



# Berrien County Trial Court

Paul L. Maloney, Chief Judge  
Brian E. Ray, Administrator  
County Courthouse, 811 Port Street, St. Joseph, MI 49085

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## Administrative Order 2003-03

### APPOINTMENT AND COMPENSATION OF COUNSEL FOR INDIGENT PARTIES

#### IT IS ORDERED:

This administrative order is issued in accordance with MCR 8.123, effective January 1, 2004. The purpose of this order is to describe the court's procedures for selection, appointment, and compensation of counsel who represent indigent parties, upon approval by the State Court Administrative Office.

- I. Selection Criteria and Procedures - The Berrien County Board of Commissioners sought bids and had entered into contracts to provide appointed counsel for indigent litigants. Currently, there are five contracts which provide indigent counsel in the following categories:

**Contract A** - Provides for Berrien County Trial Court appointments in cases filed in St. Joseph for felonies, misdemeanors, extraditions, probation violations, civil or criminal contempt of court that may result in jail, etc.

**Contract B** - Provides for Berrien County Trial Court and covers appointments in cases filed in Niles for felonies, misdemeanors, extraditions, probation violations, civil or criminal contempt of court that may result in jail, etc.

**Contract C** - Provides for indigent defense for the Drug Court docket of the Berrien County Trial Court.

**Contract D** - Provides for indigent defense in juvenile delinquency cases for the Berrien County Trial Court Family Division.

**Contract E** - This contract provides attorney representation for children and indigent parents in neglect-abuse cases.

A copy of the invitation to bid, along with contract language for each contract, is attached to this Administrative Order.

- II. Selection Process - Individuals petition the court to appoint an attorney based on indigency. The petition is reviewed by judge, magistrate, or referee. The appointment goes to the appropriate firm handling the contract.
- III. Compensation - Compensation method is dictated by contract.
- IV. Maintenance of Record - The following records will be maintained by the court:
  - Number of appointments given to each contract by each Judge.
  - Total amount of public funds paid per contract.
  - Total amount of public funds paid to each attorney for assignment if not through a contract (see V).

The Trial Court Administrator will maintain the records for the court pursuant to General Schedule 16, and these records will be made available to the public once a year in the Trial Court Administrator's Office.

- V. Appointment of Guardian Ad Litem or attorney for subject in alleged incapacitated individual cases in the Probate Court.
  - A. Selection of Attorneys/GAL - Attorneys in good standing with the State Bar of Michigan submit their names to the Berrien County Trial Court to be added to the computer list for appointments. This list has all attorney names that are willing to serve.
  - B. Appointing Attorneys/GAL - The Attorneys/GAL are selected by rotation. When required, an attorney or guardian ad litem is selected from the next name on the rotation list. A date is submitted on the computer next to the selected attorney's name and then an Order of Appointment is entered.
  - C. Compensation of Attorneys/GAL - The Court pays the guardian ad litem for services provided for indigent parties as follows:
    - Meeting with client/proposed ward: written report submitted to the court; appearance at court hearings \$150.
    - Meeting with client/proposed ward; written report submitted to the court; appearance at court hearing(s) that last more than one-half day \$500.
  - D. Removing Attorneys - Attorneys can be removed from the computer list for appointments on request of one of the Family Division Judges. That request shall be based on cause (e.g. failure to timely complete the assigned duties of the position, inadequate representation of the client, etc.). If the attorney is recommended for removal, the attorney may

request a review of that decision by the Chief Judge of the Trial Court. The Chief Judge's decision shall be final.

- E. Maintenance of Records: a report can be generated to track the date and times attorneys are appointed, number of appointments given as an attorney or guardian ad litem, number of appointments by judge, total paid to each attorney or guardian ad litem by the court, total public fund paid to each attorney or guardian ad litem by judge.
  - F. Every respondent in a neglect/abuse case is screened by Berrien County Legal Services to determine if they are eligible for court appointed attorney. One indigent respondent in each case is represented by Berrien County Legal Services and the others are referred to the contract attorneys.
- VI. Appointment of Attorneys where subject is in a mental commitment hearing or developmentally disabled hearing are appointed in the Probate Court:
- A. Selection of Attorneys - Attorneys in good standing with the State Bar of Michigan submit their names to the Berrien County Trial Court to be added to the computer list for appointments. This list has all of the attorneys' names that are willing to serve.
  - B. Appointing Attorneys - The attorneys are selected by rotation. When required, an attorney is selected by the next name on the rotation list. A date is submitted on the computer next to the selected attorney's name and then an Order of Appointment is entered.
  - C. Compensation of Attorneys - The Court pays the attorneys in these cases for services provided as follows:
    - In mental hearings: a prehearing conference is \$50; a prehearing deferral is at the rate of \$125; a prehearing/commitment hearing is at the rate of \$130; services rendered in a developmentally disabled hearing is \$110.
  - D. Removing Attorneys - Attorneys can be removed from the computer list for appointments on request of one of the Family Division Judges. That request shall be based on cause (e.g. failure to timely complete the assigned duties of the position, inadequate representation of the client, etc.). If the attorney is recommended for removal, the attorney may request a review of that decision by the Chief Judge of the Trial Court. The Chief Judge's decision shall be final.
  - E. Maintenance of records - A report can be generated to track the date and times attorneys are appointed, number of appointments given to an attorney, number of appointments by judge, total paid to each attorney, and total public fund paid to each attorney.

**IT IS SO ORDERED:**

Effective Date: January 1, 2004

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Date

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Paul L. Maloney, Trial Court Chief Judge