

FILED

AUG 14 2017

CLERK OF COURT
SUPREME COURT OF OHIO

Rules of
Court

COMMON PLEAS COURT
PROBATE DIVISION

PAULDING COUNTY

1988

HON. HARVEY E. HYMAN, JUDGE

IN THE COURT OF COMMON PLEAS
PROBATE DIVISION
PAULDING COUNTY
OHIO

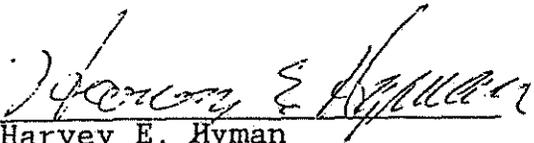
RULES OF THE COURT

Whereas, the Supreme Court of Ohio has adopted Rules of Superintendence for the Probate Divisions of the Courts of Common Pleas of Ohio, effective September 1, 1984; and,

Whereas, Superintendence Rule 44 authorizes each Probate Division of the Court of Common Pleas to adopt local supplemental rules not inconsistent therewith, and to file the same with the Supreme Court of Ohio.

Now therefore, it is the ORDER and DECREE of this court that the supplemental Local Rules attached hereto and made a part hereof, as though fully re-written herein, be, and hereby are, APPROVED, CONFIRMED, and ADOPTED as the rules of this court effective upon Dec. 1, 1988, and that a copy thereof be transmitted by the Clerk to the Supreme Court of Ohio.

It is further ordered that all local rules previously in force be, and hereby are, revoked.


Harvey E. Hyman
Probate Court
Paulding County

RULE 18
HOURS OF THE COURT

Each Court shall establish hours for the transaction of business.

LOCAL RULE 18.1

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

RULE 19
CONDUCT IN THE COURT

(A) Proper decorum in the Court is necessary to the administration of the Court's function; 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 record 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 record 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.

LOCAL RULE 20.1 (B)

Copies of any record may be obtained at \$1.00 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.

LOCAL RULE 21.1 (B)

A deposit of \$15.00 is required for personal service upon non-residents of the county.

RULE 22
REQUEST FOR JURY TRIAL

All jury 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 judgment 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. Timely delivery of entry by opposing counsel must be proven.

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

LOCAL RULE 24.1

All journal entries must be approved by counsel.

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.

LOCAL RULE 25.1 (C)

Deposits in the amount set forth in Appendix A shall be required upon the filing of all actions and proceedings listed therein.

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 the 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).

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.

RULE 28

APPOINTMENT AND COMPENSATION OF APPRAISERS IN ESTATE AND LAND SALES 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 a 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 appraisal 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 Rule 28 (B), 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 to be 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 thereafter be filed.

RULE 29

INVENTORY

(A) Notice of the filing of an 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 requested 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 (30 days from date of appointment of fiduciary) 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. Application for extension shall set forth the time needed and the accompanying judgment entry shall have a blank space for the Court to insert the number of days granted.

LOCAL RULE 29.1 (B)

Upon application for an extension of time for filing of inventory, 30 days will be granted without a hearing. Any further extension will be granted only upon good cause shown.

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 judgment entry and order of sale shall include an 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 appraisal. No sale shall be confirmed until an affidavit is filed as required by R.C. 2109.45 and 2113.42.

LOCAL RULE 31.1

The requirements of Rule 31 shall not apply where sale has been authorized by will or consent given by all heirs.

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 extension of time for the filing has been granted. The application shall set forth the time needed and the accompanying judgment 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 voucher, as required by R.C. 2109.30. The vouchers shall be referenced to the account by number, and 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 sales 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 may be accepted, provided such 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 a surety company on fiduciary's bond may be exhibited 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 in surety. 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.

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

RULE 33

LAND SALES - R.C. CHAPTER 2127

(A) In cases involving public sale the complainant 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 abstractor or title co. 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 that 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 sale at least three weeks prior to the date of 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 interests, 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 sale proceedings; (4) the identity of the prospective purchasers and counsel, if any; (5) 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 costs.

LOCAL RULE 33.1 (A)

Evidence of title shall be a Policy of Title Insurance or a Guaranteed Certificate of Title covering anyone relying thereon.

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.

LOCAL RULE 34.1 GUARDIANS

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 a 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 the 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 on the age of majority birthday or upon further order of the Court. The entry shall be presented at the time 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.

LOCAL RULE 35.1

Rule 35 (C) is to be considered directory not mandatory.

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 to the injuries sustained, the extent of recover 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 shall be subject to review by the Court.

LOCAL RULE 36.1

(A) The hearing will not be set for at least ten days following the filing of said application for the settlement of claims for injuries to minors.

(B) In structured settlements the settlement agreement shall contain in addition to the requirements of Superintendence Rule 36 the following:

- (1) A copy of the doctor's current examination report.
- (2) A proposed cost of plaintiff's annuity.
- (3) A proposed cost of defendant's annuity.
- (4) A rating of the insurance company through the best rating service.
- (5) A copy of the fee contract of the plaintiff's attorney.

(C) The Court suggests that the attorney, prior to settling a claim personally come to the Court to discuss the entire settlement with the Court.

RULE 37

SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS UNDER TEN THOUSAND DOLLARS

(A) Application involving the payment of ten thousand dollars (\$10,000.00) or less, shall be by the parent or parents or by the person having custody of the minor, and shall be captioned in the 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 considerations if any, is being paid to persons other than the minor.

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

LOCAL RULE 37.1 (A)

(A) The hearing will not be set for at least ten days following the filing of said application.

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 allocations 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.

LOCAL RULE 38.1 (A)

Hearing will not be set for at least ten days following filing of said application.

RULE 39

COUNSEL FEES IN CONNECTION WITH SETTLEMENT OF CLAIMS FOR WRONGFUL DEATH, CONSCIOUS PAIN & SUFFERING, CLAIMS FOR PERSONAL INJURY FOR PERSONS UNDER GUARDIANSHIP: AND SETTLEMENT OF CLAIMS FOR PERSONAL INJURIES TO MINOR UNDER O.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 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 agreement shall be filed with the Court. Suggested hourly rate \$50.00 per hour.

LOCAL RULE 40.1

(A) Hearings under Rule 40 (C) shall be held only if the Court deems a hearing necessary.

(B) Counsel fees for the administration of a decedent's estate as set forth in Appendix B and Form B 1 attached hereto, may serve as a guide in determining fees to be charged to the estate for legal services of an ordinary nature rendered as attorney for the executor or administrator in the complete administration of a decedent's estate. SUCH SCHEDULES, HOWEVER, ARE NOT TO BE CONSIDERED AS SCHEDULES OF MINIMUM OR MAXIMUM FEES TO BE CHARGED.

(C) Examples of extraordinary services which may be compensated in addition to the foregoing suggested guidelines on ordinary fees are set forth in Appendix C attached hereto.

RULE 41

EXECUTOR'S AND ADMINISTRATOR'S COMMISSIONS

(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 commissions of co-executors or co-administrators in the aggregate shall not exceed the commissions 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 finds 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 shall be filed with the Supreme Court in accordance with Common Pleas Superintendent Rule 44.

(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 paid if only one trustee had been performing the duties except where the instrument under which the co-trustees are acting provides otherwise.

(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.

LOCAL RULE 42.1

(A) Unless otherwise provided by law or ordered by the Court, the guardian may charge for his ordinary services on an annual basis an amount computed in accordance with the attached schedule marked Appendix D and Form D1.

(B) Compensation computed on income will not be allowed on balances carried forward from one accounting period to another, nor will an investment of funds or the final distribution of unexpected balances to a ward at the close of a guardianship be considered as an expenditure.

(C) For the purpose of computing a guardian's compensation as herein approved, the fair market value of the principal shall be determined by the guardian as of the date of his appointment and as of each anniversary thereafter. The compensation so determined may be charged during the ensuing year. The annual principal valuation shall be adjusted from time to time to reflect additions to and withdrawals from the principal of the estate, and the compensation for the remaining portion of the annual periods shall be similarly adjusted to reflect such revised valuation.

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 Common Pleas Superintendent Rule 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 local rule 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.

LOCAL 43.1

(A) Except where the instrument creating a trust makes provisions for compensation, a testamentary trustee may charge annually for the ordinary services performed by the trustee in connection with the administration of each separate trust estate a fee as established by Appendix E and Form E1.

(B) For the purpose of computing trustee's compensation as herein provided, the fair market value of the principal of the trust property, shall be determined by the trustee as of the date of the trustee's appointment as of each anniversary thereafter. The compensation so determined may be charged during the ensuing year. The annual fair market value of the principal shall be adjusted from time to time to reflect additions and withdrawals from the principal of the trust estate, and the compensation for the remaining portion of the annual period shall be similarly adjusted to reflect such revised valuations.

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

RULE 44

LOCAL RULES

(A) The Probate Courts may adopt supplementary rules concerning local practice in their respective courts which are not inconsistent with these rules. Such rules shall 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 Pr. Sup. R. 1 shall be designated County Local Probate Rule 1.1, etc.

LOCAL RULE 44.1

ADDRESS CHANGE OF FIDUCIARY OR ATTORNEY OF RECORD

It is the responsibility of each attorney of record to advise the Court, in writing and captioned in the particular matter, of any change in the mailing address of either the attorney or the fiduciary. It is the responsibility of each attorney of record to notify the Court, in writing, if the fiduciary dies, or moves out of the state of Ohio.

Failure to comply with this Rule may lead to a disallowance of fiduciary and/or attorney fees.

RULE 45
EXCEPTION TO THE RULES

Upon application, and for good cause shown, the Court may grant exception to any of the within Rules of the Court.

RULE 46
COMPLIANCE

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

LOCAL RULE 47.1
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 (\$6,000.00) and there is a surviving spouse and/or minor children or less than one thousand dollars (\$1,000.00) and no surviving spouse or minor children and evidence is presented at the time of filing establishing that the funeral bills to the extent of the estate priority allowance have been paid.

APPENDIX A
DEPOSITS FOR COURT COSTS

- | | |
|---|----------|
| 1. RELEASE ESTATE FROM ADMINISTRATION | \$ 50.00 |
| 2. FILING APPLICATION FOR ADOPTION | 60.00 |
| 3. PERSONAL SERVICE UPON NON-RESIDENT- OF COUNTY | 15.00 |

**APPENDIX B
COUNSEL FEES**

I. TOTAL PROBATE ASSETS (PER INVENTORY)

| | | | |
|-----------|-------------|---------|----------------------|
| \$ 0 | - \$ 5,000 | \$ 300 | |
| \$ 5,001 | - \$ 20,000 | \$ 300 | + 5 % over \$ 5,000 |
| \$ 20,001 | - \$ 50,000 | \$1,050 | + 3½% over \$ 20,000 |
| \$ 50,001 | - \$100,000 | \$2,000 | + 3 % over \$ 50,000 |
| \$100,001 | - \$180,000 | \$3,600 | + 2½% over \$100,000 |
| \$180,001 | - UP | \$5,600 | + 2 % over \$180,000 |

II. TOTAL NON PROBATE ASSETS (AS VALUED IN OHIO ESTATE TAX RETURN)

| | | |
|-----------|-------------|----|
| \$ 0 | - \$ 25,000 | 2% |
| \$ 25,001 | - UP | 1% |

III. EXTRAORDINARY FEES MAY BE AWARDED ON APPLICATION BASED UPON THE TIME SPENT AND SERVICES RENDERED.

This schedule is merely a guide for determining fees or counsel in an ordinary estate and should be considered as neither a minimum or maximum fee schedule.

APPENDIX C

EXAMPLES OF EXTRAORDINARY SERVICES

Examples of extraordinary services which may be compensated in addition to the foregoing suggested guidelines on ordinary fees includes, but is not limited to the following:

- a. In a court other than the Probate Court.
- b. In a contested matter in the Probate Court.
- c. In connection with the preparation or filing, audit, protest or contest of an income or gift tax return, or liability incurred by the decedent or personal representative.
- d. In connection with the settlement of estate or inheritance taxes with respect to insurance not payable to the estate, gifts in contemplation of death, or general testamentary powers of appointment not exercised by the decedent, and other negotiation not represented by assets included in the "gross value" of the estate.
- e. With respect to problems of valuation or taxability of property for estate and inheritance taxes or to the protest of such taxes.
- f. Preparation and filing of the federal estate tax returns.
- g. Services in connection with land sale proceedings.
- h. In connection with matters which are unusual or excessive for the size of the estate involved.
- i. In connection with the performance of duties normally performable by the personal representative, but which fall to the lawyer because of personal representative's inexperience, lack of ability, or absence from the place from which the assets of estate must be managed.
- j. Sale of business or business assets.
- k. Sale of real estate including but not limited to the preparation of real estate purchase agreement, title evidence and deed of conveyance for real estate sold in the estate.
- l. Proceedings to determine heirship.
- m. Proceedings involving partnership.
- n. Completion of land contract.

APPENDIX D
GUARDIAN FEE GUIDELINE

COMPUTATION OF GUARDIAN FEES - ANNUALLY

- (1) \$ 0 - \$1,000 Income 4% of Income
(excludes income from rental property managed by guardian)
\$1,000 - UP Income 3% of Income
- (2) \$ 0 - \$1,000 Expenses 4% of Expenses
(excludes rental property expenses)
\$1,000 - UP Expenses 3% of Expenses
- (3) \$3 Per Thousand Principle
- (4) 10% of Gross Rental Property Income If Managed by Guardian
- (5) Minimum of \$50.00 per year

ATTORNEY'S FEES

- (1) Attorney's fees up to \$200.00 for representing a guardian subsequently appointed including the filing of an inventory and an entry approving the inventory will normally be approved without application.
- (2) Attorney fees up to \$225.00 for preparing and filing a biennial account and entry approving said account will normally be approved without application.

APPENDIX E
TRUSTEE'S FEES

- I. On Income from Personal Property
6% of Gross Income

- II. On Income from Real Property
 - a. 10% of gross income on property managed by trustee.
 - b. 1% of adjusted gross income on property managed by someone else provided that management fees and trustee's fee combined do not exceed 10% of gross income.

Adjusted gross income is gross income less operating expenses before depreciation and management fees deduction.

- III. On Principle
\$2.00 per thousand dollars principle.

- IV. On Distribution of Principle
(Other than termination)

1% of reasonable market value of principle property distributed to be paid from the distribution.

- V. Extraordinary fees may be awarded upon application at discretion of the Court.

FORM B-1

PROBATE COURT OF PAULDING COUNTY, OHIO

ESTATE OF _____, DECEASED

CASE NO. _____ DOCKET _____ PAGE _____

COMPUTATION OF ATTORNEY FEES FOR ESTATES

TOTAL PROBATE ASSETS on Ohio Estate Tax Return \$ _____

| | | | | | |
|----|-----------------|------------|---------|------------|-------------------|
| | | | | | Fair Market Value |
| \$ | 0 to | \$ 5,000 = | \$ 300 | | |
| | 5,000.00 to | 20,000 = | 300 + | 5 % over | \$ 5,000 |
| | 20,000.00 to | 50,000 = | 1,050 + | 3 ½ % over | 20,000 |
| | 50,000.00 to | 100,000 = | 2,100 + | 3 % over | 50,000 |
| | 100,000.00 to | 180,000 = | 3,600 + | 2 ½ % over | 100,000 |
| | 180,000.00 PLUS | | 5,600 + | 2 % over | 180,000 |

FEE - PROBATE ASSETS \$ _____

TOTAL NON-PROBATE ASSETS

As set forth as fair market value on the Federal Estate Tax Return; otherwise, on value of any asset for which legal work was necessary for the transfer or liquidation (schedule to be attached).

| | | | |
|----|-------------|------------|-----------------------------|
| \$ | _____ | | |
| \$ | 0 to | \$25,000 = | 500 or 2% whichever is less |
| | 25,000 PLUS | = 500 | plus 1% over \$25,000 |

FEE - NON PROBATE ASSETS \$ _____

EXTRAORDINARY SERVICES

(Itemized and attach time record, if available)

- A. Federal Estate Tax Return, if any _____
- B. Federal Special Use Elections, if any _____
- C. Income Tax Returns _____
- D. Real Estate Sales Work _____
- E. _____
- F. _____
- G. _____

FEE - EXTRAORDINARY SERVICES \$ _____

TOTAL ATTORNEY FEES \$ _____

APPROVED BY: _____ APPROVED BY: _____
ESTATE OF _____, DECEASED

BY _____ BY _____
(Attorney) (Fiduciary)

Date Approved by Court:

_____, JUDGE

FORM D1

COMPUTATION OF GUARDIAN FEES

ACCOUNTING PERIOD OF _____, 19__ to _____, 19__

ORDINARY FEES

Total Income During Period \$ _____

I. 0 - \$1,000 income @ 4% _____ (excludes guardian managed rental prop. income)

\$1,000 - Up income @ 3% _____

Total Fee From Income \$ _____

Total Expenses During Period \$ _____

II. 0 - \$1,000 Expense @ 4% _____ (excludes rental prop. expenses)

\$1,000 - Up Expense @ 3% _____

Total Fee From Expenses \$ _____

III. Principle at Beginning of Accounting Period

times (x) .003

Total Fee From Principle \$ _____

IV. Gross Rental Income From Property

Managed by Guardian _____
times (x) .10

Total Fee From Rental Income \$ _____

IV. Extraordinary Fees (Itemize and Attach Time Records)

A. _____

B. _____

C. _____

D. _____

Total Extraordinary Fees \$ _____

Total I - V \$ _____

Total Fee Requested \$ _____

GUARDIAN'S SIGNATURE

Date Approved by the Court

Judge's Signature

FORM E1

TRUSTEE'S FEE COMPUTATION

| | | |
|---|-------|----------|
| I. Gross Annual Income from Property | | \$ _____ |
| times (x) | | .06 |
| Total Fee from Personal Property Income | | \$ _____ |
| II. (a) Gross Income from Real Property | | \$ _____ |
| Managed by the Trustee | | |
| times (x) | | .10 |
| Total Fee For Trustee Managed Real | | \$ _____ |
| Property(s) | | |
| (b) Adjusted Gross Income from Other | | \$ _____ |
| Real Property | | |
| times (x) | | .01 |
| Total Fee to Trustee on Other Real | | \$ _____ |
| Property Income | | |
| Management Fee \$ | _____ | |
| III. Principle | | \$ _____ |
| times (x) | | .002 |
| Fee on Principle | | \$ _____ |
| IV. Principle Distribution | | \$ _____ |
| times (x) | | .01 |
| Fee on Principle Distribution | | \$ _____ |

RECAPITULATION

| | |
|--|----------|
| Item I fees | \$ _____ |
| Item II fees | \$ _____ |
| Item III fees | \$ _____ |
| Item IV fees | \$ _____ |
| Extraordinary Fees from application | \$ _____ |

TOTAL FEE REQUESTED \$ _____

SIGNATURE OF TRUSTEE

Date Approved by Court

JUDGE'S SIGNATURE

IN THE COURT OF COMMON PLEAS OF PAULDING COUNTY, OHIO
(PROBATE DIVISION)

In the Matter of :
the Adoption of : Rule X
a Local Rule of : Paulding County Rules
Court for Case Management : of Probate Court

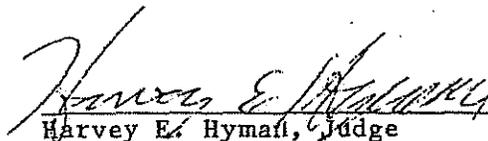
Pursuant to Rule 9 of the Rules of Superintendence for Courts of Common Pleas and for the further purpose of facilitating the expeditious handling cases, It is hereby ordered as a Rule of Court of this Court for Case Management purposes, which as designated as "Rule X" of the local rules of this Court, that;

1. All probate cases adhere to all statutory schedules;
and,
2. That all Civil Cases not covered adequately by the statutory schedules be reviewed weekly and set for hearing as to Pre-Trials, if needed or adjudicatory hearing within 15 days of filing; and,
3. That all motions filed unsupported by memorandum or law citation be, at the discretion of the Court, ruled on ex parte, and all others, heard within 10 days of filing unless changed for good cause shown to the Court's satisfaction; and,
4. That all discovery be completed within 30 days from inception of case; and,

5. That all cases not otherwise covered by statutory schedules be set for hearing within 10 days of discovery or if no discovery when case at issue.
6. That all Probate cases be physically reviewed every three months for status and disposition.

Dated: June 29, 1991.

Effective: July 1, 1991


Harvey E. Hymal, Judge



Probate & Juvenile Court of Paulding County

DIVISION OF COMMON PLEAS COURT

2nd Floor, Court House

Paulding, Ohio 45879

Russell J. McMaster
Judge

(419) 399-8255
(419) 399-8256

TO: All Counsel Practicing In The
Probate Court, Paulding County

FROM: Judge Russell J. McMaster

DATE: June 21, 1994

RE: Probate Law Changes, SHB 208,
RC 2109.32-33, Hearing On Accounts/
Notice; and RC 2115.16, Hearing
On Inventory

FILED

JUN 21 1994

**PROBATE COURT
PAULDING OHIO**

By reason of the recent changes to the Probate Laws, which become effective June 23, 1994, the two (2) following Local Rules have been adopted concerning the Notices for Hearing on Inventory and Hearing on Accounts:

Local Rule 29.2

NOTICE OF HEARING ON INVENTORY: Unless waiver of notice of the filing of the inventory is filed with the inventory, the Probate Court shall give notice of the hearing on the inventory, by ordinary mail to the last known address, to all beneficiaries under the will or to all heirs at law if an intestate estate. The Probate Court shall docket a certificate of mailing with the name of all beneficiaries or heirs to whom the notice was sent and the date of the mailing of the notice. (eff. 6/23/94)

Local Rule 32.1

NOTICE OF HEARING ON ACCOUNT: Unless a waiver of notice of the filing of the account is filed with the account, the Probate Court shall give notice of the hearing on the account, by ordinary mail to the last known address, to all residuary beneficiaries in a testate estate and to all heirs at law in an intestate estate. The Probate Court shall docket a certificate of mailing with the name of all beneficiaries or heirs to whom the notice was sent and the date of the mailing of the notice. (eff 6/23/94)