

**OHIO RULES OF SUPERINTENDENCE
And**

LOCAL RULES

for

**Court of Common Pleas
Probate Division
Clark County, Ohio**

Effective: June 1, 2023

* * * * *

Including:

Local Rules 1 thru 11 and 53.1 thru 78.1

**Note: Any local rule which pertains to
a Superintendence Rule is listed below the
Superintendence Rule, which it is intended to
Supplement and has a corresponding number.**

Local Rule 1

No attorney, officer, or employee of the court or of the county shall be accepted as principal or agent for the bond or as surety in any cause in this court, nor shall any of them be permitted to become surety on the bond of any executor, administrator, guardian, assignee, or trustee. This rule applies to any close member of the family of an attorney, employee, or officer.

Local Rule 2

Pursuant to prior Section 2117.16 of the Ohio Revised Code, a Schedule of Claims must be filed in all estates, in which the decedent died prior to January 1, 1971. Said schedule is optional in estates in which the decedent died between January 1, 1971, and October 14, 1983. A Schedule of Claims is not necessary after the latter date unless an insolvency proceeding has been filed.

Local Rule 3

When an attorney resigns or otherwise ceases to be the attorney for the fiduciary in any matter still pending before this court, it shall be the duty of the attorney to notify the court of such action in writing within fourteen (14) days after the attorney ceases to be the attorney for the fiduciary. At the time of the filing of said notice, the attorney shall file an application for compensation for unpaid fees to the date he ceased to be the attorney for the fiduciary, including the time expended in the preparation of the application and any hearing pursuant thereto.

In the event that said attorney has received fees in excess of those allowable at the time of the filing of such application, such excess shall be restored to the estate at the time of the filing of the application. Notice of the filing of such application shall be given by the attorney to the fiduciary at the time and in the manner provided in the Rules of Civil Procedure.

If, at the expiration of fourteen (14) days of the date the attorney ceases to be the attorney for the fiduciary the notice and application have not been filed, the newly employed attorney shall prepare and file the same for the fiduciary and shall give notice of such filing to the former attorney in the manner provided by the Rules of Civil Procedure.

Local Rule 4

No warrant will be issued as a result of filing affidavits pursuant to Section 5122.11 et. seq. of the Ohio Revised Code unless the affidavit is accompanied by a medical certificate by a psychiatrist, or licensed clinical psychologist and a licensed physician stating that said person has examined the subject and is of the opinion that said subject is a mentally ill person subject to hospitalization by court order.

Local Rule 5

Upon the filing of a praecipe for subpoena of witnesses there shall be deposited with the Court the sum of Twenty Dollars (\$20.00), which represents Sheriff fees, and subpoena fees. Witness fees of \$6.00 for half a day or \$12.00 for a full day shall be paid by the attorney filing the subpoena. If the witness is required to appear for more than one day, an additional like sum shall be made for each day.

Local Rule 6

No automobile(s), watercraft, and outboard motor except those taken by affidavits by the surviving spouse may be transferred before the filing of an inventory. (1 automobile DOD 1/1/76) (2 automobiles DOD 3/11/96 - \$40,000 limit)(1 watercraft and 1 outboard motor - DOD 10/20/94).

Local Rule 7 - All motions shall be accompanied by a supporting memorandum.

Local Rule 7.1

Service of all papers shall be made according to the manner set forth in the Rules of Civil Procedure.

Any petition, motion, order, and other papers requiring service in any proceeding shall be accompanied by a praecipe containing the names of all parties upon whom service is required, and a copy for each person to be served.

As of August 22, 1980, the Probate Court requires the attorney of an estate to issue all notices for hearings concerning (a) the probate of a will (b) the appointment of fiduciaries (c) the application to relieve an estate from administration, if required.

Forms are available at the court. The attorney shall sign as an officer of the court and should call the court for an assignment date. Service, proof of service, and waiver of notice shall be governed by the Civil Rule 73 (E), (F), (G) and (H). The notice shall indicate the attorney's

name, address, and telephone number after his signature.

Local Rule 8

(A) An inventory (and appraisal) in a decedent's estate shall be filed within ninety days from the date of appointment of the fiduciary. An Inventory will not be accepted by Probate Court until such time as the Certificate of Service of Notice of Probate of Will is filed.

(B) Notice of the filing of an inventory shall be given in accordance with R.C. 2115.16 and shall be published one time, as a group, in a newspaper of general circulation in the county, or advertised separately as the Court elects in each case. The notice required herein shall be deemed notice to each person or class of persons entitled thereto, without specifically naming such person or class of persons.

Local Rule 8.1 – Court Appointments

- (A) Persons appointed pursuant to S.R. 8 shall be selected from lists maintained by the Court.
- (B) Appointments will be made from such lists taking into consideration the qualifications, skill, expertise and caseload of the appointee in addition to the type, complexity and requirements of the case.
- (C) Court appointees will be paid a reasonable fee with consideration given to the factors contained in Rule 1.5 of the Ohio Rules of Professional Conduct, the Ohio Revised Code, and the Local Rules of Court relating to fees.
- (D) The Court shall review Court appointment lists at least annually to ensure the equitable distributions of appointments.

Local Rule 9

An agency (excluding any public agency), attorney, or party, whichever arranges a minor's adoption, shall file with the court an accounting at the time of filing the adoption petition. If further costs or fees are incurred prior to the time of the finalization of the adoption, the court requires a further accounting to be filed at least 10 days prior to the date of the final hearing. This rule also applies to stepparent adoptions.

Local Rule 10

O.R.C. Sec. 3107.12 requires a pre-finalization assessment (ODHS form 1699) to be filed at least 20 days prior to an adoption hearing. This form is not required in a stepparent adoption.

Local Rule 11 - Electronic Transmission Filings

In conformity with Civil Rule 5(E) pleadings and other papers may be filed with the Clerk by facsimile transmission; subject to the following provisions:

(A) A document filed by facsimile transmission shall be accepted as the original consistent with Civil Rule 5(E), if the person sending the document by facsimile transmission files with the Clerk of Courts the original document, together with any fees and costs, by the close of business on the fifth day after the date of transmission. Failure to so file the original and pay the fees and costs shall result in such document being stricken without motion; the document shall thereupon be deemed not filed.

(B) The person filing the document by facsimile shall provide therewith identification information on a cover page, including the caption of the document. The cover page shall indicate the number of pages included in the transmission.

(C) Subject to paragraph (A) above, all documents filed by facsimile shall be considered filed when the date and time have been stamped thereon by the Clerk of Courts. For the purpose of this section, the date and the time stamp produced by the Clerk's facsimile machine shall constitute the date and time stamp of the Clerk of Courts. All risks of transmission shall be borne by the sender.

(D) Fees for this service are as follows: \$2.00 per transmission plus \$0.25 per page for the first ten (10) pages; additional pages cost \$.50 per page. Each transmission shall be limited to one (1) case. These fees shall not be taxed as costs.

(E) Filing by electronic means should be limited to filings of an emergency or time critical nature. In the event the court determines that papers filed by electronic means are not of such nature, it may, on the motion of the responding party or on its own motion, order such papers stricken.

RULE 51 Standard Probate Forms (Text Available)

RULE 52 Specifications for Printing Probate Forms (Text Available)

RULE 53 Hours of the Court

Each court shall establish hours for the transaction of business.

Local Rule 53.1

The court shall be open from 8:00 A.M. to 4:30 P.M. weekdays except on authorized holidays, unless otherwise changed by posted notice.

RULE 54 **Conduct in the Court.**

(A) Proper decorum in the court is necessary to the administration of the court's function. Any conduct that interferes or tends to interfere, with the proper administration of the court's business is prohibited.

(B) No radio or television transmission, voice recording device, other than a device used by a court reporter making a record in a proceeding, or the making or taking of pictures shall be permitted without the express consent of the court in advance and pursuant to Sup. R. 12.

Local Rule 54.1

Proper Attire - Proper attire shall be worn in the court by all attorneys and officers of the court and by all other individuals who wish to enter the courtroom.

RULE 55 **Examination of Probate Records.**

(A) Records shall not be removed from the court, except when approved by the judge. Violation of this rule may result in the issuance of a citation for contempt.

(B) Copies of records may be obtained at a cost per page as authorized by the judge.

(C) Adoption, mental illness, and mental retardation proceedings are confidential. Records of those proceedings, and other records that are confidential by statute, may be accessed as authorized by the judge.

(D) A citation for contempt of court may be issued against anyone who divulges or receives information from confidential records without authorization of the judge.

Local Rule 55.1

No person shall be permitted to take from the court an original will, codicil, or bond on file therein. All other papers may be taken from the files only upon good cause shown and with the approval of the court for a period not exceeding five days, upon giving the proper receipt therefor.

RULE 56 Continuances.

(A) Motions for continuance shall be submitted in writing with the proper caption and case number.

(B) Except on motion of the court, no continuance shall be granted in the absence of proof of reasonable notice to, or consent by, the adverse party or the party's counsel. Failure to object to the continuance within a reasonable time after receiving notice shall be considered consent to the continuance.

(C) A proposed entry shall be filed with a motion for continuance, leaving the time and date blank for the court to set a new date.

Local Rule 56.1

The motion for a continuance shall be accompanied by a memorandum in support thereof. This memorandum shall also specifically state the length of the continuance requested.

RULE 57 Filings and Judgment Entries.

(A) All filings, except wills, shall be on eight and one-half by eleven inch paper, without backings, of stock that can be microfilmed.

(B) All filings shall contain the name, address, telephone number, and attorney registration number of the individual counsel representing the fiduciary and, in the absence of counsel, the name, address, and telephone number of the fiduciary. Any filing not containing the above requirements may be refused.

(C) Failure of the fiduciary to notify the court of the fiduciary's current address shall be grounds for removal. Not less than ten days written notice of the hearing to remove shall be given to the fiduciary by regular mail at the last address contained in the case file or by other method of service as the court may direct.

(D) Filings containing partially or wholly illegible signatures of counsel, parties, or officers administering oaths may be refused, or, if filed, may be stricken, unless the typewritten or printed name of the person whose signature is purported to appear is clearly indicated on the filing.

(E) All pleadings, motions, or other filings are to be typed or printed in ink and correctly captioned.

(F) Unless the court otherwise directs, counsel for the party in whose favor a judgment is rendered, shall prepare the proposed judgment entry and submit the original to the court with a copy to counsel for the opposing party. The proposed judgment entry shall be submitted within seven days after the judgment is rendered. Counsel for the opposing party shall have seven days to object to the court. If the party in whose favor a judgment is rendered fails to comply with this division, the matter may be dismissed or the court may prepare and file the appropriate entry.

Local Rule 57.1

All proceedings filed in this court must be typewritten and legible.

Each journal entry presented to this court for filing for and on behalf of any fiduciary, acting by virtue of an appointment by this court, shall have endorsed thereon the approval of the attorney-at-law designated by such fiduciary to represent him in matters relating to the trust, in the following form:

APPROVED:

Attorney for Fiduciary

RULE 58 Deposit for Court Costs.

(A) Deposits in the amount set forth in a local rule shall be required upon the filing of any action or proceeding and additional deposits may be required.

(B) The deposit may be applied as filings occur.

Local Rule 58.1

The following cost deposits shall be made upon the filing of the first paper in the case:

(A) Administration of Estate:	
Full Administration/With Will	\$150.00
Full Administration/Without Will	150.00
(B) Release of Estate/under \$25,000	68.00
Release of Estate/over \$25,000	108.00
Supplemental or Amended Release of Estate	50.00
(C) Filing of Estate Tax Only	25.00
(D) Probate of Will Only	48.00
(Add \$10.00 if filing an Estate Tax Return)	
(E) Guardianships:	
Minor Gdnsp/Person Only	89.00
Minor Gdnsp/Estate Only	111.00
Incompetent Gdnsp/Person Only	184.00
Incompetent Gdnsp/Person & Estate	200.00
Emergency Gdnsp	105.00
(F) Minor Settlement	53.00
(G) Adoption	
Minor - One name per petition	206.00
Minor - 2nd child, same family	146.00
Adult or Foreign	146.00
(H) Placement (for Adoption)	60.00
(I) Conservatorship	143.00
(J) Trusteeship	95.00
(K) Change of Name	89.00
additional member-same family	70.00

(L) Civil Matters	
All types (except real estate sales)-deposit	120.00
Sale of Real Estate	175.00

Local Rule 58.2 Any party requesting a jury trial must deposit \$500 with the court at least 72 hours before the scheduled trial date.

RULE 59 Wills.

(A) Before an application is made to admit the will to probate, to appoint an estate fiduciary, or to relieve an estate from administration, each applicant or the applicant's attorney shall examine the index of wills deposited pursuant to section 2107.07 of the Revised Code. Wills deposited pursuant to section 2107.07 of the Revised Code previous to the will offered for probate shall be filed in the estate proceedings for record purposes only.

(B) Fiduciaries appointed to administer testate estates shall file a Certificate of Service of Notice of Probate of Will (Standard Probate Form 2.4) within two months of their appointment or be subject to removal proceedings. If required by the court, proof of service shall consist of either waivers of notice of the probate of the will or original certified mail return receipt cards as provided under Civil Rule 73(E)(3), or if necessary, under Civil Rule 73(E)(4) and (5). A waiver of notice may not be signed by any minor, or on behalf of a minor sixteen or seventeen years of age. See Civil Rule 4.2.

Local Rule 59.1

Failure of the fiduciary to timely file this Certificate of Service may also lead to contempt proceedings by the Court.

RULE 60 Application for Letters of Authority to Administer Estate and Notice of Appointment.

(A) Notice of an application for appointment of administrator shall be served at least seven days prior to the date set for hearing. If there is no known surviving spouse or next of kin resident of the state, the notice shall be served upon persons designated by the court.

(B) The administrator shall give notice of the appointment within seven days after the appointment to all persons entitled to inherit, including persons entitled to an allowance

for support, unless those persons have been provided notice of the hearing on the appointment or have waived notice.

Local Rule 60.1 - Spousal Citation/ Fiduciary Identification

Unless a waiver is filed, the probate court shall serve by certified mail the spousal citation and summary of rights required by R.C.2106.02 to the surviving spouse within 7 days of the initial appointment of the administrator or executor, unless a different time is established by local court rule.

Local Rule 60.2

The court will require the social security number and date of birth of all fiduciaries, except for the guardian of the person only. The Social Security number and any other information required on the Confidential Disclosure form number 45.D which shall be filed prior to the issuance of letters of appointment or entry relieving the estate from administration.

RULE 61 Appraisers.

(A) Without special application to the court, a fiduciary may allow to the appraiser as compensation for services a reasonable amount agreed upon between the fiduciary and the appraiser, provided the compensation does not exceed the amount allowed by local court rule. If no local court rule exists, the compensation shall be subject to court approval.

(B) If, by reason of the special and unusual character of the property to be appraised, the fiduciary is of the opinion that the appraisal requires the services of persons qualified in the evaluation of that property, a qualified appraiser may be appointed and allowed compensation as provided in division (A) of this rule.

Local Rule 61.1

A Clark County appraiser is required to appraise all Clark County real estate, for which the Auditor's evaluation is not used. An out of county appraiser will not be appointed without prior Court approval unless he or she is appraising out of county real estate.

Without application to the Court, an executor or administrator may allow to each appraiser as compensation for his services a maximum amount to be computed on the value of the property appraised in the estate in accordance with the following schedule:

Value of Assets	Fee
\$25,000 or less	\$75.00
\$25 - \$50,000	\$100.00
\$50 - \$75,000	\$125.00
\$75 - \$150,000	\$150.00

One Dollar (\$1.00) per \$1,000 for all over \$150,000

Additional compensation may be allowed only upon application for extraordinary services.

The schedule also applies to estates released from administration, guardianships, conservatorships and trusts, in which appraisals are required by the Ohio Revised Code.

RULE 62 Claims Against Estate.

(A) When a claim has been filed with the court pursuant to Section 2117.06 of the Revised Code, the fiduciary shall file a copy of any rejection of the claim with the court.

(B) If the court requires a hearing on claims or the fiduciary requests a hearing on claims or insolvency, the fiduciary shall file a schedule of all claims against the estate with the court. The schedule of claims shall be filed with the fiduciary's application for hearing or within ten days after the court notifies the fiduciary of a court-initiated hearing.

RULE 63 Application to Sell Personalty

An application to sell personal property shall include an adequate description of the property. Except for good cause shown, an order of sale shall not be granted prior to the filing of the inventory.

RULE 64 Accounts.

(A) Verification by vouchers is required in estates, guardianships, conservatorships, and trusts and shall be referenced to the account by number, letter, or date.

(B) If land has been sold during the accounting period, the account shall show the gross amount of the proceeds and include a copy of the closing statement itemizing all of the disbursements.

(C) Receipts for distributive shares signed by persons holding power of attorney may be accepted, provided the power of attorney is recorded in the county in which the estate is being administered and a copy of the recorded power is attached to the account.

(D) Exhibiting assets.

(1) The court may require that all assets be exhibited at the time of filing a partial account.

(2) Cash balances may be verified by exhibiting a financial institution statement, passbook, or a current letter from the financial institution in which the funds are deposited certifying the amount of funds on deposit to the credit of the fiduciary. Assets held in a safe deposit box of a fiduciary or by a surety company on fiduciary's bond may be exhibited by filing a current inventory of the assets. The inventory shall be certified by the manager of the safe deposit box department of the financial institution leasing the safe deposit box or by a qualified officer of the surety company if the assets are held by a surety company. If the assets are held by a bank, trust company, brokerage firm, or other financial institution, exhibition may be made by proper certification as to the assets so held. For good cause shown, the court may designate a deputy clerk of the court to make an examination of the assets located in the county, not physically exhibited to the court, or may appoint a commissioner for that purpose if the assets are located outside the county. The commissioner appointed shall make a written report of his findings to the court.

(E) A final or distributive account shall not be approved until all court costs have been paid.

Local Rule 64.1 - Time accounts are due

(A) (1) Fiduciaries in guardianships, conservatorships and trusts must file their first account one year after the date of appointment and every other year thereafter and consistent with ORC Sec. 2109.302 - .303.

(2) Estate fiduciaries must file, within 6 months of their date of appointment, a final and distributive account, unless a Certificate of Termination is filed prior to said date

consistent with O.R.C. 2109.301, or unless one or more of the following circumstances apply:

- (a) An Ohio estate tax return must be filed for the estate.
- (b) A proceeding contesting the validity of the decedent's will pursuant to section 2107.71 of the Revised Code has been commenced
- (c) The surviving spouse has filed an election to take against the will.
- (d) The administrator or executor is a party in a civil action.
- (e) The estate is insolvent.
- (f) For other reasons set forth by the administrator or executor, subject to court approval, demonstrating that it would be detrimental to the estate and its beneficiaries or heirs to file a final and distributive account.

(B) If an estate account is not filed within said 6 month period, the fiduciary or the attorney shall file with the Court an application signed by the fiduciary, requesting the Court to extend the filing deadline as follows:

(1) Not later than thirteen months from the date of appointment under one or more of the following circumstances, as presented on Form 13.10:

- (a) An Ohio estate tax return must be filed for the estate.
- (b) A proceeding contesting the validity of the decedent's will pursuant to R.C. 2107.71 has been commenced.
- (c) The surviving spouse has filed an election to take against the will.
- (d) The administrator or executor is a party in a civil action, Case No. _____ in _____ Court.
- (e) The estate is insolvent.

(2) To a time requested by the fiduciary for any other reason, on Form 13.8, and with the approval of the Court.

(C) After the initial account is rendered, subsequent estate accounts, preferably a final accounting, shall be filed no later than six months thereafter.

(1) Also, see Rule 78(C) per the filing of status reports.

Rule 64.2 - Form and Procedure re: Accounts

(A) Every account filed shall be accompanied by vouchers or proofs of all disbursements or distributions made by the fiduciary, referenced by letter, number, or date.

(B) Every fiduciary's account required by Sections 2109.301, .302 and .303 of the Revised Code shall be set for hearing before the probate court. Within one month after an account is filed, the court shall cause notice of the filing of the account and the time and place of the hearing thereon to be published once in some newspaper of general circulation in the county. In addition to the publication of the account, the fiduciary may give notification by regular or certified mail to those persons entitled to notice. The hearing on the account shall be set not earlier than thirty days after the publication of the notice. The costs of the notice, if more than one account is specified in the same notice, shall be paid in equal proportions by the fiduciaries.

(C) If no assets have been collected and no disbursements made in an estate, guardianship, or trusteeship, between accounting periods, the court, for good cause shown, will accept a Statement in Lieu of an Account. The fiduciary must, nevertheless, file a status report with the court each year.

Bank books, certificates of deposit or other assets may be exhibited to the court in lieu of an account when no funds have been expended for the benefit of a ward except for attorney fees, guardian's or trustee's compensation, and bond payments, in addition to said status reports.

(D) Whenever the closing of an estate depends on the happening of an event and the estate has been administered so far as possible pending such event, the court may excuse the fiduciary from further accounting pending the happening of such event, if the fiduciary does not have funds in his hands belonging to said estate. If he is required to hold funds pending such an event, the matter will be considered as a trust, and accounts will be required every two years. The fiduciary must, nevertheless, file a status report with the court each year.

(E) Accounts prepared by a computer shall be in proper accounting form and shall be attached to Fiduciary Account form 13.0 and shall contain a recapitulation.

(F) The accounting of a fiduciary shall include payment of federal, state estate tax or a notation of no tax assessed.

No administrator or executor will be discharged on the filing of a final or distributive account until an application has been filed to determine the estate taxes, if any, chargeable against the estate administered.

A final account may be filed 30 days from the date the estate tax is filed, even though the final determination has not been received from the Tax Department.

A copy of all applicable final bank statements showing a -0- balance: e.g. estate checking accounts and any accounts in the name of the decedent at the time of death and listed on the Inventory and Appraisal.

(G) A \$10 administrative fee shall be assessed as costs on all accounts returned to the fiduciary for corrections.

(H) When filing a current account in a guardianship or trust, the fiduciary must exhibit the original bankbook, stock certificate, bond, or certificate of deposit. An original bank statement with photocopies of the checks reduced in size, or a fax copy faxed directly from the financial institution to the Court and dated the same day the account is submitted is also acceptable. Photocopies will not be accepted. When securities are on deposit in lieu of bond, a verification signed by a bank official is acceptable. A bank or trust company serving as a fiduciary is not required to exhibit securities.

RULE 65 Land Sales--R.C. Chapter 2127

(A) In all land sale proceedings, the plaintiff, prior to the issuance of an order finding the sale necessary, shall file with the court evidence of title showing the record condition of the title to the premises described in the complaint, and prepared by a title company licensed by the state of Ohio, an attorney's certificate, or other evidence of title satisfactory to the Court. Evidence of title shall be to a date subsequent to the date on which the complaint was filed.

(B) The plaintiff shall give notice of the time and place of sale by regular mail at least three weeks prior to the date of a public sale to all defendants at their last known addresses. Prior to the public sale, the plaintiff shall file a certificate stating that the required notice was given to the defendants and the sale was advertised pursuant to section 2127.32 of the Revised Code.

(C) In all private land sale proceedings by civil action, the judgment entry confirming sale, ordering issuance of deed, and ordering distribution shall show the gross amount of the proceeds and include a copy of the proposed closing statement itemizing all of the proposed disbursements.

(D) The court may appoint a disinterested person, answerable to the court, who shall investigate the circumstances surrounding the proposed transaction, view the property, ascertain whether the proposed sale is justified, and report findings in writing. The report shall be a part of the record. The compensation for the person performing these services shall be fixed by the court, according to the circumstances of each case, and shall be

taxed as costs.

RULE 66 Guardianships.

- (A) All applications for the appointment of a guardian on the grounds of mental incompetency shall be accompanied by either a statement of a physician or clinical psychologist or a statement that the prospective ward has refused to submit to an examination.
- (B) An Application for Authority to Expend Funds (Standard Probate Form 15.7) shall not be approved until an Inventory (Standard Probate Form 15.5) has been filed.
- (C) An application for allowance of care and support of a minor shall allege, if such is the fact, that the father and mother are financially unable to provide the items for which the amount is sought.
- (D) No payment for the support, maintenance, or education of a ward will be approved unless the guardian files a written application separate from an account to have the amount allowed for the support of the ward determined before the account is filed.
- (E) Bond will be required in all guardianships where there is personal property, unless a verification of deposit with restriction on withdrawals is accepted by the Court.
- (F) A guardian's report shall be filed every six (6) months in all minor guardianships and every twelve (12) months in all adult guardianships, unless otherwise ordered by the Court.
- (G) Upon the issuance of Letters of Guardianship, all Powers of Attorney in existence shall be ordered voided, unless otherwise ordered by the Court.

RULE 66.01 Definitions.

As used in Sup.R 66.01 through 66.09:

(A) Best interest

“Best interest” means the course of action that maximizes what is best for a ward, including consideration of the least intrusive, most normalizing, and least restrictive course of action possible given the needs of the ward.

(B) Direct services

“Direct services” means services typically provided by home and community-based care and institutionally-based care providers, including medical and nursing care, care or case management services, care coordination, speech therapy, occupational therapy, physical therapy, psychological services, counseling, residential, legal representation, job training, and any other similar services. The term “direct services” does not include services of a guardian.

(C) Guardian

“Guardian” has the same meaning as in R.C. 2111.01(A).

(D) Ward

“Ward” means any adult person found by the probate division of a court of common pleas to be incompetent and for whom a guardianship is established.

(E) Guardianship services

“Guardianship services” means the duties assigned to a guardian in an adult guardianship case pursuant to R.C. Chapters 2109 and 2111.

RULE 66.02 Application of Rules.

(A) General

Sup.R. 66.01 through 66.09 shall apply in an adult guardianship case where the probate division of a court of common pleas appoints a guardian to protect and control a ward pursuant to R.C. 2111.02, provided the appointing court for good cause may, by order of the court, exempt a guardian who is related to the ward by consanguinity or affinity.

(B) Corporation as guardian

Sup.R. 66.01 through 66.09 shall apply to the employees of a corporation who provide guardianship services in an adult guardianship case where the probate division of the court of common pleas appoints the corporation as guardian.

RULE 66.03 Local Guardianship Rules.

The probate division of a court of common pleas that establishes guardianships shall adopt local rules governing the establishment of guardianships that do all of the following:

- (A) Establish a process for emergency guardianships;
- (B) Establish a process for submitting in electronic format or hard copy comments or complaints regarding the performance of guardians appointed by the court and for considering such comments and complaints. The process shall include each of the following:
 - (1) The designation of a person for accepting and considering comments and complaints;
 - (2) A requirement that the court provide the guardian, who is the subject of the comments or complaints, a copy of the comments or complaints;
 - (3) A requirement that the court promptly consider the comments or complaints and take appropriate action;
 - (4) A requirement that the court maintain a record regarding the nature and disposition of the comments or complaints;
 - (5) A requirement that the court notify the person making the comments or complaints and the guardian of the disposition of the comment or complaint.
- (C) Addresses other provisions as the court considers necessary and appropriate, including but not limited to indicating where filed comments and complaints will be kept.

Local Rule 66.031 Emergency Guardianship

Except for good cause shown, an application for an emergency guardianship shall be filed in person by the applicant and shall contain a current statement of expert evaluation and a supplement for emergency guardian form stating an opinion that an emergency exists and it is reasonably certain that immediate action is required to prevent significant injury to the person or estate of the minor or incompetent. Except for good cause shown, the proposed ward shall be notified as soon as possible of the appointment of an emergency guardian. Within thirty (30) day of the expiration of any emergency orders issued hereto, the emergency guardian shall submit a report to the Court stating any specific action taken to prevent substantial injury to the person or

estate and accounting for the management of any assets of the minor or incompetent during such period of time. If a guardianship is commenced upon the expiration of the emergency orders, the Court may dispense with this report if the guardian provides such information in the Inventory of the ward's assets.

Local Rule 66.032 Comments/Complaints

Comments and complaints regarding guardians shall be filed in writing with the deputy clerks and made part of the record unless otherwise ordered by the Court. The Court shall forward a copy of the filed comment or complaint to the guardian who is the subject of the comment or complaint unless otherwise ordered by the Court. The Court shall promptly consider the same and take appropriate action. Comments and complaints may be addressed by the court investigator assigned to guardianship cases. Allegations of abuse, neglect, and/or exploitation shall be reported pursuant to R.C. 5101.61. If deemed appropriate, the matter may be promptly set for hearing or for further investigation. If set for hearing, the complainant and the guardian shall be notified of the hearing and shall appear unless otherwise ordered by the Court. Upon the conclusion of the hearing or investigation, both the person making the comment or complaint and the guardian shall be notified of the disposition of the comment or complaint, which shall be kept as part of the record, unless otherwise ordered by the Court.

RULE 66.04 Establishment of Guardianship.

(A) Scope of guardianship

When establishing a guardianship, the probate division of a court of common pleas shall consider a limited guardianship before establishing a plenary guardianship.

(B) County of residence

The last county of residence in Ohio in which a ward resided prior to losing the cognitive ability to choose shall be the ward's county of residence for purposes of establishing a guardianship, unless determined otherwise by the probate division of the court of common pleas establishing the guardianship.

(C) Guardianship of estate

The probate division of the court of common pleas may waive establishing or continuing the guardianship of the estate of a ward if the assets and principal income of the ward do not support a guardianship of the estate.

(D) Restrictions on direct service providers

The probate division of the court of common pleas shall not issue letters of guardianship to any direct service provider to serve as a guardian for a ward for whom the provider provides direct services, unless otherwise authorized by law.

RULE 66.05 Responsibilities of Court Establishing Guardianships.

(A) General responsibilities

The probate division of a court of common pleas that establishes a guardianship shall do both of the following:

- (1) Conduct, or cause to be conducted, a criminal background check. If the applicant to serve as a guardian is an attorney, the court may accept a certificate of good standing with disciplinary information issued by the Supreme Court in place of a criminal background check.
- (2) Require each guardian appointed by the court to submit to the court information documenting compliance with the guardian qualifications pursuant to Sup.R. 66.06 or 66.07, as applicable.

(B) Responsibilities regarding a guardian with ten or more wards

The probate division of a court of common pleas shall do all of the following with respect to a guardian with ten or more wards under the guardian's care:

- (1) Maintain a roster, including the name, address, telephone number, and electronic mail address, of the guardian. The court shall require the guardian to notify the court of any changes to this information;
- (2) Require the guardian to include in the guardian's report a certification stating that the guardian is unaware of any circumstances that may disqualify the guardian from serving as a guardian;
- (3) Require the guardian to submit to the court an annual fee schedule that differentiates guardianship services fees, as established pursuant to local rule, from legal or other direct services;

- (4) On or before March 1st of each year, review the roster of guardians to determine if the guardians are in compliance with the education requirements of Sup.R. 66.06 or 66.07, as applicable, and that the guardians are otherwise qualified to serve;

RULE 66.06 Guardian Pre-Appointment Education.**(A) Requirement**

Except as provided in division (B) of this rule, a probate division of a court of common pleas shall not appoint an individual as a guardian unless, at the time of appointment or within six months thereafter, the individual has successfully completed, at a minimum, a six-hour guardian fundamentals course provided by the Supreme Court or, with the prior approval of the appointing court, another entity. The fundamentals course shall include, at a minimum, education on the following topics:

- (1) Establishing the guardianship;
- (2) The ongoing duties and responsibilities of a guardian;
- (3) Record keeping and reporting duties of a guardian;
- (4) Any other topic that concerns improving the quality of the life of a ward.

(B) Exception

An individual serving as a guardian on June 1, 2015, or who served as a guardian during the five years immediately preceding that date shall have until June 1, 2016, to complete the training under division (A) of this rule unless the appointing court waives or extends the requirement for good cause.

RULE 66.07 Guardian Continuing Education.**(A) Requirement**

In each succeeding year following completion of the requirement of Sup.R. 66.06, a guardian appointed by the probate division of a court of common pleas shall successfully complete a continuing education course that meets all of the following requirements:

- (1) Is at least three hours in length;
- (2) Is provided by the Supreme Court or, with the prior approval of the appointing court, another entity;

- (3) Is specifically designed for continuing education needs of a guardian and consists of advanced education relating to the topics listed in Sup.R. 66.06(A)(1) through (4).

(B) Annual compliance

On or before January 1st of each year, a guardian shall report to each probate division of the court of common pleas from which the guardian receives appointments information documenting compliance with the continuing education requirement pursuant to division (A) of this rule, including the title, date, location, and provider of the education or a certificate of completion.

(C) Failure to comply

If a guardian fails to comply with the continuing education requirement of division (A) of this rule, the guardian shall not be eligible for new appointments to serve as a guardian until the requirement is satisfied. If the deficiency in continuing education is more than three calendar years, the guardian shall complete, at a minimum, a six-hour fundamentals course pursuant to Sup.R. 66.06(A) to qualify again to serve as a guardian.

Local Rule 66.071 Annual compliance

The report of annual compliance shall be filed with the guardian's annual report.

RULE 66.08 General Responsibilities of Guardian.

(A) Orders, rules, and laws

A guardian shall obey all orders of the probate division of a court of common pleas establishing the guardianship and shall perform duties in accordance with local rules and state and federal law governing guardianships.

(B) Pre-appointment meeting

Unless otherwise determined by the probate division of the court of common pleas, an applicant-guardian shall meet with a proposed ward at least once prior to appearing before the court for a guardianship appointment.

(C) Reporting abuse, neglect, or exploitation

A guardian shall immediately report to the probate division of the court of common pleas and, when applicable, to adult protective services any appropriate allegations of abuse, neglect, or exploitation of a ward.

(D) Limitation or termination of guardianship

A guardian shall seek to limit or terminate the guardianship authority and promptly notify the probate division of the court of common pleas if any of the following occurs:

- (1) A ward's ability to make decisions and function independently has improved;
- (2) Less restrictive alternatives are available;
- (3) A plenary guardianship is no longer in the best interest of a ward;
- (4) A ward has died.

(E) Change of residence

- (1) A guardian shall notify the probate division of the court of common pleas of a ward's change of residence and the reason for the change. Except if impracticable, the guardian shall notify the court no later than ten days prior to the proposed change.
- (2) A ward's change of residence to a more restrictive setting in or outside of the county of the guardian's appointment shall be subject to the court's approval, unless a delay in authorizing the change of residence would affect the health and safety of the ward.

(F) Court approval of legal proceedings

A guardian shall seek approval from the probate division of the court of common pleas before filing a suit for the ward.

(G) Annual plan

A guardian of a person shall file annually with the probate division of the court of common pleas a guardianship plan as an addendum to the guardian's report. A guardian of an estate may be required to file an annual guardianship plan with the probate division of the court of common pleas. The guardianship plan shall state the guardian's goals for meeting the ward's personal and financial needs.

(H) Annual registration

A guardian appointed by the court who has ten or more wards under the guardian's care

shall annually register with the probate division of the court of common pleas and provide such information as the court may require, including but not limited to a fee schedule that differentiates guardianship services from legal or other direct services.

(I) Ward's principal income

A guardian shall inform the probate division of the court of common pleas and apply to close the guardianship of the estate if the principal income of the ward is from governmental entities, a payee for that income is identified, and no other significant assets or income exist.

(J) Limits on guardian's compensation

- (1) A guardian's compensation is subject to Sup.R. 73.
- (2) A guardian who is in receipt of fees other than through the guardianship of the estate shall report to the probate division of the court of common pleas the source and entity which reviewed and authorized payment.
- (3) A guardian shall not receive any incentives or compensation from any direct service provider providing services to a ward.

(K) Conflict of Interest

A guardian shall avoid actual or apparent conflicts of interest regarding a ward's personal or business affairs. A guardian shall report to the probate division of the court of common pleas all actual or apparent conflicts of interest for review and determine as to whether a waiver of the conflict of interest is in the best interest of the ward.

(L) Filing of ward's legal papers

In addition to filing an inventory, if applicable, pursuant to R.C. 2111.14(A)(1) and within three months after the guardian's appointment, a guardian shall file with probate division of the court of common pleas a list of all of the ward's important legal papers, including but not limited to estate planning documents, advance directives, and powers of attorney, and the location of such legal papers, if known at the time of the filing.

The guardian of the person shall develop a written guardianship plan setting goals for meeting the ward's needs. The plan should be based on a functional assessment that identified the ward's strengths, needs, and areas the guardian should address. This plan shall be updated and filed with the guardian's annual report to the Court. If the ward is institutionalized, the guardian shall review the institution's plan of care for the ward in addition to attending the quarterly plan of care meetings.

Local Rule 66.082 Monthly Meetings

The guardian shall meet with the ward in person on a monthly basis, or more frequently as needed, to promote the best interests of the ward.

Local Rule 66.083 Change of Guardian's Address

A guardian shall inform the Court as to any change of address of the guardian within thirty (30) days of the address change.

Local Rule 66.084 Change of Ward's Residence

A guardian shall notify the Court of a ward's change of residence and the reason for the change no later than ten (10) days prior to the proposed change. A ward's change of residence shall be subject to the Court's approval unless a delay in authorizing the change of residence would affect the health and safety of the ward. In such event, the guardian shall notify the Court in writing within three (3) business days indicating the change of residence and the reasons for the change.

Local Rule 66.085 Legal Proceedings

The guardian shall seek prior Court approval before a ward may file for a marriage license.

Local Rule 66.086 – Deposit of Will for Safekeeping

The guardian shall file with the Court the original Last Will and Testament of the ward within thirty (30) days of the appointment.

RULE 66.09 Responsibilities of Guardian to Ward.

(A) Professionalism, character, and integrity

A guardian shall act in a manner above reproach, including but not limited to avoiding financial exploitation, sexual exploitation, and any other activity that is not in the best interest of the ward.

(B) Exercising due diligence

A guardian shall exercise due diligence in making decisions that are in the best interest of a ward, including but not limited to communicating with the ward and being fully informed about the implications of the decisions.

(C) Least restrictive alternative

Unless otherwise approved by the probate division of a court of common pleas, a guardian shall make a choice or decision for a ward that best meets the needs of the ward while imposing the least limitations on the ward's rights, freedom, or ability to control the ward's environment. To determine the least restrictive alternative, a guardian may seek and consider an independent assessment of the ward's functional ability, health status, and care needs.

(D) Person-centered planning

A guardian shall advocate for services focused on a ward's wishes and needs to reach the ward's full potential. A guardian shall strive to balance a ward's maximum independence and self-reliance with the ward's best interest.

(E) Ward's support system

A guardian shall strive to foster and preserve positive relationships in the ward's life unless such relationships are substantially harmful to the ward. A guardian shall be prepared to explain the reasons a particular relationship is severed and not in the ward's best interest.

(F) Communication with ward

(1) A guardian shall strive to know a ward's preferences and belief system by seeking information from the ward and the ward's family and friends.

(2) A guardian shall do all of the following:

(a) Meet with the ward as needed, but not less than once quarterly or as determined by the probate division of the court of common pleas;

- (b) Communicate privately with the ward;
- (c) Assess the ward's physical and mental conditions and limitations;
- (d) Assess the appropriateness of the ward's current living arrangements;
- (e) Assess the need for additional services;
- (f) Notify the court if the ward's level of care is not being met;
- (g) Document all complaints made by a ward and assess the need to report the complaints to the court of common pleas.

(G) Direct services

Except as provided in Sup.R. 66.04(D), a guardian shall not provide any direct services to a ward, unless otherwise approved by the court.

(H) Monitor and coordinate services and benefits

A guardian shall monitor and coordinate all services and benefits provided to a ward, including doing all of the following as necessary to perform those duties:

- (1) Having regular contact with all service providers;
- (2) Assessing services to determine they are appropriate and continue to be in the ward's best interest;
- (3) Maintaining eligibility for all benefits;
- (4) Where the guardian of the person and guardian of the estate are different individuals, consulting regularly with each other.

(I) Extraordinary medical issues

- (1) A guardian shall seek ethical, legal, and medical advice, as appropriate, to facilitate decisions involving extraordinary medical issues.

- (2) A guardian shall strive to honor the ward's preferences and belief system concerning extraordinary medical issues.

(J) End of life decisions

A guardian shall make every effort to be informed about the ward's preferences and belief system in making end of life decisions on behalf of the ward.

(K) Caseload

A guardian shall appropriately manage the guardian's caseload to ensure the guardian is adequately supporting and providing for the best interest of the wards in the guardian's care.

(L) Duty of confidentiality

A guardian shall keep the ward's personal and financial information confidential, except when disclosure is in the best interest of the ward or upon order of the probate division of a court of common pleas.

Local Rule 66.091 Failure to Comply

A guardian who fails to comply with these Rules of Superintendence and Local Rules may be subject to citation as for Contempt of Court, and subject to such sanctions including but not limited to, imposition of a fine, denial of compensation, and removal.

RULE 67 Estates of Minors of Not More than Twenty Five Thousand Dollars.

(A) Each application relating to a minor shall be submitted by the parent or parents or by the person having custody of the minor and shall be captioned in the name of the minor.

(B) Each application shall indicate the amount of money or property to which the minor is entitled and to whom such money or property shall be paid or delivered. Unless the court otherwise orders, if no guardian has been appointed for either the receipt of an estate of a minor or the receipt of a settlement for injury to a minor, the attorney representing the interests of the minor shall prepare an entry that orders all of the following:

- (1) The deposit of the funds in a financial institution in the name of the minor;

(2) Impounding the principal and interest;

(3) Releasing the funds only upon an order of the court or to the minor at the age of majority.

(C) The entry shall be presented at the time the entry dispensing with appointment of a guardian or approving settlement is approved. The attorney shall be responsible for depositing the funds and for providing the financial institution with a copy of the entry. The attorney shall obtain a Verification of Receipt and Deposit (Standard Probate Form 22.3) from the financial institution and file the form with the court within seven days from the issuance of the entry.

RULE 68 Settlement of Injury Claims of Minors.

(A) An application for settlement of a minor's claim shall be brought by the guardian of the estate. If there is no guardian appointed and the court dispenses with the need for a guardian, the application shall be brought by the parents of the child or the parent or other individual having custody of the child. The non-custodial parent or parents shall be entitled to seven days' notice of the application to settle the minor's claim which notice may be waived. The application shall be captioned in the name of the minor.

(B) The application shall be accompanied by a current statement of an examining physician in respect to the injuries sustained, the extent of recovery, and the permanency of any injuries. The application shall state what additional consideration, if any, is being paid to persons other than the minor as a result of the incident causing the injury to the minor. The application shall state what arrangement, if any, has been made with respect to counsel fees. Counsel fees shall be subject to approval by the court.

(C) The injured minor and the applicant shall be present at the hearing.

RULE 69 Settlement of Claims of or Against Adult Wards.

(A) An application for settlement of a claim in favor of or against an adult ward shall be brought by the guardian of the estate. Notice of the hearing on the application shall be given to all persons who are interested parties to the proposed settlement, as determined by the court. The court may authorize or direct the guardian of the ward's estate to compromise and settle claims as the court considers to be in the best interest of the ward. The court may dispense with notice of hearing.

(B) The application for settlement of an injury claim shall be accompanied by a current

statement of an examining physician describing the injuries sustained, the extent of recovery from those injuries, and permanency of any injuries. The application shall state what additional consideration, if any, is being paid to persons other than the ward as a result of the incident causing the injury to the ward. The application shall state what arrangement, if any, has been made with respect to counsel fees. Counsel fees shall be subject to approval by the court.

RULE 70 Settlement of Wrongful Death and Survival Claims.

(A) An application to approve settlement and Distribution of Wrongful Death and Survival Claims (Standard Probate Form 14.0) shall contain a statement of facts, including the amount to be allocated to the settlement of the claim and the amount, if any, to be allocated to the settlement of the survival claim. The application shall include the proposed distribution of the net proceeds allocated to the wrongful death claim.

(B) The fiduciary shall give written notice of the hearing and a copy of the application to all interested persons who have not waived notice of the hearing. Notwithstanding the waivers and consents of the interested persons, the court shall retain jurisdiction over the settlement, allocation, and distribution of the claims.

(C) The application shall state what arrangements, if any, have been made with respect to counsel fees. Counsel fees shall be subject to approval by the court.

RULE 71 Counsel Fees.

- (A) Attorney fees in all matters shall be governed by DR-2-106 of the Code of Professional Responsibility.
- (B) Attorney fees for the administration of estates shall not be paid until the final account is prepared for filing unless otherwise approved by the court upon application and for good cause shown.
- (C) Attorney fees may be allowed if there is a written application, which sets forth the amount requested and will be awarded only after proper hearing, unless otherwise modified by local rule.
- (D) The court may set a hearing on any application for allowance of attorney fees regardless of the fact that the required consents of the beneficiaries have been given.
- (E) Except for good cause shown, attorney fees shall not be allowed to attorneys representing fiduciaries who are delinquent in filing the accounts required by section 2109.30 of the Revised Code.
- (F) If a hearing is scheduled on an application for the allowance of attorney fees, notice shall be given to all parties affected by the payment of fees, unless otherwise ordered by the court.
- (G) An application shall be filed for the allowance of counsel fees for services rendered to a guardian, trustee, or other fiduciary. The application may be filed by the fiduciary or attorney. The application shall set forth a statement of the services rendered and the amount claimed in conformity with division (A) of this rule.
- (H) There shall be no minimum or maximum fees that automatically will be approved by the court.
- (I) Prior to a fiduciary entering into a contingent fee contract with an attorney for services, an application for authority to enter into the fee contract shall be filed with the court, unless otherwise ordered by local court rule. The contingent fee on the amount obtained shall be subject to approval by the court.

Local Rule 71.1 - Attorney Fee Guidelines

- (A) Compensation for an attorney rendering services to a guardianship (conservatorship),

trust or estate shall be considered prima facie reasonable, if computed in accordance with the following schedule:

(1) Guardianships and Trusts

Compensation paid from the Ward's assets of up to \$500.00 to an attorney for a guardian of the estate or testamentary trustee for services performed in establishing said guardianship or trust and in filing the initial inventory will normally be approved without application. Compensation of up to \$250.00 to an attorney for establishing a guardianship of the person only will normally be approved without application.

Thereafter:

- (a) 5% of gross income plus an additional 5% of gross income attributable to real estate rentals where the attorney is managing such real estate, plus
- (b) \$2.00 per \$1,000 on the first \$200,000 of the fair principal value and \$1.00 per \$1,000 on the fair principal value in excess of \$200,000, plus
- (c) 2% of the amount paid to satisfy debts and expenses, excluding fees paid to an attorney, guardian or trustee during said accounting period, plus,
- (d) 1% of the amount distributed to or for the benefit of the ward or beneficiary on a periodic or discretionary basis or on final distribution terminating the trust.
- (e) If the trustee is a corporate organization, such as a bank, the attorney compensation shall be based on an hourly rate for services performed.
- (f) Fair principal value for purposes herein shall be (i) the fair market value of assets whose value is readily ascertainable by market quotations or listing or equivalent services; or (ii) as determined by the fiduciary on an annual basis for those assets sufficiently unique so as to have no readily ascertainable fair market value. It is recommended that the fiduciary obtain an independent appraisal of the latter assets at least every five years. Calculations of total fair principal value shall be made on the fiscal year utilized by the trust or guardianship.
- (g) If an attorney serves as counsel to a conservator and does not have a written agreement reflecting compensation, said person may file an application with the court for payment in accordance with the above schedule.

(2) Estates (Effective for Persons Dying On or After June 1, 2018)

All attorney fee requests must be submitted in writing, must be “reasonable” per Rule 1.5 of the Ohio Rules of Professional Conduct, and may not be taken until the Final and Distributive Account is prepared for filing. Fee requests may be made either pursuant to the following guidelines, or, at the option of the Fiduciary, on an hourly fee basis.

a. Guidelines re: Probate Assets:

Compensation for an attorney employed in any proceeding before the court for the transfer of a decedent’s interest in property (i.e. a full administration or a release of administration), and regarding probate assets *other than* real property sold via Land Sale Proceedings, abandoned and/or subject to foreclosure (see below):

- (1) 4% of the first \$100,000 of assets;
- (2) 3% of the next \$100,000 of assets;
- (3) 2% of the value of such assets in excess of \$200,000.

b. Guidelines re: Non-Probate Assets, and Real Property Subject to Foreclosure or Abandonment:

Compensation for an attorney with respect to the transfer of assets which are titled in joint and survivorship (J&S) form, payable on death (POD) accounts, transfer on death (TOD) form, and any real property which is “abandoned” or subject to foreclosure proceedings: The fee shall be based on one-half (1/2) of the total value of the J&S, TOD, POD property and real property “abandoned” and/or foreclosed-upon, then:

- (1) 2% on the first \$100,000 of assets;
- (2) 1% on the balance of assets.
 - The Supplemental Affidavit regarding these assets must be attached to the application.

c. Hourly fee basis: An application for attorney fees based on an hourly fee basis must be submitted to the court *with* the signature of the fiduciary(s) approving the same, along with the supporting documentation therefor. Counsel must also attach the computation using the above guidelines for purposes of comparison.(3) Guidelines re: Land Sale Proceedings for Real Property:

Compensation for an attorney in a land sale proceeding, either in a decedent’s estate, guardianship, or trust; *and* to proceedings to sell real estate to surviving spouses at the appraised value:

- a. 5% on the first \$100,000 of value;
- b. 4% on the next \$100,000 of value;
- c. 2% on excess of \$200,000 of value.

- This is to be computed *separate and apart* from (2)a and (2)b above.

(4) General Rules as to Attorneys Fees

- a. The above rate computations are merely guides for determining attorney fees in probate matters in accordance with the laws of the State of Ohio and shall not be considered either a minimum or maximum fee schedule.
- b. No application to the court shall be necessary for determination and allowance of compensation computed using the guidelines, if not more than the above guidelines; and the hearing on the same will be waived. However, computation for such shall be furnished with the Account, the Application to Relieve Estate, or the Certificate of Termination.
- c. Any fee application which is above the authorized guidelines will be deemed to be extraordinary and will be assigned for hearing *unless* the fiduciary(s) and all heirs who are beneficiaries sign the extraordinary fee consent form. The Court reserves the right to conduct a hearing, at its discretion, on any attorney fee application.
- d. In cases in which the attorney is acting as fiduciary, compensation as the attorney, in addition to compensation as fiduciary, may be allowed. If using the guidelines, the Court will approve without hearing an application limited to the full fiduciary fee and one-half of the attorney fee, or vice-versa. If using an hourly fee basis, the application must include the documentation showing the hours and rate with respect to each separate responsibility.
- e. An attorney fee shall be considered prima facie reasonable in all estate administration if it does not exceed \$1,000.00.
- f. This rule shall apply to all existing trusts and guardianships and to estates of decedents dying after June 1, 2018.

RULE 72 Executor's and Administrator's Commissions.

(A) Additional compensation for extraordinary services may be allowed upon an application setting forth an itemized statement of the services rendered and the amount of compensation requested. The court may require the application to be set for hearing with notice given to interested persons in accordance with Civil Rule 73(E).

(B) The court may deny or reduce commissions if there is a delinquency in the filing of an inventory or an account, or if, after hearing, the court finds that the executor or administrator has not faithfully discharged the duties of the office.

(C) The commissions of co-executors or co-administrators in the aggregate shall not exceed the

commissions that would have been allowed to one executor or administrator acting alone, except where the instrument under which the co-executors serve provides otherwise.

(D) Where counsel fees have been awarded for services to the estate that normally would have been performed by the executor or administrator, the executor's or administrator's commission, except for good cause shown, shall be reduced by the amount awarded to counsel for those services.

RULE 73. Guardian's Compensation.

(A) Setting of compensation

Guardian's compensation shall be set by local rule.

(B) Itemization of expenses

A guardian shall itemize all expenses relative to the guardianship of the ward and shall not charge fees or costs in excess of those approved by the probate division of a court of common pleas.

(C) Additional compensation

Additional compensation for extraordinary services, reimbursement for expenses incurred and compensation of a guardian of a person only may be allowed upon an application setting forth an itemized statement of the services rendered and expenses incurred and the amount for which compensation is applied. The probate division of the court of common pleas may require the application to be set for hearing with notice given to interested persons in accordance with Civ.R. 73(E).

(D) Co-guardians

The compensation of co-guardians shall not exceed the compensation that would have been allowed to one guardian acting alone.

(E) Denial or reduction of compensation

The probate division of the court of common pleas may deny or reduce compensation if there is a delinquency in the filing of an inventory or account, or after hearing, the court finds the guardian has not faithfully discharged the duties of the office.

Local Rule 73.1 - Guardian's Compensation

(A) Compensation for a guardian of the person only shall be fixed by the Court upon application.

(B) If the guardian of an estate is a corporation, authorized to do business in the State of Ohio in accordance with Ohio Revised Code Chapter 1109, the Court shall permit compensation as set forth in said corporation's public fee schedule for trusts, previously filed with the Court.

(C) If the guardian is other than one described in (A) and (B) above, the Court will allow compensation in accordance with the following schedule:

(1) 5% of the gross income, plus an additional 5% gross income, attributable to real estate rentals, if the fiduciary is managing said real estate; plus

(2) \$3.00 per \$1,000 on the first \$200,000 of the fair principal value and \$2.00 per \$1,000 on the next \$300,000 and \$1.00 per thousand on the excess of \$500,000; plus

(3) 2% of the amount distributed in the payment of debts or expenses, excluding fees paid to an attorney, guardian, trustee or investment broker; plus

(4) 1% of the amount distributed to the ward on a periodic or discretionary basis or on final distribution, terminating the guardianship.

(D) If an individual is appointed by the Court as a conservator and does not have a written agreement reflecting compensation, said person may file an application with the Court for payment in accordance with the above schedule.

(E) If income to the guardianship is attributable to benefits paid to the ward by the Veteran's Administration, compensation shall be allowed in accordance with Ohio Revised Code 5905 as to said income. The above schedule may be used in conjunction therewith, concerning the income from other sources.

(F) The Court reserves the right to determine whether or not the fee is reasonable.

(G) Fair Principal Value, as used in this Local Rule, shall be defined as in Local Rule 71.1.

RULE 74 Trustee's Compensation.

- (A) Trustee's compensation shall be set by local rule.
- (B) Additional compensation for extraordinary services may be allowed upon application setting forth an itemized statement of the services rendered and the amount of compensation requested. The court may require that the application be set for hearing with notice given to interested parties in accordance with Civil Rule 73(E).
- (C) The compensation of co-trustees in the aggregate shall not exceed the compensation that would have been allowed to one trustee acting alone, except where the instrument under which the co-trustees are acting provides otherwise.
- (D) Except for good cause shown, neither compensation for a trustee nor fees to counsel representing the trustee shall be allowed while the trustee is delinquent in the filing of an account.
- (E) The court may deny or reduce compensation if there is a delinquency in the filing of an inventory or account, or after hearing, the court finds that trustee has not faithfully discharged other duties of the office.

Local Rule 74.1 - Trustee's Compensation

- (A) If the instrument creating the trust makes provision for compensation of the trustee, the Court shall follow the terms set forth therein.
- (B) If the trustee is a corporation, authorized to do business in the state of Ohio in accordance with Ohio Revised Code Chapter 1109, the Court shall permit compensation as set forth in said trustee's public fee schedule, previously filed with the Court.
- (C) If the trustee is other than a corporate institution, the Court will allow compensation for ordinary services in accordance with the following schedule:
 - (1) 5% of gross income, plus an additional 5% of gross income attributable to real estate rentals, if the fiduciary is managing said real estate; plus
 - (2) \$4.00 per \$1,000 on the first \$200,000 of the fair principal value and \$3.00 per \$1,000 on the next \$300,000 and \$2.00 per \$1,000 on the excess of \$500,000; plus
 - (3) 2% of the amount distributed in the payment of debts or expenses, excluding

fees paid to an attorney, trustee, guardian, or investment broker.

(4) 1% of the amount distributed to the beneficiaries of the trust on a periodic and/or discretionary basis or on final distribution, excluding fees paid to the trustee or attorney.

(D) The Court reserves the right to determine whether or not the fee is reasonable.

(E) Fair principal value for purposes herein shall be (i) the fair market value of assets whose value is readily ascertainable by market quotations or listing or equivalent services; or (ii) as determined by the fiduciary on an annual basis for those assets sufficiently unique so as to have no readily ascertainable fair market value. It is recommended that the fiduciary obtain an independent appraisal of the latter assets at least every five years. Calculations of total fair principal value shall be made on the fiscal year utilized by the trust or guardianship.

RULE 76 Exception to the Rules.

Upon application, and for good cause shown, the Probate Division of the Court of Common Pleas may grant exception to Sup. R. 53 to 79.

RULE 77 Compliance.

Failure to comply with these rules may result in sanctions as the court may direct.

Rule 77.1 Enforcement

(A) If inventories, accounts, reports, proof of bonds, or other necessary proceedings are not timely filed, the Court, in addition to other remedies at law or rule, and at its discretion, will follow the following procedure:

(1) A Notice shall issue to the attorney of record requesting a reply within twenty-one (21) days. A \$10 administrative fee will be assessed as court costs.

(2) If there is no timely response, a Notice shall issue to the fiduciary ordering compliance within ten (10) days. A \$10 administrative fee will be assessed as court costs.

(3) If there is no timely response, a contempt citation shall issue to the fiduciary with a hearing scheduled. A \$10 administrative fee shall be assessed as court costs.

RULE 78 Probate Division of the Court of Common Pleas - Case Management in Decedent's Estates, Guardianships, and Trusts

(A) Each fiduciary shall adhere to the statutory or court-ordered time period for filing the inventory, account, and, if applicable, guardian's report. The citation process set forth in section 2109.31 of the Revised Code shall be utilized to ensure compliance. The attorney of record and the fiduciary shall be subject to the citation process. The court may modify or deny fiduciary commissions or attorney fees, or both, to enforce adherence to the filing time periods.

(B)(1) If a decedent's estate must remain open more than six months pursuant to R.C. 2109.301(B)(1), the fiduciary shall file an application to extend administration (Standard Probate form 13.8).

(2) An application to extend the time for filing an inventory, account or guardian's report, shall not be granted unless the fiduciary has signed the application.

(C) The fiduciary and the attorney shall prepare, sign, and file a written status report with the court in all decedent's estates that remain open after a period of thirteen months from the date of the appointment of the fiduciary and annually thereafter. At the court's discretion, the fiduciary and the attorney shall appear for a status review.

(D) The court may issue a citation to the attorney of record for a fiduciary who is delinquent in the filing of an inventory, account, or guardian's report to show cause why the attorney should not be barred from being appointed in any new proceeding before the court or serving as attorney of record in any new estate, guardianship or trust until all of the delinquent pleadings are filed.

(E) Upon filing of the exceptions to an inventory or to an account, the exceptor shall cause the exceptions to be set for a pretrial within thirty days. The attorneys and their clients, or individuals, if not represented by an attorney, shall appear at the pretrial. The trial shall be set as soon as practical after pretrial. The court may dispense with the pretrial and proceed directly to trial.

Local Rule 78.1 - Case Management Rules

(A) Civil Action

(1) A pre-trial conference shall be conducted in all contested civil cases prior to being scheduled for trial, except in land sale proceedings.

(2) Within thirty (30) days after the answer day the case shall be set by the Court for a pre-trial conference.

(3) Notice of the pre-trial conference shall be given to all counsel of record by mail and/or telephone by the Court not less than fourteen (14) days prior to the conference. Any application for continuance of the conference shall be in writing and filed with the Court in a timely manner.

(4) The following decisions shall be made at the pre-trial conference and all counsel attending must have full authority to enter into a binding pre-trial order.

(a) A definite discovery schedule shall be agreed upon by all parties for the completion of all discovery.

(b) A definite date for exchange for expert witness reports shall be determined.

(c) A definite date for filing of all motions which date shall not be later than seven (7) days before the final pre-trial. The date for the final pre-trial shall be set by the Court and shall be held approximately one week prior to the trial, if necessary.

(5) The following decisions shall be made at the final pre-trial and all counsel attending must have full authority to enter into a binding final pre-trial order:

(a) The Court will rule on all pre-trial motions.

(b) Briefs on any legal issues shall be submitted.

(c) Proposed jury instructions shall be submitted.

(d) Proposed jury interrogatories shall be submitted.

(e) Clients shall be present.

(f) No motions shall be heard after the final pre-trial without leave of Court and after the showing of good cause.

(B) Land Sales.

All land sales which have not been concluded within six (6) months from the date of filing shall be set for pre-trial conference within twenty-one (21) days following the expiration of the six month period.

(1) The following decisions shall be made at the pre-trial conference and all counsel attending must have full authority to enter into a binding pre-trial order.

(a) The attorney of record and the fiduciary must attend the pre-trial conference.

(b) A written status report shall be filed with the Court no later than seven (7) days prior to the pre-trial conference.

(c) The status report shall address the issues as to the efforts being made to sell the real estate and when the case will be closed.

(C) Decedent's Estates, Trusts, Guardianships, and Conservatorships

(1) Certificate of Service of Notice O.R.C. 2107.19

(a) If the fiduciary or the other person required to do so fails to file the certificate after sixty (60) days from the admission of the will to probate, a notice will be sent to the fiduciary and/or attorney of record.

(b) If the certificate is not filed within an additional thirty (30) days, a citation will be issued to the fiduciary and/or the attorney of record.

(2) Notice to File Inventory in Estates, Trusts, Guardianships and Conservatorships

(a) Local Rule 8 requires the filing of an inventory in an estate within 60 days after the appointment. The statutory time for filing an inventory in a guardianship or trust (O.R.C. 2111.14) is within three months after appointment. The statutory time for filing an inventory in a conservatorship, if governed by guardianship law, is three months after appointment.

(i) A notice will be sent to the fiduciary and/or attorney if the inventory is not timely filed.

(ii) The Court reserves the right, if necessary, to issue a citation for the appearance of the fiduciary and the attorney to show cause for the delay in filing of the inventory.

(3) Objections to Inventory

(a) Objections are scheduled for pre-trial conference within thirty (30) days after filing. At the pre-trial conference the issues are narrowed, a timetable for discovery is agreed upon and the hearing date is scheduled.

(4) Guardian's Report

(a) The first Guardian's Report is due one year from date of appointment and, thereafter, every two years to coincide with the filing of accounts per our local Court Rules.

(i) A Guardian's Report filed by Advocacy and Protective Services, Inc. will be filed yearly in conformance with their rules and policy.

(5) Accounts

(a) The statutory time for filing an account in an estate O.R.C.2109.301 (A) and (B) shall be followed. Subsequent accounts are due yearly thereafter. In a guardianship, trusteeship and conservatorship (when the conservatorship is governed by guardianship law) the first account is due one year from date of appointment and, thereafter, every two years. (Local Court Rule)

(6) Objections to Accounts

(a) Objections are scheduled for pre-trial conference within 30 days after filing. At the pre-trial conference the issues are narrowed, a timetable for discovery is agreed upon and the hearing date is scheduled.

RULE 80. Definitions.

As used in Sup.R. 80 through 89:

(A) Ancillary court services

“Ancillary court services” means any activity, other than a case or court function, that includes the exchange of legal or general court-related information with the public or parties in interest and is paid for or provided by the court. “Ancillary court services” includes, but is not limited to, the following:

- (1) Alternative dispute resolution programs;
- (2) Evaluations;
- (3) Information counters;
- (4) Probation or criminal diversion program functions;
- (5) Pro se clinics;
- (6) Specialized dockets and dedicated-subject-matter dockets.

(B) Case or court function

“Case or court function” means any hearing, trial, pre-trial conference, settlement conference, or other appearance before a court in an action, appeal, proceeding, or other matter conducted by a judge, magistrate, or other court official.

(C) Consecutive interpretation

“Consecutive interpretation” means interpretation in which a foreign

language interpreter or sign language interpreter waits until the speaker finishes an entire message rendered in a source language before rendering the message in a target language.

(D) Crime of moral turpitude

“Crime of moral turpitude” means either of the following:

- (1) A crime punishable by death or imprisonment in excess of one year pursuant to the law under which the person was convicted;
- (2) A crime involving dishonesty or false statement, regardless of the punishment and whether based upon state or federal statute or local ordinance.

(E) Deaf blind

“Deaf blind” means a combination of hearing and vision loss of any varying degree that causes an individual extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives.

(F) Foreign language interpreter

“Foreign language interpreter” means an individual who, as part of any case or court function, facilitates communication between or among legal professionals and a limited English proficient or non-English speaking party or witness through consecutive interpretation, simultaneous interpretation, or sight translation.

(G) Limited English proficient

“Limited English proficient” means an individual who does not speak English as a primary language or who has a limited ability to read, speak, write, or understand English and requires the assistance of a foreign language interpreter or sign language interpreter to effectively communicate.

(H) Provisionally qualified foreign language interpreter

“Provisionally qualified foreign language interpreter” means a foreign language interpreter who has received provisional certification from the Supreme Court Language Services Program pursuant to Sup.R. 81(G)(3).

(I) Registered foreign language interpreters

“Registered foreign language interpreter” means a foreign language interpreter who has registered with the Supreme Court Language Services Program pursuant to Sup.R. 87.

(J) Sight translation

“Sight translation” means interpretation in which a foreign language interpreter or sign language interpreter renders in a target language a written document composed in a source language.

(K) Sign language interpreter

“Sign language interpreter” means an individual who, as part of any case or court function, facilitates communication between or among legal professionals and a deaf, hard-of-hearing, or deaf-blind party, witness, or juror through the use of sign language or other manual or oral representation of a spoken language.

(L) Simultaneous interpretation

“Simultaneous interpretation” means interpretation in which, after a brief pause to listen for or view key grammatical information, a foreign language interpreter or sign language interpreter renders in a target language the message of a person rendered in a source language as the person continues to communicate.

(M) Supreme Court certified foreign language interpreter

“Supreme Court certified foreign language interpreter” means a foreign language interpreter who has received certification from the Supreme Court Language Services Program pursuant to Sup.R. 81.

(N) Supreme Court certified sign language interpreter

“Supreme Court certified sign language interpreter” means a sign language interpreter who has received certification from the Supreme Court Language Services Program pursuant to Sup.R. 82.

(O) Telephonic interpretation

“Telephonic interpretation” means the use via telephone of a foreign language interpreter who is in a location that is physically separate from that of the party or witness who is limited English proficient and requires the services of the interpreter for meaningful participation.

(P) Translator

“Translator” means an individual who, as part of any case or court function, takes written text composed in a source language and renders it into an equivalent written text of a target language.

RULE 87. Registered Foreign Language Interpreters.**(A) Registration**

The Supreme Court Language Services Program may register foreign language interpreters to whom both of the following apply:

- (1) The interpreter is ineligible for certification as a Supreme Court certified foreign language interpreter due to the lack of an oral examination of the National Center for State Courts for that language;
- (2) The interpreter demonstrates to the program's satisfaction proficiency in the interpreter's target language and sufficient preparation to properly interpret case or court functions.

(B) Title

A foreign language interpreter registered with the Supreme Court Language Services Program pursuant to division (A) of this rule shall be styled a "registered foreign language interpreter."

RULE 89. Use of Communication Services in Ancillary Services.

(A) Limited English proficient individuals

A court shall provide foreign language communication services to limited English proficient individuals in conjunction with ancillary court services. Dependent upon the significance and complexity of the ancillary court service, the following individuals may provide the communication services in person, telephonically, or via video:

- (1) An employee of the court, other than a Supreme Court certified foreign language interpreter or provisionally qualified foreign language interpreter, who has demonstrated proficiency in English and the target language in accordance with standards set by Supreme Court Language Services Program and who the program has determined is qualified to conduct communication services directly with a limited English proficient individual in the target language;
- (2) A Supreme Court certified foreign language interpreter;
- (3) A provisionally qualified foreign language interpreter;
- (4) A registered foreign language interpreter.

(B) Deaf, hard-of-hearing, and deaf-blind individuals

A court shall provide sign language communication services to deaf, hard-of-hearing, and deaf-blind individuals in conjunction with ancillary court services. Dependent upon the significance and complexity of the ancillary court service, the following individuals may provide the communication services in person, telephonically, or via video:

- (1) A Supreme Court certified sign language interpreter;

- (2) A sign language interpreter listed in Sup.R. 88(E)(2) through (4);
- (3) A sign language interpreter employed by a community center for the deaf.

(Rules 81 thru 98 are reserved for future use)

RULE 99. Effective Date.

(A) Except as otherwise provided in this rule, the Rules of Superintendence, adopted by the Supreme Court of Ohio on April 15, 1997, shall take effect on July 1, 1997. The rules govern all proceedings in actions brought on or after the effective date and to further proceedings in actions then pending, except to the extent that application in a particular pending action would not be feasible or would work an injustice, in which case the former procedure applies. Sup. R. 37(A)(4)(b) and (c) and 43(B)(2) shall take effect January 1, 1998.

(B) The amendments to Sup. R. 51 to 78, adopted by the Supreme Court of Ohio on July 7, 1997, shall take effect on October 1, 1997.

(C) New Sup.R. 66.01 through 66.09 and the amendments to Sup.R. 73, adopted by the Supreme Court of Ohio on March 10, 2015, shall take effect on June 1, 2015.

(D) All Subsequent amendments to the Rules of Superintendence are effective on the stated effective dates.

(E) The amendments to Sup.R. 80 and 87 and new Sup.R. 89, adopted by the Supreme Court of Ohio on April 19, 2016, shall take effect on July 1, 2016

(F) The Local Court Rules as amended July 1, 2016.

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