

Rule 209. Guardian ad litem.

(a) Appointment.

The Court may, on its own motion or on request of a guardian of a minor's estate, custodian of a minor, conservator, committee or trustee, or other interested person, appoint a guardian ad litem at any stage of a proceeding to represent the interest of any of the following persons, if the Court determines that representation of the interest otherwise would be inadequate:

- (1) A minor.
- (2) An incapacitated person.
- (3) An unborn person.
- (4) An unascertained person.
- (5) A person whose identity or address is unknown.
- (6) A designated class of persons who are not ascertained or are not in being.

(b) Representation of several persons or interests.

If not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several persons or interests.

(c) Expenses.

The reasonable expenses of the guardian ad litem, including compensation determined pursuant to SCR-Probate 224 shall be determined by the Court and paid as the Court orders, either out of the property of the estate involved or by the petitioner or from such other source as the Court orders.

**COMMENT:**

SCR-Civil 17(c) provides that a representative, next friend, or guardian ad litem appointed by the Court, may sue or defend on behalf of an infant or incompetent person. This Rule supplements 17(c) and recognizes the inherent power of the Court, as an incident of its jurisdiction, to appoint guardians ad litem to represent the interests of all those whose representation would otherwise be inadequate, including the interests of unascertained and unborn beneficiaries and unknown persons. See *Hatch v. Riggs National Bank*, 124 U.S. App. D.C. 105, 111-112, 361 F. 2d 559 (1966). Note that SCR-Probate 202(c) provides that a guardian ad litem shall not be required for the appointment of a successor, substitute or additional trustee.