RULE 12. Court Appointments of Counsel and Guardian ad Litems

12.01 Adult Contributing and Juvenile Delinquency, Unruly and Traffic Offenders and Contributing Actions

The Clark County Public Defender shall be appointed to represent all youth charged with an act of delinquency and unruly and all adults charge with contributing to the delinquency or the unruliness of a minor who qualify financially for Public Defender’s services. If a conflict exists within the office of the Clark County Public Defender, the Court shall appoint counsel to represent the indigent youth or adult. The appointed counsel shall be compensated through the Court’s indigent defense fund. The youth or adult who requests appointed counsel shall pay a $25.00 application fee prior to receiving the application from the Public Defender’s Office. The Court, in its discretion, may choose to waive that fee or request payment at the time of disposition. This shall be paid to the Clark County Juvenile Court Clerk’s Office. The Public Defender will determine if the youth or adult qualifies for appointed counsel.

12.02 Contempt Actions

The Clark County Public Defender shall be appointed to represent a party charged with a contempt action who qualifies financially for Public Defender’s services. If a conflict exists within the office of the Clark County Public Defender, the Court shall appoint counsel to represent the indigent party. The appointed counsel shall be compensated through the Court’s indigent defense fund. A party who requests appointed counsel shall pay a $25.00 application fee prior to receiving the application from the Public Defender’s Office. The Court, in its discretion, may choose to waive that fee or request payment at the time of disposition. This shall be paid to the Clark County Juvenile Court Clerk’s Office. The Public Defender will determine if the party qualifies for appointed counsel.

12.03 Abuse, Neglect and Dependency Actions

 An indigent parent, legal custodian/legal guardian from whom the child was removed, and in certain circumstances, the child involved in an abuse, neglect or dependency case shall be entitled to appointed counsel.

Any child or minor parent who appears in the juvenile court may be entitled to a guardian litem. In an abuse or neglect case, the child shall have a guardian ad litem appointed. In cases where there are multiple children, the same guardian ad litem may serve all the children.

A party who requests court appointed counsel shall pay a non-refundable $25.00 application fee prior to receiving the application from the Clark County Juvenile Clerk’s office. The Court, in its discretion, may choose to waive that fee or tax the fee as costs at the completion of the case. This fee shall be paid at the Clark County Juvenile Court’s Clerk’s Office. A judicial administrative assistant shall determine if the party qualifies for the court appointed counsel.

12.04 Child Custody and Parenting Time

In child custody cases and allocation of parental rights filed under R.C. 3109.04, the Court in its discretion may, and, upon the motion of either parent, shall appoint a guardian ad litem for the child. See R.C. 3109.04(B)(2)(a). A guardian ad litem shall be appointed in all filings alleging abuse, neglect and/or dependency. See R.C. 2151.281. This includes cases involving children previously adjudicated abused, neglected and dependent when CCDJFS is not involved.

Parties in these matters shall be required to deposit $1,200.00 upon the appointment of a guardian ad litem. Guardian ad litems appointed under this rule shall bill at a rate of $150.00 per hour. The deposit amount and guardian ad litem hourly rate may be modified at discretion of the judicial officer assigned to decide the matter.

12.05

 Civil Protection Orders

A youth who is a respondent in a Petition for Juvenile Civil Protection Order filed in juvenile court is entitled to court appointed counsel. A respondent who requests court appointed counsel shall pay a non-refundable $25.00 application fee prior to receiving the application from the Clark County Juvenile Clerk’s office. The Court, in its discretion, may choose to waive that fee or tax the fee as costs at the completion of the case. This fee shall be paid at the Clark County Juvenile Court’s Clerk’s Office. A judicial administrative assistant shall determine if the party qualifies for the court appointed counsel.

12.06 Procedure for Appointments

The judge’s administrative assistant shall be responsible for maintaining the list of qualified attorneys to serve as court appointed counsel. The CASA Director shall maintain the list of qualified CASA volunteers who can serve as guardian ad litems.

Those attorneys who wish to serve as a guardian ad litem or as court appointed counsel shall submit a resume or information sheet to the judge’s administrative assistant stating the applicant’s training, experience and expertise demonstrating the person’s ability to successfully perform the responsibilities of the guardian ad litem or court appointed counsel. Additionally, a criminal and civil background check relevant to the applicant’s fitness to serve as a guardian ad litem should be provided with the resume or information sheet.

Those individuals who volunteer with CASA and who wish to serve as a guardian ad litem shall submit a resume or information sheet to the CASA Director stating the applicant’s training, experience and expertise demonstrating the person’s ability to successfully perform the responsibilities of the guardian ad litem or court appointed counsel. Additionally, a criminal and civil background check relevant to the applicant’s fitness to serve as a guardian ad litem should be provided with the resume or information sheet.

The Court may choose to deny the application for court appointed counsel or may choose to remove the applicant’s name from the court appointed list. The applicant will be notified in writing of the denial application or removal of the applicant’s name from the Court Appointed List with the specific reason for the denial or removal. The applicant may resubmit an application for reconsideration by the Judge no sooner than six months from the denial or removal.

Court appointed counsel and guardian ad litem will be selected by a judicial administrative assistant in a rotating fashion. In order to provide the best representation for the youth and families that the court serves, the court may select court appointed counsel and guardian ad litems based upon the specific circumstances of the case. Excluded from the rotating appointments are companion cases, cases that are dismissed and refiled, multiple cases involving the same client, appointments made from the bench and cases where consideration is given to area of specialty or expertise.

The judge’s administrative assistant will review the court appointed counsel and guardian ad litem lists annually to determine if the individuals on the list are in compliance with training and education requirements set forth in Rule 48 of the Rules of Superintendence.

Guardian ad litems shall certify annually that they are unaware of any circumstances that would disqualify them from service. If either a guardian ad litem or attorney on the appointed counsel list wishes to be removed they shall submit that notification in writing to the Judge’s Administrative Assistant.

CASA will be appointed whenever one is available and the appointment is appropriate. In the event that a CASA is unavailable, a judicial administrative assistant shall appoint an attorney in the rotating fashion as described above.

12.07 Complaints

Any written complaints or other written comments regarding appointed counsel’s or a guardian ad litem’s performance shall be submitted to the judge’s administrative assistant. A copy of the complaint or comment shall be forwarded to the appointed counsel or guardian ad litem. A copy of the complaint or comment shall also be submitted to the judge or magistrate assigned to the case for consideration and disposition. The appointed counsel or guardian ad litem shall be notified of the disposition of the complaint or comment. The judge’s administrative assistant shall maintain a written record of all complaints and/or comments and the disposition of those complaints in the file of appointed counsel or guardian ad litem.

12.08 Fees and Expenses

Appointed counsel and guardian ad litems shall submit a properly completed Fee Application and their final billing to the Judge’s Administrative Assistant no later than thirty (30) days following the final disposition of the case. If the Fee Application and final billing is not received within the 30 days from disposition, the reimbursement for the bill will be reduced by 45%. Any bills received after ninety (90) of date of disposition may not be reimbursed. Reimbursement for representation in juvenile court proceedings will be based on the current county maximum rate for out-of-court services and in-court services. The maximum fee per case permitted in juvenile court cases is $1000.00 unless extraordinary fees are granted.

For a guardian ad litem whose fees are being paid through deposits made by the parties, the guardian ad litem shall submit a motion to apply deposit with an itemized statement. There is no maximum fee, however; at a minimum, the guardian ad litem shall file said motion and statement when the work completed is the equivalent to the deposited amount.

12.09 Extraordinary Fees

Cases that warrant fees in excess of the maximum fee ($1000.00) are considered extraordinary. Appointed counsel or a guardian ad litem who request extraordinary fees shall file a motion and memorandum detailing the necessity for those fees. The court shall review each request and shall exercise its discretion in approving or denying the request.