

OCA Second Special Commission on Fiduciary Appointments
Findings and Recommendations
Final Report



Table of Contents

I.	Commission Members.....	p. 2-3
II.	Appointment of Statewide Administrative Judge for Fiduciary Matters and the Formation of the Second Special Commission on Fiduciary Appointments.....	p. 4-5
III.	Overview of Part 26 and Part 36.....	p. 5-6
IV.	Executive Summary.....	p. 7-26
	1. Operations, Staffing, Compliance and Audit.....	p. 8-20
	2. Education and Training.....	p. 20-22
	3. Automation and Technology.....	p. 22-26
	4. Conclusion.....	p. 26
V.	Subcommittees' Findings and Recommendations.....	p. 27-53
	1. Operations and Staffing.....	p. 28-35
	A. Findings.....	p. 29-32
	B. Recommendations.....	p. 32-35
	2. Compliance and Audit.....	p. 35-45
	A. Findings.....	p. 35-38
	B. Recommendations.....	p. 38-45
	3. Education and Training.....	p. 45-47
	A. Findings.....	p. 45-46
	B. Recommendations.....	p. 46-47
	4. Automation and Technology.....	p. 48-50
	A. Findings.....	p. 48-49
	B. Recommendations.....	p. 49-50
VI.	Conclusion.....	p. 51-53
	Appendix A: Detailed Overview of Pt 26 and Pt 36 of the Rules of the Chief Judge.....	p. 54-74
	Appendix B: NYS part 36 Fiduciary Appointments for 1/1/2014 thru 12/31/2015.....	p. 75-76
	Appendix C: Automation & Technology Subcommittee Report.....	p. 77-149

I. Commission Members

Hon. Michael V. Coccoma; *Deputy Chief Administrative Judge – Courts outside NYC & Statewide Administrative Judge for Fiduciary Matters, Office of Court Administration*

Hon. Sharon A.M. Aarons; *Justice of the Supreme Court, Bronx County Supreme Court – Civil Term*

Richard Adler; *Case Management Coordinator, Nassau County Supreme Court*

Mark L. Annunziata; *Chief Clerk, Monroe County Surrogate's Court*

Deborah Barrer, Esq.; *Principal Court Attorney, 5th Judicial District*

Nancy J. Barry, Esq.; *Chief Clerk, Westchester County Supreme & County Courts*

Nicole Botti, Esq.; *Principal Court Attorney, 7th Judicial District*

Hon. Russell P. Buscaglia; *Judge of the Court of Claims/Acting Justice of the Supreme Court, Erie County Supreme Court*

Elizabeth Candreva, Esq.; *Managing Inspector General for Fiduciary Appointments, Office of the Inspector General*

Ronald M. Cerrachio; *Chief Clerk, Richmond County Surrogate's Court*

John D'Alessandro, Esq.; *Court Attorney-Referee, Bronx County Supreme Court – Civil Term*

Jennifer DiLallo; *Principal Management Analyst, Office of the Deputy Chief Administrative Judge – Courts outside NYC*

Hon. Richard A. Dollinger; *Judge of the Court of Claims/Acting Justice of the Supreme Court, Monroe County Supreme Court*

Mary Doyle, Esq.; *Principal Attorney, Appellate Division – 4th Dept.*

Hon. Elizabeth H. Emerson; *Justice of the Supreme Court, Suffolk County Supreme Court*

Steven E. Flatow, *Principal Court Analyst, New York County Supreme Court – Civil Term*

Michele Gartner, Esq.; *Special Counsel for Surrogates and Fiduciary Matters, OCA Office of Guardianship & Fiduciary Services*

Hon. Donald A. Greenwood; *Justice of the Supreme Court, Onondaga County Supreme Court*

Margaret M. Gribbon; *Chief Clerk, Queens County Surrogate's Court*

Hon. David H. Guy; *Surrogate, Broome County Surrogates Court*

Tracy Hamilton, Esq.; *Director, Office of Attorneys for Children, Appellate Division – 4th Dept.*

Michael P. Hausler; *Chief Clerk, Bronx County Surrogate's Court*

Laurie A. Hubbard; *Chief Clerk, Chemung County Surrogate's Court*

Judith Israeli, Esq.; *Associate Court Attorney, Richmond County Supreme Court – Civil Term*

Karen R. Jordan; *Chief Clerk, Cortland County Supreme & County Courts*

Hon. Kathy J. King; *Acting Justice of the Supreme Court, Kings County Supreme Court – Civil Term*

Hon. Gary F. Knobel; *Acting County Court Judge, Nassau County Supreme Court*

Hon. Joan B. Lefkowitz; *Justice of the Supreme Court, Westchester County Supreme Court*
Alan Lowe; *Principal Court Analyst, Queens County Supreme Court – Civil Term*
Rob Marchiony, Esq.; *Appellate Court Attorney, Appellate Division – 3rd Dept.*
Hon. Andrea Masley; *Acting Justice of the Supreme Court, New York County Supreme Court*
Hon. Lee A. Mayersohn; *Justice of the Supreme Court, Queens County Supreme Court – Civil Term*
Amy Miller; *Deputy Chief Clerk, Orange County Surrogate's Court*
Paula B. Miller; *Chief Clerk, Schenectady County Surrogate's Court*
Hon. Paul Morgan; *Surrogate, Rensselaer County Surrogate's Court*
Chip Mount; *Director of Research and Technology, OCA Division of Technology*
Hon. Matthew Murphy; *County Court Judge & Surrogate, Niagara County Surrogates Court*
Joseph Musolino; *Court Clerk Specialist, Kings County Supreme Court – Civil Term*
Jose Pagan; *Case Management Coordinator, Bronx County Supreme Court – Civil Term*
Kristine K. Pecheone; *Chief Clerk, Oneida County Surrogate's Court*
William J. Perritt; *Principal Management Analyst, Office of the Deputy Chief Administrative Judge –
Courts outside NYC*
Hon. Stan L. Pritzker; *Justice of the Supreme Court, Washington County Supreme Court*
Robert F. Quinlan, Esq.; *Principal Law Clerk, 10th Judicial District – Suffolk*
Jane Schreiber; *Director, Office of Attorneys for Children, Appellate Division – 1st Dept.*
Hon. Howard H. Sherman; *Justice of the Supreme Court, Bronx County Supreme Court – Civil Term*
Scott Singer; *Court Clerk Specialist, New York County Supreme Court – Civil Term*
Kris Singh, Esq.; *Principal Court Attorney, 4th Judicial District*
Margaret Sowah, Esq.; *Deputy Clerk of the Court, Appellate Division – 1st Dept.*
F. Christian Spies; *Chief Clerk, Schoharie County Multi-bench Courts*
Angela Stamm-Philipps; *Deputy Chief Clerk, Niagara County Surrogate's Court*
Hon. Charles Troia; *Acting Justice of the Supreme Court, Richmond County Supreme Court*
Michael Veruto, Esq.; *Chief Clerk, Niagara County Supreme & County Courts*
Frank Volz, Esq.; *Court Attorney-Referee, Suffolk County Surrogate's Court*
Laura Weigley, Esq.; *Assistant Deputy Chief Administrator, OCA Division of Administrative Services*
Harriet Weinberger, Esq.; *Director, Office of Attorneys for Children, Appellate Division – 2nd Dept.*
Susan M. Wilson; *Chief Clerk, Rensselaer County Surrogate's Court*
Sam Younger; *Deputy Director, OCA Division of Administrative Services*
Hon. Hope Zimmerman; *Justice of the Supreme Court/Supervising Judge Matrimonial Parts, Nassau
County Supreme Court*

II. Appointment of Statewide Administrative Judge for Fiduciary Matters and the Formation of the Second Special Commission on Fiduciary Appointments

To address growing concerns throughout the state regarding certain limitations and challenges that were affecting the current fiduciary appointment process, Chief Judge Jonathan Lippman, in his 2015 State of the Judiciary address, appointed the Honorable Michael V. Coccoma, Deputy Chief Administrative Judge for Courts outside NYC, as the Statewide Administrative Judge for Fiduciary Matters. In his new role, Judge Coccoma was tasked with organizing a comprehensive review and assessment of the current fiduciary appointment and compensation processes pursuant to Part 26 and Part 36 of the Rules of the Chief Judge. To that end, Judge Coccoma established the Second Special Commission on Fiduciary Appointments. Members of the commission were selected based on the recommendation of judges and non-judicial fiduciary experts, including OCA employees and court attorneys. Once appointments were finalized, members were surveyed in an effort to identify problems with the current process and to solicit feedback and suggestions on how best to remedy these issues.

The inaugural meeting of the Special Commission was held on June 15, 2015 at the NYS Judicial Institute and the following mission statement was presented to the Commission:

“To review and reassess the effectiveness of the regulatory structure governing the judicial appointment of fiduciaries, and to formulate recommendations that will streamline and improve the fiduciary appointment and compliance monitoring processes and serve to promote public confidence and respect for the judiciary.”

This mission statement provided a succinct starting point upon which the Commission would extrapolate. Each Commission member was appointed to one of the following four subcommittees – each conducting a targeted analysis in a particular substantive area of the fiduciary appointment process:

1. Operations and Staffing;
2. Compliance and Audit;
3. Education and Training; and
4. Automation and Technology.

The Commission members tirelessly volunteered both their time and expertise to investigate the ever-changing landscape of Fiduciary Appointments. Each subcommittee’s analysis was

memorialized in a written report with findings and recommendations that are summarized in detail below. Because an understanding of the current rules and appointment process is necessary to fully appreciate the subcommittees' findings, an overview of Part 26 and Part 36 of the Rules of the Chief Administrative Judge is provided below.

III. Overview of Part 26 and Part 36

Judges in civil proceedings must often appoint persons or entities¹ to serve as fiduciaries or assist the court by performing a variety of statutorily mandated functions. These appointees are entitled to be compensated for the services they perform, usually out of the assets of the subject of the proceeding, and the court has the statutory responsibility to determine and award reasonable compensation. New York State court judges and their appointees are subject to stringent regulations governing both appointments and awarded compensation.

Part 36 of the Rules of the Chief Judge ("Part 36") governs sixteen categories of "Appointments by the Court."² Part 36 sets out categories of appointment to which the rules apply,³ and categories that are exempt.⁴ It precludes certain categories of persons or entities from appointment,⁵ requires the establishment of public lists of those who are eligible for appointment,⁶ the promulgation of educational and training requirements for those who wish to enroll on those lists,⁷ and authorizes the Chief Administrator to remove from the lists those whose performance is unsatisfactory or whose conduct is incompatible with appointment.⁸ It sets forth procedures for appointment,⁹ procedures for reporting appointments,¹⁰ and

1 As used herein, "entities" refers to institutions, such as banks or corporate trustees.

2 N.Y. Comp. Codes R. & Regs, tit. 22, pt. 36 (hereinafter "N.Y.C.R.R.") § 36.1, et. seq. The Rules of the Chief Judge are established by the Chief Judge after consultation with the Administrative Board of the Courts and approval by the Court of Appeals. Jud. Law § 211 (McKinney 2015).

3 22 N.Y.C.R.R. § 36.1(a).

4 22 N.Y.C.R.R. § 36.1(b).

5 22 N.Y.C.R.R. § 36.3(c), (d).

6 22 N.Y.C.R.R. § 36.3(c).

7 22 N.Y.C.R.R. § 36.3(b).

8 22 N.Y.C.R.R. § 36.3(e).

9 22 N.Y.C.R.R. § 36.3.

10 22 N.Y.C.R.R. § 36.4(a).

procedures for awarding and reporting compensation.¹¹ The Part 36 rules are supplemented by an official “Explanatory Note.”¹²

The UCS has promulgated forms to implement the procedures mandated by Part 36, and has established an electronic centralized database containing lists of those eligible for appointment, records of appointments made by judges, and records of compensation awarded by judges. Part 36 forms are public records,¹³ and most information contained in the database is publically accessible.

With some exceptions, Judiciary Law Section 35-a requires that judges must file a Statement of Approval of Compensation (UCS Form 875) where compensation in excess of \$500 is awarded for services provided. Part 26 of the Rules of the Chief Judge is the regulatory implementation of Judiciary Law § 35-a. This requirement applies to compensation that is awarded to most court appointees who are subject to Part 36, as well as many appointees who fall outside of Part 36. In most counties, an individual serving as the Fiduciary Clerk generates the forms with respect to both appointments and awards of compensation, and transmits these forms to OCA for processing. The rules and procedures¹⁴ are designed not only to assure transparency and efficiency in the fiduciary appointment process, but also to protect our judiciary from claims of misfeasance in the performance of their duties. [For a more in depth overview, see Appendix A: Detailed Overview of Part 26 and Part 36 of the Rules of the Chief Judge]

11 22 N.Y.C.R.R. § 36.4(b), 36.4(c).

12 See, Part 36 of the Rules of the Chief Judge: An Explanatory Note (hereinafter “Explanatory Note”), available at <http://www.nycourts.gov/ip/gfs/Part36ExplanatoryNotes.pdf>.

13 22 N.Y.C.R.R. § 36.5(a).

14 The attached Appendix A contains a detailed overview of Part 26 and Part 36.

Executive Summary

Issues & Recommendations

IV. Executive Summary

While a more detailed analysis of the Commission’s findings and recommendations is set forth in the next section, this section summarizes the totality of the Commission’s work, underscoring the major issues identified and the corresponding recommendations of the Commission. The recommendations of the Commission include an eight-stage implementation strategy, which is summarized in order of priority as follows:

- First**, additional staff should be hired to effectively implement key recommendations;
- Second**, education and training should be both mandated and increased for judges and non-judges;
- Third**, uniformity in Part 36 appointment orders should be implemented
- Fourth**, provide clarity related to “secondary appointees” in Court orders;
- Fifth**, implement a targeted outreach to encourage the enrollment and appointment of individuals with particular interests and/or skills;
- Sixth**, make specific amendments to Part 36 which, among other things, allow the Chief Administrator to temporarily suspend appointees with unsatisfactory performance;
- Seventh**, implement recommendations related to Attorneys for the Children;
- Eighth**, develop and implement a new Part 36 process that includes a “record everything” automated system.

With this plan, the appointment and monitoring process will be streamlined and improved. In addition, public confidence and respect for the judiciary will be accomplished.

1. Operations, Staffing, Compliance and Audit Issues and Recommendations:

A. Issue:

Current staffing is inadequate for effective processing and oversight of fiduciary appointments and monitoring of compliance with court rules and procedures.

Recommendations:

Hire 22 additional statewide fiduciary staff as follows:

1. The Managing Inspector General for Fiduciary Appointments (MIGFA) oversees compliance with Part 36; conducts investigations into allegations of misconduct or noncompliance; makes recommendations to the Chief Administrative Judge for removal from the Part 36 Eligibility List; and makes referrals to the appropriate authorities. MIGFA has requested additional staff members to improve case management and timeliness in commencing and completing

investigations, to provide greater flexibility in conducting additional compliance efforts, such as sua sponte audits. This unit has requested the following staffing:

- a. (2) JG-28 Associate Counsel positions
 - b. (1) JG-23 Investigator
 - c. (1) JG-18 Court Analyst
2. The OCA Division of Administrative Services' Part 36 Appointment Processing Unit coordinates the centralized fiduciary eligibility lists and maintain records of all statewide appointments and compensation approved by the judiciary. This unit has requested the following staffing:
- a. (1) JG-21 Senior Court Analyst (Unit Supervisor/Liaison to DoT)
 - b. (1) JG-18 Court Analyst (compliance monitoring & tracking)
 - c. (2) Dedicated data entry staff members (currently there is no dedicated data entry staff—this would significantly enhance the accuracy of the data and the speed with which the data is made available to fiduciary staff)
3. The OCA Special Counsel for Surrogate & Fiduciary Matters handles the review and certification of training programs for Part 36 fiduciaries; development and presentation of training programs regarding the Part 36 rules for judicial and non-judicial personnel; and answers questions from the public and the courts regarding Part 36 interpretation and implementation. Support for this office would be the recommendation of a new title standard for the position of **District Fiduciary Liaison** to be appointed in Judicial Districts 3-9. These personnel would primarily be responsible for providing timely training and updates to fiduciary staff and conducting periodic audits. Such services may be provided by an existing staff member in each judicial district but, depending upon the extent of assistance requested, the number of filings in the district and demonstrated need, the hiring of a dedicated District Fiduciary Specialist may be warranted.
4. Creation of a new title standard for the position of **Court Fiduciary Specialist** to be appointed in the following seven courts in New York City and the Tenth Judicial District:
- a. New York Supreme Court – Civil Term
 - b. Bronx Supreme Court – Civil Term
 - c. Kings Supreme Court – Civil Term

- d. Queens Supreme Court – Civil Term
- e. Richmond Supreme Court – Civil Term
- f. Nassau Supreme Court
- g. Suffolk Supreme Court

The Court Fiduciary Specialist will perform the duties of a Fiduciary Clerk, in addition to supervising, monitoring, and training support staff in their Fiduciary Clerk duties. In order to meet the immediate needs of the Court pending the creation of the new title standard, the subcommittee further recommends that the duties of the Court Fiduciary Specialist temporarily be assumed by existing court staff.

B. Issue:

Fiduciary Clerks are not being forwarded all Part 36 appointment orders. There is no uniform procedure to assure that chambers notifies the Fiduciary Clerk when a judge has made a Part 36 appointment. The Fiduciary Clerk may only become aware of the appointment when there is an application by the appointee for approval of compensation. Additionally, there are no consistent, standardized internal checks following a Part 36 appointment to ensure the UCS-872 has been properly completed and returned prior to the judge signing and filing the UCS-875 for approval of compensation. Similarly, there are no consistent internal procedures to ensure that the Court completes and files a UCS-875.

Recommendations:

1. Amend Part 36 to state that “when a Part 36 appointee is appointed, a copy of the order shall be forwarded by the Court to the Fiduciary Clerk within two [2] business days.”
2. Amend Part 36 to make it clear that it is the judge’s responsibility to see that orders of appointment are sent to the Fiduciary Clerk and that orders approving compensation are not signed until the Fiduciary Clerk verifies that the appointee has filed a UCS-872 (Notice of Appointment and Certification of Compliance).
3. Require the Court Clerk to keep track of the number and types of fiduciary appointments made by the Court. Require a report to the Administrative Judge and OCA each quarter, copying the Fiduciary Clerk.

4. Where appropriate, separate appointment orders should be issued for each fiduciary appointed regardless of whether they are in the same case, appointed at the same time or are the same type of fiduciary. For example, separate orders appointing two different Guardians Ad Litem (GAL) when there are two or more individuals who have different interests.
5. Staff should utilize written logs or other in-house tracking methods as well as regularly accessing the Fiduciary Clerk database or examining court files to track forms submissions. Procedures to compel the return of overdue forms should include follow-up notices, emails or phone calls from the Fiduciary Clerk. Should the matter remain unresolved, it should be referred back to the appointing judge or may be calendared in a compliance part. If the appointee remains noncompliant, the matter may be referred to the Office of the Managing Inspector General for Fiduciary Appointments (MIGFA).

C. Issue:

Fiduciary appointments and compensation are not always clearly identified in court orders and are therefore not always processed and documented properly.

Recommendations:

Newly appointed District Fiduciary Liaisons and Court Fiduciary Specialists should provide oversight by conducting periodic audits, providing fiduciary staffing updates and ensuring timely training to new fiduciary staff members.

D. Issue:

There is a lack of uniformity with regard to fiduciary forms and orders, and these inconsistencies are confusing and inhibit compliance with Part 36 rules.

Recommendations:

1. Standard forms and model orders should be created and made available as part of the Part 36 materials. These orders and forms may be customized to correspond to certain categories of appointment and contain optional provisions that may be included or excluded as appropriate. The standard forms should be created to address two significant aspects of Part 36: 1) the ability of an appointee to serve under the Rules of Part 36, and 2) the scope of the appointee's authority. Create and promulgate a model order that sets forth the

scope of the appointee's authority, with particular focus on those actions that require prior Court approval. Such an order would contain all language required by Part 36 and also could include suggestions that fit into a "Best Practices" category. The model order could include affirmative provisions and prohibitions to remind the appointee of the limits of the appointment.

2. Require appointees to affirm continuing fitness with each appointment.
 - a. While the UCS-872 Form requires affirmation of eligibility to accept the appointment, best practices would suggest that an affidavit and/or affirmation be executed at the time of appointment by each Receiver and secondary appointee, affirming their competence for service. Part 36 should be amended to require this affidavit/affirmation. This step would significantly aid in the compliance process and identify any changes in qualifications that may have otherwise been overlooked.
 - b. The following language should be included in all orders appointing Part 36 fiduciaries:

"I am familiar with the duties and responsibilities of a (receiver, guardian, property manager, etc.), have experience in such area, and am fully capable and prepared to assume those duties and responsibilities which are commensurate with my abilities."
3. The following language should be included in all orders appointing Part 36 primary and secondary appointees:
 - a. "ORDERED, that [Appointee Name], [Fiduciary ID], with offices located at [Business Address], is hereby appointed as [Appointment Type], [on behalf of _____]; and it is further"
 - b. "ORDERED that pursuant to 22 NYCRR §36.1, the [Appointment Type] shall be subject to Part 36 of the Rules of the Chief Judge; and it is further"
 - c. "ORDERED, that by accepting this appointment the [Appointment Type] certifies that he/she is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR 36), including but not limited to, Section 36.2(d) ("Limitations on appointments based on compensation"), and if the [Appointment Type] is disqualified from receiving an appointment pursuant

to the provisions of Part 36, the [Appointment Type] shall notify the appointing judge forthwith; and it is further...”

4. The following language should be included in orders appointing all Part 36 fiduciaries, except for Mortgage Foreclosure Referees whose compensation is anticipated to be less than \$750, and Court Examiners in the 3rd and 4th Departments:

“ORDERED, upon receipt of this order and UCS Form 872 (Notice of Appointment and Certification of Compliance), the [Appointment Type] shall complete, execute and return the UCS Form 872 to the Fiduciary Clerk; and it is further...”

5. Establish a statewide fiduciary forms committee comprised of Fiduciary Clerks, District Fiduciary Liaisons and Court Fiduciary Specialists to review existing forms and orders and propose revisions and standardized language to facilitate enhanced compliance.

E. Issue:

It may be unclear to Receivers and Guardians that prior Court approval is required to hire and/or compensate “secondary appointees.”

Recommendations:

The following language should be included in all orders appointing Part 36 Guardians and Receivers:

1. “ORDERED, that pursuant to 22 NYCRR §36.1(a)(10) the Guardian [or Receiver] is not authorized to hire counsel, an accountant, auctioneer, appraiser, property managers, or real estate broker (secondary appointees) without further order of this Court, and that the Guardian [or Receiver] is not authorized to pay fees to any secondary appointee(s) without further order of this Court; and it is further,”
2. “ORDERED, that pursuant to Part 36.2(c)(8), no Guardian [or Receiver] shall be appointed as his or her own counsel, and no person associated with a law firm of that Guardian [or Receiver] shall be appointed as counsel to that Guardian [or Receiver] unless there is a compelling reason to do so; and it is further,”
3. “ORDERED, that compensation for the secondary appointee(s) is subject to prior Court approval upon submission of an affirmation showing experience/expertise,

services rendered, time expended, prevailing rate in the community, rate charged, challenges presented and results achieves; and it is further...”

F. Issue:

Receivers routinely hire non-Part 36 secondary appointees (e.g., Licensing Agents) for whom there is no requirement for approval of appointment or reporting of compensation.

Recommendations:

Review 36.1(a)(10) for inclusion of additional appointment categories commonly encountered in receiverships.

G. Issue:

It is unclear to appointees whether they may utilize attorneys and/or support staff from their firm without an additional appointment by the Court.

Recommendations:

Unless specifically prohibited, the appointed individual should be permitted to utilize attorneys and/or support staff in their firm without additional Court approval.

However, all appearances and reports must be made by the appointed individual, and all compensation earned should be charged to the appointed individual. This OCA policy opinion was set forth in an April 21, 2005 memorandum, *Part 36 of the Rules of the Chief Judge*, to Administrative Judges and NYC Surrogates from then Chief Administrative Judge Ann Pfau.¹

Part 36 should be amended to reflect this, and where appropriate, language should be incorporated into orders appointing Part 36 fiduciaries directing that attorneys or support staff in the appointed individual’s office may perform tasks only under the appointee’s direct supervision, and that all substantive appearances and reports must be performed and/or created by the person appointed. (NOTE: The Second Department specifically prohibits its Attorneys for Children from delegating tasks.)

¹ This memo clarified that nothing in Part 36 prohibits the appointee’s staff from performing legal work on the matter, provided the work is done under the direct supervision of the appointee who signs off on the work and remains accountable for the work.

H. Issue:

Judges are often unaware of a potential appointee's qualifications and experience. Although the official list of potential appointees is quite lengthy, judges frequently report that they are not comfortable selecting an "unknown appointee." This unfamiliarity may result in appointments being concentrated among a relatively small group of individuals.

Recommendations:

1. Educate judges and court staff that the potential appointee's Part 36 application and resume (where provided) are available online in the Part 36 database. Each application includes detailed information regarding a potential candidate's background, skill, and experience.
2. Require all applicants to attach a current resume to their Part 36 application, and with each biennial registration.

I. Issue:

The list of qualified individuals is too limited.

Recommendations:

Targeted outreach would encourage the enrollment of individuals with particular interests and/or skills. It would also provide the opportunity to include other groups, such as senior lawyers and under-represented minorities.

J. Issue:

In many cases, such as guardianships involving low income or indigent individuals, and litigation involving financially distressed businesses, limited or no available funds are available to pay appointees for their service – making these cases unattractive to potential appointees, and as a result, eligible fiduciaries may refuse appointment.

Recommendations:

Utilize targeted outreach to senior attorneys and newer attorneys seeking additional experience. These individuals may not view these cases as unattractive and may be willing to accept appointment for reasons other than compensation.

K. Issue:

The Inspector General does not currently possess the authority to suspend an individual's eligibility for fiduciary appointment while under investigation by the Managing Inspector General for Fiduciary Appointments (MIGFA) due to allegations of unsatisfactory performance or conduct incompatible with appointment.

Recommendations:

Amend the Part 36 Rules, as follows:

"Pending a final determination on the issue of removal, the Chief Administrator is authorized to temporarily suspend any person or entity from any list upon allegations, which establish probable cause, of unsatisfactory performance or conduct incompatible with appointment from that list, or if disqualified from appointment pursuant to this Part, upon the recommendation of the MIGFA and/or the Court, where the Chief Administrator finds that the conduct places clients/wards at significant risk or presents an immediate threat to the public."

L. Issue:

It is difficult to identify and monitor those cases in which referees to sell real property are awarded compensation exceeding \$750. This generally arises when:

1. An Order of Reference authorizes \$250 for the referee to do the computation and report, and then the judgment of foreclosure authorizes payment of \$500 for the sale, but also authorizes a fee (often from \$200 to \$250) if a sale is adjourned.
2. An auctioned sale is not closed and the property has to be put up for rebid/resale, at which time the attorney is paid an additional fee.

In either situation, the attorney/referee who is awarded compensation exceeding \$750 must receive and file a UCS-872, and the judge approving the compensation must file a UCS-875. With a renewed emphasis on Part 36 compliance, some Courts have been sending a UCS-872 to all referees under the theory that any fee may potentially exceed \$750. This creates unnecessary work, and in counties with very heavy foreclosure calendars, an untenable workload.

Recommendations:

1. Continue the exemption, but amend Part 36 (§36.4[d]) to require that the referee must make a written application (letter is acceptable) to authorize payment that is anticipated to total over \$750 for a “good cause” adjournment or if there is a rebid/resale.
2. Amend Part 36 (§36.4[d]) to require that upon approval of compensation over \$750, the Court must send a copy of its order to the Fiduciary Clerk, who will then generate the required UCS forms 872 and 875, monitor compliance and file with the reporting unit.
3. Amend Part 36 (§36.4[d]) to provide that plaintiffs may not pay the authorized additional compensation until they receive a copy of the Court’s order.

M. Issue:

In orders appointing referees there is insufficient language to advise them of their responsibilities under 22 NYCRR 36 when their compensation exceeds \$750 [22 NYCRR §36.4(d)].

Recommendations:

1. Place the following language in both the Order of Reference and Judgment of Foreclosure and Sale:
 - a. “ORDERED, that if the referee’s fees are anticipated to exceed \$750, the referee must apply [by letter] to the Court for approval of such fees, and the references comply with 22 NYCRR §36.4(d), before such fees can be paid; and it is further,”
 - b. “ORDERED, that plaintiff is only authorized to pay the referee fees in excess of \$750 upon receipt of an order by the Court authorizing such payment; and it is further...”

Such decretal paragraphs should be placed in the same area of the order as all other paragraphs referring to the appointee’s responsibilities under 22 NYCRR Part 36.

2. Require filing of the Foreclosure Action Surplus Monies Form with the Fiduciary Clerk and revise the form to include a “check box” for the referee to indicate receipt of total fees in excess of \$750. Although this will identify non-compliance

with Part 36 only after the fact, it will serve as an alert to the Fiduciary Clerk, Referee and the Court to address the issue.

N. Issue:

Inconsistencies between Part 36, which requires paperwork is returned within 30 days, and Surrogate's Court Rule § 207.13, which requires Guardians Ad Litem to qualify and report within 10 days, creates confusion regarding compliance with filing requirements.

Recommendations:

Amend the time frame in 22 NYCRR § 207.13 from 10 days to 30 days to make it consistent with Part 36.

O. Issue:

There is some confusion regarding the meaning of the phrase "guardians ad litem....their counsel and assistants" contained in § 36.1(a). Although there are enrollment categories for "Counsel to Receiver" and "Counsel to Guardian," there is no enrollment category for "counsel and assistants" to a GAL. Thus, it is unclear to both the Court and to appointees as to whether GALs may utilize attorneys and/or support staff from their firm without an additional appointment by the Court.

Recommendations:

Part 36 should be amended to clarify that the appointed individuals may utilize attorneys and/or support staff in their firm without additional Court approval unless specifically prohibited, and such language should be incorporated into all fiduciary appointment orders directing that "attorneys or support staff in the appointed individual's office may perform tasks under the appointee's direct supervision, but all substantive appearances and reports must be performed and/or created by the person appointed."

P. The following is a list of issues all relating to Attorney for the Child (AFC) appointments:

Issues:

1. Many private-pay Attorney for the Child (AFC) appointments are unreported by the Court.
2. A UCS-872 is often not sent to AFC appointees.

3. AFC appointees frequently fail to return a completed UCS-872 to the Fiduciary Clerk.
4. Because AFCs do not consistently follow required procedures for approval of compensation, a UCS-875 approving compensation is not generated by the Court, and thus, a significant portion of compensation goes unreported pursuant to Judiciary Law 35-a.

Recommendations:

1. Formulate and mandate online training regarding the Part 36 Rules for all judges who may appoint private-pay AFCs.
2. Formulate written and online training materials regarding the requirements of Part 36 and mandate online training for all AFCs seeking registration for private pay appointments.
3. Require judges and appointees to use standardized UCS forms for the order appointing an AFC (UCS-880), the AFC's affirmation of legal services (UCS-881), and the final order approving the AFC's compensation (UCS-882).
4. Implement a case monitoring system to ensure that, upon the conclusion of service, AFCs submit an affirmation of services (UCS-881) and a proposed final order approving compensation (UCS-882). A case should not be closed unless and until the Court signs a final order approving the AFC's compensation and a UCS-875, when required.
5. Amend Part 36 as follows:
 - a. Substitute "Attorney for the Child" for "Law Guardian."
 - b. Increase the \$15,000 limit for accepting new assignments as well as the \$75,000 annual compensation cap.

Q. Issue:

When a referee permits a winning bidder at an auction sale to assign the right to purchase to a third party prior to the closing, there is a disruption in the chain of title.

Recommendations:

Referees should not be permitted to transfer title from the actual purchaser at the sale to a third party at the closing. The following language should be included in all orders appointing Part 36 referees:

“ORDERED, that the closing of title shall take place at the office of the referee, or at such other location as the referee shall determine, within forty-five (45) days after such sale unless otherwise stipulated by all parties. The referee shall transfer title only to the successful bidder at the auction. Any delay or adjournment of the closing date beyond forty-five (45) days may be stipulated among the parties, with the referee’s consent, up to ninety (90) days from the date of sale, but any adjournments beyond ninety (90) days may be set only with the approval of this Court; and it is further...”

R. Issue:

There is no mechanism in place for oversight of supplemental needs trusts created for an injured party (often a child) outside of an Article 81 guardianship. Although the trustee must file an annual accounting with the County Clerk, the accounting is not reviewed by a judge or a referee unless the trust instrument itself requires such review.

Recommendations:

Because of the wide-ranging ramifications regarding the regulation of trusts, this issue should be referred to Surrogate’s Court Advisory Committee to consider whether it is appropriate to adopt a court rule or statutory amendment to require the Court or a Referee to review annual accountings for SNTs created outside of guardianships or other court proceedings.

2. Education and Training Issues and Recommendations:

A. Issue:

There is currently no training required for list enrollment of foreclosure referees or for enrollment in the following secondary appointment categories:

1. Counsel to Guardian
2. Counsel to Receiver

3. Accountant (to Guardian or Receiver)
4. Appraiser (to Guardian or Receiver)
5. Property Manager (to Guardian or Receiver)
6. Real Estate Broker (to Guardian or Receiver)

Recommendations:

Require specialized training for Foreclosure Referees, Counsel to Guardian and Counsel to Receiver appointees, and require a brief training for all remaining secondary appointment types regarding how their appointment relates to the Guardianship or Receivership.

B. Issue:

Training for the eight categories of primary appointment is often provided by sponsoring organizations utilizing an OCA-approved curriculum. However, the approval does not expire, and there is no mechanism in place to ensure curricula are routinely reviewed and updated.

Recommendations:

Review and recertify the training curricula used by sponsoring organizations every two years. Utilize District Fiduciary Liaisons and Court Fiduciary Specialists to assist OCA in reviewing and recertifying curricula to ensure that it is current.

C. Issue:

Fiduciaries in eight primary appointment categories are required to receive training at the onset of their qualification, but there is currently no requirement for retraining to obtain recertification.

Recommendations:

Mandate comprehensive training utilizing an OCA formulated and approved curriculum for initial qualification of all fiduciaries, and require biennial refresher training as a condition of biennial recertification.

D. Issue:

A lack of routine mandatory training for judges, chambers staff and support staff fosters an environment of limited understanding and confusion regarding the requirements and procedures for fiduciary appointments pursuant to Parts 26 and 36 of the Rules of the Chief Judge.

Recommendations:

1. Increase in education and training for all those involved in Part 26 and Part 36 appointments.
2. Mandate annual education and training for all judges making such appointments (including those designated as Acting Supreme Court Justices), chambers and court staff, Fiduciary Clerks, District Fiduciary Liaisons (Judicial Districts 3-9) and Court Fiduciary Specialists in New York City and the Tenth Judicial Districts.
3. Incorporate fiduciary training for judges as part of the regular program at judicial seminars.
4. Incorporate instructions/directions regarding Part 26 and Part 36 in the Judge's Bench Book.

3. Automation and Technology Issues and Recommendations:

A. Issue:

The current process is very complex and time-consuming (see Appendix D, pg. 1-18). These shortcomings discourage compliance and hinder monitoring.

Recommendations:

Develop a new "record everything" statewide automated fiduciary system that captures all appointments, certifications and compensation orders.

B. Issue:

Since judges are not required to report compensation of \$500 or less, OCA cannot accurately track annual compensation for any given fiduciary, and the fiduciary bears the responsibility to inform the Court when they have reached or exceeded the annual compensation cap – this likely leads to inaccurate reporting. In non-Part 36 appointments, the Notice of Appointment [UCS-872] form IS NOT filed, but a Statement of Approval of Compensation [UCS-875] form for compensation exceeding \$500 IS required for most non-Part 36 appointments. As such, there is no way to match the compensation award to the corresponding fiduciary appointee – creating a significant gap in reporting of compensation awarded to certain fiduciary appointees.

Recommendations:

1. All appointments will be recorded in the automated system (and categorized as Part 36 or non-Part 36) thereby creating an electronic record to which to attach any subsequent compensation awarded.
2. All compensation awards will be recorded irrespective of the amount of compensation to facilitate three major objectives:
 - a. Enabling OCA to accurately calculate the total compensation awarded for any given fiduciary as a reliable reference for the Court;
 - b. Identifying fiduciaries appointed pursuant to Part 36 who have reached or exceeded the annual compensation cap; and
 - c. Creating a comprehensive accounting of all fiduciary appointments, including non-Part 36 appointments, and all corresponding compensation, including non-Part 26 compensation under \$500, for the purposes of accurate reporting and public transparency.
3. Each Part 36 fiduciary appointee must be an individual - not an agency/organization - and is required to have an “account” and a unique identifier.

C. Issue:

The Part 36 process relies too much on paper and is difficult to navigate. The filing of Appointment and Compensation forms is cumbersome, and the manual entry of fiduciary information is burdensome to court staff.

Recommendations:

The system will replace paper forms with online entry, and the system will use email (and possibly text messaging) not regular mail to communicate with appointees.

The Court will be able to generate appointment and compensation orders electronically from the system. The efficiencies of a fully automated system will make the process more streamlined, and thus more easily navigable.

D. Issue:

Required forms are not filed timely or may not be filed at all.

Recommendations:

Send automated email verifications to all appointees. Require Part 36 appointees to complete and submit an online Notice of Appointment form [UCS-872], and require non-Part 36 appointees to acknowledge/affirm receipt of the Order of Appointment within 30 days. Send routine automated follow-up emails if required data has not been entered and submitted within 30 days.

E. Issue:

Compliance by secondary appointees is extremely poor.

Recommendations:

The secondary appointee's appointment record would not stand on its own. It will be attached/linked to the primary appointee's appointment record, and the primary appointee would be copied on all automated email notifications sent to the secondary appointee – creating a culture of awareness. Periodic emails will be sent to primary appointees reminding them that Court approval is required to hire and compensate secondary appointees, and asking them to affirm whether or not a secondary appointee has been hired and/or compensated. If hiring/compensating a secondary appointee is acknowledged, notification will be sent to the Court.

F. Issue:

Compensation orders are not reported by the Court and/or compensation is made by the appointee without proper Court approval.

Recommendations:

The "record everything" system will include:

1. Entry of Statement of Approval of Compensation [UCS-875] data, including the 35-a information, as part of the original appointment record, which must be electronically confirmed by the judge.
2. Indicators when required appointment data is incomplete – alerting the user that the compensation process should not be initiated until all steps in the appointment process have been completed.
3. Automated emails requiring appointees to acknowledge/affirm receipt of Approval of Compensation Orders – prohibiting fiduciaries from making payment until this step is completed.

G. Issue:

Currently available means of monitoring compliance are cumbersome and inefficient.

Recommendations:

The “record everything” system must:

1. Provide automated alerts if required fiduciary data is incomplete (e.g., when compensation is ordered prior to the filing of a Notice of Appointment).
2. Send electronic notification of compensation orders and require fiduciaries to electronically “acknowledge and accept” the fee approval of any amount.
3. Send follow-up notices and reports to the judge, Fiduciary Clerk, and appointee (and primary appointee if appointee in question is a secondary appointee) when an order is issued without complete information.

H. Issue:

Due to factors such as suspected underreporting, the absence of a requirement for non-Part 36 appointees to formally acknowledge appointment, and the absence of a requirement to report compensation under \$500, available statistics are inherently incomplete and inaccurate.

Recommendations:

A “record everything” automated system will provide accurate, comprehensive and readily available online statistical reports to Fiduciary Clerks, judges and chambers staff, court administrators, and the Appellate Division. Statistical reports may be configured to compile information aimed at enhancing the effectiveness and efficiency of monitoring fiduciary compliance.

I. Issue:

Developing a new “record everything” automated system will require a significant commitment of time and resources.

Recommendations:

Attempting to enhance existing systems may seem quicker and easier. However, enhancing current systems would necessitate a similar (if not greater) commitment of time and resources, and would simply not yield the extensive benefits of a new mandatory automated system. While a “record everything” approach may seem

extreme, quick and easy attempts to enhance current systems have repeatedly failed to yield the desired results. Recording all appointments and compensation is the best path to: 1) realize maximum compliance with Part 36 and Part 26 rules, 2) effectively monitor the fiduciary appointment process, and 3) ensure public transparency. Anything short of that essentially leaves us in no better a position than we are in today.

Conclusion

The above recommendations offer cogent and feasible remedies to many of the issues identified in the current fiduciary appointment and compensation processes. While some are near term and some are longer term initiatives, implementing these recommendations will streamline and improve the process and aid in achieving the following four paramount organizational goals:

- Maximum compliance with Part 36 and Part 26 rules
- Effective monitoring and reporting of the fiduciary appointment and compensation processes
- Public transparency
- Public confidence in and respect for the judiciary

**2nd Special Commission
on Fiduciary Appointments
Complete Findings & Recommendations**

V. Subcommittees' Findings and Recommendations

As stated in the preamble, the Second Special Commission on Fiduciary Appointments was tasked with formulating recommendations to streamline and improve the fiduciary appointment and compliance monitoring processes, and continue the goal of promoting public confidence and respect for the judiciary. To that end, the Commission was organized into four subcommittees, each targeting a specific area of the fiduciary appointment process. The subcommittee's findings and recommendations are summarized below.

1. Operations and Staffing

The Operations and Staffing Subcommittee¹ examined internal operational workflows, training and staffing with a view toward enhancing the ability to process, monitor and ensure timely and complete compliance with Part 36 rules. To attain a better understanding of the various ways that the courts in New York State currently process and approve fiduciary compensation, the Subcommittee effectuated its evaluation by conducting audits as well as developing and distributing a questionnaire to various committee members, courts and districts within the state². The questionnaire sought to ascertain:

1. How individuals were designated as the Fiduciary Clerk;
2. What their particular assignments were;
3. The means used to perform the assigned duties; and
4. The problems encountered in monitoring compliance.

In addition, audits were conducted of the OCA Part 36 database³ in order to gather information about the number of reported appointments processed by individual districts and various courts. The subcommittee held meetings periodically to discuss the responses to the questionnaire and the results of the audit. Issues that required further examination were addressed during phone calls and email correspondence.

1 The Operations and Staffing Subcommittee is co-chaired by: Hon. Joan B. Lefkowitz, Justice of the Supreme Court, Westchester Supreme Court and Richard Adler, Case Management Coordinator, Nassau Supreme Court. The members are: Elizabeth Candreva, Esq., Managing Inspector General for Fiduciary Appointments; Ronald Cerrachio, Richmond Surrogate's Court Chief Clerk; Jennifer DiLallo, Principal Management Analyst/Surrogate's Court Liaison, DCAJ's Office; Michelle Gartner Esq., OCA Special Counsel for Surrogate & Fiduciary Matters; Michael Hausler, Bronx Surrogate's Court Chief Clerk; Laurie Hubbard, Chemung Surrogate's Court Chief Clerk; Amy Miller, Orange Surrogate's Court Deputy Chief Clerk; Hon. Matthew J. Murphy, Niagara County Court Judge & Surrogate; Kris Singh Esq., Principal Court Attorney, Fourth Judicial District; Scott Singer, New York Supreme Court, Court Clerk Specialist; Frank Volz, Esq., Court Attorney Referee, Suffolk Surrogate's Court; Hon. Hope Zimmerman, Justice of the Supreme Court/Supervising Judge Matrimonial Parts, Nassau Supreme Court.

2 Districts within the state included: 1st, 4th, 6th, 8th, 9th, 10th, 11th and 12th.

3 UCS Centralized Electronic Database utilized by the Fiduciary Clerk to track and document appointments and compensation.

A. Findings

1. Audits of the UCS Part 36 database showed that upstate courts (Judicial Districts 3-8) generate significantly fewer filings than downstate courts (Judicial Districts 1-2 and 9-13).⁴ Over 99% of Part 36 fiduciary filings originate from Supreme Court (Civil) and Surrogate's Courts. Guardianship cases account for the vast majority of fiduciary filings for downstate Supreme Courts. There is no centralized database to capture Part 26 compensation awards for non-Part 36 appointees. However, some districts document this compensation through use of a local database.
2. The majority of court staff currently use some form of the Guardianship and Fiduciary Service recording and reporting flow charts.⁵ The effective use of the flow charts relies on an ongoing collaboration between the judge and Fiduciary Clerk in notifying the appointee of the initial Part 36 filing requirements and ensuring that the appointee has actually fulfilled these requirements prior to the approval of compensation, which is required by Part 26 and Part 36 of the Rules of the Chief Judge.⁶
3. The designation of an individual as the "Fiduciary Clerk" varies throughout the state. In the majority of upstate Supreme Courts, and a minority of upstate Surrogate's Courts, a member of the judge's own judicial staff is designated as the Fiduciary Clerk.⁷ The individual designated by the judge as his or her Fiduciary Clerk is solely responsible to update the database, generate all the forms, ensure that the appointee completes and returns the forms, certify that the appointee has fulfilled his or her filing requirements on the UCS Form 875, obtain the appointing judge's signatures, and finally, forward all UCS forms to OCA.⁸ The majority of downstate Supreme Courts designate a Fiduciary Clerk

4 See, NYS Part 36 Fiduciary Appointments for 1/1/2014 thru 12/31/2014 attached hereto as Appendix B.

5 See, Best Practice & Guide for Fiduciary Clerks: Recording and Reporting, pages 23-25. available at <http://inside-ucs.org/oca/professional-ct-services/guardian/clerks/FC-BEST-PRACTICES.pdf>

6 22 N.Y.C.R.R. § 36.4(a)(1).

7 Secretary to the judge and law clerk.

8 The UCS Form 875 includes a section for the fiduciary clerk to certify that the appointee has filed a Notice of Appointment and Certification of Compliance pursuant to Part 36 of the Rules of the Chief Judge, or the appointee is NOT required to file a Notice of Appointment and Certification of Compliance (e.g. Part 26 appointments)

from among Court Clerks who are assigned to back office parts.⁹ Upstate and downstate Surrogate's Courts generally designate an individual from among Chief Clerks, Deputy Chief Clerks and Court Clerks to perform the duties of the Fiduciary Clerk. The members of the non-judicial staff who are designated to perform these functions may be assigned to process filings for a single judge, multiple judges or for an entire court.¹⁰ They may work alone or in tandem with other Fiduciary Clerks and support staff. Fiduciary Clerks processing appointments from multiple judges may rely on chambers to forward a copy of the appointing order (which notifies the Fiduciary Clerk of the appointment) from chambers to another location within the court. Internal procedures, such as inter-departmental mail, fax or email are used to accomplish the task.

4. Regardless of designation type, the Fiduciary Clerk monitors the appointee's compliance with the initial filing requirements for Part 36 appointments, by periodic searches of the UCS central database, in-house database or a review of chambers' own fiduciary log.¹¹
5. Procedures to compel the return of overdue forms include follow-up notices, emails or phones calls from the Fiduciary Clerk. Should the matter remain unresolved, it is referred back to the appointing judge or may be calendared in a compliance part. If the appointee remains non-compliant, it may be referred to the MIGFA for investigation.¹²
6. If an application for a Part 36 award of compensation is made and a search of the database discloses the appointment has not been documented, or the appointee has failed to return the completed UCS Form 872, the Fiduciary Clerk will notify the judge or chambers and the application will be held in abeyance until the appointee has met the initial filing requirements.
7. Problems identified for monitoring compliance include unreported primary and secondary appointments. This non-reporting is partly due inadequate training of

9 Associate Court Clerk, Principal Court Clerk and Case Management Coordinator assigned to i.e., guardianship, commercial and matrimonial parts.

10 A single Queens County Fiduciary Clerk is responsible for processing filings for 33 judges, but does have a backup.

11 See, Sample of Chamber's Fiduciary Log.

12 Managing Inspector General for Fiduciary Appointments.

those responsible for compliance monitoring to actually recognize that an appointment has been made, or the failure of chambers to transmit a copy of order of appointment to the Fiduciary Clerk. The Fiduciary Clerk may only become aware of the appointment when there is an application by the appointee for approval of compensation.

8. Orders awarding compensation are frequently unreported because the Fiduciary Clerk has not been notified of applications for or approvals of compensation. This gap in communication impedes the generation of the UCS Form 875 endorsing and certifying that the appointee has in fact met the initial filing requirements. If the Fiduciary Clerk is later made aware of the approval of compensation, he or she will facilitate the expedited completion of required fiduciary filing.
9. There are concerns about the practice of guardians and receivers hiring proposed secondary appointees, without required court approval. The court is often unaware of individuals who perform “secondary” fiduciary work until an application for approval of compensation is received. This may reveal that services were performed by a non-list or ineligible appointee.
10. There are instances when Fiduciary Clerks are not informed of compensation awards for referees appointed to sell real property and compute in mortgage foreclosure actions, which exceed the \$750 exception. In an effort to ameliorate this issue and identify non-compliance, one county has added a checkbox to the Foreclosure Surplus Monies Form to indicate when compensation exceeds \$750.¹³
11. There are no uniform procedures to monitor and enforce compliance with respect to compensation being formally awarded and documented for Attorneys for the Child¹⁴. Some Fiduciary Clerks are now required to perform additional tracking duties due to a significant number of unreported fees.
12. The lack of routine and proper training for judges, chambers staff and support

13 22 N.Y.C.R.R. § 36.4(a)(1). See, Forms for Privately Paid Law Guardian: at <https://apps.courtnet.org/ucsFiduciary/pdf/ppLawGuard.pdf>.

14 22 N.Y.C.R.R. § 36.4(a)(1). The formally known as Privately Paid Law Guardian, is authorized to be paid from a retainer while he or she performs their duties. Subsequently, is required to file a UCS 881 and UCS 882 form, to be awarded their fee.

staff as to the actual requirements and procedures for fiduciary appointments pursuant to Parts 26 and 36 of the Rules of the Chief Judge, as well as the lack of regular communication between the judge and Fiduciary Clerks, are perceived as the main sources of most of the difficulties currently being encountered statewide. Some courts do not have a designated Fiduciary Clerk, and those who are appointed as a Fiduciary Clerk often perform multiple job functions, leaving little time to perform the follow-up that is critical to monitor and enforce compliance.

13. The tremendous increase in foreclosure filings and the corresponding increase in foreclosure referees that exceed the \$750 reporting exception has further increased the duties of Fiduciary Clerks. Moreover, in some downstate Supreme Courts, guardianship matters can account for ninety percent of fiduciary filings, yet such guardianship departments are not fully staffed.

B. Recommendations

Based on the foregoing analysis, the Subcommittee makes the following operational and staffing recommendations:

i. Operational:

1. Increase education and training related to Part 26 and Part 36 rules and procedures for fiduciary appointees;
2. Mandate education and training for all judges making fiduciary appointments, including those designated as Acting Supreme Court Justices, chambers' and court staff and all Fiduciary Clerks. Incorporate fiduciary training into the curricula at judicial seminars. Formulate and mandate annual education and training programs for individuals appointed as District Fiduciary Liaisons in Judicial Districts 3-9 and Court Fiduciary Specialists in New York City and the Tenth Judicial District.
3. Promote communication between chambers and Fiduciary Clerks, as well as between Fiduciary Clerks and appointees. Chambers should relay all appointments to the Fiduciary Clerk in a timely manner, via email or other methods, and develop procedures for regular follow-up meetings with the

Fiduciary Clerk to discuss issues or problems. The Subcommittee proposes the use of email as the best method to communicate fiduciary appointment information between the court and the appointee. For courts which do not frequently make fiduciary appointments, it will be necessary to identify an offsite Fiduciary Clerk to assist in processing any fiduciary filings.

4. Monitor compliance with Part 26 and 36 of the Rules of the Chief Judge. A Fiduciary Clerk must be diligent to ensure appointees return all required forms. This monitoring can be accomplished by utilizing logs or other in-house tracking methods and accessing the Part 36 Database or examining court files.
5. Provide additional oversight to ensure that fiduciary filings are properly identified in all court orders and that appointments and compensation awards are subsequently being processed and documented. Such oversight should be provided by the Court. Likewise, the newly appointed District Fiduciary Liaisons and Court Fiduciary Specialists should be providing oversight by conducting periodic audits, providing fiduciary staffing updates and ensuring timely training to new fiduciary staff.
6. Develop standard procedures and forms through the creation of a statewide Fiduciary Procedures and Forms Committee, comprised of Fiduciary Clerks, District Fiduciary Liaisons and Court Fiduciary Specialists. The committee would vet issues such as standardized language in court orders, revisions of fiduciary-related forms, and amendment of court rules and procedures related to fiduciary appointments.

ii. Additional Staffing:

1. *District Fiduciary Specialist:*

OCA's Special Counsel's Office for Surrogate and Fiduciary Matters has requested the creation of a District Fiduciary Specialist to be appointed in Judicial Districts 3-9 to assist such office by primarily providing timely training and updates to fiduciary staff and conducting periodic audits. Such service may be provided by an existing staff member in each judicial district but,

depending on the extent of assistance requested, the number of filings in the district and demonstrated need, the hiring of a dedicated District Fiduciary Specialist may be warranted.

2. *(2) JG-28 Associate Counsel, (1) JG-23 Investigator, (1) JG-18 Court Analyst:*

The Managing Inspector General for Fiduciary Appointments has likewise requested additional staff members to aid in case management, enhance timeliness in commencing and completing investigations, and provide greater flexibility in conducting additional compliance efforts such as sua sponte audits.

3. *(2) Senior Court Analysts:*

The OCA Division of Administrative Services' Part 36 Appointment Processing Unit, which coordinates the centralized fiduciary eligibility lists and maintains records of all statewide appointments and compensation approved by the judiciary, requested a Senior Court Analyst to:

- a. Work with Division of Technology staff to upgrade the fiduciary database
- b. Work with Fiduciary Clerks and other staff on compliance, monitoring and tracking

4. *(1-2) Dedicated Data Entry Staff Members*

5. *Court Fiduciary Specialist:*

The creation of this new title is for Supreme Courts with a high volume of fiduciary appointments, and a Court Fiduciary Specialist will be appointed in each of the following seven Supreme Courts:

- a. New York Supreme Court – Civil Term
- b. Bronx Supreme Court – Civil Term
- c. Kings Supreme Court – Civil Term
- d. Queens Supreme Court – Civil Term
- e. Richmond Supreme Court – Civil Term
- f. Nassau Supreme Court
- g. Suffolk Supreme Court

The Court Fiduciary Specialist will perform the duties of a Fiduciary Clerk in addition to supervising, monitoring, and training support staff in their Fiduciary Clerk duties.

NOTE: In order to meet the immediate needs of the Courts pending the creation of the new title standard, the subcommittee further recommends that the duties of the CFS temporarily be assumed by existing court titles.

2. Compliance and Audit

This Compliance and Audit Subcommittee¹⁵ was tasked with examining current compliance and audit protocols. It also sought to identify ways to enhance compliance with Part 26 and 36 rules both internally and with regard to court-appointed fiduciaries, including but not limited to review, assessment, clarification and proposed amendment of current rules. The subcommittee was separated into groups based upon the status of the particular Part 36 fiduciary appointments – i.e., Attorney for Child/Law Guardian, Article 81 Fiduciary and Referees, Guardian Ad Litem and Military Attorney, and Receivers and Secondary Appointments. Numerous meetings were held via Skype and recommendations were debated and drafted among the members.

A. Findings

1. General findings:

- a. Part 36 appointment orders are not always forwarded to the fiduciary clerk. There is no uniform procedure to ensure that chambers notifies the Fiduciary Clerk when a judge has made a Part 36 appointment. Additionally, there are no consistent internal checks after a Part 36 appointment is made to ensure that the UCS Form 872 has been properly completed and returned prior to the judge approving compensation and signing and filing the UCS form 875. Similarly, there are no consistent internal procedures to ensure that the court completes and files the UCS Form 875. Judges are often unaware of a potential appointee's qualifications and experience. Although the official list of eligible appointees is quite lengthy, many judges report that they are uncomfortable selecting an "unknown appointee." This unfamiliarity

¹⁵ **Compliance and Audit Subcommittee Members:** Hon. Donald a. Greenwood- Co. Chair, Jose Victor Pagan – Co Chair, Hon. Elizabeth H. Emerson, Elizabeth Candrea, Robert F. Quinlan, Harriet Weinberger, Michele Gartner, Laura Weigley, Tracy Hamilton, Hon. David H. Guy, Hon. Howard H. Sherman, Hon. Kathy J. King, Al Lowe, Deborah Barrer, Jane Schreiber, Kristin K. Pecheone and Paul B. Miller

may result in appointments being concentrated among a relatively small group of individuals.

- b. The list of qualified individuals is too limited.
- c. Some potential appointees refuse "non-rewarding assignments."
- d. The Inspector General lacks the authority to suspend an individual on the Part 36 eligibility list when he or she is under investigation by the Managing Inspector General for Fiduciary Appointments (MIGFA) due to allegations of unsatisfactory performance or conduct incompatible with appointment.

2. Part 36 findings specific to the appointment of Referees to Compute & Sell.

- a. It is difficult to identify and monitor those cases in which referees to sell real property are awarded compensation exceeding \$750. This generally arises when:

- a. An Order of Reference authorizes \$250 for the referee to do the computation and report, and then the judgment of foreclosure authorizes payment of \$500 for the sale, but also authorizes a fee (often from \$200 to \$250) if a sale is adjourned.
- b. An auctioned sale is not closed, and the property is put up for rebid/resale for which the attorney is paid an additional fee.

- b. In either situation, the attorney/referee who is awarded compensation exceeding \$750 must receive and file UCS Form 872, and the judge approving the compensation must file UCS Form 875. With a renewed emphasis on Part 36 compliance, some courts send a UCS Form 872 to every appointed referee because the fee in any case may exceed \$750. This creates a great deal of additional work, especially and in counties with very heavy high volume of foreclosure filings.

- c. In orders appointing referees, there is insufficient language to advise them of their responsibilities under 22 NYCRR 36 when their compensation exceeds \$750 [22 NYCRR §36.4(d)].
3. Findings related to the appointment of Guardians ad Litem (“GAL”):
 - a. There is some confusion regarding the filing requirements for Part 36 paperwork. Surrogate's Court Rule § 207.13 requires the GAL to qualify and report within 10 days. Part 36 requires that its paperwork be returned within 30 days. This contradiction appears to be specific to Surrogate Court GAL appointments.
 - b. There is some confusion regarding the meaning of the phrase "guardians ad litem....their counsel and assistants" contained in §36.1(a). Although there are enrollment categories for "Counsel to Receiver" and "Counsel to Guardian," there is no enrollment category for "counsel and assistants" to a GAL. Thus, it is unclear whether GALs may utilize attorneys and/or support staff from their firm without an additional appointment by the court.
4. Findings specific to the appointment of private pay Attorneys for the Child (“AFC”):
 - a. The findings specific to AFC's are administrative in nature. Panel AFC's are vetted and certified by the Presiding Justices in each Department. The application to become an AFC is extensive. Mandatory CLE is required prior to certification and yearly thereafter. The panel attorneys are recertified annually subsequent to an evaluation process.
 - b. Not all Part 36 appointments of private pay AFCs are being reported by the court.
 - c. Not all Fiduciary Clerks are sending the UCS Form 872 to the AFC's.
 - d. Not all AFCs are returning UCS Form 872 to the Fiduciary Clerk.
 - e. Because AFCs do not always follow the required procedure to obtain

approval of their compensation, no UCS Form 875 is generated by the court approving the payment and thus, not all compensation is reported pursuant to Judiciary Law 35-a.

5. Other compliance findings:

- a. There is a disruption in the chain of title when the winning bidder at an auction sale assigns the right to purchase to a third party prior to the closing. Referees should not be permitted to transfer title from the actual purchaser at the sale to a third party at the closing.
- b. There is no court mechanism in place for oversight of supplemental needs trusts created for an injured party (often a child) outside of an Article 81 guardianship. Although the trustee must file an annual accounting with the County Clerk, the accounting is not reviewed by the judge or a referee unless the trust instrument itself requires such review.

B. Recommendations

1. Provide consistency and uniformity:

- a. Amend Part 36 to state that "when a Part 36 appointment is made, a copy of the order shall be forwarded by the court to the Fiduciary Clerk within two [2] business days."
- b. Amend Part 36 to make it clear that it is the judge's responsibility to see that orders of appointment are sent to the Fiduciary Clerk and that orders approving compensation are not signed until the Fiduciary Clerk verifies that the appointee has filed UCS Form 872 (Notice of Appointment and Certification of Compliance).
- c. Require the Court Clerk to track the number and types of fiduciary appointments made by the court. Require a report to the Administrative Judge and OCA each quarter, copying the Fiduciary Clerk.
- d. Where appropriate, separate appointment orders should be issued for each fiduciary appointed regardless of whether they are in the same case, appointed at the same time, or are the same type of fiduciary. For

example, separate orders appointing two different GALs when there are two or more individuals who have different interests.

2. Increase awareness and understanding of Part 26 and Part 36 Rules:
 - a. Annual statewide, mandatory training, to include all Justices, Fiduciary Clerks, Law Secretaries and staff.
 - b. Incorporate instructions/directions regarding Part 26 and Part 36 in the Judge's bench book.
3. Establish uniformity in orders appointing Part 36 fiduciaries by model orders and standard forms:
 - a. Model Orders and Standard Forms Should Be Created:
 - a. Standard forms and model orders should be created and made available as part of the materials that make up Part 36. These orders and forms could be customized to correspond to the type of appointment and contain optional provisions that could be included or excluded as appropriate. The standard forms should be created to address two significant aspects of Part 36: 1) the ability of an appointee to serve under the Rules of Part 36, and 2) the scope of the appointee's authority.
 - b. Create and promulgate a model order that sets forth the scope of the appointee's authority, with particular focus on those actions that require prior court approval. Such an order would contain all language required by Part 36 as well as suggested language that fits into a "Best Practices" category. The model order could include affirmative provisions and prohibitions to remind the appointee of the limits of the appointment.
4. Require appointees to affirm continuing fitness with each appointment:
 - a. While the UCS Form 872 requires that the appointee affirm that they are eligible to accept the appointment, best practices would suggest that an affidavit and/or affirmation be executed at the time of appointment by each Receiver and secondary appointee, affirming their competence for service. Part 36 should be

amended to require this. This step would significantly aid in the compliance process and identify any changes in qualifications that may have otherwise been overlooked.

- b. The following language should be included in all orders appointing Part 36 fiduciaries: "I am familiar with the duties and responsibilities of (a receiver, guardian, property manager, etc.), have experience in such area, and am fully capable and prepared to assume those duties and responsibilities which are commensurate with my abilities."

5. Part 36 Compliance Language Should Be Included In All Orders Appointing Part 36 Fiduciaries:

- a. The following language should be included in all orders appointing Part 36 primary and secondary appointees:
 - i. ORDERED, that _____, Fiduciary ID, with offices located at Business Address, is hereby appointed as Appointment Type, [on behalf of _____];
 - a. and
 - b. it is further
 - ii. ORDERED that pursuant to 22 NYCRR §36.1, [Appointment Type] shall be subject to Part 36 of the Rules of the Chief Judge; and it is further
 - iii. ORDERED, that, by accepting this appointment, [Appointment Type] certifies that he/she is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR 36), including but not limited to, Section 36.2(d) ("Limitations on appointments based on compensation"), and if the [Appointment Type] is disqualified from receiving an appointment pursuant to the provisions of Part 36, the [Appointment Type] shall notify the appointing judge forthwith; and it is further...
- b. The following language should be included in orders appointing all Part 36 fiduciaries, except for Mortgage Foreclosure Referees whose compensation is anticipated to be less than \$750, and Court Examiners in the 3rd and 4th Departments:
 - i. ORDERED, upon receipt of this order and UCS Form 872 (Notice of Appointment and Certification of Compliance), the [Appointment Type] shall complete, execute and return the UCS Form 872 to the Fiduciary Clerk; and it is further...

6. Because Part 36 Receivers and Guardians may be unaware that they may not hire and/or pay "secondary appointees" without prior court approval, increase awareness of the requirements for prior court approval of "secondary appointees":
 - a. The following language should be included in all orders appointing Part 36 guardians and receivers:
 - i. ORDERED, that pursuant to 22 NYCRR §36.1(a)(10) the [Guardian or Receiver] is not authorized to hire counsel, an accountant, auctioneer, appraiser, property managers, or real estate broker (secondary appointees) without further order of this Court, and that the [Guardian or Receiver] is not authorized to pay fees to any secondary appointee(s) without further order of this Court; and it is further
 - ii. ORDERED, that pursuant to Part 36.2(c)(8), no [Guardian or Receiver] shall be appointed as his or her own counsel, and no person associated with a law firm of that [Guardian or Receiver] shall be appointed as counsel to that [Guardian or Receiver] unless there is a compelling reason to do so; and it is further,
 - iii. ORDERED, that compensation for the secondary appointee(s) is subject to prior Court approval upon submission of an application showing experience/expertise, services rendered, time expended, prevailing rate in the community, rate charged, challenges presented and results achieves; and it is further...
 - b. Unless specifically prohibited, the appointed individual should be permitted to utilize attorneys and/or support staff in their firm without additional court approval.
7. Increase judicial awareness of a potential appointee's qualifications and experience:
 - a. Educate judges and court staff that the potential appointee's Part 36 application and resume (where provided) are available on line in the Part 36 database (password required for access). Each application includes detailed information regarding a potential candidate's background, skill, and experience.
 - b. Require all applicants to attach a current resume to their Part 36 application, and with each biennial registration.

8. Grow the list of qualified individuals through targeted outreach:
 - a. Targeted outreach will encourage the enrollment of individuals with particular interests and/or skills. It will also provide the opportunity to include other groups, such as senior lawyers and under-represented minorities.
 - b. Targeted outreach may also aid in appointments of guardianships involving low income or indigent individuals, and litigations involving financially distressed businesses, where limited or no funds are available to pay appointees for their service.
9. Amend Part 36 to give authority to the Chief Administrator to temporarily suspend any person or entity from any list upon allegations of unsatisfactory performance or conduct:
 - a. Amend the Part 36 Rules, as follows:
 - i. "Pending a final determination on the issue of removal, the Chief Administrator is authorized to temporarily suspend any person or entity from any list upon allegations that establish probable cause of unsatisfactory performance or conduct incompatible with appointment from that list, or if disqualified from appointment pursuant to this Part, upon the recommendation of the MIGFA and/or the court, where the Chief Administrator finds that the conduct places clients/wards at significant risk or presents an immediate threat to the public."
10. Amend Part 36 to provide clarification related to the appointment of Referees to sell and compute:
 - a. Amend Part 36 (§36.4[d]) to require that the referee must make a written application (letter is fine, not a motion) to authorize payment that is anticipated to total over \$750 for a "good cause" adjournment or if there is a rebid/resale.
 - b. Amend Part 36 (§36.4[d]) to require that upon approval of compensation over \$750, the court must send a copy of its court's order to the Fiduciary Clerk, who will then generate the required UCS Forms 872 and 875, monitor compliance, and file with the OCA reporting unit.

- c. Amend Part 36 (§36.4[d]) to require that plaintiffs may not pay the authorized additional compensation until they receive a copy of the court's order.

11. In orders appointing referees, provide language advising fiduciaries of their responsibilities under 22 NYCRR 36 when their compensation exceeds \$750 [22 NYCRR §36.4(d)]:

- a. The following language in both the Order of Reference and Judgment of Foreclosure and Sale should be added and such paragraphs should be placed in the same area of the order as all other paragraphs referring to the appointee's responsibilities under 22 NYCRR Part 36 as follows:
 - i. ORDERED, that if the referee's fees are anticipated to exceed \$750, the referee must apply [by letter] to the court for approval of such fees, and there must be compliance with 22 NYCRR §36.4(d), before such fees can be paid; and it is further
 - ii. ORDERED, that plaintiff is only authorized to pay the referee fees in excess of \$750 upon receipt of an order by the court authorizing such payment; and it is further...
- b. Modify the Foreclosure Action Surplus Monies Form to require a copy to be filed with the Fiduciary Clerk and to include a "check-off box" in which a referee must indicate whether he/she had received a fee in excess of \$750. Although this may identify non-compliance with Part 36 after the fact, it will at least alert the Fiduciary Clerk and allow him/her to address the issue with the referee and the court.

12. Modify the Surrogate's Court Rule §207.13 time frame to 30 days to make it consistent with Part 36.

13. Provide better practices for Attorneys for the Child ("AFC"):

- a. Material and online training regarding the Part 36 Rules should be mandated for all Judges currently sitting and newly appointed, in parts where private pay AFCs are appointed (generally matrimonial parts).

- b. When an AFC seeks to register pursuant to Part 36 to allow for private pay appointments, he/she should receive written materials and online training regarding the requirements of Part 36. This online training should be available on the Fiduciary/Part 36 website, and New York State Supreme Court Appellate Division Departmental websites should have links to the training and forms available on the Fiduciary/Part 36 websites.
- c. Judges and appointees should be required to use the standardized UCS forms for the order appointing an AFC (UCS Form 880), the AFC's affirmation of legal services (UCS Form 881), and the final order approving the AFC's compensation (UCS Form 882).
- d. Each court should implement a system to monitor cases in which an AFC has been appointed to ensure that upon the conclusion of service, the AFC submits to the court an affirmation of services (UCS Form 881) and settles on 5 day's notice the proposed final order approving AFC compensation (UCS Form 882). No case should be closed unless and until the court signs a final order approving the AFC's compensation and where required, a UCS Form 875.
- e. The following amendments to Part 36 should be considered:
 - i. Attorney for the Child should be substituted for Law Guardian;
 - ii. There should be upward modifications of the \$15,000 limit for accepting new assignments, as well as the \$75,000 annual compensation cap.

14. Prevent referees from transferring title from the actual purchaser at the sale to a third party at the closing:

- a. Add the following language to the Judgment of Foreclosure and Sale:
 - i. ORDERED, that the closing of title shall take place at the office of the referee, or at such other location as the referee shall determine, within forty-five (45) days after

such sale unless otherwise stipulated by all parties. The referee shall transfer title only to the successful bidder at the auction. Any delay or adjournment of the closing date beyond forty-five (45) days may be stipulated among the parties, with the referee's consent, up to ninety (90) days from the date of sale, but any adjournments beyond ninety (90) days.

15. Refer the issue of Special Needs Trusts to the Surrogate's Court Advisory Committee:

- a. Because of the wide-ranging ramifications regarding the regulation of trusts, this issue should be referred to Surrogate's Court Advisory Committee to consider whether it is appropriate to adopt a court rule or statutory amendment to require the court or a referee to review annual accountings for SNTs created outside of guardianships

3. Education and Training

The Education and Training Subcommittee¹⁶ examined current education and training curricula and protocols for appointees. They then identified ways to establish greater standardization and accessibility of training, including but not limited to areas of secondary appointments and recertification.

A. Findings

1. Certified training is provided by "sponsoring organizations," such as local bar associations, which charge a fee for participation. Many programs are recorded. All certified programs provide CLE credit.
2. Presently, completion of a certified training program is required for applicants seeking to enroll on the Part 36 list in eight (8) "primary" categories of appointment. Applicants enrolling for the first time must register within two (2)

¹⁶ The Education and Training Subcommittee is co-chaired by: Hon. Andrea Masley, Acting Justice of the Supreme Court; Hon. Russell P. Buscaglia, Acting Justice of the Supreme Court; Judith Israeli, Associate Court Attorney – Richmond Supreme Court; Mary Doyle, Principal Attorney – Appellate Division, 4th Dept. The members are: Elizabeth Candreva, Managing Inspector General for Fiduciary Appointments; Michele Gartner, Special Counsel for Surrogates and Fiduciary Matters; Angela Stamm-Philipps, Deputy Chief Clerk – Niagara Surrogates Court; Hon. Charles Troia, Acting Justice of the Supreme Court; Hon. Gary F. Knobel, Acting County Court Judge; Hon. Lee A. Mayersohn, Justice of the Supreme Court; Hon. Paul Morgan, Surrogate Judge; Hon. Sharon A.M. Aarons, Justice of the Supreme Court; Margaret M. Gribbon, Chief Clerk; Margaret Sowah, Deputy Clerk of the Court – Appellate Division, 1st Dept.; Rob Marchiony, Appellate Court Attorney – Appellate Division, 3rd Dept.; Susan M. Wilson, Chief Clerk – Rensselaer Surrogates Court.

years of completing the program. No re-training is required for biennial re-registration, provided the original registration has not lapsed.

3. OCA has developed course curricula for six (6) of these categories as set forth below:
 - a. Guardian
 - b. Guardian ad litem
 - c. Court Evaluator
 - d. Attorney for Alleged Incapacitated Persons
 - e. Supplemental Needs Trustee
 - f. Receiver
4. Training and education of Attorneys for the Child (Law Guardians) and Court Examiners is handled directly by the Appellate Divisions and candidates for enrollment in those categories must be approved by their respective Department prior to registration.
5. At this time, no training is required for list enrollment for foreclosure Referees or for enrollment the following “secondary” categories:
 - a. Counsel to Guardian
 - b. Counsel to Receiver
 - c. Accountant (to Guardian or Receiver)
 - d. Appraiser (to Guardian or Receiver)
 - e. Property Manager (to Guardian or Receiver)
 - f. Real Estate Broker (to Guardian or Receiver)

B. Recommendations

1. To ensure that candidates for enrollment have access to programs that are up to date, program certifications should expire after two (2) years.
2. Secondary appointees should be required to take training. Those who wish to enroll as Counsel for Guardian and Counsel for Receiver should be required to complete the same certified training as the primary appointees for whom they serve.
3. All other secondary enrollees should be required to participate in a brief, focused program designed to familiarize them with Part 36 rules, the secondary

appointment process and the general responsibilities of court appointed receivers and guardians (a webinar format is recommended).

4. Training should be required for those who wish to enroll on the Part 36 list as Referees in foreclosures.
5. Part 36 enrollees should be required to take a refresher training every two (2) years as part of the re-registration cycle). Since the sponsoring organizations will be updating their courses every two (2) years to obtain program certifications under Part 36, enrollees will be able to take the most current courses available.
6. Because training for Lay Guardians is required under Mental Hygiene Law § 81.39, it is recommended that the Guardian Assistance Network continue to offer free training and support for Lay Guardians.
7. OCA should offer a short seminar on guardianships and receiverships at the new judges training to familiarize newly appointed and elected judges with the basic issues of guardianships and receiverships. Alternatively, if timing is an issue at the seminars, reference handouts should be made available on these issues.
8. The remaining four (4) categories of Secondary Part 36 Appointments (i.e., Accountant, Appraiser, Property Manager and Real Estate Broker) should be mandated to receive a short training (2-3 hours) regarding how their position relates to the guardianship or receivership, advising them as to how to deal with certain common situations that arise. This training session should include written information in the form of checklists which can be easily referred to regarding situations which would absolutely require the secondary appointees to return to Court to receive approval from the Presiding Justice prior to specified actions being taken by them.
9. Sponsoring associations seeking to obtain certification for a fiduciary training program must submit an agenda and course materials to OCA to ensure the program conforms to an OCA-approved curriculum. The certification must be renewed every two (2) years, and programs must be revised to incorporate any curriculum changes required by OCA to obtain re-certification.

4. Automation and Technology

The Automation and Technology Subcommittee¹⁷ examined the current automated systems in relation to operational processes utilized in the collection, tracking and reporting of fiduciary appointments and in ensuring compliance with Part 26 and Part 36 Rules. The following proposal addresses shortcomings in the current fiduciary appointment process that hinder compliance and monitoring.

A. Findings

1. The current process relies too much on paper. It is difficult to navigate, and the filing of Appointment and Compensation forms is cumbersome.
2. Manual entry of this information is burdensome to court staff. Although a new system will not eliminate that problem, the efficiencies of a fully automated system will make the process more streamlined, and thus more easily navigable.
3. Since Judges are not required to report compensation awards of \$500 or less (making compensation data inherently incomplete), OCA cannot accurately track annual compensation for any given fiduciary. Thus, the onus is placed upon the fiduciary to inform the Court when they have reached or exceeded the annual compensation cap. This likely leads to inaccurate reporting.
4. For non-Part 36 appointments, the Notice of Appointment [UCS-872] form is not required, but a Statement of Approval of Compensation [UCS-875] form for compensation exceeding \$500 is required for most non-Part 36 appointments. As such, there is no means to match the compensation awarded to the corresponding fiduciary appointee, creating another significant gap in reporting of compensation awarded to certain fiduciary appointees.
5. An examination of the available statistical data reveals some trends that may be cause for concern. However, due to factors such as suspected (but unverifiable) underreporting, the absence of a requirement for non-Part 36 appointees to

¹⁷ The Automation and Technology Subcommittee is co-chaired by: Chip Mount, OCA Director of Research and Technology and Hon. Richard A. Dollinger, Acting Justice of the Supreme Court. The members are: Elizabeth Candreva, Managing Inspector General for Fiduciary Appointments; Michele Gartner, Special Counsel for Surrogates and Fiduciary Matters; F. Christian Spies, Chief Clerk – Schoharie Supreme Court; Hon. Stan L. Pritzker, Justice of the Supreme Court; Joseph Musolino, Court Clerk Specialist – Kings Supreme Court; John D’Alessandro, Court Attorney-Referee – Bronx Supreme Court; Karen R. Jordan, Chief Clerk – Cortland Supreme Court; Mark L. Annunziata, Chief Clerk – Monroe Surrogates Court; Michael C. Veruto, Chief Clerk – Niagara Supreme Court; Nancy J. Barry, Chief Clerk – Westchester Supreme Court; Nicole Botti, Principal Court Attorney – 7th Judicial District; Sam Younger, Deputy Director – OCA Division of Administrative Services; Steven E. Flatow, Principal Court Analyst – New York Supreme Court; William J. Perritt, Principal Management Analyst – Office of the Deputy Chief Administrative Judge’s-Courts ONYC.

formally acknowledge appointment, and the absence of a requirement to report compensation under \$500, the data may raise more questions than it answers. [see *Appendix D: Automation & Technology Subcommittee Final Report, Part 36 Historical Data Analysis, pg. 64 and Part 36 Historical Data 2004-2015 Judicial Districts Combined, pg. 83*]

6. The primary shortcomings of the current process are:
 - a. It is complex and cumbersome.
 - b. There are major disconnections between reporting of appointments and compensation.
 - c. There is a reliance on Appointees to self-report total compensation.
 - d. There is no mechanism to follow-up on non-reporting.
 - e. There is an inability to measure non-compliance.
7. Many “band-aid” fixes have been attempted over the years, but have not been effective. Enhancing the current systems would necessitate a similar (if not greater) commitment of time and resources and would simply not yield the extensive benefits of a new mandatory automated system.

B. Recommendations

1. Based upon review and analysis of the current Part 36 Database system, the subcommittee recommends development and implementation of a new, more robust, “record everything” statewide automated fiduciary system that records all fiduciary appointments, certifications and compensation orders. [see *Appendix D: Part 36 System Database System Narrative, pg. 111*]
2. All¹⁸ appointments will be recorded in the automated system (and categorized as Part 36 or non-Part 36) thereby creating an electronic record to which to attach any subsequent compensation awarded.
3. All¹⁹ compensation awards will be recorded in the automated system irrespective of the amount of compensation to facilitate three major objectives:

¹⁸ The following types of court-appointed fiduciaries would be excluded from recording in the automated fiduciary system:

- Executors and Administrators appointed by the Surrogate’s Court
- Appointees assigned to represent indigent persons pursuant to Article 18-B
- Counsel assigned pursuant to Judiciary Law 35
- Counsel appointed pursuant to the Family Court Act

¹⁹ The following types of court-appointed fiduciaries would be excluded from recording in the automated fiduciary system:

- a. Enabling OCA to accurately calculate the total compensation awarded for any given fiduciary as a reliable reference for the Court;
 - b. Identifying fiduciaries appointed pursuant to Part 36 who have reached or exceeded the annual compensation cap; and
 - c. Creating a comprehensive accounting of all fiduciary appointments, including non-Part 36 appointments, and all corresponding compensation, including non-Part 26 compensation under \$500, for the purposes of accurate reporting and public transparency.
4. The system will include a mechanism to distinguish Part 36 and non-Part 36 appointments. This mechanism will utilize a series of questions about the appointment to make the determination. The process that is developed will be accurate and simple to use.
 5. Approval of Compensation orders and Part 26 approvals are not issued unless fiduciary system information is complete (i.e., use the “power of the purse to enforce compliance”).
 6. Each Part 36 fiduciary appointee must be an individual - not an agency/organization - and is required to have an “account” and a unique identifier (i.e., unique account number linked to an SSN). For an attorney, the unique identifier will be their respective attorney registration number. Non-attorneys should provide their SS# which could then be hidden from public view for privacy concerns.
 7. The system will have a routine follow-up process in which the appointee must affirm information regarding the appointment in order to ensure compliance (i.e., “electronic nagging”).
 8. The system will provide readily available, online monitoring reports.
 9. The system will replace paper forms with online entry and replace regular mail with email communication.

-
- Executors and Administrators appointed by the Surrogate’s Court
 - Appointees assigned to represent indigent persons pursuant to Article 18-B
 - Counsel assigned pursuant to Judiciary Law 35
 - Counsel appointed pursuant to the Family Court Act

VI. Conclusion

The members of the Second Special Commission should be commended for presenting a myriad of issues and recommendations for review and consideration. Ideally, every recommendation would be implemented. However, considering budgetary and staffing limitations, a strategic implementation plan must be set forth in the most efficient and effective way possible. Accordingly, it is recommended that staffing be addressed first to allow other changes to be effectuated. Indeed, many recommendations rely on court resources that are currently unavailable. Notably, the recommendations for increased Education and Training, sprinkled throughout each subcommittee report, can only be implemented with specific staffing increases. **The proposed plan, in order of priority, is set forth below in eight stages.**

First, additional staff should be hired to effectively implement key recommendations set forth above. While the increase of twenty-one (21) staff members is strongly recommended, the creation of a District Fiduciary Liaison and Court Fiduciary Specialist is imperative to fulfilling the Commission's mission. Indeed, the District Fiduciary Liaison and Court Fiduciary Specialist will provide oversight of the proposed improvements. In addition, the Managing Inspector General's requested staff will improve case management and timeliness in commencing and completing investigations. Likewise, the OCA Division of Administrative Services' additional staff will be instrumental in upgrading the databases and providing compliance monitoring & tracking.

Second, education and training should be both mandated and increased for judges and non-judges. It is imperative that judges have a firm understanding of Part 36 and Part 26 rules and procedures. Therefore, the implementation of an annual education and training for judges and non-judges is crucial. This should include chambers and court staff, Fiduciary Clerks, District Fiduciary Liaisons (Judicial Districts 3-9) and Court Fiduciary Specialists in New York City and the Tenth Judicial Districts. Furthermore, fiduciary training for judges should be part of the regular program at judicial seminars and the instructions/directions regarding Part 26 and Part 36 in the Judge's Bench Book. In addition to this training, specialized training should be established for Foreclosure Referees, Counsel to Guardian and Counsel to Receiver appointees, and brief, focused training should be required for all remaining secondary appointment types regarding how their appointment relates to the Guardianship or Receivership and should be implemented

as laid out in the Executive Summary above. The training should incorporate certification by sponsoring organizations and the District Fiduciary Liaison.

Third, provide uniformity in Part 36 appointment orders. This should be done by following the recommendations set forth in the Executive Summary above. Notably, Standard forms and model orders should be created and made available as part of the materials that make up Part 36. These orders and forms may be customized to correspond to certain categories of appointment and contain optional provisions that may be included or excluded as appropriate.

Fourth, provide clarity regarding “secondary appointees” by presenting specific language in the orders related to whether the guardian may utilize attorney and/or support staff from their firm without an additional appointment by the court.

Fifth, implement a targeted outreach to encourage the enrollment of individuals with particular interests and/or skills. The outreach should also have the goal of encouraging attorneys to represent low income or indigent individuals.

Sixth, amend Part 36 to allow the Chief Administrator to temporarily suspend any person or entity from any list upon allegations, which establish probable cause, of unsatisfactory performance of conduct incompatible with the appointment from that list. The rules should also be amended to address cases in which referees sell real property and are awarded compensation exceeding \$750. Amendments should clarify inconsistencies between Part 36 and Surrogate’s Court Rule 207.13 and address transferring title to a third party at closings.

Seventh, the recommendations related to Attorneys for the Children should be implemented including, but not limited to, mandating online training regarding the Part 36 Rules for all judges who may appoint private-pay AFCs.

Eighth, the Court should implement a new Part 36 process that includes a “record everything” statewide automated fiduciary system that captures all appointments, certifications and compensation orders. The new automated system will take between one to two years to develop and implement, and the costs associated to this development and implementation are being calculated.

With the above strategic eight-step plan, the Court can meet its goal of streamlining and improving the fiduciary appointment and compliance monitoring process while promoting public confidence and respect for the judiciary.

Appendix A:

**Detailed Overview of Part 26 and
Part 36 of the Rules of the Chief Judge**

DETAILED OVERVIEW OF PART 26 AND PART 36 OF THE RULES OF THE CHIEF JUDGE

A. Background

Modern efforts to regulate the fiduciary appointment process began in 1967 with the enactment of Judiciary Law 35-a, which requires judges to file statements with OCA when they approve fees in excess of \$500. The predecessor of our current rules – the original Part 36 of the Rules of the Chief Judge, was adopted in 1986.

On November 15, 2002, the New York State Unified Court System adopted a stringent new set of rules governing New York’s fiduciary appointment system. The new set of rules, Part 36 of the Rules of the Chief Judge, which took full effect on June 1, 2003, was part of a broad initiative to reform the fiduciary appointment process, and followed the December 2001 publication of the Report of the Commission on Fiduciary Appointments (“Birnbaum Commission”).¹ New York’s then-Chief Judge Judith Kaye had created the Birnbaum Commission to assess the system after concerns were raised that the courts were selecting fiduciary appointees based on factors other than merit.² In its report, the Birnbaum Commission recommended a series of reforms “so that full public confidence in the integrity and impartiality of New York’s fiduciary appointment process may be maintained.”³ The new rules incorporated these recommendations.

The purpose of the Part 36 Rules is explicitly stated in the Preamble to the Rules:

Public trust in the judicial process demands that the appointment process be fair, impartial and beyond reproach. Accordingly, these rules are intended to ensure that appointees are selected on the basis of merit, without favoritism, nepotism, politics or other factors unrelated to the qualifications of the appointee or the requirements of the case.

The rules cannot be written in a way that foresees every situation in which they should be applied. Therefore, the appointment of

1 Report of the Commission on Fiduciary Appointments (Dec. 2001) (hereinafter “2001 Birnbaum Commission Report”). Sheila Birnbaum, Esq., (Chair), Skadden, Arps, Slate, Meagher, & Flom, LLP.

2 2001 Birnbaum Commission Report, at 21 - 25.

3 2001 Birnbaum Commission Report, at 3.

trained and competent persons, and the avoidance of factors unrelated to the merit of the appointments or the value of the work performed are the fundamental objectives that should guide all appointments made, and orders issued.⁴

The former version of Part 36 applied to the appointment of guardians, guardians *ad litem*, court evaluators, attorneys for AIPs, receivers, “persons designated to perform services for a receiver,” and referees.⁵ Enrollment on the Office of Court Administration’s fiduciary list was open to anyone who applied, other than judge’s relatives⁶ and court system employees.⁷ Adopting the Birnbaum Commission’s recommendations, the new rules expanded the categories of appointees to which the rules applied, including within the rules’ ambit court examiners, supplemental needs trustees, privately paid law guardians, and six categories of professionals who perform services for guardians and receivers.⁸ The new rules called for the promulgation of more stringent training, eligibility, and registration requirements for list enrollees,⁹ broadened the categories of individuals who were precluded from receiving appointments,¹⁰ placed new limits on eligibility based on compensation,¹¹ and authorized the Chief Administrator to remove appointees from the list for cause.¹²

The new rules addressed the Birnbaum Commission’s finding that investigations and audits had found “numerous” cases in which legal fees were approved “for services that were not of a legal nature.”¹³ In response to that finding, the new rules barred counsel for guardians and receivers from receiving compensation for work that should have been part of the guardian’s or receiver’s routine duties,¹⁴ and precluded the appointment of guardians or

4 22 N.Y.C.R.R. § 36:Preamble.

5 22 N.Y.C.R.R. § 36 (repealed).

6 22 N.Y.C.R.R. § 36.1(b)(1) (repealed).

7 22 N.Y.C.R.R. § 36.1(b)(3) (repealed).

8 22 N.Y.C.R.R. § 36.1(a)(1) - (10).

9 22 N.Y.C.R.R. § 36.3.

10 22 N.Y.C.R.R. § 36.2(c).

11 *See*, 22 N.Y.C.R.R. § 36.2(d). Under the prior version of Part 36, appointees were ineligible to receive more than one appointment within a twelve month period for which the awarded compensation was anticipated to exceed \$5,000. 22 N.Y.C.R.R. § 36.1(c)(repealed). The Birnbaum Commission found that this limit alone was an “ineffective means of preventing the concentration of higher-paying appointments in a few individuals.” 2001 Birnbaum Commission Report, at 52.

12 22 N.Y.C.R.R. § 36.3(e).

13 2001 Birnbaum Commission Report, at 54 -55.

14 22 N.Y.C.R.R. § 36.4(b)(4).

receivers as their own counsel in the absence of a “compelling reason.”¹⁵ The practice of appointing a court evaluator as the guardian in the same proceeding, which the Birnbaum Commission found to raise “serious conflict of interest concerns,”¹⁶ was limited to cases where the court found “extenuating circumstances.”¹⁷ The appointment of an attorney for the alleged incapacitated person (“AIP”) as the guardian, or as counsel to the guardian, which the Birnbaum Commission found raised an even “more serious conflict of interest,”¹⁸ was barred.¹⁹

One of the “more difficult issues” that the Birnbaum Commission examined involved the procedure for selecting the appointee.²⁰ The Birnbaum Commission rejected an approach mandating a “blind, rotational” selection process, and instead, recommended steps that should be taken to facilitate the court’s selection of appointees “with the skill and background needed to meet the task at hand.”²¹ The new rules incorporated those recommendations, along with the Birnbaum Commission’s recommendations to increase oversight and transparency of both the appointment and compensation process by adopting new filing and reporting requirements.²²

The Birnbaum Commission concluded its 2001 Report with the recommendation that it reconvene in the future to assess progress and the need for additional reform.²³ In January 2004, Chief Judge Kaye formally asked the Commission to reconvene.²⁴ The Birnbaum Commission issued its second report in February 2005. Based on the recommendations in that report, the Part 36 rules in 2006 were amended to extend to the public administrators and their counsels the Part 36 disqualification provisions,²⁵ and to mandate reporting of compensation awards to counsel for the public administrators.²⁶

15 22 N.Y.C.R.R. § 36.2(c)(8).

16 2001 Birnbaum Commission Report, at 55 - 56. The Birnbaum Commission found that this practice was “not unusual.” *Id.*

17 22 N.Y.C.R.R. § 36.2(c)(10).

18 2001 Birnbaum Commission Report, at 56.

19 22 N.Y.C.R.R. § 36.2(c)(9).

20 2001 Birnbaum Commission Report, at 44 - 45.

21 *Id.* at 46.

22 *Id.*, at 56 - 59.

23 *Id.*, at 66.

24 Report of the Commission on Fiduciary Appointments (February 2005) (hereinafter “2005 Birnbaum Commission Report”), at 5.

25 22 N.Y.C.R.R. § 36.1(a)(11). See 2005 Birnbaum Commission Report at 39 - 40.

26 22 N.Y.C.R.R. § 36.4(e). See 2005 Birnbaum Commission Report at 41 - 42.

B. The Part 36 Rules

The Part 36 rules apply to “appointments made by any judge or justice of the Unified Court System” in ten “primary” categories of appointment, and in six “secondary” categories of appointment. Unless they are subject to a specific exemption, primary appointees include guardians, guardians *ad litem*, law guardians, court evaluators, attorney for AIPs, court examiners, supplemental needs trustees, receivers, referees, and public administrators and their counsel. Secondary appointees are those professionals whom Part 36 (non-exempt) guardians or receivers retain as counsel, accountants, auctioneers, appraisers, property managers, and real estate agents.²⁷ Like primary appointees, secondary appointees must be appointed by the court. Part 36 guardians and receivers who require the services of secondary appointees must obtain court approval prior to retaining or compensating these professionals.

Guardians appointed for incapacitated persons pursuant to MHL Article 81, for minors pursuant to SCPA Article 17 or CPLR Article 12, or for developmentally disabled individuals pursuant to SCPA 17A, are subject to Part 36,²⁸ unless the guardian is a nonprofit institution, or is a relative of the subject of the proceeding, or is nominated by the AIP or the ward, or proposed by a party to the proceeding.²⁹

Guardians *ad litem* appointed under SCPA 403³⁰ or CPLR 1202, and their counsel and assistants, are subject to Part 36.³¹ This includes guardians *ad litem* appointed to investigate and report to the court on particular issues.³² Guardians *ad litem* who are nominated by an infant age 14 or over are exempt,³³ as are physicians who are appointed as guardians *ad litem* where emergency medical or surgical procedures are required.³⁴ It has been suggested that the reference to guardian *ad litem*'s “counsel and assistants” creates an additional category of secondary appointees.³⁵ There is no provision for list enrollment in this category. Guardians *ad*

27 22 N.Y.C.R.R. § 36.1(a)(10).

28 22 N.Y.C.R.R. § 36.1(a)(1). See Explanatory Note 1A.

29 22 N.Y.C.R.R. § 36.1(b)(2)(i).

30 Guardians *ad litem* appointed in Surrogate's court must be attorneys. SCPA §404(1).

31 36.1(a)(2).

32 22 N.Y.C.R.R. § 36.1(a)(2).

33 22 N.Y.C.R.R. § 36.1(b)(2)(ii).

34 22 N.Y.C.R.R. § 36.1(b)(2)(vii).

35 See, [2004 Supplement, Abram's Guardianship treatise, Ch.1-A, fn. 15].

litem are advised to seek guidance from the appointing court prior to retaining “counsel or assistants.”

Privately paid law guardians in domestic relations matters, now known as attorneys for children, are subject to Part 36.³⁶ In addition to qualifying under Part 36, privately paid law guardians must be designated by the appropriate Department of the Appellate Division.³⁷ Privately paid law guardians are authorized in the First, Second and Fourth Departments of the Appellate Division. There are no privately paid law guardians in the Third Department. Law guardians pursuant to Section 243 of the Family Court Act, who are paid from public funds, are exempt.³⁸

Court evaluators³⁹ and attorneys for AIPs⁴⁰ are subject to Part 36, unless the court evaluator or attorney for the AIP is a nonprofit institution,⁴¹ such as Mental Hygiene Legal Services. Attorneys appointed to represent indigent persons pursuant to Article 18-B are not subject to Part 36.⁴²

Court examiners are subject to Part 36. In addition to qualifying under Part 36, court examiners must be designated by the appropriate Department of the Appellate Division.⁴³

Supplemental needs trustees are subject to Part 36,⁴⁴ unless the trustee is a bank or trust company, or is related to or nominated by the beneficiary, or proposed by a proponent of the trust.⁴⁵

Receivers are subject to Part 36,⁴⁶ unless the choice of receiver is dictated by law.⁴⁷

36 22 N.Y.C.R.R. § 36.1(a)(3).

37 *Id.*

38 22 N.Y.C.R.R. § 36.1(b)(1).

39 22 N.Y.C.R.R. § 36.1(a)(4).

40 22 N.Y.C.R.R. § 36.1(a)(5).

41 22 N.Y.C.R.R. § 36.1(b)(2)(iii) (court evaluators); 22 N.Y.C.R.R. § 36.1(b)(1). See, Explanatory Note 1D.

42 Explanatory Note 1C.

43 Explanatory Note 1D.

44 22 N.Y.C.R.R. § 36.1(a)(7).

45 22 N.Y.C.R.R. § 36.1(b)(2)(i)(B).

46 22 N.Y.C.R.R. § 36.1(a)(8).

47 22 N.Y.C.R.R. § 36.1(b)(2)(vi).

Referees, other than special masters and those otherwise performing judicial functions in a quasi-judicial capacity, are subject to Part 36.⁴⁸ Referees appointed in mortgage foreclosure actions to sell real property and to compute are subject to Part 36.⁴⁹ Part 36 does not apply to referees appointed to hear and report, or to supervise discovery.⁵⁰ Referees appointed pursuant to Part 36 must be attorneys admitted to practice in New York.⁵¹

Public administrators within the City of New York and for the counties of Westchester, Onondaga, Erie, Monroe, Suffolk, and Nassau and counsel to the public administrator, are subject only to the disqualification provisions of Part 36, and to the provision governing approval and reporting of compensation received by counsel to the public administrator.⁵² Part 36 does not apply to the chief fiscal officers who serve as administrators in the 52 counties that do not have public administrators appointed by the surrogate.⁵³

Appointees who agree to serve *pro bono* are exempt from the qualification provisions of Part 36, except that they must file a notice of appointment and indicate their intent to serve without compensation at the time of appointment.⁵⁴

C. Part 36 Disqualifications from appointment

Part 36 sets forth ten categories of individuals and entities who are disqualified from appointment to any of the primary or secondary categories of appointment set out in Part 36.

As discussed more fully below, some of the disqualifications preclude enrollment on the fiduciary eligibility list. Other disqualifications do not preclude list enrollment, but bar appointment in a particular jurisdiction, a particular court, or by a particular judge. Appointees to a category of appointment that is exempt are not subject to the Part 36 disqualification provisions, except for the prohibitions against the appointment of convicted criminal offenders and disbarred or suspended attorneys. Eligibility for appointment is determined as of the date of the court order making the appointment.

48 22 N.Y.C.R.R. § 36.1(a)(9).

49 Explanatory Note 1G.

50 *Id.*

51 See, http://www.nycourts.gov/ip/gfs/RefereesBulletin_11_28_03.pdf.

52 22 N.Y.C.R.R. § 36.1(a)(11).

53 22 N.Y.C.R.R. § 36.1(b)(2)(v).

54 22 N.Y.C.R.R. § 36.1(b) (3)

Judges or housing judges of the Unified Court System are ineligible to receive Part 36 appointments anywhere in the state, and are therefore ineligible for list enrollment, as are their relatives by blood or marriage within the fourth degree.⁵⁵ Town and village judges are judges of the Unified Court System.⁵⁶ Relatives by “blood or marriage” refers to the blood relatives of the judge, the relatives of the judge’s spouse, the spouses of the judge’s relatives, and the spouses of the relatives of the judge’s spouse. Relatives within the fourth degree include first cousins, grand nieces or nephews, grand aunts or uncles, and great-great grandparents. Until this section was amended in 2006, this disqualification extended to judges’ relatives by blood or marriage within the sixth degree.

Former judges are barred from appointment by judges in the jurisdiction where the judge served, for two years following the date the judge left office, as are their spouses, siblings, parents, and children.⁵⁷ Judicial hearing officers may not be appointed by courts for which they serve on a judicial hearing officer panel.⁵⁸

Full-time or part-time employees of the Unified Court System may not be appointed anywhere in the state, and are thus ineligible for list enrollment.⁵⁹ The spouse, sibling, parent or child of an employee grade JG 24 or above may enroll on the fiduciary list, but may not be appointed in the judicial district where the employee is employed.⁶⁰

Chairs and executive directors of political parties, and their spouses, siblings, parents and children are barred from appointment, and ineligible for list enrollment, while the official is in office and for two years after the official leaves the office.⁶¹ This bar extends to the “members, associates, counsel and employees of any law firms or entities” with which the

55 22 N.Y.C.R.R. § 36.2(c) (1).

56 N.Y. State Const. Art 6, § 1.

57 36.2(d)(5). That section states that “Jurisdiction is defined as follows: (i) The jurisdiction of a judge of the Court of Appeals shall be statewide. (ii) The jurisdiction of a justice of an Appellate Division shall be the judicial department within which the justice served. (iii) The jurisdiction of a justice of the Supreme Court and a judge of the Court of Claims shall be the principal judicial district within which the justice or judge served. (iv) With respect to all other judges, the jurisdiction shall be the principal county within which the judge served.”

58 22 N.Y.C.R.R. § 36.2(c)(2).

59 22 N.Y.C.R.R. § 36.2(d)(3).

60 *Id.*

61 22 N.Y.C.R.R. § 36.2(c)(4)(i). *See, Kraham v. Lippman*, 478 F.3d 502 (2d Cir. 2007) (Section 36.2(c)(4)(i) serves a “critical purpose” and does not violate the First Amendment.)

official is associated while in office, or with whom the official is associated for two years after the official leaves the position.⁶²

Individuals who serve on judicial campaign committees as chairs, coordinators, managers, treasurers, of finance chairs, their spouses, siblings, parents and children, and anyone associated with the law firm⁶³ of the campaign official, may not be appointed by the judge on whose campaign committee the individual served, beginning from when the official assumed the position, during the pendency of the campaign, and for two years following the election.⁶⁴

Those removed from the Part 36 list for unsatisfactory performance or conduct incompatible with performance are ineligible to receive appointments governed by Part 36.⁶⁵ Disbarred or suspended attorneys may not be appointed to any category of appointment governed by Part 36, nor may they be appointed to a category of appointment that is otherwise exempt.⁶⁶ This prohibition also applies to those convicted of felonies, unless they have received a certificate of relief, and to those convicted of misdemeanors for which a sentence was imposed within five years, unless they have received a certificate of relief or a waiver from the Chief Administrator.⁶⁷

D. Part 36 Limitations on Appointment

1. Article 81 Appointment Limitations

Part 36 limits an appointee's eligibility for particular Article 81 appointments where the appointee has previously served in a guardianship proceeding involving the same AIP. These individuals are otherwise eligible for appointment.

An attorney for an AIP pursuant to Part 36 may *never* be appointed as a guardian of that AIP, or as counsel to the guardian of that person.⁶⁸ A court evaluator in a guardianship proceeding may be appointed as a guardian for the subject of the proceeding only upon the

62 22 N.Y.C.R.R. § 36.2(c)(4)(i).

63 Contrast this with the disqualification of those associated with both law firms and "entities" of political party chairs or executive directors.

64 22 N.Y.C.R.R. § 36.2(c)(4)(ii).

65 22 N.Y.C.R.R. § 36.2(b)(2).

66 22 N.Y.C.R.R. § 36.2(c)(6).

67 22 N.Y.C.R.R. § 36.2(c)(7).

68 22 N.Y.C.R.R. § 36.2(c)(9)

court’s written finding of “extenuating circumstances.” The Explanatory Note suggests that such circumstances might include the “unavailability of others” and “familiarity and trust developed between the court evaluator and incapacitated person.”⁶⁹

2. Secondary Appointment Limitations

In the absence of a “compelling reason,” Part 36 guardians or receivers may not be appointed their own counsel, nor may an attorney associated with the guardian or receiver’s law firm be appointed counsel to that guardian or receiver.⁷⁰ The Explanatory Note suggests that a compelling reason might be savings to the guardianship estate,⁷¹ or the unavailability of others.⁷² Part 36 does not require that this finding be made in writing. Part 36 states that appointees who serve as counsel to a guardian or receiver shall not be compensated as counsel for services that should have been performed by the guardian or receiver.⁷³

3. Limitations Based on Compensation

Part 36 places limitations on new appointments that may be accepted by those who have been awarded an aggregate of more than \$75,000 in Part 36 compensation during the past calendar year.⁷⁴ It also limits appointees to one appointment per year that is anticipated to result in an award of compensation of \$15,000 or more in any one calendar year.⁷⁵ Part 36 defines compensation as “awards by a court of fees, commissions, allowances or other compensation excluding costs and disbursements.”⁷⁶

a. The \$75,000 Rule

An appointee who is awarded more than \$75,000 in aggregate payments from Part 36 appointments in a single calendar year is ineligible to receive any new Part 36 appointments in the next calendar year. To determine eligibility in the current year, the appointee must total all

69 Explanatory Note 3.

70 22 N.Y.C.R.R. § 36.2(c)(8).

71 Explanatory Note 3.

72 *See, e.g., In re Ress*, 8 A.D.3d 114, 115, 778 N.Y.S.2d 489, 490(1st Dep’t 2004)(Appellate Court affirmed trial court ruling that “compelling reason” for guardian acting as his own counsel existed where guardian was unable to find an attorney who would handle the matter on a contingency fee basis.)

73 22 N.Y.C.R.R. § 36.4(d)(4).

74 22 N.Y.C.R.R. 36.2(d)(2). Prior to its amendment in 2008, the annual aggregate limitation was \$50,000.

75 22 N.Y.C.R.R. § 36.2(d)(1). Under the prior version of Part 36, an individual was eligible to receive only one appointment within a 12 month period for which total compensation was anticipated to exceed \$5,000.

76 22 N.Y.C.R.R. 36.2(d)(3).

compensation awarded by court order in the prior calendar year. Because fees are not deemed to be “awarded” until approved by the court, the date on which the court order is signed is determinative. The year(s) in which the funds were received is irrelevant, as is the year in which the appointment was made or the years(s) in which the work was performed.

The \$75,000 rule bars an appointee from accepting new appointments in the next calendar year. An appointee may continue to accept new appointments during a year in which they have received awards in excess of \$75,000. Likewise, an appointee who is ineligible for new appointments under the \$75,000 rule may continue to work on any appointments received when eligible, and may be awarded compensation for such work.

b. The \$15,000 Rule

An appointee may accept one appointment per calendar year that is anticipated to result in an award of compensation that “in any calendar year exceeds the sum of \$15,000.”⁷⁷ In determining anticipated compensation, the appointee must consider whether the appointment is one that may result in one award of compensation at the appointment’s conclusion, or one that may result in multiple awards of compensation on an annual basis for many years. This is particularly germane to guardianship practice, where some appointments, such as court evaluator or attorney for the AIP, may begin and end within a single calendar year, while other appointments, such as guardian or court examiner, are more long-term in nature, and may span multiple years. Application of the \$15,000 rule requires the appointee to anticipate whether a potential award in the year of appointment or in any future year will be in excess of \$15,000.

c. Exception

Part 36 provides that the compensation limitations embodied in the \$15,000 and \$75,000 do not apply “where the appointment is necessary to maintain continuity of representation of or service to the same person or entity in further subsequent proceedings.”⁷⁸ If the appointing judge determines that the same appointee must be reappointed to ensure a

⁷⁷ 22 N.Y.C.R.R. 36.2(d)(1).

⁷⁸ In contrast to the present rule, the pre-2003 exception applied “where the appointing judge determine(d) that unusual circumstances of continuity of representation or familiarity with a case require(d) an appointment for which compensation would exceed that permitted...” 22 N.Y.C.R.R. 36.1(c)(repealed). The inclusion of the word “services” in the current rule is in reference to secondary appointees, who are appointed to perform services for guardians and receivers.

continuity of representation or service for the same party in the same, or a related action or proceeding, the appointment will not violate either the \$15,000 or the \$75,000 rule.

E. The Part 36 Eligibility List

1. Enrollment on the Part 36 Eligibility List

Part 36 requires that “[t]he Chief Administrator shall establish separate lists of qualified applicants for each category of appointment, and shall make available such information as will enable the appointing judge to be apprised of the background of each applicant.”⁷⁹ The Chief Administrator is responsible for establishing and certifying education and training requirements for list enrollment, consisting of “substantive issues pertaining to each category of appointment – including applicable law, procedures, and ethics – as well as explications of the rules and procedures implementing [Part 36].”⁸⁰ The rules further require the establishment of a procedure for re-registration every two years.⁸¹ While the rules authorize the enrollment and appointment of “entities,”⁸² entity enrollment has not been implemented, and at present, only natural persons are permitted to enroll on the list, or to receive appointments.

Applicants for list enrollment must fill out an application designating the appointment categories in which they wish to enroll, and the counties in which they will be available for appointment.⁸³ The application collects data on employment history, academic degrees, bar admission, foreign language fluency, and other professional and occupational credentials. For categories where training is required, applicants must certify that they have completed an approved training course.⁸⁴ All applicants must certify that they are not subject to any disqualifications.

Applicants for enrollment must answer questions related to the applicant’s character and fitness, including, *inter alia*, past convictions or pending criminal proceedings, past or pending professional disciplinary proceedings, and past or pending bankruptcies. Applicants

79 22 N.Y.C.R.R. § 36.3(c).

80 22 N.Y.C.R.R. 36.3(b). Article 81 sets forth similar education requirements for guardians (81.39), court evaluators (81.40), and court examiners (81.41), and the Chief Administrator is responsible for approving these training programs. See MHL 81.39(b) (guardians), 81.40(b) (court evaluators), and 81.41(b) (court examiners).

81 22 N.Y.C.R.R. § 36.3(d).

82 See 22 N.Y.C.R.R. § 36.2(a).

83 The application is available on line at <http://www.nycourts.gov/ip/gfs>

84 The training requirements for Part 36 list enrollment may be found at <http://www.nycourts.gov/ip/gfs>.

who answer any of these questions in the affirmative must attach to the application a detailed explanation. Those who are accepted for enrollment on the list are assigned a fiduciary identification number, and their information is entered into the court system's centralized fiduciary database. The fiduciary identification number does not change and remains with the applicant as long as the person remains on the eligible list. The fiduciary identification number is the identifier used to track an appointee's appointments and awards of compensation.

Applicants who wish to serve as court examiners or privately paid law guardians are subject to the additional requirement that they must be designated by the presiding justice of the appropriate Department of the Appellate Division.⁸⁵ The Part 36 application may be submitted to the Office of Court Administration only after the court examiner or law guardian applicant has completed a training course sponsored by the Appellate Division.

1. Non-List Appointments

While Part 36 in general requires that all appointments subject to Part 36 be made from the fiduciary eligibility lists, judges may appoint persons not on the list upon a finding of "good cause," set forth in writing and filed with the Fiduciary Clerk and the Chief Administrator.⁸⁶ Non-list appointees, however, must not be otherwise ineligible or disqualified, and must file all the necessary forms related to their appointment.⁸⁷ To be considered a list appointee, the appointee must be enrolled on the list for both the category and the county of appointment. Thus, an appointee who is enrolled on the list for a category of appointment other than that specified in the order of appointment, or who is enrolled on the list in a county other than that of appointment, will be considered a non-list appointee. Any appointment of an individual who has failed to timely re-register on the fiduciary eligibility list will likewise be considered a non-list appointment.

3. Removal for Cause

Part 36 provides that "[t]he Chief Administrator may remove from any list any person or entity for unsatisfactory performance or any conduct incompatible with appointment."⁸⁸ The

85 MHL 81.32(b); 22 N.Y.C.R.R. 36.3(c).

86 22 N.Y.C.R.R. § 36.2(b)(3).

87 22 N.Y.C.R.R. § 36.2(b)(3). The appointing judge may waive any education and training requirements where completion would be "impractical."

88 22 N.Y.C.R.R. § 36.3(e).

Office of the Managing Inspector General for Fiduciary Appointments is responsible for investigating alleged misconduct and noncompliance by Part 36 appointees, and for making recommendations regarding list removal. Pursuant to Part 36, no one may be removed from the list until they have received a written statement of the reasons for the removal and an opportunity to provide an explanation and submit facts in opposition to the removal.⁸⁹ Those removed from the list for cause are ineligible to be appointed to any category of appointment governed by Part 36.⁹⁰

F. The Fiduciary Database

The court system's electronic centralized fiduciary database permits the public to view the names of those enrolled on the Part 36 list, the categories of appointment for which they are eligible, the counties in which they are available to serve, the appointments they have received, and any compensation they have been awarded.⁹¹ The availability of the public database fulfills the obligations pursuant to Part 36 for the Chief Administrator to publish the names of all persons or entities appointed by each appointing judge, and the compensation approved for each appointee.⁹²

The court system's intranet fiduciary database offers additional features to facilitate the court's process of selecting an appropriate appointee. An appointing judge may access an applicant's entire application and any attachments submitted,⁹³ and may search the database for enrollees with additional skills and experience that may be relevant to a particular appointment, such as the ability to speak a language other than English, academic degrees or professional licenses, and appointment experience.

89 See, *Silverstein v. N.Y.S. Office of Court Administration*, 14 Misc. 3d 300, 829 N.Y.S.2d 432 (Kings, 2006) (Decision to remove referee's name from fiduciary list was not arbitrary or capricious where referee awarded herself fees in excess of statutory minimum without court approval.)

90 22 N.Y.C.R.R. § 36.2(b)(2).

91 The fiduciary database is available to the public at <http://www.nycourts.gov/ip/gfs>.

92 22 N.Y.C.R.R. § 36.5(b).

93 The application is not available through the public database.

G. The Part 36 appointment process

1. The Order of Appointment

a. Primary Appointments

A Part 36 appointment must be made in an order issued by the court. An appointment may be the sole subject of the order, or, as is more common, it may part of a longer, more comprehensive order issued by a court. For example, the judge may appoint a court evaluator in the Order to Show Cause commencing an Article 81 guardianship proceeding. Similarly, in the Order and Judgment, the court, in addition to appointing a guardian, may appoint a court examiner.

b. Secondary Appointments

Guardians and receivers who are appointed pursuant to Part 36 are subject to the secondary appointment provisions on the hiring of counsel, accountants, auctioneers, appraisers, property managers, and real estate agents. Professionals in these six categories, when retained by Part 36 guardians or receivers, must be appointed by the court, and are themselves Part 36 appointees, subject to all provisions of Part 36. While Section 36.2(a) states that in making the appointment “the appointing judge may consider the recommendation of the guardian or receiver,” Part 36 guardians or receivers must seek court approval prior to retaining or compensating these professionals.⁹⁴

Professionals retained by lay and nominated guardians are not subject to the secondary appointment rules,⁹⁵ but professionals retained by co-guardians may be subject to the secondary appointment rules if one of the co-guardians is a Part 36 appointee. Part 36 guardians or receivers who agree to serve without compensation remain subject to the Part 36 secondary appointment rules. Similarly, if a Part 36 guardian or receiver retains a professional who agrees to serve without compensation, that professional must be judicially appointed, and must file a notice of appointment.

⁹⁴ The procedure by which guardians or receivers apply for court permission to retain a secondary appointee varies – some courts require motions on notice, some accept *ex parte* applications, and others accept a letter request.

⁹⁵ The court always has the statutory authority to restrict the guardian’s powers and the guardian’s exercise of those powers. For example, the court may grant a lay/ nominated guardian the power to retain an accountant or any other professional, but make the exercise of that power subject to prior court approval. Such restriction does not create an appointment subject to Part 36.

2. Procedure After Appointment: The Notice of Appointment & Certification of Compliance

Part 36 requires that “every person or entity appointed pursuant to this Part shall file with the Fiduciary Clerk of the court from which the appointment is made, within 30 days of the making of the appointment, a notice of appointment and a certification of compliance with this Part, on such form as promulgated by the Chief Administrator.”⁹⁶ No compensation may be awarded unless the appointee has completed and returned this form.⁹⁷ The only exception to this procedure is “the appointment of a referee to sell real property and a referee to compute whose compensation for such appointments is not anticipated to exceed \$750.”⁹⁸ All notices of appointment and certifications of compliance are public records.⁹⁹

Following the court’s issuance of an order making an appointment subject to Part 36, the court’s Fiduciary Clerk¹⁰⁰ will enter information from the order into the court system’s centralized electronic database, which generates UCS Form 872, the Notice of Appointment and Certification of Compliance.¹⁰¹ The court will mail this form to the appointee, who is responsible for completing the form and mailing it back to the court. By completing, signing, and returning this form to the Fiduciary Clerk, the appointee formally affirms that he or she is eligible to accept the appointment. Upon return, the form is mailed by the Fiduciary Clerk to the Office of Court Administration, which enters its return in the database.¹⁰²

Appointees who are not enrolled on the list, like those who are on the list, must complete and return a Notice of Appointment and Certification of Compliance. When the Fiduciary Clerk, on entering the appointment into the court database, indicates on the UCS Form 872 that the appointee is not enrolled on the Part 36 list, the database generates UCS Form 872.5, the Statement of Reasons for Non-List Appointment, which must be completed

96 22 N.Y.C.R.R. 36.4(a)(1).

97 22 N.Y.C.R.R. § 36.4(b)(2).

98 22 N.Y.C.R.R. § 36.4(d). Prior to its amendment, effective January 3, 2008, this section applied to referee appointments where compensation was not expected to exceed \$550.

99 22 N.Y.C.R.R. § 36.5(a).

100 The individual who performs the fiduciary clerk function varies in the courts within the state. In some jurisdictions, one individual serves as the fiduciary clerk for an entire court; in other jurisdictions, this function is performed by chambers staff for each judge.

101 Those appointed as privately paid law guardians will receive, in addition to the UCS Form 872, the UCS Form 880 (Order Appointing Law Guardian). Privately paid law guardian forms are available at <http://www.nycourts.gov/ip/gfs>.

102 Appointees who cannot certify to compliance, or who must decline the appointment for any other reason, are advised to notify the fiduciary clerk immediately.

and signed by the appointing judge, and transmitted by the Fiduciary Clerk to OCA. Completing and filing this form satisfies the requirement that “a finding of good cause” shall be “set forth in writing” by a judge making a non-list appointment.¹⁰³ UCS Form 872.5 is an internal court system form, and a copy is not provided to the non-list appointee.

a. UCS Form 872: Notice of Appointment and Certification of Compliance

i. Part A: Notice of Appointment

Part A of UCS Form 872 is the Notice of Appointment. When the appointee receives the form, Part A is pre-printed with information from the court’s database, such as identifying data about the appointee, the case name and index number, the category of appointment, the appointing judge, and the appointee’s prior appointment and compensation history. The appointee is required to check the pre-printed information for accuracy, and make any necessary corrections. If the appointee is serving without compensation (*pro bono*), the appointee must sign and date Part A of the form before returning it to the Fiduciary Clerk. Unless the appointee indicates at this time the intent to serve *pro bono*, the appointee must complete Part B before returning the form.

ii. Part B: Certification of Compliance

Part B of UCS Form 872 is the Certification of Compliance. By completing this part of the form the appointee affirms that he or she is eligible to accept the compensated appointment.

Item 1 of Part B requires the appointee to indicate whether the compensation awarded for the appointment in Part A is anticipated to be in excess of \$15,000 in any single calendar year. Appointees who require additional information to complete this section are advised to review the file on the matter and/or contact the court.¹⁰⁴

Item 2 of Part B requires the appointee to list all appointments received during the current calendar year, and to certify whether an award of compensation in excess of \$15,000 is anticipated for any appointment received to date. Item 2 is pre-printed with any prior appointments for the current calendar year that are listed in the court system’s database as of the date of the appointment. Item 2 does not include appointments that are not entered into

103 22 N.Y.C.R.R. § 36.2(b)(2).

104 The appointee is expected to exercise good faith in making this determination. There is no Part 36 violation if the appointee is awarded a fee that is greater than that anticipated, provided the appointee acted in good faith.

the court database, either because the appointment has not yet been entered into the database, or because it is not required to be entered into the database form.¹⁰⁵ It is the appointee's responsibility to review the form and add any appointments that are not listed.

Item 3 of Part B requires the appointee to list all awards of compensation received in the prior calendar year for Part 36 appointments. Item 3 will be pre-printed with awards of compensation for the prior calendar year that are listed in the court system's database as of the date of the appointment. As discussed more fully below, however, awards of compensation of less than \$500, awards of compensation for service as a referee in foreclosure that are less than \$750, and awards of compensation for service as a court examiner, will not be pre-recorded on the form. As with appointments in Item 2, it is the appointee's responsibility to review the form and add any Part 36 compensation awards that are not listed.

Item 4 of Part B requires appointees to certify that they qualified to accept the appointment because they are not subject to any of the disqualifications of Section 36.2(c). These disqualifications are set out in detail on the form.

Finally, Item 5 requires appointees to certify that they are qualified to accept the appointment pursuant to the limitations based on compensation set forth in Section 36.2(d).

H. Reporting Compensation: Judiciary Law 35-A, Part 36, and Part 26

With some exceptions, Judiciary Law 35-a, Part 36, and Part 26¹⁰⁶ of the Rules of the Chief Judge require judges to file a statement with the office of court administration when they award compensation in excess of \$500 to court appointees for services provided. This requirement applies to compensation awarded by judges to almost all court appointees, including those who serve in categories that are exempt from Part 36.¹⁰⁷

105 Because § 36.4(d) exempts from the reporting requirement mortgage foreclosure referee appointments where the compensation is not expected to exceed \$750, most mortgage foreclosure referee appointments will not be pre-printed in Item 2. It is the appointee's responsibility to list these appointments. Additionally, those who serve as court examiners in the Third and Fourth Department of the Appellate Division should note that these court examiner appointments will not be pre-printed in Item 2, and must be added by the appointee.

106 22 N.Y.C.R.R. pt. 26. Part 26 of the Rules of the Chief Judge implements the provisions of Judiciary Law 35-a. Section 26.1(a) states that: "Any judge or justice who has approved compensation of more than \$500 to a court appointee shall file with the administrative office for the courts, on the first business day of the week following approval, a statement of compensation on a form authorized by the Chief Administrator of the Courts."

107 Judiciary Law 35-a expressly excludes appointees assigned to represent indigent persons pursuant to Article 18-B, counsel assigned pursuant to Judiciary Law 35, counsel appointed pursuant to the Family Court Act.

Neither Judiciary Law 35-a, Part 26, or Part 36 place any limitations on the amount of compensation that judges may award. Judiciary Law 35-a requires judges to certify that the compensation is a reasonable award for the services rendered by the appointee, or that the compensation is a fee fixed by statute.¹⁰⁸ Part 36 provides that “compensation awarded shall not exceed the fair value of services rendered,”¹⁰⁹ and states that secondary appointees who serve as counsel to a guardian or receiver “shall not be compensated as counsel for services that should have been performed by the guardian or receiver.”¹¹⁰ Part 36 imposes the additional requirement that no compensation may be awarded to a Part 36 appointee unless the appointee has filed a Notice of Appointment and Certification of Compliance.¹¹¹

The Judiciary Law 35-a reporting requirement is triggered only when a judge signs an order awarding compensation. Because all Part 36 compensation must be approved by court order, all Part 36 compensation exceeding \$500 must be reported; the only exception to this requirement is an award to a referee in foreclosure of \$750 or less.¹¹² With respect to non-part 36 compensation, Judiciary Law 35-a does not apply to compensation paid to individuals who were not “appointed” by the court,¹¹³ nor does the reporting requirement apply to appointees whose compensation is not approved by the court. Thus, it is not required to report compensation paid to professionals retained by appointees who are exempt from Part 36, even if the court retains the power to approve such compensation, because the professional was not appointed by the court. Likewise, the reporting requirement does not apply to court appointees whose compensation is agreed upon by stipulation, since in that case, there is no court approval of the fee.

1. UCS Form 875: Statement of Approval of Compensation

With the exception of compensation awarded to court examiners,¹¹⁴ the same form, UCS 875, the Statement of Approval of Compensation, is used to report compensation pursuant

108 Jud. Law 35-a (1)(a).

109 22 N.Y.C.R.R. § 36.4(b)(4).

110 22 N.Y.C.R.R. § 36.4(b)(4).

111 22 N.Y.C.R.R. § 36.4(b)(2).

112 22 N.Y.C.R.R. § 36.4(d)

113 For example, compensation of executors and administrators appointed by the Surrogate’s Court is not subject to Judiciary Law 35-a, since their appointment is set by statute.

114 22 N.Y.C.R.R. § 26.1(b).

to Part 36, Section 35-a of the Judiciary Law, and Part 26. UCS 875 is an internal court form, prepared by the Fiduciary Clerk, and signed by the judge approving the compensation. It does not need to be signed by the appointee.¹¹⁵

If the appointee requesting compensation is subject to Part 36, the UCS Form 875 requires the Fiduciary Clerk to certify that the appointee has filed a notice of appointment and certification of compliance [UCS 872]. If the appointee is not subject to Part 36, the Fiduciary Clerk must certify on the UCS 875 that the appointee is not requires to file a notice of appointment and certification of compliance. For Part 36 appointees, no judge may approve compensation of more than \$500 without the signed confirmation of the Fiduciary Clerk.¹¹⁶

As required by Judiciary Law 35-a, the UCS Form 875 requires the judge awarding compensation to certify that the compensation is a reasonable award for the services rendered by the appointee, or that the compensation is a fee fixed by statute.¹¹⁷ Where a compensation award is \$5,000 or more, the approving judge must include a written statement of the reasons therefore, and must file this statement along with the order approving the compensation.¹¹⁸ Once completed, the Statement of Approval of Compensation is mailed to the Office of Court Administration.

Compensation awarded to court examiners is reported by the court annually on UCS Form 826, the “Annual Statement of Approval of Compensation for Examiners of Accounts of Guardians.” Only Part 36 compensation that is reported on the UCS Form 875 is entered into the court system’s centralized fiduciary database. UCS 875 forms filed for non-part 36 compensation and the UCS 826 form are maintained in hard copy. All statements filed are public records.¹¹⁹

115 Although appointees are not required to sign the UCS Form 875, some courts require the appointee to submit the form when requesting approval of compensation greater than \$500. Privately paid law guardians must submit to the court, in support of their application for approval of compensation, an Affirmation of Services for Privately Paid Law Guardians (UCS Form 881). The Order Approving Law Guardian Compensation (UCS Form 882) must be settled by the law guardian and submitted to the court.

116 22 N.Y.C.R.R. § 36.4(b)(1).

117 22 N.Y.C.R.R. § 36.4(b)(4).

118 22 N.Y.C.R.R. § 36.4(b)(3).

119 22 N.Y.C.R.R. § 36.5(a).

2. UCS Form 876: Law Firm Compensation

Part 36 requires that law firms must report annual aggregate approved compensation of \$50,000 or more awarded to members, associates, and employees of the law firm.¹²⁰ The form for reporting law firm compensation, UCS 876, the “Report of Compensation Received by Law Firms,” must be filed by mail with OCA on or before March 31 of each year, for the prior year.¹²¹ The report, which is maintained in hard copy, is for informational purposes and is a public record.

¹²⁰ 22 N.Y.C.R.R. § 36.4(c).

¹²¹ Form UCS 876 is available online.

Appendix B:
NYS Part 36 Fiduciary Appointments
for 1/1/2014 thru 12/31/2014

NYS PART 36 FIDUCIARY APPOINTMENTS FOR 1/1/2014 THRU 12/31/2014

DISTRICT	# OF COUNTIES AND AREA	SUPREME APPOINTMENTS	SURROGATES APPOINTMENTS	TOTAL FOR 3 YEARS	ANNUAL AVERAGE
1 st	1 NY COUNTY	2588	922	3510	1170
2 nd	1 KINGS	3403	577	3980	1327
3 rd	7 ALBANY	588	581	1169	390
4 th	11 SARATOGA	165	551	776	239
5 th	6 ONONDAGA	530	436	966	322
6 th	10 BROOME	142	346	488	163
7 th	8 MONROE	526	1122	1648	549
8 th	8 ERIE	1289	1611	2900	967
9 th	5 DUTCHESS/ORANGE WESTCHESTER	1972	1097	3069	1023
10 th	2 NASSAU/SUFFOLK	3981	1755	5736	1912
11 th	1 QUEENS	3701	1203	4904	1635
12 th	1 BRONX	1282	529	1811	604
13 th	1 RICHMOND	690	239	929	310
TOTAL		20,857	10,969	31,886	10,611

Appendix C:
Automation & Technology
Subcommittee Report

OCA Second Special Commission on Fiduciary Appointments

Automation and Technology Subcommittee

Findings and Recommendations

Final Report



Co-Chairs:

Hon. Richard A. Dollinger

Judge of the Court of Claims/Acting Justice of the Supreme Court, Monroe County Supreme Court

Chester H. Mount, Jr.

Director of Research and Technology, OCA Division of Technology

Subcommittee Members:

Mark L. Annunziata

Chief Clerk, Monroe County Surrogate's Court

Nancy J. Barry, Esq.

Chief Clerk, Westchester County Supreme Court

Nicole Botti, Esq.

Principal Court Attorney, 7th Judicial District

Elizabeth Candreva, Esq.

Managing Inspector General for Fiduciary Appointments, OCA Office of the Inspector General

John D'Alessandro, Esq.

Court Attorney-Referee, Bronx County Supreme Court

Steven E. Flatow

Principal Court Analyst, New York County Supreme Court

Michele Gartner, Esq.

Special Counsel for Surrogates & Fiduciary Matters, OCA Office of Guardianship & Fiduciary Services

Karen R. Jordan

Chief Clerk, Cortland County Supreme Court

Joseph Musolino

Court Clerk Specialist, Kings County Supreme Court

William Perritt

Principal Management Analyst, Office of the Deputy Chief Administrative Judge

Hon. Stan L. Pritzker

Justice of the Supreme Court, Washington County Supreme Court

F. Christian Spies

Chief Clerk, Schoharie County Supreme Court

Michael Veruto, Esq.

Chief Clerk, Niagara County Supreme Court

Sam Younger

Deputy Director, OCA Division of Administrative Services

Table of Contents

VII. Introduction.....p. 81-82

VIII. Methodology.....p. 82-83

IX. Proposed Process.....p. 84-85

 5. Primary Appointments.....p. 84

 6. Secondary Appointments.....p. 84

 7. Compensation.....p. 84-85

 8. Follow Up.....p. 85

 9. Monitoring Reports.....p. 85

X. Implementation.....p. 86

XI. Conclusion.....p. 86

Appendix A:.....p. 87-103
Part 36 Database System Narrative

Appendix B:.....p. 104-122
Part 36 Historical Data Analysis

Appendix C:.....p. 123-149
Part 36 Historical Data 2004-2015 Judicial Districts Combined

I. Introduction

The following proposed process addresses shortcomings in the current fiduciary appointment process that hinder compliance and monitoring. The current process relies too much on paper. It is difficult to navigate, and the filing of Appointment and Compensation forms is cumbersome. Moreover, the manual entry of this information is burdensome to court staff. Although a new system will not eliminate that problem, the efficiencies of a fully automated system will make the process more streamlined, and thus more easily navigable. Additionally, since Judges are not required to report compensation awards of \$500 or less (making compensation data inherently incomplete), OCA cannot accurately track annual compensation for any given fiduciary. Thus, the onus is placed upon the fiduciary to inform the Court when they have reached or exceeded the annual compensation cap. This likely leads to inaccurate reporting. Additionally, for non-Part 36 appointments, the Notice of Appointment [UCS-872] form is not required, but a Statement of Approval of Compensation [UCS-875] form for compensation exceeding \$500 is required for most non-Part 36 appointments. As such, there is no means to match the compensation awarded to the corresponding fiduciary appointee, creating another significant gap in reporting of compensation awarded to certain fiduciary appointees. As a means to remedy these shortcomings, this proposal includes two fundamental changes to the current process:

1. All¹⁵⁶ appointments will be recorded in the automated system (and categorized as Part 36 or non-Part 36) thereby creating an electronic record to which to attach any subsequent compensation awarded.
2. All¹⁵⁷ compensation awards will be recorded irrespective of the amount of compensation to facilitate three major objectives:

¹⁵⁶ The following types of court-appointed fiduciaries would be excluded from recording in the automated fiduciary system:

- Executors and Administrators appointed by the Surrogate's Court
- Appointees assigned to represent indigent persons pursuant to Article 18-B
- Counsel assigned pursuant to Judiciary Law 35
- Counsel appointed pursuant to the Family Court Act

¹⁵⁷ The following types of court-appointed fiduciaries would be excluded from recording in the automated fiduciary system:

- Executors and Administrators appointed by the Surrogate's Court
- Appointees assigned to represent indigent persons pursuant to Article 18-B

- a. Enabling OCA to accurately calculate the total compensation awarded for any given fiduciary as a reliable reference for the Court;
- b. Identifying fiduciaries appointed pursuant to Part 36 who have reached or exceeded the annual compensation cap; and
- c. Creating a comprehensive accounting of all fiduciary appointments, including non-Part 36 appointments, and all corresponding compensation, including non-Part 26 compensation under \$500, for the purposes of accurate reporting and public transparency.

II. **Methodology**

The Automation and Technology Subcommittee is charged with formulating recommendations to utilize technology and automation to enhance current Part 36 processes, including compliance, monitoring and reporting. Although a thorough problem analysis cannot be performed due to inherent gaps in data collection, we have operated under the premise that the formation of this commission, as well as the anecdotal evidence provided by the practitioners on this subcommittee, is sufficient evidence that problems with the current process (i.e., rule compliance, monitoring and reporting) do in fact exist, and that the current process is overly complex and time-consuming (i.e., “a giant paper chase”). An examination of the available statistical data reveals some trends that may be cause for concern. However, due to factors such as suspected (but unverifiable) underreporting, the absence of a requirement for non-Part 36 appointees to formally acknowledge appointment, and the absence of a requirement to report compensation under \$500, the data may raise more questions than it answers. [See *Appendix B: Part 36 Historical Data Analysis* and *Appendix C: Part 36 Historical Data 2004-2015 Judicial Districts Combined*] In sum, the primary shortcomings of the current process are:

- It is complex and cumbersome.
- There are major disconnections between reporting of appointments and compensation.
- There is a reliance on Appointees to self-report total compensation.
- There is no mechanism to follow-up on non-reporting.

- Counsel assigned pursuant to Judiciary Law 35
- Counsel appointed pursuant to the Family Court Act

- There is an inability to measure non-compliance.

Based upon the available (but limited) data as well as the cumulative expertise of this subcommittee, the consensus is that a new, more robust, “record everything” statewide automated fiduciary system that captures all applicable appointments, certifications and compensation orders is the best course to remedy these shortcomings, and that enhancing the current process would necessitate a similar (if not greater) commitment of time and resources and would simply not yield the extensive benefits of a new mandatory automated system.

Thus, for the purposes of our recommendations, we will proceed under the following premises:

- 1) There will be a new, mandatory fiduciary system in which all applicable orders of appointment and approvals of compensation are recorded.
- 2) Use of the fiduciary system is required for all applicable (i.e., Part 36 and non-Part 36) fiduciary appointments and orders.
- 3) The system will include a “wizard” to distinguish Part 36 and non-Part 36 appointments. The wizard will utilize a series of questions about the appointment to make the determination. The wizard that is developed will be accurate and simple to use.
- 4) Approval of Compensation orders and Part 26 approvals are not issued unless fiduciary system information is complete (i.e., use the “power of the purse to enforce compliance”).
- 5) Each Part 36 fiduciary appointee must be an individual - not an agency/organization - and is required to have an “account” and a unique identifier (i.e., unique account number linked to an SSN). For an attorney, the unique identifier will be their respective attorney registration number. Non-attorneys should provide their SS# which could then be hidden from public view for privacy concerns.
- 6) The system will have a routine follow-up process in which the appointee must affirm information regarding the appointment in order to ensure compliance (i.e., “electronic nagging”).
- 7) The system will provide readily available, online monitoring reports.
- 8) The system will replace paper forms with online entry and replace regular mail with email communication.

III. Proposed Process

1. Primary Appointments:

For primary fiduciary appointments, the Court creates/scans/uploads the Order of Appointment in the fiduciary system with some basic data, including the fiduciary appointee's "account ID." (The Court will be afforded multiple methods of entering/creating the order in deference to the fact that some orders are created by the Court and chambers staff and others are proposed orders submitted by the parties for the Court's approval.) If an account already exists for the appointee, the Court chooses it from a list. Otherwise, the Court creates a new user account for the appointee. The system will automatically send an email to the appointee with a link to verify the new account, and the appointee completes any required account information that is missing (i.e., SSN, etc.). A notification is received by the Court when the appointee has completed and verified his/her account information. If applicable, the Court enters the UCS-872.5 data for a non-list appointment. The Court also makes a determination and indicates whether the appointment falls under the Part 36 rules or not (using the "wizard" if necessary). The fiduciary system's field edits and data validations will assure that all required data are complete. Upon completion, an email verification is sent to the appointee. For Part 36 appointments, the appointee is then required to complete and submit an online Notice of Appointment form [UCS-872] within 30 days. If the appointment does not fall under Part 36, the appointee must merely complete an online acknowledgment/affirmation that he/she has received the Order of Appointment, but is not required to complete the online Notice of Appointment [UCS-872] form.

2. Secondary Appointments:

The process for secondary appointments would mirror exactly the process for primary appointments, except that the secondary appointee's appointment record would not stand on its own. It will be attached/linked to the primary appointee's appointment record, and the primary appointee would be copied on all notifications sent to the secondary appointee "creating a culture of awareness".

3. Compensation:

For orders approving compensation, the Court creates/scans/uploads the order in the fiduciary system with some basic data. The Court enters the compensation data, including the 35-a

information, as an extension of the original record created for the Order of Appointment.

(NOTE: The compensation process should not be initiated unless all steps in the appointment process have been completed. The fiduciary system will include an indicator alerting the user whether all required appointment information is complete or not.) The issuing Judge will electronically confirm the compensation data, and once approved, a link to the Approval of Compensation Order is emailed to the appointee. The appointee must complete an online acknowledgment/affirmation that he/she has received the order approving compensation.

4. Follow-up:

The fiduciary system will include routine, automated follow up tools to remind appointees of their fiduciary obligations, and both the Judge and the Fiduciary Clerk will be copied on these electronic communications (as well as the primary appointee if the fiduciary in question is a secondary appointee). The following are some examples of such follow up tools:

- For Part 36 appointments, an automatic email notification will be sent to the appointee if the Notice of Appointment [UCS-872] data has not been entered by the appointee within 30 days.
- For non-Part36 appointments, an automatic email notification will be sent to the appointee if the online acknowledgment/affirmation of the appointment has not been entered by the appointee within 30 days.
- Periodic emails will be sent to primary appointees reminding them that they need Court approval to hire and compensate secondary appointees. They will be required to electronically affirm whether or not they have hired and/or compensated a secondary appointee. If they have hired or compensated a secondary appointee, notification will be sent to the Court.

5. Monitoring Reports:

The fiduciary system will provide readily available monitoring reports available for UCS internal use only (i.e., the Court and OCA). Statistical reports as well as case detail reports regarding the status of existing appointments will be available online in real time to Fiduciary Clerks, Judges and chambers staff, Court Administrators, the Appellate Division, etc. Reports may be configured to compile information globally or by locality to suit the needs of the end user and to enhance the effectiveness and efficiency of monitoring fiduciary compliance.

IV. Implementation

For successful implementation, it is imperative that use of the fiduciary system is required for all applicable (i.e., Part 36 and non-Part 36) fiduciary appointments and all (i.e., Part 26 and non-Part 26) compensation orders. Part 36 appointees would file the UCS-872 form online. Non-Part 36 appointees would acknowledge appointment using the same online system. All compensation orders would be recorded and linked to the corresponding appointment record. The development and implementation of such a system would take between one and two years to accomplish.

V. Conclusion

Many “band-aid” fixes have been attempted over the years. Yet, problems with the fiduciary process persist. Developing and implementing a new automated system will not be quick or easy, and an “all or nothing” approach may seem extreme, but the quick and easy approach has repeatedly failed us. Recording all appointments and compensation is the best path to: 1) realize maximum compliance with Part 36 and Part 26 rules, 2) effectively monitor the fiduciary appointment process, and 3) ensure public transparency. Anything short of that essentially leaves us in no better a position than we are in today.

Appendix A:

Part 36 Database System Narrative

Prepared by Sam Younger

PART 36 DATABASE SYSTEM - NARRATIVE¹⁵⁸



In 2001, the Birnbaum Commission was convened to investigate fiduciary appointments in the NYS Unified Court System which had long been plagued by problems and criticisms. Criticism had arisen from charges that fiduciary appointments were not always based on merit, but on favoritism or other factors unrelated to the qualifications of the individual for particular appointments. Further criticism arose from charges that oversight of the appointment process was inadequate, creating an environment where abuses of the system were able to escape public scrutiny. In turn, public trust and confidence in the justice system, and the appointment process in particular was undermined.

The final report issued by the Birnbaum Commission made many recommendations for changes to the Part 36 rules and implementation of a new regulatory, administrative and operational structure. Among the many results of the reforms instituted in the wake of the report was a completely re-vamped database system designed to try and eliminate the problems of the past and included elements designed to restore public trust and confidence in the process for the future.

The Birnbaum Commission recommended many changes, all of which had to be incorporated into a new database systems. Among these were:

Eligibility and Qualifications

- Training should be required for inclusion on the fiduciary lists;
- Political party leaders, former judges, relatives of higher-level nonjudicial employees and others with ties to the political and judicial systems should be disqualified from appointment;

¹⁵⁸ Much of this background material is based on the 2004 report from the GFS office "Development of a New Fiduciary System", <https://apps.courtnet.org/ucsFiduciary/pdf/gfsReport.pdf>

- Disbarred or suspended attorneys and, in general, criminal offenders should be disqualified from appointment.

The Appointment Process

- Judges should have full authority to select fiduciary appointees;
- Fiduciary appointments should be made from lists maintained by the Chief Administrative Judge, except when good cause is shown to appoint those not on the lists who are otherwise qualified and eligible for appointment;
- Appointment lists should be established and maintained according to appointment category, with an identification number assigned to each enrollee, biennial re-registration required and procedures established for removal from the list for misconduct or nonperformance of fiduciary duty;
- Additional categories of appointment, viz., court examiners in guardianship cases, special needs trustees and “privately paid” law guardian, should be subject to the requirements of the fiduciary rules;
- “Secondary” appointments in guardianship, as well as receivership, cases should be subject to the requirements of the fiduciary rules;
- New limits imposed on the number of higher-paying appointments, limiting individual appointees to one appointment within a calendar year in which the compensation is anticipated to exceed those limits (\$15,000 and \$75,000 rule);
- Appointment of guardians or receivers as their own counsel should be prohibited, absent convincing reason shown;
- Appointment of the court evaluator as guardian should be prohibited generally, and appointment of the attorney for the alleged incapacitated person as guardian should be prohibited absolutely.

Oversight

- All persons on the fiduciary list should be assigned an identifying number;
- A fiduciary clerk should be designated in every judicial district to supervise filings, monitor compliance, ensure accuracy of data entry in the database for use by judges and court employees and which is accessible by the public;
- Compensation should be reported to OCA in all cases, even those in which no compensation is received;
- Law firms, or their members, receiving compensation awards exceeding a set amount in any single calendar year should be required to report to the Office of Court Administration;
- Periodic audits should be conducted of the fiduciary filing process.

Miscellaneous Recommendations

- An administrative support office for guardianship cases within the court system should be established;
- A serious effort should be made to earmark public funds to compensate guardians in indigent cases, either by creating an office of public guardian or “18-B” type program, or by funding existing legal services offices or public or private social service agencies.

As result of these recommendations, the Chief Judge and Chief Administrator initiated a new fiduciary appointment system, encompassing several components including:

- new regulatory structure (new Part 36 Rules)
- extensive new administrative support services (fiduciary clerks, IG and GFS offices)
- operational initiatives (new Part 36 database and reporting forms)
- enhanced public access to the appointment process (web based access to lists and subsequent appointment filings and fees approved)



NEW PART 36 FIDUCIARY DATABASE

To meet one of the key operational mandates, a new Part 36 Database was designed as an initiative of the GFS office, DoT and the Division of Administrative Services. In designing the new Part 36 Database several goals needed to be met:

1. Create better eligibility lists that would encourage broadening the range of appointees and institute a re-registration process
2. Systemize the paperwork requirements for appointments and fee approvals with automated pre-filled forms and tracking logs for internal controls
3. Post all portions of the data collected to the courts and the public via the intranet and internet

4. Access to the internal database pages either WITH or WITHOUT a password, but with two Passwords levels:

Level 1 – For Judges and others who do not need access to write to the system – but to only access protected areas of data

Level 2 – for employees charged with case entry and form management (Fiduciary Clerks).

Development took over one year for analysis and programing, and when it went live in November of 2003 included the following components:

- New online fiduciary application form and system to allow accounts to be established to complete an application
- New intranet and internet pages to search fiduciary lists by category and county as well as other criteria
- New notice of appointment forms and certifications
- New internet and intranet pages to search appointments filed
- New approval of compensation forms to be completed by judges
- New internet and intranet pages to search compensations approved

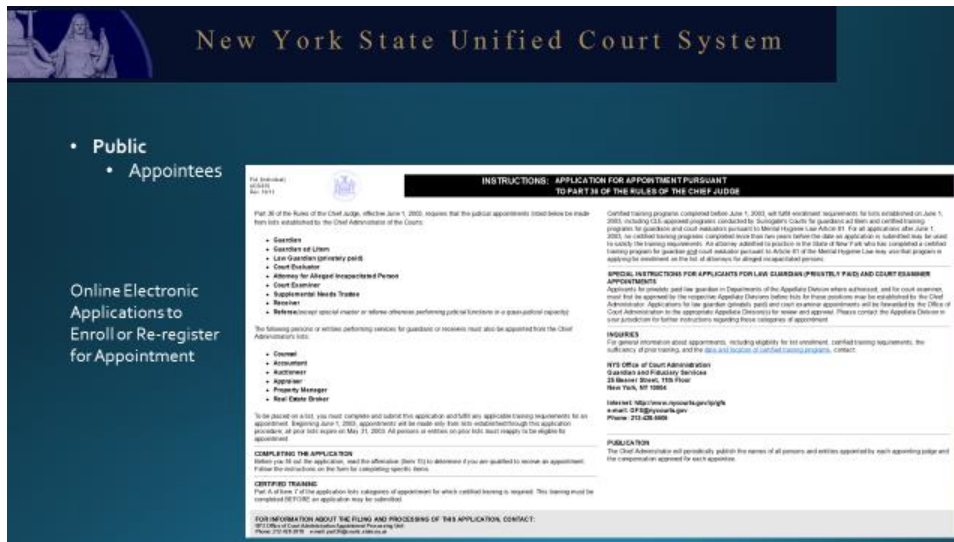
The new Fiduciary Clerk System represented a complete break from prior fiduciary appointment practice. No longer were blank hard-copy forms distributed to appointees for completion and filing. That inefficient process had resulted in the collection of confusing and inaccurate information, and sometimes no information at all due to the inability of manual recordkeeping to track distributed forms and confirm timely receipt of filing. Now, an appointee no longer received a blank form at the time of appointment, but a Notice of Appointment and Certification of Compliance (UCS 872) pre-printed with information electronically retrieved by the fiduciary clerk from the Office of Court Administration's fiduciary database. This includes the appointee's personal information (name, address, phone number, etc.) and fiduciary identification number. Also included is the current case and appointment information. Appointment history for the current year and compensation history for the preceding year appear on the form, which satisfies the requirement of the rules that an appointee certify compliance with the limitations based on compensation. Rather than entering all of this information by hand, now the appointee's obligation would be to check the form for accuracy, make corrections or add data not as yet captured by the database, sign and return the form to the fiduciary clerk. Upon entry of the appointment by the clerk in the new system a Notice of Appointment (NOA#) tracking number is assigned by the system and used for future reference.

A Statement of Approval of Compensation form could also similarly be generated on-line at the conclusion of the case, and, unlike in the past, is not forwarded by the fiduciary clerk to the appointee for completion, but remains in court for completion by the judge only.

The intent was to have the fiduciary clerk not only control data entry, but also be given an electronic log to record and track each form in the process. The clerk can generate forms, print and reprint forms, and log the dates when forms are sent and received from appointee or judge, and filed with the Office of Court Administration’s fiduciary database. This log serves as the basis for many of the critically important reports that the system can generate, especially reports of delinquencies that were so difficult to uncover before and, consequently, so difficult to correct.

NEW FIDUCIARY APPLICATION FORM

An expanded and vastly improved new application form for inclusion on the fiduciary appointment lists was developed. The new application collects detailed personal and employment history on each applicant, bar admission and registration information for New York State attorneys and data on foreign language fluency, academic degrees awarded, bar admission outside New York, areas of legal specialization and other professional and occupational credentials. There are questions about character and fitness, which include inquiries about criminal background, professional or occupational disciplinary proceedings, bankruptcies, civil penalties for unpaid taxes, misconduct as a fiduciary and forfeiture of a bond. Provision is made for choosing appointment categories, and for recording the completion of required training and the county(ies) of available service. Finally, the application contains an affirmation, which demonstrates qualification for enrollment under Part 36 (§ 36.2 (c)). The application is formatted for on-line use, and many entries are made capable of quick and easy input from “drop-down” menus.



NEW INTERNET AND INTRANET WEB PAGES WITH ACCESS TO THE DATABASE

New websites were created as a resource for information about the new fiduciary appointment system for both court personnel and the public. The new application was posted on the public website and made available for on-line completion. This enabled over 10,000 individuals to enroll as eligible for appointment. On average, on-line applications take less than

two weeks to be processed (hard-copies take slightly longer), and those eligible for appointment are mailed a confirmation.

Posted on the public website were schedules of training courses available statewide. Eight categories of appointment require prior training, and the Office of Guardian and Fiduciary Services (GFS) has developed course curricula for each. Also on the website, the new rules and the official Explanatory Note for the new rules may be accessed. There is a comprehensive digest of Mental Hygiene Law Article 81 cases provided by Mental Hygiene Legal Service of the Appellate Division (Second Department) and updated twice a year. Bulletins regularly appear about recent developments in Part 36 practice, alerting court personnel and the public about new forms and providing answers to frequently asked questions. Through the internal website, information about procedures, forms and best practices were published statewide, and the forms themselves are made available in PDF “fillable” format, which enables the user (courts, attorneys, litigants) to complete blank forms if needed. Likewise, a new PDF “fillable” form for law firm reporting of compensation of \$50,000 or more in a calendar year (§ 36.4 (c)) was made available on the public website for first-time use in 2004.

New York State Unified Court System

- Public – at www.nycourts.gov
 - Appointees
 - General Public
 - Reporters

Access to:

- Enroll on the lists
- Re-register
- Part 36 Database
 - Lists
 - Appointments
 - Compensations

NY COURTS.GOV NEW YORK STATE UNIFIED COURT SYSTEM

Guardian and Fiduciary Services
Information for New York State Court Assisted Fiduciaries

Overview

Mission
Guardian and Fiduciary Services (GFS) coordinates education, training, information services, monitoring and reporting for court-appointed New York Fiduciaries including: Guardians, Attorneys for Alleged Incapacitated Persons, Court Evaluators, Court Examiners, Supplemental Needs Trustees, Guardians ad Litem, Receivers, Referees, Lay Guardians for children, and Counsel to the Public Administrator. Further categories include all secondary appointments: Counsel to Guardian, Counsel to Receiver, Accountants, Auctioneers, Appraisers, Property Managers, and Real Estate Brokers. GFS coordinates education, training and one-on-one assistance for Lay Guardians including family members and friends of the incapacitated person.

Important Links
PART 36 Fiduciary Eligibility List: ENROLL | RE-REGISTER | AMEND
Public Access to Part 36 Database (Eligibility/Appointment/Compensation Information)
The Guardian Assistance Network (Help for Lay Guardians)

New York State Unified Court System

Access to:

- Part 36 Database
 - Lists
 - Appointments
 - Compensations
- Court Employees
 - Judges
 - Fiduciary Clerks
 - OCA Appointment Processing Unit
 - IG
 - Appellate Divisions
 - Other Courthouse Employees (AJs, District Offices, Chamber's Staff, Clerk's Offices, etc.)

Internal - UCS Intranet

Inside UCS Home Topics A to Z Courts OCA Search Site

DIVISION OF PROFESSIONAL AND COURT SERVICES

Guardian & Fiduciary Services
Information for New York State Court Assisted Fiduciaries

Guardian and Fiduciary Services
Information for New York State Court Assisted Fiduciaries

Guardian and Fiduciary Services coordinates education, training and information services for New York Fiduciaries: Guardians, Guardians ad Litem, Lay Guardians, Court Evaluators, Attorneys for Alleged Incapacitated Persons, Supplemental Needs Trustees, Court Examiners, Receivers and Referees.

NEW: Fiduciary Clerk Training Video

Article 81 Background Check Legislation: Instructional Materials & Course

Best Practices & Guide for Fiduciary Clerks

Office Info
Guardian and Fiduciary Services
25 Beaman Street, 11th Floor
New York, NY 10004
Special Counsel for Surrogate and Fiduciary Matters
Michelle Gertner
25 Beaman Street
New York, NY 10004
(212) 406-1522
mgertner@dcscs.state.ny.us

What's New?

- Online Lay Guardian Training
- More...

NEW FIDUCIARY LISTS

Eligibility lists in the new database were made searchable by category and county and results provide date eligibility ends. There is no longer a single Fiduciary List, instead there are specific lists by category and county.

Remember too that the new rules intended for a better trained individuals and because of the two year registration requirement, more up-to-date names in each category. The rules also provided authority for the Chief Administrator to remove individuals from the lists.

New York State Unified Court System
Public – at www.nycourts.gov

Public Eligible Lists

- Ability to search by Category/County
- Search by name requires Category & County
- Results include Eligibility End Date

Part 36 Eligibility Search

To return a list of individuals eligible for judicial appointments, click on a category from both the CATEGORY and COUNTY lists. Select 36 to request the maintenance of separate lists of qualified applicants in each category.

To verify if a specific individual is eligible for judicial appointments, complete the LAST NAME and/or FIRST NAME form by clicking on the CATEGORY and COUNTY lists.

Law Name: First Name: MI:

Appointment Category: Appointment County:

[Search] [Reset] [Cancel]

Part 36 Eligibility Search Results

Search Criteria
Appointment Category: REFEREE
Appointment County: KINGS

Total number of records found: 906 [Search Again] [Cancel]

Fiduciary Id	Name/Address	Due to Expire/Eligibility Ends
047198	AARONS, JUDITH CONSTANCE AARONS LAW OFFICE PLLC 40 WALL ST STE 2800 NEW YORK, NY 10005 (949)3445737	09/04/2016 11/03/2016
485508	ABRAMAM, ANTHONY M ANTHONY M. ABRAMAM ESQ., P.C. 19 BENEDECT PL CARMEI, NY 10912 (845)225-2005	12/29/2015 03/21/2017
410700	ABRAMS, ROBERT ALAN RABSKY HORNES LLP 605 3RD AVE - 16TH FLOOR NEW YORK, NY 10158 (212)716-0237	12/04/2015 03/01/2016
158088	ABRAMSON, JOEL ELIOT JOEL E. ABRAMSON, P.C. 271 MADISON AVE FL 22 NEW YORK, NY 10016 (212)589-7700	12/15/2015 03/13/2017

Like the external website – the intranet provides UCS employees with access to the lists, both WITH and WITHOUT a password.

New York State Unified Court System
Internal - UCS Intranet

Eligibility Lists –

- Internal – No Password

Additional Functionality

- Ability to search by Category/County
- Other Qualifiers – Languages, Degrees, Experience, etc.

E. COURTS
a service of the
New York State Unified Court System

Part 36 Eligibility Search
Category of Appointment and County required

Last Name: First Name: MI:

Categories of Appointment: Appointment County: District:

Foreign Languages Spoken: Professions Other Than Attorney: Academic Degrees:

Areas of Special Interest: Appointment Experience:

[Search] [Reset] [Cancel]

New York State Unified Court System

Internal - UCS Intranet

Eligibility Lists –

- Internal – No Password

Includes basic information

- FID#
- Address & Phone#
- Fees Approved in the current and prior years (Reported on 875 forms), with **caps** for those who may have exceeded the caps

Part 36 Eligibility Search Results

Search Criteria
 Category of Appointment: **GUARDIAN AD LITEM**
 Appointee County: **BRIDGEM**

Search Again Cancel

Total number of records found: **48**

Fiduciary Id	Name	Address	Total Fees Approved
			2015 2014
238120	ARTMAN, JOHN FRANCIS	LEVENE, GOULON & THOMPSON, LLP 450 PLAZA DR VESTAL, NY 13850 (807) 584-8888	\$1,205.00
152873	ARTZ, PHILIP JAMES	MCDONOUGH & ARTZ P.C. 49 COURT ST FL 2 BINGHAMTON, NY 13901 (807) 772-4070	
244572	BERTI, DAVID J.	DAVID J. BERTI 57 FRONT ST BINGHAMTON, NY 13905 (607) 772-1223	\$7,500.00
488307	BINNE-FRANCIS, OUIDA FAITH	OUIDA F. BINNE-FRANCIS ESQ. 123 W MCCANNIS BLVD ELMHURST HEIGHTS, NY 14803 (807) 733-0103	
282187	CAREY, ROBERT W.	THE CAREY LAW FIRM, P.C. 122 STATE ST STE 220 BINGHAMTON, NY 13901 (807) 772-3888	\$1,827.50 \$15,301.20

The results of those searches, however, differ from the public results. In addition to the contact information for the Appointee, also provided is Part 36 compensation on record at OCA. Those appointees who may be approaching the caps are highlighted in RED.

For PASSWORD USERS – both Level 1 and 2 – there is no requirement to search by category and county – HOWEVER – the additional flexibility requires user to be more diligent to ensure person is actually approved for the specific county and category; with additional qualifiers can be searched and with greater sort and display Options.

Internal users also have further capabilities to view additional data about appointees. For instance, links which take users to additional page with more detailed information on the appointee, including; All Counties and Categories, Other details including extra link to FULL APPLICATION and if available – resume or other documents submitted with the application.

New York State Unified Court System

Internal - UCS Intranet

Eligibility Lists –

- Internal – Password Users

Includes detailed information

- FID#
- Address & Phone#
- All eligible categories & counties
- Additional details – degrees, languages, specialties, etc.
- EXTRA link to view application
- Resume attached if submitted

Part 36 - Eligible Appointee Detail

[Click to See Application](#)

ELIGIBILITY DATE: 01/02/2015

NAME: JOHN FRANCIS ARTMAN

FIDUCIARY NUMBER: 238120

MAILING ADDRESS: LEVENE, GOULON & THOMPSON, LLP
450 PLAZA DR
VESTAL, NY 13850-3867
(807) 584-8888

ATTORNEY REGISTRATION NUMBER: 1128209
YEAR ADMITTED TO THE NY BAR: 1977

CATEGORIES IN WHICH APPLIED TO SERVE:
Guardian Ad Litem, Statute (except special master or referee otherwise performing functions a quasi-judicial capacity)

COUNTIES IN WHICH APPLIED FOR APPOINTMENT:
Broome, Tioga, Chenango

FOREIGN LANGUAGES SPOKEN FLUENTLY:

ACADEMIC DEGREES AWARDED:
BA, BS, JD

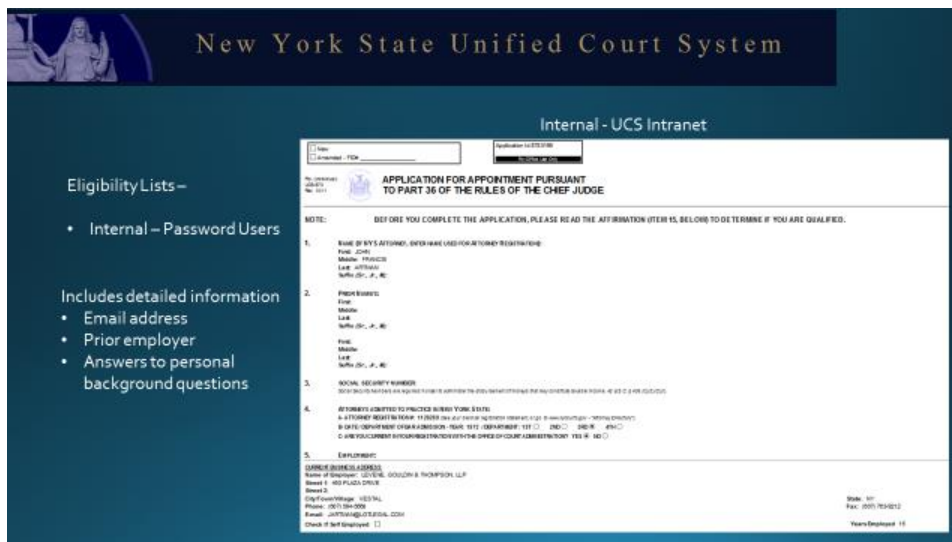
ATTORNEYS ADMITTED TO PRACTICE OUTSIDE NEW YORK STATE:
INDONESIA (admitted in 1982, Status: ACTIVE)

AREAS OF SPECIAL INTEREST:
REAL ESTATE TRANSACTIONS, OTHER ELDERS LAW/GUARDIANSHIP, REAL ESTATE LITIGATION

PROFESSIONS OR OCCUPATIONS OTHER THAN ATTORNEYS:

Fiduciary ID NUMBER (FID#): 238120

CURRENTLY REGISTERED: Yes
(DEPARTMENT OF AGRICULTURE)



NEW NOTICE OF APPOINTMENT FORM (UCS-872 and 872.5)

A new, combined Notice of Appointment and Certification of Compliance form (UCS-872) was developed to collect personal data on the appointee and case specific information about the appointment. The form also collects appointment history information required to show compliance with the two limitations on appointment based upon compensation (§ 36, 2 (d) (1), (2)). Instructions for completion were included on the form, and it contains special directions for uncompensated appointments, appointments not made from the fiduciary database and those appointments that must be declined. An appointee need look no further than the form itself to know what steps must be taken to accept or decline appointment.

The form also includes a fiduciary identification number, which is assigned to an eligible appointee when enrolled in the database. It appears on all forms filed by the eligible appointee in the fiduciary appointment process and is used to record and track all activity of that eligible appointee in the system. Confusion created in the past by identifying eligible appointees by name, social security number, tax identification number or any combination of the three is now avoided by this single identifier.

When authorized court personnel enter a new appointment into the system in order to initiate the data collection process, the system automatically assigns a Notice of Appointment number (NOA#) and provides the clerk with a screen pre-filled with the appointee's data from the system on which the clerk must then enter the case specific data. Once saved in the system the clerk can then print and mail the form to the appointee. Also provided is a log page from which the case tracking information can be recorded, and both appointment and compensation forms printed.

Another form was also developed for any non-list appointments pursuant to § 36.2(b)(2). The Statement of Reasons for Non-list Appointment form (UCS-872.5) is required to be filed by any judge who selects an appointee not in the list for that category in that county. The judge is required to provide her reason for selections not made from the established list. The contents of these form is not deemed public information.

NEW APPROVAL OF COMPENSATION FORM (UCS-875)

A new Statement of Approval of Compensation form (UCS-875) for all compensated fiduciary appointments was also developed. Access to a pre-filled form with the appointee and case specific data is included on the appointment log page for printing and transmittal to the judge for completion. Additional fields are included in the log to track when the form was sent to the judge and then onto OCA for final entry.

The new court-controlled database system allowed the collection of data in the fiduciary appointment system to be faster, more efficient and more accurate. It also renders information more accessible, searchable and retrievable to the court system, which can more easily review all current fiduciary appointment activity, and quickly extract meaningful data for analysis in evaluating performance and planning for the future.

PUBLIC ACCESS AND INTERNAL ACCESS

Beginning 2004, all public records of fiduciary appointments were placed on the court system's website (www.nycourts.gov/ip/gfs). The public was then able to search for appointees, appointing judges, appointments and compensation awards, and find who has received what appointments from which judges for how much compensation. In addition, access to this same range of data was made available internally to all courthouse personnel via the UCS intranet.

It was hoped that this access would make the public a partner in the supervision of that system, enforcing its right to know, and to know directly, whether it is well served. The slides below illustrate the access given to Appointment and Compensation records to the public via the internet, to UCS employees via the intranet as well as the additional search ability given to authorized employees with password access to the intranet system.

APPOINTMENT SEARCHES

New York State Unified Court System

Public – at www.nycourts.gov

Part 36 Judicial Appointments Search

- To return a list of Notices of Appointment filed pursuant to 22 NY GRR 36.4, you must include one of the following search criteria:
 - APPOINTEE LAST NAME
 - APPOINTING JUDGE LAST NAME
 - COURT and COUNTY
- Appointment searches are limited to a one year period in the date range.

Public Appointment Search

- Requires search to contain multiple criteria
- Limits searches to one year increments
- No Sort Options

Appointee Last Name: First Name: MI:

Appointing Judge Last Name: First Name: MI:

Appointment Category: Court Type: County:

Appointment Date Range (mm/dd/yyyy):
 From: To:

New York State Unified Court System

Public – at www.nycourts.gov

Part 36 Appointment Search Results

Search Criteria: Appointment Category: GUARDIAN AD LITEM
 Court Type: SUPREME COURT
 County: BROOME
 Appointment From Date: 05/21/2014
 Appointment To Date: 05/20/2015

Search Key:

- Non List
- Appointments prior to 06/01/2003

Total number of records found: 10

Appointee ID #	Judge Appointment Date	Action or Proceeding Appointment Category	Index # No County/Court
4072 PHILIP J 151873	02/13/2010	IN MAT BANK V TASSER ET AL guardian ad litem	2014-0255 / 2010 Broome Supreme
PEOSHAN EUGENE E 420773	02/13/2015	LORRANE M SPINCERY MCH guardian ad litem	2014-0136 / 2014 Broome Supreme
DEALDA ROBERT A 194490	03/06/2015	INNY FEDERAL CREDIT UNCRV guardian ad litem	2015-0102 / 2015 Broome Supreme
MCMALLEN KAREN J 480600	03/04/2010	ONEVEST BANK/FSB VESTATE OF guardian ad litem	2201 / 2010 Broome Supreme
LINDSEY JAMYL 152712	01/16/2015	IN MAT BANK V SMTH ET AL guardian ad litem	2013-2710 / 2015 Broome Supreme

Public Appointment Results

- Sort by Date of Appointment
- Lists Judicial & Case Information
- Only returns NOAs on file with OCA
- Does not reference NOA #

New York State Unified Court System

Internal - UCS Intranet

Part 36 Appointment Search

Enter search criteria below
 (Appointment Date Range always required, not to exceed 1 year)

Appointment Search –

- Internal – No Password

Internal Appointment Search

- In many cases, no requirements to contain multiple criteria
- Limits searches to one year increments
- Sort Options

Appointee Last Name: First Name: MI:

Appointing Judge Last Name: First Name: MI:

Appointment Type: Court Type: County:

Appointment Date Range (mm/dd/yyyy):
 From: To:

Index # Fiduciary ID Sort By

New York State Unified Court System

Internal - UCS Intranet

Appointment Search-

- Internal – No Password

Internal Appointment Results

- Sort type listed
- Lists Judicial & Case Information
- Only returns NOAs on file with OCA
- Does not reference NOA #

Part 36 Appointment Search Results

Search Criteria
 Appointment From Date: 05/29/2014
 Appointment To Date: 05/29/2015
 Appointment Type: GUARDIAN AD LITEM
 County: BROOME
 Date By: APPOINTEE

Search Key
 * Non-List
 - Appointments prior to 06/01/2003

Total number of records found: 34

Appointee Appointment Date	Action or Proceeding Appointment Type	Judge FID #	Index/File No. County/Court
ARTZ, PHILIP J 03/13/2015	IR MAET BANK V. TASSER, E.T.A guardian ad litem	CARLEY, J 162873	2014-0261 / 2015 Broome Supreme
ARTZ, PHILIP J 12/30/2014	WILLIAM MALLERY V RACHEL MUFF guardian ad litem	FITZGERALD, M 162873	2014-2434 / 2014 Broome Supreme
BERTI, DAVID J. 04/20/2015	EIO MAIRE NELSON guardian ad litem	GUY, D. 244572	2015-17 / 2015 Broome Surrogate's
BERTI, DAVID J. 08/11/2014	EIO CHRISTOPHER J. RICK guardian ad litem	GUY, D. 244572	2013-542 / 2014 Broome Surrogate's
BERTI, DAVID J. 06/23/2014	EIO MATTHEW R. DESANCTIS guardian ad litem	GUY, D. 244572	2014-299 / 2014 Broome Surrogate's

COMPENSATION SEARCHES

New York State Unified Court System

• Public – at www.nycourts.gov

Public Compensation Search

- Requires search to contain multiple criteria
- Limits searches to one year increments
- No Sort Options

Part 36 Approved Compensation Search

To return a list of fees approved pursuant to Part 26 of the Rules of the Chief Judge, you must include one of the following search criteria:
 - APPOINTEE LAST NAME
 - APPROVING JUDGE LAST NAME
 - COURT and COUNTY

Compensation searches are limited to a one year period in the date range.

Appointee Last Name: First Name: MI:

Approving Judge Last Name: First Name: MI:

Appointment Category: Court Type: County:

Approval Date Range (month/year)
 From: 05/21/2014 To: 05/20/2015

Search Reset Cancel

New York State Unified Court System

• Public – at www.nycourts.gov

Public Compensation Results

- Sort by Date of Appointment
- Lists Judicial & Case Information
- Lists Gross Value & Approved Fee

Part 36 - Compensations Approved
 (Pursuant to Part 26 of the Rules of the Chief Judge)

Search Criteria
 Appointment Category: GUARDIAN AD LITEM
 Court Type: SUPREME COURT
 County: BROOME
 Appointment From Date: 05/21/2014
 Appointment To Date: 05/20/2015

Search Key
 * Non-List
 - Appointments prior to 06/01/2003

Total number of records found: 2

Appointee FID #	Approving Judge Approval Date	Appointing Judge Appointment Date	Action or Proceeding Appointment Category	Gross Value Approved Fee	Index/File No. County/Court
CLIFROYA, ANGELINA 202429	LEBOUS, F. 01/16/2015	LEBOUS, F. 09/12/2013	IR 1ST MATHIEB BANK VS. GBA guardian ad litem	\$75,133.88 \$437.59	2011-1195 / 2013 Broome Supreme
ARTMAN, JOHN F. 228126	LEBOUS, F. 03/02/2014	LEBOUS, F. 03/25/2011	MIO WELLS FARGO BANK VS. XIL guardian ad litem	\$37,305.18 \$1,265.05	2011-1196 / 2011 Broome Supreme

New York State Unified Court System

Internal - UCS Intranet

Compensation Search–

- Internal – No Password

Internal Compensation Search

- In many cases, no requirements to contain multiple criteria
- Limits searches to one year increments
- Sort Options



Part 36 Compensation Search
Enter search criteria below.

Appointee Last Name: First Name: MI:

Appointment Type: Court Type: County:

Approval Date Range: From: To: Sort By:

New York State Unified Court System

Internal - UCS Intranet

Compensation Search–

- Internal – No Password

Internal Compensation Results

- Lists Judicial & Case Information
- Lists Gross Value & Approved Fee
- Does not reference NOA #



Part 36 - Fees Approved
(Pursuant to Part 26 of the Rules of the Chief Judge)

Search Criteria: Appointment Type: GUARDIAN AD LITEM, County: BROOME, Approval From Date: 05/29/2014, Approval To Date: 05/29/2015, Order By: APPOINTEE

Search Key:

Total number of records found: 4

Appointee	Appointing Judge	Appointing Judge FID #	Appointing Judge	Approval Date	Gross Value	Approved Fee	Index/Case No.
MITCHELL, JOHN P. 05/29/2014	WFO HELLS PARSONS BANK VS. A/L guardian ad litem	208108	LEBOVIZ, E.	05/29/2014	\$27,385.70	\$1,205.00	2011-1198 / 2011
BERTI, DAVID J. 05/11/2014	E/O GUARDIANSHIP J. REK guardian ad litem	244572	GUY, D.	05/11/2014	\$1,500,000.00	\$7,800.00	2010-542 / 2014
DANEY, ROBERT W. 05/19/2014	E/O JOHN MILLER guardian ad litem	252187	GUY, D.	05/29/2014	\$200,000.00	\$400.00	2014-388 / 2014
SUTTORIA, ANGELINA 05/12/2013	IN 1ST MARRIAGE BANK VS. ORA guardian ad litem	200429	LEBOVIZ, E.	01/03/2013	\$18,120.00	\$407.50	2011-1188 / 2012

New York State Unified Court System


Internal - UCS Intranet

Compensation Search–

- Internal – With Password

Internal Compensation Search

- No requirements to contain multiple criteria
- Opens searches to FIVE year increments
- Multiple Search Options- NOA#, FID#, Index#
- Sort Options



Part 36 Compensation Search
Enter search criteria for Compensation

Appointee Last Name: First Name: MI:

Appointing Judge Last Name: First Name: MI:

Approving Judge Last Name: First Name: MI:

Appointment Type: Court Type: County:

Appointment Date Range: Approval Date Range: Fiduciary ID:

Fee Amount: Gross Amount: NOA #: Index Number: Sort By:

incorporated into this software. Finally, important ADA standards that must be a part of all systems are not properly implemented in this older web platform.

Ultimately, any new upgrade should also easily interface with the appropriate case management software incorporated in the various courthouses to include appointments as a module and easily integrate Part 36 and Part 26 filings into the case management flow. Linking this functionality into the case management systems, however, is a goal that may need to wait given the realities of the number of projects already on the case management programming agendas.



RECOMMENDED IMPROVEMENTS IN ANY PART 36 SYSTEM REDESIGN

Fiduciary Application –

- Incorporate fully electronic applications and efile submissions
- Transition accounts to new Online Services Account and unify attorney accounts with single Attorney Online Service account
- Link all lists to other internal UCS databases – (Attorney Registration, Judges, Payroll) to automatically identify conflicts and individuals for removal based on those findings
- Incorporate electronic approvals for categories which need Appellate Division approvals (Court Evaluator and Law Guardian)
- Allow electronic amendments to applications from appointees and automatic links to address updates made via Attorney Registration

Appointment and Compensation Forms –

- All Notice of Appointment forms should be electronic forms and automatically sent via system to users for electronic completion
- All Approval of Compensation forms should be sent to judges for completion and submission electronically
- For those that opt out of electronic filing, allow pdf versions of forms for easier printing and mailing or emailing.

- Review and revise the UCS-826 form (Annual Statement of Approval of Compensation for Examiners of Accounts of Guardians) to incorporate appropriate identifiers (FID#, NOA#) and enter this data into compensation database.
- Incorporate systematic way to allow collection of Part 26 fee approvals for non-Part 36 appointments

This background material and initial recommendations for system upgrades were reviewed by the Automation and Technology Subcommittee as it investigated how technology and automation might enhance Part 36 processes, including compliance, monitoring, and reporting. Despite a fairly new Part 36 database system, coupled with best practices guides for courts to utilize in appointment matters, reports point to continued issues with proper collection and recording of all appointments and fees required by the Part 26 and 36 rules. The current system, while having elements which are dated, is still serviceable in many respects. However, as originally designed, the system cannot assure that every appointment is properly entered as required. Manual audits, monitoring of system entries and vigilant use of the tracking logs must be done by court personnel to ensure compliance with the rules.

In its review of these issues, the Automation and Technology Subcommittee came up with similar findings regarding the current system, but agreement was reached to recommend an even more comprehensive system redesign. It was the feeling of the majority of Subcommittee members that simply looking at order language, rule revisions or incremental technology improvements alone would not improve compliance rates, assure greater transparency or increase efficiency of court operations in this area.

Instead, the Automation and Technology Subcommittee concluded that the preferable solution is to recommend the design and development of a new and more comprehensive database system. The system envisioned would track and record every appointment order, with some limitations, in addition to the Part 26 and 36 court appointments, compensations records, certifications and approvals. Any new system could build on the successes of the current database, but would go beyond the scope of Part 36 exclusively to further bolster the operational issues faced by courthouse staff and enhance the fiduciary appointment process.

Appendix B:

Part 36 Historical Data Analysis

Prepared by Sam Younger

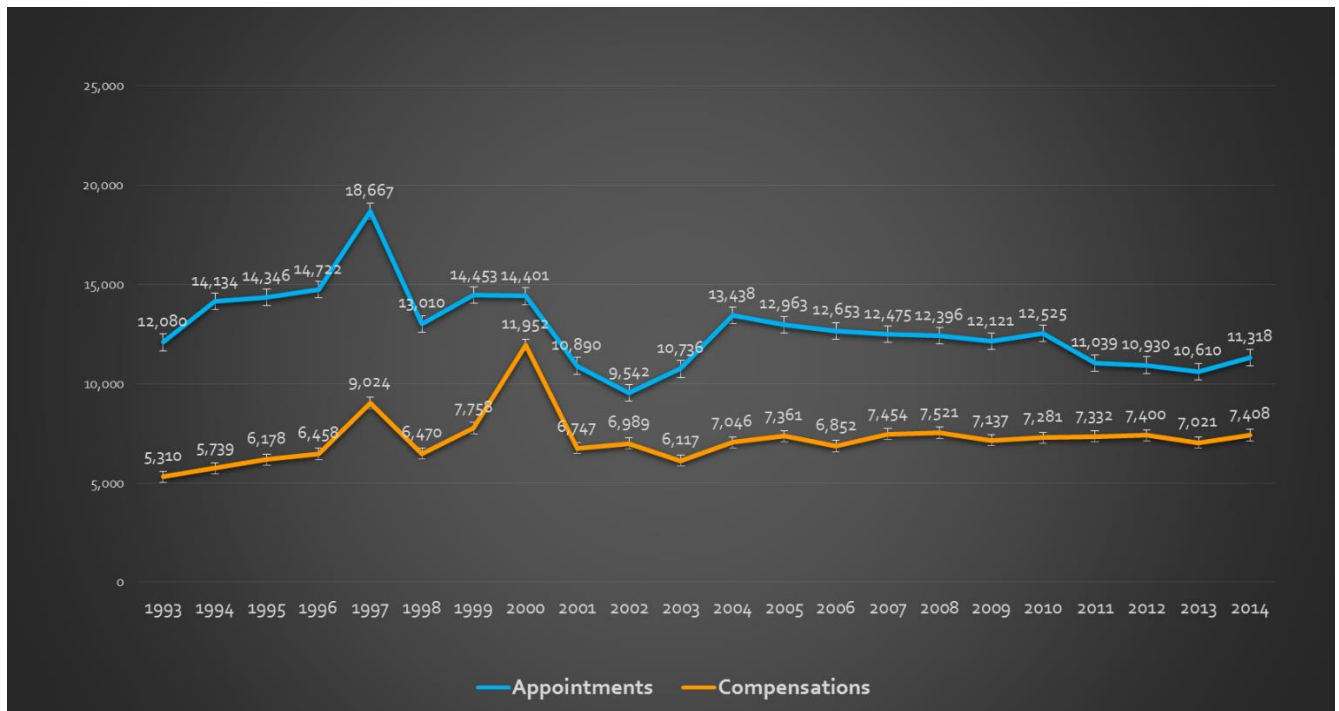
PART 36 HISTORICAL DATA ANALYSIS

SUMMARY

The Automation and Technology Subcommittee was charged with formulating recommendations that utilize technology and automation to enhance current Part 36 processes, including compliance, monitoring, and reporting. Clarification of the issues affecting current Part 36 processes and determining, with any sort of precision, the areas that need improvement, are major concerns which have been raised in our discussions.

Anecdotal evidence provided by the practitioners on this subcommittee, coupled with recently published news reports and withering criticism levied by the editorial boards of various newspapers, furnish us with sufficient evidence that problems with the current processes may, in fact, exist. We sought to ascertain whether empirical evidence, in the form of raw data, could provide additional insights to all the subcommittees as they review the current system. While we understand the inherent limitations that exist in attempting to review, qualify, and interpret this type of data, we hope that such information will prove illustrative and useful in discerning specific areas and/or processes of concern, which may need further investigation or improvement.

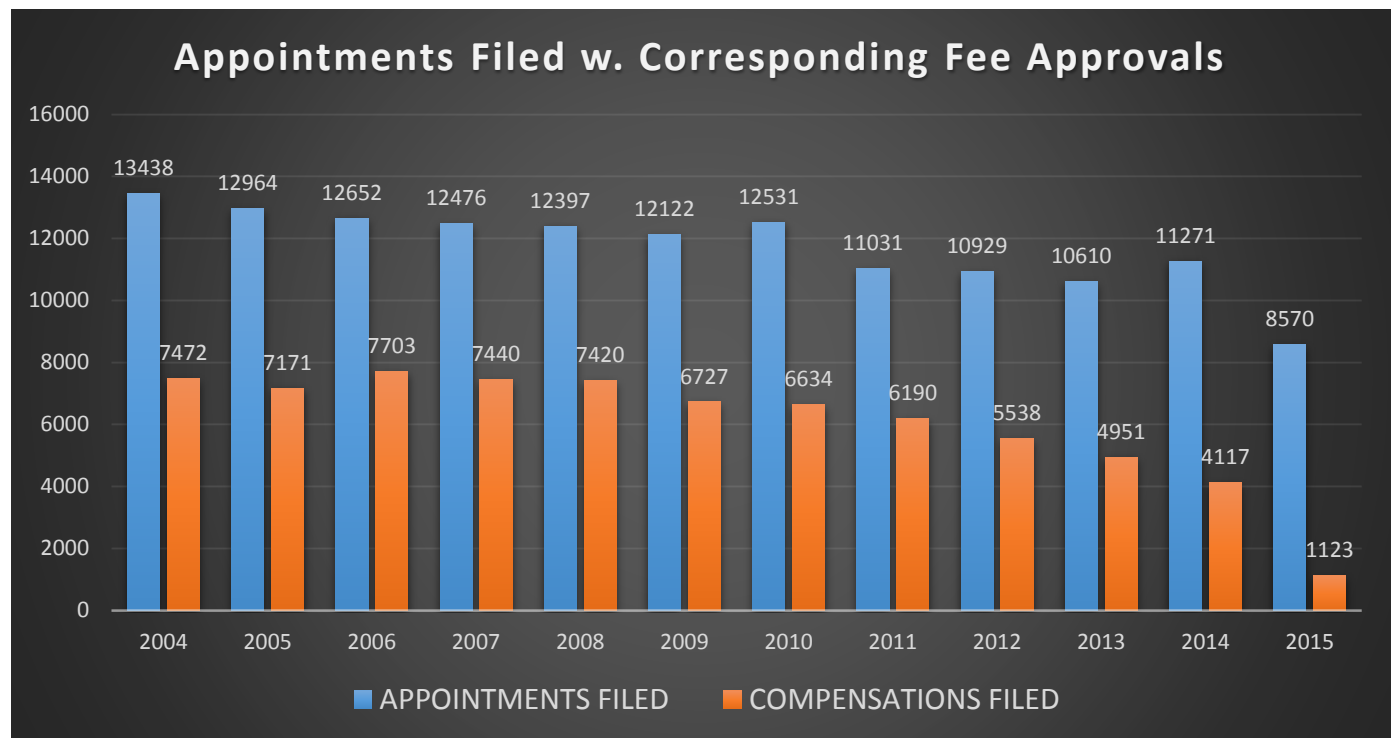
I. PART 36 FORMS FILED WITH OCA



Our initial view of the Part 36 data examined the number of filings submitted to OCA since this was a data point we readily maintained and reviewed on an annual basis. The graph above shows the total number of Notice of Appointment and Approval of Compensation forms processed each year by the courts with OCA. The data illustrates the uneven and erratic compliance in forms processed by OCA in the years prior to the implementation of the Part 36

rule revisions in 2003 and the concurrent introduction of the new Part 36 eligibility lists and new appointment processing protocols.¹⁵⁹ While we remain wary of drawing causative conclusions, there does seem to be an immediate effect in compliance after introduction and implementation of the new rule, forms (UCS-872 & UCS-875), Part 36 database and extensive training on the new process. In the years after implementation in 2003, the number of Part 36 filings have become more uniform and plateau to increasingly consistent and predictable levels. Nothing in this chart seemed to indicate any substantive issues related to compliance rates that might point to a major concern.

While examining the aggregate number of forms filed with OCA is illustrative, it offered only a limited glimpse into overall compliance. The subcommittee members then asked if the data set could be narrowed to compare the total number of appointments made in the years since implementation of the new rules with the rate of compensations approved by judges in those appointments. The following chart shows the number of appointments made each year and the number of corresponding approval of compensation forms on file for those appointments.

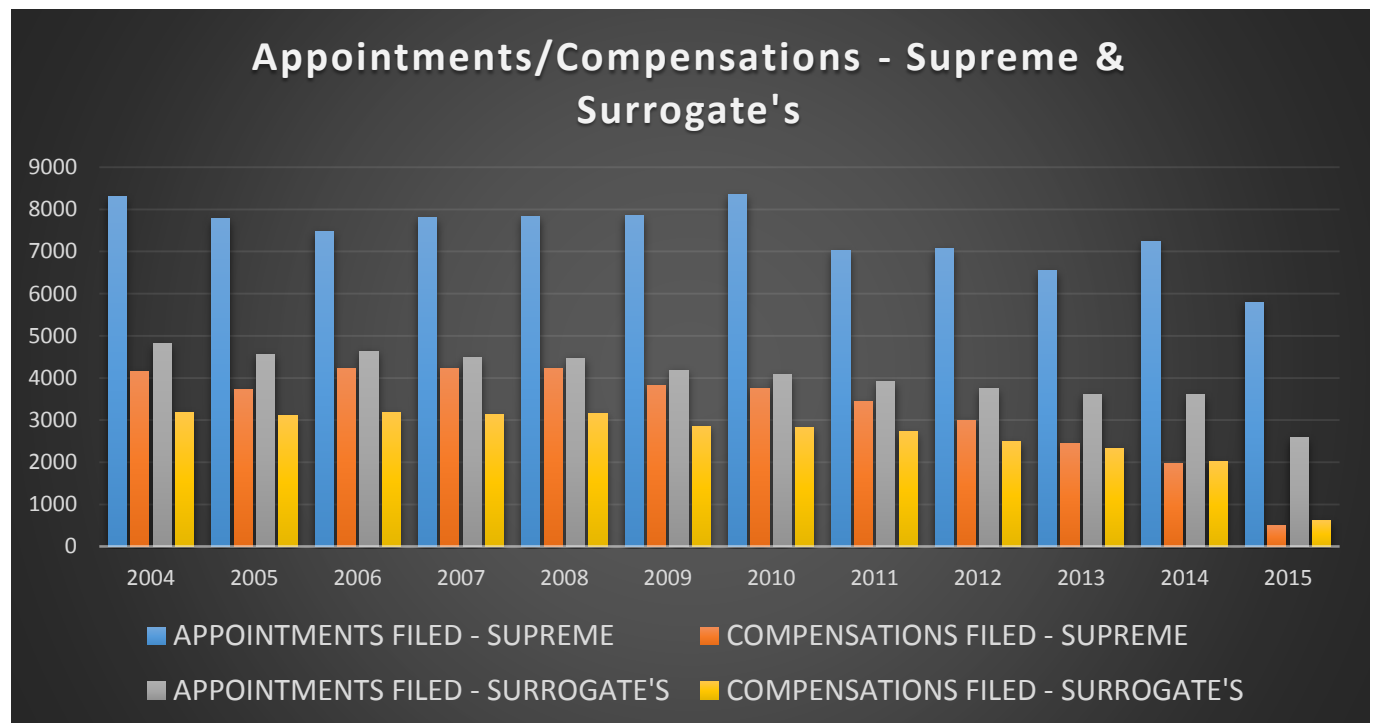


Although this data shows there to be fewer corresponding fee approvals on file for more recent years, this trend is entirely consistent with anecdotal information from the courts. The courts have typically reported a delay in the submission of approval of compensation forms. OCA’s own analysis of the compensation data suggested an average delay of 150 to 200 days from the date of appointment to the date of the first fee approval.

¹⁵⁹ The new rules are codified in 22 NYCRR Part 36 (adopted November 15, 2002; effective June 1, 2003).

Notably, the data also shows that approximately 50% of all appointments made lack corresponding fee approvals on file with OCA. There may be legitimate reasons for what, at first glance, seems to be such glaring discrepancies between the number of appointments made and the number of corresponding fee approvals.¹⁶⁰ Whether non-compliance with reporting requirements constitutes a statistically significant portion of the discrepancy between appointment and fee approval filings, however, remains unknown at this time.

Given that the vast majority of appointments are ordered in either Supreme Court or Surrogate’s Court, we further separated Part 36 filings by court type. The chart below compares the number of appointments and corresponding fee approvals filed with OCA from these courts.



Separation of the data by court type reveals a noteworthy trend. While the aggregate number of appointments originating from Supreme Court is greater than appointments originating from Surrogate’s Court, it appears that, on average, only about 50% of appointments originating in Supreme Court have corresponding fee approvals attached. Similarly, in Surrogate’s Court, the total number of appointments with corresponding fee approvals seems, on average, to be considerably greater with approximately 70% of the appointments listing a corresponding fee.

¹⁶⁰ There exist a multitude of legitimate reasons for why the data is ostensibly skewed. Referees to compute or sell real property, who do not anticipate receiving compensation of more than \$500, are not required to report under either Judiciary Law 35-a or Part 26. Appointees, who initially anticipated receiving compensation at the time an appointment was made, would receive no compensation if, for whatever reason, their ward and/or their ward’s estate became insolvent. Database inaccuracies such as duplicate entries, or failure to properly request deletion of appointments, which are vacated subsequent to the filing of the Notice of Appointment and Certification of Compliance, but prior to an order authorizing compensation, may also be contributing factors to filing discrepancies.

The data shows a statistically significant disparity between the number of appointments and corresponding fee approvals filed in Supreme and Surrogate’s Court. A number of factors, in conjunction with one another, may be contributing to the skewed results illustrated in the chart above.¹⁶¹ In our efforts to extrapolate trends, discern potential problem areas, and explain the discrepancy between appointments and corresponding fee approvals filed due to court type, we narrowed the data set even further. Next, we examined the total number of Part 36 filings and the ratio of appointments and corresponding fee approvals filed by individual categories of appointment.

Part 36 governs ten categories of primary appointments and six categories of secondary appointments.¹⁶² Much of the anecdotal evidence indicated that compliance issues in most of the primary appointment categories – especially those made pursuant to Mental Hygiene Law Article 81 – were not a problem given the well-established rules and protocols followed by court staff in this area. However, examination of the secondary appointment categories might reveal where compliance issues needed further review.

II. PRIMARY CATEGORIES OF APPOINTMENT

A. GUARDIANS

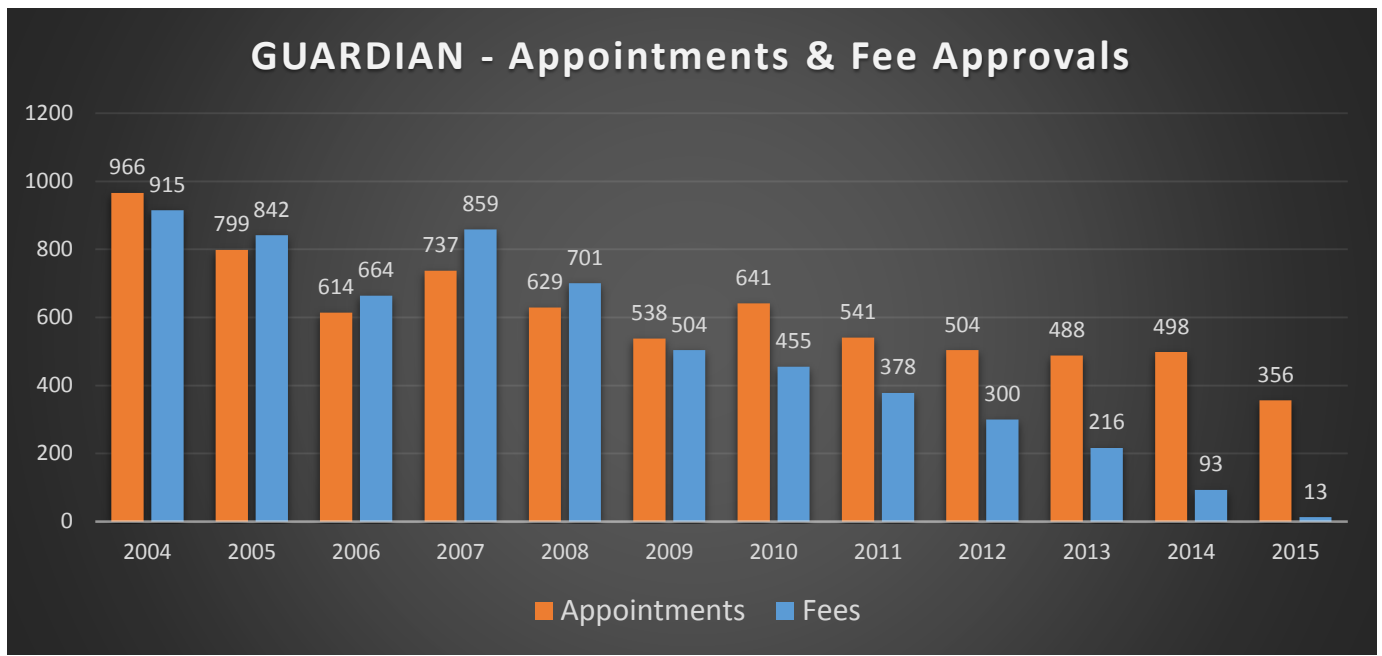
We first looked at the three Article 81 categories of appointment: Guardians, Court Evaluators and Attorney for the AIP.

Part 36 applies to guardians appointed for: (1) incapacitated individuals pursuant to Mental Hygiene Law Article 81, (2) minors pursuant to SCPA article 17 or CPLR article 12, and (3) the mentally retarded or developmentally disabled pursuant to SCPA article 17-A.¹⁶³ Typically, guardians are appointed to assist individuals with disabilities or limitations, such as the elderly, or infirmed, in making day-to-day personal care decisions and/or managing finances. Guardians are required to file periodic reports with the court, which documents the IP’s finances as well as the IP’s medical condition and health. The chart below shows the total number of guardian appointments and corresponding fee approvals.

¹⁶¹ See, *ante*, footnote 2, and the observation that various legitimate reasons may exist for skewed data showing greater compliance in Surrogate’s Court. The substantial majority of referee appointments are made in Supreme Court, and given the typical referee compensation of less than \$500, such appointments are not subject to reporting requirements. Anecdotal information suggests that the particular jurisdictional province of Surrogate’s Court may lead to inherently increased involvement by judges and clerks, and a greater awareness of the filing requirements involved in any given case. Further, Surrogate’s Court may have adopted internal court processes and procedures which promote greater compliance with reporting requirements. The question of whether these factors, in concurrence with one another, are sufficiently substantial to result in a statistically significant divergence in compliance between Supreme Court and Surrogate’s Court is one which cannot be conclusively answered from this data alone.

¹⁶² See § 36.1 [b].

¹⁶³ See § 36.1 [a][1].



The data indicates that the number of guardian appointments have been steadily trending downward. The reasons for the gradual decrease in guardian appointments are unknown at this point in time. A separate analysis of guardian appointments broken down by individual judicial districts may reveal additional trends in specific geographic areas of the State.¹⁶⁴

The data on guardian appointments also reveals, especially evident in years 2005-2008, that there are multiple fees approved for single appointments. This is in line with the experience of the clerks on the subcommittee who indicated that in practice, guardians are instructed to return to court on an annual basis to request additional fee approvals. Fee awards in recent years are far lower indicating that the lifespan of these cases is typically longer and requests for fee approvals are made many years after appointment.

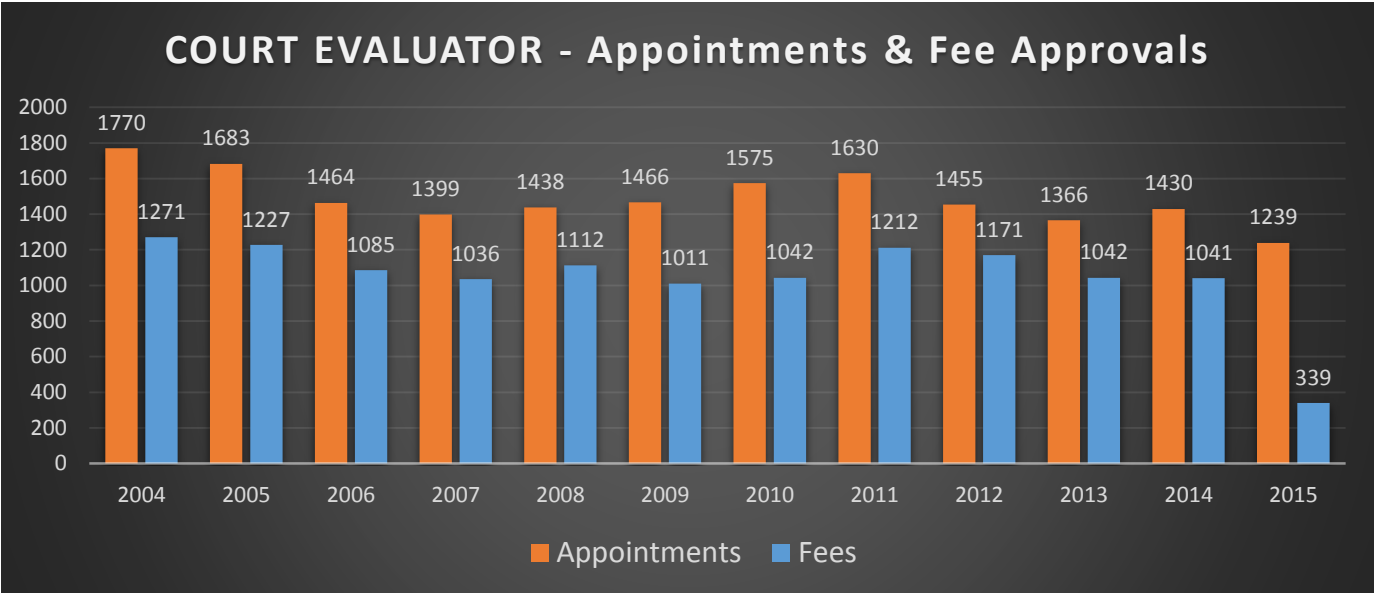
B. COURT EVALUATORS

Court evaluators are appointed to act as independent witnesses, which assist and report to the court in Article 81 proceedings.¹⁶⁵ In such a capacity, court evaluators are empowered to conduct investigations in guardianship proceedings to determine whether an alleged incapacitated person is, in fact, incapacitated, make recommendations as to whom the court should select as guardian, and apprise the court of the AIP’s circumstances and personal finances.¹⁶⁶ The chart below shows the total number of court evaluator appointments and corresponding fee approvals.

¹⁶⁴ Charts listing appointments broken down by appointment category in each Judicial District from 2004-2014 are attached as an addendum.

¹⁶⁵ See MHL § 81.09.

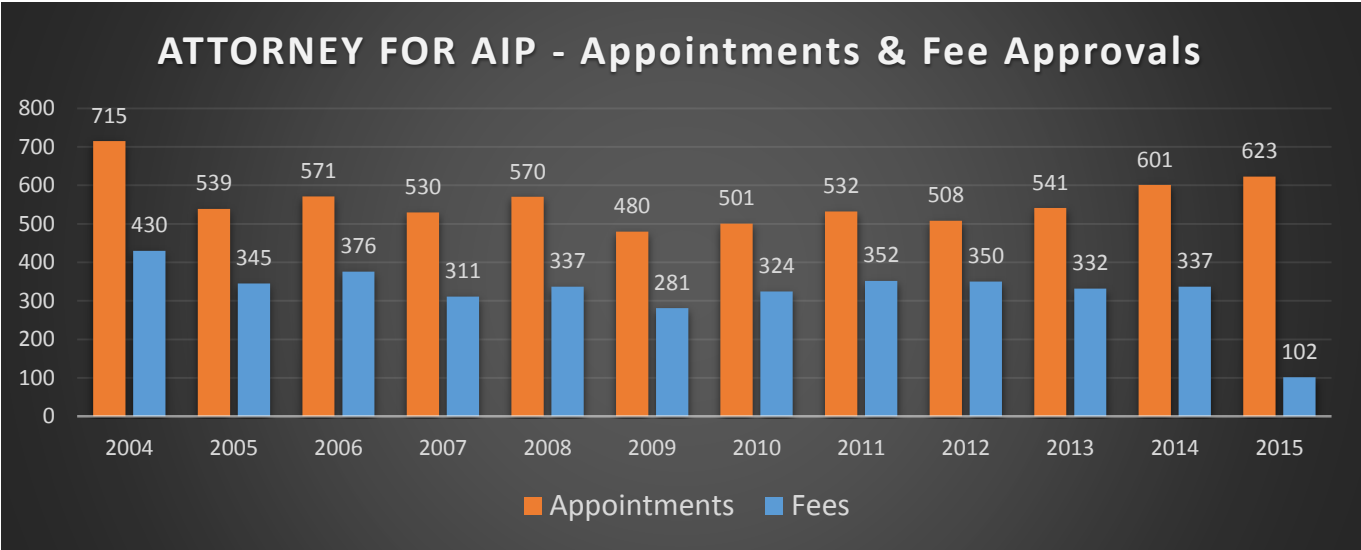
¹⁶⁶ See MHL § 81.09[c].



The data indicates robust compliance with both appointment and fee reporting requirements for court evaluators. The clerks responsible for overseeing and providing support to court evaluators note that the process is closely monitored, which results in high levels of compliance. In this instance, the data bears out the anecdotal evidence reported by the court clerks, who expected, and rightly predicted, excellent compliance with reporting requirements. If there is any under-reporting in this category, it might be revealed by reviewing the breakdown of the Judicial District data in the addendum.

C. ATTORNEYS FOR ALLEGED INCAPACITATED PERSONS

An Alleged Incapacitated Person (AIP) has a right to be represented by counsel in an Article 81 proceeding, who is to be compensated from the AIP’s estate.¹⁶⁷ The chart below shows the total number of Attorney for AIP appointments and corresponding fee approvals.

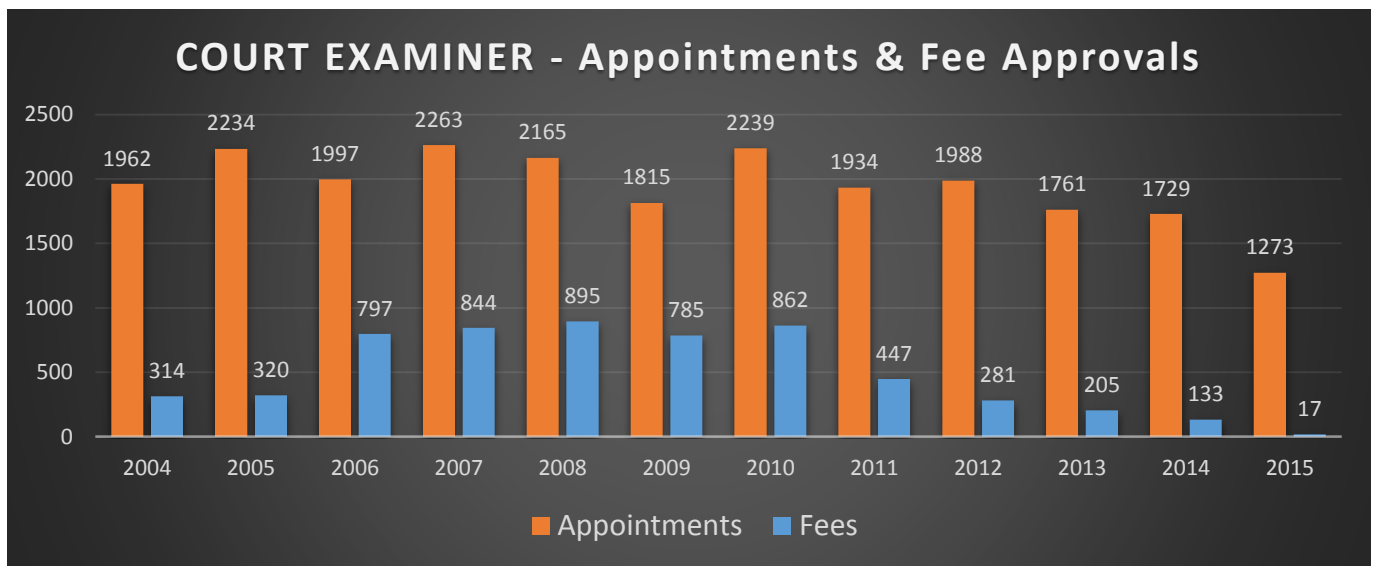


¹⁶⁷ See MHL § 81.10.

The data indicates that there is relatively strong compliance with reporting requirements for attorneys for alleged incapacitated persons. There should exist only minimal discrepancies between the total number of appointments and corresponding fee approvals on file given that most compensation awards for attorneys for AIPs are greater than the \$500 threshold. However, anecdotal evidence from practitioners suggest that while most appointees anticipate compensation awards of greater than \$500, many AIPs are actually indigent or their estates become insolvent, and such appointments become pro bono after the fact and no fees are ever approved.

D. COURT EXAMINERS

Court examiners are designated by the Presiding Justice of each Department of the Appellate Division.¹⁶⁸ Upon designation, court examiners are required to comply with provisions of Part 36.¹⁶⁹ Court examiners are responsible for the examination of initial and annual reports filed by a guardian appointed pursuant to Article 81 of the Mental Hygiene Law.¹⁷⁰ The chart below shows the total number of Court Examiner appointments and corresponding fee approvals on file.



The data indicates that there is extremely strong reporting of court examiner appointments due to their designation, and oversight by, the Appellate Division. However, there exists much confusion about reporting compensation awarded to court examiners.¹⁷¹ The

¹⁶⁸ See MHL § 81.32.

¹⁶⁹ See § 36.1 [a][6]. Court examiners are required to satisfy standards of qualification (see § 36.2 [c]), fulfill education and training requirements (see § 36.3 [b]), and comply with all filing requirements for appointment (see § 36.4).

¹⁷⁰ See MHL § 81.32(b).

¹⁷¹ While the appointment of court examiners exist within the purview of Part 36, see, *ante*, footnote 11, and subject to limitations on compensation (see § 36.2 [d]), they are nevertheless exempt from reporting compensation on Statement of Approval of Compensation (UCS-875) forms (see Jud. Law § 35-a [1][b] and 22 NYCRR § 26.1 [b]).

discrepancy between the total number of appointments and corresponding fee approvals is skewed given that court examiners are classified as Part 36 appointments, but judges are exempt from reporting compensation approved on UCS-875 forms.

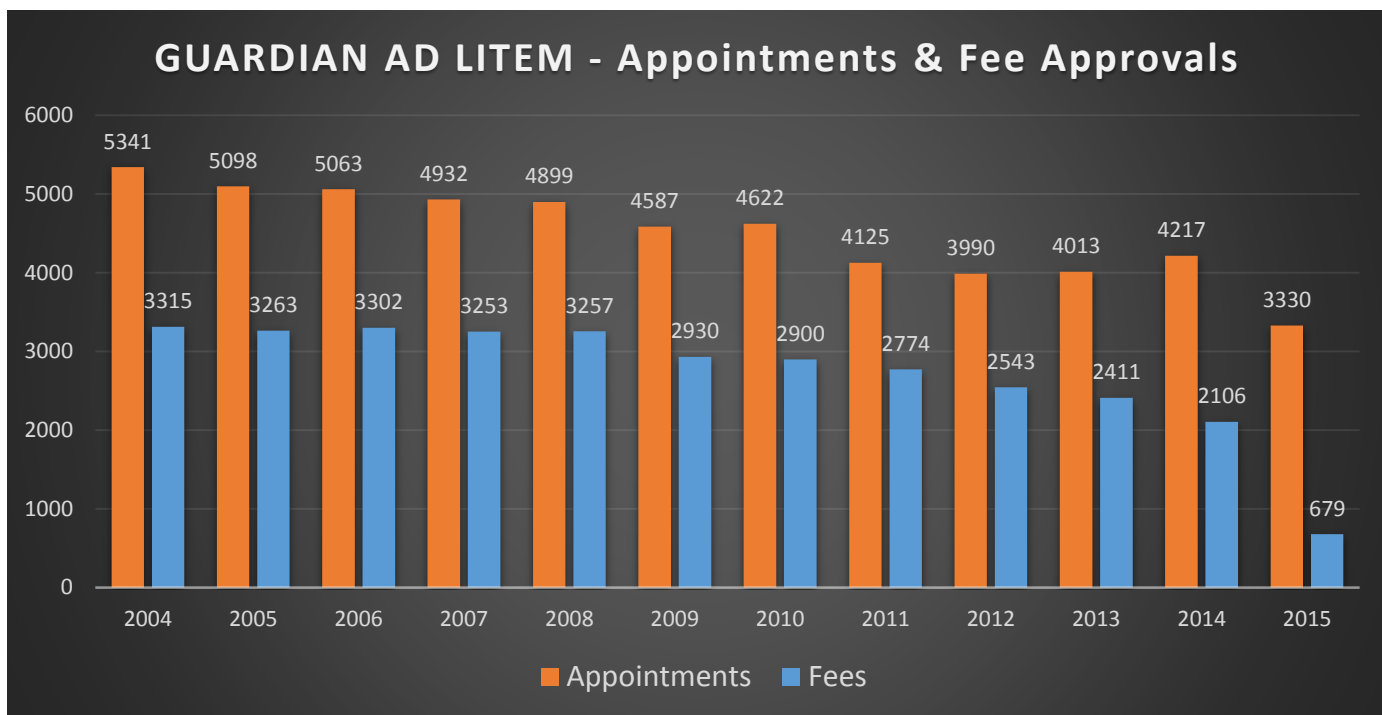
Instead, compensation awards for court examiners are approved and tracked through the use of a reporting form UCS-826 (“Annual Statement of Compensation for Examiners of Accounts of Guardians”).¹⁷² Notably, the UCS-826 form does not include a field for an appointee’s fiduciary identification number or the corresponding Notice of Appointment Number (NOA#).¹⁷³ The lack of an appointee’s FID # and/or NOA# on the UCS-826 form poses a number of practical operational challenges. The utility of Part 36’s central database is premised on the link between an appointee, qualified and categorized by the database through any number of unique personal and case specific identifiers, predominantly an appointee’s FID # and the NOA#, and any appointments ordered and/or fees awarded to that appointee. The lack of identifiers on the UCS-826 form precludes OCA from developing the procedural infrastructure necessary to properly process, record, file, categorize and maintain court examiner compensation. This is especially problematic given that these fees may impact an appointees annual compensation caps under the rules, and that there is seemingly no public transparency of these awards.

E. GUARDIANS AD LITEM

Guardians Ad Litem, which are most often utilized in Surrogate’s Court, are appointed to report to the court in a single case, and represent the interests of incapacitated persons for the duration of the proceedings. The chart below shows the total number of GAL appointments and corresponding fee approvals.

¹⁷² Perhaps the UCS-826 form, which is utilized exclusively for reporting annual court examiner compensation, should be reviewed by an appropriate subcommittee, which might recommend changes that would allow for the data collection of court examiner fees.

¹⁷³ Robust data collection would require that the revised form include fields for the appointee’s fiduciary identification number, the notice of appointment number, the year that compensation was awarded, and the amount of compensation. At a bare minimum, a form designed to record court examiner compensation should be revised to include the appointee’s FID # and NOA#. The inclusion of an appointee’s FID # would lessen the burden on appointees themselves, on whom the entire onus rests for the monitoring and collection of fees awarded. Further, the inclusion of an appointee’s FID # and NOA# would allow court examiner compensation to be recorded in OCA’s database, resulting in greater transparency.



The most noteworthy observation from this data is the strong and consistent compliance with reporting requirements, relative to other categories of appointment, with corresponding fees reported in more than 50% of all appointments. Anecdotal information from court staff indicate that there is close monitoring of cases and reporting procedures in Surrogate’s Court, and as a result, non-compliance with reporting requirements is a non-issue in GAL appointments.

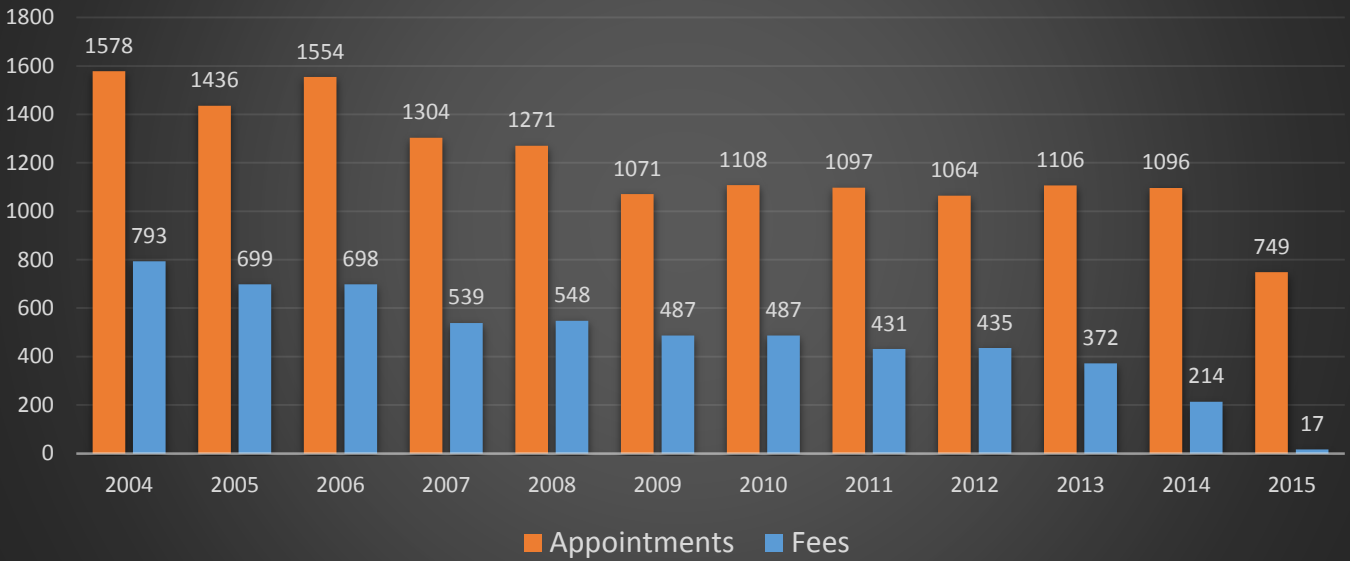
F. LAW GUARDIANS (ATTORNEY FOR THE CHILD) – PRIVATELY PAID

Privately paid law guardians, also known as attorneys for the child, advocate for children in family court matters, or in custody and visitation disputes. Law guardians are appointed “for minors who often require the assistance of counsel to help protect their interests and to help them express their wishes to the court.”¹⁷⁴ Privately paid law guardians are appointed in domestic relations proceedings in those Departments of the Appellate Division, where their appointments are authorized.¹⁷⁵ These appointments are generally made in Supreme Court, and paid for by the matrimonial litigants. The following chart shows the total number of Law Guardian (Privately Paid) appointments and corresponding fee approvals.

¹⁷⁴ See Family Ct. Act § 241.

¹⁷⁵ Privately Paid Law Guardians are not authorized in the Appellate Division 3rd Department.

LAW GUARDIAN (Attorney for the Child) - Appointments & Fee Approvals



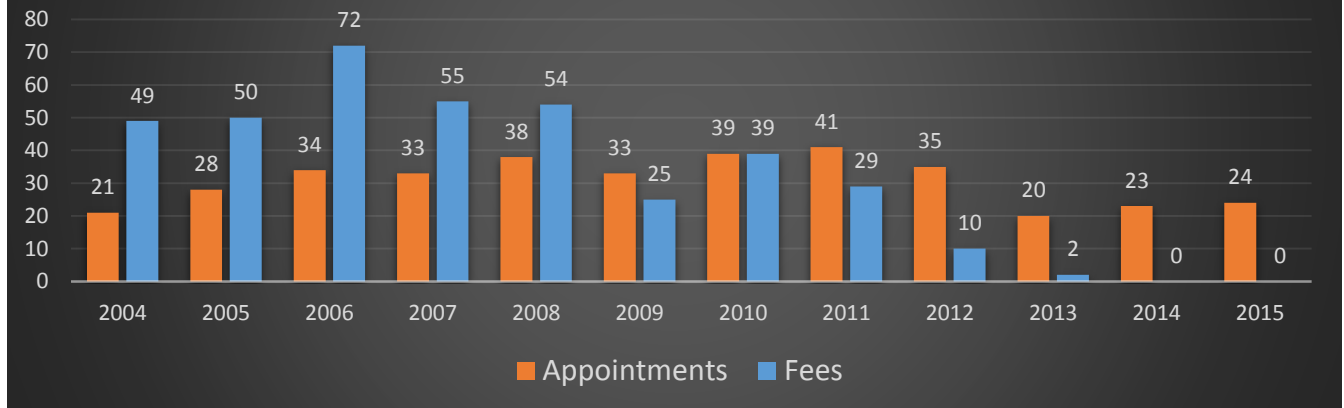
The data indicates that the appointment figures for Law Guardians (Privately Paid) are quite strong and have remained consistent throughout the years. However, corresponding compensation data for these appointments are not being reported.

The discrepancy between the number of appointments filed and corresponding fee approvals for Law Guardians (Privately Paid) is especially troubling given that anecdotal evidence suggests that the litigants involved in a matrimonial action in which these appointments are made pay sizable sums to the appointees, but the database and compensation reporting does not reflect those realities. Additionally, the manifest discrepancies for this category of appointment become even more concerning due to the highly charged emotional and legal context in which Law Guardians (Privately Paid) are appointed. Non-compliance with reporting requirements has been, and continues to be, an enduring problem, which requires additional review to identify reasons for filing discrepancies and a thorough analysis to devise viable solutions.

G. SUPPLEMENTAL NEEDS TRUSTEES

Supplemental Needs Trustees are entrusted with the management and administration of the assets of a supplemental needs trust, which is designed to qualify or preserve a beneficiary's eligibility for government benefits. The chart below shows the total number of Supplemental Needs Trustee appointments and corresponding fee approvals on file.

SUPPLEMENTAL NEEDS TRUSTEE - Appointments & Fee Approvals

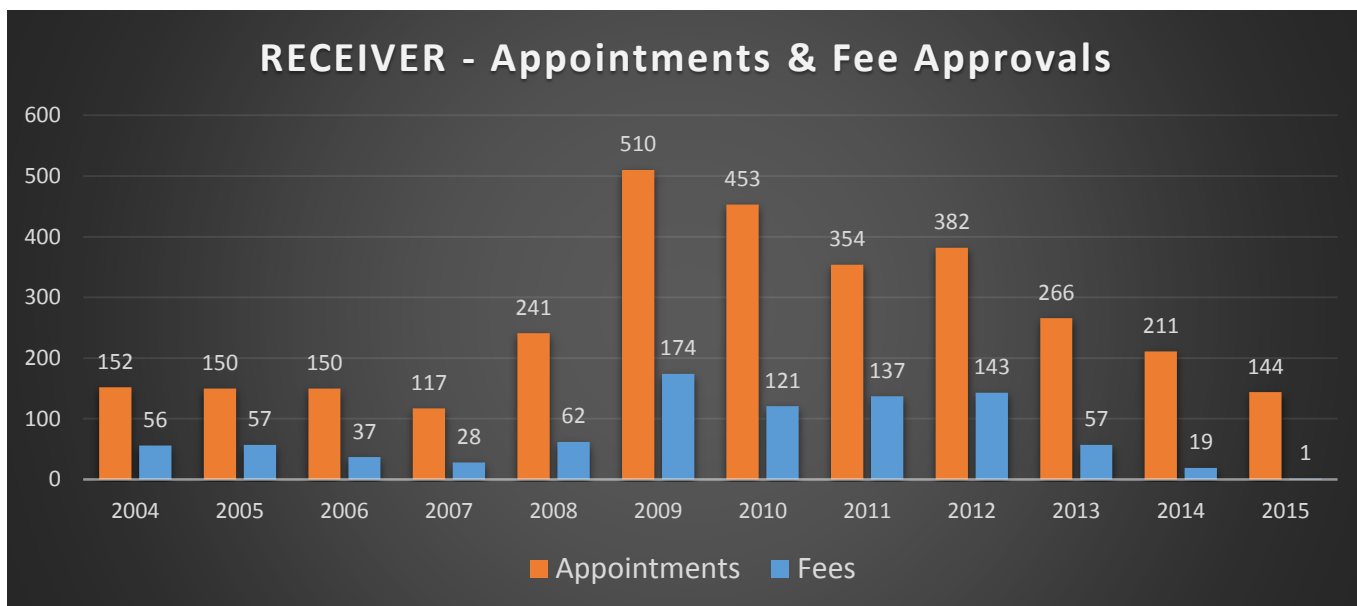


The data indicates low reporting numbers relative to many of the other categories. It is impossible to determine whether such low reporting numbers is a result of underreporting or reflects the realities of a small caseload. Interestingly, there are more fees on file than appointments in many years, which indicate multiple fee awards for a single case.

H. RECEIVERS

Where there exists a risk that property that is the subject of diverse claims may be “removed from the state, or lost, materially injured or destroyed,” a person with an interest in the property may move for the appointment of a receiver to manage the property while the action is pending.¹⁷⁶ The chart below shows the total number of Receiver appointments and corresponding fee approvals.

¹⁷⁶ Office of the Special Insp. Gen. for Fiduciary Appointments and the Office of Internal Affairs, Internal Audit Unit, Fiduciary Appointments in New York: A Rep. to Chief Judge Judith Kaye and Chief Administrative Judge Jonathan Lippman, (2001) [hereinafter Special Inspector General’s Report], <http://www.courts.state.ny.us/fiduciaryreport/igfiduciary.html> (last visited Oct. 26, 2015). See N.Y. C.P.L.R. § 6401(b).



The data indicates that the number of appointments compared to the number of corresponding fee approvals is fairly low on a consistent year-per-year basis. During the ten-year period from 2004-2013, less than one-third of all receivership appointments had a corresponding fee approval attached. A statistically significant spike in appointments filed with OCA from 2009-2012 was likely a result of the subprime mortgage bubble, and the ensuing foreclosure crisis gripping real estate markets.

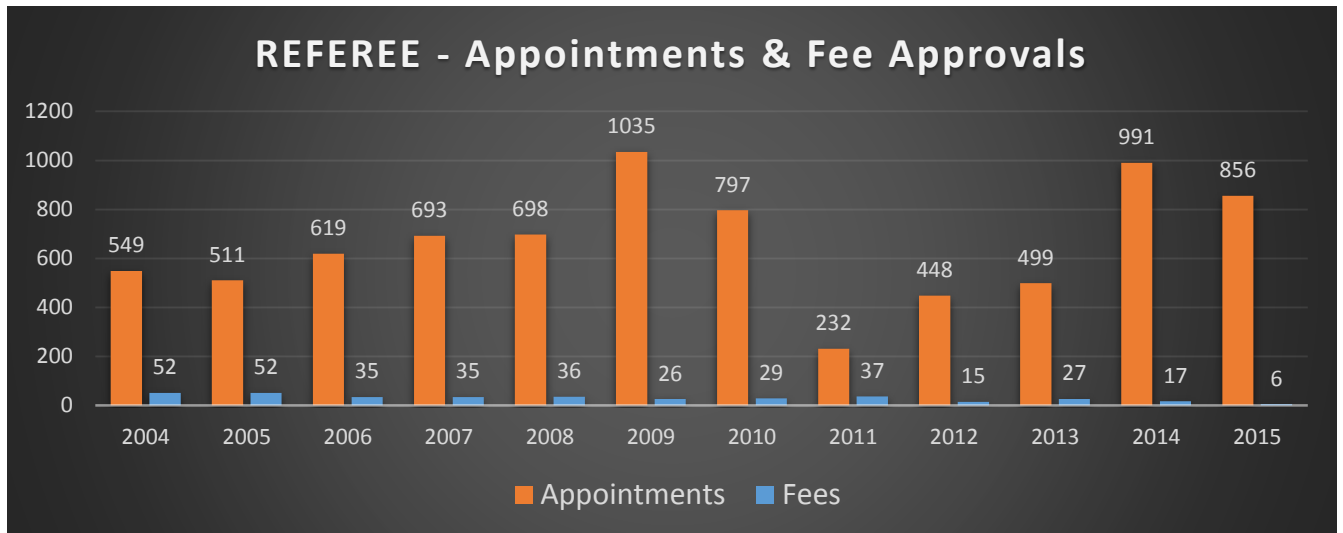
The discrepancies between appointments and corresponding fee approvals on file for receivers is more than likely due to widespread non-compliance with reporting requirements. Low fee reporting numbers are not a result of appointments becoming pro bono after the fact since the majority of receiverships involve commercial property worth substantial sums. The assertion that receivership appointments are plagued by pervasive non-compliance with reporting requirements is supported by anecdotal evidence from practitioners, and further buoyed by the many news reports and public criticism surrounding receivers.¹⁷⁷ Back in December 2001, the Special Inspector General’s Report found “extremely poor compliance with the filing requirements of Part 36” in receivership cases. Given the data compiled above, the Special Inspector General’s findings seem just as perceptive now as it did then.

I. REFEREES

Referees appointed for purposes other than the performance of judicial functions are governed by Part 36.¹⁷⁸ The predominant purpose for which courts appoint referees involves the sale of foreclosed property. Referees compute the value of property, which has been subject to a judgment of foreclosure and sale, and then sell it at auction. It is important to note that while the referee to compute and the referee to sell may be one and the same, two appointments are created. The following chart shows the total number of referee appointments and corresponding fee approvals on file.

¹⁷⁷ Special Inspector General’s Report, supra note 16.

¹⁷⁸ § 36.1[a][9].



The data indicates strong appointment reporting figures, but there is a significant drop in filings in 2011, which is more than likely a result of the mortgage foreclosure reforms enacted at that time. Given that judges are exempt from reporting referees fees and commissions that are less than or equal to \$750.000 (Jud. 35-a(1)(a) and § 26.1(a)), there are very few corresponding fee approvals on file. There was much discussion within the subcommittee concerning this category and the impact that the non-reporting of these fees have on system computations and public disclosure. On the opposite side, other members pointed to the volume of appointments in this category and the administrative burdens related to trying to capture every referee fee approved.

III. SECONDARY CATEGORIES OF APPOINTMENT

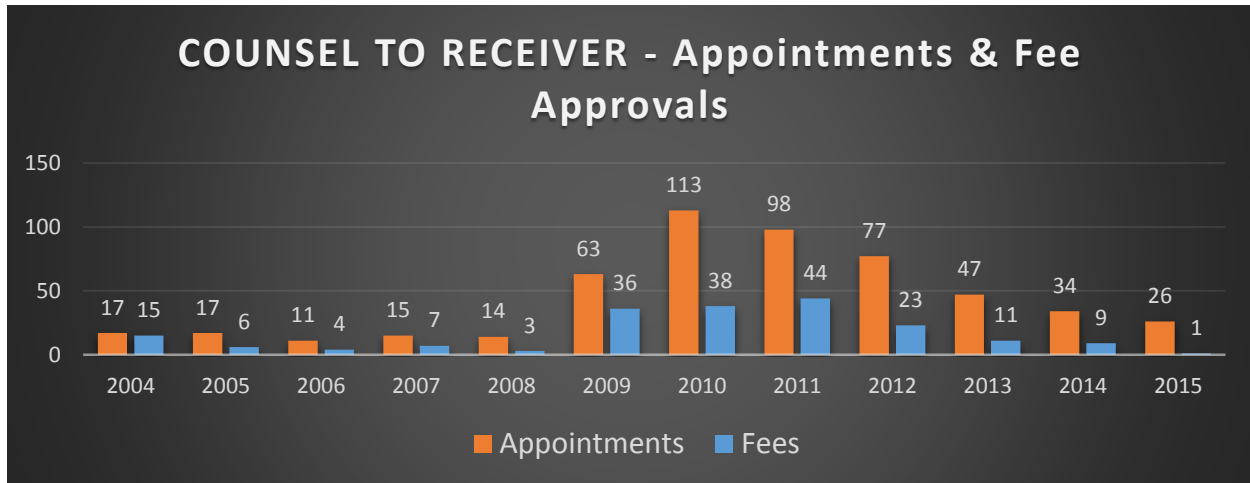
In proceedings where guardians or receivers are appointed, secondary fiduciaries may be ordered by the court to assist the primary fiduciary to perform various legal or non-legal services, limited to counsel, accountants, auctioneers, appraisers, property managers, and real estate brokers.¹⁷⁹ In the event that a guardian or receiver requires the services or assistance of any of the professionals enumerated in § 36.1 [a][10][i]-[vi], the primary fiduciary must submit a request to the court because the assistance of these professionals may only be obtained through an appointment by the court.¹⁸⁰ Some anecdotal evidence and outside news reports seemed to indicate that many secondary appointments, and subsequent fee approvals, were not being reported to OCA. The reasons for this non-compliance are many, but we hoped that an analysis of this data might reveal specific areas or categories in need of improvement or further review.

¹⁷⁹ See § 36.1 [a][10].

¹⁸⁰ See § 36.2 [a].

J. COUNSEL TO RECEIVER

The chart below shows low numbers of appointments on file for the counsel to receiver category of appointment from 2004 to 2008, but there was a significant surge in counsel to receiver appointments during the time of the financial crisis. The increase in counsel to receiver appointments correlates in similar proportion to the increase observed in receivership appointments during the same time period.



In 2008, which marked the height of the financial crisis, appointments for receivers and counsel to receivers would not have been processed and filed by OCA until 2009. The number of appointments for receivers filed with OCA increased approximately 212% from 241 in 2008 to 510 in 2009, while the number of appointments for counsel to receivers filed with OCA increased 450% from 14 in 2008 to 63 in 2009.¹⁸¹ It is interesting that from 2009-2012, only about one-third of all appointments filed for receiver had a corresponding fee approval attached (34.24% of all receiver appointments had a corresponding fee approval attached during the height of foreclosure crisis), while counsel to receivers had a somewhat higher percentage of compliance (41.38% of appointments had a corresponding fee approval attached).¹⁸²

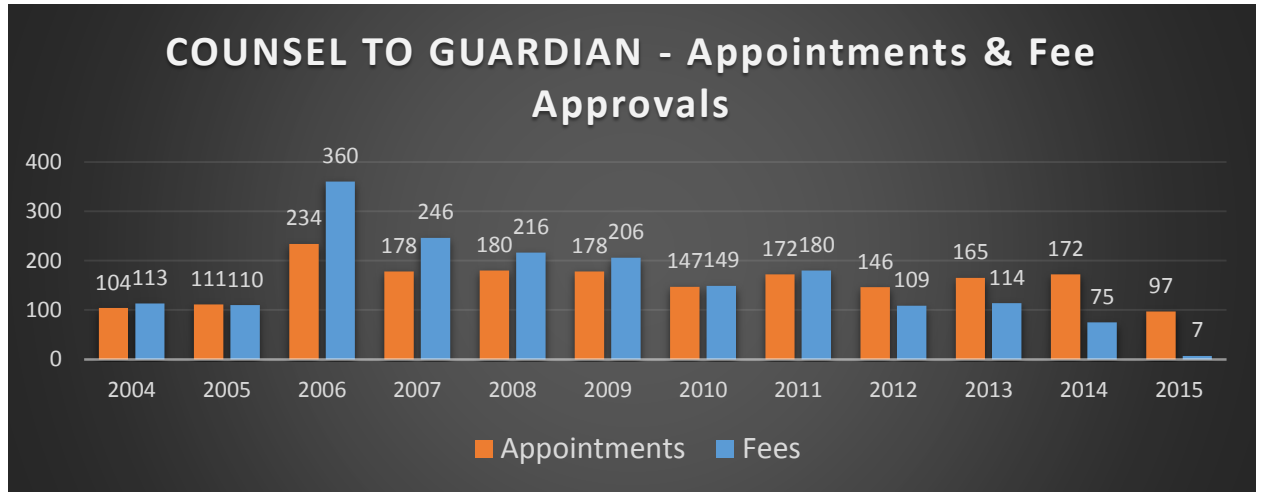
In general, the low number of approval of compensations in this category indicates an area of concern. One concern related by court staff was the possibility that appointees were not returning to court to request an order of compensation.

¹⁸¹ The significantly higher percentage increase in counsel to receiver appointments, when compared to the percentage increase in receiver appointments, from 2008 to 2009 may be due to the introduction of additional procedural protections for homeowners facing the prospect of a foreclosure action in New York State. See David Streitfeld, Backlog of Cases Gives a Reprieve on Foreclosures, N.Y. Times, (June 19, 2011 at A1), available at <http://www.nytimes.com/2011/06/19/business/19foreclosure.html> (last accessed Oct. 26, 2015), noting that the requirement of an affirmation of accuracy in mortgage documentation may be contributing to a backlog of foreclosure actions.

¹⁸² Whether the slight increase in the reporting of compensation by attorneys appointed counsel to receiver is merely a statistical irregularity within an acceptable margin of error or representative of greater awareness by attorneys familiar with the nuanced filing requirements of the courts cannot be discerned from the data.

K. COUNSEL TO GUARDIAN

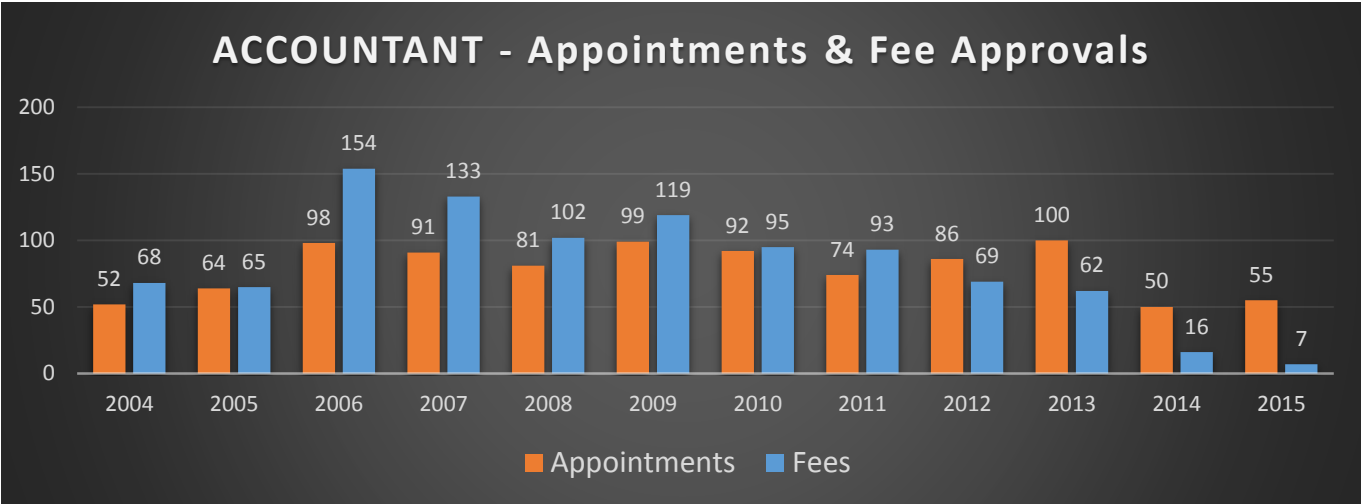
The chart below shows that the number of appointments for counsel to guardian total less than 200 in most years. From 2004 to 2015, appointments for counsel to guardian averaged 157 annually. Whether there is any under-reporting in the category is difficult to determine by looking only at these numbers.



The other notable trend for this category of appointment is the greater number of corresponding fee approvals reported than appointments filed, which is an especially uniform occurrence on a year-per-year basis. This trend indicates that there are generally multiple fees awarded for a single appointment, which is similar to what was seen in the guardian category.

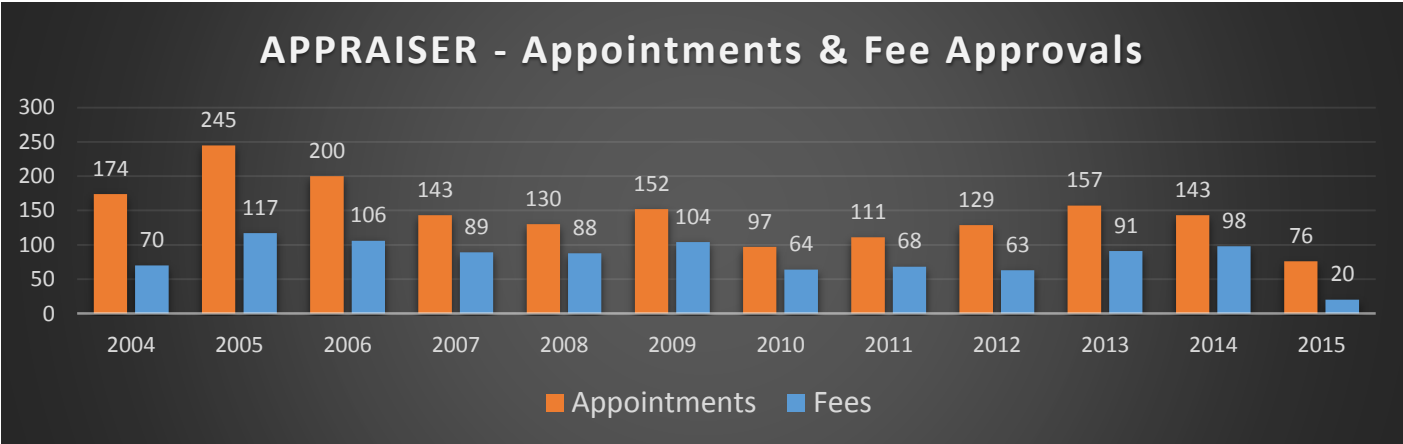
L. ACCOUNTANTS

The chart below shows that the number of appointments for accountants made each year are also generally low (less than 100 statewide), but the number of appointments on a year-per-year basis have remained largely steady and consistent. Much like the counsel to guardian category of appointment, the number of corresponding fee approvals reported is greater than appointments, likely indicating that a single appointment resulted in multiple fee requests and compensation awards.



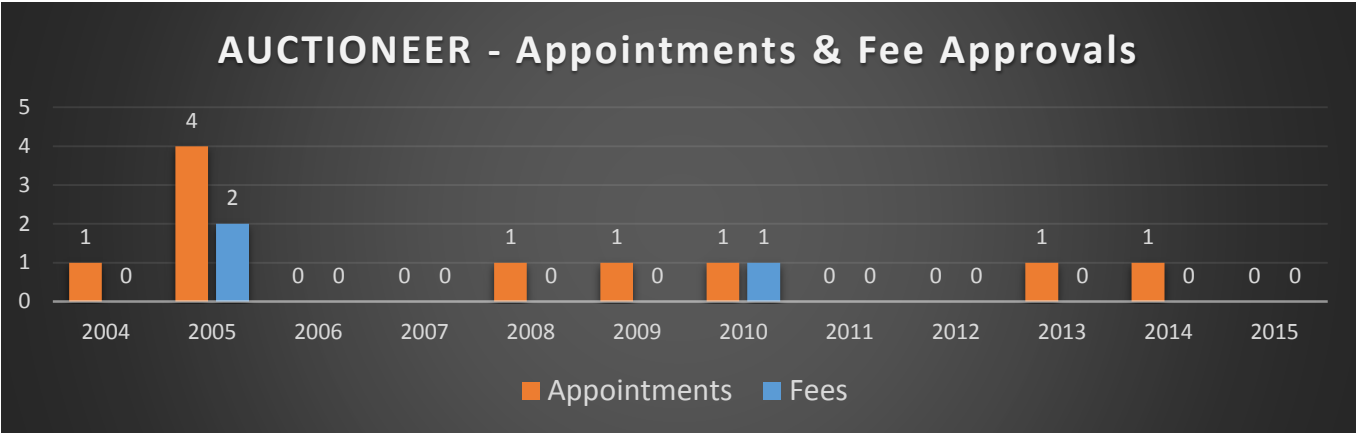
M. APPRAISER

The chart below shows another category with a generally low volume of appointments annually, with a proportionally significant decrease from 2005 to 2010, which may be due to the mortgage foreclosure reforms introduced during that time. While the appraiser category of appointment may have generally low number of appointments, the incidence of compliance with reporting fee approvals is higher than some other secondary categories like Property Managers and Real Estate Brokers. From 2004 to 2014, almost 60% of all appointments on file with OCA had a corresponding fee approval attached.



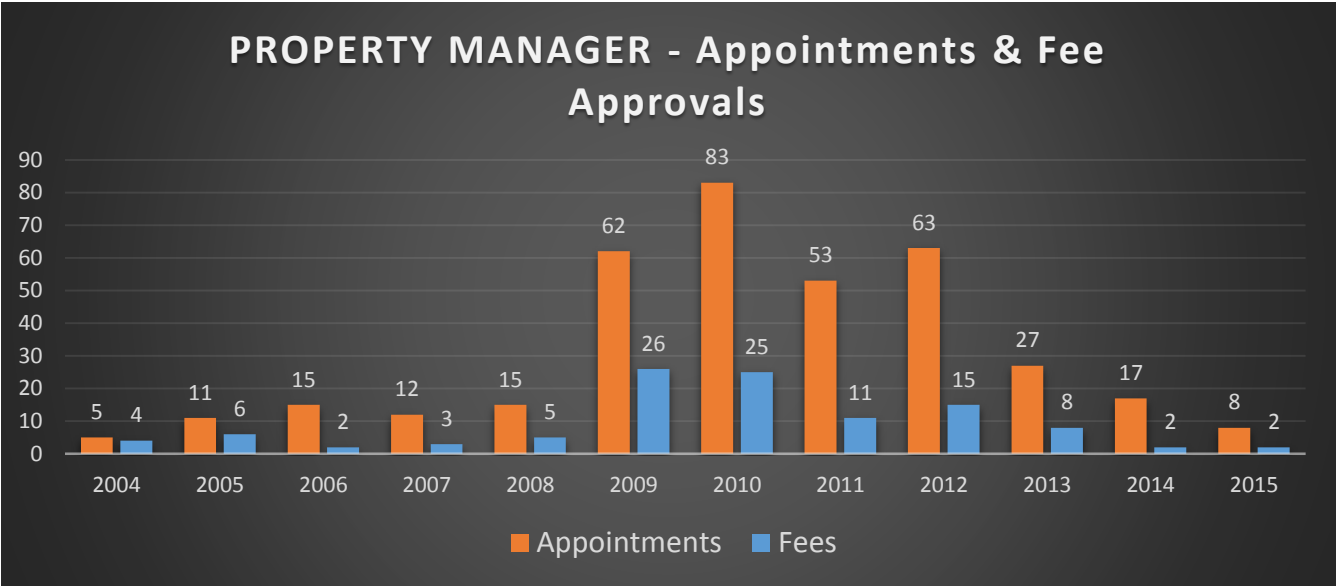
N. AUCTIONEERS

Auctioneer appointments are rarely reported, with one appointment recorded every few years. When viewed in relation to the other categories of appointment, auctioneers represent a statistically insignificant portion of Part 36 appointments. Auctioneers average less than one appointment per year. The utter lack of auctioneer appointments statewide indicate that auctioneers are either rarely utilized, or auctioneer appointments are underreported.



O. PROPERTY MANAGER

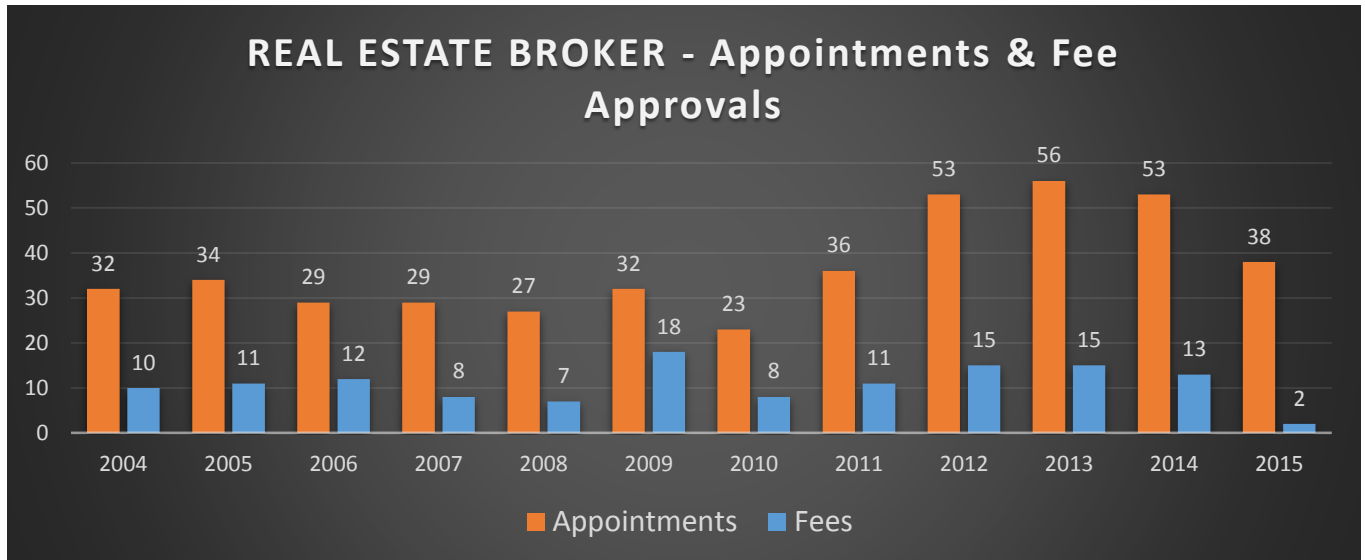
The chart below shows that appointments for property managers are relatively infrequent, with an average of approximately 31 appointments annually from 2004 to 2015. A roughly 410% increase in the number of property manager appointments from 2008 to 2009 correlates with similar data from the receiver and counsel to receiver categories. Much like counsel to receiver, property managers are secondary appointments utilized most frequently by receivers, and similarly the property manager category of appointment reflects low numbers of corresponding fee approvals. From 2004 to 2015, slightly less than one-third of all appointments for property managers on file have a corresponding fee approval attached. When analyzing compensation reporting during the peak of the foreclosure crisis, from 2009 to 2012, only 29.16% of all property manager appointments had corresponding fee approvals filed, compared to 34.24% and 41.38% for receivers and counsel to receiver, respectively.



P. REAL ESTATE BROKER

The chart below shows that real estate brokers are seldom appointed, and there are very few corresponding fee approvals on file for those appointments. Anecdotal evidence from

the courts indicate that real estate brokers generally anticipate being awarded compensation greater than the threshold minimum of \$500, but there may be instances where an appointment has been filed, and subsequently, the property cannot be sold. Furthermore, in the event of a successful sale, real estate brokers may become unconcerned with or indifferent to filing the proper paperwork or returning to court to obtain an order approving compensation. In such instances, responsibility rests on the guardian or receiver to follow up and file the report and request that the court approve this compensation.



CONCLUSION

This data analysis helped the Automation and Technology Subcommittee gain a better understanding of the potential reporting issues and focus on specific appointment categories which might require additional oversight. In many cases it helped quantify areas which previously had only anecdotal evidence that either appointment and/or compensation reporting needed improvement.

One noteworthy conclusion was that in those areas already closely supervised in the courthouses – such as the Article 81 categories and GALs in Surrogate’s Courts – the appointment and compensation reporting is robust. The reasons for this are many, but one significant observation noted by subcommittee members was that automated case management systems in these areas help track and monitor the activity of these fiduciary appointments in electronic systems.

Another problem revealed by the data was the possible under-reporting of appointments and/or fees in many of the secondary, and possibly some primary appointment categories. Again, solutions to this problem are being reviewed in many of the subcommittees, but certainly automation solutions should be looked at to help improve compliance.

Appendix C:

Part 36 Historical Data 2004-2015

Judicial Districts Combined

Prepared by Sam Younger

1st Judicial District - Appointments and Corresponding Approved Fees by Year

	2004 Appointments	2004 Fees	2005 Appointments	2005 Fees	2006 Appointments	2006 Fees
Accountant	9	5	10	13	8	8
Appraiser	2	0	7	2	0	0
Attorney for AIP	27	22	36	32	54	46
Auctioneer	0	0	1	1	0	0
Counsel to Guardian	18	14	19	9	8	12
Counsel to Receiver	5	4	6	2	0	0
Court Evaluator	159	129	132	97	126	117
Court Examiner	417	0	211	0	211	0
Guardian	89	152	69	125	65	65
Guardian Ad Litem	453	300	433	332	440	311
Law Guardian (Privately Paid)	69	17	33	15	34	26
Property Manager	2	2	3	1	1	1
Real Estate Broker	0	0	1	1	0	0
Receiver	12	8	18	13	13	6
Referee	3	3	9	1	7	3
Supplemental Needs Trustee	4	12	3	6	3	7

1st Judicial District - Appointments and Corresponding Approved Fees by Year

	2007 Appointments	2007 Fees	2008 Appointments	2008 Fees	2009 Appointments	2009 Fees
Accountant	8	6	21	36	24	27
Appraiser	0	0	1	0	3	3
Attorney for AIP	36	25	50	36	41	30
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	5	9	17	10	35	22
Counsel to Receiver	2	2	4	1	6	6
Court Evaluator	171	138	249	221	268	204
Court Examiner	500	0	325	1	271	0
Guardian	94	99	98	109	88	67
Guardian Ad Litem	472	344	409	308	413	269
Law Guardian (Privately Paid)	41	24	48	23	48	43
Property Manager	2	1	2	0	2	1
Real Estate Broker	2	2	2	0	0	0
Receiver	10	3	12	2	37	22
Referee	4	1	2	1	6	3
Supplemental Needs Trustee	1	4	1	5	2	0

1st Judicial District - Appointments and Corresponding Approved Fees by Year

	2010 Appointments	2010 Fees	2011 Appointments	2011 Fees	2012 Appointments	2012 Fees
Accountant	14	17	13	22	11	12
Appraiser	2	1	3	1	2	0
Attorney for AIP	35	24	49	35	61	47
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	21	8	21	16	19	11
Counsel to Receiver	22	11	22	25	13	6
Court Evaluator	245	146	238	165	248	221
Court Examiner	378	0	274	0	377	0
Guardian	88	63	81	52	95	54
Guardian Ad Litem	326	192	348	166	338	130
Law Guardian (Privately Paid)	55	45	61	25	63	33
Property Manager	12	5	9	4	7	2
Real Estate Broker	2	1	4	1	1	0
Receiver	42	16	37	20	18	7
Referee	4	3	4	0	9	1
Supplemental Needs Trustee	4	4	1	2	6	1

1st Judicial District - Appointments and Corresponding Approved Fees by Year

	2013 Appointments	2013 Fees	2014 Appointments	2014 Fees	2015 Appointments	2015 Fees
Accountant	14	14	8	4	6	1
Appraiser	2	2	1	1	0	0
Attorney for AIP	95	43	69	50	85	21
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	14	11	14	5	6	0
Counsel to Receiver	5	2	4	1	2	0
Court Evaluator	208	181	206	176	212	60
Court Examiner	353	0	271	1	255	0
Guardian	97	43	102	22	82	5
Guardian Ad Litem	286	95	327	27	255	0
Law Guardian (Privately Paid)	69	37	61	12	18	0
Property Manager	2	0	0	0	1	0
Real Estate Broker	1	0	2	0	1	0
Receiver	14	1	17	1	15	0
Referee	5	3	4	1	3	0
Supplemental Needs Trustee	3	0	3	0	5	0

2nd Judicial District - Appointments and Corresponding Approved Fees by Year

	2004 Appointments	2004 Fees	2005 Appointments	2005 Fees	2006 Appointments	2006 Fees
Accountant	4	6	19	14	20	20
Appraiser	29	12	32	9	26	13
Attorney for AIP	172	102	112	59	136	91
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	13	27	6	7	12	10
Counsel to Receiver	2	1	1	0	1	0
Court Evaluator	300	242	283	201	244	205
Court Examiner	251	232	217	272	445	767
Guardian	110	186	89	151	78	123
Guardian Ad Litem	579	348	456	252	539	294
Law Guardian (Privately Paid)	113	60	62	18	58	16
Property Manager	1	1	6	1	5	1
Real Estate Broker	10	4	7	1	7	4
Receiver	21	3	19	3	35	3
Referee	142	8	286	16	452	7
Supplemental Needs Trustee	1	0	4	20	5	27

2nd Judicial District - Appointments and Corresponding Approved Fees by Year

	2007 Appointments	2007 Fees	2008 Appointments	2008 Fees	2009 Appointments	2009 Fees
Accountant	30	31	17	15	14	11
Appraiser	38	24	36	24	33	21
Attorney for AIP	128	75	129	66	92	50
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	15	26	12	14	11	17
Counsel to Receiver	1	0	4	0	11	6
Court Evaluator	245	210	160	146	194	160
Court Examiner	422	786	598	815	402	621
Guardian	93	225	93	179	40	56
Guardian Ad Litem	426	222	425	205	383	189
Law Guardian (Privately Paid)	70	19	64	25	88	27
Property Manager	2	0	5	2	16	3
Real Estate Broker	7	0	7	1	6	1
Receiver	27	1	80	18	173	15
Referee	526	6	477	2	545	5
Supplemental Needs Trustee	2	13	6	16	3	0

2nd Judicial District - Appointments and Corresponding Approved Fees by Year

	2010 Appointments	2010 Fees	2011 Appointments	2011 Fees	2012 Appointments	2012 Fees
Accountant	22	18	3	6	8	6
Appraiser	11	3	12	4	18	5
Attorney for AIP	81	59	45	32	54	29
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	10	10	9	10	11	7
Counsel to Receiver	37	9	26	3	11	0
Court Evaluator	215	187	195	152	166	145
Court Examiner	384	551	264	338	215	183
Guardian	48	61	38	54	25	14
Guardian Ad Litem	346	202	226	183	202	140
Law Guardian (Privately Paid)	85	20	75	10	61	17
Property Manager	33	6	13	0	8	0
Real Estate Broker	7	2	5	0	9	3
Receiver	168	16	43	2	76	5
Referee	561	8	141	17	363	2
Supplemental Needs Trustee	11	19	6	5	3	2

2nd Judicial District - Appointments and Corresponding Approved Fees by Year

	2013 Appointments	2013 Fees	2014 Appointments	2014 Fees	2015 Appointments	2015 Fees
Accountant	2	0	2	0	1	0
Appraiser	15	6	2	2	10	0
Attorney for AIP	66	39	145	76	251	38
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	9	5	7	0	5	0
Counsel to Receiver	10	0	8	0	2	0
Court Evaluator	174	123	251	192	265	93
Court Examiner	236	163	269	103	245	15
Guardian	26	12	30	6	49	4
Guardian Ad Litem	226	138	255	134	239	25
Law Guardian (Privately Paid)	74	13	77	6	60	1
Property Manager	3	1	5	1	1	0
Real Estate Broker	5	1	2	0	4	0
Receiver	41	1	27	0	21	0
Referee	292	2	471	1	309	0
Supplemental Needs Trustee	2	0	5	0	3	0

3rd Judicial District - Appointments and Corresponding Approved Fees by Year

	2004 Appointments	2004 Fees	2005 Appointments	2005 Fees	2006 Appointments	2006 Fees
Accountant	3	0	0	0	0	0
Appraiser	3	1	1	0	0	0
Attorney for AIP	68	59	46	33	55	46
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	3	2	6	7	0	0
Counsel to Receiver	0	0	3	0	0	0
Court Evaluator	130	118	95	69	92	77
Court Examiner	0	0	0	0	0	0
Guardian	26	33	20	31	7	2
Guardian Ad Litem	295	208	290	194	338	247
Law Guardian (Privately Paid)	0	0	1	0	1	0
Property Manager	0	0	0	0	0	0
Real Estate Broker	2	0	1	0	0	0
Receiver	6	1	16	4	11	1
Referee	36	9	6	4	6	1
Supplemental Needs Trustee	0	0	0	0	0	0

3rd Judicial District - Appointments and Corresponding Approved Fees by Year

	2007 Appointments	2007 Fees	2008 Appointments	2008 Fees	2009 Appointments	2009 Fees
Accountant	0	0	1	1	0	0
Appraiser	0	0	0	0	1	0
Attorney for AIP	28	23	41	24	27	18
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	2	0	3	1	2	0
Counsel to Receiver	0	0	0	0	0	0
Court Evaluator	85	68	90	58	74	49
Court Examiner	1	0	0	0	0	0
Guardian	13	16	13	8	8	12
Guardian Ad Litem	269	198	270	179	252	177
Law Guardian (Privately Paid)	1	0	0	0	2	0
Property Manager	0	0	0	0	0	0
Real Estate Broker	0	0	0	0	0	0
Receiver	9	1	8	1	22	4
Referee	6	0	0	0	9	5
Supplemental Needs Trustee	0	0	0	0	0	0

3rd Judicial District - Appointments and Corresponding Approved Fees by Year

	2010 Appointments	2010 Fees	2011 Appointments	2011 Fees	2012 Appointments	2012 Fees
Accountant	0	0	0	0	0	0
Appraiser	0	0	1	0	0	0
Attorney for AIP	28	17	44	26	45	23
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	0	0	0	0	0	0
Counsel to Receiver	0	0	0	0	2	0
Court Evaluator	85	53	68	45	89	58
Court Examiner	0	0	0	0	2	0
Guardian	12	27	16	7	21	9
Guardian Ad Litem	265	193	243	174	232	172
Law Guardian (Privately Paid)	0	0	0	0	1	1
Property Manager	0	0	0	0	0	0
Real Estate Broker	0	0	0	0	1	0
Receiver	10	2	17	15	13	3
Referee	36	3	6	0	12	0
Supplemental Needs Trustee	0	0	2	0	0	0

3rd Judicial District - Appointments and Corresponding Approved Fees by Year

	2013 Appointments	2013 Fees	2014 Appointments	2014 Fees	2015 Appointments	2015 Fees
Accountant	0	0	1	0	1	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	25	17	35	21	29	7
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	3	1	5	0	1	0
Counsel to Receiver	0	0	0	0	2	0
Court Evaluator	89	55	79	38	76	20
Court Examiner	0	0	1	0	0	0
Guardian	19	7	16	1	19	0
Guardian Ad Litem	219	164	279	159	190	52
Law Guardian (Privately Paid)	0	0	0	0	0	0
Property Manager	0	0	1	0	0	0
Real Estate Broker	0	0	1	0	0	0
Receiver	9	3	12	3	6	0
Referee	5	0	8	1	13	4
Supplemental Needs Trustee	0	0	0	0	1	0

4th Judicial District - Appointments and Corresponding Approved Fees by Year

	2004 Appointments	2004 Fees	2005 Appointments	2005 Fees	2006 Appointments	2006 Fees
Accountant	0	0	0	0	0	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	21	25	31	13	24	15
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	0	0	0	0	0	0
Counsel to Receiver	0	0	0	0	0	0
Court Evaluator	32	24	27	17	32	19
Court Examiner	0	0	0	0	0	0
Guardian	3	2	4	2	1	4
Guardian Ad Litem	287	124	257	127	244	138
Law Guardian (Privately Paid)	2	0	0	0	0	0
Property Manager	0	0	0	0	2	0
Real Estate Broker	0	0	0	0	0	0
Receiver	6	6	4	1	5	3
Referee	8	2	9	3	3	2
Supplemental Needs Trustee	0	0	0	0	0	0

4th Judicial District - Appointments and Corresponding Approved Fees by Year

	2007 Appointments	2007 Fees	2008 Appointments	2008 Fees	2009 Appointments	2009 Fees
Accountant	2	2	0	0	0	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	25	14	16	8	14	8
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	0	0	1	0	0	0
Counsel to Receiver	0	0	0	0	0	0
Court Evaluator	28	21	27	19	19	10
Court Examiner	0	0	0	0	0	0
Guardian	6	1	5	8	4	2
Guardian Ad Litem	238	139	225	127	207	102
Law Guardian (Privately Paid)	0	0	1	0	0	0
Property Manager	0	0	0	0	0	0
Real Estate Broker	0	0	0	0	0	0
Receiver	3	1	10	4	6	2
Referee	2	2	3	3	2	0
Supplemental Needs Trustee	0	0	0	0	1	0

4th Judicial District - Appointments and Corresponding Approved Fees by Year

	2010 Appointments	2010 Fees	2011 Appointments	2011 Fees	2012 Appointments	2012 Fees
Accountant	0	0	0	0	0	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	21	11	24	19	18	10
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	0	0	0	0	0	0
Counsel to Receiver	0	0	0	0	0	0
Court Evaluator	29	17	26	20	14	11
Court Examiner	0	0	0	0	0	0
Guardian	3	0	3	0	2	0
Guardian Ad Litem	245	144	237	147	197	115
Law Guardian (Privately Paid)	0	0	0	0	0	0
Property Manager	0	0	0	0	0	0
Real Estate Broker	0	0	0	0	0	0
Receiver	8	3	15	6	6	0
Referee	3	0	2	0	1	1
Supplemental Needs Trustee	0	0	0	0	0	0

4th Judicial District - Appointments and Corresponding Approved Fees by Year

	2013 Appointments	2013 Fees	2014 Appointments	2014 Fees	2015 Appointments	2015 Fees
Accountant	0	0	0	0	0	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	14	15	13	6	9	4
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	0	0	0	0	0	0
Counsel to Receiver	1	0	0	0	0	0
Court Evaluator	25	17	14	8	23	7
Court Examiner	0	0	0	0	0	0
Guardian	2	2	4	2	5	0
Guardian Ad Litem	219	129	190	98	154	48
Law Guardian (Privately Paid)	0	0	0	0	0	0
Property Manager	1	0	0	0	0	0
Real Estate Broker	1	0	0	0	0	0
Receiver	10	6	5	0	7	0
Referee	3	2	5	3	2	0
Supplemental Needs Trustee	0	0	1	0	0	0

5th Judicial District - Appointments and Corresponding Approved Fees by Year

	2004 Appointments	2004 Fees	2005 Appointments	2005 Fees	2006 Appointments	2006 Fees
Accountant	0	0	0	0	0	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	11	5	7	5	16	15
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	0	0	2	1	1	1
Counsel to Receiver	0	0	0	0	1	1
Court Evaluator	35	17	19	12	36	21
Court Examiner	142	1	148	2	128	0
Guardian	3	1	9	3	6	4
Guardian Ad Litem	232	35	271	48	225	51
Law Guardian (Privately Paid)	105	50	77	33	83	28
Property Manager	0	0	1	1	1	0
Real Estate Broker	0	0	0	0	0	0
Receiver	13	6	11	3	5	2
Referee	5	3	4	0	4	3
Supplemental Needs Trustee	0	0	0	0	0	0

5th Judicial District - Appointments and Corresponding Approved Fees by Year

	2007 Appointments	2007 Fees	2008 Appointments	2008 Fees	2009 Appointments	2009 Fees
Accountant	0	0	0	0	0	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	5	3	16	9	7	3
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	0	0	0	0	0	0
Counsel to Receiver	1	0	0	0	0	0
Court Evaluator	23	9	23	13	15	9
Court Examiner	46	0	0	0	0	0
Guardian	2	3	7	6	6	1
Guardian Ad Litem	207	39	220	57	208	51
Law Guardian (Privately Paid)	70	37	61	20	63	24
Property Manager	0	0	0	0	0	0
Real Estate Broker	0	0	0	0	0	0
Receiver	3	0	9	0	11	1
Referee	2	2	2	0	1	0
Supplemental Needs Trustee	0	0	4	0	1	0

5th Judicial District - Appointments and Corresponding Approved Fees by Year

	2010 Appointments	2010 Fees	2011 Appointments	2011 Fees	2012 Appointments	2012 Fees
Accountant	0	0	0	0	0	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	10	6	10	4	12	8
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	0	0	0	0	0	0
Counsel to Receiver	1	1	1	0	0	0
Court Evaluator	15	9	11	6	15	6
Court Examiner	0	0	0	0	0	0
Guardian	4	0	5	1	9	1
Guardian Ad Litem	168	49	177	58	164	38
Law Guardian (Privately Paid)	52	16	81	22	88	31
Property Manager	0	0	1	1	0	0
Real Estate Broker	0	0	0	0	0	0
Receiver	6	2	8	0	3	0
Referee	1	0	0	0	0	0
Supplemental Needs Trustee	0	0	1	0	1	0

5th Judicial District - Appointments and Corresponding Approved Fees by Year

	2013 Appointments	2013 Fees	2014 Appointments	2014 Fees	2015 Appointments	2015 Fees
Accountant	0	0	0	0	0	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	12	6	4	4	4	0
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	1	0	0	0	1	0
Counsel to Receiver	0	0	1	1	0	0
Court Evaluator	6	3	8	4	8	0
Court Examiner	1	0	0	0	0	0
Guardian	3	0	8	0	10	0
Guardian Ad Litem	214	47	229	34	164	18
Law Guardian (Privately Paid)	93	21	106	41	45	2
Property Manager	0	0	0	0	0	0
Real Estate Broker	0	0	0	0	0	0
Receiver	8	1	2	0	3	0
Referee	1	1	0	0	0	0
Supplemental Needs Trustee	0	0	0	0	0	0

6th Judicial District - Appointments and Corresponding Approved Fees by Year

	2004 Appointments	2004 Fees	2005 Appointments	2005 Fees	2006 Appointments	2006 Fees
Accountant	0	0	0	0	0	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	19	14	21	19	13	9
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	3	2	1	1	0	0
Counsel to Receiver	0	0	0	0	0	0
Court Evaluator	11	5	16	10	22	14
Court Examiner	0	0	0	0	0	0
Guardian	9	4	4	4	6	4
Guardian Ad Litem	190	68	157	53	149	50
Law Guardian (Privately Paid)	1	0	0	0	0	0
Property Manager	0	0	1	3	1	0
Real Estate Broker	0	0	0	0	0	0
Receiver	11	3	9	1	11	3
Referee	43	0	11	2	3	2
Supplemental Needs Trustee	0	0	0	0	0	0

6th Judicial District - Appointments and Corresponding Approved Fees by Year

	2007 Appointments	2007 Fees	2008 Appointments	2008 Fees	2009 Appointments	2009 Fees
Accountant	0	0	1	1	0	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	14	10	19	11	12	9
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	1	0	0	0	0	0
Counsel to Receiver	0	0	0	0	1	0
Court Evaluator	13	6	11	9	9	2
Court Examiner	0	0	0	0	0	0
Guardian	4	2	3	5	3	2
Guardian Ad Litem	171	78	175	72	169	98
Law Guardian (Privately Paid)	1	0	0	0	0	0
Property Manager	1	0	0	0	2	0
Real Estate Broker	0	0	0	0	0	0
Receiver	8	2	13	5	17	8
Referee	8	2	2	1	4	1
Supplemental Needs Trustee	0	0	0	0	1	0

6th Judicial District - Appointments and Corresponding Approved Fees by Year

	2010 Appointments	2010 Fees	2011 Appointments	2011 Fees	2012 Appointments	2012 Fees
Accountant	0	0	0	0	0	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	19	34	9	7	13	17
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	0	0	0	0	0	0
Counsel to Receiver	1	0	0	0	0	0
Court Evaluator	11	10	11	7	8	8
Court Examiner	0	0	0	0	0	0
Guardian	0	0	3	1	2	6
Guardian Ad Litem	161	82	111	61	124	79
Law Guardian (Privately Paid)	0	0	0	0	0	0
Property Manager	0	0	0	0	0	0
Real Estate Broker	0	0	0	0	0	0
Receiver	9	3	7	3	11	4
Referee	2	2	0	0	4	1
Supplemental Needs Trustee	3	0	1	0	0	0

6th Judicial District - Appointments and Corresponding Approved Fees by Year

	2013 Appointments	2013 Fees	2014 Appointments	2014 Fees	2015 Appointments	2015 Fees
Accountant	0	0	0	0	0	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	9	6	13	8	6	2
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	0	0	0	0	0	0
Counsel to Receiver	0	0	1	0	1	0
Court Evaluator	10	10	14	9	5	2
Court Examiner	0	0	0	0	0	0
Guardian	4	1	2	0	2	0
Guardian Ad Litem	133	64	137	39	123	17
Law Guardian (Privately Paid)	0	0	0	0	0	0
Property Manager	0	0	0	0	0	0
Real Estate Broker	0	0	0	0	0	0
Receiver	1	1	1	0	2	0
Referee	0	0	10	1	15	0
Supplemental Needs Trustee	0	0	0	0	0	0

7th Judicial District - Appointments and Corresponding Approved Fees by Year

	2004 Appointments	2004 Fees	2005 Appointments	2005 Fees	2006 Appointments	2006 Fees
Accountant	0	0	0	0	0	0
Appraiser	0	0	1	0	0	0
Attorney for AIP	5	3	3	1	0	0
Auctioneer	0	0	1	0	0	0
Counsel to Guardian	1	2	0	0	0	0
Counsel to Receiver	0	0	0	0	1	1
Court Evaluator	15	8	18	10	11	6
Court Examiner	11	0	0	0	0	0
Guardian	2	2	1	0	0	0
Guardian Ad Litem	470	126	455	119	457	144
Law Guardian (Privately Paid)	164	62	141	58	180	68
Property Manager	0	0	0	0	0	0
Real Estate Broker	0	0	0	0	0	0
Receiver	1	0	7	13	14	3
Referee	127	0	90	1	53	1
Supplemental Needs Trustee	0	0	0	0	0	0

7th Judicial District - Appointments and Corresponding Approved Fees by Year

	2007 Appointments	2007 Fees	2008 Appointments	2008 Fees	2009 Appointments	2009 Fees
Accountant	1	19	1	0	0	0
Appraiser	0	0	0	0	2	0
Attorney for AIP	6	5	4	4	5	4
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	1	18	0	0	3	6
Counsel to Receiver	0	0	0	0	5	6
Court Evaluator	21	15	22	10	10	5
Court Examiner	1	0	1	1	0	0
Guardian	4	20	3	1	3	1
Guardian Ad Litem	490	169	444	158	464	133
Law Guardian (Privately Paid)	155	41	180	61	133	50
Property Manager	0	0	5	1	7	9
Real Estate Broker	0	0	0	0	0	0
Receiver	5	2	14	5	13	20
Referee	61	1	30	3	64	2
Supplemental Needs Trustee	0	0	5	6	5	6

7th Judicial District - Appointments and Corresponding Approved Fees by Year

	2010 Appointments	2010 Fees	2011 Appointments	2011 Fees	2012 Appointments	2012 Fees
Accountant	0	0	0	0	0	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	6	2	13	12	8	4
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	1	1	0	0	0	0
Counsel to Receiver	2	0	2	2	1	0
Court Evaluator	8	3	16	7	11	6
Court Examiner	0	0	0	0	0	0
Guardian	2	2	1	0	2	1
Guardian Ad Litem	423	136	414	139	408	109
Law Guardian (Privately Paid)	126	55	124	54	114	42
Property Manager	0	0	1	0	0	0
Real Estate Broker	0	0	0	0	0	0
Receiver	4	0	13	4	4	1
Referee	7	1	3	1	0	0
Supplemental Needs Trustee	0	0	0	0	0	0

7th Judicial District - Appointments and Corresponding Approved Fees by Year

	2013 Appointments	2013 Fees	2014 Appointments	2014 Fees	2015 Appointments	2015 Fees
Accountant	0	0	0	0	0	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	5	2	19	17	8	2
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	1	0	0	0	0	0
Counsel to Receiver	0	0	0	0	1	0
Court Evaluator	10	8	25	20	10	3
Court Examiner	0	0	2	0	0	0
Guardian	0	0	2	0	0	0
Guardian Ad Litem	394	113	384	96	320	72
Law Guardian (Privately Paid)	121	53	132	42	80	1
Property Manager	0	0	0	0	0	0
Real Estate Broker	0	0	0	0	0	0
Receiver	5	0	2	0	3	0
Referee	2	1	1	1	2	0
Supplemental Needs Trustee	1	0	0	0	0	0

8th Judicial District - Appointments and Corresponding Approved Fees by Year

	2004 Appointments	2004 Fees	2005 Appointments	2005 Fees	2006 Appointments	2006 Fees
Accountant	2	0	0	0	2	1
Appraiser	0	0	0	0	0	0
Attorney for AIP	48	25	54	36	44	30
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	1	0	0	0	3	2
Counsel to Receiver	1	0	1	0	0	0
Court Evaluator	185	101	197	114	176	88
Court Examiner	2	0	1	2	0	0
Guardian	41	21	39	15	29	30
Guardian Ad Litem	696	489	710	515	635	536
Law Guardian (Privately Paid)	80	33	105	47	150	64
Property Manager	0	0	0	0	0	0
Real Estate Broker	0	0	0	0	0	0
Receiver	20	6	13	3	9	2
Referee	46	1	42	3	9	1
Supplemental Needs Trustee	0	0	0	0	2	5

8th Judicial District - Appointments and Corresponding Approved Fees by Year

	2007 Appointments	2007 Fees	2008 Appointments	2008 Fees	2009 Appointments	2009 Fees
Accountant	1	0	0	0	0	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	53	26	57	36	42	22
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	0	0	1	1	0	0
Counsel to Receiver	0	0	0	0	1	0
Court Evaluator	158	88	175	114	151	73
Court Examiner	0	0	1	0	0	0
Guardian	34	39	42	28	27	23
Guardian Ad Litem	623	510	618	489	570	446
Law Guardian (Privately Paid)	121	49	139	63	94	22
Property Manager	0	0	0	0	0	0
Real Estate Broker	0	0	0	0	0	0
Receiver	8	3	13	4	15	11
Referee	1	0	4	4	4	2
Supplemental Needs Trustee	2	5	0	0	2	2

8th Judicial District - Appointments and Corresponding Approved Fees by Year

	2010 Appointments	2010 Fees	2011 Appointments	2011 Fees	2012 Appointments	2012 Fees
Accountant	0	0	0	0	0	0
Appraiser	0	0	1	0	0	0
Attorney for AIP	55	23	86	43	69	27
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	1	1	1	1	0	0
Counsel to Receiver	0	0	2	1	4	3
Court Evaluator	156	68	200	100	169	67
Court Examiner	2	0	1	0	0	0
Guardian	41	28	43	15	37	10
Guardian Ad Litem	601	433	559	433	590	444
Law Guardian (Privately Paid)	120	28	107	44	82	16
Property Manager	0	0	0	0	4	0
Real Estate Broker	1	1	0	0	0	0
Receiver	18	5	16	10	20	16
Referee	6	1	11	2	13	0
Supplemental Needs Trustee	0	0	0	0	1	1

8th Judicial District - Appointments and Corresponding Approved Fees by Year

	2013 Appointments	2013 Fees	2014 Appointments	2014 Fees	2015 Appointments	2015 Fees
Accountant	0	0	0	0	0	0
Appraiser	1	0	0	0	0	0
Attorney for AIP	69	43	66	31	57	6
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	1	0	0	0	1	0
Counsel to Receiver	2	0	0	0	0	0
Court Evaluator	161	86	157	89	99	22
Court Examiner	0	0	1	0	0	0
Guardian	34	18	31	8	9	1
Guardian Ad Litem	615	443	560	370	477	125
Law Guardian (Privately Paid)	103	37	106	22	75	0
Property Manager	1	0	0	0	1	0
Real Estate Broker	0	0	0	0	0	0
Receiver	15	1	18	3	10	0
Referee	9	0	10	1	14	0
Supplemental Needs Trustee	0	0	0	0	1	0

9th Judicial District - Appointments and Corresponding Approved Fees by Year

	2004 Appointments	2004 Fees	2005 Appointments	2005 Fees	2006 Appointments	2006 Fees
Accountant	0	0	3	3	0	0
Appraiser	2	0	0	0	0	0
Attorney for AIP	36	17	25	18	8	3
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	4	2	1	1	0	0
Counsel to Receiver	0	0	1	0	2	1
Court Evaluator	97	73	64	45	45	30
Court Examiner	189	3	271	0	184	0
Guardian	21	7	17	10	7	4
Guardian Ad Litem	509	418	489	408	519	389
Law Guardian (Privately Paid)	268	127	264	121	278	133
Property Manager	0	0	0	0	1	0
Real Estate Broker	1	0	0	0	0	0
Receiver	15	5	7	0	12	4
Referee	12	4	8	5	15	5
Supplemental Needs Trustee	0	0	0	0	2	0

9th Judicial District - Appointments and Corresponding Approved Fees by Year

	2007 Appointments	2007 Fees	2008 Appointments	2008 Fees	2009 Appointments	2009 Fees
Accountant	3	2	3	3	0	0
Appraiser	0	0	0	0	0	0
Attorney for AIP	31	18	38	22	25	16
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	0	0	0	0	0	0
Counsel to Receiver	2	1	2	0	5	2
Court Evaluator	52	35	69	51	64	43
Court Examiner	210	1	302	3	141	0
Guardian	13	6	11	5	18	12
Guardian Ad Litem	494	385	475	361	494	382
Law Guardian (Privately Paid)	236	95	206	84	172	69
Property Manager	2	1	2	1	1	1
Real Estate Broker	1	0	0	0	0	0
Receiver	11	3	25	8	43	24
Referee	14	7	11	5	36	0
Supplemental Needs Trustee	0	0	2	1	1	0

9th Judicial District - Appointments and Corresponding Approved Fees by Year

	2010 Appointments	2010 Fees	2011 Appointments	2011 Fees	2012 Appointments	2012 Fees
Accountant	1	0	5	2	4	2
Appraiser	0	0	0	0	1	1
Attorney for AIP	16	9	29	18	33	32
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	0	0	3	1	1	2
Counsel to Receiver	3	0	1	0	5	1
Court Evaluator	75	54	60	45	68	66
Court Examiner	256	1	138	2	205	2
Guardian	22	18	26	18	40	33
Guardian Ad Litem	441	328	360	311	399	302
Law Guardian (Privately Paid)	175	67	183	96	185	99
Property Manager	2	0	2	0	1	0
Real Estate Broker	0	0	0	0	1	0
Receiver	29	13	38	9	40	29
Referee	132	1	5	2	2	0
Supplemental Needs Trustee	3	0	1	0	0	0

9th Judicial District - Appointments and Corresponding Approved Fees by Year

	2013 Appointments	2013 Fees	2014 Appointments	2014 Fees	2015 Appointments	2015 Fees
Accountant	4	1	3	1	1	0
Appraiser	5	2	1	1	0	0
Attorney for AIP	31	17	27	12	24	2
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	2	1	2	0	3	0
Counsel to Receiver	2	0	4	1	2	0
Court Evaluator	74	54	59	34	45	5
Court Examiner	250	0	164	0	171	0
Guardian	36	34	23	11	14	1
Guardian Ad Litem	385	295	443	288	337	88
Law Guardian (Privately Paid)	212	101	208	58	136	3
Property Manager	2	1	3	0	0	0
Real Estate Broker	3	1	2	0	1	0
Receiver	33	5	30	5	14	0
Referee	4	1	121	0	239	0
Supplemental Needs Trustee	2	0	3	0	0	0

10th Judicial District - Appointments and Corresponding Approved Fees by Year

	2004 Appointments	2004 Fees	2005 Appointments	2005 Fees	2006 Appointments	2006 Fees
Accountant	9	9	6	12	13	25
Appraiser	59	28	78	57	59	44
Attorney for AIP	90	58	75	50	88	63
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	12	12	28	25	35	26
Counsel to Receiver	5	9	4	4	3	1
Court Evaluator	243	194	262	227	248	197
Court Examiner	452	0	647	12	430	5
Guardian	151	183	153	187	118	144
Guardian Ad Litem	714	502	700	515	694	458
Law Guardian (Privately Paid)	603	385	607	371	626	327
Property Manager	1	1	0	0	0	0
Real Estate Broker	10	3	16	7	13	6
Receiver	34	15	36	15	26	7
Referee	83	17	23	12	48	9
Supplemental Needs Trustee	6	5	13	15	16	19

10th Judicial District - Appointments and Corresponding Approved Fees by Year

	2007 Appointments	2007 Fees	2008 Appointments	2008 Fees	2009 Appointments	2009 Fees
Accountant	12	30	9	22	15	17
Appraiser	43	24	37	22	64	50
Attorney for AIP	58	44	72	55	85	68
Auctioneer	0	0	1	0	0	0
Counsel to Guardian	22	17	27	18	28	28
Counsel to Receiver	3	1	2	1	5	5
Court Evaluator	223	178	251	217	241	208
Court Examiner	415	6	227	5	321	3
Guardian	154	171	131	164	94	99
Guardian Ad Litem	689	471	771	561	671	467
Law Guardian (Privately Paid)	493	244	503	265	413	239
Property Manager	1	0	1	1	2	3
Real Estate Broker	6	2	11	4	19	10
Receiver	21	9	31	8	60	28
Referee	56	13	145	13	347	7
Supplemental Needs Trustee	10	2	10	4	6	3

10th Judicial District - Appointments and Corresponding Approved Fees by Year

	2010 Appointments	2010 Fees	2011 Appointments	2011 Fees	2012 Appointments	2012 Fees
Accountant	19	20	15	20	21	23
Appraiser	51	33	46	26	48	19
Attorney for AIP	67	57	92	64	65	53
Auctioneer	1	1	0	0	0	0
Counsel to Guardian	23	21	20	16	25	17
Counsel to Receiver	11	8	15	7	13	8
Court Evaluator	268	203	273	223	280	247
Court Examiner	294	13	277	2	345	10
Guardian	130	74	101	87	111	69
Guardian Ad Litem	820	468	659	463	613	429
Law Guardian (Privately Paid)	423	229	399	163	406	184
Property Manager	7	4	9	4	11	7
Real Estate Broker	8	4	15	6	23	5
Receiver	65	43	75	31	97	51
Referee	33	7	39	9	20	7
Supplemental Needs Trustee	6	4	1	0	10	3

10th Judicial District - Appointments and Corresponding Approved Fees by Year

	2013 Appointments	2013 Fees	2014 Appointments	2014 Fees	2015 Appointments	2015 Fees
Accountant	30	13	18	5	20	1
Appraiser	85	49	68	39	32	9
Attorney for AIP	109	75	95	55	76	7
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	47	27	34	17	21	1
Counsel to Receiver	9	6	12	6	15	1
Court Evaluator	261	206	193	122	171	16
Court Examiner	399	3	322	0	135	0
Guardian	123	51	121	20	71	0
Guardian Ad Litem	660	448	718	420	593	132
Law Guardian (Privately Paid)	349	95	305	29	267	10
Property Manager	4	3	4	1	5	2
Real Estate Broker	28	5	25	3	22	2
Receiver	66	34	50	5	40	1
Referee	55	12	192	6	36	0
Supplemental Needs Trustee	4	0	3	0	3	0

11th Judicial District - Appointments and Corresponding Approved Fees by Year

	2004 Appointments	2004 Fees	2005 Appointments	2005 Fees	2006 Appointments	2006 Fees
Accountant	4	7	9	13	21	50
Appraiser	70	27	115	49	104	46
Attorney for AIP	158	62	79	34	70	22
Auctioneer	1	0	1	1	0	0
Counsel to Guardian	28	35	28	45	124	259
Counsel to Receiver	0	0	1	0	2	0
Court Evaluator	359	199	368	240	288	185
Court Examiner	298	0	523	0	397	0
Guardian	420	184	318	245	248	194
Guardian Ad Litem	609	494	587	500	512	463
Law Guardian (Privately Paid)	101	8	82	6	84	4
Property Manager	0	0	0	0	2	0
Real Estate Broker	1	1	4	0	0	0
Receiver	3	0	5	1	4	3
Referee	20	4	17	4	8	1
Supplemental Needs Trustee	5	9	4	5	3	2

11th Judicial District - Appointments and Corresponding Approved Fees by Year

	2007 Appointments	2007 Fees	2008 Appointments	2008 Fees	2009 Appointments	2009 Fees
Accountant	16	24	15	9	19	33
Appraiser	48	38	48	40	37	27
Attorney for AIP	94	37	76	30	75	26
Auctioneer	0	0	0	0	1	0
Counsel to Guardian	82	134	75	121	68	100
Counsel to Receiver	0	0	2	1	7	4
Court Evaluator	257	154	248	157	272	172
Court Examiner	336	0	429	1	476	0
Guardian	272	206	173	131	181	144
Guardian Ad Litem	530	482	582	534	494	440
Law Guardian (Privately Paid)	89	4	54	0	35	0
Property Manager	1	0	0	0	2	1
Real Estate Broker	8	4	2	1	3	1
Receiver	4	1	9	5	22	7
Referee	5	0	3	1	4	0
Supplemental Needs Trustee	10	4	7	9	6	2

11th Judicial District - Appointments and Corresponding Approved Fees by Year

	2010 Appointments	2010 Fees	2011 Appointments	2011 Fees	2012 Appointments	2012 Fees
Accountant	10	16	8	11	15	5
Appraiser	28	25	39	33	50	33
Attorney for AIP	79	39	59	39	70	49
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	51	77	64	76	68	60
Counsel to Receiver	3	2	4	1	3	1
Court Evaluator	333	206	383	320	280	250
Court Examiner	556	0	735	0	607	0
Guardian	230	118	149	88	109	64
Guardian Ad Litem	539	467	462	397	433	379
Law Guardian (Privately Paid)	28	3	31	1	27	1
Property Manager	5	2	3	0	1	0
Real Estate Broker	4	0	6	2	10	7
Receiver	17	6	16	2	35	8
Referee	6	2	16	4	22	3
Supplemental Needs Trustee	7	6	14	4	10	8

11th Judicial District - Appointments and Corresponding Approved Fees by Year

	2013 Appointments	2013 Fees	2014 Appointments	2014 Fees	2015 Appointments	2015 Fees
Accountant	29	25	10	3	12	4
Appraiser	43	31	60	47	25	10
Attorney for AIP	68	38	47	19	37	7
Auctioneer	1	0	1	0	0	0
Counsel to Guardian	67	57	84	44	43	4
Counsel to Receiver	1	0	0	0	1	0
Court Evaluator	256	226	308	265	249	98
Court Examiner	232	0	435	0	343	0
Guardian	95	29	115	14	74	2
Guardian Ad Litem	383	322	470	311	299	70
Law Guardian (Privately Paid)	50	2	50	1	34	0
Property Manager	0	0	0	0	0	0
Real Estate Broker	7	6	12	8	7	0
Receiver	28	3	19	2	10	0
Referee	120	4	168	2	219	0
Supplemental Needs Trustee	5	0	8	0	9	0

12th Judicial District - Appointments and Corresponding Approved Fees by Year

	2004 Appointments	2004 Fees	2005 Appointments	2005 Fees	2006 Appointments	2006 Fees
Accountant	20	35	12	10	32	40
Appraiser	2	1	11	0	11	3
Attorney for AIP	11	6	7	6	11	9
Auctioneer	0	0	1	0	0	0
Counsel to Guardian	17	13	16	9	48	48
Counsel to Receiver	4	1	0	0	1	0
Court Evaluator	142	110	155	136	89	78
Court Examiner	143	0	170	1	156	0
Guardian	59	86	56	38	24	50
Guardian Ad Litem	218	127	204	124	224	135
Law Guardian (Privately Paid)	19	1	17	3	12	1
Property Manager	1	0	0	0	2	0
Real Estate Broker	6	0	5	2	8	2
Receiver	9	3	5	0	2	0
Referee	5	0	2	1	2	0
Supplemental Needs Trustee	5	23	3	4	3	12

12th Judicial District - Appointments and Corresponding Approved Fees by Year

	2007 Appointments	2007 Fees	2008 Appointments	2008 Fees	2009 Appointments	2009 Fees
Accountant	17	12	13	15	24	25
Appraiser	7	0	1	0	6	1
Attorney for AIP	11	4	6	4	6	2
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	48	40	36	37	29	31
Counsel to Receiver	6	3	0	0	21	7
Court Evaluator	85	73	75	61	97	28
Court Examiner	284	0	223	0	135	0
Guardian	17	25	19	23	31	33
Guardian Ad Litem	226	127	194	124	186	109
Law Guardian (Privately Paid)	3	1	3	2	4	0
Property Manager	3	1	0	0	30	8
Real Estate Broker	3	0	0	0	4	6
Receiver	7	2	15	2	82	26
Referee	4	1	4	1	6	1
Supplemental Needs Trustee	8	27	3	13	4	12

12th Judicial District - Appointments and Corresponding Approved Fees by Year

	2010 Appointments	2010 Fees	2011 Appointments	2011 Fees	2012 Appointments	2012 Fees
Accountant	20	18	27	21	16	9
Appraiser	2	0	3	0	1	1
Attorney for AIP	22	6	20	13	8	5
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	33	26	49	56	21	11
Counsel to Receiver	33	7	25	5	25	4
Court Evaluator	84	32	94	68	67	46
Court Examiner	245	0	173	0	169	0
Guardian	27	17	52	29	23	15
Guardian Ad Litem	197	132	249	176	230	151
Law Guardian (Privately Paid)	0	0	0	0	2	0
Property Manager	24	8	14	2	31	6
Real Estate Broker	1	0	6	2	6	0
Receiver	68	11	63	11	52	13
Referee	4	1	2	1	0	0
Supplemental Needs Trustee	2	3	12	15	3	1

12th Judicial District - Appointments and Corresponding Approved Fees by Year

	2013 Appointments	2013 Fees	2014 Appointments	2014 Fees	2015 Appointments	2015 Fees
Accountant	18	7	7	1	11	1
Appraiser	6	1	2	0	6	0
Attorney for AIP	9	6	21	7	11	0
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	19	12	22	8	12	2
Counsel to Receiver	16	3	4	0	0	0
Court Evaluator	53	37	63	41	38	3
Court Examiner	243	0	203	0	91	0
Guardian	38	13	25	4	9	0
Guardian Ad Litem	190	79	128	51	99	8
Law Guardian (Privately Paid)	0	0	0	0	7	0
Property Manager	13	3	4	0	0	0
Real Estate Broker	10	1	5	0	1	0
Receiver	35	1	21	0	11	0
Referee	1	0	0	0	0	0
Supplemental Needs Trustee	3	2	0	0	2	0

13th Judicial District - Appointments and Corresponding Approved Fees by Year

	2004 Appointments	2004 Fees	2005 Appointments	2005 Fees	2006 Appointments	2006 Fees
Accountant	1	6	5	0	2	10
Appraiser	7	1	0	0	0	0
Attorney for AIP	49	32	43	39	52	27
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	4	4	4	5	3	2
Counsel to Receiver	0	0	0	0	0	0
Court Evaluator	62	51	47	49	55	48
Court Examiner	57	78	46	31	46	25
Guardian	32	54	20	31	25	40
Guardian Ad Litem	89	76	89	76	87	86
Law Guardian (Privately Paid)	53	50	47	27	48	31
Property Manager	0	0	0	0	0	0
Real Estate Broker	2	2	0	0	1	0
Receiver	1	0	0	0	3	0
Referee	19	1	4	0	9	0
Supplemental Needs Trustee	0	0	1	0	0	0

13th Judicial District - Appointments and Corresponding Approved Fees by Year

	2007 Appointments	2007 Fees	2008 Appointments	2008 Fees	2009 Appointments	2009 Fees
Accountant	1	7	0	0	3	6
Appraiser	7	3	7	2	6	2
Attorney for AIP	41	27	46	32	49	25
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	2	2	8	14	2	2
Counsel to Receiver	0	0	0	0	1	0
Court Evaluator	38	41	38	36	52	48
Court Examiner	48	51	59	69	69	161
Guardian	31	46	31	34	35	52
Guardian Ad Litem	97	89	91	82	76	67
Law Guardian (Privately Paid)	24	25	12	5	19	13
Property Manager	0	0	0	0	0	0
Real Estate Broker	2	0	5	1	0	0
Receiver	1	0	2	0	9	6
Referee	4	0	15	2	7	0
Supplemental Needs Trustee	0	0	0	0	1	0

13th Judicial District - Appointments and Corresponding Approved Fees by Year

	2010 Appointments	2010 Fees	2011 Appointments	2011 Fees	2012 Appointments	2012 Fees
Accountant	6	6	3	11	11	12
Appraiser	3	2	6	4	9	4
Attorney for AIP	62	37	52	40	52	46
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	7	5	5	4	1	1
Counsel to Receiver	0	0	0	0	0	0
Court Evaluator	51	54	55	54	40	40
Court Examiner	124	297	72	105	68	86
Guardian	34	47	23	26	28	24
Guardian Ad Litem	90	74	80	66	60	55
Law Guardian (Privately Paid)	44	24	36	16	35	11
Property Manager	0	0	1	0	0	0
Real Estate Broker	0	0	0	0	2	0
Receiver	9	1	6	24	7	6
Referee	2	0	3	1	2	0
Supplemental Needs Trustee	3	3	2	3	1	0

13th Judicial District - Appointments and Corresponding Approved Fees by Year

	2013 Appointments	2013 Fees	2014 Appointments	2014 Fees	2015 Appointments	2015 Fees
Accountant	3	2	1	2	3	0
Appraiser	0	0	9	8	3	1
Attorney for AIP	29	25	47	31	26	6
Auctioneer	0	0	0	0	0	0
Counsel to Guardian	1	0	4	1	4	0
Counsel to Receiver	1	0	0	0	0	0
Court Evaluator	39	36	53	43	38	10
Court Examiner	47	39	61	29	33	2
Guardian	11	6	19	5	12	0
Guardian Ad Litem	89	74	97	79	80	24
Law Guardian (Privately Paid)	35	13	51	3	27	0
Property Manager	1	0	0	0	0	0
Real Estate Broker	1	1	4	2	2	0
Receiver	1	0	7	0	2	0
Referee	2	1	1	0	4	2
Supplemental Needs Trustee	0	0	0	0	0	0