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DEVELOPMENT OF A NEW FIDUCIARY APPOINTMENT SYSTEM

**2004 REPORT
GUARDIAN & FIDUCIARY SERVICES**

Restoring Public Trust and Confidence: Fiduciary Appointment Reform in New York

**A Report to Chief Judge Judith S. Kaye
and Chief Administrative Judge Jonathan Lippman**

February 9, 2004



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Introduction

New York's fiduciary appointment system has long been plagued by problems and criticisms. Courts in New York appoint fiduciaries to assist them in performing a variety of functions, such as serving as guardians to manage the financial or personal affairs of incapacitated persons, as receivers to manage real property subject to foreclosure proceedings and guardians ad litem to protect the rights of children involved in litigation. Fiduciaries are paid from the assets of the persons or entities they are appointed to serve, and the compensation in many cases can be lucrative. Charges have been made that these appointments are not always based on merit but on favoritism and other inappropriate factors unrelated to the qualifications that particular appointments require of individual fiduciaries. Further charges have been made that monitoring of the appointment process has been inadequate, thus creating an environment in which abuses of the system are able to escape public scrutiny. These charges in turn have undermined public trust and confidence in the justice system.

In the past several years, Chief Judge Judith S. Kaye has initiated a major effort to address these concerns, beginning with a top-to-bottom investigation and examination of the fiduciary appointment process in New York and leading to implementation of new regulatory, administrative and operational structures. The result is a completely re-vamped fiduciary appointment system designed to eliminate the problems of the past and restore public trust and confidence in the process for the future. This report reviews the broad-ranging changes that have been made, evaluates whether they have been effective so far and identifies

additional areas requiring examination and reform.

I. BACKGROUND

New York has long seen the need for supervision of court appointments (see Judiciary Law § 35-a (added L. 1967, c. 625); former Part 26 of the Rules of the Chief Judge (22 NYCRR) (promulgated February 2, 1982); former Part 36 of the Rules of the Chief Judge (22 NYCRR) (promulgated November 22, 1985)). For over 35 years, State law has required the reporting of almost all appointments in civil matters with compensation in excess of \$500 (Judiciary Law § 35-a(1)(a); 22 NYCRR § 26.1(a)). During the same period, court rules have sought to control improper influences in the selection process by establishing some disqualifications from appointment (former 22 NYCRR § 36.1(b)) and restricting the number of appointments allowed to an individual within a certain period of time (former 22 NYCRR § 36.1(c)).

These attempts at regulation, however, never created a comprehensive system for fiduciary appointments that included adequate controls to discourage the influence of politics, favoritism or nepotism in the selection of appointees and to ensure a process of merit-based appointments. This was evidenced by a series of newspaper reports citing questionable practices in the appointment processes of numerous courts:

“Some of the articles revealed that former judges were receiving large numbers of appointments and in certain cases extremely lucrative appointments. Other articles documented the disproportionately large number of appointments received by high-level political party officials. Yet other articles focused on appointments received by close relatives of non-judicial court officials, and by persons who contributed to the appointing

judges' judicial campaigns." (*Report of the Commission on Fiduciary Appointments*, p. 18 (December 2001) (footnotes deleted).)

In January 2000, Chief Judge Kaye addressed these issues by establishing the Commission on Fiduciary Appointments and the Office of the Special Inspector General for Fiduciary Appointments. The Commission was directed to examine existing rules and procedures and to make recommendations for improvement. The Inspector General was afforded authority to investigate violations of the existing fiduciary rules and recommend referrals in appropriate cases to disciplinary and law enforcement officials. Both the Commission and the Office of the Special Inspector General issued comprehensive reports to Chief Judge Kaye and Chief Administrative Judge Jonathan Lippman in December 2001.

A. Report of the Special Inspector General

The report of the Special Inspector General for Fiduciary Appointments (*Fiduciary Appointments in New York: A Report to Chief Judge Judith S. Kaye and Chief Administrative Judge Jonathan Lippman* (December 2001)), documented widespread problems in the fiduciary appointment system. The report revealed that political party officials, judicial campaign officials, former judges and relatives of nonjudicial employees of the Unified Court System routinely received fiduciary appointments, including highly-compensated appointments.

Beyond that, however, the Special Inspector General reported that the system itself had failed operationally. The report showed that although the rules in place at the time required the filing of forms used to track appointments and

compensation awards, compliance rates were often extraordinarily low.¹ Consequently, the court system's efforts were significantly frustrated in enforcing existing rules limiting appointments based upon compensation (see former 22 NYCRR § 36.1(c)). For example, in Mental Hygiene Law Article 81 guardianship cases, compliance with filing requirements by county was wide-ranging. For guardians, it was as low as 0%, and never exceeded 80%; for court evaluators, filing compliance ranged from 0% to 96% (*Fiduciary Appointments in New York, supra*, pp. 33-34). In one county, filing compliance for receivers was as follows: notice of appointment—28%; certificate of compliance—20%; statement of approval of compensation—0%; secondary appointees to receivers (counsel or property manager)—0%. The report also revealed that, in the same county, 52% of all receivership appointments went to 16 receivers, while the remaining 48% went to another 120, and 74% of secondary appointments as counsel for receiver went to one attorney, while the remaining 26% went to another 27 (*Fiduciary Appointments in New York, supra*, pp. 41, 43, 45). The data suggested a connection between noncompliance with filing requirements and concentration of appointments in a limited number of individuals. The failure to file, therefore, frustrated the requirement to record, which sheltered from scrutiny the selection of a favored few.

¹ The rules required fiduciary appointees, at the time of appointment, to file a Notice of Appointment form and a Certificate of Compliance form affirming that the appointment met the rules' requirements. The rules also required the judge to file a Statement of Approval of Compensation form documenting the fees awarded to the appointee.

B. Report of the Commission on Fiduciary Appointments

The report of the Commission on Fiduciary Appointments verified the existence of many of the problems documented by the Special Inspector General, including the high incidence of appointments of political party officials, former judges and others with ties to the political and judicial systems and the widespread noncompliance with the filing requirements. The Commission cited other findings of the Special Inspector General, including: 1) failure to enforce the rule governing "secondary" appointments in receivership cases (former 22 NYCRR § 36.1(a));² 2) outright violation, or subversion, of the rule limiting appointees to one appointment within a 12-month period in which compensation was anticipated to exceed \$5000 (former 22 NYCRR § 36.1(c)); 3) compensation awards for attorney-fiduciaries that included legal fees for services more properly considered as the performance of fiduciary duties and already included in fiduciary compensation; and 4) conflicts of interest in guardianship cases due to the appointment of court evaluators, and, less frequently, attorneys for alleged incapacitated persons, as guardian (*Report of the Commission on Fiduciary Appointments, supra*, pp. 20-26).

The Commission's report also documented problems that it had independently identified, including: 1) the outdated, inaccurate and unusable list maintained by the Office of Court Administration of those eligible for fiduciary appointment; 2) the absence of criteria establishing qualifications and training for

² The rules applied to "secondary" appointments in receivership cases - counsel, accountants and others appointed to perform services for the receiver. This meant that the judge was required to make these appointments, and that the appointees were subject to the same disqualifications from appointment as the receiver.

enrollment on the fiduciary appointment list; 3) the failure of existing rules to cover other, important categories of fiduciary appointment; 4) the lack of accessible information available to the public about the fiduciary appointment system and individual appointments; and 5) the failure to provide a systemic approach to the need for guardians where the subject of the proceeding is indigent and private resources are unavailable to attract and compensate qualified appointees (*Report of the Commission on Fiduciary Appointments, supra*, pp. 26-28).

The Commission concluded that there were significant flaws in the fiduciary appointment system, and that these flaws were present at every stage of the process:

“[They were present] in the procedures by which individuals qualify for appointment; in the lists judges are expected to use in selecting appointees; in the provisions that seek to limit the number of lucrative appointments that individual appointees may receive; in the judicial scrutiny of applications for fiduciary compensation; and in compliance with the filings required of judges and appointees.” (*Report of the Commission on Fiduciary Appointments, supra*, p. 28.)

C. The Commission's Recommendations

The report of the Commission on Fiduciary Appointments offered a broad range of recommendations to address these problems. The following are the primary recommendations, grouped by general category (*supra*, pp. 28-47):

Eligibility and Qualifications

- Training programs approved by the Chief Administrative Judge should be required for appointment on the fiduciary appointment lists;
- In general, high-level 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;

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

The Appointment Process

- Within certain prescribed limitations, judges should retain discretion to select fiduciary appointees;
- Judges should make fiduciary appointments 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 adopted for removal from the lists for misconduct or nonperformance of fiduciary duty;
- Additional categories of appointment, viz., court examiner in guardianship cases, special needs trustee 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;
- The \$5,000 rule, limiting individual appointees to one appointment

within a calendar year in which the compensation is anticipated to exceed \$5,000, should be continued;

- Appointees should be prohibited from receiving appointments in the following calendar year if they are awarded compensation, for all their appointments combined, in any single year in excess of a specified amount;
- Appointment of guardians or receivers as their own counsel should be prohibited, absent convincing reason shown;
- Appointment of a court evaluator as guardian should be prohibited generally, and appointment of an attorney for an alleged incapacitated person as guardian should be prohibited absolutely.

Oversight

- A fiduciary clerk should be designated in every judicial district to supervise filings, monitor compliance, ensure accuracy of data entry and create a database for use by judges and court employees, and accessible by the public;
- Law firms receiving more than a specified amount in fiduciary compensation awards in any single calendar year should be required to report to the Office of Court Administration.

Miscellaneous Recommendations

- An administrative support office for guardianship cases should be established within the court system;

- 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.

II. A NEW FIDUCIARY APPOINTMENT SYSTEM

In response to the reports of the Special Inspector General and the Commission on Fiduciary Appointments, the court system has undertaken a series of comprehensive initiatives to completely re-vamp New York’s fiduciary appointment process. The components of this new fiduciary appointment system include a strengthened new regulatory structure, extensive new administrative support services and operational initiatives, and enhanced public access to the appointment process.

A. New Regulatory Structure

Following a public comment period on the recommendations made by the Commission on Fiduciary Appointments, the Administrative Board of the Courts and the Court of Appeals approved new fiduciary appointment rules--a new Part 36 of the Rules of the Rules of the Chief Judge--which took full effect on June 1, 2003. The new rules incorporate virtually every single recommendation of the Commission on Fiduciary Appointments. The vision of the new rules is defined by their combined focus on public trust (22 NYCRR § 36.0) and transparency (§ 36.5), which is intended to substitute merit for favoritism in the selection process and allow full

public access to appointment and compensation information.

Initially, the rules build on the Commission's fundamental premise that fiduciary appointments are a matter of judicial discretion. A judge, who knows the demands of a pending matter, is best able to choose an appointee qualified to meet those demands (see § 36.2(a)). The new rules facilitate that choice by providing for a more qualified, better trained and more diverse pool of candidates, and also by providing that the candidates' credentials be readily available to judges for review and appointments and appointment histories efficiently managed and maintained.

As recommended, application of the fiduciary rules has been expanded to add the appointment categories of "privately paid" law guardian in domestic relations cases, court examiner in guardianship cases and supplemental needs trustee. With guardian, guardian ad litem, court evaluator, attorney for alleged incapacitated person, receiver and referee, this brings to nine the categories of primary appointment governed by the rules (§ 36.1(a)). The rules were also expanded to include "secondary" appointments in receivership and guardianship cases of attorneys, accountants, appraisers, auctioneers, real property managers and real estate brokers (§ 36.1(a)(10)). Thus, the new rules strengthen the requirement that a judge make these secondary appointments, and provide that secondary appointees are subject to all of the provisions of the rules to the same extent as primary appointees.

For the first time, broad categories of individuals are now ineligible for appointment, including political party leaders, their relatives and law firms, former judges and their relatives, and relatives of higher-ranking court employees. Time

and geographical limitations apply to many of these. Explicit prohibitions have also been adopted against appointment of disbarred or suspended attorneys and criminal offenders.

To prevent conflicts of interest or the appearance of such conflicts, a court evaluator is now generally disqualified from appointment as guardian, and an attorney for an alleged incapacitated person is disqualified absolutely. A guardian or receiver is barred from acting, or having his or her law firm act, as attorney for the guardian or receiver, unless a compelling reason is found for the appointment.

The new rules require the Chief Administrative Judge to establish appointment lists by category (§ 36.3(c)), and to set qualification and training standards for inclusion on such lists (§ 36.3(b)). Use of the lists in the appointment process is required, unless special circumstances are found to authorize a waiver (§36.2(b)). To keep the lists current and accurate, enrollment is made subject to a new biennial re-registration (§ 36.3(d)). And to promote a standard of integrity and competence, enrollees, for the first time, are subject to removal for unsatisfactory performance or conduct incompatible with appointment (§ 36.3(e)).

The new rules strengthen limitations on the number of appointments that individual appointees may receive, retaining a limitation that permits only a single high-value appointment (\$15,000 or more) within a single calendar year. Also, for the first time, the rules now bar appointees from receiving new appointments in any calendar year when all appointment compensation awarded in the prior year exceeded \$50,000.

B. Administrative Support

The court system has instituted a number of administrative mechanisms to support this new fiduciary appointment system.

Fiduciary Clerks

The position of fiduciary clerk has been established in each judicial district. Reporting directly to the District Administrative Judge, the fiduciary clerk supervises and monitors fiduciary appointments throughout the judicial district. In that role, the fiduciary clerk is responsible for overseeing the filing of all forms by judges and appointees and for ensuring the accuracy of data regarding appointments and compensation awards. This position has become the linchpin of an emerging statewide structure for communicating policy and procedures, collecting and recording data and creating an accurate database of information.

Permanent Office of the Special Inspector General

A permanent unit has been established in the court system's Office of the Inspector General, with ongoing responsibility for investigating complaints of fiduciary misconduct and recommending appropriate referrals to disciplinary and law enforcement agencies. In this unit, the court system has for the first time a single office where complaints may be filed and a record kept of the court system's actions on complaints. At the same time, this unit is available to the various constituencies within the fiduciary appointment system for authoritative advice on ethical questions involving fiduciary service.

Office of Guardian and Fiduciary Services

A new Office of Guardian and Fiduciary Services (GFS) has been created, with responsibility for all aspects of the fiduciary appointment system. The office trains judges and court personnel in the new rules, and coordinates the certification of all training programs for Part 36 fiduciaries. It has also become the clearinghouse for all information about practice and procedures under the new rules, serving as a resource for judges, court personnel, attorneys, fiduciaries and the public.

C. Operational Initiatives

A series of operational initiatives, some of which were necessary to implement the new rules, have greatly enhanced and bolstered the fiduciary appointment process.

Application and Training

An expanded and vastly improved application form for inclusion on the fiduciary appointment lists has been developed (see Appendix A). The new application collects detailed personal and employment history of each applicant, bar admission and registration information for applicants who are New York State attorneys and data on foreign language fluency, academic degrees, bar admission outside New York, areas of legal specialization and other professional and occupational credentials. The application also includes questions about character and fitness, including 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. The application also contains an affirmation demonstrating qualification for enrollment under Part 36 (§ 36.2 (c)). The application is formatted for on-line use, with many entries capable of quick and easy input from “drop-down” menus.

A new Web site (www.nycourts.gov/ip/gfs) has been created as a resource for information about the new fiduciary appointment system for both court personnel and the public (see Appendix B). The new application is posted on the Web site and made available for on-line completion. This enabled over 3,000 individuals to enroll as eligible for appointment by the start-date of the new system on June 1, 2003. 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.³

Also posted on the Web site is a schedule of training courses available statewide. Eight fiduciary appointment categories require formal training, and the newly-created Office of Guardian and Fiduciary Services (GFS) has developed course curricula for each. With the cooperation of bar associations and other service organizations throughout the State, GFS certified and made available over 30 different training programs prior to June 1, 2003, and its staff lectured on the new

³ As of late January 2004, 4,743 had been enrolled as eligible for appointment. Of these, almost 70% had taken advantage of the on-line application.

rules at many of these programs. Additionally, criteria were developed for certification of the use of video and audio tapes for training purposes.

On the Web site, 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) that is periodically updated. 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. For example, procedures and forms had to be developed for the new Part 36 category of "privately paid" law guardian (see Appendix C). Through the Web site, information about these procedures and forms is published statewide, and the forms themselves are made available in PDF "fillable" format, which enables the user (courts, attorneys, litigants) to complete forms on-line and print as originals. Likewise, a new form for law firm reporting of compensation of \$50,000 or more in a calendar year (§ 36.4 (c)) is now available on the Web site for first-time use in 2004 (see Appendix D).

Appointment Forms

A new, combined Notice of Appointment and Certification of Compliance form (see Appendix E) collects 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 rules' limitations on appointment based upon compensation (see § 36.2(d)(1), (2)). Instructions for completion are

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. The identification number 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.

A new Statement of Approval of Compensation, in which compensation for fiduciary appointments must be reported, has also been developed (Appendix E)

Full Automation of the Appointment System

The new forms were in hard-copy format and ready for use by June 1, 2003, when the new rules took effect. However, in November 2003, a new, fully automated fiduciary appointment system was introduced. In addition to electronically formatting the appointment forms, a new, enhanced electronic fiduciary appointment database was completed. The new database offers a broad variety of sophisticated features, including the capacity to create lists of eligible appointees by category of appointment and county of availability; search for an eligible appointee by additional criteria (e.g., foreign language, appointment experience, professional experience other than the law, academic degrees); search

for appointment or compensation history; and create reports of fiduciary appointment activity by a series of search criteria (e.g., appointee, appointing judge, county, judicial district, date, category of appointment).

These features form the essential elements of a new Fiduciary Clerk System (see Appendix F), the centerpiece of the Part 36 Appointment System--totally on-line and court controlled. The new Fiduciary Clerk System represents a complete break from prior fiduciary appointment practice. No longer are blank hard-copy forms distributed to appointees for completion and filing. That inefficient process had resulted in the collection of confusing and inaccurate information, or even no information at all, due to the inability of manual recordkeeping to track distributed forms and confirm timely receipt of filing. Now, at the time of appointment, an appointee receives a combined Notice of Appointment and Certification of Compliance form 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, fiduciary identification number and 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 rules' requirement 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 will 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. A Statement of Approval of Compensation form is similarly generated on-line at the conclusion of the case, and, unlike in the past, remains in court for completion by the judge only.

The fiduciary clerk not only controls data entry, but is also given an electronic log to record and track each form in the process. The clerk can store 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 previously so difficult to uncover and, consequently, so difficult to correct.

Vastly Improved Filing Compliance

Although it is too early to conduct a statewide evaluation of the new system, particularly with regard to filing of Approval of Compensation Statement forms, preliminary data from three judicial districts demonstrate that filing requirement compliance is drastically improved. For example, for the period June 1, 2003 to December 31, 2003, the data reveal the following:

- In New York County, 91% of Notice of Appointment/Certification of Compliance forms were timely filed, and 100% of the forms required when a non-list appointment is made were timely filed.
- In Kings County, 90% of Notice of Appointment/Certification of Compliance forms were timely filed, and 100% of non-list appointment forms were timely filed.
- In the Third Judicial District (Albany, Rensselaer, Columbia, Greene, Ulster, Sullivan and Schoharie Counties), 98% of Notice of Appointment/Certification of Compliance forms were timely filed, and 100% of non-list appointment forms were timely filed.

Moreover, not only have compliance rates risen dramatically, but situations in which forms are not filed within the required time period are immediately identifiable, enabling fiduciary clerks to respond quickly by demanding corrective action or seeking removal of the appointee.

* * *

In sum, this enhanced system allows for faster, more efficient and more accurate collection of fiduciary appointment data. It also renders the information more accessible, more searchable and more retrievable, which allows the court system to more easily review all current fiduciary appointment activity and extract meaningful data for analysis in evaluating performance and planning for the future.

D. Public Access

A critically important new feature for the fiduciary appointment system is also now available. Beginning February 9, 2004, all public records of fiduciary appointments will be available on the court system's Web site (www.nycourts.gov/ip/gfs). This will afford the public the capacity to search for appointees, appointing judges, appointments and compensation awards, and immediately and easily learn who has received what appointments, from which judges and for how much compensation (see Appendix G). This new feature has the potential to make the public a direct partner in the oversight of the fiduciary appointment system, enforcing its right to know, and to know directly, whether it is being adequately served.

III. FUTURE ACTION

As has been shown, the court system has implemented a broad array of measures to create a completely new fiduciary appointment system. This work, however, is not done. It is continuously evaluating the fiduciary appointment system to identify any lingering problems in the process. In that regard, the following are some additional steps that should be considered to improve the system and further advance it toward achieving its goals.

The Commission on Fiduciary Appointments has already played a vital role in the redesign of the fiduciary appointment system and has proven itself a valuable and experienced resource. The Commission has expressed a readiness “to continue to meet on a periodic basis . . . to identify any lingering systemic weaknesses . . . [and] propose any necessary measures for further reform.” (*Report of the Commission on Fiduciary Appointments, supra*, p. 48.) The Commission should re-convene to evaluate data generated by the new fiduciary appointment system, review reports of complaints and problems, take suggestions and ideas from interested parties and make further recommendations for change where appropriate. In particular, the Commission should focus on the following issues.

First, as discussed, the new rules added three new categories of primary appointment to the fiduciary appointment system (law guardian, court examiner and supplemental needs trustee (§ 36.1(a)(3), (6), (7)), and specifically designated six categories of secondary appointment not previously listed (§ 36.1(a)(10)). Yet, there are additional types of appointments not governed by the new rules. These

include appointments currently made by judges (e.g., a wide variety of independent expert witnesses and, in New York City, counsel to the public administrator), or by appointees themselves (e.g., counsel to the public administrator outside New York City). Some of these appointments may be influenced by favoritism and other factors unrelated to the qualifications of the appointees. Consideration should be given to extending the provisions of the new rules to some or all of these appointments.

Second, the new rules, contained in Part 36 of the Rules of the Chief Judge, are inconsistent with Part 26 of the same Rules in their treatment of appointments. Part 26 establishes a separate requirement for filing a Statement of Approval of Compensation for all appointments with approved compensation of more than \$500, only some of which are governed by Part 36. On the other hand, Part 36, without regard to compensation, requires filing a Notice of Appointment for all covered appointments, only some of which are governed by Part 26. This creates confusion among courts and fiduciaries, and results in a database that includes some appointments where compensation will never be reported and others where there will be a report of compensation without a record of the initial appointment. The Commission should examine whether these separate rules should be reconciled and, if so, how that should be done.

Finally, the new rules authorize not only fiduciary appointment of individuals, but also entities (see § 36.2(a)). In addition, the rules grant the Chief Administrative Judge discretion to establish for any category of appointment a special list of those who have demonstrated “substantial experience” as a fiduciary in that category

(§36.3(c)). Determining the qualifications of an entity requires establishment of different criteria from that applied to individuals. Similarly, determining whether there should be lists by category of those with “substantial experience,” and how to establish those lists, will require the formulation of specialized criteria. The Commission should identify those entities appropriate for appointment as fiduciaries and consult with representatives of such entities (e.g., banks, brokerage firms, accounting firms, real estate firms and property management companies). Criteria for the qualification, and proof of qualification, of such entities for enrollment as eligible appointees should then be developed. In addition, the Commission should study the feasibility of establishing specialized lists for “substantial experience” in each appointment category and determine qualification criteria for such lists.

IV. CONCLUSION

In the past several years, New York’s fiduciary appointment process has undergone a series of investigations and been the subject of a vigorous policy debate. The investigations and policy debate have resulted in a complete overhaul of both the regulatory structure governing the process and the operational structure supporting the process. All of this has been accomplished, but more remains to be done. The commitment of the Unified Court System to improving the appointment, supervision and accountability of fiduciaries demands that it continue its efforts to develop a fiduciary appointment system that works, and works well, for the people it serves.

APPENDIX A

**Application for Appointment
Pursuant to Part 36 of the Rules of the Chief Judge**



INSTRUCTIONS: APPLICATION FOR APPOINTMENT PURSUANT TO PART 36 OF THE RULES OF THE CHIEF JUDGE

Part 36 of the Rules of the Chief Judge, effective June 1, 2003, requires that the judicial appointments listed below be made from lists established by the Chief Administrator of the Courts:

- Guardian
- Guardian ad Litem
- Law Guardian (privately paid)
- Court Evaluator
- Attorney for Alleged Incapacitated Person
- Court Examiner
- Supplemental Needs Trustee
- Receiver
- Referee (except special master or referee otherwise performing judicial functions in a quasi-judicial capacity).

The following persons or entities performing services for guardians or receivers must also be appointed from the Chief Administrator's lists:

- Counsel
- Accountant
- Auctioneer
- Appraiser
- Property Manager
- Real Estate Broker

To be placed on a list, you must complete and submit this application and fulfill any applicable training requirements for an appointment. Beginning June 1, 2003, appointments will be made only from lists established through this application procedure; all prior lists expire on May 31, 2003. All persons or entities on prior lists must reapply to be eligible for appointment.

COMPLETING THE APPLICATION

Before you fill out the application, read the affirmation (Item 15) to determine if you are qualified to receive an appointment. Follow the instructions on the form for completing specific items.

CERTIFIED TRAINING

Part A of Item 7 of the application lists categories of appointment for which certified training is required. This training must be completed BEFORE an application may be submitted.

Certified training programs completed before June 1, 2003, will fulfill enrollment requirements for lists established on June 1, 2003, including CLE-approved programs conducted by Surrogate's Courts for guardians ad litem and certified training programs for guardians and court evaluators pursuant to Mental Hygiene Law Article 81. For all applications after June 1, 2003, no certified training programs completed more than two years before the date an application is submitted may be used to satisfy the training requirements. An attorney admitted to practice in the State of New York who has completed a certified training program for guardian and court evaluator pursuant to Article 81 of the Mental Hygiene Law may use that program in applying for enrollment on the list of attorneys for alleged incapacitated persons.

SPECIAL INSTRUCTIONS FOR APPLICANTS FOR LAW GUARDIAN (PRIVATELY PAID) AND COURT EXAMINER APPOINTMENTS

Applicants for privately paid law guardian in Departments of the Appellate Division where authorized, and for court examiner, must first be approved by the respective Appellate Divisions before lists for these positions may be established by the Chief Administrator. Applications for law guardian (privately paid) and court examiner appointments will be forwarded by the Office of Court Administration to the appropriate Appellate Division(s) for review and approval. Please contact the Appellate Division in your jurisdiction for further instructions regarding these categories of appointment.

INQUIRIES

For general information about appointments, including eligibility for list enrollment, certified training requirements, the sufficiency of prior training, and the date and location of certified training programs, contact:

NYS Office of Court Administration
Guardian and Fiduciary Services
140 Grand Street, Suite 701
White Plains, NY 10601

Internet: <http://www.nycourts.gov/lp/gfs>
e-mail: GFS@courts.state.ny.us
Phone: 914-882-3210
Fax: 212-457-2608

PUBLICATION

The Chief Administrator will periodically publish the names of all persons and entities appointed by each appointing judge and the compensation approved for each appointee.

FOR INFORMATION ABOUT THE FILING AND PROCESSING OF THIS APPLICATION, CONTACT:

NYS Office of Court Administration Appointment Processing Unit
Phone: 212-428-2818 e-mail: part36@courts.state.ny.us

SUBMIT COMPLETED APPLICATION (WITH ATTACHMENTS) TO:

BY MAIL - Office of Court Administration, P.O. Box 3171, Church Street Station, New York, NY 10008
IN PERSON - Office of Court Administration, 25 Beaver Street, Room 840, New York, NY 10004



APPLICATION FOR APPOINTMENT PURSUANT TO PART 36 OF THE RULES OF THE CHIEF JUDGE

THIS IS AN ON-LINE APPLICATION. THE DATA YOU ENTER IN ITEMS 1-14 BELOW WILL BE TRANSFERRED ELECTRONICALLY TO THE OFFICE OF COURT ADMINISTRATION, BUT TO COMPLETE THE APPLICATION PROCESS, YOU MUST PRINT AND SIGN THE FORM AND MAIL IT TO OCA ALONG WITH ANY ATTACHMENTS. PLEASE FOLLOW THE SPECIFIC PRINTING INSTRUCTIONS INCLUDED IN THE ON-LINE SUCCESS MESSAGE YOU WILL RECEIVE AFTER PRESSING CONTINUE FOLLOWING ITEM 15.

NOTE: BEFORE YOU COMPLETE THE APPLICATION, PLEASE CLICK HERE TO READ THE AFFIRMATION (ITEM 15) TO DETERMINE IF YOU ARE QUALIFIED.

[Help](#)

1. NAME (IF NYS ATTORNEY, ENTER NAME USED FOR ATTORNEY REGISTRATION):

FIRST	MIDDLE	LAST	SUFFIX (Sr., Jr., III)
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

2. PRIOR NAME/S:

FIRST	MIDDLE	LAST	SUFFIX (Sr., Jr., III)
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

3. SOCIAL SECURITY NUMBER:

Social Security Numbers are required in order to administer the disbursement of moneys that may constitute taxable income. 42 U.S.C. § 405 (c)(2) (C)(i).

4. ATTORNEYS ADMITTED TO PRACTICE IN NEW YORK STATE:

A- ATTORNEY REGISTRATION #: (See your biennial registration statement, or go to www.nycourts.gov - "Attorney Directory")

B- DATE / DEPARTMENT OF BAR ADMISSION - YEAR: / DEPARTMENT: 1ST 2ND 3RD
4TH

C- ARE YOU CURRENT IN YOUR REGISTRATION WITH THE OFFICE OF COURT ADMINISTRATION? YES NO

5. EMPLOYMENT:

CURRENT BUSINESS ADDRESS:				
NAME OF EMPLOYER <input type="text"/>				
STREET 1 <input type="text"/>		CITY/TOWN/VILLAGE <input type="text"/>	STATE <input type="text"/>	ZIP <input type="text"/>
STREET 2 <input type="text"/>			NY <input checked="" type="checkbox"/>	ZIP+4 <input type="text"/>
PHONE <input type="text"/>	FAX <input type="text"/>	E-MAIL <input type="text"/>		
CHECK IF SELF EMPLOYED <input type="checkbox"/>		YEARS EMPLOYED <input type="text"/>		

MOST RECENT PRIOR EMPLOYMENT (COMPLETE ONLY IF FEWER THAN 5 YEARS IN CURRENT EMPLOYMENT):

NOT APPLICABLE

NAME OF EMPLOYER _____

STREET 1 _____ CITY/TOWN/VILLAGE _____ STATE ZIP ZIP+4
 NY

STREET 2 _____

PHONE _____ FAX _____ E-MAIL _____

CHECK IF SELF EMPLOYED YEARS EMPLOYED

6. ADDRESS TO WHICH ALL NOTICES SHOULD BE SENT (IF DIFFERENT FROM CURRENT BUSINESS ADDRESS IN NO. 5):

BUSINESS NAME (IF ANY) _____

STREET 1 _____ CITY/TOWN/VILLAGE _____ STATE ZIP ZIP+4
 NY

STREET 2 _____

PHONE _____ FAX _____ E-MAIL _____

7-A. CATEGORIES OF APPOINTMENT FOR WHICH CERTIFIED TRAINING IS REQUIRED:

(no application for these categories will be processed unless the required training has been completed)

- Choose the category or categories of appointment for which you are applying by checking the box next to the category.
- Enter the year of the certified training program for which you received a certificate of satisfactory completion (For applications after June 1, 2003, must not be more than two years before the date this application is submitted).
- Enter the full name of the organization that sponsored the training program (e.g., the name of a bar association, law school, nonprofit social agency, Surrogate's Court guardian ad litem training program or Appellate Division law guardian training program).
- Attorneys applying for appointment as guardian ad litem, law guardian (privately paid) and attorney for alleged incapacitated person must be current in their registration to practice law in New York State (see item 4).
- Indicate the number of times you served in the last 10 years for each category for which you are applying for appointment.
- You MAY also attach a resume of NO MORE THAN FOUR PAGES.

a. **GUARDIAN:**

YEAR CERTIFIED TRAINING COMPLETED

FULL NAME OF SPONSOR ORGANIZATION: _____

FREQUENCY OF SERVICE IN THE LAST 10 YEARS: NONE 1-10 TIMES MORE THAN 10 TIMES

b. **GUARDIAN AD LITEM:**

YEAR CERTIFIED TRAINING COMPLETED

FULL NAME OF SPONSOR ORGANIZATION: _____

FREQUENCY OF SERVICE IN THE LAST 10 YEARS: NONE 1-10 TIMES MORE THAN 10 TIMES

c. **LAW GUARDIAN (PRIVATELY PAID)*:**

YEAR CERTIFIED TRAINING COMPLETED

* FOR APPOINTMENTS IN THE DEPARTMENTS OF THE APPELLATE DIVISION WHERE AUTHORIZED. (APPROVAL FOR PLACEMENT ON THIS LIST MUST BE OBTAINED FROM THE APPELLATE DIVISION. SEE INSTRUCTIONS)

FULL NAME OF SPONSOR ORGANIZATION: _____

FREQUENCY OF SERVICE IN THE LAST 10 YEARS: NONE 1-10 TIMES MORE THAN 10 TIMES

d. COURT EVALUATOR:

YEAR CERTIFIED TRAINING COMPLETED

FULL NAME OF SPONSOR ORGANIZATION:

FREQUENCY OF SERVICE IN THE LAST 10 YEARS: NONE 1-10 TIMES MORE THAN 10 TIMES

e. ATTORNEY FOR ALLEGED INCAPACITATED PERSON:

YEAR CERTIFIED TRAINING COMPLETED

FULL NAME OF SPONSOR ORGANIZATION:

FREQUENCY OF SERVICE IN THE LAST 10 YEARS: NONE 1-10 TIMES MORE THAN 10 TIMES

f. COURT EXAMINER:

YEAR CERTIFIED TRAINING COMPLETED

(Approval for placement on this list must be obtained from the Appellate Division. See Instructions)

FULL NAME OF SPONSOR ORGANIZATION:

FREQUENCY OF SERVICE IN THE LAST 10 YEARS: NONE 1-10 TIMES MORE THAN 10 TIMES

g. SUPPLEMENTAL NEEDS TRUSTEE:

YEAR CERTIFIED TRAINING COMPLETED

FULL NAME OF SPONSOR ORGANIZATION:

FREQUENCY OF SERVICE IN THE LAST 10 YEARS: NONE 1-10 TIMES MORE THAN 10 TIMES

h. RECEIVER:

YEAR CERTIFIED TRAINING COMPLETED

FULL NAME OF SPONSOR ORGANIZATION:

FREQUENCY OF SERVICE IN THE LAST 10 YEARS: NONE 1-10 TIMES MORE THAN 10 TIMES

7-B. CATEGORIES OF APPOINTMENT FOR WHICH CERTIFIED TRAINING IS NOT REQUIRED:

- Choose the category or categories of appointment for which you are applying by checking the box next to the category.
- In order to apply in the following categories, you MUST attach a resume of NO MORE THAN FOUR PAGES, which shall include information of government-issued licenses and certificates issued by professional schools or organizations.
- Attorneys applying for appointment as counsel to guardian or counsel to receiver must be current in their registration to practice law in New York State (see item 4).
- Indicate the number of times you served in the last ten years for each category for which you are applying for appointment.

i. COUNSEL TO RECEIVER:

FREQUENCY OF SERVICE IN THE LAST 10 YEARS: NONE 1-10 TIMES MORE THAN 10 TIMES

j. COUNSEL TO GUARDIAN:

FREQUENCY OF SERVICE IN THE LAST 10 YEARS: NONE 1-10 TIMES MORE THAN 10 TIMES

k. ACCOUNTANT:

FREQUENCY OF SERVICE IN THE LAST 10 YEARS: NONE 1-10 TIMES MORE THAN 10 TIMES

<input type="checkbox"/> l. AUCTIONEER: FREQUENCY OF SERVICE IN THE LAST 10 YEARS: NONE <input type="radio"/> 1-10 TIMES <input type="radio"/> MORE THAN 10 TIMES <input type="radio"/>
<input type="checkbox"/> m. APPRAISER: FREQUENCY OF SERVICE IN THE LAST 10 YEARS: NONE <input type="radio"/> 1-10 TIMES <input type="radio"/> MORE THAN 10 TIMES <input type="radio"/>
<input type="checkbox"/> n. PROPERTY MANAGER: FREQUENCY OF SERVICE IN THE LAST 10 YEARS: NONE <input type="radio"/> 1-10 TIMES <input type="radio"/> MORE THAN 10 TIMES <input type="radio"/>
<input type="checkbox"/> o. REAL ESTATE BROKER: FREQUENCY OF SERVICE IN THE LAST 10 YEARS: NONE <input type="radio"/> 1-10 TIMES <input type="radio"/> MORE THAN 10 TIMES <input type="radio"/>
<input type="checkbox"/> p. REFEREE (EXCEPT SPECIAL MASTER OR REFEREE OTHERWISE PERFORMING JUDICIAL FUNCTIONS IN A QUASI-JUDICIAL CAPACITY): FREQUENCY OF SERVICE IN THE LAST 10 YEARS: NONE <input type="radio"/> 1-10 TIMES <input type="radio"/> MORE THAN 10 TIMES <input type="radio"/>

8. COUNTY/COUNTIES IN WHICH YOU ARE AVAILABLE FOR APPOINTMENT: (CLICK THE ? TO SELECT A COUNTY)

A- <input type="checkbox"/> ?		B- <input type="checkbox"/> ?	
C- <input type="checkbox"/> ?		D- <input type="checkbox"/> ?	
E- <input type="checkbox"/> ?		F- <input type="checkbox"/> ?	
G- <input type="checkbox"/> ?		H- <input type="checkbox"/> ?	

9. FOREIGN LANGUAGES SPOKEN FLUENTLY: (CLICK THE ? TO SELECT A LANGUAGE)

**** FILL IN SHADED AREA ONLY IF CODE IS 99-OTHER**

A- <input type="checkbox"/> ?	
B- <input type="checkbox"/> ?	
C- <input type="checkbox"/> ?	
D- <input type="checkbox"/> ?	

10. ACADEMIC DEGREES AWARDED: (CLICK THE ? TO SELECT A DEGREE)

**** FILL IN SHADED AREA ONLY IF CODE IS 99-OTHER**

A- <input type="checkbox"/> ?	
B- <input type="checkbox"/> ?	
C- <input type="checkbox"/> ?	
D- <input type="checkbox"/> ?	

11. ATTORNEYS ADMITTED TO PRACTICE OUTSIDE NEW YORK STATE:

JURISDICTION OF ADMISSION	YEAR OF ADMISSION	ACTIVE STATUS:	
		YES	NO
		<input type="radio"/>	<input type="radio"/>
		<input type="radio"/>	<input type="radio"/>
		<input type="radio"/>	<input type="radio"/>
		<input type="radio"/>	<input type="radio"/>

12. ANOTHER JURISDICTION: (CLICK THE ? TO SELECT A JURISDICTION)

**** FILL IN SHADED AREA ONLY IF CODE IS 99-OTHER**

A- [] ?	[]
B- [] ?	[]
C- [] ?	[]
D- [] ?	[]

13. PROFESSIONS OR OCCUPATIONS OTHER THAN ATTORNEYS: (CLICK THE ? TO SELECT A PROFESSION OR OCCUPATION)

PROFESSION OR OCCUPATION:	LICENSING ENTITY:	YEAR LICENSE FIRST ISSUED:	ACTIVE STATUS:	
** FILL IN SHADED AREA ONLY IF CODE IS 99-OTHER			YES	NO
A- [] ?	[]	[]	<input type="radio"/>	<input type="radio"/>
B- [] ?	[]	[]	<input type="radio"/>	<input type="radio"/>
C- [] ?	[]	[]	<input type="radio"/>	<input type="radio"/>
D- [] ?	[]	[]	<input type="radio"/>	<input type="radio"/>

14. PERSONAL BACKGROUND:

HAVE YOU EVER BEEN, OR ARE PROCEEDINGS PENDING IN WHICH YOU MAY BE,

- | | | |
|--|---------------------------|--------------------------|
| a. convicted of a crime or offense, other than a traffic infraction (include military proceedings)? | <input type="radio"/> YES | <input type="radio"/> NO |
| b. denied a professional or occupational license, or been censured by a licensing authority or had an occupational or professional license revoked or suspended? | <input type="radio"/> YES | <input type="radio"/> NO |
| c. held in contempt of court? | <input type="radio"/> YES | <input type="radio"/> NO |
| d. found civilly liable in an action involving fraud, misrepresentation, theft or conversion? | <input type="radio"/> YES | <input type="radio"/> NO |
| e. discharged in bankruptcy? | <input type="radio"/> YES | <input type="radio"/> NO |
| f. found liable for unpaid money judgments, liens or judgments of foreclosure? | <input type="radio"/> YES | <input type="radio"/> NO |
| g. found liable for civil penalties for unpaid taxes? | <input type="radio"/> YES | <input type="radio"/> NO |
| h. in default in the performance or discharge of any duty or obligation imposed by a judgment, decree, order or directive of any court or governmental agency? | <input type="radio"/> YES | <input type="radio"/> NO |
| i. removed as a fiduciary by a court of competent jurisdiction for misconduct? | <input type="radio"/> YES | <input type="radio"/> NO |
| j. in forfeiture of a bond? | <input type="radio"/> YES | <input type="radio"/> NO |
| k. found to have committed an ethical violation as a member of a judicial, executive or legislative branch of government? | <input type="radio"/> YES | <input type="radio"/> NO |

IF YOU ANSWERED YES TO ANY OF THE QUESTIONS ABOVE, YOU MUST ATTACH A SEPARATE SHEET OF PAPER AND EXPLAIN YOUR ANSWER IN DETAIL, GIVING ALL RELEVANT DATES.

15. AFFIRMATION: (CLICK HERE TO VIEW)



15. AFFIRMATION:

I AFFIRM, UNDER PENALTY OF PERJURY:

- All statements contained in this application are true and accurate to the best of my knowledge;
- I have read Part 36 of the Rules of the Chief Judge (22 NYCRR), and the Explanatory Note, attached to this application;
- I have fulfilled the training requirements for each category of appointment for which I am applying (see 7-A of the application) and have retained a certificate of satisfactory completion for each training program I am required to attend, and
- I am QUALIFIED to file this application, because I AM NOT:
 - a. a judge or housing judge of the Unified Court System or a relative of, or related by marriage to, a judge or housing judge of the Unified Court System within the sixth degree of relationship;
 - b. a full-time or part-time employee of the Unified Court System;
 - c. the spouse, brother/sister, parent or child of a full-time or part-time employee of the Unified Court System at or above salary grade JG24, or its equivalent: 1) employed in a judicial district in which I am applying for appointment or 2) with statewide responsibilities;
 - d. a person who currently serves, or has served within the last two years (commencing January 1, 2003), as chair, executive director, or the equivalent, of a state or county political party; the spouse, brother/sister, parent or child of such political party official; or a member, associate, counsel or employee of a law firm or entity with which such political party official is currently associated;
 - e. a former judge or housing judge of the Unified Court System who left office within the last two years (commencing January 1, 2003) and who is applying for appointment within the jurisdiction of prior judicial service, as defined by section 36.2(c)(5) of the Rules of the Chief Judge, or the spouse, brother/sister, parent or child of such former judge;
 - f. an attorney currently disbarred or suspended from the practice of law by any jurisdiction;
 - g. a person convicted of a felony for which no certificate of relief from disabilities has been received;
 - h. a person convicted of a misdemeanor for which sentence was imposed within the last five years and for which no certificate of relief from disabilities, or waiver by the Chief Administrator of the Courts, has been received;
 - i. a person who has been removed from an appointment list of the Chief Administrator of the Courts for unsatisfactory performance or conduct incompatible with appointment.

Quality, Continue

no no Quality, Cancel

APPENDIX B

GFS Website Homepage

GUARDIAN & FIDUCIARY SERVICES

Charles F. Devlin - Director
Marita L. McMahon - Deputy Director
Kerney K. Christian - Office Manager

140 Grand Street - Suite 701
White Plains, NY 10601
Ph 914-682-3210 / Fx 212-457-2608

Welcome to the Online Source for New York State Fiduciaries

Part 36 Online Application *

***This form is NOT compatible with Netscape browsers.
We apologize for the inconvenience.**

Instructions to Amend your Application

Mission Statement

Coordinate education, training and information services for New York Fiduciaries: Guardians, Guardians ad Litem, Law Guardians Court Evaluators, Attorneys for Alleged Incapacitated Persons, Supplemental Needs Trustees, Court Examiners, Receivers and Referees.

Vision Statement

Plan and develop a state wide fiduciary system addressing the challenges of persons in need of protection through interdisciplinary resources administered according to uniform rules of due process.

Documents are in PDF format
[Get Adobe Acrobat Reader](#)



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New: Law Guardian
(privately paid)

New: Law Firm Report of Compensation
(file by Mar. 31, 2004)

New: Referees
(limited to attorneys)

Training Schedules

Part 26 Rules

Part 36 Rules

Part 36 Explanatory Note

Part 36 Changes:
Amendments Highlighted

Article 81 Collected Cases

GAL Manual

Attorney Directory

Bar Associations

Report of the Commission on
Fiduciary Appointments

The Special Inspector
General's Report

APPENDIX C

Privately Paid Law Guardians

**NEW PRIVATELY PAID LAW GUARDIAN APPOINTMENT PROCESS
EFFECTIVE JANUARY 1, 2004**

A new privately paid law guardian appointment process will become effective January 1, 2004, in the three Appellate Division Departments where authorized (First, Second and Fourth). The new process was developed to conform privately paid law guardian appointments with the provisions of Part 36 of the Rules of the Chief Judge. It requires the use of three official forms: an order of appointment, affirmation of services and order approving compensation. The new process maintains prior practice which allowed law guardians to draw down on retainers and pay themselves from billing receipts without further order of the court. It adds a final order of compensation which, in approving the total award for services, could order the parties to pay a net amount due, or direct the law guardian to reimburse the parties for monies collected in excess of the total award.

The Law Guardian Forms are in a PDF "fillable" format, which enables the user to complete the forms on-line by entering requested information in all blank spaces. Adobe Acrobat Reader is required for access to these documents.

- If Adobe Acrobat Reader is not already installed on your computer, click the link on this page and install.
- When installation is finished, return to this page.
- Click on the **Forms Link**; complete the form by tabbing through the blank spaces and entering all requested information.

[Click here for Law Guardian Forms with instructions.](#)



**NEW YORK STATE
UNIFIED COURT SYSTEM**



**FORMS FOR
PRIVATELY PAID LAW GUARDIANS
APPOINTED PURSUANT TO
PART 36 OF THE RULES OF THE CHIEF JUDGE**

Contains:

- Instructions
- Order Appointing Law Guardian - [UCS-880]
- Affirmation of Services for Privately Paid Law Guardian - [UCS-881]
- Order Approving Law Guardian Compensation - [UCS-882]

Rev. 11/2003

INSTRUCTIONS
for
Privately Paid Law Guardians
in the
First, Second and Fourth Departments of the Appellate Division
(Pursuant to Part 36 of the Rules of the Chief Judge)

Appointments of privately paid law guardians pursuant to Part 36 of the Rules of the Chief Judge must use the following procedures and forms :

UCS 880 (Order Appointing Law Guardian)

(Court forwards to law guardian with UCS 872 (Notice of Appointment/Certification of Compliance))

Orders

- amount of retainer, if any
- hourly rate
- percentages paid by parties, subject to reallocation at trial
- billing of parties at least every 60 days
- rights and responsibilities of law guardian
- permission to law guardian for self-payment from retainer or subsequent receipts without further order of court

UCS 881 (Affirmation of Services for Privately Paid Law Guardian)

(Submitted to court by law guardian in support of application for approval of compensation at conclusion of service)

Shows

- hours (supported by attached time records)
- hourly rate (supported by attached copy of appointment order)
- compensation, disbursements and total award requested

UCS 882 (Order Approving Law Guardian Compensation)

(Settled by law guardian on five days notice; supported by affirmation of services; filed by court with UCS 875 (Statement of Approval of Compensation))

Orders

- compensation and disbursements for final award
- percentages and total dollar amounts owed by parties
- credits to parties for amounts paid
- net amounts due to law guardian or reimbursements due to parties
- payment by parties or reimbursement by law guardian

Court: _____
County: _____

X

ORDER APPOINTING
LAW GUARDIAN

Title of Action/Proceeding

INDEX NO. _____ / _____
No. Yr.

X

Name of Judge: _____:

Upon all of the prior proceedings in this action/proceeding, it is

1. ORDERED that the following is appointed Law Guardian:

Name: _____

Address: _____

Phone/FAX: _____ / _____

Email: _____

for the following child(ren) of the parties (*provide name(s) and date(s) of birth of child(ren)*):

_____;

2. ORDERED that upon receipt of this order and UCS 872 (Notice of Appointment and Certification of Compliance), the Law Guardian shall complete, execute and return UCS

872 to the Fiduciary Clerk;

3. ORDERED that within 10 days of service of a copy of this order of appointment the parties shall pay to the Law Guardian a retainer of \$_____ (enter "None" if a retainer is not authorized);

4. ORDERED that no less often than every 60 days from the date of this order of appointment the Law Guardian shall send to counsel for the parties bills for compensation and the reimbursement of disbursements;

5. ORDERED that the Law Guardian shall bill at a rate of compensation of \$_____ per hour;

6. ORDERED that subject to reallocation at trial the retainer and all subsequent compensation, including reimbursement for disbursements, shall be paid to the Law Guardian by the parties according to the following percentages:

Plaintiff _____% Defendant _____%;

7. ORDERED that once the retainer is expended, or where no retainer is authorized, the parties shall pay all bills sent by the Law Guardian within 20 days of the date of the bill;

8. ORDERED that all compensation and reimbursement for disbursements billed by the Law Guardian during the pendency of this action/proceeding shall be approved by the Court in the final order of compensation, which shall be settled by the Law Guardian, on five days notice, at the conclusion of the Law Guardian's service in the action/proceeding, or as otherwise directed by the Court;

9. ORDERED that the final order of compensation shall be supported by the Law Guardian's affirmation of services on a form approved by the Chief Administrator of the Courts;

10. ORDERED that within 10 days of service of a copy of the final order of compensation the Law Guardian shall return to a party any amount paid by that party in excess of his/her share of compensation and reimbursement for disbursements, as approved by the Court in the final order of compensation;

11. ORDERED that

a. counsel for the parties shall immediately contact the Law Guardian to schedule the interview(s) of the child(ren) with the Law Guardian outside the presence of the parties and their counsel;

b. the parties shall make themselves, the child(ren), and anyone living in either party's household, available for interviews with the Law Guardian (counsel for the parties may be present at any interview between the Law Guardian and counsel's client, or the party may, upon written consent of his/her counsel, waive counsel's presence);

c. each party, on written consent of his/her counsel, may schedule interviews with the Law Guardian, with or without his/her counsel present, to discuss all issues relevant to custody and visitation (the sequence and frequency of such interviews shall be at the sole discretion of the Law Guardian);

d. the parties and counsel shall cooperate with the Law Guardian in providing any documents, papers or information requested, including executing releases permitting the Law Guardian to speak with, or receive information from, any mental health professionals, social service workers or agencies, physicians, schools, or other persons or entities having material and necessary information regarding the parties or the child(ren);

e. the parties shall provide reasonable, private and unhampered access by the children to the Law Guardian, including contact in person or by phone, FAX, email or regular mail;

12. ORDERED that the Law Guardian shall make such applications to the court as deemed appropriate, including requests for the appointment of forensic experts to conduct evaluations, the cost of which shall be borne by the parties in the same percentages as have been established for the payment of the Law Guardian's compensation;

13. ORDERED that counsel for the parties shall immediately send the Law Guardian copies of all papers in the action/proceeding, including pleadings, motions and prior orders, and

14. ORDERED that the parties, counsel and the Law Guardian shall appear for conference in this Part at _____ am/pm on _____, 20

DATED:

Judge

Attorney for Plaintiff/Petitioner:

Name: _____
Address: _____

Phone/FAX: _____ / _____
Email: _____

Attorney for Defendant/Respondent:

Name: _____
Address: _____

Phone/FAX: _____ / _____
Email: _____

Court: _____

County: _____

AFFIRMATION OF SERVICES
FOR
PRIVATELY PAID
LAW GUARDIAN

X

Title of Action

COMPENSATION FOR PERIOD:

 / / to / /
Mo Day Yr Mo Day Yr

X

INDEX NO. _____ / _____
No. Yr.

State of New York)
) ss:
County of _____)

_____ affirms under penalties of perjury:
Name of Appointee

1. By order of this Court (Hon. _____), dated _____, 20 ,
I was appointed Law Guardian for the following child(ren) of the parties :¹

Name(s) of child(ren): _____
_____ (11)

2. During my period of service, this action/proceeding was (Choose one by marking "X" in box):

contested OR not contested (12)

¹Text boxes are key-numbered (##) to items on UCS 875 (Statement of Approval of Compensation).

3. The nature of the services provided is evidenced by my time records, attached as Exhibit A, which itemize and total my charges, plus disbursements, and separately itemize and total all payments received from each party;

4. Compensation, excluding disbursements, is requested for:

_____ <i>Number of Hours</i> (14)

a. the hours spent during the current period (see Exhibit A):

b. at the hourly rate of:
(Attach, as Exhibit B, a copy of the order of appointment fixing hourly rate.)

\$ _____ per hour

c. for total compensation² of:

_____ <i>Total Compensation</i> (15)

5. I request reimbursement for disbursements in the amount of: \$ _____.

WHEREFORE, I respectfully request that the Court grant fair and reasonable compensation, plus reimbursement for disbursements, for a total award of: \$ _____.

DATED: _____

Signature: _____

Print Name: _____

Address: _____

Phone/FAX: _____ / _____

Email: _____

²Compensation, *excluding disbursements*, is the amount to be entered in Item 15 of UCS 875 (Statement of Approval of Compensation).

Court: _____
County: _____

X

ORDER APPROVING
LAW GUARDIAN
COMPENSATION

Title of Action/Proceeding

INDEX NO. _____ / _____
No. Yr.

X

Name of Judge: _____:

Upon the order of this Court, dated _____, 20____, appointing as Law
Guardian:

Name: _____

Address: _____

Phone/FAX: _____ / _____

Email: _____

and upon his/her affirmation of services, dated _____, 20____, it is

ORDERED that the Law Guardian's compensation is approved in the amount of
\$ _____, plus disbursements in the amount of \$ _____, for
a total of \$ _____;

ORDERED that the parties shall be liable for the approved compensation and
reimbursement for disbursements in the following percentages:

Plaintiff/Petitioner _____%: for a total of \$ _____,

Defendant/Respondent _____%: for a total of \$ _____;

ORDERED that the foregoing percentages are (Mark "X" in box (a) OR (b))

- a. as established by the order of appointment;
- b. as otherwise determined by the Court;

ORDERED that (Enter "None" if no credit is given.)

- a. Plaintiff/Petitioner is credited \$ _____ for payments made;
- b. Defendant/Respondent is credited \$ _____ for payments made;

ORDERED that within 10 days of service of a copy of this order (Mark "X" in appropriate box(es), and enter dollar amount for item(s) marked.)

- a. Plaintiff/Petitioner shall pay Law Guardian \$ _____
- b. Defendant/Respondent shall pay Law Guardian \$ _____
- c. Law Guardian shall pay Plaintiff/Petitioner \$ _____
- d. Law Guardian shall pay Defendant/Respondent \$ _____

DATED:

Judge

Attorney for Plaintiff/Petitioner:

Attorney for Defendant/Respondent:

Name: _____

Name: _____

Address: _____

Address: _____

Phone/FAX: _____ / _____

Phone/FAX: _____ / _____

Email: _____

Email: _____

APPENDIX D

**Law Form Reporting Form
UCS 876**

**LAW FIRM COMPENSATION REPORT: UCS 876
FILE BY MARCH 31ST**

Pursuant to Part 36 of the Rules of the Chief Judge (22 NYCRR § 36.4 (c)), “[a] law firm whose members, associates and employees have had a total of \$50,000 or more in compensation approved in a single calendar year for appointments made pursuant to this Part shall report such amounts on a form promulgated by the Chief Administrator.”

As required by the Rules, the Chief Administrator has promulgated a law firm reporting form (UCS 876: *Report of Compensation Received by Law Firms for Appointments Pursuant to Part 36 of the Rules of the Chief Judge*) and has directed that the form be filed on or before March 31st following the calendar year reported. (For calendar year 2003, UCS 876 must be filed on or before March 31, 2004.) Filing instructions may be found at the bottom of the form.

The reporting of law firm compensation is for informational purposes only. If the aggregate, annual compensation of all law firm members, associates and employees for Part 36 appointments is \$50,000 or more, no limitation on appointment based upon compensation is created. Limitations on appointment based upon compensation (§ 36.2 (d)(1), (2)) “apply only to the individual appointee, not the firm, and the appointment and compensation of one person in the firm are only considered in certifying the availability of that individual for appointment, and do not affect the availability for appointment of any other person in the firm.” (*Part 36 of the Rules of the Chief Judge: An Explanatory Note* (§6)).

UCS 876 is in a PDF “fillable” format, which enables the user to complete the form on-line by entering requested information in all blank spaces. Adobe Acrobat Reader is required for access to this format.

- If Adobe Acrobat Reader is not already installed on your computer, click the link on this page and install.
- When installation is finished, return to this page.
- Click on the UCS 876 link; complete the form by tabbing through the blank spaces and entering all requested information.

[Click here for UCS- 876 form](#)





REPORT OF COMPENSATION RECEIVED BY LAW FIRMS FOR APPOINTMENTS PURSUANT TO PART 36 OF THE RULES OF THE CHIEF JUDGE (§ 36.4(c))

(Complete if total compensation from appointment of law firm's members, associates and employees pursuant to Part 36 of the Rules of the Chief Judge exceeds \$50,000 in a single calendar year (January 1 to December 31). File by March 31st following the calendar year reported.)

1. Calendar Year Reported:

Year

2. Law Firm Tax ID Number

TID# -

3. Name of Law Firm:

4. Address/Phone/FAX/ E-mail:

Street City/Town/Village State Zip

Phone Fax E-Mail

5. List the names and Fiduciary Identification Numbers of the members, associates and employees of the law firm for whom compensation from appointments has been approved during the calendar year reported, and enter for each the total compensation approved during that year. For a member, associate or employee with no Fiduciary Identification Number (FID#), enter "Non-List" and his/her Social Security Number in space provided for FID#, (attach additional sheets as needed)

CLICK BOX TO ADD ADDITIONAL ITEMS

NAME	FIDUCIARY IDENTIFICATION NUMBER	TOTAL APPROVED COMPENSATION IN CALENDAR YEAR REPORTED
		\$
		\$
		\$
		\$
		\$
		\$
		\$

6. Total of all compensation entered in item 5;

\$

Date: _____

Signature: _____

Print Name: _____

Title: _____

(e.g., managing attorney, member)

APPENDIX E

**Appointment and Compensation Forms
UCS 872, 872.5, 875**



NOA #

Notice of Appointment and Certification of Compliance
(Pursuant to 22 NYCRR § 36.4)

DATE OF APPOINTMENT: _____ / _____ / _____
Month Day Year

Non-List

PART A

Notice of Appointment

1. Appointee's Name and Fiduciary Identification Number:

FID #

Name: _____
First Middle Last Suffix (Jr., Sr., III)

2. Address/Phone/FAX/Email:

Business Name (if any)

Street City/Town/Village State Zip

Phone Fax E-Mail

3. Type of Appointment:

4. Index/File No.:

Number /Year

5. Court:

6. County:

7. Title of Action/Proceeding:

8. Case Type:

9. Appointing Judge:

First Middle Last Suffix (Jr., Sr., III)

INSTRUCTIONS TO APPOINTEE

- Review the information in Items 1 and 2 of Part A (Notice of Appointment) for accuracy; circle errors and enter corrections on form.
- If Fiduciary Identification Number does not appear in Part A, an appointed individual must enter Social Security Number; an appointed entity must enter Tax Identification Number:

SS/TID# - -

(Social Security/Tax Identification Number is required in order to administer the disbursement of moneys that may constitute taxable income. 42 U.S.C. § 405(c)(2)(C)(i). Social Security/Tax Identification Number will not be made public.)

- Appointment WITH compensation: Complete Part B (Certification of Compliance); date and sign Item 3 of Part B.

• Appointment WITHOUT compensation: do NOT complete Part B (Certification of Compliance); date and sign here:

Date
Signature

- Return completed form as soon as possible, but no later than 30 days after appointment, to the Fiduciary Clerk for the court of appointment

IF UNABLE TO ACCEPT APPOINTMENT FOR ANY REASON, NOTIFY FIDUCIARY CLERK IMMEDIATELY.

PART B

Certification of Compliance

1. Appointment in Part A: If the compensation anticipated to be awarded in *any* single calendar year (current or future) is \$15,000 or more, mark "X" in the box in Column E.

A <u>Index/File No.</u> (Number/year)	B <u>Court</u>	C <u>County</u>	D <u>Appointing Judge</u>	E <u>Anticipated Compensation of</u> <u>\$15,000 or more</u>
____/____	_____	_____	_____	<input type="checkbox"/>

2. **Part 36 appointments RECEIVED during CURRENT calendar year:** [REDACTED]

a) Review information for current calendar year appointments provided below from the records of the Office of Court Administration; circle errors and enter corrections on this form. b) In the blank spaces below, provide information for all current calendar year appointments not pre-recorded on this form. c) Mark "X" in the box in Column E for any appointment (including pre-recorded appointments) for which compensation of \$15,000 or more is anticipated to be awarded in *any* single calendar year (current or future). Include compensation already awarded in calculating anticipated compensation for the current calendar year.

A <u>Index/File No.</u> (Number/year)	B <u>Court</u>	C <u>County</u>	D <u>Appointing Judge</u>	E <u>Anticipated Compensation of</u> <u>\$15,000 or more</u>
____/____	_____	_____	Judge _____	<input type="checkbox"/>
____/____	_____	_____	Judge _____	<input type="checkbox"/>
____/____	_____	_____	Judge _____	<input type="checkbox"/>
____/____	_____	_____	Judge _____	<input type="checkbox"/>
____/____	_____	_____	Judge _____	<input type="checkbox"/>
____/____	_____	_____	Judge _____	<input type="checkbox"/>
____/____	_____	_____	Judge _____	<input type="checkbox"/>
____/____	_____	_____	Judge _____	<input type="checkbox"/>
____/____	_____	_____	Judge _____	<input type="checkbox"/>
____/____	_____	_____	Judge _____	<input type="checkbox"/>

3. **Part 36 appointments for which compensation was AWARDED during PRIOR calendar year:** [REDACTED]

a) Review information for prior calendar year compensation provided below from the records of the Office of Court Administration; circle errors and enter corrections on this form. b) In the blank spaces below, provide information for all appointments not pre-recorded on this form for which compensation was awarded during the prior calendar year. c) Total all amounts of compensation entered in Column E (including pre-recorded amounts) in the space provided at the bottom of the column.

A Index/File No. (Number/year)	B Court	C County	D Appointing Judge	E Compensation Awarded
____/____	_____	_____	Judge _____	\$ _____
____/____	_____	_____	Judge _____	\$ _____
____/____	_____	_____	Judge _____	\$ _____
____/____	_____	_____	Judge _____	\$ _____
____/____	_____	_____	Judge _____	\$ _____
____/____	_____	_____	Judge _____	\$ _____
____/____	_____	_____	Judge _____	\$ _____
____/____	_____	_____	Judge _____	\$ _____
____/____	_____	_____	Judge _____	\$ _____

• Total compensation awarded during prior calendar year [REDACTED] from Column E: \$ _____

4. I certify that I am in compliance with sections 36.2(c) and (d) of the Rules of the Chief Judge (22 NYCRR) for the appointment in Part A of this form.

Date: _____ Signature: _____

Fiduciary Clerk should submit all completed statements to: *Appointment Processing Unit, 25 Beaver Street, Room 840, New York, NY 10004*



NOA #

STATEMENT OF REASONS FOR NON-LIST APPOINTMENT (§ 36.2(b)(2))

DATE OF APPOINTMENT: _____ / _____ / _____ <small>Month Day Year</small>
--

1. Appointee's Name:

Name:				Suffix (Sr., Jr., III)
First	Middle	Last		

2. Address/Phone/FAX/Email:

Business Name (if any)

Street	City/Town/Village	State	Zip
--------	-------------------	-------	-----

Phone	Fax	E-Mail
-------	-----	--------

3. Type of Appointment:

4. Index/File No.:

5. Court:

6. County:

7. Title of Action/Proceeding:
Number /Year

8. Case Type:

9. Appointing Judge

First	Middle	Last
-------	--------	------

Suffix (Sr., Jr., III)

[Continue on page 2]

UCS- 872.5 - Effective June 1, 2003

This appointment was not made from a list established by the Chief Administrator of the Courts for the following reasons:

Date: _____

Signature: _____

Print Name of Appointing Judge

File original with Fiduciary Clerk.
Send copy to Chief Administrator of the Courts: *Appointment Processing Unit, 25 Beaver Street, Room 840, New York, NY 10004*



NOA #

STATEMENT OF APPROVAL OF COMPENSATION
(Pursuant to Part 26 of the Rules of the Chief Judge)

DATE OF APPOINTMENT: _____ / _____ / _____
Month Day Year

I 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.
 The appointee is NOT required to file a Notice of Appointment and Certification of Compliance.

Signature: _____
Fiduciary Clerk

1. Appointee's Name and Fiduciary Identification Number:

FID #

Name: _____
First Middle Last Suffix (Sr., Jr., III)

2. Address/Phone/FAX/Email:

Business Name (if any)

Street _____ City/Town/Village _____ State _____ Zip _____

Phone _____ Fax _____ E-Mail _____

3. Type of Appointment:

4. Index/File No.:

Number _____ / Year _____

5. Court:

6. County:

7. Title of Action/Proceeding:

8. Case Type:

9. Appointing Judge:

First _____ Middle _____ Last _____ Suffix (Sr., Jr., III)

To be Completed by the Judge Approving Compensation

(Mark appropriate boxes with "X".)

10. Approving Judge:

First

Middle

Last

Suffix (Sr., Jr., III)

11. The name of the person/entity/property served:

12. The action/proceeding was

contested uncontested.

13. The gross value of the estate of the person/entity/property served or of the interest sought to be obtained, protected or preserved in the action/proceeding:

\$ _____ . _____

14. Appointee provided _____ hours of service.

15. Compensation is awarded in the amount of

\$ _____ . _____

I have approved compensation of \$5,000.00 or more for the following reasons:

16. I certify that the compensation awarded is

a) reasonable for the services rendered

OR

b) fixed by the following statute: _____.

Date of approval: _____

Signature: _____

Fiduciary Clerk should submit all completed statements to: *Appointment Processing Unit, 25 Beaver Street, Room 840, New York, NY 10004*

APPENDIX F

Part 36 Appointment System Training Manual

**PART 36
OF THE RULES OF THE CHIEF JUDGE
FIDUCIARY CLERK APPOINTMENT SYSTEM**

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Part 36 Appointment System - TRAINING MANUAL

Welcome to the Automated Part 36 Fiduciary Clerk Appointment System.

The Fiduciary Clerk's Appointment System has been designed as a useful tool that allows designated Fiduciary Clerks and other authorized UCS support staff to automatically enter and track, in a central secure database, judicial appointment filings as required under Part 36 of the Rules of the Chief Judge.

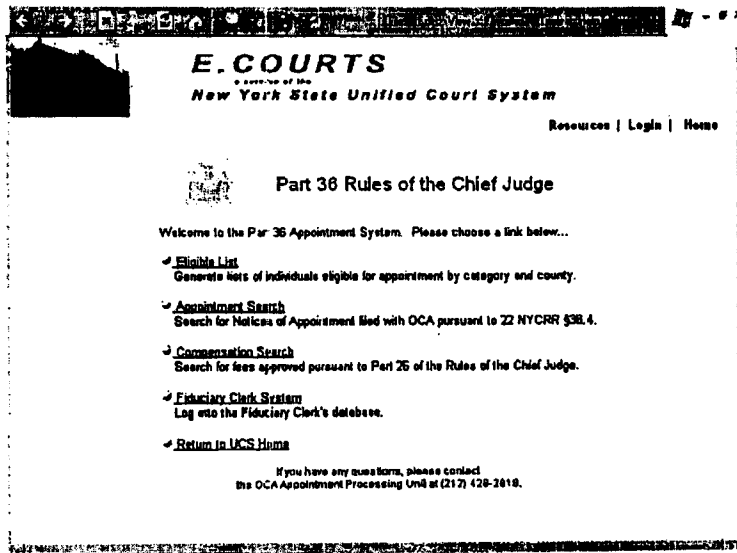
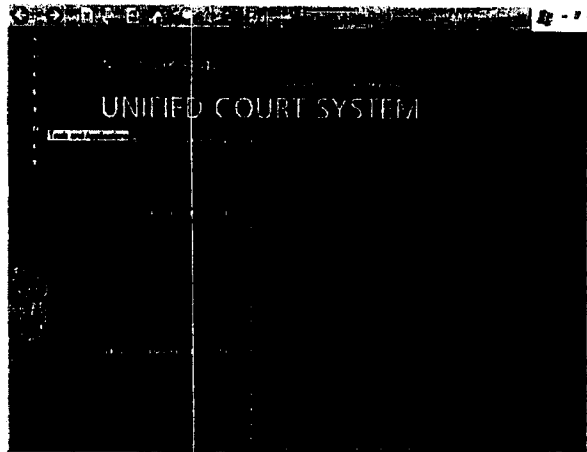
The system provides designated users with options to easily record, search or access the records of appointment filings. The system also includes other helpful resources, including links to Part 36 rules.

Benefits to the Fiduciary Clerk

- The Notice of Appointment form (UCS-872) will be populated with data from the appointee's application on file with OCA. The clerk will only be required to enter the specific case information. This will minimize the amount of information to be entered by the Fiduciary Clerk.
- When a new appointment is entered in the system by a clerk, an NOA# will be assigned by the system for immediate use in tracking the appointment.
- The system compares the appointment category and county entered to the appointee's application on file with OCA to determine for the Fiduciary Clerk whether it is a list or non-list appointment.
- A message is displayed to the Fiduciary Clerk noting why the system has determined the appointment as non-list. At that point, the Clerk has the option to proceed with saving the non-list appointment in the system, or notify the judge as to the fact that this will be considered a non-list appointment. If an order has already been issued by the court, it would be the responsibility of the court to issue an order to vacate the appointment, and possibly make a list appointment.
- Upon saving a new appointment, a success message will display with links to print a pre-filled Notice of Appointment form (UCS-872) to be completed by the appointee. The printed UCS-872 will print any prior appointment already on file for the appointee in the system. If it is a non-list appointment, a link will also display to print a pre-filled Statement of Reason for Non-list Appointment form (UCS-872.5) for completion by the appointing judge.
- The Appointment Log will display all appointment information for that particular NOA# and provide fields for the Fiduciary Clerk to track the dates through the appointment process. This log will identify whether the appointment is on file with OCA and is a list or non-list appointment. The Log also provides the ability to view approved compensation recorded and is able to track multiple compensations for the same appointment. Lastly, the log provides the option to print the required forms.
- The UCS Appointment Log is available accessible from various reports including the search results of Appointments and Compensations a the Fiduciary Clerk can access the log at their convenience.

Fiduciary Clerks who choose not to enter appointments using this new system may continue to submit hard copy forms to OCA and receive an NOA# after the form has been data entered by OCA. Once the form is entered by OCA, these appointments will be accessible in the Appointment Log and will be listed in any reports.

From the UCS Intranet go to TOOLS and then select Part 36/Fiduciary to get to the main screen



From the main Part 36 menu any UCS user can access several areas **without a password**:

- Generate lists of individuals **eligible for appointment**
- Search for **Notices of Appointment** records on file with OCA
- Search for **Approvals of Compensation** records on file with OCA
- View **RESOURCES** which include Part 36 Rules
- **Log-In** for advanced functions

NOTE: The blue seal that is on every page is a link that will bring you to the "Part 36 Appointment System" Home Page.

FIDUCIARY CLERK SYSTEM

The Fiduciary Clerk's Appointment System has been designed as a useful tool that allows designated Fiduciary Clerks and other authorized UCS support staff to automatically enter and track, in a central secure database, judicial appointment filings as required under Part 36 of the Rules of the Chief Judge.

Getting Started: The Fiduciary Clerk will login with their assigned userid and password. If the userid and password are not known, contact the Help Desk 1-800-622-2522. (For users without a password, contact the Appointment Processing Unit or download a security authorization form from the OCA-DoT Security Unit web site.)

E. COURTS
A PART OF THE
New York State Unified Court System

- You are in the test environment -

Fiduciary Login Screen

User ID:

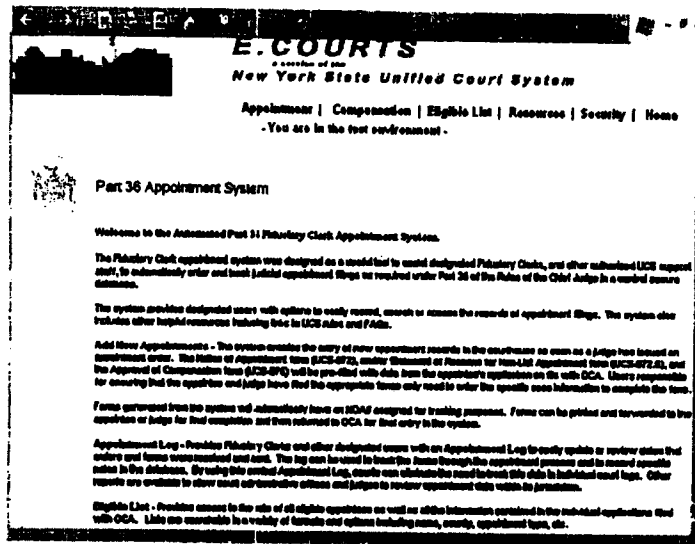
Password:

For instructions to apply for a password allowing access to this system, please contact the Recovery Clerk in your court or circuit. If you have lost or forgotten your password, please contact the OCA Security Unit at 1-800-622-2522. If you have any other questions or concerns regarding this system, please contact the OCA Appointment Unit via email at APPOINT@COMPSYS.STATE.NY.US or by calling 212-436-2576.

PLEASE REMEMBER - passwords provide users with access to areas of the system that contain confidential information regarding applicants. It also will allow access to update and record appointment information. Use of this system is limited to authorized personnel. Passwords will expire every 60 days and you will be required to maintain a current password.

- A valid password must contain the following:
 - one lowercase letter (a-z)
 - one uppercase letter (A-Z)
 - one number (0-9)
 - one special character (#, % or &)
 - one special character (#, % or &)
 - six and ten (6-10) characters

After successfully Log-in: The Fiduciary Clerk Home Page will display.



The menu at the top of this page will be available on all pages. The items available to the Fiduciary Clerks are:

- **APPOINTMENT**
 - Add New
 - Search / Log
 - Delete
- **COMPENSATION**
 - Search / Log
- **ELIGIBLE LIST**
- **RESOURCES**
 - Part 36 Rules
- **SECURITY**
 - Change Password
 - Logout
- **HOME**

SEARCHING THE ELIGIBLE LISTS

Eligible List - Provides access to the lists of all eligible appointees as well as all the information contained in the individual applications filed with OCA. Lists are searchable in a variety of formats and options including name, county or appointment type.

UCS users who do not have password access are required to search by **both an appointment type and county of eligibility**. With a password, Clerks and Judges are able to search with as little as one search criteria. The search criteria used will be displayed at the top of results page.

IMPORTANT: Always remember to click on Fiduciary ID on the results page to verify category and county of eligibility, and to view appointee's detailed qualifications.

The screenshot shows the E. COURTS website interface. At the top, it says "E. COURTS" and "a service of the New York State Unified Court System". Below that are navigation links: "Appointment | Compensation | Eligible List | Resources | Security | Home". A message reads "- You are in the test environment -". The main heading is "Part 36 Eligibility Search" with the instruction "Enter search criteria below". The form contains several input fields: "Last Name", "First Name", "MI", "Category of Appointment", "Appointment County", "District", "Foreign Languages Spoken", "Professions Other Than Attorney", "Academic Degrees", "Areas of Special Interest", "Appointment Experience", "Fiduciary ID", and "Choose Field to Display". There are also three buttons at the bottom of the form.

Searches can be conducted using many search criteria including:

Name of the appointee, Category, County, Foreign Languages Spoken, Professions Other Than Attorney
Academic Degrees.

Reports can be run to display additional fields, including:

Counties of eligibility, degrees, languages, professions, areas of specialization and categories of eligibility.

SEARCH RESULTS -

The search results will provide a list of individuals listed as eligible to serve pursuant to Part 36.

IMPORTANT

- **RESULTS MAY BE DIFFERENT EVERY DAY** - Names are added and removed on a daily basis; appointee eligibility may expire on a daily basis.
- **VERIFY CATEGORY AND COUNTY OF ELIGIBILITY** - if a search is not done by category of appointment and county of eligibility, then be sure to click on Fiduciary ID (FID#) to verify category and county of eligibility

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

Appointment | Compensation | Eligible List | Resources | Security | Home

Search Results - Part 36 Eligibility
Important: Please click on Fiduciary ID to verify category and county of eligibility, and appointee's detailed qualifications.

Search Criteria
Category of Appointment: GUARDIAN
Appointment County: BROOME

Total number of records found: 2

Fiduciary ID Name	Address	Total Fees Approved
155438 ENGLISH, SUSAN L.	COUGHLIN & GERHART, LLP 20 HAWLEY ST P.O. BOX 1028 BINGHAMTON, NY 13902 (607)723-9511	2042
117387 FOGARTY, DOLORES G.	DOLORES G. FOGARTY, ATTORNEY AT LAW (SELF) 183 MAIN STREET, P.O. B 727 UMADILLA, NY 13949 (607)366-2088	

Printing Instructions: Select the *Print* from the browser File menu

- Search Results will provide the following information:
 - Appointee FID#
 - Full Name
 - Address and phone number
 - Total fees approved on file with OCA in current and (beginning 1/1/04) prior calendar year

IMPORTANT: Please click on Fiduciary ID (FID#) to verify category and county of eligibility, and appointee's detailed qualifications. This will provide you with additional information including an applicant's summary sheet and links to the full application and any attachments provided by the applicant.

CONFIDENTIALITY NOTICE: The application and attachments may contain confidential information regarding an applicant. Use of these areas is restricted to authorized personnel and may only be used to assist the appointing judge in appraising the background of eligible appointees pursuant to Part 36.3.

APPOINTMENT -

The Appointment menu contains the following options:

Add New - The system enables an authorized user to enter a new appointment record as soon as a judge has issued an appointment order. The Notice of Appointment form (UCS-872), and/or Statement of Reasons for Non-List Appointment form (UCS-872.5), and the Approval of Compensation form (UCS-875) will be pre-filled with data from the appointee's application on file with OCA. Users responsible for ensuring that the appointee and judge have filed the appropriate forms only need to enter the specific case information to complete the form.

Forms generated from the system will automatically have an NOA# assigned for tracking purposes. Forms can be printed and forwarded to the appointee or judge for final completion and then returned to OCA for final entry in the system.

Search/Log - Provides Fiduciary Clerks and other designated users with an Appointment Log to easily update or review dates that orders and forms were received and sent. The log can be used to track the forms through the appointment process and to record specific notes in the database. By using this central Appointment Log, courts can eliminate the need to track this data in individual court logs.

This option gives the Fiduciary Clerk the ability to search for all appointments in numerous formats, including appointee name, county or court. The log will also allow access to reprint the UCS-872, UCS-872.5 and the UCS-875 forms.

This search can also be utilized by court administrative offices and judges to review appointment data within its jurisdiction

Delete - Provides a way for authorized users to delete a recorded appointment. The deletion may only be made by the user that entered the original appointment within 24 hours of entry. Any other deletions that are required after 24 hours of entry, must be done by the OCA Appointment Processing Unit upon written request from the original user.

The screenshot shows the header for the E-COURTS New York State Unified Court System. Below the header, there are navigation links: Appointment, Compensation, Eligible List, Resources, Security, Home, Add New, Search/Log, and Date. The main title is "Part 36 Appointment System". Below the title, there is a welcome message and several paragraphs of text explaining the system's purpose and how to use it. The text includes instructions on how to add new appointments, search for appointments, and delete appointments. It also mentions that forms generated from the system will automatically have an NOA# assigned for tracking purposes.

APPOINTMENT - SEARCH/LOG

Users can search using the following criteria:

- Appointee Name - First, Middle or Last
- Appointing Judge Name - First, Middle or Last
- Appointment Type
- Court Type
- County
- District
- NOA#
- Index#
- FID#
- Appointment Date Range

The screenshot shows the 'E. COURTS' web application interface. At the top, it says 'E. COURTS' and 'a part of the New York State Unified Court System'. Below that are navigation links: 'Appointment | Compensation | Eligible List | Resources | Security | Home'. A message reads '- You are in the test environment.' The main heading is 'Part 36 Appointment Search' with the instruction 'Enter exact letters for Appointments'. The form contains several input fields: 'Appointee Last Name', 'Appointing Judge Last Name', 'Appointment Type', 'NOA #', 'Appointment Date Range (month)', 'First Name', 'Last Name', 'Index #', 'Court Type', 'County', 'District', 'Fiduciary ID', 'Sort By' (with a dropdown menu), and 'Display' (with a dropdown menu). At the bottom right, there are buttons for 'File Info', 'Log Info', 'Recorded with OCA', and 'Not Recorded with OCA'.

- **One of the following fields must be filled in to do a search**
 - Appointee Last Name
 - Judge Last Name
 - Appointment Court Type and County
 - NOA #
 - Index #
 - Fiduciary Id
- **Other requirements**
 - A District and a county cannot be searched at the same time
 - At least two letters for last name & judge's last name must be entered

Sort Options - results can be sorted by Appointee, Judge, Appointment Date, Court Type, County or District

Display Options - Resulting report can display various information including:

- Fees on file associated with the appointment
- Log dates as recorded by Fiduciary Clerk
- NOA# recorded by OCA
- NOA# not on file yet with OCA

APPOINTMENT - SEARCH/LOG - RESULTS

The results will list all appointments that match the selected criteria. The link on the NOA# will display the log for that particular appointment.

- Non-List appointments are displayed with *
- Appointments made prior to 6/1/2003 will be marked with a ~
- The NOA# will be displayed in parentheses (000000) for any UCS-872 not on file with OCA.

Click the NOA# link to display the appointment log for that NOA#.

Part 36 Appointment Search Results
Click the NOA # to update Appointment Log

Search Criteria
Appointment From Date: 12/24/2002
Appointment To Date: 11/11/2003
Appointment Type: GUARDIAN AD LITEM
Court Type: SUPREME COURT
County: ALBANY
Order By: APPOINTMENT DATE
Display: LOG INFO

Search Key
~ Non-List
~ Appointments prior to 06/01/2003
(000000) UCS-872 not on file with OCA

Total number of records found: 3

FD #	Appointee Appointment Date	Action or Proceeding Appointment Type	Judge NOA #	Index/File No County/Court
872 to Appointee 30 day Reminder		2nd Reminder	872 Received	872 to OCA
	OLEARY, WILLIAM V. ~ 02/16/2003	SIBLIRON CLOW V PEREYRA guardian ad litem	MCHAMARA, T. 730224586	3283-01 Albany Supreme
120361	CHRISTENSON, TERRANCE P. 06/17/2003	MORTGAGE ELECTRONIC REGISTRA guardian ad litem	CANREZZARO, J. 730224586	1146 / 02 Albany Supreme
176386	CLARKE, JOHN P. * 08/09/2003	ALSO-PLA guardian ad litem	AFIRBEFA, D. (730224586)	09/01 / 2003 Albany Supreme

Printing Instructions: Select the Print from the browser File menu

Selecting Different Display Options - Resulting report can display various information including:

1. Fees on file associated with the appointment
2. Log dates as recorded by Fiduciary Clerk
3. NOA# recorded by OCA
4. NOA# not on file yet with OCA

APPOINTMENT - ADD NEW

- To Add a New Appointment - Select **Add New** from the Appointment menu
 - Users are given two search options:
 - by Name of Appointee - First, Middle or Last
 - by Fiduciary Id (FID#)

Search by Name or FID#

- Enter the name of the appointee or any part of the appointee name
(Example: Kevin H. Cohen)
- OR -
- Enter the Fiduciary Id - *(Note: to verify FID# you may need to search **Eligible List**)*
(Example: 100452)

Click **Search**

The format of the **Search Results** will be the same for both types of searches.

The screenshot shows a web browser window displaying the E. COURTS website. The header includes the logo and navigation links: Appointment | Compensation | Eligible List | Resources | Security | Home. Below the header, there is a message: "You are in the test environment." The main content area is titled "Selected Appointee Search" with a sub-header "Search by Name or Fiduciary Id...". The search form consists of three input fields for "Last Name", "First Name", and "Middle Name", and a single input field for "Fiduciary Id". There are three buttons below the form, likely for "Search", "Clear", and "Cancel".

After pressing **SEARCH** an Appointee Search Results will be returned - (continue on next page)

APPOINTMENT - ADD NEW (CONTINUED) - APPOINTEE SEARCH RESULTS

- If the name of the appointee is displayed in the results, **ALWAYS** select the Fiduciary Id link; even if it is a non-list appointment for this individual.
- Select the **Proceed with non-list appointment** button **ONLY** if you cannot find the name of the appointee.

Note: A UCS-872.5 form is required for non-list appointments. If the 872.5 is not submitted to OCA with the 872, then the NOA# will remain noted as not received by OCA until the UCS-872.5 is received.

IF THE PERSON HAS AN FID# THE SYSTEM WILL DETERMINE IF IT IS A LIST OR NON-LIST APPOINTMENT.

E. COURTS

Appointment | Compensation | Eligible List | Resources | Security | Home

You are in the test environment.

Appointee Search Results

Click the Fiduciary ID to add a new appointment record.

Fiduciary ID	Name	Address	Phone
12186Z	SMITH, PETER KARL	GLOVERSVILLE, NY	518-726-7186
12208R	SMITH, DAVID ALEXANDER	GARDEN CITY, NY	516-394-7301
12208R	SMITH, DAVID S.	BUFFALO, NY	(716)898-8784
12208R	SMITH, DONALD ARTHUR WILSON	ROCHESTER, NY	585-454-7888
12222L	SMITH, LEONARD WILLIAM	NORWICH, NY	607-331-6828
12222L	SMITH, MARY REB	SYRACUSE, NY	(315)463-3888
12222L	SMITH, STEVEN ALLAN	URCA, NY	(315)734-1630
12222L	SMITH, WYVNE P	SCHENECTADY, NY	518-383-1871

If the appointee you are searching for is not displayed in the results above, click the link below.

Proceed with Non-List Appointment

Note: If an individual has a FID# the following criteria are used to determine eligibility for list appointment

- If the person is on the eligible list, but did not apply for the appointment category for which they are being appointed, the user will be given the option at the time the form is saved to create a non-list appointment.
- If the person is on the eligible list, but did not apply to serve in the county for which they are being appointed, the user will be given the option at the time the form is saved to create a non-list appointment.
- If the appointment is for law guardian (privately paid) or court examiner and the person is on the eligible list, for one of these appointment categories, but the Appellate Department did not approve the person for this category or county, then the user will be given the option at the time the form is saved to create a non-list appointment.

After pressing FID#, or if a person is not found and you press **Proceed with Non-List Appointment**, a Notice of Appointment will follow for completion - (continue on next page)

COMPLETING THE NOTICE OF APPOINTMENT AND CERTIFICATION OF COMPLIANCE (Pursuant to 22 NYCRR § 36.4) - With FID#

Help The UCS-872 contains a Help option to guide the user in completing the appointment form.

Required Fields:

1. Date of Appointment - MM/DD/YYYY
2. Appointee Information - FID#, Name and Address will automatically be filled by the system - **Name or Address Changes on UCS-872**
If the appointee changes their name or address on the UCS-872, it will be ignored by OCA data entry. Name and address changes can only be made if submitted on a receipt or amendment to an application. Have Appointee contact OCA Appointment Processing Unit for help - 212-428-2818
3. Type of Appointment - Pull-down Menu
4. Index / File No. - Number / Year
5. Court - Pull-down Menu
6. County - Pull-down Menu
7. Title Action of Proceeding - Pull-down Menu for type and court fills in the remainder of the title
8. Case Type - Pull-down Menu
9. Appointing Judge - First and Last Name Required

UPON COMPLETING ALL REQUIRED FIELDS:

- Press **VIEW** to review entries before **Saving**
- Press **SAVE** to continue
- Press **RESET** or **CANCEL** only to start over

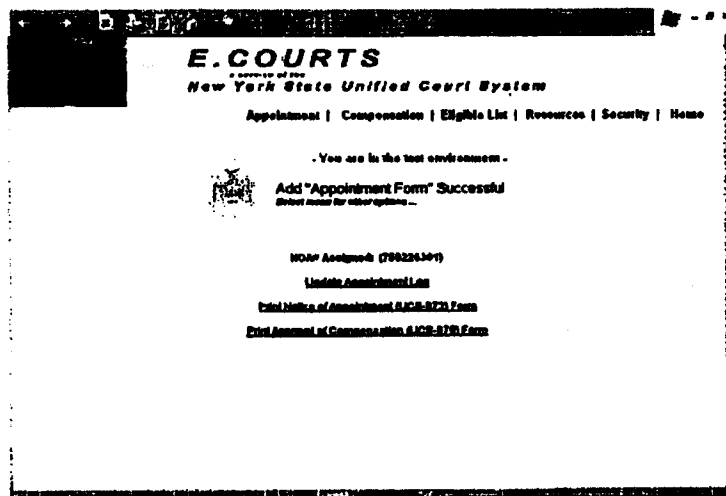
SUCCESS PAGE - LIST APPOINTMENT

Saving the Notice of Appointment and Certification of Compliance

- **Generating a UCS-872 for List Appointment**

A **SUCCESS PAGE** will be displayed once the form has been saved. A new appointment record is created at this time.

The user will have the option to print the UCS-872. The assigned NOA# will be displayed on the success page and will be printed on the UCS-872. This form can also be printed from the Appointment Log.



- Print UCS-872 for appointee to sign and return to court. **NOTE: Section B & C will be completed. If changes - other than to name and address info of the appointee - need to be made, then they can be made in ink and subsequently entered by OCA when form is submitted.**
- Update Log Info as needed
- Submit signed UCS-872 to OCA when returned to court by appointee
- OCA will enter the appointee's signature date. Once this date is entered, the Fiduciary Clerk will see in the Appointment Log that this appointment is on file with OCA.

SUCCESS PAGE - NON-LIST APPOINTMENT

- If the System determines that the appointment was for a **Non-List Appointment**
- The reason(s) for this determination will display after the **SAVE** button has been selected
- The user will be given an option to continue with the creation of a non-list record or to cancel the process

A non-list determination is made for one of the following reasons:

- application not on file
- application on file is ineligible
- application on file does not include appointment type
- application on file does not include county
- application on file is awaiting approval from, or was denied by, the Appellate Division
- application on file does not include county and is waiting for Appellate Department approval

If the process is continued, the assigned NOA# will be displayed on a success page. The user will have the option to print the UCS-872 and the UCS-872.5. These forms can also be printed from the Appointment Log.

If the user cancels the process at this point, they may need to notify the judge that the system has indicated that this appointment will be recorded as a non-list, and that a Statement of Reasons will also need to be completed by the court.

The screenshot shows a web browser window with the title "E. COURTS" and subtitle "New York State Unified Court System". The navigation menu includes "Appointment", "Companion", "Eligible List", "Resources", "Security", and "Home". The main content area displays a "Non-List Appointment Confirmation" message, stating that the submitted appointment will be saved as a non-list. Below this, it lists reasons for the non-list status: "This applicant has not selected for the 'Appointment Type' listed on the Appointment Form" and "This applicant has not applied for the 'County' listed on the Appointment Form".

- Print UCS-872 for appointee to sign and return to court - **NOTE: Section B & C will be completed**
- Print UCS-872.5 for Judge to complete
- If the UCS-872.5 is not attached to the UCS-872 when returned to OCA, data entry will not be able to enter the form. OCA will return any 872.5 forms that do not accompany UCS 872. This will continue to show as not received by OCA until the UCS-872.5 is received.
- Update Log Info as needed
- Fiduciary Clerk - Submit signed UCS-872 to OCA when the Appointee signs the UCS-872; the Fiduciary Clerk will submit the form to OCA together with UCS-872.5
- OCA will enter the appointee's signature date. Once this date is entered, the Fiduciary Clerk will see in the Appointment Log that this appointment is on file with OCA.

COMPLETING THE NOTICE OF APPOINTMENT AND CERTIFICATION OF COMPLIANCE (Pursuant to 22 NYCRR § 36.4) - With NO FID#

Where the person appointed by the court has NO FID# on file with OCA, does not appear on any eligible list, and a NOA forms are required to be filed pursuant to Part 36

- Select **Add New** from the Appointment menu

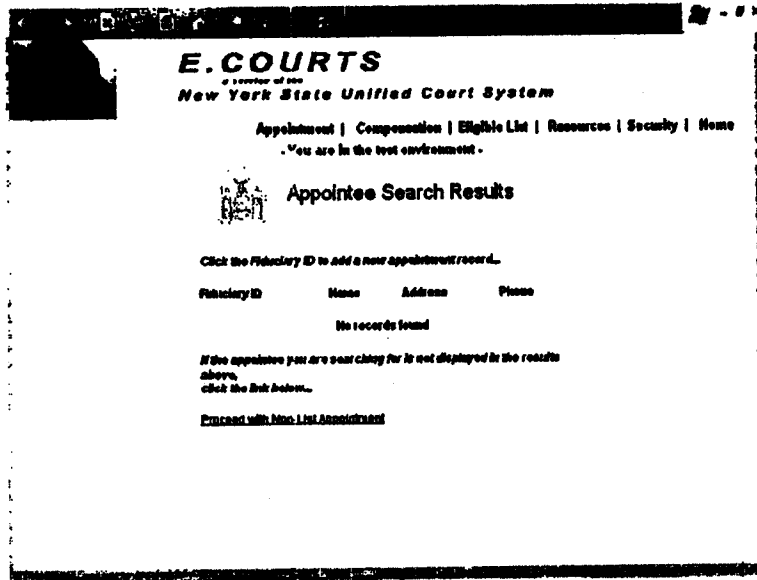
Search by Name or FID#

- Enter the name of the appointee or any part of the appointee name
(Example: Prince Charles)

Click **Search**

The format of the Search Results will return the following:

- Click **Proceed with Non-List Appointment** to continue



COMPLETING THE NOTICE OF APPOINTMENT AND CERTIFICATION OF COMPLIANCE (Pursuant to 22 NYCRR § 36.4) - With NO FID#

Help The UCS-872 contains a Help option to give the user more information for completing the appointment form.

Required Fields:

1. Date of Appointment - MM/DD/YYYY
2. Appointee Information - *Must fill in Appointee Name and Address Information*
3. Type of Appointment - Pull-down Menu
4. Index / File No. - Number / Year
5. Court - Pull-down Menu
6. County - Pull-down Menu
7. Title Action of Proceeding - Pull-down Menu for type and court fills in the remainder of the title
8. Case Type - Pull-down Menu
9. Appointing Judge - First and Last Name Required

The screenshot shows the UCS-872 application window. The title bar reads 'UCS-872 - You are in the test environment'. The main window title is 'NOTICE OF APPOINTMENT AND CERTIFICATION OF COMPLIANCE (PURSUANT TO 22 NYCRR § 36.4)'. Below the title, there is a 'DATE OF APPOINTMENT' field. The form is divided into two main sections: 'PART A NOTICE OF APPOINTMENT' and 'PART B NOTICE OF APPOINTMENT'. Section A includes fields for '1. APPOINTEE'S NAME AND PRIMARY IDENTIFICATION NUMBER' with sub-fields for 'FIRST', 'MIDDLE', and 'LAST'. Section B includes fields for '2. APPOINTEE'S ADDRESS' with sub-fields for 'STREET 1', 'CITY/TOWN/VILLAGE', 'STREET 2', and 'COUNTY'. Other sections include '3. TYPE OF APPOINTMENT', '4. INDEX/FILE NO.' (with 'INDEX' and 'YEAR' sub-fields), '5. COURT', '6. COUNTY', '7. TITLE OF ACTION/PROCEEDING', '8. CASE TYPE', and '9. APPOINTING JUDGE' (with 'FIRST', 'LAST', and 'TITLE (e.g., J. JR.)' sub-fields). At the bottom, there are buttons for 'VIEW', 'SAVE', 'RESET', and 'CANCEL'.

Upon completing all required fields:

- Press **VIEW** to review entries before Saving
- Press **SAVE** to continue
- Press **RESET** or **CANCEL** only to start over

SUCCESS PAGE - NON-LIST APPOINTMENT - WITH NO FID#

• Proceed or Cancel

E. COURTS
New York State Unified Court System

Appointment | Compensation | Eligible List | Resources | Security | Home
- You are in the test environment -

Non-List Appointment Confirmation
The appointment was successful as noted in Non-List Confirmation?

This appointment will be saved as a Non-List Appointment due to the following reasons:

- There is NOT an exception on file for the appointee

If you PROCEED - a SUCCESS PAGE listing the NOA#, and links to the LOG and FORMS will appear.
IMPORTANT: UCS-872 and UCS 872.5 must both be completed for Non-List Appointment

- Print UCS-872 for appointee to sign and return to court
- Print UCS-872.5 for Judge to complete
- If the UCS-872.5 is not attached to the UCS-872 when returned to OCA, data entry will not be able to enter the form. OCA will return any 872.5 forms that do not accompany UCS 872, with few exceptions. This will continue to show as not received by OCA until the UCS-872.5 is received.
- Update Log Info as needed
- Fiduciary Clerk to submit signed UCS-872 to OCA when the Appointee signs the UCS-872, together with UCS-872.5 completed by the judge
- OCA will enter the appointee's signature date. Once this date is entered, the Fiduciary Clerk will see in the Appointment Log that this appointment is on file with OCA

E. COURTS
New York State Unified Court System

Appointment | Compensation | Eligible List | Resources | Security | Home
- You are in the test environment -

Add "Appointment Form" Successful
Select menu for other actions

NOA# Assigned: 479428792

Update Appointment Log

Print Notice of Appointment UCS-872 Form

Print Statement of Reasons for Non-List UCS-872.5 Form

Print Appointment Confirmation UCS-872.5 Form

APPOINTMENT LOG

- Provides Fiduciary Clerks and other designated users with an Appointment Log to easily update or review dates that orders and forms were received and sent.
- The log can be used to track the forms through the appointment process and to record specific notes in the database.
- By using this central Appointment Log, courts can eliminate the need to track this data in individual court logs.
- Other reports are available to allow court administrative offices and judges to review appointment data within its jurisdiction.

IMPORTANT - Whenever entering new log info always press SAVE to ensure entry is made -

E. COURTS

Part of the
New York State Unified Court System

Appointment | Compensation | Eligible List | Resources | Security | Home
- You are in the test environment -

Appointment Log - NOA # (750226302)

Add / Edit Information (Last Modified By: clerkuser)

UCS-872
(Not on file with OCA)

APPOINTEE NAME: PRICE CHARLES FIDUCIARY ID: NONE Case/FILE No: 12345 / 2003 Date of Appointment: 11/24/2003

APPOINTMENT TYPE: RECEIVER PROCESSING TYPE: ACCT PRICE WILLIAM COUNTY: CLINTON COURT: SURROGATE'S

CASE TYPE: SURROGATE'S PROCEEDINGS - PROBATE Appointing JUDGE: JUDGE JUDY BY: MARIANNE

SIGNATURE DATE (LAST RECEIVED):

ORDER FROM JUDGE <input type="text"/>	872 TO APPOINTEE <input type="text"/>	30 DAY REMINDER TO APPOINTEE <input type="text"/>	
2nd REMINDER TO APPOINTEE <input type="text"/>	872 RECEIVED <input type="text"/>	872 TO OCA <input type="text"/>	
872.5 TO JUDGE <input type="text"/>	872.5 REMINDER TO JUDGE <input type="text"/>	872.5 FROM JUDGE <input type="text"/>	872.5 TO OCA <input type="text"/>

NOTES

Print/View 872 Form
Print/View 872.5 Form

UCS-875
(*Only send 875 if 872 and/or 872.5 have been sent to OCA, except if an exempt category awarded more than \$500)

- No Records Found -

ADD NEW UCS-875 LOG INFO

875 TO JUDGE <input type="text"/>	875 FROM JUDGE <input type="text"/>	875 TO OCA <input type="text"/>	APPROVAL DATE <input type="text"/>
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NOTES

Print New 875 Form

APPOINTMENT LOG - (CONTINUED)

The appointment log gives the Fiduciary Clerk the ability to track appointments in the OCA database

- Case specific information will be listed
- **NOA#** - Numbers in parentheses mean form with signature certification is not yet on file with OCA
- When forms are on file, the date signed will be indicated in the log
- Link available to reprint forms
- Fields available to track dates that appointments ordered and dates forms were sent and received
- When compensation is recorded fee data will be listed, as well as date approved

Non-List Appointment

If the appointment created is a non-list appointment, the non-list box will be checked. *The check mark cannot be removed.*

Not on File with OCA

Any appointment displayed with the NOA# in parentheses. Example: (750225667) indicates the appointment is not yet on file with OCA. In addition, the signature date will be blank.

On File with OCA

If the NOA# is displayed without parentheses, Example: 750225668, then the appointment is on file with OCA. In addition, the signature date entered by OCA will be displayed.

Compensated and Uncompensated Appointments

Once the UCS-872 is recorded by OCA, an Appointment with Compensation field will display. If the appointee signed the UCS-872 as Appointment WITHOUT compensation, then the log will display as Appointment with Compensation - No.

If the appointee completed and signed Part B of the UCS-872, then the field will display as Appointment with Compensation - Yes. And an option to print and track a UCS-875 will display.

The type of compensation cannot be changed in the log. If this information is incorrect, contact OCA.

If this is an uncompensated appointment, the UCS-875 tracking fields and option to print UCS-875 will not be available.

Last Modified

The User ID of the last clerkuser that modified the Appointment Log will display next to the Add/Edit Information below the NOA#

Track UCS-872

- All fields, with the exception of Notes, require a date to be entered in the format of mm/dd/yyyy.
- A note containing up to 200 characters can be entered.

Track UCS-875

- All fields, with the exception of Notes, require a date to be entered in the format of mm/dd/yyyy.
- A note containing up to 200 characters can be entered.
- The approval of compensation data will display after the UCS-875 is on file with OCA.

Adding information for multiple compensations

- You must first save the log information entered for the first compensation.
- Select Search/Log from the Appointment menu.
- Enter search criteria to return to the log.
- A new UCS-875 log will display. The log information entered for any prior compensations will be updatable.

Printing UCS-872 OR UCS-872.5

The Notice of Appointment (UCS-872) form will print in format populated with the data entered from the appointee's application and from case data entered by the clerk. A link to print a Statement of Reasons for Non-list Appointment (UCS-872.5) will only display for entries that the system determines are non-list appointments. When the signed UCS-872 and/or UCS-872.5 have been returned and recorded by OCA as on file, the links to these forms will not appear and indication that form is on file, with the date signed, will appear.

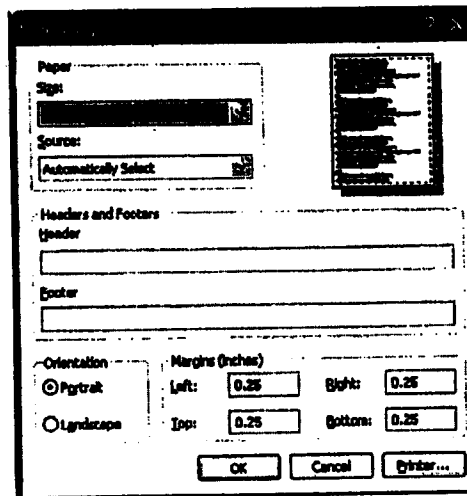
Printing UCS-875

The UCS-875 will print in a form format populated with the data entered on the UCS-872. If needed, the fields that need to be completed by the Judge can be filled out on-line. The final form can be printed and submitted for the Judge's approval signature.

IMPORTANT: Prior to returning approved form to OCA record judge's approval date in Appointment Log.

Printing Instructions

- Adjust the margins by selecting Page Setup from the browser File menu. Change all margins to .25 as displayed below:
- Select the Print from the browser File menu.



COMPENSATION - SEARCH / LOG

Allows a search to be conducted of appointment fee data collected from the Statement of Approval of Compensation (UCS-875) forms as recorded by OCA, pursuant to Part 26 of the Rules of the Chief Judge.

COMPENSATION - SEARCH / LOG

Users can search using the following criteria:

- Appointee Name - First, Middle or Last
- Appointing Judge Name - First, Middle or Last
- Approving Judge Name - First, Middle or Last
- Appointment Type
- Court Type
- County
- NOA#
- Index#
- FID#
- Appointment Date Range
- Approval Date Range
- Fee Amount
- Gross Amount

Part 36 Compensation Search
Enter search criteria for Compensations

Appointment | Compensation | Eligible List | Resources | Security | Home
- You are in the test environment -

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 (mm/dd/yyyy) Approval Date Range (mm/dd/yyyy)
From To From To
Fee Amount Gross Amount NOA # Index Number
Appointment Date
Approval Date
County
Fee Amount
Gross Amount
Appointee

COMPENSATION - SEARCH / LOG - (Continued)

Sort Options - results can be sorted by:

- **Appointee**
- **Appointment Date**
- **Approval Date**
- **County**
- **Fee Amount**
- **Gross Amount**

1. One of the following fields must be filled in to do a search...

Last Name
Appointing Judge Last Name
Approving Judge Last Name
Appointment Category and County
NOA #
Index #
Fiduciary Id (FID#)

2. Other requirements....

At least two letters for last name & judges' last name must be entered
Both the from and to date must be filled in on Appointment Date ranges
Both the from and to date must be filled in on Approval Date ranges

- Press **RESET** to clear entry
- Press **CANCEL** to return to Main Menu
- Press **SEARCH** to get results

COMPENSATION - SEARCH / LOG - SEARCH RESULTS

The results will list all approval of compensation records on file with OCA that match the selected criteria. The link on the Approval Date will display the Appointment Log for that particular appointment.

- Non-List appointments are displayed with *
- Appointments made prior to 6/1/2003 will be marked with a ~

Appointment | Compensation | Eligible List | Resources | Security | Home
 - You are in the test environment -

Part 36 - Fees Approved

(Pursuant to Part 26 of the Rules of the Chief Judge)
 Click the Approval Date to update Compensation Log

Search Criteria
 Court Type: SURROGATE'S COURT
 County: ALBANY
 Approval From Date: 6/1/2003
 Approval To Date: 6/1/2004
 Order By: APPOINTEE

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

Total number of records found: 14

FID #	Appointee Appointment Date	Action or Proceeding Appointment Type	Appointing Judge NOA #	Approving Judge Approval Date	Gross Value Approved Fee	Index/File No County/Court
	AYERS, JAMES S. ~ 01/14/2003	REFORM TRUST BELTRONE guardian of Son	Dayle, C. 73022707	Dayle, C. 04/20/03	\$80,000.00 \$1,407.00	01774 Albany Surrogate's
	CALDERON, FRANCISCO ~ 03/26/2003	BO ROBERT S. FALEY guardian of Son	Dayle, C. 73022300	Dayle, C. 04/21/2003	\$200,000.00 \$1,300.00	02204 Albany Surrogate's
	CALDERON, FRANCISCO ~ 03/04/2003	BO EDWARDS H BLUDERLI guardian of Son	Dayle, C. 73022300	Dayle, C. 04/21/2003	\$100,000.00 \$600.00	02190 Albany Surrogate's

Printing Instructions: Select the Print from the browser File menu

- Search Results will provide the following information:

FID #
 Appointee
 Action or Proceeding
 Appointing Judge
 Approving Judge
 Gross Value
 Index/File No
 Appointment Date
 Appointment Type
 NOA #
 Approval Date
 Approved Fee
 County/Court

OTHER OPTIONS

- **Resources** menu provides various links to helpful information regarding this new system
All Court Rules relating to **Part 36** are available here
- **Security** menu gives the option to change your password and to logout.
- **Home** will display the Fiduciary Home page. The Fiduciary Home Page is the view Judges have when they login.

If you have any comments, suggestions or problems relating to the system please contact:

OCA Appointment Processing Unit - 212-428-2818

Part36@courts.state.ny.us

APPENDIX G

Part 36 Appointment System Public Access Page

PART 36 OF THE RULES OF THE CHIEF JUDGE

Welcome to the NYS Unified Court System's Part 36 Appointment System web page. As a public service, the NYS Unified Court System is making available the public information included in its Part 36 databases on the internet.* Please click on the category you would like to search.

● Eligible Lists

Individuals eligible for appointment by category/county **

● Notices of Appointment

Filed with the Office of Court Administration pursuant to 22 NYCRR §36.4 ***

● Approved Compensation

Fees approved pursuant to Part 26 of the Rules of the Chief Judge ***

● Return to Guardian and Fiduciary Services home page

* This availability also fulfills the obligation of the Chief Administrator to publish the names of all persons and entities appointed by each appointing judge, and the compensation approved for each appointee pursuant to Section 36.5 of the Rules of the Chief Judge.

** The names appearing on these lists have been generated from the applications filed by these individuals. Every effort has been made to ensure the information contained on this site is accurate and up-to-date, but if you believe an error is reflected in the data displayed, please feel free to contact the Appointment Processing Unit at Part36@courts.state.ny.us.

*** Notices of Appointment and Statements of Approval of Compensation are filed with the Office of Court Administration by the courts in which the appointments have been made and/or compensation has been approved. Accordingly, certain approved transactions may not yet be recorded in this database.