

Richland County Court of Common Pleas
Probate Division
50 Park Avenue East
Mansfield, Ohio

Local Rules

Effective March 1, 2017 as Modified June 13, 2017



Judge Philip Alan B. Mayer

**COMMON PLEAS COURT OF RICHLAND COUNTY, OHIO
PROBATE DIVISION
LOCAL COURT RULES
AS AMENDED AND EFFECTIVE MARCH 1, 2017**

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FILED

JUN 13 2017
Richland County Court
of Common Pleas
Probate Division

STATE OF OHIO :
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RICHLAND COUNTY :
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PAGE 466 :
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IN RE :
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RULES OF THE :
PROBATE COURT OF :
RICHLAND COUNTY, :
OHIO :

AMENDED
LOCAL RULES OF THE PROBATE COURT OF
RICHLAND COUNTY

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that effective September 1, 1984, and as amended effective November 1, 2000, and as amended effective July 1, 2004, and as amended effective May 1, 2006, and as amended effective July 1, 2009, and amended effective February 29, 2012 and as amended effective February 29, 2016; and as amended effective March 1, 2017 and as most recently amended effective June 13, 2017. Rules 8 through 100.1 of the Rules of Superintendence for the Probate Division of the Court of Common Pleas are supplemented by the following rules concerning local practice which shall constitute the Local Rules of the Probate Court of Richland County, Ohio.

RULE 8

COURT APPOINTMENTS

RULE 8.1

A. Definitions

1. "Appointment" means the selection by the Court of any person or entity designated pursuant to constitutional or statutory authority, Rule of Court, or inherent authority of the Court to represent, act on behalf or in the interest of another, or perform any services in a court proceeding.
2. "Appointee" means any person, other than a court employee, receiving a court appointment who is selected by the Court. "Appointee" does not include a person or entity who is selected by someone other than the Court.

B. Court Appointments

1. Persons appointed by the Court to serve as fiduciaries, attorneys, magistrates in Involuntary Psychiatric Commitment proceedings, investigators, guardians ad litem, commissioners, trustees for suit, and the like, may be selected from lists maintained

by the Court. Persons desiring appointments should provide to the Court a summary of their qualifications and skills expertise, case load and the like together with the position(s) sought to be considered for appointment.

2. Appointments will be made from such lists taking into consideration the qualifications, skills, expertise, and caseload of the appointee in addition to the type, complexity, and requirements of the case including, but not limited to, the factors set forth in Superintendence Rule 8(D).
3. The Court will review Court appointment lists periodically to ensure the equitable distribution of appointments.

C. Compensation

1. The Court will review Court appointment lists periodically to ensure the equitable distribution of appointments as well as compensation paid to appointees (at least every five (5) years).
2. Court appointees will be paid a reasonable fee with consideration given to the factors contained in Ohio Prof. Cond. Rule 1.5, the Ohio Revised Code, and the Local Rules of Court relating to fees. Attorney fees paid from the Indigent Guardians Fund shall be set a rate not to exceed One Hundred Dollars (\$100.00) per hour. Attorney fees charged for the representation of persons alleged to be mentally ill subject to involuntary hospitalization shall be One Hundred Twenty Five Dollars (\$125.00) for an initial hearing and an additional Sixty-Two Dollars (\$62.00) if a second hearing is required. Other fiduciary – administration fees shall be in accordance with the rules as hereinafter set out.

E. Notification – Payment of Fees

1. The appointee shall serve upon any party required, or will be required, to pay the fee or any portion thereof, an itemization of the fee schedule if one exists, and/or hourly rate and/or fee likely to be charged and/or the expense advanced and/or likely to be advanced by the appointee. The notice required shall be made promptly after appointment but not later than thirty (30) days following the appointment by the Court and served by ordinary mail unless otherwise directed by the Court. If the party, or other person, required to pay a fee, or any portion thereof, claims the fee(s) are excessive or unreasonable, the burden to prove reasonableness of the fee(s) is on the appointee.

RULE 9 COURT SECURITY

Rule 9.1 - Court Security

The Court on July 13, 1995, adopted the Court Security Policy and Procedures Plan filed as Case No. 95-23-5 in the General Division of the Richland County Court of Common Pleas.

RULE 16 MEDIATION

Rule 16.1 – Mediation

The Court establishes mediation in order to increase access to justice; to increase parties' participation in the court processes and their satisfaction with the outcome; to allow cases to settle more quickly with less expense to the parties; and to expand dispute resolution resources available to the parties. The Court adopts Local Rule 16.1, as amended and effective July 1, 2009. Through Local Rule 16.16 the Richland County Probate Court incorporates by reference Chapter 2710 "Uniform Mediation Act" (UMA) and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

Rule 16.2 – Definitions

All definitions found in the "Uniform Mediation Act" (UMA) R.C. 2710.01 are adopted by this Court through Local Rule 16, including, but not limited to the following:

- A. "Mediation" means any process in which a mediator facilitates communication and negotiation between the parties to assist them in reaching a voluntary agreement regarding their dispute.
- B. "Mediator" means an individual who conducts a mediation session.
- C. "Mediation Communication" means a statement, whether oral, in a record, verbal or non-verbal, that occurs during a mediation session or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation session or retaining a mediator.
- D. "Proceeding" means either of the following:
 - 1. Judicial, administrative, arbitral or other adjudicative process, including related pre-hearing and post-hearing motions, conferences, and discovery.
 - 2. A legislative hearing or similar process.
- E. "Party" means a party who participates in a mediation session and whose agreement is necessary to resolve the dispute.

Rule 16.3 Purpose of Mediation

The purpose of mediation is to promote greater efficiency and public satisfaction through the facilitation of the earliest possible resolution for Richland County Probate cases through the use of mediation.

Rule 16.4 Mediation Referral

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

- A. Referral Process: The Court, on its own motion, or the motion of any of the parties may

refer disputed issues to mediation in whole or in part by "Notice of Scheduled Mediation" which shall, at a minimum indicate the date, time, place and contact information of the mediation.

- B. Domestic Violence: All parties and counsel shall advise the Judge of any domestic violence allegations known to them to exist or to have existed in the past, or which become known to them following entry of the order but before conclusion of all mediation proceedings, which allegations involve any two or more persons whose attendance is required by the referral order.
- C. Eligibility of Cases: The Court will determine the eligibility and appropriateness of each referral prior to the commencement of the mediation process and may decline any referral(s) deemed inappropriate.
- D. Outside Referrals: If a dispute involves such issues as mental health, mental retardation, developmental disability, or aging adults, but a guardianship case has not been filed, a party may file a motion to refer the matter to mediation. A case shall be referred to mediation if mediation is likely to resolve the dispute as a less restrictive alternative to guardianship.

Rule 16.5 Selection and Assignment of Mediator

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

- A. The court mediator may facilitate the mediation.
- B. The Court randomly assigns a mediator to the case from the Court's roster of approved mediators.
- C. Specific appointments may be made by the Court taking into consideration the qualifications, skills, expertise, and caseload of the mediator in addition to the type, complexity and requirements of the case.
- D. Subject to the approval of the Court, the Parties may select a mediator from the court roster.

Rule 16.6 Mediation Procedure

- A. In accordance with all applicable provisions of this rule, if a case is deemed appropriate by the Court, mediation will be scheduled. A mediator may meet with the parties individually prior to bringing the parties together for any reason including, but not limited to further screening. A mediator may schedule multiple mediation sessions, if necessary and mutually acceptable for the resolution of the issues in part or in their entirety.
- B. The Court shall utilize procedures for all cases that will:
 - 1. Ensure that parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany

- them and participate in mediation.
2. Screen for domestic violence both before and during mediation.
 3. Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.
 4. Prohibit the use of mediation in any of the following:
 - i. As an alternative to the prosecution or adjudication of domestic violence;
 - ii. In determining whether to grant, modify or terminate a protection order;
 - iii. In determining the terms and conditions of a protection order; and
 - iv. In determining the penalty for violation of a protection order.

Rule 16.7 Party and Non-Party Participation

- A. Parties to informal cases may voluntarily attend mediation sessions.
- B. Parties who are ordered into mediation in formal cases shall attend scheduled mediation sessions. The Court may order parties to return to mediation at any time in formal cases.
 1. Party representatives with authority to negotiate a settlement and all other persons necessary to negotiate a settlement, including insurance carriers, must attend the mediation session.
 2. In the event the parties and or their attorneys and or the insurance representatives do not attend the mediation sessions, the mediator shall report the non-compliance to the Judge.
- C. A Judge, and/or mediator may require the attendance of the parties' attorneys at the mediation sessions if the mediator deems it necessary and appropriate.
- D. If counsel of any party to the mediation becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the Judge.
- E. If the opposing parties to any case are 1) related by blood, adoption, or marriage; 2) have resided in a common residence, or 3) have known or alleged domestic violence at any time prior to or during the mediation, then the parties and their counsel have a duty to disclose such information to the mediator and have duty to participate in any screening required by the court.

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

Rule 16.8 Confidentiality/ Privilege

- A. All mediation communications related to or made during the mediation process are subject to and governed by the "Uniform Mediation Act" (UMA) R.C. 2710.01 to 2710.10, the Rules of Evidence and any other pertinent judicial rule(s).
- B. All mediation communications related to or made during the mediation process are subject to and governed by the "Uniform Mediation Act" (UMA) R.C. 2710.01 to 2710.10 and the Rules of Evidence and any other pertinent judicial rule(s). In furtherance of the confidentiality set forth in this rule, parties and non-parties desiring confidentiality of mediation communications shall execute a written "Agreement to Mediate" prior to the mediation session. If a new or different person(s) attend a subsequent session, their signatures shall be obtained prior to proceeding further in the process.
- C. All communications, negotiations, or settlement discussions by and between participants in the course of a mediation are not subject to discovery or admissible in evidence, and shall remain confidential and are protected from disclosure, except as otherwise provided by law.
- D. The mediator shall be prohibited from being called as a witness in any subsequent legal proceeding, (Except as to the terms of the settlement agreement).

Rule 16.9 Mediator Conflicts of Interest

In accordance with R.C. 2710.08(A) and (B), the mediator assigned by the Court to conduct a mediation shall disclose to the mediation parties, counsel, if applicable, and any nonparty participants any known possible conflicts that may affect the mediator's impartiality as soon as such conflict(s) become known to the mediator. If counsel or a mediation party requests that the assigned mediator withdraw because of the facts so disclosed, the assigned mediator should withdraw and request that the Judge appoint another mediator from the list of qualified mediators that is maintained by the Court. The parties shall be free to retain the mediator by an informed, written waiver of the conflict of interest(s).

Rule 16.10 Termination

If the assigned mediator determines that further mediation efforts would be of no benefit to the parties, he or she shall inform all interested parties and the Court that the mediation is terminated using the procedure required by this Court.

Rule 16.11 Stay of Proceedings

All remaining court orders shall continue in effect. No order is stayed or suspended during the mediation process except by written court order. Mediation shall not stay discovery, which may continue through the mediation process in accordance with applicable rules, unless agreed upon by the parties and approved by the Judge.

Rule 16.12 Continuances

It is the policy of this Court to determine matters in a timely way. Continuances of scheduled mediations shall be granted only for good cause shown after a mutually acceptable future date has been determined. The case may be continued only by the Judge. Except as authorized by the Court, the existence of pending motions shall not be good cause for a continuance and no continuance will be granted unless the mediation can be scheduled prior to the final pretrial.

Rule 16.13 Mediation Case Summary

At least five (5) days before the mediation, the parties shall submit to the mediator a short memorandum stating the legal and factual positions of each party, as well as other material as each party believes would be beneficial to the mediator, including but not limited to:

1. Summary or material facts.
2. Summary of legal issues.
3. Status of discovery.
4. List of special damages and summarize injuries or damages.
5. Settlement attempts to date, including demands and offers.

Rule 16.14 Mediation Memorandum of Understanding

The assigned mediator, parties or counsel, if applicable, as agreed by the parties, may immediately prepare a written memorandum memorializing the agreement reached by the parties. The "Mediation Memorandum" may be signed by the parties and counsel (if the "Mediation Memorandum" is signed it will not be privileged pursuant to R.C. 2710.05 (A) (1)). The written "Mediation Memorandum of Understanding" may become an order of the court after review and approval by the parties and their attorney, if applicable. No oral agreement by counsel or with parties or an officer of the court will be regarded unless made in open court.

Rule 16.15 Mediator Report

- A. At the conclusion of the mediation and in compliance with R.C. 2710.06 the Court shall be informed of the status of the mediation including all of the following:
 1. Whether the mediation occurred or was terminated;
 2. Whether a settlement was reached on some, all or none of the issues, and
 3. Attendance of the parties.
 4. Future mediation sessions(s), including date and time.
- B. If full agreement is reached, the report shall indicate the parties' agreement as to who

shall be responsible for outstanding court costs and who will prepare any necessary journal entries.

Rule 16.16 Payment for Mediation Services

The fee charged for the first two (2) hours of mediation services shall be paid by the Court through the Court's Mediation Fund up to a maximum of Three Hundred Dollars (\$300.00) on a per case basis. Charges for the mediator's time which exceeds the first two (2) hours shall be equally divided between the parties unless as otherwise agreed by the parties or ordered by the Court.

Rule 16.17 Miscellaneous

If any individual ordered by the Court to attend mediation fails to attend mediation without good cause, the court may impose sanctions which may include, but are not limited to, the award of attorney's fees and other costs, contempt or other appropriate sanctions at the discretion of the Judge.

**RULE 44
PERSONAL IDENTIFIERS**

Rule 44.1 Personal Identifiers- Defined

"Personal identifiers," as referred to herein, includes but is not limited to any of the following:

- A. Social security numbers, except for the last four digits;
- B. Financial account numbers, including but not limited to debit card, charge *card*, and credit card numbers;
- C. Employer and employee identification numbers;
- D. And a juvenile's name in an abuse, neglect, or dependency case, except for the juvenile's initials or a generic abbreviation such as "CV" for child victim. (Note: Division D does not apply to Probate Court Filings).

**RULE 45
OMITTING PERSONAL IDENTIFIERS**

Rule 45.1 Omitting Personal Identifiers

- A. When submitting a case document to the Court or filing a case document with a Clerk of Court, a party to a judicial action or proceeding shall omit personal identifiers from the document.

- B. When personal identifiers are omitted from a case document, the party shall submit or file that information on a separate form. This information shall be set forth on the Confidential Disclosure of Personal Identifiers Form.
- C. All personal identifiers that are omitted from a case document shall be identified within the case document according to the abbreviation listed by the party on the Confidential Disclosure of Personal Identifiers Form. Each personal identifier is to have its own abbreviation and each abbreviation must remain consistent throughout the case document.
- D. Redacted or omitted personal identifiers shall be provided to the Court or clerk upon request or a party to the judicial action or proceeding upon motion.
- E. The responsibility for omitting personal identifiers from a case document submitted to a court or filed with a 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.

Rule 45.2 Confidential Disclosure of Personal Identifiers Form

The Confidential Disclosure of Personal Identifiers Form, as referenced to rule 45.1(B) and (C), is included on the next page.

PROBATE COURT OF RICHLAND COUNTY, OHIO

ESTATE OF _____ DECEASED

CASE NO. _____

CONFIDENTIAL DISCLOSURE OF PERSONAL IDENTIFIERS

[RULE 45(D) of the Rules of Superintendence for the Courts of Ohio]

	Complete Personal Identifier	Institution	Abbreviation	Form No.	Filing Date
Ex.	123-45-6789	Social Security	6789	22.3	7/1/2009
Ex.	0001234567	Anytown Bank Checking	Anytown #1	6.1	7/1/2009
1.	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____
6.	_____	_____	_____	_____	_____
7.	_____	_____	_____	_____	_____
8.	_____	_____	_____	_____	_____
9.	_____	_____	_____	_____	_____
10.	_____	_____	_____	_____	_____

Check if additional pages are attached

Signature of Filing Party

Printed Name

Date: _____

This is page _____ of _____ pages

RULE 53

HOURS OF THE COURT

RULE 53.1 Hours of the Court

The Court and its offices shall be open for the transaction of business from 8:00 o'clock A.M. to 4:00 o'clock P.M. daily except Saturday, Sunday, and legal holidays.

RULE 55

EXAMINATION OF PROBATE RECORDS

RULE 55.1 Examination of Probate Records

Copies of open records may be obtained per Ohio Public Records Act. Certified copy(ies) may be obtained at \$1.00 per page.

RULE 57

FILINGS AND JUDGMENT ENTRIES

RULE 57.1 Street Address

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

RULE 57.2 Signatures

- A. In all matters requiring the signature of a fiduciary, the fiduciary must personally sign his or her signature, and, when required, contain the full name, current resident address, and telephone number of the fiduciary.
- B. Signatures of all fiduciaries are required when multiple fiduciaries have been appointed.
- C. Attorneys may not sign for the fiduciary.

RULE 57.3 Forwarding Copies

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

RULE 57.4 Disposition of Exhibits

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

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

**RULE 58
DEPOSIT FOR COURT COSTS**

RULE 58.1 Deposits

The business of this Court shall be conducted on a cash basis. The Court will not accept personal checks. The Court will only accept cash, money orders, cashier's checks, attorney, title company, trust company, or fiduciary account checks.

A. Application to Admit Will To Probate	\$ 63.00
(When no administration necessary)	
B. Application for Authority to Administer Estate.....	\$150.00
(Applicants are encouraged to initially deposit \$200.00 so as not to immediately exhaust the available deposit)	
C. Application to Relieve Estate from Administration.....	actual costs
(Varies as to items filed – minimum charge \$138.00)	
D. Application for Appointment of Guardian or Conservator.....	\$150.00
E. Application for Trustee for Testamentary Trust or Wrongful	\$125.00
Death Trust	
F. Petition for Adoption.....	\$150.00
G. Application for Placement.....	\$ 73.00
(Not including home study)	
H. Civil Actions.....	\$125.00
(Land sales, determination of heirs, other adverse proceedings, etc.)	
I. Estate Tax Return Only.....	\$ 63.00
(If Will filed with return - \$63.00)	
J. Exception to Inventory and Appraisal or to Account.....	\$ 10.00
K. Petition for Release of Adoption Information.....	\$105.00
L. Application for Name Change.....	\$130.00
M. Minor Settlement.....	actual costs
(Minimum charge - \$94.00)	

N. Wrongful Death Settlement..... actual costs
(Minimum charge - \$65.00)

O. Other proceedings.....actual costs as enumerated in ORC 2101.16

Applications accompanied by an affidavit of the applicant of inability to prepay or give security for court costs shall be accepted without the necessity of such deposit as a condition for filing.

RULE 58.2 Subpoena

Filing a subpoena shall require minimum deposit of Eight and No/100 Dollars (\$8.00) for in county Sheriff service and Twelve and No/100 Dollars (\$12.00) for the witness fee. Subpoenas served out of county may require additional deposits and shall include a check for witness and mileage fees made payable to the witness.

RULE 58.3 Witness Fees

Witness fees must be requested at the conclusion of the hearing for which the subpoena was issued. If not requested at that time, the fee is waived. All unused portions of the subpoena deposit will be refunded to the depositor.

RULE 60

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

RULE 60.1 Fiduciary's Acceptance

All executors and administrators shall personally sign and file the Fiduciary's Acceptance prior to the issuance of the Letters of Authority.

RULE 60.2 Appointment of Nonresident Fiduciaries

An applicant to be appointed fiduciary of a decedent's estate, or trust, who is not a resident of this state, must be in compliance with Ohio R.C. 2109.21 and use as the attorney of record an attorney licensed to practice law in this state. To assure the assets remain in Richland County, 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 a substantial amount of the decedent's personal assets in a custodial depository in this county, pursuant to Ohio R.C. 2109.13;
- B. Have a co-fiduciary who is a resident of this state;
- C. Post a bond in compliance with Ohio R.C. 2109.04.

RULE 61

APPRAISERS

RULE 61.1 Appraisers and Appraisals

- A. The following persons are disqualified from being an appraiser:
 - 1. A beneficiary of the estate;
 - 2. A person related by blood or marriage to the decedent or to the attorney for the estate or to the fiduciary for the estate.
- B. Real estate appraisals shall be made by licensed real estate agents, brokers, auctioneers, credentialed real estate appraisers, or such other persons who by experience and training are qualified to make real estate appraisals. The name, address, and qualifications of the appraiser must be set forth on Standard Probate Form 3.0.
- C. No appraiser shall be permitted to directly or indirectly purchase any of the property he or she appraises.
- D. Readily ascertainable value of real property:

Notwithstanding Sections (A) through (C) of this rule, the market value of real estate as found in the Richland County Auditor's property records may be adopted as the readily ascertainable value of the property and no further appraisal of such property shall be required except as provided under Paragraph F of this rule. A copy of said evaluation shall be attached to the applicable form.

- E. Readily ascertainable value of motor vehicle:

Notwithstanding Sections (A) through (C) of this rule, in lieu of an actual valuation by an appraiser, the market value of any motor vehicle may be established as found in the current N.A.D.A. official Used Car Guide under the category of "Clean Trade-In" or in the current Kelly Blue Book under the category of "Private Party". Any other similar motor vehicle valuation service may be used as approved by the Court. A copy of the appropriate page from the booklet or web site shall be attached to the appropriate Standard Probate Form.

- F. An administrator, executor, fiduciary, beneficiary, or creditor of a decedent's estate may file a written request with the Probate Court not later than five days before the date set for hearing on the Inventory and Appraisal that any property deemed to be appraised by readily ascertainable value shall be appraised by a suitable and disinterested appraiser as provided in Sections (A) through (C) of this rule.
- G. The Court will maintain a list of qualified appraisers who have served as an appraiser in the past which shall be accessible upon request. Any person(s) who desire(s) to be added to the list who has/have not been previously appointed may submit a written summary of credentials to the Court for the Court to determine the person's area of expertise in order to be placed upon the list of qualified appraisers.

RULE 62
CLAIMS AGAINST ESTATE

RULE 62.1 Claims Filed With the Court

A deposit of Ninety and No/100 (90.00) is required when presenting a claim against an estate with the Court pursuant to Ohio Revised Code 2117.06(A)(2). The claim shall be in the form of a complaint and filed as a civil action to be heard not on its merits, but on whether the claim is accepted or rejected.

RULE 64
ACCOUNTS

RULE 64.1 Fiduciary's Signature

- A. All Accounts and Status Reports must be personally signed by the fiduciary and contain the full name, current resident address, telephone number of the fiduciary.
- B. All fiduciaries must sign the account when multiple fiduciaries have been appointed.
- C. Attorneys may not sign for the fiduciary.

RULE 64.2 Delinquency in Filing an Account

- A. No expenditure, sale, distribution, or fee will be approved while the fiduciary is delinquent in filing an account. See also Sup. R. 78.
- B. If filing an account cannot be fully rendered when due, an application to extend administration shall be filed before the due date of the final account using standard Probate Form 13.9 in lieu thereof. A partial account may be filed and thereafter amended or supplemented together with an application to extend administration using standard Probate Form 13.9.

RULE 66
GUARDIANSHIPS

RULE 66 Guardianship of Person and/or Estate of Minors

- A. A separate guardianship must be filed and a corresponding case file established for each proposed ward. This rule is applicable for each minor child of a ward per Ohio Revised Code Section 2111.02 (A) – being the children of the ward statute.
- B. The Court will not accept for filing any guardianship for a minor where the sole purpose of the guardianship is to establish a residency for school purposes.

Unless otherwise ordered, a copy of the minor's birth certificate must be filed with an Application for Appointment of a Guardian of a Minor.

RULE 66.03A Emergency Guardianship Requirements

Pursuant to Section 2111.02, if an Emergency Guardianship or other order is being sought to prevent significant injury to the person or estate of a minor or incompetent, the person seeking such order or appointment shall comply with the following procedure:

- A. File an Application for Appointment of Emergency Guardian or Issuance of Emergency Order.
- B. File an Affidavit in Support of the Application set forth above, which should include, but not be limited to the following information: Information describing the imminent risk of significant injury to the person or property of the minor or incompetent; the nature or type of significant injuries that might result without Court order; a description and location of property that might suffer significant injury; the date the imminent risk was discovered by the applicant; the reasonable efforts that the applicant has taken to otherwise prevent significant injury without Court order.
- C. File SPF 17.1A “Supplement for Emergency Guardian of Person”.
- D. Personally file with the Court the documents noted in A, B, and C of this rule and remain available for a personal appearance before the Judge or Magistrate to respond to further Court inquiry.
- E. Within thirty (30) days of the expiration of any emergency orders issued hereto, the emergency guardian shall submit a report to the Court stating any specific action taken to prevent substantial injury to the person or estate and if an emergency guardian of the estate has been ordered, an accounting for the management of any assets of the minor or incompetent during the period of the emergency guardianship. If a guardianship of the estate is commence prior to or immediately thereafter the expiration of the emergency orders, the Court may dispense with this report if the guardian of the estate provides such information in the Inventory of the ward’s assets.

RULE 66.03B Comments or Complaints Regarding Guardianships

- A. Any comment or complaint regarding the performance of any guardian appointed by this Court shall be submitted in writing to the Court’s Chief Court Investigator.
- B. Upon receipt of the comment or complaint, the Chief Court Investigator shall forthwith send a copy of the comment or complaint by regular US mail to the guardian who is the subject of the comment of complaint.
- C. A copy of the comment or complaint shall be referred to the Court for review to determine the action necessary to dispose of the comment or complaint, including but not limited to, a referral to the prosecuting attorney or other agency for further investigation or for further hearing by the Court. If the Court determines that a hearing is required to respond to the comment or complaint, such hearing shall be scheduled forthwith. Notice of hearing shall be provided to those entitled to notice of the hearing and shall be sent by regular US mail to those identified in SPF 15.0 and such other

interested persons as determined necessary by the Court, including the person submitting the comment or complaint, the guardian, and the ward.

- D. Upon making Final Disposition of the comment or complaint, the Court shall prepare written Final Disposition and provide a copy to the person making the comment or complaint and the guardian and the Final Disposition shall be filed in the confidential guardianship file, not to be released without a showing of good cause and upon further order of the Court.
- E. The Court shall maintain a separate record regarding the nature and disposition of comments or complaints concerning guardianships.
- F. All comments, complaints, and dispositions shall be kept in the guardianship file.

RULE 66.06 Guardian Pre-Appointment Education

A. Requirement

Except as provided in division (B) of this rule, the Court shall not appoint an individual as guardian unless at the time of the appointment or within six (6) months thereafter, the applicant has successfully completed, at a minimum, a six (6) hour guardian fundamentals course provided by the Supreme Court of Ohio through the Judicial College or, with the prior approval of the appointing Court, another entity.

B. Exception

1. Any individual serving as a guardian on June 1, 2015, or has served as a guardian during the five (5) years immediately preceding that date shall have until June 1, 2016 to complete the training required under division (A) of this rule unless the appointing court waives, modifies, or extends the requirement for good cause.
2. The applicant within the time period set out in division (1) of this rule makes written request to the Court and upon a showing of good cause, is permitted to attend the Court's local guardianship training program and does so prior to the appointment as guardian or within six (6) months thereafter.

RULE 66.07 Guardian Continuing Education

A. Requirement

In each succeeding year following completion of the requirement of Sup.R. 66.06, a guardian appointed by this Court shall successfully complete a continuing education course as provided by the Supreme Court through the Judicial College of at least three (3) hours at length or as otherwise waived by the Court.

RULE 66.08E Change of Address and Phone Number

- A. A guardian shall inform the Court as to any change of address and/or contact phone number and/or e-mail of the guardian or the ward. This notification must be made within thirty (30) days of the address change and/or change of contact phone number

and/or e-mail. Failure to notify the Court under this rule may result in the guardian being removed.

- B. A ward's change of residence to a more restricted setting in or outside of Richland County, Ohio shall be subject to the Court's approval unless a delay in authorizing the change of residence would adversely affect the health and safety of the ward.

RULE 66.08G Guardian's Report and Guardian's Plan

- A. The guardian of the person shall file the biennial Guardian's Report together with a bi-annual Guardian's Plan setting forth the guardian's goals for meeting the ward's personal and if applicable, financial needs.
- B. If there is only a guardian of the estate, the guardian's biennial report and biennial plan must be filed by the guardian of the estate.

RULE 66.08L Driver License, Trust wherein the ward is a beneficiary, Power(s) of Attorney, Living Will(s), Declarations for Mental Health Treatment, and the like.

- A. The guardian shall deposit with the Court a copy of the ward's driver's license; a copy of any trust(s) wherein the ward is a beneficiary; a copy of any Power(s) of Attorney for financial purposes; a copy of any Durable Healthcare Power of Attorney; a copy of any Living Will; a copy of any Declaration for Mental Health Treatment; and any other such document known to exist as executed by the ward upon filing the application for appointment or as soon as thereafter as the applicant and/or guardian, if appointed, discovers the existence of same.
- B. Deposit of Wills - The guardian shall deposit with the Court any and all Wills of the ward known by the guardian to exist for safekeeping pursuant RC 2107.07 and if in possession of only a copy thereof, shall file a copy with the Court upon filing of the application or as soon thereafter as any such copy of a Will becomes known.

RULE 67

**ESTATES OF MINORS OF NOT MORE
THAN TWENTY-FIVE THOUSAND DOLLARS**

RULE 67.1 Separate Guardianships and Birth Certificate

- A. A separate guardianship must be filed and a corresponding case file established for each proposed minor ward. Unless otherwise ordered, a copy of the minor's birth certificate must be filed with an Application for Appointment of a Guardian of a Minor's Estate.

RULE 67.2 Attorney Responsibility

If no attorney represents the interests of the minor, the attorney representing the interest of the payor shall assume the duties imposed by Sup. R. 67(B) and (C). See also Local Rule 68.3.

RULE 68

**SETTLEMENT OF INJURY CLAIMS
OF MINORS**

RULE 68.1 Separate Case Number

Settlement of a minor's claim is a separate proceeding and shall not proceed under the case number assigned to a guardianship.

RULE 68.2 Birth Certificate

A copy of the minor's birth certificate must be filed with the Application.

RULE 68.3 Attorney Responsibility

Pursuant to Sup. R. 67(C), the attorney representing the applicants or the payor in the matter shall acknowledge responsibility for depositing the funds and providing the financial institution with a copy of the entry. The attorney shall obtain a Verification of Receipt and Deposit (Standard Probate Form 22.3) from the financial institution and file the form with the Court within seven (7) days of the issuance of the entry.

RULE 68.4 Structured Settlements

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

- A. The application shall include a signed statement from one of the following independent professionals, specifying the present value of the settlement, and the method of calculation of that value: an actuary, certified public accountant, certified financial planner, chartered life underwriter, chartered financial consultant, or an equivalent professional.
- 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:
 1. The annuity carrier is licensed to write annuities in Ohio.

2. The annuity carrier's ratings from at least two of the following organizations, which meet 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 funding to satisfy periodic payment settlements will be provided and maintained.
- D. The annuity carrier shall guarantee that there will be no premature withdrawals or hypothecation of the annuity without prior Court approval.

RULE 70

SETTLEMENT OF WRONGFUL DEATH AND SURVIVAL CLAIMS

RULE 70.1 Wrongful Death Prototype Trust

The Court has created a prototype wrongful death trust filed in the Miscellaneous Case No. 009055; however, attorneys may submit other trust forms.

RULE 71 COUNSEL FEES

RULE 71.1 Estates

When an attorney has been employed in the administration of an estate, reasonable attorney fees shall be allowed as part of the expenses of administration. In determining the reasonableness of such fees there shall be considered: The time and effort required; the complexity and difficulty of the estate and the various matters and questions involved therein, including the determination of federal and state income and estate taxes; the degree of skill required to perform these services to the best advantage of the estate; fees customarily charged in this county for such services, the amount and character of the assets, including non-probate assets includable in the gross estate for estate tax purposes, as in effect on February 29, 2012 and the liabilities of the estate; the benefits resulting to the estate from the services; the experience and ability of the attorney or attorneys performing the services; and all other relevant factors.

As a procedural matter, attorney fees which are equal to or less than the fee computed using the guideline established herein will be allowed without formal application upon hearing of the fiduciary's account showing payment thereof, in the absence of exceptions to the account or demand for the filing of a written application to fix such fees. The guideline herein is not intended to establish either minimum fees or maximum fees, and the Court at any time during administration may fix the amount of attorney fees, either on exceptions to the account or on the Court's own motion.

A request for fees in excess of the guideline established herein or for extraordinary fees shall be filed by written application and shall be set for hearing, unless all interested parties have consented in writing to such fees provided the consent is endorsed on the fiduciary account or evidenced by separate instrument filed with the account. All applications for the allowance of attorney fees shall set forth an itemized statement of the services performed, the date services were performed, and the time spent in rendering the services.

GUIDELINES FOR ATTORNEY FEES

Below is the Court's guideline for computation of attorney's fees:

1. On a Release from Administration with the approval of the applicant/commissioner – up to \$800.00 without itemization as provided in Rule 71.2 unless as otherwise requested by an interested party or the Court.
2. On a Summary Release from Administration with the approval of the applicant – up to \$500.00 without itemization as provided in Rule 71.2 unless otherwise requested by an interested party or the Court.
3. On the value of all probate assets, except real estate not sold during administration, including income there from received and accounted for by the fiduciary and on the proceeds of real estate sold during administration:
 - 5% on the first \$ 30,000
 - 4% on the next \$100,000
 - 3% on the next \$300,000
 - 2 2/1 % on the next \$500,000
 - 2% on the balance
4. On the value of real estate transferred to heirs or devisees by affidavit or certificate of transfer where no sale is involved: 2%.
5. On the value of all non-probate property subject to Ohio estate tax as in effect on February 29, 2012: 2%.

The basis of valuation for property sold by the fiduciary shall be the gross proceeds of sale, as accounted for in the fiduciary's final account or judgment entry, and for all other property the date of death value as finally fixed for purposes of computing the Ohio estate tax, as in effect on February 29, 2012.

Any attorney who serves as Executor or Administrator in the administration of an estate and who also acts as attorney for said estate or whose partner, associate or attorney employee acts as attorney for said estate shall be limited to the fee as Executor or Administrator and one-half the fee as attorney except upon formal application and approval of the Court.

COMPUTATION SCHEDULE

Below on the next page is the Court's computation schedule to compute attorney's fees. This computation schedule shall be signed by the attorney and fiduciary and filed with the final account or Certificate of Termination in the estate, and with a partial account when fees have been taken.

IN THE COURT OF COMMON PLEAS
PROBATE DIVISION
RICHLAND COUNTY, OHIO

IN THE MATTER OF THE ESTATE OF : CASE NO. _____

Deceased : APPLICATION--COMPUTATION
: ATTORNEY FEES

I. ATTORNEY FEE COMPUTATION GUIDELINE FOR ORDINARY FEES:

Computation of Maximum Fees allowed without itemization or hearing

1. Probate Assets (as valued per Ohio Estate Tax Return)

5% of \$ _____ (1st \$ 30,000)..... \$ _____
4% of \$ _____ (next \$100,000)..... \$ _____
3% of \$ _____ (next \$300,000)..... \$ _____
2 1/2% of \$ _____ (next \$500,000)..... \$ _____
2% of \$ _____ (balance)..... \$ _____

Real Estate (Transferred by Certificate)

2% of \$ _____ \$ _____

2. Non-Probate Assets (as valued per Ohio Estate Tax Return
in effect on February 29, 2012)

2% of \$ _____ \$ _____

3. Total Maximum Fees allowed without

itemization or hearing \$ _____

I UNDERSTAND THAT THE ATTORNEY FEES COMPUTED IN LINE 3 ABOVE ARE
ONLY A GUIDELINE ESTABLISHED BY THE RICHLAND COUNTY PROBATE
COURT AND THEY ARE NOT TO BE TAKEN BY ME AS THE REQUIRED MINIMUM
OR MAXIMUM ATTORNEY FEES TO BE SET IN THIS ESTATE.

Fiduciary

II. ORDINARY ATTORNEY FEES REQUESTED

(If larger than Item 3 above, attach itemized time records and unless waived, a hearing date should be requested when filing this form.)

Ordinary Fees Requested \$ _____

III. EXTRAORDINARY FEES

Extraordinary Fees Requested

(If larger than Item 3 above, attach itemized time records and unless waived, a hearing date should be requested when filing this form.).....

\$ _____

IV. TOTAL ATTORNEY'S FEES CHARGED THE ESTATE ... \$ _____

V. PRIOR FEES CHARGED TO THE ESTATE..... \$ _____

VI. TOTAL FEES REQUESTED OR ALLOWABLE THIS ACCOUNTING (Indicate partial or final)..... \$ _____

I HAVE READ AND UNDERSTAND THE ABOVE COMPUTATION OF FEES AND SUBMIT THEY ARE NECESSARY AND REASONABLE FOR THE ADMINISTRATION OF THE ESTATE FOR WHICH I AM FIDUCIARY. I THEREFORE REQUEST THE COURT'S APPROVAL OF PAYMENT OF THOSE FEES FROM THE ASSETS OF THE ESTATE.

APPROVED:

Attorney

Fiduciary

JUDGMENT ENTRY

This _____ day of _____, _____, came this matter for decision whereupon the Court finds the fee requested to be well taken and orders payment of same.

- or -

This _____ day of _____, _____, came this matter for decision whereupon the Court sets the Application for hearing on _____, the _____ day of _____, 20____, at _____ a.m. p.m. The Fiduciary is to notify all interested parties and to make a return in accordance with the law.

SO ORDERED.

Judge Philip Alan B. Mayer

RULE 71.2 Guardianship, Trust, Summary Release and Release from Administration

Attorney fees allowed as part of the expense for administering a trust, guardianship, summary release or release from administration shall be based upon the actual services performed by the attorney and the reasonable value of the services.

All applications for the allowance of attorney fees shall set forth an itemization statement of the services performed, the date services were performed, the time spent in rendering the services, and the rate charged per hour.

RULE 71.3 Payment of Fees After the Death of the Ward

After the death of the ward, the Court will consider attorney fees and guardian fees as liens on the ward's assets. If the fees are approved by the Court, the fees may be paid out of the guardianship assets and included in the final guardianship account.

The Court may require notice of the hearing on the fees be given to the estate fiduciary of the deceased ward or other interested persons.

RULE 72

COMMISSIONS OF EXECUTORS, ADMINISTRATORS, AND COMMISSIONERS

RULE 72.1 Estates, Including Releases

- A. Executor's and Administrator's Commissions (Fees) shall be in accordance with O.R.C. 2113.33. Commissioners shall receive one and one-half percent (1 ½%) of the value of the non-real estate assets to be relieved or summarily relieved from administration plus one percent (1%) of the value of the real estate not sold, relieved or summary relieved from administration.
- B. Additional compensation for extraordinary services may be allowed upon an application setting for an itemized statement of the services rendered and the amount of compensation requested. The Court may required the application to be set for hearing with notice given to interested persons in accordance with Civil Rule 73 (E).

Below on the next page is the Court's Computation Schedule to compute fiduciary fees. This Computation Schedule shall be signed by the attorney and fiduciary and filed with the final account in the estate; with a partial account when fees are sought to be taken; and with the Application to Relieve Estate from Administration or Application for a Summary Release.

PROBATE COURT OF RICHLAND COUNTY, OHIO

IN THE MATTER OF _____

CASE NO. _____

COMPUTATION SCHEDULE FOR ADMINISTRATOR/EXECUTOR FEES

O.R.C. § 2113.35

I. FULL ADMINISTRATION OF ESTATE

A. PERSONAL PROPERTY (IN ESTATE)

0	-	\$100,000	@	4%	_____
\$100,001	-	\$400,000	@	3%	_____
\$400,001	-	Up	@	2%	_____

A. TOTAL \$ _____

B. REAL ESTATE (NOT SOLD IN ESTATE)

B. 1% of value which would have been
includable on the Ohio Estate Tax Return
in effect on February 29, 2012 \$ _____

C. NON-PROBATE ASSETS (EXCEPT JOINT & SURVIVORSHIP)

C. 1% of value of property which would have been
includable on Ohio Estate Tax Return in
effect on February 29, 2012 \$ _____

RECAPITULATION

Item A. \$ _____
Item B. \$ _____
Item C. \$ _____

Total Administrator/Executor Allowable by Statute \$ _____
Fees Paid in Prior Accounts (-) \$ _____
Balance Payable \$ _____
Fee Requested \$ _____

Signature of Attorney

Signature of Administrator/Executor

To Be Attached To Estate Account

II. RELEASE FROM ADMINISTRATION OR SUMMARY RELEASE

PERSONAL PROPERTY (IN A RELEASE)

@ 1 ½ % _____

REAL ESTATE (NOT SOLD IN A RELEASE)

@ 1% _____

TOTAL \$ _____

Signature of Attorney

Signature of Commissioner

JUDGMENT ENTRY

This _____ day of _____, 20__, came this matter for decision whereupon the Court finds the fee request to be well taken and orders payment of the same.

-OR-

This _____ day of _____, 20__, came this matter for decision whereupon the Court sets the Application for hearing on _____, the _____ day of _____, 20__ at _____ a.m./p.m. The Fiduciary is to notify all interested parties and to make return in accordance with the law.

SO ORDERED.

Judge Philip Alan B. Mayer

* Note: Additional Fees may be claimed due pursuant to O.R.C. 2113.35 and Superintendent's Rule 72.

**RULE 73
GUARDIAN'S COMPENSATION**

RULE 73.1 Guardian's Compensation

Unless otherwise provided by law or ordered by the Court, a guardian may charge for his or her ordinary services an amount computed in accordance with the following schedule:

A. During each accounting period required by statute:

3% of the first \$100,000.00 of income, and
1% of the balance in excess of \$100,000.00.

3% of the first \$100,000.00 of expenditures; and
1% of the balance in excess of \$100,000.00.

B. In addition to Paragraph "A" above, an amount to be computed on the fair market value of the principal in accordance with the following schedule:

\$5.00 per \$1,000 on the first \$100,000 of fair market value of principal;
\$4.00 per \$1,000 on the next \$200,000 of fair market value of principal;
\$3.50 per \$1,000 on the next \$700,000 of fair market value of principal;
\$3.00 per \$1,000 on all over \$1,000,000 of fair market value of principal.

For the purpose of computing the principal portion of the guardian's compensation as herein provided in Paragraph "B" above, the fair market value of the principal shall be determined by the guardian as of the date of his or her 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 period shall be similarly adjusted to reflect such revised valuation.

C. The minimum compensation for a guardian shall be \$500.00 per year.

D. Any attorney who serves as guardian and who also acts as attorney for said guardianship or whose partner, associate or attorney employee acts as attorney for said guardianship shall be limited to the fee as guardian and one-half (1/2) the fee as attorney, except upon formal application and approval of the Court.

COMPUTATION SCHEDULE

Below on the next page is the Court's computation schedule to compute guardian fees. This computation schedule shall be signed by the attorney and guardian and filed with each accounting.

PROBATE COURT OF RICHLAND COUNTY, OHIO

GUARDIANSHIP OF _____

CASE NO. _____

APPLICATION / COMPUTATION OF GUARDIAN FEES
Local Rule 73.1

ACCOUNTING PERIOD FROM _____ TO _____

Income Generated by Accounting Period..... \$
3% of first 100,000 \$
1% of balance \$

Fee from Income \$

Approved Disbursements in Accounting Period.... \$
3% of first 100,000 \$
1% of balance \$

Fee from Disbursements \$

Principal at Anniversary of Appointment..... \$
\$5.00 per \$1,000 per at 100,000 \$
\$4.00 per \$1,000 per next 200,000 \$
\$3.50 per \$1,000 per next 700,000 \$
\$3.00 per \$1,000 on all over 1,000,000 \$

Fee from Principal \$

Extraordinary Fees.....
Itemize activities and attach time records.

Extraordinary Fees \$

Minimum Fee, If Applicable \$

TOTAL FEES REQUESTED: \$

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

Attorney's Signature

Guardian's Signature

JUDGMENT ENTRY

This _____ day of _____, _____, came this matter for decision whereupon the Court finds the fee requested to be well taken and orders payment of same.

- or -

This _____ day of _____, _____, came this matter for decision whereupon the Court sets the Application for hearing on _____, the _____ day of _____, 20__, at _____ a.m. p.m. The Fiduciary is to notify all interested parties and to make a return in accordance with the law.

SO ORDERED.

Judge Philip Alan B. Mayer

RULE 74

TRUSTEE'S COMPENSATION

RULE 74.1 Trustee's Compensation

Except where the instrument creating the trust makes provision 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, compensation in accordance with its fee schedule for inter vivos trusts, or if it has no such fee schedule then as set forth in Local Rule 74.1.

A. During each accounting period required by statute:

3% of the first \$100,000.00 of income, and
1% of the balance in excess of \$100,000.00.

3% of the first \$100,000.00 of disbursements from income; and
1% of the balance in excess of \$100,000.00.

B. In addition to Paragraph "A" above, an amount to be computed on the fair market value of the principal in accordance with the following schedule:

\$5.00 per \$1,000 on the first \$100,000 of fair market value of principal;
\$4.00 per \$1,000 on the next \$200,000 of fair market value of principal;
\$3.50 per \$1,000 on the next \$700,000 of fair market value of principal;
\$3.00 per \$1,000 on all over \$1,000,000 of fair market value of principal.

C. Trustees in any event, shall receive a minimum of at least Five Hundred Dollars (\$500.00) each accounting period required by statute.

Such above computed compensation shall be charged one-half (1/2) to income and one-half (1/2) to principal, unless otherwise provided in the instrument creating the trust or approved by the Court.

There may be allowed an amount equal to 1% of the fair market value of any distribution or payment from the principal of the trust property. This amount shall be charged against and deducted from the distribution or payment.

For the purpose of computing the trustee's compensation as herein provided in Paragraph "B" above, the fair market value of the trust property shall be determined by the trustee as of a date, determined by the trustee, such date to commence during the month of the original receipt of trust property and each anniversary date thereafter. At the option of the trustee, fee evaluations may be made on a quarterly basis, each evaluation to be coordinated with the original annual evaluation date as selected by the trustee – if this option is selected by the trustee, the trustee must continue to compute his trustee's fee on the quarterly valuation basis, unless upon application to the Probate Court, a change in fee valuation method is allowed.

- D. A separate schedule of the computation of trustee's compensation shall be shown in the trustee's account as a condition of its approval.
- E. Any attorney who serves as trustee and who also acts as attorney for said trust or whose partner, associate or attorney employee acts as attorney for said trust shall be limited to the fee as trustee and one-half (1/2) the fee as attorney, except upon formal application and approval of the Court.

COMPUTATION SCHEDULE

Below on the next page is the Court's computation schedule to compute trustee fees. This computation schedule shall be signed by the attorney and trustee and filed with each accounting.

PROBATE COURT OF RICHLAND COUNTY, OHIO

TRUST OF _____

CASE NO. _____

APPLICATION / COMPUTATION OF TRUSTEE FEES

Local Rule 74.1

ACCOUNTING PERIOD FROM _____ TO _____

Income Generated by Accounting Period.....		\$ _____
3% of first 100,000	\$ _____	
1% of balance	\$ _____	

Fee from Income \$ _____

Approved Income Disbursements in Accounting Period....		\$ _____
3% of first 100,000	\$ _____	
1% of balance	\$ _____	

Fee from Income Disbursements \$ _____

Principal Disbursements in Accounting Period.....		\$ _____
1% of _____		

Fee from Principal Disbursements \$ _____

Principal at Anniversary of Appointment.....	\$ _____
\$5.00 per \$1,000 per 1st 100,000	\$ _____
\$4.00 per \$1,000 per next 200,000	\$ _____
\$3.50 per \$1,000 per next 700,000	\$ _____
\$3.00 per \$1,000 on all over 1,000,000	\$ _____

Fee from Principal \$ _____

Extraordinary Fees.....
Itemize activities and attach time records.

Extraordinary Fees \$ _____

Minimum Fee, If Applicable: \$ _____

TOTAL FEES REQUESTED: \$ _____

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

Attorney's Signature

Trustee's Signature

JUDGMENT ENTRY

This _____ day of _____, _____, came this matter for decision whereupon the Court finds the fee requested to be well taken and orders payment of same.

- or -

This _____ day of _____, _____, came this matter for decision whereupon the Court sets the Application for hearing on _____, the _____ day of _____, 20__, at _____ a.m. p.m. The Fiduciary is to notify all interested parties and to make a return in accordance with the law.

SO ORDERED.

Judge Philip Alan B. Mayer

**RULE 75
LOCAL RULES**

RULE 75.1 Recording Proceedings

All hearings before this Court, if requested, will be recorded by audio-electronic recording devices and a fee in the amount of \$5 will be charged and collected as and for costs in such case. If any other recording procedure is desired, it must be provided by the requesting party, who shall make the necessary arrangements including the payment of costs. All electronically recorded transcripts of proceedings and exhibits shall be maintained by the Court pursuant to Sup. R. 26(F).

**RULE 78
PROBATE DIVISION OF THE COURT OF COMMON PLEAS -
CASE MANAGEMENT IN DECEDENT'S ESTATES, GUARDIANSHIPS,
TRUSTS, AND OTHER CONTESTED MATTERS**

RULE 78.1 Civil Actions and Other Contested Matters

For the purpose of insuring the readiness, and timely administration of all cases in the Probate Division, the following procedures shall be in effect:

- A. A pretrial conference shall be conducted in all civil cases, except in land sale proceedings, prior to being scheduled for trial.
- B. Within ten (10) days after answer day the case shall be set by the Court for a pretrial conference.
- C. Notice of the pretrial conference shall be given to all counsel of record and to all unrepresented parties by mail or telephone by the Court not less than fourteen (14) 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, not less than seven (7) days prior to the conference. All counsel of record and all unrepresented parties must attend the pretrial conference.
- D. The following decisions shall be made at the pretrial conference and all counsel attending must have full authority to enter into a binding pretrial order.
 1. A definite discovery schedule shall be agreed upon by all parties for the completion of all discovery.
 2. A definite date for exchange of expert witness reports shall be determined.
 3. A definite date for filing of all motions which date shall not be later than seven (7) days before the final pretrial conference. The date for the final pretrial conference shall be set by the Court and shall be held approximately one week prior to the trial.
 4. The date for the trial shall be set by the Court.
 5. Whether or not Mediation or other Alternative Dispute Resolution Mechanism

would be appropriate and if so, where, when, and by whom such Mediation or other Alternative Dispute Resolution Mechanism shall be had. Any such Mediation or other Alternative Dispute Resolution Mechanism shall be in accordance with Ohio Revised Code §2710.01, et seq.; Ohio Revised Code §2711.01, et seq.; Local Rule 16.1 through 16.16; or other applicable law.

- E. All parties and counsel of record must attend the final pre-trial conference.
 - 1. The Court will rule on all pretrial motions.
 - 2. No motions shall be heard after the final pretrial conference without leave of Court and without good cause being shown.
 - 3. Briefs on any legal issues, proposed jury instructions, and proposed jury interrogatories shall be submitted to the Court.
- 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.

RULE 78.2 Land Sales

All land sale proceedings which have not been concluded within six (6) months from the date of filing the complaint shall be set for pretrial conference within ten (10) days thereafter.

- A. Counsel of record and the fiduciary must attend the pretrial conference.
- B. A written status report shall be filed with the Court no later than seven (7) days prior to the pretrial conference.
- C. The status report shall address the issues as to the efforts being made to sell the real estate and close the case.

RULE 78.3 Motions

- A. Motion and response time. The moving party shall serve and file with his motion a brief written statement of the reasons in support of the motion and citations of the authority on which he relies. A party opposing the motion shall file, within ten (10) days (except motions for summary judgment) after a copy of the motion has been served upon him, a brief written statement of the reasons in opposition to the motion and citations of the authority on which he relies. Except for motions for which hearings or extended briefing schedules have been set, a motion shall be considered as submitted for decision no later than fifteen (15) days after it is filed. The Court reserves the right, however, to grant motions in appropriate circumstances without waiting the normal response time.
- B. Hearings on motions. Motions will not generally be set for hearing except (1) when required by rule or statute, (2) upon request of a party supported by justification satisfactory to the Court, or (3) upon the Court's own determination that a hearing would be helpful to the Court in resolving the motion.

- C. Proposed judgment entry. All procedural motions, all motions for additional time or leave to amend, and any other motion which is likely to be resolved by a relatively simple entry shall be accompanied by a proposed judgment entry on the motion for the use of the Court.
- D. Client's acknowledgment of continuance. An application for continuance of a hearing filed by counsel shall be accompanied by a statement signed by the client that the client is aware that the motion for continuance is being made.
- E. Motions for leave to plead. By written stipulation of the parties filed with the Court, any party may be permitted up to twenty-eight (28) days additional time in which to answer or otherwise respond to a pleading against that party which requires a response. Any motion for leave to plead which is addressed to the Court shall state (1) the facts which demonstrate good cause for the extension of time, (2) the number of previous leaves to plead and the total additional time already granted, and (3) the position of opposing counsel regarding the additional extension of time requested.
- F. Motions for leave to amend, to intervene, to join a new party, or to file a third party complaint. A motion for leave to amend a pleading, to intervene in a proceeding, to join an additional party in the proceeding, or to file a third party complaint shall be accompanied by a copy of the proposed amended or other new pleading which will be filed if leave is granted.
- G. Motions for summary judgment. Motions for summary judgment are governed by Civ. R. 56. Memoranda in opposition to summary judgment shall be filed and served on the other parties no later than five (5) days before the hearing date, and affidavits and other sworn material filed in opposition to summary judgment shall be filed and served no later than the day before the hearing date.

RULE 78.4 Judgment Entries

- A. Settlement entries. Settlement or dismissal entries shall be filed with the Court within fourteen (14) days after counsel advise the Court that a case is settled, unless leave of Court is obtained for good cause shown to file the entry later. The entry should allocate court costs. If the entry is not timely filed, the Court may enter its own order dismissing the case and assessing costs.
- B. Approval signatures.
 - 1. Entries appearing on Standard Probate Forms. Counsel is to include an approval line with signature on each entry appearing on a Standard Probate Form submitted to the Court.
 - 2. Entries prepared by counsel. When directed by the Court to prepare an entry, counsel

for the party in whose favor judgment is rendered shall prepare a journal entry within ten (10) days there-after, approve it and submit it to opposing counsel, who - within seven (7) days after its receipt - shall either approve it as accurately reflecting the ruling of the Court, or reject it. If the entry is approved as accurate, approval shall be endorsed on the entry and the entry returned to the prevailing party, who shall promptly file it with the Court. If the parties are unable to agree on the entry, the prevailing party shall submit his proposed draft to the Court within twenty (20) days after the judgment is announced, and the opposing party may file any written objections to the entry within the following five (5) days. If no entry is submitted within twenty (20) days, the Court may prepare its own entry or take such other actions as it deems appropriate in the circumstances.

- C. Assessment of costs when not specified. If the final entry in a case does not otherwise allocate and assess costs, then costs are assessed against the plaintiff(s) to the extent of plaintiff's costs deposit, with the balance (if any) of the costs assessed against defendant(s) jointly and severally.
- D. Default judgment entries. The moving party shall assure that a default judgment entry is served at the last known address(es) on the party(ies) against whom that judgment is taken.

RULE 78.5 Withdrawal of Counsel

No attorney will be permitted to withdraw as counsel for a party once that attorney has entered an appearance on behalf of that party unless (1) the attorney files a written acknowledgment signed by his client that the client understands the case will proceed according to the time schedule already fixed by the Court whether or not he has a new attorney, that he nevertheless consents to withdrawal of his attorney, and giving the client's current telephone number and address, or (2) after a hearing at which the party is present and may be questioned by the Court, or (3) there is a concurrent substitution of new counsel for the party.

RULE 78.6 Court Service on Richland County Attorneys

It shall be sufficient service or delivery by the Court or its clerk to any attorney who maintains a law office within the county of Richland for any employee or official of this Court or of the clerk of this Court to place a copy of the document or other paper in the attorneys' mailbox maintained within the Court. Any such service or delivery shall be deemed effective two business days after the date the document or other paper is placed in that mailbox. Business days are all days other than Saturdays, Sundays, or legal holidays observed by the State of Ohio.

RULE 78.7 Pleading Requirements

Attorney Registration Number. Each attorney filing a document in this Court shall include his attorney registration number issued by the Supreme Court of Ohio on every such document.

RULE 100
MISCELLANEOUS LOCAL RULES

RULE 100.1 Name Change Application for Minor

- A. An application seeking to change the name of a minor in which both parents consent shall be set for hearing without an additional deposit for an appointment of a guardian ad litem. The Court shall determine at the hearing whether or not the appointment of a guardian ad litem is necessary and, if so, shall order such additional deposit(s) as the Court deems appropriate.
- B. An application seeking to change the name of a minor in which one or both parents do not consent shall require applicant to deposit the sum of Five Hundred Dollars (\$500.00) in addition to the filing fee of One Hundred Fifteen Dollars (\$115.00) plus the cost of arranging the required publication, which shall be credited to applicant's share of the final fee charged by the guardian ad litem as determined by the Court.
- E. The deposit for guardian ad litem set out in paragraph B above is subject to reduction or waiver by the Court upon written motion upon a showing of good cause.

RULE 101 Registration of Paralegals

- A. Paralegals performing services in matters before this Court must be registered with the Court. The Court recognizes two (2) categories of paralegals: "employee paralegals," paralegals employed exclusively by and performing services for one law firm as an employee of that firm; and "independent paralegals" paralegals operating as freelance/independent contract paralegals or offering services to more than one law firm. Registration shall be on the forms prescribed by the Court.
 - 1. Employee paralegals need only be registered once, identifying the law firm and stating the paralegal services will be supervised by the attorney(s) of that law firm. An attorney from the firm and the paralegal shall sign the registration certifying that the paralegal is qualified through education, training, or work experience to assist an attorney in matters which will be filed in this Court and that an attorney from the law firm will supervise and be responsible for all services of the paralegal. In fee statements filed with the Court, services of the paralegal must be itemized separately from services performed by an attorney. The law firm shall notify the Court when the paralegal registered with the Court leaves the exclusive employment of the law firm.
 - 2. Independent paralegals shall be registered for each case in which the independent paralegal is performing services, identifying the case name, case number, and supervising attorney. The supervising attorney and the independent paralegal shall sign the registration certifying that the independent paralegal is qualified through education, training, or work experience to assist the supervising attorney in matters that will be filed in this Court and, as supervising attorney, he or she will supervise and be responsible for all services of the independent paralegal. In fee statements filed with the Court, services of the independent paralegal must be itemized separately from services performed by an attorney. Attorney fees reported in the

account shall include a disclosure of the independent paralegal fees on the Receipts and Disbursement form.

- B. In conjunction with Civ. R. 11, a paralegal may not sign any document for the fiduciary, applicant, or supervising attorney.
- C. For purposes of this rule, the Court acknowledges the definition of “paralegal” as defined in Black’s Law Dictionary as “A person who assists a lawyer in duties related to the practice of law but who is not a licensed attorney. – Also termed legal assistant; legal analyst.” Registration with the Court does not constitute certification by the Court as to the qualifications of the paralegal.
- D. Failure to comply with this rule may result in the disallowance of the fees and such other action as the Court may deem appropriate.

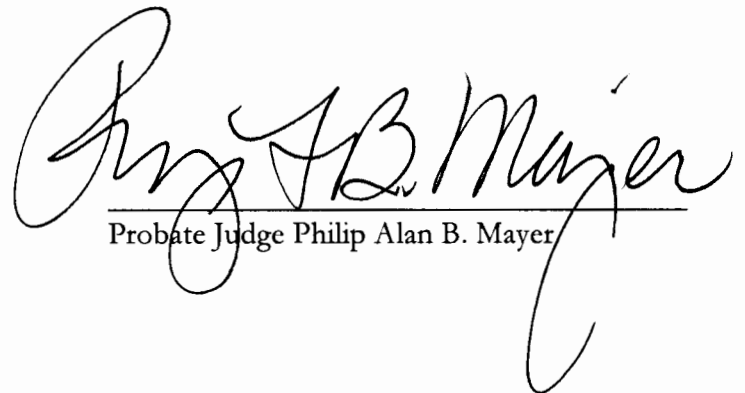
WARNING

Be advised that the Richland County Common Pleas Court, Probate Division Local Rules as set out herein above are supplemental to the Supreme Court Rules of Superintendence and in order to understand the procedures required by the Court one must be familiar with the Supreme Court’s Rules of Superintendence for the Courts of Ohio and as it affects the Probate Division Rules 26 and Rules 50 through 99. You can examine the Supreme Court Rules of Superintendence for the Courts of Ohio by accessing the rules at www.sconet.state.oh.us and choosing option “Ohio Rules of Court”. All of the Courts of Ohio Local Rules may likewise be assessed by visiting the Supreme Court website www.sconet.state.oh.us choosing option “Ohio Rules of Court” then option “Local Rules”.

SO ORDERED.

June 13, 2017

Date



Probate Judge Philip Alan B. Mayer