

# Ellis County Court at Law No. 1

JUDGE JIM CHAPMAN  
Ellis County Courts Building  
109 S. Jackson  
Waxahachie, TX 75165



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## Guidelines for Court Approval of Attorney Fee Applications

Updated September 2025

Counselors,

This Court has formulated the following guidelines to assist attorneys with drafting fee applications for court approval of reasonable fees in probate and guardianship cases. These guidelines are not absolute, the Court will make exceptions in particular circumstances as fairness and justice demand. The Court has given due consideration to the Estates Code, the Rules of Disciplinary Procedure and applicable case law.

Jim Chapman, Judge Presiding

### **I. Attorney's Fees**

It is the Court's duty to ensure that the estates of decedents and wards pay only for "reasonable and necessary" attorney's fees and expenses. *See* Estates Code §352.051 (decedent's estates) and §1155.003 (guardianship estates). *See* Rule 1.04 of the Rules of Professional Conduct for a list of factors in determining the reasonableness of attorney fees. The processes enumerated herein are designed to assist the Court in realizing that purpose and provide guidance to the bar and greater certainty to the parties who will ultimately bear the cost of such services.

#### **A. Court-Approved Fees for a Fiduciary's Attorney**

The Court's maximum hourly approved rate for a fiduciary's attorney is \$500, which is higher than any Ellis County based probate/guardianship attorney currently charges. It is anticipated that only the most experienced attorneys handling a complex case who specialize in Probate/Guardianship will command such a high rate. Attorneys with more modest experience in this field, or when handling a more routine case, will likely command a significantly lower hourly rate.

#### **B. Attorney Ad Litem Fees**

In probate cases where an attorney ad litem is appointed, there is almost always a \$600 ad litem fee required to be deposited by the applicant into the registry of the court. In guardianship cases, such a deposit is also required in most cases. This fee will cover the vast majority of cases which do not encounter complications. In a probate or guardianship case where a temporary administration is sought, the ad litem fee deposit is increased to \$1,500.

In more involved cases, the ad litem will be eligible for additional fees for their time. In such circumstances, the ad litem should notify the Court, and all parties, when it becomes apparent an additional fee will need to be requested. An ad litem may also seek security for costs pursuant to §53.052 for probate cases and §1053.052 for guardianship cases.

In cases where there is a solvent estate or where the parties are capable of paying the cost, the ad litem shall submit an itemized bill and the fee will be based on an hourly rate of \$250 an hour. When the ad litem is representing an indigent party, and the estate or another party cannot pay the fee, the ad litem may submit an itemized bill to be paid by Ellis County at the rate of \$90 an hour.

If there is an attorney appointed as a guardian ad litem, the hourly fee shall be \$250 (if private pay) and \$100 (if county pay) and the billing process as set forth herein will apply.

### **C. Fees when the Attorney is also the Fiduciary**

In those rare situations in which the Court appoints as a fiduciary in a guardianship or administration, the attorney may seek dual compensation for both legal services and fiduciary services. The Court prefers that a request to authorize dual compensation be presented at the time of appointment to ensure all parties may know the arrangement in advance. Dual compensation would include payment at the appropriate hourly rate for legal work done in the case and a separate commission for work done as a personal representative or as a guardian under §352.002 (a percentage) or §352.003 (a Court determined fee) for decedent's estates or §1155.003 (a percentage) or §1155.006 (a Court determined fee) for guardianship estates. To be entitled to dual compensation, the attorney fiduciary must adhere to the following guidelines:

1. **Full Disclosure.** There must be full disclosure of the attorney-fiduciary's request for dual compensation, and whether a percentage commission or fee is requested, at the time of appointment or upon motion and hearing if the request for dual compensation is made later. If the request is after the time of appointment, notice of the motion and hearing shall be given to all interested parties who have made an appearance in the case.
2. **Keep Records and Separate Legal and Non-Legal Work.** The attorney-fiduciary must keep meticulous time and expense records, carefully segregating legal and non-legal work.
3. **Compensation for Legal and Non-Legal Services.** Under Texas law, an attorney-fiduciary must seek only fiduciary compensation for guardian/personal representative services and may seek attorney's fees **for legal services only**. Applications for attorney's fees should give a detailed account of the **legal services** the attorney-fiduciary rendered to the probate or guardianship estate. Attorney-fiduciaries will not be paid attorney's fees for **fiduciary services**. For example, they will not be paid an attorney fee rate for obtaining a bond, gathering estate assets, or making health care decisions for a ward of the Court. A good rule of thumb for determining whether work is legal or fiduciary in nature is does the work completed require a law license. Should the attorney believe the statutory compensation formula as applied to a particular estate or guardianship is unreasonably low (see Estates Code §352.003 and 1155.006), then he or she should submit, with the annual or final account, contemporaneous time records of the fiduciary services for which additional hourly compensation is requested above the statutory fee. Note the hourly fee approved by the Court for attorney fiduciary services (up to \$250 an hour depending upon complexity) is significantly less than the Court approved legal work rates for attorneys.

## **II. Paralegal/Legal Assistant Charges**

The Court recognizes that many attorneys rely on paralegals and legal assistants for gathering information and reviewing and preparing documents. The Court will approve reimbursement for reasonable and necessary specifically delegated substantive legal work that is done by a paralegal. Because “substantive legal work” does not include clerical or administrative work, **this Court will not allow recovery of paralegal time for such non-substantive, secretarial services even if such services are performed by paralegals or legal assistants.** Secretarial services are included in the attorney’s overhead, for which an attorney is reimbursed as part of his or her hourly rate. The hourly rate for Paralegal/Legal Assistants shall not exceed \$125 an hour.

## **III. Billing**

The Court requires attorneys to bill .1 hour minimum increments, .25 as a minimum increment is not allowed. Block billing is also not allowed, each service should be listed individually. Bills should be submitted at least once a year and the Court will not approve fees that are beyond the statute of limitations for collecting those fees. Fee applications should include:

1. The date the service was rendered,
2. The name of the person performing the service (do not use initials unless application identifies which initials correspond to which individuals),
3. A sufficiently detailed description of the service,
4. The time involved,
5. The hourly rate,
6. The amount billed for that service, and
7. Have the bill segregated into separate sections for legal services, fiduciary services, and paralegal services.

An example of a properly segregated billing application is shown below.

### **Legal Related Activities**

<b>Date</b>	<b>Time Keeper</b>	<b>Description</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
1/2/2024	Smith	Consultation with client	1.5	\$300	\$450

### **Fiduciary Related Activities**

<b>Date</b>	<b>Time Keeper</b>	<b>Description</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
1/30/2024	Smith	Clear out lock box	0.5	\$250	\$125

### **Paralegal/Legal Assistant**

<b>Date</b>	<b>Time Keeper</b>	<b>Description</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
1/3/2024	Jones	Prepare Application to Probate	1.0	\$125	\$125

#### **IV. Court Action on Fee Applications**

The attorney filing a fee application must send copies of the application to all parties in the case. The Court holds all attorney-fee applications for 10 days to give other parties an opportunity to file objections to those applications. If no objection is filed, the Court will consider the application on submission and without a hearing, unless the amount of the 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 a hearing.