

**Part Rules for the Westchester County Guardianship Part  
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The Guardian Assistance Network offers advice and training for lay guardians under Article 81 of the New York State Mental Hygiene Law at : [www.nycourts.gov](http://www.nycourts.gov) Search under topics for Guardian Assistance Network and click on the word “manual” located on the left.

The following are the procedures and rules governing practice in the Westchester County Guardianship Part before the Hon. Robert M. DiBella, J.S.C.

**WESTCHESTER COUNTY GUARDIANSHIP PART**

1. Mental Hygiene Law Article 81 Guardianships are commenced by the filing of an Order to Show Cause and Verified Petition with a copy of the RJI. A format for the OTSC may be obtained by e-mail from [thugelme@nycourts.gov](mailto:thugelme@nycourts.gov). The back of the OTSC shall contain the Petitioner’s Attorney’s telephone **and** FAX number. Hearings will be held within 28 days of issuance of the OTSC, on a date set by the Court.

2. All filings and correspondence must contain the assigned Index Number and, if applicable, return date.

3. No discovery motions shall be allowed without prior permission of the Court. The CPLR is the governing procedure for all motions. Discovery shall not be permitted except under unusual circumstances.

4. All orders and judgments shall be served by the movant on all counsel, Guardian(s) and Court Examiner within 10 days of the date of the decision, order and judgment.

5. Proof of service must be filed with the Court on or before the return date of all motions and petitions.

6. All adjournments require specific permission of the Court, and counsel must first seek

the consent of all other counsel before making any such request.

7. Due to statutory dictates, it is the policy of the Part that only one (1) brief adjournment of a scheduled hearing date may be requested. The party who requests the adjournment must submit a letter to the court, on notice to all counsel, indicating whether the adjournment is on consent of all other counsel and noting the unavailability of any of the attorneys so that the Court may select a new date. Once notified, the requesting party will be responsible to notify all other counsel.

8. Upon completion of the hearing, all individuals appointed by the Court shall comply with Part 36 of the Rules of the Chief Judge and file, when appropriate, a Statement of Approval of Compensation (UCS form 875 - with items 1 through 13 completed) along with their detailed Affidavit of Services.

9. All proposed Findings and Judgments shall follow the court forms, which may be obtained from the Part Clerk (e-mail: [thugelme@nycourts.gov](mailto:thugelme@nycourts.gov) and be submitted within 7 days from receipt of the transcript. **Note:** The Judgment **must** contain the proposed Guardian's name, address and phone number.

10. Petitioner's counsel shall assist the proposed Guardian in completing their educational requirement and obtaining the Commission to act as Guardian from the County Clerk. The Commission must be obtained within 15 days of the signing of the Judgment.

11. Any request for attorney's fees must be accompanied by a detailed affirmation of services with an itemized billing sheet and hourly rate(s), and must be approved by the Court prior to any payment being made.

12. No guardianship commissions or fees for any professional services may be paid without prior court order.

13. All accountings **must** be filed in the County Clerk's Office with a copy to the assigned Court Examiner. **Note:** No compensation will be approved absent compliance with rule #8 above.

14. The filing schedule for accountings by Guardian(s) is as follows:

- a. Initial Report - within 90 days of the signing of the Judgment.
- b. Annual Accountings - no later than May 15<sup>th</sup> for the preceding calendar year.
- c. Final Accounting - within 45 days of the death of the IP or other termination of the guardianship.. **Note:** No estate assets may be dispersed or turned over to the Surrogates Court without prior approval of this Court.