

RULES OF PRACTICE
OF THE
PROBATE DIVISION, COURT OF
COMMON PLEAS
LICKING COUNTY, OHIO

FILED

JAN 10 2018

CLERK OF COURT
SUPREME COURT OF OHIO

RULE 1.1

Hearing Assignments in Adversary Proceedings

The Court shall give reasonable notice of hearings, adversary in nature, to all counsel of record and to parties not represented by counsel.

If a hearing in a non-adversary proceeding is not to be held at the time designated, the Court shall be notified.

Submission of a matter upon briefs without oral hearing shall be permitted only upon written stipulation of counsel.

RULE 1.2

Procedure in Adversary Proceedings

Unless they would by their nature be clearly inapplicable, Rules 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of the Rules of Civil and Criminal Practice, Court of Common Pleas, Licking County, Ohio, General Division, shall govern all civil actions.

RULE 1.3

Numbering of Civil Actions

Civil actions shall bear the Probate Case number of the proceeding to which they are incident followed by a letter of the alphabet, beginning with the letter "A", consecutively as each is filed under the same case number.

RULE 1.4

Required Information on Papers Filed

After the date of the adoption of this rule, all files must on at least one document filed contain the name, current address and telephone number of the fiduciary, other parties, and their counsel.

Failure of the fiduciary to notify the Court of his current address may be grounds for his removal.

Papers containing partially or wholly illegible signatures of counsel, parties or officers administering oaths may be refused for filing, or, if filed, stricken from the files, unless the typewritten or printed name of the person whose signature it purports to be appears below it.

The provisions of this rule apply to non-corporate sureties on bond.

All entries submitted to the Court for filing, including those standard entries on the uniform probate forms, shall carry a caption containing the name of the decedent, ward, etc. as well as the case number, docket and page number.

RULE 1.5

Fiduciary Acceptance

Any person making application for appointment as a fiduciary shall file with the Court a Fiduciary Acceptance on a form furnished by the Court.

RULE 1.6

Pleadings and Forms

All pleadings and forms to be filed in the Probate Court shall be on 8-1/2" x 11" paper.

RULE 1.7

Attorneys of Record

The application for the appointment of a fiduciary shall contain the name, address and telephone number of the attorney, if any, representing the fiduciary. If such attorney shall resign, the attorney and the fiduciary shall notify the Court, and the fiduciary shall submit the same information for the successor attorney. Such information shall be in writing.

RULE 1.8

Withdrawal of Files

Attorneys and recognized abstractors of title are permitted to withdraw files of this court pursuant to Rule 24 of the Rules of Civil and Criminal Practice, Court of Common Pleas, Licking County, Ohio, General Division. The adoption and mentally ill files are confidential and access thereto may be authorized only by the Court. A citation for contempt of court may be issued against anyone who divulges or receives confidential information from the adoption or mentally ill files without authorization of the Court.

RULE 2.1

Deposit for Civil Actions and Decedents' Estates

The pre-payment for deposit of costs in the following actions shall be as follows:

- A. Adoption proceedings.....\$150 (private)
 \$100 (agency)
 \$100 for each additional child
- 1. Pre-placement application.....\$100
- B. Estates.....\$125
- C. All other civil actions.....\$ 75
- D. Guardianships.....\$275
- E. Minor Guardianships.....\$ 75
- F. Release from Administration - costs shall be paid as incurred

RULE 2.2

Refund of Costs

Unless specifically requested in writing at the time the deposit for costs is made, the cashier shall not make a refund of any amounts that are \$1 or less. Any checks written for a refund will be valid for only 60 days from the date of issue. If the check is not cashed within the 60-day period, the cashier shall issue a stop-payment order and the amount of refund represented by the amount of the check shall be paid into the county treasury as unclaimed funds.

RULE 3.1

Notice of Application

All notices to those persons entitled to notice of an application shall be handled by the applicant or the attorney for the applicant. When the application is filed, it shall be accompanied by the notice form completed except for the date of hearing. The hearing date will be set and noted on the notice form when filed and the original thereof returned to applicant or attorney so that the necessary copies can be made to accompany the notice. Service

of such notice and proof of such service shall be in accordance with Rule 73(E) and (F) of the Ohio Rules of Civil Procedure. Once proper returns are obtained, they should be filed with the court, along with the original notice of hearing, on or before the date scheduled for the hearing.

RULE 3.2

Relieving Estates from Administration

In all cases of estates entitled to be relieved from administration, where there is a will, such will shall be presented for probate. If the will is admitted to probate, an application for an order relieving the estate from administration may be filed in lieu of the appointment of the executor named in the will.

Where administration of the estate has commenced, entries relieving the estate from administration shall contain the words "and the fiduciary and bondsman, if any, are hereby discharged."

The Court reserves the right to appoint a Commissioner to collect and disburse the assets of the decedent and to require notice by publication or otherwise as provided by Section 2113.03 Revised Code.

When a will is filed and no further proceedings are contemplated, the filing shall be assigned a case number and noted on the docket.

RULE 3.3

Schedule of Claims

When required by statute or by the Court, every executor or administrator, after three and not later than five months following the date of his appointment, shall make and return to the Court a schedule of all claims against the estate he represents which have then been presented to him and any other valid debts of the estate of which he has knowledge. Such schedule shall state the name and address of the claimant as it appears on his claim, the amount claimed, the date of presentation of the claim, the class into which it falls for payment, the security held therefor, the date of maturity, if not yet due, whether allowed or rejected by the executor or administrator, and the date of such allowance or rejection.

RULE 3.4

Insolvent Estates

When the claims set forth in the schedule of claims are in excess of the amount of assets in the estate, the fiduciary shall report in writing to the Court that the estate is insolvent, setting forth the facts relating to such insolvency, and shall set for hearing both the determination of insolvency and his application for an order in connection therewith.

RULE 3.5

Hearing on Inventories

Inventories of executors and administrators shall be set for hearing not later than one (1) month after the filing thereof, unless for good cause shown, the hearing is continued until a later date. In accordance with Section 2115.16 of the Revised Code, notice of the hearing on such inventories shall be given by publication at least once in a newspaper of general circulation in the county, the last publication to be at least ten (10) days before the day set for hearing. Notice given in conformity with this rule shall be deemed notice required by law to each person or class of persons, entitled to notice without specifically naming such person or class of persons.

The execution of the rule is performed routinely by the Court except in special circumstances.

RULE 3.6

Affidavit When Partial Accounting Unnecessary

In order to avoid having an estate being reported as delinquent pursuant to Sup. R. 5, for failing to file a partial account, when it is unnecessary to do so because the estate is within the purview of Section 2109.30(B), Revised Code, (fiduciary is sole heir or legatee, or waivers of all heirs and legatees), the attorney of record shall file not later than the date the first account would normally be filed his written opinion that the estate is within the exemptions of this Section by virtue of the qualifications of the fiduciary and/or required waives on file.

RULE 4.1

Service of Notice of Application for Guardian

When application for the appointment of a guardian for an incompetent person or minor over the age of 14 is filed, the notice of hearing on the application shall be served personally upon the alleged incompetent person or minor by a Deputy Clerk of this Court, or by the Sheriff, unless otherwise ordered by the Court.

RULE 4.2

Releases and Orders to Expend Funds

In Guardianship and Trusts

An order to release or to expend funds in a guardianship or a trust commenced after the adoption of these rules shall not be granted if an inventory has not been filed or an account is due.

RULE 4.3

Guardianship for School Purposes

The Court will not accept for filing any guardianship for a minor where the only purpose of the guardianship is to establish a residence for school purposes. Custody for school purposes is a matter to be heard and determined in the Juvenile Division of the Court.

RULE 5.1

Settlement of Minor's Claims

For approval of settlements of claims of minors, the minor, his guardian, parent or parents, next friend or custodian, in the order named, and attorney, if any shall be present, unless otherwise directed by the Court.

RULE 6.1

Adoption

Before any petition for adoption is accepted for filing the attorney representing the adoptive parent(s) shall meet personally with a foster care worker at the Court. The purpose of this meeting is to determine if all requirements for the proposed adoption have been met and the necessary papers prepared. The foster care worker (deputy clerk) shall refuse to accept for filing any petition that is not accompanied by the supporting papers necessary to complete the adoption.

When publication is necessary, the Court shall place the notice in a newspaper of general circulation in the county.

In all private placement cases involving new-born infants, proceedings shall be in accordance with the provisions of Section 5103.16 Ohio Revised Code. In addition, a pre-placement application in a form prescribed by the Court shall be filed by the proposed adopting parents not less than 30 days prior to the placement if the proposed adopting parents are residents of the State of Ohio, or not less than 60 days prior to placement if they are non-residents of Ohio. Upon approval of the applicants and after the birth of the child sought to be adopted, a hearing shall be set for the consent and placement by the natural parents. Request for such hearing shall be made

at least three working days in advance of the time required for hearing. Prior to the placement hearing, there shall be supplied to the Court a statement from a pediatrician as to the condition of the child sought to be placed. If the placement is approved, a petition for adoption must be filed before the Court will issue a release to the hospital for the child. Should there be a delay in the placement of the child with the adopting parents, the Court shall arrange for foster care until the placement is made. The petition shall include, in addition to all other matters required by law, allegation of facts surrounding such placement, including but not limited to friends, relatives, doctors, attorneys, etc.

RULE 7.1

Certificate of Transfer

The Court will accept the uniform Certificate of Transfer form as well as the short and long form used specifically in Licking County.

If the uniform Certificate of Transfer form is used and more than one page is needed to complete the description, the accompanying pages shall contain a caption carrying the name of the deceased, the case number of the estate, as well as a designation of pages indicating the number of pages in the certificate of transfer. At the conclusion of the description, there shall appear a line for the date and the Judge's signature. The deputy clerk shall not accept for filing any certificate of transfer that does not contain the information set forth above.

The Court will not accept for filing any certificate of transfer that has attached to it a separate description referred to as Exhibit A. All descriptions must begin on page one and completely utilize page one before being continued on subsequent pages.

RULE 8.1

Deposit in Lieu of Bond

Upon deposit of securities and funds in lieu of bond in accordance with Section 2109.13, Revised code, the fiduciary also shall post a bond with a penal sum equal to double the probable value of the personal estate not deposited, including annual pensions income, the annual real estate rental coming to him as fiduciary, and the probable value of all securities or funds which he may remove annually from deposit based upon his reasonable estimate of expenses for this period.

RULE 8.2

Attorneys as Sureties

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

RULE 8.3

Surety Companies

Hereafter a surety company heretofore authorized to do business in this state, desiring to qualify to write bonds in this Court, shall file an application for authority to do so, and shall submit proof of recognition by the United States Treasury Department as provided for in Section 2109.17, Revised Code, with an appropriate entry.

RULE 9.1

Appraisers

If an appraisal has not been dispensed with as provided by Section 2115.02, Revised Code, one appraiser shall be appointed unless additional appraisers are requested. This rule is equally applicable to sale of lands in civil actions and to appraisals under Section 2127.22, Revised Code.

Appraisal fees shall be paid directly to the appraiser by the fiduciary.

RULE 10.1

Guardian's Compensation

Unless otherwise provided by law or ordered by the Court, guardians may be allowed compensation annually for ordinary services in accordance with the following schedules:

Excluding income from rental real estate, four percent (4%) of the first \$3,000.00 of income received, plus three percent (3%) of the balance in excess of \$3,000.00; and four percent (4%) of the first \$3,000.00 of expenditures except expenditures pertaining to rental real estate, plus three percent (3%) of the balance in excess of such \$3,000. If the guardian manages rental real estate, a fee amounting to ten percent (10%) of gross rental real estate income may be allowed. If the guardian receives net income from rental real estate actively managed by others, then the guardian shall treat such net income as ordinary income. No fee shall be allowed to the guardian or expenditures pertaining to rental real estate.

Principal fee: \$2.50 per thousand of the first \$100,000.00 of fair market value, \$2.00 per thousand on the next \$250,000.00, \$1.50 per thousand on the next \$150,000. and \$1.00 per thousand on the balance of the corpus, chargeable to principal unless otherwise ordered.

Such guardian may, with the approval of the Court, be allowed a principal distribution fee upon the final distribution of any part of the corpus of the trust property equal to one percent (1%) of the fair value of the part distributed.

The determination of the value of the principal of the estate, for the purpose of computing guardian's compensation as hereinabove provided, shall be made as of the date of accounting, using the market value with respect to assets having a listed market value. As to assets which do not have a listed market value, a fair valuation as of the date of the accounting shall be the criterion.

In fixing compensation, the date of the accounting shall be the anniversary of the date of appointment of the fiduciary unless another date be fixed upon approval of the Court.

Additional compensation for extraordinary services or allowance for expenses may be granted on application. Compensation of guardians of the person only shall be allowed on application and entry. (For Veteran's guardianship compensation, see Section 5905.13, Revised Code).

The Court may require in proper cases that any application for compensation be set for hearing and written notice thereof be given to all interested parties in the manner directed by the Court, in which event said notice shall contain a statement of the amount of compensation applied for.

RULE 10.2

Trustees' Compensation

Except where the instrument creating the trust makes provision for compensation, and unless otherwise provided by statute or ordered by the Court, testamentary trustees may be allowed compensation annually for ordinary services performed in connection with the administration of such separate trust estate in accordance with the following schedule:

Income Fee: Six percent (6%) of the gross income, (but not including conversion of assets to cash) received during the accounting period not exceeding \$10,000. of gross income, five percent (5%) of such income exceeding \$10,000. and not exceeding \$20,000., and four percent (4%) of such gross income exceeding \$20,000.. chargeable to income unless otherwise ordered.

Principal fee: \$4.00 per thousand of the first \$100,000. of fair market value, \$3.50 per thousand on the next \$200,000., \$3.00 per thousand on the next \$200,000., \$2.00 per thousand on the next \$500,000., \$1.50 per thousand on the balance of the corpus, chargeable to principal unless otherwise ordered.

Such trustee may, with the approval of the Court, be allowed a principal distribution fee upon the final distribution of any part of the corpus of the trust property equal to one percent (1%) of the fair value of the part distributed.

The determination of the value of the principal of the trust estate, for the purpose of computing trustee's compensation as hereinabove provided, shall be made as of the date of the accounting, using the market value with respect to assets having a listed market value. As to assets which do not have a listed value, a fair valuation as of the date of the accounting shall be the criterion.

In fixing compensation, the date of the accounting shall be the anniversary of the date of appointment of the fiduciary unless another date be fixed upon the approval of the Court.

Additional compensation for extraordinary services or allowance for expenses may be granted on application and entry.

The Court may require in proper cases that any application for compensation be set for hearing and written notice thereof be given to all interested parties in the manner directed by the Court, in which event said notice shall contain a statement of the amount of compensation applied for.

RULE 10.3

Fees of Guardian Ad Litem

Unless otherwise ordered by the Court, upon application and entry, a fee shall be taxed in the costs of the case for such guardian ad litem in the amount of ten dollars (\$10.00) and such additional amount as the Court may order.

RULE 10.4

Counsel Fees

A. The attorney for the administrator or executor of an estate are free to enter into an agreement for compensation of services performed subject to the following conditions:

1. The agreement reached shall be reduced to writing and shall be filed with the court when the application for the appointment of the administrator or executor is filed.
2. The agreement must contain the following language in bold print;

"THE RULES OF THE LICKING COUNTY PROBATE COURT DO NOT CONTAIN A MANDATORY SCHEDULE OF FEES AN ATTORNEY MUST CHARGE FOR REPRESENTING AN ADMINISTRATOR OR EXECUTOR. IF THE ADMINISTRATOR OR EXECUTOR AGREES TO PAY A FEE BASED ON A PERCENTAGE OF THE ASSETS OF THE ESTATE, IT IS DONE WITH A FULL EXPLANATION BY THE ATTORNEY THAT ATTORNEY FEES CAN ALSO BE BASED ON AN HOURLY CHARGE FOR ACTUAL SERVICES PERFORMED BY THE ATTORNEY AND THE REASONABLE VALUE THEREOF."

B. In all other probate matters, the attorney fees shall be based on an hourly charge for the actual services performed by the attorney and the reasonable value thereof. A written agreement as to fees must be filed with the initial papers opening a guardianship, trust, etc.; but the agreement need not contain the specific language as provided in Section (A) 2 of this Rule.

C. No attorney fee in any Probate matter shall be paid by the fiduciary without first obtaining the written approval of the court. The application for payment shall be in writing and shall set forth in detail the computation of the fees. The application shall contain the written approval of the fiduciary and all interested parties who are competent adults. If the application contains all the necessary approvals, the Court will consider the request without a hearing. However, if the necessary approvals are not given or some of the interested parties are minors or are otherwise incompetent, the Court may schedule a hearing prior to giving approval.

D. Prior to a fiduciary entering into a contingent fee contract with an attorney for services, an application for authority to enter into the contract shall be filed and approved by the Court.

RULE 10.5

Fiduciary Fees

No fiduciary in any probate matter shall pay a fiduciary fee without first obtaining the written approval of the Court. The application for payment shall be in writing and shall set forth in detail the computation of the fees. The application shall contain the written approval of the fiduciary and all interested parties who are competent

adults. If the application contains all the necessary approvals, the Court will consider the request without a hearing. However, if the necessary approvals are not given or some of the interested parties are minors or are otherwise incompetent, the Court may schedule the matter for hearing prior to giving approval.

IN THE COMMON PLEAS COURT OF LICKING COUNTY, PROBATE DIVISION

IN RE:

JOURNAL ENTRY

RULES OF THE PROBATE COURT
OF LICKING COUNTY, OHIO

10.4 Counsel Fees
(New Rule)

10.5 Fiduciary Fees
(New Rule)

2.1 Deposit of Costs
(New Rule)

oOo

IT IS SO ORDERED, ADJUDGED, AND DECREED, that effective July 15, 1982, there is hereby added to the Rules of Court, adopted May 20, 1981, and filed with the Supreme Court of Ohio on May 21, 1981, Rule 10.4 designated "Counsel Fees", and Rule 10.5 designated "Fiduciary Fees". Rule 2.1 is amended as set forth below. Further, a copy of these new rules and amendment shall be forwarded to the Ohio Supreme Court for filing.

10.4 Counsel Fees

A. The Court, since at least February 9, 1979, has had no formal rule pertaining to what fees may be charged in an estate or other probate matters. However, some members of the public are still under the impression that in an estate the attorney must charge a fee computed on a percentage of the monetary value of the estate as required by a rule of court in effect more than twenty (20) years ago. To correct any such misconceptions, this rule is being adopted.

B. The attorney for the administrator or executor of an estate are free to enter into an agreement for compensation of services performed subject to the following conditions:

1. The agreement reached shall be reduced to writing and shall be filed with the court when the application for the appointment of the administrator or executor is filed.
2. The agreement must contain the following language in bold print:

"THE RULES OF THE LICKING COUNTY PROBATED COURT DO NOT CONTAIN A MANDATORY SCHEDULE OF FEES AN ATTORNEY MUST CHARGE FOR REPRESENTING AN ADMINISTRATOR OR EXECUTOR. IF THE ADMINISTRATOR OR EXECUTOR AGREES TO PAY A FEE BASED ON A PERCENTAGE OF THE ASSETS OF THE ESTATE, IT IS DONE WITH A FULL EXPLANATION BY THE ATTORNEY THAT ATTORNEY FEES CAN ALSO BE BASED ON AN HOURLY CHARGE FOR ACTUAL SERVICES PERFORMED BY THE ATTORNEY AND THE REASONABLE VALUE THEREOF."

C. In all other probate matters, the attorney fees shall be based on an hourly charge for the actual services performed by the attorney and the reasonable value thereof. A written agreement as to fees must be filed with the initial papers opening a guardianship, trust, etc.; but the agreement need not contain the specific language as provided in Section B(2) of this Rule.

D. No attorney fee in any probate matter shall be paid by the fiduciary without first obtaining the written approval of the Court. The application for payment shall be in writing and shall set forth in detail the computation of the fees. The application shall contain the written approval of the fiduciary and all interested parties who are competent adults. If the application contains all the necessary approvals, the court will consider the request without a hearing. However, if the necessary approvals are not given or some of the interested parties are minors or are otherwise incompetent, the Court may schedule the mater for hearing prior to giving approval.

E. Prior to a fiduciary entering into a contingent fee contract with an attorney for services, an application for authority to enter into the contract shall be filed and approved by the Court.

(See Code of Professional Responsibility) DR2-106

10.5 Fiduciary Fees

No fiduciary in any probate matter shall pay a fiduciary fee without first obtaining the written approval of the Court. The application for payment shall be in writing and shall set forth in detail the computation of the fees. The application shall contain the written approval of the fiduciary and all interested parties who are competent adults. If the application contains all the necessary approvals, the Court will consider the request without a hearing. However, if the necessary approvals are not given or some of the interested parties are minors or are otherwise incompetent, the Court may schedule the matter for hearing prior to giving approval.

RULE 2.1

Deposit for Civil Action and Decedent's Estate

The pre-payment for deposit of costs in the following actions shall be as follows:

A.	Adoption proceedings	\$150 (private) \$100 (agency) \$100 for each additional child
	1. Pre-placement application	\$100
B.	Estates	\$125
C.	All other Civil Actions	\$75
D.	Guardianships (Incompetent Adults)	\$275
E.	Minor Guardianships	\$75
F.	Release from Administration - cost paid as incurred	

/s/ Judge Robert J. Moore
Judge Robert J. Moore

ADOPTION OF RULES

The rules set forth herein are promulgated pursuant to Rules 83 of the Ohio Rules of Civil Procedure and, in case of conflict, shall be subordinate to the Ohio Rules of Civil Procedure.

These Rules are adopted for the Common Pleas Court, Probate Division of Licking County, Ohio, this 20th day of May, 1981.

/s/ Judge Robert J. Moore
Judge Robert J. Moore

I hereby certify that a copy of the foregoing rules was filed with the Supreme Court of Ohio, the 21st day of May, 1981.

/s/ Judge Robert J. Moore
Judge Robert J. Moore
Judge and Ex-Officio Clerk

Appendix -I-

IN THE COMMON PLEAS COURT OF LICKING COUNTY, PROBATE-JUVENILE DIVISION
JUDGE ROBERT J. MOORE

MEMORANDUM

To: Members of the Licking County Bar Association

From: Judge Robert J. Moore

Date: November 1, 1984

Re: Rules of Superintendence for the Probate Division

Enclosed is a copy of the Supreme Court's Rules of Superintendence for the Probate Division. Included are the local rules that were developed with the assistance of the Probate Court Committee of our Bar Association. You will find that the Rules of Superintendence are very similar to our former rules. This is because I served on the Supreme Court Committee and our set of rules was one of 16 or 17 the committee used as models.

The biggest changes in local rules involve guardianships and are designed to correct re-occurring problems. The problems include misuse of funds by guardians; failure to close guardianships and file final accounts; failure to keep bonds of adequate amounts posted; and the failure to file inventories, to name just a few.

A new set of uniform forms for guardianships have been developed by the Probate Judges' Association. In addition, there are several supplemental forms I have prepared that need to be filed. A copy of the supplemental forms are inclosed.

Check carefully the Letter of Guardianship. Note that the financial institutions cannot release funds to a guardian without a Court order. After the hearing and the letters are issued, the guardian must go to the bank and have the bank certify what funds are on deposit and if there is a safety deposit box. If the guardianship involves an adult, the funds will be released and access to the safety deposit box granted upon the correct amount of bond being posted. In some instances, the guardian may already have the bank books and can bring them to the hearing for me to examine. If that is the case, the entry authorizing transferring the funds can be issued at the hearing. If a minor is involved, the funds must be deposited in lieu of bond, unless special circumstances require the guardian to have access to some funds.

The guardian will be depositing \$200 of the ward's funds with the court to be used, if necessary, to pay attorney fees if the guardian fails to close the guardianship and file a final account. The money will be deposited in an interest bearing account in the name of the ward.

We are still having problems over guardianships for minors being filed where little or no money is involved and a change of custody could meet the needs of the family. To save preparing all the forms, only to have the guardianship rejected, please call my office first if you have any questions about a particular situation.

Also, note the difference in handling the settlement of minor's claim without the appointment of a guardian. Under most circumstances, the parents will not have access to the funds.

We hope to begin microfilming in 1985 and that is the reason for the 8 1/2 x 11 paper in both divisions. Please give me a call if you have any questions on the new procedure.

sk
Enclosures

-1(a)-

RULES OF PRACTICE
JUVENILE COURT
COMMON PLEAS COURT OF LICKING COUNTY

RULE 1

F. All pleadings and other documents filed in the Juvenile Division of this Court shall be on 8 1/2" x 11" paper.

IN THE COMMON PLEAS COURT OF LICKING COUNTY, PROBATE DIVISION

In re: Adoption of Rules

oOo

The Rules of Superintendence for the Probate Division of the Court of Common Pleas promulgated by the Ohio Supreme Court became effective on September 1, 1984. Pursuant to Rule of Superintendence 44, local rules designated 18.1, 20.1, 20.2, 25.1, 25.2, 26.1, 26.2, 27.1, 28.1, 32.1, 34.1, 34.2, 34.3, 36.1, 37.1, 37.2, 40.1, 42.1, 43.1, 44.1, 44.2, 44.3, 44.4, 44.5, are hereby adopted by this court and shall be effective the 1st day of November, 1984.

A copy of the complete set of Rules shall be filed with the Supreme Court of Ohio.

/s/ Judge Robert J. Moore
Judge Robert J. Moore

RULES OF SUPERINTENDENCE FOR THE PROBATE DIVISION OF THE LICKING COUNTY COURT OF COMMON PLEAS

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RULE 18

Hours of the Court

Each Court shall establish hours for the transaction of business.

COUNTY LOCAL RULE 18.1

Hours of the Court

The Probate Court and its offices shall be open for the transaction of business from eight-thirty o'clock, a.m. to four-thirty o'clock, p.m. Monday through Friday. The Probate Court shall be closed on Saturday, Sunday and legal holidays.

RULE 19

Conduct in the Court

(A) Proper decorum in the Court is necessary to the administration of the Court's function; any conduct which interferes, or tends to interfere, with the proper administration of the Court's business is prohibited.

(B) No radio or television transmission, voice recording device, other than a device used by a court reporter making a record in a proceeding, or the making or taking of pictures shall be permitted without the express consent of the court in advance and pursuant to C.P. Sup. R. 11.

RULE 20

Examination of Probate Files, Records, and Other Documents

(A) Court records shall not be removed from the Court, except when approved by the Judge. Violation of this rule may result in the issuance of a citation for contempt.

(B) Copies of any open records may be obtained at a cost per page as authorized by the Judge.

(C) Files of adoption and mental illness proceedings are confidential. Access to those files may be authorized by the Judge.

(D) A citation for contempt of court may be issued against anyone who divulges or receives confidential information from files of adoption or mental illness proceedings without authorization of the Judge.

COUNTY LOCAL RULE 20.1

Examination of Probate Files, Records, and Other Documents

Attorneys and recognized abstractors of title are permitted to withdraw files of this Court pursuant to Rule 24 of the rules of Civil and Criminal Practice, the Court of Common Pleas, Licking County, Ohio, General Division.

COUNTY LOCAL RULE 20.2

Copies of Probate Files, Records and Other Documents

Copies of any open records may be obtained at a cost of fifty cents per page.

RULE 21

Summons and Notice

(A) The Ohio Rules of civil Procedure shall apply to any proceedings where notice, other than service of summons, is required by law or deemed necessary by the Court and the statute providing for such notice does not direct the manner of its service.

(B) In case personal service of summons or notice is required upon non-residents of the county, a deposit is required for service by the sheriff of that county.

RULE 22

Request for Jury Trial

All trial requests shall be in compliance with Civ. R. 38 and 39.

RULE 23

Continuances

(A) Motions for continuance shall be submitted in writing with the proper caption and case number.

(B) No continuance, except upon the Court's own motion, shall be granted in the absence of proof of reasonable notice to, or consent by, the adverse party or his counsel. Failure, after such notice, to object to the continuance within a reasonable time shall be deemed a consent thereto.

(C) A judgment entry shall be filed with a motion for continuance, leaving the time and date blank for the Court to set a new date.

RULE 24

Filings and Judgment Entries

(A) All filings, except wills, shall be on eight and one-half by eleven inch paper, without backings, of stock that can be microfilmed.

(B) All papers filed shall contain the name, address and telephone number of the individual counsel representing the fiduciary and, in the absence of counsel, the name, address and telephone number of the fiduciary. Any paper not containing the above requirements may be refused for filing by the Court.

(C) Failure of the fiduciary to notify the Court of his current address shall be grounds for removal.

(D) Papers containing partially or wholly illegible signatures of counsel parties or officers administering oaths may be refused for filing, or, if filed, may be stricken from the files, unless the typewritten or printed name of the person whose signature is purported to appear is clearly indicated thereon.

(E) All pleadings are to be typed or printed and correctly captioned.

(F) Unless the Court otherwise directs, counsel for the party in whose favor a verdict or opinion is rendered shall, within seven days thereafter, prepare the proper judgement entry and submit the original to the Court with a copy to counsel for the opposing party. Counsel for the opposing party shall have seven days to object to the Court.

(G) Upon failure to comply with this rule, the matter may be dismissed or the Court may prepare and file the appropriate entry.

RULE 25

Court Costs

(A) Deposits in the amount set forth in R.C. 2101.16 or in a local rule shall be required upon the filing of any action or proceeding and additional deposits may be required.

(B) The deposit may be applied as filings occur.

COUNTY LOCAL RULE 25.1

The amount of deposit required is set forth in Appendix (A).

COUNTY LOCAL RULE 25.2

Unless specifically requested in writing at the time the deposit for cost is made, the cashier shall not make a refund of any amounts that are one dollar or less. Any checks written for a refund will be valid for only 60 days from the date of issue. If the check is not cashed within the 60-day period, the cashier shall issue a stop payment order and the amount of refund represented by the amount of the check, shall be paid into the County Treasurer as unclaimed funds.

RULE 26

Application to Probate A Will (Standard form 2.0)

(A) Notice of Probate of a Will shall require at least seven days' written notice when complying with R.C. 2107.13.

(B) A request for examination of witnesses shall be in writing and filed at least two days prior to the hearing date.

(C) If a will creates a charitable trust which subsequently may be required to be registered with the Attorney General of Ohio under R.C. 109.26, there shall be included in the application to probate the will a concise statement setting forth the item number of the will which creates the trust, the name of the trustee or trustees designated therein, and the general nature of the trust.

(D) All notices to those persons entitled to notice of an application to probate a will shall be prepared by the applicant or the attorney for the applicant. When the application is filed, it shall be accompanied by the notice form completed except for the date of hearing. The hearing date will be set and noted on the notice forms by the Court. Service of such notice and proof of such service shall be in accordance with CIV. R. 73(E) and (F).

COUNTY LOCAL RULE 26.1

Before applying for the appointment of an administrator or an executor, all attorneys or proposed fiduciaries shall be required to check the index of wills, deposited pursuant to Section 2107.07 of the Ohio Revised Code, to determine if there is a will of the decedent on file with the Court.

COUNTY LOCAL RULE 26.2

When, following the death of a decedent, a will, which under the law shall be submitted for probate in Licking County, Ohio, or when, following the appointment of a guardian, his will is found in a safety deposit box in a bank or other financial institution upon the examination of such box by the county auditor or his deputy, the bank or financial institution shall deliver it unopened immediately to a Deputy Clerk of the Probate court for transmission to the Probate Court, taking his receipt therefor. Such receipt shall be in duplicate and a copy retained by the Court.

RULE 27

Application for Letters of Administration

(A) Any person who files an Application for Letters of Administration shall cause to be served upon such persons as required by law, written notice of the time and place of the hearing on the appointment. Waivers may be filed as permitted by the Ohio Rules of Civil Procedure. All written notices must contain the time and place of the hearing and shall be served upon such persons at least seven days prior to the date set for the hearing.

(B) If there is no known surviving spouse or next of kin, the notice shall be served upon such persons as are designated by the Court.

COUNTY LOCAL RULE 27.1

Any person making application for appointment as a fiduciary shall file with the Court a fiduciary acceptance on a form furnished by the Court.

RULE 28

Appointment and Compensation of Appraisers in
Estates and Land Sale Proceedings

- (A) When required by law, there will be one suitable and disinterested appraiser appointed.
- (B) Fiduciaries, without special application to the Court, may allow to the appraiser as compensation for his services a reasonable amount agreed upon between the fiduciary and the appraiser, or an amount to be computed on the gross value of the assets appraised in the estate (as set forth in the inventory filed in the Court) at the rate of \$1.00 per thousand dollars of value with a minimum fee of \$20.00, or limited as the Court may order.
- (C) Fees for appraisals shall be computed on the full value of the property appraised.
- (D) In agreeing upon the amount of compensation within the schedule set forth in paragraph B of this rule, the fiduciary and the appraiser shall take into consideration the time and work reasonably required in appraising the assets as well as the type and character of the property appraised.
- (E) If, by reason of the special and unusual character of the property to be appraised, the fiduciary is of the opinion that the appraisal requires the services of persons expert in the evaluation of such property, an expert appraiser may be appointed and reasonable compensation paid therefore, subject to the approval of the Court.
- (F) If the amount of compensation cannot be agreed upon, the fiduciary shall file an application for allowance of compensation for each appraiser. Otherwise, no court order is necessary and credit may be taken for payment in the next regular account as provided by law, subject to all exceptions which may be thereafter filed.

COUNTY LOCAL RULE 28.1

If an appraisal has not been dispensed with as provided by Section 2115.02 of the Revised Code, one appraiser shall be appointed unless additional appraisers are requested. This rule is equally applicable to sale of lands in civil actions and to appraisals under Section 2127.22 of the Revised Code.

Appraisal fees shall be paid directly to the appraiser by the fiduciary.

RULE 29

Inventory

(A) Notice of the filing of inventory shall be given in accordance with R.C. 2115.16 and may be published one time, as a group, in a newspaper of general circulation in the county, or advertised separately as the Court elects in each case. The notice required herein shall be deemed notice to each person or class of persons entitled thereto, without specifically naming such person or class of persons.

(B) The statutory time for filing of an inventory (thirty days from date of appointment of fiduciary) shall be adhered to and citations may be issued when filings are late unless application for an extension of time for filing has been granted. Applications for extension shall set forth the time needed and the accompanying judgement entry shall have a blank space for the Court to insert the number of days granted.

RULE 30

CLAIMS FILED WITH THE COURT

(A) In any estate where a claim has been filed with the Court pursuant to R.C. 2117.06, the fiduciary shall file with the Court a copy of any rejection of claim. No estate shall be closed until all claims filed with the Court have been resolved.

(B) Whenever the Court requires a hearing on claims or the fiduciary requests a hearing on claims pursuant to R.C. 2117.17, the fiduciary shall file a schedule of all claims against the estate with the Court. The schedule of claims shall be filed with the fiduciary's application for hearing or within ten days after the Court notifies the fiduciary of a Court-initiated hearing.

RULE 31

Application to Sell Personalty

In addition to the requirements of the Ohio Revised Code, a judgement entry and order of sale shall include and adequate description of the property to be sold and shall provide that the sale has been at the best price obtainable in the current market or at a price fixed by the Court. Except for good cause shown, an order of sale shall not be granted prior to the approval of the inventory or inventory and appraisalment. No sale shall be confirmed until an affidavit is filed as required by R.C. 2109.45 and 2113.2.

RULE 32

Accounts

(A) The statutory time for the filing of an account shall be adhered to and citations may be issued when filings are late, unless an application for an extension of time for filing has been granted. The application shall set forth the time needed and the accompanying judgement entry shall have a blank space for the Court to insert the number of additional days granted.

(B) If a fiduciary is delinquent in filing an account or exhibiting assets and no extension has been granted, a citation may be issued, requiring the fiduciary to appear forthwith and to show cause why the account has not been filed or why the assets have not been exhibited.

(C) Each fiduciary's account shall be supported by vouchers, as required by R.C. 2109.30. The vouchers shall be referenced to the account number, letter or date. The account shall also set forth, at the end thereof:

(1) A recapitulation of cash receipts, disbursements and bank deposits, representing cash on hand at the end of the accounting period.

(2) A statement of personal property on hand, other than cash, at the end of the accounting period, including a statement of any changes in the property during the period covered by the account.

(3) A statement identifying all real estate owned by the ward or real estate to which the fiduciary holds legal title for, or on behalf of, the ward or beneficiary.

(4) A statement of compensation paid to the fiduciary and his counsel.

(D) If land has been sold by the fiduciary during the accounting period, the account shall show the gross amount of the proceeds of sale and the distribution thereof, with the escrow statement or receipts of the land sale expenditures attached thereto.

(E) Guardian Accounts for more than one minor shall show each ward's proportionate share of the credits and debits and shall separately state each ward's property at the end of the accounting period.

(F) Receipts for distributive shares signed by persons holding power of attorney is recorded in the State of Ohio and a photostatic copy of the recorded power is attached to the account.

(G) Exhibiting Assets.

(1) The Court may require that all assets be exhibited at the time of filing a partial account.

(2) Cash balances may be verified by exhibiting a bank statement, passbook, or a current letter from the financial institution in which the funds are deposited certifying the amount of funds on deposit to the credit of the fiduciary. Assets held in a safety deposit box of a fiduciary or by filing a current inventory thereof. The inventory shall be certified by the manager of the safety deposit box department of the financial institution leasing the safety deposit box or by a qualified officer of the surety company if the assets are held by a bank, trust company, brokerage firm, or other financial institution, such exhibition may be made by proper certification as to the assets so held. For good cause shown, the Court may designate a deputy clerk of the Court to make an examination of the assets located in the county, not physically exhibited to the Court, or

may appoint a commissioner for that purpose if the assets are located outside the county. The commissioner appointed shall make a written report of his findings to the Court.

(H) A final or distributive account shall not be approved until all court costs have been paid.

COUNTY LOCAL RULE 32.1

In order to avoid having an estate being reported as delinquent pursuant to Sup. R. 5, for failing to file a partial account, when it is unnecessary to do so because the estate is within the purview of Section 2109.32(B) Revised Code (fiduciary is sole heir or legatee, or waives or all heirs and legatees), the attorney of record shall file not later than the date the first account would normally be filed his written opinion that the estate is within the exemptions of this section by virtue of the qualifications of the fiduciary and/or required waivers on file.

RULE 33

Land Sales- R.C. Chapter 2127

(A) In cases involving public sale the complaint shall, prior to the issuance of an order of sale, file with the Court evidence of title showing the record condition of the title to the premises described in the complaint, prepared and extended by a responsible abstract or title company or an attorney's certificate to a date subsequent to the date in which the complaint was filed.

(B) In all cases where a public sale is authorized, complainant shall post a sign in a conspicuous place on the premises to be sold stating the property will be sold at public sale and giving the time and place thereof. The complainant shall also give notice to all defendants of the time and place of the sale at least three weeks prior to the date of the sale in the method provided by Civ. R. 4.1. Prior to the sale, the complainant shall file an affidavit stating: (1) that a sign was placed on the property; (2) that the required notice was given to the defendants at least three weeks prior to the date of sale; and (3) that the notice conformed to Civ. R. 4.1.

(C) When an order of private sale is requested, excepting those cases where the consent of all necessary parties to the proceedings has been filed or cases involving the sale of fractional interest, the complainant shall be required, by affidavit or testimony under oath, to establish: (1) whether or not the sale has been the subject of prior negotiations; (2) the amount offered for the sale of the property; (3) the appraised value in the land sales proceedings; (4) the identity of the prospective purchaser and counsel, if any; (whether or not the proposed transaction will be, or has already been, placed in escrow; and (6) the identity of the escrow agent.

(D) The Court may, in its discretion, appoint a disinterested person, answerable to the Court, who shall investigate the circumstances surrounding the proposed transaction, view the property, ascertain whether the proposed sale is justified and report his findings in writing. The report shall be a part of the record. The compensation for the person performing these services shall be fixed by the Court, according to the circumstances of each case, and shall be taxed as cost.

RULE 34

Guardians

(A) All applications for appointment of a guardian shall be captioned in the name of the proposed ward.

(B) All applications for the appointment of a guardian on the grounds of mental incompetency, or for dismissal of such guardianship, or for declaration of competency, shall be accompanied by either a statement of a physician or, a statement that the prospective ward has refused to submit to an examination.

(C) Payment for the support, maintenance or education of a ward shall not be approved until such time as the guardian files an application to determine, separate and apart from the account, the amount to be allowed for the support, maintenance or education of the ward, and until an inventory has been filed.

(D) An application by a parent-guardian for the allowance of care and support of a minor shall allege, if such is the fact, that the father and mother are financially unable to provide the items for which the amount is sought.

COUNTY LOCAL RULE 34.1

In addition to the standard guardianship forms, there shall be filed with the Court the information sheet regarding the proposed guardian, the information sheet regarding the proposed ward, and the instruction sheet for guardians.

A guardian of an incompetent adult shall not have access to cash or other negotiable assets until the application for release of assets is filed and the appropriate bond posted. A guardian of a minor child shall not have access to cash or other negotiable assets except for good cause shown, and all assets shall be deposited in a financial institution in lieu of bond, unless otherwise ordered by the Court.

COUNTY LOCAL RULE 34.2

Within 30 days of the appointment of a guardian of the estate, there shall be deposited with the Court, for each ward, a check in the amount of \$200.00 drawn or reimbursable from the guardianship funds, made payable to:

(The name of the incumbent judge of this court,
Probate Judge or his Successor in Office, for
the benefit of the Guardian of the Estate of
(Ward's name), Case No. _____)

Said deposit is not feasible because of the lack of liquidity of the ward's assets or lack of same, the Court may allow postponement of the deposit until such time as it becomes feasible, upon the written application of the Guardian.

If such a deposit is not feasible because of the lack of liquidity of the ward's assets or lack of same, the Court may allow postponement of the deposit until such time as it becomes feasible, upon the written application of the Guardian.

The deposit and interest shall be used by the Court to pay an attorney fee in the event the guardian fails to file a final account and it is necessary for the Court to appoint an attorney to close the guardianship.

COUNTY LOCAL RULE 34.3

The Court will not accept for filing any guardianship for a minor where the only purpose of the guardianship is to establish a residence for school purposes. Custody for school purposes is a matter to be heard and determined in the Juvenile Division of the Court.

RULE 35

Estates of Minors and Proposed Incompetents of Ten Thousand Dollars or Less

(A) An application relating to a minor shall be submitted by the parent or parents or by the person having custody of the minor and shall be captioned in the name of the minor.

(B) Only one application shall be filed on behalf of all minors of the same parents. The application shall indicate the amount of money or property to which each minor is entitled and to whom such money or property shall be paid or delivered.

(C) If no guardian has been appointed for either the receipt of an estate of minor or the receipt of a settlement for injury to a minor, the attorney representing the interests of the minor shall prepare an entry: (1) ordering the deposit of funds in a local banking institution in the name of the minor; (2) impounding both the principal and interest; and (3) releasing the funds to the minor at the age of majority or upon further order of the Court. The entry shall be presented at the time of the entry dispensing with appointment of a guardian or approving settlement is approved. The attorney shall further be responsible for depositing the funds and for providing the financial institution with a copy of the entry, both within seven days of the entry's approval. The attorney shall obtain a receipt from the bank and deposit it with the Court.

RULE 36

Settlement of Claims for Injuries to Minors (R.C. 2111.18)

(A) In an application by a guardian for approval of a settlement of an action for personal injuries to his ward, irrespective of amount, the parent or parents of such ward, if any, living in the county, shall be entitled to three days' notice by certified mail of the hearing on such application. The notice may be waived in writing.

(B) The application may be accompanied by a current statement of the examining physician in respect thereof, and the physician's prognosis.

(C) The presence of the injured minor and the parents may be required at the hearing on all applications.

(D) The application shall state what additional consideration, if any, is being paid to persons other than the minor.

(E) The application shall state what arrangement, if any, has been made with respect to counsel fees, which fees shall be subject to review by the Court.

COUNTY LOCAL RULE 36.1

The presence of the injured minor and the parent shall be required at the hearing on all applications unless for good cause shown the Court has determined that their presence is not necessary.

RULE 37

Settlement of Claims for Injuries to Minors Under Ten Thousand Dollars

(A) Applications involving the payment of ten thousand dollars (\$10,000) or less shall be by the parent or parents or by the person having custody of the minor, and shall be captioned in the name of the minor.

(B) The application may be accompanied by a current statement of the examining physician in respect to the injuries sustained, the extent of recovery thereof, and the physician's prognosis.

(C) The presence of the injured minor and the parent may be required at the hearing on all applications.

(D) The application shall state what additional consideration, if any, is being paid to persons other than the minor.

(E) The application shall state what arrangement, if any, has been made with respect to counsel fees, which fees will be subject to review by the Court.

COUNTY LOCAL RULE 37.1

The presence of the injured minor and the parent shall be required at the hearing on all applications unless for good cause shown the Court has determined that their presence is not necessary.

COUNTY LOCAL RULE 37.2

Probate Superintendency Rule 35(C) shall apply to all settlements covered by this rule unless otherwise ordered by the Court.

RULE 38

Settlement of Claims for Wrongful Death

(A) Application for approval of settlement of a claim for wrongful death shall contain a statement of facts, including the amount to be received in settlement of the claim and the amount, if any, to be received in the

settlement of the right of action for conscious pain and suffering. The statement shall include the proposed allocation of the compensation to be received in settlement of the action for wrongful death.

(B) Unless waived by all interested parties, the application and proposed allocation shall be set for hearing and written notice shall be given to all interested parties.

(C) The application shall state what arrangements have been made with respect to counsel fees, which fees shall be subject to review by the Court.

RULE 39

Counsel Fees in Connection with Settlement of Claims for Wrongful Death, Conscious Pain and Suffering; Claims for Personal Injuries to Persons Under Guardianship; and Settlement of Claims for Personal Injuries to Minors Under R.C. 2111.18

When representation is on a contingent fee basis, counsel will be allowed fees on the amount obtained, subject to the approval of the Court.

RULE 40

COUNSEL FEES

(A) Attorney fees relative to all matters shall be governed by the Code of Professional Responsibility, DR-2-106.

(B) Attorney fees for the administration of estates shall not be paid until the final account is prepared for filing unless otherwise approved by the Court upon application and for good cause shown.

(C) Attorney fees may be allowed if there is a written application which sets forth the amount requested and will be awarded only after proper hearing, unless otherwise modified by local rule.

(D) The Court may set a hearing on any application for allowance of attorney fees regardless of the fact that the required consents of the beneficiaries have been given.

(E) Except for good cause shown, attorney fees shall not be allowed to attorneys representing fiduciaries who are delinquent in filing the accounts required by R.C. 2109.30.

(F) If a hearing is scheduled on an application for the allowance of attorney fees, notice shall be given to all parties affected by the payment of fees, unless otherwise ordered by the Court.

(G) An application shall be filed for the allowance of counsel fees for services rendered to a guardian, trustee, or other fiduciary. The application may be filed by the fiduciary or attorney. The application shall set forth a statement of the services rendered and the amount claimed in conformity with Paragraph A.

(H) The Court does not have, nor is there recognized any minimum or maximum fees which will automatically be approved by the Court. Prior to a fiduciary entering into a contingent fee contract with an attorney for services, an application for authority to enter into the agreement shall be filed with the Court.

COUNTY LOCAL RULE 40.1

(A) The attorney for the administrator of the executor of an estate are free to enter into an agreement for compensation of services performed subject to the following conditions:

1. The agreement reached shall be reduced to writing and shall be filed with the Court when the application for the appointment of the administrator or the executor is filed.

2. The agreement must contain as the opening paragraph the following: The Probate Division

of the Licking County Common Pleas Court does not have, nor is there recognized, any minimum or maximum fees which will automatically be approved by the Court.

(B) The attorney fee in an estate or guardianship shall not be paid by the fiduciary without first obtaining the written approval of the Court. A copy of detailed billing may be submitted in place of a computation. In an estate the application for payment shall be in writing and shall set forth in detail the computation of the fees. The application shall contain at least 25 percent of the residual beneficiaries of the estate who are competent adults. If the application contains the necessary approvals, the Court will consider the request without a hearing. However, if the necessary approvals are not given or some of the residuary beneficiaries are minors or are otherwise incompetent, the Court may schedule the matter for hearing prior to giving approval.

(C) Prior to a fiduciary entering into a contingent fee contract with an attorney for services, an application for authority to enter into contract shall be filed and approved by the Court.

RULE 41

(A) Where there is a claim for extraordinary services, an application shall be filed setting forth an itemized statement of the services rendered. The Court may require the application to be set for hearing with notice given to parties affected by the payment of fees in accordance with Civ. R. 4.1.

(B) Except for good cause shown, commissions will not be allowed if there is a delinquency in the filing of an account.

(C) The commission of co-executors or co-administrators in the aggregate shall not exceed the commission which would have been allowed to one executor or administrator acting alone, except where the instrument under which the co-executors serve provides otherwise.

(D) Where counsel fees of an extraordinary nature have been awarded for services to the estate which normally would have been performed by the executor or administrator, the said executor's or administrator's fee shall be reduced by the amount awarded to counsel for those services rendered unless, for good cause shown, the Court find that such a ruling would be unfair.

RULE 42

GUARDIAN'S COMPENSATION

(A) Guardian's compensation shall be set by local rule and the schedule of compensation set forth in the local rule and the schedule of compensation set forth in the local rule shall be filed with the Supreme Court in accordance C.P. Sup. R. 40.

(B) Additional compensation, reimbursement for expenses incurred and fees of a guardian of a person may be fixed by the Court upon application.

(C) The Court may require that applications for fees or compensation be set for hearing and that written notice of the time and place of the hearing and the amount applied for, be given as required by the Court. A copy of the notice, with certified mail return receipt attached, together with an affidavit of the service of such notice, shall be filed prior to the hearing.

(D) The compensation of co-guardians in the aggregate shall not exceed the compensation which would have been payable if only one guardian had been performing the duties.

(E) A separate schedule of the computation of the guardian's compensation shall be set forth in the guardian's account as a condition of its approval. The computation shall be on a form as set forth in conformity with a local rule adopted and filed in accordance with C.P. Sup. R. 44. Except for good cause shown, neither compensation for a guardian nor fees to the attorney representing the guardian, will be allowed when the guardian is delinquent in filing the account as required by R.C. 2109.30.

COUNTY LOCAL RULE 42.1

Unless otherwise ordered by the Court upon application and entry, a fee shall be taxed in the cost of the case for

each guardian ad litem in the amount of ten dollars and such additional amount as the Court may order.

COUNTY LOCAL RULE 42.2

The compensation of guardians shall be according to the schedule set forth in Appendix B.

RULE 43

TRUSTEE'S COMPENSATION

(A) Trustee's compensation shall be set by local rule and the schedule of compensation set forth in the local rule shall be filed with the Supreme Court in accordance with C.P. Sup. R. 44.

(B) Additional compensation for extraordinary services may be allowed upon application. The Court may require that the application be set for hearing and that notice thereof be given to interested parties in accordance with Civil Rule 4.1. Such notice shall contain a statement of the amount for which compensation is applied.

(C) A separate schedule of the computation of a trustee's compensation, conforming to the form in conformity with a local rule adopted and filed in accordance with C. P. Sup. R. 44., shall be filed with the Court at the time of payment of the fee.

(D) The compensation of co-trustees in the aggregate shall not exceed the compensation which would have been paid if only one trustee had been performing the duties except where the instrument under which the co-trustees are acting provides otherwise.

(E) Except for good cause shown, neither compensation for a trustee, nor fees to the counsel representing the trustee, will be allowed while the trustee is delinquent in the account or accounting required by R. C. 2109.30.

RULE 44

LOCAL RULES

(A) The Probate Division of the court of common pleas may adopt supplementary rules concerning local practice in their respective courts which are not inconsistent with these rules. Such rules should be filed with the Supreme Court.

(B) The local rules shall be numbered to correspond with the numbering of these rules and shall incorporate the number of the rule which it is intended to supplement. For example, a local rule which supplements C.P. Sup. R. 28 shall be designated County Local Rule 28.1, etc.

COUNTY LOCAL RULE 44.1

ADOPTION

Before any petition for adoption is accepted for filing the attorney representing the adoptive parent(s) shall meet personally with a foster care worker at the court. The purpose of this meeting is to determine if all requirements for the proposed adoption have been met and the necessary papers prepared. The foster care worker (deputy clerk) shall refuse to accept for filing any petition that is not accompanied by the supporting papers necessary to complete the adoption.

When publication is necessary, the Court shall place the notice in a newspaper of general circulation in the county.

In all private placement cases involving new-born infants, proceedings shall be in accordance with the provisions of Section 5103.16 Ohio Revised Code. In addition, a pre-placement application in a form prescribed by the Court shall be filed by the proposed parents not less than 30 days prior to the placement if the proposed

adopting parents are residents of the State of Ohio, or not less than 60 days prior to placement if they are nonresidents of the State of Ohio. Upon approval of the applicants and after the birth of the child sought to be adopted, a hearing shall be set for the consent and placement by the natural parents. Request for such hearing shall be made at least three working days in advance of the time required for hearing.

Prior to the placement hearing, there shall be supplied to the Court a statement from a pediatrician as to the condition of the child sought to be placed. If the placement is approved, a petition for adoption must be filed before the Court will issue a release to the hospital for the child. Should there be a delay in the placement of the child with the adopting parents, the Court shall arrange for foster care until the placement is made. The cost of foster care shall be paid by the adoptive parents. The petition shall include, in addition to all other matters required by law, allegations of facts surrounding such placement, including but not limited to friends, relatives, doctors, attorneys, etc.

COUNTY LOCAL RULE 44.2 CERTIFICATE OF TRANSFER

The Court will accept the uniform Certificate of Transfer form as well as the short and long form used specifically in Licking County.

If the uniform Certificate of Transfer form is used and more than one page is needed to complete the description, the accompanying pages shall contain a caption carrying the name of the deceased, the case number of the estate, as well as a designation of pages indicating the number of pages in the certificate of transfer. At the conclusion of the description, there shall appear a line for the date and Judge's signature. The deputy clerk shall not accept for filing any certificate of transfer that does not contain the information set forth above. The Court will not accept for filing any certificate of transfer that has attached to it a separate description referred to as an "Exhibit". All descriptions must begin on page one and completely utilize page one before being continued on subsequent pages.

COUNTY LOCAL RULE 44.3 DEPOSIT IN LIEU OF BOND

Upon deposit of securities and funds in lieu of bond in accordance with Section 2109.13, Revised Code, the fiduciary also shall post a bond with a penal sum equal to double the property value of the personal estate not deposited, including annual pensions income, the annual real estate rental coming to him as fiduciary, and the probable value of all securities or funds which he may remove annually from deposit based upon his reasonable estimate of expenses for this period.

COUNTY LOCAL RULE 44.4 RELEASES FROM ADMINISTRATION

A short form release and journal entry on the form prescribed by the Court may be filed in each case where the assets of the estate are less than six thousand dollars and there is a surviving spouse or minor children and evidence is presented at the time of the filing that establishes the funeral bill to the extent of the estate priority allowance has been paid.

COUNTY LOCAL RULE 44.5 NOTICE OF APPLICATION

All notices to those persons entitled to notice of an application shall be handled by the applicant or the attorney for the applicant. When the application is filed, it shall be accompanied by the notice form completed except for the date of hearing. The hearing date will be set and noted on the notice form when filed and the original thereof returned to the applicant or attorney so that the necessary copies can be made to accompany the notice. Service of such notice and proof of such service shall be in accordance with Rule 73(E) and (F) of the Ohio Rules of Civil

Procedure. Once proper returns are obtained, they should be filed with the Court, along with the original notice of hearing, on or before the date scheduled for the hearing.

RULE 45

EXCEPTIONS TO THE RULES

Upon application, and for good cause shown, the Probate Division of the Court of Common Pleas may grant exception to C.P. Sup. R. 18-46.

RULE 46

COMPLIANCE

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

APPENDIX A
DEPOSITS FOR COURT COSTS

The pre-payment for deposit of costs in the following actions shall be as follows:

1. To open an estate\$125.00
2. Filing application for probate of a will in an estate to be released from administrationexact cost
3. Filing application for appointment of administrator.....\$125.00
(Wrongful Death)
4. Filing an application for release of estate from
administrationexact cost
5. Filing an application for appointment of guardian of an incompetent person.....\$275.00
Minor.....\$75.00
6. Filing complaint (civil action, land sale, determination of heirship, declaratory judgement, etc.)..\$75.00
7. Filing application same as above with publication.....\$125.00
8. Adoption proceedings
 - Private..... \$150.00
 - Agency..... \$100.00
 - Each additional child..... \$100.00
 - Publication..... \$100.00
 - Pre-placement application..... \$100.00
9. Filing application for authenticated or exemplified will proceedings.....exact cost
10. Filing application for authenticated or
exemplified will proceedings.....exact cost
11. Filing application for a miscellaneous action.....exact cost
12. Filing application for minor's settlement.....\$44.00
13. Filing application for change of name.....\$71.00

APPENDIX B

GUARDIAN'S COMPENSATION

Unless otherwise provided by law or ordered by the Court, guardians may be allowed compensation annually for ordinary services in accordance with the following schedules:

Excluding income from rental real estate, four percent (4%) of the first \$3,000.00 of income received, plus three percent (3%) of the balance in excess of \$3,000.00; and four percent (4%) of the first \$3,000.00 of expenditures except expenditures pertaining to rental real estate, plus three percent (3%) of the balance in excess of such \$3,000.00. If the guardian manages rental real estate, a fee amounting to ten percent (10%) of gross rental real estate income may be allowed. If the guardian receives net income from rental real estate actively managed by others, then the guardian shall treat such net income as ordinary income. No fee shall be allowed to the guardian or expenditures pertaining to rental real estate.

Principal fee: \$2.50 per thousand of the first \$100,000.00 of fair market value, \$2.00 per thousand on the next \$250,000.00, \$1.50 per thousand on the next \$150,000.00 and \$1.00 per thousand on the balance of the corpus, chargeable to principal unless otherwise ordered.

Such guardian may, with the approval of the Court, be allowed a principal distribution fee upon the final distribution of any part of the corpus of the trust property equal to one percent (1%) of the fair value of the part distributed.

The determination of the value of the principal of the estate, for the purpose of computing guardian's compensation as hereinabove provided, shall be made as of the date of accounting, using the market value with respect to assets having a listed market value. As to assets which do not have a listed market value, a fair valuation as of the date of the accounting shall be the criterion.

In fixing compensation, the date of the accounting shall be the anniversary of the date of appointment of the fiduciary unless another date be fixed upon approval of the Court.

Additional compensation for extraordinary services or allowance for expenses may be granted on application. Compensation of guardians of the person only shall be allowed on application and entry. (For Veteran's guardianship compensation, see Section 5905.13, Revised Code).

The Court may require in proper cases that any application for compensation be set for hearing and written notice thereof be given to all interested parties in the manner directed by the Court, in which event said notice shall contain a statement of the amount of compensation applied for.

APPENDIX C
TRUSTEE'S COMPENSATION

Except where the instrument creating the trust makes provision for compensation, and unless otherwise provided by statute or ordered by the Court, testamentary trustees may be allowed compensation annually for separate trust estate in accordance with the following schedule:

Income fee: Six percent (6%) of the gross income, (But not including conversion of assets to cash) received during the accounting period not exceeding \$10,000.00 of gross income, five percent (5%) of such income exceeding \$10,000.00 and not exceeding \$20,000.00, and four percent (4%) of such gross income exceeding \$20,000.00, chargeable to income unless otherwise ordered.

Principal fee: \$4.00 per thousand of the first \$100,000.00 of fair market value, \$3.50 per thousand on the next \$200,000.00, \$3.00 per thousand on the next \$200,000.00, \$2.00 per thousand on the next \$500,000.00, and \$1.50 per thousand on the next \$500,000.00, and \$1.00 per thousand on the balance of the corpus, chargeable to principal unless otherwise ordered.

Such trustee may, with the approval of the Court, be allowed a principal distribution fee upon the final distribution of any part of the corpus of the trust property equal to one percent (1%) of the fair value of the part distributed.

The determination of the value of the principal of the trust estate, for the purpose of computing trustee's compensation as hereinabove provided, shall be made as of the date of the accounting, using the market value with respect to assets having a listed market value. As to assets which do not have listed value, a fair valuation as of the date of the accounting shall be the criterion.

In fixing compensation, the date of the accounting shall be the anniversary of the date of appointment of the fiduciary unless another date be fixed upon the approval of the Court.

Additional compensation for extraordinary services or allowance for expenses may be granted on application and entry.

The Court may require in proper cases that any application for compensation set for hearing and written notice thereof be given to all interested parties

IN THE COURT OF COMMON PLEAS, LICKING COUNTY, OHIO

Probate Division

In the Matter of:

Adoption of Rule 47 of
Rules of Superintendence:

o O o

Judgement Entry

The Rules of Superintendence for the Probate Division of the Court of Common Pleas promulgated by the Ohio Supreme Court became effective on September 1, 1984. Pursuant to Rule of Superintendence 44, local rules designated 18.1, 20.1, 20.2, 25.1, 25.2, 26.1, 26.2, 27.1, 28.1, 32.1, 34.1, 34.2, 36.1, 37.1, 37.2, 40.1, 42.1, 42.2, 43.1, 44.1, 44.2, 44.3, 44.4, 44.5 were adopted by the court and became effective on November 1, 1984.

Local rule designated 47 is hereby adopted by the court and shall become effective on July 1, 1991.

A copy of this amendment to the rules shall be filed with the Supreme Court of Ohio.

/s/ Judge Mike Radabaugh

Filed
26 JUN 91
Judge Mike Radabaugh
Licking County Probate Court
Newark, Ohio

AN AMENDMENT TO THE LOCAL RULES OF SUPERINTENDENCE FOR THE COMMON PLEAS COURT OF LICKING COUNTY, OHIO, PROBATE DIVISION ADOPTED IN RESPONSE TO AMENDED RULE 9 OF THE RULES OF SUPERINTENDENCE FOR COURTS OF COMMON PLEAS OF THE STATE OF OHIO EFFECTIVE JULY 1, 1991 TO BE REFERRED TO AS RULE 47, CASE MANAGEMENT.

Whereas, the Supreme court of the State of Ohio has ordered that each court, by July 1, 1991, develop and implement a case management plan by local rule of court, the complete text of which may be found in the November 19, 1990 issue of the Ohio Reports Advance Sheets;

Now, therefore, be it Ordered that the following rule shall be added to the existing rules of superintendence of the court.

Rule 47

Case Management

For the Purpose of insuring the readiness of civil cases in the Probate Division for pre-trial, final pre-trial, final pre-trial and trial, the following procedures shall be observed:

I. CIVIL ACTIONS

A. A pre-trial conference shall be conducted in all civil cases prior to being scheduled for trial, except in land sale proceedings.

B. Within thirty (30) days after the answer day, the case shall be set by the Court for a pre-trial conference.

C. Notice of the pre-trial conference shall be given to all counsel of record and unrepresented parties by mail and or telephone by the Court not less than fourteen (14) days prior to the conference. Written pre-trial statements shall be filed with the court prior to the pre-trial.

D. The following decisions shall be made at the pre-trial conference and all counsel attending must have full authority to enter into a binding pre-trial order.

1. A definite discovery schedule shall be agreed upon by all parties for the completion of all discovery.

2. A definite date of exchange for expert witness reports shall be determined.

E. At the conclusion of the pre-trial conference, the Court shall prepare a pre-trial order setting forth:

1. A discovery deadline date.

2. Pleading and briefing schedules.

3. Trial date.

F. The trial date shall not be changed nor shall the trial be continued without order of the Court and after the showing of good cause.

II. LAND SALES

All land sales which have not been concluded within one (1) year from the date of filing shall be set for pre-trial conference within ten (10) days following the expiration of one year.

A. The following decisions shall be made at the pre-trial conference and all counsel attending must have full authority to enter into a binding pre-trial order.

1. The attorney of record and fiduciary must attend the pre-trial conference.
2. A written pre-trial statement shall be filed with the Court prior to the pre-trial conference.
3. The pre-trial statement shall address the issues as to the efforts being made to sell the real estate and when the case will be closed.

III. DECEDENT'S ESTATE

A. The statutory time for filing of an account (R.C. 2109.30) shall be adhered to and the citation procedure (R.C. 2109.31) shall be utilized if necessary to gain compliance.

B. Objections to inventory and objections to account. The Court shall set a pre-trial conference within thirty (30) days after filing.

1. The court at the pre-trial conference shall set the matter for an evidentiary hearing within thirty (30) days thereafter.

C. All decedents' estates, which are current as to filed accounts, that remain open after a period of one year and nine months shall be subject to a status conference. The fiduciary and the attorney shall be present and a written status report shall be submitted to the Court at the time of the status conference.

IV. WRONGFUL DEATH SETTLEMENTS

A. All hearings shall be held within thirty (30) days of the filing of the Form 14.0, provided however, if either a guardian or guardian ad litem is necessary to be appointed the hearing shall be held within fifteen (15) days after the appointment.

V. GUARDIANSHIPS

A. Adequate statutory provisions exist to control timeliness of filings, however, each case shall be reviewed not less than bi-annually.

VI. TRUSTS

A. Adequate statutory provisions exist to control timeliness of filings, however, each case shall be reviewed not less than bi-annually.

VII. PHYSICAL INVENTORY

1. An inventory of all open and pending cases as of September 1, 1991 must be made reporting the status of each case.

2. Each successive month thereafter, an account of the prior month will be made listing all new cases that were filed; removing any cases where final judgment has been rendered; and listing the status of every open case.

CERTIFICATION

The undersigned hereby certifies that a copy of the foregoing rule was filed with the Supreme Court of Ohio this 26th day of June, 1991.

/s/ Mike Radabaugh
Judge and Ex-Officio Clerk