

Rule 308. Compensation of guardians, conservators, attorneys, guardians ad litem, examiners and visitors.

(a) Compensation by order of the Court. Any visitor, attorney, examiner, conservator, special conservator, guardian ad litem, or guardian is entitled to reasonable compensation for services rendered in an intervention proceeding. Compensation paid from the assets of the subject of the proceeding, protected individual or ward, or from the Guardianship Fund (*D.C. Code § 21-2060(b)*), must be approved by Order of the Court before being paid.

(b) Petition for compensation.

(1) A guardian, conservator, guardian ad litem or attorney shall file a verified petition for compensation which shall set forth the following in reasonable detail:

(A) the character and summary of the service rendered;

(B) the amount of time spent;

(C) the basis of any hourly rate(s) of compensation;

(D) the size of the estate administered;

(E) the benefits that accrued to the estate or the subject of the proceeding as a result of the services;

(F) the nature, extent and cost of services performed by others that are fiduciary obligations, such as accounting and tax preparation services;

(G) the amount and source of compensation previously allowed to all persons;

(H) a certificate of service, attesting that the petition and the Notice required by subsection (f) of this Rule were served at least twenty (20) calendar days prior to the filing of the petition; and

(I) whether the petitioner has been or has an agreement to be compensated from a source other than the estate or the Guardianship Fund. A conservator may include in a petition for compensation filed after the death of the ward an estimate of the number of hours that will be required to complete the administration of the ward's estate.

(2) Requests for payment from the Guardianship Fund. In addition to the requirements set forth in subsection (b)(1) above, when payment is sought from the Guardianship Fund, a guardian, conservator, guardian ad litem or attorney shall set forth the following information in the petition:

(A) the nature and extent of the subject's assets, including contingent assets and noting which assets are liquid;

(B) the nature and extent of the subject's income;

(C) the character and extent of the subject's debts;

(D) whether the subject owns a residence, and if so, whether the subject or the subject's dependent(s) reside therein, but if not, whether the subject or the subject's dependent(s) expect to return to the residence;

(E) whether the subject has a burial fund or has prepaid funeral or burial expenses, and if so, the value of such fund or amount of prepayment; and

(F) a description of the subject's expenditures. Where any information called for herein is not supplied, the petitioner shall state what efforts have been made to obtain the same.

(3) An examiner or visitor shall file a verified petition for compensation which shall set for the following in reasonable detail:

- (A) the character and summary of the services rendered;
- (B) the amount of time spent;
- (C) the basis of any hourly rate(s) of compensation.

(4) A Petition which does not conform to the requirements of this subparagraph 2 or 3 shall be deemed incomplete (as defined in the D.C. Court Standards for Submission of Petitions for Compensation Under the Guardianship Fund) and, within seven calendar days from the submission of the petition, shall be returned to the petitioner without being filed.

(c) Petitions: when filed.

(1) Guardian's Petition for Compensation. A guardian's petition for compensation shall be filed no later than 30 days from the anniversary date of the guardian's appointment, except that a guardian's final petition for compensation shall be filed no later than 60 days after termination of the guardianship.

(2) Conservator's Petition for Compensation. A conservator's petition for compensation shall be filed either with the annual accounting or at any time prior to the approval of the annual accounting, except that a conservator's final petition for compensation shall be filed no later than 30 days after the filing of the final account.

(3) Interim Petition for Compensation. An interim petition for compensation for establishing a guardianship, conservatorship or entry of a protective order shall be filed promptly upon conclusion of the hearing establishing the guardianship, conservatorship, or protective arrangement but not later than 90 days after conclusion of the hearing.

(4) Service and Filing of the Petition. A petition for compensation may not be filed unless it has been served at least twenty (20) calendar days prior to the filing of the petition. The certificate of service shall include a provision showing compliance with this requirement.

(d) Service of petition. The petition for compensation, accompanied by the Notice of Petition for Compensation set forth in subsection (f) of this Rule, shall be served on:

- (1) the subject, ward or protected individual;
- (2) the parties to the proceedings and persons granted permission to participate in the proceeding, as provided in Probate Rule 303;
- (3) any person who has filed an effective request for notice; and
- (4) any other person as directed by the Court or the Register of Wills.

(e) Exceptions or Objections. Within twenty calendar days from the mailing of the Petition and Notice of Petition for Compensation, those individuals entitled to service of the petition and notice may file exceptions or objections to the petition. The Court may rule on exceptions or objections with or without a hearing.

(f) Form of Notice of Petition for Compensation. The Notice shall be in the following form:
NOTICE OF PETITION FOR COMPENSATION You are hereby notified that you may file written exceptions or objections to the Petition for Compensation with the Register of Wills and serve a copy thereof on the petitioner, all parties, and on anyone who has filed an effective request for notice within 20 calendar days of the mailing to you of this Notice of Petition for Compensation. Reasons for your exceptions or objections should be stated.

(g) Consents. Persons required to be served notice of a petition may file consents to the petition for compensation. If all persons required to be served with notice file consents, the

notice and the 20-day period referred to in the notice required above shall be waived and the petition for compensation shall be immediately reviewed for approval. Consents to the petition shall be in the following form and, once filed, constitute a waiver of the right to object thereto: In re: _____) _____) _____)
..... No. CONSENT TO COMPENSATION AND/OR FEES I,, have received a copy of the petition for compensation in the amount of \$..... for and \$..... for I waive the right to file objections to the above stated amounts and I consent to the approval by the Court of payment of such amounts. Signature Date:

(h) Reconsideration. The person filing a petition for compensation or any person who timely filed an objection or exception to such petition may seek reconsideration of any order disposing of that petition for compensation. A motion for reconsideration shall be filed not later than ten days from the date of the order disposing of the petition for compensation and may seek reconsideration only on the grounds set forth in SCR-PD 430(a). A motion for reconsideration shall be served on those persons who were served with the petition for compensation. A response to a motion for reconsideration must be filed within ten days of service of the motion. The Court may rule on a motion for reconsideration with or without a hearing.

(i) Payment from the Guardianship Fund.

(1) The Court shall enter an order disposing of any request for payment from the Guardianship fund, including a petition to which exceptions or objections are filed or a motion for reconsideration of an order for payment from the Guardianship Fund, within 30 days of the filing of such request.

(2) The acceptance of a payment from the Guardianship Fund made under any order for payment entered pursuant to this Rule shall not prejudice the petitioner's right to reconsideration or appeal of such order and shall not be deemed to have res judicata or estoppel effect on such reconsideration or appeal.

COMMENT:

This rule is intended to implement the public policy of protecting incapacitated adults, and therefore no compensation may be paid from the assets of the subject without first being approved by the Court. Counsel retained pursuant to Rule 305(b) is subject to this requirement. For purposes of the Prompt Payment Act, a motion for reconsideration filed pursuant to Paragraph (h) of this Rule shall be deemed a new "request" for payment.