COURT OF COMMON PLEAS
PROBATE DIVISION
LOCAL RULES
FOR

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2011

COURT OF COMMON PLEAS
PROBATE DIVISION

Defiance County, Ohio **Fulton County, Ohio**

Henry County, Ohio **Williams County, Ohio**

LOCAL RULES

Effective August 1, 2011

Conduct and operations in the Court of Common Pleas, Probate Division of the above four (4) Counties are governed by the Ohio Revised Code (O.R.C.), the Rules of Superintendence of the Supreme Court of Ohio and by these Local Rules. All persons appearing before these Courts should familiarize themselves with all applicable law. The numbering of these Local Rules corresponds with the numbering of the Rules of Superintendence. References to "S.P. Forms" are to the Standard Probate Forms. References to "this Court" or "the Court" are to the Court of Common Pleas, Probate Division.

_____
Jeffrey A. Strausbaugh, Judge
Defiance County Probate Court

_____
Michael J. Bumb, Judge
Fulton County Probate Court

_____
John S. Collier, Judge
Henry County Probate Court

_____
Steven R. Bird, Judge
Williams County Probate Court

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Rule 11.1 Record of Proceedings

A. The Court records all hearings electronically. The audio-electronic recording shall be the official record. A transcript of the audio-electronic recording may be requested on Form A-I. An audio copy of the audio-electronic recording may be requested on Form A-II.

B. A transcription of the record shall be made at the expense of the person requesting such transcription unless otherwise ordered by the Court. The transcription shall be made by a professional court reporter upon payment of a deposit. The court reporter shall charge the customary fee charged by a private reporter for services in the Common Pleas Court for such transcription or as otherwise provided for by the Common Pleas Local Rule. Failure to timely pay the fee may result in sanctions being issued by the Court against the person who ordered the transcript.

Rule 51.1 Standard Probate Forms

The applicable Standard Probate Forms provided by this Court shall be used for all filings in this Court, except that computer-generated forms may be used subject to the limitations in Rule 52.1. The current version of all Standard Probate Forms may be made available on this Court's website.

Rule 51.2 Local Probate Forms

The Court may adopt such additional forms as the Court deems necessary for the efficient operation of the Court and Administration of cases.

Rule 52.1 Specifications For Printing Probate Forms (Computer-Generated Forms)

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

A. Such forms shall comply with the provisions of Rule 51 and Rule 52 of the Rules of Superintendence for the Probate Division of the Court of Common Pleas. The individual presenting forms to this Court shall be responsible to ensure that such forms are in full compliance with the Rules of Superintendence.

B. Such forms shall be in the same format as those provided by this Court. In the event of multiple page forms or two-sided forms, the printed material shall be on the same side or same page as the standard probate form. Any interlineated information shall be in typeface or written legibly in ink.

C. The Court may reject forms that deviate from the format of the Standard Probate Forms provided by this Court. Such forms may be rejected prior to filing or stricken from the record upon discovery.

Rule 53.1 Hours of the Court

This Court and its offices shall be open for the transaction of business from 8:30 A.M. to 4:30 P.M. daily, except Saturday, Sunday and legal holidays.

No court costs or accounts of fiduciaries shall be accepted after 4:15 P.M. Marriage license applications shall not be accepted after 4:15 P.M.

Rule 54.1 Court Security Plan

This Court has developed and implemented a court security plan to help maintain the safety of those using the Court's facilities.

Rule 55.1 Probate Files

No Probate Court file shall be removed from the courthouse, without the prior written consent of the Court.

Rule 57.1 Motions and Entries

A. All motions shall be accompanied by a memorandum in support of the motion. The memorandum shall include a brief statement of the grounds for the motion, with citations to authorities relied upon, and proof of service in accordance with Civil Rule 5. To ensure compliance with Civil Rule 56(C), depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence and written stipulations of fact to support or oppose a motion for summary judgment shall be: (1) filed separately with the Clerk, or (2) if attached to the motion or memorandum, the caption shall so state, *i.e.* "*** Including Affidavit of ."

B. Any motion which is to be set for hearing must be accompanied by the appropriate entry setting the matter for hearing. The Court will set such matters for hearing at its sole discretion. A proposed entry for the Court's consideration must accompany any motion that requires an entry.

C. All entries and orders presented to the Court for approval should include the date of the hearing, the names of those present, and the specific motion or application heard by the Court on that date. The caption shall state the subject matter of the Court's decision with reasonable specificity. The use of the terms "entry" or "order" without more specificity may cause such proposed entry to be rejected.

D. All filings, entries and orders which bear an endorsement of counsel per telephone or electronic authorization shall state the date of said authorization and shall also contain a certificate of service by the attorney who obtained authorization that a copy of the filing, entry or order has been delivered to the consenting counsel.

E. All pleadings, motions, applications and other filings presented to the Court shall be correctly captioned and shall either be in typeface or written legibly in ink. All documents filed by an attorney shall be typed. Applicants appearing pro se are encouraged to type all filings. Any information interlineated on pleadings, motions, applications and other filings shall be in typeface or written legibly in ink. The Court reserves the right to reject or strike any pleadings which do not conform to this Rule or in which the text or the signatures are illegible. All pleadings filed with the Court shall contain a signature followed by the printed name of the person signing the document.

F. Application for leave to withdraw as counsel shall be made by written motion filed with the Court, with copies served upon the fiduciary and all other attorneys or parties of record in accordance with Civil Rule 73. If such Application is granted and the fiduciary does not appear at such hearing, the withdrawing attorney shall notify such fiduciary or other party in accordance with Civil Rule 73. Proof of compliance with Civil Rule 73 shall be filed with the Court.

Rule 57.2 Filings by Mail

A. Pleadings, motions, applications and other filings may be filed with the Court by U.S. Mail or other delivery services subject to the conditions set forth by the Local Rules or by the Court.

B. However, a filing that requires the payment of a fee will only be accepted if the correct filing fee is enclosed or has been paid. If there is a deficiency in the proposed pleadings, motions, applications, filings or payment of costs, such items will be returned to the sender without being filed.

C. If a file-stamped copy of the pleadings, motions, applications and other filings is desired to be returned to the sender, a copy of such pleadings and a self-addressed, postage pre-paid envelope must be enclosed or clear written instructions must be given to place such file-stamped copies in the sender's mailbox at the Court.

D. Any pleading, motion, application or other filing which is to be set for hearing must be accompanied by the appropriate entry setting the matter for hearing. The Court will set such matters for hearing at its sole discretion. A proposed entry for the Court's consideration must accompany any pleading, motion, application or other filing that requires an entry.

E. Upon receipt of any improper ex-parte written communication or correspondence, court personnel shall return said written communication or correspondence to the sender along with the Court's standard response set forth in Form A-X in Appendix A hereto. If return

of said communication or correspondence is impossible, the material shall be destroyed with a notation in the appropriate file of the Court.

Rule 57.3 Electronic Transmission Filings

Facsimile Filings. In conformity with the facsimile filing standards for Ohio Courts as provided in Appendix E to the Ohio Rules of Superintendence and with Civil Rule 5(E), pleadings, motions, applications and other filings may be filed with the Court by facsimile transmission subject to the following conditions:

A. *Application of Rules and Orders*. This Local Rule has been instituted solely for the convenience of those filing documents with the Court. The sender assumes all responsibilities, obligations and liabilities for using this method of filing. This Local Rule pertains only to facsimile filings and does not override, alter, amend, revoke or otherwise change any Local Rule or Civil Rule respecting the requirements of any filings such as obtaining the consent of parties or counsel or obtaining signatures or the authorization to sign for opposing counsel.

B. *Filings Not Accepted.* The following documents may **NOT** be filed by facsimile transmission:
(1) Any filing commencing a proceeding for which the Court must collect an initial case deposit against costs or a specific filing fee and/or for which the Court is required to effectuate service of summons; or
(2) Estate tax returns; or
(3) Pleadings, motions, applications or other filings in matters involving an adoption or an involuntary commitment proceeding; or
(4) Applications for Certificates of Transfer; or
(5) Original wills and codicils.

C. *Facsimile Cover Page*. All filings by facsimile shall be accompanied by a cover page that states all of the following information: 1) date of transmission; 2) the transmitting fax number; 3) case number and caption of the case in which the document is to be filed; 4) description of the document to be filed; 5) the assigned judge; 6) and an indication of the number of pages included in the transmission, including the cover page. (See Appendix - Form A-III for a sample.)

If a document is sent by fax to the Clerk of Court without the cover page information listed above, it may be deposited in the case jacket but need not be entered into the Case Docket and may be considered to be a nullity and thereby stricken from the record.

D. *Facsimile Machine*. The telephone number of the facsimile machine available for receiving fax filings for the Court is the number published on the cover sheet of these Rules and is available to receive facsimile transmissions 24 hours a day, 7 days a week. Transmissions sent to any other location are not covered by nor permitted under this Local Rule.

E. *Document Restrictions*. A "fax transmission" as referred to in this Local Rule, may contain more than one document but may not apply to more than one case number per transmission. Regardless of the number of documents being sent, facsimile transmissions may not be in excess of twenty (20) pages each excluding the facsimile cover page. If the document to be transmitted exceeds the page limit established by this local rule, the original must be filed

F. *Time of Filing.* The date and time of receipt of any document is the date and time imprinted on the document by the facsimile machine receiving the transmission. The effective date and time of filing for all documents received outside of the normal business hours of the office of the Clerk of Court shall be the next date that the Court is in session. Documents so received shall be filed-stamped in order of their receipt as documented by the date and time imprinted by the receiving facsimile machine.

G. *Original Filings.* Documents filed by facsimile are accepted as the effective original document in the court file. The source document need not be filed. However, the sending party must maintain possession of the source document and make them available for inspection by the court upon request until all opportunities for post judgment relief have been exhausted.

H. *Signatures.* Documents shall be filed with a signature or a notation "/s/" followed by the name of the person signing the source document. The person transmitting the document represents that the signed source document is in his or her possession.

I. The Clerk of Court <u>need not</u> acknowledge receipt of a facsimile transmission.

Rule 58.1 Court Costs

A. Deposits ordinarily shall be required upon the initial filing of any action or proceeding. The deposit may be applied as filings occur and additional deposits may be required. The Court shall maintain and make available a current list of costs.

B. The Court accepts only the following methods of payment of court costs:
   1. Cash;
   2. Money Orders;
   3. Checks, with leave of Court;
   4. Major Credit Cards, with leave of Court.

Rule 58.2 Witness Fees

Upon the filing of a praecipe for subpoena of witnesses, the party shall deposit, for each witness, an amount sufficient to pay the witness fee as prescribed by Ohio Revised Code §2335.06.

Rule 59.1 Wills

A. Before an application is filed to admit a will to probate, to appoint an estate fiduciary, or to relieve an estate from administration, the applicant or the applicant's attorney shall examine the index of wills to determine if the decedent has deposited a prior will with the Court for safekeeping. Prior wills so deposited shall be filed in the estate proceedings for record purposes only.

B. Upon presentation of a will, the Court shall make the initial determination as to whether the purported will shall be admitted to probate.

C. If a will presented to probate contains alterations, interlineations or extraneous markings, the admission of the will may be set for hearing pursuant to Ohio Revised Code §2107.26.

D. All persons listed on S.P. Form 1.0 whose addresses are known shall be given Notice of Probate of Will by certified mail unless such notice is waived. Notice by publication shall be required if the identity and/or address of any next of kin and/or beneficiary is unknown, unless the Court otherwise orders.

E. Certificates of Service of Notice of Will (S.P. Form 2.4) shall not be filed without first being approved. Such approval may be obtained from the Court.

F. Where the will names a living trust as a beneficiary, a copy of the trust shall be displayed to the Court, but the trust agreement need not be filed with the Court. Except for good cause shown, this requirement must be met before the inventory or entry relieving the estate from administration is filed with the Court.

Rule 60.1 Application for Authority to Administer Estate and Notice of Appointment

A. Any person filing an Application for Authority to Administer Estate shall give notice to the decedent's surviving spouse and to all next of kin unless such notice is waived. This requirement shall not apply to applicants who are named in the decedent's will nor to an applicant who is the decedent's surviving spouse.

    1. The notice shall contain the date, time and place of the hearing, and it shall be served in accordance with Civil Rule 73 at least seven (7) days prior to the date set for hearing.

    2. For good cause shown, the Court may permit notice to be served by ordinary mail. Evidence of such notice shall be documented by the filing of an "Affidavit of Service."

3. All Applications shall be set for hearing before the Court unless all waivers of notice have been obtained.

4. Where the Application is for the appointment of a Special Administrator pursuant to Ohio Revised Code §2113.15, the Court in its discretion may waive or modify the notice requirements. Furthermore, the Court in its discretion may set or waive a bond, it may limit the Special Administrator's powers, and it may require the filing of expedited status report(s).

B. Before filing an Application for Authority to Administer Estate, the attorney or the proposed fiduciary shall determine if there is a will of the decedent on deposit with the Court by checking the index of wills. Prior wills so deposited shall be filed in the estate proceedings for record purposes only.

C. Any applicant who is not represented by an attorney may be required to display photographic identification.

D. Before letters of appointment are issued to a fiduciary, the fiduciary must execute and file with the court a written acceptance of fiduciary duties in accordance with O.R.C. §2109.02.

Rule 61.1 Appraisals

A. Where the probate estate includes assets which are of a special or unusual character, the fiduciary may appoint one or more qualified persons to appraise those assets.

1. All probate assets shall be included in the Inventory, but assets whose value are readily ascertainable need not be appraised.

2. With regard to real estate, the fiduciary may use the property's fair market value as determined by the County Auditor for real estate tax purposes in lieu of a formal appraisal. The County Auditor's value shall be documented by written evidence which shall be attached to the Inventory.

3. With regard to household goods and other tangible personal property, no formal appraisal shall be required unless the total estimated value exceeds five thousand dollars ($5,000.00).

4. With regard to motor vehicles, the fiduciary may use values obtained from any nationally recognized valuation guide.

B. Notwithstanding the foregoing, the Court may order a formal appraisal of any asset for good cause shown. Such an order may be issued upon the Court's own motion or at the request of any interested party.

C. Appraisals shall be made by licensed real estate brokers, licensed real estate appraisers, licensed auctioneers, credentialed personal property appraisers, or such other persons who by experience and training are qualified to make such appraisals. Furthermore, such appraisals shall be in writing and shall include the appraiser's original signature. Upon request of the Court, proper credentials shall be provided.

D. The following persons shall be disqualified from being such an appraiser unless leave of Court is first obtained:

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

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

F. The fiduciary or applicant shall certify on each appointment of appraiser (S.P. Form 3.0) that the appraiser is a qualified and suitable person in accordance with this rule.

G. If the fiduciary determines that appraisal is not necessary because the decedent's assets have a readily ascertainable value, the fiduciary shall file Local Form A-V in lieu of S.P. Form 3.0.

Rule 61.2 Inventory and Appraisal

A. Prior to filing an Inventory, counsel shall examine record title to the decedent's real estate for the sole purpose of confirming the decedent's ownership interest.

B. Upon filing an Inventory, the executor or administrator shall serve notice of the hearing upon the decedent's next of kin and all beneficiaries of the estate listed on S.P. Form 1.0 and their attorneys of record, unless such notice is waived. Notice may be served by ordinary mail or by personally delivering a copy of the notice to the person entitled to receive it. Evidence of notice shall be documented by the filing of an "Affidavit of Service" which sets forth the manner of service.

C. In addition to notice, the executor or administrator shall send a copy of the Inventory and Appraisal to the decedent's next of kin and all beneficiaries of the estate listed on S.P. Form 1.0 and their attorneys of record. This requirement may be modified or waived by the Court for good cause shown.

D. Where the name or address of an interested party is unknown, and where a prior notice by publication for that person or class of persons has not already been made in the estate proceedings, the fiduciary shall publish notice of the hearing once each week for three (3) consecutive weeks.

E. Upon discovering one or more new probate assets, the fiduciary or his attorney shall file a Report of Newly Discovered Assets. Unless otherwise ordered by the Court, Reports of Newly Discovered Assets shall not be set for hearing, and notice to interested parties shall not be required. Real estate and tangible personal property that are included in a Report of Newly Discovered Assets shall be valued pursuant to Local Rule 61.1.

F. Upon discovering that the Inventory contains any other error which cannot be corrected by filing a Report of Newly Discovered Assets, the fiduciary shall file an Amended Inventory. At the discretion of the Court, the Amended Inventory may be approved upon filing, or may be set for hearing. If set for hearing, notice shall be given to all interested parties unless waived.

G. Consents to Power to Sell Real Estate shall not be filed prior to the filing of an Inventory.

Rule 62.1 Claims and Bond Premiums

A. No estate, guardianship, or trust shall be closed until all claims filed with the Court have been resolved. If a claim has been rejected, a copy of the rejection and the proof of service shall be filed with the Court.

B. Bond premiums shall be regarded as administrative expenses, and they shall be paid when due. No application need be made for authority to pay bond premiums.

C. When an estate appears to be insolvent, the fiduciary shall proceed as follows:

1. Where the estate is being relieved from administration, the applicant shall serve notice of the insolvency on the creditors.

2. In all other cases, the fiduciary shall file a Report of Insolvency, a Schedule of Claims, and a Proposal for Payment of Debts. The Schedule of Claims shall state the name and address of each claimant, the amount claimed, the date of presentation of the claim, the payment class into which the claim falls, and whether the claim was allowed or rejected by the fiduciary. Thereafter, the fiduciary shall serve notice of the insolvency on the creditors by sending them:
    a. A copy of the Entry Setting Hearing.
    b. A copy of the Schedule of Claims.
    c. A copy of the Proposal for Payment of Debts.

3. Unless otherwise ordered by the Court, notice of the insolvency hearing shall be sent in accordance with Civil Rule 73.

D. Whenever a decedent was fifty-five (55) years of age or older at the time of death and had been the recipient of Medicaid, S.P. Form 7.0 shall be filed with the Court and a copy of S.P. Form 7.0 shall be sent by certified mail by the fiduciary to the Administrator of the Estate Recovery Program.

Rule 64.1 Fiduciary Accounts

A. Every account presented to the Court shall be examined by a Deputy Clerk of the Probate Court and shall include:

    1. An itemized statement of all receipts of the fiduciary.
    2. An itemized statement of all disbursements and distributions made by the fiduciary referenced by number or letter and date.
    3. An itemized statement of all funds, assets, and investments on hand at the end of the accounting period.
    4. Where real estate has been sold, a copy of the closing statement.
    5. The signature of the fiduciary. All fiduciaries must sign the account where multiple fiduciaries have been appointed, unless otherwise ordered by the Court.

B. A partial account shall have an accounting period which ends not more than six (6) months prior to the time it is presented and approved by the Court, and it shall specify the number of the account using ordinal numbers (e.g., Third Partial Account).

C. Upon request of the Court, the fiduciary shall provide copies of all bank statements for the entire accounting period. In addition, the fiduciary shall provide documentation showing the net proceeds from any sales of personal property.

D. With regard to disbursements and distributions made during the accounting period, all fiduciaries shall provide vouchers or other proofs. Acceptable vouchers or proofs shall include but not be limited to the following:

    1. Signed receipts.
    2. Invoices that have been marked paid by the creditor.
    3. Cancelled checks.
    4. Check substitutes issued by financial institutions.
    5. Account statements that list the date, name of payee, and amount transferred.

E. With regard to assets remaining in the hands of the fiduciary at the end of the accounting period, all fiduciaries shall provide the following supporting documentation:

    1. For stocks and bonds, original certificates where they exist.
    2. Brokerage statements where investments are held by a broker.
    3. Dividend reinvestment statements where dividends are being reinvested.
    4. Statement of the transfer agent where securities are in book entry form.
    5. Other satisfactory evidence of the existence of the assets on hand.

F. Subsections C, D, and E of this Rule shall not apply to corporate fiduciaries who are subject to Ohio Revised Code §1111.28.

G. With regard to accounts filed by executors and administrators pursuant to Ohio Revised Code §2109.301:

1. At the time of filing, a copy of the account shall be provided to each heir of an intestate estate and each beneficiary of a testate estate. However, copies need not be provided where the address of an heir or beneficiary is unknown or where the beneficiary of a specific bequest has received his or her distribution.

2. In the case of a Final Account, the executor or administrator shall give notice of the hearing to the following persons whose addresses are known:
    a. In an intestate estate, to all heirs.
    b. In a testate estate, to the residuary beneficiaries.
    c. To counsel of record representing the above.
    d. When a will creates a charitable trust, to the Ohio Attorney General, Charitable Trusts Division.

3. When presenting a Partial Account, Waiver of Partial Account or Affidavit and Entry in Lieu of Partial Account, the executor or administrator shall also file the following:
    a. Application to Extend Administration; and
    b. Certificate of Service of Account to Heirs and Beneficiaries.

4. Status Reports shall not be required unless ordered by the Court.

5. Where an heir or beneficiary is a minor, a guardianship must be established before any distribution is made unless:
    a. The decedent's will specifically provides otherwise; or
    b. The value of the distribution is twenty five thousand dollars ($25,000.00) or less in which case the distribution may be made to a custodian under a Uniform Transfers to Minors Act.

H. With regard to accounts filed by guardians and conservators pursuant to Ohio Revised Code §2109.302:

1. Partial Accounts shall be rendered biennially, unless otherwise ordered by the Court.

2. A guardian shall not be required to give notice of hearings for partial accounts except in the case of Veteran's Guardianships where notice shall be given to the Veteran's Administration.

3. Unless waived, a guardian shall give notice of the hearing on the Final Account to the following persons whose addresses are known:
    a. In the case of an incompetent, to the Ward's next-of-kin, or in the discretion of the Court to the fiduciary of the Ward's estate.

b. In the case of a minor, to the Ward if the Ward has reached the age of majority. Otherwise to the Ward's next-of-kin.
c. In all cases, to counsel of record for any represented party.

4. Check substitutes or credit card statements may not be sufficient to evidence payment of debts. Receipts showing specific expenditures may be requested.

I. With regard to accounts filed by trustees and other fiduciaries pursuant to Ohio Revised Code §2109.303:

1. Partial accounts shall be rendered at least biennially.

2. When presenting an Account, the trustee shall file a current list of the names and addresses of all persons interested in the trust.

3. Unless waived, the trustee shall serve notice of the hearing on an Account to the following persons whose addresses are known:
   a. All income beneficiaries.
   b. Counsel of record for any represented party.
   c. The Ohio Attorney General, Charitable Trusts Division for charitable trusts.

4. Check substitutes or credit card statements may not be sufficient to evidence payment of debts. Receipts showing specific expenditures may be requested.

J. Service of notice of hearings for all accounts may be made by ordinary mail or by personally delivering a copy of the notice to the person entitled to receive it. Evidence of notice shall be documented by the filing of an "Affidavit of Service" which sets forth the manner of service.

K. If an account is not timely filed and no arrangement has been made for an extension of the due date, a Citation to Appear shall be issued compelling the attendance of both the attorney and the fiduciary. Failure to appear at the Citation Hearing may result in the Court issuing a body attachment and writ of arrest for the attorney and/or fiduciary.

Rule 64.2 Show Cause Hearings

A fiduciary and attorney who have been cited for a show cause hearing shall personally appear. Counsel shall not appear in lieu of a cited fiduciary unless the Court grants leave for the attorney to appear in that capacity.

Rule 65.1 Land Sale Proceedings

A. When required in a land sale proceeding, the Court shall appoint one suitable and disinterested person as appraiser. If an auditor's card was previously used as the basis for

the appraisal where no one was previously appointed as an appraiser the Court shall appoint a suitable disinterested person as the appraiser.

B. All land sales that have not been concluded within six (6) months from the date of filing shall be set for a status conference. The attorney of record shall appear and describe the efforts being made to complete the case, and the fiduciary shall be present or available by telephone. A written status report may be required by the Court prior to such status conference.

Rule 66.1 Guardianships

A. An application to expend funds shall not be granted if an inventory has not been filed or if an account is overdue. The guardian of a minor ward's estate must demonstrate that the ward's parent(s) are unable to fulfill their responsibility to support the ward before the Court will consider allowing an expenditure from the ward's estate for the purpose of that ward's support, maintenance, medical care or education.

B. Attorney fee applications in a guardianship may be filed as follows:

1. In cases establishing guardianship of an estate or of person and estate, fees shall be considered at the time of filing of the inventory and subsequently at the time of the filing of each required annual account.

2. For indigent guardianship proceedings, fees shall be considered at the time of the appointment of guardian, or dismissal of the application, subject to the court's rules regarding payment of fees from the indigent guardianship fund. A Guardian Fee Application from the indigent fund must set forth the amount of any compensation the guardian received from third parties during the period covered by the application.

3. The application for payment of guardian and/or attorney fees shall be presented to the Court for approval. The Court may approve the application for fees with or without hearing.

4. Attorney fees shall be requested pursuant to Appendix B and Form B-II.

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

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

E. None of a ward's assets may be accessed through an automated teller machine, debit card, or the ward’s credit cards. Electronic payment of routine and recurring expenses is permitted upon receiving approval of an Application for Authority to Expend Funds.

F. All guardians are required to inform the Court, in writing, of a change of address and/or change of telephone number for either the ward or the guardian.

Rule 66.2 Emergency Guardianships

A. For all applications for the appointment of an emergency guardian, evidence shall be presented and a Statement of Expert Evaluation from a physician shall be presented unless otherwise ordered by the court.

B. The applicant shall exercise due diligence in giving notice of hearing to the proposed ward in all emergency guardianships.

Rule 66.3 Guardianship-Veterans Affairs

A. For all guardianship proceedings wherein the proposed ward is receiving income from the Department of Veterans Affairs, the Department of Veterans Affairs shall be a necessary party, entitled to notice, of all pleadings filed therein, including, but not limited to, the initial application for appointment, all applications for authority to expend funds, and the annual accountings.

B. All Applications for Authority to Expend Funds shall first be submitted to the Department of Veterans Affairs for review and approval prior to its submission to the Court. The Application for Authority to Expend Funds shall bear the stamp and signature of an authorized representative of the Department of Veterans Affairs to confirm its review and approval of the request.

C. The Court shall supply the guardian or the attorney for the guardian, at no cost, certified copies of any pleading filed in the proceedings, for submission to the Department of Veterans Affairs.

D. All Applications for guardian's compensation or attorney's fees shall be set for hearing, and notice shall be given to the Department of Veterans Affairs, unless a Waiver or Consent is obtained.

Rule 67.1 Estates of Minors Not Exceeding Twenty-Five Thousand Dollars

A. An application relating to funds of a minor shall be captioned in the name of the minor.

B. Unless otherwise ordered by the Court, funds of a minor shall be deposited in the sole name of the minor, with principal and interested compounded, until the minor attains the age of majority.

C. When the funds due to the minor originate from a bequest under a will, an inheritance, or a distribution from a trust, the funds may be transferred into an Ohio Transfers to Minor

Act (OTMA) account. No Verification of Receipt of Deposit is required when funds are being transferred into an OTMA account.

D. Except for funds referred to in Rule 67.1(C) the attorney for the minor, or in case the applicant is not represented, the attorney for the payor, shall be responsible to immediately deposit said funds and thereafter file a completed Verification of Receipt of Deposit (S.P. Form 22.2) within seven (7) days of the issuance of the entry.

Rule 68.1 Settlement of Claims For Injuries to Minors

A. An application for settlement of a minor's claim that exceeds twenty-five thousand dollars ($25,000.00) shall be brought by the guardian of the estate. If the net amount of the claim for injuries does not exceed twenty-five thousand dollars ($25,000.00), the application shall be brought by the parent(s) of the child or the person having custody of the child.

B. The application for settlement shall be set for hearing before the Court. The applicant as well as the minor shall personally appear at the hearing unless otherwise waived by the Court.

C. An application for approval of settlement of claim for injuries to a minor shall be accompanied by a current statement of the examining physician with respect to the injuries sustained, the extent of the recovery, and the physician's prognosis. Said statement shall be dated within ninety (90) days of the filing of the application for approval.

D. A copy of the proposed release of claims shall be attached to the application for approval of settlement of claims for injuries to a minor.

E. If the net amount of the claim for injuries does not exceed two thousand and five hundred dollars ($2,500.00), then the Court has the discretion to order the delivery of the funds to the minor’s parents or custodian.

Rule 68.2 Structured Settlements

A. Proposed structured settlements shall be subject to Court approval after hearing, on a case-by-case basis.

B. A proposed structured settlement shall be submitted to the Court at least ten (10) days before the hearing, together with all pleadings and supporting documents.

Rule 68.3 Sale of Structured Settlement Payments

A. All applications for approval of sale of structured settlement payments shall be filed and set for hearing before the Judge.

B. The application should include a statement of the income, living expenses, and other financial obligations of the person desiring to sell the structured settlement payments as well as a detailed statement as to how the sale proceeds will be applied and/or utilized by the applicant. If this statement is not filed with the application, it must be filed no later than ten (10) days before the hearing. If it is not filed by that time, the hearing shall be reset.

Rule 70.1 Settlement of Claims For Wrongful Death

A. All applications to settle claims for wrongful death shall be set for hearing unless otherwise ordered by the Court. All interested parties to the distribution of the net proceeds of the settlement shall be listed by name, residence, and relationship to the decedent on the proposed entry approving settlement or distributing wrongful death proceeds.

B. The term "interested parties" who are subject to notice are those set forth in Ohio Revised Code §2125.02.

C. A guardian ad litem may be appointed to represent the interests of any minor or incompetent persons who are potentially "interested parties. "

D. When the Court is called upon to endorse an agreed entry of distribution or to adjust the shares of distribution, notice to or consents from those "interested parties" designated above shall be required.

E. The applicant is required to appear at the hearing regarding an application to approve a wrongful death settlement or proposed distribution. An applicant shall have thirty (30) days following approval in which to file the report of distribution unless otherwise ordered by the Court.

F. The Court shall approve the report of distribution of the wrongful death proceeds only after appropriate vouchers are presented.

G. Attorney fees for completing the probate work directly related to the wrongful death settlement shall be approved by the Court and shall be paid from the contingent fee.

Rule 71.1 Attorney Fees in Decedent's Estates

A. Attorney fees are governed by the Rules of Professional Conduct and the Rules of Superintendence adopted by the Supreme Court of Ohio. The Court has the ultimate responsibility and authority to review attorney fees in decedent’s estates as required by such rules.

B. Attorney Fees for the administration of a decedent's probate estate ordinarily shall be paid at the time the fiduciary's final account or certificate of termination is prepared for filing with the Court, and such fees shall not be paid prior to two (2) weeks before the filing of the fiduciary's final account or certificate of termination.

C. The Court may, upon application and for good cause shown, approve an Application for Partial Payment of Attorney Fees without a hearing prior to the time the fiduciary's final account is filed with the Court. The grounds for approving partial payment of attorney fees may include, for example, that the payment of attorney fees provides an income tax benefit to the estate, that the estate is involved in protracted litigation, or that the administration of the estate is extended beyond twelve (12) months from the date the fiduciary is appointed because of circumstances beyond the fiduciary's and the attorney's control.

D. In all such cases, the application must state the total amount of the attorney fees and any anticipated extraordinary fees estimated to be requested for the complete administration of the decedent's probate estate. Ordinarily, partial attorney fee requests should not exceed fifty percent (50%) of the total amount of the attorney fees estimated to be requested for the complete administration of the decedent's probate estate.

E. If counsel requests a fee that is not within the guideline set forth in paragraph H below, a written application signed by the fiduciary or attorney and supported by the attorney's time records for all services, including time for services both within and outside of the guideline, shall be filed with the Court. If all of the residuary beneficiaries of the probate estate and all other parties affected by the payment of said fees have consented in writing to the payment of such fee, the Court has the discretion to approve the application. If all of the residuary beneficiaries of the probate estate and all other parties affected by the payment of said fees have not consented in writing to the payment of such fee, the application shall be set for a hearing before the Judge. Notice of the hearing shall be sent to all residuary beneficiaries of the probate estate and all other parties affected by the payment of said fees.

F. Where the fiduciary is also the attorney for the estate, or if the attorney for the estate is associated with the fiduciary's law firm, reasonable attorney fees shall be rebuttably presumed to be one-half of the guideline amount as set forth in paragraph H below. This paragraph shall not apply if the fiduciary fee is waived.

G. Except for good cause shown, attorney fees shall not be allowed to attorneys representing fiduciaries who are delinquent in filing the accounts required by Ohio Revised Code Section 2109.30, *et seq*.

H. In cases involving both probate and non-probate assets, an attorney must follow the procedures set forth in this rule to approve the amount of fees charged for work done handling the administration of the probate assets.

I. Counsel fees for the administration of a decedent's estate as set forth in Appendix B and Form B-I attached hereto, may serve as a guide in determining fees to be charged to the estate for legal services of an ordinary nature rendered as attorney for the executor or administrator in the complete administration of a decedent's estate. SUCH SCHEDULES, HOWEVER, ARE NOT TO BE CONSIDERED AS SCHEDULES OF MINIMUM OR MAXIMUM FEES TO BE CHARGED.

J. Examples of extraordinary services which may be compensated in addition to the foregoing suggested guidelines on ordinary fees are set forth in Appendix D attached hereto.

Rule 71.2 Contingent Fees

Prior to a fiduciary entering into a contingent fee agreement an application for authority to enter into the agreement shall be approved by the Court. A copy of the proposed fee agreement shall be attached to the application. All contingent fees are subject to review and approval by the Court at the time of settlement, notwithstanding the fact that the Court previously approved a fiduciary's application for authority to enter into a contingent fee agreement.

Rule 72.1 Executor's and Administrator's Commissions

A. Unless otherwise authorized by the Court, extraordinary fiduciary commissions shall not be awarded for travel expenses that would not have been incurred but for the fact that the fiduciary resides outside of the County.

B. In cases where extraordinary executor or administrator's fees are requested involving multiple fiduciaries and separate fee applications will be filed by more than one fiduciary, all fee requests shall be considered by the Court simultaneously.

Rule 73.1 Guardian's Compensation

A. Guardian's compensation shall be set by Local Rules. Compensation for services as guardian of person and estate shall be allowed not more frequently than annually, upon application and entry, and shall be supported by calculations and documentation.

B. Additional compensation, reimbursement for expenses incurred by a guardian, as well as for compensation of a guardian of the person only may be fixed by the Court upon application. No application for extraordinary guardian's compensation shall be considered unless supported by complete time records during the period covered by the fee application. The Court may require that any application for compensation be set for hearing and that notice of the hearing be given to interested parties as ordered by the Court.

C. For the purpose of computing a guardian's compensation as herein approved, the fair market value of the principal shall be determined by the guardian as of the date of his appointment and as of each anniversary thereafter. The compensation so determined may be charged during the ensuing year. The annual principal valuation shall be adjusted from time to time to reflect additions to and withdrawals from the principal of the estate, and the compensation for the remaining portion of the annual periods shall be similarly adjusted to reflect such revised valuation.

D. The compensation of co-guardians, including when separate parties are appointed as guardian of person and guardian of the estate shall not exceed the compensation that would be allowed to one guardian. In the event that the co-guardians cannot agree on the division of the compensation, the Court shall determine an equitable allocation of any guardian compensation awarded.

E. In cases where multiple guardians are involved and separate fee applications will be filed, all fee requests shall be considered by the Court simultaneously.

F. Except for good cause shown, neither compensation for a guardian, nor fees to the attorney representing such guardian, will be allowed while such guardian is delinquent in filing an inventory, account, or Guardian's Report. The Court may deny or reduce compensation if, after hearing it is determined there is such a delinquency or failure to faithfully discharge the duties of fiduciary.

G. Where the guardian is also the attorney for the guardianship, or if the attorney for the guardianship is associated with the guardian's law firm, reasonable attorney fees shall be rebuttably presumed to be one-half of the guideline amount as set forth in Appendix B and Form B-II. This paragraph shall not apply if the guardian fee is waived.

Rule 74.1 Trustee Compensation

A. Trustee's compensation shall be set by local rule and the schedule of compensation set forth in the local rule shall be filed with the Supreme Court in accordance with Common Pleas Superintendent Rule 44.

B. Additional compensation for extraordinary services may be allowed upon application. The Court may require that the application be set for hearing and that notice thereof be given to interested parties in accordance with Civil Rule 4.1. Such notice shall contain a statement of the amount for which compensation is applied.

C. A separate schedule of the calculation of a trustee's compensation, conforming to the form in local rule shall be filed with the Court at the time of payment of the fee.

D. The compensation of co-trustees in the aggregate shall not exceed the compensation which would have been paid if only one trustee had been performing the duties except where the instrument under which the co-trustees are acting provides otherwise.

E. Except for good cause shown, neither compensation for a trustee, nor fees to the counsel representing the trustee, will be allowed while the trustee is delinquent in the filing of accounts or accountings required by Ohio Revised Code §2109.30.

F. Except where the instrument creating a trust makes provisions for compensation, a testamentary trustee may charge annually for ordinary services performed by the trustee in connection with the administration of each separate trust estate a fee as established by Appendix C and Form C-IV.

G. For the purpose of computing trustee's compensation as herein provided, the fair market value of the principal of the trust property, shall be determined by the trustee as of the date of the trustee's appointment as of each anniversary thereafter. The compensation so determined may be charged during the ensuing year. The annual fair market value may be charged during the ensuing year. The annual fair market value of the principal shall be adjusted from time to time to reflect additions and withdrawals from the principal of the trust estate, and the compensation for the remaining portion of the annual period shall be similarly adjusted to reflect such revised valuations.

H. In all instances, the Court retains the right to review the reasonableness of trustee compensation.

I. Where the Trustee is also the attorney for the Trust, or if the attorney for the Trust is associated with the Trustee's law firm, reasonable attorney fees shall be rebuttably presumed to be one-half of the guideline amount as set forth in Appendix C and Form C-IV. This paragraph shall not apply if the fiduciary fee is waived.

Rule 74.2 Attorney Fees for Trust Administration

A. An application for the allowance of attorney fees for trust administration shall have attached thereto an itemized statement of the services performed, the date services were performed, the time spent in rendering the services and the rate charged per hour.

B. In all matters, the application for payment of attorney fees shall be presented to the Court, and shall be set for hearing before the Judge.

C. When multiple attorneys have been retained by the trustee or trustees, or when it is anticipated that attorney fees will be paid to more than one attorney or law firm, all fee requests shall be considered by the Court simultaneously.

D. Upon application, attorney's fees up to five hundred dollars ($500.00) will normally be approved for representing a trustee subsequently appointed including the filing of an inventory and an entry approving the inventory.

E. Upon application, attorney fees of up to seven hundred and fifty dollars ($750.00) will normally be approved for preparing and filing a biennial account and entry approving said account.

Rule 75.1 Local Rules (Special Provisions)

A. LOCATION AND CONTROL OF ASSETS

1. Decedents' Estates and Guardianships.

    a. Whenever a fiduciary resides outside the County, all estate assets shall remain in the County. For good cause shown, the Court may dispense with this requirement.

    b. Upon motion of any interested person, or sua sponte, the Court may order that all intangible property be held in joint control and possession of the fiduciary and counsel for the estate or such other suitable person or entity as the Court may approve.

B. ADOPTIONS

1. The attorney for the petitioner shall be responsible for all required notices in adoption proceedings.

2. Except in agency adoptions, if an adoption involves a child born before January 1, 1997, the putative father, if applicable, shall be named and the petitioner shall exercise due diligence in providing notice to the putative father in all proceedings. If an adoption involves a child born after January 1, 1997, petitioner's counsel shall request a search of the Putative Father's Registry and shall file the response to that request with the Court. The Court reserves the right to order additional notice to the putative father as deemed necessary.

3. Except as provided in O.R.C. §5103.16(E), there must be a lawful placement before the filing of the Petition for Adoption.

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

5. Surrogacy actions shall be presented to the Court as declaratory judgment actions. The plaintiff shall be the intended parent(s). The necessary party defendants shall be the surrogate and the surrogate's husband. The complaint must be accompanied by an affidavit from the physician rendering the retrieval of genetic material and implantation of the embryo. Counsel shall present a proposed entry approving gestational surrogacy when the complaint is filed. A copy of the surrogacy contract shall be attached as an exhibit to the complaint. After birth, counsel shall present a proposed entry registering the child's birth with a certificate of registration.

6. The Court shall provide a qualified adoption assessor.

7. All contested adoptions shall be set for a scheduling conference.

8. For all adoptions finalized out of state on children born in Ohio, where the consent hearing is performed by this Court, the petitioners shall file ODHS Forms 1693 and 1616 (Release of Identifying Information and Social Medical History Forms). Petitioners shall provide the Court with the date of finalization of the adoption in the foreign court, the name of the foreign court and the name of the adoptee after the adoption.

C. MARRIAGE LICENSES

1. All applicants for a marriage license must review the Certified Abstract of Marriage for accuracy before they sign the abstract. In the event errors are discovered on the abstract and/or marriage certificate after issuance, an Application to Correct Marriage Certificate and/or Certified Abstract of Marriage must be filed with the court. The application may be filed by the applicant(s) or some other party in interest and must be accompanied by supporting affidavits. The Court may set the application for hearing or consider it without hearing. If the court finds the application to be well taken, the court will issue its judgment entry correcting the marriage certificate and/or certified abstract of marriage.

2. In the event an officiant fails to timely return a certificate of marriage to the court, one or both of the applicants for the marriage license must file an Application to Issue Certificate of Marriage which shall be set for hearing. If both applicants for the marriage license do not join in the Application to Issue a Certificate of Marriage, the second applicant must be notified of the hearing or an explanation must be given satisfactory to the court why that individual cannot be notified. The applicant(s) bear the burden of proving to the court, by a preponderance of the evidence, that the wedding was timely solemnized by a duly authorized person pursuant to Ohio law. The court will journalize an entry finding that the subject marriage has been duly solemnized if it is satisfied that applicant(s) have met their burden of proof.

D. OMISSION/REDACTION OF PERSONAL IDENTIFIERS

1. The following rule shall apply, except with respect to documents that the Court, pursuant to law, maintains under seal.

2. When submitting a case document to the Court or filing a case document with the Clerk of Court, a party to a judicial action or proceeding shall omit personal identifiers, as that term is defined in Superintendence Rule 44, from the document. The last four digits of social security numbers and the last three digits of financial account numbers may be included.

3. Redacted or omitted personal identifiers shall be provided to the Court or Clerk only as required by law, or upon request by the Court, or to a party by motion. Redacted or omitted personal identifiers shall be filed on a separate form under seal.

4. The responsibility for omitting personal identifiers from a case document submitted to the Court or filed with the Clerk of Court shall rest solely with the party. The Court or Clerk is not required to review the case document to confirm that the party has omitted personal identifiers.

E. MISCELLANEOUS

1. Attorneys shall not act as sureties in any cause, nor shall they be permitted to become surety on the bond of any fiduciary.

2. No certified copies of Entries or Letters of Authority will be issued unless all required filings have been made or upon approval by the Court.

3. Trial Court Jury Use and Management Standards for the Probate Court shall be the same as those rules and regulations used by the County Jury Commissioner, as set forth in the County Common Pleas Court Local Rules.

4. In any type of case where either attorney fees or fiduciary fees are requested, the following rules shall apply:

   a. When assets are initially included on an inventory and are subsequently removed for the reason that they are not estate assets, the guideline fee calculation should not include such assets.

   b. Where it is subsequently determined through sale, tax appeal or otherwise that the initial valuation of real estate does not represent fair market value, the subsequent, accurate fair market valuation is to be used in calculating the guideline fee.

5. Court personnel shall not provide oral or written legal advice to any party or other individual before the Court.

Rule 78.1 Case Management In Decedent's Estates, Guardianships and Trusts

A. A Certificate of Service of Notice of Probate of Will, S.P. Form 2.4, shall be filed no later than two (2) months after the appointment of the fiduciary, unless the Court grants an extension of that time.

B. A guardian of the estate shall file an account at least biennially. The guardian of an incompetent adult shall file a Guardian’s Report, S.P. Form 17.7, with the Court no later than two (2) years after the date of the issuance of the Guardian’s Letters of Appointment and biennially thereafter.

C. The trustee of a testamentary trust shall file an account with the Court no later than two (2) years after the date of the issuance of the Trustee's Letters of Authority and biennially thereafter. A list of the current beneficiaries of the trust shall be filed with the account.

D. The fiduciary shall sign all applications, including a continuance to extend the time for filing an inventory, account, or Guardian's Report.

E. Upon citation to the attorney of record for a fiduciary who is delinquent in filing an inventory, account, or Guardian's Report, the Court may, after hearing, bar the attorney from opening any new cases in any new proceeding until all delinquent pleadings are filed.

Rule 78.2 Case Management and Pre-Trial Procedure For Civil Actions

A. After service has been perfected on all parties, the Court shall set a scheduling conference for the case.

B. A scheduling conference shall be conducted in all civil cases, except land sale proceedings, and parties may participate by telephone with prior approval of the Court.

C. Notice of the scheduling conference shall be given to all counsel of record and pro se litigants by mail, facsimile, e-mail and/or by telephone by the Court not less than fourteen (l4) days prior to the conference. Any application for continuance of the conference shall be in writing and filed with the Court in a timely manner.

D. The following decisions shall be made at the scheduling conference and all counsel attending must have full authority to enter into a binding pretrial order.

1. A discovery schedule shall be agreed upon by all parties and/or set by the Court for the completion of discovery.
2. A date for exchange of expert witnesses shall be determined.
3. A date for filing of all motions and pretrial statements shall be set, which date shall not be later than seven (7) days before the final pretrial.
4. The date for the final pretrial shall be set and shall be held approximately one (1) week prior to the trial.
5. A trial date will be set.

E. The following decisions shall be made at the final pretrial and all counsel attending must have full authority to enter into a binding final pretrial order:

1. Briefs on any legal issues shall be submitted.
2. Proposed jury instructions shall be submitted.
3. Proposed jury interrogatories shall be submitted.
4. Clients shall be present or available by telephone.
5. No motions shall be heard after the final pretrial without leave of Court and without good cause being shown in writing.

F. The trial date shall not be changed nor shall the trial be continued without order of the Court and after the showing of good cause in writing.

Rule 79.1 Special Needs Trust

In addition to the requirements of Ohio Revised Code §5111.151(F)(1), all specific needs trusts approved by this Court, or funded with Court approval, must meet the following terms and conditions:

A. The Trust document must be submitted to the Court at least ten (10) days before any hearing which may be held regarding the Trust document.

B. No expenditures may be made without prior Court approval.

C. Bond shall be posted unless all personal property belonging to the trust or deposited in lieu of bond pursuant to Ohio Revised Code §2109.13, or the trustee is exempt from bond under Ohio Revised Code §1111.21.

D. The Trustee(s) shall make and file within three (3) months after registration of the Trust with the Court a full inventory of the real and personal property belonging to the Trust, its value, and the value of the yearly rent of the real property.

E. Biennial accounts shall be filed.

F. The Trustee(s) shall invest pursuant to the Ohio Uniform Prudent Investor Act as set forth at Chapter 5809 of the Ohio Trust Code.

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FORM A – I

PROBATE COURT OF _____ COUNTY, OHIO
_____ JUDGE

IN THE MATTER OF _____

CASE NO. _____

APPLICATION TO PREPARE TRANSCRIPT

Applicant, hereby requests that a transcript of the hearing on the Application/Motion/Objection to Magistrate's Decision _____ _____ held on the _____ day of _____, _____ at _____ M. before Judge/Magistrate _____ be prepared.

_____
Applicant

_____
Typed or Printed name

_____
Address
_____

(_____)_____
Phone Number (include area code)

_____
Attorney Registration Number

ORDER TO PREPARE TRANSCRIPT

It is the **ORDER** of this court that a transcript of the above hearing be prepared. All costs to be paid by applicant directly to the court reporter. The court reporter may require a deposit. This deposit must be paid directly to the court reporter. Failure to timely pay the fee may result in sanctions being issued by the court against the applicant that ordered the transcript.

_____
Probate Judge

FORM A – II
PROBATE COURT OF _____ COUNTY, OHIO
_____JUDGE

IN THE MATTER OF _____

CASE NO. _____

REQUEST FOR DIGITAL AUDIO COPY OF HEARING ON CD

TO THE CLERK:

Please prepare a digital audio copy on CD of the hearing in the above captioned matter held on the _____ day of _____, _____, at _____ M., before Judge/Magistrate _____. The applicant agrees to pay the costs of the CD to the court.

_____
Applicant

_____
Typed or Printed name

(____)_____
Phone Number (include area code)

FORM A – III
PROBATE COURT OF _____ COUNTY, OHIO
_____ JUDGE

Fax Filing Cover Sheet
(For use in Filing Pleadings by Fax Only)

Send To:	**From:**
Attention:	**Date:**
	Phone Number:
Fax Number:	**Fax Number:**

Case Caption _____

Case Number _____

Title of Document _____

Total pages, including cover: _____

Comments:

*****This document is intended for the sole and exclusive use of the named recipient. If you have received this communication in error, please notify the contact person immediately and return the original facsimile to the address listed above.**

FORM A - IV

PROBATE COURT OF _____ COUNTY, OHIO

_____, JUDGE

ESTATE OF _____

CASE NO. _____

FIDUCIARY'S ACCEPTANCE
(EXECUTOR – ADMINISTRATOR)

I, the undersigned, hereby accept the duties which are required of me by law, and such additional duties as are ordered by the Court having jurisdiction of the subject matter of the trust, as _____.
(Executor – Administrator)

Among those duties are:

1. Collecting assets and administering same accord to law.
2. Depositing funds which come into his hands in a lawful depository located in this state.
3. Making and filing an inventory and appraisement of such assets within 90 days after appointment, unless the Court extends the time for good cause shown.
4. After inventory is filed, if other assets are discovered, filing a report of newly discovered assets within 30 days of such discovery.
5. Proceeding with diligence to pay debts.
6. Making and filing an account within nine (9) months after appointment. If the executor or administrator is the sole legatee or heir, or none of the legatees or heirs is under a legal disability, upon consent of such person, a partial accounting may be waived in which case a final account must be filed within 30 days after administration is completed.
7. For decedents with a date of death of 01/01/02 and after, a final and distributive account is due within six (6) months after appointment, unless any of certain circumstances apply and unless the Court extends the time for good cause shown.

I acknowledge that I am subject to removal as such fiduciary if I fail to perform such duties.

I also acknowledge that I am subject to possible penalties for improper conversion of the property which I hold as such fiduciary.

_____ _____

Date Signature of Fiduciary

Note: Sec. 2109.02. Every fiduciary, before entering upon the execution of a trust, shall receive letters of appointment from a probate court having jurisdiction of the subject matter of the trust.
The duties of a fiduciary shall be those required by law, and such additional duties as the court orders. Letters of appointment shall not issue until a fiduciary has executed a written acceptance of his duties, acknowledging that he is subject to removal for failure to perform his duties, and that he is subject to possible penalties for conversion of property he holds as a fiduciary. The written acceptance may be filed with the application for appointment.

FORM A – V

PROBATE COURT OF _____COUNTY.OHIO

_____, JUDGE

ESTATE OF_____,
DECEASED

CASE NO. _____DOCKET _____PAGE_____
_____

APPOINTMENT OF APPRAISER NOT NECESSARY

□ The fiduciary states that the assets of decedent's estate have a readily ascertainable value and, therefore, it is not necessary to appoint an appraiser in this matter.

□ The fiduciary accepts the County Auditor valuation for real property without further appraisal. A copy of the County Auditor's valuation is attached.

_____
Fiduciary

Attorney: _____

Address: _____

_____

Phone: _____

Reg No: _____

ENTRY APPROVING NO APPOINTMENT OF APPRAISER

The appointment of an appraiser in the above Estate is hereby waived since the appointment of appraiser is not necessary.

_____ _____
Date Probate Judge

FORM A – VI
PROBATE COURT OF _____ COUNTY, OHIO
_____ JUDGE

TRUST OR GUARDIANSHIP OR
ESTATE OF_____
CASE NO. _____

NOTICE OF HEARING ON APPLICATION FOR ATTORNEY FEES

To the following persons:

_____	_____
Name	Address
	_____
_____	_____
Name	Address
	_____
_____	_____
Name	Address
	_____

An application for allowance of attorney's fees in the within Case has been filed with this Court. Said application requests approval of attorney's fees in the amount of $_____, extraordinary attorney's fee in the amount of $_____ and reimbursement of costs advanced in the amount of $_____. A copy of the attorney's fees statement with a description of services rendered is attached to this notice.

The hearing on the Application will be held on _____ at _____ o'clock _____.M. in this Court. The Court is located at _____ _____.

You are one of those persons whose interests may be affected by the application, and if you know of any reason why such application should not be granted, you should appear and inform the Court.

[Check if applicable]

☐ This application is for allowance of attorney fees in a decedent's estate, and the requested fees (are) (are not) within the Court's guideline fee.

_____
Fiduciary/Deputy Clerk

FORM A – VII

PROBATE COURT OF _____COUNTY, OHIO
_____, JUDGE

ESTATE OF_____,
DECEASED

CASE NO. _____

CONSENT TO PAYMENT OF ATTORNEY FEES

(This form to be used in a decedent's estate when the requested attorney fees are within the Court's guideline fee)

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

In signing this consent, the undersigned hereby acknowledges.

(1) The receipt of the attorney's fee statement with a description of services rendered to the estate;

(2) The fee charged is within the Court's guideline and that said guideline fee has not been represented as a schedule of a minimum or a maximum fee to be charged.

(3) The Court need not make an independent determination that said services were reasonable, necessary and beneficial to the estate.

_____

FORM A – VIII

PROBATE COURT OF _____ COUNTY, OHIO
_____, JUDGE

ESTATE OF _____, DECEASED

CASE NO. _____

WAIVER OF NOTICE OF HEARING ON APPLICATION FOR ATTORNEY FEES AND CONSENT TO PAYMENT OF ATTORNEY FEES

(This form to be used in a decedent's estate when the requested attorney fees are outside the Court's guideline fee)

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

In signing this consent, the undersigned hereby acknowledges:

(1) The receipt of the attorney's fees statement with a description of services rendered to the estate.

(2) The fee charged is outside the Court's guideline and that said guideline fee has not been represented as a schedule of a minimum or a maximum fee to be charged.

_____

FORM A – IX
PROBATE COURT OF _____ COUNTY, OHIO
_____ JUDGE

IN THE MATTER OF_____

CASE NO. _____

APPLICATION TO EXTEND TIME

The undersigned fiduciary hereby makes application to extend the time for filing the _____ in this matter, for the following reasons: _____

_____

_____

_____ _____
Fiduciary Attorney

ENTRY EXTENDING TIME

Upon application of the fiduciary and for good cause shown, the time for filing the _____ is hereby extended to _____.

_____
Probate Judge

_____
Approved

FORM A – X
In the Court of Common Pleas, _____ County, Ohio
Probate Division
(*insert address*)
(*insert telephone number*)
(*insert Judge's name*)

At times, this Court receives written communication or correspondence from the public on matters before the Court. **Ex-Parte** (one sided) communication or correspondence with the Court is improper and as such is being returned to you and shall not be considered for any purposes, pursuant to Rule 57.2 of this Court's Local Rules.

You may wish to consult with your Attorney. This Court **strongly recommends** that every matter be handled by a competent, licensed Attorney. Although there is no specific statutory requirement that an Attorney be retained, there is a requirement that all papers and documents be filed with the court correctly.

This Court and its staff are prohibited by Section 2101.41 of the Ohio Revised Code to practice law. Therefore, this Court, or any member of its staff, is not allowed to provide legal advice to any individual concerning Court filings.

Obviously this Court desires to assist the public as much as allowed under the laws of Ohio. On the other hand, the Court is required to make decisions that involve possible contests between litigants. Therefore, you can see that the Court should not be communicating with only one side or the other. The Court asks your consideration and cooperation in this regard. Thank you very much for your attention in this matter.

APPENDIX B – COUNSEL FEE GUIDELINES

I. COUNSEL FEES IN ESTATES

A. *TOTAL PROBATE ASSETS*

Estate Value	Fee
$0 - $5,000	$500
$5,001 - $20,000	$500 + 5% over $5,000
$20,001 - $50,000	$1,250 + 3½% over $20,000
$50,001 - $100,000	$2,300 + 3% over $50,000
$100,001 - $180,000	$3,800 + 2½% over $100,000
$180,001 – UP	$5,800 + 2% over $180,000

B. *TOTAL NON PROBATE ASSETS*

Estate Value	Fee
$0 - $25,000	2%
$25,001 – UP	$500.00 + 1% over $25,000

EXCEPTION: Attorney fees for Summary Release shall not exceed $350.00

II. COUNSEL FEES IN GUARDIANSHIPS

A. Upon application, attorney fees of up to *$500.00* will normally be approved for representing a guardian subsequently appointed including the filing of an inventory and an entry approving the inventory.

B. Upon application, attorney fees of up to *$750.00* will normally be approved for preparing and filing a biennial account and entry approving said account.

III. COUNSEL FEES IN TRUSTS

C. Upon application, attorney fees up to *$500.00* will normally be approved for representing a trustee subsequently appointed including the filing of an inventory and an entry approving the inventory.

D. Upon application, attorney fees of up to *$750.00* will normally be approved for preparing and filing a biennial account and entry approving said account.

IV. EXTRAORDINARY FEES

Extraordinary fees may be awarded at the Court's discretion upon application based on the time spent, hourly rate, and services rendered. (See Appendix D)

THESE SCHEDULES ARE MERELY A GUIDE FOR DETERMINING FEES OF COUNSEL IN AN ORDINARY ESTATE, GUARDIANSHIP, OR TRUST AND SHOULD BE CONSIDERED AS NEITHER A MINIMUM OR MAXIMUM FEE SCHEDULE.

FORM B – I
IN THE PROBATE COURT OF _____ COUNTY, OHIO

In the Matter of the Estate of: **Case No. _____**

_____, Deceased

APPLICATION FOR COUNSEL FEES IN ESTATES

Now comes the undersigned attorney for fiduciary who makes application for the allowance of attorney fees in the amount of $_____.

A. *TOTAL PROBATE ASSETS*

$0 - $5,000	_____		_____$500.00
$5,001 - $20,000	_____	$500 + 5% over $5,000	_____
$20,001 - $50,000	_____	$1,250 + 3½% over $20,000	_____
$50,001 - $100,000	_____	$2,300 + 3% over $50,000	_____
$100,001 - $180,000	_____	$3,800 + 2½% over $100,000	_____
Over $180,000	_____	$5,800 + 2% over $180,000	_____
Total Probate Assets	_____	Subtotal:	_____

B. *TOTAL NON- PROBATE ASSETS*

Up to $25,000	_____	x 2%	_____
Over $25,000	_____	x 1%	_____
Non-Probate Assets	_____	Subtotal:	_____

TOTAL PER SCHEDULE: $_____
TOTAL ATTORNEY FEE REQUESTED: $_____

_____ _____
Fiduciary **Attorney for Fiduciary**

****

JUDGMENT ENTRY

This cause came on to be heard on the application for authority to pay counsel fees.

The Court finds that such fees are within the guidelines established by local court rules and that no objections or exceptions have been filed to allowance of the fees.

It is, therefore, ORDERED that the attorney fees requested in the amount of $_____ are approved.

_____
Judge

FORM B – II
IN THE PROBATE COURT OF _____ COUNTY, OHIO

In the Matter of the Guardianship of: **Case No. _____**

_____

APPLICATION FOR COUNSEL FEES IN GUARDIANSHIP

Now comes the undersigned attorney for guardian who makes application for the allowance of attorney fees in the amount of $_____ (*maximum of $500.00*) for representation of guardian subsequent to appointment including the filing of an inventory and an entry approving the inventory and $_____ (*maximum of $750.00*) for presentation and filing of a biennial account and entry approving said account.

_____ _____
Guardian **Attorney for Guardian**

****

JUDGMENT ENTRY

This cause came on to be heard on the application for authority to pay counsel fees.

The Court finds that such fees are within the guidelines established by local court rules and that no objections or exceptions have been filed to the allowance of the fees.

It is, therefore, ORDERED that the attorney fees requested in the amount of $_____ are approved.

_____
Judge

FORM B – III
IN THE PROBATE COURT OF _____ COUNTY, OHIO

In the Matter of the Trusteeship of: **Case No. _____**

_____

APPLICATION FOR COUNSEL FEES IN TRUSTS

Now comes the undersigned attorney for trustee who makes application for the allowance of attorney fees in the amount of $_____ (*maximum of $500.00*) for representation of trustee subsequent to appointment including the filing of an inventory and an entry approving the inventory and $_____ (*maximum of $750.00*) for preparation and filing of a biennial account and entry approving said account.

_____ _____
Trustee **Attorney for Trustee**

****

JUDGMENT ENTRY

This cause came on to be heard on the application for authority to pay counsel fees.

The Court finds that such fees are within the guidelines established by local court rules and that no objections or exceptions have been filed to the allowance of the fees.

It is, therefore, ORDERED that the attorney fees requested in the amount of $_____ are approved.

_____
Judge

APPENDIX C – FIDUCIARY FEE GUIDELINES

per R.C. 2113.35

I. ADMINISTRATOR/EXECUTOR FEES

A. *PROBATE ASSETS*

1) Personal Property

Estate Value	Fee
$0 - $100,000	4%
$100,001 - $400,000	$4,000 + 3% over $100,000
Over $400,000	$13,000.00 + 2% over $400,000

2) Real Estate (when not sold)
1% of appraised value for Ohio estate tax

B. *NONPROBATE ASSETS*

1% of value of property not subject to administration but includable for Ohio estate tax purposes, except joint and survivorship property

II. GUARDIAN OF ESTATE FEES (BIENNIALLY)

A. *INCOME*

$0 - $1,000	4% of Income
(Excludes income from rental property managed by guardian)	
Over $1,000	3% of Income

B. *RENTAL INCOME*
10% of gross rental property income, if managed by guardian

C. *EXPENSES*

$0 - $1,000 Expenses	4% of Expenses
(Excludes rental property expenses)	
Over $1,000	3% of Expenses

D. *PRINCIPAL*
$3.00 per thousand dollars of principal (one half (1/2) that amount if filing is made annually)

III. GUARDIAN OF PERSON FEES

Reasonable fees for serving as guardian of the person will be awarded on a case by case basis upon application to the Court and shall be supported by Affidavit.

IV. TRUSTEE FEES (BIENNIALLY)

A. *ON INCOME FROM PERSONAL PROPERTY*

6% of Gross Income

B. *ON INCOME FROM REAL PROPERTY*

1) 10% of gross income on property managed by trustee.

2) 1% of adjusted gross income on property managed by someone else provided that management fees and trustee's fee combined do not exceed 10% of gross income.

3) Adjusted gross income is gross income less operating expenses before depreciation and management fees deduction.

C. *ON PRINCIPAL*

$2.00 per thousand dollars of principal. (one half (1/2) that amount if filing is made annually)

D. *ON DISTRIBUTION OF PRINCIPAL (Other Than Termination)*

1% of reasonable market value of principal property distributed to be paid from the distribution.

V. EXTRAORDINARY FEES

Extraordinary fees may be awarded upon application at discretion of the Court. (See RC 2113.36 and Appendix D)

FORM C – I
IN THE PROBATE COURT OF _____ COUNTY, OHIO

In the Matter of the Estate of: **Case No. _____**

_____

APPLICATION FOR ADMINISTRATOR/EXECUTOR FEES IN ESTATES

Now comes the undersigned fiduciary who makes application for the allowance of Administrator/Executor fees in the amount of $_____.

A. *PROBATE ASSETS*

1) Personal Property

	Estate Value		
$0 - $100,000	_____	4%	_____
$100,000 - $400,000	_____	$4,000 + 3% over $100,000	_____
Over $400,000	_____	$13,000 + 2% over $400,000	_____
Total Personal Property	_____	Subtotal:	_____

2) Real Estate (when not sold)

Appraised Value	_____	1%	_____
		Subtotal:	_____

B. *NON-PROBATE ASSETS*

Value of Property not subject to administration but includable for Ohio estate tax purposes, except joint and survivorship property: $_____x 1% _____

TOTAL PER SCHEDULE: **$_____**
TOTAL FIDUCIARY FEE REQUESTED: **$_____**

_____ _____
Attorney for Fiduciary **Fiduciary**

****

JUDGMENT ENTRY

This cause came on to be heard on the application for authority to pay fiduciary fees.

The Court finds that such fees are within the guidelines established by local court rules and that no objections or exceptions have been filed to the allowance of the fees.

It is, therefore, ORDERED that the fiduciary fees requested in the amount of $_____ are approved.

_____
Judge

FORM C – II
IN THE PROBATE COURT OF _____ COUNTY, OHIO

In the Matter of the Guardianship of: **Case No. _____**

_____

APPLICATION FOR FEES – GUARDIAN OF ESTATE

Now comes the undersigned guardian of the estate who makes application for the allowance of guardian fees in the amount of $_____.

A. INCOME (*Excludes income from rental property managed by guardian)*

$0 - $1,000	_____	4% of Income	_____
Over $1,000	_____	3% of Income	_____
Total Income	_____	Subtotal:	_____

B. RENTAL INCOME

Total Gross Rental Property Income Managed by Guardian	_____	10% of Income	_____

C. EXPENSES (*Excludes rental property expenses*)

$0 - $1,000	_____	4% of Expenses	_____
Over $1,000	_____	3% of Expenses	_____
Total Expenses	_____	Subtotal	_____

D. PRINCIPAL

Total Principal	_____	$3.00 per thousand dollars_____

TOTAL PER SCHEDULE: $_____
TOTAL GUARDIAN FEE REQUESTED: **$_____**

_____ _____
Attorney for Guardian **Guardian of the Estate**

****

JUDGMENT ENTRY

This cause came on to be heard on the application for authority to pay guardian fees.

The Court finds that such fees are within the guidelines established by local court rules and that no objections or exceptions have been filed to the allowance of the fees.

It is, therefore, ORDERED that the guardian fees requested in the amount of $_____ are approved.

_____
Judge

FORM C – III
IN THE PROBATE COURT OF _____ COUNTY, OHIO

In the Matter of the Guardianship of: **Case No. _____**

_____

APPLICATION FOR FEES – GUARDIAN OF PERSON

The guardian of the person hereby requests reasonable compensation in the amount of $_____(*per month*). The basis for the request is more fully set forth in the affidavit attached hereto.

_____ _____
Attorney for Guardian **Guardian of the Person**

****

JUDGMENT ENTRY

This cause came on to be heard on the application for authority to pay guardian fees.

The Court finds that such fees are within the guidelines established by local court rules and that no objections or exceptions have been filed to the allowance of the fees.

It is, therefore, ORDERED that the guardian fees requested in the amount of $_____ are approved.

_____
Judge

FORM C – IV
IN THE PROBATE COURT OF _____ COUNTY, OHIO

In the Matter of the Trusteeship of: **Case No. _____**

_____

APPLICATION FOR TRUSTEE FEES

Now comes the undersigned trustee who makes application for the allowance of trustee fees in the amount of $_____.

A. INCOME FROM PERSONAL PROPERTY
Gross Income _____ 6% of Income _____

B. INCOME FROM REAL PROPERTY
Gross Income on Property
Managed by Trustee _____ 10% of Income _____
Adjusted Gross Income on
Property Managed by
Someone Else* _____ 1% of Income _____
**Can be requested provided that management fees of property managed by someone else and trustee's fee combined do not exceed 10% of gross income.*

C. PRINCIPAL
Total Principal _____ 2% per Thousand _____

D. DISTRIBUTION OF PRINCIPAL (Other than Termination)
Reasonable Market Value of
Principal Property Distributed to be
paid from Distribution_____ 1% _____

TOTAL PER SCHEDULE: $_____
TOTAL TRUSTEE FEE REQUESTED: $_____

_____ _____
Attorney for Trustee **Trustee**

****

JUDGMENT ENTRY

This cause came on to be heard on the application for authority to pay trustee fees.

The Court finds that such fees are within the guidelines established by local court rules and that no objections or exceptions have been filed to the allowance of the fees.

It is, therefore, ORDERED that the trustee fees requested in the amount of $_____ are approved.

_____
Judge

APPENDIX D – EXTRAORDINARY SERVICES GUIDELINES FOR DECEDENT'S ESTATE

Examples of extraordinary services which may be compensated in addition to the foregoing suggested guidelines on ordinary fees include, but are not limited to the following:

1. Services rendered in a court other than the Probate Court.

2. Services rendered in a contested matter in the Probate Court.

3. Services rendered in connection with the preparation or filing, audit, protest or contest of an income or gift tax return, or liability incurred by the decedent or personal representative.

4. Services rendered in connection with the settlement of estate or inheritance taxes with respect to insurance not payable to the estate, gifts in contemplation of death, or general testamentary powers of appointment not exercised by the decedent, and other negotiation not represented by assets included in the "gross value" of the estate.

5. Services rendered with respect to problems of valuation or taxability of property for estate and inheritance taxes or to the protest of such taxes.

6. Services rendered regarding preparation and filing of the federal estate tax returns.

7. Services rendered in connection with land sale proceedings.

8. Services rendered regarding sale of real estate including, but not limited to, the preparation of real estate purchase agreement, title evidence and deed of conveyance for real estate sold in the estate.

9. Services rendered regarding completion of a land contract.

10. Services rendered regarding the sale of business or business assets.

11. Services rendered regarding proceedings involving partnership.

12. Services rendered regarding proceedings to determine heirship.

13. Services rendered in connection with the performance of duties normally performable by the personal representative, but which fall to the lawyer because of the personal representative's inexperience, lack of ability, or absence from the place from which the assets of estate must be managed.

14. Services rendered in connection with matters which are unusual or excessive for the size of the estate involved.