§ 403. Appointment of guardian ad litem

1. By nomination. (a) An infant over the age 14 years or his parent or guardian may petition the court on or before the return day of process for the appointment of a named attorney as his guardian ad litem. There shall be filed with the petition the affidavit of the attorney showing

(i) that he is qualified to protect the rights of the infant and has no interest adverse to him and

(ii) the circumstances which led to his nomination.

(b) There shall also be filed with the petition the affidavit of the parent with whom the infant resides, or if not residing with a parent, by the person having his legal custody or an adult person with whom he resides, showing that the affiant

(i) consents to the appointment of the nominated attorney,

(ii) has no interest adverse to that of the infant and if he has an adverse interest, whether he has influenced the infant in the nomination and

(iii) such additional facts as may be required by the court.

(c) The court may appoint the nominated attorney guardian ad litem unless because of adversity or conflict of interest or for other cause a different appointment is required.

2. By the court. A person under disability who does not appear by his guardian, committee or conservator pursuant to 402 shall except as otherwise expressly provided appear by a guardian ad litem appointed by the court on nomination or on its own initiative whenever such person is a necessary party or for other reason the court deems it necessary to appoint a guardian ad litem to protect the interests of such party.

3. An appearance for a person under disability by a guardian ad litem is not required and the court may dispense with the same whenever

(a) in an uncontested probate proceeding such person will receive a share equal to or greater than the share to which he would be entitled if decedent had died intestate,

(b) in an accounting proceeding such person receives a specific bequest or a specific devise or a general legacy of a stated sum of money and the accounting party shows to the satisfaction of the court

that such person has received his legacy or devise or will receive same in full under the decree to be made in the proceeding,

(c) in any proceeding the public administrator receives process or notice in behalf of the person under disability.

(d) in a probate proceeding the decedent is survived by a spouse who receives the entire estate under the propounded instrument and the petition alleges that probate assets do not exceed $50,000. In such case, letters testamentary should limit the executor to the collection of assets which, in the aggregate, do not exceed $50,000.