

**PROBATE COURT OF DELAWARE COUNTY, OHIO
DAVID A HEJMANOWSKI, JUDGE**

**LOCAL COURT RULES OF PRACTICE
OF
THE PROBATE COURT OF DELAWARE COUNTY, OHIO**

(Effective October 1, 2024)

Adopted by Judgment Entry filed
in Case No. 2401 0001 PMO

145 N. Union Street, 3rd Flr.
Delaware, OH 43015

Ph. (740) 833-2680

Fax (740) 833-2679

<https://probate.co.delaware.oh.us>

TABLE OF CONTENTS

SUP.R. 5.01	LOCAL CHILD/ PARTICIPANT RESTRAINT RULE	7
LOC.R. 5.01	USE OF RESTRAINTS ON A CHILD/PARTICIPANT	7
SUP.R. 6.01	APPEARANCE PRO HAC VICE.....	8
LOC.R. 6.01	<i>PRO HAC VICE</i> (ADMISSION FOR A CASE).....	8
SUP.R. 8	COURT APPOINTMENTS.....	9
LOC.R. 8.1	COURT APPOINTMENTS	9
SUP.R. 9	SECURITY PLAN.....	10
LOC.R. 9.1	SECURITY PLAN	10
SUP.R. 11	RECORDING OF PROCEEDINGS.....	10
LOC.R. 11.1	RECORDING OF PROCEEDINGS	10
SUP.R. 16	MEDIATION	12
LOC.R. 16.1	MEDIATION	12
LOC.R.16.2	HOLD.....	17
SUP.R. 26	COURT RECORDS MANAGEMENT AND RETENTION.....	15
LOC.R. 26.1	COURT RECORDS MANAGEMENT AND RETENTION	15
LOC.R. 26.2	DISPOSITION OF EXHIBITS	16
SUP.R. 45.	COURT RECORDS – PUBLIC ACCESS.....	16
LOC.R. 45.1	PERSONAL IDENTIFIERS	16
SUP.R. 51	STANDARD PROBATE FORMS.....	16
LOC.R. 51.1	FORM AVAILABILITY	16
SUP.R. 52	SPECIFICATIONS FOR PRINTING PROBATE FORMS.....	16
LOC.R. 52.1	COMPUTERIZED FORMS	17
SUP.R. 53	HOURS OF THE COURT.....	17
LOC.R. 53.1	HOURS OF THE COURT	17
SUP.R.54	CONDUCT IN COURT	17
LOC.R. 54.1	CONDUCT IN COURT	17
SUP.R. 55	EXAMINATION OF PROBATE RECORDS	18
LOC.R. 55.1	PHOTOCOPIES.....	18
LOC.R. 55.2	WITHDRAWAL OF FILES	18
SUP.R. 57	FILINGS AND JUDGMENT ENTRIES.....	19
LOC.R. 57.1	FACSIMILE FILINGS	19
LOC.R. 57.2	CURRENT STREET ADDRESS	22

LOC.R. 57.3	CASE NUMBER.....	23
LOC.R. 57.4	ORIGINAL SIGNATURES.....	23
LOC.R. 57.6	COURT FILINGS	24
LOC.R. 57.7	“FILED” STAMPED COPIES.....	24
LOC.R. 57.8	INSTRUCTIONS FOR SERVICE OF SUMMONS OR NOTICE	25
LOC.R. 57.9	EXHIBITS.....	26
LOC.R. 57.10	ENTRY OF JUDGMENT	27
LOC.R. 57.11	LENGTH OF MEMORANDUM OR BRIEF	27
LOC.R. 57.12	CERTIFICATE OF SERVICE.....	27
LOC.R. 57.13	DECEDENT’S NAMES	28
LOC.R. 57.14	COURT SERVICE OF FILINGS	28
LOC.R. 57.15	ENFORCEMENT OF SETTLEMENT AGREEMENT AFTER DISMISSAL.....	29
SUP.R. 58	DEPOSIT FOR COURT COSTS.....	29
LOC.R. 58.1	DEPOSITS	29
LOC.R. 58.2	PUBLICATION COSTS	29
LOC.R. 58.3	WITNESS FEES	30
LOC.R. 58.4	INSUFFICIENCY OF COSTS DEPOSIT	30
LOC.R. 59.1	CERTIFICATE OF SERVICE OF NOTICE.....	30
LOC.R. 59.2	WILL FOR DEPOSIT.....	31
SUP.R. 60	APPLICATION FOR LETTERS OF AUTHORITY TO ADMINISTER ESTATE AND NOTICE OF APPOINTMENT.....	31
LOC.R. 60.1	ACCEPTANCE AND NOTICE OF APPOINTMENT	31
LOC.R. 60.2	APPOINTMENT OF NON-RESIDENT FIDUCIARIES.....	32
LOC.R. 60.3	IDENTIFICATION WITH PHOTOGRAPH REQUIRED.....	32
LOC.R. 60.4	CALCULATION OF EXECUTOR/ADMINISTRATOR COMPENSATION	33
LOC.R. 60.5	SPOUSAL CITATION AND SUMMARY OF RIGHTS.....	33
LOC.R. 62.1	MEDICAID RECOVERY ACKNOWLEDGMENT.....	33
LOC.R. 62.2	SPECIAL ADMINISTRATOR FOR RECEIPT OF CLAIMS.....	34
SUP.R. 64	ACCOUNTS.....	35
LOC.R. 64.1	FIDUCIARY’S SIGNATURE	35
LOC.R. 64.2	CONTENTS OF PROBATE ACCOUNTINGS	35
LOC.R. 64.3	EXTENSIONS FOR FILING AN ACCOUNT	36
LOC.R. 64.5	DETAILED ACCOUNT COMPLIANCE AUDITS	37
LOC.R. 64.6	BOND	37
LOC.R. 64.7	EVIDENCE OF ASSETS	37
LOC.R. 64.8	TIME FOR FILING AND DELINQUENCY SANCTIONS.....	38
LOC.R. 64.9	HEARING, CERTIFICATES AND SERVICE	39
LOC.R. 65.1	TITLE EVIDENCE.....	40
LOC.R. 65.2	APPROVAL OF DESCRIPTION.....	41
LOC.R. 65.3	CONSENTS TO POWER TO SELL REAL ESTATE.....	41
LOC.R. 65.4	MILITARY SERVICE AFFIDAVIT.....	42
LOC.R. 65.5	REPORT OF DISTRIBUTION AND ENTRY.....	43
SUP.R. 66	GUARDIANSHIPS.....	43
LOC.R. 66	SERIES NUMBERING	43
LOC.R. 66.01	DEFINITIONS	43

LOC.R. 66.02	APPLICATION OF RULES	43
LOC.R. 66.03(A)	EMERGENCY GUARDIANSHIPS	44
LOC.R. 66.03 (B)	GUARDIAN COMMENTS AND COMPLAINTS	44
LOC.R. 66.04	(RESERVED).....	48
LOC.R. 66.05(A)	GUARDIAN BACKGROUND CHECKS.....	48
LOC.R. 66.05(B)	GUARDIAN WITH TEN OR MORE ADULT WARDS	48
LOC.R. 66.06	GUARDIAN FUNDAMENTALS TRAINING REQUIREMENT	49
LOC.R. 66.07	GUARDIAN CONTINUING EDUCATION	51
LOC.R. 66.08	GENERAL RESPONSIBILITIES OF THE GUARDIAN TO THE COURT	52
LOC. R. 66.09	GENERAL RESPONSIBILITIES OF THE GUARDIAN TO THE WARD	53
LOC.R. 66.10	GUARDIANSHIP OF MINORS	54
LOC.R. 66.12	INVENTORY, FUND RELEASE, EXPENDITURES AND IDENTIFICATION OF LEGAL DOCUMENTS	55
LOC.R. 66.14	DEPOSIT OF WILL BY GUARDIAN.....	57
LOC.R. 66.15	POWERS OF ATTORNEY BY GUARDIAN PROHIBITED.....	57
LOC.R. 66.16	TERMINATIONS	57
LOC.R. 66.17	INDIGENT WARDS	58
LOC.R. 66.19	GUARDIANSHIP VISITOR PROGRAM	58
LOC.R. 66.20	ADDITIONAL COST DEPOSIT	59
SUP.R. 67	ESTATES OF MINORS	59
LOC.R. 67.1	DISPENSE WITH GUARDIANSHIP	59
LOC.R. 67.2	BIRTH CERTIFICATE	59
LOC.R. 67.3	RESPONSIBILITY FOR DEPOSIT OF RESTRICTED FUNDS	59
LOC.R. 67.4	ANNUAL VERIFICATION OF RESTRICTED FUNDS.....	60
SUP.R. 68	SETTLEMENT OF INJURY CLAIMS OF MINORS	60
LOC.R. 68.1	BIRTH CERTIFICATE	60
LOC.R. 68.2	SEPARATE CASE NUMBER	60
LOC.R. 68.3	SETTLEMENT OF MINOR’S CLAIM WITHOUT COUNSEL	61
LOC.R. 68.4	RESPONSIBILITY FOR DEPOSIT OF FUNDS.....	61
LOC.R. 68.5	STRUCTURED SETTLEMENTS.....	61
SUP.R. 69	SETTLEMENT OF CLAIM FOR ADULT WARD.....	62
LOC.R. 69.1	SEPARATE CASE NUMBER	62
LOC.R. 69.2	RESPONSIBILITY FOR DEPOSIT OF FUNDS.....	62
LOC.R. 69.3	STRUCTURED SETTLEMENTS FOR ADULT WARD	63
SUP.R. 70	SETTLEMENT OF WRONGFUL DEATH AND SURVIVAL CLAIMS.....	63
LOC.R. 70.1	SETTLEMENT OF CLAIMS	63
LOC.R. 70.2	WRONGFUL DEATH PROTOTYPE TRUST.....	64
LOC.R. 70.3	WRONGFUL DEATH TRUSTS-NO MULTIPLE BENEFICIARIES	64
SUP.R. 71	COUNSEL FEES	64
LOC.R. 71.1	ATTORNEY FEES	64
LOC.R. 71.2	ATTORNEY SERVING AS FIDUCIARY	65
LOC.R. 71.3	EARLY PAYMENTS OF ATTORNEY FEES	66
LOC.R. 71.4	NOTICE AND CONSENT FOR ATTORNEY FEES IN ESTATES	66

LOC.R. 71.5	NOTICE AND CONSENT FOR ATTORNEY FEES IN GUARDIANSHIPS	68
LOC.R. 71.6	NOTICE AND CONSENT FOR ATTORNEY FEES IN TRUSTS.....	68
LOC.R. 71.7	CONTESTED FEES	69
LOC.R. 71.8	CONTINGENT FEES.....	69
SUP.R. 73	GUARDIAN’S COMPENSATION	70
LOC.R. 73.1	GUARDIAN’S COMPENSATION.....	70
LOC.R. 73.2	INDIGENT GUARDIANSHIP FUND PAYMENTS.....	72
SUP.R. 74	TRUSTEE’S COMPENSATION	75
LOC.R. 74.1	TRUSTEE’S COMPENSATION.....	75
SUP.R. 75	LOCAL RULES.....	77
LOC.R. 75.1	GUARDIAN AD LITEM.....	77
LOC.R. 75.2	ADOPTIONS	77
LOC.R. 75.3	RESTRICTED DEPOSITS IN LIEU OF BOND	79
LOC.R. 75.4	SURETY BONDS	80
LOC.R. 75.5	RELEASE AND SUMMARY RELEASE OF ESTATES FROM ADMINISTRATION	81
LOC.R. 75.6	WILLS IN SAFE DEPOSIT BOX.....	82
LOC.R. 75.7	MARRIAGE LICENSE APPLICANTS	82
LOC.R. 75.8	OHIO ESTATE TAX RETURN (for persons dying prior to January 1, 2013)	83
LOC.R. 75.9	WITHDRAWAL AND SUBSTITUTION OF COUNSEL	83
LOC.R. 75.10	DEPOSIT OF GUARDIANSHIP NOMINATION INSTRUMENT.....	84
LOC.R. 75.11	CONTESTED NAME CHANGES –MINOR.....	84
LOC.R.75.12	Expert Witness Fees.....	85
SUP.R. 78	CASE MANAGEMENT IN DECEDENT’S ESTATES, AND TRUSTS, AND CIVIL ACTIONS.....	85
LOC.R. 78.1	INVENTORY.....	85
LOC.R. 78.2	ELECTRONIC RETURN RECEIPT	87
LOC.R. 78.3	CERTIFICATE OF TRANSFER OF REAL ESTATE.....	87
LOC.R. 78.4	JURY TRIALS.....	88
LOC.R. 78.5	EVIDENCE OF DEATH	89
LOC.R. 78.6	SPECIAL NEEDS TRUSTS	89
LOC.R. 78.7	NON-ORAL INSOLVENCY HEARINGS	90
LOC.R. 78.8	UNCLAIMED INHERITANCES	91
LOC.R. 78.10	PROCESS: WHO MAY BE SERVED.....	94
LOC.R.78.11	NOTICE TO MINORS IN APPOINTMENT OF ADMINISTRATOR OR EXECUTOR.....	94
LOC.R.78.12	STANDING PROCESS SERVER.....	94
SUP.R. 79	LOCAL FORMS INDEX (Delaware County P.C. Forms)	98

PREAMBLE

The Probate Court of Delaware 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 October 1, 2024.

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 Delaware 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.

SUP.R. 5.01 LOCAL CHILD/ PARTICIPANT RESTRAINT RULE

LOC.R. 5.01 USE OF RESTRAINTS ON A CHILD/PARTICIPANT

(A) Instruments of restraint, including, but not limited to handcuffs, chains or shackles shall not be used on a child in a Probate Court proceeding unless both of the following apply:

(1) The necessity of using restraints is demonstrated to the satisfaction of the judge or magistrate by the presence of one or more of the following factors:

(a) The child/participant represents a current and significant threat to the safety of the child's /participant's self or other person in the courtroom; or

(b) There is a significant risk that the child/participant will flee the courtroom; and

(2) The court determines that there are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child/participant or another person, including, but not limited to, the presence of court personnel, law enforcement officers or bailiffs.

(B) When used, restraints should allow the child/participant limited movement of the hands to read and handle documents and writings necessary to the hearing unless there is a demonstrated need for more restricted movement.

(C) In no circumstance does this rule limit the ability of law enforcement, security personnel or other court staff from restraining a child/participant if necessary to ensure the courtroom is properly functioning and/or to maintain the safety and security of court facilities.

SUP.R. 6.01 APPEARANCE PRO HAC VICE

LOC.R. 6.01 *PRO HAC VICE* (ADMISSION FOR A CASE)

An attorney not licensed to practice law in Ohio, but who is duly licensed to practice law in another state or the District of Columbia, may, upon application by a sponsoring attorney be admitted to the practice of law in Ohio, and at the discretion of the Probate Judge, be permitted to represent an identified party or parties in any litigation pending or to be filed in the Court after complying with all of the following conditions:

- (A) Filing a written oath substantially in compliance with Rule XII of the Supreme Court Rules for the Government of the Bar;
- (B) Certifying in writing familiarity with the Local Court Rules, Civil Rules, Rules of Evidence, Rules of Superintendence and the Code of Professional Conduct;
- (C) Submitting a certificate of good standing dated no earlier than 60 days prior to its filing with this Court, which establishes the out-of-state attorney's license to practice law in that jurisdiction;
- (D) Being sponsored in writing by an attorney licensed to practice law in Ohio who shall certify the out-of-state attorney's compliance with this rule and the Supreme Court Rules for the Government of the Bar;
- (E) Submitting an agreement executed by the sponsoring attorney, or another attorney licensed to practice law in Ohio, and the out-of-state attorney agreeing that they shall be co-counsel for the purposes for which the admission is sought; and
- (F) Submitting a proposed entry authorizing the approval of the application.

The continuance of any scheduled trial or hearing date shall not be permitted solely because of the unavailability or inconvenience of the out-of-state attorney.

Pro hac vice counsel shall reflect their *pro hac vice* registration number on every filing made by them. (Sup.R. 6)

SUP.R. 8 COURT APPOINTMENTS

LOC.R. 8.1 COURT APPOINTMENTS

The Court does not maintain a pre-approved appointment list. An Appointment shall be made by taking into consideration the qualifications, skills and expertise required for the type, complexity and nature of the appointment, the ability of the appointee to meet those requirements and the availability of the appointee to perform the duties within the required time limits.

Court appointees, other than assigned counsel, will be paid reasonable compensation with consideration given to the factors outlined in applicable law, Professional Conduct Rule (Prof.Cond.R.) 1.5, Sup.R.8, and these Local Rules. When compensation is being paid from the indigent guardianship fund, the compensation shall be determined pursuant to Loc.R. 73.2.

By accepting a Court appointment, an attorney is representing and affirming that the attorney is competent to provide the necessary services and committing that those services will be performed with reasonable diligence and promptness as required by Prof.Cond.R.1.1 and 1.3. An attorney who accepts appointment as a guardian for an adult ward is committing to abide by the applicable Supreme Court Rules of Superintendence for the Courts of Ohio 66.01 through 66.09, so long as the appointment remains open.

Furthermore, an attorney accepting a Court appointment is representing to the Court that at all times during the appointment the attorney shall maintain professional liability insurance in the minimum limits set forth in Prof. Cond. R 1.4(c) and upon request of the Court will provide to the Court satisfactory evidence of the existence of such coverage. No attorney shall be appointed,

shall accept an appointment, or shall continue an appointment if the attorney is not registered as active and in good standing with the Supreme Court of Ohio.

By accepting appointments non-attorney appointees are representing that they have the skills, competence and availability to perform the duties associated with the appointment.

The performance of any appointee may be reviewed by the Judge at any time or upon a complaint being filed by an interested party. The Court will review the matter to determine whether the current appointment should be modified or terminated. If appropriate, the Court may determine that further appointments of the appointee should be limited, or denied.

The appointment procedure shall be reviewed by the Court periodically.

SUP.R. 9 SECURITY PLAN

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 is not available as a public record. Any other “infrastructure record” or “security record” as defined in RC 149.433 shall also be confidential and not available as a public record.

SUP.R. 11 RECORDING OF PROCEEDINGS

LOC.R. 11.1 RECORDING OF PROCEEDINGS

The Court may make a digital audio recording of the proceedings as the record of the Court. Parties who desire to have a stenographic record of the proceedings must advise the Court at least twenty-four (24) hours prior to the scheduled hearing and arrange for a court reporter to attend the hearing. The requesting party shall pay the costs of the stenographic record unless otherwise ordered by the Court.

Upon not less than twenty-four (24) hours advance request, the Court may allow the applicant to listen to a copy of an audio and/or electronic recording, unless the proceeding is otherwise closed to the public by applicable law or order. The Court's recording may not be removed from the Court, unless otherwise authorized by the Court.

Any interested person may request a transcription of a digital audio and/or electronic recording to be prepared by a court reporting service approved by the Court. The person making the request shall pay for the cost of the transcription. The Court will provide a digital recording to the court reporting service who shall prepare a transcription in accordance with Rule 9(B) of the Rules of Appellate Procedure and the reporter shall file a copy of the transcript with this Court.

Upon the filing of an Objection to a Magistrate's Decision or a Notice of Appeal, an objector or appellant who is requesting or desires to file a transcript of a hearing must contact a court reporting service to have the transcript prepared. The person requesting the transcript shall direct the court reporting service to contact the court to obtain a copy of the digital record of the hearing. The objector or appellant must file the completed transcript in this Court.

A copy of the transcript must come from the court reporting service. Individuals may not copy transcripts from the Court's files.

The Court will maintain electronically recorded proceedings for three (3) years from the date of the hearing. Any interested person desiring to preserve the record beyond that period must make arrangements to have the record transcribed as provided above and shall file the transcript in the case file.

SUP.R. 16 MEDIATION

LOC.R. 16.1 MEDIATION

All definitions found in the “Uniform Mediation Act” (R.C. 2710.01) are adopted by this Court for purposes of this Local Rule. All mediations shall comply with Sup.R. 16 and the mediator shall endeavor to follow the standards of practice and policy considerations identified in Sup.R. 16(D) when a referred case involves family issues.

Selection - At any time and in any action under the jurisdiction of this Court, a matter may be referred to Court Mediation Services, subject to the right of the Court Mediation Services to decline the referral. Additionally, the Court may refer to mediation with a third-party mediator any case in which there is a matter or issue that the Court or the parties believe may benefit from mediation services.

Domestic Violence - All parties, and their counsel, shall advise the Court and the mediation personnel of any domestic violence allegations known to exist between the persons involved in the mediation in the past, currently, or which develop during the mediation. Upon identification of a situation involving or suspected of involving domestic abuse, the Court or mediation personnel identifying it shall notify the involved counsel, or make other appropriate referrals. A mediation referral is not an alternative to a referral of domestic violence for investigation or prosecution. A mediation referral is not a means of determining whether to grant, modify or terminate a protection order or the means for determining sanctions for a violation of a protection order.

Referral Order - Referral for mediation shall be by a Notice of Scheduled Mediation, Judgment Entry, or Magistrate’s Order and the referring order shall recite a “not later than” date for all participants, or their counsel, to make scheduling contact with the identified mediator.

Participation - The Court may order the parties to participate in, or return to, scheduled mediation sessions. The mediation may be conducted in one or more sessions. If a party participant wishes that party's attorney may participate. To the extent that the mediator believes that it may be helpful, a guardian ad litem representing one of the participants, or a non-party may be permitted to participate. A non-party participant as defined by R.C. 2710.01(D) is (a) bound by this rule and submits to the Court's jurisdiction to the extent necessary to enforce the rule, and (b) has the rights and duties attributable to a participant except as provided by R.C. 2710.03(B)(3) and 2710.04(A)(2). If geographic distance or physical disability prevents a participant from attending personally, the mediator may permit participation by electronic video streaming or telephonic means. Participants shall proceed with mediation in good faith with the goal of reaching a mediation agreement.

The participants will be required to execute a written "Agreement to Mediate" prior to participating in any mediation services. The recording of mediation proceedings is not permitted.

Sanctions - Mediation shall not be used for purposes of delay, discovery or harassment. Sanctions may be imposed upon a party ordered to participate in mediation who fails to attend without good cause. Sanctions may include, but are not limited to, the award of attorney fees to other participants, the assessments of costs, and findings in contempt.

Confidentiality - The confidentiality or admissibility of all mediation communications, discussions and statements are governed by the applicable law and the Rules of Evidence. Mediators will not be permitted to testify regarding the substance of the mediations or the cooperativeness of the participants.

Conflicts of Interest - The mediator shall immediately disclose to the participants any conflicts of interest that the mediator may identify. Upon the request of the mediator, or any

participant in the mediation, the Court shall address the removal of the mediator due to a conflict of interest if not resolved by the participants and the mediator.

Termination - The mediation shall terminate when the mediator determines further efforts would be of no benefit to the parties. If the mediator determines that the mediation should terminate, the mediator shall notify all parties and the Court that the mediation is terminated.

Agreements –All mediation agreements are confidential and privileged pursuant to R.C. 2710.01 to 2710.10 (unless signed and therefore not privileged pursuant to R.C. 2710.05(A)(1)). Agreements reached through mediation shall be in writing with each agreeing party receiving a copy and a copy being retained in the mediator’s file. No oral agreement to a mediation result is binding, unless made in open court or subsequently reduced to a signed writing. All mediation agreements shall be presented to the Court, with the consent of the parties and waiver of confidentiality and are subject to final approval by the Court.

In the event that the parties are not represented by counsel and an agreement is reached through mediation, the mediator shall file a sealed copy of the written agreement with the Court and the matter shall be set for further hearing, at which hearing the Court shall ask the parties to waive confidentiality as to the agreement and take the acknowledgements of the parties as to the terms of the agreement. In cases where it is necessary or expedient that the mediated agreement be put on the record immediately following the mediation, the Court shall go on the record with the parties and the mediator present and acknowledge the parties’ waiver of confidentiality as to the agreement. With the waiver, the mediator shall read the agreement into the record and the Court shall take the acknowledgments of the parties as to the agreement.

If the parties are represented by counsel then either (1) counsel shall submit an Agreed Judgment Entry incorporating the terms of the meditation agreement, or (2) the Court shall go on

the record with the parties and the mediator present, acknowledge the parties' waiver of confidentiality as to the agreement, have the mediator read the agreement into the record, take the acknowledgement of the parties to the agreement as read into the record, and directing counsel to prepare an Agreed Entry reflecting the mediation agreement.

Cost - The cost schedule for mediation when the Court Mediation Services is designated to conduct the mediation shall be: (a) for civil actions, estates, trusts, and guardianships (unless Indigency is established) a minimum of \$400 for up to 4 hours of mediation and \$100/per hour for each subsequent hour with the additional hours being assessed among each of the participants equally, and (b) for indigent guardianships a minimum of \$50 per participant for a maximum of 4 hours mediation. For good cause, the Court may modify this schedule. The fee of the Court Mediation Services shall be paid prior to the commencement of the mediation.

A third party mediator's fee or rate of compensation shall be determined by the Court when the matter is referred for mediation, and it may be based upon the complexity of the issues and other requirements of the case. Generally, the fee shall be apportioned generally in equal proportions among the party participants; however, the Court may allocate the mediation fee otherwise based upon the equities involved. An estimate of the third party mediator's fee shall be, at the discretion of the Court, either deposited with the Court or paid in advance directly from the party participants to the mediator prior to the commencement of the mediation. Additional advance deposits may be ordered throughout the mediation.

LOC.R. 16.2 HOLD

SUP.R. 26 COURT RECORDS MANAGEMENT AND RETENTION

LOC.R. 26.1 COURT RECORDS MANAGEMENT AND RETENTION

The Court has a Schedule of Records Retention and Disposition, which will be followed in conjunction with the Rules of Superintendence for the Courts of Ohio.

LOC.R. 26.2 DISPOSITION OF EXHIBITS

Disposal of exhibits shall be in accordance with Sup.R.26.

SUP.R. 45. COURT RECORDS – PUBLIC ACCESS

LOC.R. 45.1 PERSONAL IDENTIFIERS

“Personal Identifiers,” as defined by Sup.R44(H), Court Records - Definitions, must be omitted from all case documents that are filed with this Court. Pursuant to Sup.R.45(D)(1) and (3), the filing party is solely responsible for assuring that the personal identifiers are omitted. When first omitted from a filing, the omitted personal identifiers must be filed on Standard Probate Form (SPF) 45(D), which shall not be a public record. Thereafter, subsequent reference to a particular identifier may be made by reciting the last four digits/letters of the identifier unless there are less than four characters constituting the identifier and then the filer shall create a unique identifier for that item.

SUP.R. 51 STANDARD PROBATE FORMS

LOC.R. 51.1 FORM AVAILABILITY

Forms for use in the Probate Court of Delaware County are available at the Probate Court office, and the established Court website, to wit: <https://probate.co.delaware.oh.us>. The Standard Probate Forms also are available on the Supreme Court of Ohio website in generic form.

SUP.R. 52 SPECIFICATIONS FOR PRINTING PROBATE FORMS

LOC.R. 52.1 COMPUTERIZED FORMS

Each individually generated form must comply with the specifications and format mandated by the Rules of Superintendence. Each individually generated form must be created with the same blank lines and exact wording as on the printed Standard Probate Form it is replacing. The signature of the applicant or attorney constitutes a certification that the individually generated form on which the signature appears complies with the Superintendence Rules in every respect and that the only modifications or variations are those permitted by Sup.R.51(C) and Sup.R.52(M).

SUP.R. 53 HOURS OF THE COURT

LOC.R. 53.1 HOURS OF THE COURT

The Probate Court shall be open for the transaction of business from 8:30 a.m. to 4:30 p.m., Monday through Friday, *except* holidays that are established by the Delaware County Board of Commissioners, and as may be otherwise established by the Court. The Court will endeavor to post Court ordered modifications to the County Commissioner’s holiday schedule on the Court website (<https://probate.co.delaware.oh.us>). Marriage Applications and all pleadings requiring a new case number or the payment of Court costs shall be filed by 4:00 p.m.

SUP.R.54 CONDUCT IN COURT

LOC.R. 54.1 CONDUCT IN COURT

To fulfill the Court’s duty to dispense justice, resolve disputes, and protect the rights of those who appear before the Court it is necessary to assure that the conduct of the participants is

appropriate and not disruptive while assuring that the levels of security are adequate to maintain order and safety. No person shall enter or remain in a restricted area without approval of an appropriate court official. Restricted areas include the chambers of the judicial officers, the bench area of the courtrooms, the locked hallways accessing the courtrooms, the conference room behind the bench, the employee spaces and work areas behind the third floor service counter, and any other area designated by signage or order of the court as restricted. Spectators to court proceedings shall be seated in designated areas (except when entering or exiting the courtroom) and shall conduct themselves in a manner that does not disrupt the proceedings. Participants shall conduct themselves in a manner that does not disrupt the proceedings. No electronic recordings shall be made of court proceedings without the approval of the court. All spectator and all participants may be subject from time to time to other safety requirements (such as wearing of facial masks) as outlined by an administrative order of this Court.

SUP.R. 55 EXAMINATION OF PROBATE RECORDS

LOC.R. 55.1 PHOTOCOPIES

Copies of any public record may be obtained at the cost listed in the Court's Deposit, Fee and Costs Schedule.

Records of adoption, mental illness, involuntary treatment for alcohol and/or substance abuse, and developmental disability proceedings are confidential and may be accessed only as authorized by the Judge of this Court or other applicable law. Records in other proceedings which are made "non-public" may be accessed only as outlined by the Court and authorized by the Judge of this Court.

LOC.R. 55.2 WITHDRAWAL OF FILES

No case files may be removed from the offices of the Delaware County Probate/Juvenile Court without specific approval of a judicial officer of the Court.

SUP.R. 57 FILINGS AND JUDGMENT ENTRIES

LOC.R. 57.1 FACSIMILE FILINGS

This local rule adopts the Supreme Court of Ohio Model Facsimile Filing Rule for Ohio Courts and the rule applies only to facsimile filings. It does not relate to filings by any other permitted electronic means. The local rule is adopted under Civ.R.5(E), Civ.R.73(J) and Sup.R. 57.

Prohibitions - Documents intended for the following purposes will not be accepted for facsimile filing:

- (A) To commence a proceeding or file a pleading that requires service of summons to follow;
- (B) To deposit a will or to file a will or trust; to deposit for safekeeping an instrument or power of attorney nominating a guardian;
- (C) To file an estate tax form;
- (D) To obtain a Certificate of Transfer of Real Estate;
- (E) To make any filing for which a filing by mail is prohibited under R.C. 2109.021;
or
- (F) To make any filing when the costs deposit is insufficient to cover the costs of the filing (see Loc.R. 58.4).

Original Filing - A document filed by fax shall be accepted as the effective original filing. While the person making the fax filing NEED NOT file any source document with the Court, the filer must maintain in the filer's records and have available for production upon request by the Court the source document filed by fax with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the particular filing. The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.

Definitions - A "facsimile transmission" means a transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end. A "facsimile machine" means a machine that can send and receive a facsimile transmission. "Fax" is an abbreviation for "facsimile" and refers, as indicated by the context to facsimile transmission or to the document so transmitted.

Cover Page - The person sending the fax shall also provide therewith a cover page containing the following information: name of the court; title of the case; the case number; the title of the document being filed; the date of the transmission; the transmitting telephone number; an indication of the number of pages included in the transmission including the cover page; the name, address, telephone number, fax number, and Supreme Court registration number, if applicable; the e-mail address of the person filing the fax document, if applicable; and how the filing costs are being submitted or otherwise satisfied.

A document sent to the Court by fax without a cover page may, in the Court's discretion, be entered in the Case Docket and filed, or deposited in a file of failed faxed documents with a

notation of the reason for the failure, in which instance, the document will not be considered as filed with the Court.

The Court is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Court may inform the sending party of a failed or rejected fax filing. If the document had been served upon other parties by the sender, the sender shall comply with Loc.R. 57.6 by notifying the parties served that the filing was rejected or failed.

Signature - A party who wishes to file a signed source document shall either fax a copy of the signed source document, or fax 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. A party who files a signed document by fax is representing that the physically signed source document is in the possession/control of the sender. This addresses the instance where the fax is generated by the sending party’s computer and therefore the document is not printed and capable of being signed prior to the transmission.

Exhibits - Each exhibit to a fax-produced document that cannot be accurately transmitted via fax for any reason must be replaced by an insert page that describes the exhibit and explains 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 fax document. Failure to file the missing exhibit as required may result in the Court striking the document and/or exhibit.

Any hard copy exhibit filed in this manner shall be attached to a cover sheet containing the case heading, case number, the filer’s identification information, and be titled as the party’s “Notice of Filing of Exhibit XX to the _____” (identify the filing in which the exhibit was omitted) and shall be served on the other parties in accordance with the Civil Rules.

Time of Filing - Subject to the provisions of these rules, all documents sent by fax and accepted by the Court shall be considered filed with the Court as of the date and time the court time-stamps the document received, as opposed to the date and time of the fax transmission. The Court is deemed open to receive facsimile transmissions of documents on the same days and same times the Court is regularly open for business.

Fax filings may not be sent directly to the Court for electronic filing, but may only be transmitted directly through the facsimile equipment operated by the Court on telephone number (740) 833-2679. The Court's facsimile machine operates seven (7) days a week and twenty-four (24) hours a day, including holidays.

The Court need not acknowledge receipt of a fax filing. The risks of transmitting a document by fax to the Court shall be borne by the sending party. Anyone using facsimile filing is urged to verify receipt of the filing by the Court through whatever technological means are available.

Fees and Costs - No document filed by fax that requires a filing fee shall be accepted by the Court for filing until the Court costs and fees have been paid and will not be filed if insufficient costs have been deposited in advance. No additional fee shall be assessed because the filing is being made by fax.

Length of Document and Form - Facsimile filings shall not exceed fifteen (15) pages in length, excluding the cover page. Each filing must relate to a single case and all filings must conform to Civ.R.10, Civ.R.11, and unless clearly not applicable, Civ.R.57 and Civ.R.73.

LOC.R. 57.2 CURRENT STREET ADDRESS

When an address is required on a Court filing for an attorney or a fiduciary the address, must include a current street address and, if applicable, may include any post office box numbers

used as a mailing address. The address of a non-attorney fiduciary must be the fiduciary's legal residence. A fiduciary who is an attorney at law may use an office address. The Court must be notified in writing of a change in a required address within 30 days of the change occurring. A Notice of Change of Address form (Loc. F. 75.0A) may be filed to report a change of address. The failure to notify the Court of the fiduciary's address change can be grounds for removal of the fiduciary. Sup.R. 57(C).

Reasonable diligence shall be exercised to obtain the complete street addresses of the surviving spouse, children, next of kin, legatees and devisees, as applicable to the particular filing.

Pursuant to R.C. 2109.03 any summons, citation or notice may be served upon a fiduciary by delivering a duplicate notice to the attorney designated by the fiduciary on pleadings filed in the case.

LOC.R. 57.3 CASE NUMBER

As required by Sup.R.57(G), all filings, including attachments, must have the case number on the upper portion of each page not bearing the case caption. Only the Court shall enter the case number on any original will when filed for record only or when filed for admission to probate. Only the Court shall enter the case number on the cover envelope for any will filed with the Court for safekeeping.

LOC.R. 57.4 ORIGINAL SIGNATURES

All filings must contain original signatures, unless otherwise permitted by Loc.R. 57.1. Non-attorneys may not sign on behalf of an attorney.

LOC.R. 57.5 FIDUCIARY SIGNATURE

Every pleading, filing, or other document by law or rule requiring the fiduciary's signature shall have the original signature of the fiduciary, unless otherwise permitted by Loc.R. 57.1. The

attorney for the fiduciary may not sign for the fiduciary. When co-fiduciaries have been appointed, *each* fiduciary must sign the filing *or* the filing must explain the reason for the absence of a co-fiduciary's signature and the efforts made to obtain it.

LOC.R. 57.6 COURT FILINGS

All filings (other than original wills of different sizes) must be on 8-1/2" x 11" paper and the type size for the body of the document shall be not less than ten (10) point or greater than twelve (12) point font. The Court may not accept for filing incomplete pleadings or those with cross-outs. It is expected that filings made by counsel will be prepared in a professional manner with attention to appearance and presentation of a quality product. All filings must be legible. Filings that are not legible for any reason, including but not limited to poor handwriting, or poor photocopying, may be refused for filing, or if filed and later determined to be illegible, then stricken. Every filing must be in the English language, unless it is a foreign language exhibit with an attached English transcription or it is a Standard Form issued by the Supreme Court of Ohio. All pleadings, motions or other filings shall be typed or legibly printed, in black or blue ink, and correctly captioned. See Sup.R. 57 (E). Except for exhibits or attachments to filings or on original wills, the typed name represented by the signature must be entered for any signature that is not clearly legible. This also applies to tendered facsimile signature represented to be an original on the original document from which the facsimile is transmitted.

If the Court rejects a document that has been served by a party upon other parties, the party who tendered the rejected document shall provide to all parties who were served with a copy of the documents a written notification that the document was rejected and not filed in the case.

LOC.R. 57.7 "FILED" STAMPED COPIES

The Court will *not* return “filed” stamped copies by mail *unless* an exact copy of the original is submitted with the original and is accompanied by a self-addressed and adequately stamped return envelope. The Court shall prepare and mail copies of its orders and judgment entries as is required by applicable law.

LOC.R. 57.8 INSTRUCTIONS FOR SERVICE OF SUMMONS OR
NOTICE

In any proceeding requiring the Court to issuance of summons or notice, the attorney or party requesting the service shall file a written instruction for service with the Court that is accompanied by sufficient copies of all filings to be served, unless other procedures are permitted by administrative order. The Request for Summons or Notice form (Loc. F. 1.1A) shall be used for this purpose.

Service of summons by the Court, unless waived, is required in an action: for pre-death declaration of the validity of a will (R.C. 5817.07), to contest a will (R.C. 2107.72), to request direction or instructions (R.C. 2107.46), for a declaratory judgment, the construction of a document, or a determination of a class (R.C. 2721.05 and 2721.12), to sell real estate (R.C. 2127.14), for a guardian to improve real estate (R.C. 2111.34), and to terminate or modify trusts (R.C. 5804.11 through 5804.16). This list is non-exclusive.

Service of Notice pursuant to Civ.R.73(F) may be made with or without court intervention.

In any proceeding (other than a name change) in which service by publication is requested, the pre-publication affidavit required by Civ.R.4.4(A)(1) and Civ.R.73(E)(6) demonstrating reasonable diligence must be provided to the Court. The affidavit must specifically set forth the efforts that were taken to attempt to determine the address and identity of each party to be served by publication.

Constructive service by publication is authorized in those cases enumerated in R.C. 2703.14.

Publication for a name change may be ordered by the Court (R.C. 2701). If ordered the publication must be made one time at least thirty days before the scheduled hearing. The Court prepares the publication notice and the applicant is responsible for proof-reading it and for paying for and arranging for a timely publication.

Publication for a public sale in a real property sale proceeding is arranged by the fiduciary and must be advertised at least three (3) successive weeks prior to the scheduled sale (R.C. 2727.32).

Publication of service of process when authorized in a declaration of validity of will proceeding is for three (3) consecutive weeks and the publication is given by the Court (R.C. 2107.082).

In an adoption proceeding when service of notice is being made upon a non-consenting parent, where personal service cannot be obtained, then service of notice by publication must be given once a week for three consecutive weeks and it is given by the Court pursuant to the law [R.C. 3107.11(C) and Civ.R. 73(E)(6)].

When service of summons is being made by publication, it shall be made by publication once a week for six (6) successive weeks unless a smaller number of weeks is provided by law and service shall be complete on the date of the last publication. The 28-day period for answer commences with the date of the last publication [Civ.R.4.4(A)(1) and Civ.R.12(A)(1)].

In every instance when publication is used or required, proof of the publication from the publisher must be filed with the Court in accordance with Civ.R.4.4(A)(1).

LOC.R. 57.9 EXHIBITS

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

Upon agreement of the parties or by order of the Court, a copy may be substituted for an original exhibit. The disposal of exhibits shall be accomplished pursuant to Sup.R. 26.

LOC.R. 57.10 ENTRY OF JUDGMENT

Any proposed Judgment Entry submitted to the Court, subject to Civ.R.58(B) as modified by Civ.R.73(I) shall contain language identifying the addresses of parties to whom the Civ.R. 58(B) notice shall be given. If the required language is not included, the Judgment Entry may be returned unsigned.

LOC.R. 57.11 LENGTH OF MEMORANDUM OR BRIEF

No Memorandum or Brief exceeding fifteen (15) pages in length, exclusive of supporting exhibits, shall be accepted for filing without prior leave of the Court.

LOC.R. 57.12 CERTIFICATE OF SERVICE

On any pleadings requiring a Certificate of Service, the Certificate shall identify the full name and address where service was perfected. Pursuant to Civ.R.5(D), papers filed with the Court and requiring notice or service shall not be considered by the Court unless a proof of service is endorsed thereon or until one is separately filed.

LOC.R. 57.13 DECEDENT'S NAMES

In every estate, the name of the decedent entered on the caption of the initial filing and on the Letters of Authority, Entry Relieving Estate or Entry Granting Summary Release shall be identical to that reflected on the death certificate and on the decedent's Last Will and Testament. If the name on the death certificate and the will are different, then the caption of the initial filing and the Letters of Authority, Entry Relieving Estate or Entry Granting Summary Release shall recite each of the names and use the applicable abbreviation for "also known as" (aka) or "formerly known as" (fka).

LOC.R. 57.14 COURT SERVICE OF FILINGS

When service is required to be made by the Court for pleadings other than (a) those for which service has been requested by properly filed instructions for service, (b) those for which a specific method of service is designated within the filing or is designated by statute, or (c) through a procedure permitted by administrative order of the Court, *then service shall be* through delivery to the court mailbox of an attorney who in writing has previously authorized such method of alternate delivery and upon all other individuals or entities by ordinary U. S. Mail sent to the last address reflected in the case file for the individual or entities being served unless the serving deputy clerk indicates that service has been made personally or by certified mail.

For the filings to which this rule applies, the deputy clerk shall place a signed certification on the filing indicating the date of service and any alternate means of service used for a given party.

Unless otherwise indicated on the filing, the certification represents that the default method of service used was either: (a) to the court mailbox for attorneys having a designated court mailbox, or (b) by ordinary U.S. Mail for all other individuals or entities.

LOC.R. 57.15 ENFORCEMENT OF SETTLEMENT AGREEMENT
AFTER DISMISSAL

If it is intended that this Court will have jurisdiction to enforce a settlement agreement after a case has been dismissed, the dismissal agreement must incorporate the terms of the agreement or expressly state that the Court retains jurisdiction to enforce the agreement.

SUP.R. 58 DEPOSIT FOR COURT COSTS

LOC.R. 58.1 DEPOSITS

The business of the Court shall be conducted on a cash, check or money order basis, and one-line or in person via payment card and other accepted electronic payment methods as the Court's technology may allow. The Court reserves the option of refusing non-attorney personal checks. All deposits for court proceedings shall be in accordance with the Court's Deposit, Fee and Costs Schedule in effect on the date of filing of the pleading. The deposit may be applied as filings occur. At the conclusion of a case, if the remaining cost deposit balance for any depositor, is less than Twenty-five Dollars (\$25.00) it shall be transferred to the Delaware County Indigent Guardian Fund.

LOC.R. 58.2 PUBLICATION COSTS

The Delaware Gazette, is designated as the newspaper of general circulation in which any notices as required by law or designated by the Judge are to be published. These publication

charges may be charged as costs, and the Court may require an advance deposit of costs to cover anticipated costs of publication.

LOC.R. 58.3 WITNESS FEES

Before issuing a subpoena, the Court requires the deposit of the applicable witness fees. Witness fees may be requested by the subpoenaed witness at the conclusion of the hearing for which the subpoena was issued. If the witness fee is not requested by the end of the next court day following the conclusion of the hearing, the Court presumes that the witness has waived the fee. Any unused portion of the witness fees will be refunded to the depositor. The party requesting the subpoena is responsible for the deposit of witness fees.

LOC.R. 58.4 INSUFFICIENCY OF COSTS DEPOSIT

If the costs deposit is inadequate to cover the cost or fee for any filing, the filing may not be accepted by the Court without payment of the appropriate filing cost or fee. The Court may, in its discretion, require an additional costs deposit in any matter.

SUP.R. 59 WILLS

LOC.R. 59.1 CERTIFICATE OF SERVICE OF NOTICE

The applicant for the admission of a will to probate, or another person listed in R.C. 2107.19, shall file a Certificate of Service of Notice of Probate of Will (SPF 2.4) not later than two (2) months after the appointment of the fiduciary or, if no fiduciary has been appointed, not later than two (2) months after the admission of the will to probate. Sup.R.59(B). The period for the contest of a will does not begin to run until the Certificate of Service of Notice of Probate of Will has been filed. A delayed filing may result in the Court extending other deadlines that are dependent upon the expiration of the period for the contest of a will. Notice shall be given as

provided in Civ.R.73(E) and proof of service shall consist of either waivers, photocopies of original signed certified mail return receipt cards, proofs of publication, commercial carrier returns, and when applicable, postal certificates of mailing.. A waiver of notice may not be signed by a minor, or on behalf of a minor, age sixteen (16) or older. (See Sup.R.59(B) and Civ.R.4.2)

LOC.R. 59.2 WILL FOR DEPOSIT

Any will that is being deposited with the Court for safekeeping pursuant to R.C. 2107.08 shall be accompanied by a completed Will for Deposit form (Loc. F. 59.2A). The Court will provide the depositor with a Certificate of Deposit of Will (Loc. F. 59.2B) as a receipt for the deposit of the will. If the deposited will is removed from safekeeping and a new will is deposited, another cost deposit shall be required.

SUP.R. 60 APPLICATION FOR LETTERS OF AUTHORITY TO ADMINISTER ESTATE AND NOTICE OF APPOINTMENT

LOC.R. 60.1 ACCEPTANCE AND NOTICE OF APPOINTMENT

All executors and administrators shall personally sign and file the Fiduciary's Acceptance (Loc. F. 4.0A) prior to the issuance of the Letters of Authority. In the event there are multiple fiduciaries, *each* fiduciary shall sign an original Loc. F. 4.0A. Pursuant to Sup.R.60 (B) notice of the appointment of the Administrator shall be given by the Administrator within seven (7) days of the appointment to all persons entitled to inherit, including persons entitled to an allowance for support, unless those persons have been given notice of the hearing on the appointment or waived notice. Proof of the service of the notice shall be filed with the Court.

LOC.R. 60.2 APPOINTMENT OF NON-RESIDENT FIDUCIARIES

A non-resident of Ohio requesting appointment as executor of a decedent's estate or as a trustee must comply with R.C. 2109.21 and have an attorney of record who is permitted to practice law by the Supreme Court of Ohio. To assure the assets remain in the State of Ohio, during the administration of the estate or trust, the applicant must meet one or more of the following criteria as required by the Court:

- (A) Place assets of the decedent in an amount determined by the Court, into a restricted access a depository account within Ohio, pursuant to R.C. 2109.13;
- (B) Post a bond in compliance with R.C. 2109.04 or as ordered by the Court; or
- (C) Have a co-executor or co-trustee named in the will who is a resident of Ohio.

If the applicant elects to use the depository method set forth in (A), then the applicant shall prepare and use the Application of Non-Resident Fiduciary to Deposit Assets with a Custodian in Lieu of Bond form (Loc. F. 60.2A). To be appointed as a fiduciary, a non-resident applicant must provide to the Court a current photo identification with proof of the applicant's current residence address and mailing address in a format satisfactory to the Court.

LOC.R. 60.3 IDENTIFICATION WITH PHOTOGRAPH REQUIRED

Applicants for authority to administer a decedent's estate, who are not represented by an attorney admitted to practice law in Ohio, shall exhibit to the Court current government issued photo identification and proof of the applicant's current residence and mailing address in a form satisfactory to the Court.

LOC.R. 60.4 CALCULATION OF EXECUTOR/ADMINISTRATOR COMPENSATION

Unless otherwise approved by the Court, compensation shall not be paid to the Executor or Administrator of an estate until the final account is prepared for filing and a Calculation of Executor/Administrator Compensation form (Loc. F. 60.4A) has been filed with the Court setting forth the basis upon which the compensation has been calculated. For an Executor/Administrator appointed on or after January 1, 2014, the Court will allow a commission of 1% of the value of all property that is not subject to administration and that would have been includable for purposes of computing the Ohio estate tax (except joint and survivorship property) had the decedent died on December 31, 2012, so that RC 5731.02 applied to the estate.

LOC.R. 60.5 SPOUSAL CITATION AND SUMMARY OF RIGHTS

Where appropriate, the Waiver of Service to Surviving Spouse of the Citation to Elect (SPF 8.6) should be filed at the same time as the initial application for appointment of the fiduciary. Absent the filing of a waiver, the Court shall serve by certified mail the spousal citation and summary of rights required by R.C. 2106.02 within 7 days of the initial filing for appointment.

SUP.R. 62 CLAIMS AGAINST ESTATE

LOC.R. 62.1 MEDICAID RECOVERY ACKNOWLEDGMENT

Every applicant not represented by counsel who seeks a summary release, a release of estate from administration or the administration of any estate shall file with the Court a completed Medicaid Recovery Acknowledgement (Loc. F 62.1). When applicable, the applicant or the fiduciary shall file and serve the Notice of Administrator of Medicaid Recovery Program (SPF 7.0) and file the Certification of Notice to Administrator of Medicaid Recovery Program (SPF 7.0(A)).

LOC.R. 62.2 SPECIAL ADMINISTRATOR FOR RECEIPT OF CLAIMS

Where the appointment of a Special Administrator is requested pursuant to R.C. 2113.15 and the sole purpose of the appointment is indicated to be to receive claims under R.C. 2113.17, the Letters of Authority will be expressly limited to that purpose. Notice of the Application shall be served on the persons with a priority of appointment not less than seven days prior to the date set for the hearing on the Application. Sup.R.60(A). Upon a subsequent appointment of a fiduciary to administer the estate, or the filing of an application to release the estate from administration, the fiduciary or the applicant for release shall notify the Special Administrator of the action. Within 30 days of receipt of notice of the appointment of the estate fiduciary, the Special Administrator shall file a Report of Claims with the Court as an attachment to the accounting, or separately if there is no accounting. The Report on Claims shall identify the names of the claimant, the claimant's address, the amount/and nature of the claim, and the date that the claim was received by the Special Administrator. The Report on Claims shall have endorsed on it a Certificate of Service reflecting service on each listed claimant and on the fiduciary/applicant by ordinary mail. The Special Administrator shall also provide the fiduciary with all of the originally tendered claim documents and correspondence. A delay in filing and serving of the Report shall not invalidate the timely filed claims; however, the Court may consider the delay when determining the allowable compensation due the Special Administrator.

While the compensation of the Special Administrator normally shall be paid from the assets of the estate as a priority cost of administration in an amount established by the Court upon motion or hearing, the Applicant should recognize that if there are insufficient estate assets to pay the allowed compensation, the Applicant may have no source from which the Court can enforce payment. The Court may condition the appointment of a Special Administrator by requiring the

Applicant to file an extraordinary costs deposit in an amount adequate to secure the anticipated costs of the special administration. If it appears that additional security is needed during the course of the special administration, the Court may order further deposits by the Applicant.

SUP.R. 64 ACCOUNTS

LOC.R. 64.1 FIDUCIARY’S SIGNATURE

All accounts must be personally signed by each fiduciary. If a fiduciary’s signature cannot be obtained, the filing must explain the reason for the absence of the signature and describe the efforts made to obtain the signature.

LOC.R. 64.2 CONTENTS OF PROBATE ACCOUNTINGS

In addition to accounting for the cash receipts and expenditures, fiduciaries are accounting for the assets, the gains, the losses and the distributions. The first accounting must commence with the assets reflected on the Inventory (subsequent accountings begin with a “Balance Brought Forward” equal to the assets remaining as shown on the prior accounting) and then report as all income, other receipts and realized gains for the period. The accounting shall reflect as “Disbursements” all payouts and losses from the sale of assets during the period of the accounting. The account shall then reflect as the “Balance Remaining” the difference between the total receipts and the total disbursements. The account must reflect the resulting “Assets Remaining” which must equal the Balance Remaining.

Subsequent accounts must begin with the Assets Remaining on the prior account and annual accountings shall continue until the Assets Remaining is zero dollars (\$0.00). The Court will not approve accounts that fail to account for all of the assets.

When gains or losses from the sale of real estate are realized, the closing/settlement statements, if any, (i.e. reduced to letter size) must be attached to the account. Sup R. 64(B).

The accountings shall show any unrealized gains (receipts) or losses (disbursements) in investments since the last previous account (See R.C. 2109.301, .302 and .303).

Documentary proof of each intangible “Asset Remaining” shall be provided to the Court at the time the accounting is filed. Vouchers, receipts or other proofs of disbursement, in accordance with Loc.R. 64.4 and Loc.R. 64(C) must be tendered with guardianship and trust accounts.

LOC.R. 64.3 EXTENSIONS FOR FILING AN ACCOUNT

No expenditure, sale, distribution, compensation or fee will be approved while the fiduciary is delinquent in filing an account. The Court may modify or deny compensation and fees pursuant to Sup.R.78(A) when the filing timelines are not met. Additionally:

- (A) Only one (1) extension of time may be granted without a hearing, unless good cause is otherwise shown.
- (B) The attorney and, the fiduciary, pursuant to Sup.R.78(B)(2), must sign any request for an extension of time and each request must recite any previous requests for an extension.

LOC.R. 64.4 VOUCHERS

When required by statute or court order, original vouchers, receipts, other proofs of disbursements are to be displayed when filing accounts. The Court will accept as a voucher a statement from a financial institution specifying the payee, check amount, and date of payment. When original vouchers, other proofs or receipts are required, adding machine tapes shall be provided reflecting all receipts, expenditures, disbursements, and balances.

Vouchers may be required for any estate accounting identified for detailed compliance audit under Loc.R. 64.5.

LOC.R. 64.5 DETAILED ACCOUNT COMPLIANCE AUDITS

The Court has authority to inquire into, consider and determine all matters relative to an accounting. The fiduciary, and the counsel for the fiduciary, if any, for each account identified for a detailed compliance audit will be notified of the date and location to meet with the Court's auditing staff. At that meeting, the fiduciary shall provide the supporting documents, receipts, statements, registers, and such other documents as may be requested by the Court's auditing staff that it deems relevant to determining the compliance of the accounting with applicable law. The filing of consents and waivers from beneficiaries to a particular accounting does not insulate the account from a detailed compliance audit.

At the conclusion of the audit, a report of the audit will be provided to the Court, the fiduciary, and the fiduciary's counsel, to assist in determining whether the account should be approved.

The Court's auditing staff will not conduct a forensic investigatory audit. The Court, however, may appoint a special master commissioner to investigate any matter presented by the accounting or audit, and/or refer the matter to another appropriate agency.

LOC.R. 64.6 BOND

At any time the Court may order an applicant or a fiduciary to file a bond, or order an additional bond. This most often occurs because of new matters, the filing of a consents to real estate sale by an estate administrator, the filing of a will contest action, or increases in the valuations of the assets disclosed by the pleadings, in accordance with Loc.R. 75.4.

LOC.R. 64.7 EVIDENCE OF ASSETS

The Court requires that all intangible assets be exhibited at the time of filing of a partial account, or other arrangements satisfactory to the Court be made for the verification of their

existence. In lieu thereof, a bank certificate, or other current original writing from a depository or brokerage firm reflecting the amount on deposit as of the accounting/inventory date, may be provided to the Court. For custodial depository accountings, the Annual Verification of Funds with Restricted Access (Loc. F. 22.3B) should be used.

LOC.R. 64.8 TIME FOR FILING AND DELINQUENCY SANCTIONS

When determining the time for the filing of an account for an estate, a guardianship, a conservatorship, or a trust, the following shall apply:

- (A) For *decedents' estates*, the filing of the final and distributive account is due within six (6) months after appointment of the fiduciary. This date may be extended to thirteen (13) months by filing an Application and Entry to Extend Administration (SPF 13.8). All subsequent accounts must be filed on an annual basis unless the Court orders otherwise. If accounts are not filed in compliance with this rule the fiduciary and counsel shall be subject to citation. If a partial account is being filed it shall be accompanied by a written explanation of why a partial, rather than a final, account is being filed. The filer may use the Why Partial Account Filed in Estates (Loc. F. 13.01) to satisfy this requirement.
- (B) For *guardianships, conservatorships and trusts*, the first account is due not later than thirteen (13) months following the date of the appointment of the fiduciary. All subsequent accounts shall be filed on an annual basis, unless otherwise ordered by the Court.
- (C) If all of the assets of the fiduciary are in a restricted access depository pursuant to RC 2109.13 in lieu of bond, the Annual Verification of Funds with Restricted Access [DCPC Form 22.3(B)] from the depository shall be accepted in lieu of an accounting.

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

A delinquent fiduciary is subject to citations in contempt, removal and the imposition of sanctions.

Pursuant to Sup.R.78(D) the Court may issue a citation to the attorney of record for a fiduciary who is delinquent in the filing of an account for the attorney to show cause why the attorney should not be barred (1) from be appointed in any proceeding before the Court, and/or (2) from serving as attorney of record in a new estate, guardianship or trust until the delinquent account is filed.

LOC.R. 64.9 HEARING, CERTIFICATES AND SERVICE

Every account shall be set for hearing and pursuant to R.C. 2109.33, a copy of every account shall be served by the fiduciary upon every heir, beneficiary, interested party, and such other persons as the Court designates. For purpose of this rule “interested party” is defined as (1) all known intestate beneficiaries in the case of an intestacy; (2) any surviving spouse and all residuary beneficiaries of a testate estate; (3) legatees and devisees whose bequests have not been satisfied; (4) in guardianships, all known next of kin of the ward; (5) for a Testamentary Trust, all known beneficiaries in the trust; (6) for an inventory in a testate estate, all testate beneficiaries; and (7) in cases of reported insolvency, all creditors who have both (a) filed claims, and (b) appeared at the insolvency hearing.

The Court, pursuant to Civ.R.73(E)(7), directs that a copy of the account be sent three days prior to filing the account, in addition to the other methods provided in Civ.R.73(E)(6), by ordinary U.S. Mail, postage prepaid. If the mailing is returned undeliverable by the U.S. Postal Service, the fiduciary shall send a copy of the account in another authorized manner.

At the time of filing the account, every fiduciary filing an account must also file:

The Certificate of Service of Account to Heirs or Beneficiaries (SPF 13.9).

The Certificate of Service of Account to Heirs or Beneficiaries shall be filed contemporaneously with the account or the account cannot be filed.

Pursuant to Sup.R.64 (E) a final or distributive account shall not be approved until all court costs have been paid.

SUP.R. 65 LAND SALES – RC CHAPTER 2127

LOC.R. 65.1 TITLE EVIDENCE

In every real property sale proceeding requiring approval of the Court, the Plaintiff shall file, within 14 days after the filing of the pleadings requesting such relief, a commitment for an owner's policy of title insurance, using the current ALTA owner's policy commitment, or a preliminary judicial report issued by a licensed "title insurance company" as that term is defined in R.C. 3953.01(c), of the Ohio Revised Code, showing:

- (A) the name of the owners of the real property to be sold;
- (B) a reference to the volume and page of the recording by which the owners acquired title to such real property;
- (C) a description of all exceptions to the owner's fee simple title and liens thereon;
- (D) the name and address, as shown on the recorded lien, of the lien holder(s);
- (E) the legal description of the real property to which the report relates.

The commitment or report shall have an effective date not more than thirty (30) days prior to the filing of the initial pleading requesting sale. The commitment shall be endorsed, or the final judicial report filed, with an effective date not less than seven (7) days prior to submission to the Court of the Judgment Entry Confirming Sale, Ordering Deed and Distribution. The cost of the title examination and the premiums arising from the issuance of the insurance, commitment, or reports and other title related expenses, including cancellation fees, shall be paid out of the judicial

sale, but if the sale is not completed they will be taxed as court costs upon the filing of an invoice. It is incumbent upon counsel to promptly advise the Court when a fee for which an invoice has been filed is paid subsequently outside the case and therefore should be removed from the court costs to be assessed.

If the Plaintiff believes title insurance will enhance the marketability of the real property, then the Plaintiff may include the premium for a final owner's policy of title insurance as a Seller's expense on the closing statement for the sale.

LOC.R. 65.2 APPROVAL OF DESCRIPTION

In any real property sale action, *except* where the premises involved are registered under the Torrens Law or the property is not located within Delaware County, the attorney for the Plaintiff shall secure from the Map Department of the Delaware County Engineer's Office, and file a statement reflecting whether the description of the real property is, or is not, acceptable for deed transfer purposes simultaneously with the Complaint. In the event that a new survey of the real property is necessary in order to secure a legal description acceptable for deed transfer purposes, the complaint shall include a prayer for authority to commission a survey. If the Court finds the sale necessary, the cost of the survey shall be taxed as costs in the proceeding. Any new survey description must be approved by the Map Department of the Delaware County Engineer's Office as acceptable for deed transfer purposes prior to the issuance of an Order of Sale. A failure to comply with the foregoing provisions of this local rule may be grounds for dismissal of the real property sale proceeding, after notice and hearing.

LOC.R. 65.3 CONSENTS TO POWER TO SELL REAL ESTATE

When a fiduciary intends to sell real estate using the Consent to Power to Sell Real Estate (LOC.F A with LOC.F F) for executors and administrators, or as is authorized by RC 2127.011

and RC 2127.012, for guardians the Consent to Power to Sell Real Estate – Guardianship (LOC.F 65.3A with LOC.F 65.3B), the Court will review the existing bond to assure that the fiduciary bond is adequate to cover the appraised value of the real estate covered by the Consents. Every fiduciary selling by consents shall file with the Court a copy of the signed Closing Disclosure settlement statement (or an otherwise signed itemized settlement form, if a Closing Disclosure settlement statement was not used) within 30 days of the closing of the sale by consent.

The local Consent to Power to Sell Real Estate – Guardianship (Loc.F 65.3A with Loc.F 65.3B) shall be used to evidence the consent to a sale by a guardian of the estate. The guardianship consent shall include the legal description, address, and tax property identification number (PIN) for the real estate to which it relates.

Since the Court does not “approve” guardianship inventories, when guardianship sale consents are filed, an appraisal not more than one year old must be filed by the guardian with the consents to sell. In every case in which the guardian of the estate intends to sell real estate of the ward by consent, the guardian of the estate also shall file with the signed consents a Representation with Respect to Guardianship Real Estate Sale by Consent (Loc.F 65.3B). The appraisal, and the appropriate bond, or additional bond, shall be filed contemporaneously by the guardian.

LOC.R. 65.4 MILITARY SERVICE AFFIDAVIT

Parties must adhere to the provisions of the Serviceman's Civil Relief Act (50 USC App. 521) by addressing the active military service status of any person against whom a default judgment is requested. A suggested Military Service Affidavit is provided in the Local Rules/Local Forms Tab on the Court’s website.

LOC.R. 65.5 REPORT OF DISTRIBUTION AND ENTRY

Within 15 days of closing the sale of the real property the Plaintiff shall file in the real property sale case a Report of Distribution, accompanied by a signed copy of the Closing Disclosure statement required by the Consumer Finance Protection Bureau (CFPB) (or other itemized settlement statement a Closing Disclosure statement was not prepared), reduced to a size suitable for filing. When the Report is filed the Plaintiff shall accompany it with the final court costs and a judgment entry approving the Report and closing the case.

SUP.R. 66 GUARDIANSHIPS

LOC.R. 66 SERIES NUMBERING

Due to the manner in which the Supreme Court of Ohio has numbered Sup.R.66.01 through 66.09 by using 4 digits, all of this Court's local rules pertaining to Guardianships shall be similarly numbered.

LOC.R. 66.01 DEFINITIONS

The terms defined in Sup.R.66.01 have the same meaning when used in Loc.R. 66.02 through 66.20.

LOC.R. 66.02 APPLICATION OF RULES

The Local Rules guardianship rules apply to all guardianships administered through this Court, unless otherwise indicated in the particular Local Rule, or unless expressly waived by Court Order.

LOC.R. 66.03(A) EMERGENCY GUARDIANSHIPS

Pursuant to Sup.R.66.03(A) this Court has adopted the following process for emergency guardianships. Every application for the appointment of an *ex parte* emergency guardianship shall be accompanied by: (a) a Statement of Expert Evaluation (SPF 17.1) (as supplemented for emergency guardianships with SPF 17.1A); (b) a completed Next of Kin form (SPF 15.0); (c) a narrative statement signed by the applicant setting forth anecdotal information describing the imminent risk of significant injury to the person or property of the minor or incompetent that justifies an *ex parte* emergency appointment; (d) compliance with Court's requirements with respect to background checks and credibility; and (e) photo identification for the applicant. The applicant shall appear at the Court when filing the application for emergency guardianship. The applicant shall attend the seventy-two-hour hearing to determine whether to extend the emergency guardianship for up to thirty additional days. The Court may decline to make an *ex parte* decision and alternatively give notice and set an oral hearing. The applicant is expected to file an application for appointment of guardian (SPF 16.0 or SPF 17.0, as is applicable) within seven days of the completion of a hearing extending the guardianship beyond the initial seventy-two hour appointment, if it is expected the need for continued guardianship will exist longer than the emergency guardianship.

LOC.R. 66.03 (B) GUARDIAN COMMENTS AND COMPLAINTS

Pursuant to Sup. R. 66.03(B) this Court has adopted the following process for submitting and considering comments or complaints regarding the performance of all guardians appointed by this Court pursuant to RC 2111.02.

Comments and complaints (hereinafter collectively referred to as "complaints") received regarding the performance of guardians and the resulting documents and correspondence are

considered to be case documents and accessible to the public, unless otherwise excluded pursuant to Superintendence Rule 44 (C)(2). The Court will note actions with respect to the complaint in the case docket. The Court will communicate complaints about a guardian's performance to the guardian and/or the guardian's counsel expeditiously and pursuant to this local rule.

The Court will not accept or act upon an oral or telephonic complaint against a guardian, other than to provide the complainant the address to which to hand-deliver, fax, e-mail, or mail the written complaint. The Court may not accept an anonymous complaint. When the Court accepts a written complaint regarding a guardian's performance, it will date-stamp the complaint. If a complaint is received electronically on a day the Court is closed, it shall be deemed to have been received on the next day that the Court is open.

When a complaint is received at the Court:

The Court shall send a letter to the complainant acknowledging the receipt of the complaint and providing a copy of this rule.

(A) Within ten (10) workdays of receipt of the complaint, the Court shall perform an initial review of the complaint and the guardianship case. Unless the complaint raises issues that the Court determines necessitates immediate judicial action, the Court shall

- (1) Send the complainant a letter dismissing the complaint as unsubstantiated/unspecific/insufficient and send a copy of the complaint and response to the guardian or guardian's counsel; or
- (2) Send a copy of the complaint to the guardian and/or guardian's attorney and request a response to the complaint within fifteen (15) court days from the date of mailing. The forwarding letter shall advise the guardian and/or attorney that a failure to respond will result in a show cause hearing being

set with the attendance of the guardian required. A copy of the forwarding letter shall be provided to the complainant; and/or

- (3) Notify the guardian and/or guardian's counsel and refer the matter to the Court Investigator for an investigation and a report within fifteen (15) court days from the date of referral; and/or
- (4) Set the matter for a Review Conference or hearing; and/or
- (5) When appropriate, refer the matter to the appropriate law enforcement agency pursuant to RC 2101.26 if the complaint alleges abuse, neglect, or exploitation of the ward that is substantiated. When the Court refers a complaint to law enforcement, the Court may take such emergency action as it determines necessary to protect the interests of the ward while being cognizant of the need to have minimal impact on the investigation by law enforcement.

(C) Upon the expiration of the period for the filing of responsive reports from the guardian, or Court Investigator or upon their earlier filing, the case file (including the written response(s), reports, and the complaint) shall be submitted to the Magistrate and within five (5) court days the Magistrate shall do one or more of the following:

- (1) Find the complaint to have been resolved or unsubstantiated and advise the complainant, guardian and/or counsel accordingly by letter;
- (2) Refer the matter to mediation under the Court's Mediation Rule (Loc.R. 16.1) or Eldercare Coordination Rule (Loc.R. 16.2) with a copy of the referral order being sent to the complainant, the guardian and/or guardian's counsel;

- (3) Set a review conference or a show cause hearing with notice to the complainant, the ward, the guardian and/or guardian's counsel, and other interested parties; and/or
- (4) Appoint a guardian ad litem to represent the best interests of the ward; and/or
- (5) Refer the matter to the Probate Judge for appointment of a special master commissioner to investigate the issues and to report with findings and recommendations pursuant to RC 2101.06 with notice to all interested parties. When the commissioner's report is filed, the Probate Magistrate shall set it for hearing with notice to the ward, the ward's guardian ad litem, if any, the guardian and/or the guardian's counsel and the complainant.

(D) The filing of a comment or a complaint with the Court does not provide the complainant with standing in the case, if standing does not otherwise exist.

Except when administratively dismissing a complaint, when adopting an agreed mediation report, or acting in an emergency, the Court shall not act without a hearing. The Court's actions may include dismissal, directives for remedial action, establishing periodic review dates, allocating costs and fees, referral to law enforcement for investigation, sanctions, removal, and any other actions permitted by law.

When the ward is a veteran and the Court appointed the guardian under Revised Code Chapter 5905, notice of the complaint, reports, hearings and actions shall be given to the Administrator of Veterans Affairs of the United States pursuant to RC 5905.03.

The Court shall maintain in Administrative Case File # 1505-0565-PMO a record regarding the nature and disposition of any complaints filed under this rule.

LOC.R. 66.04 (RESERVED)

LOC.R. 66.05(A) GUARDIAN BACKGROUND CHECKS

An applicant for appointment as a guardian, including as an emergency guardian, must submit to a civil and criminal record check satisfactory to the Court and execute such consent, if any, as may be requested by the Court to authorize the Court to perform that record check. Additionally, an applicant for appointment shall complete and file a Guardian's Credibility form (Loc. F. 66.10A). In place of a civil and criminal background check, an Ohio attorney applicant currently in good standing with the Supreme Court of Ohio, may obtain and submit to the Court a Certificate in Good Standing with disciplinary information, issued by the Supreme Court of Ohio.

LOC.R. 66.05(B) GUARDIAN WITH TEN OR MORE ADULT WARDS

To assist the Court in meeting its supervisory responsibilities under Sup.R.66.05(B) and in satisfaction of the responsibilities arising under Sup.R.66.08(H) by January 31 of each year, a guardian with ten or more wards through the probate courts of Ohio shall register with this Court on the local Multi-Guardian Annual Registration Form, or on a standard form adopted for that purpose by the Ohio Supreme Court. The registration shall include a listing of the guardian's wards, the case number and the appointing Court. The guardian in such cases shall advise the Court of any change in the guardian's name, address, telephone number and electronic mail address within ten days of the change occurring.

If the guardian will be seeking compensation from the guardianship or from the Court, the guardian shall accompany the annual registration with a fee schedule that differentiates guardianship services fees as established by local rule from legal fees or other direct services.

A guardian with ten or more wards shall include with the Guardians Report form, a statement indicating whether the guardian is aware of any circumstances that may disqualify the guardian from continuing to serve as a guardian. A local form (Certification of Circumstances that May Disqualify Guardian) is available for this purpose at the Adult Guardianship tab on the Court's website.

The maximum number of wards that a guardian may be serving at any one time through appointment by this Court is forty (40), but with the further limitation that if the number exceeds thirty, the caseload may not exceed thirty (30) community wards and ten (10) wards living in a facility (i.e. assisted living, skilled nursing or other non-community facilities). If guardianship compensation is anticipated to be made from the Court's indigent guardianship funds, the guardian should be familiar with Loc. R. 73.2 regarding compensation limits for a guardian with more than 30 wards. Despite this maximum, the Court reserves discretion to limit a guardian to a fewer number of cases.

LOC.R. 66.06 GUARDIAN FUNDAMENTALS TRAINING REQUIREMENT

A Guardian holds a unique role with respect to the ward and the Guardian has an obligation to obtain an understanding of the fundamentals of that relationship. Formalized training is one means to gain that competency.

Every guardian for an adult who is not related to the ward by consanguinity (a blood relationship) or affinity (kinship by marriage) must meet the guardianship fundamentals training

requirements under Sup.R.66.06 by completing, prior to appointment or within six months thereafter, a six-hour guardian fundamentals course provided by the Supreme Court of Ohio, or with prior approval of this Court, another entity. Those failing to meet the requirement shall be subject to citation for being in contempt of court and subject to sanctions including, but not limited to, imposition of a fine, denial of compensation, and/or removal. The guardian is responsible for providing to the Court in a timely manner documentation that establishes compliance with the guardian fundamentals training requirement.

Every guardian of a minor ward if ordered by this Court, and every guardian of an adult ward to whom the guardian is related by consanguinity (blood relationship) or affinity (kinship by marriage) must attend this Court's local guardian training program, or with Court approval, the guardianship trainings or continuing education modules offered by the Supreme Court of Ohio. Unless otherwise ordered by the Court, the local guardianship training must be completed prior to appointment, or within six months thereafter. The failure to attend the training in a timely manner may result in a citation in contempt, sanctions, and/or removal of the guardian.

A guardian who has (a) previously trained through the Volunteer Guardianship Program; (b) previously completed this Court's local guardianship training program; (c) completed the guardian fundamentals training program offered by the Supreme Court of Ohio, or a similar course approved by this Court; or (d) been appointed by this Court as a guardian prior to June 1, 2015, is *exempt* from this training upon providing such documentation supporting the exemption as the Court may require.

The representatives of Advocacy and Protective Services, Inc. (APSI) are exempt from demonstrating compliance with the adult guardianship training programs so long as APSI is under

contract with the State of Ohio to provide adult guardianship services and its assigned representative has complied with APSI training requirements.

Notwithstanding the foregoing exemption, the Court may require an otherwise exempt guardian or applicant for appointment as guardian, to complete a designated guardianship fundamentals training course or one or more guardian continuing education courses.

LOC.R. 66.07 GUARDIAN CONTINUING EDUCATION

After completing the guardian fundamentals course, every guardian of an adult not related to the ward by consanguinity (a blood relationship) or affinity (kinship by marriage) shall annually complete a three-hour guardian continuing education course provided by the Supreme Court of Ohio, or with prior approval of this Court, another entity. After completing the guardian fundamentals course, if the guardian is related to the ward by consanguinity or affinity they are exempt for annual training.

If a guardian fails to comply with the guardian continuing education requirement, the guardian shall not be eligible for further appointment until the requirement is met. The guardian also may be subject to sanctions and/or removal.

By December 31 of the first calendar year after the year of completion of the guardian fundamentals course, or its waiver by Court order, the guardian is responsible for providing to this Court documentation demonstrating compliance with this guardian continuing education requirement, including the title, date, location and provider of the education, or a certificate of completion containing such information.

The Court may order any guardian to complete a designated continuing education training course, even though exempted from guardianship fundamentals training under Loc.R. 66.06 and not otherwise mandated by this rule.

LOC.R. 66.08 GENERAL RESPONSIBILITIES OF THE GUARDIAN TO
THE COURT

The person seeking to be appointed as the guardian is expected to have met with the proposed ward at least once prior to appearing before the Court for the hearing on the application, unless the Court has waived the pre-appointment meeting for good cause.

If the guardian becomes aware of allegations of abuse, neglect or exploitation of the ward, the guardian shall immediately report the same to the appropriate law enforcement authorities and the Court.

A guardian appointed by this Court shall inform the Court of any change of address for either the guardian or the ward. This notification must be filed with the Court within ten (10) days of the address change. The Notice of Change of Address form (Loc. F. 75.0A) may be used for that purpose, but it is not required. If the ward's residence has changed, the reason for the change should be indicated. Failure to notify the Court, as provided in this rule, may result in the guardian being removed and sanctions being imposed.

The guardian shall not move the ward from Delaware County, Ohio or into a more restrictive setting without prior Court approval, unless a delay in obtaining authorization for the change of residence or setting would affect the health and safety of the ward. Until a standard probate form is adopted for this purpose, the guardian may use the local form "Application for Approval of More Restrictive Setting" that is available at the Adult Guardianship tab on the Court's website.

While a guardian is required to seek prior approval of this Court before filing a lawsuit for the ward, prior approval shall not be required when the lawsuit is being filed in this Court. Until a standard probate form is adopted for this purpose, the guardian may use the local form

“Application to Commence Legal Proceedings for Ward” that is available at the Adult Guardianship tab on the Court’s website.

The guardian shall avoid conflicts of interest with the ward and endeavor to avoid the appearance of impropriety (perceived self-serving, self-dealing or perceived actions adverse to best interests decisions) when dealing with the ward’s assets and needs. Approval for providing paid direct services may be requested using the local form “Application of Guardian to Provide Direct Services to Ward”. A potential conflict for the guardian may arise if the guardian’s immediate family (parent, spouse, or child) is being employed or contracted by the guardian. The guardian shall disclose all conflicts to the Court in a clear and unequivocal manner. Doing so, facilitates a determination whether the conflict can be mitigated or eliminated through the use of a guardian ad litem, a limitation of the powers of the guardian, or other actions. See Sup.R.66.01(B), 66.04(D), 66.08 and 66.09(G).

The guardian shall obey all orders of this Court and shall perform all guardianship duties in accordance with the state and federal laws and rules and this Court’s local rules, as all of them may be effective during the guardianship.

**LOC. R. 66.09 GENERAL RESPONSIBILITIES OF THE GUARDIAN TO
THE WARD**

The guardian shall treat the ward with respect and dignity. Being attentive to the privacy and confidentiality a guardian owes to an adult ward, a guardian should avoid discussions involving the ward or the guardianship on social media or with others.

The guardian shall meet with the ward at least quarterly throughout the year, or more often if needed to promote the best interests of the ward.

The guardian shall deposit ward's last will and testament with the Court for safekeeping pursuant to Loc.R. 66.14, if the will is in the possession or control of the guardian. If the ward's will is not in the possession of the guardian, upon being advised of the location, the Court shall order the holder to deposit the will with the Court for safekeeping.

A guardian is prohibited from providing "direct services" (as defined in Sup.R.66.01(B)) to the adult ward, without the express approval of the Court. However, in certain situations it is in the best interest of the ward for limited direct services to be permitted. Through this local rule, the Court recognizes and approves:

(A) An attorney/guardian providing blended legal services to himself as guardian (i.e. preparing inventories, accountings, guardianship annual plans, guardian's reports and a list of ward's legal documents). Pursuant to Sup.R. 66.08(F), the attorney may not commence suit for the adult ward without express approval from the Court; and

(B) A parent/guardian providing homemaking and in-home caregiving services to an adult ward/adult child, even though compensated for such services by a third-party governmental payor (a Developmental Disabilities Board or a Mental Health and Recovery Services Board), so long as the guardian is not an employee of the payor and files the local form "Application of Guardian to Provide Direct Services to Ward".

LOC.R. 66.10 GUARDIANSHIP OF MINORS

When proceedings for the appointment of a guardian of a minor are presented to this Court, the following shall apply:

(A) A certified copy of the minor's birth certificate must be displayed to the Court with the guardianship application. A copy will be made by the Court and the original will be returned to the submitter.

- (B) The Court will not establish a guardianship solely for the purpose of school enrollment.
- (C) The Court will not establish any guardianship over the person of a minor where another Court has jurisdiction over custody of the minor.
- (D) When the minor has not been a resident of Ohio for 6 months, the Court will not appoint a guardian unless it is established that the minor has been (1) abandoned (no contact) by the parents for more than 90 days, (2) has a medical emergency, or (3) the minor’s “home state” has declined jurisdiction. (See Ohio’s Uniform Child Custody Jurisdiction Enforcement Act – Chapter 3127).

LOC.R. 66.11 GUARDIANSHIP OF INCOMPETENT ADULTS

For purposes of completing the Next of Kin of Proposed Ward (SPF 15.0), the applicant, pursuant to R.C. 2111.01(E), shall identify any person, whether or not an Ohio resident, who at that time would be entitled to inherit from the proposed ward under the Ohio laws of intestacy and all known children of the proposed ward.

In every adult guardianship, the Applicant must tender with the initial filing a fully completed Adult Jurisdiction Affidavit to assure compliance with ORC Chapter 2112 (Adult Guardianship and Protective Proceedings Jurisdiction Act).

LOC.R. 66.12 INVENTORY, FUND RELEASE, EXPENDITURES AND IDENTIFICATION OF LEGAL DOCUMENTS

Within three months of appointment, a guardian of the estate shall file an inventory of the ward’s assets and income. If the assets include real estate, a complete legal description of the ward’s real estate interest should accompany the Inventory. Any joint owners or death beneficiaries for the assets shall be listed. Funds in the name of the ward shall not be released to the guardian without the approval of an Application to Release Funds (SPF 15.6) or other specific court order. The expenditure of funds by a guardian shall not be approved until a Guardian’s

Inventory (SPF 15.5) has been filed and an Application to Expend Funds (SPF 15.7) has been filed for consideration.

Within three months of appointment the guardian shall file Form 27.11 (Notification of Ward's Important Legal Papers). If it becomes known to the guardian that such information has changed or the existence of other important legal papers becomes known, the guardian shall file an amended Form 27.11 with the Court within thirty days of discovery.

LOC.R. 66.13 GUARDIAN'S REPORT AND ANNUAL PLAN

Annually, the guardian of the person of an adult incompetent shall file the Guardian's Report (SPF 17.7). Unless otherwise ordered by the Court each Guardian's Report for an incompetent shall be accompanied by a Statement of Expert Evaluation (SPF 17.1). If a physician or clinical psychologist states as an Additional Comment on a Statement of Expert Evaluation, that it is their opinion that to a reasonable degree of medical or psychological certainty that the ward's mental capacity will not improve, the Court, may dispense with the filing of subsequent Statements of Expert Evaluation with the Guardian's Report.

Pursuant to Sup.R. 66.08(G), a guardian of the person for an adult who is not related to the ward by consanguinity (a blood relationship) or affinity (kinship by marriage) shall include with the annual Guardian's Report an addendum stating the guardian's goals and plans for meeting the personal needs of the ward. The guardian shall use the "Annual Guardianship Plan - Person" that is available at the Adult Guardianship tab on the Court's website.

If requested by the Court, the guardian of the estate of an adult incompetent shall submit a report identifying the guardian's goals and plans for financially meeting the ward's needs.

LOC.R. 66.14 DEPOSIT OF WILL BY GUARDIAN

The guardian must deposit with the Court for safekeeping any instrument known to the guardian and executed by the ward that would constitute a “will” under R.C. 2107.01. The guardian will comply with Loc.R. 59.2 when depositing the instrument. The Clerk shall issue to the Guardian a Certificate of Deposit of Will (Loc. F. 59.2B) as a receipt for the deposited will.

If the guardian cannot obtain the will, but knows of its existence, location and who has possession of it, then the guardian shall provide that information in writing to the Court.

LOC.R. 66.15 POWERS OF ATTORNEY BY GUARDIAN PROHIBITED

The Court, through this Local Rule, exercises its discretion under R.C. 2111.50(A)(2)(c) and hereby prohibits a guardian appointed by the Court from executing a power of attorney or any other document which purports to appoint an agent to execute any of the duties or responsibilities imposed upon the guardian by law, rule, or order of the Court, unless otherwise approved by a specific order of the Court when exceptional needs are proven to exist.

LOC.R. 66.16 TERMINATIONS

Except for the termination of a guardianship of a minor attaining the age of majority or upon the death of the Ward, a termination of a guardianship shall require notice to all persons designated in R.C. 2111.04 and to any other individuals who received actual notice of the original appointment of the guardian, provided their addresses are known, or with reasonable diligence, can be ascertained. It is the responsibility of the applicant for termination to perfect service pursuant to Civ.R.73 when a termination is requested. A Certificate of Service with supporting documentation satisfactory to the Court must be filed prior to the consideration of the application.

LOC.R. 66.17 INDIGENT WARDS

The applicant or the guardian must file with the Court an Affidavit of Indigency, (Loc. F 66.11A) if the waiver of court costs is being requested or payment of compensation from the Indigent Guardianship Fund is being requested. False affidavits are punishable by findings of contempt, prosecution, or other sanctions.

LOC.R. 66.18 VETERANS' GUARDIANSHIPS

Veterans' Guardianships are governed by R.C. Chap. 5905 and to the extent that there are special rules established therein for veterans' guardianship, those rules shall apply. In every other respect, the general guardianship laws and rules shall apply.

LOC.R. 66.19 GUARDIANSHIP VISITOR PROGRAM

The Court has established a group of trained volunteers, managed by the Court Visitor Program Director. The manager and volunteers are collectively referred to as "Court Visitors". The program is intended to help the Court to monitor the guardianship caseload, while providing reassurance to guardians. In every case involving a visit, the Court will refer the case to the Court Visitor program by written Judgment Entry. The Court will provide a copy of the Entry to the Court Visitor, the Guardian, to Counsel for the Guardian, and Counsel, if any, for the Ward. The Court Visitor will communicate with the Ward, Counsel and the Guardian, as appropriate, to schedule a visit with the Ward, the Guardian, the Caregiver, or such other persons involved in the case as the Court Visitor determines proper. The Court expects the Guardian to cooperate with the Court Visitor's reasonable requests. The Court Visitor will file a written report of the visit with the Court for such use as the Court determines appropriate. Selection for a visit from the Court Visitor does not imply that the Court deems the case problematic.

LOC.R. 66.20 ADDITIONAL COST DEPOSIT

Pursuant to RC 2111.031 and in addition to the basic cost deposit, the Court may require an Applicant for a guardianship to make an advance cost deposit in an amount the Court determines necessary (a) to defray the anticipated costs of examinations of an alleged incompetent, and (b) to cover the fees and costs to be incurred for services and experts necessary to assist the Court in determining whether a guardianship is necessary.

SUP.R. 67 ESTATES OF MINORS

LOC.R. 67.1 DISPENSE WITH GUARDIANSHIP

Applications to dispense with, or to terminate, the appointment of a guardian under R.C. 2111.05 or R.C. 2111.131 shall follow the notice provisions of R.C. 2111.04(A). The net estate cannot exceed Twenty-five Thousand Dollars (\$25,000.00) after payment of fees and expenses. The Application shall include a narrative statement describing the events or circumstances giving rise to the assets comprising the estate of the minor.

LOC.R. 67.2 BIRTH CERTIFICATE

A certified copy of the minor's birth certificate must be displayed to the Court upon the filing of the application for guardianship or to dispense with guardianship. A copy will be made for the Court's file and the original will be returned to the submitter.

LOC.R. 67.3 RESPONSIBILITY FOR DEPOSIT OF RESTRICTED FUNDS

Pursuant to Sup.R.67(C), in the absence of a guardian for the estate of a minor, the attorney representing the applicant, or if there is no attorney for the applicant, then the attorney representing the payor in the matter giving rise to the estate is responsible to assure the direct and immediate

deposit of the funds into a restricted access depository account pursuant to R.C. 2109.13 and to provide the financial institution with a copy of the Entry directing the deposit. The attorney shall assure that a Verification of Receipt and Deposit (SPF 22.3) is filed by the financial institution receiving the funds within seven (7) days of receiving the funds.

LOC.R. 67.4 ANNUAL VERIFICATION OF RESTRICTED FUNDS

All institutions accepting assets for restricted access deposits pursuant to an order from this Court shall annually file an annual verification reflecting the account balance. The filing is due on the anniversary of the initial deposit of the restricted funds. The reporting requirement ends with an authorized termination of the restricted access.

SUP.R. 68 SETTLEMENT OF INJURY CLAIMS OF MINORS

LOC.R. 68.1 BIRTH CERTIFICATE

A certified copy of the minor's birth certificate must be displayed to the Court upon the filing of the application to settle a minor's claim. A copy will be made for the Court's file and the original will be returned to the submitter.

LOC.R. 68.2 SEPARATE CASE NUMBER

The settlement of a minor's claim is a separate proceeding in the Court and shall not proceed under the case number assigned to an existing guardianship proceeding or to a separate proceeding to dispense with a guardianship. Note: If the net proceeds of the minor's settlement totals less than \$10,000, the Court will not require a separate "dispensing with guardianship" filing, provided that the proposed manner of handling the funds is fully described in the settlement application.

LOC.R. 68.3 SETTLEMENT OF MINOR'S CLAIM WITHOUT COUNSEL

When the applicant is not represented by counsel, the court may appoint a guardian ad litem for the minor and the costs for the services shall be assessed as costs of the proceedings and allocated to the Applicant, the minor, or the insurer advancing the settlement, as may be determined by the Court.

LOC.R. 68.4 RESPONSIBILITY FOR DEPOSIT OF FUNDS

Where the restricted access custodial deposit of the proceeds of a minor's claim is ordered, Loc.R. 67.3 shall apply.

LOC.R. 68.5 STRUCTURED SETTLEMENTS

A structured settlement is defined as a monetary settlement of a claim wherein payments are made at a future date or on a periodic basis. If the parties involved in claims for injuries to minors or incompetents desire to enter into a structured settlement, the following rules apply to structured settlements that must be approved by this Court.

- (A) An application shall include a signed statement specifying the discounted present value of the settlement. The statement shall be from one of the following independent professionals: an actuary, certified public accountant, certified financial planner, chartered life underwriter, chartered financial consultant, or an equivalent professional.
- (B) If the settlement is to be funded by an annuity, the application shall include a signed statement by the annuity carrier or the broker procuring the policy stating that the

annuity carrier is licensed to write annuities in Ohio and the annuity carrier's ratings meet at least one of the following standards:

1. The annuity carrier is licensed to write annuities in Ohio;
 2. The annuity carries shall have an rating of A++, or A+
- (C) In addition to the requirements of Paragraph (B) above, an annuity carrier must meet any other requirement the Court considers reasonably necessary to assure that the funding is sufficient to satisfy the periodic payment settlement;
- (D) If the structured settlement is not funded by an annuity, the settlement proceeds must be secured to the satisfaction of the Court;
- (E) The application shall include a statement of the actual cost to the defendant of the settlement. The actual cost shall be used to determine an attorney's contingent fee.

SUP.R. 69 SETTLEMENT OF CLAIM FOR ADULT WARD

LOC.R. 69.1 SEPARATE CASE NUMBER

The application to settle a claim of an adult Ward shall be a separate proceeding in the Court and shall not proceed under the case number assigned to the guardianship.

LOC.R. 69.2 RESPONSIBILITY FOR DEPOSIT OF FUNDS

Where a custodial deposit of the proceeds of the settlement of the claim of the adult ward is ordered, the operative provisions of Loc.R. 67.3 shall apply.

LOC.R. 69.3 STRUCTURED SETTLEMENTS FOR ADULT WARD

When a structured settlement is proposed for the net settlement proceeds from a claim of an adult ward, the provisions of Loc.R. 68.5 shall apply, unless otherwise clearly inapplicable.

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

LOC.R. 70.1 SETTLEMENT OF CLAIMS

The application to settle a claim for wrongful death and the apportionment of the proceeds are two distinct matters for which the Court may require separate hearings. Interested parties to be notified are those set forth in R.C. 2125.02 and identified in the case of *In Re Estate of Payne*, Ohio, 2005-Ohio-2391 (10th Dist.). Subject to the exceptions under RC 2105.19 and RC 2125.02, those persons rebuttably presumed to have suffered damages are the parents of the decedent, the surviving spouse and the children. Other next of kin who must prove their loss are the grandparents, grandchildren and siblings of the decedent. Subrogated providers and insurers for which the Applicant does not have settlement amounts already established in writing are interested parties and are entitled to notice. When applicable, the State of Ohio Medicaid Recovery Administrator may also be an interested party. Waivers and consents to the proposed distribution must be filed from all interested parties, or a hearing and service of notice upon them will be required.

Attorney fees for the completion of the probate proceedings in connection with the settlement of wrongful death claim shall be paid from the allowed contingent attorney fee unless there is no attorney involved in the representation of the injured parties. In that event, the recipients

of the benefits, unless otherwise mutually agreed, shall proportionately pay the probate attorney fees and costs.

When a structured settlement is contemplated for any portion of the settlement proceeds, the provisions of Loc.R. 68.5 shall apply.

LOC.R. 70.2 WRONGFUL DEATH PROTOTYPE TRUST

The Court has adopted and filed a prototype Wrongful Death Trust which is available on the Court's website: probate.co.delaware.oh.us under Local Forms. Attorneys who wish to use the prototype must file an acknowledgement that the wrongful death trust presented to the court conforms to the current prototype wrongful death trust. If any changes are made to the prototype, the changes shall be specifically noted. An attorney who wishes to create their own wrongful death trust shall submit the proposed wrongful death trust to the Court at least seven days prior to the hearing on the wrongful death settlement hearing.

LOC.R. 70.3 WRONGFUL DEATH TRUSTS-NO MULTIPLE BENEFICIARIES

A separate wrongful death trust will be created, with a separate case number, for each wrongful death trust beneficiary whose distribution will be made to a wrongful death trust.

SUP.R. 71 COUNSEL FEES

LOC.R. 71.1 ATTORNEY FEES

All fees charged by an attorney representing a fiduciary in matters before this Court, including but not limited to work on decedents' estates, guardianships, conservatorships, and testamentary trusts, must be disclosed to the Court (typically on the fiduciary's account) regardless of the source of payment. If the source of payment is other than the fiduciary, counsel must identify

on the account the source of payment. For the purpose of this rule, “fiduciary” also includes commissioners and applicants for release from administration. If an account is not required, the payment must be disclosed to the Court on the Certificate of Termination, through consents to fees from those bearing the burden of the fee, or on other court filings, as may be appropriate.

The Court presumes that attorneys are familiar with Sup.R.66.08, Sup.R.71 and Prof.Cond.R.1.5 governing the fees and expenses of attorneys. As provided in Sup.R.71(D), the Court may set a hearing on any application for allowance of attorney fees, regardless of the submission of consent(s) to fees.

In all cases when counsel has calculated attorney fees on other than an hourly basis, counsel shall prepare a separate filing identifying the method applied, showing the Court the calculation, and reflecting the result. In all estates for decedent’s dying after December 31, 2012, the Court will schedule a hearing when counsel has calculated the attorney fees on other than an hourly basis (See Loc.R. 71.4), unless counsel previously has filed an application for approval of a contingent fee contract (See Loc.R. 71.8).

The attorney will not be compensated for either preparing the fee statement/application or for any of the hearings or proceedings thereon. Payment of fees for fees is not permitted.

The hourly billing rate of an attorney is considered to include the cost of office support staff and office overhead. Services billed at paralegal time should not be for secretarial or administrative functions.

LOC.R. 71.2 ATTORNEY SERVING AS FIDUCIARY

In all matters where an attorney is the fiduciary of the estate, guardianship, or trust, and that attorney or another is the attorney of record, detailed records shall be maintained describing time and services as fiduciary and as attorney, and if requested by the Court, or required by local

rule, shall be submitted to the Court for review. Upon review of the records, the Court may set the fees for hearing, regardless of the submission of consent(s) to fees. Prof.Cond.R.1.5, Sup.R71 and applicable law shall govern the reasonableness of all fees, notwithstanding statutory commissions, and allowances. Matters not requiring professional skills should not be billed at the attorney's standard legal billing rate. The Court assumes an attorney appointed as a fiduciary has been selected due to the attorney's special knowledge and abilities that are expected to result in savings of fees to the estate, guardianship, or trust.

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 the 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 as to the amount and timing of 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. Notwithstanding the filing of consents, the Court may exercise its discretion to set any early payment application for hearing.

LOC.R. 71.4 NOTICE AND CONSENT FOR ATTORNEY FEES IN ESTATES

Other than Hourly Basis Calculations: Except for contingent fee cases, if the attorney fees are calculated on *other than an hourly basis*, the fees shall not be paid until court approval has

been obtained after notice and hearing. At the hearing, counsel will be required to establish compliance with Sup.R.71 and Prof.Cond.R.1.5. The filing of consents to fees by all persons and creditors whose interests are affected by the payment of fees is supportive of the request, but they are not determinative.

Hourly Basis Calculations: (A) If greater than fifty (50%) percent of all persons (including creditors of insolvent estates) whose interests are affected by the payment of attorney fees file written consents to the fees, the fiduciary can, without court approval, pay the attorney fees at the time the final account is prepared for filing. Such payments remain subject to the Court's review of the account and subject to consideration of any exceptions to the final account by non-consenting affected beneficiaries, and in the case of insolvency, affected creditors.

(B) If only fifty (50%) or less of all persons (including creditors of insolvent estates) whose interests are affected by the payment of attorney fees have filed written consents to fees, the fiduciary or counsel must file an application for payment of attorney fees before those fees can be paid or accepted. An itemized statement reflecting the services rendered, the fee calculation, and such other information as the applicant deems appropriate to establish that the requested fees comply with Sup.R.71 and Prof.Cond.R.1.5 shall accompany the application. The application shall be set for hearing and the applicant shall give notice of hearing and a copy of the application to all non-consenting affected beneficiaries, and in the case of insolvency, to the affected creditors. In the case of insolvency, the notice and hearing is deemed a part of the insolvency proceedings if the requested fees are included on the Schedule of Claims in Insolvency and the creditor is served in the insolvency proceedings.

The consent of an interested party to the payment of an attorney fee is given by the signing and filing of Consent to Attorney Fees form (Loc. F. 71.4A).

LOC.R. 71.5 NOTICE AND CONSENT FOR ATTORNEY FEES IN
GUARDIANSHIPS

In guardianships, the Court shall consider an initial application for attorney fees relating to the establishment of the guardianship: (a) in a guardianship of the person only upon the issuance of the Letters of Guardianship, and (b) in a guardianship of the estate only, or of the person and estate, upon the filing of the inventory (and if applicable the filing of the verification of restricted deposit of assets). Thereafter, the Court shall consider additional fees annually upon the filing of each account, at the conclusion of any special proceedings or matters, or as otherwise approved by this Court. Notice of the application shall be given to the guardian of the estate, if any has been appointed. The guardian of the estate may waive notice of the hearing on the application and consent to the payment of fees.

An Application for payment of attorney fees in a guardianship shall be accompanied by an itemization of the services provided, the date of the services, the time expended, the hourly rate for the services and the identity of the individual providing the services.

Upon the death of the ward, the Court will consider attorney fees as liens on the ward's assets. If the Court approves the fees, the fees may be paid out of the guardianship assets and included in the final guardianship account. The Court may require that notice of the hearing on the fees be given to the estate fiduciary of the deceased ward or other interested persons.

LOC.R. 71.6 NOTICE AND CONSENT FOR ATTORNEY FEES IN
TRUSTS

In the administration of trusts, the Court shall consider applications for attorney fees for the establishment of the trust upon the filing of the inventory, and if applicable the filing of the

verification of restricted deposit. Additional fees shall be considered annually upon the filing of each account, or as otherwise approved by the Court.

Notice of application shall be given to the trustee. The trustee may waive notice of hearing on the application and consent to the payment of fees. The Court may require notice of the hearing on the payment of the fees be given to the trust beneficiaries who are affected by the payment of fees.

LOC.R. 71.7 CONTESTED FEES

The burden is upon the attorney to prove the reasonableness of the fee as governed by Prof.Cond.R.1.5. If not already filed, the Court may require a detailed fee statement that includes an itemization and date of service performed, time expended, identification of the individual(s) performing the services, the hourly rate charged. The Court may request such other information as the Court deems relevant to determine the reasonableness of the fee.

LOC.R. 71.8 CONTINGENT FEES

A fiduciary shall make a written application to the Court for authority to enter into a contingency fee contract for legal services. The application shall include the written fee agreement with counsel. Approval is preliminary and is subject to final review at the conclusion of the matter which is the subject of the contingent fee contract.

In a minor's settlement case where the amount of the settlement does not require the appointment of a guardian, the attorney shall make the above application.

If there are ancillary attorney fees and court costs associated with administering an estate, establishing a guardianship, or dispensing with the appointment of a guardianship, where the primary purpose of the proceedings is to settle or resolve a claim, then the ancillary attorney fees

and court costs shall be paid out of the contingent fee, unless otherwise allocated by the Court between the contingent fee and the beneficiaries of the settlement.

SUP.R. 73 GUARDIAN'S COMPENSATION

LOC.R. 73.1 GUARDIAN'S COMPENSATION

When compensation for the services of a guardian is allowable, the following shall apply to non-Veterans Administrative benefits.

(A) Guardian's compensation for services as a guardian of the estate shall be computed and filed annually upon application/entry and shall be supported by calculations and documentation. A Calculation of Guardian Compensation form (Loc. F. 73.1A) shall be filed in support of the application. Compensation for the period covered by the account shall be deemed to have been waived if the application for compensation is not filed within one year of the date the account was filed. Extraordinary fee applications shall be set for hearing unless the Court waives hearing. The following fee schedule shall apply for ordinary guardian's compensation:

(1) Income/Expenditure Fee. Four percent (4%) of the first \$10,000 of income received, plus three percent (3%) of the balance in excess of \$10,000, excluding income from rental real estate, and four percent (4%) of the first \$10,000 of expenditures, plus three percent (3%) of the balance in excess of such \$10,000 except expenditures pertaining to rental real estate.

- (2) Principal Fee. Three Dollars (\$3.00) per thousand for the first \$200,000 of fair market value, and Two Dollars (\$2.00) per thousand on the balance of the corpus, unless otherwise ordered.
- (3) Principal Distribution Fee. Three Dollars (\$3.00) per thousand for the first \$200,000 of fair market value of corpus distributed upon the termination of the guardianship, and Two Dollars (\$2.00) per thousand on the balance of the corpus distributed upon the termination of the guardianship, unless otherwise ordered.
- (4) Income and Rental Income Defined. If the guardian manages rental real estate, a fee amounting to ten percent (10%) of gross rental real estate income may be allowed. If the guardian receives net income from rental real estate actively managed by others, then the guardian shall treat such net income as ordinary income. No fee shall be allowed to the guardian on expenditures pertaining to rental real estate. As used in this rule, “income” shall mean the sum of income as defined in R.C. 1340.03, plus pension benefits, and net gains from the sale of principal. Assets held by the ward at the date of appointment are deemed principal and not income.
- (5) For purposes of calculating the allowable guardian’s compensation, the *income* factor shall be the income received during the period covered by the account, and the *corpus* shall be the sum reflected as the balance forward shown on the inventory or prior account, whichever has been filed most recently.
- (B) Unless the Court waives the hearing, compensation for services as guardian of the person shall be set for hearing and notice shall be given to the guardian of the estate, if any has been appointed. Compensation of the guardian of the person shall be deemed to have been waived for the period covered by a guardian’s account, unless the guardian of the person

files an application for compensation for that period within one year of the date of the filing of the account.

- (C) Compensation for a corporate fiduciary exempt from bond pursuant to R.C. 1111.21 shall be calculated in accordance with its published fee schedule, if the fee schedule is filed in this Court.
- (D) After the death of the ward, the Court will consider final guardian's compensation as a lien on the ward's assets. If the Court approves the compensation, the compensation may be paid out of the guardianship assets and included in the final guardianship account. The Court may require that notice of the application be given to the fiduciary of the deceased ward or other interested persons.
- (E) When a guardian is applying for compensation as guardian of the person, the guardian shall consider the factors set forth in Sup.R.73. The application for compensation should address each applicable factor (itemization of expenses, additional compensation, and apportionment of the aggregate compensation between co-guardians).
- (F) When a guardian is applying for compensation for Veterans Administrative benefits, the guardian shall submit calculation based upon RC. 5905.13.

LOC.R. 73.2 INDIGENT GUARDIANSHIP FUND PAYMENTS

Applications for payment from the indigent guardianship fund must be accompanied by an itemization of services. Before payments will be approved from the county indigent guardianship fund, an Affidavit of Indigency (Loc. F. 66.11A) must have been filed in the case, as set forth in Loc.R. 66.11. For guardianships with non-attorney guardians where attorney fees are being

requested, the attorney fee application must be approved by the guardian, or the attorney fee matter will be set for hearing before being approved.

For Court Appointed Attorney Serving as a Guardian (including an Attorney/certified National Master Guardian) - The maximum hourly rate for compensation paid is the hourly rate established for payments made to assigned counsel and guardians ad litem in the Juvenile Division of this Court, unless otherwise ordered in a particular case. The total allowable compensation for an indigent guardianship (guardian services and attorney fees) shall not exceed \$3,000.00 annually. Time shall be reported in tenths of an hour (6 minute increments). For court appointed attorneys with more than thirty indigent wards, the maximum guardian's compensation from the indigent guardianship fund for services to any permanently institutionalized ward (i.e. residing in assisted, skilled or other non-community care facilities) within the mix of cases shall be \$1,500.00 annually, provided compensation rates shall be prorated for multi-placement periods. (see Loc.R. 66.05 for limitations on mix of wards when the appointed guardian has more than thirty indigent wards).

For Court Appointed Non-Attorney Licensed Social Workers, Licensed Independent Counselors, Registered Nurses, or certified National Master Guardians Serving as Guardian - The maximum hourly rate for compensation paid to such guardians shall be \$25.00 and the total annual compensation shall not exceed 60 hours annually with a maximum payment of \$1,500.00. Additionally, the guardian may employ the services of an attorney who shall be compensated not more than \$350.00 annually at the rates established for payments to assigned counsel and for guardian ad litem in the Juvenile Division of this Court. Time shall be reported in tenths of an hour (6 minute increments).

For Other Court Appointed Non-Volunteer Guardians – The maximum hourly rate for compensation paid to such guardians shall be \$17.50 and the total annual compensation shall not

exceed 60 hours annually with a maximum payment of \$1,050.00. Additionally, the guardian may employ the services of an attorney who shall be compensated not more than \$350.00 annually at the rates established for payments to assigned counsel and guardian ad litem in the Juvenile Division of this Court. Time shall be reported in tenths of an hour (6 minute increments).

Other Conditions - If the ward's situation justifies extraordinary compensation, the applicant must make application to the Court and demonstrate the extraordinary and unexpected need. The guardian, should obtain approval in advance of providing non-emergent extraordinary services.

If the period of the fee application covers less than a twelve (12) month period, the annual fee cap shall be proportionately adjusted to the percentage of the year that is covered by the application. However, in recognition of the intensive need for services during the initial months of most guardianships, in the first year of the appointment, if a partial year application is filed, the guardian may allocate up to 70% of the annual cap to the first 6 month period of the appointment. In such instances, the compensation payable for the balance of the annual period, when combined with the sum allowed for the initial partial year, shall not exceed the annual cap.

All applications for compensation for payment from the indigent guardianship funds, whether for attorney fees or guardianship services, shall be submitted annually for the preceding calendar year not later than July 1 of the following calendar year that the services were rendered, otherwise fees may be denied by the Court.

Compensation for family member guardians of the ward shall not be approved for payment from the indigent guardianship fund.

SUP.R. 74 TRUSTEE’S COMPENSATION

LOC.R. 74.1 TRUSTEE’S COMPENSATION

When compensation for the services of a trustee subject to this Court’s jurisdiction is allowable, the following shall apply:

(A) Trustees subject to this Court’s jurisdiction may be allowed compensation annually for ordinary services in connection with the administration of each separate trust. Trustee’s compensation for services shall be computed annually upon application and entry and shall be supported by calculations and documentation. Loc. F. 74.1A (Calculation of Trustee Compensation) may be filed in support of the application. Extraordinary fee applications shall be set for hearing unless the Court waives hearing. The Trustee’s ordinary compensation shall be calculated using the following fee schedule:

- (1) Income Fee. Six percent (6%) of the gross income received during the accounting period not exceeding \$10,000 of gross income, five percent (5%) of the next \$10,000 of gross income, and four percent (4%) of such gross income exceeding \$20,000, chargeable to income unless otherwise ordered.
- (2) Principal Fee. Five Dollars (\$5.00) per thousand for the first \$200,000 of fair market value, and Four Dollars (\$4.00) per thousand on the next \$200,000, and Three Dollars (\$3.00) per thousand on the balance of the corpus, chargeable to the principal, unless otherwise ordered.
- (3) Principal Distribution Fee. Five Dollars (\$5.00) per thousand for the first \$200,000 of fair market value of corpus distributed, and Four Dollars (\$4.00) per thousand of the next \$200,000, and Three Dollars (\$3.00) per thousand of the corpus distributed, unless otherwise ordered.

- (4) Income Defined. As used in this rule, “income” shall mean the sum of income as defined in R.C. 5812.01(D), pension benefits, and net gains from the sale of principal accrued during the trust administration. Assets held by the trustee at the date of appointment are deemed principal and not income.
- (B) Compensation for a corporate fiduciary exempt from bond pursuant to R.C. 1111.21 shall be compensated in accordance with its published fee schedule which shall be filed in the case. The trustee shall notify vested trust beneficiaries affected by the payment of fees of any changes in its corporate fee schedule.
- (C) Additional compensation for extraordinary services or allowance for expenses may be granted on application and entry, which shall be set for hearing unless waived by the Court.
- (D) For purposes of calculating the allowable trustee’s compensation, the *income* factor shall be the income received during the period covered by the account, and the *corpus* shall be the sum reflected as the balance forward shown on the inventory or prior account, whichever has been filed most recently.
- (E) If a trust has been established through this Court and the trust contains provisions establishing a fee, the Court may review the reasonableness of the established fee within the context of the complexities and changing circumstances bearing on the administration of the trust and may make such adjustments as are prudent.
- (F) All applications for payment from a trust, whether for attorney fees, or trustee services, shall be submitted annually for the preceding calendar year not later than July 1 of the following calendar year that the services were rendered, otherwise fees may be denied by the Court.

SUP.R. 75 LOCAL RULES

LOC.R. 75.1 GUARDIAN AD LITEM

The Court, in its discretion and pursuant to Civ.R.17(B), may appoint a guardian ad litem for any minor or person under disability, including, but not limited to, cases in which a minor's claim is being settled and the minor is not represented by an attorney

The Court shall select and appoint each guardian ad litem. In real property sale proceedings, a minimum fee of One hundred-Fifty and No/100 Dollars (\$150.00) shall be allowed for each appointed guardian ad litem; however, if the circumstances warrant, upon application, the Court may approve the payment of additional compensation to the guardian ad litem. The guardian ad litem fees for real property sale proceedings shall be assessed as costs and guardian ad litem fees in other proceedings may be assessed as costs, or as the Court may otherwise order, including against the parents of a minor.

In all other proceedings, the fee allowed the guardian ad litem will be determined upon motion supported by a statement of services. The Court may require an additional cost deposit to cover anticipated fees of the guardian ad litem.

LOC.R. 75.2 ADOPTIONS

When proceedings for adoptions are filed with the Court, the following shall apply:

- (A) All petitioners for adoption are required to be represented by an attorney, *except* for proceedings for the recognition of foreign adoptions and adult adoptions.
- (B) An original and a copy of all filings shall be filed in every adoption case. Sufficient additional copies of the petition shall be submitted as required for service of notice, with an additional copy for the court assessor.

- (C) In private placement adoptions, the proposed adopting parents shall file a pre-placement application not less than thirty (30) days prior to placement. This pre-placement application shall be in a form prescribed or approved by the Court.
- (D) Once the pre-placement application has been approved by the Court, and the child is born, a hearing shall be held not less than seventy-two (72) hours after the birth or after the birth parent(s) have met with the adoption assessor, whichever occurs later, for the placement and consent by the birth parents. Prior to the placement hearing, the child's physician shall provide the Court with a statement as to the medical condition of the child being placed. If the placement is approved, the adoption petition must be filed before the Court will issue a Hospital Release for the release of the child to the petitioners or the attorney for the petitioners.
- (E) When the petitioner is the guardian of the minor to be adopted, the Court shall require a placement hearing. The adoption petition shall not be set for hearing until after the placement is complete.
- (F) In all adoption cases, Court cost deposit is required to be paid at the time of the initial filing. The Court should be consulted in advance for current deposit information.
- (G) The criminal background checks pursuant to R.C. 2151.86 (E) shall be filed in all adoption cases.
- (H) Petitioner's accounts shall be filed in all adoption cases, *except* for step-parent adoptions and adult adoptions.
- (I) In all adoptions, married petitioner(s) must be married for not less than one (1) year prior to the final approval of the adoption.

- (J) In all placement hearings, the birth mother must be represented at the hearing by counsel. Attorney fees for the birth mother will be assessed as costs to the petitioner(s).
- (K) The adoption assessor meeting with the birth parent(s) in the course of preparing a report for an adoption proceeding in this Court, shall provide the birth parent(s) with a copy of the materials/brochure prepared pursuant to R.C. 3107.082 and 3107.083. The adoption assessor providing the birth parent(s) with a copy of this brochure shall file a certificate of compliance with R.C. 3107.082 in a format satisfactory to the Court prior to the first hearing that involves the birth parent(s) who received the brochure.
- (L) The status of pending pre-placement applications and adoption proceedings shall be reviewed annually and the Court may order further action as necessary.
- (M) The Court Assessor's Report shall be filed with the Court not later than ten (10) days prior to the adoption hearing. The report shall be made available to counsel for the petitioner(s) to read prior to the hearing, upon request to the deputy clerk, however copies may be obtained only after the hearing and only with the approval of the Judge.

LOC.R. 75.3 RESTRICTED DEPOSITS IN LIEU OF BOND

This local rule is applicable to cases other than those involving the deposit of the proceeds for a minor pursuant to Loc.R. 67.3 and Loc.R. 68.3. When a fiduciary is permitted by the Court to deposit assets into a restricted access custodial account in lieu of bond, all custodial deposits of personal property, securities, and monies must comply with R.C. 2109.13. Fees of the fiduciary and counsel for the fiduciary shall not be approved or paid until the Court is satisfied that the funds being deposited have been received by the custodial depository, are being held restrictively in

accordance with applicable law, and an Initial Verification of Receipt and/or Deposit of Custodian (Loc. F. 22.3A), or other acceptable verification, has been filed with the Court. Annually thereafter, the custodial depository must file a statement of activity relating to the custodial assets by completing and filing the Annual Verification of the Funds with Restricted Access (Loc. F. 22.3B).

A form Motion for Release of Assets to Be Deposited with a Custodian in Lieu of Bond is available on the court's website. Also available on the website is a form Motion to Expend Custodial Funds.

LOC.R. 75.4 SURETY BONDS

When surety bonds are required in any proceeding before the Court, the following shall apply:

- (A) Attorneys shall not act as sureties in any case, nor shall they be permitted to become sureties on the bond of any fiduciary.
- (B) The Court will not accept any personal sureties.
- (C) Bond required by law or Court Order shall be in an amount not less than double the probable value of the personal estate and all sources of income (including anticipated rents) during the next succeeding accounting period .
- (D) The fiduciary shall pay all bond premiums within the later of sixty (60) days of filing of the bond with the Court, or the billing date for the premium. If payments are not made pursuant to this rule, the fiduciary may be held personally liable for its payment and is subject to being removed.
- (E) The adequacy of bonds will be reviewed by the Court upon the filing of the inventory, the filing of each account, the filing of a Consent to Sale of Real Estate, or at any other time the Court determines to be prudent.

- (F) Upon the filing of a will contest action, the Court will review the general estate file and determine whether it is appropriate to order the filing of a bond, or increased bond, regardless of the bond provisions set forth in the contested will.
- (G) For good cause shown, the Court may authorize a reduction in bond.

LOC.R. 75.5 RELEASE AND SUMMARY RELEASE OF ESTATES FROM ADMINISTRATION

When an application is filed to release an estate from administration or for a summary release of an estate from administration, the following shall apply:

- (A) The Court shall select and appoint a commissioner, when required, in an estate released from administration;
- (B) A commissioner shall be a resident of the State of Ohio, unless Applicant is the sole beneficiary of the estate and the period for filing claims has lapsed without a claim having been filed with the Court;
- (C) The Court may waive a noticed hearing in those instances where it appears no beneficiaries or creditors will be prejudiced;
- (D) Documentation supporting the valuation and ownership of the assets to be released shall be provided at the time of filing of the Application; and
- (E) The Court may require a surety bond, before the appointment of a commissioner.

An applicant not represented by counsel shall display to the Court a certified copy of the death certificate at the time of the initial filing of the Application and the deputy clerk shall make a copy for the case file and redact the social security number from the copy. Filing counsel may submit a copy of the original death certificate with the social security number redacted.

An applicant who is not represented by counsel shall exhibit to the Court photo identification and proof of a current address in a manner satisfactory to the Court and comply with Loc.R. 62.1 relating to the Medicaid Recovery Acknowledgment.

LOC.R. 75.6 WILLS IN SAFE DEPOSIT BOX

When a decedent has a safe deposit box, for which there is no authorized living signatory, and if there has not been a personal representative appointed for the decedent, then the Court, upon application, may appoint an attorney, an investigator of the Court, or a suitable person, as determined by the Probate Court, as a commissioner for the sole purpose of entering the safe deposit box, and recovering the decedent's wills and codicils from the safe deposit box for delivery to the Court. Unless the commissioner waives compensation in writing at the time of the application, in addition to the Court's filing fees, a fee established by the Court shall be payable to the commissioner upon filing of the report and shall be collected as costs upon filing of the application. A case number shall be assigned to the application. The Application to Enter Safe Deposit Box form (Loc. F. 75.7A) and the Report of Entry of Safe Deposit Box form (75.7B) may be used for these purposes. If the court investigator is appointed as the Commissioner, an additional fee of Twenty Dollars (\$20.00) shall be assessed as court costs.

LOC.R. 75.7 MARRIAGE LICENSE APPLICANTS

All applicants must meet the requirements of R.C. 3101.05 and R.C. 3101.05. Pursuant to R.C. 3101.05, any applicant for a marriage license who is a minor the age of seventeen years, 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, and have the consent of the Juvenile Court. (R.C. 3101.01-3101.05).

Proof of termination of the most recent prior marriage (display of the death certificate or certified court order), shall be required at the time of the application, when there has been a prior marriage.

LOC.R. 75.8 OHIO ESTATE TAX RETURN (for persons dying prior to January 1, 2013)

The Court pursuant to the instruction from the Ohio Department of Taxation, will not accept for filing any Ohio Estate Tax documents.

LOC.R. 75.9 WITHDRAWAL AND SUBSTITUTION OF COUNSEL

When counsel considers withdrawing from representation in a matter before this Court or a substitution of counsel is occurring, counsel shall comply with Prof.Cond.R.1.16 and the following shall apply:

- (A) An attorney desiring to withdraw from representation shall file a motion to withdraw stating the reasons for withdrawal. The motion shall contain the last known address and telephone number of the client. The motion shall be accompanied by (1) a written acknowledgment and consent to the withdrawal signed by the client, or (2) a proposed Judgment Entry setting the Motion for hearing. The Court shall not issue an entry approving the withdrawal until the attorney has recited in the Motion or filed a certification that all of the following conditions have been met:

- (1) Notice has been given to the client advising the client of all known filing deadlines occurring within the next 90 days affecting the client's case;
 - (2) Notice has been given to all involved attorneys, unrepresented parties, and interested persons; and
 - (3) Notice has been given to any bonding agencies involved.
- (B) The Court will not approve an Attorney's request to withdraw from a case within thirty (30) days preceding a trial or dispositive hearing, except for extraordinary circumstances.
- (C) Substitution of counsel does not require approval of the Court; however, written notice of substitution shall be filed with the Court. The substituting counsel shall give written notice to all involved attorneys, unrepresented parties, and interested persons.

LOC.R. 75.10 DEPOSIT OF GUARDIANSHIP NOMINATION INSTRUMENT

The Court will accept for safekeeping the deposit of an instrument that prima facie complies with R.C. 1337.28 (Power of Attorney) or R.C. 2111.121 (non-power of attorney) and contains a nomination of a guardian. A completed Guardian Nomination Instrument for Deposit form (Loc. F. 75.10A) must accompany the filing. The Court's acceptance for the instrument for deposit does not constitute a determination of the validity or the effectiveness of the instrument.

LOC.R. 75.11 CONTESTED NAME CHANGES –MINOR

At the hearing on an application for the change of name of a minor, the applicant for the change of name of a minor must provide the Court with the a copy of the child support enforcement

agency payment history for the minor, if a child support order has been issued with respect to the minor.

RULE 75.12 Expert Witness Fees

(1) It is the responsibility of any party calling an expert witness to:

- (a) Pay the reasonable fee of such expert witness for preparation and testimony at hearing or trial, or at deposition in lieu of appearance; and
- (b) Assure the availability at trial or hearing of such expert witness, without subpoena, if such appearance is requested by the calling party.

(2) It is the responsibility of any party taking the discovery deposition of an expert to pay the reasonable fees of the expert witness for actual time spent at deposition which shall be billed at not less than one hour of the customary hourly rate of the witness for testimony. After one hour of testimony, each additional period of time shall be billed in ¼ hour increments.

(3) The above-listed responsibilities for payment of fees are not affected by the method of selection of the expert witness, such as appointment by the court, selection by the calling party, or selection by another party.

(4) This provision does not affect the application of Loc.R. 66.20.

(5) Any party may move the Court for an exception to subsections (A)(1) or (A)(2) if such an exception is in the interests of justice.

SUP.R. 78 CASE MANAGEMENT IN DECEDENT’S ESTATES, AND TRUSTS, AND CIVIL ACTIONS

LOC.R. 78.1 INVENTORY

When an inventory is filed with the Court, the following shall apply:

(A) If the inventory filed is in an estate the following shall apply:

(1) In lieu of the appraiser signing the estate inventory, the fiduciary may attach the original appraisal(s) containing the signature of the appraiser(s) to the inventory.

(2) Pursuant to R.C. 2115.06, the Court, upon application and for good cause shown, may dispense with the appraisal of any estate asset comprising a part of the estate inventory. Each application shall specifically state the reason(s) for the request. Notwithstanding the foregoing, pursuant to RC 2115.06, an application to dispense with appraisal is not necessary when the fiduciary elects to use the County Auditor's valuation for real estate, provided the fiduciary includes a notation on the Inventory that the auditor's valuation is being used and attaches to the Inventory a copy of the parcel's property tax card. The county auditor's valuation, when used for the Inventory, is not determinative of fair market value in related proceedings in which the Court must approve the price for a sale or purchase of the real estate parcel.

(B) When an inventory is filed in an estate, trust or a guardianship, the following shall apply:

(1) The inventory shall contain the address, legal description, and parcel number of any real estate of the decedent, the ward, or held by the trust.

(2) The inventory will prompt the Court to review the sufficiency of the existing bond pursuant to Loc.R. 75.4.

(3) Upon application, and for good cause shown, the Court may approve the transfer of a motor vehicle prior to the filing of the inventory.

(4) Where Court approval is required for the transfer of other assets, the Court will not approve the distribution, sale, or expenditure of any other property of the estate

or guardianship (other than motor vehicles when expressly approved for transfer pursuant to the preceding paragraph) prior to the filing of the inventory.

(5) Unless supported by an appraisal, valuations for motor vehicles shall be supported by current trade-in valuations obtained from *Kelley Blue Book, Edmunds*, or the *NADA Guide*. A copy of the current motor vehicle title must be filed before a transfer will be approved.

(6) When multiple fiduciaries have been appointed, all fiduciaries must sign the inventory and the absence of any signature must be explained with the filing.

(C) Hearings shall be scheduled for the inventory filed in an estate. In every estate in which an inventory is filed, a Notice of Hearing on Inventory shall be served on all interested persons as defined in Loc.R. 64.9(A) and a Certificate of Service of Inventory and Notice of Hearing (Loc. F. 78.2A) shall be filed. Service may be made in accordance with the methods of service authorized in Loc.R. 64.9(B) and if certified mail return receipts or U.S. Postal Certificates of Mailing are used as evidence, photocopies of the originals shall accompany the filing. The signed Waiver of Notice of Hearing and Consent to Inventory (Loc. F. 78.2B) may be used in lieu of service.

LOC.R. 78.2 ELECTRONIC RETURN RECEIPT

Electronic proof of service for certified mail or express mail provided to the Court through the U.S. Postal Service electronic return receipt program shall be deemed adequate evidence of service in accordance with the service requirements of Civ.R.73 and Civ.R.4.0 through 4.6.

LOC.R. 78.3 CERTIFICATE OF TRANSFER OF REAL ESTATE

Each Certificate of Transfer (SPF 12.1) tendered to the Court pertaining to real property situated in Delaware County, Ohio, should be submitted in duplicate and shall be submitted to the Delaware County Engineer for review of the legal description. Each certificate shall be stamped by the Delaware County Engineer as “Approved”, “Approved for Estate Transfer Only” or “Approved for Closing Purposes” prior to submitting the certificate to the Court. With the Court’s rule requiring that the case file contain a Certificate of Transfer of Real Estate bearing an original stamp from the county engineer’s office, applicants should consider obtaining the county engineer’s stamps on two copies to assure that they are returned a recordable Certificate of Transfer.

Applicants seeking to transfer out-of-county real estate are encouraged to comply with that county’s pre-approval process to assure that the recording of the Certificate of Transfer is seamless.

If the decedent owned only a fractional interest in the real property, the fractional interest shall be specifically set forth as part of the legal description of the real property.

The prior recorded instrument for the real property interest being transferred shall be recited on the Certificate for Transfer and the preparer’s name shall be entered.

LOC.R. 78.4 JURY TRIALS

The Local Rules of Practice of the Court of Common Pleas Court of Delaware County, Ohio, (General Division) as they relate to juror selection, jury management and jury trial, shall apply to proceedings in the Probate Court, except to the extent that the Common Pleas (General Division) rule would be clearly inapplicable or this Court expressly orders otherwise. A failure to make the jury cost deposit by the due date established by the Court shall be deemed a withdrawal of the jury request and a waiver of the jury trial, unless the requesting party has been determined to qualify as an indigent litigant through the filing of the Court’s Affidavit of Indigency (DCPC

Form 66.11A), if applicable legislation is subsequently enrolled, then through the statutory procedure (See Sub. H.B 595. 132nd General Assembly).

LOC.R. 78.5 EVIDENCE OF DEATH

With the initial filing of any estate administration proceeding 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. Proof of death is required when a will is being filed for record only.

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. 78.6 SPECIAL NEEDS TRUSTS

In addition to the requirements of R.C. 5163.21(F) all special needs trusts tendered to the Court for approval, or to be funded with Court approval, must provide the following terms:

- (A) That no expenditure can be made without Court approval;
- (B) That a surety bond shall be filed by the fiduciary, unless the fiduciary is exempted from filing a bond under R.C. 1111.21, or the assets of the trust are deposited in a custodial depository under R.C. 2109.13;

- (C) That during the life of the beneficiary, the applicable county Department of Job and Family Services, upon written request to the trustee, shall be entitled to reasonable information regarding the trust's administration;
- (D) That following the death of the beneficiary, the State of Ohio, Medicaid Recovery Administrator shall be afforded the notice rights otherwise accorded a residual trust beneficiary as well as being entitled to reasonable information regarding the trust's administration upon written request to the trustee;
- (E) That the Trustee shall file an annual accounting unless the assets are deposited with a custodial depository pursuant to R.C. 2109.13, in which case the trust shall provide that one of the duties of the Trustee is to assure that the Annual Verification of Funds with Restricted Access form (Loc. F. 22.3B) is filed with the Court; and
- (F) That no distribution can be made from the trust to discharge any duty of support owed to a beneficiary.

LOC.R. 78.7 NON-ORAL INSOLVENCY HEARINGS

Unless otherwise requested in writing by the fiduciary when filing a Representation of Insolvency and a Schedule of Debts, the Court's Judgment Entry Setting Hearing and Ordering Notice (Form 24.1) will provide for a non-oral hearing, with an alternative contingent date for an oral hearing. In the event an interested party files a written objection prior to the non-oral hearing, or if the Court determines it to be appropriate, the matter will be continued from the non-oral hearing date to the scheduled alternative contingent oral hearing date with notice to the fiduciary and the objector.

The fiduciary's written Notice of Hearing on Representation of Insolvency and Schedule of Claims (Form 24.2) should be modified to incorporate the non-oral hearing date and the notice regarding written objections. The fiduciary should modify the Form 24.2 to read substantially as follows:

The Representation of Insolvency and the Schedule of Claims shall be heard non-orally by the Delaware County Probate Court located at 145 N. Union St., 3rd Flr., Delaware, Ohio on the ____ day of _____, 201__ at _____ o'clock ____ . M. If an interested party files a written objection with the Court prior to the non-oral hearing, the matter will be continued for oral hearing on _____, 201_ at _____ .M.

The fiduciary should assure that verification of service of the notice is filed with the Court no later than the non-oral hearing date. The fiduciary and counsel should not attend the non-oral hearing which consists of an internal file review by the Court.

LOC.R. 78.8 UNCLAIMED INHERITANCES

Pursuant to RC 2113.64 through 2113.68, the Court has ordered fiduciaries holding funds representing an unclaimed inheritance to deposit them for safekeeping with the County Treasurer for credit to the general fund. The Court maintains on its website a current listing of the owners of those funds. A claimant for the funds must file the Unclaimed Inheritances form (Loc. F. 78.11) and provide supporting information to establish entitlement to the funds. Interest is not paid on the funds deposited with the County Treasurer.

LOC.R. 78.9 CASE MANAGEMENT SCHEDULE IN CIVIL ACTIONS

(A) Request for Issuance of Summons (Loc.F.1.1A) shall be filed by the plaintiff in all civil actions. It is the responsibility of the filer to request service of summons. When the court issues service of summons upon each defendant in a civil action pursuant to

Civ.R.4 the court will only include the summons, a copy of the complaint, and when requested, an order to serve and an entry setting hearing.

(B) The Ohio Rules of Civil Procedure, including but not limited to those rules pertaining to service, discovery, and dispositive motions, shall apply to all civil actions, unless inapplicable by statute or rule.

(C) A status conference and pre-trial conference shall be conducted in all civil actions, except land sales, unless otherwise ordered by the court. Parties may request a status conference in any case.

(D) In all cases except for land sales, the plaintiff-either pro se or through counsel-shall request a status conference within thirty days after the final answer day for any defendant. A defendant may request a status conference if the plaintiff fails to timely file a request. Notice of the status conference shall be given to all parties listed in the complaint who have not been defaulted.

(E) Status Conferences A representative counsel for each party, and all unrepresented parties, shall appear at the status conference, and be prepared to discuss the following:

- (1) Joinder of additional parties;
- (2) Issues concerning jurisdiction and venue;
- (3) Service of process;
- (4) The possibility of settlement and mediation;
- (5) A discovery schedule;
- (6) A date for the exchange of witness lists, and expert reports when applicable;
- (7) A deadline for the filing of all dispositive motions;

- (8) A deadline for filing motions in limine;
- (9) A date for the pre-trial conference;
- (10) The expected length of trial; and
- (11) A date for trial.

The dispositive motions deadline shall be at least sixty days prior to the pre-trial conference. All motions in limine shall be submitted at least seven days prior to the pre-trial conference. The pre-trial conference shall be at least fourteen days prior to the trial.

(F) Additional status conferences may be scheduled at the court's discretion.

(G) Pre-trial Conferences. Counsel and parties shall appear at the pre-trial conference. All counsel shall have full authority to enter into binding orders. Unless otherwise ordered by the court, the following matters shall be addressed at the pre-trial conference:

- (1) The court may rule on any pending motion; and
- (2) The following shall be submitted at least seven days prior to the pre-trial conference:
 - a) Pre-trial statements; and
 - b) Proposed jury instructions and interrogatories, as applicable.

(H) A pre-trial statement shall contain the following:

- (1) Identification of all the parties and counsel;
- (2) The factual and legal issues to be addressed at trial and the party's position
On those issues, including any significant evidentiary questions;
- (3) A list of all witnesses expected to testify;
- (4) A list of all exhibits expected to be offered into evidence; and
- (5) A statement of the status of settlement negotiations.

(I) Witness lists exchanged between the parties and/or presented to the court are to provide the name, address, and telephone number of each person intended to be called as a witness. The disclosure of expert witnesses shall include a brief description of the expert's qualifications, a summary of the expert's opinions, and the basis or theory of that opinion. Failure to disclose a witness may result in the witness not being permitted to testify.

(J) Upon order to the court and for good cause shown, a trial date may be continued.

(K) All special statutory proceedings, including, but not limited to, actions filed pursuant to R.C.2107.71 (will contest); R.C.2109.50(concealment of assets);R.C Chapter 2121(presumption of death);R.C. Chapter 2123(determination of heirship); and R.C. Chapter 2127 (land sales); shall be filed separately and with no other causes of action accompanying the pleading.

LOC.R. 78.10

PROCESS: Who May be Served

Service of process pursuant to Civ.R. 4 through Civ.R. 4.6, except service by publication as provided in Civ.R. 4.4(A), shall be made as follows: (A) Upon an individual, other than a person under sixteen years of age or an incompetent person, by serving the individual; (B) Upon a person under sixteen years of age by serving either the person's guardian or any one of the following persons with whom the person to be served lives or resides: a parent or the individual having the care of the person; or by serving the person if the person neither has a guardian nor lives or resides with a parent or a person having his or her care; (C) Upon an incompetent person by serving either the incompetent's guardian or the person designated in division (E) of this rule, but if no guardian has been appointed and the incompetent is not under confinement or commitment, by serving the incompetent; (D) Upon an individual confined to a penal institution of this state or of a subdivision

of this state by serving the individual, except that when the individual to be served is a person under sixteen years of age, the provisions of division (B) of this rule shall be applicable; (E) Upon an incompetent person who is confined in any institution for the mentally ill or mentally deficient or committed by order of court to the custody of some other institution or person by serving the superintendent or similar official of the institution to which the incompetent is confined or committed or the person to whose custody the incompetent is committed; (F) Upon a corporation either domestic or foreign: by serving the agent authorized by appointment or by law to receive service of process; or by serving the corporation at any of its usual places of business by a method authorized under Civ.R. 4.1(A)(1); or by serving an officer or a managing or general agent of the corporation; (G) Upon a limited liability company by serving the agent authorized by appointment or by law to receive service of process; or by serving the limited liability company at any of its usual places of business by a method authorized under Civ.R. 4.1(A)(1); or by serving a manager or member; (H) Upon a partnership, a limited partnership, or a limited partnership association by serving the entity at any of its usual places of business by a method authorized under Civ.R. 4.1(A)(1) or by serving a partner, limited partner, manager, or member; (I) Upon an unincorporated association by serving it in its entity name at any of its usual places of business by a method authorized under Civ.R. 4.1(A)(1); or by serving an officer of the unincorporated association; (J) Upon a professional association by serving the association in its corporate name at the place where the corporate offices are maintained by a method authorized under Civ.R. 4.1(A)(1); or by serving a shareholder; (K) Upon this state or any one of its departments, offices and institutions as defined in division (C) of section 121.01 of the Revised Code, by serving the officer responsible for the administration of the department, office or institution or by serving the attorney general of this state; (L) Upon a county or upon any of its offices, agencies, districts, departments, institutions

or administrative units, by serving the officer responsible for the administration of the office, agency, district, department, institution or unit or by serving the prosecuting attorney of the county; (M) Upon a township by serving one or more of the township trustees or the township clerk or by serving the prosecuting attorney of the county in which the township is located, unless the township is organized under Chapter 504. of the Revised Code, in which case service may be made upon the township law director; (N) Upon a municipal corporation or upon any of its offices, departments, agencies, authorities, institutions or administrative units by serving the officer responsible for the administration of the office, department, agency, authority, institution or unit or by serving the city solicitor or comparable legal officer; (O) Upon any governmental entity not mentioned above by serving the person, officer, group or body responsible for the administration of that entity or by serving the appropriate legal officer, if any, representing the entity. Service upon any person who is a member of the "group" or "body" responsible for the administration of the entity shall be sufficient. Service of process pursuant to Civ.R. 4 through 4.6, except service by publication as provided in Civ.R. 4.4(A), may be made upon an address confidentiality "program participant," as defined by R.C. 111.41(G), by serving the Secretary of State.

See: Ohio Rules of Civil Procedure Rule 4.2 and 4.0-4.6

LOC.R. 78.11 **NOTICE TO MINORS**

IN Appointment of Administrator or Executor

Minors who would have been entitled to priority to administer the estate except for their minority shall be served notice pursuant to the Rules of Civil Procedure.

See: R.C. Section 2113.07.

An individual or an agent of a legal organization may apply to be designated as a standing special process server. The applicant must submit an affidavit and an order for signature by The Judge

(A) Contents of Affidavit. The affidavit must list the name, address, email address, and telephone number of the person to be appointed as a standing special process server, as well as an affirmation that the person;

(1) Is 18 years of age or older;

(2) Is not a party to any action for which the person will serve process;

(3) Has no familial relationship to any party in an action for which the special process server will serve process;

(4) Has no felony criminal record;

(5) Will carry out his or her duties in accordance with all applicable court rules.

(B) Awarding of Order. After Judge has signed the order, the individual or agent of the legal organization must file the affidavit and order with the clerk of courts. The clerk of courts will record the affidavit and order on the administrative journal. Thereafter, the clerk of courts will accept a time-stamped copy of the affidavit and order as proper designation of the process server until the order expires or is vacated by the Court.

(C) Expiration of Order. All affidavits and orders appointing standing special process servers will expire one year from the date of filing.

(D) No legal organization whose agent is a standing special process server may represent or advertise that it is the Courts' official process server.

(E)The fee for filing the affidavit and order is \$25.

LOC.R.78.13 EXCEPTION TO RULES

For good cause shown, or on its own motion, this Court may grant exception to any of these local rules.

SUP.R. 79 LOCAL FORMS INDEX (Delaware County P.C. Forms)

(Forms listed on Website)

- Form 1.1A REQUEST FOR SUMMONS OR NOTICE IN CIVIL ACTION
- Form 1.10 APPLICATION TO RELEASE INFORMATION AND ENTRY
- Form 1.11 REPORT OF RELEASED INFORMATION AND ENTRY
- Form 4.0A FIDUCIARY'S ACCEPTANCE
- Form 7.1A MEDICAID RECOVERY ACKNOWLEDGMENT
- Form 9.3A APPLICATION FOR TRANSFER OF TITLED VEHICLE
- Form 11.0A CONSENT TO POWER TO SELL REAL ESTATE
- Form 11.15 SOCIAL SECURITY INFORMATION – CONFIDENTIAL
- Form 13.01 WHY PARTIAL ACCOUNTING FILED IN ESTATE
- Form 17.10 RECORD CHECK AUTHORIZATION
- Form 17.12 CERTIFICATE OF SERVICE OF ACCOUNT- GDNSHP/TRUST
- Form 22.3A INITIAL VERIFICATION OF RECEIPT AND/OR DEPOSIT BY CUSTODIAN
- Form 22.3B ANNUAL VERIFICATION OF FUNDS WITH RESTRICTED ACCESS
- Form 22.3C ACKNOWLEDGMENT OF REQUIREMENTS FOR CUSTODIAL DEPOSIT ACCOUNTS – MINORS
- Form 22.3D ACKNOWLEDGMENT OF REQUIREMENTS FOR CUSTODIAL DEPOSIT ACCOUNTS - FIDUCIARY
- Form 59.2A WILL FOR DEPOSIT
- Form 59.2B CERTIFICATE FOR DEPOSIT OF WILL
- Form 60.2A APPLICATION OF NON-RESIDENT FIDUCIARY TO DEPOSIT ASSETS WITH A CUSTODIAN IN LIEU OF BOND
- Form 60.4A CALCULATION OF EXECUTOR/ADMINISTRATOR COMPENSATION
- Form 65.3A CONSENT TO POWER TO SELL – GUARDIANSHIP
- Form 65.3B REPRESENTATION WITH RESPECT TO GUARDIANSHIP
REAL ESTATE SALE BY CONSENT
- Form 66.10A GUARDIAN'S CREDIBILITY SUPPLEMENT
- Form 66.11A AFFIDAVIT OF INDIGENCY
- Form 66.12 ADULT JURISDICTION AFFIDAVIT - GUARDIANSHIP
- Form 71.4A CONSENT TO ATTORNEY FEES

Form 73.1A CALCULATION OF GUARDIAN COMPENSATION-Probate
Form 73.1B CALCULATION OF GUARDIAN COMPENSATION-V.A.
Form 74.1A CALCULATION OF TRUSTEE COMPENSATION
Form 75.0A NOTICE OF CHANGE OF ADDRESS
Form 75.7A APPLICATION FOR ENTRY OF SAFE DEPOSIT BOX
Form 75.7B REPORT ON ENTRY OF SAFE DEPOSIT BOX
Form 78.2A CERTIFICATE OF SERVICE OF INVENTORY AND NOTICE OF HEARING
Form 78.2B WAIVER OF NOTICE OF HEARING AND CONSENT TO INVENTORY
Form 78.11 APPLICATION FOR UNCLAIMED INHERITANCES
PROTOTYPE WRONGFUL DEATH TRUST
PROTOTYPE R.C. 2111.182 TRUST FOR MINOR WARD