

COURT OF COMMON PLEAS
PROBATE DIVISION
TRUMBULL COUNTY, OHIO

IN RE:)
COUNTY LOCAL PROBATE RULES)
OF THE PROBATE COURT OF)
TRUMBULL COUNTY, OHIO)

JUDGMENT ENTRY

It is hereby ORDERED, ADJUDGED, AND DECREED that the following shall constitute the County Local Probate Rules of the Probate Court of Trumbull County, Ohio. All policies and procedures are reflected in these local rules.

COURT APPOINTMENTS

RULE 8.1 Persons appointed by the Court to serve as appraisers, fiduciaries, attorneys, special master commissioners or magistrates, investigators, guardians ad litem, arbitrators, mediators, and trustees for suit, may be selected from lists maintained by the Court.

Appointments will be made from the lists taking into consideration the qualifications, skill, expertise, and caseload of the appointee in addition to the type, complexity, and requirements of the case.

Court appointees will be paid a reasonable fee with consideration given to the factors contained in Prof. Cond. Rule 1.5, the Ohio Revised Code and the Local Rules of Court relating to fees.

The Court shall review Court appointment lists at least twice annually to ensure the equitable distribution of appointments.

All attorneys appointed by the Court to serve as counsel, fiduciaries, special master commissioners, investigators, guardians ad litem, or trustees for suit shall be covered by a policy of professional liability insurance with policy limits of at least one hundred thousand dollars per occurrence and three hundred thousand dollars in the aggregate or other insurance coverage, unless otherwise ordered by the

Court. In order to be considered for appointment as counsel, fiduciaries, special master commissioners, investigators, guardians ad litem, or trustees for suit, attorneys shall be required to certify to the Court that they are covered by such a policy of insurance, unless otherwise ordered by the Court. If an attorney is serving as appointed counsel, fiduciary, special master commissioner, investigator, guardian ad litem, or trustee for suit and ceases to be covered by a policy of professional liability insurance with the above described limits, the attorney shall immediately notify the Court.

Non-lawyer appointees and attorneys appointed to serve in other capacities may be required to obtain such insurance or bond as the Court determines is necessary.

The Court may require background checks of all appointees.

The Court may order the parties to submit an advance deposit of costs to compensate professional or other appointees.

RULE 8.2 Upon application and for good cause shown, the Court may appoint a special master commissioner for the limited purpose of disposing of the decedent's cremated remains.

RULE 8.3 The Court may consider whether or not the attorney representing the fiduciary has professional liability insurance as a factor in determining the suitability of the fiduciary to serve.

RULE 8.4 All fiduciaries appointed by the Court shall notify the Court in writing whether or not the attorney representing the fiduciary has malpractice insurance.

RECORDING OF PROCEEDINGS

RULE 11.1 The Court will make an audio recording of proceedings before a Magistrate that shall serve as the record of the Court. Parties or other interested persons who desire to have a transcript of the proceedings shall request the transcript in writing from the court reporter and are required to make a deposit. The requesting party shall pay the full cost of the transcription upon

completion.

Tapes of proceedings may not be removed from the Court.

RULE 11.2 The Court may assess a court cost of \$25.00 to make a record of any proceeding before the Court.

Rule 11.3 Upon request of the Court, Plaintiff or the moving party in any hearing shall retain the service of a private court reporter to keep a verbatim stenographic record of the hearing and shall pay the costs of the private court reporter unless otherwise ordered by the Court. Plaintiff or the moving party shall file with the Court a notice of the name, address, and telephone number of the private court reporter at least three days prior to the hearing. A private court reporter so retained may be designated by the Court as the official court reporter for the purpose of recording the proceedings at such hearing.

CONDITIONS FOR BROADCASTING AND PHOTOGRAPHING COURT PROCEEDINGS

RULE 12.1 No radio or television transmission, voice recording device, other than a device used by a court reporter making a record in a proceeding, or the making or taking of pictures shall be permitted without the prior express consent of the Court and pursuant to Sup. R. 12.

RULE 12.2 The use of cell phones, for any purpose, by non-court personnel is prohibited without prior authorization of the court. Any violation of this rule will result in the phone being confiscated by court security. A confiscated phone may be picked up at the court security desk at the close of the business day. No photographs shall be taken at any time without prior authorization of the court.

MEDIATION

RULE 16.1 A. Referral to Mediation and Scope of Mediation
1. At any time and in any action under the jurisdiction of this Court, a matter may be referred to a mediator. The Judge or Magistrate may refer or order a case to mediation at any point in a case. Any party may request to participate in mediation by filing a motion or joint motion with the

Court or by making an oral request for a referral to mediation on the record. In accordance with all applicable provisions of this rule, if a case is deemed appropriate by the Court, the mediation may be scheduled.

2. The mediator may meet with the parties individually prior to bringing the parties together for any reason, including, but not limited to, further screening.
 3. A party opposed to either the referral to mediation or the appointed mediator must file a written objection with the Court within seven (7) days of receiving notice of the referral or the mediator and explain the reasons for any opposition.
 4. All mediations shall be conducted in accordance with the provisions of the Ohio Uniform Mediation Act under O.R.C. Chapter 2710, which is hereby incorporated by reference.
 5. Mediation shall not be used as an alternative to the prosecution or adjudication of domestic violence; in determining whether to grant, modify, or terminate a protection order; in determining the terms and conditions of a protection order; or in determining the penalty for violation of a protection order. Nothing in this division shall prohibit the use of mediation in a subsequent divorce or custody case, even though the case may result in the termination of the provisions of a protection order.
- B. Required Participants
1. All parties and all counsel shall attend the mediation conference when referred. In the event of a corporate party, an officer, director or employee with full authority to settle the claim on behalf of the party shall appear. In the event of a governmental agency or entity as a party, a representative with full authority to negotiate on behalf of the entity or agency and to recommend settlement to the appropriate decision making body shall attend.
 2. If geographic distance or physical disability prevents a participant from attending personally, the Court may permit participation by electronic or other means at the Court's sole discretion. A written

motion to attend by a means other than in person must be approved prior to the mediation for the party's presence to be excused.

3. If any party or counsel fails to attend a duly ordered mediation without good cause, the Court may impose sanctions, including, but not limited to, an award of attorney's fees and other costs, contempt, or other appropriate sanctions.
4. Parties represented by counsel may attend mediation without counsel only with prior approval by the Court.

C. Domestic Violence

1. All parties and their counsel have a duty to advise the mediator in writing of any known or alleged domestic violence that occurs between any parties prior to or during the mediation.

D. Confidentiality

1. Except as provided in sections 121.22 and 149.43 of the Revised Code, mediation communications are confidential to the extent agreed by the parties or provided by other sections of the Revised Code or rules adopted under any section of the Revised Code. Parties desiring confidentiality of mediation communications shall advise the mediator in writing as soon as practical and all mediation participants shall execute any confidentiality agreement prior to the start of mediation.
2. By participating in mediation, a nonparty participant, as defined by R.C. 2710.01(D), submits to the Court's jurisdiction to the extent necessary for enforcement of this rule. Any nonparty shall have the rights and duties under this rule as are attributed to parties, except that no evidence privilege shall be expanded.
3. The mediator shall not be permitted to testify or otherwise present evidence concerning the substance of mediations. In no event may the mediator be compelled for any purpose to act as a witness, consultant, attorney, or expert in any pending or future actions relating to the dispute, including actions between persons not parties to the mediation process. However, if an agreement

is reached in mediation and is made in open court and/or reduced to a signed writing, the mediator may testify as to the terms of the agreement if a disagreement as to the terms subsequently arises. The mediator may file a mediation report with the Court indicating whether the mediation has occurred, whether a settlement was reached, and stating who was in attendance at the mediation. The mediator may also file a report with the Court informing the Court of any misconduct or violations of the rules pertaining to the conducting of mediations on the part of the parties or their counsel.

E. Mediators

1. A mediator provided by the Court shall meet the qualifications and comply with all training and requirements of Sup.R. 16.23 and adopted pursuant to Sup.R. 16.22 governing mediators and mediation, as well as all other qualification requirements which may be imposed by law.
2. Parties may request leave to select an independent mediator. The Court shall not be responsible for the quality of a mediator selected by the parties without guidance from the Court and who does not meet the qualifications, education, and training requirements of Sup.R. 16.23.

F. Mediation Reports

1. Unless otherwise ordered by the Court, a mediation statement shall be submitted directly to the mediator in person or by e-mail at least three (3) court days prior to the mediation. No mediation statement should be filed with the Court. The mediation statement shall indicate whether it is being shared with the other parties. The mediation statement shall advise the mediator of the status of the party's position, the status of the negotiations between the parties, any pending settlement offers, and any other information that could assist the mediator in mediating the case.

G. Pending Proceedings

1. All court orders shall continue in effect during the mediation. No order is stayed or suspended during the mediation process except by written court order. Mediation shall not

stay discovery, which may continue through the mediation process in accordance with applicable rules, unless agreed to and approved by the Court by written court order.

2. It is the policy of this Court to determine matters in a timely way. Continuances of scheduled mediations shall be granted only for good cause shown after a mutually acceptable future date has been determined. The case may be continued by the Court or by the mediator. Except as authorized by the Court, the existence of pending motions shall not be good cause for a continuance.
3. A mediator shall not preside over future contested hearings or trials in the case mediated after the mediation has commenced without the consent of the parties. A party who fails to object on the record prior to the commencement of the hearing or trial will be deemed to have consented to the mediator presiding.

H. Costs

1. The Court may impose upon the parties fees and costs for mediation.
2. If there is a fee for mediation, unless otherwise agreed by the parties, the mediation fees shall be shared equally.

I. Legal Advice and Referrals

1. The efforts of the mediator shall not be construed as legal advice.
2. Mediators will maintain resources for mediation participants, encouraging appropriate referrals to legal counsel and other support services, such as Children Services, Adult Protective Services, domestic violence support, counseling, substance abuse and mental health services.

J. Settlements

1. No oral agreement made in mediation is binding unless made in open court on the record or subsequently reduced to a writing signed by all parties and/or their counsel.
2. An agreement reached in mediation is binding upon it being made in open court on the record.
3. Unless otherwise ordered by the Court, the parties shall submit to the Court an agreed

judgment entry addressing the settlement
within fourteen (14) days of the settlement.

K. Comments and Complaints

1. Any mediation participant may submit to the Judge of the Trumbull County Probate Court any written comments, complaints, or feedback regarding the performance of the mediator.

L. Public Access

1. The notes and files maintained by a mediator but not submitted to the Court shall not be available for public access.

HOURS OF THE COURT

RULE 53.1 The Court and its offices will be open for the transaction of business from 8:30 a.m. to 4:30 p.m. daily, except Saturday, Sunday, and legal holidays, unless otherwise determined by the Court.

EXAMINATION OF PROBATE RECORDS

RULE 55.1 Court records shall not be removed from the Court, unless authorized by judgment entry.

RULE 55.2 Copies of open records may be obtained at the cost per page set forth on Appendix A.

RULE 55.3 Confidential files shall not be inspected, unless authorized by judgment entry.

RULE 55.4 For purposes of maintaining the efficient operation of the Court and protecting court records, the use of copying equipment brought into the Court for purposes of duplicating court documents may be reasonably limited by the Court.

RULE 55.5 Prior to filing or submitting a document with the Court, all personal identifiers shall be redacted from the document. When personal identifiers are redacted from a document, the filer shall submit that information on standard form 45(D) Confidential Disclosure of Personal Identifiers. No Inventory or Account shall be approved and no fees shall be paid upon the failure to file form 45(D) unless otherwise ordered by the Court.

- RULE 55.6 Public access terminals, microfilm and microfiche machines are to be utilized on a first come, first serve basis. The Court will supply a sign in sheet with designations of 30 minutes each for public use of the equipment. Once the allotted time period expires, the individual may be granted one additional 30 minute time increment per day upon written request and approval.
- Rule 55.7 The Trumbull County Probate Court has jurisdiction over a variety of confidential matters. As a result, the Court protects the rights and confidences of parties and officially speaks through its journal entries. No probate court staff member is authorized to speak on behalf of the Court unless authorized by reference or journal entry.
- RULE 55.8 Pursuant to Superintendence Rule 45 (B)(3), the Court hereby restricts the amount of court records that will be mailed, transmitted, or delivered per month to each requestor to thirty (30) documents, unless the requestor certifies in writing that the requestor does not intend to use or forward the records, or the information contained in them, for commercial purposes.

FILINGS AND JUDGMENT ENTRIES

- RULE 57.1 An applicant shall include the applicant's e-mail address, and Driver's License Numbers on papers, pleadings, and other documents, as required by the Court.
- RULE 57.2 Ohio Supreme Court Registration Numbers assigned to attorneys representing all parties to proceedings and the attorney's e-mail address, shall be included on papers, pleadings, and other documents, as required by the Court. All filings must be signed by the individual attorney as the attorney of record for a party and not as a legal entity. A person who is not the attorney of record shall not sign on behalf of the attorney of record.

- RULE 57.3 Papers, pleadings, and other documents that are incomplete, or not of sufficient quality to be imaged, microfilmed, or stored electronically may be refused for filing, or, if filed, may be stricken from the files. In the event of a dispute regarding filings made via U.S. mail or other postal carrier, the Court may require filing in person to a deputy clerk. All briefs or memoranda of law shall comply with the Supreme Court Rules for Reporting of Opinions unless otherwise ordered by the Court. Copies of all opinions previously referred to as "unpublished" that are not posted on the Ohio Supreme Court website under rule 3 of the Supreme Court Rules for Reporting of Opinions shall be attached as appendices unless otherwise ordered by the Court.
- RULE 57.4 Upon the filing of any legal action that affects an estate, a trust, or a guardianship, the fiduciary shall file a notice of litigation with the Court. The notice may conform to the form attached as Appendix B.

FACSIMILE FILING

- RULE 57.5 Pursuant to Civil Rule 5(E), the Court in its discretion may allow facsimile filing during regular business hours of the Court as set forth in Local Rule 53.1. Any documents received after regular business hours shall be deemed filed the following business day. Only documents subsequent to the initial pleading may be filed with the probate court by facsimile, subject to the following provisions:
- (A) A document filed by facsimile shall be accepted as the effective original document and shall be filed by the party or their attorney of record. All risks of transmission shall be borne by the sender.
 - (B) All filings by facsimile shall be accompanied by a cover page that states all of the following information:

- (1) The date of transmission;
 - (2) The name, telephone number, and facsimile number of the person transmitting the document;
 - (3) The case number and caption of the case in which the document is to be filed;
 - (4) The title of the document to be filed;
 - (5) The number of pages being transmitted.
- (C) Any signature on documents transmitted by facsimile shall be considered that of the attorney or party that it purports to be for all purposes. If it is established that the documents were transmitted without authority, the Court may order the filing stricken.
- (D) The filing date of any documents transmitted by facsimile during regular business hours shall be the time and date the document was received by the Court's facsimile machine.
- (E) Any document filed by facsimile that requires a filing fee may be rejected unless the filer has complied with the mechanism established by the Court for the payment of filing fees.
- (F) The dedicated fax number for the Trumbull County Probate Court is (330) 675-3024. Filings faxed to any other number will not be accepted unless otherwise authorized by the Court.
- (G) Papers, pleadings, and other documents that are incomplete may be refused for filing, or, if filed, may be stricken.

ELECTRONIC FILING OF DOCUMENTS

RULE 57.6 Documents subsequent to the initial pleading may be filed with the Probate Court by electronic means subject to the following provisions:

- (A) A document filed by electronic means shall be accepted as the effective original document

and shall be filed by the party or their attorney of record. All risks of transmission shall be borne by the sender.

- (B) Any signature on electronically transmitted documents shall be considered that of the attorney or party that it purports to be for all purposes. If it is established that the documents were transmitted without authority, the Court may order the filing stricken.
- (C) The filing date of any electronically transmitted documents shall be the time and date the document was received by the Court's receiving device. This time and date shall serve as the Court's time stamp for the document.
- (D) Any document filed electronically that requires a filing fee may be rejected unless the filer has complied with the mechanism established by the Court for the payment of filing fees.
- (E) Electronically transmitted documents may be received during regular business hours of the Court as set forth in Local Rule 53.1. Any documents received after regular business hours shall be deemed filed the following business day.
- (F) Papers, pleadings, and other documents that are incomplete may be refused for filing, or, if filed, may be stricken.
- (G) A judgment entry or a decision by a judge or a magistrate shall be signed manually or with an electronic signature. Electronic transmission of a document with an electronic signature by a judge or magistrate that is sent in compliance with the procedures adopted by the Court shall be accepted as a filing of the document for all purposes of the Ohio Rules of Civil Procedure, the Ohio Rules of Superintendence, and the Local Rules of this Court.

RULE 57.7

The Trumbull County Probate Court does not accept filings via electronic mail. The Trumbull County Probate Court does not communicate officially via electronic mail. Pursuant to Ohio law, the Judge and Magistrates are not permitted to have ex parte communications regarding cases pending before the Court. No electronic mail received and sent from the Trumbull County Probate Court is retained

except the following:

- E-notices
- Archive requests
- E-filing confirmations
- Case specific correspondence that is copied to the official Court file

**CONSENT AND WAIVER OF SERVICE BY TRUMBULL
COUNTY BAR ASSOCIATION MAILBOX**

RULE 57.8 The maintenance by counsel of a Trumbull County Bar Association "mailbox" shall be deemed an explicit consent by counsel to receive in counsel's bar association "mailbox" held in counsel's individual name or firm's name any and all service by this Court, at the Court's option: counsel acknowledges that such bar association "mailbox"; and further, the maintenance by counsel of a bar association "mailbox" shall also be deemed to constitute a waiver of any alleged imperfections of service. "Service" as denoted under this Local Rule shall be deemed to apply only as to service by this Court upon counsel in counsel's representative capacity as counsel of record, guardian ad litem, or fiduciary in all pending matters before this Court, and not to counsel individually. Notwithstanding anything herein to all contrary, counsel who maintain a bar association "mailbox" may revoke the "consent" and "waiver" of service provisions under the Local Rule by executing a written "Notice of Revocation of Consent & Waiver of Service by Bar Association Mailbox" in a form substantially as follows: "Now comes (name of attorney), who hereby gives notice of his/her revocation of the consent to and by Bar Association Mailbox" pursuant to Local Rule 57.8, and hereby request that all future service be completed by the Court as specifically provided by the Civil Rules or as otherwise provided by law.

ENTER APPEARANCE AS ATTORNEY OF RECORD

RULE 57.9 Parties receiving a notice of hearing shall provide a copy of the notice to their attorney so that he or she can enter an appearance and receive

notification of future hearings.

REIMBURSEMENT OF EXPENSES

RULE 57.10 Any request for reimbursement of costs or other expenses shall be supported by receipts, vouchers Or other proof unless otherwise ordered by the Court.

DEPOSIT FOR COURT COSTS

RULE 58.1 The amounts set forth on Appendix A shall be deposited with the Court upon the filing of the respective actions and proceedings.

RULE 58.2 The Court may order the parties to submit an advance deposit of costs for professional or other fees.

Upon the filing of a demand for a jury trial, the party making the demand shall file an advance deposit for costs for juror fees in the amount of \$500.00 or such other amount as the Court may determine.

RULE 58.3 Papers, pleadings, and other documents may be refused for filing, or, if filed, may be stricken for failure to make deposits, or to pay court costs, except for good cause shown.

RULE 58.4 No appointment shall be made if there is a failure of the fiduciary or the fiduciary's attorney to pay court costs.
Failure of the fiduciary or the fiduciary's attorney to make additional deposits, or to pay court costs, shall be cause for removal.

RULE 58.5 For claims against estates, see Loc. R. 62.1.

RULE 58.6 For the purpose of procuring and maintaining computerized legal research services, an additional fee of One Dollar and fifty Cents (\$1.50) shall be collected as costs in each cause filed in an estate, wrongful death, guardianship, trust, minor settlement, civil action, correction of birth record, registration of birth, change of name, or adoption.

- RULE 58.7 A member of the United States Armed Services who died while serving in a combat zone or as a result of wounds, disease, or injury incurred while serving in a combat zone shall be exempt the following fees as prescribed in R.C. 2101.16:
1. Any fee for or associated with the filing of the decedent's will for probate;
 2. Any fee for any services rendered by the probate court associated with the administration of decedent's estate;
 3. Any fee for relieving decedent's estate from administration under R.C. 2113.03;
 4. Any fee for granting an order for summary release from administration under R.C. 2113.031.
 5. Any fee associated with a short form release, pursuant to local rule 75.3(C).
- RULE 58.8 The Clerk of the Probate Court may charge a reasonable fee in each action or proceeding filed, including full administrations of estates, trusts, guardianships, conservatorships, civil actions, wrongful death actions, change of name, and adoption proceedings, for the purpose of the resolution of disputes within the jurisdiction of the Probate Court and authorized by the Local Rule of Practice pursuant to R.C. 2101.163. (Eff. 4-8-04).
- RULE 58.9 The Clerk of the Probate Court may charge a fee of \$21.50 for each certified copy of a birth record ordered in an adoption or correction of birth record to be forwarded to Ohio Department of Health, Division of Vital Statistics for the issuance of a replacement or corrected birth certificate pursuant to R.C. 3109.14, 3705.24(A) and (B), and 3705.242.

WILLS

- RULE 59.1 If a will confers a power to nominate an executor as described in R.C. 2107.65, the application to probate the will shall include a concise statement setting forth the item number of the will that confers the power, and the name(s) of the

holder(s) of the power.

APPRAISERS

- RULE 61.1 An appraiser must be experienced in appraising property in Trumbull County, Ohio, and shall not be a member of the family, business associate, or client of the fiduciary, the fiduciary's attorney, or other person interested in the estate.
- Rule 61.2 Upon application and good cause shown, the Court may authorize the fiduciary by order, to use the County Auditor's tax value for real property in an estate in lieu of an appraisal.

INVENTORY

- RULE 100.1 Except for good cause shown, the costs of citations shall be deducted from the fiduciary's compensation.
- RULE 100.2 Except for good cause shown, estate assets shall not be transferred, or distributed until the inventory or inventory and appraisal has been filed and approved by judgment entry.
- RULE 100.3 All applications for authority to administer estate, application for appointment for guardian, or trustee shall be accompanied by a bond in the amount required by law unless the applicant files a motion to waive bond pending the filing of the inventory.

If said motion is granted, bond shall be filed at the time of the filing of the inventory. A motion to continue the waiver of bond may be filed in the fiduciary either completes a criminal background check performed by the Trumbull County Sheriff's Department using the WEBCHECK system, or the assets of the trust, estate or guardianship have been placed in a restricted account with no withdrawals unless authorized by the Court. All unless otherwise ordered by the Court.

TRANSFER OF STRUCTURED SETTLEMENTS

- RULE 101.1 The person giving independent professional advice

to the payee regarding the legal and other implications of the transfer of a structured settlement pursuant to O.R.C. §2323.583 (C) shall be present at the hearing.

RULE 101.2 Upon application for the transfer of a structured settlement an affidavit shall be filed regarding the status of any child support owed by the applicant.

RULE 101.3 In all transfer of structured settlement matters, a criminal background check of the prospective transferor shall be performed by the Trumbull County Sheriff's Department using the WEBCHECK system, within five days of the filing of the motion. In addition, a criminal background check of the law enforcement agencies shall be performed by an investigator appointed by the Court.

CHANGE OF NAME

RULE 102.1 Except for good cause shown, before a change of name is granted, a criminal background check of the applicant(s) shall be performed by the Trumbull County Sheriff's Department using the WEBCHECK system. Each applicant shall sign a Consent to Criminal Background Check and appear at the Trumbull County Sheriff's Department for the Webcheck within five days of filing of the application. In addition, the Consent shall authorize the court investigator appointed by the Probate Court to perform a criminal background check of the local law enforcement agencies.

RULE 102.2 The Court, in its discretion, may deny an application for change of name to the following individuals:

- 1) An individual who is in arrears for any child support payment, or
- 2) A Sexual Predator/Offender as defined in the Ohio Revised Code.

RULE 102.3 The Court, in its discretion, may issue notice to any person or entity who may have an interest in a change of name proceeding.

CLAIMS AGAINST ESTATES

- RULE 62.1 The amount set forth on Appendix A shall be deposited with the Court upon the filing of a claim pursuant to R.C. 2117.06.
- RULE 62.2 An executor authorized by the will to make a compromise or settlement of a claim against an estate shall apply to the Court for authority to compromise or settle any claim on behalf of the estate.
- RULE 62.3 All fiduciaries shall apply to the Court for authority to compromise or settle any claim on behalf of the estate, including but not limited to personal injury claims of the decedent.
- RULE 62.4 Any electronic transfer of settlement funds shall be preceded by a written consent of the fiduciary filed with the Court. Payment of any settlement funds pursuant to electronic transfer is at the risk of the insurance company until funds are distributed pursuant to judgment entry.

APPLICATION TO SELL PERSONALTY

- RULE 63.1 The affidavit and report required by R.C. 2109.45 and 2113.42 shall include a statement that the property was not purchased by the fiduciary, by a member of the fiduciary's family, or by an agent of the fiduciary.

ACCOUNTS

- RULE 64.1 Except for good cause shown, the costs of citations shall be deducted from the fiduciary's compensation.
- RULE 64.2 If a fiduciary is delinquent in filing an account, and no extension of time for filing has been granted, the Court may refuse to appoint the fiduciary to another office of trust.
- RULE 64.3 (A) Every fiduciary shall render an account for each estate, trust, or guardianship at least once each year, unless otherwise ordered by the Court.
- (B) Fiduciaries or their counsel shall retain vouchers, receipts, cancelled checks or other proof of transactions until the final account has

been approved by the Court. Fiduciaries or their counsel shall submit vouchers, receipts, cancelled checks or other proof of transactions upon the request of the Court. At any hearing on objections to the account, counsel for the fiduciary shall introduce into evidence in support of the account such vouchers, receipts, cancelled checks or other proof of transactions.

RULE 64.4 A Trustee shall provide a copy of the annual account to all parties interested in the Trustee's account.

RULE 64.5 A Trustee shall file a current list of the names and addresses of all persons interested in the trust and the interest of each party in the trust with the Trustee's annual account.

ONLINE BANKING AND REPORTING PROJECT

RULE 64.6 Fiduciary's participating in the Trumbull County Probate Court Online Banking and Reporting Project may establish an online banking interface for a fiduciary account. This interface may be used to conduct transactions electronically with prior court approval. The Court may authorize individual or repeated periodic payments utilizing the online banking interface.

The fiduciary may submit to the Court an online statement of the fiduciary account as an appendix to the account form. This online statement may be submitted to the court as an alternative to the certification from the financial institution of the balance in the account and may also be submitted to the court as an alternative to other proof or evidence regarding each transaction listed thereon. Submission of the online statement does not excuse the fiduciary from retaining vouchers or other proof of transactions for a time period of three years from the date of filing so they may be used as evidence in the event that any of the financial transactions should be challenged.

LAND SALES

RULE 65.1 The affidavits required by Sup. R. 65 (A) shall include a statement that the property was not

purchased by the complainant, by a member of the complainant's family, or by an agent of the complainant.

RULE 65.2 In all actions to sell real estate, the application to the Court to allow a real estate commission, required by R.C. 2127.28, shall state the specific amount of the commission requested.

GUARDIANSHIPS

RULE 66.1 Except for good cause shown, an application for the appointment of a guardian shall contain the name of one proposed ward and shall be heard separately from any other application. Except for good cause shown, the hearing on the application for the appointment of a guardian shall be attended by the applicant and the proposed ward.

RULE 66.1.1 The Trumbull County Probate Court hereby adopts the Ohio Minimum Standards for Guardians of the Supreme Court of Ohio. The Standards are attached as Appendix L. Except for good cause shown, guardians shall visit each ward on at least a quarterly basis.

RULE 66.1.2 Comments and complaints regarding guardians shall be filed in the record unless otherwise ordered by the Court. A copy of the filed comment or complaint shall be provided to the guardian who is the subject of the comment or complaint unless otherwise ordered by the Court. Comments and complaints may be addressed by the court investigator or magistrate assigned to guardianship cases. Allegations of abuse, neglect, and/or exploitation shall be reported pursuant to R.C. 5101.61. If deemed appropriate, the matter may be promptly set for hearing or for further investigation. If set for hearing, the complainant shall be notified of the hearing and shall appear unless otherwise ordered by the Court. Upon the conclusion of the hearing or investigation, the person making the comment or complaint shall be notified of the disposition of the comment or complaint unless otherwise ordered by the Court.

RULE 66.1.3 Except for good cause shown, an application for an emergency guardianship shall be filed in person by

the applicant and shall contain a current statement of expert evaluation and a supplement for emergency guardian form stating an opinion that an emergency exists and it is reasonably certain that immediate action is required to prevent significant injury to the person or estate of the minor or incompetent. Except for good cause shown, the proposed ward shall be notified as soon as possible of the appointment of an emergency guardian.

RULE 66.2

Upon the filing of an application for the appointment of a guardian, the proposed ward has the following rights:

the right to be present at the hearing to contest the application, and to be represented by an attorney of the proposed ward's choice;
the right to have a friend or family member of the proposed ward's choice present at the hearing;
the right to have evidence of an independent expert evaluation introduced at the hearing;
the right to request an attorney, and an independent expert evaluation to be appointed at court expense if the proposed ward is indigent;
the right to have an attorney appointed, and necessary transcripts prepared at court expense if the proposed ward appeals the guardianship decision, and is indigent;
the right to have considered for appointment a person nominated in a separate document by the proposed ward.

In the event of an adjudication of incompetence, the guardian may present evidence to establish the least restrictive form of guardianship, and that the ward has the competence to exercise the following rights:

the right to vote;
the right to marry;
the right to make a will;
the right to terminate a marriage;
the right to retain a driver's license.

The ward retains the following rights during the

guardianship providing the exercise of the rights is not detrimental to the health, safety and welfare of the ward or others:

the right to be treated with dignity and respect;
the right to privacy and confidentiality;
the right to participate in decisions regarding housing;

the right to receive the level of care that protects the ward's health, safety, and welfare;
the right to participate in medical care and treatment decisions;

the right to an inventory of personal property, and the right to participate in decisions regarding the disposition and /or sale of personal property;

the right to an accounting of the disposition and/or sale of any personal property;

the right to the free exercise of religion;

the right to continue contact with family and friends providing the contact is not detrimental to the health, safety, and welfare of the ward;

the right to receive veteran's benefits if the ward qualifies as a result of military service;

the right to an annual review of the guardianship;

the right to have access to the courts to challenge the need for guardianship and/or the administration of the guardianship.

RULE 66.3 Each guardian shall file an annual report with the Court containing the information required by the Court. No guardian shall change the residential placement of a ward without prior application to and approval of the Court. The application shall state the reason for relocating the ward and any recommendation for relocation made by health providers.

RULE 66.4 An application for the appointment of a guardian of a minor shall not be filed if the only reason for 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 of Common Pleas. No guardian of the person of a minor may create a power of attorney pursuant to R.C. 3109.52 transferring the guardian's rights and responsibilities without specific authority of the Court.

RULE 66.5 Guardianship assets shall not be expended until a written application has been heard by the Court and allowed by judgment entry.

RULE 66.6 Except for good cause shown, before a guardian is appointed, a criminal background check of the applicant(s) shall be performed by the Trumbull County Sheriff's Department using the WEBCHECK system and/or such other background check as ordered by the Court by Judgment Entry. Each applicant shall sign a Consent to Criminal Background Check and appear at the Trumbull County Sheriff's Department for the Webcheck within five days of filing of the application. In addition, the Consent shall authorize the court investigator appointed by the Probate Court to perform a criminal background check of the local law enforcement agencies.

In the event that the criminal background check indicates a charge that would disqualify the applicant from serving, the Court, in its discretion, may hold a hearing on reformation. At the hearing, the applicant has the burden of proof that the applicant is suitable to serve despite the unfavorable background check.

RULE 66.7 Medical and psychological reports are confidential and there shall be no access to these reports without prior order of the court. In all proceedings concerning distribution of funds to a minor, any Verification of Receipt and Deposit filed with the Court is confidential, and there will be no access to the Verification of Receipt and Deposit without prior order of the court.

CONSERVATORSHIPS

RULE 66.8 All rules governing Guardians shall govern Conservators unless otherwise provided by law or order of the Court.

MANDATORY REPORTS

RULE 66.9

(A) Any attorney, guardian, or any person in a fiduciary relationship with a ward of the Court having reasonable cause to believe that the ward is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report to the Probate Court.

(B) Any person having reasonable cause to believe that a ward has suffered abuse, neglect, or exploitation may make a report to the Probate Court.

(C) The reports made under this rule shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the Probate Court. Reports are confidential and there shall be no access to these reports without prior order of the court.

Written reports shall include:

- (1) The name, address, and approximate age of the ward who is the subject of the report;
- (2) The name and address of the individual responsible for the ward's care, if any individual is, and if the individual is known;
- (3) The nature and extent of the alleged abuse, neglect, or exploitation of the ward;
- (4) The basis of the reporter's belief that the ward has been abused, neglected, or exploited.

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

RULE 67.1

Upon the opening of a court-ordered account under \$25,000 ("restricted account"), the account shall be titled in the sole name of the minor. All interest and principal shall be impounded. Deposited funds shall not be released until the minor reaches age 18 or upon further order of the Court. The verification of receipt and deposit from the bank filed with the Court shall contain the information required by the Court.

RULE 67.2

Certificates of deposit may be renewed without court order, even if there is a change of interest rate or term. Funds may be moved from savings account to certificate of deposit (or vice versa)

without a court order and shall remain a restricted account. A transfer to any other bank product shall require a court order.

RULE 67.3 Funds may be released to the account owner (the former minor) by the bank at the age of 18 without a court order.

Rule 67.4 On an annual basis, the Court will provide a list of restricted accounts to the bank. The bank will provide the balance in each account or give the date that each account was closed. The bank may use the Court's electronic filing system to provide this information.

SETTLEMENT OF INJURY CLAIMS OF MINORS

RULE 68.1 An application shall be accompanied by a current statement of the examining physician as provided in Sup. R. 68 (B). The presence of the injured minor shall be required at the hearing as provided in Sup. R. 68 (C) except for good cause shown.

RULE 68.2 Upon the opening of a court-ordered account ("restricted account"), the account shall be titled in the sole name of the minor. All interest and principal shall be impounded. Deposited funds shall not be released until the minor reaches age 18 or upon further order of the Court. The verification of receipt and deposit from the bank filed with the Court shall contain the information required by the Court.

RULE 68.3 Certificates of deposit may be renewed without court order, even if there is a change of interest rate or term. Funds may be moved from savings account to certificate of deposit (or vice versa) without a court order and shall remain a restricted account. A transfer to any other bank product shall require a court order.

RULE 68.4 Funds may be released to the account owner (the former minor) by the bank at the age of 18 without a court order.

RULE 68.5 On an annual basis, the Court will provide a list of restricted accounts to the bank. The bank will

provide the balance in each account or give the date that each account was closed. The bank may use the Court's electronic filing system to provide this information.

SETTLEMENT OF CLAIMS OF OR AGAINST ADULT WARDS

- RULE 69.1 A guardian shall not settle the claim of an adult ward without application to and approval by the Court of the settlement.
- RULE 69.2 Funds deposited into restricted accounts shall not be released until a written application has been heard by the Court and allowed by judgment entry. All interest and principal shall be impounded.
- RULE 69.3 Certificates of deposit may be renewed without court order, even if there is a change of interest rate or term. Funds may be moved from savings account to certificate of deposit (or vice versa) without a court order and shall remain a restricted account. A transfer to any other bank product shall require a court order.
- RULE 69.4 The verification of receipt and deposit from the bank filed with the Court shall contain the information required by the Court.
- RULE 69.5 On an annual basis, the Court will provide a list of restricted accounts to the bank. The bank will provide the balance in each account or give the date that each account was closed. The bank may use the Court's electronic filing system to provide this information.

COUNSEL FEES

- RULE 71.1 To comply with the recent decision of the 11th District Court of Appeals and pursuant to Prof. Cond. Rule 1.5, counsel fees shall be limited to reasonable and necessary legal services actually performed by the attorney. Counsel shall not be compensated for non-legal services at the hourly rate for legal services. Counsel shall have the burden of proof to show that counsel fees are reasonable and necessary and benefitted the estate, guardianship or trust.

When counsel fees are itemized, the itemization shall include the date of the specific legal service, the time spent on each specific service, and the hourly rate charged. Counsel shall separately itemize each specific service and shall not bundle the list of services over the course of a day. The itemization for counsel fees shall not include charges for clerical work, filing, preparation of a bill, motions for counsel fees, and fiduciary work.

Legal services includes, but is not limited to: appearances in court, drafting and preparation of pleadings and other papers for filing in court, legal advice and counsel, management of legal actions and proceedings before the court, explanation of legal consequences of specific decisions, negotiating on behalf of clients with adverse parties, preparing settlement packages, and making settlement demands.

Paralegal and non-legal services shall be itemized separately and shall not be charged at the rate for legal work.

If the motion for counsel fees does not comply with this rule, it will be returned to counsel for compliance.

RULE 71.2

- (A) An application for allowance of counsel fees for legal services rendered as the attorney for the executor or administrator in the complete administration of a decedent's estate shall conform to the computation form attached as Appendix C or be itemized as described in (B). The Court, in its discretion, may require an application for counsel fees to be itemized as described in (B), or to conform to the computation form attached as Appendix C. The computation is used as a guideline only, and all fees will be reviewed to determine if they were reasonable and necessary.
- (B) All other applications for the allowance of counsel fees shall set forth an itemized statement of the services performed by counsel, the date services were performed, the time spent in rendering the services, and

the rate charged per hour.

- (C) Counsel shall include a separate itemization for those services rendered by paralegals or other persons as required above in (B).
- (D) Expenses shall be itemized separately and shall be supported by paid receipts or cancelled checks.

- RULE 71.3
- (A) Counsel fees shall not be paid by the fiduciary until a written application has been approved by judgment entry.
 - (B) Interested parties may waive notice of hearing and sign written consents to applications for approval of counsel fees.

RULE 71.4

When counsel fees are allowed for services that are normally performed by the fiduciary, the fiduciary's compensation shall be reduced by the amount allowed to the attorney for those services rendered unless, for good cause shown, the Court finds that such a ruling would be unfair.

RULE 71.5

Counsel fees may be reduced by the Court when the attorney, or a member of the attorney's firm, will receive compensation as the fiduciary.

RULE 71.6

Prior to a fiduciary entering into a contingent fee contract with an attorney for any legal services, an application for authority to enter into the contract shall be filed with and approved by the Court. The application may conform to the form attached as Appendix D. Otherwise, counsel fees may be determined on a quantum meruit basis.

RULE 71.7

At the time of entering into a contingent fee agreement, if there is a fee splitting agreement, the fee split and the identity of all lawyers participating must be disclosed in writing. Counsel shall file with the Court a copy of any fee splitting agreement.

RULE 71.8

Unless otherwise ordered by the Court, applications for the allowance of fees or commissions and other compensation to an attorney,

executor, administrator or other fiduciary shall not be set for hearing. If the Court orders a hearing, the applicant shall offer expert testimony as to fairness and reasonableness of fees charged for probate work in the Trumbull County area.

RULE 71.9 All attorneys representing fiduciaries or applicants to be appointed fiduciaries shall notify the Court in writing if they do not maintain professional liability insurance in addition to notifying their clients pursuant to Prof. Cond. Rule 1.4 (c).

EXECUTOR'S AND ADMINISTRATOR'S COMMISSIONS

RULE 72.1 (A) An application for allowance of executor's or administrator's commissions for ordinary services rendered in the complete administration of a decedent's estate may conform to the computation form attached as Appendix E.

(B) The Court may set a hearing on an application for allowance of executor's or administrator's commissions, and if a hearing is scheduled, notice shall be given to all parties affected by the payment of commissions, unless otherwise ordered by the Court.

(C) Interested parties may waive notice of hearing and sign written consents to applications for approval of executor's or administrator's commissions.

RULE 72.2 The itemized statement for extraordinary services required by Sup. R. 72 (A) shall itemize the services performed, the date services were performed, the time spent in rendering the services, and the rate charged per hour.

RULE 72.3 Executor's and administrator's commissions of an ordinary or extraordinary nature shall not be paid from the decedent's estate until a written application has been approved by judgment entry.

COMMISSIONERS

RULE 72.4 All rules governing Executors and Administrators except those regarding fiduciary commissions shall govern commissioners unless otherwise provided by law or order of the Court.

GUARDIAN'S COMPENSATION

RULE 73.1 Unless otherwise provided by law, or ordered by the Court, a guardian may charge an annual fee for ordinary services in accordance with the schedule of compensation set forth on Appendix F.

RULE 73.2 (A) An application for allowance of guardian's compensation for ordinary services rendered in the administration of each separate guardianship estate may conform to the computation form attached as Appendix G.

(B) An application for allowance of guardian's compensation shall be submitted to the Court for approval with the annual guardian's account.

(C) Interested parties may waive notice of hearing and sign written consents to applications for approval of guardian's compensation.

RULE 73.3 Where there is a claim for extraordinary services or fees of a guardian of a person, the application shall set forth an itemized statement of the services performed, the date services were performed, the time spent in rendering the services, and the rate charged per hour.

RULE 73.4 Guardian's compensation of an ordinary or extraordinary nature shall not be paid from the ward's estate until the application has been approved by judgment entry.

TRUSTEE'S COMPENSATION

RULE 74.1 Unless otherwise provided by the instrument creating the trust, by law, or ordered by the Court, a testamentary trustee may charge an annual fee for ordinary services in accordance with the schedule of compensation set forth on Appendix H.

RULE 74.2 (A) An application for allowance of trustee's

compensation for ordinary services rendered in the administration of each separate trust estate may conform to the computation form attached as Appendix I.

- (B) An application for allowance of trustee's compensation shall be submitted to the Court for approval with the annual trustee's account.
- (C) The Court may set a hearing on an application for allowance of trustee's compensation, and if a hearing is scheduled, notice shall be given to all parties affected by the payment of compensation, unless otherwise ordered by the Court.
- (D) Interested parties may waive notice of hearing and sign written consents to applications for approval of trustee's compensation.

RULE 74.3 The application required by Sup. R. 74 (B) shall set forth an itemized statement of the services performed, the date services were performed, the time spent in rendering the services, and the rate charged per hour.

RULE 74.4 Trustee's compensation of an ordinary or extraordinary nature shall not be paid from the trust estate until the application has been approved by judgment entry.

RULE 74.5 All cases filed with the Court under Ohio Revised Code Title 58, Ohio Trust Code shall be initiated by a Complaint and service of process shall be served as provided by law.

MOTIONS AND HEARINGS

- RULE 75.1 (A) All motions and responses shall be submitted in writing, accompanied by a memorandum on the related law, and shall include a proposed judgment entry.
- (B) The Court may rule on all motions based on the pleadings, without a hearing, unless a hearing is scheduled by the Court or granted by the Court upon the request of a party.

- (C) The moving party must be present for all hearings, present evidence, and be prepared to testify on the factual basis of the matter brought before the Court.
- (D) Hearing by Audio/Telephone/Video Conferencing
- In the judge's discretion, any hearing may be conducted using audio, telephone, or video conferencing.
 - Attendance by audio/telephone/video conference, if authorized by the probate court, shall comply with local rules of court.
 - In addition to other procedures that may be available, the testimony of a witness that is located outside of the county in which the probate court is located may be offered by deposition or other means allowable in the probate court. The probate court on its own motion may order that the testimony of a witness be taken in another county and may prescribe the manner in which and the terms upon which it is to be taken. The probate court may permit a witness located in another county to be deposed or to testify by telephone, audio conference, video conference, or other electronic means.
 - Provision shall be made to preserve the confidentiality of attorney-client communications and privilege in accordance with Ohio law.
 - A record of any proceeding conducted by video conference shall be made in the same manner as customarily recorded by the probate court.
 - Documentary evidence transmitted from another county to the probate court by technological means that does not produce an original writing may not be excluded from evidence on an objection based on

- the best evidence rule.
- All exhibits shall be electronically transmitted to the probate court prior to the hearing. Any party may ask the probate court to have a document marked as an exhibit during the hearing for good cause shown within the probate court's discretion. If the party offering the exhibit is in a remote location, he or she may request a recess to allow the attorney to scan and email the exhibit to the probate court. The probate court will print and mark the proposed exhibit.
- Any video-conferencing system utilized under this rule must conform to the following minimum requirements:
 1. All participants must be able to see, hear, and communicate with each other simultaneously;
 2. All participants must be able to see, hear, and otherwise observe any physical evidence or exhibits presented during the proceeding, either by video, facsimile, or other method;
 3. Video quality must be adequate to allow participants to observe each other's demeanor and nonverbal communications.

TAX PROCEEDINGS

- RULE 75.2
- (A) All estate tax filings in the Court shall conform to the requirements of Chapter 5731 of the Revised Code.
 - (B) The Ohio estate tax return should be filed with the Court no sooner than three (3) months from the date of the appointment of the fiduciary.
 - (C) Each attorney, or other person filing an

estate tax return, shall also prepare and deliver to the Court the Ohio Estate and additional tax return filing notice.

RELEASE FROM ADMINISTRATION

RULE 75.3

- (A) Notice by publication as provided in R.C. 2113.03 shall be required unless found unnecessary by judgment entry.
- (B) An appraiser's report shall be required in all releases from administration under R.C. 2113.03, 2113.031, and under the short form release described in these rules unless found unnecessary by judgment entry.
- (C) The short form release and judgment entry attached as Appendix J may be filed where the assets of an estate are less than \$20,000.00 and there is a surviving spouse and/or minor children, or where the assets of an estate are less than \$10,000.00 and there is no surviving spouse or minor children. Evidence must be presented at the time of filing establishing that the funeral expenses have been paid unless the funeral expenses are being paid from estate assets. All next of kin and beneficiaries of the decedent's will must be notified of the filing in accordance with the Ohio Rules of Civil Procedure if they have not waived service unless otherwise ordered.
- (D) A release under R.C. 3113.03 or pursuant to Local Rule 75.3(C) and Appendix J may not be utilized for estates that are insolvent.
- (E) Pursuant to R.C. 2113.61, Appendix L may be filed where an applicant is seeking a Certificate of Transfer be approved without a full estate or the filing of a release from administration. Appendix L may be filed only if (1) the decedent has been deceased for at least six months; (2) the decedent was not subject to Medicaid estate recovery; and (3) the decedent's funeral expenses have been paid in full. All next of kin and beneficiaries of the decedent's will must be

notified of the filing in accordance with the Ohio Rules of Civil Procedure if they have not waived notice unless otherwise ordered. A proposed certificate of transfer, the form attached as Appendix L and all documents listed in Appendix L must be filed.

ADOPTIONS

RULE 75.4

- (A) To maintain the confidentiality of adoption records, each adoption petition shall contain the name of one person proposed for adoption.
- (B) The adoption petition shall allege the grounds upon which the Court may find that the consent of a person required to consent to the adoption is not necessary. The adoption petition shall also allege the circumstances under which the person proposed for adoption was placed with the petitioner.
- (C) Each person consenting to an adoption shall sign a separate consent to adopt form which shall be filed with the Court. Except for good cause shown, a consent shall not be signed more than 30 days before filing the petition for adoption.
- (D) A petitioner's account form shall be filed in each adoption proceeding. For good cause shown, the Court may waive some account filings in the adoption proceeding. No fee or retainer shall be taken without prior approval or the Court
- (E) All persons entitled to notice of an adoption hearing shall be served with notice in accordance with the Rules of Civil Procedure even though those persons have signed and filed a written consent to adopt form.
- (F) Except for good cause shown, service by publication in accordance with the Rules of Civil Procedure shall be made on an unnamed parent or parents.
- (G) The petitioner or the petitioner's attorney shall provide the Court with written instruction for service or an affidavit that

service was properly made when any question arises regarding service.

- (H) In all adoption matters, a criminal background check of the petitioner and any person 18 years old or older living in the home must submit to a WEBCHECK performed by the Trumbull County Sheriff's Department using the WEBCHECK system, within five days of the filing of the adoption (or placement) petition. In addition, a criminal background check of the local law enforcement agencies within the county shall be performed by the adoption assessor appointed by the Court.
- (I) If there is a pending proceeding in a juvenile or domestic relations court, the probate court will not proceed on a petition for adoption until the matter is concluded in that juvenile or domestic relations court.
- (J) Upon the filing of a petition, the petitioner shall disclose to the Court in writing whether the petitioner owes any back due child support and whether any back due child support is owed by the birth parents for the proposed adoptee.
- (K) In all private adoptions, a home study shall be completed by a licensed agency and filed with the Court no less than 10 days prior to the hearing.
- (L) Except for good cause shown, a certified copy of the birth certificate of the proposed adoptive person shall be filed with the Petition for Adoption, and the certification on said copy shall be dated no more than thirty (30) days prior to the filing of the Petition for Adoption.
- (M) All petitions seeking the adoption of a minor shall either name the putative parent of the minor to be adopted or indicate that no putative parent has registered. All petitions seeking the adoption of a minor shall be accompanied by a certification from the Ohio Putative Father Registry as to whether or not a putative parent has registered and also a certification from any putative parent

registry that exists in the state where the minor was born if not Ohio.

GUARDIAN AD LITEM

- RULE 75.5
- (A) A guardian ad litem may be an attorney who is not associated with an attorney of record for the proceeding in which the guardian ad litem has been appointed.
 - (B) A guardian ad litem may be appointed upon the motion of either party or on the Court's own motion.
 - (C) The Court may order a guardian ad litem appointed at any time that it deems necessary and essential to protect the interest of a minor child, to represent an incompetent person or incapacitated adult.
 - (D) The guardian ad litem shall be selected and appointed solely by the Court in accordance with the qualifications and guidelines established by this Court.
 - (E) Unless otherwise provided, it is the responsibility of each party involved to timely contact the guardian ad litem and to provide the guardian ad litem with information relating to the case.
 - (F) Unless otherwise ordered by the Court, upon application and entry, guardian ad litem fees shall be based on a reasonable hourly rate for time expended. Fees may be charged as a court cost. The Court may require an advance deposit for costs.
 - (G) All applications for the allowance of guardian ad litem fees shall set forth an itemized statement of the services performed, the date services were performed, the time spent in rendering the services, and the rate charged per hour.
 - (H) Unless otherwise directed by the Court, the guardian ad litem shall prepare a guardian ad litem report and deliver the report to the Court with notice to the parties. The

guardian ad litem report shall be confidential. There shall be no access without prior application to and approval by the Court.

REGISTRATION OF PARALEGALS

RULE 75.6

- (A) Paralegals that perform services in matters before this Court must be registered with the Court. The Court recognizes two categories of paralegals: "employee paralegals" who are employed exclusively by one law firm and only perform services for that firm as an employee, and "independent paralegals" who operate as independent contract paralegals offering services to more than one firm.
- (B) Registration shall be on the form attached as Appendix K for employee paralegals or Appendix L for independent paralegals.
- (C) Employee paralegals need only register one time unless they no longer work for the single firm they are registered with as an employee. The registration form must identify the firm and shall be signed by an attorney of the firm stating that the paralegal services will be supervised by the attorney of that law firm. The attorney and paralegal shall sign the registration form attesting that the paralegal is qualified through education, training, or work experience to assist an attorney in matters before this Court and this work will be supervised by an attorney who will be held responsible for the work. The law firm shall notify the Court when the paralegal registered with the Court leaves the exclusive employment of the law firm.
- (D) Independent paralegals shall be registered for each case in which the independent paralegal is performing services, identifying the case name, case number and supervising attorney. The supervising attorney and the independent paralegal shall sign the registration attesting that the paralegal is qualified through education, training, or work experience to assist the supervising

attorney in matters that will be filed in this Court, and will be supervised by an attorney who will be held responsible for the work.

- (E) Fee statements filed with the Court shall itemize paralegal work separately from services performed by an attorney.
- (F) A paralegal shall not sign any document for the fiduciary, applicant, or supervising attorney.
- (G) Failure to comply with this rule may result in the disallowance of fees and such other action as the Court may deem appropriate.

ESTATES WITH LITIGATION

RULE 75.7

(A) In estates involving litigation, a final and distributive account shall be filed as soon as all assets have been administered and shall indicate that the estate must remain open for litigation purposes.

(B) Upon the filing of a final and distributive account which indicates that an estate must remain open for litigation purposes only, no subsequent accounts shall be required. Yearly status reports shall be filed by litigation counsel.

(C) In estates opened for litigation purposes only, where there are no assets to administer, a motion to waive accountings pending receipt of funds into the estate may be filed. Yearly status reports shall be filed by litigation counsel and served on all beneficiaries or next of kin.

(D) In an estate where litigation is anticipated or pending, litigation counsel shall file a notice of appearance and file an annual status report of the litigation. When any litigation has commenced, a notice of litigation form shall be filed.

(E) As a general rule, the Court will not approve of a client releasing or indemnifying the attorney representing them.

RULE 75.8

(A) In actions for the transfer of structured settlement payments under R.C. 2323.58 *et seq.* a copy of the annuity and related assignments shall be filed with the application for transfer.

(B) The Court shall grant a transfer of structured settlement payment applications only upon the showing of a compelling reason or circumstance which was not anticipated when the settlement was initially negotiated and agreed upon.

PRO HAC VICE

RULE 75.9

An attorney, not licensed to practice law in the State of Ohio, but who is duly licensed to practice law in any other state, District of Columbia, the Commonwealth of Puerto Rico, or territories of the United States may, in the discretion of the Probate Judge, be permitted to represent a party or parties in any matter pending or to be filed in this county after completion of all of the following conditions and must be in compliance with Gov. Bar R. XII- Pro Hac Vice Admission.

A) The applicant attorney shall be sponsored in writing by an attorney licensed to practice law in the State of Ohio. A motion shall be filed by the Ohio licensed attorney at least seven days prior to the proceeding certifying such applicants' compliance with this rule and the Rules for Government to the Bar;

B) The applicant attorney shall certify in writing that he or she is on active status and in good standing to practice law and is not under any disability. Applicant shall further certify in writing that he or she has familiarized himself or herself with local court rules and will familiarize himself or herself with the appropriate Civil Rules, Rules of Evidence, and the Code of Professional Responsibility;

C) The sponsoring attorney shall submit with the motion and certification, an entry

authorizing approval of the motion;

D) 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.

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 counsel.

CIVIL COMMITMENTS

RULE 75.10 The Court will issue an order of detention if supported by sufficient evidence.

COMPLIANCE

RULE 77.1 The Court may, in its discretion, appoint an attorney and other person(s), answerable to the Court, who shall investigate the circumstances surrounding any failure or apparent failure of a fiduciary or the fiduciary's attorney to comply with the laws, the Rules of Superintendence, or these rules. The appointee(s) shall file a written report with the Court. The compensation for the appointee(s) performing these services shall be fixed by the Court, according to the circumstances of each case, and shall be taxed as costs or charged to the fiduciary.

SUPERVISION OF ESTATES, TRUSTS, AND GUARDIANSHIPS

RULE 78.1 Certificate of service of notice of probate of will

(A) Fiduciaries appointed to administer estates of decedents who have died testate on or after January 1, 2002 are required to file certificate of service of notice of probate of will with waivers or certified cards attached, within sixty days of their appointment or be subject to removal proceedings.

(1) On the sixtieth day after the appointment, a notice is sent to the attorney for the fiduciary stating that the fiduciary

will be removed for failure to file the certificate.

- (2) If the certificate is not filed within fifteen days, a citation is sent to the fiduciary indicating that removal will occur if the certificate is not filed within fifteen days.
- (3) If the certificate is filed, the Court records the filing and advances the system to the next statutory filing requirement.
- (4) If the fiduciary fails to file the certificate within the required time period, the fiduciary is removed and a successor fiduciary is appointed.
- (5) Extensions of time for filing the certificate may be granted for good cause shown by judgment entry.

RULE 78.2 Notice to File Inventory in Estates, Trusts or Guardianships

- (A) Notice must be timely sent to the fiduciary to file the inventory.
 - (1) On the ninetieth day from the appointment of the fiduciary in a decedent's estate, a guardianship, or trust, a notice is sent to the attorney for the fiduciary indicating that if an inventory is not filed, removal will occur.
 - (2) If the inventory is not filed within fifteen days, a citation is sent to the fiduciary indicating that removal will occur if an inventory is not filed in fifteen days.
 - (3) If the inventory is filed, the Court records the filing and advances the system to the next statutory filing requirement.

- (4) If the fiduciary fails to file the inventory timely, the fiduciary is removed and a successor is appointed.
- (5) Extensions of time for filing inventories may be granted for good cause shown by judgment entry.

RULE 78.3 Surviving Spouse's Right of Election

"After the initial appointment of an administrator or executor of the estate, the probate court shall issue a citation to the surviving spouse, if any is living at the time of the issuance of the citation, to elect whether to exercise the surviving spouse's rights under Chapter 2106 of the Revised Code, including, after the probate of the will, the right to elect to take under the will or under section 2105.06 of the Revised Code." R.C. 2106.01

RULE 78.4 Accounting by the Fiduciary

- (A) At the time required by R.C. 2109.301 for the filing of an account, a notice is sent to the attorney for the fiduciary to file an account or the fiduciary will be removed.
- (B) If an account is not filed within fifteen days of the notice, a citation is sent to the fiduciary indicating that removal will occur if an account is not filed within fifteen days.
- (C) If the account is not filed, the fiduciary is removed and a successor fiduciary is appointed.
- (D) When a final account is filed and approved, the estate, trust, or guardianship is removed from the system, and the case documents may be microfilmed or digitally stored and disposed.
- (E) Extensions of time for filing accounts may be granted for good cause shown by judgment entry.

RULE 78.5 The Court may require verification of births, deaths or marriages to be filed into the court record.

RULE 78.6 All fiduciaries shall deposit assets in a fiduciary account. Unless otherwise ordered by the Court, the fiduciary account shall be maintained in an institution within the boundaries of Trumbull County, Ohio. All assets shall remain in the state of Ohio unless otherwise authorized by judgment entry.

RULE 78.7 (A) Upon the written consent of the parties, the Court may send all notices and citations via electronic mail.

(B) Electronic proof of service for certified or express mail sent by the Court shall be deemed in compliance with the service requirements of Civil Rule 73 and Civil Rules 4.0 through 4.6 pursuant to authorization from the Supreme Court of Ohio on September 19, 2005.

CASE MANAGEMENT OF ADVERSARY PROCEEDINGS

RULE 78.8 Adversary proceedings, as used in this rule, shall include the following actions: Will Contest; Declaratory Judgment; Determination of Heirs; Construction of Will; Complaint for Accounting; Antenuptial Agreement; Concealment of Assets; Land Sales; Complaint to Purchase; Complaint for Judgment Entry Declaring Will Valid; Presumption of Death; Appropriations; and Objections to Inventories and Accounts.

(1) A pre-trial conference should be set thirty days after the answer date. Counsel shall be present and prepared to report on the following:

1. Whether all necessary parties have been joined and served with process;
2. Whether answers, counterclaims and/or crossclaims have been filed;
3. Issue(s) to be litigated;
4. Whether trial is to bench or jury;
5. Anticipated length of trial;
6. Whether settlement negotiations

- have taken place;
- 7. Status of discovery;
- 8. Whether trial subpoenas are expected;

Counsel shall bring their trial schedules and/or calendars and be prepared to schedule the following:

- 1. Trial date;
 - 2. Discovery cut-off;
 - 3. Identification of expert witnesses and production of documents report;
 - 4. Deadline for filing of pretrial motions and replies;
 - 5. Deadline for witness lists to be exchanged and filed with the Court;
 - 6. Deadline for exhibits to be exchanged and filed with the Court;
 - 7. Deadline for filing objections to exhibits;
 - 8. Deadline for filing of stipulations.
- (2) Notice of the pre-trial conference shall be given to all attorneys of record by mail at least fourteen days prior to pre-trial.
- (3) All requests for continuances of the pre-trial conference shall be by motion. The motion shall indicate whether counsel agrees or opposes the continuance. Counsel shall notify their respective clients and witnesses to any change in the date and time of any trial or pretrial.
- (4) Failure to appear for the pretrial conference or failure to comply with this local rule in any manner, may result in the imposition of sanctions including, but not limited to, monetary sanctions.
- (5) At the conclusion of the pre-trial conference, the Court shall prepare a pre-trial order setting forth:

- (1) Discovery deadline date;
 - (2) Exchange of witness list deadline date;
 - (3) Pleading and briefing schedules; and,
 - (4) a trial date.
- (6) If a party is represented by multiple counsel, a designation of lead and/or trial counsel shall be filed in the record.

RULE 78.9 Counsel shall provide the Court with copies of all exhibits offered to be admitted to the record.

IT IS SO ORDERED.

James A. Fredericka
Probate Judge