

1 **MINOR OR INCAPACITATED PARTIES**

2 **RULE 27**

3 **A Appearance of [minor] parties by guardian or conservator.** When a [minor] person[,]  
4 who has a conservator of such [minor's] person's estate or a guardian[,] is a party to any action,  
5 such [minor] person shall appear by the conservator or guardian as may be appropriate or, if  
6 the court so orders, by a guardian ad litem appointed by the court in which the action is  
7 brought **and pursuant to this rule unless the appointment is made on the court's motion or**  
8 **otherwise as provided by statute.** *[If the minor does not have a conservator of such minor's*  
9 *estate or a guardian, the minor shall appear by a guardian ad litem appointed by the court. The*  
10 *court shall appoint some suitable person to act as guardian ad litem:*

11 *A(1) When the minor is plaintiff, upon application of the minor, if the minor is 14 years of*  
12 *age or older, or upon application of a relative or friend of the minor if the minor is under 14*  
13 *years of age.*

14 *A(2) When the minor is defendant, upon application of the minor, if the minor is 14 years*  
15 *of age or older, filed within the period of time specified by these rules or other rule or statute for*  
16 *appearance and answer after service of summons, or if the minor fails so to apply or is under 14*  
17 *years of age, upon application of any other party or of a relative or friend of the minor.]*

18 **B [Appearance of incapacitated person by conservator or guardian.] Appointment of**  
19 **guardian ad litem for minors; incapacitated or financially incapable parties.** When a minor or  
20 a person who is incapacitated or financially incapable, as defined in ORS 125.005, [*who has a*  
21 *conservator of such person's estate or a guardian,*] is a party to [any] an action **and does not**  
22 **have a guardian or conservator**, the person shall appear by [*the conservator or guardian as*  
23 *may be appropriate or, if the court so orders, by*] a guardian ad litem appointed by the court in  
24 which the action is brought **and pursuant to this rule, as follows:** [*If the person does not have a*  
25 *conservator of such person's estate or a guardian, the person shall appear by a guardian ad*  
26 *litem appointed by the court. The court shall appoint some suitable person to act as guardian ad*

1 *litem:]*

2 **B(1) When the plaintiff or petitioner is a minor, upon application of the minor, if the**  
3 **minor is 14 years of age or older, or upon application of a relative or friend of the minor, or**  
4 **other interested person, if the minor is under 14 years of age;**

5 **B(2) When the defendant or respondent is a minor, upon application of the minor, if**  
6 **the minor is 14 years of age or older, filed within the period of time specified by these rules or**  
7 **any other rule or statute for appearance and answer after service of a summons or, if the**  
8 **minor fails so to apply or is under 14 years of age, upon application of any other party or of a**  
9 **relative or friend of the minor, or other interested person;**

10 [B(1)] **B(3) When the plaintiff or petitioner is a person who is incapacitated or**  
11 **financially incapable, as defined in ORS 125.005, [is plaintiff,] upon application of a relative or**  
12 **friend of the person, or other interested person;[.]**

13 [B(2)] **B(4) When the defendant or respondent is a person [is defendant] who is**  
14 **incapacitated or financially incapable, as defined in ORS 125.005, upon application of a**  
15 **relative or friend of the person, or other interested person, filed within the period of time**  
16 **specified by these rules or any other rule or statute for appearance and answer after service of**  
17 **a summons[,] or, if the application is not so filed, upon application of any party other than the**  
18 **person.**

19 **C Discretionary Appointment of Guardian Ad Litem for a Party With a Disability. When**  
20 **a person with a disability, as defined in ORS 124.005, is a party to an action, the person may**  
21 **appear by a guardian ad litem appointed by the court in which the action is brought and**  
22 **pursuant to this rule upon motion and one or more supporting affidavits or declarations**  
23 **establishing that the appointment would assist the person in prosecuting or defending the**  
24 **action.**

25 **D Method of Seeking Appointment of Guardian Ad Litem. A person seeking**  
26 **appointment of a guardian ad litem shall do so by filing a motion and seeking an order in the**

1 proceeding in which the guardian ad litem is sought. The motion shall be supported by one or  
2 more affidavits or declarations that contain facts sufficient to prove by a preponderance of  
3 the evidence that the party on whose behalf the motion is filed is a minor or is incapacitated  
4 or financially incapable, as defined in ORS 125.005, or a person with a disability as defined in  
5 ORS 124.005. The court may appoint a suitable person as a guardian ad litem; however, the  
6 appointment shall be reviewed by the court if an objection is received as specified in  
7 subsection F(2) or F(3) of this rule.

8 E Notice of Motion Seeking Appointment of Guardian ad Litem. [At the time] Unless  
9 waived under Section H, no later than seven days after filing the motion for appointment of a  
10 guardian ad litem [is filed], the person filing the motion must provide notice as set forth in  
11 this section, or as provided in a modification of the notice requirements as set forth in Section  
12 H. Notice shall be provided by mailing to the address of each person or entity listed below,  
13 by first class mail, a true copy of the motion, supporting affidavit(s) or declaration(s), and the  
14 form of notice prescribed in Section F below.

15 E(1) If the party is a minor, notice shall be provided to the minor if the minor is 14  
16 years of age or older; to the parents of the minor; to the person or persons having custody of  
17 the minor; to the person who has exercised principal responsibility for the care and custody  
18 of the minor during the 60-day period before the filing of the motion; and, if the minor has no  
19 living parents, to any person nominated to act as a fiduciary for the minor in a will or other  
20 written instrument prepared by a parent of the minor.

21 E(2) If the party is over the age of 18 years notice shall be given:

22 E(2)(a) To the person;

23 E(2)(b) To the spouse, parents, and adult children of the person;

24 E(2)(c) If the person does not have a spouse, parent, or adult child, to the person or  
25 persons most closely related to the person;

26 E(2)(d) To any person who is cohabiting with the person and who is interested in the

1 affairs or welfare of the person;

2 E(2)(e) To any person who has been nominated as fiduciary or appointed to act as  
3 fiduciary for the person by a court of any state, any trustee for a trust established by or for  
4 the person, any person appointed as a health care representative under the provisions of ORS  
5 127.505 to 127.660, and any person acting as attorney-in-fact for the person under a power of  
6 attorney;

7 E(2)(f) If the person is receiving moneys paid or payable by the United States through  
8 the Department of Veterans Affairs, to a representative of the United States Department of  
9 Veterans Affairs regional office that has responsibility for the payments to the protected  
10 person;

11 E(2)(g) If the person is receiving moneys paid or payable for public assistance provided  
12 under ORS chapter 411 by the State of Oregon through the Department of Human Services, to  
13 a representative of the Department;

14 E(2)(h) If the person is receiving moneys paid or payable for medical assistance  
15 provided under ORS chapter 414 by the State of Oregon through the Oregon Health  
16 Authority, to a representative of the Authority;

17 E(2)(i) If the person is committed to the legal and physical custody of the Department  
18 of Corrections, to the Attorney General and the superintendent or other officer in charge of  
19 the facility in which the person is confined;

20 E(2)(j) If the person is a foreign national, to the consulate for the person's country; and

21 E(2)(k) To any other person that the court requires.

22 F Contents of Notice. The notice shall contain:

23 F(1) The name, address, and telephone number of the person making the motion, and  
24 the relationship of the person making the motion to the person for whom a guardian ad litem  
25 is sought;

26 F(2) A statement indicating that objections to the appointment of the guardian ad

1 litem must be filed in the proceeding no later than 14 days from the date of the notice; and

2 F(3) A statement indicating that the person for whom the guardian ad litem is sought  
3 may object in writing to the clerk of the court in which the matter is pending and stating the  
4 desire to object.

5 G Hearing. As soon as practical after any objection is filed, the court shall hold a  
6 hearing at which the court will determine the merits of the objection and make such orders  
7 as are appropriate.

8 H Waiver or Modification of Notice. For good cause shown, the court may waive  
9 notice entirely or make such other orders regarding notice as are just and proper in the  
10 circumstances.

11 I Settlement. Where settlement of the action will result in the receipt of property or  
12 money by the person for whom the guardian ad litem was appointed, approval of such  
13 settlement must be sought and obtained by a conservator, or settlement may be  
14 accomplished pursuant to ORS 126.725, if applicable.

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5 such [minor] **person** shall appear by the conservator or guardian as may be appropriate or, if  
6 the court so orders, by a guardian ad litem appointed by the court in which the action is  
7 brought. **The appointment of a guardian ad litem shall be pursuant to this rule unless the**  
8 **appointment is made on the court's motion or a statute provides for a procedure that varies**  
9 **from the procedure specified in this rule.** [If the minor does not have a conservator of such  
10 minor's estate or a guardian, the minor shall appear by a guardian ad litem appointed by the  
11 court. The court shall appoint some suitable person to act as guardian ad litem:

12 *A(1) When the minor is plaintiff, upon application of the minor, if the minor is 14 years of*  
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15 *A(2) When the minor is defendant, upon application of the minor, if the minor is 14 years*  
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17 *appearance and answer after service of summons, or if the minor fails so to apply or is under 14*  
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19 **B [Appearance of incapacitated person by conservator or guardian.] Appointment of**  
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24 may be appropriate or, if the court so orders, by] a guardian ad litem appointed by the court in  
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26 conservator of such person's estate or a guardian, the person shall appear by a guardian ad

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3 **B(1) when the plaintiff or petitioner is a minor:**

4 **B(1)(a) if the minor is 14 years of age or older, upon application of the minor; or**

5 **B(1)(b) if the minor is under 14 years of age, upon application of a relative or friend of**  
6 **the minor, or other interested person;**

7 **B(2) when the defendant or respondent is a minor:**

8 **B(2)(a) if the minor is 14 years of age or older, upon application of the minor filed**  
9 **within the period of time specified by these rules or any other rule or statute for appearance**  
10 **and answer after service of a summons; or**

11 **B(2)(b) if the minor fails so to apply or is under 14 years of age, upon application of**  
12 **any other party or of a relative or friend of the minor, or other interested person;**

13 [B(1)] **B(3) [When] when the plaintiff or petitioner is a** person who is incapacitated or  
14 financially incapable, as defined in ORS 125.005, [*is plaintiff,*] upon application of a relative or  
15 friend of the person, **or other interested person;**[.]

16 [B(2)] **B(4) [When] when the defendant or respondent is a** person [*is defendant*] **who is**  
17 **incapacitated or financially incapable, as defined in ORS 125.005,** upon application of a  
18 relative or friend of the person, **or other interested person,** filed within the period of time  
19 specified by these rules or **any** other rule or statute for appearance and answer after service of  
20 **a** summons[.] or, if the application is not so filed, upon application of any party other than the  
21 person.

22 **C Discretionary Appointment of Guardian Ad Litem for a Party With a Disability. When**  
23 **a person with a disability, as defined in ORS 124.005, is a party to an action, the person may**  
24 **appear by a guardian ad litem appointed by the court in which the action is brought and**  
25 **pursuant to this rule upon motion and one or more supporting affidavits or declarations**  
26 **establishing that the appointment would assist the person in prosecuting or defending the**

1 action.

2 D Method of Seeking Appointment of Guardian Ad Litem. A person seeking  
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4 proceeding in which the guardian ad litem is sought. The motion shall be supported by one or  
5 more affidavits or declarations that contain facts sufficient to prove by a preponderance of  
6 the evidence that the party on whose behalf the motion is filed is a minor or is incapacitated  
7 or financially incapable, as defined in ORS 125.005, or is a person with a disability, as defined  
8 in ORS 124.005. The court may appoint a suitable person as a guardian ad litem; however, the  
9 appointment shall be reviewed by the court if an objection is received as specified in  
10 subsections F(2) or F(3) of this rule.

11 E Notice of Motion Seeking Appointment of Guardian ad Litem. [At the time] Unless  
12 waived under Section H of this rule, no later than 7 days after filing the motion for  
13 appointment of a guardian ad litem [is filed], the person filing the motion must provide notice  
14 as set forth in this section, or as provided in a modification of the notice requirements as set  
15 forth in Section H. Notice shall be provided by mailing to the address of each person or entity  
16 listed below, by first class mail, a true copy of the motion, supporting affidavit(s) or  
17 declaration(s), and the form of notice prescribed in Section F of this rule.

18 E(1) If the party is a minor, notice shall be provided to the minor if the minor is 14  
19 years of age or older; to the parents of the minor; to the person or persons having custody of  
20 the minor; to the person who has exercised principal responsibility for the care and custody  
21 of the minor during the 60-day period before the filing of the motion; and, if the minor has no  
22 living parents, to any person nominated to act as a fiduciary for the minor in a will or other  
23 written instrument prepared by a parent of the minor.

24 E(2) If the party is over the age of 18 years, notice shall be given:

25 E(2)(a) to the person;

26 E(2)(b) to the spouse, parents, and adult children of the person;



1 E(2)(c) if the person does not have a spouse, parent, or adult child, to the person or  
2 persons most closely related to the person;

3 E(2)(d) to any person who is cohabiting with the person and who is interested in the  
4 affairs or welfare of the person;

5 E(2)(e) to any person who has been nominated as fiduciary or appointed to act as  
6 fiduciary for the person by a court of any state, any trustee for a trust established by or for  
7 the person, any person appointed as a health care representative under the provisions of ORS  
8 127.505 to 127.660, and any person acting as attorney-in-fact for the person under a power of  
9 attorney;

10 E(2)(f) if the person is receiving moneys paid or payable by the United States through  
11 the Department of Veterans Affairs, to a representative of the United States Department of  
12 Veterans Affairs regional office that has responsibility for the payments to the person;

13 E(2)(g) if the person is receiving moneys paid or payable for public assistance provided  
14 under ORS chapter 411 by the State of Oregon through the Department of Human Services, to  
15 a representative of the Department;

16 E(2)(h) if the person is receiving moneys paid or payable for medical assistance  
17 provided under ORS chapter 414 by the State of Oregon through the Oregon Health  
18 Authority, to a representative of the Authority;

19 E(2)(i) if the person is committed to the legal and physical custody of the Department  
20 of Corrections, to the Attorney General and the superintendent or other officer in charge of  
21 the facility in which the person is confined;

22 E(2)(j) if the person is a foreign national, to the consulate for the person's country; and

23 E(2)(k) to any other person that the court requires.

24 F Contents of Notice. The notice shall contain:

25 F(1) the name, address, and telephone number of the person making the motion, and  
26 the relationship of the person making the motion to the person for whom a guardian ad litem

1 is sought;

2 F(2) a statement indicating that objections to the appointment of the guardian ad  
3 litem must be filed in the proceeding no later than 14 days from the date of the notice; and

4 F(3) a statement indicating that the person for whom the guardian ad litem is sought  
5 may object in writing to the clerk of the court in which the matter is pending and stating the  
6 desire to object.

7 G Hearing. As soon as practical after any objection is filed, the court shall hold a  
8 hearing at which the court will determine the merits of the objection and make such orders  
9 as are appropriate.

10 H Waiver or Modification of Notice. For good cause shown, the court may waive  
11 notice entirely or make such other orders regarding notice as are just and proper in the  
12 circumstances.

13 I Settlement. Except as permitted by ORS 126.725, in cases where settlement of the  
14 action will result in the receipt of property or money by a party for whom a guardian ad litem  
15 was appointed under section B of this rule, court approval of such settlement must be sought  
16 and obtained by a conservator unless the court, for good cause shown and on such terms as  
17 the court may require, expressly authorizes the guardian ad litem to enter into a settlement  
18 agreement.



1 *litem appointed by the court. The court shall appoint some suitable person to act as guardian ad*  
2 *litem:]*

3 **B(1) when the plaintiff or petitioner is a minor:**

4 **B(1)(a) if the minor is 14 years of age or older, upon application of the minor; or**

5 **B(1)(b) if the minor is under 14 years of age, upon application of a relative or friend of**  
6 **the minor, or other interested person;**

7 **B(2) when the defendant or respondent is a minor:**

8 **B(2)(a) if the minor is 14 years of age or older, upon application of the minor filed**  
9 **within the period of time specified by these rules or any other rule or statute for appearance**  
10 **and answer after service of a summons; or**

11 **B(2)(b) if the minor fails so to apply or is under 14 years of age, upon application of**  
12 **any other party or of a relative or friend of the minor, or other interested person;**

13 [B(1)] **B(3) [When] when the plaintiff or petitioner is a** person who is incapacitated or  
14 financially incapable, as defined in ORS 125.005, [*is plaintiff,*] upon application of a relative or  
15 friend of the person, **or other interested person;**[.]

16 [B(2)] **B(4) [When] when the defendant or respondent is a** person [*is defendant*] **who is**  
17 **incapacitated or financially incapable, as defined in ORS 125.005,** upon application of a  
18 relative or friend of the person, **or other interested person,** filed within the period of time  
19 specified by these rules or **any** other rule or statute for appearance and answer after service of  
20 **a** summons[.] or, if the application is not so filed, upon application of any party other than the  
21 person.

22 **C Discretionary Appointment of Guardian Ad Litem for a Party With a Disability. When**  
23 **a person with a disability, as defined in ORS 124.005, is a party to an action, the person may**  
24 **appear by a guardian ad litem appointed by the court in which the action is brought and**  
25 **pursuant to this rule upon motion and one or more supporting affidavits or declarations**  
26 **establishing that the appointment would assist the person in prosecuting or defending the**

1 action.

2 D Method of Seeking Appointment of Guardian Ad Litem. A person seeking  
3 appointment of a guardian ad litem shall do so by filing a motion and seeking an order in the  
4 proceeding in which the guardian ad litem is sought. The motion shall be supported by one or  
5 more affidavits or declarations that contain facts sufficient to prove by a preponderance of  
6 the evidence that the party on whose behalf the motion is filed is a minor or is incapacitated  
7 or financially incapable, as defined in ORS 125.005, or is a person with a disability, as defined  
8 in ORS 124.005. The court may appoint a suitable person as a guardian ad litem before notice  
9 is given pursuant to section E of this rule; however, the appointment shall be reviewed by the  
10 court if an objection is received as specified in subsections F(2) or F(3) of this rule.

11 E Notice of Motion Seeking Appointment of Guardian ad Litem. [At the time] Unless  
12 waived under Section H of this rule, no later than 7 days after filing the motion for  
13 appointment of a guardian ad litem [is filed], the person filing the motion must provide notice  
14 as set forth in this section, or as provided in a modification of the notice requirements as set  
15 forth in Section H of this rule. Notice shall be provided by mailing to the address of each  
16 person or entity listed below, by first class mail, a true copy of the motion, supporting  
17 affidavit(s) or declaration(s), and the form of notice prescribed in Section F of this rule.

18 E(1) If the party is a minor, notice shall be provided to the minor if the minor is 14  
19 years of age or older; to the parents of the minor; to the person or persons having custody of  
20 the minor; to the person who has exercised principal responsibility for the care and custody  
21 of the minor during the 60-day period before the filing of the motion; and, if the minor has no  
22 living parents, to any person nominated to act as a fiduciary for the minor in a will or other  
23 written instrument prepared by a parent of the minor.

24 E(2) If the party is 18 years of age or older, notice shall be given:

25 E(2)(a) to the person;

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2 persons most closely related to the person;

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18 Authority, to a representative of the Authority;

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20 of Corrections, to the Attorney General and the superintendent or other officer in charge of  
21 the facility in which the person is confined;

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24 F Contents of Notice. The notice shall contain:

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26 the relationship of the person making the motion to the person for whom a guardian ad litem

1 is sought;

2 F(2) a statement indicating that objections to the appointment of the guardian ad  
3 litem must be filed in the proceeding no later than 14 days from the date of the notice; and

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5 may object in writing to the clerk of the court in which the matter is pending and stating the  
6 desire to object.

7 G Hearing. As soon as practical after any objection is filed, the court shall hold a  
8 hearing at which the court will determine the merits of the objection and make such orders





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3 **B(1) when the plaintiff or petitioner is a minor:**

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14 financially incapable, as defined in ORS 125.005, [*is plaintiff,*] upon application of a relative or  
15 friend of the person, **or other interested person;**[.]

16 [B(2)] **B(4) [When] when the defendant or respondent is a** person [*is defendant*] **who is**  
17 **incapacitated or is financially incapable, as defined in ORS 125.005,** upon application of a  
18 relative or friend of the person, **or other interested person,** filed within the period of time  
19 specified by these rules or **any** other rule or statute for appearance and answer after service of  
20 **a** summons[.] or, if the application is not so filed, upon application of any party other than the  
21 person.

22 **C Discretionary appointment of guardian ad litem for a party with a disability. When a**  
23 **person with a disability, as defined in ORS 124.005, is a party to an action, the person may**  
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25 E(2)(a) to the person;

26 E(2)(b) to the spouse, parents, and adult children of the person;

1 E(2)(c) if the person does not have a spouse, parent, or adult child, to the person or  
2 persons most closely related to the person;

3 E(2)(d) to any person who is cohabiting with the person and who is interested in the  
4 affairs or welfare of the person;

5 E(2)(e) to any person who has been nominated as fiduciary or appointed to act as  
6 fiduciary for the person by a court of any state, any trustee for a trust established by or for  
7 the person, any person appointed as a health care representative under the provisions of ORS  
8 127.505 to 127.660, and any person acting as attorney-in-fact for the person under a power of  
9 attorney;

10 E(2)(f) if the person is receiving moneys paid or payable by the United States through  
11 the Department of Veterans Affairs, to a representative of the United States Department of  
12 Veterans Affairs regional office that has responsibility for the payments to the person;

13 E(2)(g) if the person is receiving moneys paid or payable for public assistance provided  
14 under ORS chapter 411 by the State of Oregon through the Department of Human Services, to  
15 a representative of the Department;

16 E(2)(h) if the person is receiving moneys paid or payable for medical assistance  
17 provided under ORS chapter 414 by the State of Oregon through the Oregon Health  
18 Authority, to a representative of the Authority;

19 E(2)(i) if the person is committed to the legal and physical custody of the Department  
20 of Corrections, to the Attorney General and the superintendent or other officer in charge of  
21 the facility in which the person is confined;

22 E(2)(j) if the person is a foreign national, to the consulate for the person's country; and

23 E(2)(k) to any other person that the court requires.

24 F Contents of notice. The notice shall contain:

25 F(1) the name, address, and telephone number of the person making the motion, and  
26 the relationship of the person making the motion to the person for whom a guardian ad litem

1 is sought;

2 F(2) a statement indicating that objections to the appointment of the guardian ad  
3 litem must be filed in the proceeding no later than 14 days from the date of the notice; and

4 F(3) a statement indicating that the person for whom the guardian ad litem is sought  
5 may object in writing to the clerk of the court in which the matter is pending and stating the  
6 desire to object.

7 G Hearing. As soon as practical after any objection is filed, the court shall hold a  
8 hearing at which the court will determine the merits of the objection and make any order  
9 that is appropriate.

10 H Waiver or modification of notice. For good cause shown, the court may waive  
11 notice entirely or make any other order regarding notice that is just and proper in the  
12 circumstances.

13 I Settlement. Except as permitted by ORS 126.725, in cases where settlement of the  
14 action will result in the receipt of property or money by a party for whom a guardian ad litem  
15 was appointed under section B of this rule, court approval of any settlement must be sought  
16 and obtained by a conservator unless the court, for good cause shown and on any terms that  
17 the court may require, expressly authorizes the guardian ad litem to enter into a settlement  
18 agreement. as are appropriate.

19 H Waiver or Modification of Notice. For good cause shown, the court may waive  
20 notice entirely or make such other orders regarding notice as are just and proper in the  
21 circumstances.

22 I Settlement. Except as permitted by ORS 126.725, in cases where settlement of the  
23 action will result in the receipt of property or money by a party for whom a guardian ad litem  
24 was appointed under section B of this rule, court approval of such settlement must be sought  
25 and obtained by a conservator unless the court, for good cause shown and on such terms as  
26 the court may require, expressly authorizes the guardian ad litem to enter into a settlement

1 agreement.

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1 | *the person does not have a conservator of such person's estate or a guardian, the person shall*  
2 | *appear by a guardian ad litem appointed by the court. The court shall appoint some suitable*  
3 | *person to act as guardian ad litem:]*

4 |       **B(1) when the plaintiff or petitioner is a minor:**

5 |       **B(1)(a) if the minor is 14 years of age or older, upon application of the minor;**

6 | **or**

7 |       **B(1)(b) if the minor is under 14 years of age, upon application of a relative or**  
8 | **friend of the minor, or other interested person;**

9 |       **B(2) when the defendant or respondent is a minor:**

10 |       **B(2)(a) if the minor is 14 years of age or older, upon application of the minor**  
11 | **filed within the period of time specified by these rules or any other rule or statute for**  
12 | **appearance and answer after service of a summons; or**

13 |       **B(2)(b) if the minor fails so to apply or is under 14 years of age, upon**  
14 | **application of any other party or of a relative or friend of the minor, or other interested**  
15 | **person;**

16 |       [B(1)] **B(3)** [When] **when** the **plaintiff or petitioner is a** person who is incapacitated  
17 | or financially incapable, as defined in ORS 125.005, [*is plaintiff,*] upon application of a relative or  
18 | friend of the person, **or other interested person;**[.]

19 |       [B(2)] **B(4)** [When] **when** the **defendant or respondent is a** person [*is defendant*]  
20 | **who is incapacitated or is financially incapable, as defined in ORS 125.005,** upon application of  
21 | a relative or friend of the person, **or other interested person,** filed within the period of time  
22 | specified by these rules or **any** other rule or statute for appearance and answer after service of  
23 | **a** summons[.], or, if the application is not so filed, upon application of any party other than the  
24 | person.

25 | /////

26 | /////

1           **C**       **Discretionary appointment of guardian ad litem for a party with a disability.**

2 **When a person with a disability, as defined in ORS 124.005, is a party to an action, the person**  
3 **may appear by a guardian ad litem appointed by the court in which the action is brought and**  
4 **pursuant to this rule upon motion and one or more supporting affidavits or declarations**  
5 **establishing that the appointment would assist the person in prosecuting or defending the**  
6 **action.**

7           **D**       **Method of seeking appointment of guardian ad litem. A person seeking**  
8 **appointment of a guardian ad litem shall do so by filing a motion and seeking an order in the**  
9 **proceeding in which the guardian ad litem is sought. The motion shall be supported by one or**  
10 **more affidavits or declarations that contain facts sufficient to prove by a preponderance of**  
11 **the evidence that the party on whose behalf the motion is filed is a minor or is incapacitated**  
12 **or financially incapable, as defined in ORS 125.005, or is a person with a disability, as defined**  
13 **in ORS 124.005. The court may appoint a suitable person as a guardian ad litem before notice**  
14 **is given pursuant to section E of this rule; however, the appointment shall be reviewed by the**  
15 **court if an objection is received as specified in subsections F(2) or F(3) of this rule.**

16           **E**       **Notice of motion seeking appointment of guardian ad litem. [At the time]**  
17 **Unless waived under Section H of this rule, no later than 7 days after filing the motion for**  
18 **appointment of a guardian ad litem [is filed], the person filing the motion must provide notice**  
19 **as set forth in this section, or as provided in a modification of the notice requirements as set**  
20 **forth in Section H of this rule. Notice shall be provided by mailing to the address of each**  
21 **person or entity listed below, by first class mail, a true copy of the motion, supporting**  
22 **affidavit(s) or declaration(s), and the form of notice prescribed in Section F of this rule.**

23           **E(1)**       **If the party is a minor, notice shall be provided to the minor if the minor is 14**  
24 **years of age or older; to the parents of the minor; to the person or persons having custody of**  
25 **the minor; to the person who has exercised principal responsibility for the care and custody**  
26 **of the minor during the 60-day period before the filing of the motion; and, if the minor has no**



1 living parents, to any person nominated to act as a fiduciary for the minor in a will or other  
2 written instrument prepared by a parent of the minor.

3 E(2) If the party is 18 years of age or older, notice shall be given:

4 E(2)(a) to the person;

5 E(2)(b) to the spouse, parents, and adult children of the person;

6 E(2)(c) if the person does not have a spouse, parent, or adult child, to the person or  
7 persons most closely related to the person;

8 E(2)(d) to any person who is cohabiting with the person and who is interested in the  
9 affairs or welfare of the person;

10 E(2)(e) to any person who has been nominated as fiduciary or appointed to act as  
11 fiduciary for the person by a court of any state, any trustee for a trust established by or for  
12 the person, any person appointed as a health care representative under the provisions of ORS  
13 127.505 to 127.660, and any person acting as attorney-in-fact for the person under a power of  
14 attorney;

15 E(2)(f) if the person is receiving moneys paid or payable by the United States through  
16 the Department of Veterans Affairs, to a representative of the United States Department of  
17 Veterans Affairs regional office that has responsibility for the payments to the person;

18 E(2)(g) if the person is receiving moneys paid or payable for public assistance provided  
19 under ORS chapter 411 by the State of Oregon through the Department of Human Services, to  
20 a representative of the Department;

21 E(2)(h) if the person is receiving moneys paid or payable for medical assistance  
22 provided under ORS chapter 414 by the State of Oregon through the Oregon Health  
23 Authority, to a representative of the Authority;

24 E(2)(i) if the person is committed to the legal and physical custody of the Department  
25 of Corrections, to the Attorney General and the superintendent or other officer in charge of  
26 the facility in which the person is confined;

1 E(2)(j) if the person is a foreign national, to the consulate for the person's country;

2 and

3 E(2)(k) to any other person that the court requires.

4 F Contents of notice. The notice shall contain:

5 F(1) the name, address, and telephone number of the person making the motion,  
6 and the relationship of the person making the motion to the person for whom a guardian ad  
7 litem is sought;

8 F(2) a statement indicating that objections to the appointment of the guardian ad  
9 litem must be filed in the proceeding no later than 14 days from the date of the notice; and

10 F(3) a statement indicating that the person for whom the guardian ad litem is  
11 sought may object in writing to the clerk of the court in which the matter is pending and  
12 stating the desire to object.

13 G Hearing. As soon as practical after any objection is filed, the court shall hold a  
14 hearing at which the court will determine the merits of the objection and make any order  
15 that is appropriate.

16 H Waiver or modification of notice. For good cause shown, the court may waive  
17 notice entirely or make any other order regarding notice that is just and proper in the  
18 circumstances.

19 I Settlement. Except as permitted by ORS 126.725, in cases where settlement of  
20 the action will result in the receipt of property or money by a party for whom a guardian ad  
21 litem was appointed under section B of this rule, court approval of any settlement must be  
22 sought and obtained by a conservator unless the court, for good cause shown and on any  
23 terms that the court may require, expressly authorizes the guardian ad litem to enter into a  
24 settlement agreement.



1 **follows:** *[If the person does not have a conservator of such person's estate or a guardian, the*  
2 *person shall appear by a guardian ad litem appointed by the court. The court shall appoint some*  
3 *suitable person to act as guardian ad litem:]*

4 **B(1) when the plaintiff or petitioner is a minor:**

5 **B(1)(a) if the minor is 14 years of age or older, upon application of the minor;**

6 **or**

7 **B(1)(b) if the minor is under 14 years of age, upon application of a relative or**  
8 **friend of the minor, or other interested person;**

9 **B(2) when the defendant or respondent is a minor:**

10 **B(2)(a) if the minor is 14 years of age or older, upon application of the minor**  
11 **filed within the period of time specified by these rules or any other rule or statute for**  
12 **appearance and answer after service of a summons; or**

13 **B(2)(b) if the minor fails so to apply or is under 14 years of age, upon**  
14 **application of any other party or of a relative or friend of the minor, or other interested**  
15 **person;**

16 [B(1)] **B(3)** [When] **when** the **plaintiff or petitioner is a** person who is incapacitated  
17 or financially incapable, as **those terms are** defined in ORS 125.005, [*is plaintiff,*] upon  
18 application of a relative or friend of the person, **or other interested person;**[.]

19 [B(2)] **B(4)** [When] **when** the **defendant or respondent is a** person [*is defendant*]  
20 **who is incapacitated or is financially incapable, as those terms are defined in ORS 125.005,**  
21 upon application of a relative or friend of the person, **or other interested person,** filed within  
22 the period of time specified by these rules or **any** other rule or statute for appearance and  
23 answer after service of **a** summons[, ] or, if the application is not so filed, upon application of  
24 any party other than the person.

25 **////**

26 **////**

1           **C**       **Discretionary appointment of guardian ad litem for a party with a disability.**

2 **When a person with a disability, as defined in ORS 124.005, is a party to an action, the person**  
3 **may appear by a guardian ad litem appointed by the court in which the action is brought and**  
4 **pursuant to this rule upon motion and one or more supporting affidavits or declarations**  
5 **establishing that the appointment would assist the person in prosecuting or defending the**  
6 **action.**

7           **D**       **Method of seeking appointment of guardian ad litem. A person seeking**  
8 **appointment of a guardian ad litem shall do so by filing a motion and seeking an order in the**  
9 **proceeding in which the guardian ad litem is sought. The motion shall be supported by one or**  
10 **more affidavits or declarations that contain facts sufficient to prove by a preponderance of**  
11 **the evidence that the party on whose behalf the motion is filed is a minor, is incapacitated or**  
12 **is financially incapable, as those terms are defined in ORS 125.005, or is a person with a**  
13 **disability, as defined in ORS 124.005. The court may appoint a suitable person as a guardian**  
14 **ad litem before notice is given pursuant to section E of this rule; however, the appointment**  
15 **shall be reviewed by the court if an objection is received as specified in subsection F(2) or F(3)**  
16 **of this rule.**

17           **E**       **Notice of motion seeking appointment of guardian ad litem. Unless waived**  
18 **under section H of this rule, no later than 7 days after filing the motion for appointment of a**  
19 **guardian ad litem, the person filing the motion must provide notice as set forth in this**  
20 **section, or as provided in a modification of the notice requirements as set forth in section H**  
21 **of this rule. Notice shall be provided by mailing to the address of each person or entity listed**  
22 **below, by first class mail, a true copy of the motion, any supporting affidavits or declarations,**  
23 **and the form of notice prescribed in section F of this rule.**

24           **E(1)**   **If the party is a minor, notice shall be provided to the minor if the minor is 14**  
25 **years of age or older; to the parents of the minor; to the person or persons having custody of**  
26 **the minor; to the person who has exercised principal responsibility for the care and custody**

1 of the minor during the 60-day period before the filing of the motion; and, if the minor has no  
2 living parents, to any person nominated to act as a fiduciary for the minor in a will or other  
3 written instrument prepared by a parent of the minor.

4 E(2) If the party is 18 years of age or older, notice shall be given:

5 E(2)(a) to the person;

6 E(2)(b) to the spouse, parents, and adult children of the person;

7 E(2)(c) if the person does not have a spouse, parent, or adult child, to the person or  
8 persons most closely related to the person;

9 E(2)(d) to any person who is cohabiting with the person and who is interested in the  
10 affairs or welfare of the person;

11 E(2)(e) to any person who has been nominated as fiduciary or appointed to act as  
12 fiduciary for the person by a court of any state, any trustee for a trust established by or for  
13 the person, any person appointed as a health care representative under the provisions of ORS  
14 127.505 to 127.660, and any person acting as attorney-in-fact for the person under a power of  
15 attorney;

16 E(2)(f) if the person is receiving moneys paid or payable by the United States through  
17 the Department of Veterans Affairs, to a representative of the United States Department of  
18 Veterans Affairs regional office that has responsibility for the payments to the person;

19 E(2)(g) if the person is receiving moneys paid or payable for public assistance provided  
20 under ORS chapter 411 by the State of Oregon through the Department of Human Services, to  
21 a representative of the department;

22 E(2)(h) if the person is receiving moneys paid or payable for medical assistance  
23 provided under ORS chapter 414 by the State of Oregon through the Oregon Health  
24 Authority, to a representative of the authority;

25 E(2)(i) if the person is committed to the legal and physical custody of the Department  
26 of Corrections, to the Attorney General and the superintendent or other officer in charge of

1 the facility in which the person is confined;

2 E(2)(j) if the person is a foreign national, to the consulate for the person's country;

3 and

4 E(2)(k) to any other person that the court requires.

5 F Contents of notice. The notice shall contain:

6 F(1) the name, address, and telephone number of the person making the motion,  
7 and the relationship of the person making the motion to the person for whom a guardian ad  
8 litem is sought;

9 F(2) a statement indicating that objections to the appointment of the guardian ad  
10 litem must be filed in the proceeding no later than 14 days from the date of the notice; and

11 F(3) a statement indicating that the person for whom the guardian ad litem is  
12 sought may object in writing to the clerk of the court in which the matter is pending and  
13 stating the desire to object.

14 G Hearing. As soon as practicable after any objection is filed, the court shall hold  
15 a hearing at which the court will determine the merits of the objection and make any order  
16 that is appropriate.

17 H Waiver or modification of notice. For good cause shown, the court may waive  
18 notice entirely or make any other order regarding notice that is just and proper in the  
19 circumstances.

20 I Settlement. Except as permitted by ORS 126.725, in cases where settlement of  
21 the action will result in the receipt of property or money by a party for whom a guardian ad  
22 litem was appointed under section B of this rule, court approval of any settlement must be  
23 sought and obtained by a conservator unless the court, for good cause shown and on any  
24 terms that the court may require, expressly authorizes the guardian ad litem to enter into a  
25 settlement agreement.