



**Montgomery County Probate Court**  
*Judge David D. Brannon*

## Local Rules of Court

Montgomery County Probate Court  
41 N. Perry Street, 2<sup>nd</sup> Floor  
Dayton, Ohio 45402  
[mcoho.org/probate](http://mcoho.org/probate)  
937-225-4640

## INDEX

<b>Rule Title</b>	<b>Page</b>
2.1 <a href="#">Definitions</a> .....	3
5.1 <a href="#">Adoption, Scope and Construction of Rules</a> .....	4
6.1 <a href="#">Attorney Registration Numbers</a> .....	5
8.1 <a href="#">Court Appointments</a> .....	6
9.1 <a href="#">Court Security Policy and Procedures Plan</a> .....	7
11.1 <a href="#">Recording of Proceedings</a> .....	8
12.1 <a href="#">Conditions for Broadcasting and Photographing Court Proceedings</a> .....	9
16.1 <a href="#">Mediation</a> .....	10
26.1 <a href="#">Court Records Management and Retention</a> .....	12
45.1 <a href="#">Court Records – Public Access</a> .....	13
51.1 <a href="#">Standard Probate Forms</a> .....	15
52.1 <a href="#">Specifications for Printing Probate Forms</a> .....	16
53.1 <a href="#">Hours of the Court</a> .....	17
54.1 <a href="#">Conduct in the Court</a> .....	18
55.1 <a href="#">Examination of Probate Records</a> .....	19
56.1 <a href="#">Continuances</a> .....	20
57.1 <a href="#">Filings and Judgment Entries</a> .....	21
57.2 <a href="#">Electronic Filing</a> .....	22
58.1 <a href="#">Deposits for Court Costs</a> .....	29
60.1 <a href="#">Application for Letters of Authority to Administer Estate and Notice of Appointment</a> .....	30
61.1 <a href="#">Appraisers</a> .....	31
62.1 <a href="#">Claims Against Estate</a> .....	32
64.1 <a href="#">Accounts</a> .....	33
65.1 <a href="#">Land Sales</a> .....	36
66.1 <a href="#">Guardianships</a> .....	37
66.3 <a href="#">Guardianship Complaints</a> .....	39
66.5 <a href="#">Guardians with Ten or More Wards</a> .....	40
66.7 <a href="#">Guardian Education</a> .....	41
67.1 <a href="#">Estates of Minors of Not More Than Twenty-Five Thousand Dollars</a> .....	42
68.1 <a href="#">Settlement of Minor’s Claims</a> .....	44
70.1 <a href="#">Settlement of Wrongful Death and Survival Claims</a> .....	47
71.1 <a href="#">Attorney Fees</a> .....	49
72.1 <a href="#">Executor and Administrator Fees</a> .....	52
73.1 <a href="#">Guardian Fees</a> .....	53
74.1 <a href="#">Trustee Fees</a> .....	54
75.1 <a href="#">Local Rules</a> .....	55
78.1 <a href="#">Case Management</a> .....	57
78.2 <a href="#">Decedent’s Estate</a> .....	62
78.3 <a href="#">Case Management in Probate Litigation Matters</a> .....	68
78.4 <a href="#">Name Change, Name Conformity and Birth Certificate Correction Proceedings</a> .....	72
Appendix A <a href="#">Attorney Fees</a>	
Appendix B <a href="#">Computation of Attorney Fees</a>	
Appendix C <a href="#">Consent to Payment of Attorney Fees on Partial Account</a>	
Appendix D <a href="#">Computation of Executor and Administrator Fees</a>	
Appendix E <a href="#">Computation of Guardian Fees</a>	
Appendix F <a href="#">Computation of Trustee Fees</a>	

**LOCAL RULE 2.1**  
**DEFINITIONS**

As used in these Rules:

- (A) **Case Management System (CMS).** A system that manages the receipt, processing, storage, and retrieval of data associated with a case and performs actions on the data.
- (B) **Clerk Review.** A review of documents by the clerk in accordance with Court rules, policies, procedures, and practice. The clerk may review the data and documents electronically submitted to ensure compliance with Court rules, policies, procedures, and practices before creating a docket entry or before docketing the case.
- (C) **Court Initiated Filings.** Official Court documents entered into the docket, such as notices or orders. The term “Court initiated filings” is a simplification to indicate that documents will be submitted as part of the electronic Court record but could be submitted using exactly the same process as hard copy filings.
- (D) **Document.** A filing made with the clerk in either electronic format or paper form, becoming part of the Court’s official record.
- (E) **Document Management System (DMS).** A system that manages the receipt, indexing, storage, and retrieval of documents associated with a matter.
- (F) **Electronic Filing (eFile).** The electronic filing of documents with the clerk using the Electronic Filing System.
- (G) **Electronic Service (eService).** The electronic transmission of document(s) to all Registered Users of the Court’s eFile System via the eFile System. Upon the completion of any transmission to the eFile System, an electronic receipt shall be issued to the sender, acknowledging receipt by the eFile System.
- (H) **Filer.** Any Registered User who electronically files a document using the electronic filing system or otherwise causes a document to be eFiled on his or her behalf.
- (I) **Paper Hearing.** A hearing date set by the Court whereby attendance is not required at the hearing. Typically, it is treated as a deadline, unless a party or other interested person files an objection before the deadline passes, in which case the Court will direct the parties as to whether attendance is mandatory.
- (J) **Registered User.** Any person, who has agreed to the terms of the Electronic Filing System’s User Agreement, has provided his or her credentials through the eFiling System, and has been provided with a username and password for the eFiling System.

**LOCAL RULE 5.1**  
**ADOPTION, SCOPE AND FORMAT OF RULES**

All persons before this Court shall familiarize themselves with all applicable laws and rules.

**(A) Adoption of Local Rules.**

- (1) The Probate Division of the Common Pleas Court for Montgomery County, Ohio (“Court”), hereby adopts the following rules (“Rules”) applicable to all functions and services of the Court.
- (2) These Rules shall supplement and complement the Ohio Rules of Civil Procedure (“Civ.R.”), the Rules of Superintendence for the Courts of Ohio (“Sup.R.”), the Ohio Revised Code (“R.C.”) and all other applicable authority.
- (3) These Rules are effective as of November 1, 2021 and may be amended as appropriate to facilitate the expeditious disposition of cases.
- (4) These Rules and corresponding local probate forms shall be maintained by the Court under case number 2003 MSC 342545.

**(B) Format of the Local Rules.**

- (1) Pursuant to Sup.R. 75, local rules shall be numbered to correspond with the number of the Superintendence Rule it is intended to supplement. For example, a local rule that supplements Sup.R. 61 shall be designated county local rule 61.1.
- (2) The preferred short form citation to these Rules is “Mont. Co. P.C.R.”.
- (3) The preferred short form citation to the standard Ohio Supreme Court probate forms and local probate forms is “Mont. Co. P.C.F.”

**Adopted: 2/1/05**

**Revised: 8/1/14**

**LOCAL RULE 6.1**

**ATTORNEY REGISTRATION NUMBERS**

All attorneys who make an appearance or submit a signed pleading to the Court shall include their full name, address, telephone number, email address and attorney registration number issued by the Supreme Court

**LOCAL RULE 8.1**  
**COURT APPOINTMENTS**

- (A) **Appointments.** Pursuant to Sup.R. 8, this Court shall adopt the following Rule regarding Court appointments for the following types of appointees:
- (1) Attorney;
  - (2) Guardian;
  - (3) Trustee;
  - (4) Guardian ad litem;
  - (5) Appraiser;
  - (6) Estate fiduciary;
  - (7) Investigator; and
  - (8) Mediator.
- (B) **List.** The Court shall maintain a list of appointees pre-qualified to serve in the capacity designated by the Court.
- (C) **Procedure for Selecting.** To ensure equitable distribution of appointments, the Court shall utilize a rotary system from a graduated list that pairs the seriousness and complexity of the case with the qualifications and experience of the person to be appointed. The Court may maintain separate lists for different types of appointments.
- (1) Applicants seeking appointment shall submit an application to the court administrator, and candidates shall be selected based on the factors enumerated in Sup.R. 8(D).
  - (2) Applicants shall be notified of their acceptance or denial as a potential appointee and the type(s) of matters the appointee may be appointed.
  - (3) All appointees shall be consulted prior to any appointment(s) to ensure acceptance and compensation, if any, related to the appointment.
- (D) **Removal.** The Court reserves the right to add or remove appointees from any appointment list.
- (E) **Compensation.** The compensation appointees will receive for services provided and expenses incurred as a result of the appointment shall be determined as follows:
- (1) If a party or other person is required to pay all, or a portion, of the fees payable to an appointee, the appointee promptly shall notify that party or person of the appointment and the applicable fee schedule.
  - (2) The Court shall require the appointee to file with the Court or division, and serve upon any party or other person required to pay all or a portion of the fee, an itemized fee and expense statement on a regular basis as determined by the Court. If the party or other person required to pay all or a portion of the fees claims that the fees are excessive or unreasonable, the burden of proving the reasonableness of the fees is on the appointee.
  - (3) If the Court is required to pay all or a portion of the fees payable to an appointee, the Court shall follow its appointment compensation schedule, which is based on Sup.R. 8(C).

**LOCAL RULE 9.1**

**COURT SECURITY POLICY AND PROCEDURES PLAN**

- (A) Pursuant to Sup.R. 9, the Court has adopted and implemented a Security Policy and Procedures Plan.
- (B) This plan is confidential and not available for public access.

**LOCAL RULE 11.1**  
**RECORDING OF PROCEEDINGS**

- (A) The Court records hearings electronically and stenographically. If a hearing is recorded electronically, the electronic recording shall be the official record.
- (B) A Read-Only Memory copy of a Compact Disc (CD-ROM) recording of a hearing shall be requested by submission of a Request for Digital Audio Copy of Hearing on CD (MC Form MSC 6) and payment of costs.
- (C) An electronically recorded transcript shall be requested and filed with the Court by submission of an Application to Prepare Transcript on CD-ROM (MC Form 6.1) and payment of costs. A written transcript of the CD-ROM or any portion of the CD-ROM may be prepared by the requesting party at the requesting party's expense
- (D) A stenographically recorded transcript shall be requested by submission of an Application to Prepare Transcript (MC Form 6.2). The requesting party shall serve a copy of the request upon the Court Reporter and contact the Court Reporter to obtain the costs for preparation of the transcript. The Court Reporter may require a deposit. Upon the requesting party's payment of costs, the Court Reporter shall release the transcript and the requesting party may file the transcript with the Court.
- (E) The Court maintains electronic recordings of hearings for three (3) years from the date of the hearing. Any interested party who desires to preserve the record beyond this period must file a CD-ROM recording of the hearing as part of the record of the case prior to the expiration of the three year period.

**LOCAL RULE 12.1**  
**CONDITIONS FOR BROADCASTING AND PHOTOGRAPHING**  
**COURT PROCEEDINGS**

Pursuant to Rule 12 of the Rules of Superintendence, the Court may permit the photographing, recording, broadcasting or televising of Court proceedings. The term “proceedings” shall mean public hearings held by the Court.

- (A) The taking of photographs, making of sound or video recordings and live broadcasting by radio or television of proceedings in a courtroom or the adjacent corridors shall not be permitted unless authorized by the Judge in writing.
- (B) Request for permission to photograph, record, broadcast or televise shall be made in writing to the Court Administrator as far in advance as reasonably practicable but not later than twenty-four (24) hours prior to the proceeding, unless otherwise authorized by the Judge. Request forms may be obtained from the Court Administrator’s office.
- (C) The Court Administrator shall immediately notify the Judge, the attorneys for the parties, or the parties, if unrepresented, of the request. If the request is approved, the Judge shall file an entry setting forth the conditions of the photographing, recording, broadcasting or televising.
- (D) If the proceeding is continued for a period of more than thirty (30) days, a new request is required.
- (E) In adoption hearings, the Court shall allow the families to photograph the proceedings without written authorization by the Judge.

**LOCAL RULE 16.1**  
**MEDIATION**

- (A) **General.** Any action under the jurisdiction of the Court may be referred to mediation upon request and consent of all the parties or by order of the Court.
- (B) **Definitions.** R.C. 2710 “Uniform Mediation Act” (UMA), including all definitions found in R.C. 2710.01, are incorporated by reference and adopted by this Court through this Local Rule pursuant to Sup.R. 16.21.
- (C) **Case Types.** The following case types shall be eligible for mediation including, but not limited to, disputes involving:
- (1) Adversarial civil actions;
  - (2) Guardianships;
  - (3) Competing fiduciaries; and/or
  - (4) Estates.
- (D) **Referral to the General Division’s Mediation Office.** This Court and the General Division of the Montgomery County Court of Common Pleas (“General Division”) have partnered whereby this Court may utilize the General Division’s Mediation Office as codified under Rule 2.39 of the Local Rules of Practice and Procedure for the General Division of the Montgomery County Common Pleas Court, incorporated herein. Generally, the process works as follows:
- (1) This Court shall identify any matter as a candidate for mediation or upon request of the parties. Upon identification, this Court shall refer the matter to the General Division’s Mediation Office.
  - (2) The Mediation Office will contact all attorney and/or parties to set a scheduling conference.
  - (3) This Court will attempt to accommodate any mediation deadlines with this Court’s final pretrial order.
  - (4) With input from the parties, the scheduling conference should result in the referral to mediation, identification of mediator, mediation date, and finalization of all other matters for mediation. An entry will be prepared by this Court and docketed in the underlying matter.
  - (5) After the mediation conference is complete, the Mediator shall notify this Court as to whether the matter was settled or not settled, and an entry will be prepared and docketed by this Court stating the same. This Court will take appropriate action to continue the matter or close the matter after mediation.
  - (6) In all General Division Mediation Office mediations, costs shall be taxed to the parties as court costs, to be split equally among the parties, unless agreed otherwise among the parties.
- (E) **Referral to Private Mediation.** Parties are encouraged to utilize all forms of alternative dispute resolution including, without limitation, mediation. See Sup.R. 79 for guidance and other options through this Court.

**(F) Confidentiality and Privilege against Disclosure.** All communications and similar matters are governed by the UMA. See R.C. 2710.01 et seq.

**Adopted: 2/1/05**

**Revised: 8/1/12**

**LOCAL RULE 26.1**

**COURT RECORDS MANAGEMENT AND RETENTION**

Pursuant to the Rules of Superintendence, the Court maintains and follows a Schedule of Records Retention and Disposition, which is filed under case number 2004 MSC 00404.

**LOCAL RULE 45.1**  
**COURT RECORDS – PUBLIC ACCESS**

**(A) Definition of Terms**

- (1) “Public Access” means both direct and remote access.
- (2) “Direct Access” means the ability of any person to inspect and obtain a copy of a court record at a reasonable time during regular business hours at the place where the record is made available.
- (3) “Remote Access” means the ability of any person to electronically search, inspect and copy a court record at a location other than the place where the record is made available.

**(B) Sealed Documents**

- (1) Motions for a protective order, motions to file under seal, and proposed orders granting such motions shall include language designating a specific level of access
- (2) The designated levels of access are the following:

- a. No Remote Access by Public; Direct Access by Public; and Access by Judge, Court Staff, Clerk Staff, and Attorneys of Record: The docket may be accessed either remotely on the Court’s website or directly at the Clerk’s Office. Documents may not be accessed remotely on the Court’s website, but may be accessed directly at the Clerk’s Office.

- b. No Remote or Direct Access by Public; Access by Judge, Court Staff, Clerk Staff, and Attorneys of Record:

The docket may be accessed either remotely on the Court’s website or directly at the Clerk’s Office. Documents may not be accessed remotely on the Court’s website or directly at the Clerk’s Office. Only the Judge, Court Staff, Clerk Staff, and attorneys of record may access documents.

- c. Judge Access Only; No Access by Court Staff, Clerk Staff, Attorneys of Record, or the Public:

- d.

The docket may be accessed either remotely on the Court’s website or directly at the Clerk’s Office. Documents may not be accessed remotely on the Court’s website or directly at the Clerk’s Office. Only the Judge and assigned Magistrate may access documents.

- (3) Documents shall not be accepted for filing under seal unless there is a previously signed protective order or order to file under seal that includes a designated level 14 of access. If the protective order or order to file under seal does not include a designated level of access, the filer shall file a proposed order designating a level of access. Documents shall be accepted for filing under seal once an order is entered that designates a level of access.
- (4) Motions for a protective order, motions to file under seal, and proposed orders granting such motions shall be filed using the following document types: Motion: Protective Order; Motion: Seal; Order: Protective (Proposed); or Order: Seal (Proposed). Documents that are requested to be protected or sealed shall not be attached to such motions, as the motions themselves will not be sealed.
- (5) Documents shall be submitted for filing under seal in a securely sealed envelope. The face of the envelope shall include a conspicuous notation that it contains “Documents Under Seal.” It shall also include the case caption; a descriptive title of the document, unless such information has been included among the information ordered

protected or sealed; and the date of the order authorizing the document to be protected or sealed.

- (6) The Clerk's Office shall file stamp the face of the envelope, enter on the docket that the document was filed under seal and retain the envelope in a secured location designated by the Judge.

**(C) In Camera Documents**

- (1) If the Judge or Magistrate orders that documents shall be filed for in camera review, the filer shall follow the procedure set forth in Division B of this Rule, using the following designated level of access: Judge Access Only.
- (2) Otherwise, the filer shall submit, rather than file, documents for in camera review to the Judge or Magistrate.

**LOCAL RULE 51.1**  
**STANDARD PROBATE FORMS**

- (A) Pursuant to Sup.R. 51, standard Ohio Supreme Court and local probate forms shall be used in all matters.
- (B) Most forms are available for download and modification on the Court's website: [www.mcoho.org/probate](http://www.mcoho.org/probate). Mental illness, adoption and several other forms are not available online. Please contact the Clerk's Office to request any specific forms you may be seeking.
- (C) All filings shall comply with the specifications set forth in Sup.R. 52.
- (D) Forms are subject to change at any time.

**LOCAL RULE 52.1**  
**SPECIFICATIONS FOR PRINTING PROBATE FORMS**

- (A) Computer generated forms must comply with the specifications prescribed by Rule 52 of the Rules of Superintendence. The signature of the filer or the filer's counsel constitutes a certificate that a form complies with the rule.
- (B) Computer generated forms must use the same format that is used by the standard probate forms.
- (C) The body of computer generated forms must use a type size that is no less than ten (10) point and no greater than twelve (12) point.
- (D) The Court may reject or strike any forms that fail to comply with this rule.

**Adopted: 2/1/15**  
**Revised: 8/1/14**

**LOCAL RULE 53.1**  
**HOURS OF THE COURT**

The Probate Court shall be open for the transaction of business from 8:30 a.m. to 4:30 p.m., Monday through Friday. Pleadings requiring a new case number or payment of costs shall be filed by 4:15 p.m. Please refer to the Court's website for holiday and extraordinary closings.

**LOCAL RULE 54.1**  
**CONDUCT IN THE COURT**

- (A) **Conduct in the Court.** Pursuant to Sup.R. 54, appropriate decorum and attire in the Court are required of all parties and visitors. Any conduct that interferes, or tends to interfere, with the proper administration of the Court's business is strictly prohibited and will be addressed by the presiding judicial officer.
- (B) **Recording.** No audio or video recording device, other than a device used by the Court, may be used in any proceeding or communication with the Court, unless expressly permitted in writing by the Court in advance of any communication, hearing, or trial pursuant to Sup.R. 12.
- (C) **Disruptions.** All mobile phones, pagers, and other electronic devices must be placed on silence or vibrate, or turned off, while in the Court. No person may text, email, or otherwise engage in activities not directly related to the purpose at hand during any formal or informal proceedings. The Court may ask any person, who violates this Rule, to leave the Court if the disruption continues.
- (D) **Sanctions.** The Court reserves the right to remove and/or fine parties and/or attorneys up to \$100 for infractions.

**LOCAL RULE 55.1**  
**EXAMINATION OF PROBATE RECORDS**

- (A) Most Probate Court public records may be viewed on the Court's website:  
[www.mcoho.org/probate](http://www.mcoho.org/probate)
- (B) Public records may be examined at the Court and copies may be obtained at a reasonable cost. Records shall not be removed from the Court.
- (C) Adoption, civil commitment, certain estate tax filings, and mental retardation proceedings are confidential. Records of these proceedings may be accessed only as allowed by law.

**LOCAL RULE 56.1**  
**CONTINUANCES**

- (A) **Notice.** Pursuant to Sup.R. 56, a party's motion for continuance shall not be granted without notice to, or the consent of, any adverse party or the adverse party's attorney.
- (B) **Client Consent.** It is the responsibility of attorney to obtain client consent prior to making a request for continuance.
- (C) **Proposed Order.** If the consent of the parties and the parties' attorneys has been obtained, an agreed entry for the continuance shall be submitted to the Court as a proposed order.
- (D) **By Motion.** If the consent of all the parties and/or the parties' attorney has not been obtained, a written motion for the continuance may be filed with the Court. Written notice of the motion shall be served on all interested parties. The motion shall set forth good cause for the continuance. Failure to object to the requested continuance within a reasonable time may waive an opportunity to object to the request.
- (E) **Timing.** Agreed entries and motions for continuances of hearing or trial dates shall be submitted or filed at least seven (7) days prior to the scheduled hearing or trial date.
- (F) **Failure to Observe.** Failure to request a continuance within these parameters may result in the denial of a request for continuance, absent extraordinary circumstances.

**LOCAL RULE 57.1**  
**FILINGS AND JUDGEMENT ENTRIES**

- (A) The Court shall not accept filings by facsimile transmission or electronic mail.
- (B) The Court shall accept for filing only those filings that are complete and legible. Filings that are not complete and legible may be rejected.
- (C) If a filing consists of more than one page, the case number shall appear in the upper right portion of each page of the filing, including attachments.
- (D) The address of a fiduciary who is not an attorney must be the fiduciary's permanent address. Attorneys, fiduciaries, and pro se litigants shall notify the Court of address changes.
- (E) The Court does not accept power of attorney signatures on pleadings or any other documents, except as authorized by the Rules of Superintendence and the Uniform Power of Attorney Act, R.C. 1337.21, et seq.
- (F) A proposed entry submitted to the Court shall contain a certificate of service that includes the names and addresses of all parties and interested persons required to be served.

**LOCAL RULE 57.2**  
**ELECTRONIC FILING**

**(A) Mandatory eFiling for Case Categories.** The Court designates the following case categories and case types that shall utilize the Court’s eFiling System including, but not limited to:

**(1) Miscellaneous and Civil (“MSC”) case types:**

- (a) Adult Protective Services
- (b) Assignment of Lottery Prize
- (c) Change of Name – Adult
- (d) Change of Name – Minor
- (e) Concealment of Assets
- (f) Correction of Birth Certificate
- (g) Correction of Marriage
- (h) Declaration of Paternity
- (i) Declaratory Judgment
- (j) Designation of Heir
- (k) Determination of Heirship
- (l) Disinterment
- (m) Gender Identity Correction
- (n) Presumption of Death
- (o) Production of Will
- (p) Registration of Birth
- (q) Sale of Real Estate – Estate
- (r) Sale of Real Estate – Guardianship
- (s) Successor Custodian on Account
- (t) Transfer of Rights
- (u) Validity of Will
- (v) Will or Trust Construction
- (w) Will or Trust Contest
- (x) All other civil and/or adversarial matters

**(2) Estate (“EST”) case types:**

- (a) Ancillary Administration
- (b) Foreign Records (Authenticated Copies)
- (c) Full Administration with Will
- (d) Full Administration without Will
- (e) Full Successor Administration with Will
- (f) Full Successor Administration without Will
- (g) Probate of Will Only
- (h) Release of Administration with Will
- (i) Release of Administration without Will
- (j) Release of Administration with Will for Record Only

- (k) Summary Release
- (l) Summary Release with Will for Record Only
- (m) Tax Only
- (n) Transfer of Real Estate Only with Will
- (o) Transfer of Real Estate Only without Will
- (p) Will Filed without Probate
- (q) Will Filed without Probate/Tax
- (r) Will Filed with Notice of Intent
- (s) Bond Filed with Notice of Intent

**(3) Guardianship (“GRD”) case types:**

- (a) Custodianships
- (b) Guardianship of the Person – Adult
- (c) Guardianship of the Person – Minor
- (d) Guardianship of the Estate – Adult
- (e) Guardianship of the Estate – Minor
- (f) Injury Settlements – Minor
- (g) Injury Settlement – Adult

**(4) Adoptions (“ADP”) case types:**

- (a) Agency
- (b) Stepparent
- (c) Adult
- (d) Legal Placement
- (e) Independent
- (f) Foreign Adoption
- (g) Petition for Release of Adoption Information
- (h) Request for Notification

**(5) Trust (“TST”) case types:**

- (a) Testamentary Trust
- (b) Successor Trust
- (c) Wrongful Death Trust
- (d) Special Needs Trust

**(C) User Registration.**

- (1) All persons filing documents in the eFile System shall be Registered Users of the eFile System.
- (2) All attorneys shall register with the eFile System.
- (3) Registered Users shall be responsible for the security, use, and confidentiality of their usernames and passwords. All documents shall be deemed to have been filed with the authorization of the Registered User to whom a username has been assigned, unless the Registered User demonstrates otherwise, by clear and convincing evidence.

**(D) Time, Effect and Process of eFiling.**

- (1) Registered Users may electronically file documents in eFile case types at any time. To be considered timely when filing, documents must be electronically submitted by 11:59 p.m. on the date they are due.
- (2) Upon electronic submission, the eFile System will issue a confirmation that a document has been received. The confirmation will include the date and time of receipt. The

confirmation does not mean that the document has been filed. Documents shall not be considered filed until they have been reviewed by a clerk and accepted for filing.

- (3) Upon acceptance for filing, the eFile System will issue a notification that the document has been accepted for filing, including the date and time of acceptance.
- (4) Upon acceptance, the filing will receive an electronic stamp including the date and time the document was filed.
- (5) Upon rejection of a filing, the eFile System will issue a notification that the filing has been rejected for filing and the reason for rejection. The document shall not become part of the Court Record, and the Filer shall resubmit the document as instructed.
- (6) If a submission is not received by the Court because of a system error or outage, the Court may, upon satisfactory proof, enter an order permitting the filing to be filed nunc pro tunc to the date it was submitted.

**(E) Format of Filing.** All pleadings, motions, briefs, and other documents shall be formatted in accordance with the following:

- (1) **File format.** Documents shall be submitted in Portable Document Format (.pdf), with the exception of proposed orders and entries, which may be submitted in Microsoft Word format (.doc or .docx).
- (2) **Size of filing.** Individual documents shall be limited in size to three megabytes (3MB). Multiple documents in a single transmission shall be limited in size to a combined total of thirty megabytes (30MB).
- (3) **Font style and size.** With the exception of standard Ohio Supreme Court probate forms and local probate forms, documents shall be double-spaced, in Times New Roman or similar font and at least 12-point type. Standard Ohio Supreme Court probate forms and local probate forms shall use the font style and size prescribed by Sup.R. 52 and applicable orders and local rules.
- (4) **Margins.** With the exception of standard Ohio Supreme Court probate forms and local probate forms, the first page of a document shall have a top margin of at least 1.5 inches and side and bottom margins of at least 1 inch. Subsequent pages shall have top, bottom, and side margins of at least 1 inch. Standard Ohio Supreme Court probate forms and local probate forms shall have the margins prescribed by Sup.R. 52 and applicable orders and local rules.
- (5) **Filer signatures.**
  - (a) **Filer signatures.** A conformed signature on an electronically filed document shall constitute a signature on the document for the purposes of signature requirements imposed by all applicable law and rules.
    - (i) Documents requiring the signature of a Filer should be signed with a conformed signature format as follows:  
/s/ (Name of Filer)
    - (ii) The conformed signature of an attorney should be signed with a conformed signature format as follows:  
/s/ (Name of Attorney)  
Name of Attorney  
Supreme Court ID Number  
Attorney for (Party Designation)  
Law Firm  
Address  
Telephone Number  
Email Address  
Fax Number

**(b) Other signatures.** It is advisable to use scanned digital images of original signatures on eFiled documents whenever possible and appropriate. Documents using conformed signatures of someone other than the Filer (e.g. beneficiaries or next of kin) may be used by the Filer, so long as:

- (i) The Filer confirms in writing that the contents of the document are acceptable to all persons requested to sign the document and express written permission is provided to the Filer;
- (ii) The Filer shall indicate the agreement of such persons at the appropriate place in the document, usually on the signature line;
- (iii) The Filer shall electronically sign the document on behalf of such person(s) as provided in Mont. Co. P.C.R. 57.2(E)(5)(a)(i) and electronically file the document;
- (iv) The Filer or the Filer's attorney, as the case may be, shall maintain the original signed document or writing, consenting to the use of a conformed signature, at least until the case is closed and the time for appeal has expired, or any appeals have been heard or denied;
- (v) These rules are in addition to any attorney file retention requirements and shall not excuse any legal or ethical obligation on attorneys to retain client files; and
- (vi) If any questions arise as to the scanned original signature(s) or express consent to use a conformed signature, the Filer or Filer's attorney, as the case may be, shall provide the original hard copy or express written consent to the conformed signature to the Court or other interested party for inspection.

**(c) Original signatures.** Documents requiring an original signature, such as an affidavit or other notarized documents, shall be eFiled as a .pdf.

- (i) These rules are in addition to any attorney file retention requirements, and shall not excuse any legal or ethical obligation on attorneys to retain client files and
- (ii) If any questions arise as to the scanned original signature(s), the Filer or Filer's attorney as the case may be, upon request, shall provide the original hard copy to the Court or other interested party for inspection.

**(d) Judge and Magistrate signatures.** eFiled documents may be signed by a Judge or Magistrate via conformed signature or a digitized image of his or her signature combined with a digital signature page. All orders, decrees, judgments, and other documents signed in this manner shall have the same force and effect as if the Judge or Magistrate had affixed his or her signature to a hard copy of the order and journalized it.

**(F) Service.**

**(1) Original compliant.** Civ.R. 4 through 4.6 shall apply in all probate proceedings requiring service of summons, including eFiled matters, unless otherwise provided by law. See Civ.R. 73(E).

- (2) Instructions for service.** When electronically filing a complaint, third party complaint, or any other initial pleading, the Filer shall also electronically file instructions for service. The clerk shall issue a summons and process the method of service requested. Instructions for service shall be filed as a separate document.
- (3) Service and filing of pleadings and other documents subsequent to the original complaint.** Pleadings and documents other than those requiring service of summons pursuant to Civ.R. 4 through 4.6 shall be served as follows:
- (a)** In any proceeding where any type of notice (other than service of summons is required by law or deemed necessary by the Court) and the statute providing for notice neither directs nor authorizes the Court to direct the manner of its service, notice shall be given in writing and served pursuant to Civ.R. 5 and 73(E).
  - (b)** When a submission is deemed eFiled pursuant to Mont. Co. P.C.R. 57.2(D)(3), the eFile System shall generate a Notification of Electronic Filing (“NEF”) to the Filer and any other party who is a Registered User of the eFile System. The NEF shall constitute service under Civ.R. 5.
  - (c)** The Filer or the Filer’s attorney, as the case may be, shall be responsible for serving all documents pursuant to Civ.R. 5 on all parties or their attorneys, including pro se participants, who are not registered with the eFile System.
  - (d)** A certificate of service shall be required when a Filer electronically files any document other than standard probate forms. The certificate of service shall state the date and manner in which service was accomplished, including electronic service, if applicable, on each case participant.
  - (e)** Court-initiated documents that are eFiled shall be electronically served on case participants, who are Registered Users. Hard copies of Court-initiated documents shall be conventionally served on pro se case participants, who are not Registered Users.
- (4)** A Filer, who eFiles a proposed order, shall electronically serve or conventionally serve the proposed order on all case participants and/or attorneys, whether Registered Users or not.
- (5)** Upon a judge’s or magistrate’s signing and filing of the proposed order, the eFile System will generate and deliver a NEF to the case participants, who are represented by an attorney or who are Registered Users. The party or attorney who submitted the proposed order shall also serve the executed version of the proposed orders conventionally on case participants, who are not Registered Users.
- (6)** If electronic service of a document on a case participant fails, the case participant to be served may, upon motion, be entitled to an order extending the deadline by which to respond or act in response to the document.

**(G) Confidential or Personal Information in Documents.**

- (1)** Documents that are electronically filed shall not include personally identifiable information, unless such inclusion is necessary, relevant, and appropriate safeguards are made by the Filer.

- (2) Personally identifiable information includes social security numbers, financial account numbers, driver's license numbers, and other personal identifiers as set forth in Sup.R. 44(H).
- (3) If inclusion of personal or private information is necessary and relevant to the case, the Filer is responsible for redacting the document and filing the Confidential Disclosure of Personal Identifiers form (Mont. Co. P.C.F. 45D).
- (4) The Filer or Filer's attorney, as the case may be, is responsible for redacting personally identifiable information. The clerk may not review each document for compliance with this Rule; however, the clerk may refuse to accept any document that contains personally identifiable information that has not been redacted or submitted in accordance with this Rule.

**(H) Exceptions to eFiling.** The following types of documents may be filed conventionally, unless expressly required to be eFiled by the Court:

- (1) **Documents filed under seal.** Documents shall be filed under seal only with prior Court authorization. Documents shall be filed under seal by submitting them to the Clerk's Office in accordance with the process set forth in Mont. Co. P.C.R. 45.1(B).
- (2) **Documents presented for in camera review.** Documents shall be presented for in camera review by submitting them to the Judge or Magistrate in accordance with the process set forth in Mont. Co. P.C.R. 45.1(B) and (C).
- (3) **Exhibits.** Exhibits, transcripts, audio recordings, video recordings, and/or other items that cannot be captured, stored, or submitted in an electronic format may be filed and served conventionally. Such exhibits, transcripts, or other items shall be identified by a cover page bearing the case caption, case number, assigned judge or judicial officer, and name and party designation of the Filer.
- (4) **Persons with disabilities.** Persons with disabilities that prevent them from using the eFile System may move the Court for leave to file and serve documents conventionally. The motion for leave may be filed conventionally.
- (5) **Unregistered Users.** Filers who are not Registered Users of the Court's eFile System may file documents in hard copy with the clerk in person, by U.S. Mail, or by using the Clerk's Public Access Terminal. Documents filed in accordance with this Rule shall be deemed filed and shall become the Court's official Court record when they are entered by the clerk in the Court's eFile System.
- (6) **Original Last Will and Testament, Codicil, and/or Fiduciary Bond.** An original last will, codicil and/or fiduciary bond must be presented to the Court for review before the matter may be opened by the Filer using the eFiling System, in order to allow the Court the opportunity to verify that the document is an original document and not a copy.
  - (a) **Last Wills or Codicils.** In the case of last wills or codicils, an applicant (usually the Filer), shall submit all original last wills or codicils to the Clerk's Office along with the Notice of Deposit of Original Will/Codicil form (Mont. Co. P.C.F. 2.0A). The Court will review the document that is being presented as a last will or codicil, and if the document is an original, a case number will be assigned. This case number shall be

used for all subsequent filings in the matter. The Court may require a hearing on the admission of any document that is represented to be an original.

**(b) Fiduciary Bond.** The original fiduciary bond (or a copy), with an attached power of attorney or power of attorney subject to a standing order, shall be presented to the Court with the Notice of Deposit of Fiduciary Bond (Mont. Co. P.C.F. 4.2B). The original fiduciary bond will be held by the Court until a fiduciary is appointed, and then the original fiduciary bond will be filed. If an applicant has submitted an original fiduciary bond and he or she is not appointed, the Court may order the return of the original fiduciary bond before it is filed. Any additional bond, rider or other bond-related document may be eFiled after the initial Notice of Deposit of Fiduciary Bond is filed.

**(c) Case dismissal.** If the matter receives a case number and subsequently fails to proceed within ninety (90) days of the filing with the Court of the original last will, codicil, and/or fiduciary bond, the Court may close the case administratively, subject to the case being reopened at a later date.

**(I) Official Court Record.**

**(1)** The electronic version of a document that has been scanned, uploaded or otherwise electronically filed, shall constitute the Official Court Record.

**(2)** When the law requires the filing of an original document, such as a last will, voucher, bond, oath, mortgage document, birth certificate, foreign judgment, or other certified or verified document, the Filer must scan the original document and eFile the scanned document. The Filer must either:

**(a)** Retain the original document until the case is closed and the time for appeal has expired or any appeals have been heard or denied or

**(b)** File the original document with the appropriate agency or office as may be required by law.

**(3)** Notwithstanding these Local Rules, attorneys and all others shall abide by all relevant document retention mandates.

**(J) Payment of Filing Deposits.** In all eFiled matters, deposits required as security for costs and filing fees shall be paid electronically. Filers, who are required to post a deposit, are required to maintain a positive balance on deposit. If a positive balance is not maintained and a document is electronically submitted, the Court may charge the credit card on file without notifying the Filer prior to charging the credit card.

**LOCAL RULE 58.1**  
**DEPOSITS FOR COURT COST**

The Court accepts cash; money orders; cashier's checks; attorney, title company, or trust company checks; and American Express, MasterCard, Visa or Discover credit or debit cards, with a convenience fee.

- (A) Deposits shall be required upon the initial filing of any action or proceeding. Deposits shall be applied as filings occur and additional deposits may be required. The Court shall maintain and make available a current list of costs.
- (B) Pending cases shall maintain at least \$25.00 on deposit. If there is less than \$25.00 on deposit, the person responsible for the filing shall pay the cost of filing or tender an additional deposit before the filing will be accepted.
- (C) Jury deposits shall be paid contemporaneously with the filing of a jury demand.

**LOCAL RULE 60.1**

**APPLICATION FOR LETTERS OF AUTHORITY TO ADMINISTER ESTATE  
AND NOTICE OF APPOINTMENT**

**(A) Notice.**

- (1) Notice of an application for appointment of administrator shall be served by the Court at least seven (7) days prior to the date set for hearing, pursuant to Sup.R. 60(A).
- (2) Notice of the application and hearing shall be served by the Court to the known surviving spouse and next of kin, including residents and nonresidents.
- (3) If there is no known surviving spouse nor next of kin, the notice shall be served upon persons designated by the Court.
- (4) Pursuant to Sup.R. 60(B), the administrator shall give notice of the appointment within seven (7) days after appointment to all persons entitled to inherit, including persons entitled to an allowance for support, unless waivers are obtained.
- (5) The Court shall serve the spousal citation and summary of rights required by R.C. 2106.02 to the surviving spouse within fourteen (14) days of the appointment of administrator or executor.

**(B) Fiduciary Acceptance.** All executors and administrators shall sign and file a fiduciary's acceptance prior to the issuance of letters of authority.

**LOCAL RULE 61.1**  
**APPRAISERS**

**(A) When Required.** If the value of an asset is not readily ascertainable or has not otherwise been dispensed with by the Court, the fiduciary shall apply to the Court for appointment of a suitable and disinterested person to appraise personal and/or real property.

**(B) Appointment.**

**(1) Standard Appraiser List.** The Court maintains a list of pre-approved appraisers of real property, located on the Court's website, from which a fiduciary may request the appointment of a pre-approved appraiser.

**(a)** There is no requirement to provide supporting documentation as to the suitability of an appraiser on the Standard Appraiser List.

**(b)** Applicants seeking appointment as an appraiser on the Standard Appraiser List may do so pursuant to Mont. Co. P.C.R. 8.1.

**(c)** It may be prudent for a fiduciary or attorney to contact pre-approved appraisers, listed on the Standard Appraiser List, before designating an appraiser to ensure fees, availability, and other details.

**(d)** Any application for a standard appraiser shall use the Appointment of Appraiser form (Mont. Co. P.C.F. 3.0), which includes a proposed order, appointing the proposed standard appraiser.

**(2) Special Appraiser.** Upon application by a fiduciary, the Court may appoint a suitable, disinterested appraiser to appraise assets.

**(a)** The fiduciary shall present sufficient information with the application to establish that the proposed appraiser maintains the appropriate expertise by reason of education, special training, skill, licensing, experience, or otherwise, to render a lawful valuation of the asset(s).

**(b)** Any application for a special appraiser shall use the Judgment Entry Appointing Additional Appraisers (Mont. Co. P.C.F. 3.1), which includes a proposed order appointing the proposed special appraiser.

**LOCAL RULE 62.1**  
**CLAIMS AGAINST ESTATE**

- (A) Rejection of Creditor Claims.** If a creditor presents a claim under R.C. 2117.06 et seq. and the fiduciary later rejects that claim, the fiduciary shall file the rejection of the claim in the Official Court Record for the probate estate.
- (B) Resolution of Claims.** A fiduciary may not seek to close an estate until all claims have been resolved.
- (C) Liability of Fiduciary.** Pursuant to R.C. 2117.06(K) and R.C. 2113.53, if a distribution of assets is made by the fiduciary prior to resolution of all claims, the fiduciary may be personally liable to the estate if creditor claims are deemed lawful and estate assets are insufficient to pay valid claims.

**LOCAL RULE 64.1**  
**ACCOUNTS**

The requirements in this Rule apply to all accounts, unless specified otherwise.

**(A) Format of Accounts.** All accounts shall conform substantially to the following requirements:

- (1) Beginning Balance.** Each first account must begin with the total asset value shown on the inventory. All subsequent accounts must begin with the ending balance from the immediately preceding account.
- (2) Receipts.** The account must add to the beginning balance all assets acquired or discovered, all income received, and other forms of financial gain (realized and unrealized) since the beginning of the administration on first accounts or since the last accounting on all subsequent accounts. All receipts must be subtotaled by class, with all subtotals added to determine the total receipts during the accounting period.
- (3) Disbursements.** Any account must subtract all expenses paid, distributions made, amounts lost (realized and unrealized), and all other forms of expenditure since the beginning of the administration on the first account or since the last accounting on subsequent accounts. All disbursements must be subtotaled by class, with all subtotals added to determine the total disbursements during the accounting period.
- (4) Ending Balance.** The result, from adding the total receipts to the beginning balance and then subtracting the total disbursements, must be shown as the ending balance for the accounting period.

**(B) Assets Remaining in Fiduciary's Hands.** All accounts must itemize and describe assets and respective values that remain in the fiduciary's hands, which together comprise the ending balance shown on the account. On all accounts that are not final accounts, or are not final and distributive accounts in a decedent's estate, the fiduciary must provide the Court with written proof of the identity and current value of all assets remaining in the fiduciary's hands pursuant to Sup.R. 64(D) and these Rules.

**(C) Court Costs.** Pursuant to Sup.R. 64(E), a final or distributive account shall not be approved until all Court costs have been paid.

**(D) Accounts of Administrators and Executors.**

**(1) Time for Filing.** The fiduciary of a decedent's estate shall file a final and distributive account or a certificate of termination within six (6) months after the date of appointment, unless extended by the Court for the following reasons:

**(a) Notice to Extend Administration.** If the estate qualifies for extended administration beyond six months under one or more of the circumstances described in R.C. 2109.301(B)(1)(a) through (g), the fiduciary shall file a Notice to Extend Administration (Mont. Co. P.C.F. 13.10). The notice shall be filed no later than the date the initial six-month administration period elapses; Court approval is not required for filing.

**(b) Application to Extend Administration.** If the estate does not qualify for extended administration under subparagraph (a) above, and the fiduciary contends that the estate qualifies for extended administration under R.C. 2109.301(B)(1)(g), the fiduciary shall file an Application to Extend Administration (Mont. Co. P.C.F. 13.8). The Application

shall be filed no later than the date the initial six-month administration period elapses;  
Court approval is required

- (c) An Application for Extension of Time (Mont. Co. P.C.F. 3D), requesting an extension of time for filing an account, will only be approved by the Court after a Notice to Extend Administration (Mont. Co. P.C.F. 13.10) has been filed or an Application to Extend Administration (Mont. Co. P.C.F. 13.8) has been granted.
- (d) Filing a partial account before the expiration of the initial six-month administration period will not extend the administration without the filing of a Notice to Extend Administration (Mont. Co. P.C.F. 13.10) or the granting of an Application to Extend Administration (Mont. Co. P.C.F. 13.8).
- (e) If partial accounts are filed, then all subsequent accounts must be filed annually until administration of the estate is complete or otherwise ordered by the Court.

**(2) Partial Accounts.**

- (a) **Waivers.** Partial accounts submitted after the first partial account may be waived pursuant to R.C. 2109.301(A), unless the Court orders a full accounting for a particular accounting period. Waiver of a partial account does not waive the requirement of filing a status report.
- (b) **Status Report.** A status report signed by the fiduciary shall be filed with the Court when filing a partial account or waiver of partial account. Status reports shall include pertinent information such as the status of administration, efforts to close the estate, the steps needed to be completed before the estate may be closed, and any other pertinent information to apprise the Court.

**(3) Supporting Documentation or Vouchers.** All disbursements in all accounts must be supported by corresponding receipts, vouchers, cancelled checks, written acknowledgments or other appropriate evidence of payment. The following Rules set forth whether or not vouchers and other supporting documentation must be filed with the Court.

- (a) Except as provided herein, the fiduciary is not required to submit vouchers for disbursements.
- (b) The fiduciary shall submit a voucher or receipt for a disbursement made to or for a minor or an incompetent.
- (c) The fiduciary shall submit a voucher or receipt for a disbursement made to a fiduciary appointed by another Court, as well as a certified copy of the fiduciary's letters of authority.
- (d) The fiduciary shall collect and retain vouchers for his or her records. If an interested party or the Court requests to view a voucher, the fiduciary shall provide a copy of the requested voucher to the interested person or Court.
- (e) A statement from a bank or other financial institution showing the date, amount, payee, and purpose of a payment may be used as evidence of payment.

**(4) Certification of Service of Account.** Every fiduciary of a decedent's estate shall provide a copy of each account to all heirs or vested beneficiaries in compliance with R.C. 2109.32(B).

**(a)** Before or simultaneously with the filing of any account, the fiduciary shall file a Certification of Service of Account (Mont. Co. P.C.F. 13.9).

**(b)** In the alternative to providing signed green return receipt cards, acknowledgements of receipt, or other proof of service, the fiduciary or the fiduciary's attorney may attach to the Certification of Service of Account (Mont. Co. P.C.F. 13.9), an affidavit evidencing service of the account.

**(c)** The Court may require the fiduciary to produce the original signed green return receipt cards, acknowledgements, or other proof of service, in addition to scanned images, at any time.

**(5) Hearing on Account.** The Court shall set every account for a paper hearing not earlier than thirty (30) days upon filing pursuant to R.C. 2109.32(A).

**(a)** The Court may convert any paper hearing to an in-person hearing.

**(b)** No hearing is required upon the filing of a Certificate of Termination (Mont. Co. P.C.F. 13.6) under R.C. 2109.301(B)(3), unless the Court orders otherwise.

**(E) Accounts of Guardians and Conservators.**

**(1) Time for Filing.**

**(a)** Every fiduciary shall file the first account within one (1) year from the date of appointment.

**(b)** Generally, all subsequent accounts shall be due one (1) year from the ending date of the prior account.

**(c)** Every fiduciary shall file a final account within thirty (30) days after filing a notice of the death of a ward or other termination of guardianship or conservatorship, unless the Court orders otherwise.

**(2) Supporting Documentation or Vouchers.** The fiduciary shall submit vouchers for all disbursements pursuant to R.C. 2109.302.

**(3) Hearing.** Mont. Co. P.C.R. 64.1(F)(5) shall apply to hearings on guardianship accounts.

**(F) Accounts of Testamentary Trustees and other Fiduciaries.** All accounts of testamentary trustees and other fiduciaries shall be subject to Mont. Co. P.C.R. 64.1(D), except as provided in R.C. 2109.303(B).

**LOCAL RULE 65.1**  
**LAND SALES**

- (A) In every complaint for land sale filed in the Court, the party requesting the sale shall endorse the following certification:

“The undersigned hereby certifies that an examination of the public records of Montgomery County, Ohio has been made to determine the ownership of subject real estate and all parties who may claim an interest therein, and that, in the opinion of the undersigned, all parties have been named as parties to this action.”

The requesting party shall state as exceptions any interested party not so named.

- (B) In every motion for an order of sale filed in the Court, the party requesting the sale shall endorse the following certification:

“The undersigned hereby certifies that an examination of title to subject real estate has been extended to [date] to determine if any parties have acquired any interest therein subsequent to said previous examination and said examination discloses that, in the opinion of the undersigned, there are no such parties except parties to whom the doctrine of lis pendens applies.”

The requesting party shall state as exceptions any such party not subject to lis pendens. With the motion, the requesting party shall also file an updated title examination.

- (C) A purchaser of real estate through a land sale proceeding shall have thirty (30) days from the date of sale to obtain a title examination. The purchaser may waive any or all of this thirty day period by signing the confirmation order.

- (D) A proposed order to confirm the sale and an order of distribution shall be submitted with the motion to confirm the sale. The distribution of sale proceeds shall be included with the confirmation order.

- (E) In land sale proceedings that have not been concluded within one (1) year from the date of filing, the party requesting the sale shall file a status report.

(1) The status report shall detail the efforts being made to complete the sale of the real estate; the current physical status of the real estate; the amount and nature of any mortgages or liens; the amount and nature of any outstanding real estate taxes; the name and address of any real estate agency and real estate agent involved in listing the property; and the name, address, and telephone number of the insurance company and insurance agent involved in insuring the property.

(2) Upon review of the status report, the Court may set the matter for hearing.

**LOCAL RULE 66.1**  
**GUARDIANSHIPS**

**(A) Incompetents**

- (1) An applicant to be appointed guardian, except a state agency, shall complete a criminal record check that is acceptable to the Court.
- (2) An applicant to be appointed guardian shall complete and file an Applicant's Report (M.C. Form 5E).
- (3) All guardians shall receive a guardian's handbook issued by the Court. The handbook will provide the guardian with general information regarding the guardian's duties and responsibilities. The cost of the handbook will be assessed to the guardian of the estate.
- (4) Within three months of appointment, the guardian of the person shall file a Report of Ward's Legal Documents (Form 27.11M). If no guardian of the person was appointed, then the guardian of the estate shall be responsible for filing the report.
- (5) The guardian of the estate shall deposit the ward's will with the Court for safekeeping pursuant to the procedure set forth in R.C. 2107.07.
- (6) The guardian of the person shall file a Guardian's Report (Form 17.7) and Annual Guardianship Plan (Form 27.7M) annually, on or before the anniversary of their appointment. If no guardian of the person was appointed, then the guardian of the estate shall be responsible for filing the report and plan.
- (7) The guardian who is responsible for filing the report and plan shall file an updated Statement of Expert Evaluation (Form 17.1) biennially with the report and plan. If a physician or licensed clinical psychologist states on the evaluation that, to a reasonable degree of medical certainty, it is unlikely that the ward's mental competence will improve, the guardian may apply to the Court to dispense with the filing of updated statements of expert evaluation.
- (8) An Application for Authority to Expend Funds (Form 15.7) shall not be approved until a Guardian's Inventory (Form 15.5) has been filed. Funds and assets held in the name of the ward shall not be released to the guardian except upon order of the Court. An Application to Release Funds to Guardian (Form 15.6) shall state the value of the funds or assets sought to be released.
- (9) The funds and assets of the ward shall not be accessed through an automated teller machine or debit card. Electronic payment of routine and recurring expenses is permitted with Court approval.
- (10) Guardianships of the estate that involve Veterans' Benefits are subject to and must comply with R.C. Chapter 5905 and all other rules and regulations of the United States Department of Veterans Affairs. Applications for authority to expend funds shall be approved by the Department of Veterans Affairs or shall be set for hearing with notice given to the Department of Veterans Affairs.

**(11)** All guardians shall notify the Court of the death of the ward by written notice no later than sixty (60) days after the death of the ward.

**(B) Minors**

- (1)** A certified copy of the minor's birth certificate must be filed with the application for guardianship.
- (2)** The Court shall not accept for filing an application for guardianship of the person of a minor where another court has previously acquired jurisdiction over custody of the minor, unless the other court consents to the guardianship or declines jurisdiction by court order.
- (3)** The Court shall not accept for filing an application for guardianship of the person of a minor where the sole purpose is to establish residency for school attendance purposes, qualify the minor for health or life insurance or establish placement for adoption.

**(C) Emergency**

- (1)** An emergency guardian may be appointed by the Court if it is reasonably certain that immediate action is required to prevent significant injury to the person or estate of an incompetent or minor.
- (2)** The applicant shall file all necessary forms, which include the Supplement for Emergency Guardian (Form 17.1A). This form must be completed by a licensed physician and must be current.
- (3)** Simultaneously with the application for an emergency guardian, the applicant shall file an application for a regular guardianship, which must include a Statement of Expert Evaluation (Form 17.1). This form must be completed by a licensed physician or clinical psychologist.
- (4)** The Court will review the emergency application forthwith.
- (5)** If the application for emergency guardian is denied, the underlying application for guardianship will be heard as the Court's calendar permits.
- (6)** If the emergency application is granted, a hearing will be held within seventy-two (72) hours. The emergency guardianship order may be continued for a maximum of 30 days.

**LOCAL RULE 66.3**  
**GUARDIANSHIP COMPLAINTS**

- (A) Complaints shall be filed in writing using M.C. Form 17.0F, Guardianship complaint. The complaint shall be accompanied by the appropriate filing fee.
- (B) Upon filing, the complaint will be time stamped and docketed. Absent a court order to the contrary, the complaint will be considered a public document and will be maintained in the Court's file.
- (C) Within ten (10) days of the filing of the complaint, the Guardianship Social Worker will:
- (1) Add the complaint to the guardianship complaint database for monitoring.
  - (2) Mail a notice to the complainant acknowledging the filing of the complaint.
  - (3) Mail a copy of the complaint to the guardian with a notice advising the guardian of the filing of the complaint.
- (D) The guardian may file a written response to the complaint within ten (10) days of the mailing of the complaint and notice to the guardian. A copy of the written response will be mailed to the complainant by the court.
- (E) Within thirty (30) days of the filing of the complaint, the Court will review the complaint and develop a plan of action. Plans of action may include any of the following:
- (1) The matter may be set for hearing, in which case notice of the hearing will be mailed to the complainant, the guardian, and the ward.
  - (2) The Court may order an investigation of the complaint.
  - (3) The Court may determine that, on its face, the complaint does not warrant further action.
- (F) In all cases, the Court will dispose of the complaint by issuing a written order, decision, or entry, which will be mailed to the complainant and the guardian, and will be docketed and maintained in the Court's file.
- (G) Within ten (10) days of the filing of the order, decision, or entry, the Guardianship Social Worker will update the database to reflect the disposition of the complaint.
- (H) The foregoing procedure applies to communications received from the ward. However, the ward is not required to use the designated form nor to pay the filing fee.
- (I) Notwithstanding the foregoing procedure, the Court expressly reserves the right to take immediate action on complaints if such action is necessary in order to protect the safety, health, or welfare of the ward.

**Adopted: 4/4/16**  
**Revised: 12/15/17**

**LOCAL RULE 66.5**  
**GUARDIANS WITH TEN OR MORE WARDS**

Persons who are serving as guardian for ten or more wards shall file Annual Registration Guardian with Ten or More Wards (Form 27.5M) and Annual Fee Schedule Guardian with Ten or More Wards (Form 27.6M), on or before January 1 of each year, in case number 2015 MSC 406. Such persons shall attach their certificate of compliance with guardian education requirements to the form and shall not be required to file such certificates in the individual cases in which they are serving as guardian.

**LOCAL RULE 66.7**  
**GUARDIANSHIP EDUCATION**

**(A) Fundamentals of Adult Guardianship**

All guardians of adult incompetents shall complete a six-hour Fundamentals of Adult Guardianship course within six months of their appointment.

**(B) Continuing Guardian Education**

- (1) Guardians of adult incompetents who are not related to the ward by consanguinity or affinity shall complete a three-hour continuing guardian education course every year thereafter.
- (2) Guardians of adult incompetents who are related to the ward by consanguinity or affinity shall complete a three-hour continuing education course on or before the second anniversary of their appointment.

Guardians who are related to the ward by consanguinity or affinity shall complete a three-hour continuing education course on or before the third anniversary of their appointment.

Guardians who are related to the ward by consanguinity or affinity shall not be subject to any further continuing guardian education requirement, unless otherwise ordered by the Court.

**(C) Notice of Completion of Guardian Education**

Guardians who are subject to a guardian education requirement in a given year shall file a Notice of Completion of Guardian Education (Form 27.2M) with their annual Guardian's Report or Guardian's Account.

**(D) Waiver**

Upon application and for good cause shown, the Court may waive the Fundamentals of Adult Guardianship and/or Continuing Guardian Education requirement.

**LOCAL RULE 67.1**  
**ESTATES OF MINORS OF NOT MORE THAN TWENTY-FIVE THOUSAND**  
**DOLLARS**

- (A) **Generally.** When the net estate to a ward does not exceed twenty-five thousand dollars (\$25,000.00) for an inheritance or minor settlement pursuant to R.C. 2111.05 and R.C. 2111.18, the Court will generally dispense with the need to establish a full guardianship. If approved, the Court will generally order that the funds be deposited into an impounded (controlled) account in the name of the minor at a local financial institution until the minor reaches the age of eighteen (18) in lieu of a minor guardianship account. The structuring of the funds is also acceptable even though the structured amount may be in excess of twenty-five thousand dollars (\$25,000.00).
- (B) **Application.**
- (1) **Estates.** An Application to Dispense with the Appointment of Guardian (Mont. Co. P.C.F. 16.0A) shall be submitted by the parent(s) with whom the minor resides or the person who has legal custody of the minor pursuant to Sup.R. 67(A).
- (2) **Minor Settlements.** An Application to Dispense with the Appointment of Guardian (Mont. Co. P.C.F. 16.0A) shall be submitted by the guardian of the estate. If there is no guardian of the estate, the parent(s) with whom the minor resides or the person who has legal custody of the minor pursuant to Sup.R. 68(A).
- (C) **Value.** The net value of the whole estate or settlement shall be less than or equal to twenty-five thousand dollars (\$25,000.00), or a full guardianship must be established or otherwise maintained.
- (D) **Attorney deposits property.** The Applicant's attorney, or if the applicant is not represented, the payor or payor's attorney, shall immediately deposit said funds with the depository or deliver property to the person designated by the Court.
- (E) **Verification.** Upon deposit of the minor's property, the attorney, applicant or person designated by the Court to hold the property, shall obtain a completed Verification of Receipt and Deposit (Mont. Co. P.C.F. 22.3M).
- (1) The Verification of Receipt and Deposit (Mont. Co. P.C.F. 22.3M) shall be filed with the Court within seven (7) days, pursuant to Sup.R.67(C), from the issuance of the judgment entry dispensing with the appointment of a guardian, or as soon as practicable.
- (2) Failure to file the completed Verification of Receipt and Deposit (Mont. Co. P.C.F. 22.3M) may result in a citation or other sanction.
- (G) **Effect of Dispensing with the Guardianship.**
- (1) If the guardianship is dispensed with, bond requirements will be waived.
- (2) If the guardianship is dispensed with, no inventory or accountings will be required.

**(H) Procedure if Guardian already appointed.** If the guardianship is being administered and assets of the guardianship are less than or equal to twenty-five thousand dollars (\$25,000.00), the Guardian may file an Application to Terminate Guardianship (Mont. Co. P.C.F. 27.9M).

**LOCAL RULE 68.1**  
**SETTLEMENT OF MINOR'S CLAIMS**

- (A) **Net Proceeds greater than twenty-five thousand dollars (\$25,000.00).** The Court requires the appointment of a guardian of the minor's estate if the net proceeds of any settlement exceed twenty-five thousand dollars (\$25,000.00) under R.C. 2111.18. The guardianship shall be administered until the assets fall below twenty-five thousand dollars (\$25,000.00) and the Court approves a request to terminate the guardianship or the minor reaches eighteen (18) years of age, in which case the guardianship terminates by operation of law. If the applicant's intent is to structure the settlement, or a portion of the settlement, a full guardianship shall still be established so that the guardian may execute the settlement agreement, release and other relevant documents. The guardianship may be terminated as set forth below.
- (B) **Net Proceeds less than twenty-five thousand dollars (\$25,000.00), but greater than one thousand dollars (\$1,000).** If the settlement proceeds are in excess of \$1,000 and do not exceed \$25,000.00, the Court will generally dispense with the need to establish a full guardianship pursuant to R.C. 2111.05. The Court will generally order that the funds be deposited into an impounded (controlled) account in the name of the minor at a local financial institution until the minor reaches the age of eighteen (18) in lieu of a minor guardianship.
- (C) **Application Thresholds.**
- (1) **Net Settlement is less than twenty-five thousand dollars (\$25,000).**
- (a) If the net settlement proceeds to the minor do not exceed twenty-five thousand dollars (\$25,000.00), an Application to Dispense with Minor Guardianship (Mont. Co. P.C.F. 16.0A) and Application to Settle a Minor's Claim (Mont. Co. P.C.F. 22.0) shall be filed.
  - (b) The application shall be brought by the guardian. If there is no guardian, the application shall be brought by the parent(s) of the child or individual(s) having legal custody of the child.
  - (c) The applicant shall file a true and accurate copy of the minor's certified birth certificate with any application.
  - (d) If the application is accompanied by a current statement of an examining physician in respect to the injuries sustained, the extent of recovery, and the permanency of any result of the incident causing the injury to the minor pursuant to Sup.R. 68(B), medical records shall be sealed by the Court pursuant to Mont. Co. P.C.R. 45.1(B)(2)(b) ("No Remote or Direct Access by Public; Access by Judge, Court Staff, Clerk Staff, and Attorneys of Record").
  - (e) The application shall include the attorney fee agreement, any release(s), and statement of facts.
  - (f) The application shall state what additional consideration, if any, is being paid to persons other than the minor as a result of the incident causing the injury to the minor.
  - (g) If the guardianship is dispensed with, bond requirements will be waived.

- (h) If the guardianship is dispensed with, no inventory or accountings will be required.
- (i) The Court generally will not approve distribution of settlement proceeds exceeding \$1,000.00 directly to the parent(s) or legal custodian, absent a showing of exceptional circumstances.
- (j) If the guardianship is dispensed with, the legal or custodial parent(s) shall sign an Acknowledgement of Responsibility (Mont. Co. P.C.F. 16.0C).

**(2) Net Settlement is in excess of \$25,000.**

- (a) If the net settlement proceeds to the minor exceed twenty-five thousand dollars (\$25,000.00), the applicant shall file an Application for Appointment of Guardian of a Minor (Mont. Co. P.C.F. 16.0) and Application to Settle a Minors Claim (Mont. Co. P.C.F. 22.0).
- (b) The applicant shall file a true and accurate copy of the minor's certified birth certificate with any application.
- (c) If the application is accompanied by a current statement of an examining physician in respect to the injuries sustained, the extent of recovery, and the permanency of any result of the incident causing the injury to the minor pursuant to Sup.R. 68(B), medical records shall be sealed by the Court pursuant to Mont. Co. P.C.R. 45.1(B)(2)(b) ("No Remote or Direct Access by Public; Access by Judge, Court Staff, Clerk Staff, and Attorneys of Record").
- (d) The application shall include the attorney fee agreement, any release(s), and statement of facts.
- (e) The application shall state what additional consideration, if any, is being paid to persons other than the minor as a result of the incident causing the injury to the minor.

**(D) Notice of Hearing in all Minor Settlements.**

- (1) The noncustodial parent(s) shall be entitled to at least seven (7) days' notice of the application to settle the minor's claim, which notice may be waived. The applicant or applicant's attorney shall serve a copy of the application in writing and pursuant to Civ.R. 73(E) to all interested parties.
- (2) The injured minor and applicant shall be present at the hearing pursuant to Sup.R. 68(C), unless waived in writing by the Court in advance of the hearing. School or extracurricular activities are not excuses for the minor's failure to attend the hearing.
- (3) A hearing may be dispensed if all of the following apply:
  - (a) The gross amount of the proposed settlement must not exceed \$1,000.00; and
  - (b) There must not be any disputed claims on any portion of the settlement proceeds.
- (4) If the guardianship is dispensed because assets do not exceed twenty-five thousand dollars (\$25,000.00), a Verification of Receipt and Deposit (Mont. Co. P.C.F. 22.3) shall be

executed by the financial institution and filed with the Court within seven (7) days or as soon as practical, pursuant to Sup. R. 67(C), from the issuance of the entry approving.

- (5) A Report of Distribution of Minor's Claim (Mont. Co. P.C.F. 22.4) shall be filed with the Court in all cases no later than sixty (60) days after the entry approving the minor settlement.

**(E) Structured Settlements.**

- (1) If the settlement of the minor's claim involves a structured settlement, a copy of the proposed structured settlement shall be attached to the application. A statement disclosing the total actual cost of the structured settlement shall be included.
- (2) If the structured settlement is to be funded by an annuity, an affidavit, or other similar proof verifying that the insurer issuing the annuity funding the structured settlement meets the following qualifications, must also accompany the application.
  - (a) **Licensing.** If the settlement is to be funded by an annuity, the annuity shall be provided by an annuity carrier that is licensed to write annuities in Ohio. The company issuing the annuity must be licensed and in good standing to write annuities in Ohio.
  - (b) **Capital Reserves.** The company issuing the annuity must have a minimum of one hundred million dollars (\$100,000,000.00) in capital reserves and surplus, exclusive of mandatory security valuation reserves.
  - (c) **Rating.** The company issuing the annuity must have one of the following present ratings:
    - (i) A++, A+ or A from A.M. Best Company;
    - (ii) AAA, Aa1 or Aa2 from Moody's Investors Service;
    - (iii) AAA or AA from Standard's & Poor's Corporation; or
    - (iv) AAA, AA+ or AA from Fitch Ratings.
- (3) The annuity carrier issuing the annuity contract may not enter into an assumption reinsurance agreement for the contract without the prior approval of the Court, the owner of the contract, and the claimant having the beneficial interest in the annuity. In all instances of reinsurance, the broker or annuity carrier shall provide the Court with an affidavit to certify that the carrier meets the standards set forth in this Rule.
- (4) Upon approval of the settlement and if the structured settlement results in the guardianship of the estate having less than twenty-five thousand dollars (\$25,000.00) (e.g. \$100,000 structured in an annuity and \$0.00 in the guardianship account), an Application to Terminate Guardianship (Mont. Co. P.C.F. 27.9M) may be filed by the guardian to terminate the guardianship.

- (F) Guardians Ad Litem.** The Court may appoint a guardian ad litem sua sponte or upon motion of an interested party.

**LOCAL RULE 70.1**

**SETTLEMENT OF WRONGFUL DEATH AND SURVIVAL CLAIMS**

This Rule provides requirements in the settlement and apportionment of wrongful death and survival claims.

**(A) Application.**

- (1) All applications shall be filed in compliance with Sup.R. 70.
- (2) The attorney fee agreement relating to the underlying wrongful death and survival claims shall be filed with the application.
- (3) The applicant shall use the form titled “Wrongful Death ‘Other Next of Kin’ Tier Two Beneficiaries” (Mont. Co. P.C.F. 14.4), identifying all individuals entitled to notice of the application under R.C. 2125.02(A)(1).
- (4) Interested parties include the decedent’s surviving spouse, children, parents, and all “other next of kin.” See *In re Estate of Payne*, 10th Dist. Franklin No. 04AP-1176, 2005-Ohio-2391.
- (5) If the application involves minor(s), see Mont. Co. P.C.R. 68.1.

**(B) Notice.** The fiduciary or fiduciary’s attorney shall serve a copy of the full application and notice of hearing, in writing, to all interested parties pursuant to Civ.R. 73(E).

- (1) Notice must be served at least seven (7) days prior to any hearing.
- (2) All interested parties shall be served notice. See Mont. Co. P.C.R. 70.1(A)(3) and (4).
- (3) Proof of service shall be filed with the Court prior to the hearing.
- (4) In the alternative to providing signed green return receipt cards, acknowledgements of receipt, or other proof of service, the fiduciary or the fiduciary’s attorney may attach waivers as proof of service.
- (5) The Court may require the fiduciary to produce the original signed green return receipt cards, acknowledgements, or other proof of service at any time.

**(C) Hearing.** The Court shall set all applications for settlement of wrongful death and survival claims for hearing.

- (1) A hearing may be dispensed if all of the following apply:
  - (a) The gross amount of the proposed settlement must not exceed ten thousand dollars (\$10,000.00).
  - (b) There must not be any disputed claims on any portion of the settlement proceeds.

- (2) After the first hearing, the Court may dispense with the requirement of additional hearings in cases where there is the possibility of multiple separate settlements, unless there are changes in the beneficiaries or percentages to be apportioned (e.g. mass tort litigation settlements).
  - (3) A Report of Distribution of Wrongful Death and Survival Claim (Mont. Co. P.C.F. 14.3) must be filed with the Court no later than sixty (60) days after the entry approving the wrongful death and survival claim settlement.
- (D) **Guardian Ad Litem.** The Court may appoint a guardian ad litem sua sponte or upon motion of an interested party.

**LOCAL RULE 71.1**  
**ATTORNEY FEES**

The Rules of Professional Conduct and Rules of Superintendence shall govern the reasonableness of all attorney fees. The Court has the ultimate responsibility and authority to review attorney fees as required by such rules.

Time expended by Counsel to prepare a representation agreement, to prepare and file an Application for Attorney Fees or to prepare and file an Appendix B have been determined by this Court to be the costs of counsels doing business and shall not be approved for compensation from the assets of the underlying case. The Court may strike any request to be compensated for the preparation or filing of a representation agreement, an Application for Attorney Fees or an Appendix B form or any request for compensation.

**(A) Decedents' Estates**

**(1) Partial Accounts**

- (a)** An application for the payment of attorney fees on a partial account shall set forth the amount of requested fees and an hourly summary of services provided that justifies the requested fees.
- (b)** An application for the payment of attorney fees on a partial account shall not be approved as a percentage of the attorney fees computed pursuant to Appendix A to the Local Rules.
- (c)** In solvent estates, an application for the payment of attorney fees on a partial account shall not be required if all of the beneficiaries of the estate consent in writing to the payment of such fees. Appendix C to the Local Rules shall be used for written consents.

**(2) Final Accounts** If service is deficient, the individual or individual's attorney responsible for service shall contact all interested parties and notify the Court so that prompt action may be taken to remedy or address the service failure.

- (a)** An application for the payment of attorney fees on a final account is not required if any of the following applies:
  - (i.)** Payment of the fees is included in an accounting or certificate of termination filed by the fiduciary, and the fiduciary is the sole beneficiary of a solvent estate.
  - (ii.)** All of the beneficiaries and creditors of the estate whose share will be charged with payment of any part of the fees, consent in writing to the specific dollar amount to be paid and the consent is filed with the account that claims credit for payment of the fees.

In such cases, a guardian may consent for the guardian's ward, the fiduciary of a deceased beneficiary's estate may consent for the deceased beneficiary and a testamentary or inter vivos trustee may consent for the trust beneficiaries.

Consents may not be used if a complaint for will contest, determination of heirship, or complaint for any other civil action has been filed that may change the persons who would be the beneficiaries of the decedent's estate.

(iii.) A computation of attorney fees pursuant to Appendix A is attached to the account. Appendix A is merely a guideline and shall not be used by the attorney to receive fees that would be unreasonable under the Rules of Professional Conduct or the Rules of Superintendence

(b) If an application for payment of attorney fees on a final account is signed by the fiduciary and contains an itemized description of the legal services provided, the Court may approve the application without a hearing.

(3) If Appendix A is used to compute attorney fees, no fees shall be allowed on funds advanced to the estate.

#### **(B) Guardianships and Trusts**

No hearing shall be required upon an application for attorney fees if the following apply:

(1) The application is signed by the fiduciary.

(2) The application contains an itemized statement of the legal services provided with the hourly rate charged.

(3) The order approving payment of the fees contains a statement that a credit for payment of the fees may be taken in the next accounting.

#### **(C) Settlement of Wrongful Death Claims**

(1) A contingent fee agreement that does not exceed 33 1/3% of recovery in personal injury matters, 40% if an appeal is taken in personal injury matters, or 40% in a medical malpractice action may be approved by the Court at the settlement hearing without prior approval by the Court.

(2) If the contingent fee agreement exceeds these guidelines, prior approval must be obtained from the Court before the fiduciary may enter into the contract or fee agreement.

(3) In all cases, the Court shall review the reasonableness of fees and costs at the settlement hearing. The foregoing standards shall apply in cases governed by Local Rules 68.1 and 70.1.

#### **(D) Court Appointed Attorney Fees in Guardianships**

(1) Appointed counsel for an indigent ward or alleged ward shall be compensated for services provided, at a rate determined by the Court, upon submission of an application for payment that sets forth the date, nature of the services provided, and time expended.

(2) Appointed counsel for a non-indigent ward or alleged ward shall be compensated for services provided, at an approved reasonable hourly rate, upon submission of an application for payment that sets forth the date, nature of services provided, and time expended. The application must be signed by counsel and the fiduciary and approved by the Court.

**(E) Attorney Serving as Fiduciary**

- (1) If the fiduciary of a decedent's estate is also the fiduciary's counsel, or if a member of the fiduciary's law firm is the fiduciary's counsel, the attorney may not take attorney fees computed pursuant to Appendix A if the attorney takes both fiduciary and attorney fees. Rather, the attorney must submit an itemized application for fees showing services provided as a fiduciary and services provided as an attorney.

If the attorney elects to take only one fee, the attorney may take fiduciary fees computed pursuant to R.C. 2113.35 or attorney fees computed pursuant to Appendix A.

- (2) If the fiduciary of a guardianship or trust estate is also the fiduciary's counsel, the attorney shall submit an itemized application for fees showing services provided as a fiduciary and services provided as an attorney.

**Adopted: 2/1/05**  
**Revised: 8/1/14**

**LOCAL RULE 72.1**  
**EXECUTOR AND ADMINISTRATOR FEES**

A computation of fiduciary fees shall be filed with each account in which credit has been taken for payment of fees. Appendix D to the Local Rules or a similar form shall be used to compute the allowable fiduciary fees.

**LOCAL RULE 73.1**  
**GUARDIAN FEES**

- (A) A guardian may take guardian fees without application or order of the Court if the fees are less than or equal to the sum of the following:
- (1) 5% of income from intangible investments and deposits and installment receipts, such as Social Security or Veterans' Benefits;
  - (2) 10% of gross rentals from real estate actually managed by the guardian (5% if proceeds of a net lease);
  - (3) .25% of intangible personal property investments and deposits for each year of the accounting period;
  - (4) 1% of distribution of personal property corpus at conclusion of the guardianship.
- (B) A computation of fees shall be filed with each account in which credit has been taken for payment of fees. Appendix E to the Local Rules or a similar form shall be used to compute the allowed fees. Existence of the above schedule does not constitute approval by the Court of the reasonableness of the fees taken.
- (C) A corporate guardian that is not required to post bond may take guardian fees in accordance with its published fee schedule, provided the fee schedule has been filed with the Court. A corporate guardian shall file its current published fee schedule with the Court on an annual basis. Any amendments to the schedule must be filed before a fee may be taken in accordance with the amended schedule. Fee schedules shall be limited to a maximum 1% fee for all guardianship estates with a market value of \$75,000.00 or less.
- (D) Applications for guardian fees that are filed by guardians of veterans must comply with R.C. Chapter 5905 and the rules and regulations of the Department of Veterans Affairs.

**LOCAL RULE 74.1**  
**TRUSTEE FEES**

- (A) Except as provided in the trust instrument, a trustee may take trustee fees without application or order of the Court, if the fees are less than or equal to the sum of the following:
- (1) 5% of income from intangible investments and deposits and installment receipts, such as Social Security or Veterans' Benefits;
  - (2) 10% of gross rentals from real estate actually managed by the guardian (5% if proceeds of a net lease);
  - (3) .25% of intangible personal property investments and deposits for each year of the accounting period;
  - (4) 1% of distribution of personal property corpus at conclusion of the guardianship.
- (B) A computation of fees shall be filed with each account in which credit has been taken for payment of fees. Appendix F to the Local Rules or a similar form shall be used to compute the allowed fees. Existence of the above schedule does not constitute approval by the Court of the reasonableness of the fees taken.
- (C) A corporate trustee may take trustee fees in accordance with its published fee schedule, provided the fee schedule has been filed with the Court. A corporate trustee shall file its current published fee schedule with the Court on an annual basis. Any amendments to the schedule must be filed before a fee may be taken in accordance with the amended schedule. Fee schedules shall be limited to a maximum 1% fee for all trust estates with a market value of \$75,000.00 or less.

**LOCAL RULE 75.1**  
**LOCAL RULES**

**(A) Guardians Ad Litem**

**(1) Qualifications**

A guardian ad litem shall be an attorney who is not associated with an attorney of record for the proceeding in which the guardian ad litem has been appointed.

**(2) Appointment**

**(a) Land Sales**

Subject to approval by the Court, a guardian ad litem shall be appointed on recommendation and entry of counsel of record

**(b) All Other Matters**

A guardian ad litem may be appointed without recommendation upon a notification of the necessity for appointment.

**(3) Fees**

**(a) Land Sales**

Unless otherwise ordered by the Court, a \$10.00 fee shall be taxed in the costs of the case for each guardian ad litem.

**(b) All Other Matters**

Unless otherwise ordered by the Court, upon application and entry, a fee based on a reasonable hourly rate for time expended shall be taxed in the costs of the case for each guardian ad litem.

**(B) Marriage Licenses**

- (1)** Applicants for a marriage license must review the certified abstract of marriage for accuracy before signing the abstract. In the event errors are discovered on the abstract or marriage certificate after it has been issued, an application to correct the certified abstract of marriage or marriage certificate must be filed with the Court. The application may be filed by the applicants or an interested party and must be accompanied by supporting affidavits. The Court may set the application for hearing. If the Court grants the application, the Court shall issue a judgment entry correcting the certified abstract of marriage or marriage certificate.
- (2)** If an officiant fails to timely return a certificate of marriage to the Court, one or both of the applicants for the marriage license may file an application to issue the certificate of marriage, which the Court shall set for hearing. If both applicants for the marriage license do not join in filing the application, the non-joining applicant must be notified of the hearing.

**(C) Inventories of Safe Deposit Boxes**

If keys are available, the Court shall appoint counsel for the fiduciary of the decedent's estate or a deputy clerk of the Court as a commissioner to list the contents of the box and retrieve the decedent's will and codicils from the decedent's safe deposit box for delivery to the Court.

**(D) Compliance With Americans with Disabilities Act**

- (1) Persons** with disabilities, special needs, or the need for an interpreter shall make requests to the Court Administrator for reasonable accommodations no later than seven (7) days prior to any scheduled hearing or proceeding.
- (2)** If the interpreter service is no longer required or if the parties continue the hearing, the person making the request shall immediately notify the Court Administrator to cancel or reschedule the service. Failure to notify the Court may result in the person paying any cancellation fee for the interpreter service.

**LOCAL RULE 78.1**  
**CASE MANAGEMENT**

This Rule governs case management of all proceedings in this Court that are not addressed elsewhere in these Local Rules.

**(A) Multiple Fiduciaries.**

- (1) In cases, in which more than one fiduciary is serving simultaneously, all documents requiring the fiduciary's signature shall be signed by all co-fiduciaries.
- (2) Unless specifically nominated in a last will, power of attorney or other controlling document, the Court will typically not appoint co-fiduciaries or multiple fiduciaries absent extraordinary circumstances.

**(B) Preparation for Court Hearings.** In all matters, the applicant, fiduciary, movant, plaintiff or other party or their attorney, shall examine the docket and/or court records prior to every hearing or trial to ensure all requisite service has been perfected.

- (1) The individual or individual's attorney responsible for service of notice shall notify the Court at least two (2) days prior to a court hearing if service of notice appears incomplete or deficient.
- (2) If service is deficient, the individual or individual's attorney responsible for service shall contact all interested parties and notify the Court so that prompt action may be taken to remedy or address the service failure.

**(C) Fiduciary Bonds.**

- (1) Fiduciaries of decedent's estates shall be required to post a minimum bond, of no less than twenty thousand dollars (\$20,000.00), pursuant to R.C. 2109.04, unless bond is waived by the last will or excused by law.
  - (a) Unless otherwise ordered by the Court, bond shall be posted in an amount double the value of the estate's personal property and annual real property rentals, or if the estate has no personal property nor annual real property rentals, in an amount determined by the Court.
  - (b) The amount of the bond is subject to being adjusted upward or downward upon the filing of the inventory, a land sale, consent(s) power to sell real estate, partial accounts, disputes, and other matters that may involve a fiduciary's access to assets.
- (2) Guardians of the estate shall be required to post a minimum bond, of no less than twenty thousand dollars (\$20,000.00). Unless otherwise ordered by the Court, bond shall be posted in an amount double the value of the ward's personal property plus double the amount of the ward's annual income. The amount of the bond is subject to being adjusted upward or downward upon the filing of the inventory, a land sale, consents to sell real estate, partial accounts, disputes, and other matters that may involve a fiduciary's access to assets.
- (3) Trustees of testamentary trusts shall be required to post a minimum bond, unless bond is waived by the last will or excused by law. Unless otherwise ordered by the Court, bond shall be posted in an amount double the value of the trust's personal property plus double the amount of the trust's projected annual income. The amount of the bond is subject to

being adjusted upward or downward upon the filing of the inventory, a land sale, consents to sell real estate, partial accounts, disputes, and other matters that may involve a fiduciary's access to assets.

- (4) Fiduciary bond premiums must be paid when due. If the Court is notified that a fiduciary bond premium is delinquent, revoked or otherwise unsecured, the Court may take appropriate action, including removal.

**(D) Original Documents.**

(1) **Filing Original Last Will and Testament.** See Mont. Co. P.C.R. 57.2(H)(6)(a). Note the original is required to be filed.

(2) **Filing Original Bond.** See Mont. Co. P.C.R. 57.2(H)(6)(b). Note an original is preferred, but not required. Also, subsequent additional bonds or riders may be eFiled rather than submitted in hard copy.

**(E) Multiple or Related Cases.** In all matters, in which there are multiple case numbers and/or related matters, all case numbers to open cases shall be listed in the caption of any and all filings made and filed under all case numbers.

(1) A related case shall include, but not be limited to, any and all matters in which the same individual is a ward and/or decedent in an open case in this Court (e.g. ward expires and a decedent's estate is opened for administration).

(2) A related case shall also include, but not be limited to, any and all matters in which one matter may impact parties, assets, or other related proceedings (e.g. will contest and estate administration).

**(F) Jury Management Plan.** The jury management plan for this Court shall be the same as the jury management plan set forth in the Local Rules of Practice and Procedure for the General Division of the Montgomery County Common Pleas Court.

**(G) Withdrawal of Attorney.**

(1) An attorney who has entered an appearance in a case shall remain in the case until the case is concluded. The Court may permit an attorney to withdraw if all of the following apply:

(a) The attorney files a motion to withdraw demonstrating good cause, served on the client(s) within a reasonable time frame as not to cause hardship to the client in the underlying matter.

(b) The attorney lists in the motion all known filing deadlines and Court appearance dates; and

(c) The attorney serves notice to all client(s) pursuant to Civ.R. 73(E) and issues a certificate of service to all attorneys, unrepresented parties, and interested persons. Interested persons include, but are not limited to, next of kin, legatees, devisees, creditors, trust beneficiaries, and bonding agencies.

(2) The Court may schedule the motion to withdraw for hearing. If there is a pending hearing in the case, the motion to withdraw shall be set at that time.

- (3) Substitution of attorney shall be in writing, signed by the withdrawing attorney or the fiduciary, and signed by the substituting attorney. The substitution shall contain a certificate of service providing notice to the fiduciary and notice shall be served on the fiduciary, all attorneys, bonding agencies, and interested persons of record.

**(H) Citations to File Account, Inventory, Certificate of Notice of Probate of Will, or Report.**

- (1) **Generally.** Each fiduciary and fiduciary's attorney shall adhere to the statutory or court-ordered time period for filing the inventory, account, certificate of notice of probate of will, report of distribution, fiduciary's report, or other required filing pursuant to Sup.R. 78(A) and R.C. 2109.31. Failure to adhere to any deadline(s) subjects the fiduciary and the fiduciary's attorney of record to the citation process as set forth below.

- (2) **Process.**

- (a) **Timing.** The Court will issue a citation promptly after expiration of the required due date. The Court may not send any prior notice or reminders that the filing is overdue.

- (b) **Content.** The citation may contain the following:

- (i) A statement that the particular account, inventory, certificate of notice of probate of will, report or other delinquent filing is overdue;
- (ii) An order to the fiduciary to file the account, inventory, certificate of notice of probate of will, report, delinquent filing or otherwise to appear before the Court on a specified date for an in-person hearing, typically no less than thirty (30) days from the original deadline; and
- (iii) A statement that, upon the issuance of the citation, an extension to file the account, inventory, certificate of notice of probate of will, report or other delinquent filing may be obtained from the Court only on or after the date specified date for an in-person hearing.

- (c) **Response.** The fiduciary and counsel, if represented, shall remedy any and all defects noted in the citation at least ten (10) days prior to the hearing date specified in the citation. If the defect(s) are remedied, the Court will issue an order to that effect in writing—otherwise, the citation shall progress to hearing.

- (3) **Citation Hearing.**

- (a) The fiduciary and the fiduciary's attorney (if represented) shall appear in-person at all citation hearings, unless expressly excused by the Court.
- (b) The fiduciary's attorney has no authority to excuse the attendance of any fiduciary.
- (c) This in-person appearance requirement applies to all fiduciaries and attorneys of fiduciaries, regardless of where they reside.
- (d) The fiduciary's attorney may not send any other attorney in his or her place, unless a suitable and well-informed substitute enters an appearance prior to the hearing.
- (e) Failure to appear by the fiduciary or the fiduciary's attorney constitutes contempt of the Court.

- (f) The Court will only grant a continuance of the citation hearing upon a showing of exceptional circumstances.
    - (i) A request for a continuance of the citation hearing shall be filed at least seven (7) days prior to the scheduled citation hearing; and
    - (ii) Any request for a continuance of the citation hearing shall be in writing, and a proposed order granting the continuance shall accompany the written request. The Court must approve the request for a continuance in writing, otherwise, the citation will progress to hearing.
  - (g) At the conclusion of the citation hearing, the Court will issue an order imposing sanctions as set forth below in Mont. Co. P.C.R. 78.1(H)(4). The order will also set a deadline by which the fiduciary must file all delinquent documents.
  - (h) The Court may also issue further orders as the Court deems necessary under the circumstances.
- (4) Fiduciary Sanctions.** Pursuant to R.C. 2109.31(C), if a citation is issued to a fiduciary or fiduciary's attorney, and if the fiduciary fails to file the account, inventory, certificate of notice of probate of will, report, or other delinquent filing prior to the date specified in the citation, the Court may order, on that date, one or more of the following:
- (a) The removal of the fiduciary;
  - (b) A denial of all or part of the fees to which the fiduciary otherwise would be entitled;
  - (c) A continuance of the time for filing the account, inventory, certificate of notice of probate of will, report, or other delinquent filing;
  - (d) A continuance or continuance in progress of the hearing;
  - (e) An assessment against the fiduciary of a penalty of one hundred dollars (\$100.00) and costs of twenty-five dollars (\$25.00) for the hearing, or a suspension of all or part of the penalty and costs;
  - (f) That the fiduciary is in contempt of the Court for the failure to comply with the citation and that a specified daily fine, imprisonment, or daily fine and imprisonment may be imposed against the fiduciary, beginning with the appearance date, until such time as the account, inventory, certificate of notice of probate of will, report, or other delinquent filing is filed with the Court;
  - (g) If the fiduciary does not appear before the Court on the specified appearance date, that the fiduciary is in contempt of the Court for the failure to comply with the citation, and that one of the following may occur:
    - (i) The fiduciary shall be taken into custody by the sheriff or a deputy sheriff and brought before the Court.

(ii) The fiduciary shall appear before the Court on a specified date or otherwise be taken into custody by the sheriff or a deputy sheriff and brought before the Court.

(5) **Attorney Sanctions.** Pursuant to Sup.R. 71, 77 and 78, in addition to any sanction listed above under Mont. Co. P.C.R. 78.1(H)(4) set forth above, the fiduciary's attorney may face reduced or denied attorney fees and/or additional penalties. The fiduciary's attorney may also be denied appointments in other cases in this Court, as well as barred from being appointed in any new proceeding before the Court or serving as attorney of record in any new estate, guardianship, or trust case, until all of the delinquent pleadings are filed.

(I) **Unknown Addresses.** In all matters, whenever a fiduciary, applicant, or other party, who maintains the burden of notice and/or service under the law, claims that addresses for interested parties, entitled to notice, are unknown, then an Affidavit for Search of Address (Mont. Co. P.C.F. 110) shall be filed with the Court.

(J) **Trusts.** A memorandum or certification of trust shall be filed in all matters in which a trustee is receiving a distribution or disbursement from an estate (e.g. pour-over last will). The Court may require the filing of a memorandum or certification of trust in any other type of matter involving a trust.

**LOCAL RULE 78.2**  
**DECEDENT'S ESTATES**

This Rule addresses case management issues in decedent's estate cases.

**(A) All Types.**

- (1) Last Will and Testament.** Before any filings are made, the applicant or the applicant's attorney shall investigate the matter to determine whether a decedent's last will is on deposit with the Court.
- (2) Death Certificate.** A copy of the decedent's death certificate shall be filed when opening every decedent's estate matter.
  - (a)** The applicant shall redact the decedent's social security number and date of birth from the death certificate before it is filed.
  - (b)** If the county of residence on the death certificate is other than Montgomery County, Ohio, the applicant shall file an affidavit setting forth the additional facts known to the applicant that has caused the applicant to determine that the decedent was domiciled in Montgomery County, Ohio at the time of the decedent's death.
- (3) Deceased Heir or Beneficiary.** If a person, who is the decedent's next of kin or a vested beneficiary under the decedent's last will, is deceased, the name and date of death of that individual shall be provided on the form titled Surviving Spouse, Children, Next of Kin, Legatees and Devisees (Mont. Co. P.C.F. 1.0). The applicant should consult R.C. 2105.06 to determine the level of consanguinity to include on Mont. Co. P.C.F. 1.0. For example, deceased parents should be shown on Mont. Co. P.C.F. 1.0, anytime siblings or more distant relationships of consanguinity are the next of kin.
- (4) Alternate Appraisal Methods.** Certain assets may be valued without the appointment of appraisers.
  - (a) Real Property.** The fiduciary may use the total valuation of any real property by the county tax auditor pursuant to R.C. 2115.06.
    - i.** A copy of the Auditor's property record summary, which should include basic information such as total valuation for tax purposes, owner(s), square footage, year built, legal description, etc. shall accompany any inventory or appraisal filing with the Court.
    - ii.** If the decedent owned less than the entire interest in a particular asset, the asset description must reveal the fractional interest the decedent owned and the value of that fractional interest.
  - (b) Motor Vehicles.** The fiduciary may use the average trade-in value as shown on generally recognized valuation resources for motor vehicles (i.e. N.A.D.A. or Kelly Blue Book) as the fair market value of the motor vehicles. A copy of the valuation must accompany any inventory or appraisal filing with the Court. If the condition of the vehicle warrants a deviation to the "high" or "low" trade-in value, then sufficient

explanation should be provided on the inventory or appraisal to justify the deviation from average trade-in value.

(c) **Businesses.** In situations where the decedent was the sole owner of an entity, and the only asset(s) of the entity are readily ascertainable, the entity may be appraised at the readily ascertainable amount (e.g. decedent died as sole member and manager of a limited liability company that consists of a single operating bank account). A copy of the valuations supporting the readily ascertainable value must accompany any inventory or appraisal filing with the Court. Ongoing or complicated businesses with accounts receivable, good will, stock interests, and/or payroll, etc., should utilize an appropriate professional(s), such as a certified public accountant, to value the business pursuant to Mont. Co. P.C.R. 61.1(B)(2) above.

(d) **Tangible personal property worth less than or equal to a total aggregate value of \$5,000.** The fiduciary may provide an estimate of the fair market value of household goods, trade tools, and similar items if the total value of all tangible personal property does not exceed \$5,000. Collectibles such as jewelry, stamp collections, artwork, antiques, and similar items shall be appraised.

(e) All inventory valuations shall reflect the value of the asset as of the date of death.

(5) **Automobile Transfers.** The appropriate Montgomery County prescribed forms shall be used for all automobile transfers. All portions of the forms shall be completed upon filing. An Executor with the power of sale under a last will may, but is not required to, file automobile transfer forms to transfer automobiles that are subject to probate administration. See Application and Entry for Sale/Transfer (Mont. Co. P.C.F. 9.0A).

(6) **Inventories.** Upon the filing of an inventory, the Court shall set a date and time for a paper hearing on the approval of the inventory no more than one month after the day the inventory was filed. R.C. 2115.16

(a) Notice must be served on the surviving spouse by the fiduciary pursuant to R.C. 2115.04.

(b) The contents of the inventory shall be pursuant to R.C. 2115.09.

(c) It is recommended, but not required, to serve a copy of the inventory on all of the heirs at law in an intestate estate or vested beneficiaries in a testate estate.

(d) Transfers of real property (e.g. certificates of transfer) and automobile transfers shall not receive court approval until an inventory is filed with the Court.

(7) **Exceptions to Inventories and Accounts.**

(a) When exceptions to the inventory or account are filed, the Court may set the matter for a pretrial conference within thirty (30) days after the exceptions are filed, unless otherwise ordered by the Court.

(b) If an interested party files exceptions to an account, the fiduciary shall file all vouchers relating to the exceptions with the Court at least five (5) days prior to the hearing on the exceptions or provide all vouchers to all interested parties.

- (c) If a party files exceptions to the account after the time permitted in R.C. 2109.33, the Court may allow further time for filing the exceptions and will consider the exceptions, unless the fiduciary proves that the person filing the exceptions received notice of the hearing on said account.
- (8) Certificates of Transfer.** All proposed Certificates of Transfer (Mont. Co. P.C.F. 12.1) submitted to the Court for approval shall be typed. Before filing a Certificate of Transfer with the Court, the person filing the Certificate of Transfer must verify that the filing is in compliance with all appropriate county offices and rules.
- (9) Consent to Power to Sell Real Estate.** All Consents to Power to Sell Real Estate (Mont. Co. P.C.F. 11.0) pertaining to a parcel of real property shall be filed at once.
- (10) Consent of Parties to Alternate Distribution of Personal Property.** Heirs or vested beneficiaries may consent to an alternate distribution of personal property in an estate proceeding.
- (a) The consent of all parties with an interest in that property is necessary to approve any distribution different than stated in a decedent's last will, or under the laws of intestate succession.
- (b) If any interested party fails to agree to an alternate distribution, or if there is a disagreement regarding personal property that is not otherwise bequeathed, the fiduciary may file an Application to Distribute in Kind (Mont. Co. P.C.F. 10.0) for the Court's determination.
- (c) All parties consenting to an alternate distribution assume any risks as to tax, creditor and other liabilities that may result from such consent.
- (11) Notice of Intent to File Disclaimers.** The following rules apply to disclaimers filed pursuant to R.C. 5815.36. The purpose of this section is to avoid the unintended consequences that flow from the mistaken view that using a disclaimer has the same effect as an assignment.
- (a) Prior to filing a disclaimer, a notice of intent to file the disclaimer shall be filed with the Court, served on the fiduciary, and served, pursuant to Civ.R. 73(E), on all next of kin of the disclaimant or vested beneficiaries under the decedent's last will, who may be affected by the filing of the disclaimer.
- i. The notice of intent shall include an unsigned copy of the proposed disclaimer as an attachment.
- ii. The notice of intent shall state with particularity the intended result of the execution of the disclaimer and specify the names of the heir(s) or vested beneficiaries, who may inherit as a result of the disclaimer.
- (b) The Court shall set a paper hearing within thirty (30) days of the filing of the notice of intent to file disclaimer.
- (c) The Court may, but is not required to, make a finding as to the implication of the proposed disclaimer, which may change the person or persons entitled to receive

assets in the decedent's estate. If there is no objection by an interested party nor finding by the Court, then after the paper hearing, the disclaimant may file the executed disclaimer.

- (d) Upon the filing of any disclaimer, the fiduciary or fiduciary's attorney shall review the disclaimer to determine if the filing of the disclaimer changes the next of kin, legatees and/or devisees of the estate as to any assets of the estate. If necessary, the fiduciary shall amend the form titled Surviving Spouse, Children, Next of Kin, Legatees and Devisees (Mont. Co. P.C.F. 1.0) to properly reflect the lawful beneficiaries of the decedent's estate.

**(12) Contingent Trust as a Beneficiary.** If the decedent's last will provides that the interest of a vested beneficiary shall be held in trust if said beneficiary is under a certain age, then the date of birth or age of said beneficiary shall be indicated on Mont. Co. P.C.F. 1.0.

**(B) Summary Release from Administration.** In addition to the requirements in subparagraph (A) of this Rule, the following requirements apply to all summary releases from administration cases pursuant to R.C. 2113.031.

- (1) Funeral Bill. A copy of the funeral bill with proof that it has been paid, or if not yet paid, a copy of the signed funeral services contract showing the person responsible for payment, must be filed with the application for summary release.
- (2) Last Will and Testament. The original last will, if any, shall be filed for record only.
- (3) No bond is required unless the Court orders otherwise.
- (4) Asset Value Verification. The value of all assets included in a summary release must be established/proven by appropriate documentation.

**(C) Release of Estate from Administration.** In addition to the requirements in subparagraph (A) of this Rule, the following requirements apply to all release from administration cases pursuant to R.C. 2113.03.

- (1) Eligibility to Serve as Commissioner. The Court shall appoint a commissioner based upon the following:
  - (a) The commissioner shall be a resident of Ohio, unless at least one of the following apply:
    - (i) The commissioner is named as executor in the decedent's last will and is related to the decedent by blood or marriage;
    - (ii) The commissioner is the sole next of kin, or legatee and devisee, of the estate;
  - (b) The commissioner shall be bonded, unless at least one of the following applies:
    - (i) The commissioner is named as executor, to serve without bond, in the decedent's last will;
    - (ii) The commissioner is the sole next of kin or legatee and devisee of the estate;

(iii) The commissioner is an attorney licensed in Ohio and in good standing with the Supreme Court of Ohio; or

(iv) All of the next of kin, legatees and devisees of the estate waive said bond.

**(2) Last Will and Testament.**

(a) The original last will, if any, shall be filed with the Court.

(b) If there is a last will, within two weeks of the admission of the last will to probate, the applicant shall serve notice as described in R.C. 2107.19(A)(1) and Civ.R. 73(E).

(c) Additionally, if there is a last will, the commissioner shall file a Certificate of Service of Notice of Probate of Will (Mont Co. P.C.F. 2.4) and all supporting documents within two (2) months after the appointment of said commissioner.

(3) Bond. For bond requirements, see Mont. Co. P.C.R. 78.1(C).

(4) Publication. Publication of notice to creditors and interested parties shall be made in all cases, unless otherwise ordered by the Court.

(5) Distributions of property. There shall be no distributions of property including, without limitation, certificates of transfer, until the Certificate of Service of Notice of Probate of Will (Mont Co. P.C.F. 2.4), if required, has been filed with the Court.

(6) Report of Distribution. The commissioner shall file a Report of Distribution (Mont. Co. P.C.F. 5.7A), reporting the sale, if any, and distribution of any asset(s), in all release from administration cases within sixty (60) days of the date of the entry relieving the estate from administration, unless the Court directs otherwise.

(7) Insolvent Estate. An Application to Relieve Estate from Administration (Mont. Co. P.C.F. 5.0) will not be accepted for filing if the estate is insolvent or will not be approved if the estate is determined to be insolvent after the action is filed.

**(D) Special Administration.** In addition to the requirements in subparagraph (A) of this Rule, the following requirements apply to all special administrator cases pursuant to R.C. 2113.15 and R.C. 2113.16.

(1) An applicant shall disclose the express purpose for which the applicant is seeking to be appointed special administrator (e.g. service of creditor claim, last will search, etc.). Failure to adequately disclose the purpose of appointment may result in dismissal of the matter or rejection of the attempted filing.

(2) Notwithstanding the scope of authority a special administrator maintains under R.C. 2113.15, any authority beyond those powers and duties must be expressly requested by the applicant, inserted into the proposed letters of authority, and then approved by this Court.

(3) Any costs, fiduciary fees, or attorney fees charged to the special administration will be reviewed by the Court upon proper application for costs and fees.

(4) Procedure. An applicant for appointment as a special administrator shall initiate the process by completing the following:

- (a) Filing an Application for Authority to Administer Estate (Mont. Co. P.C.F. 4.0) modified to indicate that the applicant is seeking appointment as a special administrator and expressly stating the purpose for seeking the appointment;
  - (b) Filing a completed Surviving Spouse, Children, Next of Kin, Legatees and Devises (Mont. Co. P.C.F. 1.0); and
  - (c) Filing a copy of the decedent's death certificate with the decedent's social security number redacted.
- (5) All special administrators shall comply with the fiduciary bond requirements in Mont. Co. P.C.R. 78.1(C).
- (6) Notice/Hearing.
- (a) Notice of an application for appointment of special administrator shall be consistent with Mont. Co. P.C.R. 60.1.
  - (b) The Court may dispense with a hearing on the application upon the applicant's request and for good cause shown.
- (7) Inventory and Account. A special administrator shall file a complete inventory and complete fiduciary's account, and serve all parties at those stages, in a similar manner to full administration estates.
- (E) Certificate of Transfer of Real Property Only.** An Application for Certificate of Transfer (Mont. Co. P.C.F. 12.0) may be approved pursuant to R.C. 2113.61 subject to the following:
- (1) **Decedent Died with a Last Will.** If a decedent died with a valid last will, a certificate of transfer only action under R.C. 2113.61(D) is not permissible, unless the last will has been admitted to probate in this Court or another jurisdiction.
    - (a) **Last Will Admitted in another Jurisdiction.** If the last will is admitted to probate in another jurisdiction, certified copies of the last will and court documents proving the admission of said last will to probate in that jurisdiction shall accompany the Application for Certificate of Transfer (Mont. Co. P.C.F. 12.0) filed in this Court.
    - (b) **Certificate of Notice of Probate of Will.** Additionally, if there is a last will, a Certificate of Service of Notice of Probate of Will (Mont. Co. P.C.R. 2.4) and all supporting documents shall be filed within two (2) months after the Application to Probate Will (Mont. Co. P.C.F. 2.0) is filed with the Court.
  - (2) **Required Documentation.** The following shall be included when filing a Certificate of Transfer of Real Property Only:
    - (a) A copy of the Auditor's property record summary pursuant to Mont. Co. P.C.R. 78.2(A)(4)(a);
    - (b) The form titled Surviving Spouse, Children, Next of Kin, Legatees and Devises Mont. Co. P.C.R. 1.0); and
    - (c) Copy of the decedent's death certificate pursuant to Mont. Co. P.C.R. 78.2(A)(2).

**LOCAL RULE 78.3**

**CASE MANAGEMENT IN PROBATE LITIGATION MATTERS**

**(A) Civil and Adversarial Actions.**

- (1) All civil and/or adversarial matters shall be subject to the following Rules unless otherwise directed by the Court or other authority.
- (2) A matter before this Court may be subject to this Rule when the matter becomes contested or adversarial, regardless of case type.

**(B) Special Statutory Proceedings.** The following special statutory proceedings shall be filed separately, and with no other causes of action accompanying the pleading or initiating filings, including, but not limited to:

- (1) R.C. 2109.50 (concealment of assets);
- (2) R.C. 2121 (presumption of death);
- (3) R.C. 2123 (determination of heirship);
- (4) R.C. 517.24 (application for disinterment); and
- (5) R.C. 2127 (land sales).

**(C) Dismissal.** Failure to file separate civil actions for each special statutory proceeding may result in a dismissal of the special statutory proceeding.

**(D) Consolidation.** Civil matters may be consolidated with special statutory proceedings only upon motion and approval by the Court.

**(E) Service of Summons.** Civ.R. 4 through 4.7 shall apply in all probate proceedings requiring service of summons, unless otherwise provided by law. See Civ.R. 73(D).

- (1) Instructions for service shall be filed as a separate document in the following circumstances:
  - (a) When a party files a document that requires service by the clerk, or when a party files a document for which the party is requesting that service be initiated or made by the clerk;
  - (b) When a party files a document subject to a special statutory proceeding expressly instructing the clerk as to the method of service to be made by the clerk; and/or
  - (c) If service is to be made by any method other than service by FedEx Corporation, the instructions for service to the clerk must so specify.

- (2) The default method of service by the clerk is by FedEx Corporation.

**(F) Service of Notice.** In any proceeding where any type of notice other than service of summons is required by law or deemed necessary by the Court, and the statute providing for notice neither directs nor authorizes the Court to direct the manner of its service, notice shall be given in writing and served pursuant to Civ.R. 73(E).

- (1) In accordance with Civ.R. 5, unless the Filer requests service by the clerk and files the Instructions for Service, the Filer, not the clerk, shall be responsible for serving all documents filed subsequent to the original complaint on all parties or their attorneys.
- (2) When a submission is deemed filed pursuant to the eFile System, the eFile System shall generate a Notification of Electronic Filing to the Filer and any other party, who is a Registered User of the eFile System. The Notification of Electronic Filing shall constitute service under Civ.R. 5.
- (3) The Filer shall serve a hard copy of the document on all pro se and other parties, who are not Registered Users of the Court's eFile System, in accordance with Civ.R. 5.
- (4) All documents filed shall contain a certificate of service evidencing proof of service pursuant to Civ.R. 5(B)(4).

**(G) Pleadings.** All pleadings filed subsequent to the initial pleading shall:

- (1) Specify the case number and any and all open related case number(s);
- (2) Specify the name of the assigned judge or the name of the judge who heard the case, and the magistrate (if applicable);
- (3) Exhibit the signature of the attorney who is making the filing; and
- (4) All pleadings must contain a certificate of service.

**(H) Motions.**

- (1) Moving Parties. All moving parties shall file and serve their motions with the following:
  - (a) A brief written memorandum that shall:
    1. State with particularity the grounds in support of the motion;
    2. Set forth the relief or order sought; and
    3. Specify the citations of the authorities upon which the motion is based.
  - (b) Copies of all photographs or documentary evidence that will be used in support of the motion, if the motion requires the consideration of facts that do not appear in the record.
  - (c) A proposed order or entry. Substantive motions (e.g. motions for summary judgment in cases) do not require a proposed order or entry to be filed, unless otherwise ordered by the Court.
  - (d) If a memorandum in opposition is filed, a moving party may file a reply memorandum within seven (7) days from the date on which the memorandum in opposition is filed.

**(2) Opposing Parties.** All parties opposing motions shall file and serve a memorandum in opposition to the motion that has been filed and served against them. All memoranda in opposition shall be:

**(a)** Accompanied by copies of all photographs or documentary evidence that will be used in opposition to the motion, if the opposition requires the consideration of facts that do not appear in the record; and

**(b)** Filed and served within fourteen (14) days from the date on which the initial motion was served, for all motions other than motions for summary judgment, or as otherwise directed by the Court. Memoranda in opposition to motions for summary judgment shall be filed and served within 28 days from the date on which the motion for summary judgment was served, pursuant to Civ.R. 6(C)(1). If no memorandum is filed within this time limit, the motion may be decided forthwith.

**(3)** Memoranda in support or in opposition to any motion or application to the Court shall not exceed twenty (20) pages. Reply memoranda shall not exceed ten (10) pages. These page limitations may be modified by the Court for good cause shown and upon such conditions as set by the Court.

**(I) Pretrial Conference.** After service has been perfected on all parties and responses have been filed or otherwise parties are in default for failure to answer, the Court may set a pretrial conference for the case.

**(1)** Notice of the pretrial conference shall be given to all attorneys of record and pro se parties by mail, facsimile, e-mail and/or by telephone by the Court not less than fourteen (14) days prior to the conference. Any application for continuance of the pretrial conference shall be in writing and filed with the Court in a timely manner.

**(2)** The following matters may be addressed at the pretrial conference and ordered by the Court including, but not limited to:

**(a)** The possibility of settlement or mediation;

**(b)** Necessary parties, jurisdiction, and venue;

**(c)** Discovery exchange including, but not limited to, expert witness and report disclosure;

**(d)** Deadlines for the filing of all motions, pretrial statements, and exhibit exchange, which date shall not be later than seven (7) days before the trial;

**(e)** Any jury demand;

**(f)** Final pre-trial conference date, if applicable; and

**(g)** Trial date.

**(3)** After the scheduling conference, the Court will issue a final pretrial order.

**(J) Status Conferences.** The Court may order conferences as appropriate upon the motion of a party, attorney, and/or sua sponte, with reasonable notice to all parties and/or attorneys.

**(K) Final Pretrial Conference.** If a final pretrial conference is ordered:

- (1)** All attorneys and parties shall be present or available, and shall be prepared to make decisions with full lawful authority.
- (2)** The following matters may be addressed at the final pretrial conference including, but not limited to:
  - (a)** The possibility of settlement;
  - (b)** If there is a jury demand, proposed jury instructions and interrogatory deadlines;
  - (c)** Pending motions; and
  - (d)** Any other matters related to trial.

**LOCAL RULE 78.4**  
**NAME CHANGE, NAME CONFORMITY AND BIRTH CERTIFICATE**  
**CORRECTION PROCEEDINGS**

This Rule governs name change and name conformity proceedings under R.C. Chapter 2717 and Birth Record Corrections under R.C. Chapter 3705.

**(A) Choosing the Correct Proceeding.**

- (1) A name change proceeding seeks to change all or part of a person's name to a different name going forward.
- (2) A name conformity proceeding is solely to correct misspellings, inconsistencies, or other errors on one or more official identity documents evidencing a person's current legal name. A name conformity corrects errors that occurred in the past. It does not change a person's name but identifies conflicting problems in their official identity documents and corrects those problems by a court order so that all of the person's official identity documents are consistent and conformed to prove the applicant's chain of identity and reflect the person's already-correct, existing legal name.
- (3) A birth record correction proceeding only corrects clerical errors in the birth record of a person, who was born in Ohio. A birth record correction proceeding may not be substituted for a name change proceeding or name conformity proceeding.

**(B) Residency Required for Name Change or Name Conformity.**

An applicant for name change or name conformity must set forth that the applicant has been a bona fide resident of the county for at least sixty (60) days prior to the filing of the application, and the reason for which the change of name is sought or an explanation of the misspelling, inconsistency, or other error in name.

**(C) Affidavit.** An application for name change or name conformity shall be supported by an affidavit verifying all of the following:

- (1) The applicant's residency in the county for a period of at least (60) sixty days;
- (2) That the application is not made for the purpose of evading any creditors or other obligations;
- (3) That the applicant is not a debtor in any currently pending bankruptcy proceeding;
- (4) That all of the documentary evidence submitted under section R.C. 2717.07 with the application is true, accurate, and complete;
- (5) That the applicant has not been convicted of, pleaded guilty to, or been adjudicated a delinquent child for identity fraud or does not have a duty to comply with R.C. 2950.04 or R.C. 2950.041 because the applicant was convicted of, pleaded guilty to, or was adjudicated a delinquent child for having committed a sexually oriented offense or a child-victim oriented offense; and
- (6) Any other information the Court may require.

**(D) Name Change Proceedings.**

**(1) Documentation Requirements on Name Change Proceedings.**

An applicant seeking a name change must provide photocopies of the following documents relating to the adult applicant or minor with the application:

- Certified copy of the birth certificate (most recent and/or updated certified copy) and
- Driver's license or state issued photo identification card, if any.

Upon review of the application, the Court may order the submission of other documents the Court deems relevant to the application.

The applicant must redact (black out) social security numbers, driver's license numbers, and driver's license issuance and expiration dates on all documents submitted to protect the personally identifiable information of the applicant or minor.

**(2) For notice and hearing requirements, see Mont. Co. P.C.R 78.4 (H) and (I)**

**(E) Name Conformity Proceedings.**

**(1) Documentation Requirements on Name Conformity Proceedings.**

An applicant seeking to conform a legal name must provide photocopies of all official identity documents relating to the applicant or minor with the application, including:

- Certified copy of the birth certificate;
- Driver's license or state issued identification card, if any;
- Marriage record, if any;
- Divorce decree, if any; and
- Passport, if any.

**(2) Upon review of the application, the Court may order the submission of other documents the Court deems relevant to the application.**

**(3) The applicant must redact (black out) social security numbers, driver's license numbers, and driver's license issuance and expiration dates on all documents submitted to protect the personally identifiable information of the applicant or minor.**

**(F) Birth Record (Birth Certificate) Corrections.**

**(1) Pursuant to R.C. 3705.15, a person born in the state of Ohio may file an application to correct a birth record with the probate court for the county in which the person was born, or in which the person's mother resided at the time of the person's birth, or in the county where the person currently resides. Errors might include time, place, or date of birth, one or more misspellings on the birth certificate, parents' places of birth or the like.**

**(2) Documentation Requirements on Birth Certificate Correction Proceedings.**

An applicant seeking to correct a birth certificate must provide photocopies of all official identity documents relating to the applicant or minor with the application, including:

- Certified copy of the birth certificate;

- Social security card;
- Driver’s license or state issued identification card, if any;
- Marriage record, if any;
- Divorce decree, if any; and
- Passport, if any.

(3) Upon review of the application, the Court may order the submission of other documents the Court deems relevant to the application.

(4) The applicant must redact (black out) social security numbers, driver’s license numbers, and driver’s license issuance and expiration dates on all documents submitted to protect the personally identifiable information of the applicant or minor.

(5) Upon the filing of the application the Court may fix a date for a hearing, which shall not be less than seven days after the filing date. The Court may require one publication of notice of the hearing in a newspaper of general circulation in the county at least seven days prior to the date of the hearing. The application shall be supported by an affidavit of the physician or certified nurse-midwife in attendance. If an affidavit is not available, the application shall be supported by the affidavits of at least two persons having knowledge of the facts stated in the application, by documentary evidence, or by other evidence the Court deems sufficient.

(6) The probate judge, if satisfied that the facts are as stated, shall make an order correcting the birth record, except that in the case of an application to correct the date of birth, the judge shall make the order only if any date shown as the date the attending physician or certified nurse-midwife signed the birth record or the date the local registrar filed the record is consistent with the corrected date of birth. If supported by sufficient evidence, the judge may include in an order correcting the date of birth, an order correcting the date the attending physician or certified nurse-midwife signed the birth record, or the date the local registrar filed the record.

**(G) Gender Identity Designation Corrections to Birth Records.** An adult may file to correct (or change) the gender identity designation on the adult’s or minor’s birth certificate.

(1) The process and requirements are the same as those for correcting birth records above, except that for gender marker corrections, the applicant is required to file a Licensed Professional Statement Regarding Birth Record Change in lieu of including an affidavit of a physician or certified nurse-midwife in attendance or affidavits of at least two persons having knowledge of the facts stated in the application.

(2) Documentation Requirements on Gender Identity Designation Correction to Birth Record Proceedings.

An applicant seeking to change gender identity on a birth record must provide photocopies of all official identity documents relating to the applicant or minor with the application, including:

- Certified copy of birth certificate;
- Social security card;
- Driver’s license or state issued identification card, if any;
- Passport, if any;
- Affidavit of Correct Gender Marker in Birth Record, if an adult;

- Affidavit to Correct Gender Marker in Birth Record for a Minor, if a minor;
- Proof of the applicant’s legal relationship to the minor, if a minor; and
- Certified copy of the court order appointing applicant as the minor’s legal guardian or custodian, if any.

(3) Applications to change gender identity designation will not be placed online and will have restricted access pursuant to Sup.R. 45(E).

**(H) Service of Notice.**

(1) Service of Notice on Minor Name Changes and Minor Name Conformity Proceedings.

Any legal parent or alleged father who has not consented to a minor’s name change or name conformity shall be served by the Court with notice of the hearing pursuant to Civ.R. 73.

If a parent’s or alleged father’s whereabouts are unknown, the applicant must state “unknown” in the Application. The Court will then publish notice of the hearing, at the applicant’s expense, in a newspaper of general circulation in Montgomery County, Ohio one time at least 30 days before the hearing pursuant to R.C. 2717.14. The Court will file proof of publication of the notice with the Court no later than five calendar days before the date of hearing on the application.

(2) Service of Notice on Adult Name Changes and Adult Name Conformity Proceedings.

Generally, for adult name changes, the Court dispenses with notice requirements and will not require notice of an adult name change or an adult name conformity proceeding. The Court may require notice if the Court determines that the application presents any irregularities or issues or if the Court determines that the legal interests of another party may be affected by the proceeding. If the Court requires a hearing notice, the Court will determine the manner, scope, and content of the hearing notice. The applicant is responsible for serving the hearing notice.

**(I) Hearings.**

(1) Hearings on Adult Name Change and Adult Name Conformity Proceedings. Generally, the Court will not require a hearing on an adult name change or an adult name conformity proceeding. The Court may require a hearing if the Court determines that the application presents any irregularities or issues, or if the Court determines that the legal interests of another party may be affected by the proceeding. If the Court requires a hearing, the Court will determine the manner, scope, and content of the hearing.

(2) Hearings on Minor Name Change and Minor Name Conformity Proceedings. In uncontested name change proceedings and name conformity proceedings for a minor, in which the consent of all natural or adoptive parents, guardians, and custodians of the minor is filed with the application, the Court generally will not require a hearing and will dispense with notice pursuant to R.C. 2717.14.

(3) If an application for name change of a minor or application to conform name of a minor is filed without the written consent of all natural or adoptive parents, guardians, and custodians of the minor or if the Court determines that the application presents any

irregularities or issues, the Court will schedule the application for a hearing. Notice of the hearing will comply with paragraph (H)(1) of this Rule. The applicant must appear at the hearing. The minor should attend the hearing and must attend the hearing if the minor's age is greater than ten (10) years of age, unless the Court orders otherwise.

**(J) Contested Proceedings.**

If any name change, name conformity, or gender identity designation proceeding becomes contested, the Court will convert the scheduled hearing date to a pretrial conference, during which the Court will set a new hearing date. At the pretrial conference, the Court will determine whether to excuse a minor, who is the subject of the action, if any, from appearing at the hearing and whether the Court will conduct an in-camera interview of the minor, if any. The applicant and the person contesting the application must attend the pretrial conference personally or through their attorneys, if any.

**(K) Application to File Under Seal.** The Court may seal an application for name change or name conformity upon request or in extraordinary circumstances.

**(1)** To request that a name change application proceed without notice of the hearing, the applicant must first file an Application to File Under Seal explaining why the notice of the hearing would jeopardize the applicant's safety. The Court will then schedule a hearing on the Application at a later date. At the hearing, the applicant must present sufficient evidence to prove that keeping the filings and proceedings public will jeopardize the applicant's personal safety, including any official or certified copies of police reports, court orders, protection or stalking orders, or other relevant documents or evidence.

**(2)** When an applicant seeks to seal an application for name change of a minor, notice of the application must still be given to the minor's parents pursuant to R.C. 2717.11(B), although if granted, the applicant may then omit address information. Applications that are granted shall be restricted from public access pursuant to Sup.R. 45(E).

APPENDIX A

ATTORNEY FEES

The following schedule is merely a guide for determining attorney fees in an ordinary estate and shall not be considered to be a minimum or maximum fee schedule. The law requires that attorney fees be reasonable in each case. Acceptance of an account for filing that reflects payment of attorney fees equal to or less than an amount computed upon the following basis does not constitute approval of the reasonableness of the fees taken. The Court may review the attorney fees on the Court's own motion or upon exceptions to the account as provided by law.

It is the responsibility of each fiduciary to review all attorney fee requests to determine if the requested fees are reasonable and based upon necessary services for the estate. The fiduciary and beneficiaries have the right to object to any attorney fees that are not reasonable or necessary. If an objection to attorney fees is filed with this Court, the attorney must produce hourly time records of services provided to the estate. Any finding that attorney fees exceed reasonable and necessary fees will be a finding against the fiduciary if the fiduciary has paid the fees.

Transfer of real estate:	2% of appraised value
Proceeds from the sale of real estate sold in land sale:	12% of first \$1,000 9% of first \$3,500 7% of next \$6,000 5% of next \$5,000 3% of balance
Personal property, including gross proceeds from sale of real estate sold with consent or pursuant to power to sell in will:	8% of first \$1000 6% of next \$4000 4% of next \$20,000 3% of next \$125,000 2% of balance

Fees for determination of non-probate property:

- (a) 1% on all other non-probate property, excluding joint and survivorship property between spouses. This percentage fee should only be taken if services on non-probate property were rendered during the administration of the estate.
- (b) In release of estate from administration cases, attorney fees are computed only on the basis of the assets of the probate estate. No fees are allowed on non-probate property.
- (c) No fees are allowed on funds advanced to the estate.

**NOTE:** By having a fee guideline for attorney fees for non-probate property, the Court is **NOT** establishing that such fees are payable from the probate estate in all cases.

**APPENDIX B**  
**COMPUTATION OF ATTORNEY FEES**

**PURSUANT TO APPENDIX A**

ESTATE OF \_\_\_\_\_

CASE NO. \_\_\_\_\_

**Real estate transferred (not sold):**

Total value: \$ \_\_\_\_\_ X 2% (.02) = \$ \_\_\_\_\_

**Proceeds from the sale of real estate in land sale:**

Total proceeds: \$ \_\_\_\_\_

12% (.12) of first \$1,000 of total proceeds: \$ \_\_\_\_\_

9% (.09) of next \$3,500 of total proceeds: \$ \_\_\_\_\_

7% (.07) of next \$6,000 of total proceeds: \$ \_\_\_\_\_

5% (.05) of next \$5,000 of total proceeds: \$ \_\_\_\_\_

3% (.03) of balance of total proceeds: \$ \_\_\_\_\_

**Personal property, including gross proceeds from the sale of real estate sold with consent or pursuant to power to sell in will:**

Personal property: \$ \_\_\_\_\_

Proceeds: \$ \_\_\_\_\_

Total value: \$ \_\_\_\_\_

8% (.08) of first \$1,000 of total value: \$ \_\_\_\_\_

6% (.06) of next \$4,000 of total value: \$ \_\_\_\_\_

4% (.04) of next \$20,000 of total value: \$ \_\_\_\_\_

3% (.03) of next \$125,000 of total value: \$ \_\_\_\_\_

2% (.02) of balance of total value: \$ \_\_\_\_\_

**Non-probate property, excluding joint and survivorship property between spouses:**

Total value: \$ \_\_\_\_\_ X 1% (.01) = \$ \_\_\_\_\_

TOTAL FEE: \$ \_\_\_\_\_

DISCOUNT: (\$ \_\_\_\_\_)

**TOTAL FEE TAKEN:** \$ \_\_\_\_\_

**APPENDIX C**  
**CONSENT TO PAYMENT OF ATTORNEY FEES ON PARTIAL ACCOUNT**

**ESTATE OF** \_\_\_\_\_

**CASE NO.** \_\_\_\_\_

The undersigned, being an heir, devisee, or legatee of the estate has been advised by the attorney for the fiduciary of the estate that the attorney is requesting the payment of \$ \_\_\_\_\_ in attorney fees on a partial account.

The undersigned has been advised that the above attorney fees represent payment for approximately \_\_\_\_\_% of total attorney work that will need to be performed in the estate. The undersigned acknowledges that he/she is aware that additional fees \_\_\_\_\_ will be or \_\_\_\_\_ will not be requested at a later date.

The undersigned has been further advised that the Rules of Superintendence for the Courts of Ohio do not allow for the payment of attorney fees on a partial account unless the attorney obtains the approval of the probate court. In order to obtain the approval of the probate court, the attorney must file an itemized application for attorney fees. The application must set forth cause for the payment of the fees on a partial, rather than a final, account.

The undersigned consents to the payment of attorney fees in the sum of \$ \_\_\_\_\_ and waives any requirement of a written application and approval of the probate court.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Witness: \_\_\_\_\_

**APPENDIX D**  
**COMPUTATION OF EXECUTOR AND ADMINISTRATOR FEES**  
**R.C. 2113.35**

**ESTATE OF** \_\_\_\_\_

**CASE NO.** \_\_\_\_\_

**Real estate transferred (not sold):**

Total value: \$ \_\_\_\_\_ X 1% (.01) = \$ \_\_\_\_\_

**Personal property and income, including gross proceeds from the sale of real estate sold with consent or pursuant to power to sell in will:**

Personal property: \$ \_\_\_\_\_

Income: \$ \_\_\_\_\_

Total value: \$ \_\_\_\_\_

4% (.04) of first \$100,000 of total value: \$ \_\_\_\_\_

3% (.03) of next \$300,000 of total value: \$ \_\_\_\_\_

2% (.02) of balance of total value: \$ \_\_\_\_\_

**Property not subject to administration, but subject to Ohio estate tax as of December 31, 2012, excluding joint and survivorship property:**

Total value: \$ \_\_\_\_\_ X 1% (.01) = \$ \_\_\_\_\_

**TOTAL ALLOWABLE FEE:**  
\$ \_\_\_\_\_

**TOTAL FEE TAKEN ON PRIOR ACCOUNTS:** \$ \_\_\_\_\_

**TOTAL FEE TAKEN ON THIS ACCOUNT:** \$ \_\_\_\_\_

**APPENDIX E**  
**COMPUTATION OF GUARDIAN FEES**  
**LOCAL RULE 73.1**

**GUARDIANSHIP OF** \_\_\_\_\_  
**CASE NO.** \_\_\_\_\_

**Income from investments and installment receipts:**

Investments: \$ \_\_\_\_\_  
Installment receipts: \$ \_\_\_\_\_  
Total value: \$ \_\_\_\_\_ X 5% (.05) = \$ \_\_\_\_\_

**Rentals from real estate:**  
Total value: \$ \_\_\_\_\_ X 10% (.10) = \$ \_\_\_\_\_

**Intangible personal property invested:**  
Total value: \$ \_\_\_\_\_ X .25% (.0025) = \$ \_\_\_\_\_

**Final distributions:**  
Total value: \$ \_\_\_\_\_ X 1% (.10) = \$ \_\_\_\_\_

**TOTAL ALLOWED GUARDIAN FEES:** \$ \_\_\_\_\_

**APPENDIX F**  
**COMPUTATION OF TRUSTEE FEES**  
**LOCAL RULE 74.1**

TRUST OF \_\_\_\_\_  
CASE NO. \_\_\_\_\_

**Income from investments and installment receipts:**

Investments: \$ \_\_\_\_\_  
Installment receipts: \$ \_\_\_\_\_  
Total value: \$ \_\_\_\_\_ X 5% (.05) = \$ \_\_\_\_\_

**Rentals from real estate:**

Total value: \$ \_\_\_\_\_ X 10% (.10) = \$ \_\_\_\_\_

**Intangible personal property invested:**

Total value: \$ \_\_\_\_\_ X .25% (.0025) = \$ \_\_\_\_\_

**Periodic distributions of personal property corpus:**

Total value: \$ \_\_\_\_\_ X 1% (.01) = \$ \_\_\_\_\_

**TOTAL ALLOWED TRUSTEE FEES:** \$ \_\_\_\_\_

**Note:** Per Local Rule 74.1 (B), corporate trustee fees may be determined as follows: A fee may be charged on the same basis as the corporate trustee charges its clients as trustee of a living trust. Each corporate fiduciary shall file its current fee schedule with this Court. Any amendments to the schedule must be filed before a fee computed under the amended schedule is credited to an account. **The fee schedule shall be limited to a maximum 1% fee for all trust estates with a market value of \$75,000.00 or less.**