

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

<u>Rule</u>		<u>Page</u>
4.01	Hours of Court	4-1
4.02	Conduct in the Court	4-1
4.03	Examination of Probate Files, Records, and other Documents	4-1
4.04	Summons and Notices	4-1
4.05	Request for Jury Trial	4-2
4.06	Motion, Hearings, and Continuances	4-2
4.07	Filings and Journal Entries	4-2
4.08	Court Costs	4-3
4.09	Application to Probate a Will	4-3
4.10	Application for Letters of Administration	4-3
4.11	Appointment and Compensation of Appraisers in Estates and Land Sales Proceedings	4-4
4.12	Inventory	4-4
4.13	Schedule of Claims (Debts)	4-5
4.14	Application to Sell Personalty	4-5
4.15	Tax Proceedings	4-5
4.16	Accounts	4-5
4.17	Land Sales – Chapter 2127, ORC	4-7

<u>Rule</u>		<u>Page</u>
4.18	Relieving Estates from Administration	4-8
4.19	Guardians	4-8
4.20	Estates of Minors and Incompetents of Ten Thousand Dollars of less	4-9
4.21	Settlement of Claims for Injuries to Minors (Section 2111.18, ORC)	4-9
4.22	Settlement of Claims for Wrongful Death	4-10
4.23	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 Section 2111.18, ORC.	4-10
4.24	Counsel Fees	4-11
4.25	Executor's and Administrator's Commissions	4-12
4.26	Guardian's Compensation	4-12
4.27	Trustee's Compensation	4-13
Appendix A	Deposit for Court Costs	4-14
Appendix B	Guidelines for fees	4-15
Appendix C	Form of Statement of Fees and Commissions	4-17

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

RULE 4.01 HOURS OF THE COURT

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

RULE 4.02 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.

RULE 4.03 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 \$0.10 per page for a photo copy, \$0.25 per page for a microfilm copy, and \$1.00 per page for microfilm larger than 8 ½ x 11.
- 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. The adoption and mentally ill files 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 the adoption and mentally ill files without authorization of the Court.

RULE 4.04 SUMMONS AND NOTICE

- A. The Ohio Rules of Civil Procedure shall apply in all respects to any proceedings for any type of notice other than service of summons is required by law or deemed necessary by the Court and the Statute providing for such notice does not direct the manner of its service.
- B. In case personal service of summons or notice is required upon the residents of any county in Ohio other than this county, the Court may at its discretion require a deposit for service of summons.

RULE 4.05 REQUEST FOR JURY TRIAL

In all cases where a jury trial is required in this Court, Civ. R. 38 and Civ. R. 39 shall be complied with. The Court also adopts Local Rules 1.02, Juror Selection, Hancock County Common Pleas Court, as respects the automated data processing for the selection of jurors.

RULE 4.06 MOTIONS, HEARINGS AND CONTINUANCES

- A. All motions shall be submitted in writing with the proper case heading and number.
- B. No continuance, except upon the Court's own motion, shall be granted in the absence of proof of reasonable notice to or consent by the adverse party or his counsel. Failure after such notice 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 4.07 FILINGS AND JOURNAL ENTRIES

- A. All decedent estate filings except wills will be 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.
- B. All papers filed in the Probate Court shall contain the name, address and telephone number of counsel representing the fiduciary and in the absence of such counsel, 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. Failure of the fiduciary to notify the Court or his counsel of his current address shall be grounds for his removal.
- D. 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.
- E. All pleadings are to be typed or printed and clearly titled.
- F. 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.
- G. 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.
- H. Upon failure to comply with this rule, the Court may prepare and file the appropriate entry at the Court's sole discretion.

RULE 4.08 COURT COSTS

- 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 as condition for filing provided that 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 from time to time filings occur and an additional deposit may be required by the Court if determined to be necessary.

RULE 4.09 APPLICATION TO PROBATE A WILL (FORM 2.0)

- A. Written notice shall be mailed at least ten (10) days prior to date set for hearing on probate of a will.
- B. If a will creates a charitable trust which subsequently may be required to be registered with the Attorney General of Ohio under Section 109.26, ORC, there shall be included in the application to probate the will a concise statement setting forth the item number of the will which creates such trust, the name of the trustee or trustees designated there, and the general nature of the trust.
- C. All notice to those persons entitled to notice of an application to probate a will shall be prepared by the applicant or the attorney for the applicant. When the application is filed, it shall be accompanied by the notice form completed except for the date of hearing. The hearing date will be set and noted on the notice of forms when filed by the Court. Service of such notice and proof of such service shall be in accordance with Civ. R. 73 (E) of the Ohio Rules of Civil Procedure.
- D. The Court shall serve all notices required under this section.

RULE 4.10 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 resident of Ohio, shall cause to be served on such spouse and all competent adult next of kin, if any, residing outside of the state, known to the applicant, a written notice of the time and place of the hearing. 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, nor next of kin, the notice shall be served upon such persons as are designated by the Court.

RULE 4.11 APPOINTMENT AND COMPENSATION OF APPRAISERS IN STATES AND LAND SALES PROCEEDINGS

- A. When required by law there will be one suitable and disinterested appraiser appointed.
- B. Executors and administrators without special application to the Court may allow to the appraiser, as compensation for his services, a reasonable amount agreed upon between the fiduciary and the appraiser.
- C. In agreeing upon the amount of compensation executors or administrators and the appraiser 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.
- D. If by reason of special and unusual character of the property to be appraised the fiduciary is of the opinion that the appraisal requires the services of persons expert in the evaluation of such property, such expert opinion may be secured and reasonable compensation paid therefore subject to the approval of the Court.
- E. An appraiser may waive all or any part of the compensation to which he may be entitled under this rule.
- F. Where any questions arise in the interpretation of this rule or where the amount of compensation cannot be agreed upon, the fiduciary shall file an application for allowance of compensation for each appraiser. Otherwise, no Court order is necessary, and credit may be taken for payment in the next regular account as provided by law, subject to all exceptions which may be thereafter filed.

RULE 4.12 INVENTORY

- A. Notice of the filing of inventory shall be given by on publication as a group in a newspaper of general circulation in the county, may be advertised separately or waived by the Court as it elects in each case, and shall be deemed notice to each person or class of persons entitled thereto without specifically naming such person or class of persons under the provisions of Section 2115.16, ORC.
- B. The statutory time for filing, in writing, of inventory (30 days from date of appointment of fiduciary) 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 filed and granted in advance of said due date. Such applications shall set forth the estimated time needed and the accompanying journal entry shall have a blank space for the Court to insert the number of days extension granted.

RULE 4.13 SCHEDULE OF CLAIMS (DEBTS)

An executor or administrator shall prepare and file a schedule of all claims against the estate he represents that have been presented to him and all other debts of the estate of which he has knowledge. The schedule of claims shall state the name and address of the claimant as it appears on the claim, the amount claimed, the date of presentation of the claim, the class into which it falls for payment, the security held for it, the date of maturity if not yet due, whether allowed or rejected by executor or administrator, and the date of allowance or rejection. If death occurred on or after October 17, 1983, Schedule of Claims is not required.

RULE 4.14 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 Sections 2109.45 and 2113.42, ORC.

RULE 4.15 TAX PROCEEDINGS

- A. All estate tax filings in the Probate Court shall conform to the requirements of the Section 5731, ORC.
- B. The Ohio Estate Tax Return should be filed in Probate Court no sooner than three months from the date of appointment.

RULE 4.16 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 the filing of an account (9 months from the date of appointment of fiduciary) 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 filed and granted in advance of said due date. Said application shall set forth the estimated time needed and the accompanying journal entry shall have a blank space for the Court to insert the number of days extension granted. In no event shall extension be for more than a period of six months at any one time.
- 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.

RULE 4.16 ACCOUNTS (Continued)

- D. There shall be filed with the fiduciary's account for estates opened prior to January 1, 2002, vouchers supporting disbursements as required by Section 2109.30, ORC, which vouchers shall be keyed into the account by number, letter or date. No vouchers are needed for estates filed after January 1, 2002 unless specifically requested by the Court. In addition to the requirements of Section 2109.30, ORC, 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 statement of compensation paid to the fiduciary and his counsel.
 - (5) Accounts will not be accepted for filing unless accompanied by all vouchers, which shall be returned upon approval of the account.
- E. If the land has been sold by the fiduciary during the accounting period the accounts shall show the gross amount of the proceeds of the sale and the distribution thereof, with the escrow statement or receipts of the land sales expenditures attached thereto.
- F. 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.
- G. 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.
- H. 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.

RULE 4.16 ACCOUNTS (Continued)

- I. 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 or may the county. Such commissioner shall make a written report of his findings to the Court.
- J. A final or distributive account shall not be approved until all court costs have been paid.
- K. Service of Additional Notice (See Section 2109.33, ORC).

RULE 4.17 LAND SALES – CHAPTER 2127, ORC

- A. In all sales under Section 2127.11 (Summary Sales) ORC, 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. When an order of private sale is prayed for, excepting those cases where the consent of all necessary parties to the proceedings has been filed, or cases involving the sale of fractional interest, the complainant shall be required, by affidavit or testimony under oath, to establish whether or not the sale has been the subject of prior negotiations, the amount offered for the sale of the property, the appraised value in the land sales proceedings, the identity of the prospective purchaser and counsel, if any, whether or not the proposed transaction will be or has already been placed in escrow, and 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, such report to 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, the compensation to be them taxed as part of the costs of the proceedings.

RULE 4.17 LAND SALES – CHAPTER 2127, ORC (Continued)

- 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 4.18 RELIEVING ESTATES FROM ADMINISTRATION

- A. Estates of One Hundred Thousand Dollars (\$100,000.00) or less may be relieved from administration if the statutorily qualify pursuant to Section 2113.04, ORC, by use of the standard forms which shall include in all cases form 5.0, 1.0 and 5.1. 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. Whenever form 12.1 is used it should be accompanied by a photo-copy made on 8 ½ x 14 inch paper which shall be certified by the court and furnished to the applicant for the purpose of recording.
- C. Except on special motion to the court no appraiser will be appointed in any release not containing real estate. If an appraiser is necessary, form 3.0 should be attached to form 5.0. All appraisers shall be a resident of Hancock County or the city of Fostoria and shall be licensed by the Ohio Real Estate Board.
- D. All applications to relieve an estate from administration shall be accompanied by a “certificate of service” indicating that the applicant has mailed a copy of the application to release from administration and a copy of the purposed judgment entry to be submitted to the court to all of the next of kin of the decedent and legatees or devisees if the decedent died testate.

Such certificate shall indicate that a copy has been mailed by first class mail together with an indication of the date of mailing. If there are unpaid creditors, they shall also be notified as indicated above.

RULE 4.19 GUARDIANS

- A. All applications for the appointment of a guardian on the grounds of mental incompetency, dismissal of such guardianship or declaration of competency, shall be accompanied by a statement of a physician.
- B. Payment for the support, maintenance or education of a ward shall not be approved, nor the account accepted, until such time as the guardian files an application to determine, separate and apart from the account, the amount to be allowed for the support, maintenance or education of the ward, and an inventory has been filed.
- C. An application by a parent guardian for an allowance for care and support of a minor shall allege, as such is the fact, that the father and mother are financially unable to provide the items for which the amount is sought.
- D. The Court will not accept for filing any guardianship for a minor where the only purpose of the guardianship is to establish a residency for school purposes. Custody for school purposes is a matter to be heard and determined in the Juvenile Division of the Court.

RULE 4.20 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. A parent who shall be captioned in the name of the minor. A 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 entry shall further be responsible for depositing said funds within seven (7) days of the entry's approval, together with a copy of said entry and shall further obtain a receipt from the bank and deposit it with the Court.
- E. All applications shall be accompanied by an affidavit as required per 3109.27 and 2111.06, ORC.

RULE 4.21 SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS (SECTION 2111.18, ORC)

- 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 names 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. In any application by a guardian for approval of a settlement of an action for personal injuries to his ward, irrespective of amount, the parent or parents of such ward, if any, living in the county, shall be entitled to three (3) days notice by certified mail of the hearing on such application. The notice may be waived in writing.
- 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.

RULE 4.21 SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS (SECTION 2111.18, ORC)(Continued)

- 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, which fees shall be subject to review by the Court.
- 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, together with a copy of said entry and shall further obtain a receipt from the bank and deposit it with the Court.

RULE 4.22 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 amount, if any, to be received in the settlement of the right of action for conscious pain and suffering. The statement shall also include the proposed allocation of the compensation to be received in settlement of the action for wrongful death.
- B. The Court shall require that the application and proposed allocation be set for hearing and a written notice thereof be given to all interested parties in the manner required by the Court where beneficiaries are of different degrees of consanguinity.
- C. The application shall also state what arrangements, if any, have been made in respect to counsel fees, which fees shall be subject to review by the Court.

RULE 4.23 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 SECTION 2111.18, ORC.

In cases where representation is on a contingent basis, counsel will be allowed fees on the amount obtained as approved by the Court upon application unless in advance of any recovery of a contingency fee contract between counsel and the proper legal representative.

RULE 4.24 COUNSEL FEES

- A. Pursuant to the provisions of Section 2113.36, ORC, the Court shall permit Executor's or Administrator's allowance for the payment of attorneys fees that are just and reasonable for actual and necessary expenses incurred in the administration of the estate. 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.

So long as attorneys fees are computed in accordance with guidelines of the Court, such attorneys fees will be approved at the time of final accounting unless a beneficiary of the estate has filed exceptions thereto.

- B. Where all of the primary residual beneficiaries of the estate have consented in writing, or have agreed 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 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 attorneys fees shall be filed in the probate file of the estate or filed with the final account in the estate.
- C. The Executor or Administrator of an estate may, in his or her discretion, 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, and the Ohio Estate Tax Return.
- D. Except for good cause shown, attorneys fees shall not be allowed to attorneys representing fiduciaries who are delinquent in filing an account as required by Ohio Section 2109.30, ORC.
- E. It shall be the responsibility of the attorney for the Executor or Administrator of an estate to file with the final account of the fiduciary of the estate a statement as to attorneys fees charged in the estate and fiduciary fees payable to the fiduciary of the estate in a form commensurate with that shown in Appendix C attached hereto.
- F. In those estates where be reason of the nature of the estate or unusual proceedings affecting the estate, 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. 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.

RULE 4.24 COUNSEL FEES(Continued)

- G. Attorneys 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.

Hearings upon fees for an attorney for a guardian, trustee or other fiduciary shall not be required except in those instances where the fee is not computed with the guidelines set forth in Appendix B.

RULE 4.25 EXECUTOR'S AND ADMINISTRATOR'S COMMISSIONS

- A. Compensation for Executors and Administrators for ordinary services shall be provided in Section 2113.35, ORC.
- B. Where the nature of the estate is such that extraordinary services are required by an Executor or Administrator, an application shall be filed in the Court setting forth the nature of said 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. The Court may require the application to be set for hearing and all interested parties given notice as to the time and place of said hearing not less than seven (7) days before the date thereof.
- C. Except for good cause shown, Executor's and Administrator's commissions will not be allowed to Executors and Administrators who are delinquent in filing their accounts.
- D. 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 Section 2113.35, ORC.
- E. The Executor or Administrator may pay to himself or herself one-half 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 4.26 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.
- B. Any guardian's fees in excess of the amounts set forth in Appendix B shall be allowed only upon application in writing setting forth the extraordinary services of the guardian, the time involved in rendering said services and the necessity therefore. All persons interested shall be notified of said hearing on allowance of guardian's fees not less than seven (7) days prior to the hearing on the application for allowance thereof.

RULE 4.26 GUARDIAN'S COMPENSATION(Continued)

- 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 as an expenditure for the purpose of computing guardian's compensation.
- D. 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.
- E. 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 attached to these rules setting forth the method of computation of the guardian's compensation.

RULE 4.27 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.
- 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. Additional compensation for extraordinary services by a testamentary trustee may be allowed upon written application setting forth the extraordinary services performed, the time involved in rendering said extraordinary services and the necessity therefore. The Court may require that such application be set for hearing and notice thereof given to all interested parties not less than seven (7) days prior to the hearing on the application for compensation for extraordinary services.
- D. 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.
- E. Except for good cause shown, neither compensation for a trustee nor fees to the counsel representing such trustee will be allowed while such trustee is delinquent in his account or accounting as required by Section 2109.30, ORC.
- F. 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 Probate of Will	\$ 60.00
Filing Application for Probate of Will in an Estate to be Released from Administration	Exact Costs
Filing Application for Appointment of Administrator for Wrongful Death Purposes Only	\$100.00
Filing Application for Appointment of Administrator or Executor	\$100.00
Filing Application for Release of Estate from Administration	Exact Costs
Filing Application for Appointment of Guardian of an Incompetent Person or Minor	\$100.00
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 Barring Claims	\$100.00
Filing Application for a miscellaneous action	Exact Costs
Filing Application for Minor's Settlement	Exact Costs
Filing Application for Change of Name	\$ 40.00
Filing Application for Change of Name if publication required for non consenting parent	\$ 60.00
Filing claim with the Court (ORC 2117.06)	\$ 0.00

ALL DEPOSITS WILL BE APPLIED TOWARDS FINAL COSTS

APPENDIX B
GUIDELINES FOR FEES

1. ATTORNEYS FEES

- A. 5% of the value of all probate assets excluding real estate not sold pursuant to Section 2127, ORC; plus
- B. 3% of the appraised value of the decedent's interest in real estate transferred but not sold pursuant to the above section; plus
- C. 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 charge 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.

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.
- 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

FORM OF STATEMENT OF FEES AND COMMISSIONS

1. ATTORNEYS FEES

- A. Properly captioned "In the Common Pleas Court, Probate Division, Hancock County, Ohio"
- B. Properly captioned as to subject matter, case number and "Statement of Fees"
- C. Body of the Statement of Fees:

5% of Probate assets, excluding real estate,
of \$ _____ = \$ _____

3% of appraised value of decedent's interest
in real estate transferred but not sold
of \$ _____ = \$ _____

2% of first \$20,000.00, plus 1% of balance
of all property subject to the Ohio Estate
Tax Return, including joint and survivor-
Ship property of \$ _____ = \$ _____

TOTAL FEE ALLOWABLE = \$ _____

TOTAL FEE CHARGED = \$ _____

Dated this _____ day of _____, 20_____.

Attorney for the Estate

2. EXTRAORDINARY FEES (ITEMIZE AND ATTACH TIME RECORDS IF AVAILABLE)

A. Total attorney fee from above \$ _____

B. Extraordinary Fee Total as Computed below: \$ _____

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

APPENDIX C

Page 2

2. EXTRAORDINARY FEES (ITEMIZE AND ATTACH TIME RECORDS IF AVAILABLE)(Continued)

C. Total Ordinary and Extraordinary Fees	\$ _____
D. Minus Attorney Fees Taken on Prior Accountings	\$ _____
E. Balance of Attorney Fees Requested on Final Accounting	\$ _____

Attorney

Fiduciary

3. GUARDIAN'S FEES

A. 3% of first \$1,000.00 income during accounting period	\$ _____	30.00
3% of first \$1,000.00 expenditures during accounting period	\$ _____	30.00
2% of income in excess of \$1,000.00 during accounting period of \$ _____	\$ _____	
2% of expenditures in excess of \$1,000.00 during accounting period \$ _____	\$ _____	
B. Total Guardian's Fee Allowable	\$ _____	
C. Total Guardian's Fee Charged	\$ _____	

Guardian

D. 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.

APPENDIX C

Page 3

4. TRUSTEE'S COMPENSATION

- A. Properly captioned "In the Common Pleas Court, Probate Division, Hancock County, Ohio"
- B. Properly captioned as to subject matter, case number and headed "Statement of Trustee's Compensation"
- C. Body of the Statement of 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	\$ _____
-----------------------------	----------

Trustee