

LOCAL RULE 71.2

ATTORNEY SERVING AS FIDUCIARY

- (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 describing time and services as fiduciary and as attorney, which record shall, upon request, be submitted to the Court for review. Prof. Cond. Rule 1.5 shall govern the reasonableness of all fees, notwithstanding statutory allowances. 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.

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

- (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.

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.