

**HOCKING COUNTY PROBATE
RULES OF COURT
AND
CASE MANAGEMENT PLAN**

**ADOPTED BY THE SUPREME COURT OF OHIO
SUPPLEMENTED BY LOCAL RULE**

**JUDGE RICHARD M WALLAR
COMMON PLEAS COURT
PROBATE DIVISION
HOCKING COUNTY, OHIO**

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**COMMON PLEAS COURT OF HOCKING COUNTY
PROBATE DIVISION
LOCAL RULES**

Rule 18.1 HOURS OF THE COURT

The Probate Court and its offices shall be open for the transaction of business from 8:30 o'clock A.M. to 4:00 P.M. Monday through Friday. The Probate Court shall be closed on Saturday, Sunday and legal holidays.

Rule 19 CONDUCT IN THE COURT

- (A) 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.
- (B) No radio or television transmission, voice recording device, other than a device used by court reporter making a record in a proceedings to the making or taking of pictures shall be permitted without the expressed consent of the Court in advance.

Rule 20 EXAMINATION OF PROBATE FILES, RECORDS & OTHER DOCUMENTS

- (A) Probate Court records shall NOT be removed from the Court.
- (B) The adoption and mental illness files are confidential. Access to them may be authorized by the Court in its sole discretion.

Rule 21 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 when service of summons is required by law or deemed necessary by the Court and the statute providing for such notice directs the manner of its services.
- (B) In case personal service or summons or notices is required upon the residents of any county in Ohio, other than this county, a deposit may be required. Notices and Summons are to be prepared by the party or attorney for the party who seeks the notice or summons to be issued and a Precipe for Service is required.

Rule 23 MOTIONS, HEARINGS AND CONTINUANCES

- (A) All Motions shall be submitted in writing with proper 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 of his counsel. Failure after such notice to object to the continuance within a reasonable time shall be deemed a 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 24 FILINGS AND JUDGMENT ENTRIES

- (A) All Filings, except Wills, should be on 8-1/2 x 11 paper of stock that can be microfilmed without backing. All probate forms filed shall conform in format, content, margins, type, styles and other standards required by Supreme Court Rules of Superintendence Rules 51 and 52. Any form not conforming to standard requirements shall be rejected.
- (B) Pursuant to Supreme Court of Ohio, Rules of Superintendence, Rule 6, all documents filed with the Court shall include the registration number of the attorney as assigned by the Supreme Court of Ohio.
- (C) All initial papers filed in the Probate Court shall contain the name, address, and telephone number of the fiduciary or the person preparing the forms. All subsequent papers filed shall contain the name of counsel or person preparing form on the lower left corner of the front side.
- (D) All Pleadings are to be typed. Case numbers shall appear on all filings after a number is assigned. Papers requiring signatures shall bear authentic, original signatures and the name typewritten below.
- (E) Failure of the fiduciary to notify the Court of his current address shall be grounds for his removal.
- (F) The filing of any paper not containing the above requirements may be refused by the Court.
- (G) All required notices to those persons entitled to notice shall be prepared by counsel representing the fiduciary or person preparing forms. When the notice is file, it shall be accompanied by an original and copy for each person to be notified, completed except for the date of hearing. All

notices required by Statute or Rule to be served by counsel shall be so served.

- (H) If the address of a person to be notified is unknown and such person may be a resident of the state, notice shall be given by publication in a newspaper of general circulation in the County, pursuant to Civil Rules or statutory requirements.
- (I) Form 1.0 shall accompany the Application to Admit Will to Probate, Application for Authority to Administer an Estate and Inventory and Appraisal.
- (J) Separate Entries are to be used with all Applications.
- (K) Filing Will for Record: All Wills Filed for Record shall be filed with Application and Journal Entry to File Will for Record.

Rule 24 A AFFIDAVIT OF NOTICE OF FILING OF WILL

Fiduciaries of decedent's estates shall file Certificate of Service of Notice of Probate of Will for purpose of commencing the Will Contest time, pursuant to O.R.C. 2107.19 and 2107.76 within 30 days of the appointment of the fiduciary, or be subject to removal proceedings. Service of Notice of hearing shall be made pursuant to Civil Rule 73 (3).

Rule 24 B NOTICE OF FILING OF INVENTORY

Upon filing of the Inventory required by O.R.C. 2115.02, and the setting of hearing on the Inventory pursuant to O.R.C. 2115.16, the executor or administrator shall file certification that Notice of Hearing on Inventory has been served on all interested parties, or file Waivers of Notice of hearing. The certification or Waivers shall be filed within 15 days before the hearing. Failure to file the Certification or Waivers may result in the Inventory not being approved. Service of Notice of Hearing shall be made pursuant to Civil Rule 73 (E).

Rule 24 C CLOSING DECEDENT'S ESTATES

Pursuant to O.R.C. 2117.06, creditors have one year from date of death of the decedent to file a claim against the estate of the decedent and the responsibility for the claim is the fiduciary. All estates closed prior to one year from date of decedent's death shall certify by the fiduciary that all known claims have been satisfied; all beneficiaries receiving distribution have been notified that distribution is made condition upon possible claims against the estate within the year; or, all known creditors have had actual notice of the decedent's death at least 3 months prior to closing the estate.

Rule 25 COURT COSTS

- (A) Fees and costs for marriage license will be on a cash basis.
- (B) Unless a deposit for costs is specifically requested by the Court prior to filing, court costs shall be paid upon the filing of the Inventory and again upon the filing of each Account. Counsel shall be responsible for contacting the Court prior to filing the Inventory and an Account to ascertain the amount of costs to be paid at the time of filing. See attached "Exhibit C". Deposits are required in adoptions, change of name, civil actions, guardianships and minor settlements, unless specific arrangements are made with the Court. This deposit will be applied, from time to time, as filings occur and additional deposits may be required by Court, if determined to be necessary.
- (C) Court costs for decedent's estates shall include microfilming charge for the preservation of the records.
- (D) A \$10.00 charge will be assessed for estate forms.
- (E) Copies of any open records can be made at \$1.00 per page.

Rule 28 APPOINTMENT AND COMPENSATIONS OF APPRAISERS IN ESTATES AND LAND SALE 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 with following suggested:

Maximum fee of \$150.00 without prior Application
and Approval of the Court.
- (C) In agreeing upon the amount of compensation within the Schedule established herein, 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; such expert opinion may be secured and the reasonable compensation paid therefore, subject to the approval of the Court. Household goods or personal property having antique, special or unique value shall be appraised and itemized on the Inventory.

- (E) A suggested appraiser's list is attached as "Exhibit A". The Court may require credentials of appraisers. All Application for Appointment of Appraiser Forms shall set forth that the appraiser is "capable, suitable and disinterested person".
- (F) In land sale proceedings, the appraiser or appraisers appointed by the Court may be compensated for their services in the same manner as provided for estate appraisers (See Schedule in paragraph B herein); provided, that the amount to be paid each appraiser shall be set forth in the Entry of Distribution and be subject to the approval of the Court.
- (G) An appraiser may waive all or any part of the compensation to which he may be entitled under this rule.
- (H) Any approved appraiser cannot be employed as the realtor for selling said property.

Rule 30 CLAIMS FILED WITH COURT

- (A) The filing of the Schedule of Claims is optional. In the event of rejected claims or insolvency, the claim shall be filed with the Court, along with the full name and address of the claimant.
- (B) In any estate where a claim has been filed with the Court pursuant to R.C. 2117.06, the fiduciary shall file with the Court a copy of any rejection of claim. No estate shall be closed until all claims filed with the Court have been resolved.
- (C) Whenever the Court requires a hearing on claims or the fiduciary requests a hearing on claims pursuant to R.C. 2117.17, the fiduciary shall file a Schedule of Claims against the estate with the Court. The Schedule of Claims shall be filed with the fiduciary's application for hearing or within ten days after the Court notifies the fiduciary of a hearing.

Rule 32 ACCOUNTS

- (A) The statutory time for the filing of an account shall be adhered to and citations may be issued when filings are late, unless an Application shall set forth the time needed and the accompanying Judgment Entry shall

have a blank space for the Court is insert the number of additional days granted.

- (B) NOTICE: Upon filing of an Account, the fiduciary shall certify that Notice of Hearing on Account has been served upon any person with interest in the estate of trust. The Notice shall be served at least 15 days prior to hearing. Any competent person may waive service of notice and consent to the approval of the Account.
- (C) If a fiduciary is delinquent in filing an Account or exhibiting assets and no extension has been granted, a citation shall be issued requiring such fiduciary to appear forthwith and show cause why such account has not been filed or why such assets have not been exhibited.
- (D) Each fiduciary's Account shall be supported by vouchers, as required by R.C. 2109.30. The vouchers shall be referenced to the account by number or letter and month, day and year. All checks written shall be accounted for, even if voided, and shall be supported by cancelled or void checks, affidavit or other supporting vouchers. Receipts and income shall be listed on a monthly basis, or if the periodic payment is more than one month, then the receipt or income shall be listed for each period payment is received. The account shall also 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, accompanied by a tape verifying the individual items of the Account and the totals.
 - (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, accompanied by a tape verifying the individual items of the account and the totals.
 - (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.
- (E) If the land has been sold by the fiduciary during the accounting period, the Account shall show the gross amount of the proceeds of the sale and the distribution thereof, with the escrow statement of receipts of the land sale expenditures attached thereto.
- (F) 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.

- (G) 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 Hocking County and a photo static copy of the recorded power of attorney is attached to the account.
- (H) The Rules pertaining to Accounts shall apply to all accounts filed by fiduciaries, including, but not limited to decedents, estates, trustees, conservators and guardians.

Rule 34 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 until such time as the guardian files an Application to determine the amount to be allowed for the support, maintenance or education of the ward, and an Inventory has been filed, including all assets and monthly income of ward; further, said Application shall set forth that there are sufficient funds in estate to pay same. No expenditures of funds shall be made without first obtaining the approval of the Court. Counsel shall have the responsibility of so informing their fiduciary.
- (C) An Application by a parent guardian for an allowance for care and support of a minor shall allege, if 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.
- (E) Whenever appropriate, the Court will consider deposits of assets in lieu of bond or to reduce the bond. An Application shall be filed setting forth the description of the assets, account numbers, the name of the financial institution and address and certification that said assets are on deposit; said Application shall be signed by the attorney of record and the fiduciary. Upon approval by the Court of the application which shall be by Journal Entry, a certified copy of the Journal Entry ordering the retention of the assets shall be delivered by the fiduciary or counsel to the financial institution. An officer of the financial institution shall then execute a Receipt to be filed with the Court, evidencing the receipt of the Journal Entry that the assets are on deposit and being held, that the assets so itemized shall not be released without special order of the Court. Upon

the filing of said Final Receipt, the bond may be reduced to twice the value of those assets not on deposit in lieu of bond.

- (F) All expenditures of funds shall be made from special fiduciary accounts and NOT from the personal accounts of the fiduciary.
- (G) Accounts shall be filed within 30 days after the anniversary date of the appointment of the fiduciary in the year in which an account is due. The account shall embrace only the annual or bi-annual period. If costs and expenses to the guardianship can be saved by filing accounts on a calendar year basis, an Application may be made to the court for said privilege and in such cases where approval is given, the account shall be filed within 30 days following the expiration of the calendar year. The filing dates will be strictly enforced with citations being issued to the Guardian if an Account is not filed on time. Veteran's Account are to be filed annually.
- (H) In addition to the initial deposit for costs, court costs will be accessed periodically, but no later than the filing of an Account. No Account shall be filed without first contacting the Court to determine the amount of accrued costs which shall be paid at the time of filing the account. Court costs paid pursuant to these rules shall be considered authorized by the Court.
- (I) Along with the filing of an Application for Appointment, counsel shall indicate on the Application, below the annual real estate rentals, if the prospective ward now has, or did have within the past six months, a safe deposit box and the location of the box.
- (J) The respective stated provisions of Local Rule 34 pertaining to Accounts in guardianships are provisions pertaining to, and, governing Accounts in conservatorship filed in the Court, and shall apply to conservatorships.

Rule 35 ESTATES OF MINORS 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 is not the applicant, as well as minors fourteen years of age or over, shall consent in writing to the Application.
- (B) If either, or both parents are deceased, or their whereabouts unknown, or the parents are divorced or separated, and custody has been awarded to the applicant, the Application shall so state.
- (C) In the event there is more than one minor child of the parents, parent, custodian or guardian for each minor shall be separate and the Application shall indicate the amount of money or property to which each minor is

entitled and to whom such money or property shall be paid or delivered; further subsequent accounts shall set forth individual information in like manner.

- (D) Pursuant to Sup R. 67, 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 financial 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. The attorney shall further be responsible for depositing the funds and for providing the financial institution with a copy of the Entry. The attorney shall obtain a verification of receipt and deposit from the financial institution and file the form with Court within seven days of issuance of the Entry.

Rule 36 SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS

- (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, as well as minors fourteen (14) years of age or over, must consent to the Application in writing.
- (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 seven (7) day notice by certified mail of the hearing on such Application. The notice may be waived in writing.
- (C) All Applications may be accompanied by 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 parents shall be required at the hearing on all Applications.
- (E) All Applications shall state what additional consideration, if any, is being paid to persons other than the guardian.
- (F) All Applications shall state what arrangement, if any, has been made in respect of counsel fees, 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 with the Court.
- (H) Other methods of distribution authorized by statute may be utilized upon application to and approval by the Court.

Rule 38 SETTLEMENT OF CLAIMS FOR WRONGFUL DEATH AND SURVIVAL CLAIMS

- (A) Application for approval of a settlement and distribution of wrongful death and survival claims shall contain a concise statement of facts including the amount to be allocated to settlement of the claim and the amount, if any, to be allocated in settlement of the survival claim. The application shall also include the proposed distribution of the net proceeds allocated to the wrongful death claim.
- (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 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 39 COUNSEL FEES IN CONNECTION WITH SETTLEMENT OF CLAIMS FOR WRONGFUL DEATH, CONSCIOUS PAIN AND SUFFERING, CLAIMS FOR PERSONAL INJURIES TO PERSONS UNDER GUARDIANSHIP, AND SETTLEMENT OF CLAIMS FOR PERSONAL INJURIES TO MINORS UNDER R.C. 2111.18.

When representation is on a contingent fee basis, counsel will be allowed fees based on a reasonable contingent fee contract voluntarily and knowingly entered into between counsel and client (s) and subject to approval by the Court.

Rule 40 COUNSEL FEES

- (A) Attorney fees for the administration of estates shall not be paid until the Final Account is prepared for filing unless otherwise approved by the Court, upon application and for good cause shown.
- (B) Attorney fees shall be allowed upon written Application and Computation of attorney fees, or, itemized schedule of services and time rendered, with consent of the fiduciary set forth on said Application; further, an endorsement that a copy of said Application has been served on all primary beneficiaries.
- (C) The Court, in its discretion, may set a hearing on any Application for allowance of attorney fees, regardless of the fact that the required consent of the primary beneficiaries has been given.
- (D) Except for good cause shown, attorney fees shall not be allowed to attorneys representing fiduciaries who are delinquent in filing an Account, as required by O.R.C. 2109.30.
- (E) An Application shall be filed for the allowance of counsel fees for services rendered to a guardian or trustee. The Application shall set forth a statement of the services rendered.
- (F) In computation of attorney fees, a percentage of the income earned during the administration of the estate shall NOT be allowed, except extraordinary compensation and then upon separate Application and approval of Court.
- (G) Counsel fees for the administration of a decedent's estate, as set forth in example attached hereto as "Exhibit B", may serve as a guide in determining fees to be charged to the estate for legal services of any ordinary nature rendered as attorney for the executor or administrator in the complete administration of a decedent's estate. Such example, however, is not to be considered as minimum or maximum fees to be charged.

COUNTY LOCAL RULE 40.1

Nothing in this rule shall in anyway prevent or prohibit any attorney charging a fee less in amount than that calculated in accordance with the attached example.

Nothing in this rule shall prohibit any fiduciary and his attorney from negotiating with each other for payment of a fee different in amount from that calculated in accordance with the attached example, subject, however, to review and approval by the Court as provided herein.

In the event that a fiduciary and attorney negotiate for the payment of a fee in excess of the fee allowed by this schedule, an Application for review and approval by the Court must be made and entered prior to the rendition of the legal services.

ATTORNEY FEES FOR THE RELEASE FROM ADMINISTRATION

The compensation allowable to an attorney who obtains the Release from Administration of an estate and renders all legal services necessary, including preparation and filing of required tax returns, shall be based on reasonable hourly rate and work product performed. Attorney fees are subject to Court approval.

Rule 41 EXECUTORS AND ADMINISTRATOR'S COMMISSIONS

- (A) Ordinary services (See O.R.C. 2113.35) – Computation of fees shall be submitted to Court.
- (B) Where there is a claim for extraordinary services, an Application shall be filed setting forth an itemized statement of the services rendered. The Court may require the Application set for hearing and notice given to interested parties in accordance with Civil Rule 4.1.
- (C) Except for good cause shown, executor's and administrator's commission will not be allowed to executors or administrators who are delinquent in filing an Account.
- (D) The commissions of co-executors or co-administrators in the aggregate shall not exceed the commissions which would have been allowed one executor or administrator acting alone, except where the instrument under which the co-executor serves provides otherwise.
- (E) Where counsel fees have been applied for and awarded for rendering services to the estate which normally would have been performed by the executor or administrator, said executor or administrator's fee shall be reduced by the amount awarded to counsel for those services rendered unless for good cause shown, the Court finds under the circumstances such a ruling would be unfair to the executor or administrator.
- (F) No commissions are paid for the Release of an Estate from Administration, excepting upon application and approval of the Court.
- (G) Fiduciary fees, when counsel is the duly appointed fiduciary of the estate, shall not exceed one-half (1/2) the statutory allowance and shall be paid only upon consent of primary beneficiaries and Application and Approval of the Court.

Rule 42 GUARDIAN'S COMPENSATION

- (A) Guardian's compensation shall be set by Local Rule.
- (B) Additional compensation, reimbursement for expenses incurred, and fees of a guardian of a person may be fixed by the Court upon Application.
- (C) The Court may require that applications for fees or compensation be set for hearing and that written notice of the time and place of the hearing and that amount applied for be given as required by the Court. A copy of the notice, with certified mail, return receipt attached, together with an Affidavit of the service of such notice, shall be filed prior to the hearing.
- (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 performing the duties.
- (E) A separate schedule of the computation of the guardian's compensation shall be set forth in the guardian's account as a condition on its approval. The computation shall be on a separate form and be in conformity with a Local Rule. Except for good cause shown, neither compensation for a guardian, nor fees to the attorney representing the guardian will be allowed when the guardian is delinquent in filing the Account as required by R.C. 2109.30.
- (F) Fees for conservators in all conservatorships shall be granted upon Application and Approval of the Court. Guidelines for determining the reasonableness of guardianship fees shall be used to determine reasonableness of conservatorship's fees as they may apply to the conservatorship estate. Further, consideration shall be given to the size of the conservatorship estate; the amount and intricacy of the work required and special requirements unique to the conservatorship estate.

COUNTY LOCAL RULE 42.1

The compensation allowable per accounting period to a guardian accountable to the Probate Court, upon Application to the Court for approval may be in accordance with the following schedule, unless otherwise provided for in any instrument creating the relationship:

- (A) INCOME FEE during accounting period:
 - 6% of the first \$10,000.00 or part thereof:
 - 5% of the next \$10,000.00 or part thereof:
 - 4% of the balance.

NOTE: CONVERSION OF ASSETS TO CASH IS NOT CONSIDERED INCOME.

(B) PRINCIPAL FEE

\$3.00 per thousand of first \$100,000.00 or part thereof;
\$2.50 per thousand of next \$200,000.00 or part thereof;
\$1.50 per thousand of next \$500,000.00 or part thereof;
\$1.00 per thousand on balance of Corpus.

A minimum annual fee of \$250.00 shall be allowed as compensation for such guardian in each guardianship, subject to Court approval.

Guardian's fees, when counsel is the duly appointed guardian of the guardianship, shall not exceed one-half (1/2) the statutory allowance and shall be paid only upon Application and approval of the Court; exceptions may be allowed when justifiable extra-ordinary services have been rendered, or, the guardian of the person has to provide services unique to that fiduciary responsibility. Investment and re-investment of corpus, including conversion of corpus to cash shall not be considered income.

Receipt of corpus by guardian shall not be considered income.

Each guardian shall submit, together with the Account which reflects the payment of the fee, a schedule setting forth the basis upon computing the fee, which shall include the "Fair Market Value" upon which the principal fee calculation is based. The principal fee shall be prorated if adjustments to corpus are made during the accounting period by additions, withdrawals or terminations.

The guardian may, with the prior approval of the Court, be allowed a principal distribution fee upon the final distribution of any part of the corpus of the guardianship property in a maximum amount equal to 1% of the fair value of the part distributed.

Rule 43 TRUSTEE'S COMPENSATION

- (A) Trustee's compensation shall be set by Local Rule, excepting where the instrument creating the Trust makes provision for compensation.
- (B) Additional compensation for extraordinary services may be allowed upon Application. The Court may require that the Application be set for hearing and that notice thereof be given to interested parties in accordance with Civil Rule 4.1. Such notice shall contain a statement of the amount for which compensation is applied.

- (C) A separate schedule of the computation of a trustee's compensation shall be filed with the Court at the time of payment of the fee.
- (D) The compensation of co-trustees in the aggregate shall not exceed the compensation which would have been paid if only one trustee had been performing the duties 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 the trustee, will be allowed while the trustee is delinquent in the Account or accounting required by R.C. 2109.30.

COUNTY LOCAL RULE 43.1

The compensation allowable annually to a testamentary trustee accountable to the Probate Court, without prior application to the Court for approval, shall be in accordance with the following schedule, unless otherwise provided for in any instrument creating the trust relationship.

- (A) INCOME FEE during accounting period.

6% of the first \$10,000.00 or part thereof;
5% of the next \$10,000.00 or part thereof;
4% of the balance.

NOTE: CONVERSION OF ASSETS TO CASH IS NOT CONSIDERED INCOME.

- (B) PRINCIPAL FEE

\$3.00 per thousand of first \$100,000.00 or part thereof;
\$2.50 per thousand of next \$200,000.00 or part thereof;
\$1.50 per thousand of next \$500,000.00 or part thereof;
\$1.00 per thousand on balance of Corpus.

Investment and re-investment of corpus, including conversion of corpus to cash shall not be considered income.

Receipt of corpus by trustee shall not be considered income.

Each trustee shall submit, together with the Account which reflects the payment of the fee, a schedule setting forth the basis upon computing the fee, which shall include the "Fair Market Value" upon which the principal fee calculation is based. The principal fee shall be prorated if adjustments

to corpus are made during the accounting period by additions, withdrawals or termination.

The trustee may, with the prior approval of the Court, be allowed a principal distribution fee upon the final distribution of any part of the corpus of the trust property in a maximum amount equal to 1% of the fair value of the part distributed.

Rule 46 PROBATE DIVISION OF THE COURT OF COMMON PLEAS:
COMPLIANCE

Failure to comply with these Rules may result in such sanctions as the Court may direct.

Rule 48 TAX PROCEEDINGS

All estate tax filings in the Probate Court shall conform to the requirements of Chapter 5731 of the Revised Code of Ohio and shall be filed in duplicate.

Rule 49 RELIEVING ESTATES FROM ADMINISTRATION

- (A) Estates may be relieved from administration, pursuant to O.R.C. 2113.03 (A)(1) or O.R.C. 2113.03 (A)(2)(a) or (b).
- (B) Court costs shall be paid at the time of filing. Costs shall include the admitting of the Will to probate, if applicable, and the cost of releasing the estate and microfilming the record. Publication costs shall be an additional charge.
- (C) Pursuant to 2113.03, all estates being relieved from administration shall be published once in a newspaper of general circulation in the county, unless notices are waived or found unnecessary by the Court.
- (D) Insolvent estates may NOT be relieved from administration.
- (E) On the form, Entry Relieving Estate from Administration, it shall be set forth that known debts of decedent have been paid or secured to be paid.

SUMMARY RELEASES FROM ADMINISTRATION

All Summary Releases shall conform to the appropriate statutory element of O.R.C. 2113.031 (B). The standard form of Application for Summary Release from Administration shall be used for filing of summary Release from administration estates and shall have Form 1.0 attached and filed with the Application. Court costs shall be paid at the time of filing.

Rule 50 TRANSCRIPTS

- (A) All requests for transcripts shall be submitted to the Court upon written Application, designative case number and the extent of the transcript requested; or deposit may be required.

Rule 51 SHERIFF'S SALES

In every Sheriff's sale of real property the purchaser, as soon as his bid is accepted, shall be required to deposit in cash or by certified check payable to the Sheriff ten percent (10%) of the amount of such accepted bid. Where the amount bid is \$3,000.00 or less, the minimum amount of such deposit shall be \$300.00; and the maximum amount of such deposit in any case shall be \$10,000.00. The unpaid balance of the purchase price shall be due and payable to the sheriff within thirty (30) days from the date of sale.

Where the purchaser is the lien holder after the lien of costs, taxes and assessments, the Court may order, if the first lien holder is the successful bidder at the sale, that the required deposit be waived, and that all costs, taxes and assessments be paid upon receipt of a statement from the Sheriff of Hocking County.

On the Monday following the Monday on which the sales are made the Sheriff shall make his return to the Court and have the sales confirmed and deeds ordered. On the Tuesday following such return and conformation the Clerk shall notify the Sheriff to prepare his deed to the purchaser. Such deed shall be prepared in conformity with R.C. 2329.36 and shall be delivered to the purchaser upon payment of the full purchase price and interest, if any.

In the event a purchaser fails to pay the balance due on the purchase price within said thirty (30) days after the date of the sale, he shall be in contempt of this Court and the Sheriff shall forthwith cause a citation to issue commanding such defaulting purchaser to appear before the Judge of this Court having matters in charge and show cause why he should not be punished. Upon a finding of guilt or contempt, the Court proceeds in accordance with R. C. 2327.04. In each advertisement of sale the Sheriff shall cause to be included notice that the full purchase price shall be paid within thirty (30) days from the date of the sale; otherwise, the purchaser shall be adjudged in contempt of Court. The Sheriff shall also keep a copy of this entire rule conspicuously posted at the place where he conducts the sales and shall call attention thereto before receiving bids.

Appraisal fees shall be based on appraised value and fees allowable shall be scaled as follows:

- (1) \$1.00 per thousand on amount up to \$50,000.00 with the minimum fee paid as \$35.00.
- (2) \$50.00 for first \$50,000.00 plus .50 per thousand up to \$100,000.00.
- (3) Over \$100,000.00 would be \$75.00 plus .10 per thousand over.
- (4) Minimum fee of \$35.00 on executions.
- (5) In case of detailed appraisals for good cause shown the Court may award fees in excess of the scale hereinbefore enumerated.

Judicial sale of real estate

I. Certification: In every action hereinafter filed in any division of the Common Pleas Court of Hocking County, Ohio wherein a judicial sale of real estate is contemplated by the Complaint or subsequent pleadings the party praying for said sale or the attorney for the party praying for said sale shall endorse thereon the following Certification:

“The undersigned hereby certifies that an examination of the public records of Hocking County, Ohio has been made to determine the ownership of subject real estate and all parties who may claim an interest therein, and that, in the opinion of the undersigned, all parties have been named as parties to this action,” stating as exceptions any interested party not so named.

II. Order: Upon any Decree subsequently issued which orders the sale of real estate, the party or attorney having requested said sale shall further certify:

“The undersigned hereby certifies that the examination of title to subject real estate has been extended to (date) to determine if any parties have acquired any interest therein subsequent to said previous examination and said examination discloses that, in the opinion of the undersigned, there are no such parties except parties to whom the doctrine of lis pendens applies,” also stating as further exceptions any such party not subject to lis pendens.

III. Notice of Sale: In every action in any division of the Common Pleas Court of Hocking County, Ohio wherein a judicial sale of real estate is ordered by the Court, the attorney for the plaintiff, or such other party requesting the sale, shall promptly mail notice of the time, date and location of the sheriff’s sale to the record owner(s) of the subject real estate and to all other interested parties not in default for failure to appear, or

their counsel of record, at their respective last known addresses. The record owner(s) of the real estate shall be noticed by mail in all cases whether or not in default for failure to appear, except when said owner(s) were originally served with summons solely by publication. No other parties to the proceeding in default of answer need be served with notice of sale except by publication as provided by R. C. Sections 2329.26 and 2329.27. Failure to provide timely notice to interested parties shall constitute grounds for denying confirmation of the sale.

IV. Required Filing: Not less than fourteen (14) days prior to the scheduled sale date, counsel for the party requesting the sale shall file with the Clerk a Certificate of Service of Notice of Sale Date specifying the date and manner of service and the names and addresses of all interested parties or their respective counsel of record who were sent notice. Failure to timely file the certificate of service required by this rule shall constitute grounds for denial of the confirmation of sale.

V. The Sheriff, deputy or party conducting the sale shall, prior thereto, announce that any purchasers shall have thirty (30) days from the date of sale to obtain an examination of title to said real estate. Should examination disclose the title so purchased to be unmarketable by reason of any defect in the proceedings or the existence of any interest not disclosed in either of the certifications described above, no liability shall be predicated on the certifications but said purchaser may, within the thirty (30) day period, notify the Court thereof by written motion requesting that said sale be set aside. If the Court, upon hearing thereof, finds said title to be unmarketable, the Court shall refuse to confirm said sale. The Court may, however, fix a reasonable time, not to exceed ninety (90) days, within which such defects may be corrected.

VI. Waiver: A purchaser may waive any part or all of the thirty (30) day period by signing the Confirmation Entry, but no Confirmation Entry not approved by the purchaser shall be filed until said period has expired.

VII. Section I of this Rule (Certification) shall not apply to proceedings under R.C. Section 5721.18.

“EXHIBIT A”

SUGGESTED APPRAISAL LIST

Roger Shaw	Otto Shaw & Co., Realtors 58 W. Main Street Logan, Ohio 43138	(740) 385-5775
Alice Montgomery	Alice Montgomery Realty 148 E. Second Street Logan, Ohio 43138	(740) 385-4624
Sandra Vaughan	Century 21 Darfus Realty 1135 W. Hunter Street Logan, Ohio 43138	(740) 385-1710 fax (740) 380-1723
Steve Menchhofer	11397 St. Rt. 374 Rockbridge, Ohio 43149	(740) 385-6666
Larry Menchhofer	24470 State Route 56 S. Bloomingville, Ohio 43152	(740) 385-1111
Earl Later	Salt Creek Valley Bank 18627 Main Street Laurelville, Ohio 43135	(740) 332-2421
Larry Kienzle	Citizens Bank 188 W. Main Street Logan, Ohio 43138	(740) 385-8561
Ray Dennis (Auctioneer)	13718 St. Rt. 93 S Logan, Ohio 43138	(740) 385-7355
Ottie Opperman (Auctioneer)	P.O. Box 504 Logan, Ohio 43138	(740) 385-7195
Robert C. Hoffman (Jewelry)	Weiland Jewelry 54 W. Main Street Logan, Ohio 43138	(740) 385-2331
Stuart G. Palestrant Cert. Gemologist	Wendel’s Jewelers 1021 N. Memorial Drive Lancaster, Ohio 43130	(740) 653-6402

Allan Johnson (farm equipment)	14536 St. Rt. 595 Logan, Ohio 43138		(740) 385-8743
Dave Pritchard (Auctioneer & Realtor)	120 W. Main Street Circleville, Ohio 43113		(740) 477-1744
Ronald E. Woodward	26003 Chapel Ridge Road South Bloomingville, Ohio 43152		(740) 380-2672
Dominic B. Paniccia	Paniccia Real Estate Services 29043 Hide-A-Way Hills Rd. Sugar Grove, Ohio 43155		(740) 746-9999
Mott, Wyskiver & Assoc. Real Estate Appraisers, Inc	802 N. Columbus Street Lancaster, OH 43130		(740) 654-6947
Bill K. Wyskiver	390 Vine Street Logan, OH 43138		(740) 654-6947
Dennis Real Estate (Dennis Davis)		cell	(740) 974-2331
		home	(740) 385-7945
Steven Cox	144 Mill Street Nelsonville, OH 45764		(740) 753-1411
Eric R. Smith	6641 Outville Rd., SW Pataskala, OH 43062		(740) 927-0000
Carol J. Reynolds, dba	Solutions for Real Estate 751 E. Front Street Logan, OH 43138	offc cell fax	(740) 385-3600 (740) 591-4426 (740) 385-3611
Dan R. Singer	Singer Appraisal & Consult 222 S. Broad St. Lancaster, OH 43130	fax	(740) 687-1234 (740) 687-1012
Eric Courtney	P.O. Box 129 Carbon Hill, OH 43111		(614) 753-1941
Keith Orr	Realtor/Auctioneer 2757 Bernadette Rd. Columbus, OH 43204	fax	(614) 565-1566 (614) 488-6789

“EXHIBIT B”

ESTATE OF: _____

CASE NO: _____

COMPUTATION OF ATTORNEY FEES FOR ESTATES

TOTAL PROBATE ASSETS (PER INVENTORY) \$ _____

\$ -0-	-	\$ 5,000.00		\$ <u>300.00</u>
\$ 5,001.00	-	\$ 20,000.00	5-1/2% over \$ 5,000.00	\$ _____
\$ 20,001.00	-	\$ 50,000.00	5% over \$ 20,000.00	\$ _____
\$ 50,001.00	-	\$ 100,000.00	4-1/2 over \$ 50,000.00	\$ _____
\$ 100,001.00	-	up	4% over \$ 100,000.00	\$ _____

1. TOTAL FEE FOR PROBATE ASSETS \$ _____

TOTAL NON-PROBATE ASSETS \$ _____

(As valued in the determination of the filing or non-filing of the Ohio Estate Tax Return)

-0- and up 1-1/2% \$ _____

2. TOTAL FEE FOR NON-PROBATE ASSETS \$ _____

3. EXTRAORDINARY FEE TOTAL \$ _____
(accompanied by attached schedule of service & time)

TOTAL ATTORNEY FEE (SUM OF 1, 2 & 3) \$ _____

LESS ATTORNEY FEE TAKEN ON PRIOR ACCOUNT \$ _____

BALANCE OF ATTORNEY FEE REQUESTED ON
FINAL ACCOUNT \$ _____

The undersigned hereby certifies that a copy of the foregoing has been served on all primary beneficiaries. Further, the fiduciary has reviewed and hereby consents to attorney fees set forth herein.

Attorney's signature

Fiduciary's signature

“EXHIBIT C”

PLEASE FIGURE COURT COSTS FOR THE FOLLOWING:

ESTATE OF: _____

CASE NO: _____

ATTORNEY: _____ DATE: _____

PUT IN BOX: _____ PHONE: _____

NO. OF PAGES

Fiduciary’s Account (Final) _____

Fiduciary’s Account (Partial) _____

Receipts & Disbursements _____

Assets Remaining in Hands _____

Publication of Notice _____

Entry Approving Account _____

Schedule of Claims _____

Ohio Estate Tax (taxable) _____

Ohio Estate Tax (no tax) _____

Certificate of Tax Filing (Form 22) _____

Transfer of Real Estate _____

Transfer of Motor Vehicle _____

Appl. & J.E.- Att. Fees _____

Any Additional papers _____

NOTE: If you have additional filings after calling for costs, please phone Court for additional costs. Additional pages are charged at \$1.00 each.

“EXHIBIT C”

PLEASE FIGURE COURT COSTS FOR THE FOLLOWING:

ESTATE OF: _____

CASE NO: _____

ATTORNEY: _____ DATE: _____

PUT IN BOX _____ PHONE: _____

NO. OF PAGES

Inventory & Appraisal _____

Form 1.0 _____

Schedule of Assets _____

Waiver of Hearing on Inv. _____

Notice of hearing on Inv. (Number of Notices) _____

Certified Mail for Notices _____

Entry Approving Inv. _____

Affidavit-Probate of Will _____

Appraiser’s Fee _____ Paid by estate _____ To be paid by Court _____

Any Additional Papers: _____

NOTE: If you have additional filings after calling for costs, please phone Court for additional costs. Additional pages are charged at \$1.00 each.

CASE MANAGEMENT PLAN

I. PHYSICAL INVENTORY

- A. All files in the Probate Court shall be physically inventoried for a period of ten years, January 1, 1981 to June 30, 1991. Each file shall be physically examined, the status determined, and stamped as to date so inventoried and the status of the case as to active or terminated.
1. All cases determined to be opened shall be listed on the Physical Inventory, the docket checked to determine each open case pending is docketed for appropriate proceeding or appropriate notices for action sent to parties.
 2. Report of the Physical Inventory shall be filed with the Supreme Court of the State of Ohio, on or before, September 1, 1991, or if prior to said date, the Physical Inventory shall be annually filed with the Supreme Court of the State of Ohio, on or before, the date of filing in 1991.
 3. An Annual Physical Inventory shall be made after 1991 of all pending cases with the report of the annual Physical Inventory filed with the Supreme Court of the State of Ohio on, or before, the date said Physical Inventory report was filed in 1991.

II. SUPERVISION OF ESTATES, TRUSTS, GUARDIANSHIPS AND CONSERVATORSHIPS

A. TIME FOR FILING

1. Affidavit of Notice of Probate of Will shall be filed within 30 days of appointment of fiduciary. (Local Rule 24A)
2. Filing of Fiduciary Acceptance, Oath of Fiduciary shall be on date of appointment of fiduciary.
3. Inventories in estates, trusts, guardianships and conservatorships shall be filed within statutory requirements.
4. Surviving Spouses Right of Election – after the probate of the Will and the filing of the Inventory and Appraisement, if a surviving spouse survives and has not waived right of election, the probate Court shall issue a Citation to elect under the Will or under O.R.C. 2105.06 pursuant to O.R.C. 2106.01.

5. Accounts – Accounts in estates, trusts, guardianships and conservatorships shall be filed in the time periods required by statute and pursuant to Local Rules 24, 32, 34, 36.
6. The Application for apportionment of Family Allowance shall be filed no later than the filing of the Inventory of the decedent's estate. The Application for apportionment of Family Allowance shall be heard within 45 days of filing the Application.

III. ADVERSARY PROCEEDINGS

- A. Will Contest, Declaratory Judgment, Determination of Heirship, 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, Objection to Inventories and Accounts shall be subject to the Physical Inventories as stated herein.
- B. Time Requirements of Adversary Proceedings.
 1. All statutory time requirements such as answer dates shall be the standard for the procedure of litigation.
 2. A pre-trial conference in all adversary proceedings shall be set and held with 30 days after the answer date.
 3. Notice of pre-trial conference shall be given to all attorneys of record by mail at least 14 days prior to conference.
 4. No continuance shall be granted except upon written Motion and with all parties concurring on a reasonable date certain in the future when said proceeding shall be set.
 5. Final hearing dates shall be set at the time of the first pre-trial conference.

IV. ADOPTION PROCEEDINGS

- A. Physical Inventory Rules as set forth herein are applicable to adoption cases.
- B. Confidentially in compiling and reporting the Inventory on adoption cases shall be preserved by statute.
- C. Time for Filing – reports of home investigation shall be filed within statutory time required; reference letters shall be returned to the Court

within 14 days of receiving reference request; all cases for adoption shall be set for final hearing on the date of filing.

V. MENTAL ILLNESS PROCEEDINGS

- A. Physical Inventory Rules set forth here applicable to mental illness cases.
- B. Confidentiality in compiling and reporting the Inventory in mental illness cases shall be preserved as required by statute.
- C. Time for Filing – Affidavits alleging mental illness shall be reviewed upon filing; determination of probable cause will be determined; Orders of Detention and screening by mental health clinician shall issue forthwith; upon receipt of mental health clinician, a report order of commitment shall be determined.
- D. Cases with final judgment shall be terminated and removed.