GREENE COUNTY PROBATE COURT LOCAL RULES OF PRACTICE

Amended Effective May 1, 2021
(with August 17, 2021 amendment to Local Rule 78.6)

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INTRODUCTION

TO

GREENE COUNTY PROBATE COURT
LOCAL RULES OF PRACTICE

Greene County Probate Court adopted these Local Rules of Practice to facilitate the prompt disposition of cases in our Court. The Rules create uniform policies and procedures to aid the Court in handling each case in a fair, impartial and efficient manner. The Rules should also help minimize mistakes, delays and misunderstandings by clearly describing what our Court expects.

These Rules supplement the Rules of Superintendence for the Courts of Ohio. It is important to understand that our Local Rules do not replace any statutory requirements, case law or other procedural rules relating to probate cases. These Local Rules reflect our Court's method of achieving legal compliance in a practical, effective way that enables the Court to fulfill its obligation to oversee probate proceedings.

Each Local Rule has two components. The first component is the actual Rule, numbered to generally correspond to the appropriate Rule of Superintendence. The second component is a "Best Practices" section, which provides practical guidance on how to comply with the Rule. The actual Rules are mandatory. The Best Practices are merely suggestions.

Throughout these Rules you will find parenthetical references to specific local forms relating to the particular subject. In the electronic version of the Rules, the form references are hyperlinked to the actual form – clicking on the form reference will pull up the actual form. All Supreme Court forms and local forms are on our Court's website. These Rules do not reference every available form, so always check our website to confirm that you are using the appropriate forms.

IMPORTANT NOTICE

THESE RULES APPLY EQUALLY TO EVERY PERSON INVOLVED IN A PROCEEDING IN GREENE COUNTY PROBATE COURT, REGARDLESS OF WHETHER THE PERSON IS OR IS NOT REPRESENTED BY AN ATTORNEY. THERE ARE NO SPECIAL EXCEPTIONS OR MORE LENIENT STANDARDS FOR PERSONS WHO REPRESENT THEMSELVES WITHOUT THE ASSISTANCE OF LEGAL COUNSEL.

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Superintendence Rule 2
Definitions

Local Rule 2.1 Special Terms

For purposes of these Rules, the following words, phrases and abbreviations beginning with capital letters are defined terms with the specific meanings stated below.

A. Calendar Days

The phrase "Calendar Days" means every day, including weekends and holidays.

B. Court

The word "Court" means the Probate Division of Greene County Court of Common Pleas.

C. Court Days

The phrase "Court Days" means Monday through Friday, except legal holidays, emergency closings and those days or portions of days as the Court may determine to close. Legal holidays are those set by the Greene County Board of Commissioners. Emergency closings are those days, or portions of days, in which the Greene County Board of Commissioners have delayed opening, closed early or closed completely all County offices due to adverse weather conditions or other special circumstances.

D. Fiduciary

The word "Fiduciary" means all types of fiduciaries subject to the jurisdiction of the Court, as defined in R.C. §2109.01. The word includes, without limitation, an administrator, special administrator, administrator with the will annexed, executor, commissioner, guardian, conservator and testamentary trustee.

E. GC Form

The phrase "GC Form" means the forms the Court prescribes for use in proceedings in Greene County Probate Court, all of which are available on the Court's website.

F. R.C.

The abbreviation "R.C." means the Ohio Revised Code.

G. Rules

The word "Rules" means these Greene County Probate Local Rules of Practice.

H. SC Form

The phrase "SC Form" means the standard forms the Ohio Supreme Court prescribes for use in probate proceedings, all of which are available on the Court's website or on the Ohio Supreme Court's website.

I. Sup. R.

The abbreviation "Sup. R." means the Rules of Superintendence for the Courts of Ohio.

Local Rule 2.2 Statutory Definitions

Defined words and phrases in statutes or other legal rules or regulations have the same meaning for purposes of these Rules.

Local Rule 2.3 Meaning of Certain Phrases

The following phrases, although not capitalized, have the meanings described below for purposes of these Rules.

A. Applicable Law

The phrase "applicable law" means all statutes, case law, rules, regulations, codes and every other form of legal authority that directly or indirectly relates to the issue or matter.

B. Exceptional Circumstances

The phrase "exceptional circumstances" is a higher standard than reasonable cause, and means events that were completely unanticipated and not reasonably foreseeable such that it was highly improbable in the exercise of diligence and attention that the situation could have been avoided. Examples of exceptional circumstances include death, physical or mental disability, prolonged serious illness or injury, act of God, and similar unavoidable events.

C. Reasonable Cause

The phrase "reasonable cause" is a lower standard than exceptional circumstances, and means a genuine, plausible and justifiable excuse for an act or omission that, although possibly anticipated or foreseeable, could not be avoided with normal diligence and attention to the matter.

D. Timely Manner

The phrase "timely manner" means that an act was performed before expiration of the time required for that act to be completed under applicable law or under these Rules.

Best Practices

Local Rule 2.1

Be careful to check whether a particular time requirement in these Rules is tied to "Calendar Days" or "Court Days." "Calendar Days" includes every day, regardless of whether the Court is open that day or not. "Court Days" are only those days that the Court is open. If a Rule is silent, assume that it means "Calendar Days."

Local Rule 2.2

Statutes often have their own defined terms. Be sure to check the statute to see if there are special terms that apply to your situation. Remember that statutes have priority over these Rules. There should not be any conflicts between the defined terms in these Rules and those in statutes, but if there is, the statutes control.

Local Rule 2.3

It is important to understand the difference between "Exceptional Circumstances" and "Reasonable Cause." In your filings, be sure to explain in clear, concise terms why the facts of your situation fit the required standard. Vague or incomplete explanations will not help your cause, and may result in the Court denying your request. Help the Court understand your request by providing legitimate and understandable reasons.

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 Greene 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 January 1, 2015. 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.

Best Practices

Local Rule 5.1

It is always important to verify what an applicable statute requires in a particular situation first because statutes have priority over these Rules. Likewise, the Rules of Superintendence and Civil Rules have priority over these Rules. The Local Rules are intended to provide guidance in how to carry out the statutory requirements, but they do not replace or overrule any statutes or superior rules.

Local Rule 5.2

These Rules go into effect on January 1, 2015. They apply to all cases that are pending on that date, and to new cases that are started on or after that date. It would be nearly impossible to apply old rules to pending cases and new rules to new cases. Therefore, these Rules apply to all cases after the effective date.

After the effective date of these Rules, please do not use any of the local forms or other local procedures that previously applied. The Court's website contains all of the new forms you should use, including checklists for each type of probate procedure. These Local Rules explain the acceptable procedures that apply after the effective date.

Local Rule 5.3

These Local Rules may change periodically. Be sure to check the Rules frequently for updates. The most recent version of the Local Rules will always be posted on the Court's website.

Local Rule 5.4

Obviously, there will be situations that are unique and do not fit squarely within the requirements in these Rules. In those unusual situations, the Court will work with you to be sure these Rules do not result in unfair treatment of

your case. Lack of diligence in addressing unusual problems will likely not be sufficient to convince the Court to waive or modify a particular Rule.

If you anticipate problems, bring them to the attention of the Court as early as possible so we can work through solutions together. Waiting until the last minute to raise issues with the application of a particular Rule will likely delay your case and may make the situation worse.

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, mediator, investigator 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.

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.

Best Practices

Court appointments are a good way for newer attorneys and those transitioning into probate practice to gain valuable experience handling probate cases. It is also a way for experienced probate attorneys to occasionally share their expertise in more complex cases.

Compensation in court-appointed cases normally is not as high as in private cases, but usually the Court is able to provide some compensation to the appointed attorney. It is best to discuss the scope of the case and the compensation with the Court before accepting the appointment.

Superintendence Rule 9
Court Security Plans

Local Rule 9.1 Adoption

The Court has adopted and implemented a Court Security Policies and Procedures Manual dated January 1, 2001 and last amended March 9, 2011. The plan complies with the requirements of Sup. R. 9. The security plan is confidential and is not available for public access.

Local Rule 9.2 Application

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

Best Practices

Keep in mind that everyone entering the Greene County Courthouse must first go through security. While that is usually a fast process, it is always best to arrive at least 10 minutes early for any hearing or appointment in case there are delays at the security station.

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 two years. 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 two 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 recording (GC Form 11.2-A) and paying the Court cost in advance. The Court will provide a copy of its digital recording on a read-only compact disk or similar digital storage device within five Court Days after receiving the request.

D. Transcription and Cost

Any person desiring to have a written transcript of the proceeding made from the Court's digital recording may do so from the copy obtained from the Court. The requesting person is responsible for making all arrangements and paying all costs associated with preparing a written transcript of a proceeding. The Court does not have the capability to transcribe proceedings and does not have a contract with any specific transcriptionist or company who transcribes court proceedings.

Best Practices

Local Rule 11.2

It normally takes three to five days for the Court to obtain a copy of a recording of a proceeding. The Court must receive the completed written request form and full payment before it begins the process.

If you request a copy of a recording of a proceeding that is not confidential, you may either pick it up in person at the Court or have the Court mail it to you. You need to provide a self-addressed bubble envelope with sufficient postage if you want the Court to mail the copy to you. Otherwise, the Court will call you when the copy is available for pickup.

Copies of confidential proceedings may only be picked up in person by the party or the party's attorney. You will need to provide the Court with proper photo identification when you pick up the copy.

Superintendence Rule 16
Mediation

Local Rule 16.1 General

The Court adopts this Rule as a means of offering alternative dispute resolution of contested matters in Greene County Probate Court.

A. Uniform Mediation Act

The Court intends this Rule to implement the Uniform Mediation Act, R.C. Chapter 2710 ("UMA"). If there are any inconsistencies, the UMA controls resolution of the issue.

B. Statement of Purpose

The purpose of mediation is to promote greater efficiency and public satisfaction through the facilitation of the earliest possible resolution of disputed cases in Greene County Probate Court through the use of mediation. The Court has established this mediation process to increase access to justice; to increase parties' participation in the court process and their satisfaction with the outcome; to allow cases to settle more quickly and with less expense to the parties; and to expand the dispute resolution resources available to the parties.

C. Definitions

All defined terms in the UMA have the same meaning for purposes of this Rule.

D. Confidentiality and Privilege

All mediation communications related to or made during the mediation process are governed by the UMA, the Rules of Evidence and other pertinent procedural rules.

1. Agreement to Mediate

   In furtherance of assuring confidentiality in mediation proceedings, parties and non-parties desiring confidentiality of mediation communications must execute a written "Agreement to Mediate" before the mediation session. If a new or different person attends a subsequent session, his or her signature must be obtained before proceeding further in the process.

2. Privilege

   All communications, negotiations or settlement discussions between participants in the course of a mediation are not subject to discovery or admissible in evidence, must remain confidential and are protected from disclosure, except as otherwise provided by law.

3. Mediator May Not Testify

   The mediator is prohibited from being called as a witness in any subsequent legal proceeding, unless the parties otherwise agree under the terms of a settlement agreement.

Local Rule 16.2 Initiation of Mediation

This Rule governs the initiation of mediation and the selection of a mediator.

A. Mediation Referral

The Court may refer a case to mediation on the motion of any party, on the agreement of the parties, or on its own order.

1. Referral Process

   The Court, on its own motion, or the motion of any of the parties, may refer disputed issues to mediation in whole or in part by filing an order of referral to mediation. Within 30 days after the date of that order, the mediator or the parties jointly must file a notice of scheduled mediation, which must, at a minimum indicate the date, time, place and contact information for the mediation.

2. Domestic Violence

   All parties and attorneys must advise the Court of any domestic violence allegations known to them to exist or to have existed in the past, or which become known to them following entry of the order of referral to mediation, but before conclusion of all mediation proceedings, which allegations involve any two or more persons whose attendance is required by the referral order.

3. Eligibility of Cases

   The Court will determine the eligibility and appropriateness of each referral before the commencement of the mediation process and may decline any referrals the Court deems inappropriate.

4. Outside Referrals

   If a dispute involves such issues as mental health, developmental disability or aging adults, but a guardianship case has not been filed, a party may file a motion to refer the matter to mediation. A case will be referred to mediation if mediation is likely to resolve the dispute as a less restrictive alternative to guardianship.

B. Selection and Assignment of Mediator

The following methods may be used to determine the mediator for the case:

1. Court Mediator

   The court mediator for the Greene County Common Pleas Court may facilitate the mediation.

2. Random Selection

   The Court may randomly assign a mediator to the case from the Court's roster of approved mediators.

3. Special Appointment

   The Court may make special appointments of other mediators, taking into consideration the qualifications, skills, expertise and caseload of the mediator, in addition to the type, complexity and requirements of the case.

4. Selection by Parties

   Subject to the approval of the Court, the parties may select a mediator from the Court's roster of prequalified mediators.

C. Mediator Conflict of Interest

In accordance with R.C. §2710.08(A) and (B), the mediator assigned by the Court to conduct a mediation must disclose to the parties, attorneys, if applicable, and any non-party participants any known possible conflicts that may affect the mediator's impartiality as soon as such conflicts become known to the mediator. If any attorney or a mediation party requests that the assigned mediator withdraw because of the facts so disclosed, the assigned mediator must withdraw and request that the Court appoint another mediator from the Court's list of qualified mediators. The parties are free to retain the mediator by an informed, written waiver of the conflict of interests.

Local Rule 16.3 Mediation Process

This Rule governs the process for all mediations. The mediator may have additional procedural policies that the parties must follow.

A. Mediation Procedure

In accordance with all applicable provisions of this Rule, if the Court deems a case appropriate, mediation will be scheduled. A mediator may meet with the parties individually before bringing the parties together for any reason, including without limitation further screening. A mediator may schedule multiple mediation sessions, if necessary and mutually acceptable to the parties, for the resolution of the issues in part or in their entirety. The Court will utilize procedures for all cases to accomplish all of the following:

1. Participation

   The procedures will ensure that all parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.

2. Domestic Violence

   The procedures will provide for screening for potential domestic violence both before and during mediation.

3. Referrals

   The procedures will enable appropriate referrals, if necessary, to attorneys and other support services for all parties, including victims of and suspected victims of domestic violence.

4. Prohibited Uses

   The procedures will prohibit the use of mediation in any of the following circumstances: (i) as an alternative to the prosecution or adjudication of domestic violence; (ii) in determining whether to grant, modify or terminate a protection order; (iii) in determining the terms and conditions of a protection order; and (iv) in determining the penalty for violation of a protection order.

B. Mediation Case Summary

At least five Court Days before the mediation, the parties must submit to the mediator a short memorandum stating the legal and factual positions of each party, as well as other material information each party believes would be beneficial to the mediator, including without limitation: (i) a summary of material facts; (ii) a summary of legal issues; (iii) the status of discovery; (iv) a list and explanation of special damages and a summary of all injuries or damages; and (v) settlement attempts to date, including demands and offers.

C. Party and Non-Party Participation

The following requirements apply to participation in the mediation by parties and non-parties.

1. Informal Cases

   Parties to informal cases may voluntarily attend mediation sessions.

2. Mandatory Participation

   Parties who are ordered into mediation in formal cases must attend scheduled mediation sessions. The Court may order parties to return to mediation at any time in formal cases. Party representatives with authority to negotiate a settlement and all other persons necessary to negotiate a settlement, including insurance carriers, must attend the mediation sessions. If the parties, their attorneys or the insurance representatives do not attend the mediation sessions, the mediator must report the non-compliance to the Court.

3. Attorneys

   The Court or the mediator may require the attendance of the parties' attorneys at the mediation sessions if the mediator deems it necessary and appropriate.

4. Necessary Party

   If any party's attorney becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but that person or entity has not yet been joined as a party in the pleadings, they must promptly inform the mediator as well as the Court.

5. Disclosure of Relationship

   If the opposing parties to any case are: (i) related by blood, adoption, or marriage; (ii) have resided in a common residence; or (iii) have known or alleged domestic violence at any time before or during the mediation, then the parties and their attorneys have a duty to disclose that information to the mediator and have a duty to participate in any screening the Court requires.

6. Non-Parties

   By participating in mediation, a non-party participant, as defined by R.C. §2710.01(D), agrees to be bound by this Rule and submits to the Court's jurisdiction to the extent necessary for enforcement of this Rule. Any non-party participant has the rights and duties under this rule attributed to parties, except as provided by R.C. §2710.03(B)(3) and §2710.04(A)(2).

D. Stay of Proceedings

All Court orders will continue in effect during the mediation process, and may not be stayed or suspended without further Court order. Mediation will not stay discovery, which may continue through the mediation process, unless the parties agree otherwise and the Court approves.

E. Continuances

It is this Court's policy to resolve matters as expeditiously as possible. The Court will only grant continuances of scheduled mediations for reasonable cause shown after a mutually acceptable further date has been determined. Only the Court may grant a continuance. Except as authorized by the Court, the existence of pending motions is not reasonable cause for a continuance and the Court will not grant a continuance unless the mediation can be scheduled before the final pretrial conference.

F. Termination

If the mediator determines that further mediation efforts would not benefit the parties, he or she must inform all interested parties and the Court in writing that the mediation is terminated.

Local Rule 16.4 Results of Mediation

This Rule provides requirements applicable upon the conclusion of mediation.

A. Mediation Memorandum of Understanding

The mediator, parties or their attorneys, if applicable, as agreed by the parties, may promptly prepare a written memorandum memorializing the agreement reached by the parties. The mediation memorandum may be signed by the parties and attorneys. If the mediation memorandum is signed, it will not be privileged pursuant to R.C. §2710.05(A)(1). The written mediation memorandum may become an order of the Court after review and approval by the parties and their attorneys, if applicable. No oral agreement by the attorneys or with parties or an officer of the Court will be considered, unless made in open court.

B. Mediator's Report

At the conclusion of mediation, and in compliance with R.C. §2710.06, the mediator must inform the Court of the status of the mediation. The mediator's report must include all of the following: (i) whether the mediation occurred or was terminated; (ii) whether the parties reached a settlement on some, all or none of the issues; (iii) attendance of the parties; (iv) whether future mediation sessions are scheduled, including the date and time; and (v) any other information the Court may request or the mediator may deem important. If the parties reached full agreement, the report must indicate the parties' agreement as to who is responsible for outstanding court costs and who will prepare any necessary entries.

C. Failure to Participate

If any person fails to participate in or to attend mediation without reasonable cause, after being ordered to do so by the Court, the Court may impose sanctions against the offending person, which may include without limitation the award of attorney's fees and other costs, contempt or other appropriate sanctions at the discretion of the Court.

Best Practices

The Rule is fairly self-explanatory, but the process is often under-utilized. Mediation can often be a valuable tool in resolving disputes. This Rule facilitates mediation in probate disputes. Mediation is most effective in cases where the dispute is factual, rather than a technical interpretation of the law. If your case is a factual dispute, the Court encourages voluntary mediation as early as possible in the proceeding.

Superintendence Rule 26
Court Records Management and Retention

Local Rule 26.1 Schedule

The Court has a Schedule of Records Retention and Disposition maintained by the Greene County Archivist. The Court will follow that Schedule, in conjunction with the requirements in the Rules of Superintendence for the Courts of Ohio.

Best Practices

If you are searching for a probate record that is more than five years old, it is advisable to call the Court first to determine whether the record is still maintained at the Court, or if it has been closed or sent to Greene County Archives. That will save you a wasted trip to the Court if the record is at archives. The County maintains its archives at a different location.

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. Our Court will not accept any other forms in place of Supreme Court prescribed forms, even if the other forms purport to contain the same information. Supreme Court prescribed forms are available on the Ohio Supreme Court's website at www.supremecourt.ohio.gov/legalresources/rules/superintendence/probate_forms, or on our Court's website at www.greenecountyohio.gov/probate.

Local Rule 51.2 Greene County Prescribed Forms

In all instances in which our Court has prescribed forms to implement these Rules for use in probate proceedings, the applicable Greene 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. Our Court's prescribed forms are available on our Court's website at www.greenecountyohio.gov/probate.

Best Practices

Local Rule 51.1

The Rules of Superintendence require that you must use probate forms prescribed by the Ohio Supreme Court if a form is available for your particular purpose. This is mandatory. Please be sure you are using the most recent version of the form, as they change periodically.

Local Rule 51.2

Greene County Probate Court also has numerous prescribed forms. Many of those forms are referenced in these Rules. Others may not be referenced in the Rules, but are available on the Court's website. As with the Supreme Court forms, if there is a local prescribed form for a particular purpose, its use is mandatory. The reason is that uniformity of the forms for routine purposes makes it more efficient for the Court to review and process filings.

Make sure you are using the correct form in its most recent version to save time and to avoid the embarrassment of having to get the correct forms signed again.

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 Greene 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 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 on only one side of the paper 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.

Best Practices

Local Rule 52.1

Please note that our Court requires that documents be printed only on one side. Do not print two-sided. This is important for purposes of scanning for electronic storage and microfilming.

If you use probate software from a third-party vendor, it is good practice to be sure your software is current to take into account changes in these Rules and the Court's prescribed forms. You can do this by checking the forms on your software with the forms on the Court's website. The Court provides its Rules and forms to software vendors, but we cannot assure that the vendors actually keep their software updated. Make sure you are using the correct form in its most recent version to save time and to avoid the embarrassment of having to get the correct forms signed again.

Superintendence Rule 53
Hours of Court

Local Rule 53.1 Normal Court Hours

Greene County Probate Court is open every Court Day from 8:00 a.m. through 4:00 p.m.

A. Filing Cutoff

New cases and any filing that requires payment of a fee must be submitted for filing by 3:30 p.m. Filings on or before 3:30 p.m. will be processed that day. Filings after 3:30 p.m. will not be reviewed and filed until the following Court Day.

B. Holding Submissions for Review

The Court reserves the right to hold any document submitted for filing for as long as the Court deems necessary for additional review.

Local Rule 53.2 Marriage License Bureau Hours

The Marriage License Bureau of Greene County Probate Court is open every Court Day from 8:30 a.m. through 3:30 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.

B. Appointments

Our Court encourages all marriage license applicants to schedule an appointment in advance. Applicants may schedule an appointment online through the Court's website. You must schedule an appointment. We do not accept walk-in appointments.

Local Rule 53.3 Hearing Schedule

Our Court conducts hearings on Tuesday, Wednesday and Thursday. Monday and Friday are reserved for other Court business. The Court will only make exceptions to the normal hearing schedule if necessary to comply with statutory time limitations or to accommodate true emergencies.

A. Timeliness

Hearings begin promptly at the designated time. The Court will not delay the start of a hearing due to tardiness of a participant or their attorney.

B. Check-In

All participants in a hearing need to check in at the front desk of the Court no later than five minutes before the scheduled hearing time.

C. Videoconference and Telephone Appearances

The Court may permit an appearance by videoconference in certain situations in which attendance in person would be an undue burden or expense, or would affect the health, safety or comfort of the participants. The Court, on its own motion and by notice to all parties, may require or permit all or some of the participants to appear by videoconference. Any party

desiring to appear for a hearing or conference by videoconference must make a request by application using GC Form 53.3-A, no later than five days before the scheduled event. The application must be accompanied by a proposed entry using GC Form 53.3-B. If statute requires a personal appearance for a hearing, the Court will only consider an application for appearance by videoconference if the Court determines it is a truly exceptional circumstance.

The Court will not permit appearance by telephone in lieu of videoconference unless the Court determines circumstances exist that preclude or make impracticable the use of videoconference technology in that instance.

D. Appearance at Citation Hearings

The Court will not permit telephone or videoconference appearance for citation hearings under Rule 77.5.

Best Practices

Local Rule 53.1

The Court generally follows the same holiday and closure schedule as all Greene County offices. If there are additional times that the Court will be closed, it will be posted on our website. However, there may be occasional closures due to weather or other emergencies that are not posted. Those closures will be announced through local media and on the Greene County general website. If in doubt, please call the Court in advance to verify that it is open.

The reason the Court cannot accept filings after 3:30 on new cases or other documents that require payment of a filing fee is that we need sufficient time to close our financial books by the close of business. If you file after 3:30, we cannot issue a receipt, or review and file the documents, until the next Court Day. In those circumstances, it is usually best to wait until the next Court Day to file.

Local Rule 53.2

The Court has enhanced its website to enable submission of a marriage license application online. However, personal presence at the Court is required for issuance of the license because it is necessary to sign the application under oath in the presence of a Deputy Clerk. It is very important to complete every detail of the application fully and accurately. It is also important to review the checklist on the website for the documents and information that you must bring to your appointment at the Court.

The Court hopes that the online application process and the ability to schedule an appointment for issuance of the license will make the process more efficient and convenient for the public.

Local Rule 53.3

On days that the Court conducts hearings, the hearings are scheduled back-to-back. If someone is late and delays the start of one hearing it will have a ripple effect with all of the later hearings. In order to be fair to everyone, the Court starts each hearing promptly at its scheduled time. If you are late, the Court will likely proceed with the hearing without you. Be on time. Better yet, be early in case there are delays at the security station.

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.

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 silence or vibrate, 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 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.

Best Practices

Local Rule 54.1

This Rule is really just common sense. There is no need to badger or bully opposing parties, witnesses or counsel. It does not impress the Court and does not benefit your case. Likewise, distractions and disruptions of any kind hamper the Court's ability to focus on the issue at hand.

With respect to dress code, the Court is more concerned with content than appearance. Our Court does not have a strict dress code and does not base its decisions on how someone appears. However, remember this is a Court and there is an expectation of respect and dignity for the institution. Dress sensibly and everything will be fine.

Local Rule 54.2

This Rule just emphasizes Local Rule 11. In order to maintain control of the Courtroom, the Court must know and approve who is recording what. It is also only fair for all other persons involved in the proceeding to know whether they are being recorded or videotaped.

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 public records in the Court's files in person. Records in current, open files are available in the Court's office. Closed files are not in the Court's office, so the Court's Deputy Clerks need at least two Court Days prior notice to retrieve a closed file. Older marriage licenses and other records may be stored at the Greene County Archives. It is advisable to call the Court first to determine the location of those records.

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 or archives 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 charges 10¢ per page, with a minimum charge of $1.00, for copies. All public records after August 2016 are available online and may be printed directly from the Court's online document management system through the Court's website.

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 that are confidential by law or by Court order are not open and available for examination by any person at any time for any reason.

A. Unsealing Records

All confidential records are automatically unsealed and open for examination as public records 75 years after the date the file is finalized and closed, unless a later Court order mandates that a particular file remain confidential.

Best Practices

Local Rule 55.1

Public records are open to inspection during normal Court hours. The Court cannot allow anyone to remove files from the Court office because that is the official public record. If you want to make copies, you need to mark the

pages you want and one of the Deputy Clerks will make the copies for you. You are not permitted to take files apart to make copies because we have to make sure the files are maintained in the correct manner. The Court does charge for copies.

Local Rule 55.2

Confidential records are just that – confidential. They are not open to public inspection. There are no exceptions.

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 on the appropriate local form and accompanied by a corresponding proposed entry. The filer must complete all portions of an application and entry, except the checkboxes on the entry, which the Court will mark to reflect its decision on the application. The following are references to the appropriate application and entry forms for extensions.

Case Type	Application	Entry
Decedent's Estate	GC Form 56.1-A	GC Form 56.1-B
Guardianship	GC Form 56.1-C	GC Form 56.1-D
Trust	GC Form 56.1-E	GC Form 56.1-F
Other Cases	GC Form 56.1-G	GC Form 56.1-H

B. Timing

An application for extension of time must be filed at least five 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 or as provided in Local Rule 77.

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 maximum extension time the Court permits on a second extension is 30 Calendar Days. The Court may make exceptions to these general time limitations in situations involving truly unusual and complex circumstances.

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 five 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 an application 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 the applicant, movant and their attorney. Alternatively, the attorney may sign the application or motion alone if the attorney certifies that they have sent the application or motion to their client for review and approval before filing.

Best Practices

Local Rule 56.1

The essence of this Rule is to be proactive, not reactive. Manage your case in a manner that allows you to know when your filings are due and to anticipate when it is unlikely that you will be able to complete the required work by that deadline. If you request the extension before the due date, the Court will be more likely to grant the additional time you need. However, if you request the extension after the due date, the Court will likely deny your request.

Be careful to use the correct Local Form for the particular type of case you have. These are prescribed forms, so the Court will not accept any other form of extension request. Also be sure to clearly explain legitimate reasons why the extension is needed. The Court is not inclined to grant extensions if it appears that the need for additional time is due to inattention or lack of diligence in pursuing the case.

Local Rule 56.2

In litigation matters, motions for a continuance also must be for legitimate reasons and not merely for the purpose of delay. As in non-litigation matters, you need to be proactive and request the extension before the due date. Otherwise, the Court will be more likely to deny the motion.

There are no prescribed Local Forms for requesting extensions in litigation cases. Motions for continuance and proposed entries granting the motion should be concise and clear.

Local Rule 56.3

This Rule provides some flexibility to attorneys by allowing them to sign applications for extensions without their client's signature. However, the attorney must certify to the Court that they have the client's approval to do so. Otherwise, the application needs to be signed by the client, as the Rules of Superintendence require.

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. 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 (SC Form 45(D)), 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). Proposed entries on standard Supreme Court or local forms must be filled out completely before the Court will rule on any application or motion.

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 on GC Form 75.3-A 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, and their respective attorney, if any. Unless the law or a prescribed form requires otherwise, any attorney may sign and file a document on behalf of the attorney's client without the client's signature if the filing contains a certification that the client has reviewed and approved the filing before it is submitted for filing. 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 document filed in Court that requires the signature of a Fiduciary.

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. No agent under a power of attorney may sign any document on behalf of a principal on a document that requires the principal's signature in a fiduciary capacity.

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 on only one side of the paper 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. Except for headings, the font size must not be smaller than 10 pt. or larger than 12 pt.

B. Original and File Copies

The Court will only file documents containing original signatures, with the exception of fax filings and email filings under Local Rule 57.4. The use of "/s/" as a signature on any document submitted to the Court is prohibited. The Court will file-stamp up to two 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.

E. Irregular Documents

Irregular sized documents, such as green return receipt cards and other documents that are smaller than 8.5 by 11 inches must be securely attached to plain white 8.5 by 11 inch paper using clear tape. No more than three irregular documents should be taped to the same page.

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.

C. By Fax

Except as provided in Local Rule 57.4(G), the Court will accept filings by fax. A document filed by fax will be accepted as the original filing and will be effective as of the date in which the Court receives the document and full payment of applicable filing fees. The person making the filing is not required to file the original source document with the Court, but must

keep the original document in their possession until the case is closed. The sender bears the risk of successful transmission to and receipt by the Court.

D. Email

Except as provided in Local Rule 57.4(G), the Court will accept filings by email in the same manner and subject to the same requirements as fax filings. All email submissions must use the email address probate-noreply@co.greene.oh.us for filings. The Court recommends the sender utilize the delivery and read receipt functions when sending filings by email as proof of delivery to and receipt by the Court.

E. Filing Fees for Electronically Submitted Filings

Any filing submitted by fax or email that requires filing fees be paid must be paid using the online payment function on the Court's website. (See Local Rule 58.2). The case number must be listed when submitting an online payment. Any failure to pay filing fees will result in the filing not being accepted by the Court.

F. Cover Page

Any filing submitted to the Court by fax or email must be accompanied by the Court's standard cover page GC Form 57.4-A.

G. Exceptions to Filing Requirements

The Court will not accept the following filings by fax or email:

- Any filing that initiates a new case;
- Any pleading that requires service of summons;
- Any filing that requires submission of an original Will;
- Accounts that require financial statements to be provided for verification.

Local Rule 57.5 Judgment Entries

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

A. Preparation of Entry

All applications or motions must be accompanied by a proposed entry prepared by the person applying or moving for the entry. The Court may decline to accept the application or motion for filing if it is not accompanied by a proposed entry.

In contested matters, the prevailing party must prepare and present the proposed entry to the Court and to the opposing parties or their attorney within five Court Days after conclusion of the hearing to which the entry applies, unless the Court orders otherwise. If required under the Ohio Rules of Civil Procedure, the proposed entry must contain a certificate of service showing the names and addresses of all parties and other interested persons to whom service is required.

B. Method of Transmission

The Court's preferred method of transmitting any judgment entries or other notices from the Court is by email, unless the law requires a different method or unless the Court elects to use a different method. In all instances in which the law does not require a different method, the

Court will transmit copies of all judgment entries or other notices by email to all persons and attorneys for whom the Court has a current email address, and by regular mail to all persons and attorneys for whom the Court does not have a current email address.

Best Practices

Local Rule 57.1

Timeliness is important. Statutes establish the timelines for all filings. It is crucial to know when each type of filing is due.

Local Rule 57.2

Accuracy and detail are critical with each document you file with the Court. You should proofread and double check each document before filing. If required information is missing, or if any information is inaccurate or inconsistent with previous filings in the case, the Court will not be able to accept the document for filing. The Deputy Clerks cannot make changes or corrections for you.

Our Court does not maintain a confidential index for personal identifiers. Therefore, do not file the "Disclosure of Personal Identifiers" Supreme Court prescribed form with personal identifier information unless the Court specifically instructs you to in a particular situation. Many forms do require dates of birth. A birth date is not a personal identifier that is protected as confidential information.

Make sure the Court always has complete contact information for all parties and their respective attorneys. As changes occur, it is important to update the Court with the new information. Otherwise, the Court cannot communicate with persons involved in the case.

Local Rule 57.3

Remember to not staple the original documents you submit for filing. Staples hamper the Court's ability to efficiently microfilm documents and to scan documents to place images on the Court's online document management system. You can submit up to two additional sets of documents for time-stamping. Additional sets beyond two will be returned to you unstamped. The reason for this is to enable the Deputy Clerks to limit the time spent on each filing so they can serve other customers promptly. All of these requirements are designed to make the Court operate more efficiently.

Local Rule 57.4

Every effort should be made to file documents in person or by mail. Fax and email filings are acceptable, but should not be utilized as a routine practice. Be sure that the correct filing fee, if required, accompanies each filing. The Court may not accept documents for filing unless the filing fee is paid simultaneously with the filing. Court costs are clearly outlined on the Court's website. Certified Judgment Entries and Letters of Authority are not included with the initial filing deposit. Confirm your court costs to avoid returned filings and delays.

Remember, Guardian's and Trustee's Accounts generally do require supporting financial verification, so these cannot be filed by fax or email. Fiduciary's Accounts in estate proceedings generally do not require supporting financial verification, so these could be filed by fax or email, if necessary.

Local Rule 57.5

The filer is required to prepare and submit proposed entries with each filing, where necessary. Most of the Court's prescribed Local Forms also include prescribed entries. As with all other filings, be sure the proposed entry is complete and accurate. If the entry calls for proposed dates, do not leave that blank for the Court to determine. Propose the dates you desire and the Court will adjust the date, if necessary. If you leave blanks for the Court to complete, the Court may select a period shorter than you need or desire. Do not make the Court guess what you want.

Be sure the Court has your correct email address because the Court sends its judgments, entries and orders by email, unless a statute requires a different method of delivery or service in particular circumstances. The reason for using email is to expedite the communication process.

Superintendence Rule 58
Deposit for Court Costs

Local Rule 58.1 Court Costs

The Court charges for all 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. Cost Schedule

A schedule of the cost of each filing or other service is shown on the Court's website. The schedule may change periodically. The Court will not accept any document for filing and will not perform any other service until all amounts due are paid in full.

B. 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 court costs 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. Court costs must be paid in the exact amount stated on the Court's website. The Court does not hold money on deposit for future anticipated filings in any proceeding.

C. Jury Fees

Jury fees must be paid simultaneously with filing the jury demand.

D. 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. The party who subpoenaed or requested the appearance of a witness must pay the appropriate fees to that witness directly.

Local Rule 58.2 Form of Payment

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

A. Types of Payment

Court costs and costs for Marriage Licenses may be paid by means of cash, money order, certified or bank cashier's check, ordinary business check or personal check drawn on a bank in Greene or immediately surrounding counties. The Court will also accept payment by American Express, Mastercard, Visa, or Discover credit and debits cards in person and online. A convenience fee will be applied by the credit card processor for all transactions paid by credit or debit card, both in person and by online payment.

Online payments may initiated by clicking this link: Online Payments

B. Convenience Fees

Convenience fees are assessed by the credit card processor at a rate of 2.35% per transaction for credit cards or $2.00 minimum based upon the amount charged. Convenience fees for debit cards are assessed a flat fee of $2.95. Fees for electronic checks are $0.75 each

transaction. Convenience fees are not court costs, and are distributed directly to the credit card processor upon receipt. Convenience fees are non-refundable in all circumstances.

All notices required by R.C. §301.28(E) are posted in the Probate Court Clerk's office regarding financial transactions and convenience fees.

C. Dishonored Payment

If any payment is dishonored for insufficient funds or other deficiencies in the payment, the payor must pay the full amount due in cash, plus reimburse the Court for bank charges it incurs, within three Court Days after notice from the Court of nonpayment. If not paid within that time, the Court may strike the filing from the record or take other appropriate action as the Court may deem appropriate.

Best Practices

The Court's fee schedule is posted on our website. If you are not certain of the fee that will be required for a particular filing, call the Court first to confirm the amount. That will save time when you file and will avoid the necessity to come to the Court multiple times to get the correct amount.

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 Rule 66.3(E)). 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 (SC Form 2.4). 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 Rule 56.1, will subject the Fiduciary and the Fiduciary's attorney to citation under 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.

C. Unknown or Missing Heirs

When an heir or beneficiary to an estate cannot be found with reasonable diligence, the Fiduciary may file an Affidavit pursuant to R.C.§2107.19(B) setting forth all reasonable efforts that have been made to locate the heir or beneficiary in an attempt to perfect service of notice of probate of will. The Affidavit must accompany the waivers or other proof of service included when submitting a certificate of service of notice of probate of will for filing.

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 (GC Form 59.3-A). It is not permissible to file a will for record only in conjunction with filing a certificate of transfer only action under R.C. §2113.61(D)

Local Rule 59.4 Probating a Lost, Spoliated or Destroyed Will

This Rule covers the process to admit a lost, spoliated or destroyed will to probate under R.C. §§2107.26 and 2107.27.

A. Procedure

An application to admit a lost, spoliated or destroyed will to probate must be accompanied by all other prescribed forms necessary to begin the administration of a testate estate, except SC Form 2.0. GC Forms 59.4-A through 59.4-G are the prescribed forms for admitting a lost, spoliated or destroyed will to probate in this Court, which replace SC Form 2.0 for this purpose.

B. Notice and Hearing

The applicant seeking to admit a lost, spoliated or destroyed will to probate is responsible for serving the notice required in R.C. §2107.27(A) using GC Form 59.4-C. The applicant must file the affidavit of service (GC Form 59.4-G) with the Court no later than five Calendar Days before the hearing.

C. Waiver of Hearing

The Court may admit the lost, spoliated or destroyed will to probate without hearing if the applicant satisfies both of the following conditions:

1. Acknowledgement and Waiver

   The filing must include acknowledgements and waivers (GC Form 59.4-B) signed by each person entitled to notice under R.C. §2107.27(A).

2. Witness Affidavits

   The filing must include affidavits (GC Form 59.4-D) signed by both witnesses to the purported will. If a copy of a will has more than two witnesses, the Court will only require that two witnesses provide affidavits, or be served subpoenas to appear at a hearing on the admission of the will to probate.

Best Practices

Local Rule 59.1

It is not as common today for people to deposit a Will with the Court for safekeeping. However, the Court requires it in guardianships of incompetent adults. This is the best way to assure that the ward's Will is not somehow lost during the guardianship – which protects the guardian and the guardian's attorney from potential liability after the ward's death.

Since Wills may be on deposit with the Court, it is always a good practice to check with the Court to determine if a Will is in the Court's possession before beginning the administration of any estate.

Local Rule 59.2

Although these Rules dispense with the requirement of filing certified mail green cards in certain situations, they are required to be filed as proof of service with the Certificate of Service of Notice of Probate of Will (for persons who did not waive service). That is because the statute specifically requires it.

Local Rule 59.3

The Application to File Will for Record Only replaces the former Will & Affidavit action. The Affidavit will no longer be accepted. This action was more applicable when Ohio Estate Tax was still in place. Filing a Will for record is not mandatory, but it is good practice in case you later find assets that may require probating the Will.

Local Rule 59.4

This is the process you use if you only have a copy of the will, but cannot locate the original. You cannot attempt to admit a copy of a will using SC. Form 2.0. That form is only for admitting the original of a will. The prescribed local forms and the checklist on the Court's website make this process fairly self-explanatory. The Court is only inclined to dispense with the hearing if all of the documents filed with the application prove on their face by clear and convincing evidence all statutory elements in R.C. §2107.26.

Superintendence Rule 60
Application for Authority to Administer

Local Rule 60.1 Investigative 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 an investigative 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 investigative 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 investigative administrator (GC Form 60.1-F), an attorney representing any of them may apply for appointment. The attorney must be licensed and in good standing to practice law in Ohio. No creditor may apply for appointment as an investigative administrator under this Rule.

C. Initiation of Proceeding

The applicant may initiate the proceeding by filing an application for appointment as investigative administrator (GC Form 60.1-A). SC Form 1.0 identifying all of the known heirs or beneficiaries of the estate and an acceptance of fiduciary duties (GC Form 60.1-B) must accompany the application. The applicant must also prepare and submit a proposed entry appointing investigative administrator (GC Form 60.1-C) and proposed letters of authority (GC Form 60.1-D).

D. Appointment

The Court may appoint the applicant as investigative 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 investigative administrator letters of authority consistent with this Rule. Within seven Calendar Days after appointment, the investigative administrator must mail written notice of the appointment (GC Form 60.1-E) by regular mail to all persons identified on the SC 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 investigative administrator is not required to post bond because the investigative administrator will not have access to any of the decedent's assets. If the Court later authorizes

the investigative administrator to engage in any financial activities on behalf of the estate, the Court may require bond.

E. Powers and Responsibilities

The investigative 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 investigative administrator also will have the power and authority to examine or seek the release of a decedent's medical records or medical billing records under R.C. §2113.032. The investigative 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 investigative administrator, or to his or her attorney. Creditors may present claims to the investigative administrator, who must collect the information, but may not allow or reject claims without prior Court approval. The Court may grant the investigative administrator other powers and responsibilities as the Court deems appropriate. In carrying out the powers and responsibilities of the position, the investigative 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 an investigative administrator in a proceeding under this Rule is limited to only those powers the Court grants. Specifically, but without limitation, an investigative 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 investigative 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 an investigative administrator under this Rule terminates automatically on the earlier of: (i) 90 Calendar Days after the date of the entry appointing the investigative 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 investigative administrator must promptly deliver, in tangible or electronic form, all documents and information in the investigative administrator's possession or control that the investigative 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 investigative 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 investigative administrator must promptly deliver the information to that person or attorney. If the investigative

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 investigative administrator must promptly deliver the information to the appointed executor, administrator or commissioner of the decedent's estate. If the investigative administrator fails to do so within 15 Court Days after receiving notice of the appointment, the investigative 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 investigative administrator's authority terminates, the investigative 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

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

I. Compensation

An investigative 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 investigative 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 investigative administrator are not grounds for further allowance under R.C. §2113.36.

An attorney who represents an investigative 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 Rule 71. If the attorney represents the investigative administrator and the Fiduciary of the decedent's formal estate, the attorney's compensation will be determined under Rule 71.2.

The compensation allowed to the investigative administrator and attorney are valid expenses of administration. If payable to an investigative 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 an investigative administrator proceeding under this Rule are valid expenses of administration. Expenses payable to an investigative 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 an

investigative 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 Special Administrator

This Rule provides guidance regarding special administrators under R.C. §2113.15 *et seq.*

A. Application

An applicant for appointment as a special administrator must initiate the process by filing SC Form 4.0, modified to indicate the applicant is seeking appointment as a special administrator. The application must also be accompanied by a completed SC Form 1.0 and a true and accurate copy of the decedent's death certificate with the decedent's social security number redacted.

B. Bond

All special administrators must comply with the Fiduciary bond requirements in Rule 75.2, unless the applicant establishes qualification for exemption from bond under Rule 75.2(G) simultaneously with filing the application. In cases in which the Fiduciary does not qualify for exemption from bond requirements, a bond commitment must accompany the application. See Rule 75.2(C).

C. Notice and Hearing

The Court may dispense with a hearing on the application upon the applicant's request and for good cause shown. If the Court dispenses with the hearing, the special administrator shall serve a notice of the appointment on all persons identified on the SC Form 1.0 within 10 days after the date of appointment. If the Court does not dispense with the hearing, the applicant must serve notice of the application and the hearing on all persons identified on the SC Form 1.0 and provide proof of service no later than five days before the hearing.

D. Authority and Obligations

A special administrator, by appropriate Letter of Authority, will be vested with all powers and responsibilities provided by law. The special administrator also will have the power and authority to examine or seek the release of a decedent's medical records or medical billing records under R.C. §2113.032. No special administrator, including a creditor appointed as special administrator to present its claim, may limit his or her responsibilities. This includes, without limitation, the obligation to collect and preserve all of the estate assets.

E. Inventory

The special administrator must file an inventory and appraisal with the Court no later than three months after the date of appointment as special administrator.

F. Account

The special administrator must file an accounting with the Court no later than (i) 30 Calendar Days after appointment of a full administrator or executor, or (ii) six months after the date of appointment as special administrator, whichever is earlier.

G. Termination of Special Administration

All powers and authority of the special administrator terminate automatically upon the Court's appointment of an administrator or executor of the estate. Upon termination, the special administrator must deliver all assets, all claims against the estate and all other documentation relating to the estate to the administrator or executor within 30 days after the date of the administrator or executor's appointment.

H. Conversion to Regular Administration

If not terminated sooner, the special administration must be converted to a regular administration on or before the due date of the account. In the absence of any other suitable application, the special administrator must file all necessary documents for appointment as the administrator or administrator with will annexed.

Local Rule 60.3 Application for Authority to Administer

All applications for authority to administer estate (SC Form 4.0) 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 with the application for authority to administer the estate. 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 a limited purpose not requiring the administration of assets and the Fiduciary is not aware of any probate assets to administer. Examples include appointment to pursue a wrongful death or survival action, to release a previously paid mortgage, to enter an appearance in pending litigation or to admit a will to open an ancillary administration. A notice of appointment for limited purpose (GC Form 60.3-A) must accompany the application in this type of case.

D. Bond

Rule 75.2 governs Fiduciary bond requirements.

1. Bond Exemption

   The applicant must establish any claimed qualification for exemption from bond under 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 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 Rule 75.2.

E. Fiduciary Acceptance

The applicant must sign and file with the application a fiduciary acceptance (GC Form 60.3-B).

F. Hearing on Application

The Court will hold a hearing on the application for authority to administer in all intestate cases and in all cases in which no suitable person is nominated in, or able and willing to serve under, the decedent's will. The Court will waive the hearing requirement if the applicant is the sole heir or beneficiary, or if no other person is entitled to notice of the hearing under applicable law, or if all persons entitled to notice have waived the right to administer, unless the Court orders otherwise. The applicant must appear at the hearing in person.

Local Rule 60.4 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 Greene 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. The nonresident applicant must file a supplemental application for nonresident fiduciary (GC Form 60.4-A) with the initial application for appointment. A proposed entry (GC Form 60.4-B) must accompany the supplemental application.

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 Greene County, Ohio, pursuant to R.C. §2109.13. A verification of receipt and deposit (GC Form 60.4-C) proving compliance with this requirement must be filed no later than the filing of the inventory.

2. Resident Co-Fiduciary

   A Co-Fiduciary who is a resident of Ohio must serve with the nonresident Fiduciary. The resident Co-Fiduciary must be a person who is nominated as an alternate or successor fiduciary in the governing instrument.

3. 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 Rule 60.4(B) if the Fiduciary is also a residual beneficiary of the estate, or is the Trustee of a trust that is a residual beneficiary of the estate, and all of the other residual beneficiaries of the estate consent to the appointment. The nonresident applicant must file an application for exception for nonresident fiduciary (GC Form 60.4-D) with the initial application for appointment, together with all of the necessary consents (GC Form 60.4-E). A proposed entry (GC Form 60.4-F) must accompany the supplemental application.

Best Practices

Local Rule 60.1

Local Rule 60.1 is a special proceeding. It is a precursor to an actual, formal estate administration. The person appointed is not an administrator or executor, with full powers of those positions as provided by law. The investigative administrator is a very limited-authority fiduciary, appointed under R.C. §§2113.15-17, but with even more restricted powers and responsibilities.

This is a new procedure that may be very beneficial in cases in which it is difficult to readily determine the existence, value and titling of a decedent's assets. The procedure is designed to counter the difficulty you commonly face in obtaining necessary information from financial institutions before the formal appointment of an administrator or executor.

The Investigative Administrator procedure enables you to move forward gathering necessary information without starting the clock on the six month administration period. Essentially, this can stretch the six month administration period to nine months. If administration is extended, you now effectively have 16 months in which to file the first account. The creditor claims period continues to run during the Investigative Administrator procedure because the claims period is measured from the decedent's date of death, not from the appointment of the formal administrator or executor.

In potentially problematic estates, it may be advisable to serve notice to interested parties by certified mail so you have proof of notice, but certified mail is not required. The Rule permits regular mail notice because this is an investigative proceeding and does not have the potential to affect the financial interests of any heir, beneficiary or creditor. The Investigative Administrator does not have to file any certification of service of the notice with the Court.

The hope is that effective use of this procedure will increase the number of estates that can be completed in the standard six month administration period. It should also increase the number of extended administrations that can file a final and distributive account by the thirteenth month after formal appointment of the administrator or executor. (This also has a significant benefit under Local Rule 71.2(B) regarding expedited approval of attorney fees).

Local Rule 60.2

This Rule explains the process for appointment of a special administrator under R.C. §2113.15 et seq. Creditors applying for appointment as a special administrator must fulfill all of the obligations of a special administrator and may not simply begin the process for the purpose of presenting a claim without further responsibility.

Local Rule 60.3

The Court no longer accepts applications for appointment of an administrator or executor that do not have estimated values of the decedent's assets (except in cases filed for purposes of pursing wrongful death or survival claims only). Exact values are not required, only good faith estimates. Exact values will be established later in the Inventory and Appraisal. If the values are "unknown" when you file for authority to administer, you should consider using the Investigative Administrator procedure under Local Rule 60.1 first.

The reason for requiring estimated values is twofold. First, it allows the Court to verify that you are utilizing the correct procedure for administering the estate – full administration, release from administration or summary release. Second, it enables the Court to establish the initial bond, if required.

Local Rule 60.4

The Court permits nonresident Fiduciaries to serve as long as they meet the statutory requirements. However, this Local Rule does impose restrictions to assure that the assets of the estate are adequately protected. The intent is to assure that the Court maintains jurisdiction over all of the assets during the course of administration. It also requires representation by an Ohio attorney to assure that the nonresident Fiduciary has proper guidance on Ohio law.

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 Greene 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, 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 (SC Form 6.1) or assets and liabilities to be released from administration (SC Form 5.1).

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 (SC Form 6.1) or assets and liabilities to be released from administration (SC Form 5.1).

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 Appraisal of Business Interests

A decedent's interest in any business entity subject to probate administration (other than a sole proprietorship) that is not publicly traded is intangible personal property, the value of which is not readily ascertainable and must be appraised.

A. Who May Appraise

The appraiser of a decedent's business interest must be a certified public accountant, accredited business valuation expert or other person with similar training, background and experience in determining the fair market value of the type of business being appraised. The Fiduciary must apply to the Court for appointment of the appraiser in advance, disclosing the appraiser's name and qualifications.

B. Description of Business Interest

The appraisal, and the description of the decedent's business interest on the Fiduciary's inventory, must state the name of the business, the type of business entity it is and the decedent's ownership interest in that business, stated in terms of a percentage or by reference to the number of shares the decedent owned in relation to the total issued and outstanding shares.

C. Exception

Notwithstanding anything in this Rule to the contrary, a business entity in which the decedent is the sole owner and in which the exclusive asset is real estate does not require the appointment of an appraiser if the value of the real estate can accurately be determined by reference to 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

Local Rule 61.4 Appraiser 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.

Best Practices

Local Rule 61.1

This Rule is fairly self-explanatory, and does not depart from prior practice in this Court. It does, however, clarify the avoidance of conflicts of interest. This Rule is basic common sense.

Local Rule 61.2

The Court encourages the use of alternative valuation methods listed in this Rule. There may be occasions when a formal appraisal is necessary, such as when the alternative methods show a value that is clearly not accurate. It may

be best to get formal appraisals in cases where you anticipate potential disputes with heirs or beneficiaries. In normal cases, however, alternative valuation methods will work fine and may save costs of administration.

Regardless of whether you use a formal appraisal or an alternate valuation, be sure you have all the required valuations for real and personal property before attempting to file the Inventory. The Court cannot accept Inventories that lack proper evidence of valuations.

Local Rule 61.3

The true fair market value of a business entity is not always its net book value or the cumulative value of the assets the business entity owns. Valuation methods vary depending on the type of business. Some businesses have significant good will value while others do not. Fractional interests may result in valuation discounts or premiums. Even if no estate tax is due, proper valuation may be important for income tax purposes if the business is later sold. Therefore, our Court requires an appraisal of a decedent's business interests because the value is not readily ascertainable otherwise.

Local Rule 61.4

As with all compensation in probate proceedings, the amount you pay an appraiser must be reasonable. It is always best to have an agreement on appraiser compensation before authorizing the appraisal. The agreement should be in writing, but may be as simple as a letter agreement. The key is to avoid disputes by resolving the issue up front.

Be sure that if an appraiser is appointed the proper appraisal form is filed before or simultaneously with the Inventory. Make sure the appraiser signs the Certificate of Appraiser. Do not file the entire appraisal with an Inventory. Just show the appraised value on the Inventory and provide the appraiser's certificate.

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. Schedule of Claims

Any schedule of claims (SC Forms 24.4 and 24.5) must be complete, accurate, well-organized and sufficiently detailed in a manner that will avoid any speculation regarding the claim or its proposed priority classification. Claims must be listed in the order of priority stated in R.C. §2117.25(A)(1-10), with all claims of the same class subtotaled before proceeding to the next class.

C. Resolution of Claims

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

D. Assets Available to Pay Claims

In all types of insolvency proceedings, the value of probate assets available to pay claims must match the total value of probate assets on the Fiduciary's inventory. If the amounts do not match, the insolvency documentation must include a memorandum explaining the difference between the inventory value and the current value of assets remaining to pay claims.

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 (GC Form 62.2-A). A schedule of all claims (SC Forms 24.4 and 24.5) must accompany the representation. The fiduciary must also prepare and file a proposed judgment entry of summary insolvency (GC Form 62.2-B) with the initial filings. The Fiduciary must also file the appropriate application for approval of attorney fees under Rule 71.2(D) and the Fiduciary commission computation under 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 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.

Best Practices

Local Rule 62.1

Regardless of whether you use a summary insolvency (Local Rule 62.2) or a full insolvency (Local Rule 62.3), you must file a schedule of claims (SC Forms 24.4 and 24.5). This is the key to evaluating the insolvency, so it needs to be detailed and accurate, with the claims properly classified according to the statute. The easier you make it for the Court to fully understand your situation, the more likely the proceeding will be resolved efficiently.

It is best to organize the schedule of claims using the same order of priorities shown in R.C. §2117.25(A)(1-10). Subtotal all claims of the same class so the Court can easily see the total amount in that class. That makes it easy to see the point at which the estate runs out of money to pay claims. It also makes it easy to determine which class of claims may need to be prorated.

Also note that the only time you need to file a rejection of claim with the Court is when the creditor actually filed the claim with the Court. The reason for this is that then the Court's file will tell a complete story – a claim was filed and this is how the Fiduciary handled it. If a claim is accepted and paid, all you need to do is show the payment on the account. Nothing else is required. The acceptance or rejection of creditor claims that were sent to the Fiduciary only (and not filed in Court) does not need to be documented in the Court's file.

Remember, the Court's file tells an historical story of what happened in the administration of the estate. Therefore, it is important to tie together the total value of probate assets on the inventory and the value of assets remaining to pay claims. Those amounts may be different due to a variety of factors, such as if a particular asset was sold for more or less than shown on the inventory. If those numbers are different, simply include a narrative memorandum with your insolvency filing explaining the particulars of why the value remaining to pay claims is different than the inventory value. That will complete the story.

Local Rule 62.2

A summary insolvency is a special proceeding unique to our Court. It is based on the practical concept that if there is not enough money in the estate to pay any claims below class A-3 (allowance for support), no creditors in lower priority classes will be prejudiced by expediting the insolvency proceeding. If all of the documentation is in order, the Court will generally approve the summary insolvency without hearing. All you need to do then is send a copy of the final judgment entry to each creditor and interested party. You do not have to use certified mail.

In a summary insolvency proceeding, you must use the Greene County prescribed forms. The Court will not accept any other forms or variations of the prescribed forms for filing.

Local Rule 62.3

Remember that in a full insolvency, the statute does require prior notice to all creditors and interested parties. This does need to be accomplished by certified mail. You may bring the green return receipt cards to the insolvency hearing and file them as your proof of service. You do not have to show proof of service simultaneously with the representation of insolvency.

In a full insolvency proceeding, you must use the Ohio Supreme Court prescribed forms. The Court will not accept any other forms or variations of the prescribed forms for filing.

SPECIAL NOTE!

People Often Make The Mistake Of Paying Claims Out Of Priority, And Then Discovering Later That The Estate Is Insolvent. It Is Best To Never Pay Claims Until You Have Determined For Certain That The Estate Is Fully Solvent. If Claims Are Paid Out Of Priority And The Estate Is Later Deemed Insolvent, The Fiduciary May Be Personally Liable For Claims That Were Paid When They Should Not Have Been. Be Careful To Avoid That Mistake!

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. 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 (SC 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)(g), the Fiduciary must file an Application to Extend Administration (SC 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 45 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. If the Fiduciary does voluntarily file a partial account with the extended administration, that voluntary filing does not extend the due date of the account required 13 months after the date of the Fiduciary's appointment.

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. Rule 56.1 governs the process for obtaining extensions of time to file.

C. First Partial Account

1. Except as provided in paragraph C(2) below, in all cases in which the estate administration is properly extended under 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.

2. In all cases in which the sole Fiduciary is also the sole heir or beneficiary, but the Fiduciary is not able to file a certificate of termination within 13 months from the date of appointment, the Fiduciary may file a waiver of partial account in lieu of a partial account using SC Form 13.4.

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. Accounts in Limited Purpose Cases

A decedent's estate that the Fiduciary opened solely for a limited purpose not requiring the administration of assets, as described in Rule 60.3(C)(2), is exempt from the requirement of filing annual partial accountings in this Rule, but is not exempt from filing the annual status report under Rule 64.2(H). If there are other probate assets to administer, all accounting requirements in this Rule apply.

When an estate for limited purposes is concluded and there are no probate assets to administer, the Fiduciary must file a certificate closing the estate without accountings (GC Form 64.2-A). 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 a certificate closing the estate without accountings (GC Form 64.2-A), 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.

G. Supporting Documentation

The Fiduciary does not have to file the supporting documentation described in Rule 64.1(F) with any account in a decedent's estate, and does not have to display the proof of payment at the time of filing the account, unless the Court orders otherwise in the particular case. The Court may request the supporting documentation at any time, whether to resolve a particular issue in an account or as a means of random audit. The Fiduciary must be able to produce the supporting documentation within five Court Days after the Court's demand.

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, using GC Form 64.2-B. 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, using GC Form 64.2-C.

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 (SC Form 13.9), as required under R.C. §2109.32(B)(2). In the alternative to providing green return receipt cards, USPS tracking reports, acknowledgements of receipt or other proof of service with the certificate, the Fiduciary or the Fiduciary's attorney may attach to the certificate an affidavit (GC Form 64.2-D) evidencing service of the account. The Court may require the Fiduciary to produce the actual green return receipt cards, USPS tracking reports, acknowledgements or other proof of service at any time.

J. Hearing on Account

The Court will set every Fiduciary account for hearing under R.C. §2109.32(A). The Fiduciary may, but is not required to, serve notice of the hearing to interested persons under R.C. §2109.33, unless the Court requires notice in a particular case. This option also applies to notice of a hearing on a final account. 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 does serve notice of the hearing may, but is not required to, file with the Court a certificate of service of notice of hearing on account (GC Form 64.2-E), supported by actual 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 (GC Form 64.2-F) evidencing service of the notice. The Court may order filing of the certificate of service if the Court orders the Fiduciary to give notice. A Fiduciary desiring to file the certificate must do so no later than five Calendar Days before the hearing date.

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)).

L. Certificate of Termination

In addition to an individual Fiduciary that is the sole heir or beneficiary to an estate, the Court will allow Co-Fiduciaries who are also the sole equal Co-Beneficiaries of a testate estate to file a certificate of termination in lieu of filing a Fiduciary's account. The Court will also allow a Fiduciary or Co-Fiduciary who are also the Trustee or Co-Trustees of a trust that is a sole beneficiary of a testate estate to file a certificate of termination in lieu of filing a Fiduciary's account.

Local Rule 64.3 Accounts in Guardianships and Conservatorships

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

A. 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 two years on or before the appointment anniversary date. The Court may order periodic accountings more frequently.

B. Final Account

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

C. Supporting Documentation

1. At the time of filing each account, a guardian is required to present to the Court all supporting documentation described in Rule 64.1(F) for the Court to verify the accuracy of the account. The Court will have two Court Days from the date the guardian submits the account in which to review the account and the supporting documentation to determine whether the account is complete and acceptable for filing. If the Court determines that the account is complete, the account will be deemed filed as of the date

of submission, regardless of the date file stamped on the account. If the Court determines that the account is not complete, the Guardian will have five Court Days to correct the problem, unless the Court grants additional time.

2. If the account is a final account, the account must include a signed receipt from the Fiduciary of the ward's estate verifying receipt of the assets from the guardian. If any of the guardianship assets are non-probate, receipts must be provided verifying receipt of the assets by each beneficiary.

D. Hearing on Account

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

E. Conservatorships

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

Local Rule 64.4 Accounts in Trusts and Other Fiduciaries

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

Best Practices

Local Rule 64.1

Failing to file accounts on time is one of the biggest problems the Court encounters, both in decedent's estates and in guardianships. You are responsible for managing your own calendar and knowing when your account is due. The Court no longer sends you reminders. You can verify your due dates through the Court's website.

It is much easier to prepare an account if you gather and organize the information throughout the year, instead of in a mad rush just before the account is due. Consider developing a system to gather the necessary information at least monthly to minimize stress and chaos as you near the due date.

In preparing accounts, remember that detail, accuracy and good organization are crucial. Rule 64.1(C) suggests a good, logical format for an account. Remember, the easier you make it for the Deputy Clerks to review and understand your account, the faster and more likely it is to be approved.

Local Rule 64.2

This Rule requires careful review, as it is much different than past practice. Be sure you understand the difference between a Notice to Extend Administration and an Application to Extend Administration, and use the correct form to fit your circumstances.

The Court's goal is to have a vast majority of estate cases closed through a final and distributive account no later than 13 months after appointment. If that is not possible, the first partial account cannot be waived because the Court needs to see what is going on to that point so it has a handle on where the case stands. Subsequent partial accounts may be waived, but you still need to file a status report to keep the Court informed about what is going on in the case.

"Zero" accounts are not permitted (and really do not make any sense). If there is intangible personal property there better be at least nominal income from their investment. Otherwise, the Fiduciary may not be fulfilling his or her fiduciary duty. If there is only real estate, the Fiduciary better be keeping the taxes, insurance and utilities current. Even if the source of funds to pay those expenses are loans or advances from the Fiduciary or someone else, they need to be shown as such on the account, with an itemization of where the loan or advancement was spent.

One of the biggest impediments to getting an account filed on time in the past has been having return receipt green cards to file simultaneously with the account. Rule 64.2(I) eliminates that problem. You should still send a copy of the account to all heirs and beneficiaries by certified mail. However, you do NOT need to file green cards, USPS tracking reports or signed acknowledgements with the Court. You better maintain them in your file, however, in case they are needed as proof later. All you need to file with the Court is the certificate of service of account (SC Form 13.9) and an affidavit (GC Form 64.2-D).

Finally, Rule 64.2(J) eliminates the requirement to serve notice of the hearing on any account in a decedent's estate. The hearing is still set and still takes place, but notice is not required. The Court recommends that you always serve the notice of the hearing in every case and on every account by certified mail as protection. Keep the proof of service in your file in case it is needed later if someone files exceptions to the account out of time.

Even though our Local Rule does not require that you serve the notice or provide proof to the Court, you are permitted to do so if you want. Simply file a certificate of service of notice of hearing on the account together with an affidavit, or attach the actual return receipt green cards to the certificate. This step is completely optional, but it may be something to consider doing if you have a problem estate or if you have disgruntled heirs or beneficiaries.

Local Rule 64.3

The time for filing guardian's accounts has changed from every year to every two years. This is consistent with the statute. If you want to file accounts annually, you may still do so, but you are not required to do annual accounts. Filing an account in an off year does not change the biennial due date.

Because of the two year filing interval, it will be even more important to create a good system for maintaining records regularly. The Court recommends that you adopt an internal monthly accounting process, at a minimum. If you wait until the two year account is due to begin gathering information, you will likely encounter a great deal of stress and frustration. You will also increase the likelihood of inaccuracies in your account. Failing to gather and maintain the necessary information regularly between accounts is not a sufficient reason to obtain an extension of the account due date. You have to be proactive because you know when the account is due.

Be sure that you set up a guardianship bank account and receive statements with cancelled checks. You will need those as supporting documentation for your account. Trying to obtain cancelled checks after the fact can be costly and time consuming.

Remember that guardianship accounts require that you produce supporting documentation to back up each entry on the account. Provide that with the account, as the Court cannot accept the account for filing without it.

Local Rule 64.4

Trust accounts follow the same rules as guardianship accounts. Trust accounts are also due every two years.

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 (GC Form 65.1-A) 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. Follow-Up Certifications of Title

A certification of title update (GC Form 65.1-B) must accompany all motions for the issuance of an order of sale. This certification, performed in the same manner as in the preceding subparagraph, must verify that the plaintiff has updated its title evidence within 15 Calendar Days before filing the motion to confirm that all parties with any interest in the real estate, as determined by the title examination, are included in the original complaint, or have been added to the action properly through an amended complaint before filing the motion. The Court will not accept the motion for filing without this certification.

C. 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 a 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 one year 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 defendant's 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 Rule 78.10.

Best Practices

Local Rule 65.1

The only way to assure that all parties having an interest in real estate that is subject to a land sale proceeding are properly named in the complaint is to do a title examination. This Rule does not require that you file the actual title examination with the Court. It merely requires that you file a certification that you had a title examination performed and that all persons with an interest in the real estate are included in the complaint.

Likewise, the Rule requires a follow-up certification before the order of sale. This is to assure that no new parties have gained an interest in the real estate while the case was pending. Again, only the certification is required. You do not need to file the actual title examination.

It is always advisable to keep the title examination in your file in case an issue arises during the case or after the sale is concluded.

Local Rule 65.2

One new Rule is the requirement of a status conference for any land sale proceeding that is not concluded in one year. This is an opportunity for the Court to review the case thoroughly to make sure everything possible is being done to complete a sale of the property. In preparing your status report, be thorough and cover all of the points described in this Rule. Be prepared to discuss every aspect of the case in detail at the status conference.

Local Rule 65.3

Most land sale proceedings are uncontested. However, occasionally one or more of the defendants may raise issues in their answer that require litigation to resolve. In those cases, the Court will treat the land sale proceeding in the same manner as it does other contested litigation. This may include referring the matter to mediation.

As with any disputed matter, the Court strongly encourages the parties to make every effort to resolve their differences before filing a land sale proceeding that you know or believe will be contested.

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 must submit with the application the results of a criminal background check through the Ohio Bureau of Criminal Identification and Investigation ("BCI") and the Federal Bureau of Investigation ("FBI"). The applicant must pay the cost of the criminal background check. 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 who files a certificate of good standing to practice law in Ohio from the Ohio Supreme Court in place of the criminal background check. All background checks must be dated not more than 90 days before the date of the application for appointment as guardian.

The Court reserves the right to require existing guardians to submit to and file the results of a criminal background check at any time and for any reason.

C. Application Supplements

All applicants for appointment as guardian, including an emergency guardianship, must file with the application an alleged ward's supplemental information form (GC Form 66.1-A) and an applicant's supplemental information form (GC Form 66.1-B).

D. Bond, Inventory and Accounts

Every guardian of a ward's estate is required to post bond, file an inventory and file accountings, unless the Court orders otherwise. A guardian desiring to dispense with bond must comply with the requirements of Local Rule 75.2. A guardian desiring to dispense with the inventory or accounts must file an application to do so on GC Form 66.1-C. The Court will only consider these issues if they are raised simultaneously with filing the initial application for appointment of the guardian.

E. Incident Reports

Any guardian, attorney or other person who has reasonable cause to believe that a ward is being abused, neglected, exploited or otherwise subjected to danger of emotional, physical or financial harm must immediately report it to the Court, describing in sufficient detail the basis for the belief (GC Form 66.1-D). 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, neglect or other misconduct affecting the ward may file a complaint requesting a review hearing using the procedures in Rule 78.1(D) (GC Form 78.1-A). The person or entity filing the complaint must also send a copy of the completed complaint form to the Fiduciary against whom the allegations are made simultaneously with filing it in Court. The Court will promptly consider and investigate all complaints against a guardian that it receives. 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 (SC Form 15.7) 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

Rule 64.1(E) governs prohibited cash transactions by the guardian of a ward's estate.

I. Authority to Sell Ward's Assets

No guardian of a ward's estate may sell, exchange, transfer or otherwise dispose of any of the ward's assets until the guardian has filed an inventory and obtained prior Court approval, unless the guardian shows to the Court that delaying the transaction will be detrimental to the ward. Before the sale, exchange, transfer or disposal of any tangible personal property, the guardian must file with the Court an application to sell personal property (GC Form 66.1-E), accompanied by a proposed entry (GC Form 66.1-F).

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 (GC Form 66.1-G). A copy of the ward's death certificate or obituary must accompany the notice. 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. Change of Ward's Address

If the ward relocates to a different principal residence, and the relocation is intended to be permanent or for a period of more than 90 Calendar Days, the guardian must notify the Court in writing within 30 Calendar Days after the relocation (GC Form 66.1-H). 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. The guardian must also comply with Local Rule 66.3(J) if the relocation places an adult ward in a more restrictive setting.

M. Legal Representation of Guardian

An attorney who enters an appearance to represent a guardian, either at the initial application or later in the guardianship proceeding, is deemed to continue to represent the guardian until the attorney files, and the Court approves, a motion to withdraw from the representation in compliance with Local Rule 78.9(A), or files with the Court a notice of involuntary withdrawal in compliance with Local Rule 78.9(B).

N. Unusual Guardianship Appointments

In rare situations in which the appointment of a guardian for a ward's estate is necessary, but receipt of funds is delayed indefinitely or financial information for the ward's assets is unknown and cannot be ascertained at the time of application, the applicant may file an application with the Court seeking a temporary deferral of payment of court costs and requirement of a guardian's bond. (GC Form 66.1-I) Examples of these types of rare circumstances include appointments solely to qualify a ward for Medicaid, appointments for the purpose of prosecuting or defending the ward in litigation, or appointments to perform a contractual obligation of the ward. The Court may require any applicant seeking a deferral of bond to provide a bond commitment under Local Rule 75.2 with the application. An entry regarding the application for deferral must accompany all applications. (GC Form 66.1-J)

In unusual circumstances, the applicant may also file an application for a deferral of filing the guardian's inventory and guardian's account. (GC Form 66.1-K) Status reports will be required to be filed with the Court at a frequency determined by the Court's entry regarding the requested deferral. (GC Form 66.1-L) Failure to file any status report may result in a Citation being issued under Local Rule 77.

Local Rule 66.2 Guardianship of Minors

This Rule governs guardianships 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. Custody for these purposes is a matter that must be submitted to and determined by the Juvenile Division or the Domestic Relations Division of the Common Pleas Court.

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, a completed household resource worksheet (GC Form 66.2-A) must accompany the application. The Court will not approve expenditures of the minor's estate in these circumstances if the Court determines that the expenditure is within the parent's legal obligation to support the minor, 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. Household resource worksheets will not be maintained by the court as part of the official record following approval of the requested expenditure.

E. Termination of Minor Guardianship Before Minor Reaches Age 18

All applications to terminate the guardianship of a minor before the minor reaches the age of 18 years require a copy of the application to be served by regular mail 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 a copy of the application. (GC Form 66.2-B). A proposed entry must be provided with all applications to terminate a minor guardianship. (GC Form 66.2-C)

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.

G. Converting a Minor Guardianship to a Minor Trust

The Court may permit an existing guardianship of a minor's estate to be converted to a minor trust action under R.C. §2111.182. An application to convert a minor guardianship to a minor trust may be brought by the guardian of the minor, the minor's parents, or person who has legal custody of the minor. The applicant must submit the application to convert minor guardianship (GC Form 66.2-D) accompanied by the Court's standard Minor Trust Agreement (GC Form 78.4-J). The Court will hold a hearing on all minor guardianship conversion applications. (GC Form 66.2-E) The parent, guardian or legal custodian of the minor may waive notice of the hearing (GC Form 66.2-F), or be served with notice pursuant to Civ. R. 73. (GC Form 66.2-G) A proposed judgment entry (GC Form 66.2-H) and letters of trustee (GC Form 78.4-O) must be provided at the time of filing of the application.

H. Appointment of Guardian ad Litem for Converting a Minor Guardianship to a Minor Trust

In existing minor guardianships in which the minor is 14 years of age or older, the court may appoint a guardian ad litem to investigate whether the conversion of the minor guardianship to a minor trust is in the best interest of the minor (GC Form 66.2-I). The guardian ad litem must make a report to the Court no later than 10 days before a hearing on the proposed

conversion. Fees associated with the appointment of the guardian ad litem will be paid by the guardian from assets of the minor guardianship, subject to court approval.

I. Converting a Guardian's Bond and Final Account

A guardian filing an application to convert a minor guardianship to a minor trust must submit an application to convert the present guardian's bond to a trustee's bond (GC Form 66.2-J). An entry must accompany the application (GC Form 66.2-K). Upon the approval of an application to convert a minor guardianship to a minor trust, the guardian must file a trustee's bond or verification of the conversion of the bond, and a final guardian's account within 30 days following the issuance of the judgment entry converting a minor guardianship to minor trust.

Local Rule 66.3 Guardianship of Mentally Incompetent Adult

This Rule governs guardianships of mentally incompetent adults. A guardian of a mentally incompetent adult must comply with all requirements in Sup. R. 66, unless a provision of this Local Rule specifically modifies a requirement.

A. Statement of Expert Evaluation

All applications for appointment of a guardian of a mentally incompetent adult must also include a statement of expert evaluation, dated not more than three months before the date of application, on SC Form 17.1.

B. 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.

C. 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 alternatives exist 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.

D. Effect on Powers of Attorney

If the Court appoints the guardian, and the guardian is also the ward's designated and currently acting 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 ward's designated and currently acting 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.

E. Deposit of Wills

In addition to the list of the ward's important legal papers that Sup. R. 66.08(L) requires the guardian to file with the Court, the guardian must deposit the originals of all wills of the ward with the Court for safekeeping, pursuant to the procedure in R.C. §2107.07. The guardian must deposit the will(s) no later than the earlier of: (i) the date of filing the inventory; or (ii) 30 Calendar Days after discovery of the ward's will(s).

F. Guardian's Report

The guardian of an incompetent adult must file a guardian's report under R.C. §2111.49 with the Court on or before the second anniversary of the date of the guardian's appointment and on or before the appointment anniversary date every two years thereafter. The guardian's report should not be filed any earlier than 90 days before the actual anniversary date to avoid being treated as an interim report under subparagraph 1 below. A guardian may, but is not required to, file the guardian's report annually if the guardian so desires. Filing a guardian's report more frequently than biennially does not change or extend the normal due date of future guardian's reports. The Court may order periodic reports more frequently.

1. Interim 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 an interim 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 an interim guardian's report in a timely manner is grounds for removal of the guardian. Filing an interim guardian's report does not change the due date of the biennial reports required under this Rule.

2. 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.

3. Statement of Expert Evaluation

If the original or any 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 is not required to obtain or submit subsequent Statements of Expert Evaluation with the guardian's reports. This exception does not apply to wards deemed incompetent as a result of mental illness. A statement of expert evaluation, dated not more than three months before the date of filing the guardian's report, must accompany each guardian's report for wards whose mental illness was the basis for the guardianship.

G. Guardianship Plan

The guardianship plan (GC Form 66.3-A) required by Sup. R. 66.08(G) must be filed biennially as an addendum to the guardian's report (See Local Rule 66.3(F)).

1. Interim Guardianship Plan

If the guardian becomes aware of any changes in circumstances affecting the ward that necessitate material changes in the most recently filed guardianship plan, the guardian must file an interim guardianship plan disclosing the plan changes within 30 Calendar Days after first becoming aware of the changes in the ward's circumstances. Failure to file an interim guardianship plan in a timely manner is grounds for removal of the guardian. Filing an interim guardianship plan does not change the due date of the biennial guardianship plan required under this Rule.

2. Who Must File

The guardian who is responsible for filing the guardian's report is responsible for filing the guardianship plan. If the guardian of the person and guardian of the estate are different, both guardians must cooperate and participate in filing their respective portions of the guardianship plan.

3. Alternative to Guardianship Plan

As an alternative to filing a guardianship plan, a guardian of a mentally incompetent adult ward whose incompetence is a result of a developmental disability may file as an addendum to the guardian's report a certification of compliance (GC Form 66.3-B). This alternative is only available if the ward is the subject of an individual services plan ("ISP") or individual education plan ("IEP") that is current, is being actively implemented and for which the guardian and the ward are in substantial compliance. The certification of compliance must be signed by the service coordinator of the ISP or by the ward's teacher under an IEP.

If there are material changes to the ISP or the IEP, the guardian must file an interim certification of compliance with respect to the modified ISP or IEP. Filing an interim certification does not change the due date of the biennial certification or guardianship plan required under this Rule.

The Court reserves the right to review the ISP or IEP upon the Court's request, but the ISP or IEP should not be filed with the certification and will not be made part of the Court's file. Failure to file the certification, or to materially comply with the ISP or IEP will result in the Court prohibiting the guardian from using this alternative in the future and ordering the guardian to prepare and file a regular guardianship plan.

H. Guardian Education Requirements

This Rule modifies the guardian educational requirements in Sup. R. 66.06 and 66.07. All guardians of mentally incompetent adults must comply with the educational requirements, unless the guardian is qualified for, and the Court grants, a conditional deferral of those requirements under Rule 66.3(I) below.

1. Fundamentals Education

   Guardians of mentally incompetent adults whose date of appointment as guardian is on or before June 30, 2016 must complete the guardian fundamentals course in Sup. R. 66.06 by December 31, 2016. Guardians of mentally incompetent adults whose date of appointment as guardian is after June 30, 2016 must complete the guardian fundamentals course in Sup. R. 66.06 within six months after the date of appointment.

2. Continuing Education

   The guardian continuing education course requirements in Sup. R. 66.07 apply on a calendar year basis, regardless of the date of the guardian's original appointment. Guardians must complete the required continuing education course each year, beginning in the calendar year after the guardian completed, or was required to complete, the guardian fundamentals course. The continuing education course must be completed by no later than December 31 each year.

3. Extensions

   A guardian may apply for an extension of time to complete the guardian fundamentals course or a continuing education course by filing GC Form 66.3-C. The application for extension must be filed before the actual final due date of the required education. The application must state facts showing that the guardian has not been able to complete the education requirement within the required time due to significant and prolonged circumstances that are beyond the reasonable anticipation and control of the guardian. The maximum extension the Court will grant is 60 days. An extension does not change the deadline for completing later required education courses.

4. Proof of Compliance

   In order to prove compliance with the educational requirements in Sup. R. 66.06 and 66.07, the guardian must file with the Court a certificate of participation or completion issued by the provider of the course. The Court must receive the proof of compliance no later than the final due date under Rule 66.3(H)(1) or (2) above, unless the Court has granted an extension of the due date.

5. Remedy for Noncompliance

In addition to the remedy described in Sup. R. 66.07(C) for failure to comply with the educational requirements, the Court may impose any sanction the Court may deem reasonable under the circumstances, including removal of the guardian.

I. Conditional Deferral of Guardian Education Requirements

Notwithstanding the requirements in Sup. R. 66.06, 66.07 and Local Rule 66.3(H), a guardian of a mentally incompetent adult ward whose incompetence is a result of a developmental disability or a prolonged mental illness may be eligible for a conditional deferral of the guardian fundamentals course and annual continuing education courses, as provided in this Rule 66.3(I). A "conditional deferral" means that the Court will excuse the guardian from taking the fundamentals course and the continuing education courses as long as the guardian continues to meet all of the conditions in this Rule.

1. Conditions

A guardian of a developmentally disabled ward or a ward diagnosed with a prolonged mental illness who is otherwise eligible for and granted a deferral of the guardian education requirements must satisfy, and consistently continue to satisfy, all of the following conditions:

(a) Timeliness of Filings

The guardian must file all guardian reports, plans, inventories, accounts and other filings applicable to the particular case as required by law or rule on or before the due date of the filing, without citation for being late in filing.

(b) Compliance with Law

The guardian must comply with all laws, rules and orders of the Court applicable to the particular case.

(c) No Complaints

The guardian must not have any complaints filed against the guardian for alleged misconduct, which the Court has determined to have merit, in carrying out the fiduciary responsibilities as guardian.

2. Failure of Conditions

If a guardian to whom the Court has granted a conditional deferral of the educational requirements fails at any time to satisfy all of the conditions in Rule 66.3(I)(1), the Court, in its discretion, may revoke the deferral. Upon revocation of the deferral, the guardian must then complete the guardian fundamentals course within six months and the continuing education courses annually thereafter. A guardian whose education deferral is revoked is not eligible to apply for deferral of the educational requirements in the future.

3. Who Is Eligible

Eligibility for conditional deferral of the educational requirements is based on the relationship of the guardian to the ward, as follows.

(a) Natural or Adoptive Parents

The Court grants an automatic conditional deferral of the educational requirements to a guardian who is the natural or adoptive parent of a developmentally disabled ward or a ward diagnosed with a prolonged mental illness. There is no requirement to file any application with the Court to obtain this conditional deferral.

(b) Other Relatives

A guardian, other than a natural or adoptive parent, who is related by blood or marriage to a developmentally disabled ward, or a ward diagnosed with a prolonged mental illness, may apply to the Court for a conditional deferral of the educational requirements using GC Form 66.3-D. The Court will consider the application if the guardian shows that he or she has been primarily or jointly responsible for the ward's care for at least the past five consecutive years, during which time the guardian has been in compliance with all of the conditions in Rule 66.3(I)(1). The Court may grant leniency on the timeliness of filings condition (Rule 66.3(I)(1)(a)) that occurred before 2016. A guardian who does not initially qualify under this subparagraph solely because the guardian does not meet the five consecutive year requirement may later apply for a conditional deferral after satisfying the five year requirement.

J. Direct Services Exception

Notwithstanding Sup. R. 66.01(B) and 66.04(D), a guardian of a mentally incompetent adult ward whose incompetence is a result of a developmental disability may provide direct services to or for the benefit of the ward if the guardian is certified as a direct service provider under an applicable Medicaid waiver program. This exception only applies if the guardian is related to the ward by blood, marriage or adoption. In order to qualify for the direct services exception, the guardian must file an application for direct services exception (GC Form 66.3-E), accompanied by proof of the guardian's certification as a direct service provider.

K. Move to More Restrictive Setting

A guardian who desires to change the residence of a ward to a more restrictive setting under Sup. R. 66.08(E)(2) must file an application with the Court using GC Form 66.3-F at least 14 Calendar Days before the proposed date of relocation. The application must be accompanied by a written level of care assessment from a licensed physician or a clinical psychologist, who has examined the ward and determined that the proposed setting is necessary and reasonable to properly meet the ward's activities of daily living, and that no less restrictive alternatives exist to properly meet the ward's needs.

If the move to a more restrictive setting is an emergency, which makes filing of the application in advance of the move detrimental to the ward's health, safety or well-being, the guardian must file the application within 14 Calendar Days after the date of relocation. The application in a post-move situation must explain the emergency that precluded filing the application in advance.

Local Rule 66.4 Emergency Guardianship Procedure

This Rule governs emergency guardianships of a minor or mentally incompetent adult under R.C. §2111.02(B)(3).

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 provided on the Court's website 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 a statement of expert evaluation, dated within 10 days before the date of the application, in addition to 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 exist 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. If necessary, the applicant must file an application for appointment of a special process server, who must file a return of the service before expiration of the initial 72 hour emergency guardianship period or within three Court Days after filing of the entry granting an extension.

Local Rule 66.5 Expedited Guardianship Procedure

This Rule provides a means for accelerating the guardianship appointment process in situations that do not qualify for emergency guardianship under Rule 66.4.

A. Purpose of Rule

The purpose of this Rule is to enable a more prompt appointment of a guardian when an actual or perceived urgency exists, but the applicant cannot in good faith establish by clear and convincing evidence that the proposed ward faces an imminent risk of serious injury to his or her person or estate that would warrant an emergency guardianship. This procedure is only available if the appointment of the applicant as guardian is completely uncontested.

B. Documents Required

In addition to all other documents required by statute, Superintendence Rule or Local Rule, the filing must also contain a waiver of notice and consent (SC Form 15.1) signed by every person entitled to notice of the hearing under R.C. §2111.04. The applicant must also specifically request an expedited hearing using GC Form 66.5-A.

C. Hearing Schedule

Upon confirming that an applicant's filings are complete and in compliance with this Rule 66.5, the Court will schedule the application for hearing at the first available date and time after adequate time to complete the court investigator's report on proposed guardianship under R.C. §2111.041.

Local Rule 66.6 Conservatorships

With the exception of Local Rule 66.1(B) and 66.1(C) all requirements in Rule 66.1 apply to conservatorships, substituting the word conservator for guardian, unless a particular provision is clearly inapplicable to conservatorships by statute.

Best Practices

Local Rule 66.1

Guardianships are serious probate proceedings that are under more intense scrutiny in recent years because of increased instances of neglect, abuse and plain indifference by many guardians. Therefore, these Rules tighten-up on Court oversight of guardianship cases.

It is particularly important to be sure to thoroughly complete all of the necessary forms when you file matters pertaining to guardianships. If you use the wrong forms (our required forms are on our website), leave out required forms, or leave out necessary information on the forms, our Court will not accept the documents for filing. We provide a checklist on our website to assist you in making sure your filings are complete.

Superintendence Rule 66 now requires criminal background checks on all persons who apply to be appointed as a guardian, with a few exceptions. You need to start early on this task because it takes some time to obtain the written verification of a clean record, which must accompany the initial application. You can obtain the required BCI and FBI background check together through "WebCheck" at various locations throughout Ohio, including the Greene County Sheriff's Department.

This Rule also implements procedures to improve communications between the Court and the guardian. The Rule requires guardians to immediately file a written incident report to inform the Court of any potentially harmful activity

involving the ward. Third parties also have a mechanism to file a written complaint with the Court if they have knowledge or suspicion that the guardian is doing something wrong.

The Court's terminology" "unusual guardianship appointments" is purposely vague to encompass all extraordinary circumstances in a guardianship proceeding. The examples provided are the most common "unusual" situations presented to the Court in which deferrals are applicable. The Court's exercise of deferring costs, bond and filings will only be utilized in circumstances in which is it clearly appropriate based upon the situation. It is recommended that you contact to the Court if you have an unusual circumstance which you believe the use of these applications is necessary.

The bottom line of this Rule is that the Court will exercise greater oversight on guardians. Therefore, guardians need to act with greater care in carrying out their duties and work with the Court to assure the best interests of the Ward are being met.

Local Rule 66.2

In cases where a parent is the guardian of a minor child's estate, applications for authority to expend the ward's funds can easily become unclear. Parents have a legal obligation to provide support for their children. They cannot expend the minor ward's funds for that purpose. Therefore, it is important for a parent-guardian to clearly show that the request to expend the minor's funds are not being used for something that is the parent's obligation to provide anyway. Alternatively, the parent-guardian must show that they do not have the financial means to provide the necessary support for the minor without expending the minor's funds for a particular purpose.

The exclusion of household resource worksheets from the Court's official record is protect the privacy of the parent-guardian and their spouse. The Court will only use this information in making a determination of the parent's ability to provide support. Household resource worksheets will be destroyed following review by the Court.

Local Rule 66.3

This Rule changes the interval for filing guardian's reports from one year to two years, as required in the statute. A guardian can file reports annually, but they are not required to do so.

Since a lot can happen during the two years between reports, this Rule imposes an obligation on guardians of mentally incompetent adults to file interim reports to inform the Court of changes or material circumstances that affect the ward. Failure to do so may subject the guardian to sanctions, including removal.

Local Rule 66.4

It is crucial to understand the true purpose of an "emergency" guardianship. It is an extraordinary remedy because the Court is stripping the ward of many constitutional rights without notice and hearing. Even though it only lasts for 72 hours initially, it is still a very intrusive measure. It is not enough that the proposed ward's lack of planning made a bad situation seem worse.

Since this is an ex parte proceeding with no hearing, the applicant should submit as much evidence as possible to prove that the proposed ward is, in fact, mentally incompetent and faces an imminent risk of serious injury to person or property without immediate court intervention. There should also be direct evidence (as opposed to a mere assertion) that there is no less intrusive means to address the situation. Besides a very current statement of medical expert evaluation, the evidence should be in the form of affidavits. The more evidence the better.

The statute allows only one 30-day extension after a hearing. Since the initial appointment automatically expires in 72 hours, there is a very tight timeline to get service of notice of the hearing for extension on the proposed ward and other interested parties. *It is best to file an application for 30-day extension simultaneously with filing the initial emergency guardianship application.* That way, everything regarding the initial emergency appointment and the 30-day extension can be served at once if the Court grants the guardianship. If the Court denies the initial emergency appointment, the application for extension becomes void anyway.

If the Court grants the emergency guardianship, it is important to promptly file all of the necessary documents to establish a full guardianship (if necessary), as well. It takes some time to establish a permanent guardianship, and the statute only permits an emergency guardianship to last for 33 days, at most.

Local Rule 66.5

Our Court makes every effort to process guardianship applications as quickly as possible. Many cases present circumstances that are "urgent," but do not qualify for an "emergency guardianship" because there is no imminent risk of serious injury to the proposed ward's person or estate that warrant deprivation of the proposed ward's due process rights. Local Rule 66.5 establishes a process in which the Court will schedule a truly uncontested guardianship case more quickly because there is no need to wait for service of notice of the hearing. While scheduling is still dependent upon the Court Investigator's availability, this expedited process may help facilitate a faster guardianship appointment in many cases.

Superintendence Rule 67
Estates of Minors

Local Rule 67.1 General

This Rule applies to estates of minors with a value less than $25,000.00 (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. (GC Form 67.1-A) All applications to dispense with a guardianship for a minor must also be accompanied by an acknowledgement of responsibility (GC Form 67.1-B), all necessary consents to the application (GC Form 67.1-C) and the proposed judgment entry dispensing with appointment of a guardian for a minor (GC Form 67.1-D).

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. Report of Distribution

The attorney representing the minor, or the responsible party under Rule 67.1(A), is responsible for filing with the Court a report of distribution (GC Form 67.1-E), or a verification of receipt and deposit of the minor's funds (SC Form 22.3), within 30 Calendar Days after the Court files its entry approving the application to dispense with a guardianship for a minor. Failure to timely return and file a report of distribution or the signed verification will subject the responsible party and the attorney to citation under Local Rule 77 and 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, a completed household resource

worksheet (GC Form 66.2-A) must accompany the application. The Court will not approve expenditures of the minor's estate in these circumstances if the Court determines that the expenditure is within the parent's legal obligation to support the minor, 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.

Local Rule 67.3 Minor Trusts

The Court will not consider the establishment of a minor trust for estates of minors with a value less than $25,000.00. For this Court's policies on Minor Trusts, see Local Rule 78.4(K).

Best Practices

Local Rule 67.1

Impounding a minor's assets under $25,000.00 is a good way to eliminate the need for and added expense of a guardianship. The Court encourages the use of this alternative when possible. The key is to obtain and file with the Court a verification from the bank that the funds have been deposited and restricted so that withdrawal is not possible without further Court order. Until the verification is filed, the Court's order authorizing the use of this method is not effective. Therefore, it is critical to get the money into an account and get the bank's verification as quickly as possible.

Local Rule 67.2

The same issues concerning a parent's obligation to provide support for minor children that apply in a minor's guardianship (Rule 66.2) also apply in minor's estates that are not subject to guardianship. Support obligations cannot be satisfied from the minor's funds without proof that the parents do not have adequate resources to provide the support for necessary items. The parent must be prepared to address this issue in any application to expend funds from a minor's impounded account.

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.

E. Dispensing with Hearing

The Court may dispense with a hearing on an application to settle a minor's claim if all of the following apply:

1. Representation

   The applicant must be represented by an independent attorney who does not work for or represent the person or entity paying the claim.

2. Settlement Value

   The gross amount of the proposed settlement must not exceed $10,000.00.

3. Claims

   There must not be any disputed claims on any portion of the settlement proceeds.

4. No Guardianship Required

   The nature of the settlement must not require establishment of a minor guardianship under applicable law or rule.

5. Applicants are Parents

The applicant is one or both of the natural or adoptive parents of the minor and both parents have waived notice of the application and hearing and have consented to the proposed settlement.

F. Net Proceeds under $1,000.00

If the net settlement proceeds do not exceed $1,000.00 and the applicant is the natural or adoptive parent of the minor, the applicant may apply for the net proceeds to be paid to either or both of the minor's parents for the benefit of the minor in place of a minor guardianship. The parent(s) receiving the settlement proceeds must file an acknowledgment of responsibility (GC Form 68.1-A) before the Court will approve the settlement. The Court generally will not approve distribution of net settlement proceeds exceeding $1,000.00 directly to the parent(s), absent a showing of exceptional circumstances.

G. Net Proceeds under $25,000.00

If the net settlement proceeds do not exceed $25,000.00, the Court will generally order that the funds be deposited into an impounded account in the name of the minor at a local financial institution until the minor reaches the age of 18, in place of a minor guardianship. In lieu of a report of distribution, the applicant must file a verification of receipt and deposit with the Court no later than 30 days after the entry approving the minor settlement.

H. Report of Distribution

All applicants must file a report of distribution, or a verification of receipt and deposit if applicable, with the Court no later than 30 days after the entry approving the minor settlement. Failure to file the report or verification in that time, or any approved extension, will subject the applicant and the attorney to citation under Local Rule 77.

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. Capital Reserves

   The company issuing the annuity must have a minimum of $100,000.00 in capital reserves and surplus, exclusive of mandatory security valuation reserves.

3. Rating

   The company issuing the annuity must have one of the following present ratings: A++, A+ or A rating from A.M. Best Company; AAA, Aa1 or Aa2 from Moody's Investors Service; or AAA or AA from Standard and Poor's Corporation.

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 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.

Best Practices

Local Rule 68.1

If net settlement proceeds payable to a minor are less than $25,000.00, the Court encourages the use of an impounded account under Rule 67.1, rather than a minor's guardianship under Rule 66.2. That will save money and preserve the minor's funds for better uses. This Rule also describes other alternatives for smaller settlements and provides for instances in which a formal hearing may not be required.

Of course, a guardianship is required if the net settlement funds exceed $25,000.00. The Court cannot approve the settlement in those circumstances until the guardianship is established. It is important to get the guardianship established quickly, so as to not delay approval of the settlement.

Local Rule 68.2

This is a new Rule that requires documentation to substantiate that the issuer of a structured settlement is a reliable company. The Court needs sufficient time to review the required information, so it is important to submit the information with the initial application to approve the settlement. That way there will be sufficient time to resolve any problems without delaying the settlement hearing.

Local Rule 68.3

Rule 71.5 describes the requirements for approval of attorney fees in minor's settlement cases. It is important to address those requirements up front when filing the initial application for settlement approval to avoid delays in the settlement hearing.

Local Rule 68.4

The Court strictly reviews all applications to liquidate all or portions of a structured settlement prematurely. The application must show a compelling reason for early access to structured settlement funds. Due to the steep discounting of structured settlement liquidations, the Court will require detailed proof that the proposed buyout is financially reasonable. The best way to prove reasonableness is to obtain multiple proposals for comparison.

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 hearings 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 in person on applications for settlement of wrongful death or survival claims, unless the Court approves appearance by telephone in advance of the hearing under Local Rule 53.3(C).

F. Report of Distribution

All applicants must file a report of distribution with the Court no later than 30 days after the entry approving the wrongful death settlement. Failure to file the report or verification in that time, or any approved extension, will subject the applicant and the attorney to citation under Local Rule 77.

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 Rule 71.5.

Best Practices

Local Rule 70.1

This Rule is fairly self-explanatory. The most common mistake in the application for approval of a wrongful death settlement is correctly identifying whether the prospective recipients are on an equal degree of consanguinity. That is an important distinction that requires thought.

It is always best if those entitled to a share of the wrongful death proceeds reach an agreement in advance as to how the proceeds will be allocated. If they all consent to the allocation, the settlement hearing is much easier. If they cannot agree, it may be necessary to have a separate hearing on allocating the proceeds.

Remember that if any portion of the settlement is deemed compensation for a survival claim, those proceeds are part of the decedent's probate estate. Therefore, a separate determination of allocating those proceeds is not necessary. The survival claim proceeds will be distributed to the heirs or beneficiaries through the estate.

The distribution of wrongful death proceeds must be reported to the Court on a Report of Distribution. The distribution of survival clam proceeds will appear on the Fiduciary's accounting in the decedent's estate.

Local Rule 70.3

Rule 71.5 describes the requirements for approval of attorney fees in the settlement of wrongful death and survival claims. It is important to address those requirements up front when filing the initial application for settlement approval to avoid delays in the settlement hearing.

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.

A. Written Fee Agreement

An attorney representing any type of Fiduciary in a probate matter must document their relationship in a written fee agreement that both parties sign at the beginning of the representation. 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. The fee agreement must not compute the fee by reference to any fee guidelines accompanying these Rules.

Do not file the fee agreement with the Court, unless the Court or these Rules otherwise require. The Court reserves the right to request a copy of the fee agreement to review at any time and for any purpose.

B. Prohibited Statements

Attorneys must not under any circumstances make any oral or written statement to a client or other person interested in a probate matter that would lead a reasonable person to believe that the Court mandates or otherwise automatically approves any particular fee or method of computing the amount charged. 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.

C. Method of Application

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

D. 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.

E. Hourly Billing Rate

All hourly rates must be reasonable in comparison to rates charged by other attorneys and paralegals of similar skill and experience in the Greene 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. Absent a clear and convincing showing of extraordinary

circumstances, the Court will not approve billing rates exceeding $300.00 per hour for attorneys and $125.00 per hour for paralegals. This limit is not an implied approval of billing up to that rate for all attorneys or in all cases. The Court will examine the reasonableness of the rate on a case-by-case basis.

F. 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.

G. Voluntary Reduction

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

H. 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.

I. Fee Hearings

The Court will conduct a hearing to resolve any dispute concerning an application for authority to pay attorney fees. The Court may conduct a hearing 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.

J. 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.

K. Frequency of Fee Approval

Generally, the Court will not consider or approve applications for payment of attorney fees more frequently than once in each 12-month period on each case, typically corresponding to an accounting period. In guardianship cases, the attorney may apply for an initial approval of attorney fees within 90 Calendar Days after appointment of the guardian and then annually thereafter.

L. 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

This Rule 71.2 governs attorney fees for representing a Fiduciary in the administration of a decedent's estate.

A. Scope of Fee Approval

The Court will only consider attorney fees directly relating to work on the administration of probate assets, as shown on the approved Inventory and Appraisal and any Report of Newly Discovered Assets, and income received during the course of probate administration. Income must be reflected as such in the account or accounts for the estate.

Fees relating to assistance with settling non-probate assets are a matter of agreement between the attorney and the non-probate beneficiaries and must be itemized and charged separately from probate-related work. The Court does not review, approve, deny or modify fees on non-probate assets.

B. Prior Court Approval Not Required

The Fiduciary may pay fees to the Fiduciary's attorney without prior application to or approval by the Court if all of the following conditions are satisfied.

1. The fees paid must be shown on a final and distributive account or certificate of termination that the Fiduciary files no later than 13 months after the date of appointment, and any permitted extension.
2. The estate must be solvent, and the account must show the full payment of all properly presented debts and claims against the estate.
3. The fee must be consistent with the written fee agreement between the Fiduciary and the attorney.
4. The Fiduciary, using GC Form 71.2-D, and each heir or beneficiary whose distribution the fee affects, using GC Form 71.2-E, must consent to the fee in writing, after full disclosure of all material facts relating to the fees. The originals of all consents must accompany the account.

The amount of the fee must be reasonable, but does not need to be within the attorney fee guidelines referenced in this Rule. The signature of the Fiduciary and the attorney on the account constitutes their joint representation that the attorney fee is fair and reasonable, and that the attorney's legal services were beneficial to the estate. The Court may require a hearing on the attorney fee if it appears to the Court that the fee is clearly excessive on its face. The Court's approval of the account also constitutes approval of the attorney fees.

The Court will not consider or grant any exceptions to the requirements of this Rule 71.2(B).

C. Prior Court Approval Required

If one or more of the conditions in Rule 71.2(B) are not satisfied, the Fiduciary must first obtain the Court's approval before paying any fees to the attorney. Rule 71.2(D) through (G) provides the process for obtaining the Court's approval for the payment of attorney fees in decedent's estates.

D. Application

An application for authority to pay attorney fees in a decedent's estate must be submitted on GC Form 71.2-A. A proposed entry on GC Form 71.2-B must accompany the application.

E. 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 (GC Form 71.2-C) must accompany the attorney fee application. If the application includes fees incurred for a land sale proceeding, the computation on Appendix C (GC Form 71.0) must also be attached to the application. The fee guideline is a baseline against which the Court will evaluate each fee application. 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 by the Court or by any heir or beneficiary whose distribution from the estate is affected by the fee. The fee guideline is not a minimum or maximum fee, and its reasonableness will depend on the facts and circumstances of the particular case.

F. Fees Within the Guideline

If the proposed attorney fee is less than or equal to the amount computed under the fee guideline, the attorney may sign the fee application alone. The attorney's signature on the application constitutes the attorney's representation that the proposed fee is consistent with the written fee agreement between the Fiduciary and the attorney and that he or she has provided a copy and explained the application to the Fiduciary before filing with the Court. An hourly billing statement and supporting narrative does not need to accompany the application. The Court will not conduct a hearing on the fee application, unless the Fiduciary or 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.

G. 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. The following requirements also apply to proposed fees exceeding the fee guideline.

1. Level One

   If the proposed attorney fee exceeds the amount computed under the fee guideline by 25% or less, the Fiduciary's consent (GC Form 71.2-D), stating that the proposed fee is reasonable and is consistent with the fee agreement between the Fiduciary and the attorney, must accompany the fee application. The Court may require a hearing on the fee application before determining whether to grant, modify or deny the application if the Fiduciary's consent is absent.

2. Level Two

   If the proposed attorney fee exceeds the amount computed under the fee guideline by more than 25%, but not more than 50%, the Fiduciary's consent (GC Form 71.2-D) must also accompany the application. Additionally, each heir or beneficiary whose distribution the fee affects must consent in writing to the payment of the proposed fee (GC Form

71.2-E). The Court may require a hearing on the fee application before determining whether to grant, modify or deny the application if the consent of the Fiduciary and or any affected heirs or beneficiaries is absent.

3. Level Three

   If the proposed attorney fee exceeds the amount computed under the fee guideline by more than 50%, the Court may require a hearing on the fee application before determining whether to grant, modify or deny the application.

H. 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.

I. 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.

J. 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.

K. 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 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, as long as each heir or beneficiary whose distribution the fees affect consents in writing to the payment of the proposed fees. Otherwise, the Court may require a hearing on the applications before ruling on the proposed fees.

The procedure in Rule 71.2(B) does not apply if the attorney is also serving as executor or administrator of the estate.

L. Fees Upon Withdrawal or Removal

If an attorney withdraws or is removed before completion of the estate administration, the application for attorney fees for services performed before the withdrawal or removal must be computed on an hourly basis. The Court may set the application for hearing on its own motion or upon the request of the estate Fiduciary.

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 on GC Form 71.3-A. If the application includes fees incurred for a land sale proceeding, the computation on Appendix C (GC Form 71.0) must also be attached to the application. An itemized billing statement, in compliance with Rule 71.1(D), and a proposed entry on GC Form 71.3-B 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. The attorney fee must comply with this Rule 71.3. The guardian fee must comply with Rule 73.1. Billing statements for legal services must not contain any charges for activities that are non-legal (guardian) services. Under no circumstances may an attorney charge attorney fee rates for guardian services. The Court may require a hearing on the applications before ruling on the proposed fees.

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 on GC Form 71.4-A. If the application includes fees incurred for a land sale proceeding, the computation on Appendix C (GC Form 71.0) must also be attached to the application. An itemized billing statement, in compliance with Rule 71.1(D), and a proposed entry on GC Form 71.4-B must accompany the application.

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. 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 the contingent fee guideline shown on Appendix B at the end of these Rules. 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 Appendix 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 on GC Form 71.5-A. A proposed entry on GC Form 71.5-B must accompany the application.

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 additional attorney fees for processing the claim settlement through probate must be paid from the primary 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. The Court also will not approve additional fees for processing the settlement through probate as a reimbursable cost or expense.

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.

Best Practices

Local Rule 71.1

This Rule relates to attorney fee issues in all types of probate cases.

Our Court requires a written engagement and fee agreement between the attorney and client is all probate cases. Written agreements are the best way to avoid disputes with your client later. If you have a pending case at the time this Rule goes into effect and you do not have a written agreement, the Court suggests you get one in place as soon as possible.

Fee discussions are often awkward for the attorney and the client. However, this discussion should take place at the outset of the representation. This Rule does not require or endorse any particular method of computing a fee. The important point is that there should be a clear understanding of how the fee is computed and when payment is due. The attorney and client are free to contract in any manner they desire, subject to the requirements in the Code of Professional Responsibility.

Do NOT file your fee agreement with the Court (unless other provisions of this Rule require you to file it) because then it becomes a public record. Also, do not submit your agreement to the Court for review and pre-approval. The Court does not do that.

If you are charging on an hourly basis, be sure your billing format contains the necessary detail required in paragraph (D) of this Rule. Also, consider sending the client an interim billing statement every month, even though payment is not due until approved by the Court. This is often a good way of keeping the client informed of your charges as the case progresses to avoid “sticker shock” at the end of the case.

Even if you are computing your fee on a percentage, flat fee or other basis, it may be wise to also to track your work internally on an hourly basis. First, that is a good practice management tool to measure whether your alternative billing method is profitable, in comparison to other work you perform on an hourly fee basis. Second, it is good to have as backup evidence to substantiate the reasonableness of your fee if a dispute arises at some point in the case.

Local Rule 71.2

Perhaps the most important section of this Rule is paragraph 71.2(B). In essence, if you complete the administration of an estate within six months (or 13 months if the administration is extended), you do not have to get the Court’s approval of your fee. You do not even have to file a fee guideline computation. Simply put the fee on the final and distributive account. As long as it appears reasonable and everyone has consented, that is all you need to do.

The remainder of this Rule only applies if you do not complete the administration within six or 13 months, whichever is applicable, or if you cannot obtain everyone’s consent to your fee. There is built-in flexibility if your fee exceeds the fee guideline to reduce the instances in which a hearing on fees will be necessary. The Court’s prescribed Local Forms make it easier and more uniform to process fee applications.

Please note that fees for assistance with non-probate assets is no longer part of the fee guideline. You can charge for services relating to non-probate assets. You just do not need Court approval for those charges. Probate Court does not have jurisdiction over the administration of non-probate assets, and has no way to verify fees charged on

the basis of the value of non-probate assets. Since non-probate assets are not part of the probate estate, fees relating to non-probate assets should not be included on the probate accountings.

Also note that this Rule does not have the prior compensation restrictions in cases where the attorney also serves as the Fiduciary. Fees for services in both capacities must be reasonable and approved by the Court.

Local Rule 71.3

Generally, past practice has been to charge for legal services in guardianship cases on an hourly basis. This Rule continues that practice, but leaves open the door for alternative billing methods with prior Court approval. Be certain that your billing statement contains the level of detail required in Rule 71.1(D).

If an attorney is also serving in a dual capacity as the guardian, it is absolutely crucial to properly segregate "legal" work from "guardian" work. The distinction between the two is often blurred, but you have to make a good-faith effort to segregate the work honestly. There are several recent disciplinary cases in Ohio sanctioning attorney-guardians for charging legal fee rates for purely guardian work. This is an area that deserves extra time and attention to avoid those problems.

Local Rule 71.4

Attorney fees in trust cases work the same way as in guardianships. Refer to the suggestions above for more information.

Local Rule 71.5

This Rule is fairly simple. If a fee agreement seeks contingent compensation within the percentage guidelines in Appendix B, the Court does not need to approve the agreement in advance. Just file it with the application to approve the settlement at the end of the case. If the fee agreement exceeds the Appendix B guidelines, or if the fee is computed in a method other than a contingent percentage, you need to submit it to the Court for approval up front.

If you are ever in doubt regarding the acceptability of your contingent fee agreement, the best route is to submit it to the Court for approval immediately upon commencing the case.

Local Rule 71.6

It is common practice in contested matters for one or both sides to seek recovery of attorney fees from the other side. Generally, the request is unsupported by any authority. This Court normally will not consider awarding attorney fees in a contested matter without specific statutory, case law or rule authority. If you seek recovery of attorney fees, be prepared to thoroughly and clearly substantiate your claim. The burden is on the party seeking recovery to prove the right to an award of fees.

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 (GC Form 72.1-C) 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 of 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. Executors and administrators may not charge a rate in excess of $25.00 per hour, unless the Court approves a higher rate in advance due to the executor or administrator's special skills or training that are beneficial to the estate.

If an executor or administrator requests compensation that exceeds the amount allowed in 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.

C. Application

An application for authority to pay executor or administrator's additional compensation in a decedent's estate must be submitted on GC Form 72.1-A. A proposed entry on GC Form 72.1-B and a completed statutory fee computation (GC Form 72.1-C) must accompany the application. Additionally, the application must be supported by the narrative and itemized statement described in Rule 72.1(B).

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 (GC Form 72.1-D) and the Court finds that no creditor would be prejudiced.

D. 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.

E. 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.

F. 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.

G. 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, the co-executors or administrators will share the fee equally.

H. 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.

Best Practices

Local Rule 72.1

As with legal fees, it is always best to have a discussion about Fiduciary compensation at the earliest possible moment of the case. If the estate appears to be fairly routine, the Fiduciary will likely be entitled to the statutory compensation, at most. Perhaps they may even intend to waive the Fiduciary compensation.

However, if there is any possibility that the estate may be more difficult than normal, the Fiduciary should keep tract of their time from the very beginning in case they later want to request additional compensation. It is no longer acceptable to just submit a narrative explaining why the case required more effort. The application for additional compensation must also be supported by an itemized statement of services from the beginning of the case to the end.

Most people are not used to tracking their time and do not understand the detail that the itemized statement requires. It is important to keep accurate records throughout the course of the case. Otherwise, it is nearly impossible to reconstruct an accurate statement after the fact.

Superintendence Rule 73
Guardian's Compensation

Local Rule 73.1 Determination of Compensation

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 $500.00, unless the Court authorizes a higher fee after proper application and a hearing.

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. 10% of gross rentals from real estate actually managed by the guardian without the assistance of another person or entity; plus
3. 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 Rule 73.1(A) and 73.1(B).

D. Alternative Fee Computation

In the alternative to computing a 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 $25.00 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. Corporate Guardian

A corporate guardian may charge a fee annually according to its published fee schedule for services it performs as trustee of a revocable living trust. The corporate guardian 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 guardian may apply for compensation based on the amended schedule.

F. 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.

G. Application

An application for authority to pay guardian's compensation must be submitted on GC Form 73.1-A. A proposed entry on GC Form 73.1-B must accompany the application. 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).

H. 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.

I. 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.

J. 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 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.

Best Practices

Local Rule 73.1

This Rule provides two alternative ways to compute compensation for a guardian of the estate: percentage and hourly methods. The percentage method is much easier to calculate. The hourly method is more reflective of the actual level of services provided during any particular year, and may result in compensation less or more than the percentage method.

As with other Fiduciary compensation, it is important to understand the level of detail needed to substantiate hourly charges, if that method is used. It is important to keep accurate records throughout the course of the case. Otherwise, it is nearly impossible to reconstruct an accurate statement after the fact.

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. 10% of gross rentals from real estate actually managed by the trustee without the assistance of another person or entity; plus
3. 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 $25.00 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 may charge a fee annually according to its published fee schedule for services it performs as trustee of a revocable 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 on GC Form 74.1-A. A proposed entry on GC Form 74.1-B must accompany the application. 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.

Best Practices

Local Rule 74.1

Trustee compensation is calculated in the same manner as compensation for a guardian of the estate. Please refer to the Best Practices section in Rule 73 for more information.

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

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.

C. Acknowledgement

All self-represented persons must sign and file a self-representation acknowledgement (GC Form 75.1) verifying that they understand their rights and responsibilities when engaging in a probate proceeding without legal representation. In particular, but without limitation, the acknowledgement will confirm the self-represented person's understanding that the Court and its deputy clerks are not permitted to provide any legal advice to any person under any circumstances. Self-represented persons must file the acknowledgement form with the initial filings.

D. 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 to be 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 SC 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. The following are references to the appropriate application and entry forms for dispensing with bond.

Case Type	Application	Entry
Decedent's Estate	GC Form 75.2-A	GC Form 75.2-B
Guardianship	GC Form 75.2-C	GC Form 75.2-D
Trust	GC Form 75.2-E	GC Form 75.2-F

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 (GC Form 75.2-G) and the Fiduciary's acknowledgement of personal liability (GC Form 75.2-H). 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 (SC Form 22.3).

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 complete contact information for the applicant, party and their respective attorney,

including mailing address, daytime telephone number, fax number (if any) and email address (GC Form 75.3-A).

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 form (GC Form 75.3-A).

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 10 Court Days before any hearing, conference or other proceeding and request appearance and participation by telephone or video conferencing.

Best Practices

Local Rule 75.1

The Court always encourages persons involved in any type of probate proceeding to seek the assistance of an attorney with appropriate knowledge and experience in probate law. There is no requirement that you must be represented by an attorney. However, self-represented individuals must understand that probate cases are serious, complex legal proceedings that require a thorough understanding of the law. The Court and its Deputy Clerks are not permitted to assist you with your case or to provide any legal advice. If you choose to represent yourself in any probate proceeding, you are on your own to figure out how to do it.

It is also important to understand that the Court holds self-represented individuals to the same standards and requirements as apply to persons represented by an attorney. There is no leniency or special exceptions for self-represented individuals. The Court is obligated to be fair and impartial. It can only do that if it treats everyone the same.

The self-representation acknowledgement that unrepresented persons must file with the Court is intended to confirm their understanding of the consequences of their decision to not use the services of an attorney. It is required in every type of probate proceeding in which a person is not represented by an attorney.

Local Rule 75.2

A bond is simply an insurance policy that protects against the loss of financial assets due to intentional misconduct or unintentional mistakes of a Fiduciary. Our Court requires bond in all cases in which a Fiduciary is appointed to handle the financial assets of another person, unless an exception is provided by law. The Court will not permit a Fiduciary to begin exercising his or her authority until an appropriate bond is posted, or an exception is proven to apply.

It is important to address bond requirements as early as possible in a case. The bond amount may need to be adjusted periodically during the course of the case. If the value of assets turns out to be more than originally estimated, the bond will need to be increased. If the value decreases for any reason, the bond amount may be reduced.

This Rule contains a new requirement – a bond commitment before the Court will even accept a case for filing. The reason for this is that not everyone will qualify to be bonded. It is important to determine whether a person applying for a fiduciary appointment will be able to obtain a bond if the Court does appoint them as Fiduciary. If the person cannot qualify for a bond, it would be a waste of time and money to proceed with the appointment process, only to learn that they cannot serve because they cannot secure a bond.

If you have questions about bond requirements in a particular case, it is always advisable to discuss the issue with the Court before filing any documents to begin the case.

Local Rule 75.3

It is crucial for the Court to be able to communicate with the parties involved in any probate proceeding. The only way to do this is for the Court to have complete and current contact information for each party and their attorney, if any. Each party has an obligation to update their contact information if any changes occur. The Court provides a contact information form on its website for use in providing the initial or any updated information.

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.

Best Practices

It is never a good idea to assume that the Court will grant you an exception to these Rules or to the Rules of Superintendence. Every case is different, and some are more difficult than others. The fact that a case is more difficult does not mean it warrants an exception.

The Court will rarely grant exceptions to the Rules. You must be able to show that your case has truly unique and exceptional circumstances that make it all but impossible to comply with the Rules. You must also be able to show a real and significant prejudice if the Court applies the Rules as written. That is a very high standard to overcome.

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. As used in this Rule, the word Fiduciary also means Co-Fiduciary or any applicant in a non-fiduciary relationship who as a result of the type of probate proceeding in which they are engaged are required by law or court order to file one or more further reports verifying compliance with those requirements.

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 and certain other non-fiduciary applicants. 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. No Reminders

Our Court does not provide advanced reminders of upcoming filing deadlines to any Fiduciary or attorney. Filing deadlines are available on the Court's online docket. 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 before issuance of a citation without consequence or after issuance of the citation with the financial consequences stated in this Rule. 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.

E. Who is Liable

All citation costs and sanctions the Court imposes under this Rule 77 are the personal responsibility of each Fiduciary and the attorney of record in that case, each of whom must separately pay the full amount of the stated cost and sanction from their personal funds. No citation costs or sanctions under this Rule may be paid from, reimbursed by or charged against the estate, guardianship, trust or anyone else.

Local Rule 77.2 Citation Process

The Court will issue a citation to the Fiduciary and the Fiduciary's attorney if any required filing becomes overdue.

A. Timing

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

B. Contents of Citation

The citation will identify the filing that is overdue and will order the Fiduciary to file the required document immediately. The citation will also specify a grace period of 20 Calendar Days from issuance of the citation, within which time the Fiduciary may file the overdue document upon payment of a citation cost, but without any financial sanctions. The citation will also specify the date and time of the citation hearing if the filing is not made before the hearing date.

Local Rule 77.3 Filings During Grace Period

During the grace period, a Fiduciary may file the overdue document or request an extension of time to file as follows.

A. Filing Overdue Document

The Fiduciary may file the overdue document during the grace period. In addition to the normal filing fee for that document, the Court will also assess an additional citation cost of $10.00 per responsible person under Rule 77.1(E). The Court will dismiss the citation upon filing of the overdue document and payment of all charges.

B. Filing Application for Extension of Time

The Fiduciary may file an application for extension of time to file the overdue document under Rule 56.1 during the grace period. In addition to the normal filing fee for the extension, the Court will also assess an additional citation cost of $10.00 per responsible person under Rule 77.1(E). The Court will dismiss the citation upon approval and filing of the extension and payment of all charges.

Local Rule 77.4 Filings After Grace Period

After expiration of the grace period, but before the citation hearing, a Fiduciary may file the overdue document or request an extension of time to file as follows.

A. Filing Overdue Document

The Fiduciary may file the overdue document after the grace period, but no later than the close of business on the Monday before the citation hearing date. In addition to the normal filing fee for that document, the Court will also assess an additional citation cost of $15.00 per responsible person under Rule 77.1(E), plus a sanction of $50.00 per responsible person under Rule 77.1(E). The Court will dismiss the citation upon filing of the overdue document and payment of all charges.

B. Filing Application for Extension of Time

The Fiduciary may file an application for extension of time to file the overdue document under Rule 56.1 after the grace period, but no later than the close of business on the Monday before the citation hearing date. In addition to the normal filing fee for the extension, the Court will also assess an additional citation cost of $15.00 per responsible person under Rule

77.1(E), plus a sanction of $50.00 per responsible person under Rule 77.1(E). The Court will dismiss the citation upon approval and filing of the extension and payment of all charges.

C. Filing Up To Citation Hearing

If not filed by the close of business on the Monday before the citation hearing date, the Fiduciary may file the overdue document or may file an application for extension of time to file the overdue document under Rule 56.1 up to the minute before the citation hearing is scheduled to begin. In addition to the normal filing fee for the overdue document or extension, the Court will also assess an additional citation cost of $25.00 per responsible person under Rule 77.1(E), plus a sanction of $100.00 per responsible person under Rule 77.1(E). The Court will dismiss the citation upon approval and filing of the overdue document or extension and payment of all charges.

Local Rule 77.5 Citation Hearing

The Court will conduct a hearing on all citations in which the Fiduciary fails to file an overdue document or application for extension of time to file the overdue document within the times described in Rules 77.3 or 77.4.

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 five 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. This in-person appearance requirement applies to all Fiduciaries and attorneys, regardless of where they reside. Rule 53.3(C) does not apply to 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, at a minimum, citation costs of $25.00 per responsible person under Rule 77.1(E), plus sanctions of $100.00 per responsible person under Rule 77.1(E). The order will also set a deadline by which the Fiduciary must file the overdue documents The Court may also issue further orders as the Court deems necessary under the circumstances.

E. Per Diem Sanction

If the Fiduciary fails to file the overdue documents before expiration of the deadline set in the Court's citation order under Rule 77.5(D), the Court will automatically assess against the Fiduciary and the attorney an additional sanction of $10.00 per day until the overdue documents are filed. The Court must receive all citation costs and sanctions before or simultaneously with filing the overdue document.

F. Further Sanctions

The Court may impose further sanctions pursuant to R.C. §2109.31(C) as the Court deems warranted under the circumstances of the case.

Best Practices

Local Rule 77.1

There is a simple concept to remember about compliance and sanctions: if you complete your work correctly within the time required by law, you will never get a citation and never be subject to sanctions. Therefore, you should not have to worry about this rule. Attorneys should discuss this and emphasize it to their Fiduciary clients at beginning of the representation to avoid surprises and misunderstandings.

It is your responsibility to manage and monitor your calendar for due dates. You need to create your own calendars and alerts. The Court does not send you reminders. If you are not sure of a particular due date, you can check the case docket on the Court's website. The prior practice of sending 30-day postcards before the citation is eliminated.

Compliance is not just important for Fiduciaries. It is equally important for non-fiduciary applicants in certain probate proceedings who have legal obligations to file documents within particular time constraints. Examples include applicants for authority to settle minor's claims and wrongful death or survival actions.

This Rule applies to attorneys, too. If an attorney is concerned that a filing will be delinquent because the client is not being cooperative, the attorney needs to immediately request a status conference (Local Rule 78.1(C)) to address the issue with the Court. If you do not seek the Court's assistance in advance, you likely will not get the Court's mercy after your filing becomes overdue.

Costs and sanctions for non-compliance are both the personal responsibility of the Fiduciary and the attorney. That means you have to pay those amounts out of your own pocket. You cannot pay those amounts from the estate, guardianship or trust. You also cannot be reimbursed for those amounts from the estate, guardianship or trust. The " estate, guardianship or trust" itself did not cause the non-compliance, so it is not proper to charge these costs and sanctions against the estate, guardianship or trust as administrative expenses.

Local Rule 77.2

The Court will issue a citation the day after the due date has passed. If you find that you are running out of time, apply for an extension (Local Rule 56.1) before the due date. That way you will not risk getting a citation.

The citation will give you 20 Calendar Days to file your overdue documents with a very nominal citation cost. Make good use of that grace period because the Court will not extend it. If the grace period expires without filing the overdue documents, the personal financial consequences will increase and you may be required to attend the citation hearing.

Local Rule 77.3

Under this restructured Rule, during the grace period, you can either file the overdue document or you can apply for an extension of time to file it. Previously, the Court would not generally grant any extensions after issuing the citation. If you file within the grace period, each responsible person only has to pay a $10.00 citation cost, in addition to the normal document filing fee. There are no sanctions during the grace period.

It is important to understand the difference between "costs" and "sanctions." Costs are charges to reimburse the Court for the time and expense it incurs in preparing, mailing and managing compliance and citations. Sanctions are monetary fines intended to punish noncompliance and to deter future delinquent actions on the case.

The Court will not, under any circumstances, dismiss your citation until the Court receives full payment of the applicable filing fee for the overdue document or extension, the citation cost and the sanction, if any.

Local Rule 77.4

As restructured, this Rule now even allows you to file the overdue document or you can apply for an extension of time to file it after the grace period expires. If you do so at least three days before the scheduled citation hearing, each responsible person must pay a $15.00 citation cost plus a $50.00 sanction, in addition to the normal document filing fee. (The Court always schedules citation hearings on a Thursday morning, so if you have until the close of business the preceding Monday to fall under this alternative.)

If you do not get everything in by the preceding Monday, you can still file the overdue document or you can apply for an extension of time to file it after the grace period expires clear up to the minute before the citation hearing is scheduled to begin. In addition to the normal document filing fee, each responsible person must pay a $25.00 citation cost plus a $100.00 sanction. That is the maximum initial financial consequence permitted by law, but at least you will get out of the citation hearing, where the consequences may be much harsher.

Again, the Court will not, under any circumstances, dismiss your citation until the Court receives full payment of the applicable filing fee for the overdue document or extension, the citation cost and the sanction, if any.

Local Rule 77.5

In light of all of the additional flexibility built into this Rule now, if you end up actually having to appear at a citation hearing, this indicates to the Court that there are some very serious underlying problems that must be resolved. For certain, the Court will assess each responsible person a $25.00 citation cost plus a $100.00 sanction. But the consequences may be much more severe. The Court may impose per diem sanctions until you fully comply with the law. The Court may also reduce the compensation payable to the Fiduciary or the attorney. In severe cases, the Court may remove the Fiduciary, or the attorney, or both.

The Court views compliance, and citations for non-compliance, as serious matters. Therefore, all Fiduciaries and their attorney of record must appear in person at citation hearings. Attorneys are not permitted to send someone else in their place, regardless of whether it is another attorney in the same law firm. And no one can participate by telephone, regardless of how far you have to travel to get to the Court. There should never be any justifiable excuse for letting things go all the way to a citation hearing. Deal with the problem and resolve it before.

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 written notice to the Fiduciary and the Fiduciary's attorney. A status conference is not a formal hearing for purposes of these Rules.

D. Review Hearing

Any person or entity having a financial or personal interest in an estate, guardianship or trust case who has reasonable cause to believe that a Fiduciary has engaged in any act of wrongdoing, neglect or other misconduct may file a request for a review hearing with the Court (GC Form 78.1-A). All portions of the request form must be completed and signed by the person or entity making the request, verifying that all information in the request is true, accurate and complete. The person or entity filing the request must also send a copy of the completed request form to the Fiduciary against whom the allegations are made simultaneously with filing it in Court. If the filer fails to send the request form to the Fiduciary, and cannot prove that it was sent, the Court may dismiss the complaint. All information in or accompanying the request for a review hearing will be part of the official record, unless the Court orders otherwise.

The Court may schedule a review hearing on its own motion at any time and for any reason. A review hearing is a formal hearing for purposes of these Rules.

a. Method of Request

All requests for a review hearing must be submitted to the Court in writing using GC Form 78.1-A. The Court will not accept any other form of communication regarding allegations of Fiduciary wrongdoing, neglect or other misconduct.

b. Determination by Court

Upon receipt of a request for a review hearing, the Court will determine whether the request presents sufficient allegations of problems or misconduct that, if true, warrant the Court's attention. If the Court determines that it does, the Court will schedule a review hearing as promptly as possible. If the Court determines that the allegations in the request do not rise to a level warranting a hearing, the Court may forego a hearing and explain to the requesting person or entity the reasons for its decision.

c. Prerequisite for Hearing

The Court will not move forward with scheduling or conducting a review hearing unless the person or entity filing the request assures the Court that it is willing and able to present its allegations and supporting evidence in open court in the presence of the person or persons against whom the allegations are directed. The Court will not pursue any anonymous allegations without a clear showing of circumstances that pose a significant danger of harm to the requesting party.

E. 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 a hearing, or when the Court on its own motion orders a hearing. Any party may request a hearing in other circumstances in its pleadings, or by separate application or motion, stating specifically the reason that the requesting party believes a hearing is necessary or would be beneficial to resolving the matter. 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 email, 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.

F. 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.

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.

G. 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 will only 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. 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. Do not submit an original of the death certificate, as the Court will not make copies and return the original.

2. Deceased Heir or Beneficiary

   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 the SC 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 Greene County prescribed form must be used for all automobile transfers: GC Form 78.2-A is used for automobiles; GC Form 78.2-B is used for watercraft, mobile homes, motors, trailers and recreational vehicles. All portions of the form must be completed. An Executor with the power of sale under a will may, but is not required to, file automobile transfer forms to transfer automobiles that are subject to probate administration.

5. Consent of Parties to Alternate Distribution of Tangible Personal Property

   Heirs or beneficiaries may consent to an alternate distribution of tangible personal property in an estate proceeding by filing GC Form 78.2-C. The consent of all parties with an interest in that property is necessary to approve any distribution different than stated in a decedent's will, or under the laws of intestate succession. If any party fails to agree to an alternate distribution, or if there is a disagreement regarding tangible personal property that is not otherwise bequeathed, the Fiduciary may file SC Form 10.0, application to distribute in kind, for the Court's determination.

6. 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.

B. 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.

C. 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. Short Form Release

   Our Court no longer recognizes a procedure for a "short form" release from administration. The Court will not accept filings based on that prior practice.

2. 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 release from administration.

3. Will

   If the decedent had a last will, the will does need to be probated in release from administration cases. (See R.C. §2113.03(F)).

4. Bond

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

5. 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.

6. Publication

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

7. 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.

D. 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.

E. Abandoning Real Property

This Rule governs the abandonment of real property in situations in which the total of all outstanding liens and encumbrances on the property exceeds its appraised value, making it detrimental to the estate to maintain, sell, transfer or account for the property due to its lack of economic value to the estate.

1. Motion

A Fiduciary may file a motion to abandon real property (GC Form 78.2-D) seeking the Court's authority to exclude the real property from further administration. A proposed order abandoning real property (GC Form 78.2-G) must accompany the Motion.

2. Legal Description

The Fiduciary must attach a current and accurate legal description of the real property to the motion. The legal description must include the parcel identification number and must have a county engineer's stamp verifying that the legal description is accurate and suitable for recording. The approved legal description must be attached as an exhibit to proposed order abandoning real property.

3. Notice/Waiver

Within three days after filing the motion, the Fiduciary must serve by ordinary mail a copy of the motion and a notice of hearing (GC Form 78.2-E) on all of the following persons and entities, except those persons or entities who have waived notice and consented to the abandonment (GC Form 78.2-F).

a. All heirs and beneficiaries identified on SC Form 1.0.

b. All persons and entities identified in the motion.

c. The auditor, treasurer and prosecuting attorney of the county in which the real property is located.

d. The city, village or township in which the real property is located.

e. The sanitary engineer providing any sanitary sewer or water services to the real property.

4. Hearing

Unless all persons and entities entitled to notice under this Rule have filed a waiver of notice and consent to abandon real property (GC Form 78.2-F), the Court will hold a hearing on the motion no sooner than 14 Calendar Days after the date of filing the motion.

5. Order

If the Court finds that the motion is well-taken, the Court will issue an order abandoning real property (GC Form 78.2-G). The Fiduciary must record a certified copy of the order in the office of the recorder in the county in which the real property is located within 10 Calendar Days after the date of the order. The Fiduciary must also file a photocopy of the recorded order with the Court within 30 Calendar Days after the date of the order. The Court will not approve the Fiduciary's next accounting unless the Fiduciary timely files a photocopy of the recorded order.

F. Certificate of Transfer Only Action

If a decedent died with a will, a certificate of transfer only action under R.C. §2113.61(D) is not permissible unless the will has been admitted to probate in another jurisdiction or the will is filed and admitted to probate in this Court. It does not suffice to file the will with this Court for record only without probate. If the will is admitted in another jurisdiction, certified copies of the will and court documents proving its admission to probate in that jurisdiction must accompany the application for certificate of transfer filed in this Court.

G. Dispensing with a Testamentary Trust set forth in Decedent's Will pursuant to R.C. §2109.62

A fiduciary seeking to dispense with a testamentary trust set forth in the decedent's will, before the trust is established, may file a motion to dispense with the trust using GC Form 78.2-H if all the criteria set forth in R.C. §2109.62 are met. All beneficiaries must either file waivers of notice and consent (GC Form 78.2-I) or be served with a copy of the motion and notice of hearing (GC Form 78.2-J). The Court may set a hearing on the motion to terminate if all of the beneficiaries have not waived and consented to the proposed termination (GC Form 78.2-K). If the motion meets the criteria set forth in R.C. §2109.62, the Court may terminate the trust in whole or in part (GC Form 78.2-L). The Court may dispense with a hearing on the motion if every beneficiary entitled to notice waives notice and consents to the termination requested in the motion.

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 requirements in this rule apply to all trust cases in this court.

A. Trustee's Contact Information Form

Every trustee must file an initial contact information form at the commencement of any proceeding and keep the Court informed of any changes in their contact information or beneficiary's contact information (GC Form 78.4-A).

B. Expenditure of Funds

No trustee may expend any funds without prior Court authorization unless the trust instrument grants the trustee explicit authority to do so. The application for authority to expend funds (GC Form 78.4-B) 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 and the frequency. The Court will not approve any expenditures of funds until the trustee has filed an inventory, unless the trustee shows that delaying the authorization will be detrimental to the beneficiary.

C. Trustee's Bond

Every trustee appointed by this Court is required to post bond unless the Court orders otherwise. The provisions regarding fiduciary bonds in Local Rule 75.2 are applicable in all trust cases.

D. Trustee's Inventory and Accounts

Every trustee is required to file an inventory and file accountings, unless the Court orders otherwise. Trustee's Accounts must follow the guidelines under Local Rule 64.4.

E. Statement in Lieu of Account

The Court will permit statements in lieu of account on a minor trust in any accounting period in which the trust assets consist only of intangible personal property. Complete and accurate bank or investment statements may be filed in lieu of a trustee's account. Account numbers on bank statements must be redacted with only the last four digits of the actual account number being shown. see Local Rule 75.2(C).

F. Prohibited Transactions

Prohibited transactions in trust cases are subject to the same rules as guardianships in Rule 64.1(E).

G. Trustee Compensation

Trustee compensation is addressed in Local Rule 74.

H. Death of a Beneficiary

If a beneficiary dies, the trustee must notify the Court in writing within 30 Calendar Days after the death (GC Form 78.4-C). A copy of the beneficiary's death certificate or obituary must accompany the notice.

I. Terminating a Trust Pursuant to Trust Instrument

Trusts with established termination dates pursuant to a trust instrument do not require Court approval to make final distributions and terminate the trust. The trustee must file a final and distributive trustee's account within 30 days of termination in accordance with Rule 64.4.

J. Terminating an Existing Testamentary Trust Pursuant to R.C. §2109.62

A trustee or beneficiary seeking to terminate an existing testamentary trust pursuant to R.C. §2109.62, may file a motion to terminate the trust with the Court using GC Form 78.4-D if all the criteria set forth in R.C. §2109.62 are met. All beneficiaries must either file waivers of notice and consent (GC Form 78.4-E) or be served with a copy of the motion and notice of hearing (GC Form 78.4-F). The Court may set a hearing on the motion to terminate if all the beneficiaries have not waived and consented to the proposed termination (GC Form 78.4-G). If the motion meets the criteria set forth in R.C. §2109.62, the Court may terminate the trust in whole or in part (GC Form 78.4-H). A final and distributive trustee's account must be filed within 30 days of after the Court orders termination of the testamentary trust.

The Court may dispense with a hearing on the motion if every beneficiary entitled to notice waives notice and consents to the termination requested in the Motion.

K. Minor Trusts

The Court may establish a minor trust pursuant to R.C. §2111.182 for any minor under the age of 18 who is entitled to money or property in excess of $25,000.00. An application to establish a minor trust (GC Form 78.4-I) must be accompanied by the Court's standard Minor Trust Agreement (GC Form 78.4-J). The Court will hold a hearing on all applications to establish minor trust (GC Form 78.4-K). Any parent, guardian or legal custodian may waive notice of the application and hearing (GC Form 78.4-L) or be served with notice pursuant to Civ. R. 73 (GC Form 78.4-M). A proposed judgment entry (GC Form 78.4-N) and letters of authority of trustee (GC Form 78.4-O) must be provided with all applications to establish minor trusts. Upon approval of the establishment of the trust, the terms of the trust agreement shall govern administration of the trust subject to any provisions in the Ohio Revised Code, Rules of Superintendence and Local Rules of this Court.

L. Converting a Minor Guardianship to a Minor Trust

The Court may permit an existing guardianship of the minor's estate to be converted to a minor trust action. For requirements to convert a minor guardianship to a minor trust, see Local Rule 66.2.

M. Criminal Background Checks of Minor Trustee

Any applicant for appointment as trustee of a minor trust who is not is the natural or adoptive parent of a minor who is the subject of the trust, must submit with the application the results of a criminal background check through the Ohio Bureau of Criminal Identification and Investigation ("BCI") and the Federal Bureau of Investigation ("FBI"). The applicant must pay the cost of the criminal background check. All background checks must be dated not more than 90 days before the date of the application for appointment as trustee.

In addition to natural or adoptive parents, the requirements in this Rule do not apply to an attorney who files a certificate of good standing to practice law in Ohio from the Ohio Supreme Court in place of the criminal background check.

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") and Ohio Job and Family Services child abuse registry checks 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. Criminal background check results must be dated no more than 90 days before the filing of the petition for adoption. The 90 day requirement does not apply in cases in which a completed home study is being filed simultaneously with the petition for adoption.

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 sequence of hearings on an adoption depends upon whether the case is contested or not contested.

1. Contested Adoptions

If the adoption is contested with respect to whether the consent of an individual is required, the Court will conduct a separate hearing on the consent issue, and if the Court determines that consent is not required, the Court will conduct a separate best interest hearing. The child that is the issue of the adoption need not be present at the consent hearing, unless the Court orders his or her presence. The child is required to be at the best interest hearing.

2. Uncontested Adoptions

If the adoption is not contested with respect to a determination of required consents, the Court will consolidate the consent and best interest issues into a single hearing. Any written consent filed with Court must be signed and dated not more than six months before the date of filing the petition for adoption. The child that is the issue of the adoption is required to be present at the consolidated hearing.

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.

E. Child Support

The Court does not notify any child support agencies after granting an adoption of a minor child. The Petitioner or the Petitioner's Attorney are responsible for notifying the appropriate child support enforcement agency that an adoption has been granted by this Court.

Local Rule 78.6 Name Change and Name Conformity Proceedings

This Rule governs name change and name conformity proceedings under R.C. Chapter 2717.

A. Choosing the Correct Proceeding

A name change proceeding, name conformity proceeding and birth record correction proceeding serve different purposes. Each action has its own requirements. The Court will determine if the application is the appropriate procedure to accomplish the person's intent based on the circumstances.

A name change proceeding seeks to change all or part of a person's name to a different name going forward.

A name conformity proceeding is solely to correct misspellings, inconsistencies or errors on one or more official identity documents evidencing a person's current legal name. A name conformity corrects errors that occurred in the past. It does not change a person's name, but merely identifies conflicting problems in their official identity documents and corrects those problems by a Court Order so that all of the person's official identity documents are consistent and conformed to prove the applicant's chain of identity and reflect the legal name the person currently uses.

A birth record correction proceeding only corrects clerical errors in the birth record of a person who was born in Ohio. A birth record correction proceeding may not be substituted for a name change proceeding or name conformity proceeding.

B. Documentation Requirements on Name Change Proceedings

An applicant seeking a name change must provide photocopies of the following documents relating to the applicant or minor with the application:

- Birth Certificate
- Social Security Card
- Driver's License or State issued ID Card (if any)

Upon review of the application, the Court may order the submission of other documents the Court deems relevant to the application.

The applicant must redact (black out) social security numbers, driver's license numbers, and driver's license issuance and expiration dates on all documents submitted to protect the privacy and confidential information of the applicant or minor.

C. Documentation Requirements on Name Conformity Proceedings

An applicant seeking to conform a legal name must provide photocopies of all official identity documents relating to the applicant or minor with the application, including:

- Birth Certificate
- Social Security Card
- Driver's License or State issued ID Card (if any)
- Marriage Record (if any)
- Divorce Decree (if any)
- Passport (if any)
- All other documents for which name conformity is sought

Upon review of the application, the Court may order the submission of other documents the Court deems relevant to the application.

The applicant must redact (black out) social security numbers, driver's license numbers, and driver's license issuance and expiration dates on all documents submitted to protect the privacy and confidential information of the applicant or minor.

D. Hearings on Adult Name Change and Adult Name Conformity Proceedings

Generally, the Court will not require a hearing and will dispense with notice on an adult name change or an adult name conformity proceeding. The Court may require a hearing if the Court determines that the application presents any irregularities or issues, or if the Court determines that the legal interests of another party may be affected by the proceeding. If the Court requires a hearing, it will determine the manner, scope and content of the hearing notice. The applicant is responsible for serving the hearing notice.

E. Hearings on Minor Name Change and Minor Name Conformity Proceedings

In uncontested name change proceedings and name conformity proceedings for a minor in which the consent of both natural parents of the minor is filed simultaneously with the application, the Court generally will not require a hearing and will dispense with notice.

If an application for name change of a minor or application to conform name of a minor is filed without the written consent of both natural or adoptive parents, or if the Court determines that the application presents any irregularities or issues, the Court will schedule the application for a hearing. Notice of the hearing will comply with paragraph F of this Rule. The applicant must appear at the hearing. The minor may attend the hearing, but is not required to be present unless the Court orders otherwise.

F. Service of Notice on Minor Name Changes and Minor Name Conformity Proceedings

Any parent or alleged father who has not consented to a minor's name change or name conformity will be served by the Court with notice of the hearing pursuant to Civ. R. 73. If a parent or alleged father's whereabouts are unknown, the Court will require the applicant to publish notice of the hearing, at the applicant's expense, to the parent or alleged father who has not consented in a newspaper of general circulation in Greene County, one time at least

30 days before the hearing. The applicant must file proof of publication of the notice with the Court no later than five Calendar Days before the date of hearing on the application.

G. Contested Proceedings

If any name change proceeding or name conformity proceeding becomes contested, the Court will convert the scheduled hearing date to a pretrial conference, during which the Court will set a new hearing date. At the pretrial conference, the Court will determine whether to excuse a minor who is the subject of the action from appearing at the hearing and whether the Court will conduct an *in camera* interview of the minor before the hearing. The applicant and the person contesting the application must attend the pretrial conference personally or through their legal counsel.

H. Confidentiality

If an applicant for a name change or name conformity 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 notice of the hearing or public access to the record 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 permanently seal the file.

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.

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 to withdraw (GC Form 78.8-A) must demonstrate reasonable cause for the withdrawal. A proposed entry (GC Form 78.8-B) 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, 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 (GC Form 78.8-C), 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 in our Court.

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 to withdraw (GC Form 78.9-A) must demonstrate reasonable cause for the withdrawal. A proposed entry (GC Form 78.9-B) must accompany the application or motion.

1. Certification of Withdrawing Attorney

   The application 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, 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 (GC Form 78.9-C), 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 before 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 final 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. Mediation

The Court's policies regarding mediation are addressed in Rule 16.

F. Jury Management Plan

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

Local Rule 78.11 Procedures in Protective Services Cases

This Rule pertains to special requirements in adult protective services cases.

A. Service in Adult Protective Services Cases

The Court finds that certain specifications must be made to guarantee effective and efficient service in adult protective services cases pursuant to Civ. R. 73(E). Protective services actions often present time constraints upon the petitioner and Court, and all efforts to assure timely and complete service are beneficial to the adult who is the subject of all court proceedings. The specifications in this rule should prohibit delay, confusion or improper service upon the parties.

1. Service Upon the Adult

The Court appoints its court investigators as standing process servers for service on the adult in any protective services action. Personal service upon the adult is mandatory and shall always be perfected by the court investigators, unless otherwise ordered by the Court. The court investigators may serve any other party that are present during the initial service to the adult. The court investigators will not be routinely responsible for service to next of kin or other parties entitled to notice, unless the Court orders otherwise.

2. Service Upon Other Parties

Service on all other persons entitled to notice, other than the adult, may be perfected in any manner permitted by Civ. R. 73(E) in protective services cases. The petitioner's legal counsel is responsible for assuring that all parties who are entitled to notice of the petition and notice of the hearing, who have not otherwise waived, are properly served. Proof of that notice must be filed with the Court no later than 24 hours before the hearing on the petition for protective services.

3. Appointment of Process Servers

The petitioner may seek the appointment of any person to serve as a process server, including a Sheriff's Deputy, subject to the restrictions set forth in Civ. R. 4.2(C), by filing a motion to appoint process server (GC Form 78.11-A) and a proposed order appointing process server (GC Form 78.11-B). Upon the Court's approval of the appointment, the petitioner may cause to have service to be issued using a copy of the appropriate notice. A process server does not need to obtain anything additional, including a certified notice, directly from the Court.

B. Restricted Public Access in Adult Protective Services Cases

Pursuant to Sup. R. 45(E), public access to all case documents and attendance at all hearings in adult protective services cases under R.C. §§5101.60 - 5101.73 are restricted in the manner and for the period stated in this Rule.

1. Basis for Restrictions

There is normally a great sense of urgency in cases in which an adult is alleged to be subject to abuse, neglect or exploitation to protect the adult from further immediate personal or financial injury. Based upon past case experiences, the Court takes judicial notice of the fact that the nature of adult protective services cases create a higher

probability that the disclosure of the adult's sensitive personal, medical and financial information may occur. The Court understands that ruling on whether to restrict public access to certain documents or certain portions of documents on a case-by-case basis, whether upon filing or during an open hearing, would likely cause an unnecessary delay in the provision of protective services to the detriment of the adult.

Therefore, the Court finds clear and convincing evidence that the general presumption of allowing public access to information in court proceedings is outweighed by a specific higher immediate interest in protecting the privacy and safety of the adult who is the subject of an adult protective services case. The Court further finds that the restricted access in this Rule is the least restrictive means available to achieve a proper balance of these competing interests.

2. Case Document Management

   During the restricted access period, the Court will maintain case documents in paper form only for direct access to those with permission to view them. No electronic images for remote public access of those documents will be available during the restricted period. The Court's normal online docket will be available for unrestricted remote public access.

3. Access without Prior Court Approval

   The following persons will have unrestricted direct access to all case documents and are permitted to attend all hearings relating to the case without obtaining prior Court approval:

   a. One or more representatives of the Greene County Department of Job and Family Services, Adult Protective Services Unit;

   b. The adult who is the subject of the protective services proceeding;

   c. A duly appointed and acting guardian of the adult or guardian ad litem appointed by the Court for the adult;

   d. All persons entitled to notice of the proceeding under R.C. §5101.681;

   e. One or more Assistant Prosecutors from the Greene County Prosecutor's Office representing the Greene County Department of Job and Family Services, Adult Protective Services Unit or a local law enforcement agency;

   f. Any attorney who has filed a written notice of appearance in the case identifying the person described in this subparagraph (C) they represent.

4. Access with Prior Court Approval

   Except as provided in subparagraph (C) above, no other person is permitted to have any access to any case documents or to attend any hearings relating to the case without first obtaining the Court's prior approval upon motion and for good cause shown. The Court may set the motion for hearing, in which case all persons entitled to notice of a petition for any adult protective services proceeding must be served with notice of hearing on the motion.

5. Restricted Access Period

   The restrictions in this Rule remain in effect for a period of 90 days from the date of the initial case filing, unless terminated earlier by dismissal of the case or order of the Court. Before expiration of the restricted access term, any party or interested person may apply to extend the term of restricted access.

6. Notice of Restricted Access

   Upon filing any adult protective services proceeding, the Court will file a judgment entry confirming the restricted access to the case documents and hearings stated in this Rule.

Best Practices

Local Rule 78.1

This Rule clarifies the difference between a "status conference" and a "review hearing." A status conference is more like an internal discussion of issues in the case. Normally, a status conference only involves the Court, the Fiduciary and the Fiduciary's attorney, if any. A review hearing involves third parties, and is usually triggered by someone raising an issue or concern with the Court regarding something the Fiduciary or the attorney has done.

A status conference is a great way to resolve problems or issues in an informal setting before they get out of hand. The Court encourages proactive steps, and is always willing to discuss and assist in solving problems. A status conference is an underused tool. It could help avoid compliance problems by addressing issues early.

A review hearing is more formal than a status conference because it involves someone besides the Fiduciary and the attorney. It also involves a specific complaint that the person wants addressed. If there is any merit to the complaint, the Court will conduct a more formal review hearing to consider the allegations.

Often times, the best way to avoid a review hearing is through better communication with beneficiaries and other parties who have a legitimate interest in the case.

Local Rule 78.2

This Rule is fairly self-explanatory. It contains many tips for details in estate filings that are often overlooked. One of the most important things is to be sure that you are filing the correct type of proceeding – full administration, release from administration or summary release. Filing the wrong type of proceeding will likely result in unnecessary costs, delays and embarrassment.

Local Rule 78.5

Try to anticipate in advance whether or not a particular adoption is likely to be contested. If it is likely to be contested, the Court can schedule separate hearings early on. Otherwise, there may be a significant gap between the consent hearing and the best interest hearing.

Local Rule 78.8

Keep in mind that a Fiduciary cannot just quit on a moment's notice and expect to escape any more responsibility for a case. There must be someone available to step into the withdrawing Fiduciary's shoes. That may take a little time. If it appears that withdrawal is likely imminent, it would be good to first schedule a status conference with the Court.

Local Rule 78.9

Attorneys should carefully review the Code of Professional Responsibility regarding their withdrawal from a case. The Court is not inclined to force people to work together, but it also cannot permit a client to be left hanging. If it appears that withdrawal is likely imminent, it would be good to first schedule a status conference with the Court.

Local Rule 78.10

Our Court moves litigation cases along without unreasonable or unnecessary delay. If you are a plaintiff, be prepared to prosecute your case diligently. If you are a defendant, be prepared to defend the case in an equally diligent manner. The Court is not naive to delay tactics, and does not view their use kindly.

In all litigation cases, the parties should seriously consider whether mediation (Local Rule 16) may aid in resolving the dispute more quickly and economically.

Schedule of Appendices

APPENDIX	DESCRIPTION
A	Attorney Fee Guideline in Decedent's Estates
B	Contingent Fee Limitations
C	Attorney Fee Guideline for Sale of Real Estate in Land Sale Proceedings on Estates, Guardianships and Trusts

Appendix A

ATTORNEY FEE GUIDELINE IN DECEDENT'S ESTATES

Section A: Value of Probate Estate

1. Total tangible and intangible personal property per Inventory $_____.__
2. Total newly discovered assets (personal property only) $_____.__
3. Total real estate per Inventory (and newly discovered real estate, if any) $_____.__
4. Total probate income $_____.__

Total Probate Value: $_____.__

Section B: Fee Guideline on Personal Property and Income (Section A #1 + #3)

Combined Value of Section A#1 + #2 +#4: $_____.__

5% of first $50,000.00: $_____.__
4% of next $50,000.00: $_____.__
3% of next $300,000.00: $_____.__
2% of balance: $_____.__

Section B Fee: $_____.__

Section C: Fee Guideline on Real Estate

Check each box that applies and complete the appropriate computations.

☐ There is no real estate in the probate estate

☐ Real estate transferred by Certificate of Transfer

$500.00 x _____ (number of separate tax parcels + number of exceptions): $_____.__

☐ Real estate sold by Power of Sale

Appraised value on Inventory or Gross Sale Proceeds: $_____.__

4% of first $50,000.00: $_____.__
3% of next $50,000.00: $_____.__
2% of balance: $_____.__

Subtotal: $_____.__

☐ Real estate disposed of through foreclosure or abandonment:

1% of appraised value on Inventory **OR**
Hourly fees computed pursuant to attached billing statement: $_____.__

☐ Real estate sold by Land Sale Proceeding:
Fees computed pursuant to attached GC Form 71.0: $_____.__

Section C Fee: $_____.__

Section D: Total Attorney Fee Guideline

Section B Fee + Section C Fee: $_____.__
Minus voluntary reduction (_____.__)

Total Requested Attorney Fee: $_____.__

Appendix B

CONTINGENT FEE GUIDELINE

A contingent fee agreement for representing a Fiduciary in wrongful death, survival claims or minor's personal injury actions may not exceed the following percentage limitations without the Court's prior approval:

33⅓% if settlement is reached before commencement of trial, and without arbitration or mediation

36% if settlement is reached during arbitration or mediation

40% if settlement or verdict is achieved after commencement of trial

Trial is deemed to commence in a jury trial after a jury is selected. Trial is deemed to commence in a bench trial after opening statements begin.

The Court encourages attorneys to voluntarily reduce the fee they charge if they reach a settlement of all claims before filing a lawsuit and if the full permissible fee would clearly be excessive considering the circumstances of the case.

IMPORTANT NOTE

Please refer to Rule 71.5(F), which prohibits charging additional attorney fees for having separate legal counsel process a settlement through probate. All fees for processing the settlement through probate must be paid out of the contingent fees approved as part of the settlement process.

Appendix C

ATTORNEY FEE GUIDELINE FOR SALE OF REAL ESTATE IN LAND SALE PROCEEDINGS ON ESTATES, GUARDIANSHIPS AND TRUSTS

Appraised value on Inventory or Gross Sale Proceeds:	$_____.__		
6% of first $50,000.00:		$_____.__	
5% of next $50,000.00:		$_____.__	
4% of balance:		$_____.__	
	Subtotal:		$_____.__
Minus voluntary reduction			(_____.__)
	Total Requested Attorney Fee:		**$_____.__**