

**PORTAGE COUNTY COMMON PLEAS COURT  
PROBATE DIVISION  
LOCAL RULES AND PROCEDURES OF COURT  
EFFECTIVE DATE: APRIL 1, 2020**

The Portage County Common Pleas Court, Probate Division, proposes the following amendments or additions to the Probate Court Local Rules, **marked in BOLD type**:

**Rule 59.1 REAL ESTATE TRANSFER ONLY**

**Rule 65.1 LAND SALES  
Guardianships**

**Rule 66.1 GUARDIANSHIPS  
Statement of Expert Evaluation**

**Rule 67.1 ESTATES OF MINORS NOT MORE THAN \$25,000**

**Rule 68.1 SETTLEMENT OF INJURY CLAIMS OF MINORS  
Application to Release Sequestered Funds when Minor Turns 18 Years of age**

**Rule 70.1 SETTLEMENT OF WRONGFUL DEATH AND SURVIVAL CLAIMS  
Release of Medical Records and Medical Billing**

**Rule 75.5 RELEASE FROM ADMINISTRATION  
Motor Vehicles  
Filing of Last Will and Testament**

**Rule 79 MEDIATION**

**Rule 80 TECHNOLOGY**

The proposed Portage County Probate Court Local Rules may be reviewed at the Court's Website at <https://www.co.portage.oh.us/juvenileprobate.htm> or a copy may be obtained at the Probate Clerk's office of the Probate Court at 203 W. Main St., Ravenna, Ohio. Comments on the proposed changes can be made by letter to Judge Patricia J. Smith / Rule Changes, 203 W. Main St., Ravenna, OH 44266.

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**TABLE OF RULES**

Conduct and operations in the Court of Common Pleas, Portage 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. All persons before this Court should familiarize themselves with all applicable law. The numbering of these Local Rules corresponds with the numbering of the Rules of Superintendence. References to “this Court” or “the Court” are to the Court of Common Pleas, Portage County, Ohio, Probate Division.

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## **LOCAL RULE 8.1            COURT APPOINTMENTS**

- A.** Persons appointed by the Court pursuant to constitutional or statutory authority, rule of court, or the inherent authority of the Court shall be selected from lists maintained by the Court.
- B.** Appointments will be made from such lists taking into consideration the qualifications, skill, expertise and caseload of the appointee in addition to the type, complexity and requirements of the case.
- C.** When the Court believes the appointment of a Guardian Ad Litem is necessary and appropriate, the Court shall appoint one suitable and disinterested person to serve in that capacity.
- D.** Court appointees will be paid a reasonable fee with consideration given to the factors contained in DR 2-106 of the Code of Professional Responsibility, the Ohio Revised Code and the Local Rules of Court relating to fees.
- E.** The Court shall review Court appointment lists at least annually to ensure the equitable distribution of appointments.

## **LOCAL RULE 9.1            SECURITY PLANS**

The Portage County Probate Court is charged with dispensing justice, resolving disputes, and protecting the constitutional rights of those who appear before the Court. Accordingly, appropriate levels of security should exist in the Court to protect the integrity of Court proceedings, protect the rights of individuals before it, deter those who would take violent action against the Court or litigants, sustain the proper decorum and dignity of the Court, and assure that Court facilities are secure for all those who visit and work there. Since the Probate Court shares the same building and facilities as the General Division of the Common Pleas Court, the Probate Court hereby incorporates by reference the Security Rule of the Portage County Court of Common Pleas, pursuant to **Case Number 2005 MS 00057**, as a Local Rule of the Portage County Probate Court.

## **LOCAL RULE 11.1          RECORDING OF PROCEEDINGS**

### **A.            Record and Costs**

All hearings before this Court shall be recorded by audio electronic recording devices. If any other recording procedure is desired, it must be provided by the requesting party, who shall make the necessary arrangements including the payment of the costs. A fee in the amount of \$5.00 shall be charged and collected as costs when the following types of cases are filed: Guardianships; Name Changes; Adoptions; Registrations of Birth; Civil Actions other than the sale of Real Estate. In other cases, the Court may assess a fee in the amount of \$5.00 upon completion of the first hearing held on the case.

### **B.            Transcripts**

Transcription of the record shall be made at the expense of the person requesting such transcription. The transcription shall be made by the Probate Court Reporter. The request for transcription shall be made in writing. The court reporter shall charge the usual customary fee charged by a private reporter for services in this county for such transcription. The court reporter shall attach a certificate of accuracy of such transcription and that the required fees have been paid.

### **C.            Maintenance of Audio Tapes**

The original tape or tapes of the audio-electronic recording shall be maintained by the court for a period of ninety (90) days:

1. From the date of the final appealable order in the case, or
2. From the date of the final decision on appeal, whichever is later.

If a written request for transcription has been made, the original tape(s) shall become part of the record of the proceedings.

**D. Record of Jury Trials**

Unless waived, a record in all jury trials will be taken by the court reporter.

**LOCAL RULE 12.1 CONDITIONS FOR BROADCASTING AND PHOTOGRAPHING COURT PROCEEDINGS**

No radio or television transmission, voice recording device, other than a device used by a court reporter making a recording of the proceeding, or the making or taking of pictures shall be permitted without the prior express consent of the Court and pursuant to Sup. R. 12.

**LOCAL RULE 27.1 STANDARDS RELATIVE TO THE USE OF ELECTRONIC DOCUMENTS AND RECORDS**

This Court submitted its proposed local rule to the Standards Subcommittee of the Supreme Court Advisory Committee on Technology and the Courts and received provisional approval on January 11, 2007. The local rule is set forth as Local Rule 57.1.

**LOCAL RULE 51.1 STANDARD PROBATE FORMS**

Forms for use in the Portage County Probate Court are available at the Court and on the Court's website: [www.co.portage.oh.us](http://www.co.portage.oh.us). Computer generated forms may be used subject to the limitations in Rule 52.1.

**LOCAL RULE 52.1 SPECIFICATIONS FOR PRINTING PROBATE FORMS**

**Computer Generated Forms**

When standard forms are generated by computer, they shall conform to all specifications for standard forms stated in Sup. R. 52. The Court will accept for filing nonstandard computer generated forms for the receipts and disbursements attached to a standard account form or the schedule of assets attached to a standard inventory and appraisal form.

**LOCAL RULE 53.1 HOURS OF THE COURT**

The Probate Court and its offices shall be open for the transaction of business from 8:00 a.m. to 4:00 p.m. daily, except Saturday, Sunday, and legal holidays.

#### **LOCAL RULE 54.1      CONDUCT IN THE COURT**

Proper attire is required for admittance to the Probate Court. Shorts, tank tops, halter tops, hats, bare feet, etc., are not acceptable forms of attire at any Court Hearing.

#### **LOCAL RULE 55.1      EXAMINATION OF PROBATE RECORDS**

##### **A.      Case Files**

The Court's case files shall not be removed from the Probate Court, except when approved by the Judge. Individual pleadings shall not be removed from the retaining clips.

##### **B.      Photocopies**

Copies of any public record may be obtained during regular court hours at the cost of twenty-five cents (\$.25) per page.

##### **C.      Proposed Judgment Entries**

The Probate Court File must accompany all proposed Judgment Entries when presented to the Court for approval, unless waived by the Court.

#### **LOCAL RULE 57.1      FILINGS AND JUDGMENT ENTRIES**

##### **A.      Facsimile Filings**

1. Pursuant to Civil Rule 73(J) the Court in its discretion may allow facsimile filing during regular business hours of the Court as set forth in Local Rule 53.1 The area code and number of the receiving machine is (330) 297-3894.
2. All initial pleadings must be filed with the Clerk of Probate Court in person or by mail. Only documents subsequent to the initial filing, including pleadings, motions, exhibits and other documents may be filed with the Clerk of Probate Court by facsimile. All risks of transmission shall be borne by the sender.
3. Original wills and codicils will not be accepted for fax filing.
4. The date and time of receipt of any document is the date and time imprinted on the document by the facsimile machine receiving the transmission. However, the document is not considered to be filed with the Probate Court, until it is stamped "Filed" by the Probate Court clerk.
5. A document filed by facsimile shall be accepted as the effective original and shall be filed by the party or the attorney of record. The source document need not be filed; however, the sending party must maintain possession of the source document and make them available for inspection by the court upon request.
6. Documents shall be filed with a signature or notation "/s/" followed by the name of the person signing the source document. The person transmitting the document represents that the signed source document is in his/her possession.



7. All filings by facsimile shall be accompanied by a cover page that states all of the following information: (a) The date of transmission; (b) The name, telephone number, and facsimile number of the person transmitting the document; (c) The case number and caption of the case in which the document is to be filed; (d) The title of the document to be filed; (e) The number of pages being transmitted. **Appendix J.**
8. Each facsimile transmission shall not exceed five (5) pages, including the cover sheet. If the document to be transmitted exceeds this page limit, it will not be accepted for filing and the original document must be filed. Any exhibit(s) that cannot be transmitted accurately, or is lengthy, can be replaced by an insert page describing the exhibit. The original of such an exhibit shall be filed within five (5) court days from the date of the transmittal. Failure to submit the original exhibit(s) within this time period may result in the Court striking the document and/or exhibit.
9. Any signature on documents transmitted by facsimile shall be considered that of the attorney or party that it purports to be for all purposes. If it is established that the documents were transmitted without authority, the Court may order the filing stricken.
10. Subject to the provisions of these rules, all documents sent by fax and received by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. However, the fax machine will be available to receive facsimile transmission of documents on the basis of 24 hours per day seven days per week including holidays.
11. There are no specific costs related to facsimile transmissions except to the extent that the filings are taxed as costs to any case. It is the sender's responsibility to ensure that there is sufficient deposit posted with the Court with which to satisfy the cost relating to the filing. No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court costs and fees have been paid.

**B. Computer Information Sheet**

**1. Information Required**

A Computer Information Sheet shall be filed with each new case indicating all Parties' names, dates of birth ~~and Social Security Number~~. **Appendix K-1 through K-6.** A Computer Information Sheet shall be filed with each Yearly Bank Certificate. **Appendix K-7.**

**2. Sealing Social Security Number**

The Court will seal all Computer Information Sheets which contain the Applicant's Social Security Number.

**3. Refusal of Filings**

The Probate Court will not accept for filing any actions for which this form is not completed.

**C. Time For Filings**

All new filings, applications for Marriage Certificates, and any filings which require a cash transaction shall be completed by 3:30 p.m.

**D. Street Address**

When required on a court document, the fiduciary's address must be a street address and, if applicable, any post office box number used as a mailing address. The address of the fiduciary must be the fiduciary's legal address. A fiduciary who is an attorney may use an office address.

**E. Original Signatures**

All filings must contain original signatures, signed in ink. In all matters with multiple fiduciaries, the signature of all fiduciaries is required.

**F. Attorney Registration Identification Number**

Upon filing a new case or entering an appearance as substituted counsel or co-counsel, each attorney shall provide the Court with their Attorney Registration Identification Number issued by the Supreme Court of Ohio. The number shall be conspicuously placed on an original filing or order whenever an attorney first represents a fiduciary in any estate, trust, guardianship or civil case.

**G. Attorney Signatures**

A person who is not an attorney may not sign on behalf of an attorney.

**H. Fiduciary Signatures**

The attorney for the fiduciary may not sign for the fiduciary.

**I. Case Number**

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

**J. Forwarding Copies**

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

**K. Disposition of Exhibits**

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

Upon agreement of the parties or by order of the Court, copies may be substituted for the original exhibit. Disposal of exhibits shall be pursuant to Sup. R. 26.

**L. Proposed Judgment Entries/Orders**

When a party files a Motion, for which a hearing is not necessary, the party shall also attach a proposed Judgment Entry/Order with said Motion for the Court's consideration.

**M. Lengths of Briefs**

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

**LOCAL RULE 58.1 DEPOSIT FOR COURT COSTS**

**A. Deposits for Costs**

Deposits in the amount set forth in **Appendix A**, shall be required upon the filing of any action and proceeding listed therein.

**B. Additional Deposits**

Costs shall be updated and a further deposit may be required when:

1. An account is filed;
2. Required by the Court to cover certified mail, publication, etc.;
3. Costs for professional or other fees.

**C. Failure to Make Deposits/Additional Deposits**

Papers, pleadings, and other documents may be stricken for failure to make deposits, or to pay court costs, except for good cause shown. No appointment shall be made if there is a failure of the Fiduciary or the Fiduciary's attorney to pay court costs. Failure of the Fiduciary or the Fiduciary's attorney to make additional deposits, or to pay court costs, shall be cause for removal.

**D. Computer Fees**

1. For the purpose of procuring and maintaining computerized legal research services, an additional fee of Three dollars (\$3.00) shall be collected as costs in each cause filed in an estate, wrongful death, guardianship, trust, minor settlement, civil action, correction of birth record, registration of birth, marriage license, change of name or adoption.
2. For the purpose of procuring and maintaining computerized equipment for the clerk of the court, an additional fee of Ten dollars (\$10.00) shall be collected as costs in each cause filed in an estate, wrongful death, guardianship, trust, minor settlement, civil action, correction of birth record, registration of birth, marriage license, change of name or adoption.

**E. Balance**

The Court will not bill accounts the balance of \$5.00 or less due and owing. Further, the Court will not refund deposits with a remaining balance of \$5.00 or less.

**LOCAL RULE 59.1 WILLS**

**A. Will Offered for Probate**

Notice of the Admission of a Will to Probate shall be given, pursuant to O.R.C. 2107.19, in the admission of a will to probate for any purpose, whether or not an estate is taxable or whether there are probate assets.

**B. Probate Will and Tax Only**

Estates opened to Probate Will and/or pay taxes shall include an Affidavit and Journal Entry by the Fiduciary or Attorney indicating there are no probate assets in the Estate.

**C. Real Estate Transfer Only**

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

**LOCAL RULE 60.1 APPLICATION FOR LETTERS OF AUTHORITY TO ADMINISTER ESTATE AND NOTICE OF APPOINTMENT**

**A. Notice of Application**

Any person filing an Application for Letters of Administration, who is not the surviving spouse or next of kin of the decedent, shall give notice to the surviving spouse and next of kin of the decedent, regardless of their residency, unless written waivers are obtained from said party. All written notices must contain the time, date and place of the hearing and shall be served upon such persons at least seven (7) days prior to the date set for hearing. Proof of notice and a copy of the served notice or waivers shall be supplied to the clerk.

For purposes of this Rule, “next of kin” means ‘all persons who would be entitled to inherit under the statutes of decent and distribution’.

**B. Fiduciary Bond**

The Applicant shall include a proposed Fiduciary Bond in the appropriate amount with the Application for Letters of Administration.

**LOCAL RULE 61.1 APPRAISERS**

**A. Appraisers and Appraisals**

When required by law, there shall be one suitable and disinterested appraiser appointed by the executor or administrator of an estate, with Court approval. The following persons shall be disqualified from being such an appraiser:

1. A person related by blood or marriage to the decedent;
2. A beneficiary of the estate;
3. A person related by blood, marriage or employment to the attorney for the estate;
4. A person related by blood, marriage or employment to the fiduciary for the estate.

**B. Real Estate Appraisers**

Real estate appraisals shall be made by licensed real estate agents, brokers, auctioneers, credentialed real estate appraisers, or such other persons who by experience and training are qualified to make real estate appraisals. The Court requires the credentials of the proposed appraiser to be submitted to the Court prior to the appointment.

**C. Personal Property Appraisers**

As to all personal property with no reasonably ascertainable value, appraisals shall be made by licensed auctioneers, credentialed personal property appraisers, or such person who by experience and training are qualified to make such appraisals. The Court requires the credentials of the proposed appraiser to be submitted to the Court prior to the appointment.

**D. Self Dealing Appraiser**

No appraiser shall be permitted to directly or indirectly purchase or acquire any of the property he or she appraises, except at public auction.

**E. Appraiser's Fees**

1. Appraisers' fees may be allowed without application and entry when computed according to the following schedule:

- a) For the first \$100,000.00 of appraised value, \$1.00 per thousand;
- b) For the second \$100,000.00 of appraised value, \$.75 per thousand;
- c) Above \$200,000.00 of appraised value, \$.50 per thousand.

2. The minimum appraiser fee shall be \$50.00.

3. Any fee to be paid in excess of the schedule in this Rule must be either by agreement of the Fiduciary and the Appraiser, or must be approved by the Court upon application and entry filed by the Fiduciary prior to the appraisal being made.

**F. Readily Ascertainable Value of Motor Vehicle**

Notwithstanding this Rule, the average retail market value of any motor vehicle as found in the current N.A.D.A. Official Used Car Guide, Kelley Blue Book or other nationally recognized motor vehicle appraisal guide may be accepted as the readily ascertainable value of the property and no further appraisal of such property shall be required except as provided under Local Rule 61.1 (H). A copy of the appropriate page from said booklet shall be attached to Form 6.1 - Schedule of Assets or Form 5.1- Assets and Liabilities of Estate to be Relieved from Administration, whichever is applicable. In the alternative, the motor vehicle shall be appraised by a suitable, disinterested appraiser.

Any motor vehicle listed on Standard Probate Forms 5.1 or 6.1 shall include the vehicle identification number.

**G. Household Furnishings**

With regard to household goods and personal effects, the signature of an appraiser shall be required on the standard forms or on a separate instrument in all cases where the appraised value is \$2,000.00 or more. If it all passes to the surviving spouse, it may be returned without an appraisal, subject to Court approval.

**H. Disputed Appraisal**

A fiduciary, beneficiary, or creditor of a decedent's estate may file a written request with the Probate Court not later than five (5) days prior to the date set for hearing on the Inventory and Appraisal pursuant to Section 2115.16 of the Revised Code that any property deemed to be appraised by readily ascertainable value shall be appraised by a suitable and disinterested appraiser as provided in this Rule.

**I. Value of Real Estate in Releases of Administration**

Value of real estate in releases from administration may be determined by the use of the tax records of the Portage County Auditor's Office. A copy of the Auditor's valuation shall accompany the application and Form 5.1 Assets and Liabilities.

## **LOCAL RULE 62.1 CLAIMS AGAINST ESTATE**

### **A. Notice of Insolvency**

Where there are presented to the Executor or Administrator, valid claims in excess of the amount of assets in their hands, the Fiduciary shall report, in writing, to the Court that the Estate is insolvent, setting forth the facts relating to such insolvency.

### **B. Schedule of Claims and Order**

Upon the filing of such Schedule of Claims in accordance with 2117.06 et seq. of the Ohio Revised Code, the Executor or Administrator by application and entry set for Hearing both the determination of insolvency and their application for an Order for Payment of Claims in priority of law. Said Order for payment of priority claims shall list in order which claims shall be paid from the assets of the estate.

## **LOCAL RULES 64.1 ACCOUNTS**

### **A. All Accountings**

#### **1. Account Review Officer**

- a. All accounts shall be presented to an Account Review Officer. The Account Review Officer shall examine the account before formally accepting the account for filing to determine if the account includes all necessary documentation and the mathematical computations are correct. Accounts without appropriate documentation and/or mathematical errors will not be accepted for filing and will be returned for corrections.
- b. Accounts requiring vouchers will not be approved without vouchers or other proof which verifies each disbursement. Copies of bank draft receipts and uncanceled checks will not satisfy R.C. 2109.302 and R.C. 2109.303.
- c. The Court will accept as a voucher, a statement from a financial institution specifying the payee, check amount and date of payment on a bank statement that includes photocopies of cancelled checks.

#### **2. Subsequent Accounts**

The starting date for the time period all subsequent accounts are due shall be from the due date of the initial account, and not from the date of any extensions.

#### **3. Partial Accounts.**

The Court reserves the right to require a partial accounting where a waiver of partial accounting may be otherwise authorized.

#### **4. Notice of Filing**

- a. Final Account: Unless notice is waived in writing, upon the filing of a final account, the fiduciary shall serve notice of hearing on the account to the following whose addresses are known:
  - i. Decedent's Estates: to the surviving spouse and all next of kin in an intestate estate and to all residuary beneficiaries in a testate estate.
  - ii. Guardianships: to the ward, if living, or to all next of kin of the ward, if ward is deceased.
  - iii. Trusts: to all the trust beneficiaries.
  - iv. Counsel: regardless of the nature of the matter, to counsel of any represented party described above.

- b. Partial Account: Unless notice is waived in writing, upon the filing of a current account, the fiduciary shall serve notice of hearing on the account:
  - i. Charitable Trusts: to the Ohio Attorney General, Charitable Trust Division, in compliance with R.C. 109.23-.42.
  - ii. Trusts: to all income beneficiaries of the trust.
  - iii. Veterans Guardianships (R.C. 5905): to the Veterans Administration.

#### 5. Alternatives to Formal Accounts

- a. In order to avoid having an estate reported as delinquent for failing to file a partial account, a waiver of partial account, signed by all necessary parties as set forth in R.C. 2109.301(A), may be filed with the Court, with the following certification of counsel:
 

“The undersigned, counsel for the estate, hereby certifies that all the requirements of R.C. 2109.301 have been satisfied for filing a waiver of partial account”.
- b. An affidavit and entry affirming there are no assets in the hands of the fiduciary may be presented in lieu of a current account in a wrongful death case.
- c. A Certificate of Termination may be filed in lieu of a final account in those cases where the sole heir, devisee, or legatee of an estate is also a fiduciary.

#### 6. Reminders of Delinquent Accounts

The Court will issue reminders that the account is delinquent.

#### 7. Application for Extension of Time

An application for extension of up to ninety (90) days for filing an account shall be granted on the written application of counsel. All other applications for extension shall be in writing and signed by the fiduciary and counsel.

#### 8. Failure to File.

- a. Hearing: Fiduciary Must Appear

Unless physically unable, a fiduciary who has been cited must appear in open court for a show cause hearing. Counsel shall not appear in lieu of a cited fiduciary unless leave of Court to appear is granted.
- b. Continuance After Citation

Upon issuance of a citation for failure to file an accounting, a continuance to file shall not be granted until the fiduciary has personally appeared at a show cause hearing.
- c. Appointment in Other Matters

A fiduciary, including a corporate fiduciary, shall not be appointed as a fiduciary in other matters while under citation for failure to file an account.

#### 9. Accounting Period

A current account shall have an accounting period which ends not more than six (6) months prior to the time it is presented and approved by the court.

**B. Guardian's/Trustee's Accountings.**

1. Guardian's/Trustee's Accountings shall be filed:
  - a. on the first anniversary date of the appointment of the guardian/trustee, and
  - b. annually thereafter on the anniversary date.
2. Supporting Document(s) for the Accounting Period Shall Include:
  - a. Itemized statement of all receipts of the fiduciary;
  - b. Itemized statement of all disbursements and distributions verified by vouchers or proof. Accounts will not be approved without vouchers or other proof which verifies each disbursement. Copies of bank draft receipts and uncanceled checks will not satisfy O.R.C. 2109.30. Said Vouchers shall be referenced to the Account by number, letter or date. Copies of said Vouchers shall be held by the Court until the Account is settled. After the Account is settled, the Vouchers may be destroyed by the Probate Court or returned to the Fiduciary;
  - c. Itemized statement of all funds, assets and investment;
  - d. Certified bank statement for each account on deposit; or the last bank statement for each account;
  - e. Actual securities or a certificate of the person in possession of the same (O.R.C. 2109.13 or 2131.21), except that if securities are in the process of transfer and are unavailable when the account is presented, the Court will accept:
    - i. An itemized statement of the brokerage firm handling said transfer; or
    - ii. A statement of the transfer agent of the corporation issuing said securities.
3. Period Covered:

Unless ordered otherwise, all guardian's/trustee's accounts shall be for a period of twelve (12) months, except a final account may be for a period less than twelve (12) months.
4. Continuance to File:

When granted, unless specifically ordered, a continuance to file shall not extend the period as required under Paragraphs (B)(1) and (B)(2) of this Rule.

**LOCAL RULE 64.2 NEWLY DISCOVERED ASSETS**

Notwithstanding O.R.C. 2113.69 (Newly Discovered Assets), if the assets obtained by the Executor or Administrator following the filing of the original inventory consist of currency, interest, refunds or other proceeds with a total of less than \$500.00, an itemized report of such assets does not have to be filed in the Probate Court. However, these assets shall be administered, accounted for, and distributed in like manner as if received prior to the filing of the original inventory.



## **LOCAL RULE 65.1      LAND SALES**

### **A.      Appraisals and Fees**

In land sale proceedings, the Court shall appoint one suitable and disinterested person as appraiser and shall set compensation for said appraiser at not more than \$150.00, unless by reason of the special and unusual character of the property to be appraised, additional compensation shall be appropriate to reasonably compensate the appraiser.

### **B.      Preliminary Judicial**

No land sale proceeding shall be approved by the Court without the filing of a Preliminary Judicial Report.

### **C.      Guardianships**

**Local Forms 18.11 & 18.12 shall be utilized for all guardian land sales by consent pursuant to O.R.C. 2127.012.**

## **LOCAL RULE 66.1      GUARDIANSHIPS**

### **A.      Minors and School Residency**

1. When a non-parent seeks to obtain care, control and/or custody over a minor child, and at least one parent of the minor child is alive, the action shall be heard and determined by the Juvenile Division of the Court of Common Pleas.
2. The Court will not accept for filing any Guardianship for a Minor when the sole purpose of the Guardianship is to establish a residency for school purposes. Custody for school purposes is a matter to be heard and determined by the Juvenile Division of the Court of Common Pleas.

### **B.      Guardianship of Incompetent Persons**

A Statement of Expert Evaluation, completed by a licensed physician or a licensed clinical psychologist, shall be attached to the Application for the Appointment of a Guardian of an Incompetent Person. Said evaluation shall be conducted within ninety (90) days of the date of the filing of the application.

### **C.      Guardianship of the Estates of Minors and Incompetents**

The application for the Guardianship of the estate of the minor or incompetent adult shall include a bond twice the amount of the personal property or a motion to sequester the funds of the estate. Said bond and/or motion shall be filed with the application.

### **D.      Guardian's Report**

All Guardians of Incompetents are to file their Guardian's Report (Form 17.7), as detailed in O.R.C. 2111.49, on the first anniversary after the date of issue of the Letters of Guardianship, and annually thereafter.

### **E.      Statement of Expert Evaluation**

**An Expert Evaluation filed with the initial application for the appointment of a guardian shall be completed within three (3) months from the date of the examination or evaluation, and filed with the Application within four (4) months from the date of the examination or evaluation.**

All Guardians shall file a completed Statement of Expert Evaluation (Form 17.1), on the first anniversary after the date of the finding of incompetence, and annually thereafter. Upon verification of the permanency of the disability, proof of which shall be designated in the Guardian's Report Addendum in Form 17.1, any subsequent Statement of Expert Evaluation is dispensed with.

**F. Multiple Guardianships of Minors**

The Court will permit the Application for the Guardianship of two (2) or more Minor children to be filed in the same document if the children have the same biological parents.

**G. Estates of Minors, Sequestered Accounts, Bank Certificates**

1. Guardians for Minors or Incompetents whose Guardianship Estate is held in a Sequestered Bank Account shall file a Bank Certificate annually one (1) year from the date of appointment. Guardians who hold funds in sequestered accounts for the benefit of Minors or Incompetents, in which there are no distributions during the one (1) year accounting period, need not file a Formal Account. Said Bank Certificate shall be identified by Account Number and the name of the Ward and shall state the current Account balance. The Bank Certificate shall be signed by the financial institution in which the money is sequestered and by the Guardian.
2. If funds have been removed from the sequestered account with Court approval during the accounting period, the Guardian must file a formal Account of the transactions during that one (1) year period.
3. Guardian Estates of two (2) or more Minors shall be sequestered in separate numbered bank accounts for each Minor.

**H. Application for Ongoing Expenditures**

Upon Application, the Court will consider itemized requests for monthly ongoing support and maintenance of the Ward if requested with specificity.

**I. Release of Sequestered Funds**

Funds in the name of the Ward shall not be released to the Guardian without a specific Court Order.

**LOCAL RULE 66.2 GUARDIAN BACKGROUND CHECKS**

**A. Non-Attorney Applicants**

An applicant for appointment as a guardian, including an emergency guardian, must submit to a criminal background check satisfactory to the Court. This background check shall be completed by the Portage County Department of Job and Family Services using the WEBCHECK system, or other appropriate agency authorized by the Court Investigator. If the prospective Guardian(s) has been a resident of Ohio for less than five (5) years, a federal (FBI) check shall be completed. The applicant(s) shall contact the Probate Court Investigator to obtain additional information. In addition, the Court Investigator may conduct a criminal background check of the local law enforcement agencies. Each applicant shall sign a Consent to Criminal Background Check, which will authorize the above described investigations.

**B. Attorney Applicants**

In place of a criminal background check, an Ohio attorney applicant currently in good standing with the Supreme Court of Ohio, may obtain and submit to the Court a Certificate of Good Standing with disciplinary information obtained from the Ohio Supreme Court.

**C. Corporation Applicants**

Employees of a corporation who provide guardianship services shall submit to the background check required pursuant to the above Local Rule A, unless the employee is an Ohio attorney, in which case above Local Rule B applies. In the alternative, a background check conducted pursuant to the Employee's employment with the corporation may be acceptable.

**LOCAL RULE 66.3****GUARDIAN FUNDAMENTALS COURSE****A. Training**

Unless otherwise excused by these Rules or Court order, every guardian must meet the guardianship fundamentals training requirements under Sup.R.66.06, by completing prior to appointment or within six (6) months thereafter, a six-hour guardian fundamental course provided by the Ohio Supreme Court, or any other comparable course, with prior approval of the Court.

**B. Deadline/Reporting Requirement**

A Guardian who has served at any time after June 1, 2010, or is serving on June 1, 2015, shall have until June 1, 2016 to complete the guardian fundamentals course, unless the Court waives or extends the requirement for good cause. Within fourteen (14) days upon completion of the course, the Guardian is responsible for providing to the Court the documentation that establishes compliance with the guardian fundamentals training requirement.

**C. Sanctions**

If the Guardian fails to comply with the guardian fundamentals course requirement, the guardian shall not be eligible for further appointment until that requirement is met. The Guardian also may be subject to sanctions and removal.

**D. Family Members Serving as Guardian of Person Only**

Upon application with the Court, persons who are related to the Ward by consanguinity or affinity, who have personally cared for the Ward for at least two years prior to the application for appointment as Guardian of the Person, or if the Ward has been residing in a facility on a full-time basis prior to the application for appointment, shall be excused from complying with the guardianship fundamentals training requirements under Sup.R. 66.06, on the condition that Guardian timely files annual reports and otherwise complies with his/her fiduciary duties.

**LOCAL RULE 66.4****GUARDIAN CONTINUING EDUCATION****A. Annual Requirement**

After completing the guardian fundamentals course as required by Sup.R. 66.06, every guardian, unless otherwise excused by the Rules or Court Order, shall annually complete a three-hour guardian continuing education course provided by the Ohio Supreme Court, or with prior approval of that Court, another entity.

**B. Sanctions**

If the Guardian fails to comply with the guardian continuing education requirement, the guardian shall not be eligible for further appointment until that requirement is met. The Guardian also may be subject to sanctions and removal.

**C. Reporting Requirement**

Within fourteen (14) days upon completion of the course, the Guardian is responsible for providing to the Court, the documentation that establishes compliance with the guardian continuing education requirement.

**D. Family Members Serving as Guardian of Person and/or Estate**

Absent any future changes in the Ohio Revised Code or Rules of Superintendence, Guardians of Person and/or Estate, related to Ward by consanguinity or affinity, shall be excused from complying with the annual three-hour guardian continuing education course requirements under Sup.R. 66.07, on the condition that the Guardian timely files annual reports and accounts and otherwise complies with his/her fiduciary duties.

## **LOCAL RULE 66.5**

## **PUBLIC GUARDIANSHIPS**

The Portage County Probate Court in cooperation with the Portage County Bar Association, has established a procedure for the appointment of a Public Guardian for Portage County residents who are without relatives or without relatives able to assume Guardianship responsibilities. The prospective Guardian shall be selected from a volunteer list of attorneys who have offered their services to participate in this program. Prospective Guardians selected from the court approved volunteer list are not subject to a Criminal Background Check on the condition that a Certificate of Good Standing with disciplinary information obtained from the Ohio Supreme Court is filed with this court.

### **A. Compensation for Court Appointed Guardians**

Compensation for the Court Appointed Guardians shall be as follows:

1. Pursuant to Local Rule 73.1 and Common Pleas Rules of Superintendence Rule 73, in those cases where the Ward has an Estate;
2. Guardians for Indigent Wards shall be compensated at the rate of \$40.00 per hour for Guardianship duties that do not require legal expertise. Guardian fees and filing fees for Indigent Wards shall be paid from the Indigent Guardianship Fund.

### **B. Attorney Fees for Court Appointed Guardians**

Attorney Fees for Court Appointed Guardians shall be as follows:

1. Pursuant to Local Rule 71.1 and Common Pleas Rules of Superintendence Rule 71, in those cases where the Ward has an Estate;
2. Attorneys appointed as Guardians for Indigent Wards shall be compensated at the rate of \$60.00 per hour from the Indigent Guardianship Fund for legal work conducted in connection with the Guardianship, including the application.

### **C. The Indigent Guardianship Fund**

Filing fees, court costs, guardian fees, and attorney fees for indigent Wards in the Public Guardianship Program shall be paid from the Indigent Guardianship Fund. Guardians requesting payment from the Indigent Guardianship Fund shall submit detailed costs, guardian duty time sheets, and attorney time sheets.

#### **Appendix H.**

### **D. Fee Ceiling for Indigent Wards in the Public Guardianship Program**

The Court sets a ceiling of \$1,000.00 per year for combined attorney and guardian fees for indigent Wards.

### **E. Extraordinary Fees for Indigent Guardianships**

The Court will consider applications for extraordinary fees. An itemized statement of activities and time records shall be submitted to the Court along with the application for extraordinary fees.

### **F. Who May Petition for the Appointment of a Public Guardian**

Hospitals, nursing homes, social service agencies may petition the Court for the appointment of a Public Guardian. Said agencies shall complete the Guardianship Application Information Sheet (**Appendix I**) and submit it to the Portage County Probate Court Investigator before a formal referral to the Public Guardianship Program will be made. The Court will provide copies of these forms and procedural guidelines upon request.

### **G. Circumstances Where the Court Will Consider the Appointment of a Public Guardian**

The Court will investigate the appointment of a Public Guardian if all of the following exist:

1. A physician or licensed psychologist has submitted a written Statement of Expert Evaluation suggesting the prospective Ward is an incompetent person in need of a guardianship and
2. There are no relatives available or able to assume Guardianship responsibility for the prospective ward and
3. The hospital, nursing home or social service agency has made a good faith, reasonable effort to locate relatives of the prospective ward and determine their willingness to assume guardianship responsibilities.

**H. Guardian's Authority to Contract**

A Public Guardian may contract with social service agencies or may solicit volunteers to assist in the performance of guardianship duties.

**I. Contact with Ward**

A Public Guardian or the Guardian's agent is to have personal contact with the Ward at least four (4) times a year.

**LOCAL RULE 66.6 EMERGENCY GUARDIANSHIPS**

**A. Purpose**

An emergency guardian may be appointed by the Court if it is reasonably certain that immediate action is required to prevent significant injury to the person or the estate of an alleged incompetent person.

**B. Forms Required**

An application for appointment of an emergency guardian shall include an affidavit from the person alleging the emergency, including a statement of facts setting forth the nature of the emergency, and what action is necessary to prevent injury to the person and/or person's estate of the alleged incompetent person. The applicant shall file all other necessary forms, which include the Supplement for Emergency Guardian (Form 17.1A) and Supplemental Application for Appointment of Emergency Guardian (Local Form 17.0A-**Appendix L**). Simultaneously with the application for an emergency guardian, the applicant shall file an application for a regular guardianship, which will include a Statement of Expert Evaluation (Form 17.1). This form must be completed by a licensed physician or clinical psychologist. The application shall include a proposed order setting forth the powers sought through the emergency guardianship.

**C. Court Review**

The Court will review the emergency application forthwith. If the emergency application is denied, the underlying application for guardianship will be heard as the Court's calendar permits. If the ex parte emergency application is granted, a hearing will be held within seventy-two (72) hours. The purpose of the hearing is to determine whether the emergency guardianship should be extended for a specified period, not to exceed an additional thirty (30) days.

**D. Hearing**

The hearing will be conducted in compliance with 2111.02 of the Ohio Revised Code. If a licensed physician or clinical psychologist has not testified at the initial proceeding granting the emergency guardianship, the applicant shall arrange to have a licensed physician or clinical psychologist appear at the hearing to testify as to the circumstances which make it reasonably certain that immediate action is required to prevent significant injury to the person or the estate of the person.

**E. Service**

As soon as possible after the issuance of the emergency guardianship order, a Probate Court Investigator will visit with the respondent in order to serve notice of the emergency guardianship proceedings and scheduled Probate Court hearings. The Probate Court Investigator shall prepare a report to assist the court in determining the continued need for the guardianship.

**F. Background Check**

In an application for the appointment of an emergency guardian, a criminal background check shall not be required of the applicant at the time the application is filed. However, subsequent to the appointment of the Guardian, a criminal background check shall be completed pursuant to **Local Rule 66.2**.

#### **LOCAL RULE 66.7                    MENTALLY ILL PERSON SUBJECT TO HOSPITALIZATION**

Any Affidavit of Mental Illness filed pursuant to Ohio Revised Code Section 5122.11 shall be accompanied by a certificate of a psychiatrist, or a certificate signed by a licensed clinical psychologist and a certificate signed by a licensed physician stating that the person who issued the certificate has examined the person and is of the opinion that the person is a mentally ill person subject to court order, or shall be accompanied by a written statement by the applicant, under oath, that the person has refused to submit to an examination by a psychiatrist, or by a licensed psychologist and licensed physician.

#### **LOCAL RULE 66.8                    CHANGE OF RESIDENCE**

If a Guardian finds the Ward should be moved to a more restrictive setting, the Guardian shall file a motion and affidavit detailing why such a move is necessary, including medical documentation and physician's reports, if any, immediately. All interested parties shall be served. A non-oral hearing shall be set to review the motion and documents to determine whether the move to a more restrictive setting shall be approved by the Court. No move shall occur prior to the hearing unless a delay in authorizing the change of residence would affect the health and safety of the ward.

If an emergency exists, the guardian shall place the ward in a safe environment and notify the Court immediately. A hearing shall be scheduled as soon as possible.

If any party objects prior to the non-oral motion hearing date, an evidentiary hearing shall be immediately scheduled to review the motion.

#### **LOCAL RULE 66.9                    GUARDIANSHIP APPOINTED COUNSEL FEES**

When Counsel is appointed to represent a Prospective Ward in the establishment of a Guardianship or for any issues arising during the Guardianship, and there is no Guardianship Estate or payment for attorney fees is through the Public Guardianship Fund, counsel shall be compensated for work performed out of Court at the rate of \$40.00 per hour and for work performed in Court at the rate of \$50.00 per hour upon the submission of an Application for payment which sets forth the date, nature of the service performed, time extended, which is signed by the Attorney and approved by Order of the Court.

#### **LOCAL RULE 66.10                  GUARDIANS WITH TEN OR MORE WARDS**

##### **A.    Registration**

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 (10) or more Wards through the Probate Courts of Ohio, shall register with this Court on the local Multi-Guardian Annual Registration Form, or on a standard form adopted for that purpose by the Supreme Court. The registration shall include a listing of the Guardian's Wards, the case number and the appointing Court. The Guardian in such case shall advise the Court of any change in the Guardian's name, address, telephone number and electronic mail address within ten days of the change occurring.

##### **B.    Fees**

If the Guardian is seeking compensation from the guardianship of the Court, the Guardian shall accompany the annual registration with a fee schedule that differentiates guardianship service fees as established by local rules from legal fees or other direct services.

##### **C.    Disqualification**

A Guardian with ten 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 a guardian.

**LOCAL RULE 66.11****COMMENTS/COMPLAINTS REGARDING GUARDIAN****A. Person Designated to Accept Comments/Complaints**

Any comments or complaints (hereinafter collectively referred to as “complaint” or “complaints”) regarding the performance of the appointed Guardian shall be directed to the Probate Court Investigator, either by submitting a written complaint to the Portage County Common Pleas Court, Probate Division at 203 West Main Street, PO Box 936, Ravenna, OH 44266 or through facsimile (fax) at (330) 298-1100.

**B. Written Complaint**

All complaints shall be in writing and state with specificity, including the date, time and place, of the underlying events or circumstances which form the basis of the complaint and shall be delivered by mail or by fax. Upon receipt, the complaint will be date-stamped. If the complaint is filed by fax during hours the court is closed, the complaint will be date-stamped on the next day the court is open. The court will not accept or act upon any oral or telephonic complaint.

**C. Identifying Information**

All complaints shall contain the name, address and phone number of the person submitting the complaint.

**D. Notice and Filing of Complaint**

A copy of any complaint shall be forwarded to the Guardian and/or Guardian’s counsel and Ward and/or Ward’s counsel, within five (5) work days of receipt. Any complaint is considered a case document and shall be made part of the court file, and accessible to the public, unless otherwise excluded pursuant to Superintendence Rule 44 (C)(2).

**E. Consideration of Complaint**

Within ten (10) work days of receipt of a complaint, the Court Investigator shall conduct an initial review of the complaint, including contacting the Complainant. Upon completion of the initial review, the Court Investigator will determine if the complaint is substantiated. If the complaint is not substantiated, those findings will be forwarded to the Judge/Magistrate assigned to the case. If the Judge/Magistrate determines no further action is warranted, said determination shall be sent to the Complainant and the Guardian and/or Guardian’s counsel and Ward and/or Ward’s counsel. If the Court Investigator determines the Complaint is substantiated, a copy of the complaint, and the Court Investigator’s findings pursuant to the initial review shall be forwarded to the Complainant, Guardian and/or Guardian’s counsel, and Ward and/or Ward’s counsel. Guardian and/or Guardian’s counsel shall have fourteen (14) days to respond to the complaint. Upon receipt of the response, the Court Investigator shall conduct a further investigation, if necessary, and upon completion of the investigation, shall forward the findings to the Judge/Magistrate assigned to the case. The Judge/Magistrate will then decide if a hearing shall be scheduled to address the issues raised in the complaint. If a hearing is not necessary, that determination, along with the Court Investigator’s report/findings shall be sent to the Complainant, Guardian and/or Guardian’s counsel and Ward and/or Ward’s counsel. If the matter is scheduled for hearing before the Judge/Magistrate assigned to the case, the findings made by the court shall be made part of the court file.

**F. Substantiated Defined**

A complaint is substantiated if the allegations contained therein are more likely to have occurred than not to have occurred.

**G. Result of Investigation/Court hearing**

The Complaint and the results of the investigation shall be maintained by the Court Investigator in a file separate from the Probate Court file.

**H. Notification**

A report of the results of the investigation shall be provided to the Complainant, the Guardian and/or Guardian’s attorney and the Ward and/or Ward’s attorney.

**LOCAL RULE 66.12      GUARDIANSHIPS AND TRUSTS; ORDERS TO EXPEND FUNDS**

**A.      Application to Expend Funds**

An order to expend funds in a guardianship or trust shall not be granted if an inventory has not been filed or an account is due.

**B.      Release of Funds**

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

**C.      Application for Release of Funds Form**

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

**D.      Termination of Guardianship**

Upon termination of the Guardianship all assets of the estate are to be transferred to the former Ward. An Application for such transfer shall be filed with the Court. A voucher signed by the former Ward receiving the assets shall be submitted to the Court prior to the termination of the Guardianship.

**LOCAL RULE 67.1      ESTATES OF MINORS OF NOT MORE THAN \$25,000.00**

**A.      Application to Deliver Minor's Estate**

An application to pay or deliver a Minor's Estate without appointing a Guardian may be made in Estates of less than \$25,000.00. The Applicant must file an Application to pay or deliver Minor's Estate and said Estate must be deposited in a Sequestered Account.

**B.      Sequestration of Funds**

Unless otherwise ordered, the Minor's funds of less than \$25,000.00, shall be deposited in a sequestered account for the Minor until the Minor attains the age of eighteen (18) years. These funds cannot be used by or for the Minor, or otherwise released, unless authorized by Order of the Court.

**C.      Bank Certificates**

A Bank Certificate shall be filed annually with the Court on the anniversary of the Court's approval of the delivery of the Minor's Estate. A Computer Information Sheet shall be filed with the yearly bank certificate. **Appendix K-7.**

**D.      Application to Release Sequestered Funds When Minor Turns 18 Years of Age**

**On all applications to release sequestered funds when the minor child turns eighteen years old, the matter will be scheduled for hearing and the child shall attend the hearing.**

**LOCAL RULE 68.1      SETTLEMENT OF INJURY CLAIMS OF MINORS**

**A.      Physician Statement**

Unless otherwise ordered by the Court, an application for approval of settlement of claim for injuries to a minor shall be accompanied by a current statement of the examining physician with respect to the injuries sustained, the extent of the recovery thereof, and the physician's prognosis.



**B. Attendance of Minor**

The presence of the injured minor and at least one custodial parent or guardian shall be required at the hearing on the application.

**C. Applicable Rules**

Rule 67 of the Rules of Superintendence for the Courts of Ohio and Local Rule 67 shall apply to all settlements covered by this Rule unless otherwise permitted by the Court.

**D. Distribution of Funds**

Unless entering into a structured settlement, the distribution of funds for the benefit of the minor shall be made pursuant to Local Rule 67.1(B) and (C).

**E. Structured Settlements**

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

1. The application shall include a signed statement from one of the following independent professionals, specifying the present value of the settlement, and the method of calculation of that value: an actuary, certified public accountant, certified financial planner, chartered life underwriter, chartered financial consultant, or an equivalent professional.
2. If the settlement is to be funded by an annuity, the application shall include a signed statement by the annuity carrier or the broker procuring the policy stating:
  - (a) The annuity carrier is licensed to write annuities in Ohio.
  - (b) The annuity carrier's ratings from at least two of the following organizations, which meet the following criteria:
    - i. A.M. Best Company; A++, A+, or A;
    - ii. Fitch Company (formerly Duff & Phelps Credit Rating Company (Claims Paying Ability Rating): AAA, AA+, or AA;
    - iii. Moody's Investors Service (Financial Strength): Aaa, Aa1, or Aa2;
    - iv. Standard & Poor's Corporation (Financial Strength): AAA, AA+, or AA;
    - v. Weiss Research Inc.: A+ or A.
3. In addition to the requirements of Paragraph (b) above, an annuity carrier must meet any other requirement the Court considers reasonably necessary to assure that funding to satisfy periodic payment settlements will be provided and maintained.
4. There shall be no premature withdrawals or hypothecation of the structure without prior court approval.

**F. Depository Acceptance**

1. Within fourteen (14) days of the filing of the entry approving the settlement, a verification of deposit shall be filed with this Court whereby the bank acknowledges its duty to preserve the funds in the minor's name only until said minor attains the age of majority or until further order of the Court. If a structured settlement is established, proof of same shall be filed with this Court within thirty (30) days from the date of the entry approving the settlement.

**G. Application to Release Sequestered Funds When Minor Turns 18 Years of Age**

**On all Applications to release sequestered funds when the minor child turns eighteen years old, the matter will be scheduled for hearing and the child shall attend the hearing.**

**LOCAL RULE 70.1 SETTLEMENT OF WRONGFUL DEATH AND SURVIVAL CLAIMS**

**A. List of Interested Parties**

All interested parties to the distribution of the net proceeds of the settlement shall be listed by name, residence, and relationship to the decedent on the entry approving settlement of distributing wrongful death proceeds.

**B. Interested Parties Defined**

The term “interested parties” who are subject to notice as set forth in Ohio Revised Code 2125.02 shall include the surviving spouse, the children and the parents of the decedent or other next of kin who claim to have suffered damages.

**C. Presence of Fiduciary**

The presence of the duly appointed fiduciary shall be required for the purpose of Court examination upon the presentation of the application to approve wrongful death settlement or distribution.

**D. Report of Distribution of Proceeds**

Report of the distribution of wrongful death proceeds shall contain appropriate vouchers filed with the Court.

**E. Release of Medical Records and Medical Billing Statements.**

**Any person who is eligible to be appointed as a personal representative of an estate under the law of this state or named as executor in a will may file an application with the probate court in the county in which the decedent resided seeking the release of the decedent’s medical records and medical billing records for use in evaluating a potential wrongful death, personal injury, or survivorship action on behalf of the decedent. Local Probate Forms shall be used in seeking such records.**

**LOCAL RULE 70.5 TRANSFERS OF STRUCTURED SETTLEMENTS**

**A.** All transfers of Structured Settlements shall strictly comply with ORC 2323.58 thru ORC 2323.587.

**B.** Upon initial filing of a Petition to Approve a Transfer of a Structured Settlement and every subsequent Petition, the Payee shall come to the Probate Clerk’s office and receive and read or have read to the payee, the Payee Information Sheet. **(Appendix M)** No hearing will be held until there is compliance with this provision.

**C.** Upon initial filing of a Petition to Approve a Transfer of a Structured Settlement and every subsequent Petition, the Payee shall obtain and complete the Transfer of the Structured Settlement Payment Rights Questionnaire.

- 1) The Transfer of Structured Settlement Payment Rights Questionnaire must be fully completed and filed with the Probate Court at least 10 days prior to the transfer hearing.
- 2) If the Transfer of Structured Settlement Payment Rights Questionnaire is not fully completed at least 10 days prior to the hearing, the hearing will be continued. If the Payee does not comply within a reasonable time, the transfer shall be denied.

## **LOCAL RULE 71.1 COUNSEL FEES-ATTORNEY SERVING AS FIDUCIARY**

In all matters where an attorney is the fiduciary of the estate, guardianship, or trust, and that attorney is the attorney of record, detailed records shall be maintained describing time and services as fiduciary and as attorney, which records shall, upon request, be submitted to the Court for review. For conduct occurring prior to February 1, 2007, DR 2-106 of the Code of Professional Responsibility shall govern the reasonableness of all fees, notwithstanding statutory allowances. Effective February 1, 2007, Prof. Cond. Rule 1.5 of the Ohio Rules of Professional Conduct shall govern the reasonableness of all fees, notwithstanding statutory allowances. The Court assumes an attorney, appointed fiduciary, has been selected due to the attorney's special knowledge and abilities resulting in a savings of fees to the estate, guardianship, or trust.

## **LOCAL RULE 71.2 COUNSEL FEES-DECEDENTS' ESTATES**

### **A. Reasonable Attorney Fees**

When an Attorney has been employed in the administration of an Estate, reasonable Attorney fees shall be allowed as part of the expense of administration.

In determining the reasonableness of such fees, there shall be considered:

1. The time and effort required;
2. The complexity and difficulty of the Estate and the various matters and questions involved, including the determination of Federal and State Income taxes and Estate taxes;
3. The degree of skill required to perform these services to the best advantage of the Estate;
4. Fees customarily charged in Portage County for such service;
5. The amount and character of the assets, including non-probate assets included in the gross estate for Estate Tax purposes and the liability of the Estate;
6. The benefits resulting from the Estate from the services;
7. The experience and ability of the Attorney or Attorneys performing these services and all other relevant factors.

### **B. Presumption of Reasonableness**

1. As a procedural matter, fees not in excess of those computed per Local Rule 71.2(K), will be presumed reasonable and allowable upon presentation of the Application upon hearing on the Fiduciary's Account, showing payment thereof, in absence of exceptions to the Account or the filing of a formal application to fix such fees;
2. Fees so computed will normally include services in the Probate Division of the Court of Common Pleas, and the preparation and filing of Federal and State Income Tax and Estate Tax Returns.

### **C. Approval and Payment of Attorney Fees Prior to Final Account**

Attorney fees for the administration of estates shall not be paid until the final account is prepared for filing unless otherwise approved by the Court upon application and for good cause shown. Application for attorney fees in estates prior to preparation of the final account must include a statement justifying the timing of the payment of attorney fees. All applications under this rule may be heard by the Court to establish good cause irrespective of the consent to the payment of attorney fees by all interested parties.

### **D. Written Application and Hearing**

Attorney fees may be allowed upon written application in the form set forth in **Appendix C**, which shows the calculation of the amount requested. Requested fees will be awarded only after hearing, except as modified herein. Notice to parties affected by the payment of fees shall be in the form set forth in **Appendix B-1** and proof of said notice shall be provided by the applicant.

- a. If the requested fee is within the guideline fee set forth below in (K), the account is not delinquent, and **all** parties affected by the payment of fees have consented in writing to the payment of said fees, in the form set forth in **Appendix B-2**, a written fee application shall not be required.

- b. If the requested fee is not within the guideline fee set forth below in (K), said application for attorney fees shall be set for hearing before the Court. Any party affected by payment of attorney fees may file a Waiver of Notice of Hearing on Application for Attorney Fees and Consent to Payment of Attorney Fees in the form set forth in **Appendix B-3**.
- c. An Application/Computation of Estate Attorney Fees worksheet (**Appendix C**), shall be included with every written application for attorney fees, regardless of whether the amount requested falls within the guidelines.

**E. Court Review of Attorney Fees**

The Court may set a hearing on any application for allowance of attorney fees regardless of the fact that the required consents of beneficiaries have been given.

**F. Extraordinary Fees**

Additional fees for extraordinary services, including Audits of the Federal and State Income Tax returns, may be allowed upon Application, and Notice to all Parties and Hearing by the Court. Examples of extraordinary services which may be compensated include, but are not limited to the following:

1. Actions for the estate in a Court other than Probate;
2. A contested matter in Probate Court;
3. In connection with the preparation or filing, audit, protest of, contest of an income or gift tax return, or liability incurred by the decedent or personal representative;
4. In connection with the settlement of the estate taxes with respect to insurance not payable to the estate, gifts in contemplation of death, or general testamentary powers of appointment not exercised by the decedent and other testamentary powers of appointment not exercised by the decedent and other negotiations not represented by assets included in the gross value of the estate;
5. With respect to problems of valuation or taxability of property for estate taxes or protest of such taxes;
6. In connection with matters which are unusual or excessive for the size of the estate;
7. In connection with the performance of duties normally performed by the fiduciary but which fall to the lawyer because of the fiduciary's inexperience, lack of ability, or absence from the place from which the assets of the estate must be managed;
8. Sale of business or business assets;
9. Proceedings to determine heirship;
10. Proceedings involving partnership;
11. Completion of a land contract.

**G. Application for Fees Above Guidelines**

Applications for Attorney fees in excess of those computed in accordance with Local Rule 71.1(K) shall be considered by the Court only after Hearing and Notice to all Parties, unless the Application is approved by all Parties affected by the payment of such fees as shown by their signatures on the Account or upon separate document filed with the Account.

It shall be the responsibility of the Attorney for the Estate to serve Notice of the Hearing upon all affected Parties, unless the Application is approved by all Parties affected by the payment (including Creditors in insolvent Estates).

**H. Delinquent Accounts**

Except for good cause shown, attorney fees shall not be allowed to attorneys representing fiduciaries who are delinquent in filing accounts.

**I. Attorney as Counsel and Fiduciary**

Where the attorney, law partner or firm associate is appointed as fiduciary, the total administration fee for ordinary administration may not exceed the statutory fiduciary commission plus one-half (1/2) of the guideline attorney fees set forth below in (K).

**J. Itemized Statement of Fees**

As to all other matters, an application for the allowance of attorney fees shall have attached thereto an itemized statement of the services performed, the date services were performed, the time spent in rendering the services performed and the rate charged per hour.

**K. Fee Guidelines**

The following guide is not to be considered or represented to clients as schedules for minimum or maximum fees to be charged:

1. On the personal property which is subject to administration and for which the fiduciary is charged and upon the gross proceeds of real estate that is sold under a power of sale under the will or by consent under O.R.C. 2127.011 as follows:
  - i. For the first \$100,000 at a rate of 4%;
  - ii. All above \$100,000 and not exceeding \$400,000 at the rate of 3%;
  - iii. All above \$400,000 at the rate of 2%.
2. On real estate that is not sold at a rate of 2%;
3. On real estate sold by judicial proceedings according to the judgment entry confirming the proceedings;
4. Non-Probate Assets
  - i. 2% on assets up to and including \$25,000
  - ii. 1% on assets above \$25,000.

**L. Minimum Reasonable Attorney Fees for a Full Administration**

The minimum reasonable fee for full administration is \$750.00.

**LOCAL RULE 71.3 COUNSEL FEES-GUARDIANSHIPS**

**A. Consent of Guardian**

Where the Guardian, if the Guardian is not the attorney, law partner, or firm associate, consents, in writing, to an amount of counsel fees, no application need be made for the allowance thereof, provided such request is reasonable and consent of the Guardian is endorsed on the Account or evidenced by separate instrument filed therewith.

**B. Reasonable Fees**

Counsel fees for the administration of the Guardianship shall be those reasonable and beneficial to the Guardianship.

**C. Fee Computation Form Required**

A separate schedule of the computation of attorney fee's shall be set forth in the guardian's account as a condition of approval, in the form set forth in **Appendix D**.

**D. Fee Guidelines**

Set forth below is a guide determining the fees charged for ordinary legal services in Guardianships. Such Schedule, however, is not to be considered as a Schedule on minimum and maximum fees charged.

1. Income and Disbursement:
  - a. 4% of the first \$5,000 of income;
  - b. 3% of the excess of \$5,000 of income;
  - c. 4% of the first \$5,000 of disbursements;
  - d. 3% of the excess of \$5,000 of disbursements.
2. Principal:
  - a. \$3.00 per thousand of the first \$250,000 of market value
  - b. \$2.00 per thousand on excess of \$250,000 of market value.

**E. Fee Based on Income**

For purposes of determining compensation based upon income, the following shall not be considered income:

1. Receipt of the corpus by the Guardian;
2. The balance carried forward from prior Accountings;
3. Investments and reinvestments of the corpus.

**LOCAL RULE 71.4 COUNSEL FEES-MENTAL ILLNESS**

Whenever Counsel is appointed pursuant to the authority granted in O.R.C. 5122 and 5123, the Court will permit such Counsel to be compensated for work performed out of Court at the rate of \$40.00 per hour and for work performed in Court at the rate of \$50.00 per hour upon the submission of an Application for payment which sets forth the nature of the service and the time expended which is signed by the Attorney and approved by Order of the Court.

**LOCAL RULE 71.5 COUNSEL FEES-CONTINGENT FEE AGREEMENTS FOR PERSON UNDER GUARDIANSHIP**

Unless otherwise authorized, a contingent fee agreement entered into in any Wrongful Death, Minor Settlement and Personal Injury action, on behalf of a person under a Guardianship, which does not exceed 33 1/3% of the recovery (40% if an appeal is taken), may be approved by the Court at the time of settlement. A contingent fee agreement which exceeds the foregoing formula shall require prior Court approval for the fiduciary to enter into said contract. The Court shall review the reasonableness of the attorney's fees and the itemized expenses of litigation.

**LOCAL RULE 71.6 COUNSEL FEES FOR WRONGFUL DEATH, SURVIVAL CLAIMS, AND CONTINGENCY FEE AGREEMENT**

- A.** No Contingency Fee Agreement for wrongful death and /or survival claims shall be approved by the Court if costs are charged to beneficiaries for the following:
1. Any delivery service inclusive of postal, private delivery service, employee of the law firm, etc. . . .
  2. Copying costs unless at a hearing the Court approves of the expense as extraordinary.
  3. Computer time or computer research time.
  4. Travel to Court or travel within contiguous counties.
  5. Travel for deposition unless the pending case is the only case subject to deposition.  
All expenses listed above are presumed to be costs attributed to the attorney services provided as part of the contingent fee.

**B. Approval of Contingency Fee for Wrongful Death and Asbestos Claims**

Contingency Fee of 25% for attorney services will not be reviewed, unless a party files a timely motion, objecting to the reasonableness of the contingency fee.

Contingency Fee for all attorney services of 33 1/3% shall be reviewed by the Court before approval and may be approved, unless a party files a timely motion, objecting to the reasonableness of the contingency fees.

Contingency Fee for all attorney services over 33 1/3% shall be set for hearing to determine reasonableness and if the Court shall approve.

**C. Any potential Medicare Claim shall cause the GROSS proceeds of settlement (inclusive of expenses, attorney fees, and net benefit) to be held and not disbursed until the claim is resolved with the Medicare authority.**

**D. Expert Fees and Costs**

Expert fees and costs of suit shall include the cost of depositions(s), reasonable expert fees and other suit expenses. Expert fees shall be defined as to the time, date, necessity of service and in a class action suit a specific explanation as to why this particular expert is necessary for this particular cause of action or time charged.

**LOCAL RULE 72.1 EXECUTOR'S AND ADMINISTRATOR'S COMMISSIONS FEE**

**Computation Form Required**

A separate schedule of the computation of the Executor's or Administrator's commission shall be set forth in the Executor's or Administrator's account, as a condition of fee approval, in the form set forth in **Appendix G**.

**LOCAL RULE 73.1 GUARDIAN'S COMPENSATION**

**A. Guardian's Compensation**

1. A guardian of the estate shall be allowed compensation for income and disbursements as follows:

**a. Income and Disbursements:**

4% of the first \$5,000.00 of income

3% of the excess of \$5,000.00 of income

4% of the first \$5,000.00 of disbursements

3% of the excess of \$5,000.00 of disbursements

**b. Principal:**

\$3.00 per thousand on the first \$250,000.00 of market value

\$2.00 per thousand on excess of \$250,000.00 of market value

2. For purposes of determining compensation based on income the following shall not be considered income:

a. Receipt of corpus by guardian

b. Balance carried forward from prior accountings

c. Investment and reinvestment of corpus

3. If by reason of the application of the above percentages a disparity or injustice results, such disparity or injustice may be reviewed on the court's own motion in respect of any account reflecting such compensation or upon exceptions to such an account.

4. Applications for compensation by guardians of veterans must comply with Chapter 5905 of the Ohio Revised Code and all other rules and regulations of the Department of Veterans Affairs.

5. Additional compensation, reimbursement for expenses incurred and fees of a guardian of a person only may be fixed by the Court on application.

**B. Hearing on Fees**

The Court may require that any application for fees or compensation be set for hearing and notice of the amount applied for be given to interested parties. A copy of such notice, together with an affidavit of service of such notice, shall be filed prior to the hearing.

**C. Fees for Co-Guardians**

The compensation of co-guardians in the aggregate shall not exceed the compensation which would have been payable if only one guardian had been acting.

**D. Fee Computation Form Required**

A separate schedule of the computation of the guardian's compensation shall be set forth in the guardian's account as a condition of this approval, in the form set forth in **Appendix E**.

**E. Delinquent Accounts**

Except for good cause shown, neither compensation for a guardian nor fees to the attorney representing such guardian will be allowed while such guardian is delinquent in his account or accounting as required by ORC 2109.30.

**F. Guardianships Veterans Administration**

All applications for guardian compensation or attorney fees shall be set for hearing, and notice shall be given to the Veterans Administration Office. All applications must comply with Chapter 5905 of the Ohio Revised Code and all other rules and regulations of the Department of Veteran Affairs.

**LOCAL RULE 74.1 TRUSTEE'S COMPENSATION**

**A. Corporate Trustees**

1. Except where the instrument creating the trust makes provisions for compensation, a testamentary trustee may charge fees on the same basis as it charges for living trusts.

2. Fee schedules are subject to prior Court approval and are to be furnished to the Court on the 1st day of January of each year and whenever a change in fees is made within any calendar year.

3. A separate schedule of the computation of the trustee's compensation shall be set forth in the trustee's account as a condition of its approval, in the form set forth in **Appendix F**.

4. The trustee may charge its applicable "sweep fee" for the management of money market funds within testamentary trust accounts.



**B. Individual Trustees**

1. Except where the instrument creating the trust makes provisions for compensation, the testamentary trustee may charge as follows:

(a) **Principal Fee.** A fee of \$2.00 per \$1,000 of the market value of the principal held by the trustee.

(b) **Income Fee.** A fee of six percent (6.0%) of the total of the income for the accounting period.

(c) **Principal Distribution Fee.** A fee of one percent (1%) of the principal distributed during the accounting period.

2. A separate schedule of the compensation of the trustee's compensation shall be set forth in the trustee's account as a condition of its approval, in the form set forth in **Appendix F**.

3. If by reason of the application of the above percentages to values of assets a disparity or injustice results, such disparity or injustice may be reviewed on the Court's own motion in respect of any account reflecting such compensation or upon exceptions to such an account.

**LOCAL RULE 75.1      ADOPTIONS**

**A. Marriage of Adoptive Parents**

The prospective adoptive parents shall be married to each other for at least one (1) year prior to the filing of the petition for adoption.

**B. Responsibility for Notice**

The attorney for the petitioner shall be responsible to provide the names and addresses for all parties entitled to notice, including putative fathers, in adoption proceedings. The Court shall issue notice.

**C. Putative Fathers**

Putative fathers shall be named and due diligence made to provide notice to putative fathers in all adoption proceedings.

**D. Lawful Placement**

Except in step-parent adoptions, a lawful placement must occur pursuant to O.R.C. 5103.15 or 5103.16 prior to the filing of the petition for adoption.

**E. Social and Medical History**

A completed Social and Medical History form shall be required in all cases except step-parent and grand-parent adoptions. Petitioners must receive and receipt for said Form prior to the granting of either an interlocutory or final order of adoption, and said receipt shall be filed with the Court.

**F. Step-Parent Adoptions and Support**

In step-parent adoptions wherein Domestic Relations Court, Juvenile Court or the Child Support Enforcement Agency has a pending case for support, the petitioner(s) or counsel shall notify said court or agency of the child's adoption to allow for the support order to be terminated or reduced to a lump-sum judgment.

**G. Birth Certificate**

The Court shall procure a new birth certificate from the Division of Vital Statistics once the adoption is

finalized for adopted persons born in Ohio. It shall be the duty of the counsel for the petitioner(s) to procure new birth certificates for adopted persons born outside of Ohio.

**H. Full Faith and Credit**

The Court shall not set aside nor shall the Court rehear foreign final orders of adoption but shall give said decrees full faith and credit (O.R.C. 3107.18).

**I. Surrogacy Adoptions**

All surrogacy adoptions shall be treated as non-relative adoptions. All surrogacy contracts must be pre-approved as part of the pre-placement process. Any application or petition failing to comply with this requirement shall be dismissed.

**J. Criminal Background Checks**

In all adoption matters, a criminal background check of the prospective adoptive parent(s) shall be completed and submitted to the Court. This shall be completed by the Portage County Department of Job and Family Services using the WEBCHECK system, or other appropriate agency authorized by the Court Investigator. If the prospective adoptive parent(s) has been a resident of Ohio for less than five (5) years, a federal (FBI) check shall be completed. The applicant(s) shall contact the Probate Court Adoption Assessor to obtain additional information. In addition, a criminal background check may be performed by the Adoption Assessor.

**LOCAL RULE 75.2 INDEPENDENT ADOPTIONS**

**A. Independent Adoptions**

The Court recognizes the need for Independent Adoptions. The Court will evaluate each proposed open independent adoption to determine if such adoption is in the best interest of the child to be adopted. Open adoptions are defined as those adoptions where the biological and adoptive parents know each others identity.

**B. Preliminary Petitions**

The Court requires that all persons applying for the placement of a child in an Independent Adoption file a Preliminary Petition for Adoption. An investigation of the prospective adoptive parents shall be conducted by the Court's Investigator.

**C. Surrender Hearing**

In Independent Adoptions between legal strangers, it shall be necessary for the biological parents or parent to appear before the Court for purposes of a Surrender Hearing. This Hearing shall be conducted at least 72 hours after the birth of the child to be adopted. The biological parent shall be represented by counsel. Counsel fees for the biological parent(s) shall be paid by the prospective adoptive parents, unless the biological parent(s) independently retain(s) counsel.

**D. Independent Adoptions Between Relatives**

In Independent Adoptions between Parties related by blood or marriage, a Preliminary Petition must be filed by the prospective adoptive relative. The petition will be investigated by the Probate Court Adoption Assessor. Biological parents who are related by blood or marriage to the prospective adoptive parents shall appear before the Court for a Surrender Hearing, unless otherwise excused by the Court upon submission of a signed and notarized Consent to Adoption form executed by the biological parents or parent.

**E. Costs**

Costs for Adoption Investigations are listed in **Appendix A**.

**F. Prefiling Conference**

Counsel for the prospective adoptive parents in Independent Adoptions must schedule a Conference with the Court before filing their Preliminary Petition.

**G. Criminal Background Checks**

In all adoption matters, a criminal background check of the prospective adoptive parent(s) shall be completed and submitted to the Court. This shall be completed by the Portage County Department of Job and Family Services using the WEBCHECK system. If the prospective adoptive parent(s) has been a resident of Ohio for less than five (5) years, a federal (FBI) check shall be completed. The applicant(s) shall contact the Probate Court Adoption Assessor to obtain additional information. In addition, a criminal background check may be performed by the Adoption Assessor. Each applicant shall sign a Consent to Criminal Background Check, which will authorize the above described investigations.

**LOCAL RULE 75.3 GUARDIAN AD LITEM**

**A. Qualifications**

A guardian ad litem shall be an attorney who is not associated with an attorney of record for the proceeding in which the guardian ad litem has been appointed.

**B. Compensation**

Unless otherwise ordered by the Court, upon application and entry, guardian ad litem fees shall be based on a reasonable hourly rate for time expended. All applications for the allowance of guardian ad litem fees shall set forth an itemized statement of the services performed, the date services were performed, the time spent in rendering the services and the rate charged per hour.

**LOCAL RULE 75.4 FEES**

**A. Guardian Ad Litem Fee**

A minimum fee of \$50.00 shall be taxed as costs for each guardian ad litem appointed. Said costs shall be assessed to the moving party. Additional fees may be granted upon the showing of good cause.

**B. Adoption Information Fee**

Pursuant to O.R.C. 2101.16(F), the Court hereby establishes the fee of \$50.00 for the filing of a Petition for the Release of Adoption information as provided for in O.R.C. 3107.41.

**C. Witness Fee**

Upon the filing of a praecipe for subpoena of witnesses, there shall be deposited for each witness to be subpoenaed, an amount sufficient to pay the witness fee as prescribed by O.R.C. 2101.16(D) and 2335.06.

**LOCAL RULE 75.5 RELEASE FROM ADMINISTRATION**

**A. Real Estate**

The Court will accept the Portage County Auditor's tax appraisal card evaluation or an appraisal by a real estate professional on his or her letterhead. A copy must be attached to Form 5.1.

**B. Personal Property**

If the property is money, stocks, bonds, or other property, the value of which is readily ascertainable, then no appraisal is necessary as to those assets. If the property value is not readily ascertainable, then an Appraiser shall be selected subject to approval by the Court.

**C. Motor Vehicles**

The Court will accept N.A.D.A. book value, Kelley Blue Book value or other nationally recognized motor vehicle appraisal guide value; however, an appraisal is not necessary for the automobile selected by surviving spouse under O.R.C. 2106.18.

**Pursuant to O.R.C. 2106.18, the sum total of the values of the automobiles selected by a surviving spouse shall not exceed sixty-five thousand dollars (\$65,000.00).**

**D. Publication of Notice** (Effective for Decedents Dying After 3/18/99)

Publication of notice is not necessary if assets are less than \$2,500.00, and there is no surviving spouse and/or minor children of the Decedent, proof of a paid funeral bill or a Waiver by the funeral director, and a Notice to Distributee Form 10.4 is filed for each Beneficiary.

Publication of Notice is not necessary if the assets are less than \$40,000.00 and there is a surviving spouse, surviving spouse and/or minor children of the Decedent who take their family allowance and there is a paid funeral bill or Waiver by the funeral director or funeral payment agreement.

**E. Release of Insolvent Estates**

The Court will Release Insolvent estates only in two (2) situations as described in D. 1. and D. 2., above.

**F. Filing of Last Will and Testament**

**The Last Will and Testament must be filed, for informational purposes only, and shall not be probated.**

**LOCAL RULE 75.6                    MENTALLY ILL PERSON SUBJECT TO COURT ORDER**

**A. Affidavit Pursuant to O.R.C. 5122.11/.111**

Any affidavit filed pursuant to O.R.C. 5122.11/.111 shall be accompanied by a certificate of a psychiatrist, or a certificate signed by a licensed clinical psychologist and a certificate signed by a licensed physician stating that the person who issued the certificate has examined the person and is of the opinion that the person is a mentally ill person subject to court order, or shall be accompanied by a written statement by the applicant, under oath, that the person has refused to submit to an examination by a psychiatrist, or by a licensed clinical psychologist and licensed physician.

**B. Filing Fee with O.R.C. 5122.111 Affidavit**

Any person seeking to file an Affidavit pursuant to O.R.C. 5122.111 shall pay a filing fee of \$25.00.

**C. Appointment of Counsel**

When an affidavit of mental illness has been accepted the Court shall appoint an attorney to represent the respondent. The court may also appoint a qualified psychiatrist to act as an independent physician.

**D. Hearing**

The hearing(s) will be held in compliance with Sections 5122.11-.15 of the Ohio Revised Code. If an "Initial hearing" is held pursuant to Section 5122.141, the psychiatrist, the licensed clinical psychologist or physician, who signed the certificate filed with the affidavit, shall attend the hearing, unless his/her appearance has previously been excused. The psychiatrist, the licensed clinical psychologist or physician, who signed the certificate filed with the affidavit, shall attend the "Full hearing" held pursuant to Section 5122.15 of the Ohio Revised Code. The person who filed the original affidavit shall be present at all hearings.

**E. Voluntary Commitment**

While the patient/respondent is being held pursuant to the order of detention, a "voluntary" commitment will not be accepted, unless the record or entry clearly shows that the decision is counseled. The voluntary commitment filed with this Court must be signed and approved by the court-appointed attorney.

**LOCAL RULE 75.7****OBJECTIONS TO MAGISTRATE'S DECISION**

All objections to a magistrate's decision filed pursuant to Civ. R 53, shall be decided on the pleadings and supporting documentation, unless the objector requests the matter be scheduled for hearing.

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

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

**LOCAL RULE 78.1****CASE MANAGEMENT IN DECEDENT'S ESTATES, GUARDIANSHIPS AND TRUSTS****A. Civil Actions**

**Civil Actions, as used in this rule, shall include the following actions: Will Contests; Declaratory Judgment; Determination of Heirs; Construction of Will; Complaint for Accounting; Antenuptial Agreement; Concealment of Assets; Land Sales; Complaint to Purchase; Complaint for Judgment Entry Declaring Will Invalid; Presumption of Death; Appropriations; and Objections to Inventories and Accounts.**

1. A Scheduling Conference and pre-trial conference shall be conducted in all civil cases, except in land sale proceedings, prior to being scheduled for trial.
2. Within thirty (30) days after the answer day the case shall be set by the Court for a Scheduling Conference.
3. Not less than fourteen (14) days notice of the Scheduling Conference shall be given by the Court to all counsel of record by mail and/or telephone. Any application for continuance of the conference shall be in writing and filed with the Court in a timely manner.
4. The following decisions shall be made at the Scheduling Conference and all counsel attending must have full authority to enter into a binding pre-trial order.
  - (a) A definite discovery schedule shall be agreed upon by all parties for the completion of all discovery.
  - (b) A definite date for exchange of expert witness reports shall be determined.
  - (c) A definite date for filing of all motions which date shall not be less than seven (7) days before the final pre-trial. The date for the final pre-trial shall be set by the Court and shall be held approximately one week prior to the trial.
  - (d) The possibility of settlement.
  - (e) The date for the trial shall be set by the Court.
5. The following decisions shall be made at the final pre-trial and all counsel attending must have full authority to enter into a binding final pre-trial order;
  - (a) The Court will rule on all pre-trial motions.
  - (b) Briefs on any legal issues, proposed jury instructions and proposed jury interrogatories shall be submitted to the Court.
  - (c) Clients must attend the final pre-trial.
  - (d) No motions shall be heard after the final pre-trial without leave of Court and without good cause being shown.
6. The trial date shall not be changed nor shall the trial be continued without order of the Court and after the showing of good cause.

**B. Jury Trials**

Jury trials shall be conducted in conformance with the local rules of the General Division of the Portage County Common Pleas Court.

**C. Land Sales**

1. All land sales which have not been concluded within one (1) year from the date of filing the complaint shall be set for pre-trial conference within ten (10) days following the expiration of one year.
2. The following decisions shall be made at the pre-trial conference and all counsel attending must have full authority to enter into a binding pre-trial order;
  - (a) The attorney of record and the fiduciary must attend the pre-trial conference.
  - (b) A written status report shall be filed with the Court no later than seven (7) days prior to the pre-trial conference.
  - (c) The status report shall address the efforts being made to sell the real estate and when the case will be closed.
  - (d) The fiduciary shall show cause why the Court should not order a public sale of the real estate.

**D. Decedent's Estates**

1. The statutory time for filing of an inventory (R.C. 2115.02) and an account (R.C. 2109.30) shall be adhered to and the citation procedure (R.C. 2109.301) shall be utilized if necessary to gain compliance.
2. The Court shall set all exceptions to an inventory or an account for a pre-trial conference within thirty (30) days after exceptions are filed.
  - (a) The Court at the pre-trial conference shall set the matter for an evidentiary hearing within thirty (30) days thereafter.
3. All decedent's estates, which are current as to filed accounts, that remain open after a period of thirteen months shall be subject to a status conference. The fiduciary and the attorney shall be present and a written status report shall be submitted to the Court at the time of the status conference.

**E. Wrongful Death Settlements**

All hearings shall be held within forty-five (45) days of the filing of the Form 14.0.

**F. Guardianships**

1. The statutory time for filing of an account (R.C. 2109.30) shall be adhered to and the citation procedure (R.C. 2109.31) shall be utilized if necessary to gain compliance.
2. The statutory time for filing a guardian's report (R.C. 2111.49 and Local Rule 66.1 (D)) shall be adhered to and the citation procedure (R.C. 2109.31) shall be utilized if necessary to gain compliance.
3. Each guardianship shall be reviewed not less than annually, by the probate court investigator.

**G. Trusts**

The statutory time for filing of an account (R.C. 2109.30) shall be adhered to and the citation procedure (R.C. 2109.31) shall be utilized if necessary to gain compliance. Each case shall be reviewed annually.

**H. Motions**

1. Unless an oral hearing is requested, all motions shall be determined on the Pleadings and Memorandum in Support. Request for oral hearing must be in writing and filed with the motion. The moving party shall serve and file with the motion a brief written statement in support of the motion and a list of citations of authorities in support. Within ten (10) days after receipt of a copy of the motion, opposing counsel or a party shall prepare and file a reply to the motion together with a citation of authorities in support of the reply. The Motion shall be ruled upon any time after fourteen (14) days from the date of filing the Motion. Counsel shall submit a proposed Entry granting the proposed Motion.

2. All motions to withdraw as counsel shall be accompanied by an order, which compels the attendance of the fiduciary. If the whereabouts of the fiduciary are unknown, counsel must first demonstrate due diligence to locate the fiduciary.

**I. Mental Health and Retardation Hearings**

All Mental Health and Mental Retardation hearings shall be held in compliance with Ohio Revised Code Chapters 5122 and 5123.

**J. Adoptions**

1. The prospective adoptive parents shall be married to each other for at least one (1) year prior to the filing of the adoption petition.
2. All adoption hearings shall be held at least one hundred and eighty (180) days after the child is placed in the home for the adoption.
3. All adoption petitions shall be reviewed annually and the Court shall order further action if necessary.

**K. Miscellaneous Matters**

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

**LOCAL RULE 79.1 REFERENCE TO MEDIATION**

**All cases, upon completion of necessary pleadings or motions, may be referred by the Court for a mediation conference, either upon request by a party or upon an order by the Court.**

**LOCAL RULE 79.2 NOTIFICATION OF CONFERENCE**

**Notices of mediation conference will be docketed.**

**LOCAL RULE 79.3 NO STAY OF PROCEEDINGSs**

**All remaining court orders remain in effect. No order is stayed or suspended during the mediation process unless specifically ordered.**

**LOCAL RULE 79.4 ATTENDANCE AT MEDIATION**

**Trial counsel, all parties and, if applicable, the principle insurance adjuster(s), all with authority to settle, must personally attend all mediation sessions prepared to discuss all relevant issues, including settlement terms. Appearance by phone of a party, an insurance adjuster, loan officer, or other individual may be permitted upon prior approval by the**

Court. A party other than a natural person must be represented by a person other than counsel. Failure to appear at mediation may result in a dismissal of the case for failure to prosecute.

#### **LOCAL RULE 79.5            SANCTIONS**

If any individuals required to attend mediation fail to attend mediation without good cause, the court may impose sanctions, including the award of attorney's fees and other costs, contempt, or other appropriate sanctions. Failure to appear at mediation may result in a dismissal of the case for failure to prosecute.

#### **LOCAL RULE 79.6            CONTINUANCES**

If a continuance of mediation is necessary, the requesting party must file a motion with the court with a proposed order. The proposed order must contain an alternative date for the mediation, which is confirmed with all parties and the mediation department. The requesting party is responsible for establishing a conference call with the mediation department or other form of group communication to set a new mediation date.

#### **LOCAL RULE 79.7            CASE SUMMARY FORM**

Prior to the commencement of mediation, all parties shall complete and submit a mediation case summary form at least four (4) days prior to the commencement of mediation. All forms shall be submitted directly to the mediation department by mail, e-mail, facsimile at 330.296.1725, or in person.

#### **LOCAL RULE 79.8            SETTLEMENT OF CASE**

##### **A.            Duties of Mediator.**

At the mediation conference the mediator will attempt to settle the entire case. The mediator may schedule, recess, or continue the conference; order monies held in trust by the Clerk; conduct a view of the scene, if applicable; recommend orders to the trial judge for approval; and exercise powers as are necessary and proper for the mediation of cases. The mediator is only required to file a report under Civ. R. 53 when orders are recommended for the trial judge's approval. The mediator must file a written report to inform the Court whether the mediation has been successful or unsuccessful.

##### **B.            Duties of Parties.**

If the parties fail to dismiss a settled case within 30 days of notifying the court of settlement, then the court may administratively dismiss the case.

#### **LOCAL RULE 79.9            STATEMENTS OF EVIDENCE**

Statements made during a mediation conference are subject to Evid.R. 408 and Sections 2710.03 – 2710.05 of the Ohio Revised Code.

#### **Local Rule 79.10    MEDIATOR' S REPORT**

At the conclusion of each mediation session and in compliance Ohio Revised Code §2701.06, the Court shall be informed, by a report of the mediator, of the status of the mediation, including the following:

- (1) Whether the mediation occurred or was terminated
- (2) Whether a settlement was reached on some, all, or none of the issues
- (3) The attendance of the parties
- (4) The scheduling of further mediation sessions, if any.

#### **Local Rule 80            TECHNOLOGY**

The Portage County Probate Court is responsible for certain cases which are sensitive, private and confidential by law. These cases include, but are not limited to, adoptions, mental health, guardianships, etc. The Court must necessarily restrict access to these cases by limiting persons with access to the private and confidential information contained in the files of these cases.

The Portage County Auditor's office has a Department of Information Technology Services with a Chief Information Officer. The Portage County Clerk has a Court Technology Coordinator to oversee Courtview. The Portage County Court of Common Pleas has a Director of Technology. Occasionally,



these offices hire vendors to repair and maintain their systems.

The above offices have access (or limited access) to the Portage County Probate Court's files inclusive of notices of hearing on private and confidential cases.

The Portage County Probate Judge shall authorize, by Court Order, the following persons to repair, maintain, update and have access to Portage County Probate cases and files:

- 1) Two persons from Auditor's Department of Information Technology Services designated by the Auditor or Chief Information Officer by March 1, 2020.
- 2) One person from Clerk's office, Court Technology Coordinator, designated by the Clerk by March 1, 2020.
- 3) One person from Portage County Common Pleas Court, Director of Technology, Portage County Common Pleas Court or other, designated by Administrative Judge by March 1, 2020.
- 4) All other vendors may conduct repairs, installations, updates, or maintenance if Portage County Probate Judge issues an Order after written application from department seeking access by Vendor to Portage County Probate Judge who will require giving the name of vendors, persons, duration of access and specific work to be done by vendor.

Portage County Probate Court shall issue an Order granting the person, the department or vendor access which shall prohibit revealing, disseminating, and using any information on cases gained by access being granted.

Unless an Order granting access is filed NO PERSON OR ENTITY shall have access to any electronic information which contains Court files.

**IN THE COURT OF COMMON PLEAS  
PROBATE DIVISION  
PORTAGE COUNTY, OHIO**

**IN THE MATTER OF THE  
ESTATE, GUARDIANSHIP, TRUST OF:**

**CASE NO.:** \_\_\_\_\_

**JUDGE PATRICIA J. SMITH**

\_\_\_\_\_

**NOTICE OF HEARING ON APPLICATION FOR ATTORNEY FEES  
Local Court Rule 71**

To the following person(s):

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

An application for allowance of attorney's fees in the within case has been filed with this Court. Said application requests approval of attorney's fees in the amount of \$\_\_\_\_\_ and reimbursement of costs advanced in the amount of \$\_\_\_\_\_.

**The hearing on the Application will be held on \_\_\_\_\_ at \_\_\_\_\_ .m.  
in the Portage County Probate Court.**

The Court is located at Room 305, Portage County Court House, 203 West Main Street, Ravenna, Ohio 44266.  
Phone: 330-297-3870.

The Application is available for inspection and copying at the Probate Court. At the hearing, you may examine and inquire into the contents of the Application.

\_\_\_\_\_  
Fiduciary

**IN THE COURT OF COMMON PLEAS  
PROBATE DIVISION  
PORTAGE COUNTY, OHIO**

**IN THE MATTER OF THE  
ESTATE OF:**

**CASE NO.:**\_\_\_\_\_

**JUDGE PATRICIA J. SMITH**

**CONSENT TO PAYMENT OF ATTORNEY FEES  
WITHIN COURT GUIDELINE  
Local Court Rule 71.2(D)(a)**

The undersigned, being a residuary beneficiary or other interested person in the above captioned estate, hereby consents to the payment of attorney fees in the amount of \$\_\_\_\_\_.

In signing this consent, the undersigned hereby acknowledges:

- (1) The receipt of the attorney's fee statement with a description of services rendered to the estate;
- (2) The fee charged is within the Court's guideline and that said guideline fee has not been represented as a schedule of a minimum or a maximum fee to be charged.
- (3) The Court need not make an independent determination that said services were reasonable, necessary and beneficial to the estate.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signed Name

\_\_\_\_\_  
Date

**IN THE COURT OF COMMON PLEAS  
PROBATE DIVISION  
PORTAGE COUNTY, OHIO**

**IN THE MATTER OF THE  
ESTATE OF:**

**CASE NO.:**\_\_\_\_\_

**JUDGE PATRICIA J. SMITH**

**WAIVER OF NOTICE OF HEARING ON APPLICATION FOR ATTORNEY FEES  
AND CONSENT TO PAYMENT OF ATTORNEY FEES  
OUTSIDE COURT GUIDELINES  
Local Court Rule 71.2(D)(b)**

The undersigned, being a residuary beneficiary or other interested person in the above captioned estate, hereby waives notice of hearing on application for attorney fees and consents to the payment of attorney fees in the amount of \$\_\_\_\_\_.

In signing this consent, the undersigned hereby acknowledges:

- (1) The receipt of the attorney's fee statement with a description of services rendered to the estate;
- (2) The fee charged is ***not*** within the Court's guideline and that said guideline fee has not been represented as a schedule of a minimum or a maximum fee to be charged.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signed Name

\_\_\_\_\_  
Date

**IN THE COURT OF COMMON PLEAS  
PROBATE DIVISION  
PORTAGE COUNTY, OHIO**

**IN THE MATTER OF THE  
ESTATE OF:**

**CASE NO.:** \_\_\_\_\_

**JUDGE PATRICIA J. SMITH**

**APPLICATION/COMPUTATION OF ESTATE ATTORNEY FEES  
Local Court Rule 71.2(D)**

VALUE OF PROBATE ASSETS (as listed on Inventory).....\$ \_\_\_\_\_

Value of Personal Property and Real Estate Sold.....\$ \_\_\_\_\_  
(Real Estate Sold under Power of Sale under will or by consent under 2127.01.01)

4% of first \$100,000.00.....\$ \_\_\_\_\_

3% above \$100,000.00 and not exceeding \$400,000.00....\$ \_\_\_\_\_

2% above \$400,000.00.....\$ \_\_\_\_\_

Value of Real Estate **NOT** Sold.....\$ \_\_\_\_\_

2% of value of real estate not sold.....\$ \_\_\_\_\_

**Line 1 - Requested Probate Fee**      \$ \_\_\_\_\_

VALUE OF NON PROBATE ASSETS .....\$ \_\_\_\_\_

2% up to \$25,000.00.....\$ \_\_\_\_\_

1% above \$25,000.00.....\$ \_\_\_\_\_

**Line 2 - Requested Non Probate Fee** \$ \_\_\_\_\_

EXTRAORDINARY FEES (Itemize and Attach Time Records along with a Motion and Order)

**Line 3 – Requested Extraordinary Fee** \$ \_\_\_\_\_

**TOTAL ATTORNEY FEES REQUESTED** (total of Line 1, 2, and 3) \$ \_\_\_\_\_

**ATTORNEYS FEES TAKEN ON PRIOR ACCOUNT(S)**.....\$ \_\_\_\_\_

**ATTORNEY FEES REQUESTED ON FINAL ACCOUNT**.....\$ \_\_\_\_\_

The fee charged (*is, is not*) within the Court's guideline and that said guideline fee has not been represented as a schedule of a minimum or a maximum fee to be charged. Written notice of this application has been given to all parties affected by the payment of the requested fees and waivers of notice or consents of all affected parties are attached. I have read and understand the above computation of fees and submit they are necessary and reasonable for the administration of the estate for which I am counsel. I hereby consent to the fees as requested.

\_\_\_\_\_  
Fiduciary's Signature

\_\_\_\_\_  
Attorney's Signature

**IN THE COURT OF COMMON PLEAS  
PROBATE DIVISION  
PORTAGE COUNTY, OHIO**

**IN THE MATTER OF THE  
GUARDIANSHIP OF:**

**CASE NO.:** \_\_\_\_\_

**JUDGE PATRICIA J. SMITH**

**APPLICATION/COMPUTATION OF GUARDIANSHIP ATTORNEY FEES  
Local Court Rule 71.3(C)**

ACCOUNTING PERIOD FROM \_\_\_\_\_ 20\_\_\_\_ TO \_\_\_\_\_, 20\_\_\_\_

**Income Generated in Accounting Period.....\$** \_\_\_\_\_

4% of first \$5,000.00.....\$ \_\_\_\_\_

3% of balance.....\$ \_\_\_\_\_

**Line 1 – Fee from Income \$** \_\_\_\_\_

**Approved Disbursements in Accounting Period.....\$** \_\_\_\_\_

4% of first \$5,000.00.....\$ \_\_\_\_\_

3% of balance.....\$ \_\_\_\_\_

**Line 2 - Fee from Disbursements \$** \_\_\_\_\_

**Principal at Anniversary of Appointment.....\$** \_\_\_\_\_

.3% of Principal of the first \$250,000 of market value..... \$ \_\_\_\_\_

.2% of Principal on excess of \$250,000 of market value..... \$ \_\_\_\_\_

**Line 3 - Fee from Principal \$** \_\_\_\_\_

EXTRAORDINARY FEES (Itemize and Attach Time Records along with a Motion and Order)

**Line 4 – Requested Extraordinary Fee \$** \_\_\_\_\_

**TOTAL ATTORNEY FEES REQUESTED** (total of Line 1, 2, 3 and 4) \$ \_\_\_\_\_

The fee charged (*is, is not*) within the Court's guideline and that said guideline fee has not been represented as a schedule of a minimum or a maximum fee to be charged. Written notice of this application has been given to the guardian. A waiver of notice or the consent of the guardian is attached. I have read and understand the above computation of fees and submit they are necessary and reasonable for the administration of the guardianship for which I am counsel.

\_\_\_\_\_  
Guardian's Signature

\_\_\_\_\_  
Attorney's Signature

**IN THE COURT OF COMMON PLEAS  
PROBATE DIVISION  
PORTAGE COUNTY, OHIO**

**IN THE MATTER OF THE  
GUARDIANSHIP OF:**

**CASE NO.:**\_\_\_\_\_

**JUDGE PATRICIA J. SMITH**

**APPLICATION/COMPUTATION OF GUARDIANSHIP FEES  
Local Court Rule 73.1(D)**

ACCOUNTING PERIOD FROM \_\_\_\_\_ 20\_\_\_\_ TO \_\_\_\_\_, 20\_\_\_\_

**Income Generated in Accounting Period.....\$**\_\_\_\_\_

4% of first \$5,000.00.....\$\_\_\_\_\_

3% of balance.....\$\_\_\_\_\_

**Line 1 – Fee from Income \$**\_\_\_\_\_

**Approved Disbursements in Accounting Period.....\$**\_\_\_\_\_

4% of first \$5,000.00.....\$\_\_\_\_\_

3% of balance.....\$\_\_\_\_\_

**Line 2 - Fee from Disbursements \$**\_\_\_\_\_

**Principal at Anniversary of Appointment.....\$**\_\_\_\_\_

.3% of Principal of the first \$250,000 of market value..... \$\_\_\_\_\_

.2% of Principal on excess of \$250,000 of market value..... \$\_\_\_\_\_

**Line 3 - Fee from Principal \$**\_\_\_\_\_

EXTRAORDINARY FEES (Itemize and Attach Time Records along with a Motion and Order)

**Line 4 – Requested Extraordinary Fee \$**\_\_\_\_\_

**TOTAL FEES REQUESTED (total of Line 1, 2, 3 and 4) \$**\_\_\_\_\_

I have read and understand the above computation of fees and submit they are necessary and reasonable for the administration of the guardianship for which I am fiduciary. I therefore request the Court's approval of payment of those fees from the assets of the said guardianship.

\_\_\_\_\_  
Guardian's Signature

\_\_\_\_\_  
Attorney's Signature

**IN THE COURT OF COMMON PLEAS  
PROBATE DIVISION  
PORTAGE COUNTY, OHIO**

**IN THE MATTER OF THE  
TRUST FOR:**

**CASE NO.:** \_\_\_\_\_

**JUDGE PATRICIA J. SMITH**

**APPLICATION/COMPUTATION OF TRUSTEE'S FEES  
Local Court Rule 74.1**

ACCOUNTING PERIOD FROM \_\_\_\_\_ 20\_\_\_\_ TO \_\_\_\_\_, 20\_\_\_\_

**Income this Accounting Period.....\$** \_\_\_\_\_

@ 6% of income in accounting period.....\$ \_\_\_\_\_

**Line 1 – Fee from Income \$** \_\_\_\_\_

**Principal Value held by Trustee.....\$** \_\_\_\_\_

@ .2% of principal.....\$ \_\_\_\_\_

**Line 2 – Principal Value Fee \$** \_\_\_\_\_

**Principal Distributed this Accounting Period.....\$** \_\_\_\_\_

@ 1% of Principal distributed .....\$ \_\_\_\_\_

**Line 3 – Principal Distribution Fee \$** \_\_\_\_\_

EXTRAORDINARY FEES (Itemize and Attach Time Records along with a Motion and Order)

**Line 4 – Total Extraordinary Fee \$** \_\_\_\_\_

**TOTAL FEES REQUESTED** (total of Line 1, 2, 3 and 4) \$ \_\_\_\_\_

I have read and understand the above computation of fees and submit they are necessary and reasonable for the administration of the trust for which I am fiduciary. I therefore request the Court's approval of payment of those fees from the assets of the said trust.

\_\_\_\_\_  
Trustee's Signature

\_\_\_\_\_  
Attorney's Signature



**IN THE COURT OF COMMON PLEAS  
PROBATE DIVISION  
PORTAGE COUNTY, OHIO**

**IN THE MATTER OF THE  
ESTATE OF:**

**CASE NO.:** \_\_\_\_\_

**JUDGE PATRICIA J. SMITH**

**APPLICATION/COMPUTATION OF EXECUTOR OR ADMINISTRATOR FEES  
Local Court Rule 72.1**

VALUE OF PROBATE ASSETS (as listed on Inventory).....\$ \_\_\_\_\_

Value of Personal Property and Real Estate Sold.....\$ \_\_\_\_\_  
(Real Estate Sold under Power of Sale under will or by consent under 2127.01.01)

4% of first \$100,000.00.....\$ \_\_\_\_\_

3% above \$100,000.00 and not exceeding \$400,000.00....\$ \_\_\_\_\_

2% above \$400,000.00.....\$ \_\_\_\_\_

Value of Real Estate **NOT** Sold.....\$ \_\_\_\_\_

1% of value of real estate not sold.....\$ \_\_\_\_\_

**Line 1 - Requested Probate Fee**      \$ \_\_\_\_\_

VALUE OF NON PROBATE ASSETS .....\$ \_\_\_\_\_  
(Excluding Joint and Survivorship Property)

1% of non probate assets.....\$ \_\_\_\_\_

**Line 2 - Requested Non Probate Fee** \$ \_\_\_\_\_

**TOTAL FIDUCIARY FEES REQUESTED** (total of Line 1 and 2)    \$ \_\_\_\_\_

**FIDUCIARY FEES TAKEN ON PRIOR ACCOUNT(S)**.....\$ \_\_\_\_\_

**FIDUCIARY FEES REQUESTED ON FINAL ACCOUNT**.....\$ \_\_\_\_\_

I have read and understand the above computation of fees and submit they are necessary and reasonable for the administration of the estate for which I am fiduciary. I therefore request the Court's approval of payment of those fees from the assets of the said estate.

\_\_\_\_\_  
Fiduciary's Signature

\_\_\_\_\_  
Attorney's Signature

**APPLICATION, ENTRY AND CERTIFICATION**  
**Local Court Rule 66.5(C)**

In the Court of Common Pleas, Probate Court Division, Portage County, Ohio

In the Matter of Guardianship of: \_\_\_\_\_  
Case No.: \_\_\_\_\_

**APPLICATION**

The undersigned having been previously appointed Guardian of the above named individual moves this Court for an Order approving payment of fees and expenses as indicated below and in the attached itemized statement, pursuant to County Local Rule 66.5 and Common Pleas Rule of Superintendency; Rule 42 in those cases where the Ward has an estate or through a fee schedule from the Indigent Guardianship Fund established by the Probate Court.

Date of Appointment: \_\_\_\_\_

Legal Fees: \_\_\_\_\_

Guardian Fees: \_\_\_\_\_

Expenses: \_\_\_\_\_

Total: \_\_\_\_\_

\_\_\_\_\_  
Guardian's Signature

\_\_\_\_\_  
Guardian's Name (please print or type)

~~\_\_\_\_\_  
NOT REQUIRED  
Social Security Number~~

\_\_\_\_\_  
Address  
\_\_\_\_\_  
\_\_\_\_\_

**ENTRY**

This Court finds that \_\_\_\_\_ performed the services set forth on the attached itemized Statement; and that the fees and expenses, set forth on said Statement are reasonable, and are in accordance with the guidelines of the Public Guardianship Program, Portage County, Ohio.

Further, pursuant to Section 2111.51 of the Ohio Revised Code, the Portage County Probate Court hereby declares a surplus of funds in its indigent guardianship fund and authorizes said payment.

It is therefore, ORDERED that such fees and expenses be and hereby are approved. It is further Ordered that the said amount be, and hereby is, certified by the Court to the County Auditor for payment.

\_\_\_\_\_  
Amount allowed by Court

\_\_\_\_\_  
PATRICIA J. SMITH, JUDGE

**INFORMATION SHEET FOR COURT APPOINTMENT OF A GUARDIAN**  
**Local Court Rule 66**

**Proposed Ward's Name:** \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone No.: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Date of Birth : \_\_\_\_\_ ~~Social Security No.: NOT REQUIRED~~

Why do you feel this person is in need of a guardian? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What circumstances make the guardianship necessary at this time? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has the proposed ward been diagnosed by a physician to be incompetent? \_\_\_\_\_ If yes, attach written report.

**Alleged ward's known assets:** Annual Income: \_\_\_\_\_  
Real Estate: \_\_\_\_\_  
Other Assets: \_\_\_\_\_

**Alleged Ward's Next of Kin:**

1. Name: \_\_\_\_\_ Relationship: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ - \_\_\_\_\_ Willingness to be appointed guardian: \_\_\_\_\_

\_\_\_\_\_

2. Name: \_\_\_\_\_ Relationship: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ - \_\_\_\_\_ Willingness to be appointed guardian: \_\_\_\_\_

\_\_\_\_\_

3. Name: \_\_\_\_\_ Relationship: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ - \_\_\_\_\_ Willingness to be appointed guardian: \_\_\_\_\_

\_\_\_\_\_

If no known next of kin, what efforts have you taken to locate any next of kin? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of person completing this form: \_\_\_\_\_

Agency (if applicable): \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ - \_\_\_\_\_

Date application completed: \_\_\_\_\_

**DO NOT WRITE BELOW THIS LINE**

.....

Date application received by Probate Court: \_\_\_\_\_

Date attorney contacted: \_\_\_\_\_

Attorney Court Requested to apply: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ - \_\_\_\_\_

***ATTORNEY: APPLICATION FOR GUARDIANSHIP IS DUE BY:*** \_\_\_\_\_

Please be advised that due to the circumstances and the importance of this matter, that if the application is not filed by the above date the Court may contact another attorney to make application to be appointed guardian. Your promptness in filing is appreciated. Thank you.

**FACSIMILE FILING COVER PAGE**  
**Local Court Rule 57.1(A)**

**RECIPIENT INFORMATION:**

NAME OF COURT: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_ - \_\_\_\_\_

**SENDING PARTY INFORMATION:**

NAME: \_\_\_\_\_

SUPREME COURT REGISTRATION NO. (if applicable): \_\_\_\_\_

OFFICE/FIRM: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NO.: \_\_\_\_\_ - \_\_\_\_\_ FAX NUMBER: \_\_\_\_\_ - \_\_\_\_\_

E-MAIL ADDRESS (if available): \_\_\_\_\_

**CASE INFORMATION:**

CASE CAPTION: \_\_\_\_\_

CASE NUMBER: \_\_\_\_\_ JUDGE: \_\_\_\_\_

TITLE OF THE DOCUMENT: \_\_\_\_\_

\_\_\_\_\_

**FILING INFORMATION:**

DATE OF FAX TRANSMISSION: \_\_\_\_\_

NUMBER OF PAGES (including this page): \_\_\_\_\_

STATEMENT EXPLAINING HOW COSTS ARE BEING SUBMITTED: \_\_\_\_\_

\_\_\_\_\_

\*If a Judge or case number has not been assigned, please state that fact in the space provided.

**PORTAGE COUNTY PROBATE COURT**  
**PATRICIA J. SMITH, JUDGE**  
203 WEST MAIN STREET, P.O. BOX 936  
RAVENNA, OHIO 44266  
(330) 297-3870

**COMPUTER INFORMATION SHEET**  
**MUST BE FILED AT THE TIME OF OPENING AN ESTATE**  
**Local Court Rule 57.1 (B)**

ESTATE OF: \_\_\_\_\_

~~DECEDENT'S SSN:~~ NOT REQUIRED \_\_\_\_\_ DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_

DECEDENT'S DOD: \_\_\_\_/\_\_\_\_/\_\_\_\_ AGE AT TIME OF DEATH: \_\_\_\_

\*Is decedent subject to Medicaid Estate Recovery? \_\_\_\_ Yes \_\_\_\_ No If yes, pursuant to ORC 2117.061 Form 7.0 must be filed with the Court.

ATTORNEY'S NAME: \_\_\_\_\_

SUPREME COURT ID NUMBER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

ATTORNEY'S PHONE NO.: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

APPLICANT'S NAME: \_\_\_\_\_

~~APPLICANT'S SSN:~~ NOT REQUIRED \_\_\_\_\_

\*If more than one person is applying to be appointed, please provide the Court with the name ~~and SSN~~ of each applicant.

\*Pursuant to ORC Section 5731.02, an estate tax return \_\_\_\_ IS \_\_\_\_ IS NOT required.

\_\_\_\_\_  
Attorney/Applicant's Signature

**PORTAGE COUNTY PROBATE COURT**

**PATRICIA J. SMITH, JUDGE**

203 WEST MAIN STREET, P.O. BOX 936

RAVENNA, OHIO 44266

(330) 297-3870

**COMPUTER INFORMATION SHEET**  
**MUST BE FILED WITH PETITION FOR ADOPTION**  
**Local Court Rule 57.1(B)**

ADOPTION OF: \_\_\_\_\_  
(NAME PRIOR TO ADOPTION)

\_\_\_\_\_  
(NAME AFTER ADOPTION)

~~ADOPTEE'S SSN: \_\_\_\_\_ NOT REQUIRED \_\_\_\_\_~~      DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_

ATTORNEY'S NAME: \_\_\_\_\_

SUPREME COURT ID NUMBER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

ATTORNEY'S PHONE NO.: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

PETITIONER'S NAME: \_\_\_\_\_

~~PETITIONER'S SSN: \_\_\_\_\_ NOT REQUIRED \_\_\_\_\_~~      DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_

PETITIONER'S NAME: \_\_\_\_\_

~~PETITIONER'S SSN: \_\_\_\_\_ NOT REQUIRED \_\_\_\_\_~~      DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
Attorney/Applicant's Signature

**PORTAGE COUNTY PROBATE COURT**  
**PATRICIA J. SMITH, JUDGE**  
203 WEST MAIN STREET, P.O. BOX 936  
RAVENNA, OHIO 44266  
(330) 297-3870

**COMPUTER INFORMATION SHEET**  
**MUST BE FILED WITH APPLICATION TO CHANGE NAME**  
**Local Court Rule 57.1(B)**

*The following information is required for the Division of Vital Statistics:*

FULL NAME AT BIRTH: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_/\_\_\_\_/\_\_\_\_

PLACE OF BIRTH: \_\_\_\_\_  
(CITY) (COUNTY) (STATE)

PARENT 1 FULL NAME: \_\_\_\_\_

PARENT 2 FULL NAME: \_\_\_\_\_

Is your present name a result of marriage or a prior name change? \_\_\_\_ YES \_\_\_\_ NO

If YES, please state MARRIAGE or NAME CHANGE: \_\_\_\_\_

Indicate County and State where filed: \_\_\_\_\_

Indicate Court and Case Number: \_\_\_\_\_

\*\*\*\*\*

*The following information is needed for Court Record Purposes:*

~~APPLICANT'S SSN: \_\_\_\_ NOT REQUIRED \_\_\_\_~~

~~IF APPLICATION IS BEING FILED FOR A MINOR CHILD, PLEASE PROVIDE MINOR  
CHILD'S SSN: \_\_\_\_ NOT REQUIRED \_\_\_\_~~

ATTORNEY'S NAME: (if applicable) \_\_\_\_\_

SUPREME COURT ID NUMBER: \_\_\_\_\_

ATTORNEY'S PHONE NO.: \_\_\_\_ - \_\_\_\_ - \_\_\_\_

\_\_\_\_\_  
Attorney/Applicant's Signature



**PORTAGE COUNTY PROBATE COURT**  
**PATRICIA J. SMITH, JUDGE**  
203 WEST MAIN STREET, P.O. BOX 936  
RAVENNA, OHIO 44266  
(330) 297-3870

**COMPUTER INFORMATION SHEET**  
**MUST BE FILED WITH APPLICATION FOR GUARDIANSHIP**  
**Local Court Rule 57.1(B)**

PROSPECTIVE WARD'S NAME: \_\_\_\_\_

PROSPECTIVE WARD'S SSN: ~~\_\_\_ NOT REQUIRED \_\_\_~~ DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_

\*If the prospective ward is currently at an address other than the address listed on the application,  
please provide the address for purposes of serving notice: \_\_\_\_\_

\_\_\_\_\_.

\*Is the prospective ward a Veteran? \_\_\_\_\_ YES \_\_\_\_\_ NO

ATTORNEY'S NAME: \_\_\_\_\_

SUPREME COURT ID NUMBER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

ATTORNEY'S PHONE NO.: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

APPLICANT'S NAME: \_\_\_\_\_

APPLICANT'S SSN: ~~\_\_\_ NOT REQUIRED \_\_\_~~ - \_\_\_\_\_

\*If more than one person is applying to be appointed, please provide the Court with the name ~~and~~  
~~SSN~~ of each applicant.

\_\_\_\_\_  
Attorney/Applicant's Signature

**PORTAGE COUNTY PROBATE COURT**  
**PATRICIA J. SMITH, JUDGE**  
203 WEST MAIN STREET, P.O. BOX 936  
RAVENNA, OHIO 44266  
(330) 297-3870

**COMPUTER INFORMATION SHEET MUST BE FILED WITH APPLICATION FOR**  
**REGISTRATION OR CORRECTION OF BIRTH**  
**Local Court Rule 57.1(B)**

APPLICANT'S NAME: \_\_\_\_\_  
(Person for whom the registration/correction of birth is being filed)

~~APPLICANT'S SSN: NOT REQUIRED~~      DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_

APPLICANT'S ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

APPLICANT'S PHONE NO.: \_\_\_\_ - \_\_\_\_ - \_\_\_\_

PARENT 1 FULL NAME: \_\_\_\_\_

PARENT 1 ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

PARENT 1 PHONE NO.: \_\_\_\_ - \_\_\_\_ - \_\_\_\_

~~PARENT 1 SSN: NOT REQUIRED~~

PARENT 2 FULL NAME: \_\_\_\_\_

PARENT 2 ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

PARENT 2 PHONE NO.: \_\_\_\_ - \_\_\_\_ - \_\_\_\_

~~PARENT 2 SSN: NOT REQUIRED~~

ATTORNEY OF RECORD (if applicable): \_\_\_\_\_

SUPREME COURT ID NUMBER: \_\_\_\_\_

ATTORNEY'S PHONE NO.: \_\_\_\_ - \_\_\_\_ - \_\_\_\_

\_\_\_\_\_  
Applicant's Signature

**PORTAGE COUNTY PROBATE COURT**  
**PATRICIA J. SMITH, JUDGE**  
203 WEST MAIN STREET, P.O. BOX 936  
RAVENNA, OHIO 44266  
(330) 297-3870

**COMPUTER INFORMATION SHEET**  
**MUST BE FILED WITH APPLICATION FOR APPOINTMENT OF TRUSTEE**  
**Local Court Rule 57.1(B)**

TRUST FOR: \_\_\_\_\_

~~BENEFICIARY'S SSN:~~ NOT REQUIRED      DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_

ATTORNEY'S NAME: \_\_\_\_\_

SUPREME COURT ID NUMBER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

ATTORNEY'S PHONE NO.: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

APPLICANT'S NAME: \_\_\_\_\_

~~APPLICANT'S SSN:~~ NOT REQUIRED

\*If more than one person is applying to be appointed or if there is more than one beneficiary,  
please provide the Court with the name ~~and SSN~~ of each applicant and/or beneficiary.

\_\_\_\_\_  
Attorney/Applicant's Signature

**PORTAGE COUNTY PROBATE COURT**  
**PATRICIA J. SMITH, JUDGE**  
203 WEST MAIN STREET, P.O. BOX 936  
RAVENNA, OHIO 44266  
(330) 297-3870

**INFORMATION SHEET MUST BE FILED AT TIME**  
**OF FILING YEARLY BANK CERTIFICATE**  
**Local Court Rule 57.1(B)**

MINOR'S NAME: \_\_\_\_\_

MINOR'S DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_

MINOR'S ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

NAME OF PARENT/CUSTODIAN: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

PHONE NO.: \_\_\_\_ - \_\_\_\_ - \_\_\_\_ WORK PHONE NO.: \_\_\_\_ - \_\_\_\_ - \_\_\_\_

CELL PHONE OR OTHER CONTACT NO.: \_\_\_\_ - \_\_\_\_ - \_\_\_\_

FINANCIAL INSTITUTION WHERE FUNDS ARE HELD: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE NO.: \_\_\_\_ - \_\_\_\_ - \_\_\_\_

ACCOUNT NO.: \_\_\_\_\_

ATTORNEY'S NAME: \_\_\_\_\_

SUPREME COURT ID NUMBER: \_\_\_\_\_

ATTORNEY'S PHONE NO.: \_\_\_\_ - \_\_\_\_ - \_\_\_\_

\_\_\_\_\_  
Attorney/Applicant's Signature

IN THE COMMON PLEAS COURT OF PORTAGE COUNTY, OHIO  
PROBATE DIVISION  
PATRICIA J. SMITH, JUDGE

GUARDIANSHIP OF \_\_\_\_\_

CASE NO. \_\_\_\_\_

**SUPPLEMENTAL APPLICATION FOR APPOINTMENT OF  
EMERGENCY GUARDIAN  
Local Court Rule 66.6(B)**

(To be filed with Application for Appointment of  
Guardian of Alleged Incompetent, Form 17.0)  
[R.C. 211.02(B)(3)]

Now comes the undersigned applicant and represents to the Court for an Appointment of an  
Emergency Guardian for \_\_\_\_\_, an alleged incompetent,  
due to:

[ ] that an emergency exists because the alleged incompetent suffers from the following  
medical problem(s) (Specify) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[ ] that immediate action is required to prevent significant injury or harm to the alleged  
incompetent by reason of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[ ] that immediate action is required to prevent significant injury or harm to the alleged  
incompetent by reason of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Applicant

## PAYEE INFORMATION SHEET

### TRANSFER OF STRUCTURED SETTLEMENTS

Initially, your structured settlement, at the time it was originated, was approved by a Court as being in your (the payee) BEST INTEREST.

Structured Settlements are designed to give tax-free payments tailored to the claimant's (your) needs. They are especially useful in cases involving continuing medical expenses and/or lost wages or where a minor is involved (who may not be able to maturely invest a lump sum payment).

The Court in determining whether a transfer of Structured Settlement is in the best interest of the Payee (you), must never lose sight of the fact that at the time the Structured Settlement was entered into it was with the purpose of creating a degree of financial security for you, the injured person. Ordinarily, at the time a structured settlement payment schedule is established for you or by your parents and legal counsel, the purpose is to provide some financial security, assuring that funds will be available at various benchmarks in your life. In short, it is a good faith effort to save people from themselves, by insulating injured persons from the temptation to possibly squander their settlements or leaving them unable to provide for themselves or their dependents. This purpose, and the right of any competent adult to choose how best to handle his or her own finances, creates a tension that can only be resolved by engaging in, what is by necessity a case-by-case assessment of the person's situation and how the proposed transaction will benefit them long term.

An example of categories of needs paid via the proceeds of such transactions which yield long-term benefits or address an urgent need are the following: (1) education expenses, (2) purchase of a home, (3) payment of debts that threaten continued occupancy of the payee's dwelling, (4) payment of debts/fines that prevent a payee from being employable, (5) payment of non-routine medical expenses for the payee or a family member, (6) purchase of a vehicle critical to the payee's ability to earn income, (7) retention of professional services needed to prevent a known harm, (8) wedding costs and expenses incurred in setting up a new household, (9) adoption costs and the expenses incurred in making arrangements for a new member of the payee's family, and (10) funeral expenses of a loved one of the payee.

You are seeking the transfer of your rights to payment under a structured settlement with all its benefits to go to another entity in exchange for a DISCOUNTED cash payment.

Before ruling on any transfer, this Court holds a hearing to determine whether the transfer complies with the statute and is in the BEST INTEREST of payee and the payee's dependents. (ORC 2323.583)

The statute requires that you receive independent professional advice concerning legal and other implications of the transfer prior to the hearing.

### (APPENDIX M)

You and the transferee must file certain documents with the Court prior to the hearing.

All interested parties must be served and notified of the hearing. See ORC 2323.584 (B)(2).

To speed this process along, the Portage County Probate Court requires you to complete the Transfer of Structured Settlement Payment Rights Questionnaire for Transfer of Structured Settlements which must be completed and filed 10 days prior to your hearing. The purpose of the form is to give the Court information that may affect its determination of “best interest” and compliance with the statute.

The Structured Settlement was formulated at one point to guarantee an income stream for you and to protect the payee (you) against the dangers of receiving a lump sum payment. By transferring your interest to a part or a whole of the structured settlement for cash payment and/or other consideration, you are defeating partially or wholly the purpose of the original settlement. That is why ORC 2323.58 to 2323.587 requires the Court to find your proposed transfer is in the “best interest” of you and/or your dependents.

\_\_\_\_\_  
Payee

Date Received:\_\_\_\_\_

Date Read:\_\_\_\_\_

Date read to payee:\_\_\_\_\_ and by whom\_\_\_\_\_