

SIXTH CIRCUIT PROCESSING OF GUARDIAN FEE PETITIONS

In an effort to streamline the review of petitions for professional guardian fees, below are guidelines that will expedite the review of fee petitions:

CERTIFICATE OF SERVICE

See Statute 744.108(6) and See Also Probate Rules 5.040 and 5.041

The following persons, if applicable should be included on the certificate of service (COS)

- Co-Guardian if pro se or Co-Guardian attorney
 - Court Appointed Attorney, (only if the initial fee petition including ETG)
 - Ward, if limited guardianship (cannot be sent via the guardian)
 - Ward, if voluntary Guardianship (cannot be sent via the guardian)
 - Minor Ward over the age of 14 (cannot be sent via the guardian)
 - Any person previously sent a COS or previously provided notice/pleadings (if omitted, provide written explanation) or consents to a prior petition
 - All next of kin as defined by Florida Statute, sec. 744.102(14) and/or designated by court order
 - If ward is deceased, notice to Personal Representative (unless PR is also the Guardian; if no estate or no PR appointed, send to next of kin)
 - Interested Persons who have filed requests for notice and copies with the court.
 - If it is not in the ward's best interest to send a COS to any of the above, please provide a written explanation in the pleading or COS.
- 1) All Petitions should include a certificate of service and/or consent/waiver, for the following:
- a. Co-Guardian, if self-represented, or Co-Guardian attorney.
 - b. Court Appointed Attorney (only if the initial fee petition, including emergency temporary guardianship).
 - c. Ward, if limited guardianship (cannot be sent via the guardian)
 - d. Minor Ward over the age of 14 (cannot be sent via the guardian).
 - e. Ward, if voluntary Guardianship (cannot be sent via the guardian).
 - f. Any person listed on a previously filed certificate of service (unless explanation provided why omitted).
 - g. If ward is deceased, notice to Personal Representative (if estate is open, personal representative may also be Guardian *or* Next of kin if no personal representative appointed. (Must include next of kin listed in Petition, unless explanation provided for omission); *see* Florida Statute, sec. 744.102(14) for definition.
 - h. Interested Persons: *see* Florida Statute, sec. 731.201(23) and Fla. Prob. R. 5.060 for definitions.
- 2) A Petition, Proposed Order and detailed List of Services (or activity log) *must* be filed. If the time periods, billable hours and total amounts do NOT match, the petition may be denied without prejudice.
- 3) If there is an outstanding order to file, order disapproving, order checklist, order to produce or order to show cause or any other substantive discrepancy, the fee petition may not be reviewed and the petition may be denied until all discrepancies are corrected.

- 4) If the Petition requests payments for services which exceed the below monthly amounts, include a written explanation of the extraordinary circumstances justifying the additional time:
 - a. Bill paying activity which exceeds 2 hours per month.
 - b. Non-substantive Clerical duties (faxing, scanning, accessing the docket, filing, completing data sheets, non-substantive letters, photocopies) which exceeds 2 hours per month.
 - c. The guardian should not bill more than .5 hour within a 6 month period for reviewing billing for sending to attorney to prepare the petition, and for payment upon receipt of the order approving fees.
 - d. More than 4 hours annually to complete an initial or annual report

Per Florida Statute, sec. 744.108(9) and Fla. Admin. Code R58M-2.001 (22)

- 5) All fees related to the duties of the guardianship, which include work performed by the guardian, guardian's staff or volunteers, must be reviewed and approved by the court. The Guardian is required to report all work performed by the Guardian, Guardian's staff or volunteers in the Guardian Fee Petition and the fee petition must clearly and accurately state the date and time of the work performed, time spent on the task and expenses incurred.
- 6) The Guardian is required to report all work performed by service providers, independent contractors or third party providers in the annual accountings and shall provide clear and accurate invoices and receipts for all work performed, including date and time spent on the task, duty performed and expenses.
- 7) The Guardian is required to disclose to court all staff or agents hired or assigned to perform tasks or duties on an active guardianship. It is the Guardian's responsibility to clearly and accurately describe whether the person performing the work is the guardian's staff, volunteer, third party provider or independent contractor.

Please Note: If a guardian fee or attorney fee petition fails to comply with Florida Statutes, deficiencies may result in an order reducing fees, additional hearings and/or costs to the guardian, which may not be charged to the guardianship assets.