

**RULES GOVERNING THE COURTS OF OHIO  
UNION COUNTY: RULES OF THE COURT OF COMMON PLEAS  
Juvenile Division**

Rule 31.0	Guardians ad litem. ....	1
Rule 32.0	Written Guardian ad litem and CASA reports.....	2
Rule 33.0	Scope and duration of appointment.....	4
Rule 33.1	Court list of approved attorney guardians ad litem. ....	4
Rule 33.2	Attorney billing procedures and compensation: abuse, neglect or dependency, termination of parental rights, and delinquency/unruly matters. ....	6
Rule 33.3	Attorney billing procedures and compensation: allocations of parental rights and responsibilities. ....	7

**Rule 31.0 Guardians ad litem.**

- (A) **Minimum duties.** All guardians ad litem shall comply with the relevant Ohio Rules of Superintendence, sections of the Ohio Revised Code regarding guardians ad litem, and these Local Rules. Guardians ad litem shall perform all minimum, mandatory duties as set forth in Sup. R. 48.03(D).
- (B) **Orders of Appointment.** Orders of appointment shall state whether the non-attorney or attorney is appointed as only the guardian ad litem, or if the attorney is appointed as both the guardian ad litem and the attorney of the child.
- (C) **Conflict.** Upon determination that the best interest recommendations of the guardian ad litem differ from the wishes of the child, the guardian ad litem shall immediately file a written notice of said conflict to inform the court and serve the notice upon all parties and counsel of record.
- (D) **Non-Attorney CASA/Guardians ad litem.**
  - (1) A non-attorney appointed to serve as guardian ad litem shall act in the best interest of the child.
  - (2) Only non-attorneys who are also appointed to serve as a child’s volunteer Court-Appointed Special Advocate (through the CASA Program of Delaware & Union Counties) shall be appointed to serve as guardian ad litem for that child. The CASA/guardian ad litem shall comply with the requirements of the Rules of Superintendence for guardians ad litem and conduct themselves in accordance with the directives and requirements of the CASA Program of Delaware & Union Counties. There shall be no compensation for CASA/guardians ad litem.
  - (3) Non-attorney guardians ad litem shall avoid engaging in conduct that constitutes the unauthorized practice of law.
- (E) **Attorney Guardians ad litem.**

- (1) An attorney appointed to serve as guardian ad litem, but not as attorney for the child, shall act in the best interest of the child.
- (2) An attorney appointed to serve as both the guardian ad litem and as attorney for the child shall act as legal counsel for the child and advocate for the wishes of the child.
- (3) In matters involving the allocation of parental rights and responsibilities, only attorneys shall be appointed, and shall serve only as guardian ad litem, not as both attorney and guardian ad litem for the child.

**(F) Records and Interview Access.**

- (1) Orders of appointment shall be displayed by the guardian ad litem, in addition to personal identification (if requested) to permit access to:
  - (a) Review, obtain and copy all relevant criminal, civil, educational, mental health, medical and administrative records pertaining to the child and, if appropriate, the family of the child or other parties in the case (as excepted by section (E)(2), below); and
  - (b) Interview relevant school personnel, medical and mental health providers, child protective services workers, and relevant court personnel and obtain copies of relevant records.
- (2) The records of a child protective services agency are protected in accordance with R.C. 5153.17. The guardian ad litem may file a subpoena for such records. The court will not permit access to such records until hearing upon the agency's motion to quash the subpoena and this court's in camera review to determine if the documents contain relevant evidence.
- (3) If access to records or to interview is not granted by any person or agency presented with the order of appointment, the guardian ad litem may file a motion requesting this court to order the alleged contemnor to show cause why the person or agency should not be held in contempt of this court. The motion shall be personally served upon the alleged contemnor and noticed to all parties and counsel of record.

- (G) Request for Evaluations.** For good cause, a guardian ad litem may request that the court order the parties to submit to physical, psychological, psychiatric or parenting evaluations. Notice of the request shall be timely filed with the court and served upon all parties and counsel of record. The court will provide all parties a reasonable opportunity to respond and may order the issue set for hearing. Written responses shall be filed not more than 14 days after notice is served. If the court orders an evaluation, the court will apportion the charges for such evaluation between the parties and may tax the charges as costs.

## **Rule 32.0 Written Guardian ad litem and CASA reports.**

**(A) Mandatory language regarding disclosure.**

- (1) In accordance with Sup.R. 48.02(A)(4), each written report generated by a CASA/guardian ad litem or attorney guardian ad litem shall include the following language, on the first page of the document, after the caption and before the body of the report: "The guardian ad litem report shall be provided to the court,

unrepresented parties, and legal counsel. Any other disclosure of the report must be approved in advance by the court. Unauthorized disclosure of the report may be subject to court action, including the penalties for contempt, which include fine and/or incarceration.”

- (2) If a Court-Appointed Special Advocate is serving as only the CASA and not as the guardian ad litem, the CASA’s written reports shall include the following language, on the first page of the document, after the caption and before the body of the report: “This report shall be provided to the court, unrepresented parties, and legal counsel. Any other disclosure of this report must be approved in advance by the court. Unauthorized disclosure of this report may be subject to court action, including the penalties for contempt, which include fine and/or incarceration.”
- (B) **Disclosure, filing and service of written reports.** Written reports shall be timely filed with the court, and all counsel of record and unrepresented parties shall each be served by the guardian ad litem or CASA with one copy of the report. Any further disclosure of a written report must be approved in advance by the court.
- (1) **Disclosure defined.** For the purposes of these rules, disclosure of a report shall be defined as “the discussion, reproduction or distribution of a written guardian ad litem or CASA report, in total or of any portion, by any means, to any persons or entities not parties to the matter, without the express prior authorization of the court.”
  - (2) **Represented parties declared authorized recipients.** By this rule, the court expressly authorizes counsel to disclose the report directly to their own client who is a party to the matter, however the client shall be subject to sanction, including contempt of court, if any unauthorized disclosure is thereafter made. Counsel who provide the report shall advise their clients accordingly against unauthorized disclosure.
- (C) **General requirements.** Guardians ad litem and CASAs shall conform their reports to the requirements established by Sup.R. 48.06, and as relevant to the proceeding.
- (D) **Interim Reports.** Interim reports may be presented orally during pre-trial proceedings. Upon order of the court, an interim written report shall be filed and served not less than seven (7) days before a hearing. Interim oral and written reports may address the substantive allegations before the court but will not be considered conclusive on the issues without the express agreement of the parties.
- (E) **Filing date for final written reports.** Final written reports shall be filed and served not less than seven (7) days before dispositional hearing or final hearing upon the complaint or motion.
- (F) **Filing date for post-dispositional reports.** Prior to each annual review hearing, the guardian ad litem and/or CASA shall file and serve an updated written report not less than seven (7) days before the review hearing. Unless otherwise ordered by the court, for other interim review hearings the guardian ad litem and/or CASA may file and serve a written report or may orally present an updated report on the record of the hearing.
- (G) **Leave to file written report out of rule.** If a written report will not be timely filed, the guardian ad litem and/or CASA shall file a motion and set forth good cause why the court

should grant leave to file the written report out of rule. The motion also shall indicate that the guardian ad litem and/or CASA has contacted counsel for the parties and any unrepresented parties and report whether the parties intend to waive timely filing and service, accept the report and proceed with the hearing as scheduled.

- (H) **Appearance required at dispositional and final hearings.** Guardians ad litem and CASA shall be available to testify at dispositional hearings. Guardians ad litem shall be available to testify at final hearings regarding the allocation parental rights and responsibilities. The guardian ad litem and/or CASA may orally supplement the final written report at the conclusion of the evidence, upon call of the court.
- (I) **Evidence.** The court shall consider the recommendation of the guardian ad litem and/or CASA in determining the best interest of the child or children only when a written report or a portion of a written report has been admitted as an exhibit.

### **Rule 33.0 Scope and duration of appointment.**

- (A) **Scope.** The guardian ad litem may be appointed and ordered to investigate the matter in total or one or more specific issues.
- (B) **Duration.** The guardian ad litem's duties commence upon issuance of an order of appointment and remain in effect until discharged by order of the court.
  - (1) **Delinquency, unruly, abuse, neglect, dependency and termination of parental rights.** The appointment of the guardian ad litem continues until a court order terminates the involvement of the children services agency, the juvenile's probation or the court otherwise orders termination of the appointment.
  - (2) **Parental rights and responsibilities.** The guardian ad litem's appointment terminates upon the court's filing of a judgment entry and final appealable order dispositive of all pending matters, inclusive of the time period necessary to rule upon objections filed to a magistrate's decision, if any. Upon the filing of a notice of appeal, the guardian ad litem's appointment terminates. If a matter is remanded by appellate court or is reopened, the guardian ad litem is not considered a party to the new action unless specifically reappointed by the court.

### **Rule 33.1 Court list of approved attorney guardians ad litem.**

- (A) **Generally.** Acceptance to and retention upon the court's current appointment guardian ad litem lists shall be at the discretion of the court and upon application and proof of the maintenance of eligibility for appointment. Non-attorneys will not be placed on the lists. The court will maintain three separate guardian ad litem appointment lists: for private custody matters; for abuse, neglect, dependency and termination of parental rights matters when a CASA/GAL is unable to be appointed; and for delinquency/unruly matters. Application forms for the lists are contained within the Appendices of these rules.
- (B) **Application.** To be considered for placement upon the upon the court's guardian ad litem appointment list, an attorney shall apply to the court, utilizing the court's form (see Appendix), and submit a resume; Ohio Bureau of Criminal Investigation background check; proof of valid driver's license; proof of Ohio minimum driver's insurance coverage;

and completion of all pre-service education requirements set forth in Sup. R. 48.04 and 48.05.

- (C) **Acceptance.** Upon acceptance to the list, the attorney shall complete and submit to the Office of the Juvenile Clerk of Court an IRS Form W-9 and an OPERS Independent Contractor/Worker Acknowledgement (Form PEDACKN). The directives that govern billing procedures are set forth herein, and by accepting an appointment, the guardian ad litem agrees to be bound by and comply with said directives as to billing.
- (D) **Selection for appointment.** Appointments shall be made upon agreement of the parties or at the discretion of the court. The court will equitably distribute appointments among all attorneys on the list in an objectively rational, fair, neutral and nondiscriminatory manner, in consideration of the complexity of the issues, parties, counsel and the children involved, as well as the experience, expertise, and demeanor of available guardians ad litem. Placement upon the list does not guarantee appointment.
- (E) **Retention.** To remain on the list, an attorney shall, by January 31<sup>st</sup> of any year, submit to the court a certification sheet (see Appendix) stating that the attorney is unaware of any circumstances that would disqualify them from serving as a guardian ad litem, together with proof of completion of continuing education for guardians ad litem.
- (F) **Removal from appointment list.** Upon report of any of the following and/or for good cause shown, the court may remove an attorney from the appointment list(s).
  - (1) Failure to comply with applicable Ohio Rules, the Ohio Rules of Superintendence; the Code of Professional Responsibility; or the Local Rules of Practice of the Union County Court of Common Pleas, Juvenile Division.
  - (2) Refusal to accept appointments.
  - (3) Failure to follow the court's billing procedures, including: failure or refusal to file appropriate billing forms; failure to respond to requests for information by the court, Union County Auditor, Union County Treasurer or the Ohio Public Defender; submission of inaccurate or incomplete billing forms; failure to timely file billing forms; or repeatedly filing motions for extraordinary fees that are denied by the court.
  - (4) Unprofessional behavior, including: lack of preparation; tardiness; contentiousness, failure to complete responsibilities; failing to treat court personnel with respect; seeking to withdraw, without cause, prior to the completion of a matter; failure to timely file necessary reports or paperwork; and any pending disciplinary action before a local bar association or the Disciplinary Counsel.
- (G) **Complaints, comments.** The Chief Deputy Juvenile Clerk is designated as the individual who will accept written comments and complaints regarding the performance of guardians ad litem practicing before the court. All comments and complaints will be provided promptly to the subject guardian ad litem and forwarded to the Juvenile Judge for prompt consideration and appropriate disposition. The court will maintain a written record in the guardian ad litem's file regarding the nature and disposition of any comment or complaint and will notify the person who filed the comment or complaint and the subject guardian ad litem of the disposition.

## **Rule 33.2 Attorney billing procedures and compensation: abuse, neglect or dependency, termination of parental rights, and delinquency/unruly matters.**

- (A) **Approval Required.** The court will review all motions for fees, expenses and extraordinary fees. The court reserves the right to decline to approve fees and expenses and to reduce fees and expenses.
- (B) **Rate of Compensation.** The rate of compensation for attorneys shall be the current rate for such services as determined by resolution of the Union County Commissioners in accordance with R.C. 120.33, as amended from time to time, and upon court review and approval of the requested compensation.
- (C) **Maximum fees, billing intervals.**
  - (1) **Abuse, neglect and dependency matters.** The maximum allowable fees are not more than \$1,500 until and including hearing upon disposition of the complaint; not more than \$1,500 until and including hearing upon the first annual review; and not more than \$1,500 until and including each subsequent annual review hearing, until the matter concludes.
  - (2) **Delinquency matters.** The maximum allowable fees are not more than \$1,500 until and including hearing upon disposition of the initial complaint; not more than \$750 until and including hearing upon disposition of a probation violation or post-dispositional matter; and not more than \$750 until and including hearing upon each subsequent annual review hearing, until the matter concludes.
  - (3) **Unruly matters.** The maximum allowable fees are not more than \$1,000 until and including hearing upon disposition of the initial complaint; not more than \$750 until and including hearing upon disposition of a probation violation or post-dispositional matter; and not more than \$750 until and including hearing upon each subsequent annual review hearing, until the matter concludes.
- (D) **Process for approval of fees and expenses.** Attorneys appointed as guardians ad litem in abuse, neglect, dependency, termination of parental rights, delinquency or unruly matters shall accurately complete and file with the court the most recent versions of the following forms promulgated by the Office of the Ohio Public Defender (“OPD”) in accordance with the OPD’s “Standards and Guidelines for Appointed Counsel Reimbursement.”
  - (1) A “Motion, Entry, and Certification for Appointed Counsel Fees” (OPD-1026R) and (if necessary) an “Itemized Fee Statement Continuation Sheet” (OPD-1027);
  - (2) A file-stamped copy of the court’s order of appointment; and
  - (3) A file-stamped copy of the child’s “Financial Disclosure Form” (OPD-206R) appended thereto, which is provided by the court to the attorney upon appointment.
- (E) **Deadline to File for Fees and Expenses.** The guardian ad litem shall submit a “Motion, Entry, and Certification for Appointed Counsel Fees” to the court for approval not more than 30 days after the date of the last hearing. If the court has not issued the dispositional order when the guardian ad litem files the motion, the guardian ad litem may enter

“pending” or “other” under “Disposition” in the “Summary of Charges, Hours, Expenses, and Billing” section.

- (1) **Periodic Billing.** Filing a motion for fees and expenses after disposition or after completion of the annual review(s) is not considered periodic billing. Periodic billing will only be granted with prior leave of court; the guardian ad litem must file a motion with the court to request leave to file at any time other than after disposition or after completion of the annual review(s).
  - (2) **Late filing.** Motions are considered untimely if filed at any time after the deadline for timely filing. If filed late, the amount of fees granted by the court will be reduced by the reimbursement rate in effect for the current fiscal year (as reported by the Ohio Public Defender). Motions submitted more than 60 days after the initial deadline will not be granted.
- (F) **Extraordinary Fees.** Extraordinary fees are any fees requested in excess of the maximum fees allowed for the billable period. Extraordinary fees will be considered only in complex cases that require an extraordinary amount of trial preparation time, involve unique legal issues, or require extended days of trial. Motions for extraordinary fees should set forth in detail the reason for the request, the amount in excess of the fee schedule requested and an itemized statement of services rendered. Motions for extraordinary fees shall be filed together with a copy of the “Motion, Entry, and Certification for Appointed Counsel Fees” and with a proposed magistrate’s decision (if a magistrate presided over the matter) and judgment entry.
- (1) **Timely filing.** Motions for extraordinary fees will not be considered prior to disposition of the initiating complaint or motion. The deadline to file any motion for extraordinary fees is 30 days after the filing of the magistrate’s decision or journal entry that disposes of the initiating complaint or motion.
  - (2) **Late filing.** Motions for extraordinary fees are not timely if filed at any time after the deadline for timely filing. If filed late, the amount of extraordinary fees granted by the court will be reduced by the reimbursement rate in effect for the current fiscal year (as reported by the Ohio Public Defender). Motions submitted more than 60 days after the initial deadline will not be granted.
- (G) **Records Maintenance.** All guardians ad litem are required to maintain records for each appointed case showing the date of service, nature of services rendered, and hours worked. Although such records should not be submitted with a standard motion for fees, the records may be requested if the court, the Union County Auditor or Treasurer, or the Ohio Public Defender require additional information about the billing. Such records should be retained by the attorney for a minimum of five (5) years from the date the related motion is submitted to the court.

### **Rule 33.3 Attorney billing procedures and compensation: allocations of parental rights and responsibilities.**

- (A) **Approval required.** The court will review all motions for fees, expenses and extraordinary fees. The court reserves the right to decline to approve fees and expenses and to reduce fees and expenses.

- (B) **Rate of compensation.** Upon appointment, an entry will issue that states the guardian ad litem's rate of compensation and the terms and the amount of any installment payments and deposits. The minimum deposit required for appointment is \$500.00, unless otherwise ordered.
- (C) **Apportionment of payment of deposit, fees and expenses.**
- (1) **Affidavit required upon motion for appointment of guardian ad litem.** All parties shall complete and file Uniform Domestic Relations Form Affidavit 1 ("Affidavit of Basic Information, Income and Expenses") when appointment of a guardian ad litem is demanded or considered by the court.
  - (2) **Apportionment of payment for deposit for fees.** Prior to appointment, the court will determine the parties' ability to pay a deposit and apportion payment upon consideration of affidavits and other available evidence in accordance with the factors set forth in Sup.R. 48.02(H)(1). The court may set the issue for pre-trial hearing. The apportionment is subject to review and amendment for cause.
  - (3) **Apportionment of payment for final fees.** The information provided by the parties in their financial affidavits, together with evidence adduced at hearing (if any) upon ability to pay, will be considered in accordance with Sup.R. 48.02(H)(3) to apportion each party's responsibility to pay the final fees and expenses of the guardian ad litem.
- (D) **Monthly statements.** The guardian ad litem shall file written monthly statements of fees and expenses and serve upon all parties and counsel of record until the matter is terminated in accordance with Sup.R. 48.03(H)(2).
- (E) **Motions for payment of fees and expenses.**
- (1) **Periodic billing.** At any time prior to the conclusion of a case, a guardian ad litem may submit a motion for payment of fees and expenses.
  - (2) **Upon conclusion.** A guardian ad litem shall submit a motion for payment of fees and expenses not more than 60 days after the date of the final hearing on the matter. Fees and expenses may be approved even if objections, issuance of final appealable order or appeal are pending, absent further order of the Court.
  - (3) **Form of motion.** Motions for fees and expenses shall itemize the dates and duties performed, time expended, and costs and expenses incurred pursuant to Sup.R. 48.03(H)(1).