

**WASHINGTON COUNTY  
PROBATE COURT  
LOCAL RULES  
OF PRACTICE**

**Effective Date: March 1, 2019**

**The court hereby publishes these proposed rules of court for public comment.**

**Comments on the proposed rules should be submitted in writing to Judge Tim Williams at [probate-juvenile@wcgov.org](mailto:probate-juvenile@wcgov.org) no later than February 15, 2019.**

**TIMOTHY A. WILLIAMS  
Probate Judge**

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# **INTRODUCTION TO WASHINGTON COUNTY PROBATE COURT LOCAL RULES OF PRACTICE**

## **PREAMBLE**

The Probate Court of Washington County, Ohio adopts The Local Court Rules of Practice pursuant to Superintendence Rule (Sup.R.) 5 to facilitate the expeditious management of proceedings and the efficient performance of the Court's functions. The Court adopted the local rules after notice and an opportunity for comment on them. The Court has filed a copy with the Clerk of the Supreme Court of Ohio. These rules of practice supersede prior rules of practice and have an effective date of March 1, 2019.

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

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

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

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

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**SUPERINTENDENCE RULE 5  
LOCAL RULES OF COURT**

**Local Rule 5.1          Adoption of Local Rules**

Under the authority of R.C. §2101.04 and Sup. R. 5, the Court adopts these Rules as the local rules of practice for Washington County Probate Court. These Rules supplement applicable statutes, Rules of Superintendence, Ohio Rules of Civil Procedure and other law pertaining to probate proceedings.

**Local Rule 5.2          Effective Date and Application**

These Rules are effective beginning March 1, 2019. These Rules apply to all cases on or after that date, regardless of whether the case is pending, reopened or newly filed.

**Local Rule 5.3          Amendment**

The Court may amend these Rules if the Court determines that the amendments would be beneficial or necessary to comply with changes in the law.

**Local Rule 5.4          Court Discretion**

The Court may modify or waive the application of any of these Rules if the Court determines, in its sole discretion, that the particular circumstances warrant it. Modification or waiver in one circumstance does not create a precedent that the Court will grant a modification or waiver in similar or different circumstances.

**SUPERINTENDENCE RULE 5.01  
LOCAL CHILD RESTRAINT RULE**

**Local Rule 5.01          Use of Restraints on a Child**

Restraints shall be removed prior to the commencement of a proceeding unless the Court determines on the record, after providing any party to be heard on the issue of physical restraint for that child at that hearing, that there is no less restrictive alternative to the use of physical restraint and that the physical restraint of the child is necessary because either of the following:

- a. The child represents a current and significant threat to the safety of the child's self or other persons in the courtroom;
- b. There is a significant risk the child will flee the courtroom.

If the Court finds physical restraint to be necessary, the restraint shall be the least restrictive necessary to meet the risk requiring the restraint and in a manner which does not unnecessarily restrict the movement of the child's hands.

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

**SUPERINTENDENCE RULE 8  
COURT APPOINTMENTS**

**Local Rule 8.1      Appointment Process**

The Court will make appointments from its appointment lists in a manner that will best assure the equitable distribution of appointments among the qualified appointees. The Court's selection process will take into account the type, complexity and special requirements of the particular case, as well as the skill, experience and current caseload of the available appointees. To the extent that all other factors are equal, the Court will make appointments on a rotating basis.

**Local Rule 8.2      Master Lists**

The Court will maintain separate master lists of persons who are eligible for appointment as attorney, guardian ad litem, commissioner, Fiduciary, trustee, or other capacity. Prospective appointees may request the Court to add them to one or more list upon demonstrating to the Court that they possess the necessary skills, experience and licensure Ohio law or the Court requires for the position. The Court may periodically review its appointment lists to assure that all eligible appointees continue to meet the Court's qualification criteria and the Court has the authority to remove any attorney from the list if the attorney does not meet the Court's criteria.

**Local Rule 8.3      Compensation**

Persons whom the Court appoints to serve in any capacity are entitled to reasonable compensation as the Court determines. The Court may create standard compensation rates for different types of appointments, which the Court will provide to all available appointees and persons who request to be included on the appointment lists.

**SUPERINTENDENCE RULE 9  
COURT SECURITY PLANS**

**Local Rule 9.1      Adoption**

The Court has adopted and implemented a plan for court security which is not treated as public record.

**Local Rule 9.2      Application**

All persons entering the Washington County Courthouse for any reason are subject to the security plan, including the security screening procedures upon entering the building.

**SUPERINTENDENCE RULE 11  
RECORDING OF PROCEEDINGS**

**Local Rule 11.1      Record**

This Rule describes the circumstances under and the means by which the Court will record proceedings.

**A. Contested Matters**

The Court digitally records all hearings and trials in contested matters, and in all proceedings in which the law requires recording of the proceeding. The Court's recording is the official record of the proceeding.

**B. Other Proceedings**

In non-contested matters, the Court may record the proceeding at its discretion. Any party or the party's attorney may request that the Court record a proceeding in a non-contested matter. The request may be made orally or in writing, but must be made before the proceeding begins.

**C. Alternative Methods**

If a party, other person with an interest in the matter, or their respective attorney desires a record of a proceeding by means other than digital recording, whether by stenographic, video or other recording method, the requesting person must obtain the Court's permission at least three Court Days in advance of the proceeding. If granted, the requesting person is responsible for making all arrangements and for paying all costs associated with the alternative recording. Alternative recording methods are in addition to, and not in replacement of, the Court's digital recording. The Court's recording will be the official record of the proceeding.

**D. Prohibition**

No person, including media representatives, are permitted to make, or cause to be made, any other audio or visual recording of any proceeding in our Court without the Court's prior permission.

**Local Rule 11.2      Transcripts**

This Rule describes the means by which a person may obtain a transcript of the recording of any proceeding in this Court.

**A. Retention of Recordings**

The Court maintains its digital recordings of proceedings for at least three years pursuant to the Court's record retention policy. Any person desiring to maintain the recording longer than that may do so by obtaining a copy of the recording from the Court in the manner described in this Rule before expiration of the three year period.

**B. Who May Request Copy**

Any person may request a copy of the recording or transcript of any proceeding, except in cases that are confidential by law or by Court order. Only a party or a party's attorney may request a copy of the recording or transcript of a proceeding that is confidential by law or by Court order.

**C. Request for Copy**

Any person who is permitted by these Rules to obtain a copy of the Court's recording of a proceeding may do so by filing with the Court a request for the recording and

providing a new flash drive or CD with the request. The Court will upload the file onto the flash drive /CD within five Court Days after receiving the request.

**D. Transcription and Cost**

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

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

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

**SUPERINTENDENCE RULE 26  
COURT RECORDS MANAGEMENT AND RETENTION**

**Local Rule 26.1 Medium**

The Court adopts the combined indexes, dockets and journals as defined in Superintendence Rule 26 through 26.05. The indexes, dockets and journals shall be maintained in an electronic medium. The records shall be permanently retained. Microfilm, digital imaging or electronic data shall be considered the permanent record. Traditional paper or bound book records may be destroyed after having been transferred to such medium. Case files shall be maintained in traditional paper medium until after having been converted to digital imaging.

**Local Rule 26.2 Retention Schedule**

The Court hereby adopts the retention schedules as set forth in Superintendence Rule 26.01 and 26.04.

**SUPERINTENDENCE RULE 51  
STANDARD PROBATE FORMS**

**Local Rule 51.1 Ohio Supreme Court Forms**

In all instances in which the Ohio Supreme Court has prescribed forms for use in probate proceedings, the applicable Supreme Court forms must be used and will be provided by the Washington County Probate Court. Our Court will accept computer generated forms which are identical to the Supreme Court prescribed forms.

**Local Rule 51.2 Washington County Forms**

In all instances in which our Court has prescribed Local forms to implement these Rules for use in probate proceedings, the applicable Washington County Probate Court forms must be used. Our Court will not accept any other forms in place of our prescribed forms, even if the other forms purport to contain the same information.

**SUPERINTENDENCE RULE 52  
SPECIFICATIONS FOR PRINTING PROBATE FORMS**

**Local Rule 52.1 Standard Prescribed Forms**

All standard probate forms prescribed by the Ohio Supreme Court or Washington County Probate Court must comply with the following requirements.

**A. Compliance with Rules of Superintendence**

All forms presented to our Court for filing must comply with all specifications and requirements in Rule 52 of the Rules of Superintendence.

**B. Computer Generated Forms**

All computer generated forms which reproduce Ohio Supreme Court mandated standard Probate forms must be prepared and filed with the exact wording and formatting, including the retention of all blank lines whether filled-in or remaining blank, as they appear in the prescribed forms. No alterations are permitted.

**C. Third Party Software**

If using third party software for form preparation, it is the preparer's responsibility to check the Court's website to assure that the most recent version of Supreme Court's or this Court's prescribed local forms are being used.

**D. Printing Requirements**

All forms and other documents presented to the Court for filing must be printed tumble style, flipped on the short edge and only on 8.5 by 11 inch size paper with no backing. The only exception is for original wills and other attachments that were prepared and signed previously that must be filed in their original format without alteration.

**E. Effect of Signature**

The signature of an applicant, Fiduciary or attorney on any prescribed form constitutes that person's representation and warranty that the form is presented without alteration, and complies with all requirements in the Rules of Superintendence and with these Rules.

**Local Rule 52.2 Acceptance for Filing**

The Court may decline to accept any forms for filing that do not comply with this Rule and with the requirements in Rule 57.

**SUPERINTENDENCE RULE 53  
HOURS OF COURT**

**Local Rule 53.1 Normal Court Hours**

Washington County Probate Court is open for Court business Monday through Friday from 8:00 a.m. through 4:00 p.m., except during lunch from 12:00 p.m. to 12:30 p.m. The Court will be closed on all legal holidays and at such other times as deemed appropriate by the Court.

**Local Rule 53.2 Marriage License Bureau Hours**

The Marriage License Bureau is open every Court Day from 8:00 a.m. through 4:00 p.m., except during lunch from 12:00 p.m. to 12:30 p.m.

**A. Application Materials**

Instructions for completing a marriage license application and a checklist of all necessary supporting materials are available on the Court's website or in the clerk's office.

**Local Rule 53.3 Hearing Schedule/Check In**

Our Court conducts hearings Monday through Friday. All participants in a hearing need to check in at the Clerk's Office no later than fifteen minutes before the scheduled hearing time.

**SUPERINTENDENCE RULE 54  
CONDUCT IN COURT**

**Local Rule 54.1 Expectations**

All persons present in the Court must conduct themselves in a respectful, dignified manner at all times.

**A. Dress Code**

The Court expects all persons having business with the Court to dress appropriately for the importance of the occasion. Attorneys are expected to dress professionally. For parties and witnesses, the following is a non-exhaustive list of attire that is not appropriate: bare feet, flip-flops, cutoffs, shorts, tank tops, crop tops, halter tops, visible undergarments including boxer shorts and bras, hats or any clothing containing drug/alcohol and tobacco slogans, profanity or racial/ethnic/religious slurs. Clothing that exposes excessive skin within the "privacy zone," including cleavage, midriff, back, and below the waist, shall not be worn. The display of gang colors and symbols is also strictly prohibited.

**B. Treatment of Others**

Before, during and after any formal or informal proceeding, all persons must communicate with each other in a respectful and dignified manner.

**C. No Disruptions**

No person may engage in any conduct that is distracting or disruptive to the business of the Court. All mobile phones, pagers and other electronic devices must be placed on

silent or turned off, while in the Court. No person may text, email, or otherwise engage in activities not directly related to the purpose at hand in a disruptive fashion during any formal or informal proceedings. The Court may ask any person who violates this Rule to leave the Court if the disruption continues.

**Local Rule 54.2 Recording**

No person, including media representatives, are permitted to make, or cause to be made, any audio or visual recording of any proceeding in our Court without the Court's prior permission.

**SUPERINTENDENCE RULE 55  
EXAMINATION OF PROBATE RECORDS**

**Local Rule 55.1 Public Records**

All public records in our Court are open and available for examination by any person, in compliance with this Rule. Public records are those that are not designated as confidential by law or by Court order.

**A. Public Access**

Any person may examine the non-confidential public records in the Court's files in person. Records are available in the Court's office. Open files and files closed within the last 10 years are available in either paper or electronic version. Closed files older than 10 years are available in electronic form and/or microfilm.

**B. No Removal**

No person or entity is permitted to remove any file or other record from the Court's office at any time for any purpose. All files and records must remain in the possession and control of the Court at all times.

**C. Copies**

Any person may request copies of any of the Court's public records during the Court's normal business hours. The Court will make every effort to fill all copy requests the same day as the request. However the Court may take up to 3 court days depending on the volume requested and the Court's workload. The Court charges 10¢ per page.

**D. Authenticated Copies**

Any person who desires to obtain certified, authenticated or exemplified copies of Court records must place the request for the records at least one Court Day in advance to enable the Deputy Clerks adequate time to make the copies. Payment for these copies is due in advance of making them. Any request to mail the copies must include a self-addressed, stamped envelope.

**Local Rule 55.2 Confidential Records**

Records of adoption, mental illness, involuntary treatment for alcohol and/or substance abuse, and developmental disability proceedings are confidential and are not open and available for examination by any person at any time for any reason.

**SUPERINTENDENCE RULE 56  
CONTINUANCES**

**Local Rule 56.1 Extensions in Non-Litigation Matters**

This Rule governs all requests to extend the time for filing a document that is required by law, by these Rules or by Court order in a decedent's estate, guardianship, trust or other non-litigation probate cases.

**A. Application Process**

All applications for extension of time must be accompanied by a corresponding proposed entry with blank spaces for the Court to complete if it grants the application.

**B. Timing**

An application for extension of time must be filed at least three Court Days before the actual due date to allow the Court adequate time to consider and rule on the application. (See Rule 57.4(C) regarding filing by fax). The Court will not consider or grant an application for extension that is filed after the due date, absent of a clear showing of exceptional circumstances that prevented filing before the due date.

**C. Grounds**

An initial application for extension of time must contain a clear and concise statement establishing reasonable cause for why additional time is needed. If additional time is necessary beyond an initial extension, the application for any additional extensions must contain a clear and concise statement establishing exceptional circumstances for why additional time is needed.

**D. Length of Extension**

The length of additional time requested in an application must be reasonable under the circumstances. Generally, the maximum extension time the Court permits on an initial application is 60 Calendar Days. The Court may make exceptions to these general time limitations in situations involving truly unusual and complex circumstances, including but not limited to the necessity to sell real estate in a decedents estate or when the sole purpose of the proceeding involves asbestosis or wrongful death.

**Local Rule 56.2 Continuances in Litigation Matters**

This Rule governs all requests to extend the time for filing a document or for the occurrence of any scheduled event in probate litigation cases.

**A. Process**

All requests for a continuance or other extension of time must be made by motion, accompanied by a proposed entry with blank spaces for the Court to complete if it grants the motion. There are no prescribed local forms for continuance motions and entries in litigation matters.

**B. Timing**

A motion for a continuance of a hearing or trial or motions for extension of time to file must be filed at least three Court Days before the scheduled date to allow the Court adequate time to consider and rule on the application. (See Rule 57.4(C) regarding filing by fax). The Court will not consider or grant a motion for extension that is filed after the scheduled date or due date, absent of a clear showing of exceptional circumstances that prevented filing before the due date.

**C. Contents of Motion**

A motion for a continuance or other extension of time must contain a clear and concise statement establishing reasonable cause for why additional time is needed and how much additional time is requested. The motion must also contain the consent of adverse parties or their attorneys, or a statement explaining the efforts to obtain the consent and why it could not be obtained.

**D. Ruling on Motion**

Notwithstanding Rule 78.10(C), the Court may grant a motion for a continuance or other extension of time before a response in opposition is otherwise due if the Court finds that the motion is reasonable and would not prejudice the adverse parties. The Court may also deny a motion for a continuance or other extension of time if the Court finds that the motion is unreasonable, unnecessary or otherwise would prejudice an adverse party.

**Local Rule 56.3 Who Must Sign**

All applications or motions for extension of time to file or for continuance of a scheduled hearing or trial under this Rule must be signed by either the applicant/movant or their attorney.

**SUPERINTENDENCE RULE 57  
FILINGS AND JUDGMENT ENTRIES**

**Local Rule 57.1 General**

All filings must be received by the Court within the time required by law, subject to extension under Rule 56. Late filings will subject the Fiduciary and the Fiduciary's attorney to compliance enforcement under Rule 77.

**Local Rule 57.2 Content of Filings**

All documents filed in any case in this Court must satisfy all of the following requirements. The Court may decline to accept any filing that fails to comply with these requirements.

**A. Typewritten**

All documents filed in this Court must be typed manually or by computer, or written legibly in black or blue ink. The only exception is for documents that are submitted as attachments or exhibits that were previously prepared and that must be submitted in their original form.

**B. Complete Information**

All information that is applicable to a particular filing using a prescribed form must be complete and accurate. The Court will not modify any proposed filing to correct inaccurate information or to add missing information that is required.

**C. Personal Identifiers**

Unless otherwise required by law or by Court order, no document filed with the Court may contain any protected personal identifiers. Personal identifiers include social security numbers, account numbers, PIN's, user names, passwords and digital access codes. Account numbers in any filing must be identified with only the last four digits of the actual account number. An example of an acceptable way to list an account number is, "xxxx-xxx-xx-1234." If the Court orders disclosure of any personal identifiers in a proceeding that is not confidential by law, the information must be filed on a separate document which will not become part of the public record.

**D. Protected Health Information**

Unless required by law in a confidential proceeding, and except in cases in which a statement of expert evaluation is required by law or by Court order, no filing may disclose any person's health information that is protected under federal HIPAA law.

**E. Multiple Page Filings**

All filings that contain more than one page must contain the case number at the top of each subsequent page, including all attachments.

**F. Proposed Entry**

All filings must be accompanied by a proposed entry in compliance with Rule 57.5(A).

**G. Contact Information**

Every document filed with the Court must contain the complete contact information, as described in Rule 75.3, of the person signing the filing and their attorney. If the contact information has already been filed in the case using a Contact Information Form and the information on that form is still current and accurate, the contact information does not have to be included in all other filings.

**H. Who Must Sign**

All filings must be signed by the applicant, party, Fiduciary or other person submitting the filing, or their respective attorney, if any. All signatures must be legible and must have the name of the person signing typed or clearly printed directly below the signature.

**I. Signature of Co-Fiduciaries**

In all cases in which there are Co-Fiduciaries, all of the Co-Fiduciaries must sign each filed document that requires the signature of a Fiduciary or explain the reason for the absence of a Co-Fiduciary's signature and the efforts made to obtain it.

**J. Signatures by Agent under Power of Attorney**

Except as otherwise permitted in these Rules or required by law, the Court will not accept the signature of an agent under a power of attorney in place of the signature of the principal, unless (i) the power of attorney contains specific language authorizing the agent to sign for the principal in court proceedings; and (ii) a complete and accurate copy of the power of attorney is attached to the filing.

**K. Effect of Signature**

The signature of any person on a document filed in this Court constitutes a representation and warranty that to the best knowledge and belief of that person the information in the document is true, accurate and complete, is filed in good-faith, is not misleading, is not filed for the purpose of delay or hindrance of the proceeding, and is in compliance with Ohio law, the Rules of Superintendence and these Rules. Additionally, the signature of an attorney constitutes the attorney's representation and warranty that filing of the document does not violate the attorney's responsibilities as an officer of the Court or any requirement in the Code of Professional Responsibility. It is a criminal offense to file any document that the person knows is false.

**Local Rule 57.3 Special Filing Requirements**

The following requirements apply to all filings with the Court.

**A. Paper Size and Font**

All documents presented to the Court for filing must be printed tumble style, flipped on the short edge, on 8.5 by 11 inch size paper with no backing. The only exception is for original wills and other attachments that were prepared and signed previously that must be filed in their original format without alteration. Except for headings, the font size must not be smaller than 10 pt. nor larger than 14 pt.

**B. Original and File Copies**

The Court will only file documents containing original signatures. The Court will file-stamp up to four additional sets of filings provided by the filer. The Court may discard additional document sets submitted for file-stamping.

**C. Required Additional Service Sets**

If the Court is required to serve any document filed, the person filing the document must provide sufficient additional sets of the document to enable the Court to provide service.

**D. Stapling**

Original documents submitted for filing must not be stapled, so as to not interfere with the Court's document imaging process. Additional filing sets submitted for file-stamping or service should be stapled.

**Local Rule 57.4 Method of Filing**

Filings with the Court may be presented in any of the methods described in this Rule.

**A. In Person**

Filings may be made in person to the Court's Deputy Clerks during the Court's normal business hours. (See Rule 53.1).

**B. By Mail**

The Court will accept filings by mail or other private delivery service. The Court must actually receive the mail or delivery before expiration of the required deadline to be considered timely filed. The filing must be accompanied by a cover letter identifying the sender's complete contact information, the case by name and case number, and must provide clear instructions of the action the filer desires. Payment of the exact amount of the filing fee must also accompany the filing, if a filing fee is due. If the Court is requested to return file- stamped copies, the filer must provide a self-addressed, stamped envelope adequate in size to hold the return documents and with sufficient postage prepaid. Otherwise, the Court will place the return documents in the Court's pick-up box for up to 14 days.

**C. By Fax**

The Court will not accept filings to create a new case by fax. Any subsequent filings may be made by fax only in emergency or time critical circumstances. The sender bears the risk of successful transmission to and receipt by the Court. The fax filing must be accompanied by a cover sheet identifying the sender's complete contact information, the case by name and case number, a short statement explaining the time critical circumstances, and must provide clear instructions of the action the filer desires. Filings the Court receives by fax and accepts for filing as complying with these Rules will be deemed conditionally filed as of the date stamp on the fax transmission. In order to be deemed officially filed, the Court must receive the original of the source document within five Court Days after the conditional filing date. Otherwise, the Court may order the filing stricken from the record.

**D. Electronic**

The Court does not presently accept any filings by email unless expressly authorized by the Court in individual circumstances. This rule may be updated in the future to provide a mechanism for utilizing an electronic filing system for filing in new and existing cases.

**Local Rule 57.5 Judgment Entries**

This Rule provides the Court's requirements regarding judgment entries.

**A. Preparation of Entries**

If the trial judge or magistrate directs, counsel for the party in whose favor a decision, order, decree, or judgment is rendered, within five days, shall prepare the proper judgment entry or decision and submit it to the counsel for the adverse party, who shall approve or reject the entry or decision within five days after receipt. The name of the counsel and of the assigned trial judge or magistrate shall be typed or printed upon the entry or decision. When the entry or decision is approved by counsel, it shall be signed and presented to the trial judge or magistrate for approval, and, if the trial judge or magistrate approves the entry or decision, it shall then be filed with the Clerk. If counsel are unable to agree upon

the entry or decision, the matter shall be submitted to the trial judge along with a motion stating why counsel would not approve the entry or decision.

**B. Failure to File within 10 Days**

If counsel fails to present any entry order, decree or judgment within ten days after the hearing wherein the entry, order, decree, or judgment is rendered, the trial judge or magistrate may prepare and file the entry, order, decree or judgment with underlying decision.

**SUPERINTENDENCE RULE 58  
DEPOSIT FOR COURT COSTS**

**Local Rule 58.1 Court Costs**

The Court charges for filings made with the Court and other services the Court performs. This Rule states the Court's policies on the amount and payment of those costs.

**A. Advanced Payment**

The Court requires an advanced payment of the full amount of costs anticipated to be incurred in the type of proceeding being filed. A schedule of the required deposit amount for various proceedings is shown on the Court's website. Additional documents filed or services performed in the same case that are not covered by the original advanced payment will be charged and must be paid as filings are made or other services are performed.

**B. Jury Deposit**

Jury deposits must be paid simultaneously with filing the jury demand. The deposit for a one day jury trial shall be \$500.00 and the deposit for each additional day scheduled shall be \$250.00.

**C. Witness Fees**

Witness fees must be requested at or before conclusion of the hearing or trial for which the subpoena was issued. If not timely requested, witness fees will be deemed waived.

**Local Rule 58.2 Form of Payment**

This Rule describes the manner in which Court costs may be paid.

**A. Marriage License Application**

All charges for marriage license application must be paid with cash, and other accepted electronic payment methods as the Court's technology may allow.

**B. Other Court Costs**

All other costs may be paid by means of cash, money order, certified or bank cashier's check, and other accepted electronic payment methods as the Court's technology may allow.

All deposits for court proceedings shall be in accordance with the Court's Deposit, Fee and Costs Schedule in effect on the date of filing of the pleading. At the conclusion of a case, if the remaining cost deposit balance for any depositor, is less than Five Dollars (\$5.00) it shall be transferred to the Washington County Indigent Guardian Fund.

**C. Publication costs**

*The Marietta Times* is designated as the newspaper of general circulation in which any notices as required by law or designated by the Judge are to be published. These publication charges may be charged as costs, and the Court may require an advance deposit of costs to cover anticipated costs of publication.

**D. Witness fees**

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

**E. Insufficiency of costs deposit**

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

**SUPERINTENDENCE RULE 59  
WILLS**

**Local Rule 59.1 Safekeeping of Will**

This Rule applies to wills deposited with the Court under R.C. §§2107.07 and 2107.08.

**A. Procedure**

Only the original of a will may be deposited with the Court for safekeeping. The Court will only release a deposited will to a person entitled to it upon satisfactory proof of identification.

**B. Guardianships**

A guardian of the person or estate of a mentally incompetent adult who becomes aware that the ward has a will and who has knowledge of the location of the original will, must deposit the original of the will with the Court for safekeeping. (See Local Rule 66.3(D)). If there is more than one original will, the guardian must deposit all originals for safekeeping.

**C. Examination of Will Index**

Before an applicant or attorney files an application to appoint a Fiduciary in a decedent's estate, the applicant or attorney must first request the Court to examine the Court's index of wills deposited under R.C. §2107.07. If a will on deposit with the Court is of an earlier date than a will being offered for probate, the will of earlier date will be filed for record purposes only.

**Local Rule 59.2 Probate of Will**

This Rule provides requirements relating to probating a will in a decedent's estate.

**A. Certificate of Service**

The Fiduciary of a decedent's estate in which the decedent's will has been admitted to probate must timely comply with the notice provisions in R.C. §2107.19. Proof of service or waivers of notice must accompany the certificate of service of notice of probate of will. Proof of service must be in the form of green return receipt cards or USPS tracking confirmation that the notice was received. Failure to file the certificate within the required time, as modified by any extension under Local Rule 56.1, will subject the Fiduciary and the Fiduciary's attorney to citation under Local Rule 77.

**B. Who May Waive**

Only those persons identified in Rule 4(D) of the Ohio Rules of Civil Procedure may waive notice of admission of the will to probate.

**Local Rule 59.3 Filing for Record Only**

Any person may file an original of a decedent's will with the Court for record only, and without admission of the will to probate, if none of the decedent's assets are subject to probate administration or if for any other reason there is no intention to administer or release the estate from administration. The original will must accompany an application to file will for record only.

**SUPERINTENDENCE RULE 60  
APPLICATION FOR AUTHORITY TO ADMINISTER**

**Local Rule 60.1 Special Administrator for Estate Investigation**

In recognition of the fact that uncertainty often exists regarding the composition and value of estate assets before commencing administration, and in further recognition of the fact that it is often difficult or impossible to obtain necessary information regarding estate assets until after formal appointment of a Fiduciary, the Court has implemented this Rule as a means of facilitating appropriate due diligence investigations about the estate before beginning formal administration. This procedure is a variation of the special administrator authority under R.C. §§2113.15 – 2113.17.

**A. Purpose**

In a decedent's estate in which it is necessary or beneficial to delay formal estate administration in order to more fully investigate the composition and value of estate assets or other material aspects of the estate, a person described in subparagraph B

below may apply to the Court for appointment as a special administrator under this Rule.

**B. Who May Apply**

The decedent's surviving spouse who resides in Ohio or one of the decedent's next of kin who resides in Ohio, in the priority stated in R.C. §2113.06, may apply to be appointed special administrator. If there is no surviving spouse or next of kin residing in Ohio, or if all that are eligible waive or decline to pursue appointment as special administrator, an attorney representing any of them may apply for appointment. The attorney must be licensed and in good standing to practice law in Ohio. Additionally a creditor may apply for appointment as a special administrator under this Rule.

**C. Initiation of Proceeding**

The applicant may initiate the proceeding by filing an application for appointment as special administrator. A Form 1.0 identifying all of the known heirs or beneficiaries of the estate and an acceptance of fiduciary duties must accompany the application. The applicant must also prepare and submit a proposed entry appointing special administrator and proposed letters of authority.

**D. Appointment**

The Court may appoint the applicant as special administrator under this Rule without hearing if the Court determines that the applicant is suitable for the duties of the position. Upon appointment, the Court will issue the special administrator letters of authority consistent with this Rule. Within seven Calendar Days after appointment, the special administrator must mail written notice of the appointment by regular mail to all persons identified on Supreme Court Form 1.0, unless the applicant does not know and cannot with reasonable diligence determine their address. The notice may be waived in writing.

The special administrator is not required to post bond because the special administrator will not have access to any of the decedent's assets. If the Court later authorizes the special administrator to engage in any financial activities on behalf of the estate, the Court may require bond.

**E. Powers and Responsibilities**

The special administrator will have the power and obligation to investigate and gather information regarding all aspects of the decedent's estate, including without limitation the composition and value of the decedent's assets, the decedent's liabilities or other material aspects of the estate that are or will be necessary or beneficial in the formal administration of the decedent's estate. The special administrator may also have access to the decedent's mail and may change the address with the United States Postal Service to redirect delivery to the special administrator, or to his or her attorney. Creditors may present claims to the special administrator, who must collect the information, but may not allow or reject claims without prior Court approval. The Court may grant the special administrator other powers and responsibilities as the Court

deems appropriate. In carrying out the powers and responsibilities of the position, the special administrator is subject to all fiduciary duties provided by law.

**F. Limitations on Authority**

Notwithstanding the scope of authority a special administrator has under R.C. §2113.15, the authority of a special administrator in a proceeding under this Rule is limited to only those powers the Court grants. Specifically, but without limitation, a special administrator under this Rule does not have any power to access any of the decedent's financial assets, close or transfer any accounts, sell, transfer or distribute any assets, pay any liabilities, bind the estate to any obligations or institute or defend any lawsuit, without prior Court authority. The special administrator does not have any obligation to secure or preserve any of the decedent's tangible personal property, unless the Court orders otherwise.

**G. Termination of Authority**

The authority of a special administrator under this Rule terminates automatically on the earlier of: (i) 90 Calendar Days after the date of the entry appointing the special administrator; or (ii) issuance of letters testamentary, letters of administration, entry releasing the estate from administration or order granting summary release from administration. The Court will not grant any extensions.

**H. Obligations on Request or Termination**

The special administrator must promptly deliver, in tangible or electronic form, all documents and information in the special administrator's possession or control that the special administrator has obtained or created that in any way relates to the decedent's estate, to the person and at the time required below.

1. Delivery on Request

At any time before termination of the special administrator's authority, upon written request of a person who has valid priority to appointment as the formal Fiduciary of a decedent's estate or that person's attorney, the special administrator must promptly deliver the information to that person or attorney. If the special administrator fails to do so within 15 Court Days after receipt of the request, the person entitled to the information may apply to the Court for an order enforcing the request.

2. Delivery on Termination

On termination, the special administrator must promptly deliver the information to the appointed executor, administrator, or commissioner of the decedent's estate. If the special administrator fails to do so within 15 Court Days after receiving notice of the appointment, the special administrator will be subject to citation for contempt.

3. Retention if No Estate

If no estate administration, release from administration or summary release is commenced by the time the special administrator's authority terminates, the special administrator must maintain and preserve the documents and information for a period of one year from the date of termination.

#### 4. No Inventory or Accounting

A special administrator is not required to provide any inventory or accounting to the Court, unless the Court orders otherwise.

### **I. Compensation**

A special administrator who has fulfilled his or her duties faithfully is entitled to compensation of \$500.00 if he or she is not ultimately appointed as Fiduciary of the decedent's formal estate settlement proceeding, whether a full administration, release from administration or summary release. If the special administrator is ultimately appointed as Fiduciary, he or she is not entitled to any additional compensation beyond the statutory commission provided in R.C. §2113.35. Services as special administrator are not grounds for further allowance under R.C. §2113.36.

An attorney who represents a special administrator, but who does not later represent the Fiduciary of the decedent's formal estate settlement proceeding, whether a full administration, release from administration or summary release, may apply to the Court for reasonable compensation on an hourly basis, consistent with the requirements in Local Rule 71. If the attorney represents the special administrator and the Fiduciary of the decedent's formal estate, the attorney's compensation will be determined under Local Rule 71.2.

The compensation allowed to the special administrator and attorney are valid expenses of administration. If payable to a special administrator or attorney who do not later serve as Fiduciary or attorney of the decedent's formal estate settlement proceeding, the compensation must be paid within 30 Calendar Days after appointment of the Fiduciary of the decedent's formal estate.

### **J. Cost and Expenses of Proceeding**

Court costs and other properly reimbursable expenses incurred in connection with a special administrator proceeding under this Rule are valid expenses of administration. Expenses payable to a special administrator or attorney who do not later serve as Fiduciary or attorney of the decedent's formal estate must be paid within 30 Calendar Days after appointment of the Fiduciary of the decedent's formal estate. Court costs for a special administrator proceeding under this Rule do not apply to or reduce the court costs due for the formal estate settlement proceeding.

## **Local Rule 60.2 Application for Authority to Administer**

All applications for authority to administer an estate must comply with the requirements of this Rule.

### **A. Death Certificate**

The applicant must file a true and accurate copy of the decedent's death certificate preferably at the time of the filing of the application for authority to administer the estate, but in no event later than 45 days after filing. The decedent's social security number must be redacted from the certificate before filing.

**B. Prerequisite in Intestate Cases**

Before filing an application in an intestate case, the applicant or the applicant’s attorney must determine if there is a will of the decedent on deposit or on file with this Court.

**C. Contents of Application**

All portions of the application that apply to the particular case must be complete. The Court will not accept for filing any application that is incomplete.

1. Estimate of Values

The application must contain a good faith estimate of the value of the estate assets and other financial information the form requires. The Court will not accept for filing any application in which the value estimates are blank, listed at \$0.00, stated as “unknown,” or otherwise fail to reflect any positive value, except as provided in next subparagraph.

2. Exception

Valuation estimates are not necessary in decedent’s estates that the applicant is filing for appointment as a Fiduciary solely for the purpose of pursuing wrongful death or survival claims, and the Fiduciary is not aware of any other probate assets to administer.

**D. Bond**

Local Rule 75.2 governs Fiduciary bond requirements.

1. Bond Exemption

The applicant must establish any claimed qualification for exemption from bond under Local Rule 75.2(G) simultaneously with filing the application.

2. Bond Commitment

In cases in which the Fiduciary does not qualify for exemption from bond requirements, a bond commitment must accompany the application. See Local Rule 75.2(C).

3. Letters

The Court will not issue letters to any Fiduciary until the Fiduciary satisfies all bond or bond exemption requirements in Local Rule 75.2.

**E. Fiduciary Acceptance**

The applicant must sign and file with the application a fiduciary acceptance.

**Local Rule 60.3 Nonresident Fiduciary**

An applicant for appointment as executor or testamentary trustee who does not reside in Ohio must be eligible under R.C. §2109.21, and must comply with this Rule.

**A. Representation**

All nonresident Fiduciaries must be represented by an attorney who is licensed and in good standing to practice law in Ohio.

**B. Protection of Assets**

The decedent’s assets, or proceeds from the sale of real or personal property, must remain or be moved to Washington County, Ohio. In order to assure that the assets are not relocated outside of this County, the nonresident Fiduciary applicant must meet one of the criteria below.

1. Custodial Depository

A substantial portion of the decedent’s intangible personal property must be deposited in a custodial account at a financial institution located in Washington County, Ohio, pursuant to R.C. §2109.13. A verification of receipt and deposit proving compliance with this requirement must be filed no later than the filing of the inventory.

2. Bond

The nonresident Fiduciary must post a bond in compliance with R.C. §2109.04, even if the governing instrument waives bond.

**C. Exception**

A nonresident Fiduciary who is nominated as executor in a decedent’s will to serve without bond may apply for an exception to Local Rule 60.3(B) if the Fiduciary is also a residual beneficiary of the estate and all of the other residual beneficiaries of the estate consent to the appointment.

**SUPERINTENDENCE RULE 61  
APPRAISERS**

**Local Rule 61.1 Appointment of Appraiser**

If the value of an asset is not readily ascertainable, the Fiduciary must apply to the Court for appointment of a suitable, disinterested person with appropriate qualifications and experience to determine the asset’s value. A proposed entry appointing the appraiser must accompany the application.

**A. Qualifications of Real Estate Appraiser**

Any licensed real estate agent, broker, auctioneer, credentialed appraiser or real estate loan officer with substantial experience in the sale or valuation of similar real estate in Washington County, Ohio may be appointed as the appraiser of real estate in the estate.

**B. Qualifications of Other Appraisers**

The applicant must present sufficient information with the application to establish that the proposed appraiser of any other asset has the necessary expertise, by reason of education, special training, licensing, and experience or otherwise, to render a fair, impartial and accurate valuation of the asset for which they are appointed to appraise.

**C. Disqualification**

A person who is an heir or beneficiary, or who is related to the decedent, the Fiduciary or the Fiduciary’s attorney by blood, marriage or employment is disqualified from serving as appraiser.

**D. Prohibition**

During the administration of an estate, no appraiser may directly or indirectly purchase any asset that the appraiser has appraised. This restriction does not prohibit the appraiser from serving as the agent or broker.

**Local Rule 61.2 Alternative Valuation Method**

Certain assets may be valued without formal appraisal, as described below.

**A. Real Estate**

The Fiduciary may use the most recent tax value for real estate shown on the property records of the County Auditor in the county in which the real estate is located as the fair market value of the real estate. A copy of the Auditor’s property record must accompany the schedule of assets or assets and liabilities to be released from administration.

**B. Motor Vehicles**

The Fiduciary may use the average trade-in value as shown on any recognized valuation resource for motor vehicles as the fair market value of the motor vehicles. A copy of the valuation must accompany the schedule of assets or assets and liabilities to be released from administration.

**C. Order for Appraisal**

Notwithstanding the preceding subparagraphs of this Rule, upon the motion of any heir, beneficiary or creditor, or on the Court’s own motion, the Court may order a formal appraisal of any real estate or motor vehicle.

**Local Rule 61.3 Compensation**

The Fiduciary may compensate an appraiser a reasonable amount that the Fiduciary and the appraiser mutually agree without prior Court approval. If they fail to agree, the Fiduciary must file an application for allowance of compensation to the appraiser. The Fiduciary will show the compensation paid to each appraiser on the next accounting as an expense of administration.

**SUPERINTENDENCE RULE 62  
CLAIMS AGAINST ESTATE**

**Local Rule 62.1 General**

The following requirements apply to all claims against the estate and any insolvency proceedings.

**A. Filing Rejection of Claim**

If a creditor presents a claim by filing it in our Court and the Fiduciary later rejects that claim, the Fiduciary also must file the rejection of the claim with the Court.

**B. Resolution of Claims**

A Fiduciary may not close an estate until it has properly rejected or accepted and resolved all claims against the estate.

**Local Rule 62.2 Summary Insolvency**

If it is clear that the total of all claims properly classified under R.C. §2117.25(A) (1) through (A) (3) exceeds the value of the probate assets shown on the inventory, the Fiduciary may seek a determination of insolvency without hearing under this Rule.

**A. Procedure**

The Fiduciary will initiate an insolvency proceeding under this Rule by filing a representation of summary insolvency. A schedule of all claims must accompany the representation. The fiduciary must also prepare and file a proposed judgment entry of summary insolvency with the initial filings. The Fiduciary must also file the appropriate application for approval of attorney fees under Local Rule 71.2(D) and the Fiduciary commission computation under Local Rule 72.1(A), unless the Court has previously approved the attorney fees and Fiduciary commissions.

**B. Limitation of Administrative Expense Claims**

In order to qualify for a summary insolvency, attorney fees may not exceed the amount determined under Local Rule 71.2(G) (2) and Fiduciary commissions may not exceed the statutory amount under R.C. §2113.35.

**C. Determination without Hearing**

If the Court finds from the information the Fiduciary files that there are insufficient assets to pay any claims beyond those properly classified under R.C. §2117.25(A)(1) through (A)(3), the Court will enter a judgment entry of summary insolvency without hearing and without prior notice to any interested party. The Fiduciary must send a copy of the judgment entry to all heirs, beneficiaries and creditors within 30 Calendar Days after the date of the Court’s entry.

**Local Rule 62.3 Full Insolvency Proceeding**

In all insolvent estates that do not qualify for a summary insolvency under Rule 62.2, the Fiduciary must proceed with a full insolvency proceeding under R.C. §2117.15 *et seq.* The Court requires that the insolvency and all related matters be scheduled for hearing and that the Fiduciary make proper service of notice of the hearing. The Fiduciary must provide proof of service of the notice at the hearing.

**SUPERINTENDENCE RULE 63  
APPLICATION TO SELL PERSONAL PROPERTY**

Our Court does not have any additional requirements regarding the sale of personal property beyond the requirements in R.C. §§2113.40-43 and Sup. R. 63.

**SUPERINTENDENCE RULE 64  
ACCOUNTS**

**Local Rule 64.1 General**

The requirements in this Rule apply to all accounts.

**A. Timeliness of Accounts**

All Fiduciaries, except special administrators under Rule 60.1, must file their accounts within the time required by law. Failure to file an account within the required time will subject the Fiduciary to the citation and compliance process in Rule 77.

**B. Content of Accounts**

The accounts of all Fiduciaries must provide complete, detailed, accurate and itemized information that accurately reflects all of the Fiduciary's receipts, disbursements, distributions and other financial transactions during the accounting period without room for uncertainty or speculation. If real estate has been sold during the accounting period, a copy of the settlement statement detailing all financial aspects of the transaction must accompany the account. Each account must be on the Ohio Supreme Court prescribed forms and must contain all information those forms require.

**C. Format of Account**

All accounts must conform substantially to the following requirements.

1. Beginning Balance

Each account must begin with the total asset value shown on the inventory for first accounts and the ending balance from the immediately preceding account for all subsequent accounts.

2. Receipts

The account must add to the beginning balance all assets acquired or discovered, all income received and other forms of financial gain since the beginning of the administration on first accounts or since the last accounting on subsequent accounts. All receipts must be subtotaled by class, with all subtotals added to determine the total receipts during the accounting period.

3. Disbursements

The account must subtract all expenses paid, distributions made, amounts lost and all other forms of expenditure since the beginning of the administration on first accounts or since the last accounting on subsequent accounts. All disbursements must be subtotaled by class, with all subtotals added to determine the total disbursements during the accounting period.

4. Ending Balance

The result from adding the total receipts to the beginning balance and then subtracting the total disbursements must be shown as the ending balance for the accounting period.

5. Assets Remaining in Fiduciary's Hands

The account must itemize and describe the assets and their respective values that remain in the Fiduciary's hands, which together comprise the ending balance shown on the account. On all accounts that are not final accounts, or are not final and distributive accounts in a decedent's estate, the Fiduciary must provide the Court with written proof

to Court's satisfaction of the identity and current value of all assets remaining in the Fiduciary's hands.

**D. Authority for Expenditures**

A Fiduciary is not permitted to make any expenditure or other disbursement unless authorized by law or approved in advance by Court order.

**E. Prohibited Transactions**

A Fiduciary must not make any payment, expenditure or other form of disbursement by means of a cash transaction, whether in cash, by debit card or electronic means, unless authorized by law or by Court order and supported by a contemporaneously issued receipt showing the date of the transaction, the amount, the recipient of the funds and the service, product or other purpose for which the Fiduciary used the funds. A Fiduciary is permitted to pay routine and recurring expenses by electronic payment only with prior Court approval.

**F. Supporting Documentation**

All disbursements in all accounts must be supported by corresponding receipts, vouchers, cancelled checks, written acknowledgments or other appropriate evidence of payment. A bank or other financial institution statement that shows the date, amount, payee and purpose of a payment may be used as appropriate evidence of payment. Local Rule 64.2 and 64.3 describe whether the Fiduciary must present the supporting documentation with the account.

**G. Power of Attorney**

The Court may accept receipts for distributions signed by an agent under a valid power of attorney that is currently in effect. The power of attorney must be provided to the Court with the account that claims the distribution.

**Local Rule 64.2      Accounts in Decedent's Estates**

This Rule provides the requirements for accounts in decedent's estates.

**A. When Account Due**

The Fiduciary of a decedent's estate must file a final and distributive account or a certificate of termination within six months after the date of appointment, unless the circumstances of the estate qualify for extended administration. This account cannot be waived under any circumstances.

**B. Extended Administration**

In order to qualify for extending the estate administration beyond the six month period, one of the circumstances in R.C. §2109.301(B) (1) must apply.

1. Notice to Extend Administration

If the estate qualifies for extended administration beyond six months under one or more of the circumstances described in R.C. §2109.301(B)(1)(a) – (e), the Fiduciary must file a Notice to Extend Administration (Sup. Ct. form 13.10). The notice must be filed

no later than the date the initial six month administration period expires. No Court approval is necessary. The notice will automatically extend the administration if it is timely filed.

## 2. Application to Extend Administration

If the estate does not qualify for extended administration under subparagraph (1) above, but the Fiduciary contends that the estate qualifies for extended administration under R.C. §2109.301(B)(1)(f), the Fiduciary must file an Application to Extend Administration (Sup. Ct. form 13.8)). The application must be filed no later than five Court Days before the date the initial six month administration period expires to enable the Court adequate time to consider and rule on the application. Court approval is necessary.

In order to be approved, the application must establish by clear and convincing evidence that actual, material circumstances that were beyond the anticipation and control of the Fiduciary and the Fiduciary's attorney exist that have precluded completing the estate settlement within the six month initial administration period. Circumstances indicating lack of diligence in the administration on the part of the Fiduciary or the Fiduciary's attorney are not valid grounds for extending administration. Absent a showing of exceptional circumstances, inability to sell real estate is not valid grounds for extending the administration unless the Fiduciary shows that the real estate has been actively listed for sale for at least 30 consecutive Calendar Days immediately preceding the date of filing the application.

## 3. Effect on Account

The Fiduciary's first account or certificate of termination is due no later than 13 months after the date of appointment if the Fiduciary files a notice under subparagraph (1) above, or if the Court approves an application under subparagraph (2) above. The Fiduciary's final and distributive account or certificate of termination is due no later than 60 Calendar Days after expiration of the initial six month administration period if the Court denies the application under subparagraph (2) above. Filing a partial account before expiration of the initial six month administration period will not extend the administration.

## 4. Failure to Qualify

If the circumstances of the estate do not qualify to extend the administration under any of the criteria in R.C. §2109.301(B)(1), the Fiduciary may in the alternative apply for an extension of time to file the final and distributive account. Local Rule 56.1 governs the process for obtaining extensions of time to file.

### **C. First Partial Account**

In all cases in which the estate administration is properly extended under Local Rule 64.2(B), but the Fiduciary is not able to file a final distributive account or certificate of termination 13 months after the date of appointment, the Fiduciary must file an actual accounting for the first partial account. The Court will not accept waivers of a first

partial account. The first partial account must be designated as such on the first page of the account.

**D. Additional Partial Accounts**

After the first partial account, the Fiduciary must file an account with the Court annually, on or before the anniversary date of the thirteenth month after the Fiduciary's appointment. Each partial account must identify on the first page of the account the number of that account by ordinal number (second, third, etc.). Partial accounts after the first partial account may be waived in the manner described in R.C. §2109.301(A), unless the Court orders an actual accounting in the particular case for a particular accounting period. Waiver of a partial account does not waive the requirement of filing a status report, as required in Rule 64.2(H).

**E. No Zero Accounts**

No partial account may show zero receipts and zero disbursements, unless authorized by Court order in advance. All loans, advances or other payments that a third-party (including the Fiduciary in his or her personal capacity) pays to or on behalf of the estate must be itemized as a receipt during the accounting period it is made, with itemized disbursements describing where the third-party loan, advance or other payment was expended during that accounting period. If this information is not disclosed on the current account, the Fiduciary may not repay or reimburse the third-party for the loans, advances or other payments without prior Court approval.

**F. Supporting Documentation**

At the time of filing each account, a guardian is required to present to the Court all supporting documentation described in Local Rule 64.1(F) for the Court to verify the accuracy of the account.

**G. Accounts in Wrongful Death and Survival Action Cases**

A decedent's estate that the Fiduciary opened for the sole purpose of pursuing wrongful death or survival claims, and in which there are no other probate assets to administer, are exempt from the requirement of filing annual partial accountings in this Rule, but are not exempt from filing the annual status report under Local Rule 64.2(H). If there are other probate assets to administer, all accounting requirements in this Rule apply.

When an estate for wrongful death purposes only is settled, and no portion of the settlement is allocated to survival claims, the Fiduciary must file a report of distribution as required in the entry approving the settlement. The Fiduciary must also file an entry closing the estate without accountings, unless the estate must remain open for resolution of additional pending wrongful death or survival claims. The Fiduciary is not required to file a final and distributive account in this instance.

When an estate for wrongful death or survival purposes only is settled, and all or a portion of the settlement proceeds are allocated to survival claims in the entry approving settlement, the Fiduciary must file a report of distribution as required in the

entry and must file a final and distributive account within 60 Calendar Days after the date of filing the entry approving settlement.

#### **H. Status Report**

All Fiduciaries of a decedent's estate must file a status report with the Court simultaneously with filing each partial account or waiver of partial account. The status report must describe the current status of all estate assets remaining in the Fiduciary's hands, proof that all tangible and real property is properly insured, the efforts made during the accounting period to complete the estate administration, the status of payment of all outstanding estate liabilities, whether the estate remains solvent and the circumstances that have precluded the Fiduciary from concluding the administration.

In decedent's estates in which the Fiduciary was appointed for the sole purpose of pursuing wrongful death or survival claims with no other probate assets, the Fiduciary must file a status report with the Court each year on or before the anniversary date of the Fiduciary's appointment.

The Court may order a status conference after the filing of any status report accompanying a partial account or waiver of partial account. The Fiduciary and the Fiduciary's attorney must attend the status conference in person, unless the Court in advance of the conference permits an alternate means of appearance. The Court may issue any further orders that it deems appropriate as a result of the status conference.

#### **I. Certificate of Service of Account**

Every Fiduciary in a decedent's estate must provide a copy of each account to all heirs or beneficiaries in compliance with R.C. §2109.32(B). Before or simultaneously with filing the account, the Fiduciary must file with the Court a certificate of service of account, as required under R.C. §2109.32(B)(2). The Fiduciary must provide green return receipt cards, USPS tracking reports, acknowledgements of receipt, or waivers from all interested parties when filing a certificate of service of account. In the alternative, if all interested parties sign a waiver of notice of hearing and consent to account the Fiduciary does not need to file a certificate of service of account.

#### **J. Hearing on Account**

The Court will set every Fiduciary account for hearing under R.C. §2109.32(A). The Fiduciary is required to serve notice of the hearing to interested persons unless the person has waived notice of the hearing. No hearing is required on the filing of a certificate of termination under R.C. §2109.301(B)(2), unless the Court orders otherwise.

A Fiduciary who serves notice of the hearing must supply evidence of providing the notice to all interested parties by providing the green return receipt cards, USPS tracking reports, waivers or other proof of service. Alternatively, the Fiduciary or the Fiduciary's attorney may attach to the certificate an affidavit evidencing service of the notice to all interested parties.

If a person files exceptions to the account after the time permitted in R.C. §2109.33, the Court will allow further time for filing the exceptions and will consider the exceptions, unless the Fiduciary can prove that the person filing the exceptions received notice of the hearing.

**K. Election of Surviving Spouse**

If a surviving spouse is the sole beneficiary under a will and the spouse files a certificate of termination before filing an election under or against the will, or before expiration of the five month period in which to make the election, the Court will conclusively presume that the surviving spouse elects to take under the will and that filing the certificate affirmatively manifests that intent. The Court will close the estate on that basis. (See R.C. §2106.01(F)).

**Local Rule 64.3      Accounts in Guardianships and Conservatorships**

This Rule provides the requirements for accounts in guardianships and conservatorships.

**L. When Accounts Due**

Every guardian of the estate must file an account on or before the first anniversary of the date of appointment. After filing the first account, the guardian must file an account every year on or before the appointment anniversary date. The Court may order periodic accountings more frequently.

**M. Final Account**

Every guardian of the estate must file a final account within 30 Calendar Days after death of ward or other termination of guardianship, unless the Court requires otherwise.

**N. Supporting Documentation**

At the time of filing each account, a guardian is required to present to the Court all supporting documentation described in Local Rule 64.1(F) for the Court to verify the accuracy of the account.

**O. Hearing on Account**

Local Rule 64.2(J) also applies to hearings on guardian's accounts.

**P. Conservatorships**

All requirements in this Local Rule 64.3 also apply to conservatorships, substituting the word conservator for guardian.

**Local Rule 64.4      Accounts in Testamentary Trusts and Other Fiduciaries**

All requirements in Local Rule 64.3 also apply to the accounts of testamentary trustees and other fiduciaries who are not executors, administrators, except as provided in R.C. §2109.303(B).

**SUPERINTENDENCE RULE 65**  
**LAND SALES**

**Local Rule 65.1 Title Issues**

This Rule governs the requirements relating to assuring that all land sale proceedings properly include all parties with an interest in the real estate that is the subject of the sale.

**A. Initial Certification of Title**

A certification of title must accompany all complaints for the sale of lands under R.C. Chapter 2127. The certification must verify that the plaintiff obtained an examination of title to the real estate within 15 Calendar Days before filing the complaint to confirm that all parties with any interest in the real estate, as determined by the title examination, are named as parties to the action. The County Treasurer must always be named as a defendant, even if all real estate taxes are current. The title examination must be performed by a licensed title company or by an attorney experienced in examining titles. The written title report does not need to accompany the certification, but must be available to the Court for review upon the Court's request. The Court will not accept the complaint for filing without this certification.

**B. Purchaser's Title Evidence**

The purchaser of the real estate in any land sale proceeding, whether by private sale or public auction, will have 30 Calendar Days from the date of signing the purchase contract in which to obtain an attorney's opinion of title, commitment for title insurance or other evidence of title to the property. The purchaser may waive any or all of this 30 day period in writing signed by the purchaser and filed with the Court.

**Local Rule 65.2 Additional Requirements**

The additional requirements in this Rule also apply to all contested and uncontested land sale proceedings.

**A. Guardian Ad Litem**

In all guardianship land sale proceedings, simultaneously with filing the complaint for the sale of land the plaintiff must cause the appointment of a guardian ad litem to answer for the ward in a manner that the guardian ad litem believes represents the best interest of the ward. The guardian ad litem must be an attorney licensed and in good standing to practice law in Ohio, and who is not affiliated with or related to the plaintiff or plaintiff's attorney. The guardian ad litem is entitled to compensation in an amount the Court determines to be reasonable under the circumstances of the case.

**B. Settlement Statement**

A copy of the proposed settlement statement, showing the gross sale proceeds, all proposed charges relating to the sale and the net proceeds payable to the plaintiff, must be attached to the motion for confirmation of the sale. If any changes to the settlement occur before closing, plaintiff must supplement the motion with a copy of the revised settlement statement. The settlement statement will serve as the proposed distribution of the sale proceeds. The proposed order of distribution the plaintiff submits to the

Court must be consistent with the settlement statement, unless the Court orders otherwise.

**C. Status Conference**

The Court will schedule a status conference on all land sale proceedings that are not finalized and closed within nine months from the date of filing the complaint. The plaintiff and plaintiff's attorney must attend the status conference in person. At least 10 Court Days before the status conference, the plaintiff must file a status report detailing the current physical status of the property, proof that the property is properly insured, the efforts made to sell the property, the status of payment of any mortgages and taxes on the property, and the name and address of the real estate agent that has the property listed for sale. At the status conference, the plaintiff must explain the circumstances that have precluded conclusion of the case and must show cause why the Court should not order sale of the property by public auction. The Court may issue any further orders that it deems appropriate as a result of the status conference.

**Local Rule 65.3 Contested Land Sales**

In all land sale proceedings in which one or more of the defendants timely files an answer objecting to, or asserting rights adverse to, the Plaintiff's prayer for relief, the Court will treat the case as a contested civil litigation matter subject to the requirements in Local Rule 78.10.

**SUPERINTENDENCE RULE 66  
GUARDIANSHIPS**

**Local Rule 66.1 General**

The requirements in this Rule apply to all guardianships.

**A. Residency**

A minor or alleged incompetent who is not a citizen of the United States or a resident alien is not considered by this Court to be a resident of this County or to have a legal residence in this County for purposes of R.C. §2111.02(A).

**B. Criminal Background Check**

All applicants for appointment as a guardian, excluding an appointment as an emergency guardian, must submit to the Court the results of a criminal background check. The applicant must pay the cost of the criminal background check if any exists. The requirements in this Rule do not apply if the applicant is the natural or adoptive parent of a minor ward, a state agency or an attorney licensed and in good standing to practice law in Ohio.

**C. Application**

All applicants for appointment as guardian must file a completed application packet with the Probate Clerk of Courts before a hearing will be set.

**D. Communication with Ward**

All guardians must meet with each of their wards no less than once quarterly.

#### **E. Incident Reports**

Any guardian, attorney or other person in a fiduciary relationship with a ward who has reasonable cause to believe that the ward is being abused, neglected, exploited or otherwise subjected to danger of emotional, physical or financial harm must immediately report it to the Court in writing, describing in sufficient detail the basis for the belief. The Court will determine if the incident report will be made a part of the official record. The Court will promptly investigate all incident reports that it receives and will determine whether there is a reasonable basis for further action.

#### **F. Complaints against Guardians**

Any person or entity who has reasonable cause to believe that a guardian has engaged in any act of wrongdoing or neglect affecting the ward may file a request for a review hearing. The Court will promptly consider and investigate all complaints against a guardian that it receives consistent with the Court's Guardian Complaint Policy. If the Court believes there is a reasonable basis for the allegations in the complaint, the Court will set the matter for hearing at the earliest available opportunity. The person or entity who filed the complaint must appear in person at the hearing to testify and prove the allegations. If they fail to appear, the Court may dismiss the complaint. The guardian must also appear in person at the hearing.

#### **G. Authority to Expend Funds**

No guardian of a ward's estate may expend any of the ward's funds without prior Court authorization. The Application for Authority to Expend Funds must describe the payee, the amount and the purpose of each proposed expenditure. It must also specify whether the proposed expenditures are recurring expenses or non-recurring expenses. The Court will not approve any expenditures of the ward's funds until the guardian has filed an inventory, unless the guardian shows that delaying the authorization will be detrimental to the ward.

#### **H. Prohibited Transactions**

A guardian must not make any payment, expenditure or other form of disbursement by means of a cash transaction, whether in cash, by debit card or electronic means, unless authorized by law or by Court order and supported by a contemporaneously issued receipt showing the date of the transaction, the amount, the recipient of the funds and the service, product or other purpose for which the guardian used the funds. A guardian is permitted to pay routine and recurring expenses by electronic payment only with prior Court approval.

#### **I. Authority to Sell or Lease Ward's Assets**

No guardian of a ward's estate may sell, exchange, transfer or otherwise dispose of any of the ward's assets or lease said assets until the guardian has filed an inventory, unless the guardian shows to the Court that delaying the transaction will be detrimental to the ward, and the Guardian has received the Court's approval.

**J. Veterans' Benefits**

All guardianships of the ward's estate that involve veterans' benefits are subject to and must comply with R.C. Chapter 5905 and all rules and regulations of the Department of Veterans' Affairs. All applications for authority to expend funds, including all applications to pay guardian or attorney fees, must also be approved by the Department of Veterans' Affairs. In the alternative, the application may be set for hearing with notice given to the Department of Veterans' Affairs.

**K. Ward's Death**

If the ward dies, the guardian must notify the Court in writing within 30 calendar days after the death. The guardian must provide a copy of the ward's death certificate at the time of notification to the Court. This notice is the responsibility of the guardian of the person. If there is no guardian of the person, the notice is the responsibility of the guardian of the estate.

**L. New Guardian Education**

Sup. Rule 66.06(A) governs education requirements of new guardians appointed by this Court. Unless covered by the Sup. Rule 66.06(B) waiver, at the time of a new appointment or within six months thereafter, all new guardians must have successfully completed, at a minimum, a six-hour guardian fundamentals course provided by the Supreme Court or, with the prior approval of this Court, another entity.

**M. Guardian Continuing Education**

In each succeeding year following the initial new guardian education requirements, unless waived by the Court, a guardian appointed by this Court shall successfully complete a continuing education course that is at least three hours in length, is provided by the Supreme Court or is approved of by this Court, and that is specifically designed for the continuing education needs of a guardian and consists of advanced education relating to the topics listed in Sup. Rule 66.06(A)(1) through (4).

**N. Guardian's Report**

1. Filing the Guardian's Report

The guardian of a ward must file a yearly Guardian's Report under R.C. §2111.49 with the Court within 30 calendar days of the anniversary of the initial filing of the guardianship. The Court may order periodic reports more frequently.

2. Supplemental Guardian's Report

If the guardian becomes aware of any changes or other material circumstances affecting the ward that would otherwise be required to be disclosed on a guardian's report, the guardian must file a supplemental Guardian's Report disclosing the change or other material circumstances within 30 calendar days after first becoming aware of the changes or circumstances. Failure to file a supplemental Guardian's Report in a timely manner is grounds for removal of the guardian. Filing a supplemental Guardian's Report does not change the due date of the annual Guardian's Report required under this Rule.

### 3. Who Must File

The guardian of the person is responsible for filing the Guardian's Report. If there is no guardian of the person, the guardian of the estate is responsible for filing the Guardian's Report. If there is a separate guardian of person and guardian of estate for a ward, the guardian of the person should include the guardian of estate's annual plan in the Guardian's Report.

### 4. Statement of Expert Evaluation

The guardian of an incompetent person must file an updated Statement of Expert Evaluation with the annual Guardian's Report. If the original or a subsequent Statement of Expert Evaluation indicates to a reasonable degree of medical certainty that it is unlikely that the ward's mental competence will ever improve, the guardian may obtain Court permission to waive the filing of subsequent Statements of Expert Evaluation with future Guardian's Reports.

### 5. Annual Plan

All guardians must complete the annual plan section of the Guardian's Report. The guardianship plan states the guardian's goals for meeting the ward's needs for the next year.

### 6. Communication with Ward

The details of a guardian's quarterly meetings with their ward must be reported in the Guardian's Report.

## **O. Annual Registration for Guardians with Ten or More Wards**

A guardian appointed by the court who has ten or more wards under the guardian's care shall annually register with this Court and provide such information as the Court may require, including but not limited to a fee schedule that differentiates guardianship services from legal or other direct services.

## **Local Rule 66.2 Guardianship of Minors**

### **A. Coordination with Other Proceedings**

The Court will not establish a guardianship of the person of a minor if another court has pending or continuing jurisdiction over the custody of the minor.

### **B. No Guardianship for School or Custody Purposes**

The Court will not accept for filing any application for guardianship of a minor where the sole or primary purpose of the proposed guardianship is to establish residency for the minor to enroll in school or for purposes of transferring physical custody of a minor from a parent to any other person. The Court may consider a guardianship of the person of a minor that establishes custody pursuant to legal documents of a deceased or incapacitated parent or custodian when there are no other living or identified parents or custodians.

**C. Birth Certificate**

Upon filing an application for appointment as guardian of a minor, the applicant must simultaneously file a true and accurate copy of the minor's birth certificate.

**D. Expenditures for Minor's Health, Education, Maintenance or Support**

If the guardian of a minor's estate is also the minor's natural or adoptive parent, and the guardian applies to the Court for authority to expend funds of the minor for items that can reasonably be considered relating to the minor's health, education, maintenance or support, the Court will not approve expenditures of the minor's estate in these circumstances unless the applicant establishes to the Court's satisfaction that the expenditure is necessary and the parent or parents do not have the financial resources to pay the expense.

**E. Notice of Termination**

All applications to terminate the guardianship of a minor before the minor reaches the age of 18 years require notice to be served on all persons entitled to notice under R.C. §2111.04(A)(1), to all persons who received actual notice of the original appointment of the guardian, and to such other persons as the Court may order. The applicant is responsible for serving the notice.

**F. Grandparent's Power of Attorney**

No guardian of a minor is permitted to create a power of attorney under R.C. §3109.52 that transfers any of the guardian's powers or obligations to a grandparent of the child with whom the child is residing without this Court's prior authorization.

**Local Rule 66.3      Guardianship of Mentally Incompetent Adult**

**A. Notice of Hearing**

In addition to those entitled to notice of the hearing on the application for appointment of a guardian of an adult under R.C. §2111.04(B), the Court may order that notice also be served on, and in the same manner, other persons as the Court may direct. If not otherwise entitled to notice by statute, the applicant must provide the Court with the names and addresses of all of the proposed ward's adult children who are known to reside in Ohio. The Court will serve notice of the hearing on those children. Any notice required by law or by this Rule may be waived.

**B. Burden of Proof**

At the hearing on the application for appointment of a guardian of the person or estate of a mentally incompetent adult, the applicant bears the burden of proving, by clear and convincing evidence both of the following: (i) the ward's mental incompetence; and (ii) that no less restrictive alternative exists to the proposed guardianship.

1. Existence of Powers of Attorney

If the proposed ward has executed a valid durable power of attorney or durable power of attorney for health care that remain in effect, the applicant must file true and accurate copies of the powers of attorney with the application for appointment as guardian. At the

hearing, the applicant must present satisfactory evidence of why one or both of the powers of attorney are ineffective in meeting the ward's needs.

## 2. Rebuttable Presumption

The Court establishes a rebuttable presumption that valid durable powers of attorney are less restrictive alternatives to guardianship.

### **C. Effect on Powers of Attorney**

If the Court appoints the guardian, and the guardian is also the designated ward's agent under a valid durable power of attorney or durable power of attorney for health care that remain in effect, the Court may order that one or both powers of attorney are deemed terminated and void, or may order that one or both powers of attorney remain valid and effective for purposes that the Court directs. If the guardian is permitted to use either or both powers of attorney, the guardian is accountable to the Court for all activities undertaken as agent under the powers of attorney. If the Court appoints the guardian, and the guardian is not the designated agent under a valid durable power of attorney or durable power of attorney for health care, the powers of attorney are automatically deemed terminated and void, unless the Court orders otherwise.

### **D. Deposit of Wills**

Within three months after the guardian's appointment, a guardian shall file with this Court a list of all of the ward's important legal papers, including but not limited to estate planning documents, advance directives, and powers of attorney, and the location of such legal papers, if known at the time of the filing. If the guardian discovers these documents after the time of the filing, the guardian must inform the Court of those legal papers within 30 calendar days of discovery. The guardian may also deposit the originals of all wills of the ward with the Court for safekeeping, pursuant to the procedure in R.C. §2107.07.

## **Local Rule 66.4 Emergency Guardianship Procedure**

### **A. Overview of Proceeding**

An emergency guardianship is an ex parte proceeding that materially affects the legal rights of the proposed ward without prior notice or opportunity to be heard, even though for a limited time and purpose. As such, the Court will strictly scrutinize all evidence presented to determine whether the appointment of an emergency guardian is the only feasible alternative for the necessary protection of the proposed ward. The applicant bears the burden of proof by clear and convincing evidence.

### **B. Application**

A person desiring to be appointed emergency guardian must prepare and file all documents for emergency guardianship proceedings. All of the supporting evidence and other supporting documentation proving the need for the appointment must accompany the application.

1. Minimum Evidence

At a minimum, the applicant must file with the application one or more affidavits of persons having direct knowledge of the circumstances showing that the proposed ward faces an imminent risk of serious injury to his or her person or estate, and why immediate Court action is required to prevent that injury.

2. Additional Evidence

The applicant may, and is strongly encouraged, to present additional supporting documentation evidencing the truth of the statements in the application and supporting affidavits.

3. Less Intrusive Means

The affidavits and additional evidence the applicant files must also establish that no less intrusive means exists to prevent injury to the proposed ward’s person or estate without immediate Court intervention.

**C. Extension**

If the emergency guardian desires to extend the emergency guardianship beyond the initial 72 hour appointment period, he or she must apply to the Court for an extension, with a hearing and notice of the hearing as required by law. The maximum extension is 30 Calendar Days. The Court will not grant additional extensions, absent a showing of exceptional circumstances.

**D. Notices**

The person over whom the emergency guardianship is sought is the only person required to be served with any notices required under R.C. §2111.02(B) (3), unless the Court requires notice to other persons. Due to the short time constraints the law imposes in emergency guardianship proceedings, the Court requires that all notices must be served in person by the Court Investigator.

**Local Rule 66.5 Conservatorships**

All requirements in Rules 66.1 and 66.3 also apply to conservatorships, substituting the word conservator for guardian, unless a particular provision is clearly inapplicable to conservatorships by statute.

**SUPERINTENDENCE RULE 67  
ESTATES OF MINORS**

**Local Rule 67.1 General**

This Rule applies to estates of minors with a value of \$25,000.00 or less (as that amount may in the future be adjusted under R.C. §2111.05) in which the applicant desires to terminate a guardianship of a minor, or desires to dispense with the need to establish a guardianship for a minor.

**A. Applicant**

An application to terminate an existing guardianship of a minor under R.C. §2111.05 must be filed by the guardian of the minor's estate. An application to dispense with a guardianship of the minors' estate must be filed by the minor's parent or parents with whom the minor resides, or by the person who has legal custody of the child.

**B. Representation of Minor**

If the minor is not represented by an attorney, the attorney representing the party responsible for payment of the funds to which the minor is entitled is also responsible for the obligations under Sup. R. 67(B) and (C).

**C. Verification of Receipt and Deposit**

The attorney representing the minor, or the responsible party under Rule 67.1(A), is responsible for obtaining and filing with the Court a verification of receipt and deposit of the minor's funds within 30 Calendar Days after the Court files its entry requiring the deposit of the minor's funds in an impounded account at a financial institution. Failure to timely return and file the signed verification may result in the Court rescinding its prior order and requiring a guardianship of the minor's estate.

**Local Rule 67.2      Withdrawals**

No person may withdraw any funds from an account that the Court has ordered impounded under R.C. §2111.05, unless one of the following apply.

**A. Court Approval**

The minor's parent or parents with whom the minor resides, or the person who has legal custody of the child, may apply to the Court for authority to expend funds from the account. The application must state the exact amount of funds requested and must describe specifically the purpose for which the funds will be expended.

If the applicant is the minor's natural or adoptive parent, and the application requests authority to expend funds of the minor for items that can reasonably be considered relating to the minor's health, education, maintenance or support, the Court will not approve expenditures of the minor's estate in these circumstances unless the applicant establishes to the Court's satisfaction that the expenditure is necessary and the parent or parents do not have the financial resources to pay the expense.

**B. Minor Reaching 18**

The person for whose benefit the impounded account was established may withdraw all or any portion of the funds in the account without Court approval upon attaining the age of 18 years.

**SUPERINTENDENCE RULE 68  
SETTLEMENT OF INJURY CLAIMS OF MINORS**

**Local Rule 68.1      General**

This Rule applies to all proceedings for authority to settle minor's claims.

**A. Birth Certificate**

Upon filing an application to settle a minor's claim, the applicant must simultaneously file a true and accurate copy of the minor's birth certificate.

**B. Guardianship**

The Court requires the appointment of a guardian of the minor's estate if the net proceeds of the settlement exceed \$25,000.00 (as that amount may in the future be adjusted under R.C. §2111.05). The guardianship must be established before the hearing on the settlement of the minor's claim.

**C. Narrative**

A written narrative setting forth the circumstances of the minor's injury must be filed with the application to settle the minor's claim. The narrative must also address, in general terms, the prognosis regarding future medical issues or treatment.

**D. Who Must Attend Hearing**

The parent or parents with whom the minor resides or the person who has legal custody of the child and the guardian of the minor's estate, if any, and their respective attorneys, must attend the hearing on the settlement of the minor's claim. The minor must also attend the hearing, unless the Court excuses the minor's attendance in advance.

**Local Rule 68.2      Structured Settlement**

All proposed settlements of a minor's claim that are to be paid in whole or in part by means of structured settlement must comply with the requirements in this Rule.

**A. Documentation**

A complete and accurate copy of all documentation relating to the proposed structured settlement must accompany the application to settle a minor's claim for the Court's review before the hearing.

**B. Disclosure of Defendant's Cost**

A statement disclosing the total actual cost of the structured settlement annuity that the defendant must pay must also accompany the application. The Court will use that amount in determining the reasonableness of the fees payable to the attorney representing the minor's interests in the claim.

**C. Verification of Insurer's Qualifications**

If the structured settlement is to be funded by an annuity, an affidavit or other similar proof verifying that the insurer issuing the annuity funding the structured settlement meets the following qualifications must also accompany the application.

1. Licensing

The company issuing the annuity must be licensed and in good standing to write annuities in Ohio.

2. Rating

The company issuing the annuity must have an A rating or greater.

**D. Present Value Calculation**

The application must also include a signed statement from an independent certified public accountant, actuary, certified financial planner, or equivalently qualified professional specifying the present value of the structured settlement and the calculations used to arrive at that present value determination.

**Local Rule 68.3 Attorney Fees**

Attorney fees payable to legal counsel representing the interests of the minor in a minor's claim are subject to all of the requirements and limitations in Local Rule 71.5.

**Local Rule 68.4 Withdrawal or Hypothecation**

No premature withdrawals or hypothecation of the structured settlement, whether during the minor's minority or after the minor attains the age of 18 years, is permitted without the Court's prior approval.

**SUPERINTENDENCE RULE 69  
SETTLEMENT OF CLAIMS OF OR AGAINST ADULT WARDS**

Our Court does not have any additional requirements regarding settlement of claims of or against adult wards beyond the requirements in Sup. R. 69. Reference is made to Rule 68, to the extent applicable to an adult, regarding the requirements the Court will impose in the settlement of claims for injury to an adult ward, unless there is good cause to require otherwise.

**SUPERINTENDENCE RULE 70  
SETTLEMENT OF WRONGFUL DEATH AND SURVIVAL CLAIMS**

**Local Rule 70.1 General**

This Rule provides requirements in the settlement and apportionment of wrongful death and survival claims.

**A. Narrative**

A written narrative setting forth the circumstances of the wrongful death must be filed with the application to settle the claims.

**B. Hearing and Notice**

The Court will set all applications for settlement of wrongful death or survival claims for hearing. The applicant must serve written notice of the date, time and place of the hearing and a copy of the application on all interested persons at least seven Calendar Days before the hearing. If not filed sooner, the applicant may file proof of service at the hearing. Interested persons include the decedent's surviving spouse, children, parents and other next of kin. Interested persons may waive notice and consent to the settlement, apportionment and distribution of the proceeds in writing.

**C. Exception**

After the first hearing, the Court may dispense with the requirement of additional hearing s in cases where there is the possibility of multiple separate settlements, unless there are changes in the persons or amounts to be apportioned.

**D. Separate Hearings**

The Court considers the application to settle a claim for wrongful death and the apportionment of the proceeds as two distinct matters. The Court may conduct separate hearings on each issue if the apportionment is not easily determinable or is disputed.

**E. Who Must Attend**

The applicant and his or her attorney must attend all hearings on applications for settlement of wrongful death or survival claims.

**Local Rule 70.2 Wrongful Death Trusts**

If a wrongful death trust under R.C. §2125.03(A)(2) is to receive any settlement proceeds, the applicant must provide the Court with a complete copy of the proposed trust at least 10 Court Days before the settlement hearing. No settlement proceeds may be distributed to the trust until the Court has approved the trust.

**Local Rule 70.3 Attorney Fees**

Attorney fees payable to legal counsel representing the interests of the Fiduciary in a wrongful death or survival action are subject to all of the requirements and limitations in Local Rule 71.5.

**SUPERINTENDENCE RULE 71  
COUNSEL FEES**

**Local Rule 71.1 General**

All attorney fees in probate matters must comply with Rule 1.5 of the Ohio Rules of Professional Conduct, Sup. R. 71 and these Rules. The guidelines accompanying these Rules should not be utilized as method of determining a fixed fee, but rather these guidelines should be used to help determine if a total hourly fee is reasonable.

**A. Minimum or Maximum Fees**

The Court does not sanction or impose any particular fee or fee structure. There are no minimum or maximum fees that the Court will automatically approve.

**B. Method of Application**

All applications and proposed entries for authority to pay attorney fees must be on the appropriate forms approved by the Court. The Court will not accept any other forms for filing.

**C. Content of Hourly Billing**

If a fee request is based on hourly billing, the application must contain a complete and detailed billing statement. The billing statement must include separate daily entries

showing who performed the services, the date performed, a description of the services, the time expended, the hourly rate charged and the total charge for each separate entry. It must also provide a summary of the total time each attorney or paralegal expended, his or her hourly rate and the total charges attributable to each. No block billing or summary statements are permitted.

**D. Hourly Billing Rate**

All hourly rates must be reasonable in comparison to rates charged by other attorneys, paralegals, or legal assistants of similar skill and experience in the Washington County, Ohio area. Other factors affecting the reasonableness of an hourly rate include, without limitation, the degree of difficulty the case presents, special or advanced skills of the attorney that are necessary or beneficial in the particular case and unusually short time constraints that do not normally exist in the same type of cases. Please see the Ohio Rules of Professional Conduct for additional information on this subject.

**E. Limitation of Fees**

The Court will not approve any proposed fees that the Court determines are due to the attorney's inexperience, general training or "learning curve." Legal research to resolve unique or complex issues beyond those normally encountered in typical probate cases are chargeable to the extent the Court finds the time the attorney expended was reasonable, necessary and beneficial to the case.

**F. Voluntary Reduction**

The Court encourages attorneys to voluntarily reduce the fee they charge in any type of probate matter if the fee permitted in this Rule would be clearly excessive considering the circumstances of the case.

**G. Fees During Delinquency**

The Court will not consider, approve or permit the payment of any fee to an attorney or Fiduciary during any period in which the Fiduciary or attorney is delinquent in performing any obligation in a timely manner or in which the Fiduciary or attorney is otherwise not in full compliance with the requirements in these Rules.

**H. Fee Hearings**

The Court will conduct a hearing to resolve any dispute concerning an application for authority to pay attorney fees, or in other instances that these Rules require or permit. Within 10 Calendar Days before the hearing, the attorney must provide the Court with a copy of the fee agreement, all billing statements and all other information relating to how the attorney computed his or her requested fee.

**I. Hearing on Court's Motion**

Notwithstanding any provision in these Rules to the contrary, the Court may on its own motion require a hearing on any fee application for any reason. The Court may randomly select cases in which to conduct a hearing as a means of monitoring compliance with this Rule.

**J. Cost Reimbursement**

Reimbursement of the actual, reasonable and necessary costs an attorney advances in connection with a probate matter does not require prior approval of the Court. Cost reimbursements must be reflected on the account for the period in which the reimbursement is paid.

**Local Rule 71.2 Attorney Fees in Decedent’s Estates**

Local Rule 71.1 and this Local Rule 71.2 governs attorney fees for representing a Fiduciary in the administration of a decedent’s estate.

**A. Scope of Fee Approval**

Attorney fees are governed by the Rules of Professional Conduct and the Rules of Superintendence adopted by the Supreme Court of Ohio. Counsel fees for the administration of a decedent’s estate shall be reasonable and beneficial to the estate.

**B. Prior Court Approval Required**

The Fiduciary must first obtain the Court’s approval before paying any fees to the attorney. Rule 71.2(C) through (G) provides the process for obtaining the Court’s approval for the payment of attorney fees in decedent’s estates.

**C. Application**

An application for authority to pay attorney fees in a decedent’s estate must be submitted along with a proposed entry.

**D. Fee Guideline**

Appendix A at the end of these Rules is the Court’s attorney fee guideline for probate administration of a decedent’s estate. A completed guideline must accompany the attorney fee application. The fee guideline is a baseline against which the Court will evaluate each fee application for reasonableness. The fee guideline is based on a percentage of the value of probate assets and income in the estate, and reflects a fee that the Court presumes is likely reasonable in comparison to fees in estates of similar values. The presumption of reasonableness is rebuttable, especially in large estates. The fee guideline is not a minimum or maximum fee, and its reasonableness will depend on the facts and circumstances of the particular case.

**E. Fees Within the Guideline**

If the proposed attorney fee is less than or equal to the amount computed under the fee guideline an hourly billing statement and supporting narrative does not need to accompany the application unless requested by the Court.

**F. Fees Exceeding Guideline**

If the proposed attorney fee exceeds the amount computed under the fee guideline, an hourly billing statement, in compliance with Rule 71.1(D), and a summary narrative explaining the unique circumstances of the case that justify a higher fee, must accompany the application guideline.

**G. Attorney Fees in Partial Accounts**

The Fiduciary's attorney may apply for authority to pay partial attorney fees upon filing a partial account. The proposed partial fee may not exceed a percentage of the maximum fee permitted under the fee guideline that is equal to a good faith estimate of the percentage of the work completed on the estate administration through the end of that partial accounting period.

**H. Attorney Fees in Insolvent Estates**

If the estate is insolvent, the attorney fee application must be filed with the insolvency filings. The Court will rule on the attorney fee application at the insolvency hearing.

**I. Attorney Fees in Summary or Release Cases**

No attorney fee application is required in summary or release from administration cases, unless the Court orders otherwise. The Court retains the right to examine, approve, modify or deny attorney fees in summary and release from administration cases on a case by case basis.

**J. Attorney Serving in Dual Capacities**

An attorney who is also serving as the executor or administrator of a decedent's estate must simultaneously file separate applications for authority to pay the attorney fee under this Rule and the executor or administrator fee under Local Rule 72. If the proposed attorney fee is less than or equal to the fee guideline, and the proposed executor or administrator fee does not exceed the statutory fee under R.C. §2113.35, the Court will rule on the applications without hearing.

**Local Rule 71.3 Attorney Fees in Guardianships**

This Rule 71.3 governs attorney fees for representing a guardian in a guardianship of the person, estate or both.

**A. Method of Determining Fee**

Attorney fees for representing a guardian must be computed on an hourly basis, unless the Court approves a different method of computation in advance.

**B. Application**

An application for authority to pay attorney fees in a guardianship must be submitted. An itemized billing statement, in compliance with Rule 71.1(D), and a proposed entry must accompany the application.

**C. Attorney Serving in Dual Capacity**

An attorney who is also serving as the guardian must simultaneously file separate applications for authority to pay the attorney fee and the guardian fee. Under no circumstances may an attorney charge attorney fee rates for guardian services. Fees for serving as a Guardian shall be calculated in accordance with Local Rule 73.1. The Court may require a hearing on the applications before ruling on the proposed fees.

**D. Indigent Guardianships**

Annual fee of billable hours shall not exceed \$1,000.00 unless the Court authorizes a higher fee.

**E. Death of the Ward**

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

**Local Rule 71.4 Attorney Fees in Trusts**

This Rule 71.4 governs attorney fees for representing a trustee of a testamentary trust or other trust that is subject to probate court jurisdiction.

**A. Method of Determining Fee**

Attorney fees for representing a trustee must be computed on an hourly basis, unless the Court approves a different method of computation in advance.

**B. Application**

An application for authority to pay attorney fees in a trust matter must be submitted along with an itemized billing statement, in compliance with Rule 71.1(C), and a proposed entry.

**C. Attorney Serving in Dual Capacity**

An attorney who is also serving as the trustee must simultaneously file separate applications for authority to pay the attorney fee and the trustee fee. The attorney fee must comply with this Rule 71.4. The trustee fee must comply with Rule 74.1. Billing statements for legal services must not contain any charges for activities that are non-legal (trustee) services. Under no circumstances may an attorney charge attorney fee rates for trustee services. Fees for serving as a Trustee shall be calculated in accordance with Local Rule 74.1. The Court may require a hearing on the applications before ruling on the proposed fees.

**Local Rule 71.5 Attorney Fees in Wrongful Death and Minor's Settlements**

This Rule 71.5 governs attorney fees for representing any type of Fiduciary or beneficiary in potential or actual litigation for wrongful death, survival claims or minor's personal injury claims that require Court approval of settlement.

**A. Contents of Fee Agreement**

All fee agreements between a Fiduciary and an attorney in wrongful death, survival or minor's personal injury cases must be in writing. The fee agreement must clearly explain the scope of the attorney's services, the method of determining the fee and when payment of the fee is due.

**B. Prior Court Approval Not Required**

The Fiduciary is not required to apply for or obtain prior Court approval of a contingent fee agreement between the Fiduciary and the attorney in wrongful death, survival or minor's personal injury cases if the percentage fee charges do not exceed one third (1/3) of the gross amount recovered. The Fiduciary must submit the fee agreement to the Court for review simultaneously with filing the application to approve the settlement.

**C. Prior Court Approval Required**

If the fee agreement between the Fiduciary and the attorney is a contingent fee that exceeds the limitations shown on Local Rule 71.5 (B), or if the fee is computed by a method other than a contingent percentage fee, prior Court approval of the fee agreement is required. The Fiduciary must apply to the Court for approval of the written fee agreement within 15 days after the Fiduciary and the attorney have signed the proposed fee agreement. The Fiduciary and the attorney must show to the Court's satisfaction that reasonable cause exists to justify a higher percentage fee or different fee computation method in the particular case. Failure to obtain advance Court approval of the fee agreement within the required time may result in a reduction of the fee the Court approves upon final settlement of the matter.

**D. Application**

An application for approval of the attorney fee agreement in wrongful death, survival claims or minor's personal injury actions must be submitted along with a proposed entry.

**E. Co-Counsel Fees**

All fees payable to co-counsel must be paid from the fee the Court approves at the settlement hearing. The Court will not approve additional fees for co-counsel.

**F. Fees for Processing Probate Approval**

All attorney fees for processing the claim settlement through probate must be paid from the fee the Court approves at the settlement hearing. The Court will not approve additional fees for processing the settlement through probate, even if a separate attorney performs those services.

**Local Rule 71.6 Attorney Fees in Other Probate Matters**

This Rule 71.6 governs attorney fees for representing a party in other probate proceedings or contested probate cases.

**A. Other Probate Proceedings**

The Court does not monitor or regulate attorney fees in other probate proceedings, unless a statute or applicable rule requires the Court to do so.

**B. Recovery of Fees in Contested Matters**

In contested probate matters, any party seeking recovery of attorney fees from an opposing party must show by clear and convincing evidence that a specific statute, case

law or applicable rule permits or requires the recovery, or that a compelling equitable justification exists for awarding recovery of attorney fees. The Court may dismiss a claim for recovery of attorney fees without a hearing if the party seeking the recovery fails to cite in its pleadings adequate legal support for the claim. Otherwise, the Court will conduct a hearing on claims for recovery of attorney fees from an opposing party.

**SUPERINTENDENCE RULE 72  
EXECUTOR'S AND ADMINISTRATOR'S COMMISSIONS**

**Local Rule 72.1      Determination of Fees**

This Rule governs the determination of the compensation to which an executor or administrator in a decedent's estate is entitled.

**A. Normal Fees**

An executor or administrator is entitled to a fee in the amount computed under R.C. §2113.35 for fiduciary services in settling a decedent's estate. The Court will not require a hearing on the payment of normal statutory fees, unless a beneficiary or creditor who is financially impacted by the fee files an objection to the fee before the Court approves the account in which the fee is charged. The Fiduciary is not required to submit an application and proposed entry under Rule 72.1(C) if the fee does not exceed the statutory amount. A completed statutory fee computation form must accompany the account for the period in which the fee is paid.

**B. Additional Compensation**

An executor or administrator who believes the compensation provided in R.C. §2113.35 is inadequate under the facts and circumstances in the particular case may apply to the Court for allowance of additional compensation under R.C. §2113.36. The application must be supported by a summary narrative explaining the unique circumstances of the case that justify a higher fee, and an itemized statement for all services, showing the dates services were performed, a description of the services, the time expended, the hourly rate charged and the total charge for each entry.

If an executor or administrator requests compensation that exceeds the amount allowed in Local Rule 72.1(A), the itemized statement must cover all of the executor or administrator's services for that period, not just those exceeding the allowable amount. The Court may require a hearing on the payment of the additional compensation, unless all beneficiaries whose distribution the fee affects have consented in writing to the additional compensation and the Court finds that no creditor would be prejudiced.

**C. Fees in Partial Accounts**

The Fiduciary may pay partial Fiduciary compensation upon filing a partial account. The proposed partial compensation may not exceed a percentage of the maximum statutory amount that is equal to a good faith estimate of the percentage of the work completed on the estate administration through the end of that partial accounting period.

**D. Fees in Insolvent Estates**

If the estate is insolvent, the executor or administrator fee application must be filed with the insolvency filings. The Court will rule on the executor or administrator fee application at the insolvency hearing.

**E. Fees in Summary or Release Cases**

No application for fees is required in summary or release from administration cases, unless the Court orders otherwise. The Court retains the right to examine, approve, modify or deny fees in summary and release from administration cases on a case by case basis.

**F. Co-Executors or Administrators**

The total fee charged by co-executors or administrators may not exceed the fee that the Court would allow to one executor or administrator. The co- executors or administrators will share the fee in proportion to the services each provided. In the absence of an agreement on the fee allocation or a waiver signed by the co-executor or administrator who agrees to take a smaller share, the co- executors or administrators will share the fee equally.

**G. Voluntary Reduction**

The Court encourages executors and administrators to voluntarily reduce the fee they charge if the fee permitted in this Rule would clearly be excessive considering the circumstances of the case.

**Local Rule 72.2 Limitations**

The Court will not consider, approve or permit the payment of any executor or administrator fee during any period in which the executor or administrator is delinquent in performing any obligation within the time required by law or in which the executor or administrator is otherwise not in full compliance with the requirements in these Rules. The Court may reduce or deny executor or administrator fees if the Court determines that the executor or administrator has not faithfully discharged the duties of the office.

**SUPERINTENDENCE RULE 73  
GUARDIAN’S COMPENSATION**

**Local Rule 73.1 Determination of Compensation for Non-Indigent Cases**

This Rule governs the determination of the compensation to which a guardian is entitled.

**A. Guardian of Person**

A guardian of the person may charge a fee annually in an amount not exceeding \$5000.00 at a rate not in excess of \$60.00 per hour, unless the Court authorizes a higher fee after proper application and a hearing. This fee must be supported by an itemized hourly statement showing the dates services were performed, a description of the services, the time expended, the hourly rate charged and the total charge for each separate entry.

## **B. Guardian of Estate**

A guardian of the estate may charge a fee annually in an amount not exceeding the total of the following percentages:

1. 5% of all income, including without limitation earnings from intangible investments and money on deposit, Social Security, veterans' or other government benefits, and gross rentals from real estate managed by a person or entity other than the guardian; plus
2. 3% of all annual expenses; plus
3. 10% of gross rentals from real estate actually managed by the guardian without the assistance of another person or entity; plus
4. 1% of the value of all tangible and intangible personal property remaining in the guardian's hands at the conclusion of the last accounting period, or as shown on the inventory if the guardian has not yet filed a first accounting.

## **C. Guardian of Person and Estate**

A guardian of the person and estate may charge a fee annually in an amount not exceeding the total of the fees described in Local Rule 73.1(A) and 73.1(B).

## **D. Alternative Fee Computation**

In the alternative to computing the guardian of the estate fee by percentages, a guardian may charge for his or her services on an hourly basis. Guardians may not charge a rate in excess of \$60.00 per hour, unless the Court approves a higher rate in advance due to the guardian's special skills or training that are beneficial to the ward. All of the guardian's services must be itemized in a statement showing the dates services were performed, a description of the services, the time expended, the hourly rate charged and the total charge for each separate entry.

If a guardian requests a fee that exceeds the amount allowed in Rule 73.1(A), (B) or (C), the application must be on an hourly basis. The itemized statement must cover all of the guardian's services for that period, not just those exceeding the allowable amount.

## **E. Guardians of Veterans**

All applications for compensation for guardians of wards who are veterans must comply with R.C. Chapter 5905 and all other applicable rules and regulations of the Department of Veterans' Affairs.

## **F. Application**

An application for authority to pay guardian's compensation must be submitted along with a proposed entry. Additionally, if the application requests compensation on an hourly basis, the application must be supported by the itemized statement described in Rule 73.1(D).

**G. Co-Guardians**

The total fee charged by co-guardians of a person, estate or both may not exceed the fee that the Court would allow to one guardian. The co-guardians will share the fee in proportion to the services each provided. In the absence of an agreement on the fee allocation, the co-guardians will share the fee equally.

**H. Dual Capacity**

An attorney who is also serving as the guardian must file separate applications for authority to pay the attorney fee and the guardian fee. The attorney fee must comply with Rule 71.3. The guardian fee must comply with Rule 73.1. The Court may require a hearing on the applications before ruling on the proposed fees.

**I. Voluntary Reduction**

The Court encourages guardians to voluntarily reduce the fee they charge if the fee permitted in this Rule would clearly be excessive considering the circumstances of the case.

**Local Rule 73.2      Determination of Compensation for Indigent Cases**

**A. Establishing Guardianship**

A Guardian may charge \$60.00 an hour for both in and out of court time with the total fee not to exceed \$1,000.00 unless the Court authorizes a higher fee.

**B. Ongoing Service**

A Guardian may charge \$60.00 an hour for both in and out of court time with the total fee not to exceed \$1,000.00 a year unless the Court authorizes a higher fee.

**C. Application**

An application and proposed entry for the Court to pay guardian's compensation must be submitted. The application must be supported by an itemized statement. All annual applications for indigent guardian fees must be filed with the court by December 15<sup>th</sup> of each year and will be calculated for the 12 months between December 1 and November 31.

**Local Rule 73.3      Limitations**

The Court will not consider, approve or permit the payment of any guardian compensation during any period in which the guardian is delinquent in performing any obligation within the time required by law or in which the guardian is otherwise not in full compliance with the requirements in these Rules. The Court may reduce or deny guardian's compensation if the Court determines that the guardian has not faithfully discharged the duties of the office.

**SUPERINTENDENCE RULE 74  
TRUSTEE'S COMPENSATION**

**Local Rule 74.1      Determination of Compensation**

This Rule governs the determination of the compensation to which a trustee of a testamentary trust or other trust that is subject to probate court jurisdiction is entitled.

**A. Computation of Fee**

A trustee may charge a fee annually in an amount not exceeding the total of the following percentages:

1. 5% of all income, including without limitation earnings from intangible investments and money on deposit, Social Security, veterans' or other government benefits, and gross rentals from real estate managed by a person or entity other than the trustee; plus
2. 3% of all annual expenses; plus
3. 10% of gross rentals from real estate actually managed by the trustee without the assistance of another person or entity; plus
4. 1% of the value of all tangible and intangible personal property remaining in the trustee's hands at the conclusion of the last accounting period, or as shown on the inventory if the trustee has not yet filed a first accounting.

**B. Alternative Fee Computation**

In the alternative to computing a fee by percentages, a trustee may charge for his or her services on an hourly basis. Trustees may not charge a rate in excess of \$60.00 per hour, unless the Court approves a higher rate in advance due to the trustee's special skills or training that are beneficial to the trust. All of the trustee's services must be itemized in a statement showing the dates services were performed, a description of the services, the time expended, the hourly rate charged and the total charge for each separate entry.

If a trustee requests a fee that exceeds the amount allowed in Rule 74.1(A), the application must be on an hourly basis. The itemized statement must cover all of the trustee's services for that period, not just those exceeding the allowable amount.

**C. Corporate Trustee**

A corporate trustee exempt from bond pursuant to R.C. 1111.21 may charge a fee annually according to its published fee schedule for services it performs as trustee of an irrevocable living trust. The corporate trustee must first file its fee schedule with the Court. Any amendments to the fee schedule must be filed with and approved by the Court before the corporate trustee may apply for compensation based on the amended schedule.

**D. Application**

An application for authority to pay trustee’s compensation must be submitted along with a proposed entry. Additionally, if the application requests compensation on an hourly basis, the application must be supported by the itemized statement described in Rule 74.1(B).

**E. Co-Trustees**

The total fee charged by co-trustee may not exceed the fee that the Court would allow to one trustee. The co-trustees will share the fee in proportion to the services each provided. In the absence of an agreement on the fee allocation, the co-trustees will share the fee equally.

**F. Dual Capacity**

An attorney who is also serving as the trustee must file separate applications for authority to pay the attorney fee and the trustee fee. The attorney fee must comply with Rule 71.4. The trustee fee must comply with Rule 74.1. The Court may require a hearing on the applications before ruling on the proposed fees.

**G. Voluntary Reduction**

The Court encourages trustees to voluntarily reduce the fee they charge if the fee permitted in this Rule would clearly be excessive considering the circumstances of the case.

**Local Rule 74.2      Limitations**

The Court will not consider, approve or permit the payment of any trustee compensation during any period in which the trustee is delinquent in performing any obligation within the time required by law or in which the trustee is otherwise not in full compliance with the requirements in these Rules. The Court may reduce or deny the trustee’s compensation if the Court determines that the trustee has not faithfully discharged the duties of the office.

**SUPERINTENDENCE RULE 75  
LOCAL RULES**

**Local Rule 75.1      Self-Representation**

This Rule applies to all persons who represent themselves in any probate matter in our Court without an attorney.

**A. Right to Self-Represent**

Unless the use of an attorney is expressly required in another rule, all persons desiring to represent themselves in any probate proceeding are permitted to do so.

**B. Application of Rules**

In order to assure the fair and impartial administration of justice, the Court will hold self-represented persons to the same standards as apply to attorneys and persons represented by attorneys in probate proceedings. All applicable statutes, rules, regulations and policies apply equally to self-represented persons and to persons

represented by attorneys. All self-represented persons are hereby advised that engaging in a probate proceeding without legal representation may be difficult and the Court and its deputy clerks are not permitted to provide any legal advice to any person under any circumstances.

**C. Later Representation**

Self-represented persons may retain an attorney to represent them at any point during a probate proceeding. Upon receiving a notice of appearance from the attorney, the Court will grant accommodations that are reasonably necessary to enable the attorney to become familiar with the case, to the extent that the accommodations do not prejudice the rights of any other person or entity with an interest in the proceeding.

**Local Rule 75.2      Fiduciary Bonds**

All Fiduciaries must post a bond with the Court in compliance with R.C. §§2109.04 – 2109.20, unless otherwise provided in this Rule or by specific order of the Court in a particular case. All bonds must be issued by a reputable insurance or bonding company acceptable to the Court.

**A. Amount of Bond**

The amount of the Fiduciary bond must be at least double the value of the personal property, plus annual real property rentals, plus other annual income that will come into the possession or under the control of the Fiduciary.

**B. Preliminary Determination**

All applications for Fiduciary appointment must contain a good faith estimate of the value of all assets and annual income the applicant anticipates being involved in the case.

These estimates are the basis from which the Court will determine the initial bond amount.

**1. No Missing Information**

The Court will not accept for filing any application in which the value estimates are blank, listed at \$0.00, stated as “unknown,” or otherwise fail to reflect any positive value.

**2. Minimum Bond**

Except as provided in subparagraph (3) below, if the applicant truly cannot determine an estimate of asset values at the time of application, the applicant must post a minimum bond of \$100,000.00 before the Court will issue letters.

**3. Exceptions**

Valuation estimates may be excluded only in cases filed for the sole purpose of pursuing wrongful death or survival claims where there are no other probate assets to administer, or in guardianship cases in which the proposed ward truly does not have any assets or income.

**C. Proof of Qualification**

Unless an exception applies in Rule 75.2(B)(3) or Rule 75.2(G), the applicant must file with the application for Fiduciary appointment a written bond commitment or other proof that the applicant qualifies for the issuance of a bond in the amount required by this Rule if the Court appoints the applicant as the Fiduciary.

**D. Bond before Letters**

The Court will not issue letters to any Fiduciary until the Fiduciary has filed the actual bond in the amount set by the Court, or the Fiduciary has qualified for an exception to bonding under this Rule.

**E. Bond Adjustment**

The Court may order an additional bond or an increase in the bond amount, or may order a reduction of the bond if the actual valuations on the inventory warrant a bond adjustment to comply with this Rule. Thereafter, the Court may order an appropriate adjustment in the bond amount based upon the value of the assets remaining in the Fiduciary's hands at the end of each accounting period.

**F. Reduction of Bond on Application**

A Fiduciary may apply for a reduction in the bond amount at any time upon showing adequate proof that the value of the assets and income has substantially declined since filing the inventory or the most recent account.

**G. Dispensing with Bond**

Notwithstanding anything in this Rule 75.2 to the contrary, a Fiduciary may apply to the Court to dispense with the bond requirement in any of the circumstances in the subparagraphs below. Unless the bond waiver is already addressed in Sup. Ct. Form 4.0, an application to dispense with bond, together with a proposed entry, must be filed with the application for appointment of the Fiduciary.

1. Controlling Instrument

The Court will dispense with the bond requirement if the controlling instrument nominating the Fiduciary for appointment expressly dispenses with bond. This exception may not apply to non-resident Fiduciaries, as described in Rule 60.3.

2. Consent

The Court will dispense with the bond requirement if the Fiduciary files with the Court the written consent of all heirs or beneficiaries and the Fiduciary's acknowledgement of personal liability. This exception only applies if the estate is solvent.

3. Minimal Assets

The Court will dispense with the bond requirement if the total value of personal property, annual income and annual real property rentals is less than \$10,000.00.

4. Direct Payee

The Court will dispense with the bond requirement in a guardianship of the estate if there is no personal property and the Fiduciary provides proof that all income is paid directly to a lawful representative payee or to a health care facility providing for the long-term care of the ward.

5. Impounded Funds

The Court will dispense with the bond requirement on any funds that the Fiduciary deposits into a restricted account at a financial institution in compliance with R.C. §2109.13. The Fiduciary must provide a written verification of deposit restrictions to the Court.

6. Approval of Court

A Fiduciary may apply to the Court to dispense with bond upon a showing of other special circumstances in which bond is clearly unnecessary and the absence of a bond will not prejudice any person or entity having a financial interest in the matter.

**H. Court Discretion**

Even if an exception to the bond requirement applies in Rule 75.2(G), the Court may order bond if the Court finds it necessary under the circumstances, or if an interested party, after notice and hearing, establishes that bond should be required in that case.

**Local Rule 75.3 Contact Information**

All applicants and other parties must at the commencement of any probate proceeding file with the Court the Court's Contact information sheet (Greenie) listing the complete contact information for the applicant, party and their respective attorney, including mailing address, daytime telephone number, fax number (if any) and email address.

**A. Sufficiency of Address**

The mailing address must be a street mailing address. Post office box numbers are not sufficient in case service is required by certified mail or personal service. The mailing address of an attorney may be the attorney's business office address. The mailing address of all other persons must be their personal residence address.

**B. Telephone Numbers**

The telephone number of an attorney for an applicant or party may use their business telephone number. All other persons must use their residence, work or mobile telephone number, whichever is most accessible to them during the Court's normal hours.

**C. Email Filters**

All applicants, other parties and their attorneys must configure their computers and mobile devices so that emails from the Court are not filtered as spam or otherwise blocked. The Court is not responsible if the applicant, party or attorney do not receive emails from the Court due to improper configurations that do not permit the Court's emails to be delivered promptly.

**D. Update of Information**

All applicants, other parties and their attorneys must inform the Court in writing of any changes in their contact information within 30 Calendar Days after the changes occur by filing an amended contact information sheet.

**Local Rule 75.4 Disabilities Accommodations**

Individuals with disabilities, special needs or language barriers requiring the need for an interpreter must notify the Court at least five Court Days before any hearing, conference or other proceeding to request reasonable accommodations. Individuals who are imprisoned must notify the Court at least five Court Days before any hearing, conference or other proceeding and request appearance and participation by video conferencing if possible.

**SUPERINTENDENCE RULE 76  
EXCEPTION TO RULES**

**Local Rule 76.1 Exceptions by Court**

The Court may make exceptions to these Rules and to Sup. R. 53 to 79 on its own motion in circumstances in which the Court determines that strict application of a particular Rule would be prejudicial to a party or otherwise would not facilitate the fair administration of justice.

**Local Rule 76.2 Exceptions by Party**

Upon application of any party, the Court may grant exceptions to these Rules and to Sup. R. 53 to 79 upon a showing of exceptional circumstances that would make strict application of a particular Rule prejudicial to the party. The Court may require a hearing on the application, or may rule on the application without hearing.

**SUPERINTENDENCE RULE 77  
COMPLIANCE**

**Local Rule 77.1 General**

This Rule applies in all instances in which a Fiduciary is delinquent in filing an account, inventory, certificate of notice of probate of will, report or any other mandatory filing within the time required by law, by these Rules or by Court order.

**A. Purpose of Rule**

The purpose of this Rule is to encourage timely performance of the Fiduciary's legal obligations and to assure the prompt administration of probate cases. This Rule creates a uniform process for addressing noncompliance.

**B. Who is Subject to Rule**

This Rule applies to all Fiduciaries. If the Fiduciary is represented by an attorney, this Rule also applies to the Fiduciary's attorney of record. (See Sup. R. 78(A)).

### **C. Reminders**

Our Court does not provide advanced reminders of upcoming filing deadlines to any Fiduciary or attorney. It is the Fiduciary and the attorney's responsibility to determine filing dates and to make the filings within the required time.

### **D. Extensions**

Fiduciaries may apply for an extension of time to file a required document in the manner provided in Rule 56.1. If the Court grants the extension, the Fiduciary and attorney will not be out of compliance as long as the filing is made by the new filing due date stated in the Court's entry granting the extension.

## **Local Rule 77.2 Citation Process**

The Court will issue a notice of non-compliance to the Fiduciary and the Fiduciary's attorney if any required filing becomes overdue. This notice of non-compliance will automatically convert into a citation if the required filing is not submitted into the Court during the grace period.

### **A. Timing**

The Court will issue the notice of non-compliance promptly after expiration of the required due date. The Court will not send any prior notice or reminders that the filing will be due or is overdue.

### **B. Contents of Notice**

The notice of non-compliance will identify the filing that is overdue and will order the Fiduciary to file the document immediately. The notice of non-compliance will specify a grace period of 15 Court Days from issuance of the notice, in which time the Fiduciary may file the overdue document without the notice turning into a citation. The date and time of a citation hearing will be included in the event the filing is not made before the grace period expires. The citation hearing will be automatically cancelled if the filing is submitted to the Court within the grace period. The notice of non-compliance will also state that the Court will not grant any extensions of the due date during the delinquency, except as the Court may order after the citation hearing under Rule 77.3.

## **Local Rule 77.3 Citation Hearing**

The Court will conduct a hearing on all citations in which the Fiduciary fails to file a required document before expiration of the grace period stated in the notice of non-compliance unless the filing is submitted to the Court 3 Court Days prior to the citation hearing.

### **A. Continuance of Hearing**

The Court will only grant a continuance of the citation hearing upon a showing of exceptional circumstances. An application for a continuance of the citation hearing must be filed at least three Court Days before the scheduled citation hearing.

**B. Who Must Appear**

The Fiduciary and the attorney of record must appear in person at all citation hearings. In cases in which there are Co-Fiduciaries, all of the Fiduciaries must attend. The attorney of record may not send any other attorney in his or her place.

**C. Failure to Appear**

Failure of the Fiduciary and the attorney of record to appear in person at the citation hearing constitutes contempt of court.

**D. Citation Hearing Order**

At the conclusion of the citation hearing, the Court will issue an order imposing sanctions consistent with this Rule 77. The order will also set a deadline by which the Fiduciary must file the required documents in order to avoid additional per diem sanctions. The Court may also issue further orders as the Court deems necessary under the circumstances.

**Local Rule 77.4 Sanctions**

The Court may impose sanctions pursuant to R.C. §2109.31(C) as the Court deems warranted under the circumstances of the case if the fiduciary fails to comply with the citation.

Any costs and sanctions the Court imposes under this Rule 77 are the personal responsibility of the Fiduciary. The Fiduciary must separately pay the full amount of the stated cost and sanction from their personal funds. No costs or sanctions under this Rule may be paid from, reimbursed by or charged against the estate or trust.

**SUPERINTENDENCE RULE 78  
CASE MANAGEMENT**

**Local Rule 78.1 General**

This Rule governs case management of all proceedings in this Court that are not addressed elsewhere in these Local Rules.

**A. Multiple Fiduciaries**

In cases in which more than one Fiduciary is serving simultaneously, all documents filed in Court that require the Fiduciary's signature must be signed by all Co-Fiduciaries.

**B. Extensions and Continuances**

The Court's policies regarding extensions of filing deadlines is addressed in Rule 56.1. The Court's policies regarding continuances and extensions in civil litigation cases is addressed in Rule 56.2.

**C. Status Conference**

A Fiduciary or the Fiduciary's attorney in any estate, guardianship or trust case may request a status conference with the Court to discuss unique issues or unanticipated problems with the case. The request may be orally in person or by telephone, by email,

by fax or by written application. The Court may schedule a status conference on its own motion at any time and for any reason by notice to the Fiduciary and the Fiduciary's attorney. A status conference is not a formal hearing for purposes of these Rules.

#### **D. Hearings**

This Rule applies to all hearings in this Court.

##### **1. When Hearing Conducted**

The Court will conduct a hearing on all matters in which the law requires, or when the Court orders a hearing. Any party may request a hearing in other circumstances in its pleadings, or by separate application or motion, stating the reason that the party believes a hearing is necessary or would be beneficial. If a hearing is not required by law and is not requested by a party, the Court may rule on any matter without hearing.

##### **2. Notice of Hearing**

Prompt notice of all hearings must be provided to all persons having a legal or equitable interest in the subject matter. The Court may direct that notice of the hearing be given to other persons or entities. Unless the Court is required by law or rule to provide the notice, the proponent in the hearing is responsible for providing notice. If the Court provides notice of the hearing, it will do so by regular mail, unless a different method is required by law or rule.

##### **3. Commencement of Hearing**

The Court will begin all hearings at the designated time. All participants, attorneys and witnesses should be present and check in with one of the Court's deputy clerks at least 10 minutes before the designated hearing time. The Court will not delay starting a hearing due to the absence of a participant, attorney or witness, unless there is a clear showing of exceptional circumstances that justify the delay.

##### **4. Record of Hearing**

Rule 11 provides the Court's policies on making a formal record of hearings.

#### **E. Publication**

In all cases in which publication is required or permitted for service of summons or service of notice, the party obligated to make the service must cause the publication with the exception of change of name proceedings.

##### **1. Procedure**

Unless a different procedure is specified by law or the Ohio Rules of Civil Procedure, a party requesting service by publication must file a motion and proposed entry with the Court. The motion must contain a copy of the proposed publication notice. The motion must also be supported by an affidavit stating that service by other methods has failed, or that service by other methods cannot be made because the residence address of the person to be served is unknown and cannot be ascertained with reasonable diligence.

2. Service Complete

Within 10 Calendar Days after the final publication, the party requesting the publication must file with the Court a publisher's affidavit showing the published notice and the dates of publication. Service will be deemed complete as of the date of final publication indicated on the publisher's affidavit.

**F. Objection to Magistrate's Decision**

A party may file objections to a Magistrate's decision in the manner provided in Civ. R. 53 and in this Rule.

1. Objection

The objection must be accompanied by a supporting memorandum, clearly and specifically stating all grounds for the objection. The Court may dismiss a broad objection that lacks the required particularity.

2. Transcript

If a transcript is necessary to support the objections, the objecting party must promptly request the digital recording from the Court. (See Rule 11.2). The requesting party is responsible for having the written transcript prepared. The transcript must be filed with the Court no later than 30 Calendar Days after filing the objections, unless the Court grants an extension. Failure to file the transcript within the required time is grounds for dismissal of the objections.

3. Supplementing Objections

The objecting party will have 10 Calendar Days after the date of filing the transcript in which to supplement its objections with additional information in or citations to the transcript. The opposing party will have 10 Calendar Days after the objecting party files its objections, or supplement to objections, in which to file a memorandum in opposition to the objections.

4. Hearing

The Court may hold a hearing on the objections if a party specifically requests a hearing in its memorandum in support or in opposition to the objections. The Court may set the matter for hearing on its own motion, even if not requested by any party.

**Local Rule 78.2 Decedent's Estates**

This Rule addresses case management issues in decedent's estate cases.

**A. Pre-Estate Applications**

The following Applications may be filed as a miscellaneous case prior to the filing of an estate. Both Applications require the Applicant to file a Next of Kin form, consents from all persons listed as Next of Kin, and a Court Contact Information Sheet.

1. Application to Verify Deposit Account(s)

This application, if approved, provides the Applicant with the authority to receive basic account information for accounts held in the decedent's name at a financial institution.

2. Application to Enter Safe Deposit Box

This application, if approved, provides the Applicant with the authority to access a safe deposit box held in the decedent's name. Applicant may only document and inventory the contents of the deposit box and may not remove any item from the box, except the Applicant must remove any document purporting to be the decedent's Last Will and Testament and provide a copy of that document to all next of kin.

**B. All Cases**

The following requirements apply to all types of estate administration cases.

1. Death Certificate

A true and accurate copy of the decedent's death certificate must accompany the initial filings in all forms of estate administration. The decedent's social security number must be redacted from the certificate before filing.

2. Sup. Ct. Form 1.0

If a person who is the decedent's next of kin or a beneficiary under the decedent's will is deceased, the name and date of death of that person must be shown on Form 1.0.

3. Real Estate Valuation

If the value of real estate is based on the Auditor's tax valuation in lieu of a formal appraisal, a copy of the Auditor's tax valuation must accompany the filing in which the real estate value is being established. In full administration cases, if the real estate was appraised, the appraiser must sign the appraiser's certificate on the inventory, or on a separate page containing the same language as on the inventory and filed with the inventory.

4. Automobile Transfers

The appropriate Washington County prescribed form must be used for all automobile transfers. All portions of the form must be completed, including the bottom portion.

5. Certificate of Transfer

Before filing a certificate of transfer with the Court, the person filing the certificate must verify with the engineer's office that the legal description for the property is suitable for recording. The engineer's stamp on the legal description is proper verification.

**C. Summary Release from Administration**

In addition to the requirements in subparagraph A of this Rule, the following requirements apply to all summary release from administration cases.

1. Funeral Bill

A copy of the funeral bill with proof that it has been paid, or if not yet paid, a copy of the signed funeral services contract showing who is responsible for payment, must be filed with the application for summary release.

2. Will

The decedent's last will does not need to be filed in summary release cases. The original of the last will may be filed for record only, but is not required.

3. Bond

The Court does not require any bond in summary release cases.

**D. Release from Administration**

In addition to the requirements in subparagraph (A) of this Rule, the following requirements apply to all release from administration cases.

1. Funeral Bill

A copy of the funeral bill with proof that it has been paid, or a copy of the signed funeral bill contract showing who is responsible for payment, must be filed with the application for summary release.

2. Bond

No bond is required in release from administration cases, unless the Court orders otherwise in a particular case.

3. Insolvency

A release from administration may not be filed if the estate is insolvent, or if the estate is likely to be determined to be insolvent by the end of the claims presentation period.

4. Publication

Notice by publication is not required in release from administration cases, unless the Court orders otherwise in a particular case.

5. Report of Distribution

The commissioner must file a report of distribution in all release from administration cases within 30 Calendar Days after completing all distributions, but not longer than 90 Calendar Days after filing of the entry relieving the estate from administration.

**E. Full Administration**

In addition to the requirements in subparagraph (A) of this Rule, the following requirements apply to all full administration cases.

1. Inventory

On the schedule of assets, if the decedent owned less than the entire interest in a particular asset, the asset description must reveal the fractional interest the decedent owned and the actual value of that fractional interest. The description of all real estate must include the street address, legal description and the tax parcel identification number.

## 2. Exceptions

In all instances in which a person files exceptions to the inventory or an account, the Court will set the matter for a pretrial conference within 30 days after the exceptions are filed. The procedures in Rule 78.10 for civil litigation will apply to all exceptions to inventories or accounts, unless the Court directs otherwise.

### **Local Rule 78.3      Guardianships and Conservatorships**

The Court's policies on guardianships and conservatorships are addressed in Rule 66. Guardian compensation is addressed in Rule 73.

### **Local Rule 78.4      Trusts**

The Court's policies on testamentary trusts are the same as in guardianships. See Rule 66. Trustee compensation is addressed in Rule 74.

### **Local Rule 78.5      Adoptions**

This Rule addresses case management issues in adoption cases.

#### **A. Required Checks**

The results of criminal background checks through the Ohio Bureau of Criminal Identification and Investigation ("BCI") and the Federal Bureau of Investigation ("FBI") must be filed with the initial petition for adoption in all adoption cases. If this supporting documentation is not included, the Court will not accept the petition for filing.

#### **B. Putative Father Registry**

In all cases in which a putative father registry certification is required, that certification must be filed with the initial petition for adoption. If this supporting documentation is not included, the Court will not accept the petition for filing.

#### **C. Hearings**

The Court will conduct a single bifurcated hearing beginning first with testimony on the consent issue, and if the Court determines that consent is either not required or has been given in writing then the Court will then proceed to hear testimony on whether the adoption is in the best interest of the child.

#### **D. Completeness of Filings**

All documentation required by statutes, Rules of Superintendence or Local Rules for adoptions, including without limitation the home study and all necessary proofs of service, must be filed with the Court no later than 10 Court Days before the scheduled hearing date. If a case file is incomplete in any respect by that deadline, the Court will continue the hearing to a future date.

### **Local Rule 78.6      Name Change Proceeding**

This Rule governs special issues in name change proceedings.

**A. Who Must Attend Hearing**

The person whose name is proposed to be changed must attend the hearing on the name change application. If the hearing is contested and the person whose name is proposed to be changed is a minor, the Court may excuse the minor from presence during the hearing if the circumstances may create unnecessary emotional distress for the minor.

**B. Confidentiality**

If an applicant for a change of name desires the proceeding and the record to be confidential, the applicant must file a request for confidentiality, supported by an affidavit or other sufficient proof that publication of notice of the hearing required under R.C. §2717.01(A)(2) would jeopardize the applicant’s personal safety. A proposed entry must accompany the request. If the Court grants the applicant’s request, the Court will waive notice and seal the file during the pendency of the case. The file will remain sealed if the Court grants the name change.

**Local Rule 78.7      Mental Illness Cases**

In proceedings for judicial hospitalization of an alleged mentally incompetent person, any person may sign the affidavit required under R.C. §5122.11. If the affidavit is signed by the chief clinical officer of the hospital in which the person is or is to be hospitalized, or by the treating or examining physician, psychiatrist, or licensed clinical psychologist, the affidavit does not need to be supported by a certificate of examination. In all other cases, the affidavit must be supported by a current certificate of examination. In all instances, the affidavit must be signed in the presence of and deputized by a deputy clerk in any probate court in Ohio.

**Local Rule 78.8      Withdrawal or Removal of Fiduciary**

This Rule governs the withdrawal or removal of a Fiduciary.

**A. Voluntary Withdrawal**

A Fiduciary may not voluntarily withdraw without prior Court approval. The application or motion to withdraw must demonstrate reasonable cause for the withdrawal. A proposed entry must accompany the application or motion to withdraw.

1. Condition for Withdrawal

As a condition of approving the Fiduciary’s withdrawal, the Fiduciary must be current with all filings required by law or by these Rules. The Fiduciary must also submit a complete accounting for the period from the last accounting through the effective date of the withdrawal. The Court will not approve the withdrawal until the Court has appointed a successor Fiduciary.

2. Notice

Before ruling on the application or motion, the withdrawing Fiduciary must certify to the Court that he or she has provided notice of the proposed withdrawal to all other attorneys, unrepresented parties and all other persons with an interest in the proceeding. The Fiduciary must also provide notice of the proposed withdrawal to any bonding agencies acting as surety for the Fiduciary.

3. Time Limitation

No Fiduciary may withdraw within 30 Calendar Days before any filing deadline, trial or dispositive hearing, unless the Fiduciary shows to the Court's satisfaction that exceptional circumstances exist.

**B. Involuntary Withdrawal**

Upon written notice to the Court, a Fiduciary will be considered to have involuntarily withdrawn if the Fiduciary dies, becomes disabled, becomes seriously ill or if other similar circumstances beyond the Fiduciary's control occur that make it impossible or impractical for the Fiduciary to fulfill his or her duties.

1. Successor Fiduciary

The Court will appoint a suitable person or entity as successor Fiduciary as promptly as possible. In its appointment of the successor Fiduciary, the Court may make any further orders as the Court deems necessary or appropriate.

2. Notice

The successor Fiduciary must provide notice of the substitution to all attorneys, unrepresented parties and all other persons with an interest in the proceeding.

3. Accommodations

Upon receiving a notice of the involuntary withdrawal of the Fiduciary, the Court will grant accommodations that are reasonably necessary to enable the successor Fiduciary to become familiar with the case, to the extent that the accommodations do not prejudice the rights of any other person or entity with an interest in the proceeding.

**C. Removal by Court or Others**

If the Court or any person with an interest in the probate proceeding moves to have the Fiduciary removed, the Court will set the matter for hearing at the earliest possible date.

**Local Rule 78.9      Withdrawal or Removal of Counsel**

This Rule governs the withdrawal or removal of an attorney for any party to a probate proceeding.

**A. Voluntary Withdrawal**

An attorney may not voluntarily withdraw as legal counsel for a Fiduciary or any other party to a probate proceeding without prior Court approval. The application or motion to withdraw must demonstrate reasonable cause for the withdrawal. A proposed entry must accompany the application or motion.

1. Certification of Withdrawing Attorney

The application or motion to withdraw must certify that the attorney has provided the client with a complete list of all deadlines and other critical dates in the case, and that the attorney has or will promptly upon the Court's approval of withdrawal deliver all of the case files to the client.

2. Notice

Before ruling on the application or motion, the withdrawing attorney must certify to the Court that he or she has provided notice of the proposed withdrawal to the client, to all other attorneys, unrepresented parties and all other persons with an interest in the proceeding. If the attorney represents a Fiduciary, the attorney must also provide notice of the proposed withdrawal to any bonding agencies acting as surety for the Fiduciary.

3. Time Limitation

No attorney may withdraw within 30 Calendar Days before any trial or dispositive hearing, unless the attorney shows to the Court's satisfaction that exceptional circumstances exist.

**B. Involuntary Withdrawal**

Upon written notice to the Court, an attorney will be considered to have involuntarily withdrawn if the client terminates the attorney's services, or if the attorney dies, becomes disabled, becomes seriously ill or if other similar circumstances beyond the attorney's control occur that make it impossible or impractical for the attorney to continue the representation.

1. Substitution of Counsel

The attorney's client may promptly engage the services of another attorney, who must file a notice of appearance with the Court.

2. Notice

The new attorney must provide notice of the substitution to all other attorneys, unrepresented parties and all other persons with an interest in the proceeding.

3. Accommodations

Upon receiving a notice of the involuntary withdrawal of the attorney, the Court will grant accommodations that are reasonably necessary to enable substituted attorney to become familiar with the case, to the extent that the accommodations do not prejudice the rights of any other person or entity with an interest in the proceeding.

**Local Rule 78.10 Civil Litigation**

This Rule governs the management of probate civil litigation cases, except uncontested land sale proceedings. A land sale proceeding in which any party objects to, or asserts rights adverse to, the Plaintiff's prayer for relief will be subject to this Rule as a contested civil litigation case, unless the Court directs differently.

**A. Scheduling Order**

The Court will issue a preliminary scheduling order after the initial pretrial conference. The preliminary scheduling order will provide a comprehensive structure for management of the case. The Court may modify the scheduling order from time to time during the course of the case as needed.

## **B. Pretrial Conferences**

The Court will use periodic pretrial conferences to maintain control of the case and to facilitate the prompt resolution of the case according to the following guidelines.

### **1. Initial Pretrial Conference**

The Court will set the initial pretrial conference within 30 days after all parties have answered or are in default of answering. All unrepresented parties and the lead attorney for all represented parties must attend the initial pretrial conference in person. All participants must be prepared to discuss all aspects of the preliminary scheduling order.

### **2. Interim Pretrial Conferences**

The Court may schedule periodic interim pretrial conferences during the pendency of the case as the Court deems necessary. Any party may request an interim scheduling conference at any time to discuss problems or issues that have arisen in the case. All unrepresented parties and an attorney from the firm representing any other party must attend each interim pretrial conference. The Court prefers attendance in person at all interim pretrial conferences, but may grant permission to participate by telephone upon request. All attorneys participating in an interim pretrial conference must have authority to bind their client to commitments made at the conference.

### **3. Final Pretrial Conference**

A final pretrial conference will occur within two weeks before the trial date. All unrepresented parties and the lead attorney for all represented parties must attend the initial pretrial conference in person. The participants must be prepared to discuss and resolve all outstanding issues so that the trial may go forward without delay.

## **C. Motion Practice**

This Rule governs time requirements relating to motions, unless a different time requirement is specifically stated in the Ohio Rules of Civil Procedure or unless the Court orders otherwise.

### **1. Filing of Motion**

A party desiring to file a motion must do so within the time required by law, by the Rules of Civil Procedure or by Court order.

### **2. Opposing Response to Motion**

The opposing party must file its response in opposition to a motion within 14 Calendar Days after the filing date of the Motion.

### **3. Reply to Opposing Response**

If the moving party desires to reply to the opposing response, it must do so within seven Court Days after the filing date of the opposing response.

### **4. Extensions**

Rule 56.2 describes the process for obtaining an extension of a filing deadline in litigation cases. The Court will grant a motion for extension, not to exceed seven

Calendar Days, once to each party during the course of a case without the need to show reasonable cause. All other motions for extension must be supported by a showing of reasonable cause for the delay.

5. Filing Out of Time

Failure to file any motion, response or reply within the required time may result in the Court not accepting the pleading for filing, unless the party late in filing can establish that the delay was a result of exceptional circumstances and that the opposing party will not be prejudiced by the filing delay.

6. Contents

All motions, responses and replies should present a clear, concise argument of the party's position, properly cited and referenced supporting legal authority and a succinct statement of the relief sought. A copy of each unreported or out-of-state case cited as authority must accompany the pleading.

7. Request for Hearing

Any party may request a hearing on any motion. The request must be made in the motion or in the response in opposition. If a hearing is not requested, the Court may rule on the motion without hearing, or may on its own motion set the matter for hearing.

**D. Exhibits**

All Exhibits prepared or offered as evidence at a hearing or a trial must comply with the following requirements.

1. Identification

All exhibits must be labeled by party name and sequential number or letter in the order they are offered as evidence at the hearing or trial. Proper identification must be completed before the hearing or trial begins.

2. Substitution

Upon agreement of the parties, or by order of the Court, true and accurate copies of some or all exhibits may be substituted for originals at the conclusion of the hearing or trial.

3. Disposition

All exhibits admitted as evidence at a hearing or a trial will be filed in the Court's case file, unless the Court orders otherwise.

**E. Jury Management Plan**

The Court adopts the jury management plan used by the General Division of the Washington County Common Pleas Court as the jury management plan for the Probate Division of the Washington County Common Pleas Court.