

**SUMMIT COUNTY PROBATE COURT**

**LOCAL RULES OF COURT**

*[Effective January 1, 2014,  
with Amendments through February 1, 2019]*

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## LOCAL RULE 8.1

## COURT APPOINTMENTS

- (A) Persons appointed by the Court pursuant to constitutional or statutory authority, rule of court, or the inherent authority of the Court, 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 case load 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 Prof. Cond. Rule 1.5, the Ohio Revised Code, and the Local Rules of Court relating to fees.
- (D) The Court will review Court appointment lists periodically to ensure the equitable distribution of appointments.
- (E) Guardian Ad Litem.
  - (1) Qualifications.

A guardian ad litem shall be an attorney who is not associated with an attorney of record for the proceeding in which the guardian ad litem has been appointed.
  - (2) Appointment.
    - (a) A guardian ad litem will be appointed upon motion of the necessity for appointment.
    - (b) Upon application and entry, a fee based on a reasonable hourly rate for time expended shall be paid from the ward's or decedent's estate, or paid out of the indigent guardianship fund.

### **Sup. R. 8 Court Appointments.**

- (A) As used in this rule:
  - (1) "Appointment" means the selection by a court of any person or entity designated pursuant to constitutional or statutory authority, rule of court, or the inherent authority of the court to represent, act on behalf or in the interests of another, or perform any services in a court proceeding.
  - (2) "Appointee" means any person, other than a court employee, receiving a court appointment who is selected by the court. "Appointee" does not include a person or entity who is selected by someone other than the court.
- (B) Each court or division of a court shall adopt a local rule of court governing appointments made by the court or division. The local rule shall include all of the following:

- (1) A procedure for selecting appointees from a list maintained by the court or division of persons qualified to serve in the capacity designated by the court or division. The procedure shall ensure an equitable distribution of appointments among all persons on the appointment list. The court may consider the skill and expertise of the appointee in the designated area of the appointment and the management by the appointee of his or her current caseload. The court or division may maintain separate lists for different types of appointments.
  - (2) A procedure by which all appointments made by the court or division are reviewed periodically to ensure the equitable distribution of appointments among persons on each list maintained by the court or division.
  - (3) The manner of compensation and rate at which persons appointed will be compensated for services provided as a result of the appointment, including, if applicable, a fee schedule.
- (C) The local rule required by division (B) of this rule may include qualifications established by the court or division for inclusion on the appointment list, the process by which persons are added to or removed from the appointment list, and other provisions considered appropriate by the court or division.
- (D) If a party or other person is required to pay all or a portion of the fees payable to an appointee, the appointee promptly shall notify that party or person of the appointment and the applicable fee schedule. The court or division shall require the appointee to file with the court or division and serve upon any party or other person required to pay all or a portion of the fees itemized fee and expense statements on a regular basis as determined by the court or division. If the party or other person required to pay all or a portion of the fees claims that the fees are excessive or unreasonable, the burden of proving the reasonableness of the fees is on the appointee.

**LOCAL RULE 9.1****SECURITY PLAN**

As required by Rule 9 of the Rules of Superintendence for Courts of Common Pleas, the Probate Division has adopted and implemented a local Security Policy and Procedures Plan. The plan shall be maintained as confidential and not a matter of public record.

**Sup. R. 9. Court Security Plans.****(A) Court Security Plan**

For purposes of ensuring security in court facilities, each court shall develop and implement a court security plan. If more than one (1) court occupies a court facility, the courts shall collectively develop and implement a single court security plan. In addition to any other provisions necessary to satisfy the purposes of this rule, the plan shall address the provisions of the Ohio Court Security Standards adopted by the Supreme Court and as set forth in Appendix C to this rule.

**(B) Public Access**

For purposes of ensuring security in court facilities, a court security plan, including any security policy and procedures manual, emergency preparedness manual, and continuity of operations manual adopted as part of the court security plan, shall not be available for public access.

- (A) Upon request or mandate of the Court, the Court records hearings electronically. The audio-electric recording shall be the official record of the Court. The party requesting the audio-electronic recording shall file a Motion with the Court. Additionally, any party, at the party's own expense, may provide a professional court reporter upon 24 hours written notice to the Court and served on all parties.
- (B) A transcript of the record shall be made at the expense of the person requesting the transcription unless otherwise ordered by the Court. The transcript shall be made by a professional court reporter.
- (C) The original CD or other recording device of the audio-electronic recording shall be maintained by the Court for a period of three (3) years from journalization of the final entry or judgment in the case. However, if a written request for transcription has been made, the original CD or other recording device shall become part of the record of proceedings
- (D) An interested party will not be allowed to use the contents of a recorded hearing in subsequent pleadings filed with the Court or in argument before the Court unless a transcript of the entire hearing is filed with the Court.
- (E) Upon filing an Objection to a Magistrate's Decision or a Notice of Appeal, an objector or appellant who is required or desires to file a transcript of a hearing must contact a court reporting service to have the transcript prepared. The person requesting the transcript shall direct the court reporting service to contact this Court to obtain a copy of the digital record of hearing. The objector or appellant must file the completed transcript in this Court within the time limits of the Local Rules of Court, Rules of Civil Procedure, or the Rules of Appellate Procedure. When the transcript is filed by an appellant, this Court will certify the transcript to the Court of Appeals.



## **LOCAL RULE 16.1                      MEDIATION**

- (A) At any time, any action under the jurisdiction of this Court may be referred to mediation by:
- (1) Voluntary referral by motion of all parties.
  - (2) No issues involving domestic violence or protection orders may be mediated.
  - (3) If a dispute involves a matter under the jurisdiction of the Probate Court, including a client with mental health, or developmental disability, or aging adult issues, but a guardianship case has not been filed, an agency may file a Motion with the Court to refer the matter to mediation.
  - (4) Cases may be ordered to mediation at any time at the discretion of the Judge or Magistrate.
  - (5) If a case is set for mediation, all hearings are held in abeyance until mediation is complete.
  - (6) The parties shall set a mediation date with the Mediation Coordinator.
  - (7) The Court shall issue a Mediation Order.
  - (8) Continuances of mediation will only be granted in exceptional circumstances.
  - (9) Parties shall prepare a Mediation Statement and submit it to the mediator at least 48 hours before the mediation session.
- (B) Fees for the mediator shall be set by the Court. The court absorbs the costs for the first three (3) hours of Mediation. Thereafter the parties are responsible for the mediator's fees.
- (C) A mediator will be assigned by the Court to conduct the mediation and submit an agreement or report within ninety (90) days.
- (D) Parties are required to participate in mediation in person unless excused 14 days prior to the mediation and, if the parties wish, their attorneys and other individuals they designate may accompany them and participate in mediation.
- (E) All mediation communications related to or made during the mediation process are subject to, and governed by the "Uniform Mediation Act" (UMA) R.C. 2710.01 to 2710.10, the Rules of Evidence, and any other pertinent judicial rule(s).
- (1) If an agreement is reached, that agreement may be filed under seal upon request of the parties and the approval of the Court.
- (F) At the conclusion of the mediation and in compliance with R.C. 2710.06, the Court shall be informed of the status of the mediation including all of the following:
- (1) Whether the mediation occurred or was terminated.

- (2) Whether a settlement was reached on some, all, or none of the issues.
- (3) Future mediation session(s), including date and time.
- (4) Further action required by the Court.

**Sup. R. 16 Mediation.**

- (A) General Provisions. A division of the court of common pleas, municipal court, and county court shall consider, and may adopt, a local rule providing for mediation.
- (B) Content of Mediation Rule. A local rule providing for mediation shall include the applicable provisions set forth in this division, in addition to such other provisions as the court or division considers necessary and appropriate.
  - (1) Required provisions for all mediation rules. A local mediation rule shall include all of the following provisions:
    - (a) Procedures for ensuring that parties are allowed to participate in mediation and, if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.
    - (b) Procedures for screening for domestic violence both before and during mediation.
    - (c) Procedures for encouraging appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.
    - (d) Procedures for prohibiting the use of mediation in any of the following:
      - (i) As an alternative to the prosecution or adjudication of domestic violence;
      - (ii) In determining whether to grant, modify or terminate a protection order;
      - (iii) In determining the terms and conditions of a protection order; and
      - (iv) In determining the penalty for violation of a protection order.

Nothing in division (B)(1)(d) of this rule shall prohibit the use of mediation in a subsequent divorce or custody case even though that case may result in the termination of the provisions of a protection order.

## LOCAL RULE 26.1

## RECORD RETENTION

(A) The Probate Division adopts Ohio Rules of Superintendence 26.04 as its rule on record retention.

### **Sup. R. 26.04 Probate Divisions of the Courts of Common Pleas--Records Retention Schedule.**

(A) Definitions. As used in this rule:

- (1) “Docket” means a reference record that provides the dates and a summary of all hearings, pleadings, filings, orders, and other matters that are essential to an action, proceeding, or other matter in the Probate Division.
- (2) “Probate record” means a record that pertains to the duties of the Probate Division including, but not limited to, adoptions, marriage licenses, name changes, birth records, orders of civil commitment, the resolution of civil actions, and the appointment and supervision of fiduciaries.
- (3) “Record of documents” means a collection of single or several page documents in which each document represents the Probate Division’s action in a single incident of the same duty of the Probate Division, such as the issuance of marriage licenses.

(B) Closed probate record or case file. For purposes of this rule, a probate record or case file of an estate, trust, or other fiduciary relationship shall be considered closed when a final accounting has been filed and, if required by law at the time of the filing, the account has been approved and settled. All other probate records and case files shall be considered closed when the Probate Division orders the matter closed or there is a final disposition of the action or proceeding for which the probate record or case file is kept.

(C) Required records.

- (1) Dockets.
  - (a) The Probate Division shall maintain all of the following dockets:
    - (i) An administration docket showing the name of the deceased;
    - (ii) A guardian’s docket showing the name of each ward and, if the ward is a minor, the ward's age and name of the ward's parents and any limited powers or limited duration of powers;
    - (iii) A civil docket in which the names of the parties to actions and proceedings shall be noted;
    - (iv) A testamentary trust docket showing the names of the testator and trustee(s);
    - (v) A change of name docket showing the name of the petitioner and the present and proposed names of the person whose name is to be changed;

- (vi) A birth registration and correction docket showing the name of the person whose birth certificate is being registered or corrected;
  - (vii) A civil commitment docket showing the name of the prospective patient;
  - (viii) A separate adoption docket, in accordance with Section 3107.17 of the Revised Code, showing the name of the child as it would exist after finalization of the adoption and the name(s) of the adoptive parent(s);
  - (ix) A paternity docket showing the birth name of the child who is the subject of the petition, the name of the father, the name of the mother, and the name of the child after adjudication;
  - (x) A miscellaneous docket showing the names of parties or petitioners and the nature of the action or proceeding. The miscellaneous docket shall be limited to actions within the Probate Division's jurisdiction that are not kept in one of the other dockets described in division (C)(1) of this rule. If the number of filings warrants, a miscellaneous docket may be subdivided or grouped into sections containing files or records of similar content.
- (b) All dockets of the Probate Division shall contain the dates of filing or occurrence and a brief description of any bond and surety, letter of authority, and each filing, order, or record of proceeding related to the case or action, with a reference to the file or record where the bond and surety, letter of authority, filing, order, or record of proceeding is to be found, and such other information as the court considers necessary.
- (2) Records of documents.
- (a) The Probate Division shall maintain both of the following records of documents:
    - (i) A record of wills, if wills are not copied and permanently retained as part of an estate case file under division (D)(2) of this rule, in which the wills proved in the court shall be recorded with a certificate of the probate of the will, and wills proved elsewhere with the certificate of probate, authenticated copies of which have been admitted to record by the court;
    - (ii) A marriage record, in which shall be entered licenses, the names of the parties to whom the license is issued, the names of the persons applying for a license, a brief statement of the facts sworn to by the persons applying for a license, and the returns of the person solemnizing the marriage.
  - (b) Records of documents of the Probate Division shall contain documents, applications or affidavits, either original or copies, and information pertaining to those documents, as found in division (C)(2)(a) of this rule or as considered necessary by the court.

(3) Journal.

The Probate Division shall maintain a journal for orders, entries, or judgments pertaining to the business and administration of the division, and other miscellaneous orders, entries, or judgments which the court may consider necessary to journalize, including all of the following:

- (a) Orders of appointment and oaths of office pursuant to Section 2101.11 of the Revised Code of court personnel and other nonfiduciary appointees;
- (b) Orders of reference to magistrates;
- (c) Changes of the local rules of the Probate Division;
- (d) Orders changing the hours for the opening and closing of the probate court.

(4) Indexes.

The Probate Division shall maintain an index for each docket, record of documents, and journal described in division (C) of this rule. Each index shall be kept current with names or captions of proceedings in alphabetical order and references to a docket, record or documents, journal, or case file where information pertaining to those names or proceedings may be found.

- (5) Upon the filing of any paper or electronic entry permitted by the Probate Division, a stamp or entry shall be placed on the paper or electronic entry to indicate the day, month, and year of filing.

(D) Destruction and preservation of probate records.

- (1) The vouchers, proof, or other evidence filed with the Probate Division in support of the expenditures or distribution slated in an account, after review and reconciliation with the accounting and notation of reconciliation in the record or file, may be returned to the fiduciary or retained in accordance with divisions (D)(2) and (E) of this rule.
- (2) All records, vouchers, inventories, accounts, pleadings, applications, petitions, records of adoptions, marriages, and mental health commitments, wills, trusts, journals, indexes, dockets, records or documents related to estate or inheritance taxes, and other papers and filings of the Probate Division, may be preserved using any nationally accepted records and information management process in accordance with Sup. R. 26(D).
- (3) In the Probate Division's discretion, any nonessential note, notice, letter, form, or other paper, document, or memorandum in a case file that is not essential to providing a record of the case and by the judgment of the Probate Division may be destroyed prior to, or after, the case is closed. For purposes of division (D)(3) of this rule, evidence of service of notice of the initial complaint, petition, or application that establishes the Probate Division's jurisdiction is essential to providing a record of a probate case.

- (4) Judge, magistrate, investigator, and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.
- (E) Case file and probate record retention schedule.
- (1) Adoption records. Adoption records shall be retained permanently.
  - (2) Birth and death registrations. Birth and death registrations dated prior to 1908 shall be retained permanently.
  - (3) Civil commitment records. Civil commitment records shall be retained for three (3) years after the case is closed.
  - (4) Dockets, records of documents, journals and indexes. Dockets, records of documents, journals, and indexes shall be retained permanently.
  - (5) Evidence filed in support of expenditures or distributions. Vouchers, proof, or other evidence filed in support of expenditures or distributions stated in an account shall be retained for three (3) years after the date of filing.
  - (6) Marriage license records. Marriage license records shall be retained permanently.
  - (7) Trust accountings. Trust accountings shall be retained for twelve years after the date the accounting was approved.
  - (8) All other records. All other records shall be retained for twelve years after the date the case, cause, proceeding, or matter is closed or completed.
- (F) Temporary estate tax orders. Divisions (D) and (E).

**LOCAL RULE 26.2****DISPOSITION OF EXHIBITS**

All exhibits offered for admission during a hearing or trial shall be labeled by a party name and item identification. In a proceeding recorded by a Court stenographer, custody of exhibits admitted or proffered shall be given to the stenographer, unless otherwise ordered by the Court. If the proceeding is electronically recorded, exhibits shall be filed in the Court case file, unless otherwise ordered by the Court. All admitted exhibits will be scanned and docketed, unless sealing is ordered.

Upon agreement of the parties or by Order of the Court, copies may be substituted for the original exhibit.

Disposal of exhibits shall be pursuant to Sup. R. 26.

- (A) Upon motion of any party showing good cause and upon notice to all other parties and the individual who is the subject of the reports, the Court may order any hospital by any agent competent to act in its behalf, to reproduce all or any portion of designated hospital records, not privileged, which constitute or contain evidence pertinent to an action pending in this Court. The Order shall direct the hospital to describe by cover letter the portion or portions of the records reproduced and any omissions and specify the usual and reasonable charges. The Order shall designate the person(s) to whom such reproductions shall be delivered or made available.
- (B) Objections to the admissibility of such reproduced hospital records on the grounds of materiality or competency shall be deemed reserved for ruling at the time of trial without specific reservation in the Order to reproduce. Reproductions made pursuant to this procedure may be admitted into evidence without further identification or authentication but subject to rulings or objections impliedly or specifically reserved unless the Order expressly provides otherwise.
- (C) Charges for reproduction of its records shall be paid directly to the hospital by the movant(s).
- (D) Where original records are produced in Court and reproductions subsequently substituted by agreement of the parties or by order of the Court, the movant(s) shall be responsible for the cost. Unless otherwise ordered by the Court, all original records shall be returned by the court reporter to the hospital upon entry of judgment in this Court.



## **LOCAL RULE 45.1 OMISSION OF PERSONAL IDENTIFIERS PRIOR TO FILING**

“Personal identifiers” means social security numbers, except the last four (4) digits; financial account numbers, except the last four (4) digits including but not limited to debit card, and credit card numbers; employer and employee identification numbers; and dates of birth.

When personal identifiers are omitted from a case document filed with this Court, the filer shall submit or file that information on a separate form. The filer shall use the Probate Court Confidential Disclosure of Personal Identifiers form to provide the Court with this information. The form is available in the Rules Appendix.

Comment: The filer is responsible for removing personal identifiers.

### Sup. R. 45.(D) Omission of personal identifiers prior to submission or filing

- (1) When submitting a case document to a court or filing a case document with a clerk of court, a party to a judicial action or proceeding shall omit personal identifiers from the document.
- (2) When personal identifiers are omitted from a case document submitted to a court or filed with a clerk of court pursuant to division (D)(1) of this rule, the party shall submit or file that information on a separate form. The court or clerk may provide a standard form for parties to use. Redacted or omitted personal identifiers shall be provided to the court or clerk upon request or a party to the judicial action or proceeding upon motion.
- (3) The responsibility for omitting personal identifiers from a case document submitted to a court or filed with a clerk of court pursuant to division (D)(1) of this rule shall rest solely with the party. The court or clerk is not required to review the case document to confirm that the party has omitted personal identifiers, and shall not refuse to accept or file the document on that basis.

### (E) Restricting public access to a case document

(1) Any party to a judicial action or proceeding or other person who is the subject of information in a case document may, by written motion to the court, request that the court restrict public access to the information or, if necessary, the entire document. Additionally, the court may restrict public access to the information in the case document or, if necessary, the entire document upon its own order. The court shall give notice of the motion or order to all parties in the case. The court may schedule a hearing on the motion.

(2) A court shall restrict public access to information in a case document or, if necessary, the entire document, if it finds by clear and convincing evidence that the presumption of allowing public access is outweighed by a higher interest after considering each of the following:

- (a) Whether public policy is served by restricting public access;
- (b) Whether any state, federal, or common law exempts the document or information from public access;
- (c) Whether factors that support restriction of public access exist, including risk of injury to persons, individual privacy rights and interests, proprietary business information, public safety, and fairness of the adjudicatory process.

(3) When restricting public access to a case document or information in a case document pursuant to this division, the court shall use the least restrictive means available, including but not limited to the following:

- (a) Redacting the information rather than limiting public access to the entire document;
- (b) Restricting remote access to either the document or the information while maintaining its direct access;
- (c) Restricting public access to either the document or the information for a specific period of time;
- (d) Using a generic title or description for the document or the information in a case management system or register of actions;
- (e) Using initials or other identifier for the parties' proper names.

(4) If a court orders the redaction of information in a case document pursuant to this division, a redacted version of the document shall be filed in the case file along with a copy of the court's order. If a court orders that the entire case document be restricted from public access, a copy of the court's order shall be filed in the case file. A journal entry shall reflect the court's order. Case documents ordered restricted from public access or information in documents ordered redacted shall not be available for public access and shall be maintained separately in the case file.

(F) Obtaining access to a case document that has been granted restricted public access

(1) Any person, by written motion to the court, may request access to a case document or information in a case document that has been granted restricted public access pursuant to division (E) of this rule. The court shall give notice of the motion to all parties in the case and, where possible, to the non-party person who requested that public access be restricted. The court may schedule a hearing on the motion.

(2) A court may permit public access to a case document or information in a case document if it finds by clear and convincing evidence that the presumption of allowing public access is no longer outweighed by a higher interest. When making this determination, the court shall consider whether the original reason for the restriction of public access to the case document or information in the case document pursuant to division (E) of this rule no longer exists or is no longer applicable and whether any new circumstances, as set forth in that division, have arisen which would require the restriction of public access.

Forms for use in Summit County Probate Court are available on the Court's website. Attorneys are encouraged to use these forms.

**Sup.R. 51. Probate Divisions of the Courts of Common Pleas -Standard Probate Forms.**

**(A) Applicability.** This rule prescribes the format, content, and use of standard forms for designated applications, pleadings, waivers, notices, entries, and other filings in certain proceedings in the probate division of the courts of common pleas.

Where a standard form has not been prescribed by this rule, the form used shall be that required by the Civil Rules, or prescribed or permitted by the probate division of the court of common pleas in which it is being filed.

**(B) Effective date; use of standard and nonstandard forms.**

(1) This rule takes effect July 1, 1977 and applies to proceedings had on and after that date, including proceedings in pending cases.

(2) The standard forms shall be used on and after January 1, 1978, and nonstandard forms shall be rejected for filing.

**(C) Modification of standard forms; pleadings and filings prepared for particular cases.**

(1) A printed, blank standard form may be modified by deletion or interlineation to meet the circumstances of a particular case or proceeding, if the modification can be accomplished neatly and conveniently. No court shall require the modification of a standard form as a routine matter. If any allegation, statement, data, information, pleading, or filing is required by an appropriate local rule of court and a standard form does not make provision therefor, it shall be provided in a separate or supplemental filing.

(2) Even though a standard form is prescribed, an original instrument may be prepared for filing. Any such instrument shall be typed on eight and one-half by eleven inch paper. The caption prescribed in Sup. R. 52 shall be used, and the instrument shall follow the format prescribed for the standard forms. Any such instrument may modify the language of the standard form, omit inapplicable matter required by the standard form, and add matter not included in the standard form to the extent required by the circumstances of the particular case or proceeding.

**(D) Standard probate forms.** The standard forms prescribed for use in the probate division of the courts of common pleas are as follows.

**Commentary (October 1, 1997)**

This rule is identical to former C.P. Sup. R. 16.

This rule was amended effective December 13, 1989, to add a temporary provision suspending the use of Standard Probate Forms 15.0 through 17.5, the guardianship forms. This was necessitated by the revisions to the guardianship laws embodied in Substitute Senate Bill 46 of the 118th General Assembly, effective January 1, 1990. New guardianship forms were adopted effective September 1, 1991 and the temporary provision was repealed. In addition, additional estate forms were adopted as the result of Amended Substitute House Bill 346 of the 118th General Assembly, effective May 31, 1990. See R.C. 2113.03 and 2113.533.

The December 1989 amendment to this rule also added new Standard Probate Forms 18.0 through 19.1, which are used for adoptions.

When standard forms are generated by computer, they shall conform to all specifications for standard forms stated in Sup. R. 52. The Court will accept for filing nonstandard computer generated forms for the receipts and disbursements attached to a standard account form or the schedule of assets attached to a standard inventory and appraisal form.

**Sup. R. 52. Probate Divisions of the Courts of Common Pleas--Specifications for Printing Probate Forms.**

**(A) Applicability.**

(1) The specifications in this rule govern the reproduction of blank forms intended for, or used in, the administration of decedents' estates, guardianships, and adoptions in this state, including:

(a) Standard forms prescribed in Sup. R. 51;

(b) Commercially prepared blank forms, including standard and nonstandard forms, designed for use in any aspect of the administration of decedents' estates, guardianships, and adoptions;

(c) Blank forms prescribed by local rule of court for use in situations for which no standard form is prescribed.

(2) This rule does not apply to any of the following:

(a) Any pleading, application, entry, waiver, notice, or other filing that is prepared ad hoc for use in a particular case or proceeding, or that is not reproduced in any manner for use as a blank form;

(b) Any routing slip, memorandum index, cost bill, or other form designed solely for internal administrative or clerical use;

(c) Forms intended for use in matters other than the administration of decedents' estates, guardianships, or adoptions;

(d) Estate tax returns, reports, and other forms prescribed by the Department of Taxation.

**(B) Size of forms; stock.** All forms shall be on paper size eight and one-half by eleven inches, printed on twenty-four pound bond or heavier stock.

**(C) Margins.** Right and left margins shall be approximately one-half to three-quarters of one inch, and shall be justified. The top margin shall be approximately seven-eighths to one and one-eighth inches, measured from the top edge of the paper to the top of the first line of the caption. The distance between the bottom of the repeat of the main heading at the foot of the first page shall be as required by division (K) of this rule.

**(D) Type styles.**

(1) All type shall be sans serif. Bold face type shall be used only as required or permitted by division (D)(2) of this rule. Italics shall not be used. Except as provided in division (D)(3) of this rule, all type shall be upper and lower case. (2) Bold face type shall be used for the main heading immediately following the caption, and for the form number and repeat of the main heading at the foot of the first page. In addition bold face type may be used for:

(a) The caption;

(b) Subheadings;

(c) Directions enclosed in brackets;

(d) Instructions or identification under a blank line, indicating what is to be inserted in the line or identifying the office or status of a signer;

(e) Column headings;

(f) Any matter not covered in division (D)(2)(a) to (e) of this rule, for which the use of bold face type is expressly indicated on a standard form in Sup. R. 51.

(3) The following shall be printed in all capital letters:

(a) The first two lines of the caption;

(b) The main heading immediately following the caption;

(c) All subheadings;

(d) The form number and repeat of the main heading at the foot of the first page;

(e) Any matter not covered in division (D)(3)(a) to (d) of this rule, for which the use of all capital letters is expressly indicated on a standard form in Sup. R. 51.

**(E) Type sizes.**

(1) The following type sizes shall be used:

(a) Main headings immediately following the caption shall use sixteen-point or larger type;

(b) The first line of the caption, and all subheadings, shall use not smaller than twelve-point nor larger than sixteen-point type;

(c) The last two lines of the caption, the body, and the form number and repeat of the main heading at the foot of the first page, shall use not smaller than eight-point nor larger than twelve-point type;

(d) Instructions or identification under a blank line, indicating what is to be inserted in the line or identifying the office or status of a signer, shall use not larger than eight-point type.

(2) Whatever type size is used with the limitations of division (E)(1) of this rule:

(a) The first line of the caption and all subheadings shall use type at least two points smaller than the main heading immediately following the caption;

(b) The last two lines of the caption, the body, and the form number and repeat of the main heading at the foot of the first page, shall use type at least two points smaller than the subheadings;

(c) Instructions or identification under a blank line, indicating what is to be inserted in the line or identifying the office or status of a signer, shall use type at least two points smaller than the body.

**(F) Vertical spacing.**

(1) The vertical spacing on all forms shall be in units of one pica, to conform to standard typewriter vertical spacing.

(2) In order to permit optimum placement and promote visual appeal, the main heading and any subheading may be moved up or down within the available area without regard to the vertical spacing of the rest of the form, provided the rest of the form from head to foot maintains vertical spacing in units of one pica.

**(G) Centering.** The first line of the caption, the main heading, any explanatory information supplementing the main heading and appearing directly below it, subheadings, and the form number and repeat of the main heading at the foot of the first page of a form, shall be centered.

**(H) Blank lines; length; vertical spacing in series.**

(1) Blanks to be filled in shall be indicated by a printed solid line. Wherever possible, such lines shall be of sufficient length to accommodate comfortably all characters included in any word, phrase, name, date, or other information that might reasonably be expected to be placed in the blank. Spaces and punctuation shall be included in counting characters. It shall be assumed that six pica will accommodate ten characters in calculating the length of a line.

(2) Wherever possible, blank lines shall be a minimum length of:

(a) Eight pica, when the name of a county is to be inserted;

(b) Eighteen pica, when a date is to be inserted;

(c) Twenty pica, when a name or signature is to be inserted;

(d) Eight pica, not counting the dollar sign, when a dollar amount is to be inserted.

(3) One, or two or more blank lines may be used for the insertion of an address. Wherever possible, such lines shall be a minimum length of:

(a) Forty pica when a single line is used;

(b) Twenty pica per line when two or more lines are used.

(4) When a series of signature lines, lines for tabulating particular information, or other blank lines in vertical series are called for in a form, then except where expressly indicated on a standard form in Sup. R. 51, the vertical spacing between lines shall be two pica. This spacing shall be maintained without regard to instructions or identification printed below a line.

**(I) Boxes to be checked.**

(1) Where a form calls for a “check” or “X” to be inserted, a box shall be used for the purpose. The box shall precede the information to which it refers.

(2) When a series of “checks” or “X’s” are called for in the same sentence or paragraph, each box and the information to which it refers shall be set apart visually from the preceding and following information in the same sentence or paragraph. Any device that provides visual separation and minimizes possible confusion may be used, including without limitation space-hyphen-space or a double or triple space, as in the following example:  
“[check one of the following] - - [ ]Decedent’s will has been admitted to probate in this court - [ ]To applicant’s knowledge decedent did not leave a will.”

**(J) Caption.**

(1) Except as provided in division (J)(3) of this rule, the following captions shall be used, respectively, on all forms for the administration of decedents’ estates, guardianships, and adoptions:

PROBATE COURT OF \_\_\_\_\_ COUNTY, OHIO  
ESTATE OF \_\_\_\_\_, DECEASED  
CASE NO. \_\_\_\_\_

PROBATE COURT OF \_\_\_\_\_ COUNTY, OHIO  
GUARDIANSHIP OF \_\_\_\_\_  
CASE NO. \_\_\_\_\_

PROBATE COURT OF \_\_\_\_\_ COUNTY, OHIO  
ADOPTION OF \_\_\_\_\_  
(Name after adoption)  
CASE NO. \_\_\_\_\_

(2) The first line of the caption shall be centered. The second and third lines shall begin at the left margin and end at the right margin. The vertical space between the first and second lines may be two or three pica. The vertical space between the second and third lines shall be two pica.

(3) The following variations from the caption prescribed in division (J)(1) and (2) of this rule are permitted:

(a) The blank line in the first line of the caption may be replaced by the imprinted name of a particular county.

(b) The caption may be expanded to include the address of a particular court, using type of any suitable size. In such case, the blank lines intended for the court's address in the body of any form and introductory material for the address such as, "the court is located at \_\_\_\_\_," shall be omitted.

(c) In Standard Decedents' Estates Form 5.5, and in any other decedents' estates form dealing with two or more estates, the last two lines of the caption shall be omitted.

**(K) Form number and repeat of main heading.**

(1) The main heading of a form, which appears immediately below the caption on the first page of a form, shall be repeated at the foot of the first page. If the form is a standard form, the repeat of the main heading shall be preceded on the same line by the form number.

(2) The form number and repeat of the main heading shall be centered, and located not higher than three-eighths inch above the bottom edge of the form.

**(L) Printing front and back.** When a standard probate form consists of more than one page, each page shall contain the case number in the upper portion of the page.

**(M) Standard forms to govern; variations.**

(1) Matters not specifically covered in this rule are governed by the standard forms prescribed in Sup. R. 51. Overall, the format of all printed blank forms, whether standard or nonstandard, shall conform substantially to the standard forms. Except as provided in division (M)(2) of this rule, no additions to, deletions from, or changes in the form, content, or language of the standard forms are permitted when printing blank standard forms.

(2) The following variations from the standard forms in Sup. R. 51 are permitted:

(a) In any form calling for a court's address, the blank lines intended for the insertion of such information may be replaced by the imprinted information itself. If the court's address is imprinted in the caption, the blank lines in the body of the form for the address and introductory material for the address shall be omitted as provided in division (J)(3) of this rule.

(b) The name as well as the title of the probate judge may be imprinted below a judge's signature line on any form.

(c) In any form calling for the attorney's typed or printed name, address, telephone number, and attorney identification number, the blank lines intended for the insertion of that information may be replaced by the imprinted information itself. The signature line for the attorney shall be retained.



(d) In Standard Decedents' Estates Form 4.2, the portion of the form below the date line and principal's signature line, and above the repeat at the foot of the page, may be replaced by the imprinted name and address of a corporate surety, identified in some appropriate manner as the surety on the particular bond, and including a signature line for the attorney in fact. The last paragraph of the body of the form, relating to justification of personal sureties, shall be omitted.

(e) When standard forms are generated by computer, they shall conform to all specifications for standard forms stated in this rule. A court may accept for filing nonstandard computer generated forms for the receipts and disbursements attached to a standard account form or the schedule of assets attached to a standard inventory and appraisal form.

(f) All forms may include suitable coding for optical or magnetic scanning, or similar system designed to aid docketing, indexing, cost accounting, or other administrative or clerical activities.

(g) On all forms, the publisher may add its name, logotype, or other suitable identification. The size, style, and placement shall be such as not to detract from, interfere with, or overpower any part of the form.

(h) Wherever a form contains "19\_\_" or "199\_\_", a blank line shall be substituted to accommodate the correct year.

**(N) Effective date.**

(1) This rule takes effect July 1, 1977.

(2) On and after January 1, 1978, any pleading, application, entry, waiver, notice, or other filing, prepared using a blank form to which this rule applies, shall not be accepted for filing by the probate division of a court of common pleas of this state unless such blank form complies with the specifications in this rule. (3) The amendment to division M(2)(h) shall take effect on November 16, 1999.

**Commentary (November 16, 1999)**

This amendment permits the change of preprinted dates on existing standard probate forms.

**Commentary (October 1, 1997)**

This rule is unchanged substantively from former C.P. Sup. R. 17.

**LOCAL RULE 53.1                    HOURS OF THE COURT**

The Probate Court shall be open for the transaction of business daily from 8:00 A.M. to 4:00 P.M., except Saturdays, Sundays, and legal holidays observed by the Court. The Court may close periodically for staff training.

**LOCAL RULE 55.1****WITHDRAWAL OF FILES**

- (A) Court records shall not be removed from the Court.
- (B) Copies of public records may be obtained from the Court at a per page cost established in the court's costs and fee schedule. Court personnel shall not be responsible for making such copies, but may assist the public in operating court copying equipment.
- (C) The Court website provides access to all non-confidential documents. Copies maybe be made from the website.

**Sup. R. 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.

The following procedures are applicable:

(A) Leaves to Plead shall be by written application to the Court. The application shall set forth the number of Leaves to Plead previously obtained, and the total days of such Leaves, and shall be served upon opposing counsel or upon the adverse party if not represented by counsel.

(B) Leaves Granted Without Order of Court

Unless the Court has, on its own Motion, limited Leaves to Plead, the following for Leaves to Plead are granted, without Order of the Court, for a period of twenty-one (21) days.

(1) First Leave to Plead: When a certification is filed that no previous Leave to Plead has been taken.

(2) Additional Leave to Plead with Consent

If the only Leave to Plead taken by a party is under the provision of Paragraph (B)(1), an additional Leave may be taken by that party upon the filing of the written consent of opposing counsel.

(C) Motions for Continuances shall be submitted in writing and served on all interested parties/counsel. Movant shall also submit a Proposed Order

**Sup. R. 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 57.1**

**FILINGS AND JUDGMENT ENTRIES**

(A) Requirements for Acceptance: (Except as modified by Electronic Filing Rule 57.5)

(1) All filings must contain original signatures. At least one (1) fiduciary must sign the filing when multiple fiduciaries have been appointed. Any signature must be followed by the printed name of the person signing.

(2) Notwithstanding Civil Rule 11 and the standard probate forms, the fiduciary's(ies') signature(s) is(are) required on all matters pertaining to the receipt and expenditure of funds, resignation of fiduciary, or any applications or motions, except as set forth in (4) below.

(3) Upon the initial filing of any matter captioned in the name of a deceased person, the applicant shall submit a certified copy of the deceased person's death certificate. The Clerk will inspect and copy the original and return it. The record will be kept in the confidential file.

(4) An attorney may sign Form EGT.1 on behalf of the fiduciary or fiduciaries by signing the attorney's name on the signature line. The attorney shall obtain prior written authorization from such fiduciary or fiduciaries before signing and filing Form EGT.1. The attorney shall attach to Form EGT.1 the document setting forth the written authority granted to the attorney. The attorney shall provide a written copy of the extension to the fiduciary or fiduciaries within two days of its filing. Such authority set forth in (A)(4) may be granted by e-mail, fax, or original signature of the fiduciary(s).

(5) If a fiduciary/applicant is a person entitled to receive notice of a pleading or document, their signature upon the document shall be deemed a waiver of notice by the signatory and shall constitute full consent to the action requested.

The Clerk will inspect and copy the original and return it. The record will be kept in the confidential file.

(B) Approval by Attorney of Fiduciary Filings.

(1) Each document presented to the Court for filing on behalf of a fiduciary, if not otherwise required to be signed by the fiduciary's attorney, shall have endorsed thereon the approval of the attorney at law, if any, who represents the fiduciary, in the following form:

Approved:

\_\_\_\_\_  
Attorney for Fiduciary

(2) The signature of an attorney constitutes a certification that the attorney has read the pleadings; that to the attorney's best knowledge, information, and belief, there is good ground to support it; and that it is not interposed for delay.

(C) Motions.

Unless an oral hearing is requested, all Motions shall be submitted by Memorandum or Brief. Requests for hearing must be in writing, and filed with the Motion. A statement of the grounds upon which the Motion is based shall be presented in the Memorandum or Brief. All Motions shall be submitted with a proposed Order approved by the attorney of record.

Within fourteen (14) days after the receipt of a copy of a Motion, opposing counsel shall prepare and file a reply to the Motion, setting forth written statements of opposition to the Motion..

Any Motion may be ruled upon at any time after fourteen (14) days from the date of filing the Motion.

**LOCAL RULE 57.2****FORWARDING COPIES**

- (A) The Court will serve file-stamped copies of its Orders via email when possible. Each attorney of record must supply the Court with a valid email address.
- (B) The Court will not return file-stamped copies by mail unless submitted with a return, self-addressed, stamped envelope.

**LOCAL RULE 57.3****RELEASE FROM ADMINISTRATION**

- (A) A copy of decedent's paid funeral bill or a Waiver of Notice of Application for Release (Form 5.2) signed by a funeral home representative shall be filed with any Application for Release from Administration. If no paid funeral bill or Waiver is filed, the Application shall be set for hearing, and the Applicant shall give certified mail notice to the funeral provider. (Form 5.3)

*[Rule 57.3 Effective October 1, 2015.]*



**LOCAL RULE 57.4****REAL ESTATE TRANSFER ONLY**

An Application for Certificate of Transfer may be approved pursuant to Rev. Code Sec. 2113.61 (D) without a full estate or release from administration six months after the date of death if: 1) the sole probate asset of the decedent is real estate and; 2) the decedent was not subject to Medicaid Estate Recovery. Form ER.11 (Appendix "H") enumerates the necessary documents to be filed pursuant to this rule.

1. Definitions in the Rule shall be as follows:
  - a. **Source document:** The document to be filed. This document shall be transmitted to the court by e-mail in PDF format unless it is a Proposed Order which shall be submitted in WORD format.
  - b. **Original document:** the e-mail copy of the source document received by the Court and maintained as the “original” document in the Court’s file. A document filed by e-mail shall be accepted as the original filing if the sender complies with all of the requirements set forth in this Local Rule. The sender need not file any source document with the Court.
2. **Filings Not Accepted:** The following documents may NOT be filed by e-mail transmission:
  - a. Any pleading or document necessary to commence a proceeding for which the Court must collect an initial case deposit or a filing fee and/or for which the Court is required to effectuate service of summons; or
  - b. Any document filed by e-mail that requires a fee at the time of filing unless the filer has on deposit sufficient funds for the payment of costs; or
  - c. Any proceedings deemed confidential pursuant to Ohio Law.
3. **Electronic Cover Page:** All filings by e-mail shall be accompanied by a Court Approved cover page as set forth in Appendix “I”, setting forth:
  - a. Date of transmission;
  - b. Name, address, e-mail address, telephone number, and fax number of the sender;
  - c. Case number and caption of the case in which the document is to be filed;
  - d. Title of the document(s) to be filed; and
  - e. Number of pages being transmitted.
4. **E-Mail:** The e-mail address available for receiving filings for the Court is [efiling@summitohioprobate.com](mailto:efiling@summitohioprobate.com). This e-mail address is available twenty-four (24) hours per day seven (7) days per week for e-mail filings ONLY. E-mails sent to any other address are not covered by or permitted under this Local Rule and will not be considered filed. All email filings shall state the Case Number and Case Caption in the subject line.
5. **Document Restrictions:** An e-mail transmission may contain more than one document but may not apply to more than one case number per transmission. Motions and other filings making reference to or incorporating other documents attached to the motion or other filing as an exhibit thereof shall be considered as part of a single filing for purposes of this rule.

6. **Fees:** There are no specific costs related to Electronic Filings except to the extent that the filings are taxed as costs to any case. **Filings in excess of ten pages shall be assessed a copying charge at the rate of ten cents a page.** It is the sender's responsibility to ensure that there is sufficient funds deposited with the Court with which to satisfy the cost relating to the filing.
7. **Filing:** Acceptance or Rejection. The Court is authorized to reject any electronic filing if it fails to comply with any of the requirements of this rule. The Court shall notify sender of said rejection.
8. **Date and Time:** For purposes of this rule and for entering such filings into the electronic Case Docket system, electronically transmitted documents may be received during the regular business hours of the Court. **Any documents received after 3 pm on a regular business day shall be filed and docketed the following business day. Any documents received on weekends or other legal holidays shall be filed and docketed the next business day.**
9. **Signatures:** Any signature on documents transmitted by e-mail shall be considered as that of the attorney or other person that it purports to be for all purposes. If it is established that the documents were transmitted without authority, the Court may order the filing stricken. Any electronic filings shall contain a signature and must be followed by the printed name of the person signing the source document.
10. **Verification of Receipt for e-mail filings:** The Court shall send a Delivery Receipt. Once the document has been filed the Court shall confirm said filing via email by returning to sender the time stamped documents.

COMMENT:

E-mail Filings: Under Civil Rule 5(E), pleadings, motions, applications and other filings may be filed with the Court by e-mail transmission subject to conditions in the rule. This Local Rule is adopted for the convenience of those filing documents with the Court but the Court does not assume any new or additional responsibilities, obligations or liabilities by virtue of this Rule. The filer remains responsible for any requirements pertaining to time, costs or otherwise when using this method of filing. **In making copies, the Court will attempt to keep necessary copying of attachments to a minimum to reduce expenses for parties.**

This Local Rule pertains only to the method of filing and does not change any other requirements in the Local or Civil Rules or Ohio Statutes such as obtaining the consent of parties or counsel or obtaining signatures or the authorization to sign for opposing counsel.

*[Local Rule 57.5 amended effective February 1, 2019.]*

**Sup. R. 57 Filings and Judgment Entries.**

- (A) All filings, except wills, shall be on eight and one-half (8½) by eleven (11) 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 (10) 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 (7) days after the judgment is rendered. Counsel for the opposing party shall have seven (7) 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.
- (G) When a pleading, motion, judgment entry or other filing consists of more than one (1) page, each page shall contain the case number in the upper portion of the page.

**LOCAL RULE 58.1            DEPOSIT FOR COURT COSTS**

The Court may require a deposit sufficient to cover the anticipated costs except when otherwise directed by law or the Court.

When required, Court costs are due and payable at the time of filing.

A schedule of Court costs is available on the Court's website.

**LOCAL RULE 58.2                      CREDIT CARDS**

The Court will accept payment for costs and fees via Visa, MasterCard, and Discover. Any fees associated with payments by credit cards will be assessed against the credit card holder.

*[Local Rule 58.2 amended effective February 8, 2017.]*

**Sup. R. 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.

**(A) Estate Administration.****Appointment of Non-resident Fiduciaries**

An applicant to be appointed fiduciary of a decedent's estate or trust, who is not a resident of this state, must comply with Section 2109.21 O.R.C. and employ an attorney of record licensed to practice law in Ohio. To assure the assets remain in Summit County, Ohio, during the administration of the estate or trust, the applicant shall meet one or more of the following criteria as the Court may require:

- (1) Place a substantial amount of the decedent's personal assets in a custodial depository in this county, pursuant to Section 2109.13 O.R.C.;
- (2) Have a co-fiduciary who is a resident of this State;
- (3) Post a bond in compliance with Section 2109.04 O.R.C.

In cases where a trustee named in the Will is a non-resident of this state, the Court reserves the right to appoint a local resident co-trustee, with or without bond, who will insure that all assets pertaining to said trust remain in this county until distribution, or until the Court determines that the property may be removed from the county in accordance with R.C. 2109.21.

**(B) Notice of Application/Stepparent.**

If a surviving spouse files an application to be appointed as administrator of an intestate estate, and is:

- (1) Not the natural parent of the decedent's child or children, and is,
- (2) Entitled to a priority of appointment under R.C. 2113.06, the surviving spouse shall, in accordance with Rule 73 of the Ohio Rules of Civil Procedure, serve all competent adult next of kin of the decedent who reside in the State of Ohio a notice containing the following:
  - (a) That an application has been filed for the appointment of the spouse as administrator, and
  - (b) Time and place of the hearing for the application. Notice may be waived, in writing, by the next of kin.

**(C) Status Report by Fiduciary.**

The fiduciary of an estate, or the attorney of record, shall file an annual report with the Court on the anniversary date of the fiduciary's appointment, explaining the status of the estate and why the case is not closed.

(D) Bond - Litigation Only Estates.

- (1) If next of kin, beneficiaries under Will, or attorney is applying, bond may be dispensed with if all next of kin or beneficiaries consent.
- (2) If estate is opened by a Plaintiff in order to establish an entity to be the Defendant for purposes of civil litigation, bond may be dispensed with.

**Sup. R. 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 (7) 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 (7) 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.
- (C) 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 seven (7) days of the initial appointment



Summit County Probate Court will follow the Rules of Superintendence 61

If the amount of compensation cannot be agreed upon, the Executor or Administrator shall file an application for allowance of compensation to each appraiser. Otherwise, no Court Order is necessary, and credit may be taken for payment in the next regular account as provided by law, subject to all exceptions which may be thereafter filed.

In the event the appraiser's fee exceeds Five Hundred Dollars (\$500.00) approval must be obtained upon proper application to the Court.

**SUP. R. RULE 61. Probate Divisions of the Courts of Common Pleas --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.

**Commentary (October 1, 1997)**

This rule is analogous to former C.P. Sup. R. 28. The title to Sup. R. 61 has been amended to be more inclusive and applies to appraisers in all probate matters. The term "appointment" in the title has been deleted since the rule no longer deals with this issue.

Former law required three disinterested appraisers. Former C.P. Sup. R. 28(A) was intended to clarify the transition from three appraisers to one appraiser. The rule is no longer needed and has been deleted.

Former divisions (B), (C), (D), and (F) attempted to set guidelines for appraiser fees when the court did not set forth a local rule. Division (A) now permits the compensation to be set by agreement of the fiduciary and appraiser unless set by local rule. All disputes shall be settled by the probate court. Former C.P. Sup. R. 28(A), (B), (C), (D), and (F) are unnecessary since the appraiser's compensation is adequately addressed by R.C. 2115.06.

Former C.P. Sup. R. 28(E) has been redesignated as Sup. R. 61(B) without substantive changes.

**LOCAL RULE 61.2            INVENTORY**

- (A) **Service:** A copy of the filed, date-stamped inventory shall be served to the heirs at law in an intestate estate or beneficiaries in a testate estate, by any method permitted under the Ohio Rules of Civil Procedure.
  
- (B) In all estates where the fiduciary is not represented by counsel, proof of service of the inventory, unless waived, shall be supported by the actual Domestic Return Receipt (Form PS 3811) or computer printout of the “Track and Confirm” function of the U.S. Postal Service (or equivalent from another vendor) at least five (5) days prior to the hearing date.

The Schedule of Assets shall contain the legal description and the parcel number of all real estate included in the Inventory of the Estate and V.I.N. for all motor vehicles.

**Sup. R. 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 64.1            ACCOUNTS

### (A) All Accountings.

(1) All accounts must be signed by the fiduciary and contain the full name, current resident address, and telephone number of the fiduciary and counsel of record. If there are multiple fiduciaries, only one need sign the account.

(2) Account Numbers.

All financial asset account numbers listed in a fiduciary's account shall disclose only the last four (4) digits of each account number. It is the responsibility of the person filing the account to redact the remaining digits of each account number.

(3) Failure to File.

Unless physically unable, a fiduciary who has been cited must appear in open Court for a show cause hearing. Counsel shall not appear in lieu of a cited fiduciary unless leave of Court to appear is granted.

(4) Continuances.

If a continuance is granted, the date of a fiduciary's appointment shall always govern due dates for accountings irrespective of any continuances.

### (B) Estate Accountings.

(1) Partial Accounts.

The Court reserves the right to require a partial accounting where a waiver of partial accounting may be otherwise authorized.

(2) Notice of Filing.

All accounts shall be set for hearing with notice unless dispensed with by Court Order. The fiduciary is required to file waivers of notice of hearing or serve notice of hearing on all next of kin in an intestate estate or beneficiaries of a testate estate.

(3) Proof of Service.

(a) In all estates where the fiduciary is represented by counsel, the attorney for the respondent shall file with the court an appropriate statement of compliance, noting the method of compliance, and appending the original signed waivers, and/or proof of delivery at least five (5) days prior to the hearing date.

(b) In all estates where the fiduciary is not represented by counsel, proof of service of the accounting, unless waived, shall be supported by the actual Domestic Return Receipt (Form PS 3811) or computer printout of the “Track and Confirm” function of the U.S. Postal Service (or equivalent from another vendor) at least five (5) days prior to the hearing date.

(4) Paid Funeral Bill.

A copy of decedent's paid funeral bill shall be filed with the final account or certificate of termination.

(C) Guardian’s Accountings.

(1) Guardian’s Accountings shall be filed:

(a) On the first anniversary date of the appointment of the guardian.

(b) Annually thereafter on the anniversary date.

(c) A qualified bank or trust company may file on a biennial basis.

(d) Period Covered.

Unless ordered otherwise, all guardian’s accounts shall be for a period of twelve (12) months, except a final account may be for a period less than twelve (12) months.

(2) Delinquency in Filing an Account.

No expenditure, sale, distribution, or fee will be approved while the fiduciary is delinquent in filing an account.

*[Local Rule 64.1 amended effective October 1, 2015.]*

**Sup. R. 64 Accounts.**

(A) The vouchers or other proofs required by Sections 2109.302 and 2109.303 of the Revised Code and receipts filed or exhibited pursuant to Section 2109.32(B)(1)(b) of the Revised Code, 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. 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 findings to the court.
- (E) A final or distributive account shall not be approved until all court costs have been paid.

- (A) Local Form GA 18 shall be utilized for all guardian land sales by consent pursuant to O.R.C.2127.02.
- (B) A preliminary judicial title or title commitment shall be required with the filing of the Complaint in all actions filed for the sale of real estate by a fiduciary. (except summary land sales.) per ORC \_\_\_\_\_
- (C) The distribution of sale proceeds must be included with the confirmation order. A proposed entry to confirm the sale and an order of distribution must be submitted with the motion to confirm sale.
- (D) In all land sale actions that have not been concluded within one (1) year from the date of filing, the Plaintiff's counsel shall file a status report.
- (E) The Court shall select and appoint each guardian ad litem. In land sale proceedings, a minimum fee of Ten Dollars (\$10.00) shall be assessed as costs for each guardian ad litem appointed, unless the circumstances warrant the payment of additional fees subject to Court approval. In all other proceedings, the amount of the guardian ad litem fee will be determined upon motion supported by a statement of services. The guardian ad litem's fees may be assessed as costs.

**Sup. R. 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 (3) 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.

## **LOCAL RULE 66.1**

## **GUARDIANSHIPS**

### **(A) Guardianships.**

#### **(1) Bond.**

Bond shall be posted in an amount of double the probable value of the property not in a custodial account or otherwise impounded according to law. However, all guardianships of the estate shall post a minimum bond as determined by the Court.

#### **(2) Release of Funds and Assets.**

Funds and assets held in the ward's name shall not be released to a guardian except upon Order of the Court. All Motions for release shall specify the exact amount to be released, the name and address of the financial institution holding the funds, and the person in whose name the funds are held. The Order releasing funds shall order the financial institution to hold all funds in excess of the amount to be released until further Order of the Court.

#### **(3) Custodial Deposits.**

Where found necessary, deposit of all, or a portion of, cash assets in a custodial account in a financial institution located in Summit County may be ordered by the Court. The deposit shall be made in the name of the fiduciary, and the personal property deposited shall not be withdrawn from the custody of the bank, association, or trust company, except upon the special Order of the Court.

(a) The custodial account shall be established by the filing of a Motion and Order to Create Accounts. A certified copy of this Motion and Order must be presented to the custodial depository.

(b) Pursuant to Sup. R. 67(C), the attorney representing the applicants in the matter shall acknowledge responsibility for depositing the funds and providing the financial institution with a copy of the entry. If there is no attorney representing the applicants, the attorney for the payor shall acknowledge delivery of the funds to complete the delivery of consideration to effectuate the release. The attorney shall obtain a Verification of Receipt and Deposit (Form GM.5) from the financial institution and file the form with the Court within seven (7) days of the issuance of the entry.

(c) The Motion and Order to Create Accounts shall be filed prior to the filing of the Inventory. No Inventory will be accepted without the creation of the account.

#### **(4) Background Investigation.**

Any applicant for guardianship who is not an attorney at law licensed by the Supreme Court of Ohio and in good standing, or a state agency, must complete a criminal record check which is suitable to the court.

#### **(5) School Guardianship.**

The Court will not accept for filing any guardianship for a minor where the sole purpose of the guardianship is to establish a residency for school purposes.



(6) Voting.

No adult person adjudicated incompetent shall lose the right to vote, except upon motion, notice, and record hearing before the Court.

(7) Training Sessions.

All guardians of the person and estate, and all guardians of the estate only, shall, within six (6) months of the date of their appointment, attend one (1) guardianship training session, as conducted and scheduled by this Court. This session need not be repeated upon subsequent appointments. Failure to attend a training session will subject the guardian to the Court's citation procedure.

(8) Guardian's Handbook.

Each guardian appointed by this Court after May 1, 1995, shall receive a guardian's handbook issued by the Court for the purpose of providing information as to a guardian's duties and responsibilities. At the time of appointment, the cost of the handbook shall be assessed to the guardian or the estate of the ward.

(9) Change of Residence of Ward (Out of County)

Before transferring a ward out of Summit County or out of the State, a motion shall be filed, setting forth the transfer site, the reasons for the move, and alternatives available. The Ward may be moved only upon approval of the court.

(10) Personal Property.

Personal property of the ward, valued at Five Hundred Dollars (\$500.00) or less, may be sold without prior approval of the Court if the buyer is not a relative.

(11) Death of Ward.

A guardian shall notify the Court of the death of a ward by written notice no later than ninety (90) days after the date of death.

Failure to notify the Court within the prescribed time limits will be considered malfeasance, and will disqualify the guardian from collection of guardian's fees from the ward's estate, including any fees owing to the guardian but not collected or paid. If the guardian is also the attorney for the guardianship, the foregoing rule shall also apply to attorney's fees.

Upon hearing, and for good cause shown, the Court may award guardian's or attorney's fees otherwise denied by this Rule.

(12) Guardian's Reports.

(a) Guardian Reports on all guardianships except Guardianship of a Minor's Estate only shall be filed annually on the anniversary of the appointment date

(b) Where a physician or clinical psychologist states on a Statement of Expert Evaluation that to a reasonable degree of medical certainty it is unlikely the ward's mental competence will improve, the Court may dispense with the filing of subsequent Statements of Expert Evaluations when filing further annual Guardian's Reports.

(13) Notice for Guardianship of Adult.

In addition to those entitled to notice of the hearing on the application for appointment of a guardian of an adult under Ohio R.C. 2111.04, the applicant shall submit to the Court the names and addresses of all adult children of the proposed ward. The Court shall serve the adult children with notice of the time and date of the hearing, unless the notice is waived.

(14) Deposit of Wills.

The guardian must deposit with the Court all Wills of the ward for safekeeping.

(15) Application for Authority to Expend Funds of a Minor.

- (a) A Household Resource Worksheet (Form GA-M. 13) shall be filed with the Application.
- (b) The guardian shall demonstrate the need for the expenditure, and that the minor ward's parent(s) are unable to fulfill their responsibility to financially support the minor ward.
- (c) If possible, the expenditure shall be paid by check, payable to the payee named on the Application.

(16) Estates of Minors.

- (a) Pursuant to O.R.C. 2111.05, funds of a minor shall be deposited in the sole name of the minor, with principal and interest compounded, until the minor attains the age of majority.
- (b) When the funds due to the minor originate from a bequest under a will, an inheritance, or a description from a trust, the funds may be transferred into an Ohio transfers to Minor Act (OTMA) account.
- (c) The court may consider investments consistent with Ohio R.C. 2109.37 and R.C. 2109.371, and bond may be required.

(B) Emergency Guardianships.

(1) An Application for Appointment of an Emergency Guardian (Form 17) shall be accompanied by the Statement of Expert Evaluation (Form 17.1) and the Supplement for Emergency Guardian of Person (Form 17.1a) signed by a Licensed Physician describing the circumstances which make it reasonably certain that immediate action is required to prevent significant injury to the person and/or estate of the prospective ward. The Application shall include:

- (a) the Addendum to Application for Appointment of Guardian (Form GA.6)
- (b) the Fiduciary's Acceptance Guardian (Form 15.2)
- (c) the Guardian's Credibility Application (Form GA-M.12); and

- (d) the Next of Kin of Proposed Ward (Form 15.0).
- (2) Upon proof that an emergency exists and that immediate action is required to prevent significant injury to the prospective ward's person and/or estate, the court, ex-parte, may appoint an emergency guardian for a maximum period of seventy-two (72) hours.
- (3) The emergency guardianship may be extended for thirty (30) days if requested in the initial emergency guardianship application.
- (4) A written copy of the ex-parte order will be served upon the ward by the Court Investigator assigned to the case as soon as possible after its issuance. If a thirty day extension of the emergency guardianship is being sought, in addition to serving the ward with a copy of the ex-parte order, the Court Investigator will also serve notice of the hearing on the request for the extension of the emergency guardianship. The Court will serve known next of kin with a copy of the ex-parte order granting the emergency guardianship as well as notice of hearing on a request for extension of the emergency guardianship.
- (5) If the guardian believes a full guardianship is necessary, the Court will schedule a hearing on the appointment of a guardian of the person and/or estate prior to the expiration of the thirty (30) day extension.
- (6) Prior to appointment of a full guardian of the person and/or estate, the applicant must comply with all rules for a non-emergency guardianship.

COMMENT:

Before filing an Application for Appointment of an Emergency Guardian, the situation must be discussed with a Court Investigator. If a full guardianship will also be necessary, the Statement of Expert Evaluation must indicate that it is necessary.

- (C) Guardian Comments and Complaints.
  - (1) A Complaint filed regarding a Guardian must be written and signed by the complainant. The Complaint will be docketed. **There is a \$15.00 filing fee for complaints. At the discretion of the judge or magistrate, the fee may be refunded at the conclusion of the complaint process.**
  - (2) The Court will perform an initial review of the complaint and:
    - (a) Send a copy of the complaint to the guardian and/or guardian's attorney.
    - (b) Refer the matter to the Court Investigator assigned to the guardianship for an investigation and report.
  - (3) The Court Investigator will submit the case file and investigative report to the Judicial Officer assigned to the guardianship who will do one or more of the following:
    - (a) Find the complaint is resolved or unsubstantiated and advise the complainant, guardian and/or counsel accordingly;
    - (b) Refer the matter to mediation under the Court's Mediation Rule (Loc.R. 16.1);
    - (c) Set a status conference or a show cause hearing with notice to the complainant, the ward, the guardian and/or guardian's counsel, and other interested parties; or

- (d) Take any other action deemed necessary.
- (4) The Court shall maintain a record regarding the nature and disposition of any complaints filed under this rule. Well-founded complaints and any action taken will become part of the public guardianship file.

COMMENT:

The Court adopts the following process for submitting comments or complaints regarding the performance of guardians appointed by the Court pursuant to Sup. R. 66.03(B). This rule applies to all guardians of adults.

Anonymous complaints will be discarded.

(D) Relationship of Guardian to Ward

The judgment entry appointing a guardian shall indicate if the provisions of Sup.R. 66.01- 66.09 apply to the guardian and if the guardian is related to the ward by consanguinity or affinity.

The entry shall also indicate if the guardian is being paid to provide services to the ward. If so, the court shall make a determination as to whether or not the services are in the best interests of the ward and state in its entry the decision to allow or disallow the payments.

COMMENT:

Sup.R. 66.03(D) and 66.09(G) prohibit the appointment of a guardian who is a service provider unless otherwise authorized. This rule permits the court to allow a dual role when it is found to be in the best interests of the ward.

(E) Attorney/Guardians

If an attorney serves as both a guardian and attorney for a guardianship, the Court must approve the dual roles and any fee bill submitted for court approval must contain separate itemization of time spent as guardian and attorney.

COMMENT:

Sup.R. 66 currently prohibits an attorney from serving as both fiduciary and attorney perceiving an inherent conflict of interest. However, the Court, on a case-by-case basis, may approve the dual role. In order to avoid questions as to overlap or conflict, the Court will not approve guardian's fees or attorney's fees unless both are itemized.

(F) Guardians Having Ten or More Wards

A roster of guardians for adults having ten (10) or more wards will be maintained by this Court. That roster will be updated on or after January 1st of each year. Each guardian on the roster shall file their fee schedule annually by the 15th day of April which differentiates fees for guardianship work and legal work.

COMMENT:

The standard fee schedule should include the title and hourly billing rate for each individual expected to provide billable services to the guardianship.

(G) Exemptions From The Educational Requirement

The court shall consider an exemption from the educational requirements imposed by Sup.R. 66.1 *et seq.* on a case-by-case basis. However, if the Court finds that the training offered to the guardian OR the performance of the guardian meets or exceeds the expectations of the Court, the guardian may be exempt. In addition, these categories of guardians shall be exempt:

1. Volunteer/Paid guardians who participate in the required training through Jewish Family Services.
2. Guardians through APSI.
3. Guardians who have held that position for more than five years and have had no citations in the last five years.
4. Guardians related by blood or affinity whom the Court indicates should be exempt.

(H) All Motions to resign as guardian shall be filed with a Personal Information Form No. GA 17.

Nothing in this rule prohibits the Court from mandating education for any guardian at any time if the Court finds that the education is necessary and in the best interest of the ward.

*[Local Rule 66.1 amended effective May 9, 2017, February 1, 2019.]*

**Sup. R. 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 parents are financially unable to provide the items for which the amount is sought.

*[Rule Sup.66(C) amended effective March 15, 2016.]*

**Sup. R. 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.

**Sup. R. 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 a court of common pleas appoints the corporation as guardian.

**Sup. R. 66.03. Local Guardianship Rule.**

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 and 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 a copy of the submitted comment or complaint be provided to the guardian who is the subject of the comment or complaint;
  - (3) A requirement that the court give prompt consideration to the comment or complaint and take appropriate action;
  - (4) A requirement that the court maintain a record regarding the nature and disposition of the comment or complaint;

- (5) A requirement that the court notify the person making the comment or complaint 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.

**Sup. R. 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 a 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 a 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.

**Sup. R. 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 guardians with ten or more wards**

The probate division of a court of common pleas shall do all of the following with respect to guardians 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 guardians. The court shall require the guardians to notify the court of any changes to this information.
- (2) Require the guardians 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 guardians 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.

**Sup. R. 66.06. Guardian Pre-Appointment Education.**

**(A) Requirement**

Except as provided in division (B) of this rule, the 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 required under division (A) of this rule unless the appointing court waives or extends the requirement for good cause.

**Sup. R. 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 guardians 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 a 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.

**Sup. R. 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 a 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 a 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 a 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 a 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 a 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**

All guardians appointed by the court who have ten or more wards under their 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 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 determination 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 the 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.

**Sup. R. 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 needs 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.

(A) Counsel Fee Applications. This applies to all fee applications.

- (a) All counsel fee applications shall be accompanied with itemized time records, which shall state the date and time expended, who performed the service, the nature of the service performed, the hourly rate requested, or the specific basis of the fee requested. All counsel fee applications for partial payment of attorney fees shall also set forth the reasons for requesting the early payment of fees.
- (b) All counsel fee applications shall be accompanied by written consent from the heirs at law or residuary beneficiaries with Notice given to those not consenting, and whose beneficial interests would be affected.
- (c) Notice, as required under Paragraph (A)(4)(b) of this Rule, shall be sent by regular mail by the attorney of record, and shall be mailed thirty (30) days prior to the filing of an accounting upon which fees are disclosed. Certificate of service shall be filed with fee application.
- (d) No counsel fee application shall include separate charges for standard overhead items such as copying, long distance telephone calls, facsimiles and parking unless such charges are extraordinary and counsel can demonstrate good cause for separately billing such items in its fee application.
- (e) No counsel fee application shall include time spent on the preparation of a fee application or charges for filing documents with the clerk.
- (f) The Court may require a hearing on fees or may approve an application for fees without hearing, unless an Objection to Counsel Fees is filed or an exception to an accounting based on fees is filed, which will require a hearing in either event.

(B) Estate Administration.

General Rule: Attorney fees for the administration of decedents' estates shall not be paid until the final account is ready to be filed. Partial payment of attorney fees may be taken for those estates if the early payment of fees provides an income tax benefit to the estate, the estate is involved in protracted litigation, or there are other valid reasons which prevent the estate from being closed within a (twelve) 12-month period.

(1) Forms.

Forms as proscribed by the Court shall be used for counsel fee applications and for Notice of Attorney fees. See Appendices (E) and (F).

(2) Final Accounts.

- (a) A counsel fee application is not required when:

- (i) Written consents from the heirs at law or residuary beneficiaries whose combined beneficial interests equal or exceed seventy-five percent (75%) of the net distributable estate, are filed with the Final Account, and
- (ii) Notice of Attorney Fees is given to those not consenting and whose beneficial interests would be affected.

Notice, as required in Paragraph (A)(2)(a)(ii) of this Rule shall be sent by regular mail by the attorney of record, and shall be mailed thirty (30) days prior to the filing of the Final Account. Consents and certificate of service shall be filed at the time of the required accounting.

- (b) A counsel fee application shall be filed when:
  - (i) Counsel is unable to obtain the consents as provided in Paragraph (A)(2)(a)(i).
  - (ii) Counsel serves as both attorney for the estate and fiduciary and is charging both an attorney fee and fiduciary fee.
  - (iii) An Objection to Counsel Fees is filed or an exception to an accounting based on fees is filed.

(3) Partial Accounts.

- (a) In solvent estates, a counsel fee application for the payment of partial attorney fees is not required when written consents from all of the heirs at law or residuary beneficiaries are filed with the Partial Account.
- (b) In the event counsel is unable to obtain the consent to partial payment of attorney fees from all of the heirs at law or the residuary beneficiaries, the attorney shall be required to file a counsel fee application.
- (c) When counsel serves as both attorney for the estate and fiduciary and is charging or plans to charge both an attorney fee and fiduciary fee, the attorney shall be required to file a counsel fee application.

(4) Insolvent Estates.

A counsel fee application must be filed and a hearing will be held on counsel fees at the hearing on report of insolvency.

(5) Counsel Fees Two Thousand Dollars (\$2,000.00) or Less

No counsel fee application or consents from the residuary beneficiaries or heirs at law shall be required when counsel's fee is Two Thousand Dollars (\$2,000.00) or less. Counsel must file an itemized billing statement with the Court.

(C) Guardianship Administration.

The Court shall consider an application for counsel fees for the establishment of the guardianship upon the filing of an inventory and shall consider additional fees annually upon the filing of each account. All counsel fee applications shall be accompanied by itemized time records that state the date and time expended, who performed the service, the hourly rate requested, or the specific basis of the fee requested. All counsel fee applications shall follow Local Rule (A)(4)(d) and Local Rule (A)(4)(e)

Notice of the fee application shall be given to the guardian of the estate. The guardian of the estate may waive notice and consent to the payment of the fees. A Magistrate may require a hearing on fees, or may approve an application for fees without hearing.

(D) Trust Administration.

The Court shall consider an application for counsel fees for the establishment of the trust upon the filing of an inventory and shall consider additional fees annually or upon the filing of each account. All counsel fee applications shall be accompanied by itemized time records that state the date and time expended, who performed the service, the hourly rate requested, or the specific basis of the fee requested. All counsel fee applications shall follow Local Rule (A)(4)(d) and Local Rule (A)(4)(e).

Notice of the fee application shall be given to the trustee. The trustee may waive notice and consent to the payment of the fees. The Court may require notice of the application/hearing on the payment of fees be given to all current trust beneficiaries affected by the payment of the fees. A Magistrate may require a hearing on fees, or may approve an application for fees without hearing.

(E) Paralegal Fees.

Paralegal services may be used so long as the paralegal's work is supervised by a licensed attorney and does not constitute the unauthorized practice of law. All paralegal fees for which payment is sought shall be itemized and included in all counsel fee applications when required to be filed under these rules.

(F) Contingent Fee Arrangements.

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. Contingency Fee Contracts for any amount over 1/3 shall be set for court hearing.

(G) Land Sales.

An application for counsel fees in a land sale shall be filed at the time that the judgment entry confirming sale, ordering deed and distribution, is filed. Fees shall be taken at this time. Notice and hearing shall be as the Court directs. See Appendix G.

*[Local Rule 71.1 amended effective May 16, 2017.]*

Comment:

Fees are for services which require the expertise of an attorney. For example, preparation of any court documents which a non-attorney would pay an attorney to do.

The Court is going to scrutinize the time itemization to ensure that work performed is in the capacity as legal counsel. More information is better.



- (A) In all matters where an attorney is the fiduciary of the estate, guardianship, or trust, and that attorney or another is the attorney of record, detailed records shall be maintained. Prof. Cond. Rule 1.5 shall govern the reasonableness of all fees.. The Court assumes an attorney, appointed as fiduciary, has been selected due to the attorney's special knowledge and abilities resulting in a savings of fees to the estate, guardianship, or trust.

The Court shall consider an application for counsel fees for a fiduciary upon filing of an inventory and shall consider additional fees annually upon the filing of each account, unless good cause is shown otherwise.

- (B) All fee applications for non-legal services shall be accompanied by itemized records stating date, time expended, service performed, and hourly rate requested (or the basic fee). Fee applications for non-legal services performed by the attorney shall be accompanied by separate itemized time records stating the date, time expended, and services performed. These shall be billed at 20% of the attorney's hourly rate.

Upon review of the records, the Court may set the fees for hearing, regardless of the submission of consent(s) to fees.

#### **Comment**

- (1) If the executor or administrator is also the attorney for the decedent's estate or if the attorney for the estate is a member of the fiduciary's law firm, the attorney may not charge attorney fees for services that are customarily performed by the fiduciary when the attorney plans to charge the full statutory fiduciary fee as well as an attorney fee.
- (2) In all matters where the attorney is also the guardian or trustee, the attorney may not charge attorney fees for services that are customarily performed by the guardian or trustee when the attorney plans to charge the guardian's fee or trustee's fee as permitted by these local rules as well as an attorney fee.

*[Local Rule 71.2 amended effective June 29, 2018.]*

#### **Sup. R. 71 Counsel Fees.**

- (A) Attorney fees in all matters shall be governed by Rule 1.5 of the Ohio Rules of Professional Conduct.
- (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 that 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.

## (A) Application.

Guardians shall file an application for allowance for fees at the time that the regular accounting is submitted to the Court. Such fees shall not be paid until authorized by the Court, and shall be accounted for in the next accounting period. Application forms shall be provided by the Court. See Appendix C.

## (B) Schedule:

4% of the first \$100,000.00 of income

3% of the balance

4% of the first \$100,000.00 of approved expenditures

3% of the balance

Minimum annual Guardianship Fees shall be allowed in the amount of \$300.00.

## (C) Extraordinary Fees.

Applications for extra-ordinary guardian fees shall be accompanied by itemized time records stating the date, time expended, and services performed. The Court reserves the right to set any fee application/computation for hearing.

## (D) Authorized Expenditures.

Conversion of assets to cash, reinvesting assets, distributions upon termination to another fiduciary, or the payment of guardian's fees shall not be deemed to be authorized expenditures or as income for purposes of computing compensation herein.

## (E) Fee applications for non-legal services performed by the attorney (in lieu of the computation schedule) shall be accompanied by separate itemized time records stating the date, time expended, and services performed. These fees shall be billed at 20% of the attorney's hourly rate. The Court reserves the right to set any fee application for hearing.

**Sup. R. 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 a 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 in the aggregate 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 a 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 74.1

## TRUSTEE'S COMPENSATION (NON-LAWYERS)

- (A) Corporate Trustees.
  - (1) Except where the instrument creating the trust makes provisions for compensation, a testamentary trustee may charge fees on the same basis as it charges for living trusts.
  - (2) On each accounting where fees have been taken, an affidavit will be required asserting that the fees charged and included in the accounting represent those charges for similar services in living trusts.
  - (3) A separate schedule of the computations of the trustee's compensation shall be set forth in the trustee's account as a condition of its approval.
  - (4) Fee schedules are to be furnished to the Court on the first day of January of each year, and whenever a change in fees is made within any calendar year.
- (B) Individual Trustees.
  - (1) Except where the instrument creating the trust makes provisions for compensation, the trustee may charge fees on the same basis as is currently being charged by the banking institution with which the trust is doing business.
  - (2) On each accounting where fees have been taken, an affidavit will be required setting forth that the fees charged are based on the schedules of the "name" bank.
  - (3) A separate schedule of the computations of the trustee's compensation shall be set forth in the trustee's account as a condition of its approval.
- (C) The Court reserves the right to determine the reasonableness of trustee's compensation in all cases.

### **Sup. R. 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 (1) 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 the trustee has not faithfully discharged other duties of the office.

**(A) Jury Management.**

The Summit County Probate Court adopts the Jury Management Plan as identified in Summit County Common Pleas Court, General Division, Rule 24.

**(B) Extensions**

- (1) Upon the fiduciary's request, the Court shall grant one automatic sixty-day (60) extension for the filing of an inventory, account or guardian's report. The fiduciary must certify that no previous extension has been taken. (See form EGT.1)  
No further extensions shall be granted absent extraordinary circumstances, which must be specified in the Motion.
- (2) Failure to file an inventory, accounting or guardians report within the appropriate time may result in fines, costs, removal of the fiduciary or other sanctions under the Rules of Superintendence.
- (3) 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.

**Comment:**

Extraordinary circumstances generally refers to a death or unexpected hospitalization. It does not include the need to collect information from a third party, the press of business or the imminent sale of estate property.

**Sup. R. 78 Probate Division of the Court of Common Pleas -- Case Management in Decedent's Estates, Guardianship, 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 (6) 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 (13) 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 (30) 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



**LOCAL RULE 93.1                    CHANGE OF NAME**

Whenever an application to change the name of a minor is filed without the consent of the natural parent(s), a hearing shall be required. Notice of the application shall be made in accordance with Civil Rule 73 as the Court may require. A certified copy of the minor's birth certificate or other proof of paternity shall be filed with the Court with an application for minor name change pursuant to R.C. 2717.01.

The Court may seal a name change upon request, in extra-ordinary circumstances.

**COMMENT**

Extra-Ordinary circumstances may be found if sealing is necessary to protect the safety of the applicant(s). A name change of a minor easily discoverable is NOT an extra-ordinary circumstance. Proof of a Protection Order is one indicator but not conclusive.

## LOCAL RULE 94.1            ADOPTIONS

(A) Expense Hearing.

In all adoptions, except by a stepparent, legal custodian, guardian, grandparent or where the child was permanently surrendered and/or placed by an Ohio licensed adoption agency, the petitioners shall appear in open court, before the Judge or Magistrate of the Probate Court, and swear under oath as to any and all expenses incurred and being paid by them to any party or parties involved in the adoption matter before the Court.

(B) All R.C. 3107.10 preliminary estimate accountings and R.C. 3107.083 birth parent forms shall be filed with the Court on or before the date of the scheduled placement hearing.

(C) Only forms currently in use by the Probate Court or standard probate court forms will be accepted.

(D) Confidentiality.

All adoption proceedings in the Court are confidential and are not available online. Access or information contained in the adoption case file will only be provided pursuant to statute.

(E) Record of Proceedings.

All hearings in adoption cases will be recorded by the Court. If a party wishes for a court reporter to be present, they must arrange for a court reporter at their own expense.

(F) Adoption Assessors.

For all private adoption cases using the Court's adoption assessors, the birth parent(s) and their attorney must meet with the assigned adoption assessor to complete the birth parent assessment.

(G) Placement for Adoption.

Except in step-parent adoption proceedings, there must be a lawful placement of the child before the filing of the Petition for Adoption. In all private placement adoptions, where this Court is approving and ordering the placement, a Pre-Placement Application shall be filed at the time of the opening of the case.

(H) Petitioner's Account.

Pursuant to R.C. 3107.055, a petitioner must file a Petitioner's Account with the Court listing the expenses paid by the petitioner in connection with the adoption proceeding. In the final accounting, the petitioner must itemize all birth parent expenses.

(I) In any adoption that originated in this Court but was finalized by any other court, the petitioner(s) must file with this Court a copy of the Final Decree of Adoption.

(J) If there is an existing child support order for the minor being adopted, it is the responsibility of the Petitioner(s) to notify the appropriate child support enforcement agency upon the filing of the Final Decree of Adoption.

(K) Attorney Representation.

Representation by an Attorney is mandatory for all parties pursuant to R.C. 3107.011. Birth parent(s) and Petitioner(s) must be represented by separate attorneys. Attorney fees for the birth parent(s) are the responsibility of the Petitioner(s). Notices of appearance must be filed.

(L) Consent

In addition to the Consent to Adoption (Form 18.3), the Addendum to Consent to Adoption must also be filed. The Addendum to Consent to Adoption is not required from the custodial Agency, minor over 12 years of age, the custodial parent in a stepparent adoption or an adult adoption.

## LOCAL RULE 97.1

## APPROPRIATION OF PROPERTY

### (A) Filing of Petition and Service of Summons.

Filing and service procedures shall be administered in accordance with R.C. 163.05, et seq.

### (B) Court Proceedings.

#### (1) Hearing on Necessity:

If a property owner's Answer specifically challenges an Appropriation proceeding pursuant to R.C. 163.09(B), the Court shall set a hearing.

#### (2) Pretrial:

A pretrial shall be scheduled once all named parties are properly before the Court. Following the pretrial, an Order will be issued setting the date for trial and discovery schedule.

#### (3) Trial.

### (C) Award.

The sum of money to be paid to the property owner(s), whether determined by trial or settlement, shall be deposited with the Court for distribution.

### (D) Distribution.

Upon Motion for Distribution, the Court shall:

- (1) Issue an Order of Distribution when the Motion is stipulated to by all interested parties, or
- (2) Set the matter for hearing if distribution is not agreed upon by all interested parties.
- (3) Issue checks per the Order of Distribution no sooner than two (2) weeks from date of Order

## APPENDICES

### APPENDIX A DEPOSITS FOR COURT COSTS

ESTATES - FULL ADMINISTRATION .....\$265.00

ESTATES – RELEASE FROM ADMINISTRATION

With or Without a Will (Deposit) .....	\$240.00
Will Probated, Tax, Journal Entry .....	\$ 88.00
Will Probated, Journal Entry.....	\$ 83.00
Tax Only – Journal Entry.....	\$ 48.00
Tax Only/Part B – Journal Entry .....	\$ 43.00
Short-Form Release – W/Will .....	\$ 60.00
Short-Form Release – W/O Will.....	\$ 36.10
Summary Release – W/Will.....	\$111.30
Summary Release – W/O Will.....	\$ 86.30
Real Estate Transfer Only .....	\$100.00
Will for Record Only .....	\$ 83.00

GUARDIANSHIPS

Person and Estate .....	\$280.00
Estate Only .....	\$280.00
Person Only.....	\$280.00
Each additional minor child .....	\$205.00
Conservatorship .....	\$240.00
Application to Dispense with Guardianship .....	\$ 74.10
Minor Settlement/Dispense With Guardianship .....	\$ 94.10
Successor Custodian .....	\$ 74.10
Guardian Complaint .....	\$ 15.00

TRUSTS

Application for Appointment of Trustee.....\$265.00

CIVIL ACTIONS

Complaints to Sell or Mortgage Real Estate.....	\$250.00
Complaint – Appropriation .....	\$250.00
Complaint – Concealment of Assets.....	\$350.00
Complaint – Declaratory Judgment .....	\$250.00
Complaint – Determination of Heirs.....	\$250.00
Complaint – Presumption of Death.....	\$250.00
Complaint – Will Construction.....	\$250.00
Complaint – Will Contest .....	\$250.00

SUBPOENAS

Witness subpoenaed – resident of county .....	\$ 20.00
Witness subpoenaed – non-resident.....	\$ 30.00

**MISCELLANEOUS COURT COSTS**

Application to Correct Birth Record.....	\$ 28.00
Application for Registration of Birth.....	\$ 30.00
Certification of Document .....	\$ 1.00
Change of Name .....	\$110.10
(Additional certified copies - \$1.10 each)	
Claims Against an Estate .....	\$ 20.00
Court Record – Taping per hearing session per day .....	\$ 25.00
Crossclaims/Counterclaims/Third-Party Claims .....	\$ 20.00
Deposit of Will.....	\$ 25.00
Exceptions/Objections (Accounts or Inventories) .....	\$ 30.00
Exceptions/Objections (All Others).....	\$ 25.00
Fiduciary Claim .....	\$ 30.00
Motion to Remove Fiduciary .....	\$ 25.00
60(B) Motion (Relief from Judgment or Order).....	\$ 25.00
Objection to Magistrate’s Decision .....	\$ 40.00
Motion to Deposit Funds Into Lawyer’s IOLTA Account.....	\$ 5.00

In Re:

Approval of Attorney Fees.....	\$143.00
APS Order/APS Emergency Order.....	\$ 0.00
Bureau of Worker’s Compensation Application.....	\$143.00
Designation of an Heir at Law .....	\$123.00
Disinterment.....	\$ 73.00
Emergency Guardianship.....	\$ 68.00
Emergency Order .....	\$ 0.00
Enforcement of Out of State Orders .....	\$103.00
Miscellaneous .....	\$ 63.00
MRDD Protective Order .....	\$ 0.00
Nomination of Guardian .....	\$ 6.00
Paternity of Adult Child.....	\$ 32.10
Right of Disposition of Deceased Person .....	\$143.00
Transfer of Lottery Prize.....	\$143.00
Transfer of Structured Settlement.....	\$143.00

Marriage License .....	\$ 50.00
Certified copy of Marriage License .....	\$ 2.00

*[Effective January 1, 2015; Amended January 3 2018; February 8, 2019]*

**APPENDIX B  
ADOPTION FEES**

STEP-PARENT ADOPTION

First Child .....	\$586.00
Additional .....	\$161.00

AGENCY ADOPTION

First Child .....	\$159.00
Additional .....	\$121.00

PRIVATE ADOPTION .....	\$714.00
Without Home Study .....	\$314.00

INTERNATIONAL ADOPTION.....	\$604.00
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FOREIGN READOPTION

With Prefinalization Assessment .....	\$314.00
Without Prefinalization Assessment .....	\$159.00
Additional Child.....	\$121.00

ADULT ADOPTION.....	\$159.00
---------------------	----------

DISPENSE W/ADOPTION (Surrogacy) (Includes 2 Orders) .....	\$ 68.00
---	----------

PREFINALIZATION FEES (If Required).....	\$150.00
---	----------

POST-PLACEMENT VISITS .....	\$ 75.00
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AMENDED PETITION.....	\$ 30.00
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HOME STUDY UPDATE.....	\$100.00
------------------------	----------

OBJECTION TO ADOPTION .....	\$ 25.00
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MOTION TO VACATE ADOPTION (60-B).....	\$ 25.00
---------------------------------------	----------

PETITION FOR RELEASE OF IDENTIFYING INFORMATION .....	\$ 63.00
---	----------

APPLICATION FOR FOREIGN BIRTH RECORD .....	\$ 50.00
--	----------

CERTIFIED COPY OF OHIO BIRTH CERTIFICATE.....	\$ 21.50
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*[NOTE: Additional travel fee required if Investigator travels outside Summit County.]*

*[Effective January 1, 2015.]*

APPENDIX C  
 PROBATE COURT OF SUMMIT COUNTY, OHIO  
 ELINORE MARSH STORMER, JUDGE

GUARDIANSHIP OF: \_\_\_\_\_

CASE NO. \_\_\_\_\_

**APPLICATION - COMPUTATION OF GUARDIAN FEES**

ACCOUNTING PERIOD OF \_\_\_\_\_ 20\_\_\_\_ TO \_\_\_\_\_ 20\_\_\_\_

I. INCOME FOR ACCOUNTING PERIOD *	\$	
4% of first \$100,000		
3% of balance		
Total	\$	
II. AUTHORIZED EXPENDITURES	\$	
4% of first \$100,000		
3% of balance		
Total	\$	
III. TOTAL ORDINARY FEES	\$	
IV. EXTRAORDINARY FEES (Itemize and attach time records)	\$	
V. TOTAL FEES REQUESTED	\$	
VI. MINIMUM ANNUAL FEE	\$	300.00
VII. GREATER OF "V" OR "VI"	\$	
VIII. TOTAL FEES REQUESTED	\$	

I have read and understand the above computation of fees, and submit they are necessary and reasonable for the administration of the guardianship for which I am guardian. I, therefore, request the Court's approval of payment of those fees from the assets of the said guardianship.

\_\_\_\_\_  
 Attorney for Guardian Signature

\_\_\_\_\_  
 Guardian Signature

\_\_\_\_\_  
 Attorney for Guardian Type or Print Name

\_\_\_\_\_  
 Guardian Type or Print Name

\_\_\_\_\_  
 MAGISTRATE

\_\_\_\_\_  
 DISPOSITION

\*  
 Income means: Wages; Pensions; Social Security; IRA Distributions; Interest; Rents; Royalties; Alimony; Annuities.  
 Income **does not** mean unrealized gain on or appreciation of assets.



**APPENDIX D  
 PROBATE COURT OF SUMMIT COUNTY, OHIO  
 ELINORE MARSH STORMER, JUDGE**

ESTATE OF \_\_\_\_\_, DECEASED

CASE NO. \_\_\_\_\_

**COMPUTATION SCHEDULE FOR ADMINISTRATOR/EXECUTOR FEES  
 [R.C. 2113.35]**

**1. FULL ADMINISTRATION OF ESTATE**

A. **PERSONAL PROPERTY and INCOME** (IN ESTATE including gross proceeds of real estate sold under authority of Will)

Personal Property	\$ _____
Income	\$ _____
<b>TOTAL</b>	<b>\$ _____</b>

Fees:	0 - \$100,000	@	4%	\$ _____
	\$100,001 - \$400,000	@	3%	\$ _____
	\$400,001 - UP	@	2%	\$ _____

**A. TOTAL \$ \_\_\_\_\_**

B. **REAL ESTATE** (NOT SOLD IN ESTATE)

B. 1 % of \$ \_\_\_\_\_ unsold Real Estate \$ \_\_\_\_\_

C. **NON-PROBATE ASSETS** (EXCEPT JOINT & SURVIVORSHIP)

C. 1 % of \$ \_\_\_\_\_ Non-Probate Assets which would have been included on the Ohio Estate Tax Return had the Decedent died on December 31, 2012 \$ \_\_\_\_\_

D. **EXTRAORDINARY FEES**

D. Extraordinary Fees Requested (Attach itemized time records, and unless waived, a date for hearing should be requested when filing this form). \$ \_\_\_\_\_

**RECAPITULATION**

Item	A. \$ _____
Item	B. \$ _____
Item	C. \$ _____
Item	D. \$ _____

CASE NO. \_\_\_\_\_

Total Administrator/Executor Allowable by Statute		\$	_____
Fees Paid In Prior Accounts	(-)	\$	_____
Balance Payable		\$	_____
Fee Requested	<input type="checkbox"/> Final <input type="checkbox"/> Partial Account	\$	_____

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Signature of Administrator/Executor

\_\_\_\_\_  
Attorney Print or Type Name

\_\_\_\_\_  
Administrator/Executor Print or Type Name

**To Be Attached To Estate Account**



CASE NO. \_\_\_\_\_

**CONSENT TO ATTORNEY FEES BY FIDUCIARY**

I have read and understand the Application for Attorney Fees, and I submit they are necessary and reasonable for the administration of the estate, and reflect a true and accurate accounting of the services the attorney has performed.

\_\_\_\_\_  
Fiduciary

**NOTICE**

TO THE FOLLOWING PERSONS:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

YOU ARE HEREBY NOTIFIED THAT AN APPLICATION FOR ATTORNEY FEES was filed in this Court by \_\_\_\_\_, on \_\_\_\_\_, 20\_\_.

The application will be for hearing before this Court, at the Summit County Court House, 209 S. High Street, Akron, Ohio, on \_\_\_\_\_, 20\_\_, at \_\_\_\_\_ M.

\_\_\_\_\_  
Attorney

**APPENDIX F  
PROBATE COURT OF SUMMIT COUNTY, OHIO**

**ESTATE OF \_\_\_\_\_, DECEASED**  
**CASE NO. \_\_\_\_\_**

**NOTICE OF ATTORNEY FEES**

TO THE FOLLOWING PERSONS:

_____ Name	_____ Address
_____ Name	_____ Address
_____ Name	_____ Address

YOU ARE HEREBY NOTIFIED THAT \_\_\_\_\_, ATTORNEY FOR THE ABOVE-CAPTIONED ESTATE, HAS CHARGED THE ESTATE THE SUM OF \$\_\_\_\_\_. This amount does not include prior fees taken of \$\_\_\_\_\_, which include fees from prior accounts, land sales, or other matters.

<p>AN OBJECTION TO ATTORNEY FEES MUST BE FILED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS NOTICE AT: Summit County Probate Court 209 S. High Street Akron, Ohio 44308-1616</p>
--

**CONSENT TO ATTORNEY FEES**

The undersigned hereby consents to the sum of \$\_\_\_\_\_, charged as attorney fees by \_\_\_\_\_, Attorney for the above-captioned estate.

_____ Name	_____ Address
_____ Name	_____ Address
_____ Name	_____ Address

Approved:  
\_\_\_\_\_  
Attorney



APPENDIX H

PROBATE COURT OF SUMMIT COUNTY, OHIO
ELINORE MARSH STORMER, JUDGE

ESTATE OF \_\_\_\_\_, DECEASED

CASE NO. \_\_\_\_\_

FILING INFORMATION
Real Estate Only
(R.C. 2113.61 (D))

Applicant states that the decedent died [ ] testate [ ] intestate on \_\_\_\_\_

Decedent's domicile was \_\_\_\_\_
Street Address

City of Village or Township if unincorporated area County

Post office State Zip Code

The following documents are attached for filing.

- 1) Original Will, Application to Probate Will, Form 2.0, Waiver of Notice of Probate Will, Form 2.1, And Certificate of Service, Form 2.4 [ ] not applicable.
2) ET 22 if needed (DOD prior to 1/1/2013) [ ] not applicable.
3) Surviving Spouse, Next of Kin, Legatees and Devisees, Form 1.0
4) Application for Certificate of Transfer, Form 12.0
5) Certificate of Transfer, Form 12.1
6) Auditor's Value/Original Appraisal (DOD Value)
7) Paid Funeral Bill
8) Death Certificate (Copy)

Applicant states that decedent was not a Medicaid recipient, the real estate described in the Certificate of Transfer is the only probate asset, and it has been six months since the date of death.

Attorney for Applicant Signature

Applicant Signature

Typed or Printed Name

Typed or Printed Name

Address

Address

City, State, Zip

City, State, Zip

Telephone Number (include area code)

Telephone Number (include area code)

Attorney Registration No. \_\_\_\_\_

Applicant's Email address (if applicable)

Attorney's Email address (if applicable)

# Appendix "I"

## PROBATE COURT OF SUMMIT COUNTY, OHIO ELINORE MARSH STORMER, JUDGE

### ELECTRONIC COVER PAGE

Case Caption: \_\_\_\_\_

Case No.: \_\_\_\_\_

DATE: \_\_\_\_\_

TOTAL NUMBER OF PAGES SENT (INCLUDING COVER PAGE): \_\_\_\_\_

#### PLEADINGS/DOCUMENTS SUBMITTED:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Attorney for Applicant's Typed or Printed Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City                                  State                                  Zip

\_\_\_\_\_  
Telephone Number (include area code)

\_\_\_\_\_  
Attorney E-Mail Address

Attorney Registration No. \_\_\_\_\_