

**COSHOCTON COUNTY
RULES OF PRACTICE AND PROCEDURES OF THE
COURT OF COMMON PLEAS
PROBATE DIVISION**

Jason W. Given, Judge



Effective January 1, 2024

PURSUANT TO ARTICLE IV, SECTION (5) OF THE OHIO CONSTITUTION AND THE RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO, IT IS ORDERED THAT THE FOLLOWING BE THE RULES OF PRACTICE AND PROCEDURE OF THE PROBATE AND JUVENILE COURTS OF COSHOCTON COUNTY, OHIO.

Application of any rule may be waived or modified by motion filed with the Court and for good cause shown.

In the event of any conflict between any provision of these rules with either the Ohio Revised Code or the applicable rules of any Court with superior jurisdiction, then the statutory provision of such other Court's rule shall prevail.

**COMMON PLEAS COURT OF COSHOCTON COUNTY, OHIO
PROBATE DIVISION**

LOCAL PROBATE COURT RULES

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SUP. R. 8 COURT APPOINTMENTS

LOCAL RULE 8.1 COURT APPOINTMENTS

(A) Persons appointed by the court to serve as fiduciaries, attorneys, appraisers, magistrates in involuntary appointment proceedings, investigators, guardian ad litem, commissioners and trustees for suit may be selected from lists maintained by the Court. The Court shall keep a separate list of qualified guardian's ad litem.

(B) 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.

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

(D) Compensation for all appointed counsel for Probate cases shall be at a rate of \$75.00 per hour with a cap of \$1,000.00 per case. Additional fees may be approved at the Court's discretion for cases involving additional litigation.

SUP. R. 9 SECURITY PLAN

LOCAL RULE 9.1 SECURITY PLAN

 This Court's security plan is under review and will be filed in conjunction with Case No. 20480008 in the Probate Division of Coshocton County Court of Common Pleas and with the Supreme Court of Ohio. The security plan is confidential and is not a matter of public record.

SUP. R. 11 RECORDING OF PROCEEDINGS

LOCAL RULE 11.1 RECORDING OF PROCEEDINGS

(A) The Court will make a digital recording of the proceedings as the record of the Court unless a stenographic record is requested. Parties who desire to have a stenographic record of the proceedings must notify the Court in writing and the requesting party shall pay the costs of the stenographic record unless otherwise ordered by the Court.

(B) The Court will allow an interested party to listen to a copy of the electronic recording upon request made not less than forty-eight (48) hours in advance. Media shall not be removed from the Court.

(C) Any interested party may request a stenographer approved by the Court transcribe an electronic recording. A person making the request shall pay the cost of the transcription and must make a deposit in advance for such transcript as set forth by the transcriber.

(D) Upon written request by a party or attorneys of record a CD of the record may be requested at a cost of \$5.00 per disc. (No public use shall be made by any person, including a party, of any probate court record, including the recording or transcript of any probate court hearing, except in the course of an appeal or as authorized by order of the court or by statute.) Unauthorized use or disclosure of the information contained in the records may be subject to Court action, including but not limited to contempt.

**SUP. R. 12 BROADCASTING, RECORDING AND PHOTOGRAPHING COURT
PROCEEDINGS**

LOCAL RULE 12.1 BROADCASTING, RECORDING AND PHOTOGRAPHING

No radio or television transmission, voice recording device, other than a device used in making an official record of the proceeding for the Court, or the making or taking of photographs, shall be permitted without the prior approval of the Judge.

SUP. R. 26 COURT RECORDS MANAGEMENT AND RETENTION

LOCAL RULE 26.1 COURT RECORDS MANAGEMENT AND RETENTION

Pursuant to Rule 26 (G) of the Rules of Superintendence for the Courts of Ohio, the Probate Division of the Court of Common Pleas, Coshocton County, Ohio adopts the Court Records Management and Retention and schedules as set forth, and will be followed in conjunction with, the Rules of Superintendence for the Courts of Ohio.

LOCAL RULE 26.2 DISPOSITION OF EXHIBITS

(A) 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 offered or proffered shall be given to the stenographer, unless otherwise ordered by the Court. If the proceeding is electronically recorded, exhibits shall be retained in the case file, unless otherwise ordered by the Court.

(B) 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.

SUP. R. 51 STANDARD PROBATE FORMS

LOCAL RULE 51.1 STANDARD PROBATE FORMS

Standard probate forms shall be used where applicable. Where a standard form has not been prescribed by this Rule, the form used shall be that required by the Civil Rules or prescribed or permitted by the Probate Division of the Court of Common Pleas.

SUP. R. 52 SPECIFICATIONS FOR PRINTING PROBATE FORMS

LOCAL RULE 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.

LOCAL RULE 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

LOCAL RULE 53.1 HOURS OF THE COURT

The Court Office shall be open for the transaction of ordinary business from 8:00 a.m. to 4:00 p.m. on all business days, Monday through Friday, except for legal holidays and such other occasions as may be specifically ordered by the Court. Additionally, the Court shall be closed the day after Thanksgiving.

SUP. R. 54 CONDUCT IN COURT

LOCAL RULE 54.1 CONDUCT IN COURT

(A) All parties, witnesses and counsel appearing herein shall be treated with professional courtesy and respect. Conduct which interferes, or tends to interfere with the proper administration of justice and/or the business of the Court is strictly prohibited and may, at the discretion of the Court, subject the offending counsel, parties or other participants to sanctions, including, but not limited to, contempt. A finding of contempt may subject the contemnor to a fine, incarceration or both. The definition of “the Court” includes the Judge, all appointed Magistrates, any other judicial officer, and any employee of the Court or security officer assigned to the Court.

(B) Appearance in Court under the influence of alcohol or drug abuse by any person is strictly prohibited. Any party or other person appearing in this Court who appears to be under the influence of alcohol and/or any drug of abuse may, at the discretion of the Court, be ordered to submit to alcohol testing and drug screening. A positive alcohol test and/or drug test may

result in a finding of direct contempt. A finding of contempt may subject the contemnor to a fine, incarceration or both.

(C) All persons must dress in proper attire when entering the court facility. No attorney, party, observer or witness shall be permitted to enter the court facility or offer testimony while dressed inappropriately; including shorts, tank tops, flip-flops, or any attire with language which may appear to be inappropriate, discriminatory or otherwise offensive to others. It shall be the duty of counsel to advise the parties and witnesses of this rule prior to their appearance in Court. Hearings may be continued or cancelled if parties appear dressed inappropriately.

(D) No person shall be permitted to enter the court facility while exhibiting inappropriate hygiene or appearing to create a public health concern. The Court shall take such measures deemed appropriate to control or monitor any public health concerns, including: health screen questionnaires, masks, social distancing, limited entry and sanitation protocols if necessary to protect the health of the public.

(E) All persons ordered to appear shall check-in with the Clerk or designated official, and may be denied entrance or have their case dismissed if valid notice is not provided to the Court regarding their absence in a timely manner. The Court may also deny entrance into any proceeding once a case has officially commenced.

(F) The Court reserves the right to remove any person whose conduct disrupts the proceedings before the Court or poses a threat to security. The definition of “the Court” includes the Judge, all appointed Magistrates, any other judicial officer, and any employee of the Court or security officer assigned to the Court.

SUP. R. 55 EXAMINATION OF PROBATE RECORDS

LOCAL RULE 55.1 REMOVAL OF FILES

(A) The general records of the Court shall be subject to inspection or shall be open to inspection by all members of the public during regular office hours of the Court.

(B) The Court prohibits removal of files.

LOCAL RULE 55.2 PHOTOCOPIES

Copies of public records shall be provided at a cost of 25¢ per page. If a request is received to send copies by regular U.S. mail, such copies will be mailed only if the cost of the copies, postage and any other mailing expenses are pre-paid. (Section 149.43 O.R.C.)

LOCAL RULE 55.3 CONFIDENTIAL RECORDS

Files of adoption, mental illness and Ohio Estate Tax returns are confidential by statute and may be accessed only as authorized by the Judge.

SUP. R. 57 FILINGS AND JUDGMENT ENTRIES

LOCAL RULE 57.1 COMPLETE STREET ADDRESS AND PHONE NUMBER

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 addresses of the surviving spouse, next of kin, legatees and devisees. Also, a telephone number of the fiduciary or attorney must be included on all executed Court documents.

LOCAL RULE 57.2 CASE NUMBER

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

LOCAL RULE 57.3 ORIGINAL SIGNATURES

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

LOCAL RULE 57.4 COURT FILINGS

All filings must be legible, on 8-1/2” x 11” paper and the type size for the body of the document shall not be less than ten (10) point or greater than twelve (12) point. Filings that are not legible for any reason including poor handwriting or photocopying may be refused, or if

filed, may be stricken unless there is a legibly typed copy attached thereto. The Court will accept for filing only pleadings that are complete.

LOCAL RULE 57.5 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) must contain a certificate of service including the names and addresses of all parties and other interested persons required to be served.

LOCAL RULE 57.6 SOCIAL SECURITY NUMBER

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. Pursuant to Rules of Superintendence Rule 45, personal identifiers shall be disclosed on the “Confidential Disclosure of Personal Identifiers” form and be filed at the time of filing of the Inventory and Appraisal.

LOCAL RULE 57.7 ACCOUNT NUMBERS

Pursuant to Rules of Superintendence Rule 44, all financial asset account numbers in any public record document filed in this Court shall be omitted. It is the responsibility of the person filing the document to redact the account number. Pursuant to Rules of Superintendence Rule 45, personal identifiers shall be disclosed on the “Confidential Disclosure of Personal Identifiers” form and be filed at the time of filing of the Inventory and Appraisal.

LOCAL RULE 57.8 DEATH CERTIFICATE TO BE EXHIBITED

Upon the initial filing of any matter captioned in the name of a deceased individual, the applicant shall exhibit to the Court a copy of the decedent’s death certificate. Upon the termination of a guardianship due to the death of the ward, the applicant shall exhibit to the Court a certified copy of the ward’s death certificate.

LOCAL RULE 57.9 FILING PROCESS

Pursuant to the authority extended the Court by Civil Rule 5 the Court adopts the following procedures for the acceptance of copies, subsequent to the original complaint, of pleadings and other papers:

(A) **Effective January 1, 2023: The Court will no longer accept facsimile filing and will only accept filings by mail, in person or by electronic filing submission.**

The Court's preferred method of filing shall be by electronic filing submission for all cases with the Court and its Clerk as provided herein. The address for filing shall be: doc426@coshoctoncounty.net

(B) The filing of pleadings or other papers, subsequent to the original complaint and not requiring a security deposit pursuant to Local Rule, may be filed with the Clerk. A document filed by electronic filing transmission shall be accepted as the effective original filing. The person making such filing need not file any source document with the Court, but must, however, maintain in their records and have available for production on request by the Court the source document filed with original signatures as otherwise required under the applicable rules. The date/time of filing is not determined by the electronic filing transmission received date/ time stamp, but is determined by the Clerk's date stamp.

In the event any electronic filing transmission is received by the Clerk after 3:30 p.m. on a regular business day or anytime on a weekend or holiday the transmission shall be considered filed on the next ensuing regular business day for the Clerk. To ensure timely filing of pleadings or other papers, contact the Probate Clerk at (740) 622-1837.

(C) The filing of documents by electronic filing transmission shall not relieve any requirements of filing additional copies as required by any applicable rules. All electronic filing transmission tendered to the Court for filing pursuant to this rule shall conform to the requirements of applicable Rules 10 and 11 of Ohio Rules of Civil Procedure or Rule 10 of the Ohio Rules of Juvenile Procedure and these Local Rules, in both form and substance. Each electronic filing transmission shall contain a cover page which includes the following information:

- (1) Name of forwarding party or attorney,
- (2) Address of forwarding party or attorney,
- (3) Ohio Supreme Court registration number of attorney,
- (4) Telephone number of party or attorney,
- (5) E-mail address of party or attorney,

- (6) Date and time of electronic filing transmission, and
- (7) Number of pages in document being forwarded.
- (8) Personal Identifiers

(D) Any signature on electronically transmitted documents shall be considered that of the attorney or party it purports to be for all purposes. If it is established that the documents were transmitted without authority, the court shall order the filing stricken. The risk of electronic filing transmission remains with the sender and the Clerk of this Court shall assume no new responsibilities or liabilities. If it should be established that a electronic filing transmission was sent without authority, the Court shall order the filing immediately stricken.

(E) All electronic filing transmissions shall be in **PDF format** (portable document format). All electronic filing transmissions shall include the Case Number and Caption in the electronic filing transmission subject line.

(F) Sufficiency of Pleadings and Motions

All pleadings and motions of any kind filed with the court must be in the appropriate form and may be reviewed and approved by the Probate Court. The document may not be filed with the Clerk, and the Clerk may not accept it for filing, until it has been approved.

In the event that such pleading or motion is found inappropriate in any respect, the party seeking to file such pleading or motion shall be so advised.

The party will have 14 days from initial notice of insufficiency to retrieve the filing from the Court before it is deposited in the regular mail to the address included on the pleading.

(G) Effect of Non-Compliance

Pleadings or motions which do not conform to the requirements of this rule shall not be accepted for filing by the Clerk and the Court may *sua sponte* strike from the file any complaint, cross-complaint, petition, motion, other pleading or document not in compliance with this rule.

LOCAL RULE 57.10 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.

LOCAL RULE 57.11 ISSUANCE OF SUMMONS

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

(B) On Service of original Summons, Ohio Rules of Civil Procedure 4.0 to 4.6 shall apply.

LOCAL RULE 57.12 SERVICE OF SUBSEQUENT FILINGS

(A) Service and filings of pleadings and papers subsequent to original pleadings shall be pursuant to Civil Rule 73 (D).

(B) An Attorney or a party not represented by an attorney may request electronic (E-file) service of court documents by filing a Request for Service by E-mail with valid electronic mail address by filing of said form with the Court. Service on the attorney or party by electronic mail shall constitute service pursuant to Ohio Civil Rule 5 and Ohio Criminal Rule 49 but shall not entitle the attorney or party to the additional three days provided by Ohio Civil Rule 6(E). Documents served electronically shall contain proof of service setting forth the electronic mail address at which the attorney or party has been served.

LOCAL RULE 57.13 MOTIONS, MEMORANDA, AND PROCEDURE THEREON

(A) All motions shall be accompanied with a memorandum in support stating the grounds and citing applicable authorities. The non-moving party shall serve any responsive pleading on or before the seventh day after the date of service. The moving party shall serve any reply on or before the seventh day after the date of service. On the twenty-eighth day after the motion is filed, the motion shall be deemed submitted to the Court for ruling. Motions for summary judgment taken pursuant to Civil Rule 56 will be heard according to a schedule ordered

by the Court. This rule shall not apply to motions for default judgment, which may be ruled upon the same date the motion for default judgment is filed, at the discretion of the Court.

(B) Oral Hearings will be considered at the discretion of the Court upon request by any party. If a party finds it necessary to present evidence at a hearing, then the party should notify the Court that an evidentiary hearing is requested, with an estimate of time needed for the hearing. If neither party requests an oral hearing or evidentiary hearing, the Court will take the matter under advisement for non-oral hearing according to the schedule noted above.

LOCAL RULE 57.14 JUDGMENT ENTRIES

(A) Unless the Court otherwise directs, counsel for the party in whose favor a judgment is rendered, shall within five days thereafter submit the journal entry to opposing counsel. Opposing counsel shall approve or request the entry within three days of receipt.

When counsel approves the entry, it shall be signed and presented to the Court for approval with the appropriate copies for distribution.

(B) The final entry shall designate how court costs are to be paid.

(C) If counsel fails to present any entry within twenty days after the judgment is rendered, the Court may cause the proper entry to be prepared and filed without submission or notice to counsel or take such other actions as may be appropriate under the circumstances.

(D) Counsel shall promptly submit any settlement entry to the Court. In the event that counsel fails to present the entry to the Court within twenty days after counsel has informed the Court that the case is settled, the Court, after providing notice to counsel may order the case dismissed pursuant to Civil Rule 41.

LOCAL RULE 57.15 APPLICANT INFORMATION & RELEASE

An applicant for transfer of structured settlement, minor settlement, guardianship, name change, estate, or trust, except a state agency, must complete an application for criminal and/or civil record check which is acceptable to the Court, unless named in an instrument (will,

trust, etc.). Forms which detail applicant information and a signed consent and release must accompany said application, and may be found on the Court's website under the Probate Miscellaneous Forms Tab and in the Appendix section of the Local Rules.

No cost to conduct record checks will be included as costs with said case.

LOCAL RULE 57.16 PROBATE COURT E-FILE SYSTEM

(A) All electronic filings shall be governed by the Probate Court E-File System Terms of Use and the Probate Court E-File System Policies and Procedures. All documents filed through the E-File System in accordance with this Rule also must comply with standards set forth in the Local Rules of the Probate Court, the Ohio Rules of Civil Procedure, and the Rules of Superintendence.

(B) In matters where electronic filing is authorized, the electronically filed document will be part of the official court record. Paper records, if maintained, will be considered a copy of the official court record, and shall be produced only upon request of the Court.

(C) Any signature on electronically transmitted documents shall be considered that of the attorney or party it purports to be for all purposes. If it is established that the documents were transmitted without authority, the court shall order the document stricken.

(1) No attorney shall authorize anyone to electronically file on that attorney's behalf, other than his/her employee or a service provider retained to assist in electronic filing.

(2) The electronic filing of a document by an attorney, or by another under the authorization of said attorney, or by a party not represented by an attorney shall constitute a signature of that attorney or party under Ohio Civil Rule 11.

(3) No person shall utilize, or allow another person to utilize, the password of another in connection with electronic filing.

(D) The Electronic Filing System shall be available twenty-four hours per day, seven days per week. All electronic filing of documents must be completed by 4:00pm to be timely filed that day. Documents transmitted outside of regular court hours of operation shall be deemed filed on the next normal business day of the Court.

(E) A document electronically filed shall be accepted as the original filing if the filer complies with all the requirements set forth in this rule. The filer shall not be required to file the source document with the clerk but must maintain the same in the filer's records, and have the same available for production on request of the court, the clerk or other counsel. The filer shall maintain the source document until the subject case is closed and all appeals and opportunities for appeal have been exhausted.

(F) Upon the filing of a properly executed and signed User Agreement with the Court Case Management System Vendor, an e-mail verification will be sent to the User. The Electronic File System User (E-File User) will be assigned an identification code and password for all electronic filings.

(1) On Filings that require payment, the filing system will not accept the filing until proper payment has been submitted. This payment must be made by credit card, including Visa, Master Card, Amex, or Discover.

(2) Information contained with the Electronic filing includes:

- (i) Filing Party ID Number
- (ii) Date & Time of Filing
- (iii) Agency Filed With
- (iv) Filer Name
- (v) Filer E-mail Address
- (vi) Form Name

(vii) Filing Fee Paid

(3) Filings not requiring payment must be properly attached to an existing case type in order to be accepted into the Case Management System.

(4) No filer shall electronically file any document containing the following information:

(i) Social Security Numbers

(ii) Account numbers for an individual's bank account, security account, debit card, charge card; or

(iii) Information concerning a minor, including minor's date of birth, age, or telephone number, or address.

(G) In the event that a document is electronically filed with incomplete information, the clerk shall reject the document and notify the filer via electronic mail of said rejection.

(H) The following definitions shall apply herein, unless the context requires otherwise:

(1) "Electronic Filing" means the transmission of a digitized source document electronically via the internet to the clerk for the purpose of filing the document and refers to the means of transmission or to a document so transmitted.

(2) "Electronic Mail" means messages sent by a user and received by another through an electronic service system utilizing the internet. Any communication sent to the Court by electronic mail is not considered a legal communication of any form and will not be received or ruled upon by a judge or entered into the Court record.

(3) "Document" means any pleading, motion, exhibit, order, notice, and any other filing by or to the Court, except trial exhibits that have not yet been admitted into evidence by the Court.

SUP. R. 58 DEPOSIT FOR COURT COSTS

LOCAL RULE 58.1 DEPOSITS

The business of the Court will be conducted on a cash, check, credit card, or money order basis. Processing fees may apply for credit card processing. All deposits for court proceedings will be in accordance with the Court's deposit, fee and costs schedule in effect on the date of filing of the pleading. A list of deposits required is as follows:

Estate

Full Administration	\$250.00
Release	\$200.00
Summary Release	\$110.00
Summary Release w/ Real Estate	\$115.00

Guardianship

Minor	\$250.00
Incompetent	\$350.00
Investigation Fee (non-indigent cases)	Flat Fee + Exp. (or) \$45.00/hr. + exp.

Conservatorship	\$250.00
Attorney In-Fact Review	\$165.00

Adoptions

Step-Parent	\$425.00
Additional Siblings	\$245.00
Private Placement	\$600.00
Adult	\$166.00
Agency	\$181.00

Trust	\$200.00
Minor's Claim	\$92.50
Name Change	\$118.50
Birth Correction	\$90.00
Registration of Birth	\$90.00
Determination of Heirs	\$140.00
Foreign Will	\$82.50 + 25¢ per page
Marriage License	\$92.00
Presumption of Death	\$115.00
Probate of Will Only	\$87.50
Claim Against Estate	\$20.00
Will Contest or Any Complaint Filed	\$175.00
File Will Only (Not Probate)	\$70.00
Wrongful Death With Estate	\$37.50

Disinterment	\$100.00
Structured Settlement	\$130.00
Computer Fund	\$10.00
Computerized Legal Research	\$3.00
Certified Copies	\$1.00
Special Project Fee	\$50.00

These court costs may be changed by the Court without amendments of these Local Rules or as required by statute.

E-Filing Fees and Costs

All case updates and information accepted for E-filing are listed on the Court Website at www.coshocountynet.net/probate/ under the E-filing Tab. A minimum fee of \$2.00 per case or 3% of the filing cost is assessed as a convenience fee for the Filer in addition to the costs listed below.

Acceptable E-Filings with associated Fees are listed below:

Guardian's Inventory	\$17.00
Application to Release Funds	\$5.00
Application to Expend Funds	\$5.00
Guardian's Account	\$29.00
Guardian's Report	\$5.00
Application to Terminate Guardianship	\$5.00
Application to Extend Time	\$5.00
Application to Expend	\$5.00
Motion to Continue	\$5.00
Motion to Approve Contract of Representation	\$5.00
Motion to Accept Medical Record and Testimony in...	\$5.00

For a complete list of items acceptable for filing with no fees, visit the court website at www.coshocountynet.net/probate/ and view the E-filing Tab.

LOCAL RULE 58.2 INSUFFICIENCY OF COSTS DEPOSIT

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

SUP. R. 59 WILLS

**LOCAL RULE 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**

LOCAL RULE 60.1 FIDUCIARY’S ACCEPTANCE

All executors and administrators shall personally sign and file the Fiduciary’s Acceptance prior to the issuance of the Letters of Authority.

LOCAL RULE 60.2 CITATION/SUMMARY PAPERS

The Court will require a Citation to Surviving Spouse to Exercise Elective Rights along with a Summary of General Rights to Surviving Spouse to be filed with the original estate documents, unless waived, in all estates where there is a surviving spouse including estates where there is no will. The Court will then issue the Citation/Summary to the surviving spouse. The Court will accept a Surviving Spouse Waiver of Service of the Citation to Elect. However, it must accompany the original estate documents.

**LOCAL RULE 60.3 NON-RESIDENT FIDUCIARY APPOINTMENT
CONDITIONS**

An applicant to be appointed fiduciary of a decedent's estate, guardianship or trust, who is not a resident of this state, must be in compliance with Ohio Revised Code 2109.21 and if represented by counsel use as the attorney of record an attorney licensed to practice law in Ohio.

LOCAL RULE 60.4 REQUIREMENT OF CERTIFICATE OF TITLE

For all estates, guardianships and trusts which contain real estate or a request for filing a certificate of transfer with no administration pursuant to ORC 2113.61(D), a certificate of title that complies with the Marketable Title Act, shall be required and filed at the time of the Inventory or request pursuant to ORC 2113.60(D). The following shall apply:

- (1) If there is a certificate of title dated within ten years of the due date it will meet the requirements of this rule if brought current to date of filing.
- (2) If the deed contains multiple separate tracts then the fee shall be \$300.00 per tract.
- (3) If the deed contains one chain of title the fee shall be \$300.00.
- (4) A certificate of title will not be required in an estate if the spouse is entitled to the decedent's share of the property, and the property is being transferred to the spouse; or in a guardianship if the property is being transferred to the spouse and the spouse is appointed guardian of the ward.
- (5) No Certificate of Transfer shall be approved until Certificate of Title is filed and approved by the Court, except as stated in Section (4).

SUP. R. 61 APPRAISERS

LOCAL RULE 61.1 APPRAISERS AND APPRAISALS

With Court approval, the executor or administrator of an estate shall appoint one suitable or disinterested appraiser. The following persons shall be disqualified from being such an appraiser unless a consent is signed by the fiduciary and the fees are disclosed:

- (1) A person related by blood or marriage to the decedent;

- (2) A person related by blood, marriage or employment to the attorney for the estate;
- (3) A person related by blood, marriage or employment to the fiduciary for the estate.

LOCAL RULE 61.2 SELF-DEALING APPRAISER

During the administration of the estate or within twelve (12) months of the appointment of the appraiser, no appraiser shall directly purchase or negotiate the purchase, sale, trade or management of property that he or she has appraised from the estate. This proscription may be waived by the Court upon application by the fiduciary.

LOCAL RULE 61.3 READILY ASCERTAINABLE VALUE OF REAL PROPERTY

Notwithstanding Local Rule 61.1, the market value of real estate as found in the Coshocton County Auditor's property records may be acceptable as the readily ascertainable value of the property and no further appraisal of such property shall be required except as provided under Local Rule 61.5. A copy of said evaluation shall be attached to the appropriate form.

LOCAL RULE 61.4 READILY ASCERTAINABLE VALUE OF MOTOR VEHICLE

Notwithstanding Local Rule 61.1, the market value of any motor vehicle as found in the current N.A.D.A. Official Used Car Guide under the category "Average Retail" or in the current Kelley Blue Book may be accepted as the readily ascertainable value of the property and no further appraisal of such property shall be required except as provided under Local Rule 61.5. A copy of the appropriate page from said booklet shall be attached to the appropriate form.

LOCAL RULE 61.5 DISPUTED APPRAISAL

An administrator, executor, fiduciary, beneficiary or creditor of a decedent's estate may file a written request with the Probate Court not later than five (5) days prior to the date set for hearing on the Inventory and Appraisal that any property deemed to be appraised by readily ascertainable value shall be appraised by a suitable and disinterested appraiser as provided in Local Rule 61.1.

LOCAL RULE 61.6 APPRAISER’S FEES

(A) Appraiser’s 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 may be computed as set forth below or at a mutually agreeable rate between the fiduciary/executor and appraiser:

- (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 \$50.00.

(B) 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.

(C) If a Coshocton 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.

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

(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 certificate that the appraisal was performed truly, honestly and impartially.

(F) Appraiser’s fees may be paid by the fiduciary within six (6) months after the appraisal is completed or upon completion of the estate 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 and/or attorney shall be held personally liable for the payment of the appraisers’ fees.

SUP. R. 62 CLAIMS AGAINST ESTATE

LOCAL RULE 62.1 CLAIMS FILED WITH THE COURT

- (A) All claims filed with the Court will be processed in accordance with O.R.C. 1311, 2107, 2113, 2117, and 2129.

- (B) *No Claim will be processed unless a \$20.00 filing fee is received.*

SUP. R. 64 ACCOUNTS

LOCAL RULE 64.1 FIDUCIARY'S SIGNATURE AND ADDRESS

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

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

LOCAL RULE 64.2 DELINQUENCY IN FILING AN ACCOUNT

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

- (B) If a final account cannot be fully rendered when due, a partial account should be filed along with a status report.

LOCAL RULE 64.3 EVIDENCE OF ASSETS

- (A) The Court requires all assets be exhibited at the time of filing a partial account.

- (B) Cash balances shall be verified by Bank Certificate signed by a bank officer of the financial institution. Assets held in a safe deposit box of a fiduciary or by a surety company on current inventory thereof shall be certified by the manager of the safe deposit box department of the financial institution leasing the safe deposit box or by a qualified officer of the surety company if the assets are held by a surety. If the assets are held by a bank, trust company,

brokerage firm, or other financial institution, such exhibition may be made by proper certification as to the assets so held.

LOCAL RULE 64.4 COURT COSTS PAID

A final and distributive account shall not be approved until all court costs are paid.

LOCAL RULE 64.5 TIME FOR FILING

(A) For decedent’s estates, the final and distributive account due within six (6) months after appointment of the fiduciary may be extended by Application 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 within six (6) months 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) Notices shall be issued to the attorney of record when an account is not filed when due. Failure to respond in writing within seven (7) days will result in the notice being sent to the fiduciary.

(D) If a fiduciary is delinquent in filing an account or exhibiting assets and no extension has been granted, a citation shall be issued requiring the fiduciary to appear forthwith and show cause why the account has not been filed or why the assets have not been exhibited.

LOCAL RULE 64.6 ACCEPTABLE VOUCHERS

(A) Acceptable vouchers are: “paid” bills; cancelled checks with the endorsement of the beneficiary on the back, imaged copies or receipts signed by the beneficiary.

(B) Vouchers must be provided to the Court for verification on all trusts and guardianships. Upon the verification of vouchers by the Court, all vouchers shall be returned to the attorney of record and/or fiduciary. Vouchers shall not be required on estates.

LOCAL RULE 64.7 CERTIFICATE OF TERMINATION

No partial or final accounting is required to be filed if the sole beneficiary or heir is also the sole fiduciary. The fiduciary shall be discharged and the estate completed after filing with the Court within thirty (30) days after completing the administration of the estate a Certificate of Termination pursuant to Section 2109.30(B)(2) O.R.C.

SUP. R. 65 LAND SALES

LOCAL RULE 65.1 LAND SALES

(A) In cases involving public sale the complainant shall, prior to the issuance of an order of sale, file with the Court evidence of title showing the record condition of the title to the premises described in the complaint, prepared and extended by a reasonable abstract or title or an attorney's certificate to a date subsequent to the date in which the complaint was filed. This rule shall apply to estates, guardianships, etc. that have not previously filed a certificate of title.

(B) When an order of private sale is requested, excepting those cases where the consent of all necessary parties to the proceedings has been filed or cases involving the sale of fractional interest, then the complainant shall be required, by affidavit or testimony under oath, to establish: (1) whether or not the sale has been the subject of prior negotiations; (2) the amount offered for the sale of the property; (3) the appraised value in the land sale proceedings; (4) the identity of the prospective purchaser and counsel, if any; (5) whether or not the proposed transaction will be, or has already been, placed in escrow; and (6) the identity of the escrow agent.

(C) The Court may, in its discretion, appoint a disinterested person, answerable to the Court, who shall investigate the circumstances surrounding the proposed transaction, view the property, ascertain whether the proposed sale is justified, and report his findings in writing. The

report shall be a part of the record. The compensation for the person performing these services shall be fixed by the Court, according to the circumstances of each case, and shall be taxed as costs.

(D) In all land sale proceedings involving the sale of real estate owned by the ward under guardianship, service of process on the ward is required and may not be waived, unless otherwise approved by the Court.

(E) Confirmation of sale must be filed before the case can be closed.

SUP. R. 66 GUARDIANSHIPS

LOCAL RULE 66.02 APPLICATION OF RULES

(A) General

Rule 66.01 through 66.09 of Ohio Rules of Superintendence shall apply to all cases where the Court appoints a guardian to protect and control a ward pursuant to O.R.C. 2112.02. The Court for good cause may, by order of the Court, exempt a guardian who is related to the ward by consanguinity or affinity.

(B) Corporation as Guardian

Rule 66.01 through 66.09 of Ohio Rules of Superintendence shall apply to employees of a corporation who provide services in an adult guardianship case where the court appoints the corporation as guardian.

LOCAL RULE 66.03 GUARDIANSHIP RULE

The Court will appoint a Guardian when necessary and appropriate to protect the “best interest” of a ward as defined in Rule 66.01 (A) of the Rules of Superintendence for the Courts of Ohio or whenever the Court is required to do so by statute. Guardians shall comply with all requirements in Ohio Rules of Superintendence 66.01-66.09 unless otherwise modified by local rule.

(A) Emergency Guardianships

For all applications for the appointment of an emergency guardian, a physician shall provide a Statement of Expert Evaluation and supplement to the Statement of Expert Evaluation stating why is it reasonably certain that immediate action is required to prevent significant injury to the person or estate of the minor or incompetent. The applicant shall exercise due diligence in serving notice of hearing upon the proposed ward in all emergency guardianship proceedings. If Guardianship is recommended but no suitable applicant can be located after diligent effort, the Statement of Expert Evaluation Addendum No Known Applicant For Guardianship must also be completed and filed simultaneously with the Statement of Expert Evaluation.

Upon the filing of a Statement of Evaluation and the Addendum No Known Applicant for Guardianship, the Court will attempt to identify a suitable person to be appointed guardian. In the event the Court is not able to find a suitable guardian, the court will notify the person or entity submitting the Statement of Expert Evaluation for them to secure an applicant.

(B) Grievance Procedure

It is the goal of the Coshocton County Probate Court to resolve problems and grievances regarding a Guardian fairly and promptly and as soon as is reasonable. When a parent, family member, attorney, professional, or any other person has a grievance or concern about a Guardian, that person shall try first to resolve the issue with the Guardian directly.

If such an effort to resolve is unsuccessful or impractical, the person shall utilize a formal process for review by the Court Administrator by completing the following:

- 1) Comments and complaints may be made in writing to the Court Administrator by hard copy or electronic format (if available);
- 2) A copy of the complaint will be provided to the Guardian who is the subject of the comment or complaint;
- 3) The Court Administrator will give prompt consideration to the comment or complaint and take appropriate action;

- 4) The Court will maintain a record regarding the nature and disposition of the comment or complaint;
- 5) The Court will notify the person making the comment or complaint and the guardian of the disposition of the comment or complaint.

The Court may choose to have the parties mediate their differences with formal mediation. Any formal resolution from mediation must be signed and presented to the Court for verification of the settlement of the dispute. If no resolution is reached regarding the dispute, the Probate Judge shall resolve the dispute and the finding shall be final.

(C) Record of Complaints

The Court will keep a record of all comments and complaints, including documents of resolution in the Court Administration files with general records of Guardians.

LOCAL RULE 66.04 ESTABLISHMENT OF GUARDIANSHIP

When establishing a guardianship, the Court will follow procedures as outlined in Sup. R. 66.04 including:

(A) County of Residence

The last county of residence in Ohio in which a ward resided prior to losing the cognitive ability to choose shall be the ward's county of residence for purposes of establishing a guardianship, unless determined otherwise by the Court establishing the guardianship.

LOCAL RULE 66.05 RESPONSIBILITIES OF COURT ESTABLISHING GUARDIANSHIP

(A) The Probate Court shall for all applicants requesting to serve as Guardian:

- (1) Conduct a criminal and/or civil record check which is acceptable to the Court.
Pursuant to Local Rule 57.15, an applicant must complete forms which

detail applicant information. A signed consent and release must accompany said application, and may be found under the Probate Miscellaneous Forms Tab.

- (2) If the applicant is an attorney, the court may accept a certificate of good standing with disciplinary information issued by the Supreme Court in place of a criminal background check. Certificate will only be required to be filed annually prior to March 1 and is not required for each appointment.

LOCAL RULE 66.06 PRE-APPOINTMENT EDUCATION

(A) As practical, the Court will appoint individuals that have completed or will complete within six months of appointment the six-hour Guardian Pre- Appointment Education requirements set forth in Rule 66.06(A) of the Rules of Superintendence for the Courts of Ohio.

(B) Exceptions to Guardian Pre-Appointment Education:

- 1) Due to prior and existing guardian appointment responsibilities, any individual serving as Guardian on June 1, 2015 or who served as a guardian during the five years immediately preceding that date shall not be required to complete the Pre-Appointment Education requirements as outlined in Rule 66.06(A) of the Rules of Superintendence for the Courts of Ohio.
- 2) All Guardians that that meet Criteria 3a above shall successfully complete a continuing education course that meets the requirements as outlined in Rule 66.07 Guardian Continuing Education by June 1, 2016.
- 3) The appointing Court may grant an exemption of a guardian who is related to the ward by consanguinity or affinity from any or all training requirements.

LOCAL RULE 66.09 RESPONSIBILITIES OF GUARDIAN TO WARD

All Guardians shall comply with Sup. R. 66.09 of the Rules of Superintendence for the Courts of Ohio in its entirety as well as all components of Local Rules as set forth in this document as they relate to Guardianships.

LOCAL RULE 66.1 PROCEDURES FOR GUARDIANS

(A) An inventory is to be filed within ninety (90) days of the appointment. The inventory is to state all assets and shall include copies of all bank statements stating the account balances at the time the inventory is filed.

(B) Waivers from all next of kin listed must be filed as well as a certificate of service.

(C) A non-oral hearing will be set within thirty (30) days of the filing of the inventory.

(D) An application to expend funds shall not be granted if an inventory has not been filed or if an account is overdue. The guardian of a minor ward's estate must demonstrate that the ward's parent(s) are unable to fulfill their responsibility to support the ward before the Court will consider allowing expenditure from the ward's estate for the purpose of that ward's support, maintenance, medical care or education.

(E) Funds shall not be released to a guardian except upon an order of the Court.

(F) All applications for release of funds shall specify the exact amount to be released, the financial institution holding the fund, its address, and the person in whose name the fund is held.

(G) None of a ward's assets may be accessed through an automated teller machine, debit card or credit cards. Electronic payment of routine and recurring expenses is permitted upon receiving approval of an Application for Authority to Expend Funds.

(H) All guardians are required to inform the Court within 24 hours, in writing, of a change of address and/or change of telephone number for either the ward or the guardian.

(I) Guardian's Bond: When filing the application for guardianship, unless waived by the Court, a guardian over the estate of a ward is required to file a bond with a penal sum in the amount that is fixed by the court, but in no event less than double the probable value of the personal property and of the annual real property rentals and other income or revenue that will come into the possession or under the control of the person as a fiduciary. Said bond must be valid for the entirety of the guardianship.

LOCAL RULE 66.2 GUARDIANSHIP FOR INCOMPETENTS

(A) All applications for the appointment of a guardian on the grounds of mental incompetency shall be accompanied by either a statement of a physician or clinical psychologist or a statement that the prospective ward has refused to submit to an examination.

(B) A notice of hearing shall be served upon all next of kin who are residents of the State of Ohio unless waived.

(C) A notice of hearing shall be personally served upon the prospective ward within seven (7) days of the hearing date.

(D) A Probate Court Investigator shall personally serve the prospective ward within seven (7) days of the hearing date. The Probate Court Investigator shall file a report with the Court concerning the application for the appointment of a guardian on the grounds of mental incompetency. This report shall be maintained as a confidential record.

LOCAL RULE 66.3 GUARDIANSHIP OF MINORS

(A) All applications for the appointment of guardian shall be captioned in the name of the proposed ward.

(B) Notice of hearing shall be given to all next of kin who are residents of the State of Ohio, unless waived.

(C) All applications for the appointment of a guardian of minor, if other than by the natural parent shall state: (1) the relationship of the applicant to the minor; (2) the reason that the applicant and not the natural parent is making the application; and (3) the reason for the necessity of the guardianship. Custody affidavit (O.R.C. 3109.27) shall be a required filing on all guardianships involving minors. A copy of the minor's birth certificate must be filed with an Application for Appointment of Guardian of Minor.

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

(E) If the ward is fourteen years of age or over, the ward must come into the Court to be personally served a copy of the Notice of Hearing.

LOCAL RULE 66.4 INDIGENT GUARDIANSHIPS

(A) Eligibility for indigency will be determined by filing an affidavit of indigency (Form OPD-206R) to waive costs and payment of attorney fees. No fee is required to file this form.

(B) Invoices for payment of attorney fees shall be submitted within 30 days of the appointment and/or filing of inventory and then on a quarterly, bi-annual or annual basis for ongoing services. Payment shall be made upon motion and entry through the Indigent Guardianship Fund as funds become available.

(1) The Court will only reimburse for routine office expenses at its sole discretion. All Court costs are waived for indigent guardianships.

(2) Any attorney appointed by the Court to represent a ward in a guardianship matter shall be appointed by entry and a copy of such entry shall be attached to any invoice submitted to the Court for payment of attorney fees.

LOCAL RULE 66.5 GUARDIAN’S REPORT

(A) The guardian of the person shall file the first guardian’s report within six (6) months from the date of the appointment of the guardian and then annually thereafter.

(B) Guardians shall comply with all requirements in Sup. R. 66.08 including the filing of an annual plan as an addendum to the guardian’s report.

(C) For Incompetent Guardianship Cases, a Statement of Expert Evaluation must accompany the guardian’s report.

(D) The guardian of the person shall file the guardian’s annual report.

(E) When a physician or clinical psychologist states on a Statement of Expert Evaluation that to a reasonable degree of medical certainty it is unlikely the ward’s mental competence will improve, the Court may dispense with the filing of subsequent Statement of Expert Evaluation when subsequent guardian’s reports are filed.

(F) All applications for the appointment of a guardian on the grounds of mental incompetence, for dismissal of such guardianship, or for declaration of competency, shall be accompanied by a Statement of Expert Evaluation, a statement of a physician, clinical psychologist or a statement that the prospective ward has refused to submit to an examination.

(G) A Statement of Expert Evaluation (Standard Probate Form 17.1) filed concerning an application for the appointment of a guardian on the grounds of mental incompetency shall be maintained as a confidential record.

LOCAL RULE 66.6 TERMINATION OF GUARDIANSHIP

(A) Application to Terminate a Guardianship of a deceased incompetent requires an Application to Terminate Guardianship to be filed along with waivers from persons designated in Ohio R.C. 2111.04 and any other individuals who received actual notice of the original guardian,

Certificate of Service and a copy of the death certificate. When there are no known assets, an Application to Terminate a Guardianship shall be filed along with a copy of the death certificate, final accounting and Certificate of Service evidenced by certificate of mailing.

(B) Application to Terminate a Guardianship of a minor requires an Application to Terminate Guardianship filed along with waivers from the persons designated in Ohio R.C. 2111.04 and any other individuals who received actual notice of the original appointment of the guardian and Certificate of Service.

(C) If an annual accounting is required, the final guardian's account will be approved at the time the guardianship is terminated or within thirty (30) days from the date of the termination of the guardianship.

(D) All court costs will need to be paid in full before the termination of the guardianship will be granted.

LOCAL RULE 66.8 GUARDIANSHIPS-VETERANS AFFAIRS

(A) For all guardianship proceedings wherein the proposed ward is receiving income from the Department of Veterans Affairs, the VA shall be a necessary party, entitled to notice, of all pleadings filed therein, including, but not limited to, the initial application for appointment, all applications for authority to expend funds, and the annual accountings.

(B) All Applications for Authority to Expend Funds shall first be submitted to the Department of Veterans Affairs for review and approval prior to its submission to the Court. The Application for Authority to Expend Funds shall bear the stamp and signature of an authorized representative of the Department of Veterans Affairs to confirm its review and approval of the request.

(C) The Court shall supply the guardian or the attorney for the guardian, at no cost, certified copies of any of the pleadings filed in the proceedings, for submission to the Department of Veterans Affairs.

(D) All Applications for guardian's compensation or attorney's fees shall be set for hearing, and notice shall be given to the Department of Veterans Affairs, unless a Waiver of Consent is obtained.

SUP. R. 68 SETTLEMENT OF INJURY CLAIMS OF MINORS

LOCAL RULE 68.1 SETTLEMENT OF CLAIMS OF INJURY TO MINORS

(A) An application for settlement of a minor's claim that exceeds twenty-five thousand dollars (\$25,000) shall be brought by the guardian of the estate. If the gross amount of the claim for injuries does not exceed twenty-five thousand dollars (\$25,000), the application shall be brought by the parent(s) of the child or the person having custody of the child.

(B) The application for settlement shall be set for hearing. The applicant as well as the minor shall personally appear at the hearing unless otherwise waived by the Court.

(C) An application for approval of settlement of claim for injuries to a minor shall be accompanied by a current statement of an examining physician with respect to the injuries sustained, the extent of the recovery, and the physician's prognosis. Said statement shall be dated within ninety (90) days of the filing of the application for approval.

(D) A copy of the proposed release of claims shall be attached to the application for approval of settlement of claims for injuries to a minor.

(E) If the net amount of the claim for injuries does not exceed one thousand dollars (\$1,000), the Court has the discretion to order the delivery of the funds to the minor's parents or custodian.

(F) 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.

- (G) A Guardian ad litem report shall be filed seven (7) days prior to the hearing date.
- (H) Verification of Receipt and Deposit of Trust Assets must be filed within seven (7) days of the date of the Entry Approving Settlement of a Minor's Claim.
- (I) Report of Distribution must be filed within thirty (30) days of date of the Entry Approving Settlement of a Minor's Claim.
- (J) When the minor and parents are unrepresented by counsel, the attorney drafting the pleadings and other instruments shall be responsible for depositing the funds and for providing the financial institution with a copy of the Verification of Receipt and Deposit of Trust Assets. This Attorney shall obtain a signed receipt from the financial institution and deposit it with the Court within seven (7) days. This Attorney shall also be responsible for the filing of the Report of Distribution within thirty (30) days of the date of the Entry Approving Settlement of a Minor's Claim.
- (K) Any attorney representing the applicant shall disclose his or her relationship with the payer.

LOCAL RULE 68.2 STRUCTURED SETTLEMENTS

In the event 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 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 rating from at least two of the following criteria:
 - i. A.M. Best Company: A++, A+ or A;
 - ii. Duff & Phelps Credit Rating Company (Claims Paying Ability Rating): AAA, AA+ or AA;
 - iii. Moody's Investors Service (Financial Strength): AAA, AA1 or AAA2;
 - iv. Standard & Poor's Corporation (Financial Strength): AAA, AA+ or A.
 - v. Weiss Research Inc.: A+ or A.

C) In addition to the requirements of Paragraph (B) above, an annuity carrier must meet any other requirements the Court considers reasonably necessary to assure that funding to satisfy periodic payment settlements will be provided and maintained.

(D) The annuity carrier shall guarantee there will be no premature withdrawals or hypothecation of the annuity without prior Court approval.

**LOCAL RULE 68.3 SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS
UNDER TWENTY-FIVE THOUSAND DOLLARS**

(A) Applications involving the payment of twenty-five thousand dollars or less shall be by the parent or parents or by the person having custody of the minor, and shall be captioned in the name of the minor. If either or both parents are deceased, or their whereabouts are unknown, such facts shall be noted in the caption. If the parents are divorced or separated, and custody has been awarded to the applicant, the application shall so state. A parent who is not the applicant, as well as minors fourteen years of age or over, must consent to the application in writing.

(B) The application shall be accompanied by a current statement of the examining physician in respect to the injuries sustained, the extent of recovery thereto, and the physician's prognosis.

- (C) After reviewing the case the Court will determine if a hearing is necessary. If a hearing is necessary, the presence of the minor, applicant and attorney shall be required.
- (D) The Court will not authorize payment to anyone other than the minor except under extraordinary circumstances.
- (E) The application shall state what additional consideration, if any, is being paid to persons other than the minor.
- (F) The application shall state what arrangements, if any, have been made with respect to counsel fees, which fees shall be subject to review by the Court.
- (G) A recommended distribution of the gross proceeds shall be filed with the Court.

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

LOCAL RULE 70.1 SETTLEMENT OF CLAIMS

- (A) Application for approval of settlement of a claim for wrongful death shall contain a statement of facts, including the amount to be received in settlement of the claim and the amount, if any, to be received in the settlement of the right of action for conscious pain and suffering. The statement shall include the proposed allocation of the compensation to be received in settlement of the action for wrongful death.
- (B) A hearing upon the application will be set, at the discretion of the Judge.
- (C) The application shall state what arrangements have been made with respect to counsel fees, which fees shall be subject to review by the Court.
- (D) Guardians ad litem may be required for minor beneficiaries.
- (E) A Guardian ad litem report shall be filed seven (7) days prior to the hearing date.

LOCAL RULE 70.2 MULTIPLE BENEFICIARIES

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

SUP. R. 71 COUNSEL FEES

LOCAL RULE 71.1 ATTORNEY FEES

Counsel in decedent's estates shall enter into a dated written fee agreement with the fiduciary for the estate and file the fee agreement with the Court at the time the inventory is filed. That agreement shall contain an estimate of the total fee and shall be provided to any beneficiary or residual beneficiary upon request. The following schedule may be used as a guide:

(A) On the personal property which is subject to administration and for which the fiduciary is charged and upon the proceeds of real estate that is sold under a power of will as follows:

- (1) For the first \$100,000.00 at a rate of 4.5%;
- (2) All above \$100,000.00 and not exceeding \$400,000.00 at the rate of 3.5%;
- (3) All above \$400,000.00 at the rate of 2.5%.

(B) On real property that is not sold at a rate of 2%.

(C) On real estate sold by judicial proceedings according to the judgment entry confirming the proceedings.

(D) On all other property not included in this rule:

(1) If a federal estate tax return is not required, and decedents date of death is prior to January 1, 2013, 1 ½ % of all such property subject to Ohio Estate Tax, i.e. joint and survivorship property, transfer on death property, payable on death property and any other non-probate property of the decedent, excluding life insurance payable to any beneficiary other than the estate. If husband and wife held property or transferred to husband or wife property, use one half (½) the value.

(2) If a federal estate tax return is not required, and decedents date of death is after December 31, 2012, 1 ½ % of joint and survivorship property, transfer on death property, payable on death property and any other non-probate property of the decedent, excluding life insurance payable to any beneficiary other than the estate. If husband and wife held property or transferred to husband or wife property, use one half (½) the value.

(3) If a federal estate tax return is required, 2 ½% of all such property subject to federal estate tax.

(E) Upon written request approved by the Court, the Court may allow attorneys to charge a maximum of \$250.00 per hour for their fees unless a different fee agreement is filed with the Court that contains the prior approval of the fiduciary and all beneficiaries. Said request must be submitted in writing and approved by the Court. The Court will approve said fee agreement at its discretion, and may set the matter for review.

(F) An itemized fee statement, including time and fees charged for each activity, with the fiduciary's signature of approval must be provided to the Court at the conclusion of the estate.

LOCAL RULE 71.2 ATTORNEY SERVING AS FIDUCIARY

(A) When an attorney is appointed as executor, administrator, trustee or guardian AND that attorney or another attorney associated with the same law firm or otherwise associated is acting as attorney for the fiduciary, the combined total fees allowed shall not exceed the attorney's fee, of which a detailed record shall be maintained and submitted to the Court, plus one-half of the fee as calculated pursuant to the statutory fiduciary schedule. 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.

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

LOCAL RULE 71.3 EARLY PAYMENT OF ATTORNEY FEES

Attorney fees for the administration of decedent's estate 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) A statement that the fee is required in advance of the time permitted by Sup. R. 71(B) and shall set forth the reason for requesting early payment of fees.
- (B) The application shall be accompanied by written consent as to the amount and the timing of the fees by the fiduciary to all beneficiaries and a certificate of service.
- (C) After receipt of the application for early payment of fees and there being no objections filed within 14 days of the filing date of the certificate of service, attorney fees may be approved at the discretion of the Court.

LOCAL RULE 71.4 NOTICE AND CONSENT FOR ALL ATTORNEY'S FEES IN GUARDIANSHIPS

- (A) 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 of the Court, other interested persons. The guardian of the estate may waive notice of the hearing and consent to the payment of fees.
- (B) 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.
- (C) The Court may require notice of the hearing on the fees be given to the estate fiduciary of the deceased ward or other interested persons.

(D) The Court may allow attorneys to charge a maximum of \$250.00 per hour for their services unless a written fee agreement between the attorney and guardian is filed for approval with the Court. Any deviation set forth in the fee agreement may be approved by the Court. (Note: The “Rules of Professional Conduct” shall apply)

LOCAL RULE 71.5 NOTICE AND CONSENT FOR ATTORNEY FEES IN TRUSTS

(A) 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 submitted for payment of attorney and trustee fees in trusts shall be accompanied by an itemized statement.

(B) 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.

(C) The Court may allow attorneys to charge a maximum of \$250.00 per hour for their services unless a written fee agreement between the attorney and trustee is filed for approval with the Court. Any deviation set forth in the fee agreement may be approved by the Court. (Note: The “Rules of Professional Conduct” shall apply)

LOCAL RULE 71.6 CONTESTED FEES

The burden is upon the attorney to prove the reasonableness of the fee as governed by the “Rules of Professional Conduct”. 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.

LOCAL RULE 71.7 CONTINGENT FEES

(A) A fee agreement should be in existence prior to the settlement of the case.

(B) Should a proposed fee agreement exceed the amounts listed below, prior to entering into any such contingent fee agreement, a fiduciary shall file an application with the Court for authority to enter into such fee agreement.

(C) A copy of the proposed fee agreement shall be attached to the application. All contingent fees are subject to review and approval by the Court at the time of settlement, notwithstanding the fact that the Court previously approved a fiduciary's application for authority to enter into a contingent fee agreement.

(D) Pending a review of itemized time records and documents submitted that substantiates fees charged, the maximum contingent fees that may be allowed by the Court are as follows:

- 1) 33 1/3 %
- 2) 40% if an appeal through decision is taken, or unless otherwise approved by the Court.

(E) Should the Contingent Fee Agreement not be approved by the Court, the matter may be set for hearing for further clarification.

(F) If a party enters into a fee agreement prior to date of death, the Court may honor the terms and conditions of said agreement.

SUP. R. 72 EXECUTOR'S AND ADMINISTRATOR'S COMMISSION

LOCAL RULE 72.1 EXECUTOR/ADMINISTRATOR COMMISSION

(A) Executors and administrators shall be allowed commissions upon the amount of all the personal estate, including the income from the personal estate that is received and accounted for by them and upon the proceeds of real estate that is sold pursuant to Ohio R.C. 2113.35.

(B) Where there is a claim for extraordinary services, an application shall be filed setting forth an itemized statement of the services rendered. The Court may require the application to be

set for hearing with notice given to parties affected by the payment of fees in accordance with Civ. R. 4.1.

(C) Except for good cause shown, commissions will not be allowed if there is a delinquency in the filing of an account.

(D) The commissions of co-executors in the aggregate shall not exceed the commissions which would have been allowed to one executor or administrator acting alone except where the instrument under which the co-executors serve provided otherwise.

(E) Where counsel fees of extraordinary nature have been awarded for services to the estate which normally would have been performed by the executor or administrator, the said executor's or administrator's fee may be reduced by the amount awarded to counsel for those services rendered, unless, for good cause shown, the Court finds that such a ruling would be unfair.

(F) When the fiduciary or his firm is also the attorney for the estate and the fiduciary's commission is being claimed, the Court may set a hearing on the application for allowance of attorney fees.

SUP. R. 73 GUARDIAN'S COMPENSATION

LOCAL RULE 73.1 GUARDIAN'S COMPENSATION

(A) The compensation for services of non-attorney guardians shall be computed as 3% of the total income and 3% of the total expenditures. Compensation of co-guardians shall not exceed the compensation that would have been allowed to one guardian acting alone. All request for fees shall be accompanied by a computation schedule.

(B) For attorneys acting as guardians, the Court may allow attorneys to charge \$250.00 per hour. If the guardian desires a higher deviation from the stated hourly amount, application

must be made to the Court stating the reason for said deviation. The Court may approve said fee in its discretion. (Note: The “Rules of Professional Conduct” shall apply)

(C) A guardian shall itemize all expenses relative to the guardianship of the ward. Additional compensation for extraordinary services may be allowed upon application and review of an itemized statement of the services rendered and expenses incurred. The court may deny or reduce compensation at its discretion.

SUP. R. 74 TRUSTEE’S COMPENSATION

LOCAL RULE 74.1 TRUSTEE’S COMPENSATION

(A) Except where the instrument creating the trust makes provision for compensation, a testamentary trustee may charge for ordinary services performed by the trustee in connection with the administration of the trust as follows:

(1) During each accounting period required by statute:
6% of the first \$200,000 of income; and 4% of the income in excess of \$200,000.

(2) In addition to Paragraph “1” above, during each accounting period required by statute, an amount to be computed on the fair market value of the principal in accordance with the following schedule:

\$4.00 per \$1,000 on the first \$100,000 of fair market value of principal;
\$3.00 per \$1,000 on the next \$200,000 of fair market value of principal;
\$1.50 per \$1,000 on all over \$300,000 of fair market value of principal;

(B) The above computed compensation shall be charged one-half (1/2) to income and one-half (1/2) to principal, unless otherwise provided in the instrument creating the trust or approved by the Court.

(C) There may be allowed an amount equal to 1% of the fair market value of any distribution or payment from the principal of the trust property. This amount shall be charged against and deducted from the distribution or payment.

(D) For the purposes of computing the trustee's compensation as herein provided in Paragraph "2" above, the fair market value of the trust property shall be determined by the trustee as of a date, determined by the trustee, such date to commence during the month of the original receipt of trust property and each anniversary date thereafter. At the option of the trustee, fee evaluations may be made on a quarterly basis, each evaluation to be coordinated with the original annual evaluation date as selected by the trustee – if this option is selected by the trustee, the trustee must continue to compute his/her trustee's fee on the quarterly valuation basis, unless upon application to the Probate Court, a change in fee valuation method is allowed.

(E) A separate schedule of the computation of trustee's compensation shall be shown in the trustee's account as a condition of its approval.

(F) Any attorney who serves as trustee and who also acts as attorney for said trust or whose partner, associate or attorney employee acts as attorney for said trust shall comply with Local Rule 71.2.

(G) Except for good cause shown, neither compensation for a trustee nor fees to the attorney representing the trustee, will be allowed while the trustee is delinquent in filing an account as required by R.C. 2109.30.

(H) A corporate trustee may take trustee fees in accordance with its published fee schedule, provided the fee schedule has been filed with the Court. A corporate trustee shall file its current published fee schedule with the Court on an annual basis. Any amendments to the schedule must be filed before a fee may be taken in accordance with the amended schedule. Fee schedules shall be limited to a maximum, 1% fee for all trust estates with a market value of \$75,000 or less.

(I) Conversion of trust assets to cash shall not be considered gross income for determining the compensation under items (A)(2) through (A)(4).

(J) Any additional compensation for extraordinary services (including distribution and termination fees) or allowance of expenses must be submitted to the Court for review upon written application.

(K) The Court reserves the right to set any application for compensation for hearing and require service of written notice thereof upon all interested parties in a manner directed by the Court. Such notice shall contain a statement of the amount of compensation for which application is made.

(L) A separate fee may be charged for the preparation and filing of fiduciary income tax returns.

(M) The compensation of co-trustees in the aggregate shall not exceed the compensation which would have been payable if only one trustee had been acting, except where the instrument under which the co-trustees are acting provided otherwise.

LOCAL RULE 74.2 CORPORATE TRUSTEES

(A) Except where the instrument creating the Trust provides for compensation, testamentary trustee may charge fees on the same basis as it charges for living trusts.

(B) When assets are invested in common trust funds (pooled funds), management fees may be charged within the fund rather than at the account level. However, a trust's portion of those fees may not exceed those that may have been charged to the trust had it not participated in the pooled funds.

(C) On each accounting where fees have been taken, an affidavit is required which asserts that the fees charged and included in the accounting represents those charges for similar services in living trusts.

SUP. R. 75 LOCAL RULES

LOCAL RULE 75.1 NOTICE ON PROBATE OF WILL

(A) Notice on admission of will to probate shall be given within two (2) weeks of the admission to probate to comply with R.C. 2107.19. A copy of the will shall be included in the notice to the legatees and devisees named in the will.

(B) The fiduciary, applicant for admission of the will to probate, applicant for release from administration, any other interested persons, or the attorney shall file the certificate.

Notices shall be made according to Civil Rule 73(E).

- (1) Personal service
- (2) Residential service
- (3) Certified mail service (preferred by the Court)
- (4) Ordinary mail service if certified mail returned “refused” or “unclaimed”
- (5) By publication for three (3) consecutive weeks, proof of which must be filed with the Court.

(C) Notice shall be issued to all of the following:

- (1) Surviving spouse of the testator
- (2) Legatees and devisees named in the will
- (3) All persons who would be entitled to inherit from the testator under O.R.C. 2105 if he/she had died intestate.

(D) Will contest deadline-three (3) months after the filing of certificate of notice.

(E) Fiduciary or his/her attorney MUST provide proof of service.

(F) Probate form 1.0 Surviving Spouse, Next of Kin, Legatees and Devisees shall accompany any Will submitted to the Court. If additional next of kin are discovered, an amended form 1.0 shall be filed with the Court.

(G) A Will may be filed with the Court but need not be probated if there are no assets pursuant to O.R.C. 2941.22, 2107.09 and 2107.10.

LOCAL RULE 75.2 NOTICE ON ACCOUNTS

(A) In all estate, trust accounts, and guardianships a certificate of service of account to heirs or beneficiaries is required with the account (form 13.9).

(B) Upon the filing of an Account (partial or final), the Court shall assign a non-oral hearing date/time. Prior to this hearing date, the attorney shall cause green return receipt cards or waivers to be filed with the Court.

(1) In the event the attorney is unable to file all the waivers or green cards by this hearing date, he/she must file a motion requesting a continuance in order to afford time to file the waivers/green cards, or cause notice to be sent as required.

(C) Waivers or Notices shall be obtained/given to the following:

- (1) In testate estates, all residual beneficiaries along with all specific bequest beneficiaries who have not signed a receipt for the specific bequest.
- (2) In intestate estates, all next of kin.
- (3) In trusts, all beneficiaries and trustees.
- (4) In guardianships, all guardians and all next of kin.

LOCAL RULE 75.3 INVENTORY & APPRAISAL/OHIO ESTATE TAX RETURNS

(A) Upon filing inventory without all waivers received, the Court shall assign a non-oral hearing date/time. Prior to this hearing date the attorney shall cause waivers and/or green return receipt cards, along with a Certificate of Service to be filed with the Court.

(1) In the event the attorney is unable to file all the waivers or green return receipt cards by this hearing date, he/she must file a motion requesting a continuance,

in order to afford time to file the waivers/green cards, or cause notice to be sent as required.

- (2) In the event the certificate of service is not filed by hearing date and a motion to continue has not been filed, a Notice of failure to approve inventory will be issued to the attorney and executor/administrator.

(B) Waivers or Notices shall be obtained/given to all of the following:

- (1) Surviving spouse
- (2) In testate estates, all beneficiaries named in will
- (3) In intestate estates, all next of kin

(C) The name and address of the appraiser shall be typed or printed on the return of any appraisal. The appraiser shall sign the certificate of appraiser located at the bottom of the Inventory and Appraisal form or the attached appraisal, shall include an appraisal of all tangible personal property. If more than one appraiser is used, a separate certificate shall be signed by each appraiser as to the items he/she appraised.

(D) No Ohio estate tax return is required for estates of less than \$200,000 for date of death on or after January 1, 2001 and for estates of less than \$338,000 for date of death on or after January 1, 2012 and before January 1, 2013, pursuant to O.R.C. 5731.21. Part B of Estate Tax Form 22 must still be completed and filed when no Ohio estate tax return is required to be filed for any decedent with a date of death before January 1, 2013.

(E) No estate tax return is required for any decedent with a date of death on or after January 1, 2013.

LOCAL RULE 75.4 RELIEVING ESTATES FROM ADMINISTRATION

(A) In cases of estates entitled to be relieved from administration where there is a Will, said Will may be presented for probate. If the entire estate will be consumed in the payment of debts, costs and applicable statutory allowances, or if the Will distributes the net of Descent and Distribution, and there is no real estate involved, then the Will may be filed only and need not be

admitted to probate. If the Will is admitted to probate, an application for an order relieving the estate from administration may be filed in lieu of the appointment of the executor named in the Will. If probate of the Will is denied, an application for an order relieving the estate from administration may be granted and distribution made under the laws of intestate succession. When there is no surviving spouse, the court shall set the application for hearing not less than three weeks from the date of such filing and shall require publication.

(B) When an application to relieve an estate from administration has been filed, at least five days notice in writing of the hearing on the application shall be given to the surviving spouse, heirs at law and creditors of said estate unless notices are waived or found unnecessary. Upon the estate having no surviving spouse, publication shall be made not less than three weeks from the date of such filing.

(C) Commissioner's compensation shall be set by the court on a case-by-case basis upon application to the Court.

(D) The Court may waive the publication request for the notice relieving an estate from administration if the period of 6 months after death has passed in which creditors may file claims against an estate. A motion must be filed and approved by the Court in order for publication to be waived.

LOCAL RULE 75.5 SUMMARY RELEASE FROM ADMINISTRATION

(A) A summary release from administration may be filed if:

1. The applicant is decedent's surviving spouse entitled to one hundred percent (100%) of the allowance for support and decedent's funeral and burial expenses have been prepaid;

or

2. The surviving spouse has paid or is obligated in writing to pay decedent's funeral and burial expenses and the value of the assets does not exceed the \$40,000 allowance for support plus an amount not exceeding \$5,000 for decedent's funeral and burial expenses;

or

3. The applicant who is not the surviving spouse has paid or is obligated in writing to pay decedent's funeral and burial expenses and the value of the assets is the lesser of \$5,000 or the amount of decedent's funeral and burial expenses.

(B) Required filings are: **Application for Summary Release**, including supporting documentation of decedent's ownership and appraised values, i.e. copy of a title, bank statement, etc.; **Standard Probate Form 1.0** and either a **copy of a paid funeral bill** or a **signed agreement of the funeral home to accept later payment, copy of death certificate, and entry granting summary release**.

(C) The procedure is intended to be a speedy uncomplicated process to assist the public in those situations where a full estate or release from administration is not needed. However, the Court reserves the right to require additional filings or set hearing if it deems they are necessary to assure proper collection of assets, payment of obligations and distribution of decedent's assets.

LOCAL RULE 75.6 ADOPTIONS

(A) 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.

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

(C) The criminal background checks pursuant to Ohio Revised Code 2151.86(B) shall be filed in all cases.

(D) The Court requires consent to the adoption be signed and filed by the natural parent who is married to the petitioner in a stepparent adoption.

(E) All adoption assessment reports shall be filed using ODJFS form 1698.

(F) Hearings regarding pre-adoption placements of children are required prior to the filing of all petitions for adoption except in stepparent adoptions, adoptions by natural grandparents, and placements made by agencies authorized by law. A Custody Affidavit (O.R.C. 3127.23) shall be filed on all adoptions involving minors.

(G) All hearings regarding pre-adoption placements of children and for Interlocutory Order shall be set before the Court. Hearings are required on all Final Decrees of Adoption, except those cases in which an Interlocutory Order has been issued, unless otherwise ordered by the Court. Said hearing shall be set before the Probate Judge.

(H) In all placement hearings the 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) A full accounting of all disbursements made in connection with the adoption must be filed with the Court before the petition is heard in all adoptions, excluding stepparent and grandparent.

(J) After the filing of a Final Decree of Adoption involving a minor for whom a child support order was in effect at the time of the filing of the decree, petitioner or petitioner's counsel shall give notice to the Domestic Relations Court or the Juvenile Court that issued the child support order and to the Coshocton County Child Support Enforcement Agency that the minor has been adopted. The name of the child after the adoption shall remain confidential.

LOCAL RULE 75.7 INSOLVENCY CLAIMS

Upon filing a Schedule of Claims in accordance with Sections 2117.25, Revised Code, the executor or administrator shall, by application and entry, request a hearing on both the determination of insolvency and the application for an order in connection therewith. (O.R.C. 2117.15)

LOCAL RULE 75.8 FAMILY ALLOWANCE CLAIM

The Application for apportionment of a family allowance pursuant to Section 2106.13 shall be prepared and filed on the standard probate forms. Any hearing on this application for family allowance shall be set with proper notice to all interested parties.

LOCAL RULE 75.9 CERTIFICATE OF TRANSFER

(A) A certificate of transfer of real estate must be reviewed and approved by the Auditor of the County in which the real estate is located prior to filing with the Court. If the Auditor disapproves, the Court may order the transfer.

(B) All certificates of transfer shall indicate what share of the decedent’s interest each beneficiary is receiving.

(C) Certificate of Transfers will not be accepted by the Court until the inventory and appraisal is filed, except pursuant to a request for certificate of transfer with no administration pursuant to ORC 2113.61(D).

(D) An Application for Certificate of Transfer may be approved pursuant to Rev. Code Sec. 2113.61 (D) without a full estate or release from administration six months after the date of death if: 1) the sole probate asset of the decedent is real estate and; 2) the decedent was not subject to Medicaid Estate Recovery. Form – Certificate of Transfer Filing Information (CTF).

LOCAL RULE 75.10 COURT SERVICE ON COSHOCTON COUNTY ATTORNEYS

Any document(s) placed by a deputy clerk, employee or official of this Court in an attorney’s mailbox located within the Court, will be considered as sufficient service. Any such service or delivery shall be deemed effective two business days after the date the document(s) are placed in that mailbox. Business days are considered Monday through Friday except holidays as provided by law.

LOCAL RULE 75.11 DELINQUENT FILINGS

(A) Inventory's on estates, trusts and guardianships that are past due, a notice shall be issued to the attorney of record when an inventory is not filed when due. Failure to respond in writing within seven (7) days will result in the notice being sent to the fiduciary.

(B) If the inventory is not filed within thirty (30) days after notice is sent, a Citation will be sent to the fiduciary and the attorney requiring their appearance before the Judge to show why no filing has been made with the Court.

(C) Accounts on estates, trusts and guardianships that are past due, a notice shall be issued to the attorney of record when an account is not filed when due. Failure to respond in writing within seven (7) days will result in the notice being sent to the fiduciary.

(D) If the account is not filed within thirty (30) days after notice is sent, a Citation will be sent to the fiduciary and the attorney requiring their appearance before the Judge to show why no filing has been made with the Court.

LOCAL RULE 75.12 ATTORNEYS OF RECORD

The application for the appointment of a fiduciary shall contain the name, address, Ohio Supreme Court registration number and telephone number of the attorney representing the fiduciary. If such attorney shall resign, the attorney and fiduciary shall notify the Court and the fiduciary shall submit the information required for the successor attorney. Such information shall be in writing. In any instance where an attorney files an application to withdraw as counsel representing fiduciary, it will be necessary the matter be set for hearing and the fiduciary be notified and be present at the hearing, unless notice and hearing is dispensed with by the Court.

LOCAL RULE 75.13 ATTORNEY QUALIFICATIONS

(A) No action in the Court of Common Pleas, Juvenile and Probate Division, shall be filed or tried by an attorney who is not admitted to practice in the State of Ohio unless there is co-counsel admitted to practice in this state. This does not preclude pro se appearances.

(B) At the request of the Judge or Magistrate, an attorney may be required to present identification that he or she is registered and in good standing with the Ohio Supreme Court to practice law in this State.

**LOCAL RULE 75.14 NAME CHANGE, NAME CONFORMITY, and BIRTH
CERTIFICATE CORRECTION**

[See Brochure in Probate Forms –
Name Change, Conformity, Birth Correction: Information Sheet](#)

(A) Name Changes

- (1) A certified copy of the birth certificate must be filed.
- (2) If the name change is for a minor consent from both parents is required. If a parent's address is unknown diligent efforts by the applicant need to be made, including but not limited to: social media and e-mail searches, other due diligence, the U.S. Postal Service (regular mail and certified mail) and by Notice of Publication.
- (3) Notice of Publication needs to be published in a newspaper of general circulation at least thirty (30) days prior to the hearing date.
- (4) Proof of the Notice of Publication needs to be filed prior to the hearing date.
- (5) Fees and costs related to name changes shall not be waived.
- (6) Applicant shall be responsible for publication and associated costs.

(B) Name Conformity

- (1) A certified copy of the birth certificate must be filed.
- (2) If the name conformity is for a minor, consent from both parents must be filed.
- (3) Official identity documents supporting the application must be filed with the application.
- (4) Upon review of the application, the Court may order the submission of other documents the Court deems relevant to the application.

(5) The Court will determine if the matter will need scheduled for hearing.

(C) **Birth Certificate Correction**

[See in Probate Forms – Correction of Birth Application & Instructions](#)

LOCAL RULE 75.15 NOTICE OF PUBLICATION

Any newspaper of general circulation in Coshocton County shall be designated as the law journal in which the calendar of the Court and any notices as required by law or designated by the Judge are published.

LOCAL RULE 75.16 WAIVERS AND MODIFICATIONS

(A) Application of any rule may be waived or modified by motion filed with the Court and for good cause shown.

(B) In the event of any conflict between any provision of these rules with either the Ohio Revised Code or the applicable rules of any Court with superior jurisdiction, then the statutory provision of such other Court's rule shall prevail.

LOCAL RULE 75.17 CONSERVATORSHIPS

After the appointment of the Conservator, all guardianship statutes and procedures are then effective by statute. This requires the Conservator to secure a surety bond twice the amount of the personal property under the control of the Conservator. Funds and accounts may also be placed in a Custodial account, under order of the Court, which will reduce the amount of the surety bond.

LOCAL RULE 75.18 FEES FOR APPOINTED COUNSEL

Application for fees shall be made no later than 30 days from date of appointment or conclusion and as previously stated on other fee schedules as outlined in the Court's Local Rules. Any applications submitted after these deadlines may have payments reduced or modified, at the discretion of the Court.

LOCAL RULE 75.19 ASSISTING ILLITERATE CLIENTS

Court Clerks may assist illiterate persons with completing forms. Clerks shall write exactly with no grammar corrections or editing. The Clerk will then read back to the party what has been written and to confirm that this is what they want to say on the form. A disclaimer shall then be added “Dictated by court user, written verbatim by court staff”. The clerk will then sign the document along with the reason assistance was necessary.

SUP. R. 78 CASE MANAGEMENT

LOCAL RULE 78.1 CIVIL ACTIONS: (Excluding Land Sales)

(A) For the purpose of insuring the readiness of civil cases, the Probate Division may require pre-trial or status conferences.

(B) At such hearing, decisions shall be made and all counsel attending must have full authority to enter into a binding final pre-trial order.

- (1) The Court will rule on all pre-trial motions.
- (2) Briefs on all legal issues shall be submitted.
- (3) Proposed jury instructions shall be submitted.
- (4) Proposed jury interrogatories shall be submitted.
- (5) Clients shall be present unless excused by the Court.
- (6) No motions shall be heard after the final pre-trial without Order of the Court and after showing good cause.

(C) The trial date shall not be changed nor shall the trial be continued without Order of the Court after showing good cause.

LOCAL RULE 78.2 CIVIL ACTIONS: LAND SALES

All land sales which have not been concluded within one (1) year from the date of filing shall be set for pre-trial conference within ten (10) days following the expiration of one year.

The following decisions shall be made at the pre-trial conference and all counsel attending must have full authority and enter into a binding pre-trial order.

- (A) The attorney of record and fiduciary must attend the pre-trial conference.
- (B) A written status report shall be filed with the Court no later than seven (7) days prior to the pre-trial conference.
- (C) The status report shall address the issues as to the efforts being made to sell the real estate and when the case will be closed.

LOCAL RULE 78.3 MENTAL ILLNESS & MENTAL RETARDATION HEARING

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

LOCAL RULE 78.4 ADOPTIONS

The status of pending pre-placement applications and adoption proceedings shall be reviewed annually and the Court shall order further action as necessary. Additional rules on adoptions are located in Local Court Rule 75.6.

LOCAL RULE 78.5 WITHDRAWAL AND SUBSTITUTION 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.

LOCAL RULE 78.6 MISCELLANEOUS MATTERS

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

LOCAL RULE 78.7 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.

LOCAL RULE 78.8 JURY MANAGEMENT

The Coshocton County Common Pleas Court General Division Rule 23 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.

LOCAL RULE 78.9 PRE-TRIAL

(A) The Court may, on its own motion, set any matter for pre-trial hearing. Any party may move, in writing, for a pre-trial. If the Judge or Magistrate determines that a case warrants a pre-trial, a date and time shall be set. All parties named in the action shall be present at the pre-trial unless their presence is excused, in advance, by the Judge or Magistrate. In that event, the parties shall be available by telephone.

(B) It shall be the duty of counsel to come to the pre-trial fully prepared and authorized to negotiate toward settlement of the case. Failure to be prepared may result in dismissal of the case for want of prosecution, a default judgment, or other sanctions as the Judge or Magistrate deems appropriate.

(C) If requested by the Court, each party shall file pre-trial memorandums or briefs with the Court stating their respective cases, both factual and legal, and bring to the Court's attention any anticipated legal issues which counsel expects to arise during the trial. Said briefs or memorandums shall be filed at least one (1) week prior to pre-trial and copies shall be furnished to opposing council.

LOCAL RULE 78.10 TRIAL

(A) Motions *in limine* shall be filed not less than seven (7) days prior to trial, except for good cause shown.

(B) If requested by the Court, each party shall file trial briefs with the Court stating their respective cases, both factual and legal, and bring to the Court's attention any anticipated legal issues which counsel expects to arise during the trial. Copies shall be furnished to opposing counsel prior to trial. Trial briefs shall be filed at least two (2) weeks prior to trial.

APPENDIX

New Local Rules

(Updated 1-31-2022)

Local Rule 54.1 (F)	Conduct in Court
Local Rule 57.9 (D-G)	Filing Process

Local Rule Updates

(Updated 1-1-2023)

Local Rule 57.9 (A-D)	Service of Subsequent Filings
Local Rule 58.1	Deposits
Local Rule 71.1 (E)	Attorney Fees
Local Rule 75.14 (L-M)	Name Change, Name Conformity, and Birth Correction

FORMS

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DATE OF LOCAL RULE REVISIONS	Effective	July 1, 2009
	Updated	February 1, 2010
	Amended	March 26, 2010
	Amended	May 1, 2010
	Amended	June 9, 2010
	Amended	March 1, 2011
	Updated	February 1, 2012
	Updated	April 1, 2013
	Updated	March 1, 2014
	Amended	May 20, 2014
	Amended	June 8, 2015
	Amended & Updated	May 1, 2019
	Amended & Updated	January 31, 2022
	Amended & Updated	January 1, 2023

PROBATE COURT OF COSHOCTON COUNTY, OHIO
JASON W. GIVEN, JUDGE

- TRANSFER OF STRUCTURED SETTLEMENT OF
- TRANSFER OF MINOR SETTLEMENT OF
- GUARDIANSHIP OF
- NAME CHANGE OF
- ESTATE OF
- TRUST OF _____

CASE NO. _____

CONSENT and RELEASE

I hereby give consent and permission to the Coshocton County Probate Court to obtain all information pertaining to me in the files of The Ohio Courts Network and/or Ohio Law Enforcement Gateway (OHLEG) for the purposes of the above captioned matter.

I hereby release The Ohio Courts Network, OHLEG and any and all of their employees, personnel, and other individuals providing information pursuant to this request from all liability in connection with the dissemination of such information to the Court.

Further, I executed an Applicant Information Form and I have been advised that this information will not be made public. However, the information received from the Ohio Courts Network and/or OHLEG may be made part of the Court's case record and a public document after notice and an opportunity for a hearing has been given to me.

Applicant's Signature

Date

Applicant's Printed Name

1/2014

**PROBATE COURT OF COSHOCTON COUNTY, OHIO
JASON W. GIVEN, JUDGE**

- TRANSFER OF STRUCTURED SETTLEMENT OF
- TRANSFER OF MINOR SETTLEMENT OF
- GUARDIANSHIP OF
- NAME CHANGE OF
- ESTATE OF
- TRUST OF _____

CASE NO. _____

APPLICANT INFORMATION
(PLEASE PRINT OR TYPE NEATLY)

NAME: _____
 First Middle Last

ADDRESS: _____
 Street City State Zip Code

TELEPHONE: _____
 Home # Work # Cell #

SOCIAL SECURITY NUMBER: _____

DATE OF BIRTH: _____

DRIVER'S LICENSE NUMBER: _____

Applicant's Signature Date

**THIS FORM IS NOT A PUBLIC RECORD AND WILL NOT BE MAINTAINED WITH THE CASE FILE
IMAGED ON THE COURT'S WEBSITE**

1/2014

**PROBATE COURT OF COSHOCTON COUNTY, OHIO
JASON W. GIVEN, JUDGE**

IN THE MATTER OF THE GUARDIANSHIP OF _____

CASE NO. _____

AUTHORIZATION FOR DETERMINATION OF CRIMINAL BEHAVIOR

The undersigned, _____, having made application to the Common Pleas Court of Coshocton County, Ohio, Probate Division for appointment as guardian/conservator in Case _____, hereby authorizes the Probate Court of this County to obtain a background check for any prior or existing criminal behavior through any law enforcement agency or private investigation firm.

DATE OF BIRTH: _____

SOCIAL SECURITY #: _____

ADDRESS: _____

Date

Witness

Signature(s)

PLEASE RETURN TO PROBATE COURT

**COSHOCTON COUNTY PROBATE COURT
COSHOCTON COUNTY, OHIO**

Request for Service by Email

Pursuant to Coshocton County Probate Rule 57.12(B).

An Attorney or a party, not represented by an attorney, may request electronic (email) service of court documents by filing a Request for Service by Email with the Court, and requesting service by email.

NOTICE: By requesting service of documents by email parties are hereby notified that they are responsible for maintaining their email address. The Court is not responsible for any adverse consequences due to failure to receive such documents by email. Parties shall notify the Court by using this form of any change in their email address.

I hereby request that service of all Court documents be served upon me at the following email address: _____

Name

Signature

Address

Date

City, State, Zip

_____ Initial Request

_____ Change of email address

3/2019

**PROBATE COURT OF COSHOCTON COUNTY, OHIO
JASON W. GIVEN, JUDGE**

IN THE MATTER OF THE GUARDIANSHIP OF _____

CASE NO. _____

**STATEMENT OF EXPERT EVALUATION ADDENDUM
NO KNOWN APPLICANT FOR GUARDIANSHIP**

[Must be submitted with any Statement of Expert Evaluation filed at Coshocton County Probate Court where there is no known applicant for Guardianship.]

The Guardianship process begins with the filing of an Application for Appointment of Guardian ([OSC form 17.0](#)) accompanied by a Statement of Expert Evaluation. If you have a Statement of Expert Evaluation completed by a Licensed Physician or Licensed Clinical Psychologist that indicates a Guardianship is recommended but cannot locate, after a diligent effort, a suitable applicant, this form must be completed and filed simultaneously with the Statement of Expert Evaluation in Probate Court.

NOTE: Only Statements of Expert Evaluation and Affidavit containing an original signature will be accepted for filing.

- 1) Please list any next of kin or other interested party and contact information that you may know:

Name	Name
Address	Address
City/State/Zip Code	City/State/Zip Code
Phone number(include area code)	Phone number(include area code)
Other Contact Information	Other Contact Information

- 2) Please state what efforts have been made to locate next of kin to make an Application For Appointment of Guardian: _____

3) Are you aware of any advance directives executed by the potential ward? _____
If so, please list below and provide a copy: _____

4) If any advance directives exist, please explain why they are not being utilized as a lesser restrictive alternative to Guardianship: _____

AFFIDAVIT

**STATE OF OHIO
COUNTY OF COSHOCTON, SS:**

I, _____, being first duly sworn and cautioned, do hereby state to Coshocton Probate Court that the statements made in the above Statement of Expert Evaluation Addendum No Known Applicant For Guardianship are true and accurate to the best of my knowledge.

Sworn and subscribed in my presence by _____ this ____
_____ day of _____, 20__.

(Notary Seal)

Notary Public

My Commission Expires: _____

**PROBATE COURT OF COSHOCTON COUNTY, OHIO
JASON W. GIVEN, JUDGE**

ESTATE OF _____, DECEASED
CASE NO. _____

**CERTIFICATE OF TRANSFER FILING INFORMATION
Real Estate Only
(O.R.C. 2113.61 (D))**

Applicant states that the decedent died testate intestate on _____

Decedent's domicile was _____
Street Address

City of Village or Township id unincorporated area County

Post Office State Zip Code

The following documents are attached for filing:

- 1) Original Will; Application to File Will for Record Only not applicable
- 2) Surviving Spouse, Next of Kin, Legatees and Devisees
- 3) Application for Certificate of Transfer
- 4) Certificate of Transfer
- 5) Auditor's Value/Original Appraisal (DOD Value)
- 6) Paid Funeral Bill
- 7) Copy of Death Certificate

Applicant states that decedent was not a Medicaid recipient, the real estate described in the Certificate of Transfer is the only probate asset, and it has been six (6) months since the date of death.

Attorney for Applicant

Applicant

Typed or Printed Name and S. Ct. Atty. Regis. No.

Typed or Printed Name

Address

Address

City, State, Zip Code

City, State, Zip Code

Telephone Number

Telephone Number