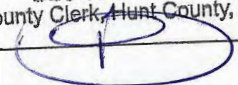




COUNTY COURTS AT LAW
IN AND FOR
HUNT COUNTY, TEXAS

FILED FOR RECORD
at 1:44 o'clock P M

FEB 20 2024

BECKY LANDRUM
County Clerk, Hunt County, Tex.
By 

JUDGE TIMOTHY S. LINDEN
COUNTY COURT AT LAW NO. 1

JUDGE JOEL D. LITTLEFILED
COUNTY COURT AT LAW NO. 2

ADMINISTRATIVE ORDER REGARDING STANDARDS FOR COURT
APPROVAL OF ATTORNEY FEE APPLICATIONS
(Probate - Guardianship and Estates)

These standards are not absolute rules: the Courts will make exceptions in particular circumstances as fairness and justice demand. In formulating and revising these standards, the Courts have given consideration to the Texas Estates Code, the Texas Rules of Disciplinary Procedure and applicable case law.

I. ATTORNEY'S FEES

It is the Courts' duty to ensure that estates of decedents and wards pay only for "reasonable and necessary" attorney's fees and expenses. *See* Texas Estates Code §352.051 (decedent's estates) and § 1155.003 (guardianship estates).

- A. Court-Approved Fees for a Fiduciary's Attorney** - Below is a table setting forth what the Courts believe are appropriate rates for court appointed fiduciaries' attorney's fees. Attorneys should be aware, however, that the Courts may depart from these rates in certain circumstances. For example, a particularly difficult probate or guardianship matter may require special expertise that should be compensated at a rate higher than the attorney's standard rate under the Courts' guidelines. Similarly, the Courts will adjust an attorney's rate in situations in which the estate is so small that the requested fee would consume most of the estate. Moreover, the Courts will reduce an attorney's fee when the time expended by the attorney on a particular matter far exceeds the amount normally expended by attorneys on similar matters or, in those rare instances, when it comes to the Courts' attention that a lawyer is not performing up to the standards of those licensed for an equivalent length of time. Be advised that it is a particular lawyer's experience in probate and guardianship law that determines his or her rate, not the number of years that the lawyer has been licensed. Although the court may reduce fees, time billed or expenses charged in a fee application, such reductions are not a finding that the amounts charged are unreasonable or unnecessary for purposes of contracts for fees and services provided. Such adjustments are a measure of what the courts deem reasonable and necessary for estates to pay in those circumstances.

This fee schedule does not apply to court appointed counsel for indigent parties (see paragraph I.B.1 herein).

Years Practicing Probate and Guardianship Law	Court-Approved Rate
0 - 5 years	up to \$200/hour
5 + Years	up to \$300/hour

In determining how lawyers will be paid within the practice categories above, the Courts will consider the extent of the lawyer's experience in the area of law involved as well as Board Certification in Probate and Estate Planning.

B. Attorney Ad Litem and Guardian Ad Litem Fees - Formulating standards for the compensation of reasonable attorney's fees for an attorney ad litem or guardian ad litem is challenging not only because of the variety of factors set forth in Rule 1.04 of the Texas Rules of Professional Conduct, but also because of certain factors over which the Court has limited control.

- 1. Court Appointed Counsel for Indigent Parties and Unavailable Estates** - The Courts must heed Hunt County budgetary considerations. Because an estate is unavailable or unable to pay fees and parties incurring costs are unable to pay costs, the Court approves fees under a budget approved and overseen by the Commissioners Court. Thus, attorneys who accept Court appointments in guardianships with an indigent party should not expect to be reimbursed at their regular hourly rates because the Court's annual budget limits the amounts it can pay for such services. Ordinarily, the Courts compensate attorneys ad litem and guardians ad litem involved in county-pay cases at an hourly rate of \$150. If an attorney is willing to perform the duties of an attorney ad litem pro bono, he or she should notify each court of that willingness.
- 2. Court Appointed Counsel Involving Solvent Estate or Party(ies) Capable of Paying Costs Incurred** - When an ad litem can be compensated from a solvent estate, the Court's award of reasonable attorney's fees begins with a determination of whether the representation provided by and reasonably required of the ad litem is typical or average. In a typical or average case, the Court generally awards a flat fee of \$550 to an attorney ad litem. In determining whether representation is typical or average the Court considers matters such as the type of case, the complexity or potential complexity of the case in terms of the number of parties and issues involved, and any unusual circumstances. These factors determine the extent to which the fee allowed should be more than, equal to or less than the flat fee. Court appointees are expected to maintain itemized billing at the standard rate and should be prepared to submit the billing should the appointee request compensation above the flat rate described herein for cases that may not be typical or average.

C. **Fees when an Attorney is also the Fiduciary** - In those rare situations in which a Court appoints an attorney as a fiduciary in a guardianship or an administration, the attorney normally must elect either to seek payment calculated on the statutory probate or guardianship commission formula or to obtain reimbursement for attorney's fees. If the guardianship or administration is particularly complex, the Courts may approve dual compensation upon request of the attorney (*preferably at the time of appointment for County Court at Law No. 2*). Dual compensation would include payment at the appropriate hourly rate for legal work done in the case and a separate commission for work done as a personal representative or as a guardian under §352.001 et seq. or §1155.001 et seq. of the Texas Estates Code, respectively. To be entitled to dual compensation, the attorney fiduciary must adhere to the following guidelines:

1. **Full Disclosure** - There must be full disclosure of the attorney-fiduciary's request for dual compensation at the time of appointment or upon motion and hearing if the request for dual compensation is made after appointment. If the request is after the time of appointment, notice of the motion and hearing shall be given to all interested parties who have made an appearance in the case.
2. **Keep Records and Separate Legal and Non-Legal Work** - The attorney-fiduciary must keep meticulous time and expense records, carefully segregating legal and non-legal work. The attorney work should be submitted periodically just as an attorney would if representing a client. The non-legal work should be reflected on the regular bills for legal work, without a dollar extension, and with the notation "PRC" for "Personal Representative Compensation." An example invoice is attached as Appendix A.
3. **Compensation for Legal and Non-Legal Services** - Under Texas law, an attorney - fiduciary must seek only fiduciary compensation for guardian or personal representative services and may seek attorney's fees only for legal services. Applications for attorney's fees should give a detailed account of the legal services he or she rendered to the probate or guardianship estate. Attorney - fiduciaries will not be paid attorney's fees for fiduciary services. Should the attorney believe that the statutory compensation formula as applied to a particular estate or guardianship is unreasonably low (*see Texas Estates Code §352.001 et seq. and §1155.001 et seq.*), then he or she should submit, with the annual or final account, the total personal representative compensation time reported, or contemporaneous time records of the fiduciary services for which additional hourly compensation is requested above the statutory fee. Note that the hourly fee approved by the Courts for attorney-fiduciary services of \$100 is significantly less than the Court approved legal rates for attorneys. If an attorney - fiduciary is submitting an application for higher compensation because the statutory compensation formula is unreasonably low, this must be set for a hearing with the Court.
4. **Quarterly Fiduciary Compensation** - Should the attorney-fiduciary find it a hardship to wait for the compensation as a fiduciary, a fee may be paid on a quarterly basis. The Court must find that a hardship exists for the attorney-fiduciary to be paid quarterly.

- D. **Fees when Guardianship Case Filed in Bad Faith or Without Just Cause** -Texas Estate Code§1155.054(d) provides: "If the court finds that a party in a guardianship proceeding acted in bad faith or without just cause in prosecuting or objecting to an application in the proceeding, the court may require the party to reimburse the ward's estate for all or part of the attorneys' fees awarded under this section and shall issue judgment against the party and in favor of the estate for the amount of attorney's fees required to be reimbursed to the estate."

II. **PARALEGAL/LEGAL ASSISTANT CHARGES** - The Court recognizes that many attorneys rely on paralegals and legal assistants for gathering information and reviewing and preparing documents. The Court will approve reimbursement for reasonable and necessary "specifically delegated substantive legal work" that is done by a paralegal. Because "substantive legal work" does not include clerical or administrative work, this court will not allow recovery of paralegal time for such non-substantive, secretarial services even if such services are performed by paralegals or legal assistants (or attorneys). See, e.g., *Gill Sav. Ass'n v. Int'l Supply Co., Inc.*, 759 S.W.2d 697, 705 (Tex. App. Dallas 1988, writ denied). Secretarial services are included in the attorney's overhead, for which an attorney is reimbursed as part of his or her hourly rate. The Court will reimburse an attorney for paralegal/legal assistant work at a rate of \$50 an hour. The court may adjust the hourly rate upon a showing of experience, qualification, and/ or certifications.

III. **BILLING IN ONGOING GUARDIANSHIP AND ESTATE MATTERS** - Please observe the following guidelines when preparing fee applications.

A. **Form of Fee Applications**

1. **Period of Accounting** - Indicate the period covered by the application in the title or prominently in the body.
2. **Include Total Accumulated Fees** - Each application for fees should contain a statement indicating the total amount of attorney fees and expenses approved since the inception of the guardianship or estate administration.
3. **Include Affidavit** - Attach an affidavit by the applicant attorney swearing to the reasonableness of the fees and the necessity of the services and indicating the number of years he or she has practiced probate and guardianship law.
4. **Signature of Client** - The fiduciary who hired the attorney should sign the application.
5. **Fees Sought Should not be Preprinted on Order** - Attach an Order approving the fees containing a blank for the fees, expenses, and total amount, so the Judge may fill in the approved amounts.

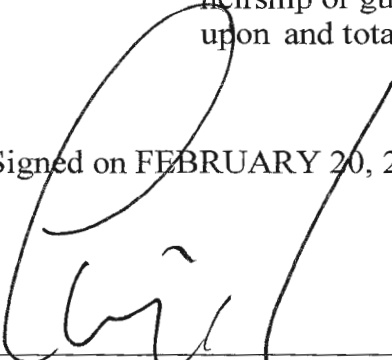
B. Invoice Accompanying Fee Application

1. **Avoid Block Billing** - Itemize all unrelated activities separately, with their respective times and amounts. Do not block bill for unrelated activities. Block billing is a practice whereby time entries contain several unrelated items with a single cumulative time and amount, rather than complete itemization.
2. **Include Descriptions** - Describe the topic or purpose for each telephone or office conference.
3. **Include Legend** - If it is not clear from the invoice for whom time is being billed, please include a Legend to indicate the name of the timekeeper, initials of the timekeeper, whether the timekeeper is an attorney or paralegal, and the years of probate experience of the timekeeper.
4. **Include All Time** - Include all the time you have spent on the file, even that time for which you are not charging, and indicate such fact with the following notations: "NO CHARGE" or "N/C."
5. **Justify Extraordinary Efforts** - If you believe that the time you have spent on an activity may be perceived as excessive, include a statement in brackets at the end of the entry as to why such extraordinary time was justified.
6. **Travel** - The Courts do not reimburse for an attorney's or staff member's travel mileage and/or expenses inside Hunt County and only necessary and reasonable travel mileage and/or expenses outside Hunt County.
7. **Research** - The Courts will only reimburse attorneys for costs associated with necessary and reasonable legal research conducted to address novel legal questions or to respond to legal issues posed by the Court or opposing counsel. The Courts expect attorneys who practice in Probate Court to be familiar with general probate and guardianship matters; therefore, the Courts will not reimburse attorneys for basic legal research in these areas. The Courts consider the contract costs of computerized legal research (such as Westlaw and Lexis) to be part of an attorney's overhead, as are the costs of a hard-copy library. Consequently, the Courts do not reimburse for those costs.
8. **Preparation of Fee Petitions** - The Courts will not reimburse attorneys for the costs of preparing invoices and the standardized fee applications and orders that accompany them.
9. **Conversations with Court Staff** - It is not appropriate to charge an estate for the time the Courts spend providing the personal representative's attorney with assistance. Nor will the Courts authorize charges for the attorneys for time spent in discussions with an auditor aimed at correcting deficiencies in the client's accountings. Of course, if

a member of the Court's staff requests an attorney to provide information not ordinarily contained in properly drafted pleadings, the Courts will allow charges for the attorney's time spent responding to that request. Or, if the fee petition reveals special circumstances requiring the attorney to seek guidance from the Courts, the Courts will award attorney's fees. For example, the Courts will reimburse attorneys for communications with the Courts regarding the need for corrective action when a guardian, administrator, or an attorney dies during an ongoing estate. In addition, the Court will not allow attorney's fees to be paid from probate and guardianship estates for calls to the Clerk's office.

10. **Deliveries** - In situations in which the Court deems hand delivery to be appropriate given the circumstances stated in the fee petition, the Court will approve the actual cost of hand delivery up to \$25, regardless of whether an attorney, paralegal, secretary, or commercial courier service actually delivered the document.
11. **Costs Necessitated by Misfeasance or Malfeasance** - Estates should not be charged for any attorney time or mileage for resolving problems or attending hearings necessitated by the misfeasance or the malfeasance of the client or attorney. For instance, if a personal representative sells property without Court approval and there are attendant costs associated with rectifying the situation, the personal representative should be personally responsible for any added expense. Likewise, show-cause hearings fall within this exception, and the attorney or the client will be responsible for all costs associated with attendance at the hearing, including service and filing fees assessed by the Clerk.
12. **Itemized Invoice Should Accompany Fee Application** - Any time an attorney is making application for his or her fees to the Court, an invoice itemizing the time and expenses is required, even when the estate is solvent and the fee amount is agreed upon by all parties. However, be aware that when an attorney ad litem is appointed by the Court in an heirship or guardianship matter and the attorney ad litem's fee is agreed upon and totals less than \$550, an invoice is not required.

Signed on FEBRUARY 20, 2024.



JUDGE TIMOTHY S. LINDEN
HUNT COUNTY COURT AT LAW NO. 1



JUDGE JOEL D. LITTLEFIELD
HUNT COUNTY COURT AT LAW NO. 2

Appendix A

SAMPLE INVOICE #1
(Legal Related and Fiduciary Time Separated)

Law Office of Jackie Chiles
123 Main Street
Houston, Texas 77002
(713) 867-5309
(713) 867-5308 Fax

June 1, 3011

Invoice submitted to:

Estate of Jacopo Peterman, an Incapacitated Person

Legal Related Activities

Date	Time Keeper	Description	Hours	Rate	Amount
4/9/2011	JAC	Reviewed contract with nursing home.	1.0	250	250
4/14/2011	JAC	Telephone call to the Ward's CPA to ask for another draft of the Ward's income tax return, as the first draft was accidentally shredded.	.15	250	N/C
4/15/2011	JAC	Reviewed and signed Ward's income tax return.	2.25	250	562.5
4/27/2011	JAC	Reviewed listing agreement prepared with realtor.	.5	250	125
4/27/2011	JW	Telephone call to realtor to discuss changes to listing agreement. Followed up with e-mail.	.25	90	22.5
4/27/2011	JAC	Telephone call to the Court to find out whether or not the listing agreement can be signed without first obtaining Court approval.	.25	250	N/C
4/28/2011	JAC	Opened bank account for guardianship estate. [The reason it took so long to open the bank account was because the Ward's caregiver who had a durable power of attorney was at a different bank branch demanding to make a withdrawal from the Ward's existing account. The bank's legal department had to review the durable power of attorney, the Letters of Guardianship, and the Order creating the guardianship in order to establish who rightfully had authority over the Ward's account.]	2.5	250	625
4/28/2011	JAC	Obtained copies of and reviewed Ward's joint tenant with rights of survivorship agreement relating to his savings account.	.75	250	187.5
4/28/2011	JW	Researched real property records to obtain legal description of the Ward's real property in effort to begin Inventory.	1.25	90	112.5
		For professional services rendered	6.75		\$1885

Non-Legal Fiduciary Activities (Personal Representative Compensation "PRC")

Date	Timekeeper	Description	Hours
4/1/2011	JAC	Visited Ward in hospital.	.75
4/1/2011	JAC	Telephone call to the Ward's daughter to let her know Ward was asking for the family photo albums.	.25
4/1/2011	JAC	Telephone call to Dr. Mactavish to schedule podiatry appointment.	
4/1/2011	JAC	Called hospital to let them know that Dr. Mactavish would be coming by on Tuesday to visit with and care for Ward.	.10
4/5/2011	JAC	Worked with Ward's daughter to pack and store all of the Ward's household goods and prepare the Ward's home for sale.	6.0
4/8/2011	JAC	Visited two nursing homes and interviewed some of the staff members at each facility to determine which home would be the best fit for the Ward.	2.0
4/9/2011	JAC	Reviewed Ward's mail.	.5
4/20/2011	JAC	Deposited Ward's royalty check and IRS refund check.	.25
4/20/2011	JAC	Changed the Ward's address with the post office.	.5
4/20/2011	JAC	Visited Social Security office to change the payee.	1.0
4/20/2011	JAC	Met locksmith at the Ward's home so that the locks could be changed.	1.5
4/25/2011	JAC	Called Ward's creditors (Visa, Mastercard, Macy's, Exxon) to verify debts.	.5
4/25/2011	JAC	Met with nursing home administrators regarding paperwork necessary to enable the Ward to be admitted once the Ward is discharged from hospital.	1.0
4/26/2011	JAC	Paid invoices from AT&T, Centerpoint, and Reliant.	.25
4/26/2011	JAC	Reconciled bank statement.	.5
4/27/2011	JAC	Met with realtor to discuss sale of home and walk through home.	2.0
Total hours in non-legal service as fiduciary			17.2

The Legend set out below is not required by, but is very helpful to, the Courts:

Legend			
Initials	Name	Position	Experience in Probate
JAC	Jackie Chiles	Attorney	9 years
JW	John Watson	Paralegal	12 years
