

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

LOCAL RULES

**Steve Christopher, Judge
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Effective September 21, 2016

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HARDIN COUNTY, OHIO
PROBATE DIVISION

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- 1) Conduct and operations in the Court of Common Pleas, Hardin County, Ohio, Probate Division are governed by the Ohio Revised Code, the Rules of Superintendence of the Supreme Court of Ohio and by these Local Rules adopted pursuant to Civ. R. 83 and Sup. R. 5.
- 2) All persons before this Court are expected to know and comply with all applicable law and the rules.
- 3) In compliance with Sup. R. 75, the numbering of these Local Rules corresponds with the numbering of the Rules of Superintendence. These Local Rules are intended to supplement the Rules of Superintendence in order to facilitate the expeditious disposition of cases and shall be construed and applied in such manner as to be consistent with the Revised Code and the Rules of Superintendence.
- 4) References to “this Court” or “the Court” are to the Court of Common Pleas, Hardin County, Ohio, Probate Division.
- 5) For the purposes of these rules, “fiduciary” includes a commissioner in a no administration estate and an applicant in a release from administration.

SUP. R. 6
ATTORNEY OR PRO HAC VICE REGISTRATION NUMBER

LOCAL RULE 6.1 ATTORNEY OR PRO HAC VICE REGISTRATION NUMBER

Each attorney shall include the attorney or pro hac vice registration number issued by the Supreme Court on any document filed with the court.

SUP. R. 8
COURT APPOINTMENTS

LOCAL RULE 8.1 COURT APPOINTMENTS

- A) Persons appointed by the court to serve as attorneys, guardians, guardians ad litem, administrators, and other fiduciaries, unless otherwise required or allowed by law, shall be selected from lists maintained by the court. Appointments will be made taking into consideration the skill and expertise of the appointee and the management of the appointee's case load.
- B) The court does not maintain a list of approved appraisers or adoption assessors.
- C) All appointees shall be allowed a reasonable fee taking into consideration the Code of Professional Responsibility, the Revised Code, Sup. R. 71, Resolutions of the Board of County Commissioners, and Rules of this court. The burden of showing reasonableness is upon the appointee.
- D) The appointee shall promptly notify the person(s) required to pay all or a part of the fee (the "payer") as to the basis of determining compensation, unless excused by law, and, if possible, an estimate thereof. This will not be necessary if the appointee is charging a fee in compliance with this court's fee schedule.
- E) The appointee shall file with the court and serve upon the payer an itemized fee and expense statement on a regular basis and promptly if it appears the fee will exceed the estimate. This will not be necessary if the appointee is charging a fee in compliance with this court's fee schedule.
- F) If the appointee's fee is secured by a deposit, it is the appointee's responsibility to request additional deposit when the fee is expected to exceed the deposit.
- G) Appointees will not be compensated for travel time and expenses of travel except upon prior authorization of the court.

SUP. R. 9
SECURITY PLAN; CONFIDENTIALITY

LOCAL RULE 9.1 SECURITY

All persons are hereby prohibited from conveying or attempting to convey a deadly weapon or dangerous ordnance into, or from possessing, or

having under one's control a deadly weapon or dangerous ordnance in the courtroom or court staff offices (herein "court facilities"). This prohibition does not apply to any of the following: (1) a common pleas judge; (2) a peace officer, or an officer of a law enforcement agency of another state, a political subdivision of another state, who is authorized to carry a deadly weapon or dangerous ordnance, who possesses or has under that individual's control a deadly weapon or dangerous ordnance as a requirement of that individual's duties unless said person is appearing as a witness or party in a personal, as opposed to a professional capacity; (3) a person who conveys, attempts to convey, possesses, or has under the person's control a deadly weapon or dangerous ordnance that is to be used as evidence in a pending criminal or civil action or proceedings; (4) a bailiff, court staff or deputy bailiff of the court who is authorized to carry a firearm, or who possesses or has under that individual's control a firearm as a requirement of that individual's duties; or (5) a prosecutor, or a secret service officer appointed by a county prosecuting attorney, who is authorized to carry a deadly weapon or dangerous ordnance in the performance of the individual's duties, who possesses or has under that individual's control a deadly weapon or dangerous ordnance as a requirement of that individual's duties.

Except for law enforcement officers as designated above whose weapon is carried openly, no person shall bring a weapon or dangerous ordnance into the courtroom or court staff offices without first informing the judge presiding over the proceedings.

SUP. R. 11
RECORDINGS OF PROCEEDINGS

LOCAL RULE 11.1 RECORDING OF PROCEEDINGS

- A) All hearings before the court, if requested, will be recorded electronically. The audio electronic recording shall be the official record. In addition, any party, by the party's own arrangement and at that party's own expense, may provide for a court reporter. The stenographer record, upon special order, may be the official record.
- B) A transcript of the record may be requested in accordance with Rule 9(A) of the Rules of Appellate Procedure.
- C) The original CD or other recording medium of the audio-electronic recording shall be maintained by the court for a period of one (1) year from journalization of the final entry or judgment in the case. However, if a written request for transcription has been made, the original CD or other recording medium shall become part of the record of proceedings.
- D) A party may request a copy of the electronic recording of all proceedings at the party's expense. The court may permit a party to hear the electronic recording. The court does not permit indiscriminate public access to electronic recordings of hearings; a

request for access by a non-party must be served on all parties. (See commentary to Sup. R. 11(D)).

- E) Any party requesting a transcript will bear the responsibility of arranging and paying for said transcript, as well as responsibility for filing the same with any appropriate court or administrative agency.

SUP. R. 12

CONDITIONS FOR BROADCASTING AND PHOTOGRAPHING COURT PROCEEDINGS

LOCAL RULE 12.1 CONDUCT OF THE MEDIA & SPECTATORS IN THE COURTROOM DURING PROCEEDINGS IN THE PROBATE DIVISION

Adoption, mental illness, and mental retardation proceedings are confidential (Sup. R. 55(c)). Other proceedings in probate court are open to the public if provided by Ohio Law. A media representative must timely submit a request for media access (see Appendix of Forms) to the court and to affected parties. In order to ensure that the safety, decorum, integrity, and propriety of court proceedings are preserved at all times, the following protocols must be followed by members of the media and spectators who are granted access to court proceedings.

FOR THOSE GRANTED ACCESS TO THE COURTROOM:

1. All persons, granted access to the courtroom, are subject to search prior to entering the courtroom. Unless expressly authorized by the court prior to the start of the proceedings, all persons admitted to the courtroom, who are in the possession of any electronic devices which record photographic, audio and/or video images, including but not limited to cellular phones, PDA's and "I-Pods" **shall** be required to turn off each device prior to entering the courtroom, and **shall not** be permitted to turn them on while in the courtroom.
2. No video cameras, still cameras or audio recorders shall be permitted in the courtroom, unless applied for in writing pursuant to Sup. R. 12(A) and expressly authorized by the court, subject to the following conditions.
 - a. Still Cameras:
 - i. Photographs **shall not** be taken while testimony or statements are taking place;
 - ii. Only one (1) still photographer **shall** be permitted in the courtroom; the photographer **shall** be limited to two (2) cameras with two (2) lenses for each camera;
 - b. Video Cameras:
 - i. only one (1) portable television, video tape, or movie camera with one (1) operator **shall** be permitted in the courtroom;
 - ii. the camera **shall** be set up prior to the start time of any hearing and **shall not** be moved from the designated location at any time while court is in session;
 - c. Limitations on photographs and video: no person possessing a video camera, motion picture camera and/or still camera shall use and/or operate such cameras in such a manner to:
 - i. record above the waist images of **all minors** present in the courtroom during these proceedings.

- ii. film, videotape, photograph and/or record any witness and/or victim who objects to the same;
 - iii. take pictures and/or video footage of any item present on the table or bench within the courtroom;
 - d. Media Pooling: Arrangements between or among media for “pooling” of equipment **shall** be the responsibility of the media representative authorized to cover the proceeding;
 - i. pooling arrangements are to be made outside the courtroom and without imposing on the judge or court personnel;
 - ii. if disputes arise over arrangements between or among media representatives, the judge may exclude all contesting representatives from the proceedings;
 - e. All use of these devices **shall** be restricted if they interfere with the conduct or propriety of the proceedings.
3. Media representatives, including still photographers and television and radio representatives will be provided a clear view to the extent reasonably possible considering the size and layout of the courtroom and subject to not interfering with proceedings, but **shall not** be permitted to move about in the courtroom during court proceedings, except to enter or to leave the courtroom;
 4. Interviews **shall not** be conducted in the courtroom by/with any person at any time;
 5. All cellular phones, pages, and other electronic devices not in conformity with this protocol **shall not** be permitted in the courtroom;
 6. **ANY VIOLATION OF THESE PROTOCOLS WILL BE CAUSE FOR YOUR REMOVAL FROM THE COURTROOM.**

ALL MEMBERS OF THE MEDIA, AND SPECTATORS INCLUDING THOSE GRANTED ACCESS TO THE COURTROOM:

1. **shall not** block, interfere with or otherwise impede access to any door within the courthouse;
2. **shall not** conduct interviews in the courthouse except in the following locations:
 - a. designated by the Sheriff or deputy on duty if they have security concerns concerning the proceedings;
 - b. in an area which will not interfere with the proceedings;
3. **shall** respect the wishes of those who do not want to speak with you.
4. At all times, while in the courthouse, media representatives and spectators must conduct themselves in a manner so as to not interfere with the proceedings and normal courthouse business.

SUP. R. 26
COURT RECORDS MANAGEMENT AND RETENTION

LOCAL RULE 26.1 RECORDS RETENTION

Pursuant to Sup. R. 26(G) this Probate Division of the Court of Common Pleas adopts the Court Records Management and Retention Schedules as set forth in Sup. R. 26.01 to 26.05. Upon motion the court may order a longer retention period for an individual case file.

SUP. R. 41 (SEE ALSO SUP R. 56)
CONFLICT OF TRIAL COURT ASSIGNMENT, DATES, CONTINUANCES, AND
ENGAGED COUNSEL

LOCAL RULE 41.1 CONTINUANCES/EXTENSIONS

- A) A motion for a continuance, reassignment, or extension shall be in type or, if absolutely necessary, legibly printed in ink, and shall state the good cause reason for granting the motion. The court may grant an oral motion and may waive endorsement by a party/fiduciary or by counsel for good cause. The court may grant said request without hearing or a good cause showing if all parties and/or their counsel have signed a written consent.
- B) A motion for a continuance or reassignment due to a conflict of court assignments shall not be granted unless a copy of the conflicting assignment is attached to the motion. The case first set for trial has priority as does criminal over civil proceedings. The motion shall be filed immediately upon notice of the conflict and not less than thirty days prior to the hearing.
- C) No continuance or reassignment shall be granted without the contemporaneous setting of a definite date for trial or hearing. Except in a motion of the court, no motions for a continuance shall be granted without notice to or consent of adverse parties or counsel. Failure to object within a reasonable time after notice shall be considered consent.
- D) A proposed entry of continuance shall be submitted with the motion. (The entry may be on the same page as the motion.)
- E) Extensions for fiduciary accounts may be granted at the discretion of the court without hearing as follows:
 - 1. NO PRIOR EXTENSIONS: upon motion by attorney with statement of good cause; extension may be for up to 30 days past original due date;
 - 2. ONE PRIOR EXTENSION: the same as (1) above with signature of fiduciary and up to 60 days past original due date;
 - 3. TWO OR MORE PRIOR EXTENSIONS: with written consent of all heirs and/or interested parties and compliance with (1) and (2) above for up to 90 days past original due date.

SUP. R. 51 (SEE ALSO CIV. R. 73(H))
STANDARD PROBATE FORMS

LOCAL RULE 51.1 STANDARD PROBATE FORMS

The applicable standard probate form shall be used for all filings in this court, except that a computer-generated form may be used subject to the limitations of Sup. R. 51 and 52 and Local Rule 52.1.

If a standard form has not been prescribed by the Superintendence or Civil Rules, forms prescribed by this court for filings in certain probate proceedings may be used (see Appendix of Forms).

SUP. R. 52
SPECIFICATION FOR PRINTING PROBATE FORMS

LOCAL RULE 52.1 COMPUTER-GENERATED FORMS

This court may accept computer-generated forms created by third party providers, forms as adopted by the court, or forms prepared by lawyers or others, provided the following conditions are met:

- A) If a form is printed two-sided, it shall be “tumble style” for binding at the top of the first side of the form.
- B) Non legible forms may be stricken from the record upon discovery.

SUP. R. 53
HOURS OF THE COURT

LOCAL RULE 53.1 HOURS OF THE COURT

This Court and its offices at One Courthouse Square, Suite 210, Kenton, Ohio, shall be open for the transaction of business from 8:00 a.m. to 4:00 p.m. Monday through Thursday, and 8:00 a.m. to 5:00 p.m. on Friday, except for all federal legal holidays (other than Columbus Day). The courthouse is also closed on the day after Thanksgiving and after 12:30 p.m. on December 24th. Decisions to close, delay opening, or close early are based upon weather conditions. Closure for training or other purposes will be posted to provide reasonable notice. Call the Court for the latest available information.

Any pleading that requires a new case number or the payment of court cost shall be filed at least 15 minutes before closing. Application for a marriage license shall be initiated at least 15 minutes before closing.

SUP. R. 54
CONDUCT IN COURT

LOCAL RULE 54.1 CONDUCT IN THE COURT

- A) Proper conduct is required by all attorneys, parties, court personnel, all other persons who appear before this court as well as spectators and media representatives. Any conduct that interferes with the proper administration of justice is prohibited and will subject the offender to sanctions or removal from the court and courthouse.
- B) Proper attire is required of all parties who enter the court. Any person who does not appear in proper attire is subject to sanction and removal from this court.
- C) No radio, television, telephone, camera, video camera, or other audio or video recording device may be used in any proceeding or communication with this court unless expressly permitted by this court.

Sup. R. 12 and Local Rule 12.1 shall be followed to obtain the advance permission of this court for the use of any audio or video recording device. In case of marriages and adoptions, this court will allow the use of cameras or video cameras without the advance consent of this court.

SUP. R. 55 (See also Sup.R. 45)
EXAMINATION OF PROBATE RECORDS

LOCAL RULE 55.1 PROBATE RECORDS

- A) No probate court record shall be removed from the court (courtroom, chamber, and clerk's office) except upon written approval by the judge. Contempt proceedings may issue for any violation.
- B) Copies of records may be obtained at a cost per page as authorized by the judge.
- C) Confidential records including adoption, mental illness, and estate tax shall not be accessed without written authorization by the judge.
- D) Contempt proceedings may issue against anyone who divulges or receives confidential information from confidential records without authorization.

LOCAL RULE 55.3 BANKING ACCOUNT NUMBERS

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

**LOCAL RULE 55.4 MAINTAINING PRIVACY OF PERSONAL IDENTIFYING NUMBERS
(See also Sup.R. 45(D))**

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

SUP. R. 57
FILINGS AND JUDGMENT ENTRIES

**LOCAL RULE 57.1 FILINGS, JUDGMENT ENTRIES, HEARING ASSIGNMENTS,
WITHDRAWAL OF COUNSEL**

- A) All filings (including motions for continuance) shall be in typed or, if absolutely necessary, legibly printed in ink and meet the court's

criteria for electronic imaging. Blue ink for hand printing and signatures is highly preferred. Illegibly printed filings, in whole or in part may be stricken. Partially or wholly illegible signatures must have the typed or legibly printed name of the signer indicated.

- B) Motions that are to be set for oral argument shall be accompanied simultaneously by an entry setting the motion for hearing. The moving party shall consult with opposing counsel, or if unrepresented, the opposing party, to arrange a hearing date that is timely and mutually agreeable. When possible, it is preferable to have all parties simultaneously consult with the courts assignment clerk as to selection of a hearing assignment. In the absence of an agreed hearing date, the court shall set a date for the hearing.
- C) Unless otherwise directed by the judge, counsel for the party in whose favor a ruling or judgment is rendered shall submit the proposed judgment entry to opposing counsel within seven (7) calendar days after judgment is rendered. If opposing counsel has not objected in writing within seven (7) days of receipt then the court will presume consent thereto. Counsel who drafted the entry may, thereafter, submit the entry with a copy of their proof of service of the original upon opposing counsel with a motion to journalize and the same may after seven (7) days of filing be approved by the court.
- D) If a proposed entry approved by each party or their respective attorney is not filed within twenty-one calendar days after judgment is rendered, or within twenty-one calendar days after the parties have indicated settlement of part or all pending issues, the court shall assign the matter for journalization hearing.
- E) All entries and orders presented to the court for approval must include the date of the hearing, the names of those present, and the specific motion(s) or application heard by the court on that date.
- F) All filings, entries, and orders which bear an endorsement of counsel per telephone or electronic authorization shall state the date of said authorization and shall also contain a certificate of service by the attorney who obtained authorization that a copy of the filing, entry, or order has been delivered to the consenting counsel.

LOCAL RULE 57.2 FACSIMILE FILINGS/ELECTRONIC FILINGS

The court will accept filings by facsimile transmission. Costs of copying and mailing will be assessed to the submitting party.

LOCAL RULE 57.3 COMPUTER DISKS

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

LOCAL RULE 57.4 SIGNATURES

All non-facsimile filings must contain original signatures. In matters with multiple fiduciaries, the signature of each is required on all documents requiring a fiduciary's signature including a fiduciary check. A non-attorney may not sign on behalf of an attorney. An attorney for the fiduciary may not sign for the fiduciary.

LOCAL RULE 57.5 PRAECIPE FOR SERVICE

A request for service of summons and a copy of a complaint/petition with manner of service shall be filed with an original complaint or petition in a civil action accompanied by the requisite deposit. If a deposit is required but not submitted for a complaint or other document to open a new case, the filing will not be accepted, if a pleading other than the complaint, the pleading will then be accepted for filing but no action will be taken thereon until the deposit is received by the Court.

LOCAL RULE 57.6 CERTIFICATE OF NOTICE OF ENTRY OF JUDGMENT

Any party that submits a proposed entry to the court which is subject to Civ. R. 58(B) (notice of filing) as modified by Civ. R. 73(l) (notice of filing judgments) shall include a proposed certificate of service (for use by the clerk) which sets forth the names and addresses of all parties and other interested persons required to be served a copy of the entry if signed and filed by the judge. No need to have address on entry.

SUP. R. 58 DEPOSIT FOR COURT COSTS

LOCAL RULE 58.1 COURT COSTS

- A) Deposits in the minimum amount set forth in Appendix. Minimum cost deposit shall be required upon the filing of any action or proceedings listed therein. The court may request a higher deposit when the minimum deposit is unlikely to cover all court costs. Additional deposits may be required as costs are incurred.
- B) The court accepts only the following methods of payment of court costs:
 - (1) Cash
 - (2) Money Order
 - (3) Checks
 - (4) Visa, MasterCard and Discover with a 3% assessment to the Credit/Debit transaction.
- C) Prior to making the final distribution and filing of a final account, the attorney or fiduciary shall check the adequacy of the deposit balance and submit any amount due with the final account.

LOCAL RULE 58.2 WITNESS FEES

- A) Any party issuing the subpoena or requesting a witness' presence shall submit the appropriate witness fee and mileage for each

requested witness at the time of the request and/or filing of the subpoena.

- B) Witness fees may be ordered reimbursed or taxed as costs at the conclusion of the proceedings.

LOCAL RULE 58.3 FILING TRANSCRIPTS, EXHIBITS, OR FOREIGN RECORDS

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

SUB. R. 59 WILLS

LOCAL RULE 59.1 WILLS

- A) **INDEX OF WILLS DEPOSITED**
Before an application is filed to admit a will to probate, to appoint an estate fiduciary, or to relieve an estate from administration, the applicant or the applicant's attorney shall examine the "Index of Wills Deposited" to determine if a will of the decedent has been deposited with the court for safekeeping. Any prior or superseded will so deposited shall be filed in the estate proceedings for record purposes only.
- B) **NOTICE OF PROBATE OF WILL**
In testate estates, the certificate of service, notices, affidavits, and waivers required by R.C. 2107.19 shall be filed by the fiduciary within two months of appointment or by the time of the filing of an inventory whichever occurs first. Service on a minor shall be made pursuant to Civ. R. 4.2.

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

LOCAL RULE 60.1 NOTICE OF APPLICATION TO ADMINISTER

- A) Notice of application for appointment to administer shall be served at least seven (7) days prior to the date set for hearing.
- B) Upon appointment, the administrator shall give notice thereof within seven (7) days after the appointment to all persons entitled to inherit including persons entitled to an allowance for support, unless those persons were provided notice of hearing on the application or have waived notice.

LOCAL RULE 61.4 EXCEPTION FROM APPRAISAL/MOTOR VEHICLE

The value of any motor vehicle as found in the current N.A.D.A. Official Used Car Guide, Kelly's Blue Book, or Edmunds.com under the category "Private Party," with appropriate consideration of condition, mileage, and options may be accepted as listed as the valuation, with a photo copy or printout attached, unless otherwise required by law or court order upon motion of the court or interested party.

LOCAL RULE 61.7 EXCEPTION FROM INVENTORY/PUBLIC AUCTION

No appraisal of tangible personal property is necessary if such property will be disposed of by properly advertised public auction.

LOCAL RULE 61.12 INVESTIGATION/TITLE SEARCH

Prior to filing any inventory, the fiduciary shall make diligent investigation to ascertain and confirm decedent's, ward's, or trustee's ownership interest in real estate and encumbrances there on. A title search may be appropriate.

LOCAL RULE 64.2

Accounts of executors, administrators, guardians, and trustees, including corporate trustees shall be submitted on standard probate forms 13.0 through 13.3. Evidence that the itemized statements actually balance shall accompany the account (adding machine tapes or the equivalent). Partial accounts on estates may be waived if consent and waiver are signed by all heirs and interested parties and filed with the Court.

SUP. R. 66 GUARDIANSHIPS

LOCAL RULE 66.1

(A) GUARDIANS

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

(B) RESPONSIBILITIES OF GUARDIANS

All Guardians appointed by the Court shall submit to the court information documenting compliance with the guardian qualifications pursuant to Sup. R. 66.06 or 66.07, as applicable. In addition, each Guardian shall submit a background check or certificate of good standing prior to appointment if admitted to the practice of law. The Guardian shall follow all requirements outlined in Sup.R. 66.08 and 66.09 including an annual report to the Court.

In the event that the criminal background check indicates a charge that would disqualify the applicant from serving, the Court, in its discretion, may hold a hearing on reformation. At the hearing, the applicant has the burden of proof that the applicant is suitable to serve despite the unfavorable background check.

Each guardian shall file an annual report with the Court containing the information required by the Court. No guardian shall change the residential placement of a ward without prior application to and approval of the Court. The application shall state the reason for relocating the ward and any recommendation for relocation made by health care providers.

A guardian shall avoid actual or apparent conflicts of interest regarding a ward's personal or business affairs. A guardian shall report to the probate division of the court of common pleas all actual or apparent conflicts of interest for review and determination as to whether a waiver of the conflict of interest is in the best interest of the ward. This report shall be made within 30 days of when the guardian knew or should have known of the existence of the conflict. Failure to make a timely report is grounds for sanctions and/or removal.

(C) EMERGENCY GUARDIANSHIPS

Pursuant to Sup.R. 66.03(A) this Court has adopted the following process for emergency guardianships. Every application for the appointment of an ex parte emergency guardianship shall be accompanied by:

- (1) A statement of Expert Evaluation;
- (2) A completed Next of Kin form;
- (3) A narrative statement signed by the applicant setting forth information describing the imminent risk of significant injury to the person or property of the minor or incompetent that justifies an ex parte emergency appointment;
- (4) Compliance with the Court's requirement with respect to background checks and credibility; and
- (5) Photo identification of the applicant.

The applicant shall attend the required 72-hour hearing to determine whether to extend the emergency guardianship. The applicant is expected to file an application for appointment of guardian within seven days of the completion of a hearing extending the guardianship beyond the initial 72 hour appointment if it is expected the need for continued guardianship will exist longer than the emergency guardianship.

(D) GUARDIAN COMMENTS AND COMPLAINTS

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

This local rule is applicable to all guardians appointed by the Court pursuant to R.C. § 2111.02. Comments and complaints (hereinafter collectively referred to as "complaints") received regarding the performance of guardians and the resulting documents and correspondence are considered to be case documents and accessible to the public, unless otherwise excluded pursuant to Sup. R. 44(C)(2). The Court will note actions with respect to the complaint in the case docket. The Court will communicate complaints about a guardian's performance to the guardian and/or the guardian's counsel.

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

submitted complaints must include verification information for the complainant. Failure to provide the same will result in the complaint being treated as anonymous.

When a complaint is received by the Court, the procedure will be as follows:

- 1) The Court will send a copy of the complaint to the guardian and/or guardian's attorney and request a response to the complaint within twenty-eight (28) court days from the date of mailing.
- 2) Once the response is received or the expiration of twenty-eight (28) days has passed with no response, the Court may refer the complaint and any response from the guardian and/or guardian's attorney to a Court investigator and/or other appropriate office or agency for an investigation to be completed within thirty (30) court days.
- 3) When appropriate, the complaint will be referred to the appropriate law enforcement agency pursuant to R.C. § 2101.26 if the complaint alleges abuse, neglect, or exploitation of the ward. When the Court refers a complaint to law enforcement, the Court will take such emergency action as it determines necessary to protect the interest of the ward while being cognizant of the need to have minimal impact on the investigation by law enforcement.

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

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

The Court shall maintain a record regarding the nature and disposition of any complaints filed under this rule in an Administrative Case File.

(E) GUARDIAN WITH TEN OR MORE ADULT WARDS

To assist the Court in meeting its supervisory responsibilities under Sup.R. 66.05(B) and in satisfaction of the responsibilities arising under Sup.R. 66.08(H) by January 31 of each year, a guardian with ten or more wards through the probate court shall file with this Court a document that includes a listing of the guardian's wards, the case number and the appointing Court. The guardian in such cases shall advise the Court of any change in the guardian's name, address, and telephone number within thirty days of the change occurring.

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

A guardian with 10 or more wards shall include with the Guardian's Report form, a statement indicating whether the guardian is aware of any circumstances that may disqualify the guardian from continuing to serve as guardian.

RULE 66.06. GUARDIAN PRE-APPOINTMENT EDUCATION

All guardians shall comply with the requirements of Rule 66.06 of the Rules of Superintendence.

RULE 66.07. GUARDIAN CONTINUING EDUCATION

All guardians shall comply with the rules of superintendence concerning guardian education requirements.

SUP. R. 68 SETTLEMENT OF INJURY CLAIMS OF MINORS

LOCAL RULE 68.1 SETTLEMENT OF MINOR'S CLAIMS

- A) If the settlement of a minor's claim involves a structured settlement, the proposed structured settlement shall be reviewed with the court before the application for settlement is filed. The application shall also include a statement of the total actual cost to the defendant of the settlement. This statement shall be used to fix and determine attorney fees.
- B) If the settlement is to be funded by an annuity, the annuity shall be provided by an annuity carrier that is licensed to write annuities in Ohio. The annuity carrier must have a minimum of \$100,000.00 of capital and surplus, exclusive of any mandatory security valuation reserves. The annuity carrier must have one of the following ratings from the following rating organizations: A++, A+, or A from A.M. Best Company; AAA, Aa1, or Aa2 from Moody's Investors Service; or AAA or AA from Standard's & Poor's Corporation. The annuity insurer issuing an annuity contract may not enter into an assumption reinsurance agreement for the annuity contract without the prior approval of this court, the owner of the annuity contract, and the claimant having the beneficial interest in the annuity. In all instances of reinsurance, the broker or the annuity insurance carrier shall provide the court with an affidavit to certify that the carrier meets the standards set forth in this rule.

SUP. R. 69 SETTLEMENT OF CLAIMS OF OR AGAINST ADULT WARD

LOCAL RULE 69.1 SETTLEMENT OF CLAIMS OF OR AGAINST ADULT WARD

The application for settlement of any injury claim shall be accompanied by a current statement of an examining physician that lists the extent of the ward's injury, the extent of any recovery, and the physician's opinion on the permanency of any injuries. All counsel fees shall be set forth in the application. If the settlement of this claim will result in any payments to other parties, these payments shall be itemized on the application.

SUP R. 70
SETTLEMENT OF WRONGFUL DEATH AND SURVIVAL CLAIMS

LOCAL RULE 70.1 SETTLEMENT OF WRONGFUL DEATH CLAIMS

- A) All applications to settle wrongful death claims shall be set for hearing. The fiduciary shall serve written notice of the hearing and a copy of the application on all interested persons at least seven (7) days before the hearing.
- B) Interested persons who are subject to notice, as set forth in R.C. 2125.02, shall include the surviving spouse, the children, the parents, and other next of kin of the decedent.
- C) Interested persons may waive notice and consent to the settlement and allocation and distribution of proceeds in writing.
- D) The applicant must be present at the hearing.
- E) The report of distribution of wrongful death and survival claims shall be filed within fifteen (15) days of the approval of the settlement unless otherwise ordered by the court.
- F) If a wrongful death trust pursuant to R.C. 2125.03 is to receive any settlement proceeds for a minor, approval of the trust must be obtained from the court prior to filing the application to settle the claim.
- G) In cases where representation is on a contingent basis, counsel will be allowed fees on the amount obtained as approved by the Court upon application. Attorney fee contracts are recommended to be submitted to the court for approval ahead of time.

SUP. R. 71
COUNSEL FEES

LOCAL RULE 71.1 ATTORNEY FEES

- A) Attorney fees are subject to Court approval.
- B) A written fee application shall not be required and the fiduciary may pay such fees to attorney if attorney's fee is within the guideline set forth in Local Rule 71.3 below. Fees taken pursuant to the local guideline are presumed to be reasonable.
- C) Fee contracts between an attorney and a fiduciary for services performed in connection with a civil complaint shall not be paid until approved by the court.
- D) Any beneficiary or creditor affected by the fee, in addition to a fiduciary, has the right to object to any fee if the objector believes the fee is not reasonable and necessary. If any objection is timely filed with the court, the attorney must be prepared to produce an hourly record of services provided even if the fee agreement does not require such an accounting.

LOCAL RULE 71.2 ATTORNEY FEES IN DECEDENT'S ESTATE

No fee shall be paid until the final account or final closing document is prepared and submitted to the court. Early payment of attorney fees in the administration of decedent's estate is not permitted without application and approval of the court after notice to all affected parties not consenting in writing.

LOCAL RULE 71.3 ATTORNEY AND FIDUCIARY FEE GUIDELINES

The following are guidelines for determining attorney fees. It shall not be represented as a minimum or maximum fee. Fees based on these guidelines may be in conformity with Prof. Con. R. 1.5. Acceptance of an account for filing which reflects an attorney fee equal to or less than the guideline is not approval of the reasonableness of the fee. However, said fees will be presumed by the court to be reasonable subject to rebuttal by an objecting party. (See Appendix for fee forms.)

Guideline of Attorney Fees for Decedent's Estate:

- A) 5% of the value of all probate assets excluding real estate not sold pursuant to Section 2127, ORC, plus
- B) 3% of the appraised value of the decedent's interest in real estate transferred but not sold pursuant to the above section; plus
- C) 2% of the first \$20,000.00 plus 1% of the balance of all property subject to the Federal Estate Tax which passes otherwise than under the decedent's will or the Statute of Descent and Distribution, such as joint and survivorship property, property in inter vivos trust, property subject to power of appointment, transfers in contemplation of death, annuities, pension or profit sharing plan benefits, and other non-probate property (but excluding life insurance proceeds where paid to the beneficiaries other than the decedent's estate).
- D) At the attorney's documented hourly rate for all time assisting in the transfer of any property not subject to the Federal Estate Tax of the type set forth in (C) above.
- E) Any attorney fee paid by a fiduciary not exceeding \$250.00 shall be considered presumptively reasonable and just regardless of the amount of assets in the estate.
- F) Except on special application, when an attorney or his associate or partner serve in the dual capacity as attorney for the estate and executor or administrator, the total fees charge in both capacities shall not exceed one and one-half times the attorney fees allowable.

Guideline of Guardian Fees:

- A) 3% of the first \$1,000.00 income during the accounting period; plus
- B) 3% of the first \$1,000.00 expended during the accounting period; plus

- C) 2% of income in excess of \$1,000.00 during the account period; plus
- D) 2% of expenditures made in excess of \$1,000.00 during the accounting period.
- E) Any person employed as attorney and guardian may collect a separate full fee for each capacity.

Guideline of Trustee Fees:

- A) Income from realty and personalty as follows:
 - 6% of the first \$1,000.00
 - 4% of the next \$4,000.00
 - 2% of all income over \$5,000.00
- B) In addition thereto, there shall be a fee allowed of \$1.50 per \$1,000.00 on the first \$500,000.00 of the corpus of the trust and \$1.00 per \$1,000.00 on the balance of \$500,000.00. This amount shall be based upon the reasonable current market value of the corpus both real and personal handled by the fiduciary chargeable to the principal, except that, with the written consent of the income beneficiaries, all or a portion of said fee may be chargeable to income.
- C) In addition thereto, there shall be a distribution fee on the corpus both real and personal of 1% based upon the reasonable market value of the property at the time of distribution.
- D) Except on special application, when an attorney or his associate or partner serve in the dual capacity as attorney for the trust or trustee, the total fees charged in both capacities shall not exceed one and one-half times the trustee's fee allowable.

Guideline on Attorney Fees in Guardianships and Trusts:

- A) 3% of the income during the accounting period, plus
- B) 3% of the expenditures during the accounting period.
- C) It is assumed by the Court that regardless of any fee guideline that fees charged by trustees or attorneys will not exceed an amount reasonably commensurate with the time expended.
- D) Attorney fee in a guardianship for a sale of Real Estate proceedings is calculated at 5%.
- E) Any attorney fee paid by a fiduciary not exceeding \$200.00 to establish the guardianship and \$250.00 to prepare and file the accounting shall be considered presumptively reasonable and just regardless of the amount of assets in the guardianship estate.

SUP. R. 75
LOCAL RULES

LOCAL RULE 75.1 GUARDIAN AD LITEM

The court shall select and appoint each guardian ad litem. In land sale proceedings, a minimum fee of One Hundred and no/100 Dollars (\$100.00) shall be assessed as costs for each guardian ad litem appointed, unless the circumstances warrant the payment of additional fees subject to court approval. In all other proceedings, the amount of the guardian ad litem fee will be determined upon motion supported by a statement of services. The guardian ad litem's fees may be assessed as costs.

LOCAL RULE 75.2 ADOPTION

- A) In private placement adoptions, a pre-placement application in a form prescribed by the court shall be filed by the proposed adopting parents not less than fifteen (15) days prior to placement if applicants are residents of Hardin County, Ohio, and not less than thirty (30) days prior to placement if applicants are residents of Hardin County, Ohio.
- B) Once the applications have been approved by the court, a hearing shall be held not less than seventy-two (72) hours after the birth of the child or after the parent(s) have met with the adoption assessor, whichever occurs later, for the placement and consent by the parents. Prior to the placement hearing, the Court may require a statement from the child's physician as to the medical condition of the child to be placed. If the placement is approved, the adoption petition must be filed before the court will issue a hospital release for the release of the child to the petitioners.

LOCAL RULE 75.3 PRO HAC VICE

- A) An attorney not licensed to practice law in the State of Ohio, but who is duly licensed to practice law in any other state or the District of Columbia, may, at the discretion of the Probate Judge, be permitted to represent a party or parties in any litigation pending or to be filed in this county after completion of all of the following conditions:
 - 1) File a written oath substantially in compliance with Rule I, Section 8A of the Supreme Court Rules for the Government of the Bar;
 - 2) The attorney must become familiar with Local Court Rules, Civil Rules, Rules of Evidence, and the Ohio Rules of Professional Conduct, [sic] and so certify this court in writing;
 - 3) An attorney licensed to practice law in the State of Ohio, shall be co-counsel with the attorney admitted *pro hac vice*.
- B) The continuance of any scheduled trial or hearing date shall not be permitted solely because of the unavailability or inconvenience of the out-of-state attorney.

LOCAL RULE 75.5 SURVIVING SPOUSE WAIVER OF SERVICE OF THE CITATION TO ELECT

A surviving spouse may waive the service of the citation required under section 2106.01(A) of the Revised Code by filing in the probate court a written waiver of the citation. The waiver shall include an acknowledgement of receipt of the description of the general rights of the surviving spouse required by division (B) of section 2107.02 of the Revised Code. Neither a waiver nor service of citation of rights will be required if the spouse has filed a written election.

SUP. R. 76 EXCEPTION TO THE RULES

LOCAL RULE 76.1 EXCEPTION TO THE RULES

Upon application, and for good cause shown, the probate division of the court of common pleas may grant exception to Sup. R. 53 to 79.

SUP. R. 77 COMPLIANCE

LOCAL RULE 77.1 COMPLIANCE

Failure to comply with the Rules of Superintendence and these local court rules may result in sanctions as the court may direct.

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

LOCAL RULE 78.1 SPECIAL NEEDS TRUSTS

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

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

**APPENDIX A
DEPOSIT FOR COURT COSTS**

Estates:

Full Administration	\$250.00
Release of Administration	150.00
Summary Administration	60.00
Summary Administration with Will for Record Only	65.00
Summary Administration with Real Estate	69.00

Guardianship:

Incompetent	\$200.00
Minor	150.00

Trusts	\$150.00
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Adoptions	\$200.00
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Exception to Inventory or Account	\$200.00
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Civil Cases	\$125.00
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Change of Name	\$150.00
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Minor's Settlement	\$ 80.00
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Wrongful Death	\$ 70.00
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Publication in any case (an additional)	\$100.00
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Disinterment	\$ 65.00
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The Clerk is authorized to require an additional deposit in any case or proceedings where it is apparent that additional costs are going to be incurred beyond the deposit amount.

**APPENDIX B
COURT OF COMMON PLEAS, HARDIN COUNTY, OHIO
PROBATE DIVISION**

FORM OF STATEMENT OF FEES AND COMMISSIONS FOR ESTATES

ATTORNEY FEES

5% of Probate assets excluding real estate,
of \$ _____ = \$ _____

3% of appraised value of decedent's interest
in real estate transferred but not sold
of \$ _____ = \$ _____

2% of first \$20,000.00, plus 1% of balance
Of all property subject to the Federal Estate
Tax Return, including joint & survivorship
property of \$ _____ = \$ _____

For Joint & Survivor, POD, TOD and other property
Not otherwise calculable above in estates not
Subject to the Federal Estate Tax, attorney's actual
Time spent assisting in the transfer of said property:

Hourly rate \$ _____ per/hour X _____ hours = \$ _____

Expenses advanced by attorney:

	\$		
	\$		
	\$		\$ _____

TOTAL FEE ALLOWABLE = \$ _____

TOTAL FEE CHARGED = \$ _____

Received and Approved:

Fiduciary

Attorney

NOTE: Fees for Extraordinary Services shall be computed detailing the time involved in rendering the service and the necessity of such services on the accounting period for which said extraordinary fees are sought.

**APPENDIX C
IN THE COURT OF COMMON PLEAS, HARDIN COUNTY, OHIO
PROBATE DIVISION**

GUARDIAN'S FEES

A.	3% of first \$1,000.00 income during account period	\$ <u>30.00</u>
	3% of first \$1,000.00 expenditures during accounting period	\$ <u>30.00</u>
	2% of income in excess of \$1,000.00 during accounting period of \$ _____	\$ _____
	2% of expenditures in excess of \$1,000.00 during accounting period of \$ _____	\$ _____
B.	Total Guardian's Fee Allowable	\$ _____
C.	Total Guardian's Fee Charged	\$ _____
D.	Expenses advanced by Guardian:	
	_____ \$ _____	
	_____ \$ _____	
	_____ \$ _____	\$ _____
	Total Compensation & Reimbursement	\$ <u> </u>

_____ Guardian

NOTE: Fees for Extraordinary Services shall be computed detailing the time involved in rendering the service and the necessity of such services on the accounting period for which said extraordinary fees are sought.

**APPENDIX D
IN THE COURT OF COMMON PLEAS, HARDIN COUNTY, OHIO
PROBATE DIVISION**

TRUSTEE'S COMPENSATION

Income from realty and personalty:

6% of first \$1,000.00	\$ _____
4% of next \$4,000.00	\$ _____
2% of all income over \$5,000.00, a total of \$ _____	\$ _____

\$1.00 per \$1,000.00 on balance over \$500,000.00	\$ _____
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Distribution:

1% of principal distributed during this accounting period \$ _____ (based upon reasonable market value at time of distribution)	\$ _____
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Expenses advanced by Trustee:

_____ \$ _____	
_____ \$ _____	\$ _____

Total Trustee's Fee Allowable	\$ _____
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Total Trustee's Fee Charged	\$ _____
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Total Compensation & Reimbursement	\$ _____
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Trustee

NOTE: Fees for Extraordinary Services shall be computed detailing the time involved in rendering the service and the necessity of such services on the accounting period for which said extraordinary fees are sought.

**APPENDIX E
IN THE COURT OF COMMON PLEAS, HARDIN COUNTY, OHIO
PROBATE DIVISION**

ATTORNEY FEES IN GUARDIANSHIP

A.	3% of the income during accounting period		
	_____ x 3%	=	\$ _____
B.	3% of the expenditures during accounting period		
	_____ x 3%	=	\$ _____
C.	5% for sale of real estate proceedings		
	_____ x 5%	=	\$ _____
D.	Attorney fee to establish guardianship (not to exceed \$200.00)	=	\$ _____
E.	Preparation and filing of account	=	\$ <u>250.00</u>
F.	Expenses advanced by Attorney		
	_____ \$ _____		
	_____ \$ _____		
	_____ \$ _____	=	\$ _____
	TOTAL FEE ALLOWABLE	=	\$ _____
	TOTAL FEE CHARGED	=	\$ <u> </u>

Received and Approved:

Fiduciary

Attorney

NOTE: Fees for Extraordinary Services shall be computed detailing the time involved in rendering the service and the necessity of such services on the accounting period for which said extraordinary fees are sought.

**APPENDIX F
IN THE COURT OF COMMON PLEAS, HARDIN COUNTY, OHIO
PROBATE DIVISION**

ATTORNEY FEES IN TRUST

A.	3% of the income during accounting period		
	_____ x 3%	=	\$ _____
B.	3% of the expenditures during accounting period		
	_____ x 3%	=	\$ _____
C.	5% for sale of real estate proceedings		
	_____ x 5%	=	\$ _____
D.	Attorney fee to establish trust (not to exceed \$200.00)	=	\$ _____
E.	Preparation and filing of account	=	\$ <u>250.00</u>
F.	Expenses advanced by Attorney		
	_____ \$ _____		
	_____ \$ _____		
	_____ \$ _____	=	\$ _____
	TOTAL FEE ALLOWABLE	=	\$ _____
	TOTAL FEE CHARGED	=	\$ <u> </u>

Received and Approved:

Fiduciary

Attorney

NOTE: Fees for Extraordinary Services shall be computed detailing the time involved in rendering the service and the necessity of such services on the accounting period for which said extraordinary fees are sought.