

**PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE**

**LOCAL COURT RULES OF PRACTICE
OF
THE PROBATE COURT OF LORAIN COUNTY, OHIO**

(Effective June 6, 2019)

Adopted by Judgment Entry filed
June 6, 2019 in Case No. 91CV032937

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PREAMBLE

The Probate Court of Lorain County, Ohio adopts The Local Court Rules of Practice pursuant to Superintendence Rule (Sup.R.) 5 to facilitate the expeditious management of proceedings and the efficient performance of the Court's functions. The Court adopted the local rules after notice and an opportunity for comment on them. The Court has filed a copy with the Clerk of the Supreme Court of Ohio. These rules of practice supersede prior rules of practice and have an effective date of June 6, 2019.

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

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

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

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

SUP.R. 5.01 LOCAL CHILD RESTRAINT RULE

LOC.R. 5.01 USE OF RESTRAINTS ON A CHILD

- (A) Instruments of restraint, including, but not limited to handcuffs, chains or shackles shall not be used on a child in a Probate Court proceeding unless both of the following apply:
- (1) The necessity of using restraints is demonstrated to the satisfaction of the judge or magistrate by the presence of one or more of the following factors:
 - (a) The child represents a current and significant threat to the safety of the child's self or other persons in the courtroom; or
 - (b) There is a significant risk that the child will flee the courtroom; and
 - (2) The court determines that there are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child or another person, including, but not limited to, the presence of court personnel, law enforcement officers or bailiffs.
- (B) When used, restraints should allow the child limited movement of the hands to read and handle documents and writings necessary to the hearing unless there is a demonstrated need for more restricted movement.
- (C) In no circumstance does this rule limit the ability of law enforcement, security personnel or other court staff from restraining a child if necessary to ensure the courtroom is properly functioning and/or to maintain the safety and security of court facilities.

SUP.R. 6.01 APPEARANCE PRO HAC VICE

LOC.R. 6.01 *PRO HAC VICE* (ADMISSION FOR A CASE)

An attorney not licensed to practice law in Ohio, but who is duly licensed to practice law in another state or the District of Columbia, may, upon application by a sponsoring attorney, be admitted to the practice of law in Ohio, and at the discretion of the Probate Judge, be permitted to represent an identified party or parties in any litigation pending or to be filed in the Court after complying with all of the following conditions:

- (A) Filing a written oath substantially in compliance with Rule XII of the Supreme Court Rules for the Government of the Bar;
- (B) Certifying in writing familiarity with the Local Court Rules, Civil Rules, Rules of Evidence, Rules of Superintendence and the Code of Professional Conduct;
- (C) Submitting a certificate of good standing dated no earlier than 60 days prior to its filing with this Court, which establishes the out-of-state attorney's license to practice law in that jurisdiction;
- (D) Being sponsored in writing by an attorney licensed to practice law in Ohio who shall certify the out-of-state attorney's compliance with this rule and the Supreme Court Rules for the Government of the Bar;
- (E) Submitting an agreement executed by the sponsoring attorney, or another attorney licensed to practice law in Ohio, and the out-of-state attorney agreeing that they shall be co-counsel for the purposes for which the admission is sought; and
- (F) Submitting a proposed entry authorizing the approval of the application.

The continuance of any scheduled trial or hearing date shall not be permitted solely because of the unavailability or inconvenience of the out-of-state attorney.

SUP.R. 8 COURT APPOINTMENTS

LOC.R. 8.1 COURT APPOINTMENTS

For appointments frequently made in the court, appointments shall be made by selecting appointees from a list maintained by the court of persons prequalified to serve in the capacity designated by the court. To ensure an equitable distribution of appointments, the court may utilize a rotary system from a graduated list that pairs the seriousness and complexity of the case with the qualifications and experience of the person to be appointed. The court or division may maintain separate lists for different types of appointments.

An appointment shall be made by taking into consideration the following:

- (1) The anticipated complexity of the case in which appointment will be made;
- (2) Any educational, mental health, language, or other challenges facing the party for whom the appointment is made;
- (3) The relevant experience of those persons available to accept the appointment, including proficiency in a foreign language, familiarity with mental health issues, and scientific or other evidence issues;
- (4) The avoidance of conflicts of interest or other situations that may potentially delay timely completion of the case;
- (5) Intangible factors, including the court or judicial officer's view of a potential appointee's commitment to providing timely, cost-effective, quality representation to each prospective client.

Court appointees, other than assigned counsel, will be paid reasonable compensation with consideration given to the factors outlined in applicable law, Professional Conduct Rule (Prof.Cond.R.) 1.5, Sup.R. 8, fee schedules and these Local Rules. When compensation is being

paid from the indigent guardianship fund, the compensation shall be determined pursuant to Loc.R. 73.2.

Persons requesting to be placed on an appointment list of the Court will be placed on the list within 30 days, the Court will decide whether the person meets the qualifications to be placed on the list. The person will be informed in writing of the Court's decision. The Court will give a person 30 days notice of its intent and reason to remove a person from a court appointment list.

By accepting a Court appointment, an attorney is representing and affirming that the attorney is competent to provide the necessary services and committing that those services will be performed with reasonable diligence and promptness as required by Prof.Cond.R. 1.1 and 1.3. An attorney who accepts appointment as a guardian for an adult ward is committing to abide by the applicable Supreme Court Rules of Superintendence for the Courts of Ohio 66.01 through 66.09, so long as the appointment remains open.

Furthermore, an attorney accepting a Court appointment is representing to the Court that at all times during the appointment the attorney shall maintain professional liability insurance in the minimum limits set forth in Prof. Cond. R 1.4(c) and upon request of the Court will provide to the Court satisfactory evidence of the existence of such coverage. No attorney shall be appointed, shall accept an appointment, or shall continue an appointment if the attorney is not registered as active and in good standing with the Supreme Court of Ohio.

The performance of any appointee may be reviewed by the Judge at any time or upon a complaint being filed by an interested party. The Judge shall review the facts and make a determination of whether the current appointment shall be in any way modified or terminated. If appropriate, the Court may determine that further appointments of the appointee should be limited or not made.

The appointment procedure shall be reviewed by the Court periodically to ensure equitable distribution of appointments. At least once every five years, the Court shall review the compensation paid court appointees to determine the compensation's adequacy and effect upon the availability of court appointees.

SUP.R. 9 SECURITY PLAN

LOC.R. 9.1 SECURITY PLAN

The entire Security Plan previously submitted to the Supreme Court of Ohio, or as hereafter amended, is to be maintained as confidential and not as a matter of public record.

SUP.R. 11 RECORDING OF PROCEEDINGS

LOC.R. 11.1 RECORDING OF PROCEEDINGS

The Court may make an audio or video recording of the proceedings as the record of the Court *unless* a stenographic record is requested. Parties who desire to have a stenographic record of the proceedings must arrange for a court reporter and advise the Court at least twenty-four (24) hours prior to the scheduled hearing. The requesting party shall pay the costs of the stenographic record unless otherwise ordered by the Court.

With advance notice, the Court may allow the applicant to receive a copy of an audio and/or electronic recording, unless the proceeding is otherwise closed to the public by applicable law or order.

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

The Court will maintain electronically recorded proceedings for three (3) years from the date of the hearing. Any interested person desiring to preserve the record beyond that period must make arrangements to have the record transcribed as provided above and shall file the transcript in the case file.

SUP.R. 12 BROADCASTING AND RECORDING COURT PROCEEDINGS

LOC.R. 12.1

The judge or magistrate assigned to the trial or hearing shall permit the broadcasting or recording by electronic means and the taking of photographs in court proceedings that are open to the public as provided by Ohio law. After consultation with the media, the judge shall specify the place or places in the courtroom where the operators and equipment are to be positioned. Requests for permission for the broadcasting, televising, recording, or taking of photographs in the courtroom shall be in writing and the written order of the judge shall be made a part of the record of the proceedings.

Permissible equipment and operators are governed by Sup.R. 12.

Upon the failure of any media representative to comply with the conditions prescribed by Sup. R. 12, this rule or the judge, the judge may revoke the permission to broadcast or photograph the trial or hearing.

Except as provided in this local rule, no person shall make any audio or video recording or take any photographs within the offices of the Probate Court, without prior Court permission. The offices of the Probate Court include all offices and areas under the control of the Probate Court, including, but not limited to the courtroom, hearing rooms, jury room, and waiting area. Any violation of this Local Rule may constitute contempt of Court and may subject the person to sanctions, including confiscation of their equipment, fines or incarceration.

SUP.R. 16 MEDIATION

LOC.R. 16.1 MEDIATION

All definitions found in the “Uniform Mediation Act” (R.C. 2710.01) are adopted by this Court for purposes of this Local Rule. All mediations shall comply with Sup.R. 16 and the mediator shall endeavor to follow the standards of practice and policy considerations identified in Sup.R. 16(D) when a referred case involves family issues.

Selection - At any time and in any action under the jurisdiction of this Court, a matter may be referred to Court Mediation Services, subject to the right of the Court Mediation Services to decline the referral. Additionally, the Court may refer to mediation with a third-party mediator any case in which there is a matter or issue that the Court or the parties believe may benefit from mediation services.

Domestic Violence - All parties, and their counsel, shall advise the Court and the mediation personnel of any domestic violence allegations known to exist between the persons involved in the mediation in the past, currently, or which develop during the mediation. Upon identification of a situation involving or suspected of involving domestic abuse, the Court or mediation personnel identifying it shall notify the involved counsel, or make other appropriate referrals. A mediation referral is not an alternative to a referral of domestic violence for investigation or prosecution. A mediation referral is not a means of determining whether to grant, modify or terminate a protection order or the means for determining sanctions for a violation of a protection order

Referral Order - Referral for mediation shall be by a Notice of Scheduled Mediation, Judgment Entry, or Magistrate’s Order and the referring order shall recite a “not later than” date for all participants, or their counsel, to make scheduling contact with the identified mediator.

Participation - The Court may order the parties to participate in, or return to, scheduled mediation sessions. The mediation may be conducted in one or more sessions. If a party

participant wishes that party's attorney may participate. To the extent that the mediator believes that it may be helpful, a guardian ad litem representing one of the participants, or a non-party may be permitted to participate. A non-party participant as defined by R.C. 2710.01(D) is (a) bound by this rule and submits to the Court's jurisdiction to the extent necessary to enforce the rule, and (b) has the rights and duties attributable to a participant except as provided by R.C. 2710.03(B)(3) and 2710.04(A)(2). If geographic distance or physical disability prevents a participant from attending personally, the mediator may permit participation by electronic video streaming or telephonic means. Participants shall proceed with mediation in good faith with the goal of reaching a mediation agreement.

The participants will be required to execute a written "Agreement to Mediate" prior to participating in any mediation services. The recording of mediation proceedings is not permitted.

Sanctions - Mediation shall not be used for purposes of delay, discovery or harassment. Sanctions may be imposed upon a party ordered to participate in mediation who fails to attend without good cause. Sanctions may include, but are not limited to, the award of attorney fees to other participants, the assessments of costs, and findings in contempt.

Confidentiality - The confidentiality or admissibility of all mediation communications, discussions and statements are governed by the applicable law and the Rules of Evidence. Mediators will not be permitted to testify regarding the substance of the mediations or the cooperativeness of the participants.

Conflicts of Interest - The mediator shall immediately disclose to the participants any conflicts of interest that the mediator may identify. Upon the request of the mediator, or any participant in the mediation, the Court shall address the removal of the mediator due to a conflict of interest if not resolved by the participants and the mediator.

Termination - The mediation shall terminate when the mediator determines further efforts would be of no benefit to the parties. If the mediator determines that the mediation should terminate, the mediator shall notify all parties and the Court that the mediation is terminated.

Agreements –All mediation agreements are confidential and privileged pursuant to R.C. 2710.01 to 2710.10 (unless signed and therefore not privileged pursuant to R.C. 2710.05(A)(1)). Agreements reached through mediation shall be in writing with each agreeing party receiving a copy and a copy being retained in the mediator’s file. No oral agreement to a mediation result is binding, unless made in open court or subsequently reduced to a signed writing. All mediation agreements shall be presented to the Court, with the consent of the parties and waiver of confidentiality and are subject to final approval by the Court.

In the event that the parties are not represented by counsel and an agreement is reached through mediation, the mediator shall file a sealed copy of the written agreement with the Court and the matter shall be set for further hearing, at which hearing the Court shall ask the parties to waive confidentiality as to the agreement and take the acknowledgements of the parties as to the terms of the agreement. In cases where it is necessary or expedient that the mediated agreement be put on the record immediately following the mediation, the Court shall go on the record with the parties and the mediator present and acknowledge the parties’ waiver of confidentiality as to the agreement. With the waiver, the mediator shall read the agreement into the record and the Court shall take the acknowledgments of the parties as to the agreement.

If the parties are represented by counsel then either (1) counsel shall submit an Agreed Judgment Entry incorporating the terms of the meditation agreement, or (2) the Court shall go on the record with the parties and the mediator present, acknowledge the parties’ waiver of confidentiality as to the agreement, have the mediator read the agreement into the record, take the

acknowledgement of the parties to the agreement as read into the record, and directing counsel to prepare an Agreed Entry reflecting the mediation agreement.

Cost - The cost schedule for mediation when the court appoints an attorney to conduct the mediation shall be: (a) for any probate matters (unless indigency is established) a minimum of \$400 for up to 2 hours of mediation and \$200/per hour for each subsequent hour with the additional hours being assessed among each of the participants equally, and (b) for indigent guardianships a minimum of \$50 per participant for a maximum of 4 hours mediation. For good cause, the Court may modify this schedule. The fee the first two hours of mediation services shall be paid from the Dispute Resolution Trust Fund. For mediations lasting more than two hours, the parties shall obtain the prior permission of the Court or the parties will be responsible for the mediation fees in excess of two hours.

A third party mediator's fee or rate of compensation shall be determined by the Court when the matter is referred for mediation, and it may be based upon the complexity of the issues and other requirements of the case. Generally, the fee shall be apportioned generally in equal proportions between the party participants; however, the Court may allocate the mediation fee otherwise based upon the equities involved. An estimate of the third party mediator's fee shall be deposited prior to the commencement of the mediation and additional advance deposits may be ordered throughout the mediation.

SUP.R. 26 COURT RECORDS MANAGEMENT AND RETENTION

LOC.R. 26.1 COURT RECORDS MANAGEMENT AND RETENTION

The Court has a Schedule of Records Retention and Disposition, which will be followed in conjunction with the Rules of Superintendence for the Courts of Ohio.

SUP.R. 41. CONTINUANCES

LOC.R. 41.1 CONTINUANCES

Continuances of all cases shall be in accordance with Rule 41 of Superintendence for the Courts of Ohio.

If a party or counsel seeking affirmative relief fails to appear or is not ready to proceed with trial, the Court may in its discretion dismiss the claim for want of prosecution. With respect to the Defendant or their counsel, the Court may proceed with the case and determine all matters ex parte.

If a case set for trial is settled or dismissed, the trial counsel shall immediately notify the Court. Failure to timely provide notice may result in the imposition of additional costs.

SUP.R. 45. COURT RECORDS – PUBLIC ACCESS

LOC.R. 45.1 PERSONAL IDENTIFIERS

“Personal Identifiers,” as defined by Sup.R 44(H), Court Records - Definitions, must be omitted from all case documents that are filed with this Court. Pursuant to Sup.R. 45(D)(1) and (3), the filing party is solely responsible for assuring that the personal identifiers are omitted. When first omitted from a filing, the omitted personal identifiers must be filed on Standard Probate Form (SPF) 45(D), which shall not be a public record. Thereafter, subsequent reference to a particular identifier may be made by reciting the last four digits/letters of the identifier unless there are less than four characters constituting the identifier and then the filer shall create a unique identifier for that item.

SUP.R. 51 STANDARD PROBATE FORMS

LOC.R. 51.1 FORM AVAILABILITY

Forms for use in the Probate Court of Lorain County are available at the Probate Court office, and the established Court website, to wit: **<http://www.loraincounty.com/probate/search.shtml>**. The Standard Probate Forms also are available on the Supreme Court of Ohio website in generic form at: **<http://www.supremecourt.ohio.gov/LegalResources/Rules/>**

SUP.R. 52 SPECIFICATIONS FOR PRINTING PROBATE FORMS

LOC.R. 52.1 COMPUTERIZED FORMS

Each individually generated form must comply with the specifications and format mandated by the Rules of Superintendence. Each individually generated form must be created with the same blank lines and exact wording as on the printed Standard Probate Form it is replacing. The signature of the applicant or attorney constitutes a certification that the individually generated form on which the signature appears complies with the Superintendence Rules in every respect and that the only modifications or variations are those permitted by Sup.R. 51(C) and Sup.R. 52(M).

SUP.R. 53 HOURS OF THE COURT

LOC.R. 53.1 HOURS OF THE COURT

The Probate Court shall be open for the transaction of business from 8:00 a.m. to 4:00 p.m., Monday through Friday, *except* holidays, and as may be otherwise established by the Court. Marriage Applications and all pleadings requiring a new case number or the payment of Court costs shall be filed by 4:00 p.m.

SUP.R. 55 EXAMINATION OF PROBATE RECORDS

LOC.R. 55.1 PHOTOCOPIES

Copies of any public record may be obtained at the cost listed in the Court's Deposit, Fee and Costs Schedule.

Records of adoption, mental illness, developmental disability proceedings and certain guardianship records are confidential and may be accessed only as authorized by the Judge of the Court or other applicable law.

SUP.R. 57 FILINGS AND JUDGMENT ENTRIES

LOC.R. 57.1 FACSIMILE FILINGS

Documents will not be accepted for filing via facsimile, except an Affidavit of Mental Illness pursuant to R.C. 5122.01.

LOC.R. 57.2 CURRENT STREET ADDRESS

When an address is required on a Court filing for an attorney or a fiduciary, the address must include a current street address and, if applicable, may include any post office box numbers used as a mailing address. The address of a non-attorney fiduciary must be the fiduciary's legal residence. A fiduciary who is an attorney at law may use an office address. The Court must be notified in writing of a change in a required address within 30 days of the change occurring. A Notice of Change of Address form (Loc. F. 75.0A) may be filed to report a change of address.

Reasonable diligence shall be exercised to obtain the complete street addresses of the surviving spouse, children, next of kin, legatees and devisees, as applicable to the particular filing,

Pursuant to R.C. 2109.03 any summons, citation or notice may be served upon a fiduciary by delivering a duplicate notice to the attorney designated by the fiduciary on pleadings filed in the case.

LOC.R. 57.3 CASE NUMBER

All filings, including attachments, must have the case number on the upper portion of each page not bearing the case caption. Only the Court shall enter the case number on any original will when filed for record only or when filed for admission to probate. Only the Court shall enter the case number on the cover envelope for any will filed with the Court for safekeeping.

LOC.R. 57.4 ORIGINAL SIGNATURES

All filings must contain original signatures, unless otherwise permitted by Loc.R. 57.1. Non-attorneys may not sign on behalf of an attorney.

LOC.R. 57.5 FIDUCIARY SIGNATURE

Every pleading, filing, or other document by law or rule requiring the fiduciary's signature shall have the original signature of the fiduciary, unless otherwise permitted by Loc.R. 57.1. The attorney for the fiduciary may not sign for the fiduciary. When co-fiduciaries have been appointed, *each* fiduciary must sign the filing *or* the filing must explain the reason for the absence of a co-fiduciary's signature and the efforts made to obtain it.

LOC.R. 57.6 COURT FILINGS

All filings (other than original wills of different sizes) must be on 8-1/2" x 11" paper and the type size for the body of the document shall be not less than ten (10) point or greater than twelve (12) point font. The Court will not accept for filing incomplete pleadings or those with cross-outs. It is expected that filings made by counsel will be prepared in a professional manner with attention to appearance and presentation of a quality product. All filings must be clearly legible and if they are not clearly legible for any reason, including but not limited to poor handwriting, or poor photocopying they may be refused for filing, or if filed and later determined to be illegible, then stricken. Every filing must be in the English language, unless it is a foreign language exhibit with an attached English transcription or it is a Standard Form issued by the Supreme Court of Ohio. All pleadings, motions or other filings shall be typed or legibly printed, in black or blue ink, and correctly captioned. Except for exhibits or attachments to filings or on original wills, for any signature that is not clearly legible the typed name represented by the signature must be entered. This also applies to tendered facsimile signature represented to be an original on the original document from which the facsimile is transmitted.

If the Court rejects a document that has been served by a party upon other parties, the party who tendered the rejected document shall provide to all parties who were served with a copy of the documents a written notification that the document was rejected and not filed in the case.

LOC.R. 57.7 “FILED” STAMPED COPIES

The Court will *not* return “filed” stamped copies by mail *unless* an exact copy of the original is submitted with the original and is accompanied by a self-addressed and adequately stamped return envelope. The Court shall prepare and mail copies of its orders and judgment entries as is required by applicable law.

LOC.R. 57.8 INSTRUCTIONS FOR SERVICE OF SUMMONS OR NOTICE

In any proceeding requiring the Court to issuance of summons or notice, the attorney or party requesting the service shall file a written instruction for service with the Court that is accompanied by sufficient copies of all filings to be served. The Request for Summons or Notice form (Loc. F. 1.1A) may be used for this purpose.

Service of summons by the Court, unless waived, is required in an action: for pre-death declaration of the validity of a will (R.C. 2107.082), to contest a will (R.C. 2107.72), to requesting direction or instructions (R.C. 2107.46), for a declaratory judgment, the construction of a document, or a determination of a class (R.C. 2721.05 and 2721.12), to sell real estate (R.C. 2127.14), for a guardian to improve real estate (R.C. 2111.34), and to terminate or modify trusts (R.C. 5804.11 through 5804.16). This list is non-exclusive.

Service of Notice pursuant to Civ.R. 73(F) may be made with or without court intervention.

In any proceeding (other than a name change) in which service by publication is requested, the pre-publication affidavit required by Civ.R. 4.4(A)(1) and Civ.R. 73(E)(6) demonstrating reasonable diligence must be provided to the Court. The affidavit must specifically set forth the efforts that were taken to attempt to determine the address and identity of each party to be served by publication.

Constructive service by publication is authorized in those cases enumerated in R.C. 2703.14.

Publication for a name change must be made one time at least 30 days before the hearing on the application (R.C. 2717.01). The applicant prepares the publication notice and the applicant is responsible for paying for and arranging for the timely publication.

Publication for a public sale in a real property sale proceeding is arranged by the fiduciary and must be advertised at least three (3) successive weeks prior to the scheduled sale (R.C. 2727.32).

Publication of service of process when authorized in a declaration of validity of will proceeding is for three (3) consecutive weeks and the publication is given by the Court (R.C. 2107.082).

In an adoption proceeding when service of notice is being made upon a non-consenting parent, where personal service cannot be obtained, then service of notice by publication must be given once a week for three consecutive weeks and it is given by the Court pursuant to the law [R.C. 3107.11(C) and Civ.R. 73(E)(6)].

When service of summons is being made by publication, it shall be made by publication once a week for six (6) successive weeks unless a smaller number of weeks is provided by law and service shall be complete on the date of the last publication. The 28-day period for answer commences with the date of the last publication [Civ.R. 4.4(A)(1) and Civ.R. 12(A)(1)].

In every instance when publication is used or required, proof of the publication from the publisher must be filed with the Court in accordance with Civ.R. 4.4(A)(1).

LOC.R. 57.9 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 filed in the Court case file, unless otherwise ordered by the Court.

Upon agreement of the parties or by order of the Court, a copy may be substituted for an original exhibit. The disposal of exhibits shall be accomplished pursuant to Sup.R. 26.

LOC.R. 57.10 ENTRY OF JUDGMENT

Any proposed Judgment Entry submitted to the Court, subject to Civ.R. 58(B) as modified by Civ.R. 73(I) shall contain language identifying the addresses of parties to whom the Civ.R. 58(B) notice shall be given. If the required language is not included, the Judgment Entry may be returned unsigned.

Each judgment entry presented to this Court for filing for and on behalf of any fiduciary shall have endorsed thereon the approval of the attorney designated by such fiduciary. Such endorsement shall constitute a representation to the Court that the same was prepared by and/or examined by the attorney. If such attorney's endorsement is lacking, the judgment entry shall be refused.

LOC.R. 57.11 LENGTH OF MEMORANDUM OR BRIEF

No Memorandum or Brief exceeding fifteen (15) pages in length, exclusive of supporting exhibits, shall be accepted for filing without prior leave of the Court.

LOC.R. 57.12 CERTIFICATE OF SERVICE

On any pleadings requiring a Certificate of Service, the Certificate shall identify the full name and address where service was perfected. Pursuant to Civ.R. 5(D), papers filed with the Court and requiring notice or service shall not be considered by the Court unless a proof of service is endorsed thereon or until on is separately filed.

LOC.R. 57.13 DECEDENT'S NAMES

In every estate, the name of the decedent entered on the caption of the initial filing and on the Letters of Authority, Entry Relieving Estate or Entry Granting Summary Release shall be identical to that reflected on the death certificate and on the decedent's Last Will and Testament. If the name on the death certificate and the will are different, then the caption of the initial filing and the Letters of Authority, Entry Relieving Estate or Entry Granting Summary Release shall recite each of the names and use the applicable abbreviation for "also known as" (aka) or "formerly known as" (fka).

LOC.R. 57.14 COURT SERVICE OF FILINGS

When service is required to be made by the Court for pleadings other than (a) those for which service has been requested by properly filed instructions for service, or (b) those for which a specific method of service is designated within the filing or is designated by statute, *then service shall be* through delivery to the court mailbox of an attorney who in writing has previously authorized such method of alternate delivery and upon all other individuals or entities by ordinary U. S. Mail sent to the last address reflected in the case file for the individual or entities being served unless the serving deputy clerk indicates that service has been made personally or by certified mail.

For the filings to which this rule applies, the deputy clerk shall place a signed certification on the filing indicating the date of service and any alternate means of service used for a given party.

Unless otherwise indicated on the filing, the certification represents that the default method of service used was either: (a) to the court mailbox for attorneys having a designated court mailbox, or (b) by ordinary U.S. Mail for all other individuals or entities.

LOC.R. 57.15 ENFORCEMENT OF SETTLEMENT AGREEMENT AFTER DISMISSAL

If it is intended that this Court will have jurisdiction to enforce a settlement agreement after a case has been dismissed, the dismissal agreement must incorporate the terms of the agreement or expressly state that the Court retains jurisdiction to enforce the agreement.

SUP.R. 58 DEPOSIT FOR COURT COSTS

LOC.R. 58.1 DEPOSITS

The business of the Court shall be conducted on a cash, check or money order basis. The Court does not accept debit cards or credit cards and reserves the option of refusing non-attorney personal checks. All deposits for court proceedings shall be in accordance with the Court's Deposit, Fee and Costs Schedule in effect on the date of filing of the pleading. At the conclusion of a case, if the remaining cost deposit balance for any depositor, is less than Five Dollars (\$5.00) it shall be transferred to the Lorain County Indigent Guardian Fund.

LOC.R. 58.2 PUBLICATION COSTS

The Morning Journal and *The Chronicle Telegram*, are designated as the newspapers of general circulation in which any notices as required by law or designated by the Judge are to be published, unless otherwise approved by the Court. These publication charges shall be paid in advance to the newspaper, by the party requesting the publication.

LOC.R. 58.3 WITNESS FEES

Before issuing a subpoena, the Court requires the deposit of the applicable witness fees. Witness fees may be requested by the witness at the conclusion of the hearing for which the subpoena was issued. If the witness fee is not requested at the conclusion of the case, the Court presumes that the witness has waived the fee. All unpaid witness fees will be refunded to the depositor. The party requesting the subpoena is responsible for the deposit of witness fees.

LOC.R. 58.4 INSUFFICIENCY OF COSTS DEPOSIT

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

SUP.R. 59 WILLS

LOC.R. 59.1 CERTIFICATE OF SERVICE

The applicant for the admission of a will to probate, or another person listed in R.C. 2107.19, shall file a Certificate of Service of Notice of Probate of Will (SPF 2.4) not later than two (2) months after the appointment of the fiduciary or, if no fiduciary has been appointed, not later than two (2) months after the admission of the will to probate. The period for the contest of a will does not begin to run until the Certificate of Service of Notice of Probate of Will has been filed. A delayed filing may result in the Court extending other deadlines that are dependent upon the expiration of the period for the contest of a will. Proof of service shall consist of either waivers, photocopies of original signed certified mail return receipt cards, or when applicable, postal certificates of mailing, as provided under Civ.R. 73(E)(3). Neither a minor nor a person under disability may waive notice.

LOC.R. 59.2 WILL FOR DEPOSIT

Any will that is being deposited with the Court for safekeeping pursuant to R.C. 2107.08 shall be accompanied by a completed Will for Deposit form (Loc. F. 59.2A). The Court will provide the depositor with a Certificate of Deposit of Will (Loc. F. 59.2B) as a receipt for the deposit of the will.

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

LOC.R. 60.1 ACCEPTANCE AND NOTICE OF APPOINTMENT

All executors and administrators shall personally sign and file the Fiduciary's Acceptance (Loc. F. 4.0A) prior to the issuance of the Letters of Authority. In the event there are multiple fiduciaries, *each* fiduciary shall sign an original Loc. F. 4.0A. Pursuant to Sup.R. 60 (B) notice of the appointment of the Administrator shall be given by the Administrator within seven (7) days of the appointment to all persons entitled to inherit, including persons entitled to an allowance for support, unless those persons have been given notice of the hearing on the appointment or waived notice. Proof of the service of the notice shall be filed with the Court.

LOC.R. 60.2 APPOINTMENT OF NON-RESIDENT FIDUCIARIES

A non-resident of Ohio requesting appointment as a fiduciary of a decedent's estate must comply with R.C. 2109.21 and have an attorney of record who is permitted to practice law by the Supreme Court of Ohio. To assure the assets remain in the State of Ohio, during the administration of the estate or trust, the applicant must meet one or more of the following criteria as required by the Court:

- (A) Place assets of an amount determined by the Court, in the custody of a depository account in Ohio, pursuant to R.C. 2109.13;
- (B) Have a co-fiduciary who is a resident of Ohio; or
- (C) Post a bond in compliance with R.C. 2109.04 or as ordered by the Court.

If the applicant elects to use the depository method set forth in (A), then the applicant shall prepare and use the Application of Non-Resident Fiduciary to Deposit Assets with a Custodian in Lieu of Bond form (Loc. F. 60.2A). To be appointed as a fiduciary, a non-resident applicant must provide to the Court a current photo identification with proof of the applicant's current residence address and mailing address in a format satisfactory to the Court.

LOC.R. 60.3 IDENTIFICATION WITH PHOTOGRAPH REQUIRED

Applicants for authority to administer a decedent's estate, who are not represented by an attorney admitted to practice law in Ohio, shall exhibit to the Court current photo identification and proof of the applicant's current residence and mailing address in a format satisfactory to the Court.

LOC.R. 60.4 CALCULATION OF EXECUTOR/ADMINISTRATOR
COMPENSATION

Unless otherwise approved by the Court, compensation shall not be paid to the Executor or Administrator of an estate until the final account is prepared for filing and a Calculation of Executor/Administrator Compensation form (Loc. F. 60.4A) has been filed with the Court setting forth the basis upon which the compensation has been calculated. For an Executor/Administrator appointed on or after January 1, 2014, the Court will allow a commission of 1% of the value of all property that is not subject to administration and that would have been includable for purposes of computing the Ohio estate tax (except joint and survivorship property) had the decedent died on December 31, 2012, so that R.C. 5731.02 applied to the estate.

LOC.R. 60.5 SPOUSAL CITATION AND SUMMARY OF RIGHTS

Where appropriate, the Waiver of Service to Surviving Spouse of the Citation to Elect (SPF 8.6) should be filed at the same time as the initial application for appointment of the fiduciary. Absent the filing of a waiver, the Court shall serve by certified mail the spousal citation and summary of rights required by R.C. 2106.02 within 7 days of the initial filing for appointment.

SUP.R. 61 APPRAISERS

LOC.R. 61.1 APPRAISALS OF REAL ESTATE

For Probate Court purposes of appraising real estate, the fiduciary or commissioner may either:

1. employ an appraiser experienced in appraising real estate in Lorain County; or
2. use the Lorain County Auditor's appraised value of the premises.

In case of a dispute or for other purposes, the court may require a court-appointed appraiser for real estate.

SUP.R. 62 CLAIMS AGAINST ESTATE

LOC.R. 62.1 INSOLVENT ESTATES

Where there are presented to the executor or the administrator valid claims in excess of the amount of assets in his hands, he shall report in writing to the Court that the estate is insolvent, setting forth the facts relating to such insolvency. In addition, the executor or administrator shall, by application and entry, set for hearing both the determination of insolvency and his application for an order in connection therewith (R.C. Sec. 2117.15).

In the administration of an estate, a Schedule of Debts (Claims) shall be filed with the Court in all cases where at any time it appears to the fiduciary that the estate may insolvent; or in any matter where there will be a land sale proceeding to pay debts. In all other cases, the filing of a Schedule of Debts (Claims) is optional with the fiduciary.

LOC.R. 62.2 MEDICAID RECOVERY ACKNOWLEDGMENT

Every applicant not represented by counsel who seeks a summary release, a release of estate from administration or the administration of any estate shall file with the Court a completed Medicaid Recovery Acknowledgement (Loc. F 62.1). When applicable, the applicant or the fiduciary shall file and serve the Notice of Administrator of Medicaid Recovery Program (SPF 7.0) and file the Certification of Notice to Administrator of Medicaid Recovery Program (SPF 7.0(A)).

LOC.R. 62.3 SPECIAL ADMINISTRATOR FOR RECEIPT OF CLAIMS

Where the appointment of a Special Administrator is requested pursuant to R.C. 2113.15 and the sole purpose of the appointment is indicated to be to receive claims under R.C. 2113.17, the Letters of Authority will be expressly limited to that purpose. Upon a subsequent appointment of a fiduciary to administer the estate, or the filing of an application to release the estate from administration, the fiduciary or the applicant for release shall notify the Special Administrator of

the action. Within 30 days of receipt of notice of the appointment of the estate fiduciary, the Special Administrator shall file with the Court as an attachment to the accounting, or separately if there is no accounting, and shall serve the fiduciary with a Report on Claims identifying the names of the claimant, the claimant's address, the amount/and nature of the claim, and the date that the claim was received by the Special Administrator. The Report on Claims shall have endorsed on it a Certificate of Service reflecting service on each listed claimant and on the fiduciary/applicant by ordinary mail. The Special Administrator shall also provide the fiduciary with all of the originally tendered claim documents and correspondence. A delay in filing and serving of the Report shall not invalidate the timely filed claims, however, the Court may consider the delay when determining the allowable compensation due the Special Administrator.

While the compensation of the Special Administrator normally shall be paid from the assets of the estate as a priority cost of administration in an amount established by the Court upon motion or hearing, the Applicant should recognize that if there are insufficient estate assets to pay the allowed compensation, the Applicant may have no source from which the Court can enforce payment. The Court may condition the appointment of a Special Administrator on the Applicant filing an extraordinary costs deposit in an amount adequate to secure the anticipated costs of special administration.

SUP.R. 64 ACCOUNTS

LOC.R. 64.1 FIDUCIARY'S SIGNATURE

All accounts must be personally signed by each fiduciary. If a fiduciary's signature cannot be obtained, the filing must explain the reason for the absence of the signature and describe the efforts made to obtain the signature.

LOC.R 64.2 CONTENTS OF PROBATE ACCOUNTINGS

In addition to accounting for the cash receipts and expenditures, fiduciaries are accounting for the assets, their gains, losses and distributions. All initial accounts must commence with the assets reflected on the Inventory and then reflect any losses or gains in those assets during the period of the accounting. Subsequent accounts must begin with the entire sum reflected on the prior account's assets remaining, until the balance remaining is zero dollars (\$0.00). The Court will not approve accounts that fail to account for all of the assets. When assets, including land, are sold at gains or losses from the carrying values, the closing/settlement statements, if any, (i.e. reduced to letter size) must be attached to the account and the resulting changes in value reflected in the receipts (gain) or disbursements (loss). The accountings shall show any changes in investments since the last previous account. (See R.C. 2109.301, .302 and .303).

LOC.R. 64.3 EXTENSIONS FOR FILING AN ACCOUNT

No expenditure, sale, distribution, compensation or fee will be approved while the fiduciary is delinquent in filing an account. The Court may modify or deny compensation and fees pursuant to Sup.R. 78(A) when the filing timelines are not met. Additionally:

- (A) Only one (1) extension of time may be granted without a hearing, unless good cause is otherwise shown.

- (B) The attorney and the fiduciary, pursuant to Sup.R. 78(B)(2), must sign any request for an extension of time and each request must recite any previous requests for an extension.

LOC.R. 64.4 VOUCHERS

When required by statute or court order, vouchers, receipts, other proofs of disbursements are to be displayed when filing accounts. The Court will accept as a voucher a statement from a financial institution specifying the payee, check amount, and date of payment. When vouchers, other proofs or receipts are required, adding machine tapes or spreadsheets shall be provided reflecting all receipts, expenditures, disbursements, and balances.

Vouchers may be required for any estate accounting identified for detailed compliance audit under Loc.R. 64.5.

LOC.R. 64.5 DETAILED ACCOUNT COMPLIANCE AUDITS

The Court has authority to inquire into, consider and determine all matters relative to an accounting. The fiduciary, and the counsel for the fiduciary, if any, for each account identified for a detailed compliance audit will be notified of the date and location to meet with the Court's fiscal auditing staff. At that meeting, the fiduciary shall provide the supporting documents, receipts, statements, registers, and such other documents as may be requested by the Court's auditing staff that it deems relevant to determining the compliance of the accounting with applicable law. The filing of consents and waivers from beneficiaries to a particular accounting does not insulate the account from a detailed compliance audit.

At the conclusion of the audit, a report of the audit will be provided to the Court, the fiduciary, and the fiduciary's counsel, to assist in determining whether the account should be approved.

The Court's fiscal auditing staff will not conduct a forensic investigatory audit. The Court, however, may appoint a special master commissioner to investigate any matter presented by the accounting or audit, and/or refer the matter to another appropriate agency.

LOC.R. 64.6 BOND

At any time, the Court may order a fiduciary to file a bond or order an additional bond. This most often occurs because of new matters, the filing of a will contest action, or increases in the valuations of the assets disclosed by the pleadings, in accordance with Loc.R. 75.4.

LOC.R. 64.7 EVIDENCE OF ASSETS

The Court requires that all intangible assets be exhibited at the time of filing of a partial account, or other arrangements satisfactory to the Court be made for the verification of their existence. In lieu thereof, a bank certificate, or other current original writing from a depository or brokerage firm reflecting the amount on deposit as of the accounting/inventory date, may be provided to the Court. For custodial depository accountings, the Annual Verification of Funds with Restricted Access (Loc. F. 22.3B) should be used.

LOC.R. 64.8 TIME FOR FILING

When determining the time for the filing of an account for an estate, a guardianship, a conservatorship, or a trust, the following shall apply:

- (A) For *decedents' estates*, the filing of the final and distributive account is due within six (6) months after appointment of the fiduciary. This date may be extended to thirteen (13) months by filing an Application and Entry to Extend Administration (SPF 13.8). All subsequent accounts must be filed on an annual basis unless the Court orders otherwise. If accounts are not filed in compliance with this rule the fiduciary and counsel shall be subject to citation.

(B) For *guardianships, conservatorships and trusts*, the first account is due not later than 13 months following the date of the appointment of the fiduciary. All subsequent accounts shall be filed on an annual basis, unless otherwise ordered by the Court.

LOC.R. 64.9 HEARING, CERTIFICATES, AND SERVICE

The following apply to accountings: Every account shall be set for hearing. Pursuant to R.C. 2109.33, a copy of every account and notice of hearing shall be served by the fiduciary upon every heir, beneficiary, interested party and such other persons as the Court designates. For purpose of this rule “interested party” is defined as (1) all known intestate beneficiaries in the case of an intestacy; (2) any surviving spouse and all residuary beneficiaries of a testate estate; (3) legatees and devisees whose bequests have not been satisfied; (4) in guardianships, all known next of kin of the ward; (5) for a Testamentary Trust, all known beneficiaries in the trust; (6) for an inventory in a testate estate, all testate beneficiaries; and (7) in cases of reported insolvency, all creditors who have both (a) filed claims, and (b) appeared at the insolvency hearing.

The Court, pursuant to Civ.R. 73(E)(7), directs that service of the Notice of Hearing On Account (SPF 13.5), in addition to the other methods provided in Civ.R. 73(E)(6), may be served by written notice mailed by ordinary U.S. Mail, postage prepaid and evidenced by a U.S. Postal Service Certificate of Mailing bearing a postmark. If the mailing is returned undeliverable by the U.S. Postal Service, then the service shall be deemed incomplete and the fiduciary shall complete service in another authorized manner.

Prior to the hearing on the account, every fiduciary filing an account must also file:

- (1) a Certificate of Service of Notice of Hearing on Account (Loc. F. 13.9A); or
- (2) for each person required to be served, either:
 - (a) A Waiver of Notice of Hearing on Account (SPF 13.7) or a Waiver of Notice of Hearing and Consent to Account (Loc. F. 13.7A); or

(b) A proof of service of Notice of Hearing in a manner approved for service in the Rules of Civil Procedure. If certified mail return receipts or U.S. Postal Certificates of Mailing are used as evidence, photocopies of the originals shall accompany the filing.

The Court prefers that the certificates of service, waivers and proof of service be filed contemporaneously with the filing of the account.

Pursuant to Sup.R. 64 (E) a final or distributive account shall not be approved until all court costs have been paid.

SUP.R. 65 LAND SALES

LOC.R. 65.1 TITLE EVIDENCE

In every real property sale proceeding requiring approval of the Court, the Plaintiff shall file, within 14 days after the filing of the pleadings requesting such relief, a commitment for an owner's policy of title insurance, using the current ALTA owner's policy commitment, or a preliminary judicial report issued by a licensed "title insurance company" as that term is defined in R.C. 3953.01(c), of the Ohio Revised Code, showing:

- (A) the name of the owners of the real property to be sold;
- (B) a reference to the volume and page of the recording by which the owners acquired title to such real property;
- (C) a description of all exceptions to the owner's fee simple title and liens thereon;
- (D) the name and address, as shown on the recorded lien, of the lien holder(s);
- (E) the legal description of the real property to which the report relates.

The commitment or report shall have an effective date not more than thirty (30) days prior to the filing of the initial pleading requesting sale. The commitment shall be endorsed, or the final judicial report filed, with an effective date not less than seven (7) days prior to submission to the Court of the Judgment Entry Confirming Sale, Ordering Deed and Distribution. The cost of the title examination and the premiums arising from the issuance of the insurance, commitment, or reports and other title related expenses, including cancellation fees, shall be paid out of the judicial sale, but if the sale is not completed they will be taxed as court costs upon the filing of an invoice. It is incumbent upon counsel to promptly advise the Court when a fee for which an invoice has been filed is paid subsequently outside the case and therefore should be removed from the court costs to be assessed.

If the Plaintiff believes title insurance will enhance the marketability of the real property, then the Plaintiff may include the premium for a final owner's policy of title insurance as a Seller's expense on the closing statement for the sale.

LOC.R. 65.2 APPROVAL OF DESCRIPTION

In any real property sale action, *except* where the premises involved are registered under the Torrens Law or the property is not located within Lorain County, the attorney for the Plaintiff shall secure from the Map Department of the Lorain County Engineer's Office, and file a statement reflecting whether the description of the real property is, or is not, acceptable for deed transfer purposes simultaneously with the Complaint. In the event that a new survey of the real property is necessary in order to secure a legal description acceptable for deed transfer purposes, the complaint shall include a prayer for authority to commission a survey. If the Court finds the sale necessary, the cost of the survey shall be taxed as costs in the proceeding. Any new survey description must be approved by the Map Department of the Lorain County Engineer's Office as acceptable for deed transfer purposes prior to the issuance of an Order of Sale. A failure to comply with the foregoing provisions of this local rule may be grounds for dismissal of the real property sale proceeding, after notice and hearing.

LOC.R. 65.3 REPORT OF DISTRIBUTION

Within 15 days of closing the sale of the real property the Plaintiff shall file in the real property sale case a Report of Distribution, accompanied by a signed copy of the Closing Disclosure statement required by the Consumer Finance Protection Bureau (CFPB) (or other itemized settlement statement a Closing Disclosure statement was not prepared), reduced to a size suitable for filing.

LOC.R. 65.4 CONSENTS TO POWER TO SELL REAL ESTATE

When a fiduciary sells real estate using a unanimous Consent to Power to Sell Real Estate (Form 11.0) as is authorized by RC 2127.011, the Court will require the fiduciary to file a fiduciary bond adequate to cover the appraised value of the real estate covered by the Consent. The fiduciary shall file with the Court a copy of the signed Closing Disclosure settlement statement (or otherwise signed itemization, if a Closing Disclosure statement was not issued) within 15 days of the closing of the sale.

LOC.R. 65.5 MILITARY SERVICE AFFIDAVIT

Parties must adhere to the provisions of the Serviceman's Civil Relief Act (50 USC App. 521) by addressing the active military service status of any person against whom a default judgment is requested. A suggested Military Service Affidavit is provided in the Local Rules/Local Forms Tab on the Court's website.

SUP.R. 66 GUARDIANSHIPS

LOC.R. 66 SERIES NUMBERING

Due to the manner in which the Supreme Court of Ohio has numbered Sup.R. 66.01 through 66.09 by using 4 digits, all of this Court's local rules pertaining to Guardianships shall be similarly numbered.

LOC.R. 66.01 DEFINITIONS

The terms defined in Sup.R. 66.01 have the same meaning when used in Loc.R. 66.

LOC.R. 66.02 APPLICATION OF RULES

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

LOC.R. 66.03(A) EMERGENCY GUARDIANSHIPS

Pursuant to Sup.R. 66.03(A) this Court has adopted the following process for emergency guardianships. Every application for the appointment of an *ex parte* emergency guardianship shall be accompanied by: (a) a Statement of Expert Evaluation (SPF 17.1) (as supplemented for emergency guardianships with SPF 17.1A); (b) a completed Next of Kin form (SPF 15.0); (c) a narrative statement signed by the applicant setting forth anecdotal information describing the imminent risk of significant injury to the person or property of the minor or incompetent that justifies an *ex parte* emergency appointment; (d) compliance with Court's requirements with respect to background checks and credibility; and (e) photo identification for the applicant. The applicant shall appear at the Court when filing the application for emergency guardianship. The applicant shall attend the seventy-two-hour hearing to determine whether to extend the emergency guardianship for up to thirty additional days. The applicant is expected to file an application for appointment of guardian (SPF 16.0 or SPF 17.0, as is applicable) within seven days of the completion of a hearing extending the guardianship beyond the initial seventy-two hour appointment, if it is expected the need for continued guardianship will exist longer than the emergency guardianship .

LOC.R. 66.03 (B) GUARDIAN COMMENTS AND COMPLAINTS

Pursuant to Sup. R. 66.03(B) this Court has adopted the following process for submitting and considering comments or complaints regarding the performance of all guardians appointed by this Court pursuant to RC 2111.02.

Comments and complaints (hereinafter collectively referred to as "complaints") received regarding the performance of guardians and the resulting documents and correspondence are considered to be case documents and accessible to the public, unless otherwise excluded pursuant to Superintendence Rule 44 (C)(2). The Court will note actions with respect to the complaint in

the case docket. The Court will communicate complaints about a guardian's performance to the guardian and/or the guardian's counsel expeditiously and pursuant to this local rule.

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

When a complaint is received at the Court by hand delivery or electronic means:

(A) Within five (5) workdays of receipt of the complaint, the Court shall send a letter to the complainant acknowledging the receipt of the complaint and providing a copy of this rule.

(B) Within ten (10) workdays of receipt of the complaint, the Court shall perform an initial review of the complaint after a study of the guardianship case, and, unless the complaint raises issues that necessitate immediate judicial intervention,

(1) Send the complainant a letter dismissing the complaint as unsubstantiated/unspecific/insufficient and send a copy of the complaint and response to the guardian or guardian's counsel; or

(2) Send a copy of the complaint to the guardian and/or guardian's attorney and request a response to the complaint within fifteen (15) court days from the date of mailing. The forwarding letter shall advise the guardian and/or attorney that a failure to respond will result in a show cause hearing being set with the attendance of the guardian required. A copy of the forwarding letter shall be provided to the complainant; or

- (3) Notify the guardian and/or the guardian's counsel and the complainant and refer the matter to the Coordinator of the Court's Guardianship Visitor Program for assignment to a Court Visitor and a report within fifteen (15) court days from the date of referral; or
- (4) Notify the guardian and/or guardian's counsel and refer the matter to the Court Investigator for an investigation and a report within fifteen (15) court days from the date of referral; and/or
- (5) When appropriate, refer the matter to the appropriate law enforcement agency pursuant to RC 2101.26 if the complaint alleges abuse, neglect, or exploitation of the ward. When the Court refers a complaint to law enforcement, the Court will take such emergency action as it determines necessary to protect the interests of the ward while being cognizant of the need to have minimal impact on investigation by the law enforcement.

(C) Upon the expiration of the period for the responsive reports from the guardian, the Court Visitor, or Court Investigator to be filed, or upon their earlier filing, the case file (including the written response(s) and the complaint) shall be submitted to the Magistrate and within five (5) court days the Magistrate shall do one or more of the following:

- (1) Find the complaint to have been resolved or unsubstantiated and advise the complainant, guardian and/or counsel accordingly by letter;
- (2) Refer the matter to mediation under the Court's Mediation Rule (Loc.R. 16) with a copy of the referral order being sent to the complainant, the guardian and/or guardian's counsel;

- (3) Set a review conference or a show cause hearing with notice to the complainant, the ward, the guardian and/or guardian's counsel, and other interested parties; or
- (4) Appoint a guardian ad litem to represent the best interests of the ward; or
- (5) Refer the matter to the Probate Judge for appointment of a special master commissioner to investigate the issues and to report with findings and recommendations pursuant to RC 2101.06 with notice to all interested parties. When the commissioner's report is filed, the Probate Magistrate will set for hearing with notice to the ward, the ward's guardian ad litem, if any, the guardian and/or the guardian's counsel and the complainant.

Except when administratively dismissing a complaint, when adopting an agreed mediation report, or acting in an emergency, the Court shall not act without a hearing. The Magistrate shall issue findings and conclusions with respect to any hearing held on the complaint. The Court's journalization relating to the Magistrate's Decision will close the complaint. The Court's actions may include dismissal, directives for remedial action, establishing periodic review dates, allocating costs and fees, referral to law enforcement for investigation, sanctions, removal, and any other actions permitted by law.

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

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

LOC.R. 66.04 (RESERVED)

LOC.R. 66.05(A) GUARDIAN BACKGROUND CHECKS

An applicant for appointment as a guardian, including as an emergency guardian, must submit to a civil and criminal record check satisfactory to the Court and execute such consent, if any, as may be requested by the Court to authorize the Court to perform that record check. Additionally, an applicant for appointment shall complete and file a Guardian's Credibility form (Loc. F. 66.10A). In place of a civil and 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 in Good Standing with disciplinary information, issued by the Supreme Court of Ohio.

LOC.R. 66.05(B) GUARDIAN WITH TEN OR MORE ADULT WARDS

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

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

A guardian with ten or more wards shall include with the Guardians 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. A local form (Certification of Circumstances that May Disqualify Guardian) is available for this purposes at the Lorain County Probate Court.

The maximum number of wards that a guardian may be serving at any one time through appointment by this Court is thirty.

LOC.R. 66.06 GUARDIAN FUNDAMENTALS TRAINING REQUIREMENT

A Guardian holds a unique role with respect to the ward and the Guardian has an obligation to obtain an understanding of the fundamentals of that relationship. Formalized training is one means to gain that competency.

Every guardian for an adult who is appointed on or after June 1, 2015 must meet the guardianship fundamentals training requirements under Sup.R. 66.06 by completing, prior to appointment or within six months thereafter, a six-hour guardian fundamentals course provided by the Supreme Court of Ohio, or with prior approval of this Court, another entity. Those failing to meet the requirement shall be subject to citation for being in contempt of court and subject to sanctions including, but not limited to, imposition of a fine, denial of compensation, and/or removal. The guardian is responsible for providing to the Court in a timely manner documentation that establishes compliance with the guardian fundamentals training requirement.

A guardian who has (a) previously trained through the Volunteer Guardianship Program; (b) previously completed this Court's local guardianship training program; (c) completed the guardian fundamentals training program offered by the Supreme Court of Ohio, or a similar course approved by this Court; or (d) been appointed by this Court as a guardian prior to June 1, 2015, is *exempt* from this training upon providing such documentation supporting the exemption as the Court may require.

Notwithstanding the foregoing exemption, the Court may require an otherwise exempt guardian, or applicant for guardianship, to complete a designated guardianship fundamentals training course or one or more guardian continuing education courses.

LOC.R. 66.07 GUARDIAN CONTINUING EDUCATION

Every guardian of an adult shall annually complete a three-hour guardian continuing education course provided by the Supreme Court of Ohio, or with prior approval of this Court, another entity.

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

By December 31 of the first calendar year after the year of completion of the guardian fundamentals course, or its waiver by Court order, the guardian is responsible for providing to this Court documentation demonstrating compliance with this guardian continuing education requirement, including the title, date, location and provider of the education, or a certificate of completion containing such information.

The Court may order any guardian to complete a designated continuing education training course, even though exempted from guardianship fundamentals training under Loc.R. 66.06 and not otherwise mandated by this rule.

LOC.R. 66.08 GENERAL RESPONSIBILITIES OF THE GUARDIAN TO THE COURT

The person seeking to be appointed as the guardian is expected to have met with the proposed ward at least once prior to appearing before the Court for the hearing on the application, unless the Court has waived the pre-appointment meeting for good cause.

If the guardian becomes aware of allegations of abuse, neglect or exploitation of the ward, the guardian shall immediately report the same to the appropriate law enforcement authorities and the Court.

A guardian appointed by this Court shall inform the Court of any change of address for either the guardian or the ward. This notification must be filed with the Court within ten (10) days of the address change. The Notice of Change of Address form (Loc. F. 75.0A) may be used for that purpose, but it is not required. If the ward's residence has changed, the reason for the change should be indicated. Failure to notify the Court, as provided in this rule, may result in the guardian being removed and/or the guardian's compensation being reduced or denied.

The guardian shall not move the ward from Lorain County, Ohio or into a more restrictive setting without prior Court approval, unless a delay in obtaining authorization for the change of residence or setting would affect the health and safety of the ward. Until a standard probate form is adopted for this purpose, the guardian may use the local form "Application for Approval of More Restrictive Setting" that is available at the Adult Guardianship tab on the Court's website.

While a guardian is required to seek prior approval of this Court before filing a lawsuit for the ward, prior approval shall not be required when the lawsuit is being filed in this Court. Until a standard probate form is adopted for this purpose, the guardian may file a motion entitled "Application to Commence Legal Proceedings for Ward".

The guardian shall avoid conflicts of interest with the ward and endeavor to avoid the appearance of impropriety (perceived self-serving, self-dealing or perceived actions adverse to best interests decisions) when dealing with the ward's assets and needs. A potential conflict for the guardian may arise if the guardian's immediate family (parent, spouse, or child) is being employed or contracted by the guardian. The guardian shall disclose all conflicts to the Court in a clear and unequivocal manner. Doing so, facilitates a determination whether the conflict can be

mitigated or eliminated through the use of a guardian ad litem, a limitation of the powers of the guardian, or other actions.

The guardian shall obey all orders of this Court and shall perform all guardianship duties in accordance with the state and federal laws and rules and this Court's local rules, as all of them may be effective during the guardianship.

LOC. R. 66.09 GENERAL RESPONSIBILITIES OF THE GUARDIAN TO THE WARD

The guardian shall treat the ward with respect and dignity. Being attentive to the privacy and confidentiality a guardian owes to an adult ward, a guardian should avoid discussions involving the ward or the guardianship on social media or with others.

The guardian shall meet with the ward at least quarterly throughout the year, or more often if needed to promote the best interests of the ward.

The guardian shall deposit ward's last will and testament with the Court for safekeeping pursuant to Loc.R. 59.2, if the will is in the possession or control of the guardian. If the ward's will is not in the possession of the guardian, upon being advised of the location, the Court shall order the holder to deposit the will with the Court for safekeeping.

A guardian is prohibited from providing "direct services" (as defined in Sup.R. 66.01(B)) to the adult ward, without the express approval of the Court. However, in certain situations it is in the best interests of the ward for limited direct services to be permitted. Through this local rule, the Court recognizes and approves:

A. An attorney/guardian providing blended legal services to himself as guardian (i.e. preparing inventories, accountings, guardianship annual plans, guardian's reports and a list of ward's legal documents). Pursuant to Sup.R. 66.08(F), the attorney may not commence suit for the adult ward without express approval from the Court; and

B. A parent/guardian providing homemaking and in-home caregiving services to an adult ward/adult child ,even though compensated for such services by a third-party governmental payor (a Developmental Disabilities Board or a Mental Health and Recovery Services Board, so long as the guardian is not an employee of the payor.

A guardian shall immediately notify the Court in writing if the guardian is exercising authority to make end of life decisions under Sup.R. 66.09(J); consenting to withholding or withdrawing life-sustaining treatment from the ward under R.C. 2135.08; authorizing a Do Not Resuscitate (DNR) order for the ward under R.C. 2133.21 to 2133.26 and O.A.C. 3701-62; or if the ward is placed in hospice care. This writing shall contain a short recitation of the reasons the action was taken under this paragraph.

The filings in an adult guardianship or protective proceeding shall be confidential. The adult who has been the subject of a protective proceeding or a guardianship whether or not a guardian was appointed, any attorney designated by the adult, the guardian, the guardians attorney and the guardian ad litem are entitled to access court records pertaining to the proceeding and resulting guardianship or protective proceeding instead of guardianship, including the annual report and the guardian's plan. In addition, any person for other good cause may petition the court for access to court records pertaining to the guardianship or protective proceeding instead of guardianship, including the annual report and the guardian's plan. The court shall grant access if access it is in the best interest of the adult subject to guardianship or subject to a protective proceeding instead of guardianship, or would further the public interest and not endanger the respondent or adult. Docket entries; date of proceedings, appointment and termination; duration of the guardianship and the name and information necessary to identify the adult who has been the subject of a protective proceeding or a guardianship and the guardian are public record.

LOC.R. 66.10 GUARDIANSHIP OF MINORS

When proceedings for the appointment of a guardian of a minor are presented to this Court, the following shall apply:

- (A) A certified copy of the minor's birth certificate must be displayed to the Court with the guardianship application. A copy will be made by the Court and the original will be returned to the submitter.
- (B) The Court will not establish a guardianship solely for the purpose of school enrollment.
- (C) The Court will not establish any guardianship over the person of a minor where another Court has jurisdiction over custody of the minor.
- (D) When the minor has not been in Ohio for 6 months, the Court will not accept for filing an Application for Guardianship unless it is alleged that the minor has been (1) abandoned (no contact) by the parents for more than 90 days, (2) has a medical emergency, or (3) the minor's "home state" has declined jurisdiction. (See Ohio's Uniform Child Custody Jurisdiction Enforcement Act – Chapter 3127).

LOC.R. 66.11 NEXT OF KIN FOR GUARDIANSHIP OF INCOMPETENT ADULTS

For purposes of completing the Next of Kin of Proposed Ward (SPF 15.0), the applicant, pursuant to R.C. 2111.01(E), shall identify any person, whether or not an Ohio resident, who at that time would be entitled to inherit from the proposed ward under the Ohio laws of intestacy and all known children of the proposed ward.

LOC.R. 66.12 INVENTORY, FUND RELEASE, EXPENDITURES AND IDENTIFICATION OF LEGAL DOCUMENTS

Within three months of appointment, a guardian of the estate shall file an inventory of the ward's assets and income. If the assets include real estate, a legal description of the ward's real estate interest should accompany the Inventory. Any joint owners or death beneficiaries for the assets shall be listed. Funds in the name of the ward shall not be released to the guardian without the approval of an Application to Release Funds (SPF 15.6) or other specific court order. The

expenditure of funds by a guardian shall not be approved until a Guardian's Inventory (SPF 15.5) has been filed and an Application to Expend Funds (SPF 15.7) has been approved.

Within three months of appointment the guardian shall file a list of all of the ward's known important legal papers, including but not limited to estate planning documents, advance directives and the location of such papers. Until a Standard Probate Form is adopted for this purpose, the adult guardian may use the local form "Listing of Ward's Important Legal Papers" that is available at the Adult Guardianship tab on the Court's website. If it becomes known to the guardian that such information has changed or the existence of other important legal papers becomes known, the guardian shall report that new information to the Court in writing within thirty days of discovery.

LOC.R. 66.13 GUARDIAN'S REPORT

Annually, the guardian of the person of an adult incompetent shall file the Guardian's Report (SPF 17.7). Unless otherwise ordered by the Court each Guardian's Report for an incompetent shall be accompanied by a Statement of Expert Evaluation (SPF 17.1). If a physician or clinical psychologist states as an Additional Comment on a Statement of Expert Evaluation, that is their opinion that to a reasonable degree of medical or psychological certainty that the ward's mental capacity will not improve, the Court, may dispense with the filing of subsequent Statements of Expert Evaluation with the Guardian's Report.

Pursuant to Sup.R. 66.08(G) the guardian of the person for an adult shall include with the annual Guardian's Report an addendum stating the guardian's goals and plans for meeting the personal needs of the ward. The guardian shall use SPF 27.7. The Court may request that the guardian of the estate of an adult incompetent submit a report identifying the guardian's goals and plans for financially meeting the ward's needs on SPF 27.8.

LOC.R. 66.14 DEPOSIT OF WILL BY GUARDIAN

The guardian must deposit with the Court for safekeeping any instrument known to the guardian and executed by the ward that would constitute a “will” under R.C. 2107.01. The guardian will comply with Loc.R. 59.2 when depositing the instrument. The Clerk shall issue to the Guardian a Certificate of Deposit of Will (Loc. F. 59.2B) as a receipt for the deposited will.

LOC.R. 66.15 POWERS OF ATTORNEY BY GUARDIAN PROHIBITED

The Court, through this Local Rule, exercises its discretion under R.C. 2111.50(A)(2)(c) and hereby prohibits a guardian appointed by the Court from executing a power of attorney or any other document which purports to appoint an agent to execute any of the duties or responsibilities imposed upon the guardian by law, rule, or order of the Court, unless otherwise approved by a specific order of the Court when exceptional needs are proven to exist.

LOC.R. 66.16 TERMINATIONS

Except for the termination of a guardianship of a minor attaining the age of majority or upon the death of the Ward, a termination of a guardianship shall require notice to all persons designated in R.C. 2111.04 and to any other individuals who received actual notice of the original appointment of the guardian. It is the responsibility of the applicant for termination to perfect service pursuant to Civ.R. 73 when a termination is requested. A Certificate of Service with supporting documentation satisfactory to the Court must be filed prior to the consideration of the application.

LOC.R. 66.17 INDIGENT WARDS

The applicant or the guardian must file with the Court an Affidavit of Indigency, (Loc. F 66.11A) if the waiver of court costs is being requested or payment of compensation from the Indigent Guardianship Fund is being requested. False affidavits are punishable by findings of contempt, prosecution, or other sanctions.

LOC.R. 66.18 VETERANS' GUARDIANSHIPS

Veterans' Guardianships are governed by R.C. Chap. 5905 and to the extent that there are special rules established therein for veterans' guardianship, those rules shall apply. In every other respect, the general guardianship laws and rules shall apply.

LOC.R. 66.19 GUARDIANSHIP VISITORS PROGRAM

The Court has established a group of trained volunteers to strengthen court oversight for guardianship. The Court refers to these trained Volunteers as Court Visitors. The program should be helpful to the Court and reassuring to the Guardians. In every case selected for review, the Court will appoint the Court Visitor by Judgment Entry. The Court will provide a copy of the Entry to the Court Visitor, the Guardian, to Counsel for the Guardian, and Counsel, if any, for the Ward. The Court Visitor will communicate with the Ward, Counsel and the Guardian, as appropriate, to schedule a visit with the Ward, the Guardian, the Caregiver, or such other persons involved in the case as the Court Visitor determines proper. The Court expects the Guardian to cooperate with the Court Visitor's reasonable requests. The Court Visitor will file a written report of the visit with the Court for such use as the Court determines appropriate. The Court Visitor's report is a public record. Selection for a visit from the Court Visitor does not imply that the Court deems the case problematic.

LOC.R. 66.20 ADDITIONAL COST DEPOSIT

Pursuant to RC 2111.031 and in addition to the basic cost deposit, the Court may require an Applicant for a guardianship to make an advance cost deposit in an amount the Court determines necessary (a) to defray the anticipated costs of examinations of an alleged incompetent, and (b) to cover the fees and costs to be incurred to assist the Court in deciding whether a guardianship is necessary.

SUP.R. 67 ESTATES OF MINORS

LOC.R. 67.1 DISPENSE WITH GUARDIANSHIP

Applications to dispense with, or to terminate, the appointment of a guardian under R.C. 2111.05 or R.C. 2111.131 shall follow the notice provisions of R.C. 2111.04(A). The net amount of the settlement after payment of fees and expenses cannot exceed Twenty-five Thousand Dollars (\$25,000).

LOC.R. 67.2 BIRTH CERTIFICATE

A certified copy of the minor's birth certificate must be displayed to the Court upon the filing of the application to dispense with guardianship. A copy will be made for the Court's file and the original will be returned to the submitter.

LOC.R. 67.3 RESPONSIBILITY FOR DEPOSIT OF FUNDS

Pursuant to Sup.R. 67(C), in the absence of a guardian for the estate of a minor, the attorney representing the applicant, or if there is no attorney for the applicant, then the attorney representing the payor in the matter is responsible to assure the direct and immediate deposit of the funds into a restricted access custodial depository account pursuant to R.C. 2109.13 and provide the financial institution with a copy of the Entry directing the deposit. The attorney shall obtain a Verification of Receipt and Deposit (SPF 22.3) from the financial institution and file that form with the Court within seven (7) days of the issuance of the Entry directing the deposit.

SUP.R. 68 SETTLEMENT OF INJURY CLAIMS OF MINORS

LOC.R. 68.1 BIRTH CERTIFICATE

A certified copy of the minor's birth certificate must be displayed to the Court upon the filing of the application to settle a minor's claim. A copy will be made for the Court's file and the original will be returned to the submitter.

LOC.R. 68.2 NO SEPARATE CASE NUMBER

Although the settlement of a minor's claim is a separate proceeding in the Court and shall proceed under the case number assigned to an existing guardianship proceeding or to a separate proceeding to dispense with a guardianship.

LOC.R. 68.3 RESPONSIBILITY FOR DEPOSIT OF FUNDS

Where the restricted access custodial deposit of the proceeds of a minor's claim is ordered, Loc.R. 67.3 shall apply.

LOC.R. 68.4 STRUCTURED SETTLEMENTS

A structured settlement is defined as a monetary settlement of a claim wherein payments are made at a future date or on a periodic basis. If the parties involved in claims for injuries to minors or incompetents desire to enter into a structured settlement, the following rules apply to structured settlements that must be approved by this Court.

- (A) An application for approval shall include a signed statement specifying the present value of the settlement, and the method of calculation of that value. The statements shall be from one of the following independent professionals: an actuary, certified public accountant, certified financial planner, chartered life underwriter, chartered financial consultant, or an equivalent professional.
- (B) If the settlement is to be funded by an annuity, the application shall include a signed statement by the annuity carrier or the broker procuring the policy stating that:

- (1) The annuity carrier is licensed to write annuities in Ohio;
- (2) The annuity carrier's ratings from at least one of the following organizations, meeting the following criteria:
 - a. **A.M. Best Company:** A++, A+, or A;
 - b. **Duff & Phelps Credit Rating Company** (Claims Paying Ability Rating): AAA, AA+, or AA;
 - c. **Moody's Investors Service** (Financial Strength): Aaa, Aa1, or Aa2;
 - d. **Standard & Poor's Corporation** (Financial Strength): AAA, AA+, or AA;
 - e. **Weiss Research Inc.:** A+ or A;
- (C) 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 the funding is sufficient to satisfy the periodic payment settlement;
- (D) If the structured settlement is not funded by an annuity, the settlement proceeds must be secured to the satisfaction of the Court; and
- (E) The application shall include a statement of the actual cost to the defendant of the settlement. The actual cost shall be used to determine an attorney's contingent fee.

SUP.R. 69 SETTLEMENT OF CLAIM FOR ADULT WARD

LOC.R. 69.1 NO SEPARATE CASE NUMBER

The application to settle a claim of an adult Ward shall be a separate proceeding in the Court and shall proceed under the case number assigned to the guardianship.

LOC.R. 69.2 RESPONSIBILITY FOR DEPOSIT OF FUNDS

Where a custodial deposit of the proceeds of the settlement of the claim of the adult ward is ordered, the operative provisions of Loc.R. 67.3 shall apply.

LOC.R. 69.3 STRUCTURED SETTLEMENTS FOR ADULT WARD

When a structured settlement is proposed for the net settlement proceeds from a claim of an adult ward, the provisions of Loc.R. 68.4 shall apply.

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

LOC.R. 70.1 SETTLEMENT OF CLAIMS

The application to settle a claim for wrongful death and the apportionment of the proceeds are two distinct matters for which the Court may require separate hearings. Interested parties to be notified are those set forth in R.C. 2125.02 and identified in the case of *In Re Estate of Payne*, Ohio 10th Dist. Ct. App No. 04-AP-1176, 2005-Ohio-2391. Subject to the exceptions under RC 2105.19 and RC 2125.02, those persons rebuttably presumed to have suffered damages are the parents of the decedent, the surviving spouse and the children. Other next of kin who must prove their loss are the grandparents, grandchildren and siblings of the decedent. Subrogated providers and insurers for which the Applicant does not have settlement amounts already established in writing are interested parties and are entitled to notice. When applicable, the State of Ohio Medicaid Recovery Administrator may also be an interested party. Waivers and consents to the proposed distribution must be filed from all interested parties, or a hearing and service of notice upon them will be required.

Attorney fees for the completion of the probate proceedings in connection with the settlement of wrongful death claim shall be paid from the allowed contingent attorney fee unless there is no attorney involved in the representation of the injured parties. In that event, the recipients of the benefits, unless otherwise mutually agreed, shall proportionately pay the probate attorney fees and costs.

SUP.R. 71 COUNSEL FEES

LOC.R. 71.1 ATTORNEY FEES

All fees charged by an attorney representing a fiduciary in matters before this Court, including but not limited to work on decedents' estates, guardianships, conservatorships, and testamentary trusts, must be disclosed to the Court (typically on the fiduciary's account) regardless of the source of payment. If the source of payment is other than the fiduciary, counsel must identify on the account the source of payment. For the purpose of this rule, "fiduciary" also includes commissioners and applicants for release from administration. If an account is not required, the payment must be disclosed to the Court on the Certificate of Termination, through consents to fees from those bearing the burden of the fee, or on other court filings, as may be appropriate.

The Court presumes that attorneys are familiar with Sup.R. 71 and Prof.Cond.R. 1.5 governing all fees and expenses of attorneys. As provided in Sup.R. 71(D), the Court may set the attorney fees and expenses for hearing, regardless of the submission of consent(s) to fees.

In lieu of charging an hourly amount for attorney fees, the Court will consider that attorney fees charged in conformance of the following fee guidelines, will satisfy the requirements of Prof.Cond.R. 1.5 and Sup.R. 71:

- A. Computation Form for Attorney Fees – Full Administration, Appendix B1
- B. Computation Form for Attorney Fees – Estate Relieved, Appendix B2
- C. Computation Form for Attorney Fees – Guardianships, Appendix B3

Attorney fees for Trusts shall be on an hourly basis.

In all cases when counsel has calculated attorney fees on other than an hourly basis, counsel shall prepare a separate filing identifying the method applied, showing the Court the calculation, and reflecting the result.

The attorney will not be compensated for either preparing the fee statement/application or for any of the hearings thereon.

The hourly billing rate of an attorney is considered to include the cost of office support staff and office overhead. Services billed at paralegal time should not be for secretarial or administrative functions.

LOC.R. 71.2 ATTORNEY SERVING AS FIDUCIARY

In all matters where an attorney is the fiduciary of the estate, guardianship, or trust, and that attorney or another is the attorney of record, detailed records shall be maintained describing time and services as fiduciary and as attorney, and if requested by the Court, or required by local rule, shall be submitted to the Court for review. Upon review of the records, the Court may set the fees for hearing, regardless of the submission of consent(s) to fees. Prof.Cond.R. 1.5 and Sup.R. 71 shall govern the reasonableness of all fees, notwithstanding statutory commissions, and allowances. Matters not requiring professional skills should not be billed at the attorney's standard legal billing rate. The Court assumes an attorney appointed as a fiduciary has been selected due to the attorney's special knowledge and abilities that are expected to result in savings of fees to the estate, guardianship, or trust.

LOC.R. 71.3 EARLY PAYMENTS OF ATTORNEY FEES

Sup.R. 71(B) establishes the time for the payment of attorney fees in estates. Unless the Court approves an application for early payment, attorney fees for the administration of decedents' estates shall be neither paid by the fiduciary, nor accepted by counsel, in advance of preparation for filing of the final account or final closing documents. This applies regardless of the source of the payment. Any application for early payment shall set forth the justification for the request. An early payment application shall be set for hearing unless signed Consents to the early payment are filed from all beneficiaries bearing the burden of paying the fees, and from the creditors in the

event of expected insolvency. Notice of the hearing must be given by the applicant to the affected non-consenting beneficiaries, and to the creditors in the event of expected insolvency. The Court may exercise its discretion to set any early payment application for hearing.

LOC.R. 71.4 NOTICE AND CONSENT FOR ATTORNEY FEES IN ESTATES

Other than Hourly Basis Calculations: Except for contingent fee cases, if the attorney fees are calculated on *other than an hourly basis*, the fees shall not be paid until court approval has been obtained after notice and hearing. At the hearing, counsel will be required to establish compliance with Sup.R. 71 and Prof.Cond.R. 1.5. The filing of consents to fees by all persons and creditors whose interests are affected by the payment of fees is supportive of the request, but they are not determinative. Hearings will not be required if the fee is within the guidelines under Loc.R. 71.1.

The consent of an interested party to the payment of an attorney fee is given by the signing and filing of Consent to Attorney Fees form (Loc. F. 71.4A).

LOC.R. 71.5 NOTICE AND CONSENT FOR ATTORNEY FEES IN GUARDIANSHIPS

In guardianships, the Court shall consider an initial application for attorney fees relating to the establishment of the guardianship: (a) in a guardianship of the person only upon the conclusion the issuance of the Letters of Guardianship, and (b) in a guardianship of the estate only, or of the person and estate, upon the filing of the inventory. Thereafter, the Court shall consider additional fees annually upon the filing of each account or at the conclusion of any special proceedings or matters. Notice of the application shall be given to the guardian of the estate, if any has been appointed. The guardian of the estate may waive notice of the hearing on the application and consent to the payment of fees.

After the death of the ward, the Court will consider attorney fees as liens on the ward's assets. If the Court approves the fees, the fees may be paid out of the guardianship assets and

included in the final guardianship account. The Court may require that notice of the hearing on the fees be given to the estate fiduciary of the deceased ward or other interested persons.

LOC.R. 71.6 NOTICE AND CONSENT FOR ATTORNEY FEES IN TRUSTS

In the administration of trusts, the Court shall consider applications for attorney fees for the establishment of the trust upon the filing of the inventory, and shall consider additional fees annually upon the filing of each account.

Notice of application shall be given to the trustee. The trustee may waive notice of hearing on the application and consent to the payment of fees. The Court may require notice of the hearing on the payment of the fees be given to the trust beneficiaries who are affected by the payment of fees.

LOC.R. 71.7 CONTESTED FEES

The burden is upon the attorney to prove the reasonableness of the fee as governed by Prof.Cond.R. 1.5. The Court may require a detailed fee statement that includes an itemization and date of service performed, time expended, identification of the individual(s) performing the services, the hourly rate charged, and such other information as the Court deems relevant to establish the reasonableness of the fee.

LOC.R. 71.8 CONTINGENT FEES

A fiduciary shall make a written application to the Court for authority to enter into any contract with an attorney for services that provides for payment of those fees on a contingency basis. The application shall include the written fee agreement with counsel. Preliminary approval shall be subject to final review at the conclusion of the matter that is the subject of the contingent fee contract.

In a minor's settlement case where the amount of the settlement does not require the appointment of a guardian, the attorney shall make the above application. Before settlement may be approved, a guardianship must be established or dispensed with under its own case number.

If there are ancillary attorney fees and court costs associated with administering an estate, establishing a guardianship or dispensing with the appointment of a guardianship, for primary purpose of settling or resolving a claim, then the ancillary fees and costs shall be paid out of the contingent fee, unless otherwise allocated by the Court between the contingent fee and the beneficiaries of the settlement.

SUP.R. 73 GUARDIAN'S COMPENSATION

LOC.R. 73.1 GUARDIAN'S COMPENSATION

When compensation for the services of a guardian is allowable, the following shall apply:

(A) Guardian's compensation for services as a guardian of the estate shall be computed annually upon application and entry and shall be supported by calculations and documentation. A Calculation of Guardian Compensation form (Loc. F. 73.1A) shall be filed in support of the application. Extraordinary fee applications shall be set for hearing unless the Court waives hearing. The following fee schedule shall apply for ordinary guardian's compensation:

- (1) Income/Expenditure Fee. Four percent (4%) of the first \$10,000 of income received, plus three percent (3%) of the balance in excess of \$10,000, excluding income from rental real estate, and four percent (4%) of the first \$10,000 of expenditures, plus three percent (3%) of the balance in excess of such \$10,000 except expenditures pertaining to rental real estate.
- (2) Principal Fee. Three Dollars (\$3.00) per thousand for the first \$200,000 of fair market value, and Two Dollars (\$2.00) per thousand on the balance of the corpus, unless otherwise ordered.
- (3) Principal Distribution Fee. Three Dollars (\$3.00) per thousand for the first \$200,000 of fair market value of corpus distributed upon the termination of the guardianship, and Two Dollars (\$2.00) per thousand on the balance of the corpus distributed upon the termination of the guardianship, unless otherwise ordered.
- (4) Income and Rental Income Defined. If the guardian manages rental real estate, a fee amounting to ten percent (10%) of gross rental real estate income may be allowed. If the guardian receives net income from rental real estate actively managed by others, then the guardian shall treat such net income as ordinary income. No fee shall be

allowed to the guardian on expenditures pertaining to rental real estate. As used in this rule, “income” shall mean the sum of income as defined in R.C. 1340.03, plus pension benefits, and net gains from the sale of principal. Assets held by the ward at the date of appointment are deemed principal and not income.

- (5) For purposes of calculating the allowable guardian’s compensation, the *income* factor shall be the income received during the period covered by the account, and the *corpus* shall be the sum reflected as the balance forward shown on the inventory or prior account, whichever has been filed most recently.
- (B) Unless the Court waives the hearing, compensation for services as guardian of the person shall be set for hearing and notice shall be given to the guardian of the estate, if any has been appointed.
- (C) Compensation for a corporate fiduciary exempt from bond pursuant to R.C. 1111.21 shall be compensated in accordance with its published fee schedule if the fee schedule is filed in this Court.
- (D) After the death of the ward, the Court will consider final guardian’s compensation as a lien on the ward’s assets. If the Court approves the compensation, the compensation may be paid out of the guardianship assets and included in the final guardianship account. The Court may require that notice of the application be given to the fiduciary of the deceased ward or other interested persons.
- (E) When a guardian is applying for compensation as guardian of the person, the guardian shall consider the factors set forth in Sup.R. 73 (B). The application for compensation should address each applicable factor (itemization of expenses, additional compensation, apportionment of the aggregate compensation between co-guardians, and denial or reduction).

LOC.R. 73.2 INDIGENT GUARDIANSHIP FUND PAYMENTS

Applications for payment from the indigent guardianship fund must be accompanied by an itemization of services. Before payments will be approved from the county indigent guardianship fund, an Affidavit of Indigency (Loc. F. 66.11A) must have been filed in the case, as set forth in Loc.R. 66.11. The maximum hourly rate for compensation paid from the indigent guardianship fund is the hourly rate of \$100.00 per hour, unless otherwise ordered in a particular case. Time shall be reported in tenths of an hour (6 minute increments). The total allowable compensation for an indigent guardianship (guardian services and attorney fees) shall not exceed \$3,000.00 annually, unless otherwise approved by the Court. For any compensation, applicant is cautioned to maintain a running annual itemization, and to consult with all of those persons seeking compensation on the case, to assure a running awareness of the total. If the ward's situation justifies extraordinary compensation, the applicant must make application to the Court and obtain approval in advance of providing the services. Compensation for family member guardians of the ward shall not be approved for payment from the indigent guardianship fund.

SUP.R. 74 TRUSTEE'S COMPENSATION

LOC.R. 74.1 TRUSTEE'S COMPENSATION

When compensation for the services of a trustee subject to this Court's jurisdiction is allowable, the following shall apply:

(A) Except where the instrument creating the trust makes provision for compensation, trustees subject to this Court's jurisdiction may be allowed compensation annually for ordinary services in connection with the administration of each separate trust. Trustee's compensation for services shall be computed annually upon application and entry and shall be supported by calculations and documentation. Loc. F. 74.1A (Calculation of Trustee Compensation) may be filed in support of the application. Extraordinary fee applications shall be set for hearing unless the Court waives hearing. The Trustee's ordinary compensation shall be calculated using the following fee schedule:

- (1) Income Fee. Six percent (6%) of the gross income received during the accounting period not exceeding \$10,000 of gross income, five percent (5%) of the next \$10,000 of gross income, and four percent (4%) of such gross income exceeding \$20,000, chargeable to income unless otherwise ordered.
- (2) Principal Fee. Five Dollars (\$5.00) per thousand for the first \$200,000 of fair market value, and Four Dollars (\$4.00) per thousand on the next \$200,000, and Three Dollars (\$3.00) per thousand on the balance of the corpus, chargeable to the principal, unless otherwise ordered.
- (3) Principal Distribution Fee. Five Dollars (\$5.00) per thousand for the first \$200,000 of fair market value of corpus distributed, and Four Dollars (\$4.00) per thousand of the next \$200,000, and Three Dollars (\$3.00) per thousand of the corpus distributed, unless otherwise ordered.

- (4) Income Defined. As used in this rule, “income” shall mean the sum of income as defined in R.C.1340.03, pension benefits, and net gains from the sale of principal accrued during the trust administration. Assets held by the trustee at the date of appointment are deemed principal and not income.
- (B) Compensation for a corporate fiduciary exempt from bond pursuant to R.C. 1111.21 shall be compensated in accordance with its published fee schedule which shall be filed in the case. The trustee shall notify vested trust beneficiaries affected by the payment of fees of any changes in its corporate fee schedule.
- (C) Additional compensation for extraordinary services or allowance for expenses may be granted on application and entry, which shall be set for hearing unless waived by the Court.
- (D) For purposes of calculating the allowable trustee’s compensation, the *income* factor shall be the income received during the period covered by the account, and the *corpus* shall be the sum reflected as the balance forward shown on the inventory or prior account, whichever has been filed most recently.

SUP.R. 75 LOCAL RULES

LOC.R. 75.1 GUARDIAN AD LITEM

The Court, in its discretion and pursuant to Civ.R. 17(B), may appoint a guardian ad litem for any minor or person under disability, including, but not limited to, cases in which a minor's claim is being settled and the minor is not represented by an attorney.

The Court shall select and appoint each guardian ad litem. In real property sale proceedings, a maximum fee of Two Hundred and No/100 Dollars (\$200.00) per hour shall be allowed for each appointed guardian ad litem; however, if the circumstances warrant, upon application, the Court may approve the payment of additional compensation to the guardian ad litem. The guardian ad litem's fees for real property sale proceedings shall be assessed as costs and guardian ad litem fees in other proceedings may be assessed as costs, or as the Court may otherwise order, including against the parents of a minor.

In all other proceedings, the fee allowed the guardian ad litem will be determined upon motion supported by a statement of services. The Court may require an additional cost deposit to cover anticipated fees of the guardian ad litem.

LOC.R. 75.2 ADOPTIONS

When proceedings for adoptions are filed with the Court, the following shall apply:

- (A) All petitioners for adoption are required to be represented by an attorney, *except* for proceedings for the recognition of foreign adoptions, adult adoptions, grandparent and step-parent adoptions.
- (B) An original and a copy of all filings shall be filed in every adoption case. Sufficient additional copies of the petition shall be submitted as required for service of notice, with an additional copy for the court assessor.

- (C) In private placement adoptions, the proposed adopting parents shall file a pre-placement application not less than thirty (30) days prior to placement. This pre-placement application shall be in a form prescribed or approved by the Court.
- (D) Once the pre-placement application has been approved by the Court, and the child is born, a hearing shall be held not less than seventy-two (72) hours after the birth or after the birth parent(s) have met with the adoption assessor, whichever occurs later, for the placement and consent by the birth parents. Prior to the placement hearing, the child's physician shall provide the Court with a statement as to the medical condition of the child being placed. If the placement is approved, the adoption petition must be filed before the Court will issue a Hospital Release for the release of the child to the petitioners or the attorney for the petitioners.
- (E) When the petitioner is the guardian or custodian of the minor to be adopted, the Court shall require a placement hearing. The adoption petition shall not be set for hearing until after the placement is complete.
- (F) In all adoption cases, Court cost deposit is required to be paid at the time of the initial filing. The Court should be consulted in advance for current deposit information.
- (G) The criminal background checks pursuant to R.C. 2151.86 (E) shall be filed in all adoption cases.
- (H) Petitioner's accounts shall be filed in all adoption cases, *except* for stepparent adoptions and adult adoptions.
- (I) In all adoptions, married petitioner(s) must be married for not less than one (1) year prior to the final approval of the adoption.

- (J) In all placement hearings, the birth mother must be represented at the hearing by counsel. Attorney fees for the birth mother will be assessed as costs to the petitioner(s).
- (K) The adoption assessor meeting with the birth parent(s) in the course of preparing a report for an adoption proceeding in this Court, shall provide the birth parent(s) with a copy of the materials/brochure prepared pursuant to R.C. 3107.082 and 3107.083. The adoption assessor providing the birth parent(s) with a copy of this brochure shall file a certificate of compliance with R.C. 3107.082 in a format satisfactory to the Court prior to the first hearing that involves the birth parent(s) who received the brochure.
- (L) The status of pending pre-placement applications and adoption proceedings shall be reviewed annually and the Court may order further action as necessary.
- (M) The Court Assessor's Report shall be filed with the Court not later than ten (10) days prior to the adoption hearing. The report shall be made available to counsel for the petitioner(s) to read prior to the hearing, upon request to the deputy clerk, however copies may be obtained only after the hearing and only with the approval of the Judge.

LOC.R. 75.3 CUSTODIAL DEPOSITS IN LIEU OF BOND

This local rule is applicable to cases other than those involving the deposit of the proceeds for a minor pursuant to Loc.R. 67.3 and 68.3. When a fiduciary is permitted by the Court to deposit assets into a restricted access custodial account in lieu of bond, all custodial deposits of personal property, securities, and monies must comply with R.C. 2109.13. All institutions serving as a depository, if requested by the Court, must satisfy the Court of their authorization and certification by the State of Ohio. Fees of the fiduciary and counsel for the fiduciary shall not be approved or paid until the Court is satisfied that the funds being deposited have been received by the custodial

depository, are being held restrictively in accordance with applicable law, and an Initial Verification of Receipt and/or Deposit of Custodian (Loc. F. 22.3A) has been filed with the Court. Annually thereafter, the custodial depository must file a statement of activity relating to the custodial assets by completing and filing the Annual Verification of the Funds with Restricted Access (Loc. F. 22.3B).

LOC.R. 75.4 SURETY BONDS

When surety bonds are required in any proceeding before the Court, the following shall apply:

- (A) Attorneys shall not act as sureties in any case, nor shall they be permitted to become sureties on the bond of any fiduciary.
- (B) The Court will not accept any personal sureties.
- (C) Bond required by law or Court Order shall be in an amount not less than double the probable value of the personal estate and all sources of income (including anticipated rents) during the next succeeding accounting period .
- (D) The fiduciary shall pay all bond premiums within sixty (60) days of filing of the bond with the Court. If payments are not made pursuant to this rule, the fiduciary may be held personally liable for its payment and is subject to being removed.
- (E) A copy of the voucher, other proofs or receipts for payment of the current bond premium shall be filed with each accounting in an estate where bond has been required.
- (F) The adequacy of bonds will be reviewed by the Court upon the filing of the inventory and each account, or at any other time the Court determines to be prudent.
- (G) Upon the filing of a will contest action, the Court will review the general estate file and determine whether it is appropriate to order the filing of a bond, or increased bond, regardless of the bond provisions set forth in the contested will.

(H) For good cause shown, the Court may authorize a reduction in bond.

LOC.R. 75.5 RELEASE AND SUMMARY RELEASE OF ESTATES FROM ADMINISTRATION

When an application is filed to release an estate from administration or for a summary release of an estate from administration, the following shall apply:

The Court shall select and appoint a commissioner, when required, in an estate released from administration.

The Court may waive a noticed hearing in those instances where it appears no beneficiaries or creditors will be prejudiced.

An applicant not represented by counsel shall display to the Court a certified copy of the death certificate at the time of the initial filing of the Application and the deputy clerk shall make a copy for the case file and redact the social security number from the copy. Filing counsel may submit a copy of the original death certificate with the social security number redacted.

Any applicant who is not represented by counsel shall exhibit to the Court photo identification and proof of a current address in a manner satisfactory to the Court and comply with Loc.R. 62.1 relating to the Medicaid Recovery Acknowledgment.

LOC.R. 75.6 WILLS IN SAFE DEPOSIT BOX

When a decedent has a safe deposit box, for which there is no authorized living signatory, and if there has not been a personal representative appointed for the decedent, then the Court, upon application, may appoint a suitable person as a commissioner for the sole purpose of entering the safe deposit box, to remove and deliver the decedent's will(s) and codicil(s) to the Court. Unless the commissioner waives compensation in writing at the time of the application, in addition to the Court's filing fees, a fee established by the Court shall be payable to the commissioner upon filing of the report and shall be collected as costs upon filing of the application. A case number shall be

assigned to the application. The Application to Enter Safe Deposit Box form (Loc. F. 75.7A) and the Report of Entry of Safe Deposit Box form (75.7B) may be used for these purposes.

LOC.R. 75.7 MARRIAGE LICENSE APPLICANTS

Any application for a marriage license not completed within 60 days of the filing of the marriage application is void.

LOC.R. 75.8 MINOR MARRIAGE LICENSE APPLICANTS

Pursuant to R.C. 3101.05, any applicant for a marriage license who is a minor must provide proof of having received a minimum of three (3) hours of marriage counseling prior to applying for the license. The counselors shall be either clergy or a person licensed to provide counseling. Proof of counseling may be in the form of a letter from the counselor on the counselor's letterhead, addressed to this Court.

LOC.R. 75.9 OHIO ESTATE TAX RETURN (for persons dying prior to January 1, 2013)

For every estate (administered, released or summarily released) for a decedent dying prior to January 1, 2013, an Ohio Estate Tax Form 22 shall be filed. If a pre-2013 estate is reopened to administer additional real property, an additional Ohio Estate Tax Form 22 is required. If the only filings in a case are the estate tax returns, a copy of the death certificate is not required.

The Court will not deliver Ohio Estate Tax filings or payments to the County Auditor or Treasurer. Filing with those offices and the tendering of the taxes due is the responsibility of the filing party.

LOC.R. 75.10 WITHDRAWAL AND SUBSTITUTION OF COUNSEL

When counsel considers withdrawing from representation in a matter before this Court or a substitution of counsel is occurring, counsel shall comply with Prof.Cond.R. 1.16 and the following shall apply:

- (A) An attorney desiring to withdraw from representation shall file a motion to withdraw stating the reasons for withdrawal. The motion shall contain the last known address and telephone number of the client. The motion shall be accompanied by (1) a written acknowledgment and consent to the withdrawal signed by the client, or (2) a proposed Judgment Entry setting the Motion for hearing. The Court shall not issue an entry approving the withdrawal until the attorney has recited in the Motion or filed a certification that all of the following conditions have been met:
- (1) Notice has been given to the client advising the client of all known filing deadlines occurring within the next 90 days affecting the client's case;
 - (2) Notice has been given to all involved attorneys, unrepresented parties, and interested persons; and
 - (3) Notice has been given to any bonding agencies involved.
- (B) The Court will not approve an Attorney's request to withdraw from a case within thirty (30) days preceding a trial or dispositive hearing, except for extraordinary circumstances.
- (C) Substitution of counsel does not require approval of the Court; however, written notice of substitution shall be filed with the Court. The substituting counsel shall give written notice to all involved attorneys, unrepresented parties, and interested persons.

LOC.R. 75.11 DEPOSIT OF GUARDIANSHIP NOMINATION INSTRUMENT

The Court will accept for safekeeping the deposit of an instrument that prima facie complies with R.C. 1337.38 (Power of Attorney) or R.C. 2111.21 (non-power of attorney) and

contains a nomination of a guardian. A completed Guardian Nomination Instrument for Deposit form (Loc.F. 75.10A) must accompany the filing. The Court's acceptance for the instrument for deposit does not constitute a determination of the validity or the effectiveness of the instrument.

LOC.R. 75.12 NAME CHANGES –MINOR

At the hearing on an application for the change of name of a minor, the applicant for the change of name of a minor must provide the Court with the a copy of the child support enforcement agency payment history for the minor, if a child support order has been issued with respect to the minor.

LOC.R. 75.13 MOTIONS/BRIEFS

A. Motions for Summary Judgment.

Unless otherwise ordered by the Court, any motion for summary judgment will be decided without an oral hearing. The Judge shall consider the matter submitted for ruling 21 days after the filing of the motion. Any brief in opposition shall be filed prior to the expiration of the 21 days. Any response not filed by that date will not be considered. Reply briefs shall be filed only upon leave of Court.

Original evidentiary materials as permitted by Civ. R. 56(C) shall be filed with the Clerk of Courts with the original motion.

B. Motions Other than Summary Judgment

All motions shall be accompanied by a brief stating the grounds thereof and citing the authorities relied upon. The opposing party may file a Brief in Opposition within 14 days after the day on which the motion was filed. Thereafter, the motion shall be deemed submitted for ruling. Unless otherwise ordered by the Court, motions will be decided without an oral hearing.

This rule does not apply to court-discretionary motions which include, but are not limited to, Motions for Leave to Plead, Motions for Extensions of Time and Motions to Continue.

C. Extensions of Time

The time periods set forth herein may be modified by the Court, for good cause shown, upon written application by either party or upon the Court's own motion.

D. Oral hearings

No motions in probate cases will be set for oral argument unless a written request is made thereof by the moving party, or any other party, which request shall be noted conspicuously in the pleading. Upon receipt of such request from counsel, or upon the Court's own motion, the judge may set any motion for oral argument.

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

LOC.R. 78.1 INVENTORY

When an inventory is filed with the Court, the following shall apply:

(A) If the inventory filed is in an estate the following shall apply

(1) In lieu of the appraiser signing the estate inventory, the fiduciary may attach the original appraisal(s) containing the signature of the appraiser(s) to the inventory.

(2) Pursuant to R.C. 2115.06, the Court, upon application and for good cause shown, may dispense with the appraisal of any estate asset comprising a part of the estate inventory. Each application shall specifically state the reason(s) for the request. Notwithstanding the foregoing, pursuant to RC 2115.06, an application to dispense with appraisal is not necessary when the fiduciary elects to use the County Auditor's valuation for real estate, provided the fiduciary includes a notation on the Inventory that the auditor's valuation is being used and attaches to the Inventory a copy of the parcel's property tax card or current printout from the Auditor's website. The county auditor's valuation, when used for the Inventory, is not determinative of fair market

value in related proceedings in which the Court must approve the price for a sale or purchase of the real estate parcel.

(B) When an inventory is filed in an estate, trust or a guardianship, the following shall apply:

(1) The inventory shall contain the address, legal description, and parcel number of any real estate of the decedent or ward.

(2) The inventory will prompt the Court to review the sufficiency of the existing bond pursuant to Loc.R. 75.4.

(3) Upon application, and for good cause shown, the Court may approve the transfer of a motor vehicle prior to the filing of the inventory.

(4) Where Court approval is required for the transfer of other assets, the Court will not approve the distribution, sale, or expenditure of any other property of the estate or guardianship (other than motor vehicles when expressly approved for transfer pursuant to the preceding paragraph) prior to the filing of the inventory.

(5) Unless supported by an appraisal, valuations for motor vehicles shall be supported by current trade-in valuations obtained from *Kelley Blue Book*, *Edmunds*, or the *NADA Guide*. A copy of the motor vehicle title must be filed before a transfer will be approved.

(6) When multiple fiduciaries have been appointed, all fiduciaries must sign the inventory and the absence of any signature must be explained with the filing.

(C) Hearings shall be scheduled for the inventory filed in an estate. In every estate in which an inventory is filed, a Notice of Hearing on Inventory shall be served on all interested persons as defined in Loc.R. 64.9(A) and a Certificate of Service of Inventory and Notice of Hearing (Loc. F. 78.2A) shall be filed. Service may be made in accordance

with the methods of service authorized in Loc.R. 64.9(B) and if certified mail return receipts or U.S. Postal Certificates of Mailing are used as evidence, photocopies of the originals shall accompany the filing. The signed Waiver of Notice of Hearing and Consent to Inventory (Loc. F. 78.2B) may be used in lieu of service.

LOC.R. 78.2 ELECTRONIC RETURN RECEIPT

Electronic proof of service for certified or express mail provided to the Court through the U.S. Postal Service electronic return receipt program shall be deemed adequate evidence of service in accordance with the service requirements of Civ.R. 73 and Civ.R. 4.0 through 4.6.

LOC.R. 78.3 CERTIFICATE OF TRANSFER OF REAL ESTATE

Each Certificate of Transfer (SPF 12.1) tendered to the Court pertaining to real property situated in Lorain County, Ohio, must be submitted in duplicate and shall be submitted to the Lorain County Auditor GIS/Tax Map Department for review of the legal description. Each certificate shall be stamped by the Lorain County Auditor as “Legal description reviewed by _____ on _____ per ORC, Section 5713.09” and completed prior to submitting the certificate to the Court. With the Court’s rule requiring that the case file contain a Certificate of Transfer of Real Estate bearing an original stamp from the county auditor’s office, applicants should consider obtaining the county auditor’s stamps on two copies to assure that they have a recordable Certificate of Transfer.

Applicants seeking to transfer out-of-county real estate are encouraged to comply with that county’s pre-approval process to assure that the recording of the Certificate of Transfer is seamless.

If the decedent owned only a fractional interest in the real property, the fractional interest shall be specifically set forth as part of the legal description of the real property.

The prior recorded instrument for the real property interest being transferred shall be recited on the Certificate for Transfer and the preparer’s name shall be entered.

LOC.R. 78.4 REQUESTS FOR JURY TRIAL

Rule 18 of the Rules of Court, Lorain County Court of Common Pleas, of Lorain, General Division as the rule relates to juries, shall apply to proceedings in the Probate Court, except to the extent that the common pleas rule would be clearly inapplicable.

LOC.R. 78.5 EVIDENCE OF DEATH

With the initial filing of any estate administration proceeding in which there is not an attorney representing the applicant a certified copy of the decedent's death certificate shall be exhibited to the Court. The deputy clerk shall make a photocopy of the death certificate and shall redact the *social security number* before filing the photocopy. If an attorney enters an appearance for the applicant, a photocopy of the death certificate may be submitted with the social security number redacted before filing. A death certificate is not required in any of the following proceedings (a) a will is being filed for record only or (b) the only filing be made is an Ohio estate tax filing.

If the death certificate is not reasonably available when the initial estate filing is made, the application to open the estate must be accompanied by a published obituary for the decedent or letter from the funeral home identifying the decedent. To be accepted, the funeral home letter and obituary must recite the date of death and the decedent's residence address. This alternative evidence of death does not exempt the estate from the requirement for providing the death certificate as soon as it is available and no distribution or transfer of assets may be made without the death certificate first being filed or a specific order of the Court.

LOC.R. 78.6 SPECIAL NEEDS TRUSTS

In addition to the requirements of R.C. 5163.21(F) all special needs trusts tendered to the Court for approval, or to be funded with Court approval, must provide the following terms:

- (A) That no expenditure can be made without Court approval;

- (B) That a surety bond shall be filed by the fiduciary, unless the fiduciary is exempted from filing a bond under R.C. 1111.21, or the assets of the trust are deposited in a custodial depository under R.C. 2109.13;
- (C) That during the life of the beneficiary, the applicable county Department of Job and Family Services, upon written request to the trustee, shall be entitled to reasonable information regarding the trust's administration;
- (D) That following the death of the beneficiary, the State of Ohio, Medicaid Recovery Administrator shall be afforded the notice rights otherwise accorded a residual trust beneficiary as well as being entitled to reasonable information regarding the trust's administration upon written request to the trustee;
- (E) That the Trustee shall file an annual accounting unless the assets are deposited with a custodial depository pursuant to R.C. 2109.13, in which case the trust shall provide that one of the duties of the Trustee is to assure that the Annual Verification of Funds with Restricted Access form (Loc. F. 22.3B) is filed with the Court;
- (F) That no distribution can be made from the trust to discharge any duty of support owed to a beneficiary.

LOC.R. 78.7 NON-ORAL INSOLVENCY HEARINGS

Unless otherwise requested in writing by the fiduciary when filing a Representation of Insolvency and a Schedule of Debts, the Court's Judgment Entry Setting Hearing and Ordering Notice (Form 24.1) will provide for a non-oral hearing, with an alternative contingent date for an oral hearing. In the event an interested party files a written objection prior to the non-oral hearing, or if the Court determines it to be appropriate, the matter will be continued from the non-oral hearing date to the scheduled alternative contingent oral hearing date with notice to the fiduciary and the objector.

The fiduciary's written Notice of Hearing on Representation of Insolvency and Schedule of Claims (Form 24.2) should be modified to incorporate the non-oral hearing date and the notice regarding written objections. The fiduciary should modify the Form 24.2 to read substantially as follows:

The Representation of Insolvency and the Schedule of Claims shall be heard non-orally by the Lorain County Probate Court located at 225 Court St., 6th Floor, Elyria, Ohio on the ___ day of _____, 201__ at _____ o'clock ____ . M. If an interested party files a written objection with the Court prior to the non-oral hearing, the matter will be continued for oral hearing on _____, 201_ at _____ .M.

The fiduciary should assure that verification of service of the notice is filed with the Court no later than the non-oral hearing date. The fiduciary and counsel should not attend the non-oral hearing.

LOC.R. 78.8 UNCLAIMED INHERITANCES

Pursuant to RC 2113.64 through 2113.68, the Court has ordered fiduciaries holding funds representing an unclaimed inheritance to deposit them for safekeeping with the County Treasurer for credit to the general fund. A claimant for the funds must file the Unclaimed Inheritances form (Loc.F. 78.11) and provide supporting information to establish entitlement to the funds. Interest is not paid on the funds deposited with the County Treasurer.

LOC.R. 78.9 CIVIL CASE MANAGEMENT PROCEDURES

The purpose of this rule is to ensure the efficient and comprehensive management of probate and civil cases.

I. CASE MANAGEMENT CONFERENCE

A. Timing

Within ninety days of the filing of responsive pleadings, the case shall be set by the Court for a case management conference. Except as otherwise ordered by the Court, the parties' attendance is not required.

B. Notice

Notice of the case management conference shall be mailed to all counsel of record at least fourteen days prior to the conference.

C. Procedure

1. The case management conference shall be conducted in person, or by telephone with prior Court approval. All counsel attending shall have full authority to enter into a binding case management order. Failure of counsel to appear will result in counsel's forfeiting the right to have any input into the scheduling order.

2. Counsel shall consult with their client(s) and opposing counsel in advance of the case management conference and be prepared to confer practically and earnestly on all matters as may aid in the disposition of the action. The following matters will be considered at the case management conference:

- a. The possibility of settlement of the action or referral to ADR;
- b. The necessity of amendments to the pleadings;
- c. Itemization of expenses and special damages;
- d. Deadlines for the exchange of expert reports, completion of discovery and filing of motions;
- e. Dates for further pretrial conference and trial.

Failure of counsel to be fully prepared for the case management conference may result in sanctions.

II. FINAL PRE-TRIAL

A. Purpose

The purpose of the Final Pre-Trial is to effect an amicable settlement, if possible, and to narrow factual and legal issues by stipulation or motions.

B. Final Pre-trial Statement

All counsel shall cooperate with Plaintiff's counsel who shall file a **joint** statement at least one day before the final pre-trial, setting forth the following:

1. Statement of agreed facts and issues, with disputed facts and issues of law noted;
2. Jury instructions including a list of non-OJI contemplated by any party;
3. Plaintiff's demand and Defendant's offer;
4. List of expert and non-expert witnesses;
5. Legal or evidentiary problems anticipated;
6. Estimated length of trial;
7. Each party's anticipated pre-trial motions;
8. Equipment needs for trial.

Failure of any party to cooperate in the joint statement may result in sanctions.

C. Attendance

All parties and chosen representatives must be present, or in exceptional circumstances with prior Court approval, be available by telephone, with full settlement authority. If the real party in interest is an insurance company, corporation, or other artificial entity, then the chosen representative must have full authority to negotiate the claim to the full extent of Plaintiff's demand.

LOC.R. 78.10 TRIAL WITNESSES

A. EXPERT WITNESSES

1. **REPORTS.** Each counsel shall exchange with all other counsel written reports of medical and expert witnesses expected to testify in advance of the trial. The parties shall submit expert reports in accord with the time schedule established at the case management conference. The party with the burden of proof as to a particular issue shall be required to first submit expert reports as to that issue. Thereafter, the responding party shall submit opposing expert reports within the schedule established by the Court. Upon good cause shown, the Court may grant the parties additional time within which to submit expert reports. All experts must submit reports, including any party who will testify as an expert.

2. **TESTIFYING.** A party may not call an expert witness to testify unless a written report has been procured from the witness and provided to opposing counsel in accordance the schedule established by the Court. It is counsel's responsibility to ensure that each report adequately sets forth the expert's opinion, including if necessary the procurement of supplemental reports. The report of an expert must reflect his opinions as to each issue on which the expert will testify. An expert will not be permitted to testify or provide opinions on issues not raised in his expert report.

3. **DISCOVERY DEPOSITIONS.** A party may take a discovery deposition of their opponent's medical or expert witness only after the mutual exchange of reports has occurred. Upon good cause shown, additional time after submission of both sides' expert reports will be provided for these discovery depositions. If a party chooses not to hire an expert in opposition to an issue, that party will be permitted to take the discovery deposition of the proponent's expert. In this situation, the taking of a discovery deposition of the proponent's expert constitutes a waiver of the right on the part of the opponent to call an expert at trial on the issues raised in the proponent's expert's report.

B. NON-EXPERT WITNESSES

All parties are required to submit a trial witness list, including the full name and address of all witnesses expected to testify at the trial on their behalf, no later than fourteen days prior to the final pre-trial. Thereafter, upon a showing of good cause, the opposing party may take the discovery deposition of any witness contained on the opposing trial witness list who has not been previously deposed during the normal discovery period. This extension of discovery cutoff is specifically restricted to depositions not previously taken of individuals listed on the opponent's trial witness list.

Form 1.1A	REQUEST FOR SUMMONS OR NOTICE IN CIVIL ACTION
Form 4.0A	FIDUCIARY'S ACCEPTANCE
Form 7.1A	MEDICAID RECOVERY ACKNOWLEDGMENT
Form 13.7A	WAIVER OF NOTICE OF HEARING AND CONSENT TO ACCOUNT
Form 13.9A	CERTIFICATE OF SERVICE OF ACCOUNT AND NOTICE OF HEARING
Form 22.3B	ANNUAL VERIFICATION OF FUNDS WITH RESTRICTED ACCESS
Form 59.2A	WILL FOR DEPOSIT
Form 59.2B	CERTIFICATE FOR DEPOSIT OF WILL
Form 60.2A	APPLICATION OF NON-RESIDENT FIDUCIARY TO DEPOSIT ASSETS WITH A CUSTODIAN IN LIEU OF BOND
Form 60.4A	CALCULATION OF EXECUTOR/ADMINISTRATOR COMPENSATION
Form 66.10A	GUARDIAN'S CREDIBILITY SUPPLEMENT
Form 66.11A	AFFIDAVIT OF INDIGENCY
Form 71.2(A)	ATTORNEY FEES FOR FULL ADMINISTRATION
Form 71.2(B)	ATTORNEY FEES FOR ESTATE RELIEVED
Form 71.2(C)	ATTORNEY FEES FOR GUARDIANSHIPS
Form 71.4A	CONSENT TO ATTORNEY FEES
Form 73.1A	CALCULATION OF GUARDIAN COMPENSATION
Form 74.1A	CALCULATION OF TRUSTEE COMPENSATION
Form 75.0A	NOTICE OF CHANGE OF ADDRESS
Form 75.7A	APPLICATION FOR ENTRY OF SAFE DEPOSIT BOX
Form 75.7B	REPORT ON ENTRY OF SAFE DEPOSIT BOX
Form 78.2A	CERTIFICATE OF SERVICE OF INVENTORY AND NOTICE OF HEARING
Form 78.2B	WAIVER OF NOTICE OF HEARING AND CONSENT TO INVENTORY
Form 78.11	APPLICATION FOR UNCLAIMED INHERITANCES

The referenced forms appear individually on the following pages

County, Ohio, or by Special Process Server _____ on the following parties:

Name

Address

Name

Address

If service by Special Process Server is requested, the Motion and proposed Entry appointing the server must be provided to the Court. The requesting party is responsible for arranging for the process server to pick up the documents for service and for payment of the fees and mileage of the special process server.

By Publication on the following parties:

Civil Rule 4.4 requires that if any address is unknown then publication be made once each week for six consecutive weeks. Before service by publication can be made, the party or counsel shall file an Affidavit pursuant to Civ. R. 4.4(A)(1). The Court may require an additional cost deposit be made by the requestor to cover the publication costs.

Signature of Requestor

Type or Printed Name

Address

Phone

Sup. Ct. Registration Number

Loc.F. 1.1A

IN THE PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE

ESTATE OF _____ **DECEASED**

CASE NO. _____

EXECUTOR/ADMINISTRATOR-FIDUCIARY'S ACCEPTANCE

(O.R.C. 2109.02 and Loc.R. 60.1)

I hereby accept the duties that are required of me by law, and such additional duties as are ordered by the Court. As executor/administrator of the estate, I will:

- 1) Prepare and file an inventory of the real and personal assets of the estate within 3 months after my appointment, or such time as extended by the Court. If additional assets are later discovered, file a report of newly discovered assets within 30 days of discovery. Inventory any safe deposit box of the decedent.
- 2) Deposit funds that come into my hands in a lawful depository located within this state and keep estate funds in separate estate accounts at all times during the administration of the estate. I will not commingle my personal assets and funds with estate assets or funds.
- 3) Invest all funds in a lawful manner.
- 4) Timely pay the appraiser's fee and bond premium, if any.
- 5) Pay and disclose on the estate account all estate debts paid.
- 6) Send Notice of Probate of Will (if applicable) within 2 weeks of my appointment and file the final account within 6 months of my appointment unless extended by the Court and file additional accounts annually.
- 7) File all tax documents for the estate and the decedent as required by law.
- 8) Obey all Orders of the Court.
- 9) Allow my name, address, and telephone number to appear in the Court's docket and be assessable through the Court's website.
- 10) Promptly notify the Probate Court in writing if I change my street and/or mailing address.

NOTE: The Attorney shall not be paid attorney fees prior to the preparation of the final account unless specifically authorized by the Court.

Date

Executor/Administrator

Loc. F. 4.0A

PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE

ESTATE OF: _____, DECEASED

Case No. _____

MEDICAID RECOVERY ACKNOWLEDGMENT

(RC Sections 2117.061 and Loc.R. 62.1)

As the person responsible for the Estate (Executor, Administrator, Commissioner, or the person who filed for a Release or Summary Release), I acknowledge that it is my duty to ascertain within thirty (30) days whether the decedent was -

- (1) fifty-five (55) years of age or over on the date of death; **and**
- (2) a recipient of medical assistance (Medicaid) benefits under Ohio Revised Code Chapter 5162 (formerly RC Chapter 5111).

I further acknowledge that *if the answer to both of those determinations is "yes"*, then I have a further duty to prepare a Notice of Administrator of Medicaid Estate Recovery Program - Form 7.0(A), file a copy with this Court; and mail a copy to the Medicaid Recovery Administrator at:

Administrator
Medicaid Estate Recovery
150 E. Gay St., 21st floor
Columbus, OH 43215

Once you have done that, then file a Certification of Notice to Administrator of Medicaid Estate Recovery Program (Form 7.0) with the Court in this case file

Dated: _____

(Printed) _____ Person
Responsible for Estate

(Required to be filed in every estate without an attorney)

**PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE**

ESTATE OF _____, DECEASED

CASE NO. _____

**WAIVER OF NOTICE OF HEARING
AND CONSENT TO ACCOUNT**
(Loc.R. 64.9)

The undersigned, being an heir at law, or beneficiary under the will of the decedent, hereby acknowledges receipt of a copy of the account, waives presentation of vouchers to the Court where otherwise required, waives notice of the hearing on the account, and consents to the account.

Signature

Date

Loc. F. 13.7A

PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE

ESTATE OF _____, DECEASED

CASE NO. _____

**CERTIFICATE OF SERVICE OF ACCOUNT AND
NOTICE OF HEARING**

(O.R.C. 2109.32, 2109.33 and Loc.R. 64.9)

This is to certify that a true and accurate copy of the _____ account and
type of account
a Notice of Hearing on Account were served upon all heirs, beneficiaries of the estate,
interested persons, and other persons designated by the Court, *except*:

- The following beneficiary of a specific bequest or devise *who has received his or her Distribution* and for which a *receipt* has been filed with the Court or is attached;

- The following beneficiary, heir, interested person or other person designated by the Court *who has signed a Waiver of Notice of Hearing and Consent to Account* (SPF 13.7a) filed herewith, or previously filed with the Court;

- The following beneficiary whose address is unknown.

For those persons served, proof of service is attached. Pursuant to Loc.R. 64.9, for certified mail service, photocopies of the signed U.S. Postal Service Domestic Return Receipt cards are attached. For ordinary mail service, photocopies of U. S. Postal Service Certificates of Mailing are attached.

Attorney

Fiduciary

Attorney Registration No. _____

Loc. F. 13.9A

**PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE**

IN THE MATTER OF: _____

CASE NO. _____

INITIAL VERIFICATION OF RECEIPT AND/OR DEPOSIT OF CUSTODIAN

(Loc.R. 67.3 and 75.3)

The Probate Court of Lorain County, Ohio on the ____ day of _____, _____ by Entry has ordered the Fiduciary to deposit with the custodial depository certain assets that have been now deposited in the following accounts:

NAME ON ACCOUNT	ACCOUNT NO. (Last four digits only)	DEPOSITED	TYPE OF ACCOUNT (C.D., Savings)
_____	_____XXXX	_____	_____
_____	_____XXXX	_____	_____
_____	_____XXXX	_____	_____
_____	_____XXXX	_____	_____

The fiduciary has presented a certified copy of the Entry with the assets.

Wherefore, the undersigned custodial depository acknowledges the deposit and/or receipt of the assets described above and agrees to hold the new accounts (and the earnings thereon) subject to further orders of the Court.

By accepting the above assets, this institution agrees to hold the verified deposits (certificates of deposit or savings products, etc.) and not to release any funds from any portion of these funds unless ordered in accordance with a certified copy of an Entry issued by the Lorain County Probate Court. The custodian depository acknowledges that the accounts (s) do not have check writing or debit card privileges. The custodial depository agrees that it will file with the Court an Annual Verification of Funds with restricted access in accordance with Local Rules 67.3, 68.3 and 75.3 of the Probate Court.

Custodial Depository

Authorized Officer

Typed or Printed Name

Date

RETURN TO: LORAIN COUNTY PROBATE COURT
225 Court St., 6th Floor
Elyria, OH 44035

Loc. F. 22.3A

**IN THE PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE**

IN THE MATTER OF: _____

CASE NO: _____

**ANNUAL VERIFICATION OF FUNDS
WITH RESTRICTED ACCESS**

(Loc.R. 64.7 and 75.3)

To: The Lorain County Probate Court

The undersigned financial institution certifies that on the "as of" date set forth below it had on deposit with it in a _____ (specify, i.e. checking, savings certificate, brokerage, or share) account to the credit of _____ (exact name in which account was titled) with the balance on deposit as of _____ (date) being \$ _____, including credited earnings. (Acc't # XXXX-_____)

It is reaffirmed and represented to the Court by this financial institution that **no part of these funds (or the earnings thereon) shall be released** without a specific Order of this Court, except that if the funds are being held for a minor, the funds may be released to the minor upon the minor reaching the age of majority (18).

Information as of this Date

Name of Financial Institution

(Address)

Date Signed

Signature of Financial Representative
Printed: _____

(Title: _____)

Return Completed Form to:

**Lorain County Probate Court
225 Court St., 6th Floor
Elyria, OH 44035**

Loc. F. 22.3(B)

**PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE**

CASE NO: _____

WILL FOR DEPOSIT
(O.R.C. 2107.07, 2107.08 and Loc.R. 59.2)

I present a document purporting to the Last Will and Testament of _____
_____, a resident of Lorain County, Ohio,
and request the Court accept it for deposit for safekeeping. I represent to the Court that I am either
the testator of the document, the guardian of the testator/maker of the document, or I am presenting
it to the Court for deposit at the request of the testator or guardian. The name and current address
and telephone number of the testator, named fiduciary, attorney preparing the will, if any, known
to the undersigned are identified below:

<u>Testator:</u> _____	<u>Drafter:</u> _____
Address: _____	Address _____
City/State/Zip _____	City/State/Zip _____
Telephone No. _____	Telephone No. _____

Fiduciary: _____
Address: _____
City/State/Zip _____
Telephone No. _____

Note: When the will is presented for a person under guardianship, a copy of this form shall be
filed in the Court's guardianship file. If applicable, the guardianship case # is _____.
(see page 2)
Loc. F. 59.2A

Testator: _____
(if applicable)

Depositor: _____
(if other than testator)

Address _____

City/State/zip _____

Telephone _____

CASE NO. _____

WITHDRAWAL REQUEST AND RECEIPT

I, _____, the undersigned testator, request the withdrawal of my original Last Will and Testament dated _____ previously deposited with the Court for safekeeping and I acknowledge receipt of it on this date.

Date

Testator

Evidence of Identity:
Issuing Agency: _____
Issued Date: _____
Number: _____

PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE

Testator: _____

Case No: _____

CERTIFICATE FOR DEPOSIT OF WILL
(ORC Sec. 2107.07 & .08, and Loc.R. 59.2)

I hereby certify that on _____, a written instrument dated _____ purporting to be the Last Will and Testament of _____ (the "testator"), a resident of Lorain County, Ohio, was deposited pursuant to ORC Sec.2107.07 for safekeeping in the office of the Probate Court of Lorain County.

The Will shall, during the lifetime of testator be delivered only to the testator or to some person authorized by the testator by an order in writing duly proved by the oath of a subscribing witness, to receive same; and on the death of Testator to be handled pursuant to ORC Sec. 2107.08.

JAMES T. WALTHER, JUDGE

By _____
Deputy Clerk

Date: _____

Loc. F. 59.2B

**PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE**

ESTATE OF: _____

CASE NO: _____

**APPLICATION OF NON-RESIDENT FIDUCIARY TO DEPOSIT
ASSETS WITH A CUSTODIAN IN LIEU OF BOND**

(O.R.C. 2109.13 and Loc.R. 60.2)

The undersigned Fiduciary, being a non-resident of Ohio, requests the Court authorize the deposit of the following estate assets with a custodial depository in lieu of bond, or with reduced bond, pursuant to ORC Section 2109.13. The custodial depository will be _____, located at _____, Ohio. It is acknowledged that the Fiduciary will not have access to the deposited assets without a specific order from this Court. The assets to be deposited have a value of \$_____ and they are described as: _____
_____.

Attorney for Fiduciary
Sup. Ct. Reg. No. _____

Fiduciary

JUDGMENT ENTRY

Upon Application by the Fiduciary to deposit estate assets in a custodial depository in lieu of bond, or with reduced bond, it is **ORDERED**:

1. The Application is approved and within seven (7) days of this Entry the Fiduciary shall deliver to the custodial depositor identified above described assets with an initial value of

Loc. F. 60.2A

\$_____ to be held in a restricted access custodial deposit account pursuant to Ohio R.C. 2109.03 in the name of the decedent's estate.

2. A certified copy of this Entry shall be delivered by the Fiduciary to the custodial depository and the depository shall acknowledge receipt of a copy of the Entry.

3. No portion of the deposited funds, or any earnings thereon, shall be released by the custodial depository except upon a specific order from this Court.

4. Within seven (7) days after the deposit of the assets, the Fiduciary shall file with the Court an Initial Verification of Receipt and/or Deposit of Custodian (Loc. F. 22.3A) to evidence that the deposit has been made and is being held subject to the terms of this Entry.

5. A violation of this Entry by the Fiduciary may result in sanctions, including findings of contempt, as a requirement for new or increased surety bond.

JAMES T. WALTHER, JUDGE

Loc. F. 60.2A

**PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE**

ESTATE OF _____, DECEASED

CASE NO. _____

EXECUTORS AND ADMINISTRATORS FEES

(O.R.C. 2113.35 and Loc.R. 60.4)

Completion and filing of this form is required before the fiduciary compensation is paid. Payment shall not be made before the final account is prepared for filing unless prior approval of the Court has been obtained. The account will not be approved until this form is completed and filed.

- | | | | | |
|----|---|------------------------|--|-----------------|
| 1. | a. Personal estate | <i>appraised value</i> | | \$ _____ |
| | b. Personal estate | <i>income</i> | | \$ _____ |
| | c. Real estate sold | <i>proceeds</i> | | \$ _____ |
| | TOTAL (to be used for completing 1. e-g inclusive) | | | \$ _____ |

- | | | | | | | |
|----|----------|---|-------------|---|----------|-----|
| d. | \$ _____ | (not to exceed \$100,000.00) | x 4% | = | \$ _____ | fee |
| e. | \$ _____ | (next \$300,000.00 , or portion) | x 3% | = | \$ _____ | fee |
| f. | \$ _____ | (all over \$400,000.00) | x 2% | = | \$ _____ | fee |

- | | | | | | | |
|----|-----------------------------|----------|-------------|---|----------|-----|
| 2. | Real estate not sold | \$ _____ | x 1% | = | \$ _____ | fee |
| | (Appraised value) | | | | | |

- | | | | | | | |
|----|---|-------------|---|----------|-----|--|
| 3. | Non-probate property that would have been includible | | | | | |
| | for computing the Ohio estate tax, but for repeal | | | | | |
| | (Except joint and survivorship property) | | | | | |
| | \$ _____ | x 1% | = | \$ _____ | fee | |

TOTAL FEES (sum of 1d, 1e, 1f, 2 and 3 above) = **\$ _____**

Fiduciary/Attorney
Attorney Registration No. _____
Loc.F. 60.04A

PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE

IN THE MATTER OF THE GUARDIANSHIP: _____
Case No: _____

GUARDIAN'S CREDIBILITY
(Loc.R. 66.10)

Name of Applicant to be Appointed Guardian _____ Date of Birth _____

Applicant's Current Address _____

Previous Address (if at current residence less than 3 years) _____

Previous Address _____

Applicant's Spouse's Name _____ When Married _____

Address _____

Applicant's Employer _____ From _____

Previous Employer _____ From/To _____

Previous Employer _____ From/To _____

Name of Applicant's Bank Checking
 Savings
 Safe Deposit Box

A. Has Applicant Ever Filed Bankruptcy?..... Yes No

B. Has Applicant Ever Been Garnished?..... Yes No

C. Has Applicant Ever Been in Receivership?..... Yes No

D. Has Applicant Ever Been Convicted of a Felony?..... Yes No

Add details of A through D _____

Has Applicant Had Experience Investments in Marketable Securities? Yes No

Describe the details of any "Yes" response: _____

All statements are made in support of my application for appointment as Guardian and are true.

Date: _____

Signature of Applicant

Loc. F. 66.10A

PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE

IN THE MATTER OF: _____

CASE NO: _____

AFFIDAVIT OF INDIGENCY

(Loc.R. 66.11)

State of Ohio

County of _____ SS

The Affiant being duly cautioned and sworn, states that the proposed ward is reasonably believed to be indigent and without the financial means to pay the court costs associated with a guardianship.

The Affiant represents that the following statements are true:

1. The proposed Ward's income is the following: _____
_____.

2. The proposed wards assets consist of the following:
 - A. Real Estate: Address _____
 - B. Bank Accounts/Cash _____

 - C. Investments: _____

3. Neither the proposed ward nor anyone acting for the proposed ward, within the 5 years preceding this affidavit, has transferred conveyed, or gifted by trust or otherwise ANY INCOME, ASSETS OR OTHER PROPERTY to any person or entity for less than full consideration, value, or payment.

Affiant: _____

Date

Typed/Printed

SWORN TO and SIGNED in my presence on the date indicated above by the Affiant who affirmed that the foregoing statements are true, based upon the Affiant's personal knowledge, information or belief.

Notary Public/Deputy Clerk

Loc. F. 66.11A

**PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE**

ESTATE OF _____, DECEASED

CASE NO. _____

CONSENT TO ATTORNEY FEES

(Loc.R. 71.4)

The undersigned beneficiary of the estate consents to the payment of attorney fees to _____ in the amount of \$_____ plus reimbursement for costs advanced in the amount of \$_____. The percentage interest of the beneficiary in the residual estate affected by the payment of these expenses is indicated below.

The undersigned acknowledges compensation for attorney fees in this estate pursuant to Loc.F. 71.2(A) or 71.2(B) is in the amount of \$_____.

DO NOT SIGN THIS FORM UNLESS IT IS FULLY COMPLETED.

Beneficiary

Beneficial Interest

_____ %

_____ %

_____ %

_____ %

Loc. F. 71.4A

**PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE**

GUARDIANSHIP OF: _____

CASE NO. _____

CALCULATION OF GUARDIAN COMPENSATION

(O.R.C. 2109.23 and Loc.R. 73.1)

Period Covered _____ to _____

Income Fee (excluding rental income)

\$ _____ (not to exceed \$10,000) @ 4% = \$ _____ fee
\$ _____ (all over \$10,000) @ 3% = \$ _____ fee

Rental Income Fee (gross rentals)

\$ _____ @ 10% = \$ _____ fee

Expenditures (excluding rentals)

\$ _____ (not to exceed \$10,000) @ 4% = \$ _____ fee

Principal Fee

\$ _____ (not to exceed \$200,000) @ .003 = \$ _____ fee
\$ _____ (all over \$200,000) @ .002 = \$ _____ fee

Principal Distribution Upon Termination

\$ _____ (not to exceed \$200,000) @ .003 = \$ _____ fee
\$ _____ (all over \$200,000) @ .002 = \$ _____ fee

Extraordinary compensation (separate application required) = \$ _____ fee

Expenses (itemization required) = \$ _____ fee

TOTAL FEES AND EXPENSES \$ _____

Date

ATTORNEY/GUARDIAN
Attorney Registration No. _____

Loc. F. 73.1A

**PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE**

TRUST OF _____

CASE NO. _____

CALCULATION OF TRUSTEE COMPENSATION

(Loc.R. 74.1)

Period Covered _____ to _____

Income Fee (excluding rental income)

\$ _____	(not to exceed \$10,000)	@ 6%	= \$ _____	fee
\$ _____	(next \$10,000)	@ 5%	= \$ _____	fee
\$ _____	(all over \$20,000)	@ 4%	= \$ _____	fee

Principal Fee (excluding rental income)

\$ _____	(not to exceed \$200,000)	@ .005	= \$ _____	fee
\$ _____	(next \$200,000)	@ .004	= \$ _____	fee
\$ _____	(all over \$400,000)	@ .003	= \$ _____	fee

Principal Distribution

\$ _____	(not to exceed \$200,000)	@ .005	= \$ _____	fee
\$ _____	(next \$200,000)	@ .004	= \$ _____	fee
\$ _____	(all over \$400,000)	@ .003	= \$ _____	fee

Extraordinary Compensation (separate application required) = \$ _____ fee

Expenses (itemization required) = \$ _____ fee

TOTAL COMPENSATION AND EXPENSES \$ _____

Date

ATTORNEY/TRUSTEE
Attorney Registration No. _____

Loc. F. 74.1A

PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE

IN THE MATTER OF: _____

Case No: _____

NOTICE OF CHANGE OF ADDRESS

(Loc.R. 57.2 and Loc.R. 66.4)

I am notifying the Court that effective (Date) _____ the
address or addresses for (Name) _____

Executor, Administrator, Heir, Beneficiary, Guardian, Ward, Trustee, Beneficiary or Attorney
(choose one or more and circle).

Physical and/or Residence Mailing Address:

Telephone: _____ Home Phone/Cell Phone

Date: _____

Signature of Filer

Typed/Printed Name of Filer

PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE

ESTATE OF: _____, DECEASED

CASE NO. _____

APPLICATION FOR ENTRY OF SAFE DEPOSIT BOX

(Loc.R. 75.6)

Now comes the undersigned Applicant who requests the appointment of _____ whose address is _____ as the Court Appointed Commissioner to enter the decedent's safe deposit box located at _____, a financial institution. The Commissioner should be authorized to remove and deposit with this Court any instruments found in the safe deposit box that purport to be a will or a codicil to a will of the decedent.

A certified copy of the decedent's death certificate has been exhibited to the Court with the Court retaining for the file a photocopy. The Applicant represents to the Court that the Applicant is unaware of any proceedings having been commenced to administer, or release, the decedent's estate, except _____.

Date

Applicant
Address: _____

Telephone Number: _____

Attorney Sup. Ct. Reg. No. _____

ENTRY

Upon Application and for good cause shown the Court appoints _____ as the Court Appointed Commissioner to open the decedent's safe deposit box described above in the presence of an employee of the named financial institution. The Commissioner is ORDERED to remove, report to the Court and deposit with the Court any instruments located in the safe deposit box that purport to be the decedent's will or codicil. The Report of Entry Into Safe Deposit box shall be signed by the witnessing employee and the Commissioner. **NO OTHER ITEMS MAY BE REMOVED FROM THE SAFE DEPOSIT BOX UNDER THE AUTHORITY OF THIS ENTRY. THE COMMISSIONER IS ORDERED TO FILE A REPORT WITH THE COURT WITHIN 30 DAYS.**

JUDGE

Loc. F. 75.7A

**PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE**

ESTATE OF: _____, DECEASED

CASE NO. _____

REPORT ON ENTRY OF SAFE DEPOSIT BOX

(Loc.R. 75.6)

In the presence of the financial institution's official signing below and pursuant to the prior Entry of this Court, on _____, _____ the Court Appointed Commissioner opened the decedent's safe deposit box identified in the Entry and makes the following report to the Court:

_____ All instruments purporting to be the will(s) and codicil(s) of the decedent have been removed and are deposited with this filing in the Court. The instrument(s) removed is/are dated: _____.

_____ There were no instruments found in the safe deposit box purporting to be a will or codicil of the decedent.

_____ Additional comments (if any) _____

_____ Date

_____ COURT APPOINTED COMMISSIONER

Bank Witness to Opening and Removal

_____ Financial Institution

By _____

Printed Name _____

Title _____

Note: A signed copy should be retained by the financial institution

TO BE RETURNED TO LORAIN COUNTY PROBATE COURT

225 Court St. 6th Floor, Elyria, OH 44035

Loc. F. 75.7B

**PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE**

ESTATE OF _____, DECEASED

CASE NO. _____

**CERTIFICATE OF SERVICE OF INVENTORY AND
NOTICE OF HEARING**

(O.R.C. 2115.15, 2115.16 and Loc.R. 78.2)

This is to certify that a true and accurate copy of Inventory and a Notice of Hearing on Account were served upon all heirs, beneficiaries of the estate, interested persons, and other persons designated by the Court, *except*:

- The following beneficiary, heir, interested person or other person designated by the Court *who has signed a **Waiver of Notice of Hearing and Consent to Account** (SPF 13.7a) or a **Waiver of Notice of Hearing** (SPF 6.2) filed herewith, or previously filed with the Court;*

- The following beneficiary whose address is unknown. _____

For those persons served, proof of service is attached. Pursuant to Loc.R. 78.1, for certified mail service, photocopies of the signed U.S. Postal Service Domestic Return Receipt cards are attached. For ordinary mail service, photocopies of U. S. Postal Service Certificates of Mailing are attached.

Attorney

Fiduciary

Attorney Registration No. _____

Loc. F. 78.2A

**PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE**

ESTATE OF _____, DECEASED

CASE NO. _____

**WAIVER OF NOTICE OF HEARING
AND CONSENT TO INVENTORY**
(Loc.R. 78.1(C))

The undersigned, being an heir at law, or beneficiary under the will of the decedent, hereby acknowledges receipt of a copy of the inventory, waives notice of the hearing on the inventory, and consents to its approval.

Signature

Date

Loc. F. 78.2B

**PROBATE COURT OF LORAIN COUNTY, OHIO
JAMES T. WALTHER, JUDGE**

**IN THE MATTER OF
UNCLAIMED INHERITANCE BY**

_____ **CLAIMANT**

CASE NO: _____

APPLICATION FOR UNCLAIMED INHERITANCE

(RC 2113.67)

State of _____

County of _____ SS

The Affiant being duly cautioned and sworn, states that the Affiant is the person identified as an unknown heir in the Estate of _____ which was administered in this Court in Case No. _____.

Complete all of the following that are applicable.

1. _____ The Affiant is related to the decedent in the following manner:
_____.
2. _____ The Affiant is not related to the decedent, but was known to the decedent by way of _____.
3. _____ The unknown heir (_____) died in _____, on _____ and the Affiant has succeeded to the unknown heir's estate. (Proof of death of the unknown heir, and succession to the inheritance is being filed with this Application)
4. _____ The Affiant is tendering to the Court the Affiant's current government issued photo identification.

Affiant: _____ Address _____

Typed/Printed

Telephone: (____) _____

SWORN TO and SIGNED in my presence by the Affiant who affirmed that the foregoing statements are true.

Notary Public/Deputy Clerk

Loc. F. 78.11