

**IN THE COMMON PLEAS COURT OF HANCOCK COUNTY, OHIO**  
**Probate Division**  
**Probate Rules**

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**IN THE PROBATE COURT OF HANCOCK COUNTY, OHIO  
PROBATE DIVISION  
Probate Rules**

## RULE 1 HOURS OF THE COURT

The Probate Court and its offices shall be open for the transaction of business each Monday through Friday from 8:30 A.M. to 4:30 P.M. The Probate Court shall be closed on Saturday, Sunday and legal holidays and other days as may be designated by the Court.

## RULE 2 CONDUCT IN THE COURT

Proper decorum in the Court is necessary to the administration of the Court's function, and any conduct which interferes or tends to interfere, with the proper administration of the Court's business is prohibited. No radio or television transmission, voice recording device, other than a device used by a court reporter making a record of the proceedings, or the making or taking of pictures shall be permitted without the expressed consent of the Court in advance. All persons attending court should be wearing appropriate attire.

## RULE 3 EXAMINATION OF PROBATE FILES, RECORDS, AND OTHER DOCUMENTS

- A. Probate Court records shall not be removed from the Court, except upon approval in writing by the Probate Judge or Deputy Clerk of the Court. Violation of this rule shall result in a citation for contempt being issued.
- B. Copies of any open records may be obtained at \$0.05 per page for a photo copy.
- C. Copies of probate hearings that are open to the public may be obtained on a compact disc for the fee of \$10.00 per case.
- D. All adoption and mentally ill records are confidential. Access to them may only be authorized by the Court in its sole discretion.
- E. A Citation for contempt of Court shall be issued against anyone who divulges or receives confidential information from adoption and mentally ill records without authorization of the Court.

## RULE 4 SUMMONS AND NOTICE

- A. The Ohio Rules of Civil Procedure shall apply in all respects to service
- B. The Court may, in its discretion, require a deposit for service of summons in cases where personal service of summons or notice is required upon a party who resides outside Hancock County, Ohio.

## RULE 5 REQUEST FOR JURY TRIAL

In all cases where a jury trial is required in this Court, the Court and parties shall comply with Civ. R. 38 and Civ. R. 39. The Court adopts Hancock County Common Pleas Court Local Rule 1.19, Jury Use, with regard to the automated data processing for the selection of jurors.

#### RULE 6        MOTIONS, HEARINGS AND CONTINUANCES

- A. All motions shall be submitted in writing with the proper case heading and number.
- B. No continuance shall be granted in the absence of proof of reasonable notice to or consent by the adverse party or his counsel, except upon the Court's own motion. Failure to object to the continuance within a reasonable time shall be deemed consent thereto.
- C. A journal entry shall be filed with any motion for continuance leaving the time and date blank for the Court to set a new date.

#### RULE 7        FILINGS AND JOURNAL ENTRIES

- A. Except for wills, all decedent estate filings should be free of staples and on 8 ½ x 11 paper of stock that can be microfilmed without backings. Document backings shall be removed from all documents prior to filing. All double-sided forms must tumble.
- B. All papers filed in the Probate Court shall contain the name, Ohio Supreme Court number, address and telephone number of counsel representing the fiduciary. In the absence of counsel, all papers must list the name, address and telephone number of the fiduciary. The filing of any paper not containing the above requirements may be refused by the Court.
- C. Every fiduciary shall sign and file with the Court a statement of permanent address pursuant to ORC § 2109.21(F). Every fiduciary shall notify the Court of any change of address promptly.
- D. Failure of the fiduciary to notify the Court or his counsel of his current address shall be grounds for his removal.
- E. Papers containing partially or wholly illegible signatures of counsel, parties or officers administering oaths may be refused to filing, or if filed, be stricken from the files, unless the typewritten or printed name of the person whose signature is purported to appear below is clearly indicated thereon. The provision of this rule applies to sureties on bonds.
- F. All pleadings are to be typed or printed and clearly titled.
- G. Unless the Court otherwise directs, counsel for the party in whose favor an order, decree, judgment or opinion is rendered shall, within seven (7) days thereafter, prepare the proper judgment entry and submit it to counsel for the opposite party, who shall approve or reject it within three (3) days after receipt thereof.

- H. When approved by counsel, it shall be endorsed and submitted to the Court. If counsel do not agree upon the entry, the matter shall be submitted to the Court for instructions as to the proper entry.
- I. Upon failure to comply with this rule, the Court may prepare and file the appropriate entry at the Court's sole discretion.

#### RULE 8 COURT COSTS

Pursuant to R.C. §2303.201 (E) (1), the Court determines that for its efficient operation, additional fees are necessary to acquire and pay for Special Projects of the Court that are permitted by the statute. Therefore, effective March 1, 2017, it is Ordered that the Clerk of the Court is authorized and directed to charge as court costs a fee of \$25.00 per case or filing for the Special Projects Fund for the Court of Common Pleas, Probate Division for all cases and post-judgment motions including, but not limited to Applications to Probate of Will, for Release from Administration, to Administer an Estate, for Wrongful Death, for Guardianship, for Adoption, for Minor Settlement, for Change of Name, and other civil causes of action.

- A. Deposits in the amount set forth in Appendix A attached hereto shall be required upon the filing of any actions and proceedings listed herein.
- B. 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. However, the applicant shall exert diligent efforts to make funds available from the probate estate for the security deposit and pay the deposit into Court as soon as possible.
- C. The deposit shall be applied as filings occur and an additional deposit may be required by the Court. Any remaining deposit that is \$5.00 or less will not be refunded by the Clerk unless a written request for the refund is made within 14 days of the termination of the case.

#### RULE 9 APPLICATION TO PROBATE A WILL (FORM 2.0)

- A. The fiduciary shall give notice by certified mail within two (2) weeks of the date the will is admitted to probate to the surviving spouse of the testator, to all persons who would be entitled to inherit under R.C. Chapter 2105 if the testator dies intestate and to all legatees and devisees named in the will.
- B. Applications for wills that create a charitable trust required to be registered with the Attorney General of Ohio under ORC § 109.26, shall include a concise statement setting forth 1) the item number of the will which creates such trust; 2) the name of the trustee or trustees designated; and 3) the general nature of the trust.
- C. The applicant or attorney for the applicant shall prepare a notice listing those persons entitled to notice and shall file same with the court. Service and proof of service shall be in accordance with Civ. R. 73 (E).

RULE 10 APPLICATION FOR LETTERS OF ADMINISTRATION

- A. A person who files an application for letters of administration in an estate where there is no surviving spouse nor known next of kin who are residents of Ohio, shall cause to be served written notice by certified mail of the time and place of the hearing on such spouse and all competent adult next of kin, if any, residing outside of the state, known to the applicant. The notice shall be served on such persons at least ten (10) days prior to the date set for the hearing.
- B. If there is no known surviving spouse or next of kin, notice shall be served upon such persons as are designated by the Court.

RULE 11 APPOINTMENT AND COMPENSATION OF APPRAISERS IN STATES AND LAND SALES PROCEEDINGS

- A. There will be one suitable and disinterested appraiser appointed where required by law or deemed appropriate by the Court. Compensation for the appraiser is subject to the approval by the Court.
- B. Executors and administrators may allow the appraiser a reasonable sum as compensation for his services without special application to the Court, provided the sum is agreed upon between the fiduciary and the appraiser. The executors and administrators shall take into consideration the amount of time and work reasonably required in appraising the assets of the estate as well as the type and character of the property appraised when determining the appropriate sum.
- C. If the fiduciary determines that the services of an expert in the evaluation of special or unusual property are needed, an expert can be retained.
- D. An appraiser may waive all or any part of his compensation.
- E. Where any questions arise in the interpretation of this rule or in circumstances where the amount of compensation cannot be agreed upon, the fiduciary shall file an application for allowance of compensation for each appraiser with the Court.

RULE 12 INVENTORY

- A. Notice of the filing of inventory shall be given in accordance with ORC § 2115.16 and may be published one time, as a group, in a newspaper of general circulation in the county, or advertised separately as the Court elects in each case. The notice required here shall be deemed notice to each person or class of persons entitled thereto without specifically naming such person or class of persons.
- B. The statutory time for filing an inventory shall be strictly adhered to and citations shall be issued when filings are late unless application for an extension of time for filing has been granted. Applications for an

extension shall set forth the time needed, shall be signed by the attorney and fiduciary and shall be accompanied by a proposed judgment entry.

- C. The schedule of assets shall contain the legal address or, if none, the legal description and the parcel number of all real estate.

#### RULE 13 PRESENTMENT OF CLAIMS

All creditors having claims against the estate shall present their claims in either of the following ways: a) in writing to the executor or administrator or; 2) in writing to the executor or administrator with a copy being sent to the Probate Court.

#### RULE 14 APPLICATION TO SELL PERSONALTY

In addition to the requirements of the statutes, a judgment entry and order of sale shall include an adequate description of the property to be sold and shall provide that the sale has been at the best price obtainable in the current market or at a price fixed by the Court. Except for good cause shown, an order of sale shall not be granted prior to the approval of the inventory or inventory and appraisal. No Sale shall be confirmed until an affidavit is filed as required by ORC § 2109.45 and § 2113.42.

#### RULE 15 TAX PROCEEDINGS

- A. All estate tax filings in the Probate Court shall conform to the requirements of the ORC § 5731.
- B. If the date of death is on January 1, 2013 or after, no Ohio Estate Tax return is required.

#### RULE 16 ACCOUNTS

- A. Final accounts of fiduciaries shall not be accepted for filing before the expiration of the applicable period as required by law, except as otherwise ordered by the Court.
- B. The statutory time for filing an account shall be strictly adhered to and citations shall be issued when filings are late unless application for an extension of time for filing has been granted. Applications for an extension shall set forth the time needed, shall be signed by the attorney and fiduciary, and shall be accompanied by a proposed judgment entry.
- C. If a fiduciary is delinquent in filing an account or exhibiting assets, and no extension has been granted, a citation shall be issued requiring such fiduciary to appear forthwith and show cause why such account has not been filed or why such assets have not been exhibited.

- D. Vouchers supporting disbursements as required by ORC § 2109.30 shall be filed with any fiduciary's account for estates opened prior to January 1, 2002. No vouchers are needed for estates filed after January 1, 2002 unless specifically requested by the Court.
- E. The fiduciary's account shall include all transactions effecting the income or principal account during the accounting period. Such account shall, in addition to a chronological itemization of receipts, disbursements and distributions, set forth at the end thereof:
  - 1. A recapitulation of cash receipts, disbursements and bank deposits representing cash on hand at the end of the accounting period.
  - 2. A statement of personal property on hand, other than cash, at the end of the accounting period, including a statement of any changes in such property during the period covered by the account.
  - 3. A statement identifying all real estate owned by the ward or real estate to which the fiduciary holds legal title for and on behalf of the ward or beneficiary.
  - 4. A computation of the attorney fees paid and/or fiduciary fees paid. See Appendix C.
  - 5. Accounts will not be accepted for filing unless accompanied by all vouchers, which shall be returned upon approval of the account.
- F. If the land has been sold by the fiduciary during the accounting period, the account shall show the gross amount of the proceeds of the sale and the distribution thereof, with the escrow statement, settlement statement or receipts of the land sales expenditures attached thereto.
- G. Where a guardian is accounting for several minors, his accounts shall show each ward's proportionate share of the credits and debits and separately state each ward's property at the end of the accounting period.
- H. Accounts of executors under a will creating a testamentary trust, as in the case of accounts of testamentary trustees, shall show receipts and disbursements separately itemized as to principal and income.
- I. Receipts for distributive shares signed by persons holding power of attorney may be accepted, provided such power of attorney is recorded in the Recorder's Office of Hancock County and a photo copy of the recorded power is attached to the account.
- J. Exhibiting Assets.
  - 1. All assets must be exhibited at the time of filing a partial account.
  - 2. Cash balances may be verified by exhibiting a bank statement, passbook, or a current letter from the financial institution in which such funds are deposited certifying as to the funds on deposit to the credit of the fiduciary. Assets held in safety deposit boxes of fiduciaries or by surety companies on fiduciaries bonds may be exhibited by filing a current inventory thereof certified by the manager of the safety deposit box department of the financial



institution leasing such safety deposit box or by a qualified officer of the surety company if such assets are held by such surety. If the assets are held by a bank, trust company, brokerage firm, or other financial institution such exhibition may be made by proper certification as to the assets so held. For good cause shown, the Court may designate a deputy clerk of the Court to make an examination of the assets located in this county not physically exhibited to the Court. Such commissioner shall make a written report of his findings to the Court.

- K. A final or distributive account shall not be approved until all court costs have been paid.
- L. Service of Additional Notice, see ORC § 2109.33.

#### RULE 17 LAND SALES – ORC CHAPTER 2127

- A. In all sales under ORC § 2127.11, the application shall be set for hearing and the plaintiff shall give the defendants notice of the time and place of hearing in the method provided in Civ. R. 4.1.
- B. A complaint is required when an order of private sale is requested and there is no consent of all the parties. A complaint is not required in cases involving the sale of fractional interest. The complaint shall include an affidavit or testimony under oath that establishes: 1) whether or not the sale has been the subject of prior negotiations; 2) the amount offered for the sale of the property; 3) the appraised value in the land sales proceedings; 4) the identity of the prospective purchaser and counsel, if any; 5) whether or not the proposed transaction will be or has already been placed in escrow; and 6) the identity of the escrow agent.
- C. The Court may, in its discretion, appoint a disinterested person, answerable to the Court, who shall investigate the circumstances surrounding the proposed transaction, view the property, ascertain whether the proposed sale is justified and report his findings in writing to the Court. Said report will be a part of the record in the proceedings. The compensation of the person performing such service shall be fixed by the Court according to the circumstances of each case and taxed as part of the costs of the proceedings.
- D. All complaints to sell real estate where the County Treasurer is a party defendant shall contain the parcel number of the real estate to be sold.

#### RULE 18 RELIEVING ESTATES FROM ADMINISTRATION

- A. Estates of One Hundred Thousand Dollars (\$100,000.00) or less may be relieved from administration if they statutorily qualify pursuant to ORC § 2113.03. Use of standard forms which shall include in all cases form 5.0, 1.0, 5.1 and 5.6 is encouraged. All applications shall be

- accompanied by a waiver or paid-in-full receipt signed by the funeral director.
- B. If real estate is to be transferred, form 12.1 must be submitted. When filing, a copy must be included for purposes of recording.
  - C. No appraiser will be appointed in any release not containing real estate, unless granted by the Court. If an appraiser is necessary, form 3.0 should be attached to form 5.0.
  - D. All applications to relieve an estate from administration shall be accompanied by a “certificate of service” to all of the next of kin of the decedent and legatees or devisees if the decedent died testate and any unpaid creditors. Said certification shall affirm that the applicant has mailed a copy of the application to release from administration and a copy of the proposed judgment entry to be submitted to the court. Service shall be made by certified mail.

## RULE 19 GUARDIANS

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

### Rule 19(A) – RESPONSIBILITIES OF GUARDIANS

All Guardians appointed by the Court shall submit to the court information documenting compliance with the guardian qualifications pursuant to Sup.R. 66.06 or 66.07, as applicable, unless specifically waived by the Court. In addition, each Guardian shall submit a background check or certificate of good standing prior to appointment.

The Guardian shall follow all requirements outlined in Sup.R. 66.08 and 66.09 including an annual report to the Court.

### Rule 19(B) – EMERGENCY GUARDIANSHIPS

Pursuant to Sup.R. 66.03(A) this Court has adopted the following process for emergency guardianships. Every application for the appointment of an ex parte emergency guardianship shall be accompanied by:

- a. A statement of Expert Evaluation;
- b. A completed Next of Kin form;
- c. A narrative statement signed by the applicant setting forth anecdotal information describing the imminent risk of significant injury to the person or property of the minor or incompetent that justifies an ex parte emergency appointment;
- d. Compliance with Court’s requirement with respect to background checks and credibility; and

- e. Photo identification of the applicant.

The applicant shall attend the 72-hour hearing to determine whether to extend the emergency guardianship for up to 30 additional days. The applicant is expected to file an application for appointment of guardian within seven days of the completion of a hearing extending the guardianship beyond the initial 72 hour appointment, if it is expected the need for continued guardianship will exist longer than the emergency guardianship.

#### Rule 19(C) - GUARDIAN COMMENTS AND COMPLAINTS

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

This local rule is applicable to all guardians appointed by the Court pursuant to R.C. § 2111.02. Comments and complaints (hereinafter collectively referred to as “complaints”) received regarding the performance of guardians and the resulting documents and correspondence are considered to be case documents and accessible to the public, unless otherwise excluded pursuant to Sup. R. 44(C)(2). The Court will note actions with respect to the complaint in the case docket. The Court will communicate complaints about a guardian’s performance to the guardian and/or the guardian’s counsel expeditiously and pursuant to this local rule.

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

When a complaint is received at the Court, the procedure will be as follows:

1. The Court will send a copy of the complaint to the guardian and/or guardian’s attorney and request a response to the complaint within fifteen (15) court days from the date of mailing.
2. Once the response is received or the expiration of fifteen days has passed with no response, the Court will refer the complaint and any response from the guardian and/or guardian’s attorney to a Court investigator and/or Court security for an investigation to be conducted within fifteen (15) court days.
3. When appropriate, the complaint will be referred to the appropriate law enforcement agency pursuant to R.C. § 2101.26 if the complaint alleges abuse,

neglect, or exploitation of the ward. When the Court refers a complaint to law enforcement, the Court will take such emergency action as it determines necessary to protect the interest of the ward while being cognizant of the need to have minimal impact on investigation by law enforcement.

The Court's actions may include dismissal, directive for remedial action, establishing periodic review dates, allocating costs and fees, referral to law enforcement for investigation, sanctions, removal and any other actions permitted by law. Except when administratively dismissing a complaint, or acting in an emergency, the Court shall not act without a hearing.

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

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

#### Rule 19(D) – GUARDIAN WITH TEN OR MORE ADULT WARDS

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

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

A guardian with 10 or more wards shall include with the Guardian's Report form, a statement indicating whether the guardian is aware of any circumstances that may disqualify the guardian from continuing to serve as guardian.

#### RULE 20 — ESTATES OF MINORS AND INCOMPETENTS OF TEN THOUSAND DOLLARS OR LESS

- A. Applications relating to minors shall be by the parent or parents or by the person having custody of such minor, and shall be captioned in the name of the minor. Any parent who is not the applicant, as well as

- minors fourteen (14) years of age or over, shall consent in writing to the application.
- B. If either or both parents are deceased, or their whereabouts unknown, such facts shall be noted in the caption. If parents are divorced or separated, and custody has been awarded to the applicant, the application shall so state.
  - C. A separate application shall be filed for each minor and the application shall indicate the amount of money or property to which such minor is entitled, and to whom such money or property shall be paid or delivered.
  - D. Where no guardian is appointed for either the receipt of an estate of a minor or the receipt of a settlement for injury to a minor, the attorney representing the interest of the minor shall prepare an entry ordering the deposit of said funds in a local banking institution in the name of the minor, impounding both the principal and interest and releasing said funds to the minor on his eighteenth birthday. Said attorney shall further be responsible for depositing said funds within seven (7) days of the entry's approval. The attorney must provide a copy of said entry to the bank. Furthermore, the attorney must file the bank receipt with the Court.
  - E. All applications shall be accompanied by a child custody affidavit as required by ORC § 3127.23 and § 2111.06.

RULE 21 SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS (ORC § 2111.18)

- A. Applications involving the payment of ten thousand dollars (\$10,000.00) or less shall be by the parent or parents or by the person having custody of the minor, and shall be captioned in the name of the minor. If either or both parents are deceased, or their whereabouts unknown, such facts shall be noted in the caption. If the parents are divorced or separated, and custody has been awarded to the applicant, the application shall so state. A parent who is not the applicant must consent to the application in writing or be given notice of the hearing thereon.
- B. The parents of any ward residing in the county shall be entitled to three days notice by certified mail of the hearing of any application by a guardian for approval of a settlement of an action for personal injuries to his ward. This requirement exists regardless of the amount of the settlement
- C. All applications may be accompanied by a current statement of the examining physician in respect to the injuries sustained, the extent of recovery thereof and the physician's prognosis.
- D. The presence of the injured minor and the parent may be required at the hearing on all applications.

- E. All applications shall state what additional consideration, if any, is being paid to persons other than the guardian.
- F. All applications shall state what arrangement, if any, has been made in respect of counsel fees. All counsel fees shall be subject to review by the Court. See Rule 23.
- G. Where no guardian is appointed for either the receipt of an estate of a minor or the receipt of a settlement for injury to a minor, the attorney representing the interest of the minor shall prepare an entry ordering the deposit of said funds in a local banking institution in the name of the minor impounding both the principal and interest and releasing said funds to the minor on his eighteenth birthday. Said entry shall be presented at the time the entry waiving appointment of a guardian or approving settlement is approved. Said attorney shall further be responsible for depositing said funds within seven (7) days of the entry's approval. The attorney must provide a copy of said entry to the bank. Furthermore, the attorney must file the bank receipt with the Court.

#### RULE 22 SETTLEMENT OF CLAIMS FOR WRONGFUL DEATH

- A. Application for approval of a settlement of a claim for wrongful death shall contain a concise statement of facts including the amount to be received in settlement of the claim and the portion of the settlement allotted for conscious pain and suffering. The statement shall also include the proposed allocation of settlement funds.
- B. The application shall also state the arrangements for payment of counsel fees. Said counsel fees are subject to review by the Court.
- C. The application and proposed allocation shall be set for hearing. Written notice to all interested parties shall comply with rules regarding beneficiaries of different degrees of consanguinity.

#### RULE 23 COUNSEL FEES IN CONNECTION WITH SETTLEMENT OF CLAIMS FOR WRONGFUL DEATH, CONSCIOUS PAIN AND SUFFERING CLAIMS, PERSONAL INJURIES TO PERSON UNDER GUARDIANSHIP, AND SETTLEMENT OF PERSONAL INJURIES TO MINORS UNDER ORC § 2111.18.

In cases where representation is on a contingent basis, only contingency fee contracts between counsel and the proper legal representative prepared and signed prior to any recovery will be approved. All counsel fees must be approved by the Court. A motion and judgment entry for approval of counsel fees must be filed.

#### RULE 24 COUNSEL FEES

- A. Attorney fees in all matters shall be governed by Rule 1.5 of the Ohio Rules of Professional Conduct. All counsel fees are subject to approval by the Court.
- B. Counsel fees will be approved at the time of final accounting so long as attorney fees are computed in accordance with the guidelines of the Court and no exceptions are thereto are received. A hearing will be held in those instances where fees exceed the guidelines, unless proper consents are given. See below.
- C. In addition to those fees permitted by ORC § 2113.35, the Court shall permit allowances for an executor or administrator that are just and reasonable for actual and necessary expenses incurred in the administration of the estate. See ORC §2113.36.
- D. The Court has not and will not establish either maximum fees or minimum fees for services performed, but has established guidelines which are to be considered just and reasonable. Said guidelines are attached to these rules as Appendix B.
- E. Where all of the primary residual beneficiaries of the estate have consented in writing to the amount requested as the attorney fee in an estate, no application for allowance of fees shall be required, providing however:
  - 1. The consent to fees or agreement of fees shall state that all persons signing the same have been made aware of all of the guidelines of the Court as to attorneys fees prior to their signing the consent or agreement;
  - 2. Such consents or agreements for attorney fees shall be filed in the probate file of the estate or filed with the final account in the estate.

If consents are not obtained, the matter will be set for hearing.

- F. In those instances where extraordinary compensation for legal services is to be charged to an estate, such extraordinary legal services shall be requested in an application in writing by the fiduciary and the attorney. Said application shall detail the extraordinary services, the additional time required of the attorney in connection therewith, and a statement as to the necessity therefore.
- G. In cases where the date of death is prior to January 1, 2013, the Executor or Administrator of an estate may pay to the attorney up to 50% of the total attorney fees to be charged for the services in connection with the administration of an estate at the time of filing of the federal estate tax return, if required, or the Ohio Estate Tax Return.
- H. Attorney fees shall not be allowed to attorneys representing fiduciaries who are delinquent in filing an account as required by ORC § 2109.30, except for good cause shown.

- I. It shall be the responsibility of the attorney for the Executor or Administrator to file a statement regarding attorney fees and fiduciary fees with the final account. Said statement shall be in conformance with Appendix C attached hereto.
- J. The sale price of real estate sold shall be used for computation of attorney fees. The appraised value shall not be used in the computation of attorney fees. Deed in lieu of foreclosure shall be figured as transferred not sold. A copy of the closing statement for sale of real estate must be attached to the account.

Attorney fees to be allowed as counsel fees rendered to a guardian, trustee or other fiduciary shall be computed within the guidelines set forth in Appendix B attached to these rules. Said fees shall be paid in connection with the filing of periodical accountings and the attorney shall have the responsibility of filing with the account a form setting forth the manner of computation of the attorneys fees upon a form similar in the nature to that form attached to these rules as Appendix C.

#### RULE 25 EXECUTOR'S AND ADMINISTRATOR'S COMMISSIONS

- B. Compensation for executors and administrators for ordinary services are provided in ORC § 2113.35. All commissions are subject to the approval by the Court.
- C. In those instances where extraordinary fees are to be charged by an executor or administrator, such extraordinary services, the time represented in the execution of said services, and the necessity for said extraordinary services on the part of the executor or administrator shall be outlined in an application to the Court. The Court may require the application to be set for hearing and all interested parties given seven day notice as to the time and place of said hearing.
- D. Executor's and administrator's commissions will not be allowed for those who are delinquent in filing their accounts, except for good cause shown.
- E. In instances where there are multiple executors and administrators, the total fee of all such fiduciaries shall not exceed the commission due an executor or administrator as set forth in ORC § 2113.35.
- F. In cases where the date of death is prior to January 1, 2013, the executor or administrator may pay to himself 50% of the total commission chargeable to the estate at the time of filing the federal estate tax return, if required, or the filing of the Ohio Estate Tax Return.

#### RULE 26 GUARDIAN'S COMPENSATION

- A. Unless otherwise provided by law, a guardian may charge for his ordinary services on an annual basis in an amount computed in accordance with the attached schedule marked Appendix C. All compensation is subject to the approval of the Court.



- B. In those instances where extraordinary fees are to be charged by a guardian, such extraordinary services, the time represented in the execution of said services, and the necessity for said extraordinary services on the part of the guardian shall be outlined in an application to the Court. The Court may require the application to be set for hearing and all interested parties given seven day notice as to the time and place of said hearing.
- C. A guardian shall not be permitted a fee on balances carried forward from prior accounting periods. Final distribution of funds from a guardianship shall not be considered an expenditure for the purpose of computing guardian's compensation.
- D. For the purpose of computing a guardian's compensation as herein approved, the fair market value of the principal shall be determined as of the date of the guardian's appointment and as of each anniversary date 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.
- E. The compensation of co-guardians in the aggregate shall not exceed the compensation which would have been payable if only one guardian had been serving.
- F. It shall be the responsibility of the attorney for the guardian to attach to each guardian's account a form similar to that set forth in Appendix C setting forth the method of computation of the guardian's compensation.

#### RULE 27 TRUSTEE'S COMPENSATION

- A. Except where the instrument creating a trust makes provision for compensation, a testamentary trustee may charge annually for the ordinary services performed by the Trustee in connection with the administration of each separate trust estate a fee as established by Appendix B attached hereto. All compensation is subject to approval by the Court.
- B. A testamentary trustee shall not be entitled to charge for services in connection with balances in the trustee's account carried forward from a prior accounting period.
- C. In those instances where extraordinary fees are to be charged by a trustee, such extraordinary services, the time represented in the execution of said services, and the necessity for said extraordinary services on the part of the trustee shall be outlined in an application to the Court. The Court may require the application to be set for hearing and all interested parties given seven day notice as to the time and place of said hearing.

- D. A trustee shall not be permitted a fee on balances carried forward from prior accounting periods. Final distribution of funds from a trust shall not be considered an expenditure for the purpose of computing trustee's compensation.
- E. For the purpose of computing a trustee's compensation as herein approved, the fair market value of the principal shall be determined as of the date of the trustee's appointment and as of each anniversary date 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.
- F. The compensation of multiple trustees in the aggregate shall not exceed the compensation which would have been paid if only one person were serving as trustee, except where the instrument under which the co-trustees are acting provides otherwise.
- G. Compensation for a trustee or fees to the counsel representing such trustee will not be allowed while such trustee is delinquent in his account or accounting as required by ORC § 2109.30, except for good cause shown.
- H. It shall be the responsibility of the attorney for a trustee to file with each account a form similar to that attached to these rules designated Appendix C setting forth the method of compensation of the fees of the attorney and the trustee.

### APPENDIX A - DEPOSIT FOR COURT COSTS

Filing Application for Appointment of Administrator, Executor, or Guardian ad Litem for Incompetent Minor	\$100.00
Filing Application for Release of Estate from Administration	Exact Costs
Filing Complaint (Civil Action, Land Sale, Determination of Heirship, Declaratory Judgment, Will Contest)	\$100.00
Filing Application same as above with publication	\$250.00
Filing Application for Adoption	Exact Costs
Filing Application for Adoption with publication	\$200.00
Filing Application for Authenticated or Exemplified Will Proceedings	Exact Costs
Filing Application for Ancillary Administration	\$100.00
Filing Application for a miscellaneous action	Exact Costs
Filing Application for Minor's Settlement	\$50.00
Filing Application for Change of Name	\$100.00
Filing Application for Structured Settlement Buyout	\$ 60.00
Filing Application for Change of Name if publication required for non consenting parent	\$200.00

Filing claim with the Court (ORC 2117.06)	\$ 0.00
Jury deposit	\$300.00

ALL DEPOSITS WILL BE APPLIED TOWARDS FINAL COSTS

\*exact costs can be determined by calling (419) 424-7079

APPENDIX B  
GUIDELINES FOR FEES

1. ATTORNEYS FEES

- A. 5% of the value of all probate assets including real estate sold pursuant to ORC § 2127 (value of real estate sold is sale price not appraised value); plus
- B. 3% of the appraised value of the decedent's interest in real estate transferred but not sold pursuant to the above section including deeds in lieu of foreclosure; plus
- C. In cases where the date of death precedes January 1, 2013; 2% of the first \$20,000.00 plus 1% of the balance of all property subject to the Ohio Estate Tax which passes otherwise than under the decedent's will or the Statute of Descent and Distribution, such as joint and survivorship property, property in inter vivos trust, property subject to power of appointment, transfers in contemplation of death, annuities, pension or profit sharing plan benefits, and other non-probate property (but excluding life insurance proceeds where paid to the beneficiaries other than the decedent's estate).
- D. Any attorney fee paid by a fiduciary not exceeding \$250.00 shall be considered presumptively reasonable and just regardless of the amount of assets in the estate.
- E. Except on special application, when an attorney or his associate or partner serve in the dual capacity as attorney for the estate and executor or administrator, the total fees charged in both capacities shall not exceed one and one-half times the attorney fees allowable.

2. GUARDIAN'S FEES

- A. 3% of the first \$1,000.00 income during the accounting period; plus
- B. 3% of the first \$1,000.00 expended during the accounting period; plus
- C. 2% of income in excess of \$1,000.00 during the accounting period; plus

- D. 2% of expenditures made in excess of \$1,000.00 during the accounting period.
- E. Any person employed as attorney and guardian may collect a separate full fee for each capacity. However, an attorney shall not collect a fee on any prior attorney fee paid.

APPENDIX B  
GUIDELINES FOR FEES(Continued)

5. TRUSTEE'S FEES

- A. Income from realty and personalty as follows:
  - 6% of the first \$1,000.00
  - 4% of the next \$4,000.00
  - 2% of all income over \$5,000.00
- B. In addition thereto, there shall be a fee allowed of \$1.50 per \$1,000.00 on the first \$500,000.00 of the corpus of the trust and \$1.00 per \$1,000.00 on the balance over \$500,000.00. This amount shall be based upon the reasonable current market value of the corpus both real and personal handled by the fiduciary chargeable to the principal, except that, with the written consent of the income beneficiaries, all or a portion of said fee may be chargeable to income.
- C. In addition thereto, there shall be a distribution fee on the corpus both real and personal of 1% based upon the reasonable market value of the property at the time of distribution.
- D. Except on special application, when an attorney or his associate or partner serve in the dual capacity as attorney for the trust or trustee, the total fees charged in both capacities shall not exceed one and one-half times the trustee's fee allowable.

4. ATTORNEY'S FEES IN GUARDIANSHIP AND TRUSTS

- A. 3% of the income during the accounting period; plus
- B. 3% of the expenditures during the accounting period, not including any expenditures for attorney fees.
- C. It is assumed by the Court that regardless of any fee guideline that fees charged by trustees or attorneys will not exceed an amount reasonably commensurate with the time expended.
- D. Attorney fee in a guardianship for a sale of Real Estate proceedings is calculated at 5%.
- E. Any attorney fee paid by a fiduciary not exceeding \$200.00 to establish the guardianship and \$250.00 to prepare and file the accounting shall be considered presumptively reasonable and just regardless of the amount of assets in the guardianship estate.

# APPENDIX C

IN THE COMMON PLEAS COURT, PROBATE DIVISION  
HANCOCK COUNTY, OHIO

Estate of \_\_\_\_\_, Deceased

Case Number: \_\_\_\_\_

**Statement of Fees**

5% of Probate assets, including real estate sold,  
of \$ \_\_\_\_\_ = \$ \_\_\_\_\_

3% of appraised value of decedent's interest in real estate transferred but not  
sold or transferred by deed in lieu of foreclosure  
of \$ \_\_\_\_\_ = \$ \_\_\_\_\_

For those cases where the date of death precedes January 1, 2013; 2% of first  
\$20,000.00, plus 1% of balance of all property subject to the Ohio Estate Tax  
Return, including joint and survivorship  
property of \$ \_\_\_\_\_ = \$ \_\_\_\_\_

TOTAL FEE ALLOWABLE = \$ \_\_\_\_\_  
TOTAL FEE CHARGED = \$ \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Attorney for the Estate signature

\_\_\_\_\_  
Fiduciary signature

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

Printed name, address, tel. number

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

Printed name, address, tel. number

IN THE COMMON PLEAS COURT, PROBATE DIVISION  
HANCOCK COUNTY, OHIO

Estate of \_\_\_\_\_, Deceased

Case Number: \_\_\_\_\_

**Statement of Extraordinary Fees**

Total ordinary fee from statement of fees form \$ \_\_\_\_\_  
Extraordinary Fee Total as Computed below: \$ \_\_\_\_\_

<u>Service</u>	<u>Time</u>	<u>Fee</u>
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

Total Ordinary and Extraordinary Fees \$ \_\_\_\_\_  
Minus Attorney Fees Taken on Prior Accountings \$ \_\_\_\_\_  
Balance of Attorney Fees Req. on Final Accounting \$ \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Attorney for the Estate signature

\_\_\_\_\_  
Fiduciary signature

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

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

Printed name, address, tel. number

Printed name, address, tel. number

**\*\*This form MUST be approved by all residual heirs or the matter will be set for hearing.**

IN THE COMMON PLEAS COURT, PROBATE DIVISION  
HANCOCK COUNTY, OHIO



Guardianship of \_\_\_\_\_

Case Number: \_\_\_\_\_

**Statement of Guardian Fees**

3% of first \$1,000.00 income	during		
accounting period		\$	<u>30.00</u>
3% of first \$1,000.00 expenditures	during accounting period	\$	<u>30.00</u>
2% of income in excess of \$1,000.00			during
accounting period		\$	_____
2% of expenditures in excess of \$1,000.00	during accounting period	\$	_____
Total Guardian's Fee Allowable		\$	_____
Total Guardian's Fee Charged		\$	_____

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Guardian's signature

\_\_\_\_\_  
\_\_\_\_\_  
Printed name, address, tel. number

*\*Fees for Extraordinary Services shall be computed detailing the time involved in rendering the service and the necessity of such services on the accounting period for which said extraordinary fees are sought.*

IN THE COMMON PLEAS COURT, PROBATE DIVISION  
HANCOCK COUNTY, OHIO

Trust of \_\_\_\_\_

Case Number: \_\_\_\_\_

**Statement of Trustee's  
Compensation**

Income from realty and personalty:

6% of first \$1,000.00	\$	<u>60.00</u>
4% of next \$4,000.00	\$	<u>160.00</u>
2% of all income over \$5,000.00, a total of \$ _____	\$	_____

Corpus of the Trust:

\$1.50 per \$1,000.00 on first \$500,000.00 (if under \$500,000.00, show corpus x \$1.50 per \$1,000.00 thereof)	\$	_____
\$1.00 per \$1,000.00 on balance over \$500,000.00	\$	_____

Distribution:

1% of principal distributed during this Accounting period, \$ _____	\$	_____
(based upon reasonable market value at time of distribution)		

Total Trustee's Fee Allowable	\$	_____
Total Trustee's Fee Charged	\$	_____

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Trustee

\_\_\_\_\_

\_\_\_\_\_  
Printed name, address, tel. number