

MACOMB COUNTY PROBATE COURT INSTRUCTIONS FOR GUARDIAN AD LITEM REPORTS

Review the applicable statutes and court rules. Establish the whereabouts of the ward. If it is determined that the ward is residing outside of Macomb County, please contact the court prior to taking action.

Complete and file an original signed report for each guardianship and conservatorship using the attached forms at least **SEVEN (7) DAYS PRIOR TO THE HEARING DATE. FAXED FILINGS ARE NOT ACCEPTED.** If you are unable to timely complete the visit and report, please notify the court immediately. If the ward is requesting an attorney, please contact the appointing division at the Court.

If the ward is deceased or the petitioner indicates the petition is dismissed, note this on your order of appointment and return the order to the court. No billing is permitted in these situations.

GAL must visit the proposed ward; explain the nature, purpose and legal effects of the appointment of a guardian/conservator as well as his or her rights at the hearing; inform the proposed ward of the name of the person(s) seeking appointment and submit a written report to the court.

IT IS NECESSARY FOR YOU TO FILE YOUR REPORT EVEN IF THE MATTER IS CONTESTED.

In all cases, you must complete the financial review. Use the enclosed fee schedule to determine whether the proposed ward has assets sufficient to pay the fee. If the fee is to be paid by the proposed ward, attach a copy of your billing to the report. If the county is responsible to pay the fee, complete the enclosed invoice and return it with your report. Your report will not be accepted without the billing.

The Michigan Court of Appeals in the case of Heinz v Auto Club Insurance Association, 214 Mich App 195 (1995) has determined that the fees and expenses associated with a guardianship are expenses to be paid by the no-fault carrier. Therefore, you should determine at the time of the interview if the incapacity was a result of an automobile accident, and if so, who the insurance carrier is, the claim number and the name and telephone number of the claims representative. With that information you should be able to send your billing directly to the insurance carrier for payment. As always, please send a copy of your billing to the court.

MACOMB COUNTY PROBATE COURT FEE SCHEDULE FOR GAL APPOINTMENTS

Effective December 1, 2014, Guardian ad Litem fees for timely and properly filed GAL reports shall be paid according to the following schedule:

For estates having liquid assets less than \$5,000, the fee is \$150 payable by Macomb County.

For estates having liquid assets more than \$5,000, the fee is payable by the estate as follows:

- a. More than \$5,000 but less than \$10,000 the fee is \$200.
- b. More than \$10,000 but less than \$100,000, the fee is \$450.
- c. More than \$100,000 but less than \$300,000, the fee is \$650.
- d. More than \$300,000 the fee is either \$650 or actual reasonable time and charges of the GAL (at the option of the GAL). If actual time and charges are submitted, the fees shall be in line with the 2014 Michigan State Bar Survey of the Economics Practice of Law.

GAL's shall submit their billings to the court for approval in all cases. If a GAL believes that a departure from the above fee schedule is appropriate, he or she may file a motion showing good cause for such departure. Similarly, the court may order an upward or downward departure based on the circumstances of any given case.

The term "liquid assets" is defined as cash, stocks, bonds, CD's or money market checking or savings accounts.

STATE OF MICHIGAN PROBATE COURT COUNTY OF	ACCEPTANCE OF APPOINTMENT AND REPORT OF GUARDIAN AD LITEM OF ALLEGED INCAPACITATED INDIVIDUAL	FILE NO.
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In the matter of _____, alleged incapacitated individual
First, middle, and last name

- 1. I have been appointed by the court as guardian ad litem, and I accept this appointment.
- 2. I have performed the duties required by statute (see reverse side for list of duties).
- 3. I visited the alleged incapacitated individual on _____ at _____
Date Location

and, to the extent that the individual could comprehend, explained the nature, purpose, and legal effects of a guardian's appointment and otherwise complied with each provision of MCL 700.5305(1).

- 4. I report to the court as follows:
 - a. the alleged incapacitated individual wishes to:
 - have limits placed on the guardian's powers.
 - contest the petition.
 - object to the appointment of the nominated guardian.
 - have an attorney appointed.
 - b. There is a disagreement or dispute related to the guardianship, namely _____

I believe it might will not be resolved through court-ordered mediation.

- c. There is one or more appropriate alternative to a full guardianship, namely:
 - 1) appointment of a limited guardian with the following powers: _____
 - 2) appointment of a conservator or a written protective order.
 - 3) the alleged legally incapacitated individual executing one of the following:
 - a patient advocate designation
 - a durable power of attorney
 - a do-not-resuscitate declaration
- d. The alleged incapacitated individual wishes to be present at the hearing.
- e. I believe it is in the best interests of the individual to have legal counsel because _____

The individual will retain legal counsel. I recommend the court appoint legal counsel.

- 5. None of the items in item 4a above is demanded. My report to the court and recommendations are attached.

Date

Signature

Address

Name (type or print)

City, state, zip

Telephone no.

SEE SECOND PAGE FOR DUTIES OF GUARDIAN AD LITEM

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

DUTIES OF GUARDIAN AD LITEM

Your duties as guardian ad litem include all the following:

1. Visit the individual alleged to be incapacitated.
2. Explain to the individual the nature, purpose, and legal effects of the appointment of a guardian.
3. Give the individual form PC 626 that outlines the rights in MCL 700.5306a(1).
4. Explain to the individual the hearing procedure and the individual's rights in the hearing procedure, including but not limited to:
 - a. the right to contest the petition.
 - b. the right to request limits on the guardian's powers.
 - c. the right to object to a particular person being appointed guardian.
 - d. the right to be present at the hearing.
 - e. the right to be represented by legal counsel and that legal counsel will be appointed for the person if s/he is unable to afford legal counsel.
5. Inform the individual of the name of any person known to be seeking appointment as guardian.
6. Ask the individual and the petitioner about the amount of cash and property readily convertible into cash that is in the individual's estate.
7. Make determinations and inform the court of those determinations, on all the following:
 - a. whether the individual alleged to be incapacitated wishes to be present at the hearing.
 - b. whether the individual alleged to be incapacitated wishes to contest the petition.
 - c. whether the individual alleged to be incapacitated wishes limits be placed on the guardian's powers.
 - d. whether the individual alleged to be incapacitated objects to a particular person being appointed guardian.
 - e. whether there is one or more appropriate alternatives to the appointment of a full guardian or whether other action should be taken in addition to the appointment of a guardian after considering:
 - i. appointment of a limited guardian, including the specific powers and limitation on those powers the guardian ad litem believes appropriate.
 - ii. appointment of a conservator or another protective order under 700.5401 *et seq.*
 - iii. execution of a patient advocate designation, do-not-resuscitate declaration, or durable power of attorney with or without limitations on purpose, authority, or duration.
 - iv. available support from family members. Family members may often take responsibility for the care of an individual. Also, if the individual should be diagnosed as having a reduced life expectancy because of an advanced illness, state law allows a member of the individual's immediate family or next of kin to make informed decisions regarding the individual receiving, continuing, discontinuing and refusing medical treatment and may choose palliative treatment and adequate and appropriate pain and symptom management.

In the report informing the court of the determinations, include an estimate of the amount of cash and property readily convertible that is in the individual's estate.

- f. whether a disagreement or dispute related to the guardianship petition might be resolved through court-ordered mediation.

MCPC
File # _____

**MACOMB COUNTY PROBATE COURT
FINANCIAL REVIEW**

Name: _____

**** DO NOT INCLUDE ACCOUNT NUMBERS FOR ANY INCOME/ASSETS REPORTED ****

INCOME:

SOURCE	AMOUNT
1.	
2.	
3.	
4.	

ASSETS:

BANK ACCOUNTS	INSTITUTION	TYPE OF ACCOUNT	BALANCE
1.			
2.			
3.			
4.			

REAL PROPERTY ADDRESS	SEV
1.	
2.	
3.	

STOCKS (individual/brokerage acct.)	MARKET VALUE
1.	
2.	
3.	
4.	

LIFE INSURANCE POLICIES

COMPANY	TYPE OF POLICY	CASH SURRENDER VALUE (Y/N)
1.		
2.		

IRA's, 401K's, ETC.:

CUSTODIAN	VALUE
1.	
2.	
3.	
4.	

Date: _____

INTERVIEWER: _____

PROBATE FILE # _____

**MACOMB COUNTY PROBATE COURT
INVOICE**

IN THE MATTER OF: _____

MACOMB PROBATE COURT FILE NUMBER: _____

Attorney Name

Phone #

Address

Vendor #

City, State, Zip

Date of Service

TYPE OF SERVICE RENDERED

- GUARDIAN AD LITEM (FEE PER SCHEDULE \$150.00)
- ATTORNEY (FEE PER SCHEDULE \$175.00)
- GUARDIANSHIP REVIEW (FEE PER COURT POLICY \$100.00)

**THIS INVOICE IS TO BE SUBMITTED ONLY WHEN THE FEE IS
PAYABLE BY THE PROBATE COURT.**

**IF THE FEE IS TO BE PAID BY THE ESTATE, A COPY OF YOUR BILLING
MUST BE SUBMITTED TO THE COURT.**