

JUDGE KEVIN L. GREER
COMMON PLEAS COURT OF HIGHLAND COUNTY, OHIO
PROBATE DIVISION

LOCAL COURT RULES
REVISED SEPTEMBER 20, 2021

**THE FOLLOWING RULES ARE SUPPLEMENTAL TO THE RULES OF
SUPERINTENDENCE FOR THE COURTS OF OHIO, THE OHIO
REVISED CODE AND THE RULES OF CIVIL PROCEDURE.**

INDEX TO LOCAL COURT RULES

<u>RULE</u>	<u>TITLE</u>	<u>PAGE</u>
Sup. R. 11 Loc. R. 11.1	RECORDING OF PROCEEDINGS Recording of Proceedings	1
SUP. R. 51 Loc. R. 51.1	STANDARD PROBATE FORMS Form Availability	1
SUP. R. 52 Loc. R. 52.1	SPECIFICATIONS FOR PRINTING PROBATE FORMS Computerized Forms	1
SUP. R. 53 Loc. R. 53.1	HOURS OF THE COURT Hours of the Court	1
SUP. R. 55 Loc. R. 55.1 Loc. R. 55.2	EXAMINATION OF PROBATE RECORDS Withdrawal of Files Photocopies	2 2
SUP. R. 57 Loc. R. 57.1 Loc. R. 57.2 Loc. R. 57.3 Loc. R. 57.4 Loc. R. 57.5 Loc. R. 57.6 Loc. R. 57.7 Loc. R. 57.8 Loc. R. 57.9	FILINGS AND JUDGMENT ENTRIES Facsimile Filings Complete Street Address Original Signatures Fiduciary Signature Court Filings Forwarding Copies Issuance of Summons Disposition of Exhibits Certificate of Notice of Entry of Judgment	2 2 2 2 2 2 3 3 3
SUP. R. 58 Loc. R. 58.1 Loc. R. 58.2 Loc. R. 58.3	DEPOSIT FOR COURT COSTS Deposits Witness Fees Filing Transcripts, Exhibits, or Foreign Records	3 4 4
SUP. R. 60 Loc. R. 60.1	APPLICATION FOR LETTERS OF AUTHORITY TO ADMINISTER ESTATE AND NOTICE OF APPOINTMENT Appointment of Nonresident Fiduciaries	4
SUP. R. 61	APPRAISERS	

Loc. R. 61.1	Appraisers' Fees	4
SUP. R. 64	ACCOUNTS	
Loc. R. 64.1	Fiduciary's Signature	5
Loc. R. 64.2	Delinquency in Filing an Account	6
Loc. R. 64.3	Vouchers	6
Loc. R. 64.4	Payment of Debts	6
Loc. R. 64.5	Certificate of Attorney	6
SUP. R. 66	GUARDIANSHIPS	
Loc. R. 66.1	Guardianship of Minors	6
Loc. R. 66.2	Release of Funds	7
Loc. R. 66.30	Emergency Guardianships	7
Loc. R. 66.31	Guardianship-Veteran Affairs	7
Loc. R. 66.32	Guardianship	7
Loc. R. 66.33	Guardian Comments and Complaints	8
SUP. R. 67	ESTATES OF MINORS OF NOT MORE THAN TWENTY-FIVE THOUSAND DOLLARS	
Loc. R. 67.1	Dispense with Guardianship	8
Loc. R. 67.2	Birth Certificate	8
SUP. R. 68	SETTLEMENT OF INJURY CLAIMS OF MINORS	
Loc. R. 68.1	Birth Certificate	8
Loc. R. 68.2	Separate Case Number	8
Loc. R. 68.3	Structured Settlements	9
SUP. R. 70	SETTLEMENT OF WRONGFUL DEATH AND SURVIVAL CLAIMS	
Loc. R. 70.1	Settlement of Claims	10
SUP. R. 71	COUNSEL FEES	
Loc. R. 71.1	Attorney Fees	10
Loc. R. 71.2	Attorney Serving as Fiduciary	10
Loc. R. 71.3	Early Payment of Attorney Fees	10
Loc. R. 71.4	Notice and Consent for Attorney in Estates	11
Loc. R. 71.5	Notice and Consent for Attorney Fees in Guardianships	11
Loc. R. 71.6	Notice and Consent for Attorney Fees in Trusts	11
Loc. R. 71.7	Contested Fees	11
Loc. R. 71.8	Contingent Fees	12
SUP. R. 73	GUARDIAN'S COMPENSATION	
Loc. R. 73.1	Guardian's Compensation	12

SUP. R. 74	TRUSTEE'S COMPENSATION	
Loc. R. 74.1	Trustee's Compensation	13
SUP. R. 75	LOCAL RULES	
Loc. R. 75.1	Guardian Ad Litem	13
Loc. R. 75.2	Adoptions	13
Loc. R. 75.3	Custodial Deposits in Lieu of Bond	14
Loc. R. 75.4	Surety Bonds	14
Loc. R. 75.5	Wills Deposited for Safekeeping	15
SUP. R. 78	CASE MANAGEMENT IN DECEDENT'S ESTATES GUARDIANSHIPS AND TRUSTS	
Loc. R. 78.1	Case Management	15
Loc. R. 78.2	Withdrawal of Counsel	17
Loc. R. 78.3	Inventory	18
Loc. R. 78.4	Mediation	18

APPENDIX

A	-	Certificate of Attorney
B	-	Legal Fee Computation in an Estate
C	-	Fiduciary Fee Computation in an Estate
D	-	Computation of Guardians Fees
E	-	Computation of Trustees Fees

SUP. R. 11**RECORDING OF PROCEEDINGS****LOC. R. 11.1****RECORDING OF PROCEEDINGS**

The Court will make an audio recording of the proceedings as the record of the Court. Parties who desire to have a stenographic record of the proceedings must contact the Court reporter at least 14 days prior to the scheduled hearing. The costs of the stenographic record shall be paid by the requesting party unless otherwise ordered by the Court. The original audio electronic recording of the proceedings will not be made available to the parties. Arrangements must be made with the Court to have proceedings copied or transcribed by a stenographer approved by the Court. Tapes of all electronically recorded proceedings will be maintained by the Court for five (5) years from the date of the hearing. Any interested person desiring to preserve the record beyond that period must make arrangements to have the record transcribed.

SUP. R. 51**STANDARD PROBATE FORMS****LOC. R. 51.1****FORM AVAILABILITY**

Approved forms for use in the Highland County Probate Court are available at the Court. All forms are to comply with The Ohio Rules of Superintendence.

SUP. R. 52**SPECIFICATIONS FOR PRINTING****PROBATE FORMS****LOC. R. 52.1****COMPUTERIZED FORMS**

Computer generated forms must comply with the specifications and format outlined by The Rules of Superintendence. The signature of the applicant or attorney constitutes a certificate that the computer generated forms comply with the rules.

All computer forms presented for filing must be generated with the exact wording as well as blank lines as they appear in the uniform forms.

SUP. R. 53**HOURS OF THE COURT****LOC. R. 53.1****HOURS OF THE COURT**

The Probate Court shall be open for the transaction of business from 7:00 a.m. to 4:00 p.m., Monday through Friday, except Holidays and at the discretion of the Judge.

SUP. R. 55**EXAMINATION OF PROBATE**

RECORDS

LOC. R. 55.1**WITHDRAWAL OF FILES**

No court file shall be removed from the offices of the Probate Court without written Permission from the Judge.

LOC. R. 55.2**PHOTOCOPIES**

Copies of any public record may be obtained at the costs of Ten cents (\$.10) per page.

SUP. R. 57**FILINGS AND JUDGMENT**

ENTRIES

LOC. R. 57.1**FACSIMILE FILINGS**

The Court will not accept filings by facsimile transmission or electronic mail.

LOC. R. 57.2**COMPLETE STREET ADDRESS**

When required on a Court document, an attorney or fiduciary address must be a street address and, if applicable, any post office box numbers used as a mailing address. The address of the fiduciary must be the fiduciary's legal residence.

LOC. R. 57.3**ORIGINAL SIGNATURES**

All filings must contain original signatures. In all matters with multiple fiduciaries, the signature of all fiduciaries is required. Persons who are not an attorney may not sign on behalf of an attorney.

LOC. R. 57.4**FIDUCIARY SIGNATURE**

Any pleading, filing, or other document which by law or rule requires the fiduciary's signature, shall have the original signature of the fiduciary. The attorney for the fiduciary may not sign for the fiduciary.

LOC. R. 57.5**COURT FILINGS**

All filings must be legible, on 8-1/2" x 11" paper and the type size for the body of the document be not less than ten (10) point or greater than twelve (12) point. The Court will accept for filing only those pleadings which are complete.

LOC. R. 57.6**FORWARDING COPIES**

The Court will not return file stamped copies by mail unless submitted with a return, self-addressed, stamped envelope with sufficient postage.

LOC. R. 57.7**ISSUANCE OF SUMMONS**

A request for Issuance of Summons shall be filed with all original and amended complaints or petitions in civil actions before the same will be issued.

LOC. R. 57.8**DISPOSITION OF EXHIBITS**

All exhibits offered for admission during a hearing or trial shall be labeled by party name and item identification. In a proceeding recorded by a Court stenographer, custody of exhibits admitted or proffered shall be given to the stenographer, unless otherwise ordered by the Court. If the proceeding is electronically recorded, exhibits shall be filed in the Court case file, unless otherwise ordered by the Court.

Upon agreement of the parties or by order of the Court, copies may be substituted for the original exhibit.

Disposal of exhibits shall be pursuant to Sup. R. 26.

LOC. R. 57.9**CERTIFICATE OF NOTICE OF ENTRY
OF JUDGMENT**

Any proposed entry submitted to the Court which is subject to Civ. R. 58(B) as modified by Civ. R. 73(I) shall contain a certificate of service including the names and addresses of all parties and other interested persons required to be served.

SUP. R. 58**DEPOSIT FOR COURT COST**

LOC. R. 58.1**DEPOSITS**

The business of this Court shall be conducted on a cash basis. The Court will not accept personal checks. The court will only accept cash, money orders, cashier's checks, attorney, title company, or trust company checks.

- (A) Filing an application for appointment of any estate fiduciary shall require a minimum deposit of One Hundred Twenty-Five and No/100 Dollars (\$125.00);
- (B) Filing any complaint, except for the presentation of a claim or a land sale, shall require a minimum deposit of One Hundred Fifty and No/100 Dollars (\$150.00);
- (C) Filing a subpoena shall require a minimum deposit of Thirty and No/100 Dollars (\$30.00) for in County Sheriff service and Six and No/100 Dollars (\$6.00) for the witness fee. Subpoenas served out of county may require additional deposits and shall include a check for witness and mileage fees made payable to the witness.

LOC. R. 58.2**WITNESS FEES**

Witness fees must be requested at the conclusion of the hearing for which the subpoena was issued or when the witness is released by the Court. If not requested at those times, the fee is waived. All unused portions of the subpoena deposit will be refunded to the depositor.

LOC. R. 58.3**FILING TRANSCRIPTS, EXHIBITS, OR
FOREIGN RECORDS**

The filing fee required by Ohio R. C. 2101.16(A)(57) shall be paid at the time of the request of the transcript.

SUP. R. 60**APPLICATION FOR LETTERS OF
AUTHORITY TO ADMINISTER
ESTATE AND NOTICE OF
APPOINTMENT****LOC. R. 60.1****APPOINTMENT OF NON RESIDENT
FIDUCIARIES**

An applicant to be appointed fiduciary of a decedent's estate, or trust, who is not a resident of this state, must be in compliance with Ohio R.C. 2109.21 and use as the attorney of record an attorney licensed to practice law in this State. To assure the assets remain in Highland County, Ohio, during the administration of the estate or trust, the applicant must meet one or more of the following criteria as required by the Court:

- (A) Place a substantial amount of the decedent's personal assets in a custodial depository in this county, pursuant to Ohio R.C. 2109.13;
- (B) Have a co-fiduciary who is a resident of this State;
- (C) Post a bond in compliance with Ohio R.C. 2109.04.

SUP. R. 61**APPRAISERS****LOC. R. 61.1****APPRAISER'S FEES**

- (A) Maximum appraisers' fees for real estate shall be based upon the entire undivided value of the assets subject to appraisal (not the decedent's interest in the property which may be fractional). Fees shall be computed at the rate of:
 - (1) \$1.50 per thousand for the first \$200,000 of valuation;
 - (2) \$1.00 per thousand in excess of \$200,000 of valuation.

When an appraisal of multiple properties is performed, the above fee schedule shall apply to each property, not the aggregate value of all properties. Fees paid in compliance with this rule may be paid without application and entry.

(B) If a Highland County appraiser is employed to appraise real estate located in another county, in addition to the fee calculation in paragraph (A) above, the appraiser may also charge a mileage fee.

(C) Any appraiser fee requested in excess of the above schedule and appraisals of personalty must either be by agreement between the fiduciary and the appraiser or must be approved by the Court prior to the appraisal being made.

(D) Unless there is a dispute, or an appraisal is required for other purposes, a Court-appointed appraiser shall not be necessary in the following situations:

(1) In estates relieved from administration, a statement attesting to the auditor's appraised value, signed by a representative of the County Auditor will be accepted as appraised value of the real estate for Probate Court purposes and on the Ohio estate tax return.

(2) Where the estate is comprised of personal property of readily ascertainable value.

(E) All appraisers shall give the fiduciary and the attorney of record a written appraisal of each property appraised. The signature of the appraiser shall constitute a certification that the appraisal was performed truly, honestly, and impartially.

SUP. R. 64**ACCOUNTS****LOC. R. 64.1****FIDUCIARY'S SIGNATURE**

(A) All accounts must be personally signed by the fiduciary and contain the full name, current resident address, and telephone number of the fiduciary.

(B) All fiduciaries must sign the account when multiple fiduciaries have been appointed unless for good cause shown the Court permits otherwise.

(C) For decedents' estates, the first account, as required by Ohio R.C. 2109.30, shall be automatically extended without application to thirteen (13) months following the date of appointment of the estate fiduciary. All subsequent accounts must be filed on an annual basis

unless the Court orders otherwise. Accounts not filed in compliance with this rule shall be subject to citation.

(D) For guardianships and trusts the first account shall be filed not later than one (1) year following the date of the appointment and all subsequent accounts shall be filed on an annual basis, unless otherwise ordered by the Court.

LOC. R. 64.2

DELINQUENCY IN FILING AN ACCOUNT

No expenditure, sale, distribution, or fee will be approved while the fiduciary is delinquent in filing an account. See also Sup. R. 71.

LOC. R. 64.3

VOUCHERS

The Court requires original vouchers to be displayed when filing accounts. The Court will accept as a voucher a statement from a financial institution specifying the payee, check amount, and date of payment.

In lieu of submitting vouchers in a solvent decedent's estate, the fiduciary may file with the account, a waiver and consent from all the beneficiaries acknowledging each received a copy of the account, waives notice of the hearing on the account, and consents to the filing of the account. The signature of each beneficiary must be dated.

The Court may accept a combination of vouchers and consents. In lieu of receiving waivers and consents from all the beneficiaries, vouchers from specific and pecuniary beneficiaries may be submitted with consents from all remaining beneficiaries.

LOC. R. 64.4

PAYMENT OF DEBTS

The fiduciary in a decedent's estate shall pay and disclose in the estate account all valid debts unless otherwise determined by law.

LOC. R. 64.5

CERTIFICATE OF ATTORNEY

A Certificate of Attorney shall be properly executed and filed in each estate where an executor or administrator is appointed. See Appendix "A" for the form to be used.

SUP. R. 66

GUARDIANSHIPS

LOC. R. 66.1

GUARDIANSHIPS OF MINORS

(A) A certified copy of the minor's birth certificate must be filed with the guardian's application.

- (B) The Court will not establish any guardianship over the person of a minor where another Court has jurisdiction over custody of the minor.
- (C) Minors who are not U.S. citizens or are resident aliens, are not considered by this Court to be residents or have legal settlement as set forth in Ohio R.C. 2111.02(A).

LOC. R. 66.2

RELEASE OF FUNDS

Funds in the name of the ward shall not be released to the guardian without a specific Court Order.

Rule 66.30

EMERGENCY GUARDIANSHIPS

- A. For all applications for the appointment of an emergency guardian, evidence shall be presented and a physician shall personally appear unless otherwise ordered by the court and testify why it is reasonably certain that immediate action is required to prevent significant injury to the person of the minor or alleged incompetent. If the physician is not testifying, a statement of expert evaluation must be submitted with the application for appointment.
- B. The applicant shall exercise due diligence in giving notice of hearing upon the proposed ward in all emergency guardianships.

Rule 66.31

GUARDIANSHIP-VETERAN AFFAIRS

- A. For all guardianship proceedings wherein the proposed ward is receiving income from the Department of Veterans Affairs, the VA shall be a necessary party and entitled to notice of all pleadings filed therein, including, but not limited to, the initial application for appointment and the annual accountings.
- B. The Court shall supply the guardian or the attorney for the guardian, at no cost, certified copies of any of the pleading filed in the proceedings, for submission to the Department of Veterans Affairs.
- C. All Applications for guardian's compensation or attorney's fees shall be set for hearing, and notice shall be given to the Department of Veterans Affairs, unless a Waiver or Consent is obtained.

Rule 66.32

GUARDIANSHIP

The Judgment Entry Appointing Guardian for Incompetent Person (SPF 17.5) shall indicate whether the provisions of SupR 66.01 through 66.09 shall apply to the individual who is appointed guardian if that person is related to the ward by consanguinity or affinity.

Rule 66.33**GUARDIAN COMMENTS AND COMPLAINTS**

- A. Comments or complaints regarding the performance of guardians appointed by this Court may be submitted in writing via ordinary mail or fax. Anonymous comments or complaints will not be accepted for filing.
- B. The Court will provide a copy of the comment or complaint to the guardian who is the subject of the comment or complaint and to the guardian's attorney, if any.
- C. The comment or complaint will be filed in the guardianship case and will be reviewed and considered by the Court for appropriate action. The Court may, in its discretion, set a hearing on the matter. Notice of the hearing shall be served to both the guardian and person who filed the comment or complaint.
- D. The Court will issue a written decision or order regarding the comment or complaint. The decision or order shall be filed in the guardianship case and a copy shall be served upon the guardian and person who filed the comments or complaint.

SUP. R. 67**ESTATES OF MINORS OR NOT MORE
THAN TWENTY-FIVE THOUSAND
DOLLARS****LOC. R. 67.1****DISPENSE WITH GUARDIANSHIP**

Applications to dispense with the appointment of a guardian shall follow the notice required in Ohio R.C. 2111.04.

LOC. R. 67.2**BIRTH CERTIFICATE**

A certified copy of the minor's birth certificate must be presented to the Court upon filing of the application to dispense with guardianship.

SUP. R. 68**SETTLEMENT OF INJURY CLAIMS OF
MINORS****LOC. R. 68.1****BIRTH CERTIFICATE**

A certified copy of the minor's birth certificate must be presented to the Court upon the filing of the application to settle a minor's claim unless previously filed in a Guardianship in this Court.

LOC. R. 68.2**SEPARATE CASE NUMBER**

Settlement of a minor's claims are separate proceedings and shall not proceed under the case number assigned to the guardianship, if any.

Pursuant to Sup. R. 67(C), the attorney representing the applicants or the payor in the matter shall acknowledge responsibility for depositing the funds and providing the financial institution with a copy of the entry. The attorney shall obtain a Verification of Receipt and Deposit (Standard Probate Form 22.3) from the financial institution and file the form with the Court within seven (7) days of the issuance of the entry.

LOC. R. 68.3

STRUCTURED SETTLEMENTS

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

(A) 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 that value; an actuary, certified public accountant, certified financial planner, chartered life underwriter, chartered financial consultant, or an equivalent professional.

(B) 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:

(1) The annuity carrier is licensed to write annuities in Ohio.

(2) The annuity carrier's ratings from at least two of the following organizations, which meet the following criteria:

a. **A.M. Best Company:** A++, A+, or A;

b. **Duff & Phelps Credit Rating Company** (Claims Paying Ability Rating): AAA, AA+, or AA;

c. **Moody's Investors Service** (Financial Strength): Aaa, Aa1, or Aa2;

d. **Standard & Poor's Corporation** (Financial Strength): AAA, AA+, or AA;

e. **Weiss Research Inc.:** A+ or A.

(C) In addition to the requirements of Paragraph (B) above, an annuity carrier must meet any other requirement the Court considers reasonably necessary to assure that funding to satisfy periodic payment settlements will be provided and maintained.

SUP. R. 70**SETTLEMENT OF WRONGFUL
DEATH AND SURVIVAL CLAIMS**

LOC. R. 70.1**SETTLEMENT OF CLAIMS**

The application to settle a claim for wrongful death and the apportionment of the proceeds are two distinct matters for which the Court may require separate hearings.

SUP. R. 71**COUNSEL FEES**

LOC. R. 71.1**ATTORNEY FEES**

Attorneys are expected to be familiar with Rule 1.5 of the Ohio Rules of Professional Conduct and Ohio Superintendence Rule 71 that governs the reasonableness of fees. Upon review of the records, the Court may set the fees for hearing, regardless of the submission of consent(s) to fees. The computation form is found in Appendix B to these Rules which shall be filed in each case.

LOC. R. 71.2**ATTORNEY SERVING AS FIDUCIARY**

In all matters where an attorney is the fiduciary of the estate, guardianship, or trust, and that attorney or another is the attorney of record, detailed records shall be maintained describing time and services as fiduciary and as attorney, which records shall, upon request, be submitted to the Court for review. Rule 1.5 of the Ohio Rules of Professional Conduct shall govern the reasonableness of all fees, notwithstanding statutory allowances. The Court assumes an attorney, appointed as fiduciary, has been selected due to the attorney's special knowledge and abilities resulting in a savings of fees to the estate, guardianship or trust.

Upon review of the records, the Court may set the fees for hearing, regardless of the submission of consent(s) to fees.

LOC. R. 71.3**EARLY PAYMENT OF ATTORNEY FEES**

Attorney fees for the administration of decedents' estates shall not be paid or advanced from any source until the final account or final closing documents are prepared for filing unless otherwise approved by the Court upon application. Such application shall contain a statement that the fee is being required in advance of the time permitted by Sup. R. 71(B) and shall set forth the reason for requesting the early payment of fees. The application shall be accompanied by a consent as to the amount and the timing of the fees by all beneficiaries who have yet to receive their complete distribution or shall be set for hearing with notice to the nonconsenting

beneficiaries.

LOC. R. 71.4

**NOTICE AND CONSENT FOR ATTORNEY
FEES IN ESTATES**

Application for extraordinary attorney fees in estates, mad at the time of the filing of the final account, shall include a statement of the amount of the fees and a statement of services rendered. The applicant shall give notice of the hearing on the fees to one hundred percent (100%) of the persons whose interest are affected by the payment of the fees, including creditors if the estate is insolvent.

LOC. R. 71.5

**NOTICE AND CONSENT FOR ATTORNEY
FEES IN GUARDIANSHIPS**

In guardianship administration the Court shall consider applications for attorney fees for the establishment of the guardianship upon the filing of the inventory, and shall consider additional fees annually upon the filing of each account. Notice of the application shall be given to the guardian of the estate. The guardian of the estate may waive notice of the hearing and consent to the payment of fees.

After the death of the ward, the Court will consider attorney fees and guardian fees as liens on the ward's assets. If the fees are approved by the Court, the fees may be paid out of the guardianship assets and included in the final guardianship account,

The Court may require notice of the hearing on the fees be given to the estate fiduciary of the deceased ward or other interested persons.

LOC. R. 71.6

**NOTICE AND CONSENT FOR ATTORNEY
FEES IN TRUSTS**

In trust administration, the Court shall consider applications for attorney fees for the establishment of the trust upon the filing of the inventory, and shall consider additional fees annually upon the filing of each account.

Notice of application shall be given to the trustee. The trustee may waive notice of the hearing and consent to payment of fees. The Court may require notice of the hearing on the payment of the fees be given to the trust beneficiaries who are affected by the payment of fees.

LOC. R. 71.7

CONTESTED FEES

The burden is upon the attorney to prove the reasonableness of the fees as governed by Rule 1.5 of the Ohio Rules of Professional Conduct. A detailed fee statement shall be required which includes the itemization and date of service performed, time expended, identification of the individual(s)

performing the services, and the hourly rate changed.

LOC. R. 71.8

CONTINGENT FEES

All fiduciaries shall make written application to the Court for authority to enter into a contingent fee contract. Upon review, the Court will either give preliminary approval or disapprove the request. Preliminary approval shall be subject to final review at the conclusion of the matter that is the subject of the contingent fee contract.

In minor settlement cases where no guardian has been appointed, the attorney shall make the above application.

In establishing an estate, guardianship, or dispensing with the appointment of a fiduciary for the primary purpose of settling or resolving a claim, the attorney fees associated with bringing the proceedings before this Court shall be assessed as a portion of the contingent fee, unless otherwise ordered by the Court for good cause shown. The court may allocate the payment of this fee between the contingent fee and the beneficial interest.

SUP. R. 73

GUARDIAN'S COMPENSATION

LOC. R. 73.1

GUARDIAN'S COMPENSATION

(A) Guardian's compensation for services as guardian of the estate shall be computed annually upon application and entry and shall be supported by calculations and documentation. The following fee schedule shall apply unless extraordinary fees are requested. Extraordinary fee applications shall be set for hearing unless hearing is waived by the Court.

(1) Income/Expenditure Fee. Four percent (4%) of the first \$10,000 of income received, plus three percent (3%) of the balance in excess of \$10,000, and four percent (4%) of the first \$10,000 of expenditures, plus three percent (3%) of the balance in excess of such \$10,000. Assets held by the ward at the date of appointment are deemed to be principal and not income. See Appendix D.

(B) Compensation for services as guardian of the person shall only be set for hearing unless the hearing is waived by the Court.

(C) All motions, including application for compensation, by guardians of veterans must comply with Ohio R.C. Chapter 5905 and all other rules and regulations of the Department of Veterans Affairs.

LOC. R. 74.1**TRUSTEE'S COMPENSATION**

(A) Except where the instrument creating the trust makes provision for compensation, trustees subject to this Court's jurisdiction may, upon application and entry, be allowed compensation annually for ordinary services in connection with the administration of each separate trust in accordance with the following schedule.

- (1) Income Fee. Six percent (6%) of the net income received during the accounting period not exceeding \$10,000 of net income, five percent (5%) of the next \$10,000 of net income, and four percent (4%) of such net income exceeding \$20,000, chargeable to income unless otherwise ordered. Assets held by the trustee at the date of appointment are deemed to be principal and not income. See Appendix E.

- (B) Additional compensation for extraordinary services or allowance for expenses may be granted on application and entry, which shall be set for hearing unless waived by the Court.

SUP. R. 75**LOCAL RULES**

LOC R. 75.1**GUARDIAN AD LITEM**

The Court shall select and appoint each guardian ad litem. In all proceedings, the amount of the guardian ad litem fee will be determined upon motion supported by a statement of services. The guardian ad litem's fees may be assessed as costs.

LOC. R. 75.2**ADOPTIONS**

(A) An original and a copy of all petitions, interlocutory decrees, and final decrees shall be filed in every adoption case. Additional copies of the petition shall be submitted as required for service.

(B) In private placement adoptions, a preplacement application in a form approved by the Court shall be filed by the proposed adopting parents not less than fifteen (15) days prior to placement if applicants are residents of Highland County, Ohio, and not less than thirty (30) days prior to placement if applicants are not residents of Highland County, Ohio.

(C) Once the applications have been approved by the Court, a hearing shall be held

not less than seventy-two (72) hours after the birth of the child or after the parent(s) have met with the adoption assessor, whichever occurs later, for the placement and consent by the parents. Prior to the placement hearing, the Court shall be supplied with a statement from the child's physician as to the medical condition of the child to be 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. The adoption petition shall not be set for hearing until after the placement is complete.

(D) In all adoption cases, Court costs are required to be paid at the time of the filing. The Court should be consulted in advance for current deposit information.

(E) The criminal background checks pursuant to Ohio R.C.2151.86(B) shall be filed in all cases.

(F) In all adoptions, married petitioner(s) must be married for not less than one (1) year prior to the final approval of the adoption.

(G) In all placement hearings where a birth parent of the child to be adopted is a minor, that birth parent shall be represented by an attorney. The fees for the attorney for the birth parent will be assess as costs to the petitioner.

LOC. R. 75.3

CUSTODIAL DEPOSITS IN LIEU OF BOND

All custodial deposits of personal property, securities and monies must comply with Ohio R.C. 2109.13. All institutions desiring to be a depository must satisfy the Court of their authorization and certification by the State of Ohio.

LOC. R. 75.4

SURETY BONDS

(A) A surety company, prior to executing a fiduciary bond, must register with the Court and file proof that the company is authorized to do business within this State. Agents must file a power of attorney from the company prior to executing bonds for that company.

(B) Attorneys shall not act as sureties in any case, nor shall they be permitted to become sureties on the bond of any fiduciary.

(C) The Court will not accept personal sureties.

(D) Bond required by law or Court order shall be in an amount not less than double the

probable value of the personal estate including all sources of income during the accounting period.

(E) The bond premium shall be paid by the fiduciary upon receipt of the bill for the bond premium. The proceedings shall remain open until the fiduciary has accounted for the payment of the bond premium. Should payment not be made pursuant to this rule, the fiduciary and attorney may be held personally liable for its payment.

LOC. R. 75.5

WILLS DEPOSITED FOR SAFEKEEPING

Any person placing a will on deposit in this Court shall sign a written statement acknowledging the will is being placed on deposit at the request of the testator or guardian of the testator and identify the testator's current address and telephone number.

After the testator's death, wills deposited for safekeeping pursuant to Ohio R.C. 2107.07 shall only be released to a court of probate jurisdiction.

SUP. R. 78

**CASE MANAGEMENT IN
DECEDENT'S ESTATES,
GUARDIANSHIP, AND TRUSTS**

LOC. R. 78.1

CASE MANAGEMENT

For the purpose of insuring the readiness of proceedings in the Highland County Probate Court, the following procedure shall be in effect.

I. CIVIL ACTIONS: (Excluding Land Sales)

(A) All cases must have a general file number before a civil action may be filed.

(B) A pretrial conference shall be conducted in all civil actions unless otherwise ordered by the Court.

(C) Within 120 days after the final answer day, the case shall be set for a Pretrial conference.

(D) Pretrial Conference. Unless otherwise ordered by the Court, the following matters and decisions shall be addressed at the pretrial conference:

(1) the Court may rule on any pending motions;

(2) the following shall be submitted:

a. trial briefs;

- b. witness lists;
- c. exhibit lists;
- d. exhibits as ordered by the Court;
- e. proposed jury instructions;
- f. proposed jury interrogatories;

(3) Clients shall be present unless their presence has been excused by the Court.

(E) The trial date shall not be continued without good cause shown and order of the Court.

II. CIVIL ACTIONS: LAND SALES

(A) All cases must have a general file number before a civil action may be filed.

(B) All land sales which have not been concluded within one (1) year from the date of filing shall be set for status conference by plaintiff's counsel within thirty (30) days following the expiration of one (1) year.

(1) The fiduciary and the attorney must attend the status conference.

(2) A written status report shall be submitted to the Court at the status conference. The status report shall address pending issues and the efforts being made to conclude the land sale.

(3) The fiduciary shall show cause why the Court should not order public sale of the real estate.

III. MOTIONS

(A) All motions filed in this Court shall be accompanied by a memorandum stating the grounds and citing the authorities relied upon. Opposing counsel or a party shall serve the response memorandum on or before the fourteenth (14th) day after the date of service as set forth on the certificate of service attached to the served copy of the motion. The moving party shall serve any reply memorandum on or before the seventh (7th) day after the date of service as set forth on the certificate of service attached to the served copy of the response memorandum. On the twenty-eighth (28th) day after the motion is filed, the motion shall be deemed submitted to the Court unless a prior written request for an oral hearing has been filed and approved by the Court. The time and length of any oral hearing shall be fixed by the Court.

Except as otherwise provided, this rule shall apply to all motions.

(B) Motions for summary judgments are subject to the preceding Paragraph (A) and set for non-oral hearing on the twenty-eighth (28th) day following the filing of the motion for summary judgment. The filing of opposing affidavits and supporting documents are subject to Civ. R. 56.

(C) Motions for temporary restraining orders, preliminary injunctions, or similar urgent equitable relief, applications and motions relating to administrative matters, and appointments shall be heard at a time set by the Court. When required, notice of the time and place of the hearing shall be served upon any adverse party or their counsel by the moving party.

IV. MENTAL ILLNESS HEARINGS

All hearings shall comply with R.C. Chapters 5122 or 5123.

V. ADOPTIONS

The status of pending preplacement applications and adoption proceedings shall be reviewed annually and the Court may order further action as necessary. Additional rules on adoptions are located in Local Court Rule 75.2.

VI. MISCELLANEOUS MATTERS

All miscellaneous matters shall be reviewed annually and the Court shall order further action as necessary.

VII. FAILURE TO COMPLY

Failure to comply with this Case Management Rule may result in dismissal pursuant to Civ. R. 41 and other sanctions, including but not limited to, payment of costs and attorney fees.

LOC. R. 78.2

WITHDRAWAL OF COUNSEL

(A) An attorney desiring to withdraw shall file a motion to withdraw stating the reasons for withdrawal. The motion shall contain the last known address and telephone number of the client. The court shall not issue an entry approving the withdrawal until the attorney has filed a certification that the following conditions have been fulfilled.

- (1) Notice has been given to the client stating all filing deadlines affecting the client;
- (2) Notice has been given to all attorneys, unrepresented parties, and interested persons;

(3) Attorneys withdrawing from representation of a fiduciary shall file the written acknowledgment of the withdrawal signed by the fiduciary or the withdrawal shall be granted only after a hearing with notice to the fiduciary. The attorney shall also notice any bonding agencies involved.

(B) No attorney shall be permitted to withdraw from a case sooner than twenty (20) days prior to a trial or dispositive hearing, except for extraordinary circumstances that require permission of the Court.

(C) Substitution of counsel shall be in writing but does not require approval off the Court. Notice shall be given to all attorneys, unrepresented parties, and interested persons.

LOC. R. 78.3

INVENTORY

(A) In lieu of the appraiser signing the estate inventory, the fiduciary may attach to the inventory the original appraisal(s) containing the signature of the appraiser(s).

(B) The inventory shall contain the address, legal description, and parcel number of the interest in the real estate of the decedent or ward.

(C) All inventories for a decedent's estate shall be filed in duplicate, the original and a copy.

(D) The inventory will not be accepted for filing unless the bond, when required, is sufficient pursuant to Loc. R. 75.4. A guardian's inventory shall include the projected annual income of the ward.

(E) The Court will not approve the distribution, sale, or expenditure or any estate or guardianship or trust assets prior to the filing and approval of the inventory.

(F) All fiduciaries must sign the inventory when multiple fiduciaries have been appointed unless for good cause shown the Court permits otherwise.

LOC. R. 78.4

MEDIATION

(A) After the filing of an estate, guardianship application, trust, or any other actions, the Court, on its own motion or the motion of any of the parties, may refer disputed issues to mediation.

(B) The mediation sessions may be held until all issues are resolved in a manner acceptable to the disputing parties, or until the mediator determines that continued mediation

would not be productive.

(C) The Court may order parties to participate in or return to mediation at any time.

(D) Statements made during a mediation session shall be considered compromise negotiations and are not admissible as evidence.

(E) To be accredited and appointed by the Court, a mediator shall possess the following qualifications:

- (1) Be an attorney in good standing with Supreme Court of Ohio;
- (2) Have five (5) years of experience in handling probate matters; and,
- (3) Have completed forty (40) hours of advanced mediation training, which has been approved for Continuing Legal Education and is approved by the Court.

(F) Referral to mediation by the Court shall be by "Notice of Mediation" which shall indicate the time, place of the mediation, and the name and telephone number of the mediator.

(G) The parties are equally responsible for paying the mediator's fee for the first mediation session. If continued mediation sessions are necessary, the mediator's fee shall be borne equally by the parties, unless otherwise ordered by the Court. The court will determine the rate at which the mediator will be paid. The mediator's fee will be determined by the complexity of the issues in the matter being mediated. Any additional expenses associated with the mediation must be preapproved by the Court.

APPENDIX A

IN THE HIGHLAND COUNTY COURT OF COMMON PLEAS
PROBATE DIVISION

IN THE MATTER OF THE ESTATE _____, deceased

CASE NO.: _____

CERTIFICATE OF ATTORNEY

As attorney for the fiduciary and as an officer of the Court, I certify that I have reviewed the filings in this estate and that the following matters have been properly completed to the best of my knowledge and belief:

- ☐ Affidavit verifying notice of probate of will given to all persons entitled thereto pursuant to 2107.19 R.C. (Decedent died after 05/30/90)(S.Ct.R.59)
- ☐ All known assets included in the inventory or report of newly discovered assets
- ☐ Notice of hearing on inventory given to surviving spouse, all next of kin, beneficiaries and attorneys not waiving notice
- ☐ Family allowance properly apportioned, if applicable
- ☐ All claims presented to fiduciary or fiduciary's attorney have been paid or otherwise discharged
- ☐ Schedule of Claims filed if required by statute or local rule
- ☐ Explanation filed with Court if any claim not paid in full
- ☐ Notice issued to surviving spouse of right to elect, if required
- ☐ Federal and Ohio Estate Tax returns filed, if required
- ☐ Bond premiums paid, if any
- ☐ All real estate transferred
- ☐ All other assets properly accounted for and receipted for
- ☐ Manner of calculating attorney and fiduciary fees filed
- ☐ Vouchers for all expenditures and distributions filed
- ☐ Adding machine tape of account filed
- ☐ All other matters that have come to my attention have been properly disposed of to the benefit of all beneficiaries
- ☐ Notice given to distributees of potential liability

OTHER MATTERS COURT SHOULD BE AWARE OF:

Dated

Legal Counsel for the Estate

**APPENDIX B
PROBATE COURT OF HIGHLAND COUNTY, OHIO
KEVIN L. GREER**

ESTATE OF: _____ **DECEASED**

CASE NO.: _____

APPLICATION FOR ALLOWANCE OF ATTORNEY FEES

NOW COMES _____, Attorney for the Estate of _____
and respectfully requests an Order allowing the FIDUCIARY of the above-captioned estate to pay a reasonable attorney fee in the amount of _____ (\$ _____) based on legal services rendered regarding the administration of the above captioned estate requiring of _____ hour(s) of work as detailed in the attached Exhibit which is incorporated herein by reference as if fully rewritten. The Applicant further says that the legal services rendered were necessary and beneficial to the Estate and were of the value requested in this Application and in compliance with Rule 1.5 of the Ohio Rules of Professional Conduct and Ohio Superintendence Rule 71 and R.C. 2113.36.

WHEREFORE, the Applicant prays that this Court grant authority to pay the amount of _____
_____ (\$ _____) and that Applicant is authorized to include the same as an item in the FINAL account subject to exceptions as to other items according to law.

Date: _____

Name: _____

Address: _____

Phone: _____

Registration #: _____

CONSENT

The undersigned, by being persons whose interest in the above-captioned estate is affected by the payment of attorney fees, do hereby consent to the payment of fees set forth above.

APPENDIX C

Application for and Computation of Executor/Administrator Fees 2113.35 O.R.C.

Personalty (Including income and proceeds from the sale of real estate) \$ _____

0-\$100,000 @ 4% 4% \$ _____

\$100,000-\$400,000 @ 3% 3% \$ _____

\$400,000- @ 2% 2% \$ _____

Real Estate (not sold) @ 1% \$ _____ 1% _____

Non Probate Property @ 1% \$ _____ 1% _____
(except joint & survivorship property)

Total Fiduciary Fees \$ _____

Trustee or Attorney

APPENDIX D

COMPUTATION OF GUARDIAN FEES

Accounting Period From _____ to _____

Total Income \$ _____

0-\$10,000 @ 4% 4% \$ _____

\$10,000- @ 3% 3% \$ _____

Total Expenditures \$ _____

0-\$10,000 @ 4% 4% \$ _____

\$10,000- @ 3% 3% \$ _____

Total Guardian Fees _____
Guardian or Attorney

APPENDIX E

COMPUTATION OF TRUSTEE FEES

Accounting Period From _____ to _____

Total Income \$ _____

0-\$10,000	@ 6%	6%	\$ _____
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\$10,000-\$20,000	@ 5%	5%	\$ _____
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\$20,000-	@ 4%	4%	\$ _____
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Total Income: \$ _____

Trustee or Attorney