

Guardianship Abuse defying our expectation.

Case Study: ¥ 8 million, or \$75,000 Remuneration Paid to Guardian

Please refer to the third page of this report. As much as remuneration of 8,016,800 yen, or \$74,783 has been paid to the lawyer appointed as guardian for the elderly grandmother for just 10 months period of guardianship.

Was this lawyer committed to his duty as guardian to receive such a huge amount of remuneration in return for generating benefits for the ward?

NO. After reaching reconciliation among family members, this elderly grandmother consequently achieved 9.36 million yen, which in other words, inflated her financial assets. In Japan, remuneration that guardian receives is determined by up and down of the ward's assets.

Was this old lady wealthy enough to lift the price of remuneration?

NO. According to lists of her financial assets, she owned approximately 40 million yen, which never leads up to such a huge amount of remuneration for guardian.

Let's look up how the basic remuneration is calculated.

Osaka family court explains that if total assets that guardians supervise is within the range of 10 to 50 million yen, guardians receive roughly 30,000 to 40,000 yen on a monthly basis while they gain 50,000 to 60,000 if exceeds 50 million yen. So, 50 million seems to be a threshold to calculate remuneration.

Despite the fact that this elderly grandmother owned less than 50 million yen in assets, the lawyer earned 700,000 yen annually. It is obvious that higher matrix was employed to calculate the remuneration. (Calculation in this case is totally different from the publicly disclosed information!)

Next, let's examine the additional remuneration.

Again, Osaka family court remarks that if adult guardians do something extra jobs as described on the documents explaining provisions of remuneration, additional remuneration may be paid in proportion to their volume of extra works. As this explanation is vague, let me cite other example more specifically explained by the Yokohama Family Court: Suppose,

for example, there is a case in which the ward suffers the damage from illegal action, and then the guardian sues the person caused damage, demanding 10 million yen in compensation. If the ward wins the case and compensation is paid to the ward, it means the ward's financial assets expand by 10 million yen. Under such scenario, approximately 800,000 to 1.5 million yen will be paid to the guardian as additional remuneration in return for filing for the lawsuit on behalf of the ward.

If this Yokohama court standard is applied to the elderly grandmother's case who received 9.36 million yen in settlement, the amount of remuneration that her guardian obtains should be between 80,000 to 1.5 million yen. But the reality is Osaka court handed down the remuneration of 8,016,800 yen, which has an extra digit. (Such irrational decision is intolerable!) How come is it possible?

In fact, this Guardianship lawyer shamelessly snatched this windfall gains without any hesitation

Even before settlement money was paid to her bank account, excitedly his saying to the family members that he thought too it had an extra digit than standard, but it was the amount admitted by the court ruling! (In this case, the trial was closed after the grandmother's death. Under such situation, the law requires the guardian to claim additional remuneration to the heirs of the ward, but he didn't observe this basic rule.)

Who should be blamed is

The lawyer as a guardian who snatched money?

Or

Presiding judge Ms.Kyoko Mishima who allowed the guardian to do so?

Or

What family members of the deceased elderly lady are demanding is unreasonable?

What do you think of this case? I would like to leave that on your judgement.

At any rate, I wonder how this grandmother, who was born in 1919 , is feeling in the heaven, watching that her money was ripped off in such an irrational manner. Her soul must be in deep grief and sorrow. This is exactly what happened under the Adult Guardianship System in Japan. Would you still recommend guardianship? Please think about for whom this system exists. We must revisit how to operate this system.

The remuneration for the guardian

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|  大阪家庭裁判所 受付 - 1.12. 第 号 | 受付印 <input checked="" type="checkbox"/> 成年後見人 <input type="checkbox"/> 保佐人 <input type="checkbox"/> 補助人 <input type="checkbox"/> 未成年後見人 <input type="checkbox"/> 監督人 (<input type="checkbox"/> 成年後見 <input type="checkbox"/> 保佐 <input type="checkbox"/> 補助 <input type="checkbox"/> 任意後見 <input type="checkbox"/> 未成年後見) に対する報酬付与申立書 (この欄に収入印紙800円をはる。) | |
| 収入印紙 800円 予納郵便切手 84円 |  400円 400円 (折り線) | |
| 大阪家庭裁判所 | <input type="checkbox"/> 堺支部 <input type="checkbox"/> 岸和田支部 御中 基本事件番号 平成29年(家)第 号 | |
| 令和1年12月 日 | 申立人の記名押印 弁護士 | |
| 添付書類等 | <input checked="" type="checkbox"/> 報酬付与申立事情説明書 <input checked="" type="checkbox"/> 後見等事務報告書 <input checked="" type="checkbox"/> 財産目録 <input checked="" type="checkbox"/> 預金通帳のコピー等 (預金通帳の 前回提出分から繋がりのあるもの) <input type="checkbox"/> 収支予定表 <input type="checkbox"/> その他 (※後見登記事項又は戸籍記載事項に変更がある場合 <input type="checkbox"/> 住民票写し又は <input type="checkbox"/> 登記事項証明書 <input type="checkbox"/> 戸籍謄本 | |
| 申立人 | 住所又は事務所 (〒 大阪市 法律事務所 | ※申立人欄は窓空き封筒の宛名としても使用しますので、パソコン等で書式を変更する場合には、申立人欄の位置及び大きさを変更しないようにお願いいたします。 送付先について申立人欄記載の住所と異なる場所を希望される場合には、送付先を明示した書面又は返送用封筒のご提出をお願いいたします。 |
| 氏名 | 弁護士 | |
| 電話番号 | 06 () | |
| 本人 | (住民票上の住所) 大阪府 (居所) 大阪府 | |
| 氏名 | (大正8年 生) | (折り線) |
| 申立ての趣旨 | 申立人に対し、相当額の報酬を与えるとの審判を求める。 | |
| 申立ての理由 | 別添報酬付与申立事情説明書記載のとおり | |

以下の欄には記載しないでください

裁判所使用欄

Decision

- 1 申立人に対し { 就職の日 } から { 平成 年 月 日 } までの
 平成31年3月 日 } { 終了の日 } までの

報酬として、本人の財産の中から 金 801万6800円 を与える。

- 2 手続費用は、申立人の負担とする。 8,016,800 JPyen shall be given to the guardian from the

ward's property as a reward.

令和2年 / 月 日

大阪家庭裁判所 堺支部 岸和田支部

裁判官 三島 恭子

Judge : Kyoko Mishima of Osaka Family Court

これは謄本である。
 同日同庁
 裁判所書記官

