

**FILED**

**IN THE COURT OF COMMON PLEAS OF VAN WERT COUNTY, OHIO  
PROBATE DIVISION**

**JUN 01 2026**

**PROBATE/JUVENILE COURT  
VAN WERT CO. OHIO**

IN THE MATTER OF:

RULES OF LOCAL COURT

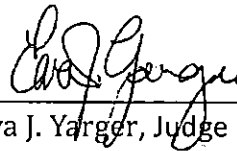
JUDGMENT ENTRY  
ADOPTING RULES

\* \* \* \* \*

The Van Wert County Common Pleas Court, Probate Division, hereby adopts the Local Rules of Practice, attached hereto, effective June 1, 2026.

These rules supersede any other rules previously adopted as Uniform Rules of the Probate Division of the Common Pleas Court of Van Wert County, Ohio, and the same as repealed.

It is so Ordered.



\_\_\_\_\_  
Eva J. Yarger, Judge

**COURT OF COMMON PLEAS  
PROBATE DIVISION  
VAN WERT COUNTY, OHIO**

**LOCAL COURT RULES OF PRACTICE**

(Effective June 1, 2026)

**EVA J. YARGER, JUDGE**

Van Wert County Probate Court  
108 E. Main Street  
Van Wert, Ohio 45891

Ph. (419) 238-0027

Fax (419) 238-7315

[www.vwprobjuvcourt.com](http://www.vwprobjuvcourt.com)

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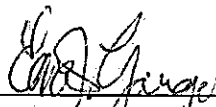
**COURT OF COMMON PLEAS OF VAN WERT COUNTY, OHIO  
PROBATE DIVISION**

**PROBATE/JUVENILE COURT  
VAN WERT CO. OHIO**

**LOCAL RULES**

**Effective June 1, 2026**

Conduct and operations in the Court of Common Pleas, Probate Division of Van Wert County, Ohio are governed by the Ohio Revised Code (O.R.C.), the Rules of Superintendence of the Supreme Court of Ohio and by these Local Rules. All persons appearing before these Courts should familiarize themselves with all applicable law. The numbering of these Local Rules corresponds with the numbering of the Rules of Superintendence. References to "S.P. Forms" are to the Standard Probate Forms. References to "this Court" or "the Court" are to the Court of Common Pleas, Probate Division.



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Eva J. Yarger, Judge  
Van Wert County Probate Court

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## PREAMBLE

The Probate Court of Van Wert County, Ohio adopts The Local Court Rules of Practice pursuant to Superintendence Rule (Sup.R.) 5 to facilitate the expeditious management of proceedings and the efficient performance of the Court's functions. The Court adopted the local rules after notice and an opportunity for comment on them. The Court has filed a copy with the Clerk of the Supreme Court of Ohio. These rules of practice supersede prior rules of practice and have an effective date of December 22, 2025.

For ease of reference, and pursuant to Sup.R. 75, the numbering system used in these local rules and on the local forms follow that used by the Supreme Court of Ohio in the Rules of Superintendence, wherein, the Supreme Court has adopted rules having specific application to the administration of cases within the jurisdiction of Ohio's Probate Courts. Any exceptions to Sup.R. 53 to 79 are made pursuant to Sup.R. 76. All references to rules are to statewide rules governing the courts of Ohio adopted by the Supreme Court of Ohio, unless otherwise identified.

These Local Rules must be read in conjunction with the Superintendence Rules that they supplement.

These rules shall be known as Local Rules of Practice of the Probate Court of Van Wert County, Ohio and referred to as "Loc.R. \_\_\_\_". Local forms adopted in conjunction with these local rules are referred to as "Loc. F. \_\_\_\_".

Pursuant to R.C. 1.01, references to the "R.C." are to the Ohio Revised Code.

## **LOC. R. 5.2 JURY MANAGEMENT**

All jury trials in Van Wert County Probate Court are governed by the jury management procedure of the General Division of the Van Wert County Court of Common Pleas. All jury trial requests shall be in compliance with Civ. R. 38 and 39.

## **LOC. R. 9.1 SECURITY PLAN**

The entire Security Plan previously submitted to the Supreme Court of Ohio, or as hereafter amended, is to be maintained as confidential and not as a matter of public record.

## **LOC. R. 52.1 COMPUTER GENERATED FORMS**

Computer generated forms must comply with the specifications and format required by the Rules of Superintendence. The signature of the applicant or attorney constitutes a certificate that the computer generated forms comply with the rules.

All computer generated forms presented for filing must be generated with the exact wording as well as blank lines as they appear in the uniform forms.

## **LOC. R. 53.1 LOCAL HOURS OF THE COURT**

The Probate Court and its office shall be open for the transaction of business from 8:30 A.M. to 5:00 P.M. Monday, and 8:30 A.M. to 4:00 P.M., Tuesday through Friday. The Probate Court shall be closed on Saturday, Sunday, Legal Holidays (as designated by the County Commissioners), and at such times as the Judge deems necessary and proper.

If the court is closed due to an emergency, all filings due on that date shall be considered timely if filed the next open business day. If business hours are reduced due to budget constraints, or if the office is closed an entire day, then any filings due on that date shall be considered timely if filed the next open business day.

## **LOC. R. 54.1 CONDUCT IN THE COURT**

1. **Proper Decorum.** Proper decorum in the court is necessary to the administration of the court's function. Any conduct that interferes with or tends to interfere with the proper administration of the court's business is prohibited.
2. **Recording Proceedings.** No person in the Courthouse shall use any recording device without prior approval from the Court, (other than a device used by a court reporter making a record

in the proceeding). No person shall take pictures or video without the express consent of the Court in advance and pursuant to Sup. R. 12.

3. **Prohibited Items.** Food and beverages are prohibited in the courtroom during all hearings, except for water with the consent of the Judge or Magistrate. Smoking and/or vaping is prohibited throughout the building at all times.
4. **Cell Phone Use.** Upon entering the courtroom, all persons, including counsel, shall discontinue all cell phone use and cell phones are to be on a setting that will not emit a sound during the proceedings. Cell phones may only be used at the direction of the Judge or Magistrate and may not distract from Court proceedings. Cell phones may not be used to record the proceedings and may not be used to take photographs during the proceedings.
5. **Conduct.** All parties and all attorneys shall appear on time to any hearing scheduled in their case and shall be prepared to conduct the business of that hearing.
6. **Notifying the Court When Party or Counsel Will Be Late.** When a party or counsel is going to be late for a hearing, all reasonable efforts shall be made to notify the Court as soon as practical to explain the reason and provide an anticipated time of appearance.
7. **Courtroom Attire.** All persons appearing in court shall have appropriate attire. The Judge or Magistrate shall have sole discretion to determine inappropriate attire. All parties and all attorneys shall dress in a manner respectful of the proceedings of the Court and all other participants. An offending party may be asked to return later, and the Court may assess court costs (including counsel fees) to the offending party. This rule shall not apply if a person is detained by law enforcement and is appearing at an immediate hearing.

#### **SUP. R. 55      EXAMINATION OF PROBATE RECORDS**

- A. Records shall not be removed from the court, except upon approval 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 developmentally delayed 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.

## LOC. R. 56.1 CONTINUANCES

- A. **When Granted.** Continuances shall be granted only when imperative to secure fair treatment for the parties.
- B. **Process for Requesting a Continuance.** To obtain a continuance, the party or counsel must file a written motion that contains the following requirements or attachments:
1. A request for continuance and the reason why the request is imperative to secure fair treatment for the parties.
  2. The date the other party/parties or counsel was contacted and whether the party/parties approve or object to the request for continuance.
  3. The signature of the party and counsel of the party, if any, requesting the continuance, pursuant to C.P. Sup. R. 41(A).
  4. If the request for a continuance is due to a scheduling conflict involving another court, the motion shall be accompanied by a copy of the assignment notice issued by the other court as required by C.P. Sup. R. 41(B)(1).
  5. If the party requesting the continuance has counsel, a proposed journal entry granting the request for a continuance must be attached.
  6. 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.
- C. **Objection to Continuance.** If a party objects to the request for continuance, the party must file a written objection to the request no later than two business days after notification by the party requesting the continuance.
- D. **Caution for Counsel.** Counsel considering representation of a party in a matter already scheduled for hearing should not assume that a continuance will be granted due to an existing scheduling conflict of which counsel, or the party, was aware prior to counsel's assuming representation.
- E. **Effect on Proceedings When a Continuance is Filed.** An order of continuance shall be signed by the Judge or Magistrate before the hearing or trial assignment will be vacated and a continuance deemed granted. All parties and counsel shall be required to appear as scheduled unless notified by the Court that the requested continuance has been granted.

**SUP. R. 57      FILINGS AND JUDGMENT ENTRIES**

- A. All filings, except wills, shall be on eight and one-half by eleven inch paper, without backings, of stock that can be microfilmed.
- B. All filings shall contain the name, address, telephone number, and attorney registration number of the individual counsel representing the fiduciary, and, in the absence of counsel, the name, address, and telephone number of the fiduciary. Any filing not containing the above requirements may be refused.
- C. Failure of the fiduciary to notify the court of the fiduciary's current address shall be grounds for removal. Not less than ten days written notice of the hearing to remove shall be given to the fiduciary by regular mail at the last address contained in the case file or by other method of service as the court may direct.
- D. Filings containing partially or wholly illegible signatures of counsel, parties or offices administering oaths may be refused, or, if filed, may be stricken, unless the typewritten or printed name of the person whose signature is purported to appear is clearly indicated on the filing.
- E. All pleadings, motions, or other filings are to be typed or printed in ink and correctly captioned.
- F. Unless the court otherwise directs, counsel for the party in whose favor a judgment is rendered, shall prepare the proposed judgment entry and submit the original to the court with a copy to counsel for the opposing party. The proposed judgment entry shall be submitted within seven days after the judgment is rendered. Counsel for the opposing party shall have seven days to object to the court. If the party in whose favor a judgment is rendered fails to comply with this division, the matter may be dismissed or the court may prepare and file the appropriate entry.
- G. When a pleading, motion, judgment entry or other filing consists of more than one page, each page shall contain the case number in the upper portion of the page.

## LOC. R. 57.1 ELECTRONIC FILING

1. **Applicability.** The Court shall accept for filing all documents that comply with these Local Rules via electronically transmitted filing, except the following:
  - a. All initial filings in a matter, to include complaints and motions re-opening any case;
  - b. Any filing that requires a filing fee.
2. **Original Filing.** A document filed electronically shall be accepted as the original filing. The source document need not be filed with the Clerk of Court but must be maintained in the filer's records. The source document shall be available for production on request by the court with original signatures as otherwise required under the applicable rules, together with the electronic cover sheet used for the filing. The source document shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.
3. **Cover Page.**
  - a. Any document being filed electronically must be attached to a cover page containing the following information:
    - i. the name of the court;
    - ii. the title of the case;
    - iii. the case number;
    - iv. the assigned judge/magistrate;
    - v. the title of the document being filed (e.g. Defendant Jones' Answer to Amended Complaint; Plaintiff Smith's Response to Defendants' Motion to Dismiss; Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss);
    - vi. the date of transmission;
    - vii. the transmitting number;
    - viii. an indication of the number of pages included in the transmission, including the cover page;
    - ix. if a judge or case number has not been assigned, state that fact on the cover page; and
    - x. the name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the electronic document if available.

- b. If a document is sent electronically to the Clerk without the cover page information listed above, the Clerk, in its discretion, may do either of the following:
  - i. enter the document in the Case Docket and file the document; or
  - ii. deposit the document in a file of failed electronic documents with a notation of the reason for the failure; in this instance, the document shall not be considered filed with the Clerk.
- c. The Clerk is not required to send any form of notice to the sending party of a failed electronic filing. However, if practicable, the Clerk may inform the sending party of a failed electronic filing.

**4. Signature.**

- a. A party who wishes to file a signed source document electronically shall either:
- b. Electronically send a copy of the signed source document; or
- c. Electronically send a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the signed source document.
- d. A party who files a signed document electronically represents that the physically signed source document is in his/her possession or control.

**5. Exhibits.**

- a. Each exhibit to an electronic produced document that cannot be accurately transmitted via electronic transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the electronic document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.
- b. Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court.

**6. Time of Filing.**

- a. Subject to the provisions of these rules, all documents sent electronically and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. The office of the Clerk of Court will be

deemed open to receive electronic transmission of documents on the same days and at the same time the court is regularly open for business.

- b. The Clerk may, but need not, acknowledge receipt of an electronic transmission.
  - c. The risks of transmitting a document electronically to the Clerk shall be borne entirely by the sending party. Anyone using electronic filing is urged to verify receipt of such filing by the Clerk through whatever technological means are available.
7. **Fees and Costs.** No document filed electronically that requires a filing fee shall be accepted by the Clerk for filing until court cost and/or any fees have been paid. Documents tendered to the Clerk without payment of court cost and fees, or with incomplete information on the charge authorization or request, or which do not conform to applicable rules will not be filed. No additional fee shall be assessed for facsimile filings.
8. **Length of Document.** Electronic filings shall not exceed twenty-five (25) pages in length. The filer shall not transmit service copies electronically.

#### **LOC. R. 57.2 COMPLETE ADDRESS**

When required in a court document, address must be a street address and, if applicable, any post office box number used as a mailing address. The address of the fiduciary who is not an attorney must be the fiduciary's legal address. A fiduciary who is an attorney may use an office address.

#### **LOC. R. 57.3 SIGNATURES**

Documents filed with Probate Court that include copies of signatures instead of original signatures shall be considered authentic. If it is determined that any signature in a filing was not made with authority the court shall order that filing to be stricken.

#### **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.

## LOC. R. 58.1 LOCAL DEPOSIT FOR COURT COSTS

Deposits in the amount set forth below shall be required upon the filing of the following actions and proceedings:

### ESTATES:

1. Full Administration (due with Inventory)	\$200
2. Release from Administration (with Probate of Will)	\$163
3. Release from Administration (Will for record only)	\$153
4. Release from Administration (without Will)	\$143
5. Summary Release (with Probate of Will)	\$143
6. Summary Release (Will for record only)	\$133
7. Summary Release (without Will)	\$123

### GUARDIANSHIPS:

1. Adult	\$350
2. Minor	\$150
3. Conservator	\$100

### OTHER:

1. Admit Authenticated Copies	\$114
2. Placement	\$200
3. Adoptions	\$1,000 First Child;
a. Each additional child	\$100
b. Adult Adoption	\$145
3. Appeals	\$125
4. Authenticated Copies	\$14 in State; \$16 out of State
5. Certified Copies	\$3
6. Change of Name	\$170 Minor; \$140 Adult
7. Civil Complaints	\$175
8. Correction of Birth	\$33
9. Delayed Birth Certificates	\$35
10. Marriage Ceremonies	\$25
11. Marriage Licenses	\$45
12. Minor Settlements	\$140
13. Photocopies	\$.05
14. Structured Settlement	\$150
15. Tax Return Filed Only	\$28
16. Trusts	\$200
17. Will Filed Only	\$78
18. Recording Fees	\$1 per page after the 1 <sup>st</sup> 3 pages, up to \$35.00 per case
19. Release of Medical Records	\$125
20. Change of Gender Marker	\$135
21. Name Conformity	\$140
22. Disinterment	\$140
23. Real Estate – Supplemental Affirmation	
a. Without Will	\$120
b. Probate Will	\$140
24. Application to Inventory Safe Deposit Box	\$50

## SUP. R. 59 WILLS

- A. Before an application is made to admit the will to probate, to appoint an estate fiduciary, or to relieve an estate from administration, each applicant or the applicant's attorney shall examine the index of wills deposited pursuant to section 2107.07 of the Revised Code. Wills deposited pursuant to section 2107.07 of the Revised Code previous to the will offered for probate shall be filed in the estate proceedings for record purposes only.
- B. Fiduciaries appointed to administer testate estates shall file a Certificate of Service of Notice of Probate of Will (Standard Probate Form 2.4) within two months of their appointment or be subject to removal proceedings. If required by the court, proof of service shall consist of either waivers of notice of the probate of the will or original certified mail return receipt cards as provided under Civil Rule 73(E)(3), or if necessary, under Civil Rule 73(E)(4) or (5). A waiver of notice may not be signed by any minor, or on behalf of a minor sixteen or seventeen years of age. See Civil Rule 4.2.

### LOC. R. 59.1 RELEASE FROM ADMINISTRATION

- A. If a decedent has a de minimis estate (less than \$1,500) the personal representative may request a letter noting the court has no objection to a release of the property to the next of kin. The filing fee for such a letter shall be \$10.00.
- B. In cases of estates entitled to be released from administration, where there is a will, such will shall be presented for probate. If the entire estate will be consumed in the payment of debts, costs, and applicable statutory allowances, or if the will distributes the net proceeds of the estate in the same manner as the Statute of Descent and Distribution, and there is no real estate involved, then the will may be filed only and need not be admitted to probate.

If the will is admitted to probate, an application for an order releasing the estate from administration may be filed in lieu of the appointment of the executor named in the will. If probate of the will is denied, an application for an order releasing the estate from administration may be granted and distribution made under the laws of intestate succession.

Where a full administration of an estate had been commenced but it is later determined that the estate qualifies for release of administration, the applicant may file a motion and judgment entry ordering the transfer to a release of administration.

**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 days prior to the date set for hearing. If there is no known surviving spouse or next of kin resident of the state, the notice shall be served upon persons designated by the court.
- B. The administrator shall give notice of the appointment within seven days after the appointment to all persons entitled to inherit, including persons entitled to an allowance for support, unless those persons have been provided notice of the hearing on the appointment or have waived notice.
- 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 7 days of the initial appointment of the administrator or executor, unless a different time is established by local court rule.

**LOC. R. 60.1    SAFE DEPOSIT BOX AUTHORIZATION**

Prior to the appointment of a fiduciary, authority to open a safe deposit box shall only be granted to an attorney at law, licensed to practice law in the State of Ohio, who has been appointed by the Court as commissioner to report on the contents of a safe deposit box.

**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.

## LOC. R. 61.1 LOCAL RULE FOR APPRAISAL OF PERSONAL PROPERTY

- A. When required by law, there shall be one suitable, unrelated and disinterested appraiser appointed by the executor or administrator of an estate with Court approval.
- B. Real estate appraisals shall be made by licensed real estate agents, brokers auctioneers, credentialed real estate appraisers, real estate loan officers of local financial institutions, or such other persons who by experience and training are qualified to make real estate appraisals. A licensed real estate agent or broker who is the listing broker for the sale of the real estate is not disqualified as an appraiser.
- C. The legal description and/or auditor's parcel number of all decedent's real property located in Ohio shall be included on the Schedule of Assets.
- D. No appraiser shall be permitted to directly or indirectly purchase or acquire any of the property he or she appraises, except at public auctions.
- E. Readily ascertainable value of motor vehicle: Notwithstanding sections (A) through (D) of this rule, the market value of any motor vehicle as found in the current N.A.D.A. (J.D. Powers) Official Used Car Guide under the category "Av'g Retail" or Kelly Blue Book may be adopted as the readily ascertainable value of the property and no further appraisal of such property shall be required except as provided under Paragraph I of this rule.
- F. Description and Valuation of Stock:
  - 1. If the stock is publicly traded, its valuation may be obtained from any recognized stock exchange or over-the-counter quotation and said verification must be listed.
  - 2. If the stock represents an investment in a closed corporation, its value must be made by a duly appointed and qualified appraiser.
- G. Items of household goods are not required to be individually listed and individually valued.
- H. Household goods of a value of \$3,000.00 or less, will be considered assets the value of which is readily ascertainable and which need not be appraised.

## **SUP. R. 62 CLAIMS AGAINST ESTATE**

- A. When a claim has been filed with the court pursuant to section 2117.06 of the Revised Code, the fiduciary shall file a copy of any rejection of the claim with the court.
- B. If the court requires a hearing on claims or the fiduciary requests a hearing on claims or insolvency, the fiduciary shall file a schedule of all claims against the estate with the court. The schedule of claims shall be filed with the fiduciary's application for hearing or within ten days after the court notifies the fiduciary of a court-initiated hearing.

### **LOC. R. 62.1 CLAIM RESOLUTION**

No estate shall be closed until all claims filed with the court have been resolved. It shall be the responsibility of fiduciary or attorney for the estate to notify the court of the status of any claims filed with the court. This rule does not apply if the estate is insolvent and the claim is listed as a debt in the insolvency.

### **LOC. R. 62.2 MEDICAID ESTATE RECOVERY PROGRAM**

- A. It is the responsibility of the attorney or the "person responsible for the estate" as defined and used in R.C. 2107.061(A)(2), and as used in this Rule, of a decedent subject to the Medicaid estate recovery program or the estate of a decedent who was the spouse of a decedent subject to the Medicaid estate recovery program to submit a properly completed Medicaid estate recovery notice form to the administrator of the Medicaid estate recovery program not later than thirty days after the occurrence of any of the following:
  - 1. The granting of letters of administration or letters testamentary;
  - 2. The filing of an application for release from administration or summary release from administration.
- B. The court requires, in cases where the decedent was a permanently institutionalized individual of any age or the decedent was fifty-five years of age or older at time of death, the attorney or the person responsible for the estate to file one of the following:
  - 1. Form 7.0 indicating that notice has been given to the administrator of the Medicaid estate recovery program; or
  - 2. An Affidavit attesting that the attorney or the person responsible for the estate has checked and the decedent is not subject to the Medicaid estate recovery program; or

3. Notice from the administrator of the Medicaid estate recovery program, or its designee, stating that the decedent is not subject to the Medicaid estate recovery program.
- C. The attorney and the person responsible for the estate are reminded that, pursuant to R.C. 2117.061 (D), the administrator of the Medicaid estate recovery program shall present a claim for estate recovery to the person responsible for the estate of the decedent or the person's legal representative not later than ninety days after the date on which the Medicaid estate recovery notice is received under division (B) of this Rule or one year after the decedent's death, whichever is later. The attorney and the person responsible for the estate should be mindful of this statute prior to distributing any estate assets.

#### **LOC. R. 63.1 APPLICATION TO SELL PERSONALTY**

- A. In addition to the requirements listed in R.C. 2113.40-43, a judgment entry and order of sale shall include an adequate description of the property to be sold and shall provide that the sale has been at the best price obtainable in the current market or at a price fixed by the Court.
- B. Except for good cause shown, an order of sale shall not be granted prior to the approval of the inventory or inventory and appraisal.
- C. No sale shall be confirmed until an affidavit is filed as required by R.C. 2109.45 and R.C. 2113.42.
- D. The requirements of rule 63 shall not apply where sale has been authorized by Will or consent given by all heirs, provided that except for good cause shown, personal property shall not be sold until the inventory has been approved.

## SUP. R. 64 ACCOUNTS

- A. The vouchers or other proofs required by section 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 a 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.

## LOC. R. 64.1 LOCAL RULE FOR ACCOUNTS

- A. All accounts must be personally signed by the fiduciary and contain the full name, current address and telephone number of the fiduciary, if different from the name, address and telephone number listed on the application to administer.
- B. All fiduciaries must sign the account when multiple fiduciaries have been appointed.
- C. For decedent's estates, a final account or certificate of termination is due six months from the date of the appointment of the fiduciary. If a final account or certificate of termination cannot be filed in six months, either an application to extend administration or a notice to extend administration must be filed. A status report must be filed with any partial account subsequently filed. All subsequent accounts must be filed on an annual basis unless the Court orders otherwise. Accounts not filed in compliance with this rule shall be subject to citation.
- D. For trusts, the first account shall be filed no later than one (1) year following the date of the appointment and all subsequent accounts shall be filed on an annual basis, unless otherwise ordered by the Court.
- E. For Guardianships, the first account shall be filed no later than one (1) year following the date of the appointment and all subsequent accounts shall be filed every other year thereafter.
- F. Copies of the account shall be served as follows:
  - 1. Intestate Estate. No account shall be approved unless there is a certificate filed by the fiduciary or fiduciary's counsel that a copy of the account as filed has been personally served or mailed by ordinary U.S. Mail to the surviving spouse and all next of kin in an intestate estate.
  - 2. Testate Estate. No accounts shall be approved unless there is a certificate filed by the fiduciary or fiduciary's counsel that a copy of the account as filed has been personally served or mailed by ordinary U.S. Mail to the surviving spouse and all the beneficiaries at the addresses listed in the file except corporate or charitable beneficiaries, and except beneficiaries not required to be notified pursuant to Ohio Revised Code Section 2109.32 (B)(1).
  - 3. Guardianships. No account shall be approved unless there is a certificate filed by the guardian or guardian's counsel that a copy of the guardian's account as filed has been personally served or mailed by ordinary U.S. Mail to all next of kin of the ward who reside in Ohio.
  - 4. Trusts. No account shall be approved unless there is a certificate filed by the fiduciary or fiduciary's counsel that a copy of the account as filed has been personally served or mailed by ordinary U.S. Mail to all the beneficiaries of the trust.

#### **LOC. R. 64.2 EXTENSIONS ON ACCOUNTS**

Extensions of time for the filing of an account shall not be granted if the account is more than eighteen months past due.

#### **LOC. R. 64.3 DELINQUENCY IN FILING AN ACCOUNT**

No expenditure, sale distribution, or fee will be approved while the fiduciary is delinquent in filing an account unless permission is granted by the Court. See also Sup.R.78.

#### **LOC. R. 64.4 COURT COSTS**

No account, certificate of termination or report of distribution will be accepted for filing without the appropriate court costs attached.

#### **LOC. R. 64.5 NOTICE OF HEARING ON AN ACCOUNT**

Unless a waiver of notice of the filing of the account is filed with the account with waivers from all residuary beneficiaries under the will or all heirs at law if an intestate estate, the attorney from the estate, or the executor/administrator of the estate shall give notice of the hearing on the account, by regular mail to the last known address to all residuary beneficiaries under the will or to all heirs at law if an intestate estate. The probate court shall docket a certificate of mailing with the name of all beneficiaries or heirs to whom the notice was sent and date of the mailing of the notice.

## LOC. R. 65.1 LAND SALES - R.C. CHAPTER 2127

### A. Filing Evidence of Title

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.

If the sale is to be public, the executor, administrator or guardian shall file a certificate or other proof evidencing that the required notice under R.C. 2127.32 was given.

### B. Private Land Sale

In all private land sale proceedings by civil action, a complaint is required when an order of private sale is requested and there is no consent of all the parties. The complaint shall include an affidavit or testimony under oath that establishes:

1. Whether or not the sale has been the subject of prior negotiations;
2. Amount offered for the sale of the property;
3. Appraised value in the land sale proceedings;
4. Identify of the prospective purchaser and counsel, if any;
5. Whether or not the proposed transaction will be or has already been placed in escrow; and
6. Identify of the escrow agent.

### C. Appointment of Disinterested Person

The Court may, in its discretion, 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 his finding in writing to the court. Said report will be part of the record in the proceeding. The compensation of the person performing such service shall be fixed by the Court according to the circumstances of each case and taxed as part of the costs of the proceedings.

### D. County Treasurer as Party Defendant

All complaints to sell real estate where the County Treasurer is a party defendant, shall contain the parcel number of the real estate to be sold.

**SUP. R. 66 GUARDIANSHIP**

- 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 or the agent of the prospective ward or other individual has refused to consent to an examination.
- B. An Application for Authority to Expend Funds (Standard Probate Form 15.7) shall not be approved until an Inventory (Standard Probate Form 15.5) has been filed.
- C. An application for allowance of care and support of a minor shall allege, if such is the fact, that the father and mother are financially unable to provide the items for which the amount is Sought.

**LOC. R. 66.1 GUARDIANSHIPS**

- A. The court will not accept for filing any guardianship for a minor where the only purpose of the guardianship is to establish a residency for school purposes. Custody for school purposes is a matter to be heard and determined in the juvenile division of the court.
- B. The court will not accept for filing any guardianship for a minor when parents are living, except for guardianship of Estate purposes. This would be considered a custody matter for Juvenile Court.
- C. Upon the issuance of Letters of Guardianship, all Powers of Attorney in existence shall be ordered voided, unless otherwise ordered by the Court.

**LOC. R. 66.01.1 DEFINITIONS**

The terms defined in Sup.R 66.01 have the same meaning when used in Local Rule 66.

**LOC. R. 66.03.1 EMERGENCY GUARDIANSHIP**

Consistent with Rule 66.03(A) of the Rules of Superintendence for the Courts of Ohio, the following process is established for emergency guardianships in Van Wert County.

In general, the following forms shall be completed and filed with the Court.

1. Required pleadings:

- Motion for Appointment of Emergency Guardian
- Judgment Entry Appointing Emergency Guardian
- Affidavit of Guardian Applicant
- 17.1 Statement of Expert Evaluation
- 17.1A Supplement for Emergency Guardian of Person
- 15.4 Letters of Guardianship

The powers of an emergency guardian shall be limited to those powers that are necessary to prevent injury to the person or estate of the minor or incompetent.

At the time of filing, a filing fee of \$350.00 is required. This filing fee may be waived if an Affidavit of Indigency is filed with the Court and the Court declares the guardianship indigent.

As provided by statute, the initial emergency guardianship is granted for seventy-two hours. A motion to extend an emergency guardianship for an additional thirty days may be filed. A Motion for 30-Day Extension may be completed and filed within the seventy-two hour emergency guardianship period.

Except for good cause shown, the proposed ward shall be notified by the applicant as soon as possible of the appointment of an emergency guardian.

## LOC. R. 66.03.2 GUARDIAN PERFORMANCE

- A. Consistent with Rule 66.03(B) of the Rules of Superintendence for the Courts of Ohio, the Van Wert County Probate Court establishes the following process for submitting comments or complaints regarding the performance of guardians appointed by the Court and for considering such comments and complaints.
- B. Comments or complaints regarding the performance of guardians appointed by this Court shall be submitted in writing to this Court c/o the Deputy Clerk by any of the following means:
  - Electronic mail to: [probate@vwprobjuvcourt.com](mailto:probate@vwprobjuvcourt.com)
  - Regular U.S. mail to Van Wert County Probate Court, 108 E. Main St. Van Wert, Ohio 45891
  - Hand delivery to the Van Wert Probate Court Clerk's Office at 108 E. Main St. Van Wert, Ohio.

The person making the comments or complaints shall provide the Court with their name and address so that the Court may notify said person of any hearing dates and/or the disposition of said comments or complaints.

- C. Upon receipt of a comment or complaint, the Court will provide a copy to the guardian who is the subject of the comment or complaint. Time permitting, the guardian may be given the opportunity to respond to the comment or complaint.
- D. The comments or complaints will then be forwarded to the Probate Court Judge for prompt consideration and appropriate action, if any is necessary.
- E. Any comments or complaints submitted to this Court regarding the performance of guardians appointed by this Court shall be filed and made part of the record, including the disposition of said comments or complaints.
- F. The Court shall notify the person making the comments or complaints and the guardian of the disposition of the comments or complaints.
- G. The court shall maintain a record regarding the nature and disposition of the comments or complaints.

## 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.

### LOC. R. 66.05.1 RESPONSIBILITIES OF COURT ESTABLISHING GUARDIANSHIPS

- A. Criminal background check shall be conducted on a proposed guardian and the results of said background check shall be filed with the Court prior to the hearing on the Application for Appointment of Guardian of Alleged incompetent.
- B. If the applicant to be appointed guardian has resided in the State of Ohio for five (5) years immediately preceding the filing of said application, said background check shall be conducted by the Ohio Bureau of Criminal Identification and Investigation and the results of said background check shall be filed with the Court prior to the hearing on the Application for Appointment of Guardian of Alleged incompetent. Said results shall be dated within one year preceding the filing of the Appointment of Guardian of Alleged Incompetent.
- C. If the applicant to be appointed guardian has not resided in the State of Ohio for five (5) years immediately preceding the filing of said application, said background check shall be conducted by the Ohio Bureau of Criminal Identification and Investigation and the Federal Bureau of Investigation and the results of said background check shall be filed with the Court prior to the hearing on the Application for Appointment of Guardian of Alleged Incompetent.
- D. The fees or costs of any criminal background check required by this rule shall be the responsibility of the applicant, and may be reimbursed to the applicant with guardianship funds once the guardianship is established and the inventory filed (provided that the guardianship is for the ward's estate). If the proposed ward is indigent, as evidenced by the filing of an Entry approving a Financial Disclosure/Affidavit of Indigency of Proposed Ward, said applicant may move the Court for reimbursement of said fees or costs by providing the appropriate motion and original receipt confirming applicant's payment of said fees or costs for a criminal background check.

- E. If the applicant to serve as a guardian is an attorney, a certificate of good standing with disciplinary information issued by the Supreme Court shall be accepted by the Court in place of a criminal background check.

**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.
  - 5. Abuse, neglect and exploitation training in order to detect and report allegations to authorities.
- 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 (5).
- B. Annual Compliance.** On or before January 1<sup>st</sup> 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-hours 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 laws 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, the long-term care ombudsman, or law enforcement 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 address 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 interests 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 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.

#### LOC. R. 66.08.1 DEPOSIT OF WILLS

The guardian must deposit with the attorney for guardianship any and all wills of the ward for safekeeping pursuant to R. C. section 2107.07. The attorney shall place the will in either the attorney's fire proof will safe or a safety deposit box and shall file a notice with the court of receipt of any wills. Neither guardian or attorney shall open any sealed envelopes purporting to contain a will.

**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 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 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. The guardian is encouraged to identify those persons with whom the ward desires to communicate and facilitate the communication the guardian believes is in the best interest of the ward.
  - 2. A guardian shall do all 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.
  - (h) Encourage visitation and communication with the ward so long as such visitation and communication is in the best interest of the ward;
  - (i) Promptly submit a list of names to the court of any persons or entities whom the guardian has excluded or seeks to exclude from visiting or communicating with the ward.
- G. **Direct Services.** A guardian, except a family member guardian of the ward, shall not provide any direct services to a ward without notifying the probate court. All guardians providing any direct services to a ward shall comply with all the licensing, training, and accreditation rules required of paid providers by any applicable state agency.
- 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 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.** 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. 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.

**SUP. R. 67 ESTATE OF MINORS OF NOT MORE THAN TWENTY-FIVE THOUSAND DOLLARS**

- A. Each application relating to a minor shall be submitted by the parent or parents or by the person having custody of the minor and shall be captioned in the name of the minor.
- B. Each application shall indicate the amount of money or property to which the minor is entitled and to whom such money or property shall be paid or delivered. Unless the court otherwise orders, if no guardian has been appointed for either the receipt of an estate of a minor or the receipt of a settlement for injury to a minor, the attorney representing the interests of the minor shall prepare an entry that orders all of the following:
  - 1. The deposit of the funds in a financial institution in the name of the minor;
  - 2. Impounding the principal and interest;
  - 3. Releasing the funds only upon an order of the court or to the minor at the age of majority.
- C. The entry shall be presented at the time the entry dispensing with appointment of a guardian or approving settlement is approved. The attorney shall be responsible for depositing the funds and for providing the financial institution with a copy of the entry. The attorney shall obtain a Verification of Receipt and Deposit (Standard Probate Form 22.3) from the financial institution and file the form with the court within seven days from the issuance of the entry.

**LOC. R. 67.1 ESTATES OF MINORS NOT MORE THAN TWENTY-FIVE THOUSAND DOLLARS**

When the funds due to the minor originate from a bequest under a will, an inheritance, or a distribution from a trust, the funds may be transferred into an Ohio Transfer to Minor Act (OTMA) account. No Verification of Receipt of Deposit is required when funds are being transferred into an OTMA account.

**LOC. R. 67.2 BIRTH CERTIFICATE OF A MINOR**

A certified copy of the birth certificate of the minor child shall be filed with the application. If requested the court will allow a subsequent substitution of the certified copy by a photocopy and the clerk will note on the photocopy that the certified copy was returned to the applicant.

## **SUP. R. 68 SETTLEMENT OF INJURY CLAIMS OF MINORS**

- A. An application for settlement of a minor's claim shall be brought by the guardian of the estate. If there is no guardian appointed and the court dispenses with the need for a guardian, the application shall be brought by the parents of the child or the parent or other individual having custody of the child. The noncustodial parent or parents shall be entitled to seven days notice of the application to settle the minor's claim which notice may be waived. The application shall be captioned in the name of the minor.
- B. The application shall be accompanied by a current statement of an examining physician in respect to the injuries sustained, the extent of recovery, and the permanency of any injuries. The application shall state what additional consideration, if any, is being paid to persons other than the minor as a result of the incident causing the injury to the minor. The application shall state what arrangement, if any, has been made with respect to counsel fees. Counsel fees shall be subject to approval by the court.
- C. The injured minor and the applicant shall be present at the hearing.

### **LOC. R. 68.1 BIRTH CERTIFICATE OF A MINOR**

A certified copy of the birth certificate of the minor child shall be filed with the application. If requested the court will allow a subsequent substitution of the certified copy by a photocopy and the clerk will note on the photocopy that the certified copy was returned to the applicant.

### **LOC. R. 68.2 SETTLEMENTS UNDER \$10,000**

Rule 67 of the Rules of Superintendence for the courts of Ohio shall apply to all settlements under \$10,000.00 when the minor and parents are unrepresented by counsel, the attorney drafting the pleadings shall be responsible for depositing the funds and providing the financial institution with a copy of the entry dispensing with the appointment of guardian and ordering deposit (SPF 22.2), shall obtain a receipt from the financial institution and deposit it with the court within seven days of the approval of the entry (SPF 22.3), and shall file form 22.4, Report of Distribution of Minor Claim with the Court.

### **LOC. R. 68.3 COUNSEL FEES**

Attorney fees for representing a minor in settlement of a claim for personal injuries are subject to court approval. If the entire attorney fee is to be paid at the same time a structured settlement is approved, the amount of the fee must be based on the present value of the settlement

#### **LOC. R. 68.4 STRUCTURED SETTLEMENTS**

- A. In the event the parties involved in claims for injuries to minors or incompetents desire to enter into a structured settlement, the application shall include a signed Affidavit from an independent certified public accountant or other competent professional specifying the present value of the settlement and the method of the calculation of the value.
- B. Proposed structured settlements shall be subject to Court approval after hearing, on a case-by-case basis.
- C. A proposed structured settlement shall be submitted to the Court at least ten (10) days before the hearing, together with all pleadings and supporting documents.

#### **LOC. R. 68.5 SALE OF STRUCTURED SETTLEMENT PAYMENTS**

- A. All applications for approval of sale of structured settlement payments shall be filed and set for hearing before the Judge.
- B. The application should include a statement of the income, living expenses, and other financial obligations of the person desiring to sell the structured settlement payments as well as a detailed statement as to how the sale proceeds will be applied and/or utilized by the applicant. If this statement is not filed with the application, it must be filed no later than ten (10) days before the hearing. If it is not filed by that time, the hearing shall be reset.

#### **SUP. R. 69 SETTLEMENT OF CLAIMS OF OR AGAINST ADULT WARDS**

- A. An application for settlement of a claim in favor of or against an adult ward shall be brought by the guardian of the estate. Notice of the hearing on the application shall be given to all persons who are interested parties to the proposed settlement, as determined by the court. The court may authorize or direct the guardian of the ward's estate to compromise and settle claims as the court considers to be in the best interest of the ward. The court may dispense with notice of hearing.
- B. The application for settlement of an injury claim shall be accompanied by a current statement of the examining physician describing the injuries sustained, the extent of recovery from those injuries, and permanency of any injuries. The application shall state what additional consideration, if any, is being paid to persons other than the ward as a result of the incident causing the injury to the ward. The application shall state what arrangement, if any, has been made with respect to counsel fees. Counsel fees shall be subject to approval by the court.

**SUP. R. 70 SETTLEMENT OF WRONGFUL DEATH AND SURVIVAL CLAIMS**

- A. An application to approve settlement and Distribution of Wrongful Death and Survival Claims (Standard Probate Form 14.0) shall contain a statement of facts, including the amount to be allocated to the settlement of the claim and the amount, if any, to be allocated to the settlement of the survival claim. The application shall include the proposed distribution of the net proceeds allocated to the wrongful death claims.
- B. The fiduciary shall give written notice of the hearing and a copy of the application to all interested persons who have not waived notice of the hearing. Notwithstanding the waivers and consents of the interested persons, the court shall retain jurisdiction over the settlement, allocation and distribution of the claims.
- C. The application shall state what arrangements, if any, have been made with respect to counsel fees. Counsel fees shall be subject to approval by the Court.

**LOC. R. 70.1 SETTLEMENT OF CLAIMS FOR WRONGFUL DEATH**

- A. All applications to settle claims for wrongful death shall be set for hearing unless otherwise ordered by the Court. All interested parties to the distribution of the net proceeds of the settlement shall be listed by name, residence, and relationship to the decedent on the proposed entry approving settlement or distributing wrongful death proceeds.
- B. The term "interested parties" who are subject to notice are those set forth in Ohio Revised Code 2125.02.
- C. A guardian ad litem may be appointed to represent the interests of any minor or incompetent persons who are potentially "interested parties".
- D. When the Court is called upon to endorse an agreed entry of distribution or to adjust the shares of distribution, notice to or consents from those "interested parties" designated above shall be required.
- E. The applicant is required to appear at the hearing regarding an application to approve a wrongful death settlement or proposed distribution. An applicant shall have thirty (30) days following approval within which to file the report of distribution unless otherwise ordered by the court.
- F. The court shall approve the report of distribution of the wrongful death proceeds only after appropriate vouchers are presented.
- G. Attorney fees for completing the probate work directly related to the wrongful death settlement shall be subject to approval by the Court and shall be paid from the contingent 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.

### LOC. R. 71.1 COUNSEL FEES

- A. Counsel fees shall be agreed upon between the executor or administrator and the attorney of his/her choosing. Counsel fees may be set forth in a written agreement between the executor or administrator and filed with the court. In the event that no agreement is filed with the court, then the schedule in Appendix A shall be considered as reasonable and the court will approve the same provided the counsel fees do not exceed the fees as calculated by Appendix A and if the calculation of the fees is signed by all executors or administrators. If the fees exceed Appendix A, then a separate attorney fee agreement must be filed and signed by all fiduciaries. If the executor and administrator is also the attorney for the estate or within the same law firm the court will not accept an agreement for counsel fees exceeding appendix A without a hearing.
- B. Counsel fees for the administration of a decedent's estate as set forth in Appendix A and form A1 attached hereto, may serve as a guide in determining fees to be charged to the estate for legal services of an ordinary nature rendered as attorney for the executor or administrator in the complete administration of a decedent's estate. Such schedules, however, are not to be considered as schedules of minimum or maximum fees to be charged.
- C. Compensation for an attorney employed for administration of a decedent's estate for a full administration shall be as follows:

#### TOTAL PROBATE ASSETS (PER INVENTORY)

1.	0-\$5,000	\$300.00
2.	\$5,000-\$20,000	\$300.00 + 6% over \$5,000
3.	\$20,000-\$50,000	\$1,200.00 + 4% over \$20,000.00
4.	\$50,000-\$400,000	\$2,400.00 + 3% over \$50,000.00
5.	\$400,000-up	\$12,900.00 + 2% over \$400,000.00

#### TOTAL NON-PROBATE ASSETS

1.	0-\$25,000	3%
2.	\$25,000-\$100,000	2%
3.	\$100,000-up	1%

- D. Hourly fee basis: An application for attorney fees based on an hourly fee basis must be submitted to the court *with* the signature of the fiduciary(s) approving the same, along with the supporting documentation therefor. Counsel must also attach the computation using the above guidelines for purposes of comparison.
- E. GENERAL RULES AS TO ATTORNEY FEES:
1. Any fee application which is above the authorized guidelines will be deemed to be extraordinary and will be assigned for hearing *unless* the fiduciary(s) and all heirs who are beneficiaries sign the extraordinary fee consent form. The court reserves the right to conduct a hearing, at its discretion, on any attorney fee application.

2. Where the fiduciary is also the attorney for the estate, or if the attorney for the estate is associated with the fiduciary's law firm, reasonable attorney fees shall be rebuttably presumed to be one-half of the guideline amount as set forth in paragraph C above. This paragraph shall not apply if the fiduciary fee is waived.
3. Attorney fees for services rendered in an estate relieved from administration shall be disclosed as a liability of the estate.
4. Except for good cause shown, attorney fees shall not be allowed to attorneys representing fiduciaries who are delinquent in filing the accounts required by ORC Section 2109.30, et seq.
5. An attorney fee shall be considered prima facie reasonable in all estate administrations if it does not exceed \$1,000.00. This rule shall apply to all existing trusts and guardianships and to estates of decedents dying after June 1, 2018.
6. It shall be the responsibility of the attorney for the Executor or Administrator to file a statement regarding attorney fees and fiduciary fees with the final account. Said statement shall be in conformance with Appendix A attached hereto.
7. The sale price of real estate sold shall be used for computation of attorney fees. The appraised value shall not be used in the computation of attorney fees. Deed in lieu of foreclosure shall be figured as transferred not sold. A copy of the closing statement for sale of real estate must be attached to the account.

## LOC. R. 71.2 EXTRAORDINARY FEES

Upon application, extraordinary fees based upon time spent and services rendered may be considered for approval by the court. Extraordinary services may include, but are not limited to the following:

1. Litigation or matters in a court other than Probate Court.
2. In a contested matter in the Probate Court, including but not limited to will contests, applications to determine heirships, declaratory judgments for interpretations of wills.
3. In connection with the preparation or filing, audit, protest of any state, federal, or local income tax issue or any applicable business tax.
4. In connection with the settlement of Estate or inheritance taxes in respect to insurance not payable to the estate, gifts in contemplation of death, or general testamentary powers of appointment not exercised by the decedent and other negotiation not represented by assets included in the 'gross value' of the estate.
5. With respect to problems of valuation or taxability of property for estate and inheritance taxes or to the protest of such taxes.
6. Preparation and filings of federal estate tax returns or audit of state or federal estate tax returns.
7. Services in connection with land sale proceedings.
8. In connection with matters which are unusual or expensive for the size of the estate involved.
9. In connection with the performance of duties normally performable by the personal representative but which fall to the lawyer because of personal representative's inexperience, lack of ability, or absence from the place from which assets of the estate must be managed.
10. Sale of business or business assets.
11. Sale of real estate under power of will.
12. Proceedings to determine heirship.
13. Completion of land contract.
14. Proceedings related to wrongful death.
15. Proceedings involving partnership.

### **LOC. R. 71.3 EARLY PAYMENTS OF ATTORNEY FEES**

Sup. R. 71 (B) establishes the time for the payment of attorney fees in estates. Unless the Court approves an application for early payment, attorney fees for the administration of decedents' estates shall be neither paid by the fiduciary, nor accepted by counsel, in advance of preparation for filing of the final account or final closing documents. This applies regardless of the source of payment. Any application for early payment shall set forth the justification for the request. An early payment application shall be set for hearing unless signed Consents to the early payment are filed from all beneficiaries bearing the burden of paying the fees, and from the creditors in the event of expected insolvency. Notice of the hearing must be given by the applicant to the affected non-consenting beneficiaries, and to the creditors in the event of expected insolvency. The Court may exercise its discretion to set any early payment application for hearing.

### **LOC. R. 71.4 NON-PROBATE ASSET**

The attorney or the executor/administrator shall file a confidential inventory with the Probate Court of all NON-PROBATE assets to be used in the calculation of attorney and fiduciary fees.

### **LOC. R. 71.5 CONTINGENT FEES - COUNSEL FEES IN CONNECTION WITH SETTLEMENT OF CLAIMS FOR WRONGFUL DEATH, CONSCIOUS PAIN AND SUFFERING CLAIMS, PERSONAL INJURIES TO PERSON UNDER GUARDIANSHIP, AND SETTLEMENT OF PERSONAL INJURIES TO MINORS UNDER ORC 2111.18**

In cases where representation is on a contingent basis, only contingency fee contracts between counsel and the proper legal representative prepared and signed prior to any recovery will be approved. All counsel fees must be approved by the Court. A motion and judgment entry for approval of counsel fees must be filed.

## SUP. R. 72 EXECUTOR'S AND ADMINISTRATOR'S COMMISSIONS

- A. Additional compensation for extraordinary services may be allowed upon an application setting forth an itemized statement of the services rendered and the amount of compensation requested. The court may require the application to be set for hearing with notice given to interested persons in accordance with Civil Rule 73(E).
- B. The court may deny or reduce commissions if there is a delinquency in the filing of an inventory or an account, or if, after hearing, the court finds that the executor or administrator has not faithfully discharged the duties of the office.
- C. The commissions of the co-executors or co-administrators in the aggregate shall not exceed the commissions that would have been allowed to one executor or administrator acting alone, except where the instrument under which the co-executors serve provides otherwise.
- D. Where counsel fees have been awarded for services to the estate that normally would have been performed by the executor or administrator, the executor or administrator commission, except for good cause shown, shall be reduced by the amount awarded to counsel for those services.

## 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 cost in excess of those approved by the probate division of the 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 shall not exceed the compensation that would have been allowed to one guardian acting alone.
- E. **Denial or reduction of compensation.** The probate division of the Court of Common Pleas may deny or reduce compensation if there is a delinquency in the filing of an inventory or account, or after hearing, the court finds the guardian has not faithfully discharged the duties of the office.

#### **LOC. R. 73.1 LOCAL RULE GUARDIAN COMPENSATION**

- A. Unless otherwise provided by law or ordered by the court, a guardian may charge for his ordinary services on an annual basis an amount computed in accordance with the attached schedule marked appendix B.
- B. Compensation computed on income will not be allowed on balances carried forward from one accounting period to another, nor will an investment of funds or the final distribution of unexpected balances to a ward at the close of a guardianship be considered as expenditure.
- C. For the purpose of computing a guardian's compensation as herein approved, the fair market value of the principal shall be determined by the guardian as of the date of his appointment and as of each anniversary thereafter. The compensation so determined may be charged during the ensuing year. The annual principal valuation shall be adjusted from time to time to reflect additions to and withdrawals from the principal of the estate, and the compensation for the remaining portion of the annual periods shall be similarly adjusted to reflect such revised valuation.

#### **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 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.

### **LOC. R. 74.1 LOCAL RULE TRUSTEE'S COMPENSATION**

- A. Except where the instrument creating a trust makes provisions for compensation, a testamentary trustee may charge annually for the ordinary services performed by the trustee in connection with the administration of each trust, a trustee estate fee established by Appendix C. Provided, however, if the trustee is a corporate trustee licensed to do business as a trustee, then the trustee may charge its normal fee charged in similar trusts.
- B. For the purpose of computing a trustee's compensation as herein approved, the fair market value of the principal shall be determined by the trustees as of the date of his appointment and as of each anniversary thereafter. The compensation so determined may be charged during the ensuing year. The annual principal valuation shall be adjusted from time to time to reflect additions to and withdrawals from the principal of the estate, and the compensation for the remaining portion of the annual periods shall be similarly adjusted to reflect such revised valuation.
- C. Additional compensation for extraordinary service may be allowed upon application. The court may require that such application be set for hearing and notice, thereof, be given to interested parties in accordance with Civil Rule 4.1. Such notice shall contain a statement of the amount of such compensation applied for.

### **SUP. R. 75 LOCAL RULES**

The local rules of the court shall be numbered to correspond with the numbering of these rules and shall incorporate the number of the rule it is intended to supplement. For example, a local rule that supplements Sup. R. 61 shall be designated County Local Rule 61.1.

### **LOC. R. 75.1 EVIDENCE OF DEATH**

With the initial filing of any estate administration proceeding or the termination of a guardianship in which there is not an attorney representing the applicant a certified copy of the decedent's death certificate shall be exhibited to the Court. The deputy clerk shall make a photocopy of the death certificate and shall redact the social security number before filing the photocopy. If an attorney enters an appearance for the applicant, a photocopy of the death certificate may be submitted with the social security number redacted before filing.

If the death certificate is not reasonably available when the initial estate filing is made, the application to open the estate must be accompanied by a published obituary for the decedent or letter from the funeral home identifying the decedent. To be accepted, the funeral home letter and obituary must recite the date of death and the decedent's residence address. This alternative evidence of death does not exempt the estate from the requirement for providing the death certificate as soon as it is available and no distribution or transfer of assets may be made without the death certificate first being filed or a specific order of the Court.

## **LOC. R. 75.2 REPORTING TO LAW ENFORCEMENT & COMPLIANCE PLAN**

- A. The Court has a duty to ensure complete, accurate, and timely submission of information into the state's computerized criminal history repository at the Bureau of Criminal investigation (BCI), the Ohio Law Enforcement Automated Data System (LEADS), and other law enforcement databases.
- B. The Court, in collaboration with the clerk of court, law enforcement agencies, and any other applicable justice system partners, will develop a Reporting to Law Enforcement & Compliance Plan.
- C. The Reporting to Law Enforcement & Compliance Plan will identify procedures and timelines for:
  - 1. Reporting information regarding mental health adjudications as prescribed by the Revised Code and Supreme Court rules, including R.C. 5122.311(A); and
  - 2. Maintaining complete and accurate records in accordance with 18 U.S.C. 922 (g), the Revised Code, including R.C. 2923.13, and Supreme Court rules in the event of an audit by the Federal Bureau of Investigation, BCI, or state or local auditors.
- D. The Court will review the Reporting to Law Enforcement & Compliance Plan every three years from its adoption date.

## **LOC. R. 75.3 MINOR MARRIAGE LICENSE APPLICANTS**

Pursuant to R.C. 3101.05, any applicant for a marriage license who is a minor must provide proof of having received a minimum of three (3) hours of marriage counseling prior to applying for the license. The counselors shall be either clergy or a person licensed to provide counseling. Proof of counseling may be in the form of a letter from the counselor on the counselor's letterhead, addressed to this Court.

## **LOC R. 75.4 ADOPTIONS**

Except for good cause shown, no final hearings in adoption proceedings shall take place until the adopting couple (or the birth parent and adoptive stepparent) have been married for at least one (1) year and the child has been in the home of the adoptive parent(s) for at least three (3) months.

## **SUP. R. 76 EXCEPTION TO THE RULES**

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

**SUP. R. 77 COMPLIANCE**

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

**SUP. R. 78 PROBATE DIVISION OF THE COURT OF COMMON PLEAS – CASE  
MANAGEMENT IN DECEDENT'S ESTATE, 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 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 time for filing an inventory, account, or guardian's report, shall not be granted unless the fiduciary has signed the application.
- C. The fiduciary and the attorney shall prepare, sign, and file a written status report with the court in all decedent's estates that remain open after a period of thirteen months from the date of the appointment of the fiduciary and annually thereafter. At the court's discretion, the fiduciary and the attorney shall appear for a status review.
- D. The court may issue a citation to the attorney of record for a fiduciary who is delinquent in the filing of an inventory, account, or guardian's report to show cause why the attorney should not be barred from being appointed in any new proceeding before the court or serving as attorney of record in any new estate, guardianship, or trust until all of the delinquent pleadings are filed.
- E. Upon filing of the exceptions to an inventory or to an account, the exceptor shall cause the exceptions to be set for a pretrial within thirty days. The attorneys and their clients, or individuals if not represented by an attorney, shall appear at the pretrial. The trial shall be set as soon as practical after pretrial. The court may dispense with the pretrial and proceed directly to trial.

## LOC. R. 78.1 MEDIATION

- A. **Adoption.** The Court adopts this rule, effective January 1, 2007, as amended, effective January 1, 2025. Through this rule, the Court incorporates by reference R.C. 2710 “Uniform mediation Act (UMA), R.C. 3109.052 Mediation of Differences as to Allocation of Parental Rights and Responsibilities and Rule 16.20-16.26 of the Supreme Court of Ohio Rules of Superintendence.
- B. **Purpose.** Court-sponsored mediation has been established to promote greater efficiency and public satisfaction for the earliest possible resolution of cases.
- C. **Cases Eligible for Mediation.** Subject to the exceptions listed below, the Court has discretion to encourage parties to use mediation in any civil action filed in this court. A case may be submitted to mediation as provided in this rule. The Court may issue an order for mediation on its own motion, upon the motion of counsel, upon the request of a party, or upon referral by the mediator. Mediation is prohibited in the following cases:
1. As an alternative to the prosecution or adjudication of domestic violence, pursuant to R.C. 2919.25, 2919.26, 2919.27, and 3113.31; however, nothing in this provision shall prohibit mediation in the following circumstances:
    - a) In a subsequent divorce or custody case, even though the case may result in the termination of the provisions of a protection order pursuant to R.C. 3113.31;
    - b) A juvenile delinquency case.
  2. In cases involving protection orders, the Court may not use mediation as a way to determine whether to grant, modify, or terminate the protection order, to terminate the terms or conditions of a protection order, or in determining the penalty for violation of a protection order.
- D. **Referral Process.** The Court, on its own motion, or the motion of any of the parties, may refer disputed issues to mediation in whole or in part by a “Notice of Scheduled Mediation” which shall, at a minimum, indicate the date, time, place and contact information of the mediation.
- E. **Required Disclosures by the parties.** The parties and their counsel must disclose the following information, and must participate in any screening required by the Court, if the opposing parties are:
1. Related by blood, adoption or marriage;
  2. Have resided in a common residence; or
  3. Have known or alleged domestic abuse at any time prior to the mediation.

- F. **Eligibility of Cases.** The mediator shall determine the eligibility and appropriateness of each referral prior to the commencement of the mediation process and may decline any referral that is deemed inappropriate.
- G. **Mediator Training and Education.** A mediator shall meet the qualifications and all training requirements of Sup. R. 16.20 through Sup. R. 16.26.
- H. **Procedures.**
1. Duties of the Court.
    - a) The Court shall maintain resources for mediation parties, including victims and suspected victims of domestic violence, encouraging appropriate referrals to legal counsel and other support services such as Children Services, domestic violence prevention, counseling, substance abuse, and mental health services.
    - b) If a Court determines that mediation should be ordered and the case is deemed appropriate by the mediator, mediation shall be scheduled. A mediator may meet with the parties individually prior to bringing the parties together for any reason. If necessary and mutually acceptable for the resolution of the issues, the mediator may schedule multiple mediation sessions.
  2. Participation by parties and non-parties.
    - a) Parties to informal cases may voluntarily attend mediation sessions.
    - b) Parties who are ordered into mediation in formal cases shall attend scheduled mediation sessions. The Court may order parties to return to mediation at any time in formal cases. Fees may be charged for non-attendance.
    - c) The Court and/or the mediator may require the attendance of the parties' attorneys at mediation sessions if the mediator deems it necessary and appropriate.
    - d) If counsel of any party to the mediation becomes aware of the identity of a person or entity whose consent is required to resolve the dispute but has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the Court.
    - e) By participating in mediation, a non-party participant agrees to be bound by this rule and submits to the Court's jurisdiction to the extent necessary for the enforcement of this rule. Any nonparty participant shall have the rights and duties under this rule attributed to parties except as provided by R.C. 2710.03(B)(3) and R.C. 2710.04(A)(2).

3. Confidentiality. Except as provided below, all mediation communications related to or made during the mediation process are subject to and governed by the Uniform Mediation Act. Mediation communications are confidential. No one shall disclose any of these communications unless all parties and the mediator consent to the disclosure. This Court may impose penalties for any improper disclosures made in violation of this rule. Disputes regarding confidentiality should first be addressed with the mediator. These provisions apply to the parties and any non-party participant, as provided in Section (H)(2), above. All mediation communications are confidential, except for the following:
  - a) Parties may share all mediation communications with their attorneys;
  - b) Threats of abuse or neglect of a child or an adult;
  - c) Statements made during the mediation process to plan or hide an ongoing crime;
  - d) Statements made during the mediation process that reveal a felony.
4. Mediator Conflicts of Interest. In accordance with R.C. 2710.08(A) and R.C. 2710.08(B), the mediator shall disclose to all parties, counsel, and, if applicable, any nonparty participants any known possible conflicts that may affect the mediator's impartiality as soon as such conflict(s) become known to the mediator. If counsel or a party request that the mediator withdraw because of the information disclosed, the assigned mediator should withdraw and request that the Court appoint another mediator. The parties shall be free to retain the Mediator by an informed, written waiver of the conflict of interest.
5. Termination. If the mediator determines that further mediation efforts would be of no benefit to the parties, the mediator, in writing, shall inform all interested parties and the Court that the mediation is terminated.
6. Stay of proceedings. All remaining Court orders shall continue in effect. No order is stayed during the mediation process except by a written court order. Mediation shall not stay discovery, which may continue through the mediation process in accordance with applicable rules, unless agreed upon by the parties and approved by the Court.
7. Continuances. It is the policy of this Court to determine matters in a timely way. Continuance of a scheduled mediation shall be granted only for good cause shown after a mutually acceptable future date has been determined. The mediation may be continued by the mediator or the Court. Except as authorized by the Court, the existence of pending motions shall not be good cause for a continuance.

8. Guardian ad Litem. A guardian ad litem for the child shall be appointed by the Court and shall participate in the mediation if any of the following circumstances apply:
  - a) The child in the proceeding was the subject of a prior abuse or neglect action;
  - b) In all cases where one of the parties was the perpetrator of an act which resulted in an adjudication that any other child was abused or neglected; and
  - c) In any case where the Mediator believes it to be in the best interest of the child.
  
9. Mediation Reports, Memorandums of Understanding, and Agreements.
  - a) Pursuant to R.C. 2710.06, at the conclusion of a mediation session, the mediator shall inform the Court 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) Attendance of the parties; and
    - (4) Any future mediation schedule, including the date and time.
  - b) The mediator, the parties or counsel may immediately prepare a written memorandum of understanding, which memorializes the agreement reached by the parties.
    - (1) The memorandum of understanding may be signed by the parties and counsel.
    - (2) A signed memorandum of understanding is not privileged pursuant to R.C. 2710.05(A)(1).
    - (3) The memorandum of understanding may become a written order of the Court after review and approval of all parties and their attorneys, if any.
  - c) No oral agreement by counsel or parties or an officer of the Court will be regarded unless made in open court.
  
- i. **Fees and costs**. Mediation is sponsored by the Court and is available to the parties at no cost. Failure of a party to attend mediation may result in the Court assessing a fee against the party.

- J. **Sanctions.** If any individual ordered by the Court to attend mediation fails to attend mediation without good cause, the Court may impose sanctions which may include, but are not limited to, the award of attorney's fees and other court costs, contempt, or other appropriate sanctions at the discretion of the Court.
- K. **Evaluation.** It is the policy of the Court to use mediation to benefit the parties, to assist in reaching a resolution, and to provide a process that is timely and flexible that maintains the trust and confidence of the people. Any mediation participant may submit written comments, complaints, or feedback regarding the performance of any Court-referred mediator.

**LOC. R. 79      REPORTING TO LAW ENFORCEMENT**

- A. The court has a duty to ensure to ensure complete, accurate, and timely submission of information into the state's computerized criminal history repository at the Bureau of Criminal Investigation (BCI), the Ohio Law Enforcement Automated Data System (LEADS), and other law enforcement databases.
- B. The Court, in collaboration with the clerk of court, law enforcement agencies, and any other applicable justice system partners, will develop a Reporting to Law Enforcement & Compliance Plan.
- C. The Reporting to Law Enforcement & Compliance Plan will identify procedures and timelines for:
  - 1. Reporting information regarding mental health adjudications as prescribed by the Revised Code and Supreme Court rules, including R.C. 5122.311(A); and
  - 2. Maintaining complete and accurate records in accordance with 18 U.S.C. 922(g), the Revised Code, including R.C. 2923.13, and Supreme Court rules in the event of an audit by the Federal Bureau of Investigation, BCI, or state or local auditors.
- D. The Court will review the Reporting to Law Enforcement & Compliance Plan every three years from its adoption date.

## APPENDIX A

### COUNSEL FEES

#### TOTAL PROBATE ASSETS (PER INVENTORY)

1.	0-\$5,000	\$300.00
2.	\$5,000-\$20,000	\$300.00 + 6% over \$5,000
3.	\$20,000-\$50,000	\$1,200.00 + 4% over \$20,000.00
4.	\$50,000-\$400,000	\$2,400.00 + 3% over \$50,000.00
5.	\$400,000-up	\$12,900.00 + 2% over \$400,000.00

#### TOTAL NON-PROBATE ASSETS

1.	0-\$25,000	3%
2.	\$25,000-\$100,000	2%
3.	\$100,000-up	1%

EXTRAORDINARY FEES MAY BE AWARDED ON APPLICATION BASED UPON THE TIME SPENT AND SERVICES RENDERED

This schedule is merely a guide for determining fees of counsel in an ordinary estate and should be considered as neither a minimum or maximum fee schedule.

FORM A1

COMPUTATION OF ATTORNEY FEES

TOTAL PROBATE ASSETS (PER INVENTORY SALE PRICE)		\$ _____
0 - \$5,000	\$300.00	
\$5,000 - \$20,000 6% over \$5,000	_____	
\$20,000 - \$50,000 4% over \$20,000	_____	
\$50,000 - \$400,000 3% over \$50,000	_____	
over \$400,000 2%	_____	

1. TOTAL PROBATE FEE \$ \_\_\_\_\_

TOTAL NON-PROBATE ASSETS (PER RULE 71.5)

0 - \$25,000	3%	_____
\$25,000 - \$100,000	2%	_____
Over \$100,000	1%	_____

2. TOTAL NON-PROBATE FEE \$ \_\_\_\_\_

EXTRAORDINARY FEES (MUST BE ITEMIZED)

1. \_\_\_\_\_ ----- \$ \_\_\_\_\_
2. \_\_\_\_\_ ----- \$ \_\_\_\_\_
3. \_\_\_\_\_ ----- \$ \_\_\_\_\_
4. \_\_\_\_\_ ----- \$ \_\_\_\_\_

3. EXTRAORDINARY FEE TOTAL \$ \_\_\_\_\_

TOTAL ATTORNEY FEES (SUM OF 1, 2, 3) \$ \_\_\_\_\_

ATTORNEY FEE TAKEN ON PRIOR ACCOUNT - \$ \_\_\_\_\_

BALANCE OF ATTORNEY FEES \$ \_\_\_\_\_

\_\_\_\_\_  
Attorney's signature

\_\_\_\_\_  
Fiduciary's signature

## APPENDIX B

### GUARDIAN FEES

#### A. COMPUTATION OF GUARDIAN FEES—ANNUALLY

1. 0-\$1,000 income 4% of income (excludes income from real estate rental managed by guardian)  
\$1,000 – up income 3% of income
2. 0 - \$1,000 expenses 4% of expenses  
(Excludes real estate rental)  
\$1,000 – up expenses 3% of expenses
3. \$3 per thousand principal
4. 8% of Gross rental property income if managed by guardian
5. Minimum fee of \$50.00 per year

#### ATTORNEY'S FEES

1. Attorney fees up to \$200.00 for representing a guardian subsequently appointed including the filing of an inventory and entry approving the inventory normally approved without hearing.
2. Reasonable attorney fees shall be up to \$75.00 for filing of the guardianship plus 2% of the inventory. Reasonable attorney fees for account shall be up to 2% of the income and expenses plus \$60.00 per page of accounts with a minimum of \$100.00.

## APPENDIX C

### TRUSTEE FEES

#### A. COMPUTATION OF TRUSTEE FEES—ANNUALLY

1. 0-\$1,000 income 4% of income (excludes income from real estate rental managed by trustee)  
\$1,000 – up income 3% of income
2. 0 - \$1,000 expenses 4% of expenses  
(excludes real estate rental)  
\$1,000 – up expenses 3% of expenses
3. \$3 per thousand principal
4. 8% of Gross rental property income if managed by trustee
5. Minimum fee of \$50.00 per year

#### ATTORNEY'S FEES

1. Attorney fees up to \$200.00 for representing a trustee subsequently appointed including the filing of an inventory and entry approving the inventory normally approved without hearing.
2. Reasonable attorney fees shall be up to \$75.00 for filing of the guardianship plus 2% of the inventory. Reasonable attorney fees for account shall be up to 2% of the income and expenses plus \$60.00 per page of accounts with a minimum of \$100.00.

## APPENDIX D