Rule 124. Request for compensation.

(a) A request for compensation as required by *D.C. Code* § 20-751 shall be by typewritten verified documentation, executed by the personal representative and the attorney for the personal representative, and set forth in accordance with the following format:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA Probate Division Estate of:) Administration No. Deceased.) REQUEST FOR COMPENSATION FOR SERVICES Value of: Tangible personal property Intangible personal property Real property in the District of Columbia Estate Income

....., personal representative of the captioned estate, requests compensation for services as personal representative in the amount of \$, and compensation for, attorney for the personal representative, in the amount of \$, in accordance with *D.C. Code § 20-751*.

(1) That the consents of all interested persons have (have not) been filed.

(2) That the relationship between the compensation sought and the nature of the work performed is reasonable and that the fees sought by the personal representative and by the attorney for the personal representative represent /% and /%, respectively, for a total of /% of the estate's assets and income.

[COMMENT]: Usually, the compensation sought will be considered reasonable if the aggregate amounts requested by the personal representative and by the attorney for the personal representative are reasonable or if the number of hours spent and the hourly compensation rate are reasonable.

(3) That the time spent by the personal representative to date is hours, and it is anticipated that an additional hours will be required to complete the estate administration.

(A) The personal representative's usual hourly compensation for work of this nature is \$ Please provide a brief explanation of how this rate was determined:

(B) The personal representative does not have a usual hourly compensation for work of this nature.

[COMMENT]: In lieu of stating hours spent and hourly rates, a trust company may file a copy of its current fee schedule.

If a personal representative is not an attorney or a trust company, he or she may not have an hourly rate for rendering estate administration services. If this should be the case, the personal representative should so state in the request for compensation. See subparagraph (a)(3)(B), above. If an hourly rate is given for such services, a brief explanation should be furnished as to how the rate was determined. See subparagraph (a)(3)(A), above.

It would be useful, in any event, for the personal representative to state the number of hours spent to date and the number of additional hours anticipated to be spent. If the personal representative deems it relevant, he or she should indicate any professional or personal relationship he or she had with the deceased, and his or her usual occupation and earnings.

(4) That the time spent by the attorney for the personal representative (or the attorney's firm) is hours and it is anticipated that an additional hours will be required to complete the estate administration.

(A) The attorney's usual hourly compensation for work of this nature is \$

(B) An hourly rate of compensation is not furnished because:

[COMMENT]: If a flat fee is charged, explain the basis therefor. If a flat fee is stated in unequivocal terms, the attorney should state any limitations on the services to be performed (e.g., that there are no more than x number of hours to be expended).

(5) That the attorney for the personal representative as soon as feasible gave to the personal representative an estimate of the fees and any change in fees for work to be performed with respect to the administration of the estate.

[COMMENT]: The usual and ordinary work to be performed by an attorney in the administration of the estate is set forth in The Role and Function of the Estate Attorney, 12 A.B.A., Real Property, Probate and Trust Journal, 12:223 (Spring, 1977).

(6) That all of the results required to be achieved in order to complete the estate administration have been or will be accomplished and that the administration of the estate involved the following:

[COMMENT]: A brief summary of the work involved in the administration of the estate should be provided.* If under any other provision of this Rule additional documentation is required to describe more fully the work performed or the results achieved, such additional documentation should be included here.

* For example:

"The personal representative diligently marshalled the assets of the estate, invested the same and collected the income therefrom, paid all just debts, claims, and expenses of administration, established and maintained books and records of assets received and disbursements made, caused to be completed final Federal and District of Columbia tax returns, filed necessary inventories and appraisals, and [state number] Accounts (including the Final Account), caused to have prepared and filed the Federal Estate Tax Return, the District of Columbia inheritance or estate transfer tax return, as applicable, and the District and Federal fiduciary income tax returns, and will, following the approval of the Final Account, complete distribution of assets in accordance with the decedent's Last Will. The personal representative will also, at the end of the final fiduciary income tax year, cause to be prepared and filed the final Federal and District of Columbia fiduciary income tax returns for the estate."

(7) That all time limitations imposed by the provisions of the Act or by the Rules, including any timely requested extensions thereof, were met.

[COMMENT]: If all time limitations were not met, state the date the compliance was due, the actual date for compliance and the reasons for the delay.

(8) The personal representative herewith certifies that on the day of, 20....., a copy of this request, the appended notice to interested persons, and copies of all accompanying statements were sent by certified (or registered) mail, return receipt requested, to all interested persons.

Respectfully submitted,

Personal Representative

VERIFICATION BY PERSONAL REPRESENTATIVE

....., personal representative of the estate of, deceased, do solemnly declare and affirm under penalty of law that the contents of the foregoing document with respect to services performed by the personal representative are true and correct to the best of the personal representative's knowledge, information, and belief.

Personal Representative VERIFICATION BY ATTORNEY FOR PERSONAL REPRESENTATIVE, attorney for the personal representative of the estate of, deceased, do solemnly declare and affirm under penalty of law that the contents of the foregoing document with respect to the services rendered by me or by my firm are true and correct to the best of my knowledge, information, and belief.

> Attorney for Personal Representative

Bar Number Address and Telephone No.

NOTICE TO INTERESTED PERSONS

You are hereby notified that you may file written exceptions or objections with the Register of Wills and serve a copy thereof on the personal representative and the personal representative's attorney within twenty (20) days of the mailing to you of this Notice of Request For Compensation for Services. Reasons for your exceptions or objections should be stated.

If you execute a Consent to the Request for Compensation for Services, you will waive your statutory right to file exceptions or objections thereto.

(b) Consents to the request for compensation shall be substantially in accordance with the following format:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA Probate Division Estate of:)

>) Administration Number)

Deceased

Deceased) CONSENT BY INTERESTED PERSON TO REQUEST FOR COMPENSATION FOR SERVICES AND WAIVER

I,, am entitled to receive a share of the above estate. I have received a copy of the REQUEST FOR COMPENSATION FOR SERVICES.

I am aware that compensation is being requested by the personal representative in the amount of \$, and by the attorney for the personal representative in the amount of \$, for a total of \$ I am aware that the total of the estate's assets and income amount to \$

I am aware that compensation requests are generally carefully reviewed by the Court in the absence of a Consent and Waiver signed by each interested person. I am aware that this Consent and Waiver will be filed with the Register of Wills and that, if a Consent and Waiver is filed on behalf of every other interested person, the Court may approve the compensation requested, based solely on the request as filed.

I am aware that I have the statutory right to file with the Register of Wills written exceptions or objections to the compensation request within twenty (20) days of the mailing of the Notice thereof to me and that my execution of this Consent and Waiver constitutes a waiver of that right.

I hereby consent and agree to the payment of the amounts requested and I hereby waive my statutory right to file exceptions or objections to the Request for Compensation.

Signature Dated: (c) The Court may act upon the request for compensation based solely upon the documentation required by subparagraphs (a)(1) through (a)(8) and by either subparagraph (c)(1) or (c)(2) below if:

(1) A Consent and Waiver in the form set forth in paragraph (b) of this Rule is signed by each interested person and filed; or

(2) No exceptions or objections to the request for compensation are filed, and:

(A) The aggregate compensation sought by the personal representative and the attorney for the personal representative, exclusive of any compensation for services of the nature described in subparagraph (c)(2)(B), does not exceed the customary fee that would be charged in the marketplace for an estate of comparable assets and income.

[COMMENT]: The combined customary marketplace fees for the personal representative and the attorney for the personal representative in the Washington metropolitan area for a typical estate administration generally fall within the range of 4.5/% to 8/% of an estate's assets and income, depending upon the size of the estate. However, no inferences shall be drawn with respect to the reasonableness of requests for compensation in excess of this range.

(B) If a personal representative or the attorney for the personal representative claims expenses of litigation pursuant to *D.C. Code § 20-752*, the claiming party must demonstrate the necessity of the litigation. If the attorney is someone other than the attorney handling the estate administration, the reason for his or her retention as litigation counsel (for example, special expertise, situs of the litigation, and the like) should be set forth.

(d) Additional verified documentation to show the reasonableness of the compensation sought shall be filed if:

(1) The compensation exceeds the amounts described in subparagraph (c)(2)(A) and consents have not been filed by all interested persons, or

(2) Any interested person files an exception or objection to the request for compensation, or

(3) For any other reason the Court requests such documentation.

Such additional documentation shall describe any special services performed or any special circumstances encountered.

[Comment]: Unusual or complicating factors, such as a will contest, disputes among interested persons, difficulties in locating assets, operating or disposing of a closely held business, and tax audits, should be described in detail. Information should also be provided with respect to the retention of any agents such as accountants, investment advisors, or other attorneys, including the reason for the retention, the tasks they performed, the amounts they were paid, and the basis for their compensation (flat fee, hourly rate, etc.).

(e) Any personal representative or attorney for the personal representative who shall be unwilling to join in or unable to obtain the joint execution of a request for compensation by all parties pursuant to paragraph (a) above may submit a separate request for compensation. The separate request shall contain all of the documentation, including the verification and notice to interested persons, required with respect to the party making the separate request by paragraph (a) and, if applicable, paragraph (d) above and shall set forth the efforts made to seek joint participation and, to the extent known, the reasons for nonparticipation in a joint request by all personal representatives and their attorneys pursuant to paragraph (a) above. Each attorney for a personal representative shall be an interested person for purposes of this paragraph (e).

(f) The court has the authority to award a fee consistent with its assessment of the services rendered, based on the request for compensation as filed. The Court may at any time request such additional information as it may determine to aid it in assessing appropriate compensation in any case.