

COMMON PLEAS COURT OF FRANKLIN COUNTY, OHIO

PROBATE DIVISION

LOCAL COURT RULES

Revised – January 1, 2009

INTRODUCTION: The following rules are supplemental to the *Rules of Superintendence for the Courts of Ohio* and must be read in conjunction therewith.

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SUP. R. 8 COURT APPOINTMENTS

LOC. R. 8.1 **COURT APPOINTMENTS**

Persons appointed by the Court to serve as appraisers, fiduciaries, attorneys, magistrates in Involuntary Psychiatric Commitment proceedings, investigators, guardians ad litem, and trustees for suit, shall be selected from lists maintained by the Court.

Appointments will be made from such lists taking into consideration the qualifications, skills, expertise, and caseload of the appointee in addition to the type, complexity, and requirements of the case.

Court appointees will be paid a reasonable fee with consideration given to the factors contained in Prof. Cond. Rule 1.5, the Ohio Revised Code, and the Local Rules of Court relating to fees.

The Court will review Court appointment lists periodically to ensure the equitable distribution of appointments. (Eff. 01/01/08)

SUP. R. 9 SECURITY PLAN

LOC. R. 9.1 **SECURITY PLAN**

Pursuant to a Supreme Court of Ohio resolution dated July 26, 1995, the Franklin County Probate Court has determined the entire Security Plan as

submitted to the Supreme Court of Ohio, effective January 1, 2001, be maintained as confidential and not a matter of public record.

SUP. R. 11 RECORDING OF PROCEEDINGS

LOC. R. 11.1 RECORDING OF PROCEEDINGS

(A) The Court will make a digital recording of proceedings as the official record of the Court. Parties who desire to have a contemporaneous stenographic record of the proceedings must make their own arrangements, at least twenty-four (24) hours prior to the scheduled hearing, for a court reporter to appear at the hearing. The requesting party shall pay the costs associated with the stenographic record of the hearing unless otherwise ordered by the Court.

(B) Any interested person may request a recording of a hearing be transcribed by a stenographer approved by the Court. The person making the request shall pay the cost of transcription. The court will convey the recording to a stenographer. A transcript filed with the Court under this paragraph shall supersede the digital recording as the official record of the Court.

(C) The Court will allow a person to listen to a recording of a hearing at the Court upon request made no less than twenty-four (24) hours in advance.

(D) An interested party will not be allowed to use the contents of a recording in subsequent pleadings filed with the Court or in argument before the

Court unless a transcript of the entire hearing is filed with the Court as provided in paragraph (B) of this rule.

(E) All digital recorded proceedings will be maintained by the Court for three (3) years from the date of the hearing. Any interested person desiring to preserve the record beyond that period must arrange to have the record transcribed as provided by paragraph (B) of this rule and file the transcript in the underlying case.

(F) Upon filing an Objection to a Magistrate's Decision or a Notice of Appeal, an objector or appellant who is required or desires to file a transcript of a hearing must contact a court reporting service to have the transcript prepared. The person requesting the transcript shall direct the court reporting service to contact this Court to obtain a copy of the digital record of hearing. The objector or appellant must file the completed transcript in this Court within the time limits of the Local Rules of Court, Rules of Civil Procedure, or the Rules of Appellate Procedure. When the transcript is filed by an appellant, this Court will certify the transcript to the Court of Appeals. (Eff. 01/01/08)

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 filed under case number 411,839, which will be followed in conjunction with the Rules of

Superintendence for the Courts of Ohio.

LOC. R. 26.2 DISPOSITION OF EXHIBITS

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

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

Disposal of exhibits shall be pursuant to Sup. R. 26. (Eff. 01/01/05)

SUP. R. 51 STANDARD PROBATE FORMS

LOC. R. 51.1 FORM AVAILABILITY

Forms for use in the Franklin County Probate Court are available at the Court and on the Court's website: www.franklincountyohio.gov/probate.

SUP. R. 52 SPECIFICATIONS FOR PRINTING PROBATE FORMS

LOC. R. 52.1 COMPUTERIZED FORMS

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

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

LOC. R. 52.2 FORM SPECIFICATIONS

The type size for the body of all forms filed in this Court cannot be less than ten (10) point, nor greater than twelve (12) point.

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 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays. All pleadings requiring a new case number or the payment of Court costs shall be filed by 4:30 p.m.

SUP. R. 55 EXAMINATION OF PROBATE RECORDS

LOC. R. 55.1 WITHDRAWAL OF FILES

Each Court file withdrawn from the Records Department must be accompanied by a withdrawal card. No person may withdraw more than six (6) files at a time from the Records Department.

Only attorneys and recognized title examiners are permitted to remove files from the Court. The removal of the file from the Court must be approved by the Judge or a Magistrate.

All files removed from the Court must be returned the following business day.

LOC. R. 55.2 PHOTOCOPIES

Copies of any public record may be obtained at the cost of Five cents (\$.05) per page.

SUP. R. 57 FILINGS AND JUDGMENT ENTRIES

LOC. R. 57.1 FACSIMILE FILINGS

The Court will not accept filings by facsimile transmission or electronic mail.

LOC. R. 57.2 COURT FILE

All filings presented to the Court must be accompanied by the Court file.

LOC. R. 57.3 COMPLETE STREET ADDRESS

When required on a Court document, an address must be a street address and, if applicable, any post office box numbers used as a mailing address. The address of the fiduciary who is not an attorney at law must be the fiduciary's legal residence. A fiduciary who is an attorney at law may use an office address.

Reasonable diligence shall be exercised to obtain the complete street addresses of the surviving spouse, next of kin, legatees and devisees. (Eff. 01/01/04)

LOC. R. 57.4 CASE NUMBER

All filings, including attachments, must have the case number on each page.

LOC. R. 57.5 ORIGINAL SIGNATURES

All filings must contain original signatures. In all matters with multiple fiduciaries, the signature of all fiduciaries is required on all documents including fiduciary checks. Persons who are not an attorney may not sign on behalf of an attorney.

LOC. R. 57.6 FIDUCIARY SIGNATURE

Any pleading, filing, or other document which by law or rule requires the fiduciary's signature, shall have the original signature of the fiduciary. The attorney for the fiduciary may not sign for the fiduciary.

LOC. R. 57.7 COURT FILINGS

All filings must be legible, on 8-1/2" x 11" paper and the type size for the body of the document be not less than ten (10) point or greater than twelve (12) point. All filings shall be legible. Filings not legible for any reason including poor handwriting or poor photocopying may be refused, or if filed, may be stricken unless there is a legibly typed copy attached thereto. All filings not in English must be accompanied by a translation completed by a disinterested and qualified translator. Otherwise, filings not in English may be refused, or if filed, may be stricken. The Court will accept for filing only those pleadings which are complete. (Eff. 01/01/08)

LOC. R. 57.8 FORWARDING COPIES

The Court will not return file-stamped copies by mail unless submitted with a return, self-addressed, stamped envelope.

LOC. R. 57.9 ISSUANCE OF SUMMONS

A Request for Issuance of Summons (Form 1.P) shall be filed with all original and amended complaints or petitions in civil actions.

LOC. R. 57.10 COMPUTER DISKS

In addition to filing written original documents, the parties may, or if the Court directs, shall submit proposed entries, briefs, memoranda, jury instructions, or other documents on a computer disk formatted in a manner which may be utilized by the Court's word processing system.

LOC. R. 57.11 DEATH CERTIFICATE TO BE EXHIBITED

Upon the initial filing of any matter captioned in the name of a deceased individual, or the termination of a guardianship due to the death of the ward, the applicant shall exhibit to the court a certified copy of the decedent's death certificate unless waived by the court for good cause shown. (Eff. 01/01/06)

LOC. R. 57.12 CERTIFICATE OF NOTICE OF ENTRY OF JUDGMENT

Any proposed entry submitted to the Court which is subject to Civ. R. 58(B) as modified by Civ. R. 73(I) shall contain a certificate of service including

the names and addresses of all parties and other interested persons required to be served.

LOC. R. 57.13 LENGTH OF BRIEFS

Supporting, opposing, and memorandum briefs shall not exceed fifteen (15) pages exclusive of any supporting documents. Briefs exceeding fifteen (15) pages will not be accepted for filing without prior leave of Court.

LOC. R. 57.14 SOCIAL SECURITY NUMBERS

Social security numbers are confidential and shall not be filed in any filing in this Court that is available for inspection by the general public. Applicants for guardianships will provide their social security number and the social security number for the proposed ward on a form that will not be disclosed to the general public. Social security numbers disclosed on marriage applications and estate tax returns are sequestered as confidential, non-public records. (Eff. 06/15/06)

LOC. R. 57.15 ACCOUNT NUMBERS

All financial asset account numbers in any public record document filed in this court shall disclose only the last four digits of the account number. It is the responsibility of the person filing the document to redact the remaining digits of the account number. (Eff. 01/01/08)

LOC. R. 57.16 MAINTAINING PRIVACY OF PERSONAL IDENTIFYING NUMBERS

To protect legitimate personal privacy interests, social security and other personal identifying numbers shall be redacted from documents as directed by these rules before the documents are filed with the Probate Court. The responsibility for redacting personal identifying numbers rests solely with the attorneys and parties who file the documents. The clerks will not review the documents to confirm that personal identifying numbers have been excluded. If personal identifying information has been redacted from a document but is necessary for the Probate Court's determination of the case, the Probate Court may order, upon motion or *sua sponte*, that an un-redacted copy of the document be filed under seal. (Eff. 01/01/08)

LOC. R. 57.17 CERTIFICATE OF SERVICE

The Certificate of Service shall identify by name all parties served.
(Eff. 01/01/08)

LOC. R. 57.18 FILINGS FOR MATTERS ASSIGNED TO AN ACTING JUDGE

All filings in matters assigned to an Acting Judge are to be filed in duplicate with a deputy clerk of this Court and shall have the name of the Acting Judge shown in the caption. The deputy clerk receiving the filing is to be informed at the time of each filing that the matter has been assigned to an Acting Judge. The original filing shall be filed with the clerk of the Probate Court and the duplicate copy shall be submitted to the Acting Judge. (Eff. 01/01/08)

LOC. R. 57.19 ELECTRONIC DOCUMENTS – OFFICIAL RECORD

All documents filed as Electronic Return Receipts or eNotices shall be filed in the image file only and paper copies of the documents will not be filed in the tangible (hard copy) file. The Electronic Return Receipt or eNotice electronic documents shall be designated as the official record of the Court. (Eff. 01/01/08)

SUP. R. 58 DEPOSIT FOR COURT COSTS

LOC. R. 58.1 DEPOSITS

The business of this Court shall be conducted on a cash basis. The Court will not accept fiduciary or personal checks. The Court will only accept cash, money orders, cashier's checks, attorney, title company, or trust company checks.

- (A) Filing an application for appointment of any estate fiduciary shall require a minimum deposit of One Hundred Twenty-five and No/100 Dollars (\$125.00), however, the Court recommends a deposit of Two Hundred Fifty and No/100 Dollars (\$250.00);
- (B) Filing any complaint, except for the presentation of a claim or a land sale, shall require a minimum deposit of One Hundred Fifty and No/100 Dollars (\$150.00);
- (C) Filing a complaint for a land sale shall require a minimum deposit of One Hundred Seventy Five and No/100 Dollars (\$175.00);
- (D) Filing a presentation of a claim against an estate with the Court pursuant to Ohio R.C. 2117.06(A)(2) shall require the filing of a

civil action and a minimum deposit of Seventy-five and No/100 Dollars (\$75.00); and,

- (E) Filing a subpoena shall require a minimum deposit of Thirty-Eight and No/100 (\$38.00) for in county Sheriff service and Twelve and No/100 Dollars (\$12.00) for the witness fee. Subpoenas served out of county may require additional deposits and shall include a check for witness and mileage fees made payable to the witness.
- (F) In all cases of decedent's estates, civil actions and any other matters requiring a deposit, the fiduciary or plaintiff shall be required to maintain a positive balance in the deposit account. If filings are presented to the Court in cases with insufficient funds on deposit, the individual responsible for the filing shall pay the cost of the filing or tender an additional deposit before the filings will be accepted.
- (G) *The Daily Reporter*, published by The Daily Reporter, Inc., is designated as the law journal in which the calendar of the Court, including such proceedings and notices as required by law or designated by the Judge, is published. These publication charges shall be charged as costs. (Eff. 01/01/08)

LOC. R. 58.2 WITNESS FEES

Witness fees must be requested at the conclusion of the hearing for which the subpoena was issued. If not requested at that time, the fee is waived. All unused portions of the subpoena deposit will be refunded to the depositor.

LOC. R. 58.3 RELEASE OF ADOPTION INFORMATION

The fee for filing a petition for the release of adoption information pursuant to Ohio R.C. 2101.16(F) shall be Fifty and No/100 Dollars (\$50.00).

LOC. R. 58.4 FILING TRANSCRIPTS, EXHIBITS, OR RECORDS

The filing fee required by Ohio R.C. 2101.16(A)(57) shall be paid at the time of filing the transcript, exhibits, or records. (Eff. 01/01/08)

SUP. R. 59 WILLS

**LOC. R. 59.1 CERTIFICATE OF SERVICE OF NOTICE OF
PROBATE OF WILL**

The applicant for the admission of a will to probate or other person listed in Ohio R.C. 2107.19(A)(4) shall file a Certificate of Service of Notice of Probate Of Will (Standard Probate Form 2.4) not later than two months after the appointment of the fiduciary or, if no fiduciary has been appointed, not later than two months after the admission of the will to probate. Proof of service shall consist of either waivers or notice of the probate of the will or original certified mail return receipt cards as provided under Civil Rule 73(E)(3). A waiver of notice may not be signed by any minor, or on behalf of a minor sixteen (16) or seventeen (17) years of age.

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

LOC. R. 60.1 FIDUCIARY'S ACCEPTANCE

All executors and administrators shall personally sign and file the Fiduciary's Acceptance, Form 4.0A, prior to the issuance of the Letters of Authority.

LOC. R. 60.2 APPOINTMENT OF NONRESIDENT FIDUCIARIES

An applicant to be appointed fiduciary of a decedent's estate, or trust, who is not a resident of this state, must be in compliance with Ohio R.C. 2109.21 and use as the attorney of record an attorney licensed to practice law in this State. To assure the assets remain in Franklin County, 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 a substantial amount of the decedent's personal assets in a custodial depository in this county, pursuant to Ohio R.C. 2109.13;
- (B) Have a co-fiduciary who is a resident of this State;
- (C) Post a bond in compliance with Ohio R.C. 2109.04.

LOC. R. 60.4 IDENTIFICATION WITH PHOTOGRAPH REQUIRED

Applicants for Authority to Administer a Decedent's Estate, who are not represented by an attorney, shall exhibit to the Court a picture identification and proof of a current address.

SUP. R. 61 APPRAISERS

LOC. R. 61.1 APPRAISERS' FEES

(A) Appraisers' fees for real estate shall be based upon the entire undivided value of the assets subject to appraisal (not the decedent's interest in the property which may be fractional). Fees shall be computed at the rate of:

- (1) \$1.50 per thousand for the first \$200,000 of valuation;
- (2) \$1.00 per thousand in excess of \$200,000 of valuation;
- (3) The minimum appraiser fee shall be \$150.

When an appraisal of multiple properties is performed, the above fee schedule shall apply to each property, not the aggregate value of all properties. Fees paid in compliance with this rule may be paid without application and entry.

(B) If a Franklin County appraiser is employed to appraise real estate located in another county, in addition to the fee calculation in paragraph (A) above, the appraiser may also charge a mileage fee.

(C) Any appraiser fee requested in excess of the above schedule and appraisals of personalty must either be by agreement between the fiduciary and the appraiser or must be approved by the Court prior to the appraisal being made.

(D) Unless there is a dispute, or an appraisal is required for other purposes, a Court-appointed appraiser shall not be necessary in the following situations:

- (1) In estates relieved from administration, a statement attesting to the auditor's appraised value, signed by a representative of

the County Auditor or a Deputy Clerk of the Probate Court, will be accepted as the appraised value of the real estate for Probate Court purposes and on the Ohio estate tax return.

(2) Where the estate is comprised of personal property of readily ascertainable value.

(E) All appraisers shall give to the fiduciary and the attorney of record a written appraisal of each property appraised on the appropriate form provided by the Court or a form which is in substantial compliance therewith. The signature of the appraiser shall constitute a certification that the appraisal was performed truly, honestly, and impartially.

(F) Appraisers' fees shall be paid within one (1) month after the filing of the inventory or sixty (60) days after the completion of the appraisal, which ever occurs first unless otherwise ordered by the Court. The proceedings shall remain open until the fiduciary has accounted for the payment of the appraisal fee. Should payment not be made pursuant to this rule, the fiduciary shall be held personally liable for the payment of the appraisers' fees. (Eff. 01/01/08)

LOC. R. 61.2 APPRAISER SELF-DEALING

During the administration of the estate or, if the estate is closed within twelve (12) months of the appointment of the appraiser, no appraiser shall directly or indirectly purchase or negotiate the purchase, sale, trade, or management of property that he or she has appraised. (Eff. 01/01/05)

SUP. R. 62 CLAIMS AGAINST ESTATE

LOC. R. 62.1 DEPOSIT

Any claim against an estate filed with the Court pursuant to Ohio R.C. 2117.06(A)(1)(b) shall be in the form of a complaint, filed as a civil action, and heard not on its merits, but on whether the claim is accepted or rejected. A deposit of Seventy-five and No/100 Dollars (\$75.00) is required. (Eff. 01/01/05)

SUP. R. 64 ACCOUNTS

LOC. R. 64.1 FIDUCIARY’S SIGNATURE

(A) All accounts must be personally signed by the fiduciary and contain the full name, current resident address, and telephone number of the fiduciary.

(B) All fiduciaries must sign the account when multiple fiduciaries have been appointed.

LOC. R. 64.2 DELINQUENCY IN FILING AN ACCOUNT

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

LOC. R. 64.3 VOUCHERS

When required by statute or court order, original vouchers 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.

For decedent's estates where the date of death is prior to January 1, 2002, and the estate is solvent, in lieu of submitting vouchers, the fiduciary may file with the account, a waiver and consent from all the beneficiaries acknowledging each received a copy of the account, waives notice of the hearing on the account, and consents to the filing of the account. The signature of each beneficiary must be dated.

The Court may accept a combination of vouchers and consents. In lieu of receiving waivers and consents from all the beneficiaries, vouchers from specific and pecuniary beneficiaries may be submitted with consents from all remaining beneficiaries.

Upon request of the Court, adding machine tapes shall be provided which reflect receipts, disbursements, and balances.

LOC. R. 64.4 BOND

An account will not be accepted for filing unless the bond, when required, is sufficient to cover twice the sum of the value of the personal property assets on hand plus one (1) year's projected income.

LOC. R. 64.5 EVIDENCE OF ASSETS

The Court requires that all assets be exhibited at the time of filing a partial account. The assets remaining in fiduciary's hands shall disclose the fair market value of the assets as of the last day covered by the account.

LOC. R. 64.6 PAYMENT OF DEBTS

The fiduciary in a decedent's estate shall pay and disclose in the estate account all valid debts unless otherwise determined by law.

LOC. R. 64.7 TIME FOR FILING

(A) For decedents' estates, the final and distributive account due within six (6) months after appointment of the fiduciary may be extended by Motion to thirteen (13) months for the reasons enumerated in Ohio R.C. 2109.301(B)(1). All subsequent accounts must be filed on an annual basis unless the Court otherwise orders. Accounts not filed in compliance with this rule shall be subject to citation.

(B) For guardianships and trusts, the first account shall be filed not later than one (1) year following the date of the appointment of the fiduciary and all subsequent accounts shall be filed on an annual basis, unless otherwise ordered by the Court.

(C) If all of the assets of a fiduciary described in Ohio R.C. 2109.30 are in custodial depositories pursuant to Ohio R.C. 2109.13, the statements filed by the custodial depositories with the Court required by Loc. R. 75.3 will be accepted by the Court in lieu of fiduciary accounts. (Eff. 01/01/08)

LOC. R. 64.8 ACCOUNT NUMBERS

All financial asset account numbers listed in a fiduciary's account pursuant to Ohio R.C. 2109.30 shall disclose only the last four (4) digits of each account

number. It is the responsibility of the person filing the account to redact the remaining digits of each account number. (Eff. 01/01/08)

SUP. R. 66 GUARDIANSHIPS

LOC. R. 66.1 GUARDIANSHIP OF MINORS

(A) A certified copy of the minor's birth certificate must be filed with the guardian's application.

(B) The Court will not establish a guardianship for school purposes only. Custody for school purposes is a matter to be heard and determined by the Juvenile or Domestic Relations Divisions.

(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) Minors who are not U.S. citizens or resident aliens, are not considered by this Court to be residents or have legal settlement as set forth in Ohio R.C. 2111.02(A).

(E) No guardian of the person of a minor may create a power of attorney pursuant to Ohio R.C. 3109.52 transferring the guardian's rights and responsibilities without specific authority of the Court. (Eff. 01/01/05)

LOC. R. 66.2 SAFE DEPOSIT BOX

Before making an appointment with the County Auditor to audit a ward's safe deposit box(es), the guardian shall deposit Ten and No/100 Dollars (\$10.00) to the Probate Court cashier for each box to be audited. The contents of the ward's safe deposit box are not to be released without a specific court order.

LOC. R. 66.3 RELEASE OF FUNDS

Funds in the name of the ward shall not be released to the guardian without a specific court order.

LOC. R. 66.4 DEPOSIT OF WILLS

The guardian must deposit with the Court any and all wills of the ward for safekeeping in accordance with Ohio R.C. 2107.07.

LOC. R. 66.5 CHANGE OF ADDRESS

A guardian appointed by this Court shall inform the Court as to any change of address of the guardian or the ward. This notification must be made within thirty (30) days of the address change. Failure to notify the Court under this rule may result in the guardian being removed.

LOC. R. 66.6 GUARDIAN'S REPORT

A guardian's report shall be filed annually in all adult guardianships by the guardian of the person. In cases where a guardian of the estate exists and no guardian of the person, the guardian of the estate shall file the annual guardian's report. The guardian's report shall include a statement of expert evaluation unless dispensed with as set forth below.

When a physician or clinical psychologist states on an Annual Statement of Expert Evaluation, that with a reasonable degree of medical certainty it is unlikely the ward's mental competence will improve, upon application by the guardian the

Court may dispense with the filing of Statements of Expert Evaluation when filing subsequent Annual Guardian's Reports. (Local Form 17.1D) (Eff. 01/01/08)

LOC. R. 66.7 TERMINATION

Applications to terminate a guardianship of a minor require notice to all persons designated in Ohio R.C. 2111.04 and any other individuals who received actual notice of the original appointment of the guardian.

LOC. R. 66.8 NOTICE FOR GUARDIANSHIP OF ADULTS

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

LOC. R. 66.9 BACKGROUND INVESTIGATIONS

Any applicant for guardianship who is not an attorney at law licensed by the Supreme Court of Ohio and in good standing, or a state agency, must complete a criminal record check which is suitable to the Court. (Eff. 01/01/05)

LOC. R. 66.10 INDIGENT GUARDIANSHIPS

For purposes of the indigent guardianship fund, an adult ward or alleged incompetent will be rebuttably presumed to be indigent if his or her personal property is less than One Thousand Five Hundred and No/100 Dollars (\$1500.00)

and his or her annual income is less than the U.S. Department of Health and Human Services poverty guidelines. (<http://aspe.hhs.gov/poverty/figures-fed-reg.shtml>). Persons with greater resources are rebuttably presumed not to be indigent.

All adults qualified for Medicaid are rebuttably presumed to be indigent.

(Eff. 01/01/06)

LOC. R 66.11 GUARDIANSHIP TRAINING COURSE

All guardian applicants shall review the Guardianship Training CD published by the Franklin County Probate Court and sign an acknowledgment of such review prior to being appointed guardian.

Persons applying to be appointed guardian in multiple cases shall be required to review the training course once unless the Court deems otherwise.

(Eff. 09/01/08)

SUP. R. 67 ESTATES OF MINORS OF NOT MORE THAN TEN THOUSAND DOLLARS

LOC. R. 67.1 DISPENSE WITH GUARDIANSHIP

Applications to dispense with the appointment of a guardian shall follow the notice required in Ohio R.C. 2111.04.

LOC. R. 67.2 BIRTH CERTIFICATE

A certified copy of the minor's birth certificate must be presented to the Court upon the filing of the application to dispense with guardianship.

LOC. R. 67.3 ATTORNEY RESPONSIBILITY

The attorney representing the interests of the payor in a minor’s settlement action shall not represent the minor in any way before the Court, but may assume the duties imposed by Sup. R. 67(C). (Eff. 01/01/07)

LOC. R. 67.4 ANNUAL STATEMENTS

All institutions holding controlled accounts under Ohio R.C. 2111.05 shall annually file statements with the Court disclosing the year-end balance and all activity of each account. The statements shall be filed between January 1 and February 28 of each year. (Eff. 01/01/05)

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 presented to the Court upon the filing of the application to settle a minor’s claim.

LOC. R. 68.3 DEPOSIT OF PROCEEDS

Pursuant to Sup. R. 67(C) the attorney representing the applicants in the matter shall acknowledge responsibility for depositing the funds and providing the financial institution with a copy of the entry. If there is no attorney representing the applicants, the attorney for the payor shall acknowledge delivery of the funds to complete the delivery of consideration to effectuate the release. The attorney shall obtain a Verification of Receipt and Deposit (Standard Probate Form 22.3) from the financial institution and file the form with the Court within seven (7) days of the issuance of the entry. (Eff. 01/01/05)

LOC. R. 68.4 STRUCTURED SETTLEMENTS

In the event that parties involved in claims for injuries to minors or incompetents desire to enter into a structured settlement, defined as a settlement wherein payments are made on a periodic basis, the following rules shall apply:

(A) The application shall include a signed statement from one of the following independent professionals, specifying the present value of the settlement, and the method of calculation of that value: 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:

- (1) The annuity carrier is licensed to write annuities in Ohio.
- (2) The annuity carrier's ratings from at least two of the following organizations, which meet the following criteria:
 - a. **A.M. Best Company:** A++, A+, or A;
 - b. **Fitch Ratings** (Financial Strength): AAA, AA+, or AA;
 - c. **Moody's Investors Service** (Financial Strength): Aaa, Aa1, or Aa2;
 - d. **Standard & Poor's Corporation** (Financial Strength): AAA, AA+, or AA;
 - e. **Weiss Research Inc.:** 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 funding to satisfy periodic payment settlements will be provided and maintained. (Eff. 01/01/05)

LOC. R. 68.5 APPLICATION TO SETTLE CLAIM

When the net proceeds of a claim for the benefit of a minor is Ten Thousand and No/100 Dollars (\$10,000) or less, an application may be filed with the Court to consider the approval of a settlement of the claim by a parent or other next friend of the minor. The Court will consider whether to dispense with the appointment of a guardian for the estate of the minor under the same case number.

When the net proceeds of the claim for the benefit of a minor is over Ten Thousand and No/100 Dollars (\$10,000), an application shall be filed for the appointment of a guardian for the estate of that minor. The Court will consider the approval of the settlement of that claim under the guardianship case number.

(Eff. 01/01/04)

LOC. R. 68.6 SETTLEMENT OF MINOR'S CLAIM WITHOUT LEGAL REPRESENTATION FOR THE MINOR

When a minor is not represented by an attorney in the settlement of a minor's claim, the Court may, at its discretion, appoint a guardian ad litem for the minor.

The fee for the guardian ad litem will be determined pursuant to Loc. R. 75.1. (Eff. 01/01/07)

**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.

LOC. R. 70.2 WRONGFUL DEATH PROTOTYPE TRUST

The Court has adopted and filed a prototype Wrongful Death Trust under Case Number 424,500, which is available at the Court and on the Court's website: www.franklincountyohio.gov/probate. Attorneys who wish to use the prototype must file an acknowledgment that the trust conforms to the current prototype. An attorney who wishes to create his or her own form of trust must submit the form of trust to the Court at least seven (7) days prior to the hearing on the wrongful death settlement. (Eff. 01/01/05)

**LOC. R. 70.3 WRONGFUL DEATH TRUST WITH MULTIPLE
BENEFICIARIES**

A separate wrongful death trust, with its own case number, shall be created for each trust beneficiary.

LOC. R. 70.4 SETTLEMENT CONFERENCE

It is suggested that the attorneys, prior to bringing the clients to Court to settle the wrongful death and survival claims, discuss the settlement with the Court. At this conference, the matter may be set for hearing.

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, and trusts, must be disclosed on the fiduciary's account, regardless of the source of payment. If the source of payment is other than the fiduciary, the source of payment must be identified on the account. For the purpose of this rule, fiduciary includes commissioners and applicants for release from administration. If no account is to be filed, the payment must be disclosed on a consent to fees signed by the payor of the fees.

Attorneys are expected to be familiar with Prof. Cond. Rule 1.5 that governs the reasonableness of fees. Upon review of the records, the Court may set the fees for hearing, regardless of the submission of consent(s) to fees.

(Eff. 01/01/08)

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, which record shall, upon request, be submitted to the Court for review. Prof. Cond. Rule 1.5 shall govern the reasonableness of all fees, notwithstanding statutory allowances. The Court assumes an attorney, appointed as fiduciary, has been

selected due to the attorney's special knowledge and abilities resulting in a savings of fees to the estate, guardianship, or trust.

Upon review of the records, the Court may set the fees for hearing, regardless of the submission of consent(s) to fees. (Eff. 01/01/08)

LOC. R. 71.3 EARLY PAYMENT OF ATTORNEY FEES

Attorney fees for the administration of decedents' estates shall not be paid or advanced from any source until the final account or final closing documents are prepared for filing unless otherwise approved by the Court upon application. Such application shall contain a statement that the fee is being required in advance of the time permitted by Sup. R. 71(B) and shall set forth the reason for requesting the early payment of fees. The application shall be accompanied by a consent as to the amount and the timing of the fees by all persons whose interests are affected by the payment of the fees, including creditors. If consent is not given by one hundred percent (100%) of those persons whose interests are affected by the payment of the fees, the matter shall be set for hearing with notice to all non consenting affected persons. (Eff. 01/01/08)

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

Applications for attorney fees in estates shall include a statement of the amount of the fees and a statement of services rendered. The applicant shall give notice of the hearing on the fees to one hundred percent (100%) of the persons whose interests are affected by the payment of the fees, including creditors if the

estate is insolvent. Attorney fees may be paid upon the preparation of the final account, without application and entry, if persons entitled to greater than fifty percent (50%) of the assets used for the payment of the fees file their written consent to the fees, subject to any exceptions to the final account by nonconsenting beneficiaries or creditors. (Eff. 01/01/04)

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

In guardianship administration, the Court shall consider applications for attorney fees for the establishment of the guardianship upon the filing of the inventory, and shall consider additional fees annually upon the filing of each account. Notice of the application shall be given to the guardian of the estate, and upon order by the Court, other interested persons. The guardian of the estate may waive notice of the hearing and consent to the payment of fees. All applications for attorney fees in guardianships shall be accompanied by a statement of all attorney and guardian fees approved by the Court in that guardianship in the last five (5) years.

After the death of the ward, the Court will consider attorney fees and guardian fees as liens on the ward's assets. If the fees are approved by the Court, the fees may be paid out of the guardianship assets and included in the final guardianship account.

The Court may require notice of the hearing on the fees be given to other interested persons, including the estate fiduciary of a deceased ward. (Eff. 01/01/05)

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

In trust administration, the Court shall consider applications for attorney fees for the establishment of the trust upon the filing of the inventory, and shall consider additional fees annually upon the filing of each account. All applications for attorney fees in trusts shall be accompanied by a statement of all attorney and trustee fees approved by the Court in that trust in the last five (5) years.

Notice of application shall be given to the trustee. The trustee may waive notice of the hearing and consent to 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. Rule 1.5. A detailed fee statement may be required which includes the itemization and date of service performed, time expended, identification of the individual(s) performing the services, and the hourly rate charged. (Eff. 01/01/08)

LOC. R. 71.8 CONTINGENT FEES

All fiduciaries shall make written application to the Court for authority to enter into a contingent fee contract. The application must be accompanied by a case plan, time projection, and estimated costs, as available, which upon request of

counsel, may be reviewed *in camera*. Upon review, the Court will either give preliminary approval or disapprove the request. Preliminary approval shall be subject to final review at the conclusion of the matter that is the subject of the contingent fee contract.

In minor settlement cases where no guardian has been appointed, the attorney shall make the above application, under Case Number 418,000. Before settlement may be approved, a guardianship must be established or dispensed with under its own case number.

In establishing an estate, guardianship, or dispensing with the appointment of a fiduciary for the primary purpose of settling or resolving a claim, the attorney fees associated with bringing the proceedings before this Court shall be assessed as a portion of the contingent fee, unless otherwise ordered by the Court for good cause shown. The Court may allocate the payment of this fee between the contingent fee and the beneficial interests.

LOC. R. 71.9 MENTAL COMMITMENT OBJECTION HEARINGS

The rate of compensation for appointed counsel for Objections to a Magistrate's Decision in a mental commitment hearing is Seventy-five and No/100 Dollars (\$75.00) per hour to the maximum amount of Nine Hundred and No/100 dollars (\$900.00). Fees are subject to review and approval of the Probate Court.

Additional payment may be made for extraordinary cases upon application by the attorney showing extraordinary services. (Eff. 01/01/07)

SUP. R. 73 GUARDIAN'S COMPENSATION

LOC. R. 73.1 GUARDIAN'S COMPENSATION

(A) Guardian's compensation for services as guardian of the estate shall be computed annually upon application and entry and shall be supported by calculations and documentation. The following fee schedule shall apply unless extraordinary fees are requested. Extraordinary fee applications shall be set for hearing unless hearing is waived by the Court.

- (1) Income/Expenditure Fee. Excluding income from rental real estate, four percent (4%) of the first \$10,000 of income received, plus three percent (3%) of the balance in excess of \$10,000, and four percent (4%) of the first \$10,000 of expenditures except expenditures pertaining to rental real estate, plus three percent (3%) of the balance in excess of such \$10,000. 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 Ohio R.C. 1340.40(D), including pension benefits and net gains from the sale of principal. Assets held by the ward at the date of appointment are deemed to be principal and not income.

(2) Principal Fee. \$3.00 per thousand for first \$200,000 of fair market value, and \$2.00 per thousand on the balance of the corpus, unless otherwise ordered.

(3) Principal Distribution Fee. \$3.00 per thousand for the first \$200,000 of fair market value of corpus distributed upon the termination of the guardianship, and \$2.00 per thousand on the balance of the corpus distributed upon the termination of the guardianship, unless otherwise ordered.

(B) Compensation for services as guardian of the person only shall be set for hearing unless the hearing is waived by the Court.

(C) Compensation for corporate fiduciaries who are exempt from bond pursuant to Ohio R.C. 1111.21 shall be compensated pursuant to their published fee schedule if the fee schedule is filed in this Court under Case No. 368,530.

(D) All motions, including applications for compensation, by guardians of veterans must comply with Ohio R.C. Chapter 5905 and all other rules and regulations of the Department of Veterans Affairs. (Eff. 01/01/05)

LOC. R. 73.2 PAYMENTS FROM THE INDIGENT GUARDIANSHIP FUND

All services charged to the Indigent Guardianship Fund must be billed to the Court within twenty-five (25) months from the date the service was rendered. Payment will be made in accordance with the Court's written policy. (Eff. 01/01/05)

SUP. R. 74 TRUSTEE'S COMPENSATION

LOC. R. 74.1 TRUSTEE'S COMPENSATION

(A) Except where the instrument creating the trust makes provision for compensation, trustees subject to this Court's jurisdiction may, upon application and entry, be allowed compensation annually for ordinary services in connection with the administration of each separate trust in accordance with the following 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. As used in this rule, "income" shall mean the sum of income as defined in Ohio R.C. 1340.40(D), including 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 to be principal and not income.
- (2) Principal Fee. \$5.00 per thousand for the first \$200,000 of fair market value, and \$4.00 per thousand on the next \$200,000, and \$3.00 per thousand on the balance of the corpus, chargeable to the principal, unless otherwise ordered.
- (3) Principal Distribution Fee. \$5.00 per thousand for the first \$200,000 of fair market value of corpus distributed, and \$4.00 per thousand of

the next \$200,000, and \$3.00 per thousand of the corpus distributed, unless otherwise ordered.

(B) Compensation for corporate fiduciaries who are exempt from bond pursuant to Ohio R.C. 1111.21 may be compensated in accordance with their published fee schedule if the fee schedule is filed in this Court under Case No. 368,530. Vested trust beneficiaries affected by the payment of fees shall be notified by the trustee 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. (Eff. 01/01/06)

SUP. R. 75 LOCAL RULES

LOC. R. 75.1 GUARDIAN AD LITEM

The Court shall select and appoint each guardian ad litem. In land sale proceedings, a minimum fee of Fifty and No/100 Dollars (\$50.00) shall be assessed as costs for each guardian ad litem appointed, unless the circumstances warrant the payment of additional fees subject to Court approval. In all other proceedings, the amount of the guardian ad litem fee will be determined upon motion supported by a statement of services. The guardian ad litem's fees may be assessed as costs.

LOC. R. 75.2 ADOPTIONS

(A) An original and a copy of all petitions, interlocutory decrees, and final decrees shall be filed in every adoption case. Additional copies of the petition shall be submitted as required for service.

(B) In private placement adoptions, a preplacement application in a form prescribed by the Court shall be filed by the proposed adopting parents not less than fifteen (15) days prior to placement if applicants are residents of Franklin County, Ohio, and not less than thirty (30) days prior to placement if applicants are not residents of Franklin County, Ohio.

(C) Once the applications have been approved by the Court, a hearing shall be held not less than seventy-two (72) hours after the birth of the child or after the parent(s) have met with the adoption assessor, whichever occurs later, for the placement and consent by the parents. Prior to the placement hearing, the Court may require a statement from the child's physician as to the medical condition of the child to be 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.

(D) When the petitioner is the guardian of the minor to be adopted, the court shall require a placement hearing except as stated below. The adoption petition shall not be set for hearing until after the placement is complete.

Recognizing due process requires a higher degree of scrutiny for the permanent termination of parental rights compared to a temporary and reversible

termination of parental rights, any guardianship application to be used to commence an adoption pursuant to Ohio R.C. 5103.16, shall specifically state in the application its intended use, and at the appointment hearing the applicant must present sufficient evidence to show that due diligence has been exercised in attempting to locate and serve the parents.

(E) In all adoption cases, Court costs are required to be paid at the time of the filing. The Court should be consulted in advance for current deposit information.

(F) The criminal background checks pursuant to Ohio R.C. 2151.86(B) and petitioner's accounts shall be filed in all cases.

(G) In all adoptions, married petitioner(s) must be married for not less than one (1) year prior to the final approval of the adoption.

(H) In all placement hearings where a birth parent of the child to be adopted is a minor, that birth parent shall be represented by an attorney. The fees for the attorney for the birth parent will be assessed as costs to the petitioner.

(I) All adoption assessors who meet 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 brochure prepared pursuant to Ohio R.C. 3107.082 and 3107.083.

Any adoption assessor providing the birth parent(s) with a copy of this brochure shall file a Certificate of Service by Adoption Assessor form prior to the

first hearing in the adoption proceeding concerning the child of the birth parent(s) who received the brochure.

(J) A private child placing agency shall be deemed to be located at the principal office or principal location in Ohio most recently disclosed by the agency to the Ohio Secretary of State.

(K) A final petitioner's accounting which complies with Ohio R.C. 3107.055 shall be filed in all adoption proceedings. A preliminary estimate is not required to be filed in stepparent, adult, or foreign adoptions. (Eff. 01/01/08)

LOC. R. 75.3 CUSTODIAL DEPOSITS IN LIEU OF BOND

All custodial deposits of personal property, securities, and monies must comply with Ohio R.C. 2109.13. All institutions desiring to be a depository must satisfy the Court of their authorization and certification by the State of Ohio.

All custodial depositories shall annually file statements with the Court disclosing the year-end balance and all activity of each account. The statements shall be filed between January 1 and February 28 of each year.

Compensation for custodial depositories shall be in accordance with their published fee schedule if the fee schedule is filed in this Court under Case No. 368,530. (Eff. 01/01/05)

LOC. R. 75.4 SURETY BONDS

(A) A surety company, prior to executing a fiduciary bond, must register with the Court and file proof that the company is authorized to do business within this State. The Court will maintain a separate case file for each company to

register the company and its agents. Agents must file a power of attorney from the company prior to executing bonds for that company.

(B) Attorneys shall not act as sureties in any case, nor shall they be permitted to become sureties on the bond of any fiduciary.

(C) The Court will not accept personal sureties.

(D) Bond required by law or court order shall be in an amount not less than double the probable value of the personal estate including all sources of income during the accounting period.

(E) The original bond must be approved in writing by a bonding agency prior to the issuance of Letters of Authority in all matters where a bond is required. Additional bonds must be approved by a bonding agency in writing before being approved by the Court.

(F) The bond premium shall be paid by the fiduciary within sixty (60) days of date of appointment. The premium for additional bond shall be paid by the fiduciary within sixty (60) days from the date the additional bond was approved by the Court. Should payment not be made pursuant to this rule, the fiduciary may be held personally liable for its payment and is subject to removal. (Eff. 01/01/04)

LOC. R. 75.5 RELEASE OF ESTATES FROM ADMINISTRATION

(A) The Court shall select and appoint Commissioners, when required, in estates released from administration.

(B) The Court may waive a noticed hearing in those instances where it appears no beneficiaries or creditors will be prejudiced.

(C) Upon the filing of an Application to Relieve Estate from Administration, the applicant shall exhibit to the Court a certified copy of the decedent's death certificate.

(D) Any applicant to Relieve an Estate from Administration, not represented by an attorney shall present to the Court picture identification and proof of current address. (Eff. 01/01/08)

LOC. R. 75.6 *PRO HAC VICE*

(A) An attorney not licensed to practice law in the State of Ohio, but who is duly licensed to practice law in any other state or the District of Columbia, may, at the discretion of the Probate Judge, be permitted to represent a party or parties in any litigation pending or to be filed in this county after completion of all of the following conditions:

- (1) File a written oath substantially in compliance with Rule I, Section 8A of the Supreme Court Rules for the Government of the Bar;
- (2) The attorney must become familiar with Local Court Rules, Civil Rules, Rules of Evidence, and the Ohio Rules of Professional Conduct, and so certify to this Court in writing;
- (3) Be sponsored in writing by an attorney licensed to practice law in the State of Ohio. The motion made by the licensed attorney shall certify such out-of-state attorney's compliance with this rule and the Supreme Court Rules for the Government of the Bar;

(4) The sponsoring attorney shall submit with the motion and certification an entry authorizing the approval of the motion;

(5) The sponsoring attorney, or any other attorney licensed to practice law in the State of Ohio, shall be co-counsel with the attorney admitted *pro hac vice*.

(B) 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. (Eff. 01/01/08)

LOC. R. 75.7 ADDITIONAL FEES

(A) The fee for computerized legal research as authorized by Ohio R.C. 2101.162(A) shall be Three and No/100 Dollars (\$3.00) per case, excluding marriage license applications.

(B) The fee for computerization as authorized by Ohio R.C. 2101.162(B) shall be Ten and No/100 Dollars (\$10.00) per case and Nine and No/100 Dollars (\$9.00) per marriage license application.

(C) The fee for dispute resolution as authorized by Ohio R.C. 2101.163(A) and 2101.163(B) shall be Ten and No/100 Dollars (\$10.00) per case and Five and No/100 Dollars (\$5.00) per marriage license application.

(D) The fee for a criminal records check completed by the Court shall be Fifteen and No/100 (\$15.00) per record check.

(E) The fee for an investigation for a guardianship for an adult as authorized by Ohio R.C. 2101.16(B)(1) shall be Seventy-five and No/100 Dollars (\$75.00). (Eff.01/01/06)

LOC. R. 75.8 REGISTRATION OF PARALEGALS

(A) Paralegals performing services in matters before this Court must be registered with the Court under Case No. 461,100. The Court recognizes two (2) categories of paralegals: “employee paralegals,” paralegals employed exclusively by and performing services for one law firm as an employee of that firm; and “independent paralegals,” paralegals operating as free lance/independent contract paralegals or offering services to more than one law firm. Registration shall be on the forms prescribed by the Court.

(1) Employee paralegals need only be registered once, identifying the law firm and stating the paralegal services will be supervised by the attorney(s) of that law firm. An attorney from the firm and the paralegal shall sign the registration certifying that the paralegal is qualified through education, training, or work experience to assist an attorney in matters which will be filed in this Court and that an attorney from the law firm will supervise and be responsible for all services of the paralegal. In fee statements filed with the Court, services of the paralegal must be itemized separately from services performed by an attorney. The

law firm shall notify the Court when the paralegal registered with the Court leaves the exclusive employment of the law firm.

(2) Independent paralegals shall be registered for each case in which the independent paralegal is performing services, identifying the case name, case number, and supervising attorney. The supervising attorney and the independent paralegal shall sign the registration certifying that the independent paralegal is qualified through education, training, or work experience to assist the supervising attorney in matters that will be filed in this Court and, as supervising attorney, he or she will supervise and be responsible for all services of the independent paralegal. In fee statements filed with the Court, services of the independent paralegal must be itemized separately from services performed by an attorney. Attorney fees reported in the account shall include a disclosure of the independent paralegal fees on the Receipts and Disbursements form.

(B) In conjunction with Civ. R. 11, a paralegal may not sign any document for the fiduciary, applicant, or supervising attorney.

(C) For purposes of this rule, the Court acknowledges the definition of “paralegal” adopted by the Columbus Bar Association. Registration with the Court does not constitute certification by the Court as to the qualifications of the paralegal.

(D) Failure to comply with this rule may result in the disallowance of the fees and such other action as the Court may deem appropriate.

LOC. R. 75.9 WILLS DEPOSITED FOR SAFEKEEPING

Any person placing a will on deposit in this Court shall sign a written statement acknowledging the will is being placed on deposit at the request of the testator or guardian of the testator and identify the testator's current address and telephone number. When a will is being held by an attorney, and the address of the testator is unknown, that attorney must use reasonable diligence to locate the testator to sign the above statement. If the testator cannot be located after a diligent search the will may be placed on deposit with this Court on motion of the attorney on the form provided.

When an attorney who is holding wills for other persons dies, becomes disabled, or otherwise ceases to practice law, that attorney, or person who is handling the attorney's affairs must use due diligence to locate the testator and return the will. If a testator cannot be located after a diligent search, and the testator was last known to be a resident of this county, the will may be placed on deposit with this Court.

Any Order to Deliver a will previously deposited with this Court must be signed by the testator and the person to whom the will is to be delivered. The

testator's signature must be notarized by a person other than the person to whom the will is to be delivered.

After the testator's death, wills deposited for safekeeping pursuant to Ohio R.C. 2107.07 shall only be released to a court of competent jurisdiction.

(Eff. 01/01/04)

LOC. R. 75.10 APPLICANTS WILL EXHIBIT PHOTOGRAPHIC IDENTIFICATION

Applicants appearing before this Court for any matter may be required to exhibit a picture identification and proof of a current address.

LOC. R. 75.11 OBJECTIONS TO MAGISTRATE'S DECISION

Upon filing objections to a magistrate's decision pursuant to Civ. R. 53, any party may cause the objections to be set for hearing and give notice to the remaining parties or attorneys of the date on which the matter is to be heard. If an entry setting hearing on the objections is not filed within twenty-eight (28) days of the filing, the objections shall be deemed submitted to the Court for consideration on the pleadings.

The objections shall be accompanied by a supporting memorandum. If required, the transcript shall be filed within thirty (30) days of the filing of the objections or two (2) days before the hearing, whichever occurs first.

Failure to file a transcript when one is required by Civ. R. 53(E)(3)(c) is a basis for dismissal of the objections.

Memoranda contra to the objections may be filed by any party within ten (10) days of the filing of the objections, or two (2) days prior to the hearing, whichever occurs first. (Eff. 01/01/06)

LOC. R. 75.12 WILLS IN SAFE DEPOSIT BOX

The Court will appoint the attorney for a decedent's estate or a bailiff of this Court as a Commissioner to list the contents of the box and retrieve the decedent's will and codicils from the decedent's safe deposit box for delivery to the Court. A filing fee of Fifteen and No/100 Dollars (\$15.00) must be paid and a case number assigned prior to the appointment of the Commissioner. If the Court bailiff is appointed as the Commissioner, an additional fee of Twenty and No/100 Dollars (\$20.00) will be assessed.

LOC. R. 75.13 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.

LOC. R. 75.14 MARRIAGE LICENSE APPLICANTS

Pursuant to Ohio R.C. 3101.05 any applicant for a marriage license who is a minor must provide proof of having had marriage counseling prior to applying for the license. The counseling can be provided by clergy or a person licensed by the State of Ohio to provide counseling. Proof of counseling may be in the form of

a letter to this Court from the person who provided the counseling on his or her letterhead.

LOC. R. 75.15 OHIO ESTATE TAX RETURN

In cases in which an Ohio estate tax return is not otherwise required to be filed, an Ohio estate tax form 22 shall be filed as described in Ohio R.C. 5731.21, if the value of the gross estate of the decedent, as defined in division (A) of Ohio R.C. 5731.01, includes any interest in real estate, and the decedent has been deceased for less than ten years.

LOC. R. 75.16 SURVIVING SPOUSE WAIVER OF SERVICE OF THE CITATION TO ELECT

A surviving spouse may waive the service of the citation required under section 2106.01(A) of the Revised Code by filing in the probate court a written waiver of the citation. The waiver shall include an acknowledgement of receipt of the description of the general rights of the surviving spouse required by division (B) of section 2106.02 of the Revised Code.

LOC. R. 75.17 ELECTRONIC RETURN RECEIPT SERVICE

The Court is utilizing electronic return receipts from the United States Postal Service for certified mail service developed in a project under the direction of the Ohio Supreme Court. Therefore, electronic proof of service for certified or express mail sent by the Court pursuant to the electronic return receipt program

shall be deemed in compliance with the service requirements of Civil Rule 73 and Civil Rules 4.0 through 4.6. (Eff. 01/01/08)

**SUP. R. 78 CASE MANAGEMENT IN DECEDENT'S ESTATES,
GUARDIANSHIPS, AND TRUSTS**

LOC. R. 78.1 CASE MANAGEMENT

For the purpose of insuring the readiness of proceedings in the Franklin County Probate Court, the following procedure shall be in effect:

I. CIVIL ACTIONS: (Excluding Land Sales)

(A) All cases must have a general file number before a civil action may be filed.

(B) A status conference and a pretrial conference shall be conducted in all civil actions unless otherwise ordered by the Court.

(C) Within thirty (30) days after the final answer day, the case shall be set by plaintiff's counsel for a status conference.

(D) Plaintiff's counsel shall give not less than fourteen (14) days notice of the status conference to all counsel of record and/or all parties not represented by counsel who have entered an appearance.

(E) Status Conference. All counsel must have full authority to enter into binding orders. Unless otherwise ordered by the Court, the following matters and decisions shall be addressed at the status conference:

- (1) the possibility of settlement of the action;

- (2) a discovery schedule shall be agreed upon by all parties or set by the Court;
- (3) a date of exchange of expert witness reports shall be determined;
- (4) a final date for filing of all motions which shall not be later than twenty-eight (28) days before the pretrial conference. No further motions shall be considered without good cause shown and leave of Court;
- (5) the date for the pretrial conference shall be set by the Court and shall be no more than fourteen (14) days before the trial;
- (6) the date for trial shall be set by the Court.

(F) Pretrial Conference. All counsel must have full authority to enter into binding orders. Unless otherwise ordered by the Court, the following matters and decisions shall be addressed at the pretrial conference:

- (1) the Court may rule on any pending motions;
- (2) the following shall be submitted:
 - a. trial briefs;
 - b. witness lists;
 - c. exhibit lists;
 - d. exhibits as ordered by the Court;
 - e. proposed jury instructions;
 - f. proposed jury interrogatories;

(3) Clients shall be present unless their presence has been excused by the Court.

(G) Witness lists exchanged between parties and/or presented to the Court are to provide the name and, if known, the address and telephone number of each person intended to be called as a witness.

(H) The trial date shall not be continued without good cause shown and order of the Court.

II. CIVIL ACTIONS: LAND SALES

(A) All cases must have a general file number before a civil action may be filed.

(B) All land sales which have not been concluded within one (1) year from the date of filing shall be set for status conference by plaintiff's counsel within thirty (30) days following the expiration of one (1) year.

(1) The fiduciary and the attorney must attend the status conference.

(2) A written status report shall be submitted to the Court at the status conference. The status report shall address pending issues and the efforts being made to conclude the land sale.

(3) The fiduciary shall show cause why the Court should not order public sale of the real estate.

(C) Motions for a fixed price shall be set for hearing with notice to all parties who have entered an appearance and all parties in default whose names and addresses are known or with reasonable diligence can be ascertained.

III. MOTIONS

(A) All motions filed in this Court shall be accompanied by a memorandum stating the grounds and citing the authorities relied upon. Opposing counsel or a party shall serve the response memorandum on or before the fourteenth (14th) day after the date of service as set forth on the certificate of service attached to the served copy of the motion. The moving party shall serve any reply memorandum on or before the seventh (7th) day after the date of service as set forth on the certificate of service attached to the served copy of the response memorandum. On the twenty-eighth (28th) day after the motion is filed, the motion shall be deemed submitted to the Court unless a prior written request for an oral hearing has been filed and approved by the Court. The time and length of any oral hearing shall be fixed by the Court. Except as otherwise provided, this rule shall apply to all motions.

(B) Motions for summary judgments are subject to the preceding Paragraph (A) and set for nonoral hearing on the twenty-eighth (28th) day following the filing of the motion for summary judgment. The filing of opposing affidavits and supporting documents are subject to Civ. R. 56.

(C) Motions for temporary restraining orders, preliminary injunctions, or similar urgent equitable relief, applications and motions relating to administrative matters, and appointments shall be submitted to the Court at a time set by the Court. When required, notice of the time and place of the hearing shall be served upon any adverse party or their counsel by the moving party.

(D) Interrogatories under Civ. R. 33, requests for production or inspection under Civ. R. 34, and requests for admissions under Civ. R. 36 shall be served upon other counsel or parties in accordance with these rules, but shall not be filed with the Court. The party responding may file with the Court interrogatories and requests together with any responses and objections. If relief is sought under Civ. R. 26(C) or Civ. R. 37 concerning any interrogatories, requests for production or inspection, and requests for admissions, copies of the portions of the documents which are in dispute shall be filed with the Court contemporaneously with any motion filed under Civ. R. 26(C) or Civ. R. 37.

IV. MENTAL ILLNESS AND MENTAL RETARDATION HEARINGS

All hearings shall comply with R.C. Chapters 5122 and 5123.

V. ADOPTIONS

The status of pending preplacement applications and adoption proceedings shall be reviewed annually and the Court may order further action as necessary.

Additional rules on adoptions are located in Local Court Rule 75.2.

VI. MISCELLANEOUS MATTERS

All miscellaneous matters shall be reviewed annually and the Court shall order further action as necessary.

VII. FAILURE TO COMPLY

Failure to comply with this Case Management Rule may result in dismissal pursuant to Civ. R. 41 and other sanctions, including but not limited to, payment of costs and attorney fees.

LOC. R. 78.2 WITHDRAWAL OF COUNSEL

(A) An attorney desiring to withdraw 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 Court shall not issue an entry approving the withdrawal until the attorney has filed a certification that the following conditions have been fulfilled:

- (1) Notice has been given to the client stating all filing deadlines affecting the client;
- (2) Notice has been given to all attorneys, unrepresented parties, and interested persons;
- (3) Attorneys withdrawing from representation of a fiduciary shall file the written acknowledgment of the withdrawal signed by the fiduciary or withdrawal shall be granted after a hearing with notice

to the fiduciary. The attorney shall also notice any bonding agencies involved.

(B) No attorney shall be permitted to withdraw from a case sooner than twenty (20) days prior to a trial or dispositive hearing, except for extraordinary circumstances that require permission of the Court.

(C) Substitution of counsel shall be in writing but does not require approval of the Court. Notice shall be given to all attorneys, unrepresented parties, and interested persons.

LOC. R. 78.3 INVENTORY

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

(B) The inventory shall contain the address, legal description, and parcel number of the interest in the real estate of the decedent or ward.

(C) The inventory will not be accepted for filing unless the bond, when required, is sufficient pursuant to Loc. R. 75.4. A guardian's inventory shall include the projected annual income of the ward.

(D) The Court will not approve the distribution, sale, or expenditure of any estate or guardianship assets prior to the filing of the inventory.

(E) All fiduciaries must sign the inventory when multiple fiduciaries have been appointed.

(F) All financial asset account numbers in an inventory shall disclose only the last four (4) digits of each account number. It is the responsibility of the person filing the inventory to redact the remaining digits of each account number.

(Eff. 01/01/09)

LOC. R. 78.4 REQUEST FOR JURY TRIAL

The Franklin County Common Pleas Court, General Division, Rule 27, as they relate to juries, shall apply to proceedings in the Probate Division, except to the extent that by their nature they would be clearly inapplicable.

LOC. R. 78.5 MEDIATION

(A) After the filing of an estate, guardianship application, trust, or any other action, the Court, on its own motion or the motion of any of the parties, may refer disputed issues to mediation.

(B) The mediation sessions may be held until all issues are resolved in a manner acceptable to the disputing parties, or until the mediator determines that continued mediation would not be productive.

(C) The Court may order parties to participate in or return to mediation at any time.

(D) Statements made during a mediation session shall be considered compromise negotiations and are not admissible as evidence pursuant to Evidence Rule 408. Mediators will not be permitted to testify regarding the substance of the mediation, including but not limited to, cooperation or noncooperation of the parties.

(E) To be accredited and appointed by the Court, a mediator shall possess the following qualifications:

- (1) Be an attorney in good standing with the Supreme Court of Ohio;
- (2) Have five (5) years of experience in handling probate matters; and,
- (3) Have completed forty (40) hours of advanced mediation training, which has been approved for Continuing Legal Education and is approved by the Court.

(F) Referral to mediation by the Court shall be by “Notice of Mediation” which shall indicate the time, place of the mediation, and the name and telephone number of the mediator.

(G) The parties are equally responsible for paying one-half (1/2) of the mediator’s fee for the first mediation session. The Court will pay the remaining one-half (1/2) of the fee for the first mediation session unless otherwise ordered. A mediation session is defined as a four (4) hour period. If continued mediation sessions are necessary, the mediator’s fee shall be borne equally by the parties, unless otherwise ordered by the Court. The Court will determine the rate at which

the mediator will be paid. The mediator's fee will be determined by the complexity of the issues in the matter being mediated. Any additional expenses associated with the mediation must be preapproved by the Court.

(H) In compliance with Sup. R. 16, if the parties wish, their attorneys and other individuals they designate are allowed to accompany them and participate in mediation. At the outset of the mediation the parties are to be asked if they have ever been the victim of domestic violence. The parties are to be encouraged to seek legal counsel and support services, including victims and suspected victims of domestic violence. Mediation is not to be used in any of the following:

- (1) As an alternative to the prosecution or adjudication of domestic violence;
- (2) In determining whether to grant, modify or terminate a protection order;
- (3) In determining the terms and conditions of a protection order; and,
- (4) In determining the penalty for violation of a protection order.

(Eff. 01/01/07)

LOC. R. 78.6 EXTENDED ADMINISTRATION

All estates will initially be scheduled according to the six-month administration schedule of Ohio R.C. 2109.301(B). In those estates meeting the requirements for extended administration stated in Ohio R.C. 2109.301 (B)(1)(a)(f), the administrator or executor shall file a notice or application (Standard Probate Forms 13.8 or 13.10) to extend the filing deadlines.

Upon the appointment of a successor fiduciary, the estate will be rescheduled for a six-month administration unless the successor administrator or executor files a notice or Application to Extend Administration (Standard Probate Forms 13.8 or 13.10). (Eff. 01/01/05)

LOC. R. 78.7 SPECIAL NEEDS TRUSTS

In addition to the requirements of Ohio R.C. 5111.151(F)(1), all special needs trusts approved by this Court, or funded with Court approval, must have the following terms:

- (A) No expenditures may be made without prior Court approval.
- (B) Bond shall be posted unless all of the assets of the trust are in a custodial account under Ohio R.C. 2109.13, or the trustee is exempt from bond under Ohio R.C. 1111.21.
- (C) The State of Ohio shall have all of the rights as a beneficiary of the trust.
- (D) Annual accounts shall be filed unless all of the assets of the trust are in a custodial account under Ohio R.C. 2109.13.
- (E) Distributions from the trust shall not discharge any duty of support owed to a beneficiary. (Eff. 01/01/06)

APPENDIX

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