

**LOCAL RULES OF PRACTICE AND PROCEDURE OF THE ASHTABULA COUNTY COURT OF  
COMMON PLEAS; PROBATE DIVISION**

**THESE LOCAL RULES HAVE BEEN REVISED AND UPDATED  
EFFECTIVE DATE: AUGUST 17, 2021**

**ASHTABULA COUNTY COURT OF COMMON PLEAS  
PROBATE DIVISION  
LOCAL RULES  
Revised: July 1, 2021**

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**ASHTABULA COUNTY COURT OF COMMON PLEAS  
PROBATE DIVISION  
LOCAL RULES  
Revised: AUGUST 17, 2021**

**INTRODUCTION**

Pursuant to Rule 5 of the Rules of Superintendence for the Courts of Ohio, the Ashtabula County Court of Common Pleas, Probate Division (hereinafter “Ashtabula County Probate Court” or “Probate Court” or “Court”) adopts the following local rules of practice to facilitate the expeditious disposition of cases. These rules shall be read in conjunction with rules promulgated by the Supreme Court of Ohio. As required by Rule 75 of the Rules of Superintendence for the Courts of Ohio, these local rules are numbered to correspond with the numbering of the Rules of Superintendence they are intended to supplement. The Court has determined that certain Rules of Superintendence do not require any supplementation and their omission herein is by design. The Court reserves the right to revise and amend these local rules as permitted by Sup. R. 5.

**ASHTABULA COUNTY COURT OF COMMON PLEAS  
PROBATE DIVISION**

**LOCAL RULES of ASHTABULA COUNTY COURT OF COMMON PLEAS, PROBATE DIVISION**

Revised August 17, 2021

**SUPERINTENDENCE RULE 8**

**Court Appointments**

**Local Rule 8.1 Court Appointments**

Persons appointed by the Court to serve as fiduciaries, appraisers, attorneys, masters, investigators, guardians *ad litem*, trustees for suit or in any other capacities, shall be selected from lists maintained by the Court.

Appointments shall be made taking into consideration the qualifications, skills and expertise of the appointee, and the type and complexity of the case. Any individual interested in serving in any of the aforementioned capacities shall file their resume and any other necessary certifications with the Court for its consideration.

**Local Rule 8.2 Compensation**

Persons appointed herein shall receive reasonable compensation pursuant to the Revised Code, the local rules of Court pertaining to fees, including any fee schedule established by the Court, and Rule 1.5 of the Ohio Rules of Professional Conduct.

**Local Rule 8.3 Periodic Review**

The Court shall review all appointments and the abovementioned appointment procedure periodically to ensure the equitable distribution of appointments among persons on each list maintained by the Court.

**SUPERINTENDENCE RULE 9**

**Security Plan**

**Local Rule 9.1 Security Plan**

The Court has adopted a court security policy and procedures plan addressing the provisions of the Ohio Court Security Standards adopted by the Supreme Court of Ohio, and shall review the same from time to time.

**Local Rule 9.2 Confidentiality**

Any information contained in the plan adopted under Sup. R. 9 and any information resulting from a court security review conducted by a local court or the Supreme Court shall not be a public record.

**SUPERINTENDENCE RULE 11**

**Recording of Proceedings**

**Local Rule 11.1 Recording of Proceedings**

(A) The Court shall make an audio recording of proceedings before the Court that shall serve as the record of the Court, unless the Court authorizes the stenographic transcription of the proceedings or unless said recording or stenographic transcription is waived by all interested parties present at the proceeding. Parties or other



interested persons who desire to have the recording of the proceeding transcribed shall make written request to the Court.

(B) The Court shall maintain all electronically or digitally recorded proceedings for three years from the date of hearing. All currently existing audiotapes or digital recordings will be maintained for twelve years from the adoption of these rules. Any interested person desiring to preserve the record beyond the three-year period must make arrangements to have the record transcribed.

### **Local Rule 11.2 Stenographic Transcription**

(A) The party requesting the transcript shall be solely responsible to arrange for the preparation and payment of the full cost of the transcript charged by an Official Court Reporter upon completion. A transcript that was transcribed by a stenographer other than an Official Court Reporter and offered to the record shall be subject to Court approval.

(B) A request for transcription shall be made in writing. The Official Court Reporter shall charge the usual customary fee charged by a private reporter for services in this county for such transcription. The Court Reporter shall attach a certificate of accuracy of such transcription, and certify the required fees have been paid.

(C) A transcript filed with the Court shall supersede the digital or audio recording as the official record of the Court.

### **Local Rule 11.3 Use of Contents of Recordings**

An interested party shall not be allowed to use the contents of a recording in subsequent pleadings or in argument before the Court unless a transcript of the entire hearing is filed with the Court.

### **Local Rule 11.4 Hearing by Audio/Telephone/Video Conferencing**

(A) Upon Motion of a party, and at the Judge's discretion, any hearing may be conducted using audio, telephone, or video conferencing.

(B) Attendance by audio/telephone/video conference, if authorized by the Judge, shall comply with local rules of Probate Court.

(C) In addition to other procedures that may be available, the testimony of a witness that is located outside of Ashtabula County 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 and terms upon which it is to be taken. The 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.

(D) Provision shall be made to preserve the confidentiality of attorney-client communications and privilege in accordance with Ohio law.

(E) A record of any proceeding conducted by video conference shall be made in the same manner as customarily recorded by the Court.

(F) 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.

(G) All exhibits shall be electronically transmitted to the probate court and all other parties twenty-four (24) hours 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 Court. A clerk of the Court will print and mark the proposed exhibit. All exhibits will be retained in accordance with Loc. R. 26.2.

## **SUPERINTENDENCE RULE 26**

### **Court Records Management and Retention**

#### **Local Rule 26.1 Court Records Management and Retention**

The Court maintains a Schedule of Records Retention and Disposition pursuant to Sup. R. 26.04.

#### **Local Rule 26.2 Exhibits**

All exhibits offered for admission during a proceeding shall be properly labeled by party name and item identification. The custody of the exhibits offered for admission shall be given to the custody of the Court Administrative Assistant to be logged and filed unless otherwise ordered by the Court. Upon agreement of the parties and approval of the Court, copies of the exhibits may be substituted for the originals.

## **SUPERINTENDENCE RULE 45**

### **Court Records - Public Access**

#### **Local Rule 45.1 Court Records – Public Access**

(A) When submitting a case document to the Court or filing a case document with the Clerk of Court, a party to a Probate action or proceeding shall omit personal identifiers from the document. "Personal identifiers" means social security numbers, except for the last four digits; financial account numbers, including but not limited to debit card, charge card, and credit card numbers; and employer and employee identification numbers (Sup. R. 44(H)). When personal identifiers are omitted from a case document, the party shall submit or file the omitted information on SPF 45(D) – Confidential Disclosure of Personal Identifiers. The responsibility for omitting personal identifiers from a case document submitted to the Court or filed with the Clerk of Court shall rest solely with the party. The Court or Clerk is not required to review the case document to confirm that the party has omitted personal identifiers and shall not refuse to accept or file the document on that basis. The personal identifiers shall not be disclosed as public records as provided by law.

(B) The Revised Code deems adoption, civil commitment, and tax documents as confidential, and the Court will not release them from court files.

## **SUPERINTENDENCE RULE 51**

### **Standard Probate Forms**

#### **Local Rule 51.1 Ohio Supreme Court Forms**

In all instances in which the Ohio Supreme Court has prescribed forms for use in probate proceedings, the applicable Supreme Court forms must be used. Supreme Court prescribed forms are available on the Ohio Supreme Court's website at [www.supremecourt.ohio.gov/legalresources/rules/superintendence/probate\\_forms](http://www.supremecourt.ohio.gov/legalresources/rules/superintendence/probate_forms)

#### **Local Rule 51.2 Ashtabula County Prescribed Forms**

In all instances in which the Court has prescribed forms for use in probate proceedings, the applicable Ashtabula County Probate Court forms must be used. Ashtabula County Probate Court's prescribed forms are available on the Court's website at [http://courts.co.ashtabula.oh.us/probate\\_court.htm](http://courts.co.ashtabula.oh.us/probate_court.htm)

## **SUPERINTENDENCE RULE 52**

### **Specifications for Printing Probate Forms**

#### **Local Rule 52.1 Computer Forms**

Computer generated forms must comply with the specifications and format outlined by the Rules of Superintendence of the Courts of Ohio.

## **SUPERINTENDENCE RULE 53**

### **Hours of the Court**

#### **Local Rule 53.1 Hours of the Court**

The Ashtabula County Probate Court shall be open for the transaction of business from 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays. All pleadings requiring a new case number or payment of court costs shall not be accepted after 4:00 p.m. absent a demonstrated exigency.

## **SUPERINTENDENCE RULE 54**

### **Conduct in the Court**

#### **Local Rule 54.1 Conduct in the Court**

Proper attire is required for admittance to the Court. Shorts, tank tops, halter tops, hats, bare feet, etc., are not acceptable forms of attire at any court hearing, including hearings conducted via electronic means as indicated in Loc. R. 11.4. A violation of this rule may result in exclusion of access to the Court by the Court Administrator, Chief Deputy Clerk, Magistrate, or Judge, and/or contempt charges.

## **SUPERINTENDENCE RULE 55**

### **Examination of Probate Records**

**Local Rule 55.1 Removal of Records**

Records shall not be removed from the Court except when approved by the Judge or by a Court Order. Individual pleadings shall not be removed from any file.

**Local Rule 55.2 Photocopies**

Copies of records may be obtained at the cost of twenty five cents (\$.25) per page. Copying of records that are confidential by law is strictly prohibited. Inspection of confidential files must be authorized by prior court order. Payment of copies and associated search fees must be received before copies are furnished. Parties who routinely request copies through the Court may document their copies with the Clerk, and elect to pay for such copies via monthly billings.

**SUPERINTENDENCE RULE 57  
Filings and Judgment Entries****Local Rule 57.1 Facsimile Filings**

Pursuant to Civil Rule 73(J), the Court, in its discretion, may allow facsimile filing, subject to the following provisions:

(A) All initial pleadings must be filed with the Clerk of the Court in person or by U.S. mail. Only documents subsequent to the initial filing, including pleadings, motions, exhibit and other documents may be filed with the Clerk of probate court by facsimile. The area code and number of the receiving machine is (440) 576-3633. All risk associated with transmission shall be borne by the sender.

(B) All filings by facsimile shall be accompanied by the Court-approved cover page as set forth in Local Form – Electronic/Facsimile Cover Page, and shall include the following information:

- a. The date of transmission;
- b. The name telephone number, and facsimile number of the person transmitting the document;
- c. The Case Number and caption of the case in which the document is to be filed;
- d. The title of the document to be filed; and
- e. 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 the documents were transmitted without authority, the Court may order the filing stricken.

(D) The filing date of any document transmitted by facsimile shall be the time and date the document was received by the probate court's facsimile machine.

(E) Any document filed by facsimile that requires a filing fee shall not be accepted for filing by the Clerk of the Probate Court until the filing fee is paid. Such a document shall be held for a 7 day period, at which time, if no filing fee has been received, the filing will be destroyed.

(F) Papers, pleadings, and other documents that are incomplete may be refused for filing or, if filed, may be stricken.

### **Local Rule 57.2 Electronic Transmission Filings**

(A) As used in Loc. R. 57.2:

1. “Source document” shall mean the document to be filed. The source document shall be transmitted to the Court by e-mail in PDF format ONLY. Other electronic formats will not be accepted and shall be deleted upon receipt.
2. “Original document” shall mean the e-mail copy of the source document received by the Court, and maintained as the “original” document in the Court’s file. A document filed by e-mail shall be accepted as the original filing if the sender complies with all of the requirements set forth in this Local Rule. The sender need not file any source document with the Court.

(B) The following documents may NOT be filed by e-mail transmission:

1. Any pleading or document necessary to commence a proceeding for which the Court must collect an initial case deposit and/or for which the Court is required to effectuate service of summons; or
2. Any document filed by e-mail that requires a filing fee at the time of filing unless the filer has on deposit sufficient funds for the payment of costs; or
3. Any proceedings deemed confidential pursuant to Ohio law.

(C) Electronic Cover Page: All filings by e-mail shall be accompanied by a Court Approved cover page as set forth in Local Form – Electronic/Facsimile Cover Page and shall include the following information: a. Date of transmission; b. Name, address, e-mail address, telephone number, and fax number of the sender; c. Case number and caption of the case in which the document is to be filed; d. Title of the document(s) to be filed; and e. Number of pages being transmitted.

(D) E-Mail: The e-mail address available for receiving filings for the Court is [probate@ashtabulacounty.us](mailto:probate@ashtabulacounty.us). This e-mail address is available twenty-four (24) hours per day seven (7) days per week for e-mail filings ONLY. E-mails sent to any other address are not permitted under this Local Rule, and will not be considered filed. Each email filing shall state the Case Number and Case Caption in the subject line of the email.

(E) Document Restrictions: An e-mail transmission may contain more than one document but may not apply to more than one case number per transmission. Motions and other filings making reference to or incorporating other documents attached to the motion or other filing as an exhibit thereof shall be considered as part of a single filing for purposes of this rule.

(F) Fees: There are no specific costs related to Electronic Filings except to the extent that the filings are taxed as costs to any case. Each page of the filing in excess of ten pages per document shall be assessed a copying charge at the rate of twenty-five cents a page.

(G) Filing: Acceptance or Rejection. The Clerk's office is authorized to reject any electronic filing if it fails to comply with the requirements of this rule. In such an event, the Clerk's office shall notify sender of said rejection.

(H) Date and Time: For purposes of this rule and for entering such filings into the electronic Case Docket system, electronically transmitted documents may be received twenty-four (24) hours per day, seven (7) days per week. Documents will be stamped and docketed with the date received by the Probate e-mail inbox.

(I) Signatures: Any signature on documents transmitted by e-mail shall be considered as that of the attorney or other person that it purports to be for all purposes. If it is established the documents were transmitted without authority, the Court may order the filing stricken.

(J) Verification of Receipt for e-mail filings: The Court shall send a Delivery Receipt. Once the document has been filed the Court shall confirm said filing via email by the close of business.

COMMENT: E-mail Filings: Under Civil Rule 5(E), pleadings, motions, applications and other filings may be filed with the Court by e-mail transmission subject to conditions in the rule. This Local Rule is adopted for the convenience of those filing documents with the Court but the Court does not assume any new or additional responsibilities, obligations, or liabilities by virtue of this Rule. The filer remains responsible for any requirements pertaining to time, costs, or otherwise when using this method of filing. In making copies, the Court will attempt to keep necessary copying of attachments to a minimum to reduce expenses for parties. This Local Rule pertains only to the method of filing and does not change any other requirements in the Local or Civil Rules or Ohio Statutes including obtaining the consent of parties or counsel, or obtaining signatures or the authorization to sign for opposing counsel.

### **Local Rule 57.3 Required Information Sheets**

A "Required Information sheet" shall be filed with each new case indicating all Parties' names, dates of birth and other required information. (See: *Appendix A1-A5*.) All required information shall be reviewed, and updated if necessary at the time of subsequent filings.

### **Local Rule 57.4 Street Address**

When required on a Court document, an address must be a street address. Upon satisfactory proof that a street address is unknown or cannot be ascertained, the Court may permit the use of the post office box upon request.

### **Local Rule 57.5 Case Number**

All filings, including exhibits and attachments, must have the case number on each page, including the reverse side of two-sided filings.

### **Local Rule 57.6 Signatures**

All filings must contain original signatures except when the Court permits otherwise. A fiduciary and counsel, if any, shall sign all documents filed with the Court, including but not limited to, applications for counsel fees. In the event there are multiple fiduciaries, the signature of each fiduciary is required on all documents. Counsel may not sign on behalf of a fiduciary. Notwithstanding the foregoing, Counsel may execute and file on behalf

of a fiduciary a report of Distribution of Wrongful Death Proceeds with copies of the checks evidencing distribution attached thereto.

**Local Rule 57.7 Return Copies**

The Court will not return file stamped copies by mail unless a self-addressed envelope stamped with sufficient postage has been supplied to the Court by filing party.

**Local Rule 57.8 Certificate of Notice of Judgment Entry**

Any proposed judgment entry submitted to the Court for approval shall comply with the requirements of Civil Rule 58(B) and Civil Rule 73(I), and shall contain a certificate of service including the names and addresses of all parties and other interests persons required to be served.

**Local Rule 57.9 Social Security Numbers**

Social security numbers shall not be filed in any filing that is available for public inspection. An applicant for guardianship shall provide his/her social security number, and the social security number for the proposed Ward on a form that will not be disclosed to the public. Social security numbers disclosed on marriage license applications and estate tax returns are sequestered as confidential, non-public records.

**Local Rule 57.10 Notice of Litigation**

Upon the filing of any legal action that affects an estate, trust, or guardianship, the fiduciary shall file Local Form - Status Report, with the Court identifying the court or tribunal in which the litigation was filed, the names and addresses of the parties and their counsel, the case number, and a brief description of the nature of the litigation and status of the same. Subsequent status reports shall be filed every six (6) months.

**Local Rule 57.11 Real Estate Transfer Only**

An Application for Certificate of Transfer may be approved pursuant to Rev. Code Sec. 2113.61 (D) without a full estate or release from administration no earlier than six months after the date of death if: 1) the sole probate asset of the decedent is real estate and 2) the decedent was not subject to Medicaid Estate Recovery. Local Form - Real Estate Release enumerates the necessary documents to be filed pursuant to this rule.

**SUPERINTENDENCE RULE 58**

**Deposit for Court Costs**

**Local Rule 58.1 Deposits for Court Costs**

(A) Deposits for Court costs for all proceedings shall be determined by the Court, and the Court's costs schedule shall be made available to the public.

(B) Any balance that remains outstanding in a matter shall be paid at the time an accounting, waiver of accounting, certificate of termination, or a final judgment entry is filed. The Court reserves the right to require additional deposits during the course of a proceeding as the Court deems necessary. Costs shall be paid by cash, money order, cashier's check, personal check, official bank check, or credit card.

(C) Papers, pleadings, and other documents may be stricken, following notice to the filing party, for failure to make deposits, or to pay court costs, absent good cause to the contrary being shown.

(D) In all cases of decedent's estates, civil actions, complaints to sell real estate and any other matters requiring a deposit, the fiduciary or plaintiff shall be required to maintain a positive balance in the deposit account. Filings presented to the Court with insufficient funds may be refused or returned by the Clerk's office.

**Local Rule 58.2 Costs of Publication**

Costs for publication by the Court in a newspaper of general circulation, including such proceedings and notices as required by law or the Court, shall be paid to the Court at the time request for publication is made.

**Local Rule 58.3 Deposit for Jury Trial**

Upon the filing of a demand for a jury trial, the party making the demand shall remit an advance deposit of \$500 or such other amount as the Court may require.

**SUPERINTENDENCE RULE 59**

**Wills**

**Local Rule 59.1 Certificate of Notice of Probate of Will**

The applicant for the admission of a will to probate, or other persons listed in R.C. 2107.19(A)(4), shall file a Certificate of Service of Notice of Probate of Will (SPF 2.4) within the time prescribed by law. Proof of service will consist of either waivers of notice of admission of the will to probate or the original certified return receipt cards as provided by Civ. R. 73 (E)(3). A waiver of notice may not be signed by any minor.

**Local Rule 59.2 Will for Deposit**

Any will that is deposited with the Court for safekeeping pursuant to R.C. 2107.08 shall be accompanied by a completed Will for Deposit form (Form 102.00). The Court will provide the depositor with a Certificate of Deposit of Will (Form 102.01) as a receipt for the deposit of the will.

**SUPERINTENDENCE RULE 60**

**Application for Letters of Authority to Administer Estate and Notice of Appointment**

**Local Rule 60.1 Application for Letters of Authority**

All documents necessary to open an estate must be filed at the time the estate is opened. All persons seeking appointment as fiduciary shall personally sign Local Form - Fiduciary's Acceptance at the time of application. Applicants for authority to administer an estate who are not represented by an attorney shall exhibit to the Court picture identification and proof of current address. Any change of address, telephone number, or email address must be updated with the Court within fourteen (14) days of such change.

**Local Rule 60.2 Notice of Application**

Any person filing an Application for Authority to Administer Estate who is not the surviving spouse or next of kin of the decedent shall furnish correct or last known addresses of the surviving spouse and next of kin of



decedent, regardless of residency. Notice of the appointment hearing date, time, and location will be served to all parties who have not waived such notice in accordance with the Revised Code and Superintendence Rules.

**Local Rule 60.3 Fiduciary Bond**

Unless waived, the Applicant shall include a proposed Fiduciary Bond in the appropriate amount with the Application for Authority to Administer Estate.

**Local Rule 60.4 Letters of Authority in the Estate of a Deceased Incompetent Ward**

Absent exigent circumstances, Letters of Authority shall not be granted to an applicant who was also the guardian of estate of an incompetent ward until the final Guardian's Account is filed and approved in the decedent's guardianship case.

**Local Rule 60.5 Application to Reopen Estate**

Applicants seeking to reopen an estate previously filed in the Court and receive new Letters of Authority must utilize Local Form – Application to Reopen Estate and Appoint Fiduciary to initiate the proceeding.

**SUPERINTENDENCE RULE 61**

**Appraisers**

**Local Rule 61.1 Appraiser's Appointment and Fees**

(A) A fiduciary or applicant must use SPF 3.0 – Appointment of Appraiser to appoint an appraiser. The credentials of the proposed appraiser must be filed with the Court prior to the appraiser's appointment. The appraiser sought to be appointed must be experienced in appraising similar property 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. A real estate appraiser not having an office in Ashtabula County must affirmatively demonstrate their familiarity with the local market.

(B) No person who is appointed appraiser shall, during the administration of the estate or within one year of their appointment, directly or indirectly purchase or negotiate the purchase or sale of property inventoried or appraised by them.

(C) Any asset, the value of which is readily ascertainable, is not required to be appraised.

(D) A fiduciary or appraiser shall request the Court's approval to pay an appraiser a reasonable fee after taking into account the appraiser's training, qualifications, experience, the time reasonably required, and the value of the property appraised. Appraiser fees shall be paid as part of the expenses of administering the estate.

**Local Rule 61.2 Real Estate Appraisers**

(A) A real estate appraisal can only be made by a licensed Real Estate Agent, Broker, Auctioneer, credentialed real estate appraiser, or such other persons who, by experience and training, are qualified to make real estate appraisals.

(B) Upon application using SPF 3.0 – Appointment of Appraiser, the Court may authorize the fiduciary to use the County Auditor’s tax value for real property in an estate in lieu of a formal appraisal.

**Local Rule 61.3 Personal Property Appraisers**

Appraisals of personal property with no reasonably ascertainable value shall be made by licensed auctioneers, credentialed personal property appraisers, or such person who, by experience and training, is qualified to make such appraisals.

**Local Rule 61.4 Readily Ascertainable Value of Motor Vehicle**

The market value of any motor vehicle as found in a publication such as the current NADA Official Used Car Guide or Kelley Blue Book under the category “Average Retail” or “Private Party Sale”, may be accepted as the readily ascertainable value. A copy of the appropriate page shall be filed with the Court prior to the Court issuing any entry or order approving an Inventory, Application to Relieve Estate from Administration, Application for Summary Release, or Application to Transfer Motor Vehicle. Heirs or beneficiaries may file their written consent to vehicle valuations without corroboration from NADA or Kelley Blue Book with the Court and, upon receipt of all required consents, the Court can approve the value without corroboration.

**SUPERINTENDENCE RULE 62  
Claims against Estate**

**Local Rule 62.1 Filing of Claims against Estate**

Any claim against an estate filed with the Court pursuant to RC 2117.06 (A)(1)(b) shall be accompanied by the appropriate filing fee. Claims shall be accepted or rejected by the fiduciary with court approval before final accountings can be approved.

**Local Rule 62.2 Notice of Insolvency**

Insolvency hearings may be held only in full administration and guardianship cases. Insolvency proceedings shall be commenced by the fiduciary filing a representation of insolvency accompanied by a prioritized schedule of claims. The attorney or fiduciary shall indicate the amount of the proposed payment to each creditor. The attorney or fiduciary shall obtain a hearing date on the insolvency and notify all creditors of the hearing by certified mail and bring said receipts to the hearing to be retained in the case file.

**SUPERINTENDENCE RULE 63  
Application to Sell Personal Property**

**Local Rule 63.1 Affidavit and Report**

An application to sell personal property shall include an adequate description of the property. Except for good cause shown, an order of sale shall not be granted prior to the filing of the Inventory. An affidavit and report pursuant to R.C. 2109.45 and R.C. 2113.42 shall include a statement that personal property was not purchased by the fiduciary, a family member, business associate, client, or agent of the fiduciary.

## **SUPERINTENDENCE RULE 64**

### **Accounts**

#### **Local Rule 64.1 Delinquency of Filing**

(A) If a fiduciary is delinquent in filing an account required under R.C. 2109.301, R.C. 2109.302, or R.C. 2109.303, and no extension of time for filing has been granted, the Court may refuse to appoint the fiduciary to another office of trust.

(B) Except for good cause shown, the costs of citations shall be deducted from the fiduciary's compensation.

#### **Local Rule 64.2 Vouchers and Receipts**

(A) For estates wherein the date of death occurs after April 8, 2004, vouchers evidencing disbursements and receipts for assets received during the administration of a decedent's estate must be maintained by the fiduciary, but shall not be filed with the Court unless ordered by the Court in its discretion. At any hearing on objections to the account, counsel for the fiduciary shall introduce into evidence such vouchers, receipts, cancelled checks, or other proof of transactions as support of the filed account. Fiduciaries or their counsel shall retain vouchers, receipts, cancelled checks or other proof of transactions until six months after the final account is approved by the Court.

(B) Accounts requiring vouchers will not be approved without vouchers or other proof which verifies each disbursement. Copies of bank drafts receipt and un-deposited checks will not satisfy this requirement.

(C) The Court will accept a bank statement from a financial institution that includes photocopies of cancelled checks that specifies the payee, check amount, and date of payment as a voucher.

#### **Local Rule 64.3 Subsequent Accounts**

The starting date for the time period all subsequent accounts are due shall be from the due date of the initial account, and not from the date of any extensions.

#### **Local Rule 64.4 Notice of Filing**

Upon filing of an Account required by R.C. 2109.301, R.C. 2109.302, or R.C. 2109.303, the Fiduciary shall serve a copy of the Account along with notice of the hearing on the Account, unless notice is waived in writing, upon counsel of any represented party and upon the following:

- a. Decedent's Estate: to each heir of an intestate estate or to each beneficiary of a testate estate. However, notice is not required to an heir or beneficiary whose residence is unknown or to a beneficiary of a specific bequest or devise who received the distribution and for which a receipt has been filed with the Court.
- b. Estate Guardianship: to the ward, if living, or to the heirs or will beneficiaries of the ward if the ward is deceased.
- c. Trusts: to all trust beneficiaries.

#### **Local Rule 64.5 Partial Estate Account**

(A) Every estate fiduciary shall render a final and distributive or partial account within six months from the date of appointment unless an Application for Extension is filed and approved. A partial accounting can be waived in accordance with R.C. 2109.301.

(B) The Court reserves the right to require a partial accounting where a waiver of partial accounting may be otherwise authorized.

(C) Upon filing of a partial account, the fiduciary shall serve notice of hearing on the account, unless notice is waived in writing, on the following:

- a. Charitable Trusts: to Ohio Attorney General, Charitable Trust Division, in compliance with R.C. 109.23.42;
- b. Trusts: to all income beneficiaries of the Trust;
- c. Veterans Guardianships (R.C. 5905): to the Veterans Administration;
- d. Decedent's Estate: surviving spouse and all next of kin in the intestate estate and all specific devisees and residuary beneficiaries in a testate estate.

#### **Local Rule 64.6 Application for Extension of Time**

Upon written application of counsel, the Court shall approve a single extension of time to file an account for a period not to exceed ninety (90) days. All subsequent applications for extension to time to file an account shall be in writing and signed by the fiduciary and counsel and may be set for hearing.

#### **Local Rule 64.7 Guardian and Trustee Accountings**

(A) All Guardian and Trustee Accountings shall be filed on the first anniversary date of the appointment of the Guardian/Trustee, and annually thereafter on the anniversary date.

(B) 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.

(C) A Trustee shall provide a copy of the annual account to all parties interested in the Trustee's account.

#### **Local Rule 64.8 Newly Discovered Assets**

Pursuant to R.C. 2113.69, if the assets obtained by the Executor or Administrator following the filing of the original inventory consist of currency, interest, refunds, or other proceeds with a total of less than \$500.00, an itemized report of such assets does not have to be filed in the probate court. All other assets obtained after the filing of inventory shall be itemized for the Court in a report of Newly Discovered Assets and/or Amended Inventory. Newly discovered assets shall be administered, accounted for, and distributed in like manner as if received prior to the filing of the original inventory.

### **SUPERINTENDENCE RULE 65**

#### **Land Sales**

##### **Local Rule 65.1 Land Sales**

A Preliminary Judicial Report or Title Search must be filed with every Complaint to Sell Real Estate at the time the Complaint is filed with the Court. No land sale proceeding shall be approved by the Court without the filing of a Preliminary Judicial Report pursuant to R.C. Chapter 2329 and/or R.C. Chapter 2127.

**Local Rule 65.2 Guardian *ad Litem***

Unless appointment of a Guardian *ad Litem* is required by the Court because of a conflict between the interests of the Guardian and the Ward, or for good cause shown, the Guardian may proceed to sell a Ward's property without the appointment of a Guardian *ad Litem*.

**Local Rule 65.3 Appraisals in all Land Sales**

For purposes of a Complaint to Sell Real Estate, the Fiduciary shall utilize the services of a licensed real estate appraiser. The Court will not accept an appraisal performed by a licensed real estate agent unless first approved by the Court.

**SUPERINTENDENCE RULE 66.01****Definitions****Local Rule 66.01.1 Definitions**

The terms defined in Sup. R. 66.01 have the same meaning when used in Local Rule 66.01.1 through Local Rule 66.09.1.

**SUPERINTENDENCE RULE 66.02****Application of Rules****Local Rule 66.02.1 Applications of Rules**

These Local Guardianship Rules apply to all guardianship administered through this Court, unless otherwise indicated in the particular Local Rule, or unless expressly waived by Court Order.

**SUPERINTENDENCE RULE 66.03****Local Guardianship Rule****Local Rule 66.03.1 Emergency Guardianships**

The Court has adopted the following process for emergency guardianships:

1) Every application for the appointment of an ex parte emergency guardianship shall be filed in person by the applicant, and shall be accompanied by:

- a. Completed Local Form – Application for Emergency Guardianship;
- b. Completed SPF 17.1 - Statement of Expert Evaluation and SPF 17.1A – Supplement for Emergency Guardianship of Person or actual testimony of a physician consistent with Loc. R. 11;
- c. Completed SPF 15.0 – Next of Kin of Proposed Ward;
- d. Narrative Statement signed by the applicant setting forth information describing the imminent risk of significant injury to the person or property of the minor or incompetent that justifies an ex parte emergency appointment and the action required to prevent such injury; and
- e. Photo identification of the applicant.

2) The applicant shall attend the 72-hour hearing to determine whether to extend the emergency guardianship for up to 30 additional days.

3) If applicant anticipates a need for continued guardianship beyond the emergency period, the applicant shall file an "Application for Appointment of Guardian" (SPF 16.0 or SPF 17.0, as is applicable) within seven days of the thirty day extension.

### **Local Rule 66.03.2 Guardian Comments and Complaints**

(A) Comments and complaints (hereinafter collectively referred to as "complaints") received regarding the performance of any guardian and the resulting documents and correspondence are considered to be case documents and accessible to the public, unless otherwise excluded pursuant to Sup. R. 44 (C)(2). The Court will docket actions with respect to the complaint accordingly.

(B) The Court will not accept or act upon an oral or telephonic complaints against a guardian, other than to provide the address to which the complaint shall be hand delivered, mailed, e-mailed, or faxed. The Court will not accept an anonymous complaint. The Court will date-stamp the complaint on the day it is received.

(C) When a complaint is entered on the docket by the Court:

1. Within five (5) business days of filing, the Court shall send a letter to the complainant acknowledging the receipt of the complaint and providing a copy of this rule.

2. Within ten (10) business days of filing, the Court shall perform an initial review of the complaint and guardianship file, and either:

a. Send the complainant and Counsel a letter dismissing the complaint as unsubstantiated, unspecific, and/or insufficient; or

b. If the complaint appears to have validity, send a copy of the complaint to the Guardian and/or Guardian's counsel of record and request a response to the complaint within fifteen (15) business days from the date of mailing. The forwarding letter shall advise the Guardian and/or Counsel that a failure to respond will result in a show cause hearing being set with the attendance of the Guardian required. A copy of the forwarding letter shall be provided to the complainant.

(D) Upon the expiration of the period for response from the Guardian, the Court, within five (5) business days, shall do one or more of the following:

1. Determine the complaint to have been resolved or unsubstantiated and advise the complainant, Guardian, and Guardian's counsel accordingly by letter; or

2. Refer the matter to mediation with a copy of the referral order being served to the complainant, the Guardian, Guardian's counsel; or

3. Set a review conference or a show cause hearing with notice to the complainant, the Ward, the Guardian, Guardian's counsel, and other interested parties; or

4. Appoint a Guardian *ad Litem* to investigate the issues and to report with findings and recommendations pursuant to R.C. 2101.06 with notice to all interested parties. Upon filing of the Guardian *ad Litem*'s report, the Court will set the matter for hearing, with notice to the Ward, the Guardian *ad Litem*, Guardian, Guardian's counsel, and the complainant.

(E) Except when administratively dismissing a complaint or acting in an emergency, the Court shall not act without a hearing. The Court shall issue findings and conclusions with respect to any hearing held on the complaint. The Court's journalization relating to the Court's Decision will close the complaint. The Court's actions may include dismissal, directives for remedial action, establishing periodic review dates, allocating costs and fees, referral to law enforcement for investigation, sanctions, removal, and any other actions permitted by law.

(F) When the Ward is a Veteran and the Court appointed the Guardian under R.C. Chapter 5905, notice of the complaint, reports, hearings and actions shall be given to the Administrator of Veterans Affairs of the United States pursuant to R.C. 5909.03.

## **SUPERINTENDENCE RULE 66.04**

### **Establishment of Guardianship**

#### **Local Rule 66.04.1 Guardianship of Minors**

When proceedings for the appointment of a Guardian of a minor are presented to this Court, the following shall apply:

(A) A certified copy of the minor's birth certificate must be displayed to the Court with the "Application for Appointment of Guardian" along with "Custody Affidavit" (SPF 16.1). A copy will be made by the Court and the original will be returned to the submitter.

(B) The Court will not establish a Guardianship solely for the purpose of school enrollment.

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

(D) When the minor has not been in Ohio for six (6) months, the Court will not accept for filing an Application for Guardianship unless it is alleged that the minor has been (1) abandoned (no contact) by the parents for more than ninety (90) days; (2) has a medical emergency; or (3) the minor's "home state" has declined jurisdiction. (See R.C. 3127.01 *et seq.*).

#### **Local Rule 66.04.2 Indigent Wards**

(A) An Applicant or Guardian must file with the Court an Affidavit of Indigence if the waiver of court costs or payment of compensation from the Indigent Guardianship Fund is being requested.

(B) For purposes of the indigent guardianship fund, an adult ward or alleged incompetent will be rebuttably presumed to be indigent if his or her personal property is less than One Thousand Five Hundred and No/100

Dollars (\$1,500.00) and his or her annual income is less than the U.S. Department of Health and Human Services poverty guidelines.

**Local Rule 66.04.3 Statement of Expert Evaluation**

Upon written request by the Guardian and for good cause shown, the Court may dispense with the filing of the annual SPF 17.1 – Statement of Expert Evaluation after the Court holds a Status Conference on the matter. The Court will consider the statement of a physician or clinical psychologist on SPF 17.1 – Statement of Expert Evaluation that, to a reasonable degree of medical certainty, the Ward’s mental incompetence will not improve in determining whether to dispense with the requirement. The Court may reinstate the requirement of annual filings of SPF 17.1 – Statement of Expert Evaluation at any time upon notice to the Guardian.

**Local Rule 66.04.4 Veterans’ Guardianships**

Veterans’ Guardianships are governed by R.C. Chapter 5905 and, to the extent there are special rules established therein, those rules shall apply. In every other respect, the general Guardianship laws and rules shall apply.

**SUPERINTENDENCE RULE 66.05**  
**Responsibilities of Court Establishing Guardianships**

**Local Rule 66.05.1 Guardian Background Checks**

(A) All Applicants who are applying to be appointed guardian of the person and/or estate of a prospective Ward are required to submit to a criminal background check unless so waived by the Court. Each Applicant shall submit to a criminal background check using the WEBCHECK system and shall have the results sent directly to the Probate Court to become a permanent part of the Court’s file and public record. The costs for the background check shall be paid by the Applicant directly, and shall be considered expenses of administration that are reimbursable.

(B) An Ohio attorney applying to be appointed Guardian may file a Certificate in Good Standing, issued by the Supreme Court of Ohio in lieu of the Criminal Background Check.

**Local Rule 66.05.2 Guardian with Ten or More Adult Wards**

(A) On January 31 of each year, a Guardian with ten (10) or more Wards appointed through the Court shall register with the Court, on SPF 27.5 - Annual Registration Guardian with Ten or More Wards. The registration shall include a list of the Wards for whom the Guardian is responsible, the case number for each guardianship, addresses of Wards, name of facility where each Ward resides, the Guardian’s address, work phone number, cell phone number, home phone number, email address, and, if applicable, the name of the Guardian’s supervisor with their contact information.

(B) The Guardian in all cases shall advise the Court of any change in the Guardian’s name, address, telephone number, or email address within ten (10) days of the change.



(C) A Guardian with ten (10) or more Wards shall include with the annual SPF 17.7 - Guardians Report, a statement indicating whether the Guardian is aware of any circumstances that may disqualify the Guardian from continuing to serve as a Guardian.

**SUPERINTENDENCE RULE 66.06**  
**Guardian Pre-Appointment Education**

**Local Rule 66.06.1 Guardian Fundamentals Training Requirement**

Every Guardian for an adult must meet the Guardianship Fundamentals Training Requirements under Sup. R. 66.06 by completing a six (6) hour Guardian Fundamentals Course provided by the Supreme Court of Ohio, or another entity approved by this Court, prior to appointment or within sixty (60) days thereafter. Those failing to meet the training requirement shall be subject to citation for being in Contempt of Court and subject to sanctions including, but not limited to, imposition of a fine, denial of compensation, and removal. The Guardian is responsible for providing to the Court in a timely manner documentation that establishes compliance with the Guardian Fundamentals Training Requirement.

**SUPERINTENDENCE RULE 66.07**  
**Guardian Continuing Education**

**Local Rule 66.07.1 Guardian Continuing Education**

(A) After completing the Guardian Fundamentals Course, every Guardian of an adult shall annually complete a three (3) hour Guardian Continuing Education Course provided by the Supreme Court of Ohio, or another entity with approval of this Court.

(B) If the Guardian fails to comply with the Guardian Continuing Education Requirement, the Guardian shall not be eligible for further appointment until the requirement is met. The Guardian also may be subject to sanctions including, but not limited to, imposition of a fine, denial of compensation, and removal.

(C) The Guardian is responsible for providing to this Court documentation demonstrating compliance with this Guardian Continuing Education Requirement, including the title, date, location and provider of the education, or a Certificate of Completion containing such information by each annual anniversary of the initial appointment date.

(D) The Court shall consider an exemption from the educational requirements imposed by Sup. R. 66.01 *et seq.* on a case-by-case basis based on the performance of the guardian. Guardians with less than ten wards, who have been Guardian for more than three years, have made timely reports, and have had no citations or substantiated complaints in the last three years may apply for exemption.

**SUPERINTENDENCE RULE 66.08**  
**General Responsibilities of Guardian**

### **Local Rule 66.08.1 General Responsibilities of the Guardian to the Court**

(A) Unless waived by the Court for good cause, the person seeking to be appointed as a Guardian is expected to have met with the proposed Ward at least once prior to appearing before the Court for the hearing on the Application.

(B) If the Guardian becomes aware of allegations of abuse, neglect, or exploitation of the Ward, the Guardian shall immediately report the same to the appropriate law enforcement authorities and this Court in writing.

(C) A Guardian appointed by this Court shall inform the Court as to any change of address for either the Guardian or the Ward. The notification must be made within ten (10) days of the address change. The "Notice of Change of Address" form (SPF 27.3) may be used for that purpose, but it is not required. If the Ward's residence is changed, then the reason for the change should be indicated. Failure to notify the Court, under this rule, may result in the Guardian being removed and/or the Guardian's compensation being reduced or denied.

(D) The Guardian shall not move the Ward from Ashtabula County, Ohio or into a more restrictive setting without prior Court approval, unless a delay in obtaining authorization for the change of residence or setting would affect the health and safety of the Ward.

(E) While a Guardian is generally required to seek prior approval of this Court before filing a suit for the Ward, prior approval shall not be required when the suit is being filed in this Court.

(F) The Guardian shall avoid conflicts of interest with the Ward and endeavor to avoid the appearance of impropriety (perceived self-serving, self-dealing, or actions adverse to best interests decisions) when dealing with the Ward's assets and needs. A potential conflict for the Guardian may arise if the Guardian's immediate family (parent, spouse, or child) is being employed or contracted by the Guardian. The Guardian shall disclose all conflicts to the Court in a clear and unequivocal manner. Proper disclosure of conflicts facilitates a determination whether the conflict can be mitigated or eliminated through the use of a Guardian *ad Litem*, a limitation of the powers of the Guardian, or other actions.

(G) The Guardian shall obey all orders of this Court and shall perform all Guardianship duties in accordance with the State and Federal Laws and Rules and this Court's Local Rules, as all of them may be effective during the Guardianship.

### **Local Rule 66.08.2 Inventory, Fund Release, Expenditures, and Guardian's Account**

(A) Within three (3) months of appointment, a Guardian of the Estate shall file an Inventory of the Ward's assets and income. If the assets include real estate, a legal description of the Ward's real estate interest should accompany the Inventory along with an appraisal of the real estate or a County Auditor value sheet showing the value of the Ward's real estate.

(B) Funds in the name of the Ward shall not be released to the Guardian without the approval of an SPF 15.6 - Application to Release Funds or other specific Court Order. The expenditure of funds by a Guardian shall not be approved until an SPF 15.5 - Guardian's Inventory has been filed.

(C) Every Guardian shall file an SPF 15.8 - Guardian's Account on the first anniversary of the date of the issuance of the Letters of Guardianship and annually thereafter.

(D) Guardians of Estate shall file an annual proposed budget with anticipated monthly expenditures for Wards on SPF 15.7 - Application for Authority to Expend Funds, or other court approved form.

**Local Rule 66.08.3 Guardian's Report**

Annually, the Guardian of the person of an adult incompetent shall file SPF 17.7 – Guardian's Report. Unless otherwise ordered by the Court, each Guardian's Report for an incompetent shall be accompanied by SPF 17.1 - Statement of Expert Evaluation. Pursuant to Sup. R. 66.08(G) the Guardian of the person or estate (for an adult) shall include with the annual Guardian's Report, SPF 27.7 and/or SPF 27.8 – Annual Plan, detailing the Guardian's goals and plans for meeting the personal needs of the Ward.

**Local Rule 66.08.4 Deposit of Will by Guardian**

The Guardian must deposit with the Court for safekeeping an instrument known to the Guardian and executed by the Ward that would constitute a "Will" under R.C. 2107.01. The Guardian will comply with Loc. R. 66.10 when depositing the instrument. The Clerk shall issue to the Guardian a Certificate of Deposit of Will as a receipt for the deposited Will.

**Local Rule 66.08.5 Powers of Attorney by Guardian Prohibited**

Per the discretion granted to the Court by R.C. 2111.50(A)(2)(c), the Court adopts this Local Rule to expressly prohibit a Guardian appointed by the Court from executing a Power of Attorney or any other document which purports to appoint an agent to execute any of the duties or responsibilities imposed upon the Guardian by law, rule, or order of the Court, unless otherwise approved by a specific order of the Court.

**Local Rule 66.08.6 Terminations**

Termination of a Guardianship shall require notice to all persons designated in R.C. 2111.04 and to any other individuals who received actual notice of the original appointment of the Guardian. It is the responsibility of the Applicant for termination to perfect service pursuant to Civil Rule 73 when a termination is requested. A Certificate of Service with supporting documentation satisfactory to the Court must be filed prior to the consideration of the Application. This Local Rule shall not apply to terminations of a Guardianship of a minor by reason of attaining the age of majority, or upon the death of the ward.

**SUPERINTENDENCE RULE 66.09**  
**Responsibilities of Guardian to Ward**

**Local Rule 66.09.1 General Responsibilities of the Guardian to the Ward**

(A) The Guardian shall treat the Ward with respect and dignity. The Guardian shall meet with the Ward at least monthly throughout the year, and preferably more, to promote the best interests of the Ward.

(B) Unless a Guardian is the natural parent of the Ward, the Guardian shall not deliver the Ward direct services, as defined in Sup. R. 66.01(B), without approval of this Court.

(C) The Guardian shall deposit Ward's Last Will and Testament, along with other important legal documents such as Advance Health Care Directives, Pre-Planned Funeral Arrangements, etc. with the Court for safekeeping pursuant to Local Rule 66.12, if the Will and other important papers are in the possession of the Guardian. If the Ward's Will or other important papers are not in the possession of the Guardian, upon being advised of the location, the Court shall order the holder of the Will or other important papers to deposit the Will with the Court for safekeeping.

## **SUPERINTENDENCE RULE 67**

### **Estates of Minors of Not More than Twenty-Five Thousand Dollars**

#### **Local Rule 67.1 Release of Funds at Age of Majority**

Upon the minor attaining the age of 18 years, funds shall be released to the former minor by the institution holding the funds unless exigent circumstances brought to the Court's attention require otherwise. The former minor shall submit an SPF 15.7 - Application to Expend Funds to the Court, along with satisfactory proof of identity and date of birth. The Court shall authorize the financial institution to release said funds to the former minor.

## **SUPERINTENDENCE RULE 68**

### **Settlement of Injury Claims of Minors**

#### **Local Rule 68.1 Settlement of Minor's Claim without Counsel**

When an applicant is not represented by counsel, the Court may appoint a Guardian *ad Litem* for the minor and the costs for the services shall be assessed as costs of the proceedings and allocated to the Applicant, the minor, or the insurer advancing settlement, as may be determined by the Court.

#### **Local Rule 68.2 Structured Settlements**

(A) In the event parties involved in claims for injuries to minors or incompetent persons desire to enter into a structured settlement, defined as a settlement wherein payments are made on a periodic basis, the following rules shall apply:

1. The application shall include a signed statement from one of the following independent professionals specifying the present value of the settlement and the method of calculation of the value: an actuary, certified public accountant, certified financial planner, chartered life underwriter, chartered financial consultant, or an equivalent professional.
2. If the settlement is to be funded by an annuity, the application shall include a signed statement by the annuity carrier or the broker procuring the policy stating:
  - a. The annuity carrier is licensed to write annuities in Ohio.
  - b. The annuity carrier's ratings are A or better from at least two ratings organizations.
3. In addition to the requirements of Paragraph 2 above, an annuity carrier must meet any other requirement the Court considers necessary to ensure trust funding sufficient to satisfy periodic payment settlements will be provided.

(B) After the filing of the SPF 22.4 – Report of Distribution and Entry Minor's Claim, and provided no monies remain as assets of the guardianship and no payments will be made to the minor under the terms of the

structured settlement prior to the minor reaching eighteen (18) years of age, the guardianship may be terminated upon application of the Guardian and with the approval of the Court.

**SUPERINTENDENCE RULE 69**  
**Settlement of Claims of or Against Adult Wards**

**Local Rule 69.1 Structured Settlements**

When a structured settlement is proposed for the net settlement proceeds from a claim of an adult ward, the provisions of Local Rule 68.2 shall apply unless otherwise clearly inapplicable.

**SUPERINTENDENCE RULE 70**  
**Settlement of Wrongful Death and Survival Claims**

**Local Rule 70.1 Reopen Estate for Wrongful Death Action Only**

Upon the distribution and accounting of the known probate assets in a full estate administration, a fiduciary may file Local Form – Reopen for Wrongful Death to reopen an estate for the sole purpose of completing wrongful death proceedings.

**SUPERINTENDENCE RULE 71**  
**Counsel Fees**

**Local Rule 71.1 Counsel Fees**

[RESERVED FOR FUTURE USE]

**SUPERINTENDENCE RULE 73**  
**Guardian’s Compensation**

**Local Rule 73.1 Guardian’s Compensation**

[RESERVED FOR FUTURE USE]

**SUPERINTENDENCE RULE 74**  
**Trustee’s Compensation**

**Local Rule 74.1 Computation**

A testamentary trustee may charge an annual fee for ordinary services in accordance with the schedule of compensation set forth on Local Form – Computation of Trustee Fees, unless otherwise provided by the instrument creating the trust, by law, or by order of the Court.

### **Local Rule 74.2 Application for Trustee Compensation**

(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 Local Form – Computation of Trustee Fees.

(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.

(E) 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.

(F) 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.

### **Local Rule 74.3 Initiation of Trust**

All cases filed with the Court under R.C. Title 58 shall be initiated by a Complaint and service of process shall be served as provided by law.

## **SUPERINTENDENCE RULE 78**

### **Case Management**

#### **Local Rule 78.1 Notice of Litigation**

Upon the filing of any legal action that affects an estate, a trust, or guardianship, the fiduciary or counsel shall file a notice of litigation with the Court. The fiduciary or counsel shall so notify the Court of significant events as to the litigation and advise the Court within 30 days of the conclusion of litigation.

#### **Local Rule 78.2 Reminders of Delinquent Filings**

If accounts or other required reportings of fiduciaries are not filed within the time prescribed by statute, then the Court, on its own motion, may cite the delinquent fiduciary to appear and show cause why the fiduciary has not filed the account or other required reporting. Upon issuance of a citation, no continuance shall be granted until the fiduciary has personally appeared at a show cause hearing.

## ASHTABULA COUNTY PROBATE COURT LOCAL RULE 91

### Inventories

#### **Local Rule 91.1 Decrease in Value of Inventory**

In the event the fiduciary determines that an asset was incorrectly included in the original inventory or the original inventory included an incorrect valuation which results in a decrease in value, the inventory must be amended, and service of the notice of the hearing on the amended inventory effectuated unless said notice is waived in writing.

#### **Local Rule 91.2 Increase in Value of Inventory**

In the event the fiduciary determines that the original inventory included an incorrect valuation which results in an increase in valuation, the fiduciary shall amend the inventory, but a new hearing on the amended inventory shall not be required. The fiduciary or counsel shall notify the surviving spouse and beneficiaries of the change in the inventory.

#### **Local Rule 91.3 Citations**

If inventories, or other necessary proceedings, are not filed by the fiduciary within the time prescribed by statute the Court may issue a citation, *sua sponte*, unless the Court granted additional time. No extension of time to file an inventory will be granted except for good cause shown.

## ASHTABULA COUNTY PROBATE COURT LOCAL RULE 92

### Name Changes, Conformities, and Corrections of Birth Record

#### **Local Rule 92.1 Change of Name of Adult**

Each Applicant shall either publish notice of the application and hearing or submit to a criminal background checking using the WEBCHECK system and shall have the results sent directly to the Court to become a permanent part of the Court's file and public record. The costs for the background check or publication shall be paid directly by the Applicant. Whenever an application to change the name of an adult is filed, no hearing shall be held unless ordered by the Court.

#### **Local Rule 92.2 Change of Name of Minor**

Whenever an application to change the name of a minor is filed, a hearing shall be held unless ordered by the Court. In the event either parent does not file a consent to the name change, the Applicant must serve the non-consenting parent in accordance with Civil Rule 73. In the event the identity and/or address of the non-consenting parent is unknown, the Applicant may file an affidavit detailing the efforts to identify the name and/or address of the non-consenting parent and request authorization to conduct service by publication.

#### **Local Rule 92.3 Name Conformity**

Whenever a conformity action is filed with the Court, no hearing shall be held unless ordered by the Court. The Applicant must give sufficient identity documentation for the conformity, which could include driver's license, state identification card, social security card, passport, and other similar documents.

## ASHTABULA COUNTY PROBATE COURT LOCAL RULE 93

### Adoptions

#### **Local Rule 93.1 Minor Adoption Proceedings**

- (A) All adoption proceedings in the Court are confidential and are not available to the public. Access or information contained in the adoption case file will only be provided pursuant to statute.
- (B) All hearings in adoption cases will be recorded by the Court. If a party wishes for a court reporter to be present, they must arrange for a court reporter pursuant to Loc. R. 11.2.
- (C) Except in step-parent adoption proceedings, applicant must have lawful placement of the minor before the filing of the Petition for Adoption. In all private placement adoptions, where this Court is approving and ordering the placement, a Pre-Placement Application shall be filed at the time of the opening of the case.
- (D) If there is an existing child support order for the minor being adopted, it is the responsibility of the Petitioner(s) to notify the appropriate child support enforcement agency upon the filing of the Final Decree of Adoption.
- (E) Except as otherwise provided by this rule, Local Form - Addendum to Consent to Adoption must be filed in addition to SPF 18.3 - Consent to Adoption. The Addendum to Consent to Adoption is not required from the custodial Agency, a minor over 12 years of age, the custodial parent in a stepparent adoption or an adult adoption. Except for good cause shown, a consent shall not be signed more than 30 days before filing the petition for adoption.
- (F) If married, the prospective adoptive parents shall be married to each other for at least one (1) year prior to the filing of the petition for adoption. In the case of stepparent adoptions, the Petitioner and custodial parent shall be married to each other for at least one (1) year prior to the filing of the petition for adoption.
- (G) The attorney for the petitioner shall be responsible to provide the names and addresses for all parties entitled to notice, including putative fathers, in adoption proceedings. The Court shall issue notice and assess costs for service.
- (H) Putative fathers shall be named in all adoption proceedings. Due diligence shall be made to provide notice to putative fathers.
- (I) A completed Social and Medical History form shall be required in all cases except stepparent and grandparent adoptions.
- (J) In all adoption matters, a criminal background check of the prospective adoptive parent(s) and all other family members over the age of 18 residing in the home of the prospective adoptive parent(s) shall be completed and submitted to the Court using the WEBECHECK system. If the prospective adoptive parent(s) has been a resident of Ohio for less than five (5) years, a federal FBI check shall be completed.



(K) The petitioner(s) shall file all required pleadings at the time of initial filing, as required by the Court. A list of required pleadings shall be published on the Court website and made available at the Probate Court, and shall be reviewed annually by the Court Administrator. Only forms currently in use by the Probate Court or standard probate court forms will be accepted.

(L) In all adoption proceedings, the Court shall conduct a hearing on the matters of both consent and best interest, unless bifurcated by the order of the Court.

(M) If there is an existing child support order for the minor being adopted, it is the responsibility of the Petitioner(s) to notify the appropriate child support enforcement agency upon the filing of the Final Decree of Adoption.

(N) 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.

**Local Rule 93.2 Appointed Attorney in Adoption Proceeding**

(A) Attorneys appointed to represent indigent legal parents in adoption proceedings shall not be paid an hourly rate in excess of that approved in the Ashtabula County fee schedule for appointed counsel and, absent extraordinary circumstances, shall not be paid a total fee in excess of the maximum total fee in the Ashtabula County fee schedule for appointed counsel.

(B) Fees requested by attorneys appointed to represent indigent legal parents in adoption proceedings must be filed on form OPD-1026R or such other form utilized by the Office of the Ohio Public Defender. A more detailed itemization may also be required to be filed at the Court's discretion. In the event that counsel is requesting a total fee in excess of the maximum total fee according to the Ashtabula County fee schedule, counsel shall file a motion for extraordinary fees, accompanied by a detailed itemization, in addition to form OPD-1026R.

(C) All requests for fees shall be filed no later than thirty (30) days after the final disposition of the adoption proceeding.

**Local Rule 93.3 Private Placement Adoptions**

(A) In private placement adoptions, the proposed adopting parents shall file a preplacement application not less than thirty (30) days prior to placement. This preplacement application shall be in a form prescribed or approved by the Court.

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

(C) In all placement hearings, the birth mother must be represented at the hearing by counsel. Attorney fees for the birth mother will be assessed as costs to the petitioner(s).

**Local Rule 93.4 Adult Adoptions**

All petitioners for the adoption of an adult must complete Local Form – Adult Adoption Fact Sheet.

**ASHTABULA COUNTY PROBATE COURT LOCAL RULE 94  
Mental Health Commitment Proceedings**

**Local Rule 94.1 Community Assisted Commitment Program**

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**ASHTABULA COUNTY PROBATE COURT LOCAL RULE 95  
Publication**

**Local Rule 95.1 Publication**

(A) In all cases before the Probate Court, where publication is required for service of summons or service of notice, it shall be the duty of the party requesting publication, or their attorney, to effectuate the publication.

(B) Before service by publication can be made, a motion, with a proposed order, and with an affidavit by a party requesting notice or their counsel shall be filed with the Court, together with a copy of the proposed notice. The affidavit shall aver that service of summons or notice cannot be made because the residence of the party is unknown to the affiant, list all of the efforts made on behalf of the affiant to ascertain the residence of the party, and that the residence of the party cannot be ascertained with reasonable diligence.

(C) Within ten days of the first publication, the party requesting publication shall file a notice with the Court of the dates of publication. Within ten days after the final publication, the party requesting publication shall file with the Court a Publisher's Affidavit that includes the notice published and the dates of publication.

**ASHTABULA COUNTY PROBATE COURT LOCAL RULE 100  
Applicability of Rules**

**Local Rule 100.1 Applicability of Rules**

All pro se persons must follow the local rules.