Administrative Order 2020-1

IN RE: STANDARD FOR COURT APPROVAL OF ATTORNEY FEE PETITIONS IN PROBATE AND GUARDIANSHIP CASES FILED IN THE BRAZOS COUNTY COURTS AT LAW	§ § § §	IN COUNTY COURTS AT LAW NUMBER ONE AND TWO OF BRAZOS COUNTY, TEXAS

ADMINISTRATIVE ORDER

The Courts, on their own motion, enter this administrative standing order regarding payment of attorney fees in probate and guardianship. This order shall apply to every petition for attorney fees in probate and guardianship cases filed on or after August 2, 2020.

It is therefore ordered that the Standards for Court Approval of Attorney Fee Petitions in Probate and Guardianship Cases, attached hereto, shall be applied to attorney fee requests beginning August 3, 2020.

ORDERED this 30th day of July, 2020.

Amanda Matzke, Judge
County Court at Law #1

Jim Locke, Judge
County Court at Law #2

KAREN McGEHEE, COUNTY CLERK
BRAZOS COUNTY, TEXAS
BY: Terry Ramsey

2020 JUL 30 P 1:12

FILED

Standards for Court Approval of Attorney Fee Petitions In Probate and Guardianship Cases

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 Estates Code Sec. 352.051 (decedent's estates) and Sec. 1155.054 (guardianship estates).

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 and paralegal fees in probate proceedings and in guardianship proceedings with solvent financial estates. This fee schedule does not apply to court appointed counsel for indigent parties, which is addressed in Section IV below.

Years of Attorney Practicing Probate And Guardianship Law	**Court Approved Rate**
0-2 years	Up to $165/hour
3-5 years	$165 - $195/hour
6-10 years	$195 - $250/hour
11 + years	$250 - $350/hour
Years of Paralegal Practicing Probate and Guardianship Law	Court Approved Rate
0-2 years	Up to $80/hour
3-5 years	$80 - $90/hour
6-10 years	$90 - $100/hour
11+ years	$100 - $110/hour

In determining how lawyers will be paid within the practice categories above, the Court 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. In the 11+ category, the Court will pay the highest rate to those few lawyers whose experience and mastery of probate, estate planning, and guardianship law qualify them as experts in these areas. The court will also consider the assets of the estate when determining the hourly rate of court-approved compensation.

II. 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 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 previously 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/Responsible Party. Consistent with Administrative Order 2019-1 and Local Rule 4.3, the fee application must be approved in writing by the guardian of the estate or trustee, the guardian of the person (if someone other than the guardian of the estate or trustee), the parent or responsible party for a ward or trust beneficiary (if there is no guardian of the person and if there is a third party guardian of the estate or trustee) unless otherwise authorized by the Court.

B. Invoice Accompanying Fee Applications

1. Include Descriptions. Describe the topic or purpose for each telephone or office conference or other activity.
2. 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.
3. Include all Time. Include all 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."
4. 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.
5. Travel. The Court does not reimburse for an attorney's or staff member's travel mileage or expenses inside Brazos County. Travel outside the county must be approved by the Court prior to travel/departure.
6. Research. The Court 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.

7. Preparation of Fee Petitions. The Court will not approve payment from an estate for the costs of preparing invoices, the standardized fee applications and orders that accompany them.
8. Conversations with Court Staff. It is not appropriate to charge an estate for the time the Court spends providing the fiduciary's attorney with assistance. Nor will the Court approve fees for time spent in discussions with the Court aimed at correcting pleadings or deficiencies in the client's accountings. Of course, if a member of the Court's staff requests an attorney provide information not ordinarily contained in properly drafted pleadings, the Court may approve the reasonable time spent responding to that request. Or if the fee petition reveals special circumstances requiring the attorney to seek guidance from the Court, the Court may award reasonable attorney's fees. For example the Court will reimburse attorneys for communication with the Court regarding the need for corrective action when a guardian, administrator, or an attorney dies during an ongoing estate. In addition, the Court will not approve fees from probate and guardianship estates for calls to the Clerk's office.
9. Copies and Faxes. The Court will reimburse attorneys up to $.15 per page for copies. Copies made by the Clerk's office will be reimbursed at the rate charge by the Clerk. The Court will not pay for facsimile transmissions. It will however, pay the long-distance charges associated with long-distance faxes in the same manner it reimburses long-distance phone calls.
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. The Estates should not be charged with 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 fiduciary sells property without Court approval and there are attendant costs associated with rectifying the situation, the fiduciary should be personally responsible for any added expenses. 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 Applications. 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, 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 $1000, an invoice is not required.
13. The ad litem and applicant's attorney should attempt to reach an agreement regarding a reasonable compensation prior to submission of the fees for Court approval.
14. A separate fee application and order must be submitted by all counsel if fees are requested to be paid from an estate managed by a fiduciary other than an independent administration. The fee request and order should not be embedded in an order or any other pleading.

III. Court Action of Fee Applications

A. When Hearing on Fee Application is Required
Absent agreement as indicated above, counsel must include a certificate of service to all parties on a filed fee application. Under these circumstances, the Court holds all attorney fee applications for 10 days to give other parties an opportunity to file objections to those applications. If no objections are filed, the Court will consider the applications on submission and without a hearing, unless the amount of fees requested is significant or the Court has questions about the propriety or reasonableness of the fees. In such cases, the Court will request that the application be set for hearing. A hearing may be required if an attorney-fiduciary is seeking dual compensation after appointment or more than the statutory formula for compensation as a fiduciary.

B. Hearing Required if Fee Request Filed as Claim
Fee requests should be filed as applications for payment of fees or for reimbursement of fees (if paid already by the representative) and not as claims against the estate. If the representative chooses to disregard the Court's policy and files the fee application as a claim, the Court will in every case require a hearing under Estates Code Sec. 355.056 and Sec. 1157.056.

IV. Indigent Fees

A. The Standards in Section II above generally apply to indigent fee applications on which payment for indigent guardianship services is sought to be paid by the county, except the requirement for approvals under Paragraph II(A)(4) do not have to be met.
B. Consistent with Local Rule 4.3, if the case is a county pay indigent guardianship case, attorney fees will be paid at $125/hour and legal assistant fees will be paid at $60/hour absent court approval otherwise for extraordinary services rendered.
C. Counsel seeking payment of indigent fee applications in indigent guardianship cases must also file the county voucher form with the fee application (voucher is available on the Brazos County Courts at Law websites).