

Part Rules for the Westchester County Guardianship Part
Hon. J. Emmett Murphy, J.S.C.
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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. 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. J. Emmett Murphy, J.S.C.

WESTCHESTER COUNTY GUARDIANSHIP PART

1. Mental Hygiene Law Article 81 Guardianships are commenced by the filing of a Notice of Proceeding, Order to Show Cause and Verified Petition with a copy of the RJI. A format for the OTSC may be obtained by e-mail request to thugelme@nycourts.gov and placing in the subject line “forms request”. The back of the OTSC shall contain the Petitioner’s Attorney’s telephone **and email** & 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. All motions shall be made by Order to Show Cause and not by Notice of Motion.

4. No discovery motions shall be allowed without prior permission of the Court. CPLR Article 31 is the governing procedure for all discovery motions. Discovery shall not be permitted except under unusual circumstances.

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

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

7. All adjournments require specific permission of the Court. Counsel must first seek the consent of all other counsel and interested parties before making any such request.

8. Due to statutory dictates, it is the policy of the Part that only one (1) brief adjournment of a scheduled hearing date shall be allowed. The party who obtains the adjournment must submit a letter to the court confirming the adjournment, on notice to all counsel and all other interested parties by EMAIL. Due to the scheduling requirements of this Part, the adjourned date will be selected by the Court.

9. 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.

10. All proposed Findings of Fact/Conclusions of Law/Judgments shall follow the court forms, which may be obtained by e-mail request to thugelme@nycourts.gov and placing in the subject line "judgment request" and must be submitted within 7 days from receipt of the hearing transcript. **Note:** The Judgment **must** contain the proposed Guardian's name, address and phone number.

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

12. Any request for professional 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.

13. No guardianship commissions or fees for any professional services may be paid without prior approval of and order of the court.

14. 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 #9 above.

15. Guardians should be guided by the applicable provisions of Article 81 of the Mental Hygiene Law for the filing provisions of initial reports and annual accountings. Any deviation from the schedules set forth therein must be with prior Court approval.