

Morrow County Court of Common Pleas

PROBATE DIVISION LOCAL COURT RULES

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MORROW COUNTY COMMON PLEAS COURT
PROBATE DIVISION
LOCAL COURT RULES

These local rules of the Probate Division of the Morrow County Common Pleas Court are limited to Probate Court matters only. These local rules of the Probate Division of the Morrow County Court of Common Pleas are designed to supplement the Rules of Superintendence for Courts of Ohio, Rules 50-78. The General Division local rules shall be applicable for any and all matter, issues or procedures not specifically covered herein. Further, for Decedent's estate matters, the date of death may determine what law or rule is to apply and therefore these rules may not totally govern in those estates which are subject to the law in effect at the date of death.

Rule 1

1. MEDIATION

- 1.1 After the filing of an estate, guardianship, trust, or any other Probate action, the Court, on its own motion or on the motion of any of the parties, may refer disputed issues to mediation.
- 1.2 The mediation session(s) may continue until all issues are resolved in a manner acceptable to the disputing parties, or until the mediator determines that continued mediation would not be productive.
- 1.3 The Court may order parties to participate in or return to mediation at any time.
- 1.4 Statements made during a mediation session shall be considered compromise negotiations and are not admissible as evidence pursuant to Rule 408 of the Ohio Rules of Evidence. Mediators will not be permitted to testify regarding the substance of the mediation, including but not limited to, cooperation or non-cooperation of the parties.
- 1.5 Referral to mediation by the Court shall be by “Notice of Mediation” which shall indicate the time and place of the mediation, and the name and telephone number of the mediator.

Rule 2

2. PROBATE FORMS

2.1 Form Availability (Rules of Superintendence 51-52)

Most approved forms for use in the Morrow County Probate Court are available at the office of the Probate Clerk and on the Court's website: morrowcommonpleas.com.

2.2 Computerized Forms

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

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

2.3 Form Specifications

The Court reserves the right to refuse any documents for filing which are not readable or legible due to print size, handwriting or any other obvious reason(s).

Rule 3

3. FILINGS AND JUDGMENT ENTRIES (Rules of Superintendence 57)

3.1 Complete Street Address

When required on a Court document, the address provided must be a street address, and in addition, if applicable, a post office box number may be noted as a mailing address. The address of the fiduciary who is not an attorney at law must be the fiduciary's legal residence. A fiduciary who is an attorney at law may use an office address.

Reasonable diligence shall be exercised to obtain the complete street addresses of the surviving spouse, next of kin, legatees and devisees.

3.2 Case Number

All filings, including attachments, must have the case number on each page.

3.3 Original Signatures

All filings must contain original signatures. In all matters with multiple fiduciaries, the signature of each fiduciary is required on all documents including fiduciary checks. A person who is not an attorney may not sign on behalf of an attorney. **All original signatures shall be in blue ink.**

3.4 Fiduciary Signature

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

3.5 Court Filings

All filings must be legible and on 8-1/2" x 11" paper and the type size for the body of the document shall not be less than ten (10) points or greater than twelve (12) points. Exception – original will.

3.6 Electronic Filing

- A. In conformity with the Ohio Revised Code, Ohio Civil Rule 5(E), and Ohio Criminal Rule 12(B), pleadings and other papers may be filed with the clerk of courts electronically, subject to the provisions in this rule.
- B. Application of Rules and Orders. Unless otherwise modified by approved stipulation or court order, all Federal Rules of Civil and Criminal Procedure, Ohio Rules of Civil and Criminal Procedure and Local Rules and orders of the court will continue to apply to all documents electronically filed.

- C. Registration. A person or entity must first register with the EFM in order to e-file. Upon approval or denial of the request for access to the EFM, the person or entity will receive an email of approval or denial. An e-filer must provide a designated email address to the EFM.
- D. Accepted Filings
1. For each electronic document filed, the filer must complete an online Document Description Form containing the following information:
 - The title of the case;
 - The case number, if previously assigned;
 - The assigned judge, if previously assigned;
 - The title of the document being filed;
 - The date of transmission;
 - The name, Ohio attorney-registration number, address, telephone number, fax number, and email address of the attorney or party filing the document.
 2. Signatures
 - All electronically filed pleadings must be signed by an attorney admitted to practice in the State of Ohio or by a party not represented by an attorney.
 - Any signature on an electronically transmitted document will be considered that of the attorney or party it purports to be for all purposes in accordance with Ohio Civil Rules 5(E)(1) and 11 and Ohio Criminal Rule 12(B)(2).
 - If an original document requires a signature of a non-attorney, the filing party or the clerk's office must scan the original document and then electronically file it.
 - A pleading or other document requiring an attorney's signature must be signed with an Electronic Signature in substantially the following format if filed electronically:
 - /s/Ohio Attorney
 - Ohio attorney-registration number
 - Attorney for (Plaintiff/Defendant)
 - Address
 - Telephone Number
 - Facsimile Number
 - Email Address

- Per Ohio Civil Rule 5(E)(1) and Ohio Criminal Rule 12(B)(2), if the documents were transmitted without authority, the court will strike the filing.
 - 3. Complaints. Complaints, including criminal complaints, may be filed electronically. Per Ohio Criminal Rule 12(B)(1), all criminal complaints must comply with Ohio Criminal Rule 3.
- E. Filings Not Accepted
Depositions and transcripts. All depositions and transcripts must be filed in hard format with the clerk, pursuant to the local rules.
- F. Hours of Operation
1. The clerk receives electronic documents 24 hours per day, seven days per week, regardless of whether or not the clerk's office is actually open.
 2. Time at the court (Eastern time zone) governs, rather than the time zone from which the filing is made.
 3. All electronically filed documents will receive a confirmation of receipt that includes the date and time acknowledgement displayed on the screen of the filer's computer upon successful transmission of the filing.
 4. Any document filed electronically that requires a filing fee may be rejected by the clerk of courts unless the electronic filer has complied with the mechanism established by these rules for the payment of filing fees.
- G. Document Format. Documents must be submitted in Portable Document Format (PDF).
- H. Fees
1. The clerk will assess normal filing fees. All filing fees and case deposits will be collected via an Accepted Financial Transaction Device at the time the filing is processed. Under Section 301.28(E) and (F) of the Ohio Revised Code, a surcharge for using a financial transaction device use may be assessed in an amount to be determined by the clerk.
 2. No personal checks will be accepted.
 3. The clerk's office will document the receipt of fees on the docket with a text-only entry.
 4. The court will not maintain electronic billing or debit accounts for lawyers or law firms.
- I. Filing Acceptance or Rejection Cycle
1. A confirmation number will be assigned by the clerk to each filing received by the clerk.

2. The confirmation number and the date and time of the filing will be displayed on the screen of the filer's computer upon successful transmission of the filing.
3. Upon successful processing by the clerk of the document submitted for filing, an electronic mail message will be sent to the filer stating that the document was accepted and filed. The email will also contain the confirmation number and case number assigned, if any.
4. If for any reason the document submitted for filing is not accepted and filed by the clerk, the filer will be notified via electronic mail that the document was rejected and the reason for rejection.
5. A rejected filing will be treated by the court as having been tendered to the clerk for filing on the date of the rejection if the filing party resubmits the rejected document through the e-filing system within 24 hours after the rejection electronic mail message was sent by the clerk. That 24-hour window is a firm deadline, and it applies even on weekends and holidays. Any corrective filing submitted after the 24-hour period expires will be rejected. If a party still wishes to file the rejected document electronically after the 24-hour correction period, that party may initiate a new e-filing attempt, but the document will not be treated by the court as having been tendered to the clerk on the date of the initial rejection.
6. Technical Failures
 - The clerk may deem the e-filing site to be subject to a technical failure on a given day if the site is unable to accept filings continuously or only accepts filings intermittently over the course of any period of time greater than one hour after 10:00 a.m. that day. Known system outages will be posted on the clerk's website, if possible.
 - A filer who cannot file a document electronically due to problems on the filer's end must file a hard copy of or fax file the document with the clerk.
 - A filing party whose filing is made untimely as a result of a technical failure of the clerk's system or site, or as a result of problems on the filer's end, may seek appropriate relief from the court.
 - If a document is not filed due to technical failures and the filer wishes to have the corrective filing relate back to the date and time of the rejected filing, the filer must file a motion with the court seeking relief.
7. Any attorney, party or other person who elects to file any document electronically will be responsible for any delay, disruption, interruption of electronic signals, and readability of the document and accepts the full

risk that the document may not be properly filed with the clerk as a result.

8. The clerk will retain rejected documents for a period of one year from the date of transmission.

J. Electronic File Stamp

1. Upon acceptance by the clerk, a document will receive an electronic file stamp.
2. This stamp will include the date and time when the clerk originally received the transmission. A document received electronically will be considered to have been filed on the date and time in the time stamp.
3. A document electronically filed that is not successfully processed by the clerk will not receive an electronic file stamp, but the filer will receive a rejection email as provided in these rules.
4. After a document receives an electronic file stamp, the document cannot be altered.

K. Service of Documents

1. Documents filed electronically with the clerk must be served in accordance with Ohio Civil Rule 5 and Ohio Criminal Rule 49.
2. Once a party has entered an appearance in the case, the party must furnish his or her email address that is regularly monitored, and service thereafter should be made electronically when possible.
3. For all documents that require service by the clerk or documents for which a party is requesting that service be made by the clerk, Instructions for Service must be filed by the filing party as a separate document.
4. Automated Service. When a submission is deemed filed, the clerk's e-filing system will generate a Notification of Electronic Filing to the filer and any other party to the case or their counsel who is a registered user of the clerk's e-filing system. Parties who have listed an email address on prior court filings will also receive the Notification of Electronic Filing. Parties to the case or their counsel who are not registered with the clerk's e-filing system or who have not provided an email address on court filings will not receive a Notice of Electronic Filing. As a result, any filer must serve a paper copy of the e-filed document on all parties to the case or their counsel to whom the clerk's e-filing system does not send the Notification of Electronic Filing. The automatic electronic notice, in conjunction with the required proof of service, will constitute service under Civil Rule 5 and Criminal Rule 49.
5. Proof of Service. Proof of service of all documents required to be served must be provided by the filing party in compliance with Civil Rule 5(B)(4)

and Criminal Rule 49. A separate Certificate of Service will be automatically generated and filed by the e-filing system detailing which parties have and have not been electronically served by the e-filing system. All filing parties must also include on their documents a certificate of service signed in accordance with applicable Ohio court rules and laws, including these Local Rules. The certificate of service must contain substantially the following language: *"I hereby certify that on [date], [document title] was served through the Court's Electronic Filing Service or by ordinary U.S. mail."*

6. Service Date and Time to Respond. For parties or their counsel who receive the Notification of Electronic Filing, service is complete at the time the Notification of Electronic Filing is generated by the clerk's e-filing system. Parties who do not receive the Notification of Electronic Filing and who are served by regular U.S. mail will have additional time to respond as provided by Civ.R. 6(D). Parties who receive the Notification of Electronic Filing are not entitled to the additional time to respond provided by Civ.R. 6(D).
7. Failure of eService. If the clerk's e-filing system fails to generate the Notice of Electronic Filing, the party to be served may request an order extending the date for any response.

L. Attachments and Exhibits

Attachments and exhibits to pleadings or motions should be included in one PDF file. If the file size is too large to upload, the attachments or exhibits can be filed in multiple parts. The attorney or party filing attachments or exhibits in multiple parts should advise the clerk as to which pleading, motion, or memorandum the attachments or exhibits belong with by stating so in the comment field of the e-filing system.

M. Definitions

1. Accepted Financial Transaction Device - a credit card, debit card, or other financial transaction device electronically accepted by the clerk and EFM to process documents submitted for Electronic Filing.
2. Electronic filer - a person, entity, or authorized agent who e-files.
Registration as an e-filer constitutes consent to accept electronic service of any pleadings filed by other registered e-filers as well as any orders issued by the Court.
3. Electronic Filing (e-filing) - the process by which a person or entity files documents with the clerk by means of an online electronic transmission of the document through a portal operated by an electronic filing manager designated by the clerk.

4. Electronic filing manager (EFM) - the entity hired by the clerk to provide the single interface for managing electronic filings for the Court.
5. Electronic Signature - an electronic identifier intended by the person using it to have the same force and effect as a manual signature. An electronically submitted document issued or received by the clerk is considered signed if an electronic signature is included on the document. An electronic signature must include at least one of the following:
 - a. “/s/” and the name typed in the space where the signature would otherwise appear; or
 - b. an electronic image or scanned image of the signature.
6. Original Document - the electronic document received by the clerk from the filer.
7. Technical failure - a malfunction of the EFM or any county-owned or leased hardware, software, or telecommunications equipment, plus any other issue under control of the clerk or the Delaware County Information Technology Department that results in the inability of an e-filer to e-file a document.

3.7 Public Terminal

The Court of Common Pleas has provided Public Terminals to be used by any person wishing to file a pleading with the Court or make a credit-card payment on a case. The terminals are located on the 2nd floor lobby by the Juvenile & Probate Clerks office as well as 2 terminals located in the Clerk of Courts office on the 1st floor.

A scanner has also been provided at each terminal for any document(s) that have not been digitized.

The terminals are also to be used for any credit-card payment to be made on a case. This would include case filings, fees or fines, court costs, probation fees, and restitution payments.

Attorneys are asked to use the Law Library computer(s) when possible, for e-filing.

3.8 Forwarding Copies

The Court will not return stamped “FILED” copies by mail unless requested and submitted with a return, self-addressed, stamped envelope.

3.9 Issuance of Summons

A Request for Issuance of Summons (Form 1P) shall be filed with all original and amended complaints or petitions in civil actions.

3.10 Certificate of Notice of Entry of Judgment

Any proposed entry submitted to the Court, which is subject to Rule 58(B) of the Ohio Rules of Civil Procedure as modified by Rule 73(l) of the Ohio Rules of Civil Procedure, shall contain a certificate of service including the names and addresses of all parties and other interested persons required to be served.

3.11 Certificate of Service

The Certificate of Service shall identify by name all parties served.

3.12 Service

Any request for service of a complaint, motion, order, or other paper requiring service pursuant to the Ohio Rules of Civil Procedure shall be accompanied by a time-stamped copy of the paper to be served. For electronically filed documents, the Clerk of Courts will print copies of the documents for service and will tax the costs of printing to the costs of the case.

Rule 4

4. COURT COSTS

4.1 The business of this Court shall be conducted on a cash basis. The Court will only accept: cash; money orders; cashier's checks; attorney checks; Title Company checks; or trust company checks.

- A. Filing an application for appointment of any estate fiduciary shall require a minimum deposit of One Hundred Twenty-five and No/100 Dollars (\$125.00). However, the Court recommends a deposit of Two Hundred and No/100 Dollars (\$200.00);
- B. Filing a presentation of a claim against an estate with the Court pursuant to Section 2117.06 (A)(2) of the Ohio Revised Code shall require a fee of Twenty Three and No/100 Dollars (\$23.00).

4.2 The Morrow County Sentinel/Independent is designated as the law journal in which the calendar of the Court, including such proceedings and notices as required by law or designated by the Judge, is published. These publication charges shall be charged as costs unless paid by the party seeking publication directly to the Newspaper.

4.3 Release of Adoption Information

The fee for filing a petition for the release of adoption information pursuant to Section 2101.16 (F) of the Ohio Revised Code shall be Fifty and No/100 Dollars (\$50.00).

4.4 Filing Transcripts, Exhibits, or Foreign Records

The fee required by Section 2101.16 (A)(57) of the Ohio Revised Code shall be paid at the time of filing the transcript, exhibits, or foreign records.

4.5 Retrieval fee for Closed Files in Storage

A retrieval fee of \$10.00 shall be added to any case that is required to be retrieved from the storage facility.

Rule 5

5. WILLS (Rules of Superintendence 59)

5.1 Certificate of Service of Notice of Probate of Will

The applicant for the admission of a Will to probate or other person listed in Section 2107.19 (A)(4) of the Ohio Revised Code shall file a Certificate of Service of Notice of Probate Of Will (Standard Probate Form 2.4) not later than two months after the appointment of the fiduciary or, if no fiduciary has been appointed, not later than two months after the admission of the Will to probate. Proof of service shall consist of either waivers or notice of the probate of the Will or original certified mail return receipt cards as provided under Civil Rule 73 (E)(3). A waiver of notice may not be signed by any minor, or on behalf of a minor sixteen (16) or seventeen (17) years of age.

Rule 6

6. APPLICATION FOR LETTERS OF AUTHORITY TO ADMINISTER ESTATE AND NOTICE OF APPOINTMENT (Rules of Superintendence 60)

6.1 Fiduciary's Acceptance

All executors and administrators shall personally sign and file the Fiduciary's Acceptance, Form 4.0A, prior to the issuance of the Letters of Authority. The Court reserves the authority to hold a hearing prior to the appointment of a fiduciary, even if named in a Will.

6.2 Appointment of Nonresident Fiduciaries

An applicant to be appointed fiduciary of a decedent's estate, or trust, who is not a resident of this state, must be in compliance with Section 2109.21 of the Ohio Revised Code and must use, as the attorney of record, an attorney licensed to practice law in this State. To assure that the assets remain in Morrow County, Ohio during the administration of the estate or trust, the applicant must meet all of the following criteria as required by the Court unless waived by the Court for good cause:

- A. Place a substantial amount of the decedent's personal assets in a custodial depository in this county, pursuant to Section 2109.13 of the Ohio Revised Code;
- B. Be named as fiduciary in Decedent's Will or have a co-trustee who is a resident of this state, if requesting to be Trustee.
- C. Post a bond in compliance with Section 2109.04 of the Ohio Revised Code

6.3 Death Certificate to be exhibited

Upon the filing of an Application for Authority to Administer the Estate, the applicant shall file with the Court a copy of the decedent's death certificate unless waived by the Court for good cause shown.

6.4 Identification with Photograph Required

Applicants for Authority to Administer a Decedent's Estate, who are not represented by an attorney, shall exhibit to the Court picture identification and proof of a current address.

Rule 7

7. APPRAISERS (Rules of Superintendence 61)

7.1 Appraisers' Fees

- A. Appraisers' fees for real estate shall be based upon the entire undivided value of the assets subject to appraisal (not the decedent's interest in the property which may be fractional). Fees shall be computed at the rate of;
1. \$1.50 per thousand for the first \$200,000 of valuation;
 2. \$1.00 per thousand in excess of \$200,000 of valuation;
 3. The minimum appraiser fee shall be \$100.00

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

- B. Any appraiser fee requested in excess of the above schedule and appraisals of personal property must either be by agreement between the fiduciary and the appraiser or must be approved by the Court prior to the appraisal being made.
- C. Unless there is a dispute or if an appraisal is required for other purposes, a Court-appointed appraiser may not be necessary in the following situations:
1. Where a motion and entry along with a copy of the Auditor's valuation card (for real estate) or along with an auto, trailer, or other vehicle NADA valuation (for motor vehicles) is filed and entry is signed by the Judge.
 2. Where the estate is comprised of personal property of readily ascertainable value.
 3. As otherwise waived by Court order.
- D. All appraisers shall give the fiduciary and the attorney of record a written appraisal of each property appraised on the appropriate form provided by the court or a form which is in substantial compliance therewith (see Rule 2 and Rule 8). The signature of the appraiser shall constitute a certification that an appraisal was performed truly, honestly, and impartially.

7.2 Appraiser Self-Dealing

During the administration of the estate or within twelve (12) months of the appointment of the appraiser, no appraiser shall directly or indirectly purchase or negotiate the purchase, sale, trade, or management of property that he or she has appraised.

Rule 8

8. INVENTORY

- A. In lieu of the appraiser signing the estate inventory, the fiduciary may attach to the inventory the original appraisal(s) containing the original signature of the appraiser(s).
- B. The inventory shall contain the address, legal description, permanent parcel number and the interest in the real estate of the decedent or ward.
- C. All inventories for a decedent's estate shall be filed in duplicate, the original and a copy.
- D. The inventory will not be accepted for filing unless the bond, when required, is sufficient and approved pursuant to Rule 20. A guardian's inventory shall include the projected annual income of the ward.
- E. The Court will not approve the distribution, sale, or expenditure of any estate or guardianship asset prior to the filing of the inventory.

Rule 9

9. ACCOUNTS (Rules of Superintendence 64)

9.1 Delinquency in Filing an Account

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

9.2 Vouchers

- A. When required by statute or Court order, original vouchers are to be displayed when filing accounts. The Court will accept as a voucher a statement from a financial institution specifying the payee, check amount, and date of payment.
- B. In any decedent's estate, where the date of death occurred after January 1, 2002, and the estate is solvent, in lieu of submitting vouchers, the fiduciary may file with the account, a waiver and consent from all the beneficiaries acknowledging that each has received a copy of the account, waives notice of the hearing on the account, and consents to the filing of the account.
- C. The Court may accept a combination of vouchers and consents. In lieu of receiving waivers and consents from all the remaining beneficiaries, vouchers from specific and pecuniary beneficiaries may be submitted with consents from all remaining beneficiaries.

9.3 Bond

An account will not be accepted for filing unless the bond, when required, is sufficient to cover twice the sum of the value of the personal property assets on hand or unless otherwise ordered by the Court.

9.4 Evidence of Assets

The Court requires that all remaining assets be exhibited and/or accounted for at the time of filing a partial account. The Fiduciary shall set forth the fair market value of all assets remaining in the fiduciary's hands as of the last day covered by the account.

9.5 Payment of Debts

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

9.6 Time for Filing

- A. For decedents' estates, the final and distributive account, due within six (6) months after appointment of the fiduciary, may be extended by Motion to thirteen (13) months for the reasons

enumerated in Section 2109.301(B)(1) of the Ohio Revised Code. All subsequent accounts must be filed on an annual basis unless the Court otherwise orders. If accounts are not filed in compliance with this rule, the fiduciary shall be subject to citation.

- B. For guardianships and trusts, the first account shall be filed not later than one (1) year following the date of the appointment of the fiduciary. All subsequent accounts shall be filed on a two (2) year basis, unless otherwise ordered by the Court.

Rule 10

10. CERTIFICATE OF SERVICE OF NOTICE TO HEIRS

For all estates of decedents with dates of death after December 31, 2001, a Certificate of Service of Account on Heirs or Beneficiaries (Standard Probate Form 13.9), shall be filed with the Court disclosing that the executor or administrator has provided a copy of the account to all persons entitled thereto under Section 2109.32 (B)(1) of the Ohio Revised Code. This certificate shall be signed by the executor, administrator, or attorney of record, and shall be filed no later than three days after the filing of each account.

Rule 11

11. GUARDIANSHIPS (Rules of Superintendence 66)

11.1 Guardianship of Minors

- A. The Court will not establish a guardianship for school purposes only. Custody for school purposes is a matter to be heard and determined by the Juvenile Division or the Domestic Relations Division.
- B. The Court will not establish any guardianship over the person of a minor where another court has jurisdiction over the custody of that minor.
- C. Minors who are not U.S. citizens, or who are resident aliens, are not considered by this Court to be residents or to have legal settlement as set forth in Section 2111.02(A) of the Ohio Revised Code.

11.2 Deposit of Wills

The guardian must deposit with the Court any and all Wills of the ward for safekeeping in accordance with Section 2107.07 of the Ohio Revised Code. A filing fee of \$5.00 shall be paid at the time of deposit of the Will.

11.3 Change of Address

A guardian appointed by this Court shall inform the Court as to any change of address of the guardian or the ward. This notification must be made within thirty (30) days of the address change. Failure to notify the Court under this rule may result in the guardian being removed.

11.4 Guardian's Report

The guardian of the person shall file the guardian's report as required by law. Unless a physician or clinical psychologist states on a Statement of Expert Evaluation that, to a reasonable degree of medical certainty it is unlikely the ward's mental competence will improve, the guardian shall provide the Court with an updated Statement of Expert Evaluation when filing each subsequent biennial Guardian's Report. If there is only a guardian of the estate, a guardian's report must also be filed by such guardian.

11.5 Termination

All applications to terminate a guardianship of a minor shall require that notice be given to all persons designated in Section 2111.04 of the Ohio Revised Code and to any other individuals who received or who were entitled to receive actual notice of the original appointment of the guardian. However, unless otherwise ordered by the Court, all minor guardianships shall terminate when the minor attains 18 years of age.

11.6 Notices for Guardianship of Adults

In addition to those entitled to notice of the hearing on the application for the appointment of a guardian of an adult under Section 2111.04 of the Ohio Revised Code, the applicant shall disclose to the Court the names and addresses of all adult children of the proposed ward know to reside in this state. The Court shall serve the adult children with notice of the time and date of the hearing, unless the notice is waived in writing.

Rule 12

12. ESTATES OF MINORS OF NOT MORE THAN TEN THOUSAND DOLLARS (Rules of Superintendence 67)

12.1 Dispense with Guardianship

All applications to dispense with the appointment of a guardian of a minor shall follow the notice requirements in Section 2111.04 of the Ohio Revised Code.

12.2 Birth Certificate

A copy of the minor's birth certificate and a copy of the social security card must be presented to the Court upon the filing of the application to dispense with guardianship.

Rule 13

13. SETTLEMENT OF INJURY CLAIMS OF MINORS OR INCOMPETENTS (Rules of Superintendence 68)

13.1 Birth Certificate

A copy of the minor's birth certificate and a copy of the social security card must be presented to the Court upon the filing of the application to settle a minor's claim.

13.2 Deposit of Proceeds

Pursuant to Sup. R. 67 (C), the attorney representing the applicants or the payer in the matter shall acknowledge responsibility for depositing the funds and providing the financial institution with a copy of the entry. The attorney shall obtain a Verification of Receipt and Deposit (Standard Probate Form 22.3) from the financial institution and file the form with the Court within thirty (30) days of the issuance of the entry.

13.3 Structured Settlements

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

- A. The application shall include a signed statement from one of the following: 1) independent professionals specifying the present value of the settlement and the method of calculation of that value; 2) an actuary; 3) certified public accountant; 4) certified financial planner; 5) chartered life underwriter; 6) chartered financial consultant; or 7) an equivalent professional approved by the Court.

- B. If the settlement is to be funded by an annuity, the application shall include a signed statement by the annuity carrier or the broker procuring the policy stating:
 - 1. Whether or not the annuity carrier is licensed to write annuities in Ohio.
 - 2. The annuity carrier's ratings from at least two of the following organizations, which meet the following criteria;
 - a. A.M. Best Company: A++, A+ or A
 - b. Duff & Phelps Credit Rating company (Claims Paying Ability Rating): AAA, AA+, or AA;
 - c. Moody's Investors Service (Financial Strength): Aaa, Aa1, or Aa2;
 - d. Standard & Poor's Corporation (Financial Strength): AAA, AA+, or AA;
 - e. Weiss Research Inc,: A= or A

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

Rule 14

14. SETTLEMENT OF WRONGFUL DEATH AND SURVIVAL CLAIMS (Rules of Superintendence 70)

14.1 Settlement of Claims

The application to settle a claim for wrongful death must state whether a portion of the settlement is to be a survival claim and, if not, why not. The apportionment of the proceeds for wrongful death and for survival purposes are two distinct matters for which the Court may require separate hearings.

14.2 Wrongful Death Trust with Multiple Beneficiaries

A separate wrongful death trust, with its own case number, shall be created for each trust beneficiary.

Rule 15

15. COUNSEL FEES (Rules of Superintendence 71)

15.1 Attorney Fees

All fees charged by an attorney representing a fiduciary in matters before this Court, including but not limited to work on decedents' estates, guardianships, and trusts, must be disclosed on the fiduciary's account, regardless of the source of payment. If the source of payment is other than the fiduciary, the source of payment must be identified on the account. For the purpose of this rule, "fiduciary" includes commissioners and applicants for release from administration. If no account is to be filed, the payment must be disclosed on a consent to fees document signed by the payer of the fees.

Attorneys are expected to be familiar with the Ohio Rules of Professional Conduct (Rule 1.5) which governs the reasonableness of fees. Upon review of the records, the Court may set the matter relating to attorney fees for hearing, regardless of the submission of consent(s) to fees.

15.2 Attorney Serving as Fiduciary (Rules of Superintendence 72)

In all matters where an attorney is the fiduciary of the estate, guardianship, or trust, and that attorney or another from his or her office is the attorney of record and where the attorney(s) is/are requesting to be paid in both capacities, detailed records shall be maintained describing time and services as fiduciary and as attorney, which records shall, upon request, be submitted to the Court for review.

Rule 1.5 of the Ohio Rule of Professional Conduct shall govern the reasonableness of all fees, notwithstanding statutory allowances. **The Court assumes that an attorney, appointed as fiduciary, has been selected due to the attorney's special knowledge and abilities which is intended to result in a savings of fees to the estate, guardianship, or trust.**

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

15.3 Early Payment of Attorney Fees

Attorney fees for the administration of decedents' estates shall not be paid or advanced from any source until the final account or final closing documents are prepared for filing, unless otherwise approved by the Court upon application. Such application shall contain a statement that the fee is being required in advance of the time permitted by Sup. R. 71 (B) and shall set forth the reason for requesting the early payment of

fees. The application shall be accompanied by consent(s) as to the amount and the timing of the fees by all beneficiaries who have yet to receive their complete distribution or shall be set for hearing with notice to the nonconsenting beneficiaries.

15.4 Notice and Consent for Attorney Fees in Estates

All applications for attorney fees in estates shall include a statement which should be a computation on a schedule or a breakdown of attorney hours and fees used to calculate the amount.

15.5 Notice and Consent for Attorney Fees in Guardianships

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

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

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

15.6 Notice and Consent for Attorney Fees in Trusts

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

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

15.7 Contested Fees

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

15.8 Contingent Fees

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

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

Rule 16

16. GUARDIAN'S COMPENSATION (Rules of Superintendence 73)

16.1 Guardian's Compensation

- A. A Guardian's compensation for services as guardian of the estate shall be computed annually upon application and entry and shall be supported by calculations and documentation.
- B. Compensation for services as guardian of the person only shall be set for hearing, unless the hearing is waived by the Court.

Rule 17

17. TRUSTEE'S COMPENSATION (Rules of Superintendence 74)

17.1 Trustee's Compensation

- A. Except where the instrument creating the trust makes provision for compensation, trustees subject to this Court's jurisdiction may, upon application and entry, be allowed compensation annually for ordinary services in connection with the administration of each separate trust. Copies of computation schedules can be obtained from the Probate Court.
- B. Additional compensation for extraordinary services or allowance for expenses may be granted on application and entry, which shall be set for hearing, unless waived by the Court.

Rule 18

18. GUARDIAN AD LITEM

18.1 Guardian Ad Litem

When necessary, the Court shall select and appoint each Guardian ad Litem. In land sale proceedings, a minimum fee of Fifty and No/100 Dollars (\$50.00) shall be assessed as costs for each Guardian ad Litem appointed, unless the circumstances warrant the payment of additional fees subject to Court approval. In all other proceedings, the amount of the Guardian ad Litem fee will be determined upon motion supported by a statement of services. Guardian ad Litem's fees may be assessed as costs.

18.2 To serve as a Guardian ad Litem, each prospective guardian shall meet all qualifications outlined in Rule 13 of the Rules of Court for the General Division.

Rule 19

19. ADOPTIONS

19.1 An original and a copy of all adoption petitions, interlocutory decrees, and final decrees shall be filed in every adoption case. Additional copies of the petition shall be submitted as required for service. Adoption Decrees (interlocutory or final) may only be granted when there has been a lawful placement.

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

19.3 Once the applications have been approved by the Court, a hearing shall be held not less than seventy-two (72) hours after the birth of the child or after the parent(s) have met with the adoption assessor, whichever occurs later, for the placement and consent by the parents. Prior to the placement hearing, the Court shall be supplied with a statement from the child's physician as to the medical condition of the child to be placed. If the placement is approved, the adoption petition must be filed before the Court will issue a Hospital Release for the release of the child to the petitioners or the attorney for the petitioners. When the petitioner is the guardian or custodian of the minor to be adopted, the Court shall require a placement hearing. The adoption petition shall not be set for hearing until after the placement is complete.

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

19.5 The criminal background checks required pursuant to Section 2151.86 (B) of the Ohio Revised Code and petitioner's accounts shall be filed in all adoption cases, except in a stepparent adoption matter.

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

19.7 In all placement hearings where a birth parent of the child to be

adopted is a minor, that birth parent shall be represented by an attorney. The fees for the attorney for the birth parent will be assessed as costs to the petitioner(s).

19.8 All adoption assessors, who meet with the birth parent(s) in the course of preparing a report for an adoption proceeding in this Court, shall provide the birth parent(s) with a copy of the brochure prepared pursuant to Sections 3107.082 and 3107.083 of the Ohio Revised Code. Any adoption assessor providing the birth parent (s) with a copy of this brochure shall file a “Certificate of Service by Adoption Assessor” form prior to the first hearing in the adoption proceeding concerning the child of the birth parent (s) who received the brochure.

Rule 20

20. SURETY BONDS

20.1 The Court may accept a pledge of real estate as a surety.

20.2 Bonds required by law or by Court order shall be in an amount not less than double the probable value of the personal estate, including all projected income during the accounting period.

20.3 The original bond must be approved in writing by a bonding agency and the Court prior to the issuance of Letters of Authority in all matters where a bond is required. Additional bonds must be approved by a bonding agency in writing before being approved by the Court.

20.4 The bond premium shall be paid by the fiduciary within sixty (60) days of the date of appointment. The premium for additional bonds shall be paid by the fiduciary within sixty (60) days from the date the additional bond is approved by the Court. Should payment not be made pursuant to this rule, the fiduciary may be held personally liable for the bond payment and is subject to removal.

Rule 21

21. RELEASE OF ESTATES FROM ADMINISTRATION

21.1 The Court shall appoint Commissioners, when required, in estates released from administration.

21.2 A Summary release from administration may be filed when evidence is presented to establish that:

- A. The applicant is decedent's surviving spouse entitled to one hundred percent of the allowance for support and that decedent's funeral and burial expenses have been prepaid or the surviving spouse has paid or is obligated in writing to pay decedent's funeral and burial expenses and the value of the assets does not exceed the \$40,000.00 allowance for support under Section 2106.13 (B) of the Ohio Revised Code, plus an amount not exceeding \$2,000.00 for decedent's funeral and burial expenses.
- B. The applicant, who is not the surviving spouse, has paid or is obligated, in writing to pay decedent's funeral and burial expenses and the value of the assets is less than of \$2,000.00 or less than the amount of the decedent's funeral and burial expenses, whichever is greater.

21.3 Upon the filing of an Application to Relieve an Estate from Administration or for Summary Release, the applicant shall exhibit to the Court a copy of the decedent's death certificate.

21.4 Any applicant filing an Application to Relieve an Estate from Administration who is not represented by an attorney, shall present to the Court a picture identification and proof of current address.

Rule 22

22. WILLS DEPOSITED FOR SAFEKEEPING

22.1 Any person placing a Will on deposit in this Court shall sign a written statement acknowledging that the Will is being placed on deposit at the request of the testator or guardian of the testator and shall provide the testator's current address and telephone number. When a Will is being held by an attorney and the address of the testator is unknown, the attorney must use reasonable diligence to locate the testator for the purpose of signing the above statement. If the testator cannot be located after a diligent search, the Will may be placed on deposit with this Court, on motion of the attorney, on the form provided.

22.2 When an attorney who is holding Wills for other persons dies, becomes disabled, or otherwise ceases to practice law, the attorney, or person who is handling the attorney's affairs must use due diligence to locate the testator and return the Will. If a testator cannot be located after a diligent search, and the testator was last known to be a resident of this county, the Will may be placed on deposit with this Court.

22.3 Any Order to deliver a Will previously deposited with this Court must be signed by the testator and the person to whom the Will is to be delivered. The testator's signature must be notarized by a person other than the person to whom the Will is to be delivered.

22.4 After the testator's death, Wills deposited for safekeeping pursuant to Section 2107.07 of the Ohio Revised Code shall only be released to a court of competent jurisdiction.

Rule 23

23. CERTIFICATES OF TRANSFER OF REAL ESTATE

23.1 All Certificates of Transfer of Real Estate must have a Certificate of Title Examination. If there is a mortgage of record noted on the Certification of Title Examination, the fiduciary must obtain a Release of Mortgagee, unless the decedent has been deceased for more than six (6) months and no claims have been made by the Mortgagee.

23.2 The legal description on all Certificates of Transfer (Form 12.1) must be approved at the Morrow County Engineer's Office before filing the Certificate of Transfer with the Probate Court.

23.3 All Certificates of Transfer (Form 12.1) must list: the permanent parcel number; acreage to be transferred; township, range, and section on the form when an exhibit is attached with the description.

Rule 24

24. MISCELLANEOUS PROBATE MATTERS

24.1 Exhibiting Photographic Identification

Any person appearing before this Court for any matter may be required to exhibit a picture identification and proof of a current address.

24.2 Marriage License Applicants

Pursuant to Section 3101.05 of the Ohio Revised Code, any applicant for a marriage license who is a minor must provide proof of having had marriage counseling prior to applying for the license. The counseling can be provided by clergy or a person licensed by the State of Ohio to provide counseling. The form for proof of counseling can be obtained from the Probate Court. All applicants for a marriage license shall provide photo identification. Marriage license fees shall be paid by cash or money order only.

24.3 Ohio Estate Tax Return

In cases in which an Ohio estate tax return is not otherwise required to be filed, an Ohio estate tax form 22 shall be filed as described in Section 5731.21 of the Ohio Revised Code, if the value of the gross estate of the decedent, as defined in division (A) of Section 5731.01 of the Ohio Revised Code, includes any interest in real estate, and the decedent has been deceased for less than ten (10) years.

24.4 Surviving Spouse Waiver of Service of the Citation to Elect

A surviving spouse, who is eighteen years of age or older and not under disability, may waive the service of the citation required under Section 2106.01 (A) of the Ohio Revised Code by filing in the Probate Court a written waiver of the citation. The waiver shall include an acknowledgement of receipt of the form describing the general rights of the surviving spouse required by division (B) of Section 2106.02 of the Ohio Revised Code.

24.5 Pending Matters

- A. The status of all pending applications and adoption proceedings shall be reviewed annually, and the Court may order further action as necessary.
- B. All miscellaneous matters shall be reviewed annually, and the Court shall order further action as necessary.

- C. Failure to comply with this Case Management Rule may result in dismissal pursuant to Rule 41 of the Ohio Rules of Civil Procedure and other sanctions, including but not limited to, payment of costs and attorney fees.

24.6 Withdrawal of Counsel

- A. An attorney desiring to withdraw shall file a motion to withdraw stating the reasons for withdrawal. The Motion shall contain the last known address and telephone number of the client. The Court shall not issue an entry approving the withdrawal until the attorney has filed a certification that the following conditions have been fulfilled:
 - 1. Notice has been given to the client stating all filing deadlines affecting the client;
 - 2. Notice has been given to all other attorneys, unrepresented parties, and interested persons;
 - 3. Attorneys withdrawing from representation of a fiduciary shall file the written acknowledgement of the withdrawal signed by the fiduciary or withdrawal shall only be granted after a hearing with notice to the fiduciary. The attorney shall also notify any bonding agencies involved.
- B. No attorney shall be permitted to withdraw from a case sooner than twenty (20) days prior to a trial or dispositive hearing, except for extraordinary circumstances upon permission of the Court.
- C. Substitution of counsel shall be in writing, but does not require approval of the Court. Notice shall be given to all attorneys, unrepresented parties, and interested persons.
- D. General Division Rule 12 shall apply unless otherwise set forth above.

24.7 Extended Administration

All estates will initially be scheduled according to the six-month administration schedule of Section 2109.301(B) of the Ohio Revised Code. In those estates meeting the requirements for extended administration stated in Section 2109.30 (B)(1)(a)-(f) of the Ohio Revised Code, the administrator or executor shall file a notice or application (Standard Probate Forms 13.8 or 13.10) to extend the filing deadlines.

24.8 Hearing

Unless waived for good cause in writing at the request of the applicant, all applications filed shall be set for hearing before the Court, but may be non-oral in nature as determined by the Court.