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5.1 INTRODUCTION

These local rules are adopted pursuant to the authority of Rule 5 of the Rules of Superintendence for the Court of Ohio as amended from time to time. These local rules are supplemental to the Rules of Superintendence for the Courts of Ohio and must be read in conjunction therewith.

The Court hereby adopts the following Rules of Superintendence, in addition to any supplemental rules contained herein: 57, 59, 60, 61, 63, 64, 65, 66, 67, 68, 69, 71, 73, 78.

5.2 EFFECTIVE DATE

The effective date of these rules is December 1, 2016.

8.1 COURT APPOINTMENTS

A. The Probate Court may request practicing attorneys with law offices in Shelby County to be available for court appointments. Every attorney who practices in Probate Court shall be deemed competent to provide legal services for those who are unable to retain counsel.

B. The Probate Court shall maintain a list of attorneys according to date of admission to practice and shall appoint the most senior first then each succeeding attorney until the list is fully used. This is to ensure the equitable distribution of appointments among persons on the list. The list shall be maintained by the Chief Deputy Clerk. The list shall be reviewed annually for additions or deletions.

C. The following cases or proceedings are examples where the Court may appoint counsel:

1. Counsel for guardian of an indigent ward.
2. Counsel for a ward wishing to terminate guardianship.
3. Counsel for a Respondent for whom proceedings have been filed under Chapter 5122 or 5123 of the Revised Code.
4. Guardian ad litem for minors seeking a settlement of a claim for personal injuries.
5. Guardian ad litem for minors in land sale proceedings or similar cases.
6. Any other probate matter requiring the Court to appoint counsel for a party.

D. Compensation for Court appointed counsel shall be paid at the rate of \$75.00 per hour with a maximum of \$400.00 for the first year and \$300.00 annually thereafter. The attorney shall document the time spent in the case. If the attorney is both guardian and counsel for the guardian, the attorney shall document the time spent in each capacity. Postage fees (other than for overnight, certified or registered mail, or certificate of mailing), copy costs, and telephone charges shall be considered part of the legal services of an ordinary nature rendered by the attorney. An attorney may be reimbursed for the advancement of other costs and expenses, such as overnight, certified and registered mail, court deposits, court costs, vehicle titles, recording fees and death certificates. However, all such reimbursements are subject to Court review. Any disbursements listed on an account as reimbursement for costs and expenses advanced shall include the language "as defined and permitted by Local Rule of Court".

E. Attorneys serving as Guardians for indigent wards shall be compensated at the rate of \$50.00 per hour to the maximum of \$300.00 per year. If the attorney is both guardian and counsel for the guardian, the attorney shall document the time spent in each capacity.

F. Lay persons appointed as Guardians for indigents shall be compensated at the rate of \$25.00 per hour to the maximum of \$200.00 per year.

G. Court appointed counsel shall be paid a reasonable fee with consideration given to the factors contained in DR 2-106 of the Code of Professional Responsibility, the Ohio Revised Code and these Local Rules. The Court will consider an application for fees in excess of the maximum limit allowed by this Rule when the type, complexity and requirements of the case are such that the maximum is an unreasonable fee.

H. In any case where the indigent client receives a pecuniary benefit, the Court shall consider compensation for counsel as if retained and may order the client to pay all or part of the fee. Compensation will also be paid from any cash assets in the estate.

9.1 SECURITY PLAN

Pursuant to a Supreme Court of Ohio resolution dated July 26, 1995, the Shelby County Probate Court has determined the entire Security Plan as submitted to the Supreme Court of Ohio, effective November 1, 1999, be maintained as confidential and not a matter of public record.

11.1 RECORDING OF PROCEEDINGS

The Court will make an audio and video recording of the proceedings as the record of the Court. Parties who desire to have a stenographic record of the proceedings must make their own arrangements for a court reporter at least twenty-four (24) hours prior to the scheduled hearing. The costs of the stenographic record shall be paid by the requesting party unless otherwise ordered by the Court. The original audio electronic recording of the proceedings will not be made available to the parties. Arrangements must be made with the Court to have proceedings copied at a cost of Ten and No/100 Dollars (\$10.00) per disc, or transcribed by a stenographer approved by the Court. Discs of all electronically recorded proceedings will be maintained by the Court for two (2) years from the date of the hearing. Any interested person desiring to preserve the record beyond that period must make arrangements to have the record transcribed.

16.1 MEDIATION

A. After the filing of an estate, guardianship application, trust, or any other action, the Court, on its own motion or the motion of any of the parties, may refer disputed issues to mediation.

B. The mediation sessions may be held until all issues are resolved in a manner acceptable to the disputing parties, or until the mediator determines that continued mediation would not be productive.

C. The Court may order parties to participate in or return to mediation at any time.

D. Statements made during a mediation session shall be considered compromise negotiations and are not admissible as evidence pursuant to Evidence Rule 408. Mediators will not be permitted to testify regarding the substance of the mediation, including but not limited to, cooperation or noncooperation of the parties.

E. To be accredited and appointed by the Court, a mediator shall possess the following qualifications:

1. Be an attorney in good standing with the Supreme Court of Ohio;
2. Have five (5) years of experience in handling probate matters; and,
3. Have completed forty (40) hours of advanced mediation training, which has been approved for Continuing Legal Education and is approved by the Court.

F. Referral to mediation by the Court shall be by "Notice of Mediation" which shall indicate the time, place of the mediation, and the name and telephone number of the mediator.

G. The parties are equally responsible for paying one-half (1/2) of the mediator's fee for the first mediation session. The Court will pay the remaining one-half (1/2) of the fee for the first mediation session unless otherwise ordered. A mediation session is defined as a four (4) hour period. If continued mediation sessions are necessary, the mediator's fee shall be borne equally by the parties, unless otherwise ordered by the Court. The Court will determine the rate at which the mediator will be paid. The mediator's fee will be determined by the complexity of the issues in the matter being mediated. Any additional expenses associated with the mediation must be preapproved by the Court.

H. In compliance with Sup. R. 16, if the parties wish, their attorneys and other individuals they designate are

allowed to accompany them and participate in mediation. At the outset of the mediation the parties are to be asked if they have ever been the victim of domestic violence. The parties are to be encouraged to seek legal counsel and support services, including victims and suspected victims of domestic violence. Mediation is not to be used in any of the following:

1. As an alternative to the prosecution or adjudication of domestic violence;
2. In determining whether to grant, modify or terminate a protection order;
3. In determining the terms and conditions of a protection order; and,
4. In determining the penalty for violation of a protection order.

26.1 COURT RECORDS MANAGEMENT AND RETENTION SCHEDULE

Pursuant to Rule 26 (G) of the Rules of Superintendence for the Courts of Ohio, the Probate Division of the Court of Common Pleas, Shelby County, Ohio adopts Superintendence Rules 26, 26.01 and 26.04 as the Records Management and Retention Rules for this Court, with the following exception to Rule 26.04(E)(8):

All other records: All other records shall be retained for twelve years after the date the case, cause, proceeding is closed or completed, except for juror information and documents as anticipated by the Ohio Trial Court Jury Use and Management Standards received (by the Court) in proceedings in the Court's civil docket which shall be retained for two years from the date the jury was discharged by the Court.

44.0 PUBLIC ACCESS RULES

The Probate Division of the Court of Common Pleas, Shelby County, Ohio adopts Rules 44 through 47 of the Rules of Superintendence for the Courts of Ohio as the Public Access Rules for this Court.

51.1 FORM AVAILABILITY

Approved forms for use in the Shelby County Probate Court are available at the Probate Clerk's Office and on our website, www.shelbycoprobate.org.

52.1 COMPUTERIZED FORMS

Computer generated forms must comply with the specifications and format outlined by the Rules of Superintendence. The signature of the applicant or attorney constitutes a certificate that the computer generated forms comply with the rules.

All computer forms presented for filing must be generated with the exact wording as well as blank lines as they appear in the uniform forms.

53.1 HOURS OF COURT

The Probate Court shall be open for the transaction of business from 8:30 a.m. to 4:00 p.m. daily Monday through Friday, except legal holidays.

54.1 CONDUCT IN COURT

- A. Proper decorum in the Court is necessary for the administration of justice.
- B. In any preliminary Probate matter presented to the Court, the Court may restrict the attendance at said hearing to next of kin, interested parties and their counsel.
- C. No radio or television transmission or voice recording other than equipment supplied by the Court for purposes of maintaining a record of proceedings shall be permitted without the express consent of the Court in advance and pursuant to C.P. Sup. R. 11.

55.1 REMOVAL OF FILES

The Clerk shall not permit any of the files to be taken from the Clerk's office except in compliance with this rule.

A. No person shall be permitted to take a file from the Clerk's office containing an original will or codicil. **SAID WILL OR CODICIL SHALL BE REMOVED BY THE CLERK BEFORE THE FILE IS REMOVED.** All files removed from the Clerk's office may be taken for a period of two (2) business days. The Clerk shall release the file only on proper receipt. No attorney or law firm may withdraw more than two (2) files at a time.

B. Attorneys having offices in Shelby County may remove files without the permission of the Court subject to a revocation of that privilege if there are two or more violations of time periods.

C. All other persons, including attorneys not having offices in Shelby County, shall first obtain the written approval of the Court.

55.2 CHARGES FOR COPIES

Copies of any public records maintained in the Clerk's Office of the Probate Court of Shelby County, Ohio may be obtained by any person at a cost of \$.10 per page.

57.1 FACSIMILE FILINGS

The provisions of this local rule are adopted under Civ.R.5(E) and Civ.R.73(J).

Pleadings and other papers may be filed with the Probate Court Clerk's Office by facsimile transmission to (937) 498-7260 subject to the following conditions:

APPLICABILITY

- A. These rules apply to probate proceedings in the Shelby County Probate Court.
- B. These rules do not apply to adoption and mental illness/mental retardation proceedings. In these proceedings no facsimile transmission of documents will be accepted, with the exception of an Affidavit of Mental Illness in which the Affiant is located out of this county.
- C. The following documents will not be accepted for fax filing: original wills and codicils, documents required to be certified prior to filing.

ORIGINAL FILING

- A. A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Probate Court Clerk's Office but must, however, maintain in his or her records and have available for production on request by the court the source document filed by fax, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.
- B. The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.

DEFINITIONS

As used in these rules, unless the context requires otherwise:

- A. A "facsimile transmission" means the transmission of a course document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.
- B. A "facsimile machine" means a machine that can send and receive a facsimile transmission.
- C. "Fax" is an abbreviation for *A*facsimile*@* and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

COVER PAGE

- A.** The person filing a document by fax shall also provide therewith a cover page containing the following information [sample cover page form attached]:
- I. the name of the court;
 - II. the title of the case;
 - III. the case number;
 - IV. the title of the document being filed;
 - V. the date of transmission;
 - VI. the transmitting fax number;
 - VII. an indication of the number of pages included in the transmission, including the cover page;
 - VIII. if a case number has not been assigned, state that fact on the cover page;
 - IX. the name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available; and
 - X. if applicable, a statement explaining how costs are being submitted.
- B.** If a document is sent by fax to the Probate Court Clerk's Office without the cover page information listed above, the Clerk may, at its discretion:

Enter the document in the Case Docket and file the document; or
Send a faxed notice to the sending party of a failed fax filing.

SIGNATURE

- A.** A party who wishes to file a signed source document by fax shall either:
- fax a copy of the signed source document; or
 - fax a copy of the document without the signature but with the notation *A/s/@* followed by the name of the signing person where the signature appears in the signed source document.
- B.** A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.

EXHIBITS

- A.** Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.
- B.** Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed, and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court [sample exhibit filing notice attached].

TIME OF FILING

- A.** Subject to the provisions of these rules, all documents sent by fax and received by the Clerk shall be considered filed with the Clerk's Office as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. However, the fax machine will be available to receive facsimile transmission of documents on the basis of 24 hours per day, seven days per week including holidays.
- B.** The Clerk's Office may, but need not, acknowledge receipt of a facsimile transmission.
- C.** The risks of transmitting a document by fax to the Clerk's Office shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk's Office through whatever technological means are available.

FEES AND COSTS

- A.** No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court costs and fees have been paid. Court costs and fees may be paid by cash, check or money order. Documents tendered to the Clerk without payment of court cost and fees, or with incomplete information on the charge authorization or request, or which do not conform to applicable rules will not be filed.
- B.** No additional fee shall be assessed for facsimile filings.

LENGTH OF DOCUMENT

Facsimile filing shall not exceed twenty (20) pages in length. The filer shall not transmit service copies by facsimile.

EFFECTIVE DATE

These local rules shall be effective January 1, 2015, and shall govern all proceedings in actions brought after they take effect and also further proceedings in pending actions, except to the extent that, in the opinion of the court, their application in a particular action pending on the effective date would not be feasible or would work an injustice, in which event, the former procedure applies.

57.2 FORWARDING COPIES

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

57.3 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 filed in the Court 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. See also Local Rule 26.1.

58.1 SECURITY DEPOSITS FOR COURT COSTS

Advance deposits for court costs shall be required in accordance with the schedule attached as [Appendix A](#).

60.1 APPOINTMENT OF NON-RESIDENT 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 Shelby 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.

61.1 APPRAISERS & APPRAISALS / INVENTORY

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

1. A person related by blood or marriage to the decedent;

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

B. Real estate appraisals shall be made by licensed real estate agents, brokers, auctioneers, credentialed real estate appraisers, real estate loan officer of local financial institutions, or such other persons who by experience and training are qualified to make real estate appraisals. A licensed real estate agent or broker who is the listing broker for the sale of the real estate is not disqualified as an appraiser.

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

D. Readily ascertainable value of real property, including mobile homes, modular homes and manufactured homes: Notwithstanding sections (A) through (C) of this rule, the market value of real property, including mobile homes, modular homes and manufactured homes as found in the Shelby County Auditor's property records shall be accepted as the readily ascertainable value of the property and no further appraisal of such property shall be required except as provided under Paragraph H of this rule. A copy of said evaluation shall be attached to Form 6.1 - Schedule of Assets - or Form 5.1 - Assets and Liabilities of Estate to be Relieved from Administration – or Form 5.10 – Application for Summary Release from Administration, whichever is applicable.

E. Readily ascertainable value of motor vehicles, ATVs, motorcycles, side cars, snowmobiles, trailers, utility vehicles, power boats, sailboats, personal watercraft, outboard motors, boat trailers, travel trailers/fifth wheels, motor homes, camping trailers, truck campers, and park models:

Notwithstanding sections (A) through (C) of this rule, the market value of any motor vehicle, ATVs, motorcycles, personal watercraft, side cars, snowmobiles, trailers, utility vehicles, power boats, sailboats, personal watercraft, outboard motors, boat trailers, travel trailers/fifth wheels, motor homes, camping trailers, truck campers, and park models as found in a current, nationally recognized used car guide, by determining the median value of the trade-in value and retail value 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 H of this rule.

However, if the median value of the trade-in value and retail value are not available in the current, nationally recognized used car guide, then the Court will accept the retail value and it 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 H of this rule.

A copy of the appropriate page(s) from said current, nationally recognized used car guide shall be attached to Form 6.1 - Schedule of Assets, or Form 5.1 - Assets and Liabilities of Estate to be Relieved from Administration, or Form 5.10 – Application for Summary Release from Administration.

F. Description and Valuation of Stock:

(1) If the stock is publicly traded and its valuation obtained from any recognized stock exchange or over-the-counter quotation be listed.

(2) If the stock represents an investment in a closed corporation, its value must be made by a duly appointed and qualified appraiser.

G. Items of household goods are not required to be individually listed and individually valued.

H. An administrator, executor, fiduciary, beneficiary, or creditor of a decedent's estate may file a written request

with the Probate Court not later than the date set for hearing on the Inventory and Appraisal pursuant to R.C. 2115.16 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.

I. Unless there is a dispute, or an appraisal is required for other purposes, a Court-appointed appraiser shall not be necessary in estates relieved from administration.

J. Inventory and Appraisal and Hearing: the Fiduciary shall provide Notice of Hearing on Inventory to the following interested parties: surviving spouse, next of kin, legatees and devisees, by regular U.S. Mail, and/or may obtain a Waiver of Notice of Hearing on Inventory from those interested parties. The Fiduciary shall then file an Affidavit of Service of Notice of Hearing, along with said Notices and/or Waivers, and the Orders on Filing/Order Approving Inventory and Appraisal no later than the date set for hearing of said Inventory.

If, however, Waivers of Notice of Hearing on Inventory from all interested parties and the Affidavit of Service of Notice of Hearing are filed simultaneously with the Inventory and Appraisal, and no exceptions have been filed, the hearing on said Inventory shall be had before the Court forthwith and the Inventory shall then be allowed and confirmed.

K. Amended Inventory: When an Amended Inventory and/or Amended Schedule of Assets is/are filed, the same requirements as outlined in Paragraph J of this Rule shall be followed.

62.1 CLAIMS AGAINST ESTATE/INSOLVENCY PROCEEDINGS

A. The Court shall set a hearing on a Representation of Insolvency filed with the Court. The Executor or Administrator shall cause written notice of the hearing to be served pursuant to R.C. 2117.17 and Civil Rule 73. Proof of service of notice and all waivers of service shall be filed with the Court.

B. Notice of the Court's Order disapproving the allowance of a claim shall be served upon said claimant by the Executor or Administrator pursuant to R. C. 2117.17, 2117.11, and Civil Rule 73.

C. Any claimant served by the Executor or Administrator with Notice of the Court's Order disapproving the allowance of the claim shall be exempt from the service requirement for Notice of Hearing on Account as defined in Local Rule 64.1, Paragraph F (creditors designated as interested party).

64.1 ACCOUNTS

A. All accounts must be personally signed by the fiduciary and contain the full name, current address and telephone number of the fiduciary, if different from the name, address and telephone number listed on the application to administer.

B. All fiduciaries must sign the account when multiple fiduciaries have been appointed.

C. For decedent's estates with a date of death 1/1/02 and after, a final account or certificate of termination is due six months from the date of the appointment of fiduciary. If a final account or certificate of termination cannot be filed in six months, either an application to extend administration or a notice to extend administration must be filed. A status report must be filed with any partial account subsequently filed. All subsequent accounts must be filed on an annual basis unless the Court orders otherwise. Accounts not filed in compliance with this rule shall be subject to citation.

D. For guardianships and trusts, the first account shall be filed no later than one (1) year following the date of the appointment and all subsequent accounts shall be filed on an annual basis, unless otherwise ordered by the Court.

E. Copies of the account shall be served as follows.

1. Intestate Estate. No account shall be approved unless there is a certificate filed by the fiduciary that a copy of

the account as filed has been personally served or mailed by ordinary U.S. Mail to the surviving spouse and all next of kin in an intestate estate.

2. Testate Estate. No accounts shall be approved unless there is a certificate filed by the fiduciary that a copy of the account as filed has been personally served or mailed by ordinary U.S. Mail to the surviving spouse and all the beneficiaries at the addresses listed in the file except corporate or charitable beneficiaries.
3. Guardianships. No account shall be approved unless there is a certificate filed by the guardian that a copy of the guardian's account as filed has been personally served or mailed by ordinary U.S. Mail to all next of kin of the ward who reside in Ohio.
4. Trusts. No account shall be approved unless there is a certificate filed by the fiduciary that a copy of the account as filed has been personally served or mailed by ordinary U.S. Mail to all the beneficiaries of the trust.

F. Hearing on Account: the Fiduciary shall provide Notice of Hearing on Account to interested parties by certified mail, return receipt requested, and/or may obtain a Waiver of Notice of Hearing on Account from those interested parties. The Fiduciary shall provide Notice of Hearing on Account to creditors by ordinary mail or may obtain a Waiver of Notice of Hearing on Account from those creditors. The Fiduciary shall then file an Affidavit of Service of Notice of Hearing, along with said Notices with the attached signed certified mail card(s) and/or Waivers as to interested parties and any Waivers as to creditors, no later than the date set for hearing of said Account.

Interested parties for an Account are designated as:

Intestate Estates: surviving spouse and all next of kin

Testate Estates: surviving spouse and all beneficiaries

Creditors for an Account in intestate or testate estates are designated as: those creditors who have properly and timely presented claims in compliance with Ohio R. C. 2117.06 but who at the time of the filing of the account have not had their claims satisfied. Please see Local Rule 62.1 (C) regarding a Court Order disapproving the allowance of a claim in insolvency proceedings.

Guardianships/Conservatorships: all next of kin of the ward who reside in Ohio

Trusts: all beneficiaries of the trust

G. Amended Account: When an Amended Account and/or Amended Receipts and Disbursements is/are filed, the same requirements as outlined in Paragraphs E and F of this Rule shall be followed.

H. Any disbursements listed on an account as reimbursement for costs and expenses advanced shall include the language "as defined and permitted by Local Rule of Court".

64.2 DELINQUENCY IN FILING AN ACCOUNT

No expenditure, sale, distribution, or fee will be approved while the fiduciary is delinquent in filing an account. See also Sup.R.78.

64.3 VOUCHERS

Where the fiduciary is represented by counsel, vouchers in support of an account are not required unless the court determines otherwise.

In all other cases, the court requires vouchers or a statement from a financial institution specifying the check amount, payment, date and payee to be displayed when filing accounts.

In lieu of submitting vouchers or statements from financial institutions in a solvent decedent's estate, the fiduciary may file with the account statements from all of the beneficiaries acknowledging that each received a copy of the account, that he or she consents to the filing of the account and the date of the consent.

64.4 BOND

An account will not be accepted for filing unless the bond, when required, is sufficient to cover twice the sum of the

value of the personal property assets on hand plus one (1) year's projected income.

Upon application and hearing, the bond may be waived by the Court for good cause shown and with the consent of all beneficiaries capable of giving consent.

64.5 EVIDENCE OF ASSETS

The Court requires that all assets be documented at the time of filing a partial account and available to be exhibited to a deputy clerk.

66.0 GUARDIANSHIPS

A. The Court hereby adopts Rules 66.01 – 66.09 of the Rules of Superintendence *in addition* to the guardianship rules outlined herein.

B. A separate guardianship must be filed and case file set up for each proposed ward.

C. Emergency Guardianship (R.C. 2111.02):

1. Required pleadings: Motion, Statement of Expert Evaluation, Supplement for Emergency Guardian of Person, Order.
 - a. NOTE: There are NOT Standard Probate Forms for the appointment of an emergency guardian. However, Standard Probate Forms for the Statement of Expert Evaluation and Supplement for Emergency Guardian of Person can be obtained from our office or from our web site.
2. Required Deposit (See appendix “A”) OR Financial Disclosure/Affidavit of Indigence form.
3. Service of any order issued shall be served upon the incompetent or minor as soon as possible after its issuance.
 - a. Process server shall be selected by applicant and the Order shall appoint said process server and direct him/her to make service on the ward.
 - b. Proof of service shall be filed with the Court after service has been made.
4. Extension of 72 hour Emergency Guardianship:
 - a. FIRST request for extension
 1. This Court will only grant one (1) extension with good cause shown, without hearing, of thirty (30) days for an emergency guardianship.
 2. The first thirty (30) day extension request must be submitted to the Court prior to the expiration of the original seventy-two (72) hour emergency guardianship.
 - b. SECOND request for extension
 1. Any further requests for an extension of the emergency guardianship shall be set for hearing, with notice to be served by regular U.S. Mail on the next of kin of the ward who reside in the State of Ohio, at least seven (7) days prior to the hearing.
 2. Counsel shall provide an Entry Setting Hearing with directions to the Clerk for serving the next of kin, with names and complete addresses provided.
 3. Any additional requests for an extension, after the first request, shall be filed with the Court prior to the expiration of the 30 day extension, with enough time to serve notice on the next of kin (see above) and hold the hearing prior to the time the first 30 day extension expires.
 - c. If applicable, Form 17.0 – Application for Appointment of Guardian of Alleged Incompetent OR Form 16.0 – Application for Appointment of Guardian of Minor shall be filed with the Court immediately, in order to perfect service on the next of kin pursuant to the Rules of Civil Procedure, to permit time for the Court Investigator to serve notice on the ward and file a report with the Court, and to hold a hearing on the Application

for Appointment, all prior to the expiration of the thirty (30) day extension of the emergency guardianship.

D. Court Investigators

The Court will designate an investigator for each application for appointment of guardian of alleged incompetent filed, and will notify the applicant, or their attorney, of said designation. The applicant shall be responsible for providing payment of the investigator fee(s) directly to the investigator prior to the investigator performing any services. Court investigators under contract with the Court shall be paid a flat fee of \$125.00 for their services in a guardianship of incompetent case for the initial investigation, service on the ward, service on the administrator of a facility, if applicable, and report to the Court. Any subsequent service on the ward by the investigator, as requested by the Court, shall be paid at a flat fee of \$25.00.

66.03 LOCAL GUARDIANSHIP RULES

A. Comments or complaints regarding the performance of guardians appointed by this Court shall be submitted in writing to this Court c/o the Chief Deputy Clerk by any of the following means:

- Electronic mail to juvenileprobate@shelbycoprobate.org
- Regular U.S. mail to Shelby County Probate Court, P.O. Box 4187, Sidney, OH 45365
- Hand delivery to the Probate Court Clerk's Office, County Courthouse, Second Floor, Sidney, OH 45365

The person making the comments or complaints shall provide the Court with their name and address so that the Court may notify said person of any hearing dates and/or the disposition of said comments or complaints.

B. A copy of any comments or complaints filed regarding a guardian's performance shall be provided to the guardian who is the subject of the comments or complaints by the Court.

C. The Court shall promptly review the comments or complaints submitted and take appropriate action.

D. Any comments or complaints submitted to this Court regarding the performance of guardians appointed by this Court shall be filed and made part of the record, including the disposition of said comments or complaints.

E. The Court shall notify the person making the comments or complaints and the guardian of the disposition of the comments or complaints.

66.05 RESPONSIBILITIES OF COURT ESTABLISHING GUARDIANSHIPS

A. A criminal background check shall be conducted on a proposed guardian and the results of said background check shall be filed with the Court prior to the hearing on the Application for Appointment of Guardian of Alleged Incompetent.

B. If the applicant to be appointed guardian has resided in the State of Ohio for five (5) years immediately preceding the filing of said application, said background check shall be conducted by the Ohio Bureau of Criminal Identification and Investigation and the results of said background check shall be filed with the Court prior to the hearing on the Application for Appointment of Guardian of Alleged Incompetent. Said results shall be dated within one year preceding the filing of the Application for Appointment of Guardian of Alleged Incompetent.

C. If the applicant to be appointed guardian has not resided in the State of Ohio for five (5) years immediately preceding the filing of said application, a criminal background check shall be conducted by the Federal Bureau of Investigation and the results of said background check shall be filed with the Court prior to the hearing on the Application for Appointment of Guardian of Alleged Incompetent.

D. The fees or costs of any criminal background check required by this rule shall be the responsibility of the applicant, and may be reimbursed to the applicant with guardianship funds once the guardianship is established and the inventory filed (provided that the guardianship is for the ward's estate). If the proposed ward is indigent, as evidenced by the filing of an Entry approving a Financial Disclosure/Affidavit of Indigency of Proposed Ward, said Applicant may move the Court for reimbursement of said fees or costs by providing the appropriate motion and original receipt confirming applicant's payment of said fees or costs for a criminal background check.

E. If the applicant to serve as a guardian is an attorney, a certificate of good standing with disciplinary information issued by the Supreme Court shall be accepted by the Court in place of a criminal background check.

66.08 GENERAL RESPONSIBILITIES OF GUARDIAN

A. A Guardian of the person and/or estate shall file an annual plan with the Court stating the guardian's goals for meeting the ward's personal and/or financial needs. *Said annual plan shall be filed simultaneously with the Guardian's Report, and by January 15th in the year in which a Guardian's Report is not due.*

66.1 GUARDIANSHIPS OF MINORS

A. A certified copy of the minor's birth certificate must be filed with the guardian's application.

B. The Court will not establish a guardianship for school purposes only. Custody for school purposes is a matter to be heard and determined by the Juvenile or Domestic Relations Divisions of the Common Pleas Court.

C. The Court will not establish any guardianship over the person of a minor where another Court has jurisdiction over custody of the minor.

D. Minors who are not U.S. citizens or resident aliens, are not considered by this Court to be residents or have legal settlement as set forth in Ohio R.C. 2111.02(A).

66.2 DEPOSIT OF WILLS

A. The guardian must deposit with the Court any and all original Wills and Codicils of the ward for safekeeping pursuant to Ohio R.C. 2107.07. Said Will and/or Codicil should be placed in a sealed envelope that contains an endorsement on the outside of said envelope naming the Executor and also the successor Executor.

B. Within three months after the guardian's appointment, a guardian shall file with this Court a list of all of the ward's important legal papers, including but not limited to estate planning documents, advance directives, and powers of attorney, and the location of such legal papers, if known at the time of the filing (Sup.R. 66.08).

66.3 CHANGE OF ADDRESS

A guardian appointed by this Court shall inform the Court as to any change of address of the guardian or the ward. This written notification must be made within thirty (30) days of the address change. Failure to notify the Court under this rule may result in the guardian being removed.

66.4 GUARDIAN'S REPORT

A. For a guardianship of an incompetent person, the Guardian of the person shall file the Guardian's Report. If there is only a Guardian of the estate, the Guardian's Report must be filed by this Guardian.

B. Where a physician or clinical psychologist states on the Statement of Expert Evaluation - Guardian's Report Addendum that to a reasonable degree of medical certainty it is unlikely the ward's mental competence will improve, the Court may, by Order, dispense with the filing of subsequent Statements of Expert Evaluation when subsequent biennial guardian's reports are filed.

C. When the Statement of Expert Evaluation is filed, the entire form and appropriate boxes must be completed, it must be dated within three (3) months of the date it is filed, and must be legible.

D. For a guardianship of a minor child, the Guardian of the person shall file a Guardian's Report on an annual basis on the anniversary date of his/her appointment as Guardian. If there is only a Guardian of the estate, the Guardian's Report must be filed by this Guardian. The Guardian shall use the form supplied by the Court for this reporting requirement. Said Report may contain the following information: current address of Guardian, current address of ward, hospitalizations of ward since last Report, any changes in financial assets of the ward and/or unauthorized use of ward's funds without a Court Order, any concerns of the Guardian about the ward.

66.5 TERMINATION

Applications to terminate a guardianship of a minor require notice to all persons designated in Ohio R.C. 2111.04 and any other individuals who received actual notice of the original appointment of the guardian.

68.1 SETTLEMENT OF INJURY CLAIMS OF MINORS

A. A certified copy of the minor's birth certificate must be presented to the Court upon the filing of the application to settle a minor's claim.

B. Current statement of examining physician in respect to injuries sustained, extent of recovery, and permanency of any injuries (*SupR 68B –statement is mandatory as opposed to discretionary*) must be on business letterhead, must be dated within six (6) months of the date it is filed, and must be legible.

68.2 SETTLEMENT CONFERENCE

It is suggested that the attorney, prior to bringing the clients to Court to settle a minor's claim, personally appear or telephonically discuss the settlement with the Court.

69.1 SETTLEMENT OF CLAIM OF ADULT WARD

A. Current statement of examining physician in respect to injuries sustained, extent of recovery, and permanency of any injuries must be on business letterhead, must be dated within six (6) months of the date it is filed, and must be legible.

B. Notice of the hearing on the application shall be given to all persons who are interested parties to the proposed settlement, as determined by the court. The Court defines "interested parties" to be the ward's next of kin residing in Ohio. However, the Court may dispense with notice of hearing upon proper application and for good cause shown.

71.1 COUNSEL FEES - DECEDENT'S ESTATE

A. Counsel fees for the administration of a decedent's estate shall be reasonable and beneficial to the estate. The application for fees shall be in writing which sets forth the details supporting the calculations on which the requested fees are based.

B. Where the residual beneficiaries have consented in writing to the amount of counsel fees and when all claims against the estate have been paid, an application need not be made for the allowance, provided the consent is endorsed on the fiduciary account or evidenced by a separate instrument filed with the account.

The written consent by residual beneficiaries also applies to an amount of extraordinary counsel fees requested. If the written consent of the residual beneficiaries to extraordinary counsel fees cannot be obtained, then counsel shall provide the Court with an Entry Setting Hearing on Extraordinary Attorney Fees, and shall indicate in the Order that the Clerk shall serve a copy of the Entry Setting Hearing on all residual beneficiaries by regular U.S. Mail, at least seven (7) days prior to hearing.

C. Where the attorney, on application to the Court prior to or during administration, requests a fixed fee, the Court, if it deems appropriate and after appropriate notice to the interested parties, will then fix a reasonable fee for

service beneficial to the administration of the estate.

D. Counsel fees for the administration of a decedent's estate as set forth below may serve as a guide in determining fees to be charged to the estate by legal services of an ordinary nature rendered as attorney for the fiduciary in the complete administration of a decedent's estate.

E. The following schedules, however, are not to be considered or represented to clients as schedules of minimum or maximum fees to be charged.

1. On the personal property which is subject to administration for which the fiduciary is charged and upon the **proceeds** of real estate that is sold under a power of will as follows:

- a. For the first \$50,000.00 at a rate of 4%;
- b. All above \$50,000.00 and not exceeding \$200,000.00 at a rate of 3%;
- c. All above \$200,000.00 at the rate of 2%.

2. On real property that is not sold at a rate of 2%.

3. On real estate sold by judicial proceedings according to the judgment entry confirming the proceedings.

4. On all other property not included in this rule in which decedent had an interest at death, 1% of the total value of such property.

F. Where the attorney, law partner or firm associated is appointed as the fiduciary, the total administration fee may not exceed the statutory fiduciary commission plus one-half of the guideline counsel fee.

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

H. Postage fees (other than for overnight, certified or registered mail, or certificate of mailing), copy costs, and telephone charges shall be considered part of the legal services of an ordinary nature rendered by the attorney for the fiduciary in the complete administration of a decedent's estate. An attorney may be reimbursed for the advancement of other costs and expenses, such as overnight, certified and registered mail, court deposits, court costs, vehicle titles, recording fees and death certificates. However, all such reimbursements are subject to Court review. Any disbursements listed on an account as reimbursement for costs and expenses advanced shall include the language "as defined and permitted by Local Rule of Court".

I. When counsel fees are calculated pursuant to Local Rule 71.1 (E) (4), if a Memorandum or Estate Tax Return have not been filed, counsel shall provide the Court with an "informal correspondence" which itemizes the property values that were used in the computation of the fee permitted by Rule 71.1(E)(4). Pursuant to Local Rule 26.1 – Court Records Management and Retention Schedule, when the "informal correspondence" received by the Court is considered to be of no value by the Court, said "informal correspondence" may be destroyed in the normal course of business.

71.2 COUNSEL FEES - GUARDIANSHIP

A. Where the guardian, if the guardian is not the attorney, law partner or firm associate, consents in writing to the amount of counsel fees, and the counsel fees do not exceed the guidelines set forth in Paragraph B, no application need be made for the allowance thereof, provided such consent is endorsed on the account or evidenced by separate instrument filed therewith.

B. Counsel fees for the establishment of the guardianship, filing of inventory and filing the first account shall be

those reasonable and beneficial to the guardianship. The allowance of fees shall be in writing which sets forth the details supporting the calculations on which the requested fees are based. Set forth below is a guide in determining fees charged for ordinary legal services in establishing guardianships through the first account. Such schedules, however, are not to be considered as schedules of minimum or maximum fees to be charged:

1. Income and Disbursements:

- 4% of the first \$5,000.00 of income and disbursements.
- 3% of the next \$25,000.00 of income and disbursements.
- 2% of income and disbursements in excess of \$30,000.00.

2. Principal:

- \$2.50 per thousand on the first \$250,000.00 of market value.
- \$1.50 per thousand on excess of \$250,000.00 of market value.

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

1. Receipt of corpus by guardian.
2. Balance carried forward from prior accountings.
3. Investment and reinvestment of corpus.

D. If by reason of the application of the above percentages to income and disbursements a disparity or injustice results, such disparity may be reviewed on the Court's own motion in respect of any account reflecting such compensation.

E. After the filing of the first account, all applications for attorney fees shall be those reasonable and beneficial to the guardianship and shall be in writing setting forth the calculations of such fees.

F. When the attorney, law partner or firm associated is appointed as the guardian, the attorney shall keep accurate time records that separate the duties of the guardian from that of the attorney. Compensation shall be approved for the reasonable value of services performed as attorney and as guardian. If the attorney fails to maintain accurate time records, the attorney will only be allowed the compensation determined under Rule 73.1 (Guardian's compensation).

G. Postage fees (other than for overnight, certified or registered mail, or certificate of mailing), copy costs, and telephone charges shall be considered part of the legal services of an ordinary nature rendered by the attorney for the guardian in the administration of the guardianship. An attorney may be reimbursed for the advancement of other costs and expenses, such as overnight, certified and registered mail, court deposits, court costs, vehicle titles, recording fees and death certificates. However, all such reimbursements are subject to Court review. Any disbursements listed on an account as reimbursement for costs and expenses advanced shall include the language "as defined and permitted by Local Rule of Court".

H. Applications for approval of counsel fees in a guardianship (whether paid from the ward's funds, or from the Indigent Guardianship Fund if there are sufficient funds in said account, or, if not, another fund or funds of the Court as deemed appropriate by the Court Administrator) shall be filed preceding or simultaneous with the filing of a Partial Account or Final Account, to ensure the frequency of the filing of an application at least every year or every two years. If a Partial Account or a Final Account is not required to be filed, then the application for fees shall be filed preceding or simultaneous with the filing of a Motion to Terminate Guardianship. Fee applications submitted for time spans covering more than two years, or submitted after the Final Account or Entry Terminating Guardianship has been approved and filed, will not be approved without proof of justifiable cause.

I. Attorneys who have not been “appointed” by the Court but who voluntarily serve as counsel for a Guardian of an indigent ward shall be paid at the same rate as defined by Local Rule 8.1 – Court Appointments.

71.3 COUNSEL FEES - TRUSTS

A. An application must be filed for approval of attorney's fees in a trust. Said fees shall be reasonable and beneficial to the trust.

B. Postage fees (other than for overnight, certified or registered mail), copy costs, and telephone charges shall be considered part of the legal services of an ordinary nature rendered by the attorney for the trustee in the administration of the trust. An attorney may be reimbursed for the advancement of other costs and expenses, such as overnight, certified and registered mail, court deposits, court costs, vehicle titles, recording fees and death certificates. However, all such reimbursements are subject to Court review. Any disbursements listed on an account as reimbursement for costs and expenses advanced shall include the language “as defined and permitted by Local Rule of Court”.

73.1 GUARDIAN'S COMPENSATION

A. A guardian shall be allowed compensation for income and disbursements as follows:

1. Income and Disbursements:
 - 4% of the first \$5,000.00 of income and disbursements
 - 3% of the next \$25,000.00 of income and disbursements
 - 2% of the excess of \$30,000.00 of income and disbursements
2. Principal:
 - \$2.50 per thousand on the first \$250,000.00 of market value
 - \$1.50 per thousand on excess of \$250.00 of market value

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

1. Receipt of corpus by guardian
2. Balance carried forward from prior accountings
3. Investment and reinvestment of corpus

C. Lay persons appointed as Guardians for an indigent ward shall be compensated at the rate of \$25.00 per hour to the maximum of \$200.00 per year (the same rate as defined by Local Rule 8.1 – Court Appointments).

D. Applications for approval of guardian fees (whether paid from the ward's funds or from the Indigent Guardianship Fund) shall be filed preceding or simultaneous with the filing of a Partial Account or Final Account, to ensure the frequency of the filing of an application at least every year or every two years. If a Partial Account or a Final Account is not required to be filed, then the application for fees shall be filed preceding or simultaneous with the filing of a Motion to Terminate Guardianship. Fee applications submitted for time spans covering more than two years, or submitted after the Final Account or Entry Terminating Guardianship has been approved and filed, will not be approved without proof of justifiable cause.

E. Additional compensation for extraordinary services and reimbursement for expenses incurred may be allowed upon an application setting forth an itemized statement of the services rendered and expenses incurred and the amount for which compensation is applied. Applications for compensation of extraordinary services and expenses incurred shall be set for hearing by the Court and notice shall be sent by the Court to the next of kin of the ward residing in Ohio. In lieu of a hearing on said application for additional compensation and expenses incurred, written consent by the ward's next of kin residing in Ohio for the extraordinary services and expenses incurred by the guardian may be filed.

1. Postage fees (other than for overnight, certified or registered mail), copy costs, and telephone charges

shall be considered part of the services of an ordinary nature rendered by the guardian in the administration of the guardianship. A guardian may be reimbursed for the advancement of other costs and expenses, such as overnight, certified and registered mail, court deposits, court costs, vehicle titles, recording fees and death certificates. However, all such reimbursements are subject to Court approval (see above).

74.1 TRUSTEE'S COMPENSATION

A. Corporate trustees

1. Except where the instrument creating the trust makes provisions for compensation, a testamentary trustee may charge fees on the same basis as it charges for living trusts.
2. Fee schedules shall be furnished to the Court on the 1st day of January of each year and whenever a change in fees is made within any calendar year.
3. A separate schedule of the computation of the trustee's compensation shall be set forth in the trustee's account as a condition of its approval.
4. Corporate trustees who fail to furnish to the Court its current fee schedules shall be limited to fees set forth in its last furnished schedule, or if no schedule has been filed, then to the amounts for individual trustees.
5. Corporate trustees may at their option elect to use the Individual Trustee's compensation schedule.

B. Individual trustees

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

1. Principal Fee. A fee of \$2.00 per \$1,000.00 of the market value of the principal held by the trustee.
2. Income Fee. A fee of six percent (6%) of the total of the income for the accounting period.
3. Principal Distribution Fee. A fee of one percent (1%) of the principal distributed during the accounting period.

75.1 ADOPTIONS

A. An original and a copy of all petitions, interlocutory decrees and final decrees shall be filed in every adoption case. Additional copies of the petition shall be submitted as required for service.

B. In private placement adoptions, a pre-placement application in a form prescribed by the Court shall be filed by the proposed adopting parents not less than five (5) days prior to placement if applicants are residents of Shelby County, Ohio, and not less than thirty (30) days prior to placement if applicants are not residents of Shelby County, Ohio.

C. Once the applications have been approved by the Court, a hearing shall be held not less than seventy-two (72) hours after the birth of the child or after the parent(s) have met with the adoption assessor, whichever occurs later, for the placement and consent by the parents. Prior to the placement hearing, the Court shall be supplied with a statement from the child's physician as to the medical condition of the child to be placed. If the placement is approved, the adoption petition must be filed before the Court will issue a Hospital Release for the release of the child to the petitioners or the attorney of the petitioners. The adoption petition shall not be set for hearing until after the placement is complete.

D. Assessors

Assessors under contract with the Court, as named below, shall be paid the court approved fee for their services. The petitioner shall be responsible for providing payment of the fee directly to the assessor prior to the assessor performing any services.

Kathy Lindsey	Telephone: 937-726-6484 (Cell) e-mail: Klindsey3@woh.rr.com (available until January 2017)
Bridget Davis	Telephone: 937-623-0101 (Cell) 937-658-6631 (Work)
Jodie Brewer	Telephone: 937-726-2203 (Cell) (available April 2017)

The Petitioner shall be responsible for contacting one of the above court-contracted assessors OR another qualified/certified assessor of their choosing to make arrangements with the assessor to provide the assessment. That person's name and information will need to be inserted onto the form "Order to Assessor". If an assessor other than Kathy Lindsey, Bridget Davis, or Jodie Brewer is selected, the Court shall be provided with that assessor's "Verification of Assessor Qualifications" which can be obtained directly from the assessor.

The current fees approved by the Court for payment of assessor services are:

1. Birth adoption: \$875.00
2. Grandparent / family adoption: \$475.00
3. Stepparent adoption: \$175.00

Any additional fees other than those stated above shall be invoiced by the assessor and filed with the Court for approval before petitioner makes payment directly to the assessor.

75.2 CUSTODIAL DEPOSITS IN LIEU OF BOND

All custodial deposits of personal property, securities and monies must comply with Ohio R.C. 2109.13. All institutions desiring to be a depository must satisfy the Court of their authorization and certification by the State of Ohio.

75.3 RELEASE OF ESTATES FROM ADMINISTRATION

- A. The Court shall select and appoint Commissioners, when required, in estates released from administration.
- B. A copy of the paid funeral bill shall be attached to the Application to Relieve Estate from Administration.
- C. A Report of Distribution shall be due 60 days from the date the Entry Relieving Estate from Administration is filed.
- D. The Court may waive a noticed hearing in those instances where it appears no beneficiaries or creditors will be prejudiced.
- E. If an Application to Relieve Estate from Administration is filed by the decedent's surviving spouse, no further notice of said Application to the parties listed on Form 1.0 will be required, unless the surviving spouse is not the natural parent of one or all of decedent's children.

75.4 PRO HAC VICE

- A. An attorney not licensed to practice law in the State of Ohio, but who is duly licensed to practice law in any other state or the District of Columbia, may, at the discretion of the Probate Judge, be permitted to represent a party or parties in any litigation pending or to be filed in this county after completion of all of the following conditions:
 1. File a written oath substantially in compliance with Rule 1, Section 8A of the Supreme Court Rules for the Government of the Bar;

2. The attorney must become familiar with Local Court Rules, Civil Rules, Rules of Evidence, and the Code of Professional Responsibility, and so certify to this Court in writing.
 3. Be sponsored in writing by an attorney licensed to practice law in the State of Ohio. The motion made by the licensed attorney shall certify such out-of-state attorney's compliance with this rule and the Supreme Court Rules for the Government of the Bar;
 4. The sponsoring attorney shall submit with the motion and certification an entry authorizing the approval of the motion;
 5. The sponsoring attorney, or any other attorney licensed to practice law in the State of Ohio, shall be co-counsel with the attorney admitted, *pro hac vice*.
- B. The continuance of any scheduled trial or hearing date shall not be permitted solely because of the unavailability or inconvenience of the out-of-state attorney.

75.5 ADDITIONAL FEES

- A. The fee for computerized legal research as authorized by Ohio R.C. 2101.162(A) shall be Three and No/100 Dollars (\$3.00), and Three and no/100 Dollars (\$3.00) per marriage license application.
- B. The fee for computerization as authorized by Ohio R.C. 2101.162(B) shall be Ten and No/100 Dollars (\$10.00), and Ten and No/100 Dollars (\$10.00) per marriage license application.
- C. The fees for Special Projects Fund shall be Fifty Dollars (\$50.00) per case as authorized by Ohio R.C. 2303.201(E)(1), and Thirty Dollars (\$30.00) for a marriage license application.
- D. The fee for Dispute Resolution Fund shall be Five Dollars (\$5.00) per case as authorized by Ohio R.C. 2101.163, except for a marriage license application.
- E. The fee for every case recorded as provided in section 2301.20 of the Revised Code shall be taxed for each day's service of the official or assistant reporters a fee of Twenty-Five Dollars (\$25.00), to be collected as other costs in the case.

75.6 TRANSCRIPTS

The compensation of reporters for making transcripts shall be set by order of the Court and shall be paid forthwith to the reporter by the party for whose benefit the same is made.

Every transcript filed in this court shall bear the name, address and telephone number of the court reporter making the same.

A reporter shall not be required to prepare a transcript until satisfactory arrangements for payment have been concluded.

Written transcripts are to be originals or certified copies. To facilitate scanning for electronic recording, transcripts are to be single sided on an 8 ½ x 11 sheet of paper with each sheet containing only one page of a transcript. The transcript must be bound in a report folder. Staples may not be used to bind a transcript.

The court reporter be, and she/he is hereby authorized and directed to erase all recordings used to support transcript and Court proceedings after the lapse of time as follows: pursuant to Local Rule 11.1.

76.1 EXCEPTIONS

Upon application and for good cause shown, the Probate Court may grant an exception to these rules.

78.1 CASE MANAGEMENT AND PRE-TRIAL PROCEDURE

For the purpose of ensuring the readiness of civil cases in the Probate Division for pre-trial, final pre-trial and trial, the following procedures shall be in effect.

A. CIVIL ACTIONS

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

B. LAND SALES

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

C. DECEDENT'S ESTATE

1. The statutory time or the time as extended by these rules or court order for filing of an account (R.C.2109.30) shall be adhered to and the citation procedure (R.C. 2109.31) shall be utilized if necessary to gain compliance.
2. Objections to inventory and objections to account. The Court shall set a pre-trial conference within thirty (30) days after filing and the Court, at the pre-trial conference, shall set the matter for an evidentiary hearing within thirty (30) days thereafter.
3. All decedent's estates, which are current as to filed accounts, which remain open after a period of thirteen months shall be subject to a status conference, if a written status report is not filed on an annual basis with each partial account.
4. If the box on the Fiduciary's Acceptance (Executor – Administrator) form is checked, stating that the

Executor/Administrator is also the sole legatee, devisee, or heir, no partial accountings are required. However, within 30 days after completing the administration of the estate, a Final Account, or Final and Distributive Account, or a Certificate of Termination shall be filed.

5. Reopened Estates: An annual status report shall be filed in each reopened estate which remains open after a period of one year from the date of the entry/order to reopen the matter.

D. WRONGFUL DEATH SETTLEMENTS

All hearings shall be held within thirty (30) days of the filing of the Form 14.0. provided however, if either a guardian or a guardian ad litem is necessary to be appointed, the hearing shall be held within thirty (30) days of the filing or fifteen (15) days after the appointment, whichever is later.

E. GUARDIANSHIPS

Adequate statutory provisions exist to control timeliness of filings, however, each case shall be reviewed not less than bi-annually.

F. TRUSTS

Adequate statutory provisions exist to control timeliness of filings, however, each case shall be reviewed annually.

G. MOTIONS

1. Oral arguments of motions may be permitted on application and proper showing.
2. The moving party shall serve and file with the motion a brief written statement in support of the motion and a list of citations of authorities in support.
3. All responses to motions shall be filed within fourteen (14) days
4. The Court shall set a hearing within thirty (30) days after receipt of the request or, if no request, then it shall determine the matter as soon as possible after the response is filed, or if no response is filed, than as soon as possible after the fourteenth (14) day has elapsed from filing the motion.

H. CORRESPONDENCE

Copies of all correspondence addressed to the Court by any party or counsel shall be mailed or furnished to other counsel or parties in the case, and the correspondence to the Court shall disclose to whom copies were furnished. Correspondence not in compliance with the order shall be disregarded by the Court.

I. CERTIFIED MAIL

Service of process by certified mail, return receipt requested, pursuant to Civil Rules 4.1, 4.3, 4.5, and 73 may be perfected, if needed, through a "Track and Confirm" verification by the United States Postal Service. Said verification shall be filed and made part of the record.

J. JURY MANAGEMENT PLAN

The Shelby County Probate Court adopts the current jury management plan of the Shelby County Common Pleas Court, General Division, as amended from time to time, and incorporates said plan herein by reference as if fully rewritten.

K. APPLICATION FOR A MARRIAGE LICENSE R.C. 3101.05

- A. If both parties applying for a marriage license are residents of another state, the application must be made in the county in Ohio that the parties will be married in.

Both applicants must appear together at time of application.

Proof of identification must be presented (i.e. driver's license, or state I.D., or birth certificate).

Proof of divorce must be presented (file-stamped copy of Decree of Dissolution/Divorce) from last previous marriage only.

Marriage License is valid in Ohio for 60 days from date of application.

CASH OR MONEY ORDER ONLY (NO PERSONAL CHECKS) (see Appendix "A" for cost).

B. Requirements for Minor Applicant:

NOTICE: This is only a list of the ADDED requirements for minors. All other laws, rules, and requirements for marriage license still apply.

1. Female 16 or 17

Parent(s) (see below for instructions for parental consent) must be present and show proof of identification, such as a driver's license or state issued ID; the parent(s) will be asked to sign the application, giving their written consent.

Any underage applicant that applies for a license in Shelby County must present proof to the Court that they have completed marriage counseling, pursuant to O.R.C. 3101.05.

The Court will accept the following items as satisfactory proof of marriage counseling:

- A. Letter from a minister on the church's letterhead/stationery
- B. Letter from a counseling agency on their letterhead/stationery

The proof of counseling will be attached to marriage application and made a part of the permanent marriage record.

2. Female 15 or Younger and Male 17 or Younger

ALL OF THE ABOVE (including proof of completion of marriage counseling)

For minors of this age, consent must also be granted by the Shelby County Juvenile Court. Typically, this is not granted unless the female is pregnant. This does NOT take the place of parental consent. Proof of pregnancy must be presented, or if the child has already been born, a copy of the child's birth certificate must be presented.

After the marriage application has been processed in Probate Court, involving a female 15 or younger and male 17 or younger, all parties will then proceed to the Clerk's Office for Juvenile Court. There, a Juvenile Marriage Consent form will be completed in their presence and will be set for hearing at the Court's earliest convenience. All parties must be present for this hearing. If Juvenile Court grants consent, a copy of the Order will be provided to the Probate Court. The marriage license will then be issued by the Probate Court to the parties.

3. Parental Consent

If parents are divorced, only the parent with SOLE custody shall be present to provide consent. He/she must present a filed copy of the Order/Entry granting him/her sole custody. If parents have JOINT custody

and/or shared parenting, then both parents shall be present and provide consent, and present a filed copy of the Order/Entry granting them joint custody and/or shared parenting.

If one parent is deceased the remaining living parent needs to provide the death certificate for the deceased parent.

The person(s) having legal guardianship over a minor child shall give written consent and provide the Court with a current Certificate of Appointment and Incumbency of Letters of Guardianship of the minor child.

80.1 APPOINTMENT OF INTERPRETERS

The Probate Division of the Court of Common Pleas, Shelby County, Ohio adopts Rules 80-88 (effective January 1, 2013) of the Rules of Superintendence for the Courts of Ohio.

Qualified, private individuals who are appointed as interpreters will be reimbursed at a rate of \$20.00 per hour for a non-court hearing and \$25.00 per hour for a court hearing, with a minimum of one hour.

APPENDIX "A"

REQUIRED **INITIAL** DEPOSIT and OTHER FEES FOR FILINGS IN
SHELBY COUNTY PROBATE COURT

- A. Estate matters: **\$125.00**
- Application for Summary Release from Administration
 - Application to Relieve Estate from Administration
 - Application for Authority to Administer Estate
 - Supplemental Application for Ancillary Administration
 - Will for Record Only
 - Tax forms only (NOTE: tax documents for decedent's with a date of death on/before 01/01/2013)
 - Transcript is excepted (see paragraph B below)
- B. Transcript of Estate (filed here from other county): **\$50.00**
- C. Petition for Adoption of Minor / Placement proceedings: **\$300.00**
- D. Petition for Adoption of Adult: **\$200.00**
- E. Application for Registration of Foreign Birth Record: **\$175.00**
- F. Complaint (civil actions such as Will Contest, Land Sales, Determination of Heirs, etc.): **\$200.00**
- G. Application for Appointment of
1. Guardian of Minor: **\$154.00**
 2. Guardian of Alleged Incompetent – Emergency Appointment (unless Financial Disclosure/Affidavit of Indigency is filed and approved): **\$154.00**
 3. Guardian of Alleged Incompetent – after Emergency Appointment (unless Financial Disclosure/Affidavit of Indigency is filed and approved): **\$0.00**
 4. Guardian of Alleged Incompetent – without Emergency Appointment (unless Financial Disclosure/Affidavit of Indigency is filed and approved): **\$154.00**
 5. Conservator: **\$155.00**
- H. Application for Name Change: **\$250.00**
- I. Minor's Settlement: **\$100.00** or Minor's Settlement with Guardian: **\$164.00**
- J. Appl. for Approval of Transfer of Structured Settlement Payments: **\$100.00**
- K. Trust: **\$130.00**
- L. Birth Correction: **\$100.00**
- M. Birth Registration: **\$100.00**
- N. Inter Vivos Trust – Petition/Application: **\$100.00**
- O. Application for Ohio Uniform Transfer to Minors Act: **\$100.00**

- P. Application for Deposit of funds for a minor: **\$100.00**
- Q. Demand for Jury Trial: **\$500.00**
- R. Reopen a case: **\$100.00**
- S. Marriage License: **\$76.00 (cash only)**
- T. Exceptions to Inventory and Appraisal: **\$23.00**
- U. Exceptions to Account: **\$23.00**
- V. Filing a claim against an estate: **\$23.00**
- W. Entry of Appearance/Answer/pleadings filed by a party: **\$50.00**
- X. Certificate of Deposit of Will for Safekeeping: **\$15.00**
- Y. Certification of a document (except Letters of Authority): **\$3.00 (plus copy costs of \$0.10/page)**
- Z. Certificate to Copies: **\$5.00 (plus copy costs of \$0.10/page if Court provides copies)**
- AA. The Clerk may demand an additional security deposit in any amount up to \$150.00 if the initial deposit is insufficient to cover costs already incurred.
- BB. Other matters not enumerated: actual costs (R.C. 2101.16)
- CC. Fee for any record in excess of 1,500 words (equal to 5 pages) will be \$1.00 per page over the first five pages. (R.C. 2101.16A57)
- DD. If costs are not paid at the termination of litigation, the Clerk may apply the security deposit of the obligating party to the unpaid costs.
- EE.
 1. If the costs due exceed the security deposit at the time of the termination of a matter, an Order shall issue to assess costs to the obligating party to be paid in full within thirty (30) days for which execution shall be ordered.
 2. A final or distributive account shall not be approved until all court costs have been paid.
- FF. The Clerk may file Certificates of Judgment with the Clerk of the Common Pleas Court of this county or any other county against any of the parties for whom costs are due and to collect costs due by any other legal remedies.

APPENDIX "B"

FACSIMILE FILING COVER PAGE

RECIPIENT INFORMATION:

NAME OF COURT: _____

FAX NUMBER: _____

SENDING PARTY INFORMATION:

NAME: _____

SUPREME COURT REGISTRATION NO.: _____

OFFICE/FIRM: _____

ADDRESS: _____

TELEPHONE NO.: _____

FAX NUMBER.: _____

E-MAIL ADDRESS (if available): _____

CASE INFORMATION:

TITLE OF THE CASE: _____

CASE NUMBER*: _____

TITLE OF THE DOCUMENT(S): _____

FILING INFORMATION:

DATE OF FAX TRANSMISSION: _____

NUMBER OF PAGES (including this page): _____

STATEMENT EXPLAINING HOW COSTS ARE BEING SUBMITTED, IF APPLICABLE:

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

APPENDIX "C"

PROBATE COURT OF SHELBY COUNTY, OHIO

IN THE MATTER OF:

CASE NO.

NOTICE OF FILING EXHIBIT ____

_____ hereby files Exhibit _____. The referenced pleading was filed by facsimile transmission with the Court on _____ [date]. Exhibit _____ could not be accurately transmitted by fax and is therefore being timely filed as a separate document with the Court pursuant to Local Rule 57.1.

Respectfully submitted,

Attorney Name (Sup. Ct. Reg. No.)
Office/Firm
Address
Telephone
Facsimile
E-mail
Counsel for _____

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Filing Exhibit ____ was sent by ordinary U.S. mail on _____ [date] to counsel for _____, _____ [name and address of recipient].

Attorney Name