

1 MATTHEW J. SMITH  
MOHAVE COUNTY ATTORNEY  
2 Dolores H. Milkie #016662  
Deputy County Attorney  
3 Mohave County Attorney's Office  
P.O. Box 7000  
4 Kingman, AZ 86402-7000  
Attorney for the Petitioner, Mohave County Public Fiduciary  
5 (928) 753-0770

FILED  
KS  
2004 JUL -1 PM 3:51  
SUPERIOR COURT CLERK

6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
7 IN AND FOR THE COUNTY OF MOHAVE

8 In the Matter of the )  
9 Fees of the Mohave County )  
Public Fiduciary and Mohave )  
County Attorney )

ADMINISTRATIVE ORDER 2004-24

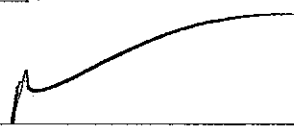
12 The Mohave County Public Fiduciary having filed a Motion to Modify the Fee Schedule  
13 of the Public Fiduciary Fee Schedule and the Mohave County Attorney's Office hourly rates,  
14 and finding good cause therefore,

15 IT IS ORDERED that the Mohave County Fiduciary's Fee Schedule attached to and  
16 made part of this order is hereby approved.

17 IT IS FURTHER ORDERED that the Mohave County Attorney's Office hourly rates  
18 of \$100.00 for attorney time and \$40.00 for support staff time is hereby approved.

19 IT IS FURTHER ORDERED that the effective date for use of these fees shall be  
20 approved, nunc pro tunc, to May 17, 2004 for the Mohave County Public Fiduciary, and June 7,  
21 2004, for the Mohave County Attorney's Office.

22 DATED this 15<sup>th</sup> day of July, 2004.

23  
24   
25 HONORABLE ROBERT MOON  
26 PRESIDING JUDGE  
MOHAVE COUNTY SUPERIOR COURT

27  
28

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6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MOHAVE

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Public Fiduciary and Mohave )  
9 County Attorney )  
10 )  
11 )


MOTION TO MODIFY THE  
FEE SCHEDULE OF THE  
PUBLIC FIDUCIARY AND  
TO MODIFY THE COUNTY  
ATTORNEY'S OFFICE RATES

12 COMES NOW, the Mohave County Public Fiduciary, through undersigned counsel,  
13 and moves the court for an Administrative Order approving a revised Mohave County Public  
14 Fiduciary Fee Schedule, attached hereto and incorporated herein, as Exhibit "A", and to raise  
15 the County Attorney Office's rates to \$100.00 per hour for attorney time, and \$40.00 per hour  
16 for support staff time.

17 This motion is supported by the attached Memorandum of Points and Authorities.

18 RESPECTFULLY SUBMITTED this 29 day of June, 2004.

19 MATTHEW J. SMITH  
20 MOHAVE COUNTY ATTORNEY

21  
22 By:   
23 Dolores H. Milkie  
24 Civil Deputy County Attorney  
Attorney for the Mohave County Public Fiduciary  
25  
26  
27  
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MOHAVE COUNTY REQUEST FOR BOARD ACTION FORM

From: Catherine R. Robbins, Public Fiduciary  
C/O John Timko, Finance Director/MCPF Supervisor

FORMAL ACTION   
CONSENT   
RESOLUTION   
OTHER   
INFORMATION ONLY

Date: May 3, 2004

BOS Meeting Date: May17, 2004

**SUMMARIZE THE ISSUE & DESIRED ACTION CLEARLY/ATTACH BACKUP MATERIAL:**

- **Background:** MCPF's responsibility to establish a reasonable claim for services provided to the ward, protected person or decedent's estate is clearly established in A.R.S. §§ 14-5604 and 14-1201, consistent with the Uniform Probate Code adopted in 1974. It has been six years since the MCPF fee schedule was reviewed and a fee revision proposed for consideration and adoption. An analysis of the local Mohave County private fiduciary's fees and eight other Arizona Counties public fiduciary's fee schedules with similar duties and responsibilities to MCPF was performed to assess industry standards and reasonableness to support the credibility of the proposed increased rate. (Pinal, Navajo, Yuma, Cochise, Maricopa, Pima, Yavapai, Greenlee, J & G Investments, Inc. dba Mohave Estate Management Office.) MCPF contributes additional expertise to case administration and advocacy due to the six staff with over 35 years in the fiduciary profession. Four of the six staff members are certified fiduciaries by the Arizona Supreme Court, AOC, Certified Fiduciary Program and have attended multiple trainings specific to the fiduciary industry. The office administers approximately 140 guardianships, conservatorships, decedent's estates and investigation. The office also administers the Mohave County Indigent Decedents and Morgue Transport Programs.
- **Impacts:** The proposed fee schedule strives to bring the rate(s) up to current market acceptable rate(s), however, MCPF recognizes the need to balance the impact to the clients and as a result the proposed rate is conventionally lower than the current cost of delivering fiduciary services. A majority of MCPF client's estates are insolvent and the taking of fees, subject to court approval, are either waived or deferred. The rate approved in 1998 was \$23.85 and the proposed rate is \$75.00 for certified fiduciaries and \$40.00 for property management. There are some basic flat rates established that are properly defined and task specific. The referral, investigation, request for petition and set-up fee flat rate is the same as the prior 1998 fee schedule.

*adoption of BOS Reso No - 2004-173*

**Recommended Motion:** I move to approve the proposed Mohave County Public Fiduciary Fee Schedule and further acknowledge that all fees are subject to approval by the Arizona Superior Court.

County Attorney  Personnel  Reviewed and Approved By: Finance  County Manager

**Board Action Taken:**

Approved as Requested  No Action Taken  Disapproved   
Continued to \_\_\_\_\_  Approved with the following changes:

Acknowledged receipt and referred to \_\_\_\_\_

**Filing Information and Retrieval**

Filed Bid _____	Filed Agreement _____
<input checked="" type="checkbox"/> BOS Resolution _____	Filed Yearly Correspondence _____
Filed Petition _____	Filed Dedication _____
Filed Land Sold _____	Filed Land Acquired _____
Filed Franchise _____	I.D. Resolution _____
<input checked="" type="checkbox"/> Improvement District _____	Filed Other <i>Polices (1997)</i> _____

Date Routed: *5-14-04* Additional Information: *Copy attached*

XC: *Finance, CIVIL ATTORNEY*

You are reminded that items for the agenda, along with complete backup, must be in the County Manager's Office 10 days prior to Board Meeting.

Item No. *24*

EXHIBIT A

RESOLUTION NO. 2004-173

WHEREAS, the Mohave County Public Fiduciary has not had a rate increase for the last six years, and

WHEREAS, the proposed fee schedule strives to bring the rate up to the current market rate for delivery of fiduciary services,

THEREFORE BE IT RESOLVED, adopting the attached Mohave County Public Fiduciary Fee Schedule.

DONE this 17 day of May, 2004.

MOHAVE COUNTY BOARD OF SUPERVISORS

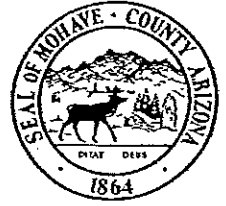
By Pete Byers  
PETE BYERS, CHAIRMAN

ATTEST:

By Barbara Bracken  
Barbara Bracken, Clerk of the Board



# Mohave County Public Fiduciary



Phone: (928) 718-5510  
Catherine R. Robbins  
Public Fiduciary

2301 Harrison Street  
P.O. Box 7000  
Kingman, AZ 86402-7000

Fax: (928) 718-5514

## Mohave County Public Fiduciary Fee Schedule

The Mohave County Public Fiduciary's compensation for fiduciary services are a claim against the estate pursuant to A.R.S. § 14-5604. The fees are further subject to Court approval.

The following fees are applicable for compensation to the Mohave County Public Fiduciary and shall be calculated according to the following rates:

1. Flat rate fee for services provided:

a. Referral, Investigation, Request for Petition and Set-up Fee Services	\$650.00
b. Annual or Final Accounting Preparation Services	\$325.00
c. Biennial Accounting Preparation Services	\$425.00
d. Court Mandated Investigation Services	\$500.00
e. Annual Administrative Services Fee	\$300.00
f. Annual Banking Operation Service Fee	\$ 60.00
g. Vehicle and Personal Property Storage Monthly Rate	\$ 25.00

2. Hourly fee services provided and billed in 1/10 hour increments (.10):

a. Public Fiduciary, Deputies, Case Administrators	\$75.00
b. Property Management	\$40.00

3. Direct costs will be an expense paid from the client's estate and may include the court filing fees, recordation fees, publication costs, postage, mileage, copies, facsimile transmissions, out-of-pocket expenses, travel expenses and inventory supplies.

Approved by the Mohave County Board of Supervisors on 5-17-04.

EXHIBIT A

# Mohave County Public Fiduciary

---

Phone: (928) 718-5510  
Catherine R. Robbins  
Public Fiduciary

2301 Harrison Street  
P.O. Box 7000  
Kingman, AZ 86402-7000

Fax: (928) 718-5514



## Mohave County Public Fiduciary Fee Schedule Glossary

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A glossary for the terms used in the Mohave County Fee Schedule is provided as follows:

**a. Referral, Investigation, Request for Petition and Set-up Fee Services \$650.00**

Referral, Investigation, Request for Petition and Set-up Fee Services are deliverables to the client at the time of new case intake and subsequent appointment. Services include the investigation of need for legal adjudication to provide guardianship, conservatorship or decedent's administration services pursuant to Arizona Law. Legal referral and information to substantiate the need for appointment are provided. Referral visits, case research and assessment of available support services. These services also include initial file and account set up, initial application for benefits, change of address and appointment notification letters.

**b. Annual or Final Accounting Preparation Services \$325.00**

Annual or Final Accounting Preparation Services contribute to compliance with the statutory reporting requirements of providing the client, interested parties and the courts with a detailed record of receipts and disbursements and assets under management. An internal review of the case is performed, calculations examined, current values of assets established, interest reviewed and schedules with exhibits prepared. Annual Accountings are prepared for a period that is one year or less and Final Accountings are prepared to close out the case with the courts and seek discharge.

**c. Biennial Accounting Preparation Services \$425.00**

The same definition for services listed in Annual or Final Accounting Preparation above applies with the accounting period extending to a period greater than one year and less than two years.

**d. Court Mandated Investigation Services** \$500.00

Court mandated investigation services are provided when the court directs an investigation to determine if the person alleged to be in need of court ordered protective services meets the statutory requirements and to determine the agent who can best serve as the fiduciary. The court may direct an investigation into a court appointed fiduciary's appropriateness to continue serving and provide the court a recommendation as to who should serve if the current fiduciary is deemed incapable of performing their mandated duties.

**e. Annual Administrative Services Fee** \$500.00

Annual Administrative Services include the day-to-day estate operations of mail receipt, income receipt, deposits, mail disbursements processing, and file management, receipts and disbursements handling, transaction posting, interest posting and account reconciliation.

**f. Annual Banking Operation Service Fee** \$ 60.00

Annual Banking Operation Services include the cost of the computer system to manage the client's account for report generation, reconciliation and accountability.

**g. Vehicle and Personal Property Storage Monthly Rate** \$ 25.00

Vehicles and Personal Property secured in Mohave County storage facilities, fenced lots or warehouses may be subject to a storage fee of \$25.00 per month. It is at the discretion of the Public Fiduciary to determine if the storage fee will be assessed. Determination will be made on an individual case basis.

**g. Public Fiduciary, Deputy Public Fiduciaries and Case Administrator(s)** \$75.00

The Public Fiduciary, Deputy Public Fiduciaries and Case Administrator(s) have direct responsibility for the clients assigned and are required to be licensed with the Arizona Supreme Court meeting all certification requirements and ongoing training for Certified Fiduciaries.

**h. Property Management** \$40.00

Property Management includes the delivery of services to protect and monitor the real property and personal property under our management. Property inspections are conducted, insurance coverage is monitored, estate sales are coordinated and monitored.



**From:** Catherine Robbins  
**To:** Bracken, Barbara; Timko, John  
**Date:** 5/7/04 9:10AM  
**Subject:** Legal Review of Proper Procedure for Fiduciary Fee Schedule Approval

Good Morning John and Barbara:

I wanted to assure you both that I verified that A.R.S. § 11-251.08 does not apply to the Fiduciary Fee Schedule on the Board's agenda for May 17th as these fees are covered by Title 14 and under the jurisdiction of the Arizona Superior Court Judiciary.

Barbara, thank you for bringing this possible issue to my attention.

Catherine R. Robbins  
Mohave County Public Fiduciary  
2301 Harrison  
P. O. Box #7000  
Kingman, AZ 86402  
(928) 718-5510  
catherine.robbs@co.mohave.az.us

MOHAVE COUNTY REQUEST FOR BOARD ACTION AND COMPLETION FORM:

FROM: Dean Beyer, Financial Services Director

BOS MEETING: August 18, 1997

ITEM NO: 8

(X) FORMAL ACTION    ( ) RESOLUTION    ( ) INFORMATION ONLY  
( ) CONSENT            ( ) OTHER

STATE THE DESIRED ACTION CLEARLY AND ATTACH BACK UP MATERIAL:  
Discussion and Possible Action re: Approval of the Public Fiduciary Services Fee Schedule

REVIEWED AND APPROVED BY:

CO. ATTORNEY ( )

CO. MANAGER ( )

=====  
BOARD ACTION TAKEN:  
=====

APPROVED AS REQUESTED: (✓)

DISAPPROVED: ( )

NO ACTION TAKEN: ( )

CONTINUED TO: \_\_\_\_\_

( ) APPROVED WITH THE FOLLOWING CHANGES:

ACKNOWLEDGED RECEIPT AND REFERRED TO:

=====  
THE FOLLOWING ACTION WAS TAKEN WITH RESPECT TO B.O.S. ACTION:  
=====

FILED BID # \_\_\_\_\_ FILED AGREEMENT # \_\_\_\_\_  
BOS RESOLUTION # \_\_\_\_\_ FILED YEAR CORRESPONDENCE \_\_\_\_\_  
FILED PETITIONS # \_\_\_\_\_ FILED DEDICATIONS # \_\_\_\_\_  
FILED LAND SOLD # \_\_\_\_\_ FILED LAND ACQUIRED # \_\_\_\_\_  
FILED FRANCHISE # \_\_\_\_\_ I.D. RESOLUTION # \_\_\_\_\_  
FILED \_\_\_\_\_ IMPROVEMENT DISTRICT  
FILED OTHER: - Policies - \_\_\_\_\_

DATE ROUTED: 8-19-97

ADDITIONAL INFORMATION: \_\_\_\_\_

XC: \_\_\_\_\_

YOU ARE REMINDED THAT ITEMS FOR AGENDA ALONG WITH BACKUP MUST BE IN THIS OFFICE 10 DAYS PRIOR TO BOARD MEETING.

EXHIBIT A

Mohave County Public Fiduciary  
 Fee Schedule - Revised  
 Approved August 18, 1997

All fees charged by the Mohave County Public Fiduciary's Office are subject to the review and approval of the Superior Court following notice of the requested fees and the hearing date being given to relatives and other interested parties, as required by law. Ordinarily, no fee will be taken prior to obtaining Court approval. However, in certain instances, fees may be taken prior to Court approval, where good cause exists for such action, such as the need to minimize an estate's or ward's tax liability in a given year or to "spend down" a ward's account or estate to qualify for governmental benefits. In such instances, if the fee taken is not subsequently approved by the Court in whole or in part, the portion not approved will be reimbursed to the ward's account or estate.

Fees will be calculated according to the following schedule:

Guardianship and/or Conservatorship Matters

Referral, Investigation, and Set-Up Fees	\$730.00
Public Fiduciary Staff Hourly Fees (social services, investigation, accounting, sale of property, etc)	\$23.85
County Attorney and Support Staff Fees (hourly)	\$91.65
County Attorney Fees (hourly)	\$68.31
County Attorney Support Staff Fees (hourly)	\$23.34
Mileage	\$.31 per mile
Travel expenses - including motel, transportation (other than mileage, which is addresses above), and meals directly related to ward or estate	At cost

Decedents' Estates (Personal Representative)

Referral, Investigation, and Set-Up Fees (with attorney involvement)	\$630.00
Referral, Investigation, and Set-Up Fees (with no attorney involvement)	\$115.00
Public Fiduciary Staff Hourly Fees (investigations, accounting, sale of property, in-house heir search, inventory, etc)	\$23.85
County Attorney and Support Staff Fees (hourly)	\$91.65
County Attorney Fees (hourly)	\$68.31
County Attorney Support Staff Fees (hourly)	\$23.34
Heir search - outside agency	At cost
Mileage	\$.31 per mile
Travel expenses - including motel, transportation (other than mileage, which is addresses above), and meals directly related to ward or estate	At cost

Representative Payee

Referral, Investigation, and Set-Up Fees	none
Monthly Fees set by the Social Security Administration	\$25.00

Outside Services and Out-of-Pocket Expenses

Outside contract or "out sourced" services (those services not performed by an employee of Mohave County) provided to the ward, protected person, or estate for such things as legal representation, investigator fees, storage fees, auction or estate sales fees, appraisal fees, accounting services, tax preparation services, brokerage fees for real estate property, investment management, inventory and case management will be billed to the ward, protected person, or estate at the cost charged by the outside contractor or other person providing the services.

In addition, the ward, protected person, or estate will be charged for out-of-pocket expenses, including such items as the Clerk of the Court's fees, Recorder's Office fees, publication costs, document retrieval and certification costs, and long distance telephone calls costs.

Storage

Vehicles:	Monthly storage fee	\$20.00
Boxes or space:	Monthly storage fees	
	6 sq ft or less	\$3.00
	Greater than 6 sq ft to 10 sq ft	\$5.00
	Greater than 10 sq ft to 25 sq ft	\$13.50
	Greater than 25 sq ft to 50 sq ft	\$27.00
	Greater than 50 sq ft to 75 sq ft	\$40.50
	Greater than 75 sq ft to 100 sq ft	\$54.00
	Greater than 100 sq ft	\$7.50/10 sq ft

Waiver

In the event a ward or estate of a ward does not have sufficient funds to pay for all of the fees that could be collected, the Director over the Public Fiduciary office has the authority to waive the non-collectable portion of the fees.

Mohave County Public Fiduciary  
 Justification of Fee Schedule - Revised  
 Approved August 18, 1997

Guardianship, and/or Conservatorship Matters

Referral, Investigation, and Set-Up Fees \$730.00

It takes over 25 hours of Public Fiduciary staff time to locate the birth certificate and other identification, heirs, locate and transfer bank accounts, set up the client files (personal and financial files), research health records, coordinate with state and local benefit providers, complete required forms for the providers, locate a suitable care provider, arrange for payment, and make the initial visit. Additionally, it takes nearly about one hour and thirty minutes of attorney and attorney-related support time preparing court papers and documents, and making the court appearance for the appointment.

Public Fiduciary staff time:	25 hours x \$23.85 =	\$596.25
Attorney and staff time:	1.5 hours x \$91.65 =	<u>\$137.48</u>
Total cost		<u>\$733.73</u>

Decedents' Estates (Personal Representative)

Referral, Investigation, and Set-Up Fees (with attorney involvement) \$630.00

It takes over 15 hours of Public Fiduciary staff time to order the death certificate, locate other required identification, heirs, locate and transfer bank accounts, set up the client file (personal), arrange for cremation or burial of the remains, determine the indigent status of the decedent and of his or her survivors. Additionally, it takes over 3 hours of attorney and attorney-related support time preparing court papers and documents, and making the court appearance for the appointment.

Public Fiduciary staff time:	15 hours x \$23.85 =	\$357.75
Attorney and staff time:	3 hours x \$91.65 =	<u>\$274.95</u>
Total cost		<u>\$632.70</u>

Referral, Investigation, and Set-Up Fees (with no attorney involvement) \$115.00

It takes over 5 hours of Public Fiduciary staff time to order the death certificate, locate other required identification, heirs, locate and transfer bank accounts, set up the client file (personal), arrange for cremation or burial of the remains, determine the indigent status of the decedent and of his or her survivors.

Public Fiduciary staff time:	5 hours x \$23.85 =	\$119.25
------------------------------	---------------------	----------

Representative Payee

Referral, Investigation, and Set-Up Fees

None\*

It takes over 4 hours of Public Fiduciary staff time to prepare and mail change of addresses for the client, determine creditors and status of payments, complete forms, prepare files for the office, contact the Social Security Administration and complete their forms.

Public Fiduciary staff time: 4 hours x \$23.85 = \$95.40

\*Note: Because the fees are set by the Social Security Administration, the County is not allowed to charge more than \$25 per month.

Storage

The commercial rental rates for vehicle storage at an out-of-doors facility at a Lake Havasu and a Kingman facility were \$25 per month (8/15/7).

The commercial rental rates for facilities in the Stockton Hill area range from \$.75 to \$1.00 per square foot. The charges for rental space are based on that cost.

PFFeeSd.wpd

MOHAVE COUNTY REQUEST FOR BOARD ACTION FORM

From: Matthew J. Smith, County Attorney  
by Deborah L. Herbert, Chief Civil Deputy County Attorney  
& Dolores H. Milkie, Civil Deputy County Attorney

FORMAL ACTION   
CONSENT

Date: May 18, 2004

OTHER   
INFORMATION ONLY

BOS Meeting Date: June 7, 2004

**SUMMARIZE THE ISSUE & DESIRED ACTION CLEARLY/ATTACH BACKUP MATERIAL:**

County attorney and staff time is authorized to be reimbursed, pursuant to A.R.S. § 14-5604, from the estates of probate, conservatorship, and guardianship cases in which the County Attorney's office represents the Public Fiduciary, upon the approval of the court. The current fees charged are \$68.31 per hour for attorney time, and \$23.32 per hour for support staff time, with actual payment only made from those estates able to do so. These fees were approved on April 20, 1998 as part of the attached portion of the Public Fiduciary policies and fee schedule. Those policies were updated and approved at the May 17, 2004 Board of Supervisors' meeting, but did not include an attorney fee schedule. Private attorneys charge \$160 to \$250 per hour for attorney time, and \$65 to \$90 per hour for support staff time. Further, an Arizona fee statute, A.R.S. § 12-348, provides a "cap" of \$175 per hour in certain types of cases, implicitly recognizing that the going rate for attorney fees is frequently more than \$175 an hour. The Equal Access to Justice Act, which has been in place since 1981, allows for \$125 per hour for attorney time in federal cases.

Accordingly, the County Attorney's office believes that a more just and reasonable rate of \$100.00 per hour for attorney time, and \$40.00 per hour for support staff time, is supported by the above and is requesting the Board of Supervisors to approve same.

Recommended Motion: I move to approve an increase in fees charged by the County Attorney's office from \$68.31 per hour to \$100.00 per hour for attorney time, and from \$23.32 per hour to \$40.00 per hour for support staff time, in probate, conservatorship, and guardianship cases in which the County Attorney's office represents the Public Fiduciary and the estate is able to pay, pending approval of these fees by the Court on a case by case basis.

County Attorney  Personnel  Finance  Reviewed and Approved By: County Manager

Board Action Taken:  
Approved as Requested  No Action Taken  Disapproved   
Continued to \_\_\_\_\_  Approved with the following changes:

Acknowledged receipt and referred to \_\_\_\_\_

**Filing Information and Retrieval**

Filed Bid \_\_\_\_\_  
BOS Resolution \_\_\_\_\_  
Filed Petition \_\_\_\_\_  
Filed Land Sold \_\_\_\_\_  
Filed Franchise \_\_\_\_\_  
Filed Improvement District \_\_\_\_\_

Filed Agreement \_\_\_\_\_  
Filed Yearly Correspondence \_\_\_\_\_  
Filed Dedication \_\_\_\_\_  
Filed Land Acquired \_\_\_\_\_  
I.D. Resolution \_\_\_\_\_  
Filed Other: Public Policy (AY-Pub Fid Fee Schedule)

Routed: 6-9-04

Additional Information:

XC: Public Fiduciary, Finance

You are reminded that items for the agenda, along with complete backup, must be in the County Manager's Office 10 days prior to Board Meeting.

Item No. 65

EXHIBIT A