107(d)(1) provides: “The guardian ad litem owes a duty to the court to impartially investigate the facts and make a report and recommendations to the court. The guardian ad litem serves as an agent of the court, and is not an advocate for the respondent or any other party.”

Rule 40A(1)(a) by adopting the proposed amendment set out above; this amendment shall take effect upon the filing of this order.

The Clerk shall provide a copy of this order to LexisNexis and to Thomson Reuters. In addition, this order shall be posted on the Tennessee Supreme Court's website.

IT IS SO ORDERED.

PER CURIAM