

ALLEN COUNTY COURT  
OF COMMON PLEAS

PROBATE DIVISION

**RULES OF COURT**

*GLENN H. DERRYBERRY, JUDGE*

AS EFFECTIVE 11/1/15

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See next page for a listing of forms referenced in the Local Rules. These forms are available from the Deputy Clerks and/or the Court’s web site.

\*Copy of Jury Management Plan is available from the Deputy Clerks upon request, or at the Court’s web site.

[www.co.allenohioprobate.com](http://www.co.allenohioprobate.com)

**FORMS REFERENCED IN THE LOCAL RULES  
BLANK COPIES FOLLOW THE RULES**

Attorney Fee Forms:

- 1) Attorney Fees in an Estate:
  - a) Consent to Payment of Attorney Fees form ES-3 [Rule 71.2]
  - b) Attorney Fee Application and Compensation Statement form ES-2 [Rule 71.2]
  - c) Notice of Hearing on Attorney Fees in Estate form ES-4 [Rule 71.2]
  - d) Waiver of Notice of Hearing on Application for Attorney Fees and Consent to Payment ES-5 [Rule 71.2]
- 2) Attorney Fees in a Guardianship:
  - a) Attorney Fee Application, Compensation Statement form GD/TR [Rule 71.3]
  - b) Application for Waiver/Payment of Court Costs, Fees, Expenses and Attorney Fees from Indigent Guardianship Fund [Rule 71.3]
- 3) Attorney Fees in Trusts:
  - a) Attorney Fee Application, Compensation Statement form GD/TR [Rule 71.4]

Fiduciary Fees Forms:

- 1) Fiduciary Fees - Application and Compensation Statement (ES-1) [Rule 72.1]
- 2) Guardian's Fees - Application and Compensation Statement - form GD-1 [Rule 73.1]
- 3) Compensation Statement-Trustee's Fees (TR-1) [Rule 74.1]

Mediation Forms - written materials: [Rule 16]

- 1) local attorney contact information;
- 2) local domestic violence resource information;
- 3) counseling, substance abuse and mental health services;
- 4) information regarding Children's Services
- 5) Mediation Intake Form
- 6) Mediation Memorandum Form
- 7) Application for Mediator Fees
- 8) Entry Granting Application for Mediator Fees

### Miscellaneous Forms:

Application and Agreement –Indigent Guardianship Appointments Rule 8]

Confidential Disclosure of Personal Identifiers 45(D) [RULE 45]

Affidavit in Proof of Notice of Hearing on Inventory [Rule 59.1]

Vouchers [Rule 64.2]

Notice of Hearing on Account 13.5 [RULE 64.5]

Affidavit of Service of Notice of Hearing on Account [Rule 64.5]

Custody Affidavit [Rule 66.1]

Guardian’s Report 17.7 [RULE 66.2]

Statement of Expert Evaluation 17.1 [RULE 66.2]

### **Notice:**

Probate Court is in the process of developing an updated and expanded web site, which will include forms. The name, form number and format of all current probate forms are subject to change as needed for purposes of maintaining a complete and uniform set of forms for the web site.

## **PREAMBLE**

The following local rules are adopted pursuant to Rule 5 of the Ohio Rules of Superintendence for Courts of Common Pleas, as supplementary rules concerning local practice in the Allen County Court of Common Pleas, Probate Division. These local rules supersede and replace all prior local rules adopted by this Court which are inconsistent with the rules adopted herein.

### **Rule 5.1 Civil Actions: Pleadings, Motions, Hearings**

[As permitted by Sup.R. 5(A)]

#### (A) Documents:

Pleadings in civil actions shall conform to the requirements of Rules 10 and 11 of the Ohio Rules of Civil Procedure and Rule 57 of the Ohio Rules of Superintendence.

#### (B) Rule Day Extensions:

Civil Rule 12 prescribing Rule Day for pleadings will be strictly enforced. Extension of time will be granted only by written order of the court.

#### (C) Hearings on Motions Other Than Summary Judgment:

All motions other than a motion for summary judgment shall comply with Civil Rule 7(B), and shall be accompanied by a memorandum or brief in support of the motion. In non-adversarial proceedings the motion may be immediately considered by the Court without oral argument. In adversarial proceedings, the opposing counsel or party may file any responsive pleading and memorandum or brief in response by the fourteenth day after the day on which the motion was filed. Thereafter, the motion shall be deemed submitted. Unless ordered by the Court, oral argument will not be allowed except on leave of the trial Judge upon written request by a party prior to a submission and the time of hearing and length of such argument shall be fixed by said Judge. This rule shall apply to all motions, including motions for a new trial, motions for judgment notwithstanding the verdict, and motions for reconsideration except as otherwise provided herein.

#### (D) Hearing on Summary Judgment Motions:

Unless otherwise ordered by the Court, motions for summary judgment shall be heard on briefs and other materials authorized by Civil Rule 56(C) thirty (30) days after service of the motion upon the opposing party. If an adverse party also files a motion for summary judgment, the hearing date shall be extended to thirty days from the service upon the opposing party of the latter motion. No motion shall be

filed in any case after it has been set for pre-trial without leave of the judge first obtained, who may establish the times for filing of briefs and the submission of the motion.

(E) Pleadings Subsequent to Complaint and Discovery:

(1) In accordance with Ohio Civil Rule 5(D), all papers, after the Complaint, required to be served upon a party shall be filed with the Court within three days after service, but depositions upon oral examination, interrogatories, requests for documents, requests for admission, and answers and responses thereto shall not be filed unless on order of the Court or for use as evidence or for consideration of a motion in the proceeding. The Deputy Clerks shall not accept for filing the transcript of a deposition unless it is accompanied by a certification by counsel that the deposition is being filed on order of the court or for use as evidence or for consideration of a motion in the proceeding.

(2) Effect of Rule: Certificate

(a) No application for protective order, objections to any form of discovery, motions for sanctions or the like shall be filed until the impasse which provoked it has been discussed with opposing counsel and a diligent effort has been made to solve the problem informally.

(b) A certificate to that effect shall be affixed to or made a part of the application or motion and it shall include the specific times and methods of attempted informal resolution.

(c) The presentation of any insufficient or unwarranted application, objection or motion and any unwarranted opposition to discovery, formal or informal, will subject the offender to sanctions under Rule 37 of the Ohio Rules of Civil Procedure and this Local Rule, including the imposition of costs, expenses and reasonable counsel fees.

(3) Policy of Local Rule:

(a) It is declared policy of this Local Rule to encourage professional informal discovery wherever practicable in preference to formal discovery and to avoid the Court's involvement in the discovery process. Counsel shall make every effort to comply with this policy.

(b) This policy is not intended to discourage the use of depositions to discover and to record evidence as provided in the Ohio Rules of Civil Procedure.

(F) Recorded Testimony and Evidence [effective 3/1/14]

In addition to the requirements of Rule 13 of the Ohio Rules of Superintendence, a written transcript of the deposition shall be filed when the recorded testimony is filed. It is the responsibility of the party intending to use any recorded testimony at trial to:

- (1) File the recorded testimony and written transcript with the Clerk prior to the hearing at which the recorded testimony is to be introduced;
- (2) Notify the Court of the intended use of the recorded testimony seven (7) days prior to the hearing at which the recorded testimony is to be introduced;
- (3) Ensure that necessary equipment will be available;
- (4) Provide other equipment or personnel necessary for the presentation of the recorded testimony to the finder of fact.

**Rule 5.3 Case Management Plan** [As required by Sup.R. 5(B)(1)]

(A) Decedent's Estates, Trusts and Guardianships:

(1) Each fiduciary shall adhere to the statutory or court-ordered time period for filing the inventory, account and, if applicable, guardian's report. The citation process set forth in section 2109.31 of the Revised Court shall be utilized to ensure compliance. The attorney of record and the fiduciary shall be subject to the citation process. The court may modify or deny fiduciary commissions or attorney fees, or both, to enforce adherence to the filing time periods.

(2)(a) If a decedent's estate must remain open more than six months pursuant to R.C. 2109.301(B)(1), the fiduciary shall file an application to extend administration (Standard Probate Form 13.8); or a Notice to Extend Administration (Standard Probate Form 13.10), as applicable.

(b) An application to extend the time for filing an inventory, account, or guardian's report, shall not be granted unless the fiduciary has signed the application.

(3) The fiduciary and the attorney shall prepare, sign, and file a written status report with the court in all decedent's estates that remain open after a period of thirteen months from the date of the appointment of the fiduciary and annually thereafter. At the court's discretion, the fiduciary and attorney shall appear for a status review.

(4) The court may issue a citation to the attorney of record for a fiduciary who is delinquent in the filing of an inventory, account, or guardian's report to show cause why the attorney should not be barred from being appointed in any new proceedings before the court or serving as attorney of record in any new estate, guardianship or trust until all of the delinquent pleadings are filed.

(5) Upon filing of the exceptions to an inventory or to an account, the exceptor shall cause the exceptions to be set for a pretrial within thirty days. The attorneys and their clients, or individuals if not represented by an attorney, shall appear at the pretrial. The trial shall be set as soon as practical after pretrial. The court may dispense with the pretrial and proceed directly to trial.

**(B) Case Management of Adversarial Proceedings:**

A pretrial conference shall be held in all cases where the Court determines that a conference is necessary and appropriate. The Court may journalize a binding case management plan by pretrial order following the hearing.

Cases may be referred by the Court to an alternative dispute resolution program.

**Rule 5.4 Jury Management Plan**

[Supplementing Sup.R. 5(B)(2)]

**Rule 5.5 Publication by Posting [effective 3/15/12]**

[Supplementing Sup.R. 5]

Upon proper motion and entry, in any proceeding where any type of notice other than service of summons is required by law or deemed necessary by the court, and the statute providing for notice neither directs nor authorizes the court to direct the manner of its service, pursuant to Civ.R. 73(E)(7) the Court may direct that publication shall be made by posting and mail consistent with the provisions of Civ.R. 4.4 Pursuant to that rule, in addition to posting at the Allen County Courthouse, posting shall be made at any two (2) of the following designated locations:

- 1) Allen County Title Department  
419 N. Elizabeth Street  
Lima, OH 45801

- 2) Lima Municipal Court  
109 N. Union Street  
Lima, OH 45801
- 3) Allen County Department of Job and Family Services  
1501 S. Dixie Highway  
Lima, OH 45804
- 4) Allen County Department of Health  
219 East Market Street  
Lima, OH 45801

### **Rule 8 Court Appointments**

[Supplementing Sup.R. 8]

(A) Persons appointed by the Court pursuant to constitutional or statutory authority, rule of court, or the inherent power of the court shall be selected from lists maintained by the court.

(B) Appointments will be made from such lists taking into consideration the qualifications, skill, expertise and caseload of the appointee in addition to the type, complexity and requirements of the case.

(C) Court appointees will be paid a reasonable fee with consideration given to the factors contained in Rule 1.5 of the Ohio Rules of Professional Conduct, the Ohio Revised Code, and any other applicable rules and regulations, including any Local Rules of Court relating to fees.

(D) As required by Sup.R. 8(D), if a party or other person is required to pay all or a portion of the fees payable to an appointee, the appointee promptly shall notify that party or person of the appointment and the applicable fee schedule. The appointee shall file with the court and serve upon the party or other person required to pay all or a portion of the fees, itemized fee and expense statements on a regular basis as determined by the court.

### **Rule 9 Security Plan**

[Supplementing Sup.R. 9]

The Ohio Supreme Court adopted Security Standards on October 17, 1994. Thereafter the Local Court Security Advisory Committee was appointed to establish written directives for the purpose of ensuring security within all Court facilities while maintaining accessibility to the community. A Court Security Manual was adopted and is in effect, including any amendments. Pursuant to

Sup.R. 9(B), this is not a public record.

**Rule 11.1 Recording Proceedings**

[Supplementing Sup.R. 11]

Proceedings before the Court will be recorded by audio-electronic recording device if requested by a party or at the discretion of the Court. A fee of \$12.00 will be charged and collected as costs in any case in which a recording is made. If any other recording procedure is desired, it must be provided by the requesting party, who shall make the necessary arrangements, including the payment of costs. Transcriptions of the record from audio-electronic tapes and/or digital recordings of proceedings not attended by a court reporter shall be made at the expense of the person requesting such transcription. The transcription shall be made by an employee of the court shall charge the usual customary fee charged by a private reporter for services in this county for such transcription. The applicable Rules of Appellate Procedure and the Rules of Court for the Third District Court of Appeals or applicable Court of Appeals shall control the procedure for the preparation and filing of transcripts for the purpose of appeal.

**Rule 16 Mediation** [Pursuant to R.C. 2101.163 and Sup.R. 16]

(A) Referral:

- (1) A mediator may be appointed by the Court when requested by either party or on the Court's own motion. A referral mediation by the Court may be made at any stage of the proceedings. There are no limitations as to the type of probate cases that may be referred to mediation. The parties may agree to use an outside mediator as long as there is any agreement as to payment of fees, and the Court has given prior approval. The provisions of Ohio Revised Code Section 2710("Uniform Mediation Act")(UMA) and Rule 16 of the Ohio Rules of Superintendence are incorporated into this Rule by reference.
- (2) Unless proceedings are stayed by Court order during the process of mediation, the parties shall continue to engage in discovery or other trial preparation and the Court shall continue to manage the case by establishing deadline and placing the matter on the docket for hearing or trial.
- (3) All parties and counsel shall advise the Court of any domestic violence allegations known to exist or to have existed in the past, or which become known to them following entry of the order but before conclusion of all mediation proceedings, which allegations involve any two or more persons

whose attendance is required by the referral order.

(4) Parties shall be allowed to participated in mediation, and if the parties wish, their attorneys and other individuals they designate are allowed to accompany them and participate in the mediation. By participating in mediation, a non-party participant, as defined by R.C. 2710.01(D), submits to the Court's jurisdiction to the extent necessary for enforcement of this rule.

(5) The Court will create written materials to be displayed in public areas and to have available by mediators and staff for distribution, including but not limited to parties participating in a mediation. The materials will include local domestic violence prevention, counseling, substance abuse and mental health services; and information regarding Children's Services.

(6) Mediation is prohibited as an alternative to the prosecution or adjudication of domestic violence; in determining whether to grant, modify or terminate a protection order; and in determining the penalty for violation of a protection order. Nothing in this division of this rule shall prohibit the use of mediation in a subsequent divorce or custody case even through that case may result in the termination of the provisions of a protection order.

(B) Qualifications:

(1) Any mediator to whom the Court makes referrals, other than a case which involves the mediation of allocation of parental rights and responsibilities or the care of, or visitation with, minor children, shall have such qualifications as deemed appropriate by the Judge.

(2) Any mediator to whom the Court makes referrals in cases which involve the mediation of allocation of parental rights and responsibilities or the care of, or visitation with, minor children, shall have the minimum qualifications set forth in the Rules of Superintendence for the Courts of Ohio. When fear of violence is alleged, suspected or present, the mediation shall proceed only if all the following conditions are satisfied:

(a) The person who is may be the victim of domestic violence is fully informed, both orally and in writing, about the mediation process, his or her right to decline participation in the mediation process, and his or her option to have a support person present at mediation sessions.

- (b) The parties have the capacity to mediate without fear of coercion or control.
- (c) Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence and all other persons present at the mediation.
- (d) Procedures are in place for the mediator to terminate mediation if he or she believes there is continued threat of domestic violence or coercion between the parties.
- (e) Procedures are in place for issuing written findings of fact, as required by R.C. 3109.052, to refer certain cases involving domestic violence to mediation.

(C) Mediation Sessions and Process:

- (1) Cases referred by the Court shall be scheduled for mediation by the mediator. All cancellations and re-scheduling of mediation dates shall be made only upon arrival of the mediator. Mediation shall be held at a location determined by the mediator, and in Allen County, Ohio, unless all parties otherwise agree.
- (2) The mediator shall fix a time for mediation to occur, not more than sixty (60) days after submission to mediation and shall notify the parties or their counsel, in writing, at least ten (10) days before the mediation of the time and place of mediation. The sixty (60) day period may be extended once by the mediator for up to fifteen (15) days. Notwithstanding any continuance, the mediation shall be held and concluded within seventy-five (75) days from the date of submission, unless the Court permits a further extension. The initial mediation session will be scheduled for a minimum of two (2) hours.
- (3) The parties to the case shall attend all mediation sessions unless their attendance has been excused in advance by the mediator. All persons necessary for authority to settle the case must attend. The lawyer who is primarily responsible for handling trial of the matter shall also attend the mediation unless the attorney is excused by the mediator.
- (4) All mediations shall be conducted in accordance with the Uniform Mediation Act (R.C. 2710.01 et seq.) and Sup.R. 16.
- (5) Communication in the mediation process, regardless of the method of referral or the nature of the issues referred, are governed by the Uniform Mediation Act (R.C. 2710), Sup.R. 16, and Rule 408 of the Ohio Rules of Evidence. The entire mediation process including any correspondence with the mediator prior to the mediation conference is confidential except as

otherwise provided by law.

The parties and the mediator may not disclose regarding the process, including settlement terms, to the Court or to other persons, unless the parties otherwise agree. A mediator may disclose whether the mediation has occurred or has terminated whether a settlement was reached, attendance, and, may make the disclosures authorized by R.C. 2710.06. The mediator is disqualified as a witness, consultant, attorney or expert in any pending or future actions related to the dispute, including actions between persons not parties to the mediation process.

(D) Participation:

- (1) Parties referred to mediation shall participate in good faith in the mediation process and cooperate in all matters pertaining to the mediation, including payment of mediator fees if ordered by the Judge.
- (2) The Court may order parties to return to mediation at any time.

(E) Sanctions:

- (1) If a party or counsel for a party fails to attend mediation sessions without good cause or otherwise violates this rule, the Court may, on motion by a party, the mediator, or upon the Court's own motion, impose appropriate sanctions, including but not limited to, an award of counsel fees and costs (including fees of the mediator), dismissal, default judgment or contempt.
- (2) Attorneys shall submit a "Mediation Intake Form" to the mediator prior to mediation.

(F) Conclusion of Mediation:

- (1) Immediately on conclusion of the mediation, the mediator will report to the Court the status of the mediation (i.e., whether a settlement was reached, all or part; and whether all necessary parties attended).
- (2) If the mediator determines that further mediation would be of no benefit, he or she shall advise the parties and Court of such determination.
- (3) If the mediation was successful, the assigned mediator, parties or counsel (if applicable), as agreed by the parties, may immediately prepare a written memorandum memorializing any agreement reached by the parties. The "Mediation Memorandum" may be signed by the parties and counsel. (Note - per R.C. 2710.05(A)(1), if the "mediation memorandum" is signed, it will

not be privileged). The written memorandum may become an order of the court after review and approval by the parties and their attorneys. No oral agreement by counsel or with parties or an officer of the Court will be binding unless made in open court. No agreements developed in mediation shall be legally binding until reviewed and approved by the parties and their attorneys shall submit final judgment entries to the Court within fourteen days of the conclusion of the mediation, or at such time as may be ordered by the Court. If an agreement is not reached, the case shall be returned to the assigned Judge.

(4) If the parties fail to submit an appropriate judgment entry in a timely manner, the Court may dismiss the case administratively or impose sanctions. Upon any such administrative dismissal, court costs and mediator fees shall be paid as ordered by the Court.

**(G) Compensation of Mediator:**

The parties are equally responsible for paying one-half (1/2) of the mediator's fee for the first mediation session. The Court will pay the remaining one-half (1/2) of the fee for the first mediation session unless otherwise ordered. A mediation session is defined as a four (4) hour period. If continued mediation sessions are necessary, the mediator's fee shall be borne equally by the parties, unless otherwise ordered by the Court. The Court will determine the rate at which the mediator will be paid. Any additional expenses associated with mediation must be pre-ordered to pay any portion of the mediation fees to be paid by the Court within thirty (30) days of the completion of mediation and an entry to approve payment of the fees. Current versions of these forms are available from the Deputy Clerks and/or the Court's website.

**Rule 26.1 Court Records Management and Retention**

[Supplementing Sup.R. 26, 26.01 and 26.04]

Sup.R. 26, 26.01 and 26.04 as adopted and implemented by this Court effective 1/1/2000, as amended by Local Rule 26.2, remain as the Court Records, Management and Retention rules and records retention schedule for the Probate Court of Allen County, Ohio, including the Clerk's Office. Pursuant to Sup.R. 26(A)(1), this is done as a judicial governmental function.

**Rule 26.2 Management and Retention of Civil Commitment Records**

[Supplementing Sup.R. 26.04]

As effective 9/28/07, pursuant to Sup.R. 5(A) and Sup.R. 26(G) the Court's Rule 26.04(E) case file and probate record retention schedule for the Probate Court of Allen County, Ohio, including the Clerk's Office, for civil commitment cases ordered expunged pursuant to Chapter 5122 of the Ohio Revised Code, is as follows:

Civil Commitment: (a) Where a case is ordered expunged pursuant to Chapter 5122 of the Ohio Revised Code, index and docket entries, case file, and other related probate records may be deleted or destroyed any appeal and to process from the date of the entry of the Probate Judge ordering the case expunged.

Pursuant to Sup.R. 26(A)(1) this is done as a judicial governmental function.

#### **Rule 45 Omission of Personal Identifiers**

[Supplementing Sup.R. 45]

When personal identifiers are omitted from a case document submitted to the Court or are filed with a clerk of court pursuant to Sup.R. 45(D)(1) the party shall complete and file a "Personal Identifiers Omission Form" utilizing a form approved by the Court. Current version of the form is available from the Deputy Clerks and/or on the Court's website.

#### **Rule 53.1 Hours of Court**

[Supplementing C.P. Sup.R. 53]

The Probate Court and its offices (including the Clerk's Office), shall be open for the transaction of business from **9:00 A.M. to 4:30 P.M.**, Monday through Friday. Hearings may be scheduled outside those stated hours at the discretion of the Court. The Probate Court and offices shall be closed on Saturday, Sunday, paid holidays (as designated by the County Commissioners), and at such other times as the Judge deems necessary and proper.

#### **Rule 57.1 Full Name to be Provided**

[Supplementing Sup.R. 57]

The initial filing in an estate is to include the full name (including the middle name) of the decedent. The initial filing in a case for the appointment of a guardian

is to include the full name (including the middle name) of the potential ward. The initial filing in a case for the appointment of a conservator is to include the full name of the applicant. The initial filing in an adoption is to include the full name (including the middle name) of the person to be adopted. The affidavit in a civil commitment is to include the full name (including the middle name) of the Respondent. The Deputy Clerks may refuse to accept filings that do not comply with the rule.

### **Rule 57.2 Death Certificate to be Exhibited**

[Supplementing Sup.R. 57]

Upon the initial filing of any matter captioned in the name of a deceased individual, or the termination of the guardianship due to the death of the ward, the applicant shall exhibit to the court a copy of the decedent's death certificate unless waived by the court for good cause shown.

### **Rule 57.3 Filing by Facsimile Transmission**

[Supplementing Sup.R. 57 - As approved by the Compliance Work Group of the Standards Subcommittee of the Advisory Committee on Technology of the Courts on March 26, 2004, and effective May 1, 2004]

The provisions of this local rule are adopted under Civ.R. 73(J) and Sup.R. 27. Filings by facsimile (FAX) to the Allen County Probate Court shall only be received/accepted at the following number: **419-221-3432**, and are subject to the following conditions:

#### **(A) Applicability:**

(1) Except as otherwise provided, only documents subsequent to the initial pleading/filing may be filed with the Allen County Probate Court by facsimile. (Examples of "initial pleadings/filings" are Complaints and Applications for the Appointment of Guardian). The following documents will not be accepted for FAX filing: Documents where a statute, rule of court, or court order requires the original to be filed. (Examples: an original will; an original codicil to a will; an original trust agreement)

(2) An Affidavit filed to commence proceedings for a mentally ill person subject to court order pursuant to sections 5122.11 to 5122.15 of the Revised Code may be filed by facsimile.

#### **(B) Original Filing:**

(1) A document filed by FAX shall be accepted as the original filing. Unless otherwise ordered, the person making the FAX filing need not file any source document with the Deputy Clerks, but must however, maintain in his or her records and have available for production on request/order of the court the source documents filed by FAX, with original signatures as otherwise required under the applicable rules, together with the original copy of the facsimile cover sheet used for the subject filing.

(2) Subject to paragraph 3, unless otherwise ordered, the source document filed by FAX shall be maintained by the person making the filing until the case is closed and all opportunities for appeals or other post judgment relief are exhausted.

(3) The Court reserves the right to order, when deemed necessary by the Court, that the source document either be filed with the Court or transferred to and maintained by a person or entity other than the person or entity that made the FAX filing. For example, an original Statement of Expert Evaluation in a guardianship may be ordered transferred to and maintained or filed by the attorney of record for the guardian.

(C) Definitions:

As used in these rules, unless the context requires otherwise:

(1) A “facsimile transmission”: means the transmission of a source document by a system that encodes a document into optical or electrical signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.

(2) A “facsimile machine” means a machine that can send and/or receive a facsimile transmission.

(3) “Fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

(4) “Office of the Clerk of Court” means the office of the Clerk of the Allen County Probate Court, Allen County, Ohio. By law the Judge is the Clerk of the court, with such Deputy Clerks as he/she shall appoint.

(D) Cover Page:

(1) The person filing a document by FAX shall also provide therewith a cover page containing the following information:

- (I) the name of the court;
- (II) the title of the case;
- (III) the case number;
- (IV) the assigned judge;
- (V) the title of the document being filed;
- (VI) the date of transmission;
- (VII) the transmission FAX number;
- (VIII) and indication of the number of pages included in the transmission, including the cover page;
- (IX) if a judge or case number has not been assigned, state that fact on the cover page;
- (X) the name, address, telephone number, FAX number, Supreme Court registration number, if applicable, and e-mail address of the person filing the FAX document if available; and
- (XI) if applicable, a statement explaining how costs are being submitted.

(2) If a document is sent by FAX to the office of the Clerk of Court without the cover page information listed above the office of the Clerk, may at its discretion:

- (I) enter the document in the Case Docket and filed the document;  
or
- (II) deposit the document in a file of failed FAX documents with a notation of the reason for the failure; in this instance the document shall not be considered filed with the office of the Clerk of Court.

(3) The office of the Clerk of Court is not required to send any notice to the sender of a failed FAX filing. However, if practicable, the office of the Clerk of Court may inform the sender of a failed FAX filing.

(E) Signature:

(1) Any signature on documents transmitted by FAX shall be considered that of the attorney or party that is purports to be for all purposes. If it is established that the documents were transmitted without authority, the Court may order the filing stricken.

(2) A party who files a signed document by FAX represents that the

physically signed source document is in his/her possession or control.

(F) Exhibits:

(1) Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document or exhibit.

(2) Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge, the title of the exhibit being filed (e.g., Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendant's Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court.

(G) Time of Filing:

(1) Subject to the provisions of these rules, all documents sent by FAX and accepted by the office of the Clerk of Court shall be considered filed with the office of the Clerk of Court as of the time and date a Deputy Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. Any exceptions shall be by order of the Court. The office of the Clerk of Court will be deemed open to receive facsimile transmission of documents on the same days and at the same time the court is regularly open for business.

(2) Fax filings may NOT be sent directly to the court for filing but may only be transmitted directly through the facsimile equipment operated by the office of the Clerk of Court.

(3) The office of the Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission

(4) The risks of transmitting a document by FAX to the office of the Clerk of Court shall be borne entirely by the sender. Anyone using facsimile filing is urged to verify receipt of such filing by the office of the Clerk of Court through whatever technological means are available.

(H) Fees and Costs:

- (1) Any document filed by FAX that requires a filing fee may be rejected unless the filer has either paid the applicable cost or fee or has made satisfactory payment arrangements with the Deputy Clerks.
- (2) No additional fees shall be assessed for facsimile filings.

**Rule 57.4 Withdrawal of Counsel** [Supplementing Sup.R. 57(B)]

It is contemplated that counsel who has entered an appearance on behalf of a fiduciary or other party shall remain as such counsel until the case is concluded. However, upon written motion for leave to withdraw from the action, and for good cause shown, the Court may permit counsel to withdraw. In such case counsel shall certify in the motion that the client and all other counsel and/or unrepresented adversarial parties of record have been notified. Withdrawal of counsel requires court approval by entry.

**Rule 57.5 Name, Address, Telephone Number and Attorney Registration Number Required** [Supplementing Sup.R. 57(B)]

Pursuant to Sup.R. 57(B), all filings not containing the name, address, telephone number, and attorney registration number of the individual counsel representing the fiduciary, and in the absence of counsel the name, address and telephone number of the fiduciary, may be refused for filing.

**Rule 57.6 Address Change of Fiduciary or Attorney of Record**

It is the responsibility of each attorney of record, or fiduciary when not represented by counsel, to advise the Court in writing of any change in the mailing address of the attorney, the fiduciary, and/or the ward in a guardianship. The notice must include the case number and the signature of the attorney or fiduciary. It is in the responsibility of each attorney of record to notify the Court, in the same manner, if a fiduciary dies or moves out of the State of Ohio. Failure to comply with this rule may lead to the removal of the fiduciary and/or attorney of record and/or a disallowance of fiduciary and/or attorney fees.

**Rule 58.1 Court Costs**  
[Supplementing Sup.R 58]

(A) Deposits:

Deposits in the amount set forth in **APPENDIX B** attached hereto shall be required upon the filing of any actions and proceedings listed there. Applications accompanied by an acceptable affidavit of the applicant of inability to give security for costs shall be accepted without the necessity of such deposit as a condition for filing provided that the applicant shall exert diligent efforts to make funds available from the probate, guardianship or trust estate, if applicable, for the security deposit and pay the deposit into the Court as soon as possible. The filing of an indigency affidavit only waives the cost deposit, not the costs. The applicant shall be liable for the payment of costs unless otherwise ordered by the Court. The deposit shall be applied from time to time as filings occur and additional deposits may be required by the Court if determined to be necessary.

(B) Fee for Computerized Legal Research Services:

Pursuant to the authority of R.C. 2101.162(A)(1) it is determined that for the efficient operation of the Probate Division of the Common Pleas Court of Allen County, Ohio, additional funds are required to computerize the Court and to make available computerized legal research services.

The Deputy Clerks of this Court are hereby directed and authorized to charge a fee of three dollars (\$3.00), in addition to the fees specified in divisions (A)(1),(3),(4),(6),(14) to (17)(20) to (25), (27), (30) to (32), (34), (35), (37) to (48), (50) to (55), (59) to (61), (63) to (66), (69) and (72) of Section 2101.16 of the Revised Code, the fee adopted pursuant to division (F) of that section, and the fee charged in connection with the docketing and indexing of an appeal.

All funds collected pursuant to this subdivision of this rule shall be paid to the County Treasurer to be maintained in a separate fund to be expended/disbursed by order of this Court as provided for by R.C. 2101.162(A)(2) and (3).

(C) Computerization Fees:

Pursuant to the authority of R.C. 2101.162(B)(1), it is determined that for the efficient operation of the Probate Division of the Common Pleas Court of Allen County, Ohio, additional funds are required to computerize the office of the Clerk of this Court.

The Deputy Clerks of this Court are hereby directed and authorized to charge a fee of ten dollars (\$10.00), in addition to the fees specified in divisions (A)(1), (3), (4),

(6), (14) to (17), (20) to (25), (27), (30), to in divisions (A)(1), (3), (4), (6), (14) to (17), (20) to (25), (27), (30), to (32), (34), (35), (37) to (48), (50) to (55), (59) to (61), (63) to (66), (69) and (72) of Section 2101.16 of the Revised Code, the fee adopted pursuant to division (F) of that section, and the fee charged in connection with the docketing and indexing of an appeal. All funds collected pursuant to this subsection of this rule shall be paid to the County Treasurer to be disbursed by order of this Court as provided for by R.C. 2101.162(B)(1) and (2).

(D) Mediation Filing Fees:

The Court having adopted a Dispute Resolution Procedure (See Local Rule 16 “Mediation”), pursuant to R.C. 2101.163 the Deputy Clerks shall charge a fee of Fifteen Dollars (\$15.00) to be collected on each civil action or proceeding that is within the jurisdiction of probate court. This shall include, but not necessarily be limited to: estate, wrongful death, guardianship, trust, minor settlement, civil action, correction of birth, registration of birth, change of name, or adoption.

If the probate judge determines that the amount of the moneys in the fund described in division (B) of this section is more than the amount that is sufficient to satisfy the purpose for which the additional fee described in division (A) of R.C. 2101.163 was imposed, the probate judge may declare a surplus in the fund and expend the surplus moneys for other appropriate judicial expenses of the probate court.

(E) Special Projects Funds [Effective 3/15/12]

Pursuant to R.C. 2303.201(E) the Court has determined that for the efficient operation of the court, additional funds are necessary to acquire and pay for special projects of the court, including but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, the employment of magistrates, the training and education of judges and magistrates, and other related services. A Special Projects fund fee of Fifty Dollars (\$50.00) shall be collected on the filing of each civil action and the following proceedings: an estate (full administration); guardianship, trust, adoption, wrongful death, and sale of structured settlement. A Special Project fund fee of Twenty-Five Dollars (\$25.00) shall be collected on the filing of the following proceedings: release from administration, summary release from administration, minor settlement (without a guardian), correction of birth record, registration of birth, and name change.

## **Rule 58.2 Witness Fees**

[Supplementing Sup.R. 58]

Upon the filing of a praecipe for subpoena of witnesses there shall be deposited for each witness to be subpoenaed, an amount sufficient to pay the witness fee as prescribed by R.C. 2325.06.

## **Rule 59.1 Hearing on Inventory/Notice** [Effect 3/1/14]

[Supplementing Sup.R. 59(B) and R.C. 2115.16]

Upon the filing of the inventory required by R.C. 2115.02, the Court shall forthwith schedule hearing on the inventory not later than one month after the day the inventory was filed.

Pursuant to R.C. 2115.16, unless notice is waived, the executor or administrator shall serve notice of hearing upon the surviving spouse and upon either the next of kin or all beneficiaries under the will, whichever is applicable in a manner authorized by Ohio Civil Rule 73(E). If the address of a person entitled to notice under this Rule is unknown and cannot with reasonable diligence be ascertained, upon motion of the fiduciary and for good cause shown by affidavit, including efforts made by the fiduciary or counsel to locate the person, the Court may order that notice of the hearing on the inventory to that person shall not be required, or that notice be afforded by posting in accordance with Local Rule 5.5.

Pursuant to R.C. 2115.16, the executor or administrator may serve notice of the hearing, or may cause notice to be served, upon any other person who is interested in the estate.

## **Rule 64.1 Accounts**

[Supplementing Sup.R. 64]

(A) The time for filing fiduciary account shall be as follows:

(1a) For estates, if the date of death is prior to January 1, 2002, the first account shall be due not later than nine months from the date of appointment of the fiduciary. All subsequent accounts must be filed on a yearly basis unless the Court orders otherwise.

(1b) For estates, if the date of death is on or after January 1, 2002, the final distributive account shall be rendered within six months after appointment of the fiduciary unless extensions of administration and filing of account are ordered by the Court.

(2) For guardianships, the first account shall be due not later than one year following the date of appointment of the guardian. All subsequent accounts shall be due on a yearly basis, unless the Court orders otherwise.

(3) For trusts, the first account shall be due not later than one year following the date of appointment of the trustee. All subsequent accounts shall be due on a yearly basis, unless the Court orders otherwise.

(4) In cases where R.C. 2109.301(A) or 2109.302(B) waive the filing of a partial account, the fiduciary shall file any waiver annually or prior to the date the partial account would otherwise be due. Where applicable written consents must accompany each waiver.

(B) Additional costs of \$10.00 per notice will be assessed for all late notices. Except for good cause shown, the cost of late notices and citations may be deducted from the fiduciary's compensation.

**Rule 64.2 Vouchers and Verifications of Income:** [as amended 3/15/12]  
[Supplementing Sup.R. 64]

Vouchers or other proof of disbursements and distributions shall be submitted with estate accounts for decedents dying on or before December 31, 2001, and all guardianship and trust accounts. Even if not required to be filed with an account, vouchers or other proof of disbursements and distributions should be maintained in the event exceptions are filed or proof should otherwise be required.

All income must be verified with bank statements, broker statements, copies of checks, etc.

The vouchers or proof required to verify disbursements and distributions can be made in the form of cancelled checks, paid receipts, bills stamped paid by the payee, vouchers in a form approved by the court; copies of any of the above as found acceptable by the court; and other proof as acceptable to the court. If copies of cancelled checks are submitted, copies of the front only of cancelled checks are acceptable if accompanied by a bank statement from the financial institution confirming that the check was cashed in the amount for which it was drawn.

Check book registers, non-cancelled checks or copies of non-cancelled checks, carbons of checks written, or bills with no evidence that they have been paid will

not be accepted as vouchers or proof.

The vouchers or other proofs required by section 2109.302 and 2109.303 [2109.302 and 2109.303] of the Revised Code and receipts filed or exhibited pursuant to sections 2109.32(B)(1)(b) of the Revised Code, shall be referenced to the account by number, letter, or date.

Pursuant to Sup.R. 26.04(D)(1), the vouchers, proof or other evidence submitted with the court in support of the expenditures or distribution slated in an account, after review and reconciliation with the accounting and notation of in accordance with divisions (D)(2) and (E) of that rule. This rule shall also apply to vouchers or other proof of expenditures presented with a Report of Distribution unless otherwise ordered by the Court.

**Rule 64.3 Exhibiting Assets:**

[Supplementing Sup.R. 64]

Cash balances may be verified by exhibiting a financial institution statement, passbook, bank certificate, 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 safe deposit box of a fiduciary or by a surety company on a fiduciary's bond may be exhibited by filing a current inventory of the assets. The inventory shall be certified by the manager of the safe deposit box qualified officer of the surety company if the assets are held by a surety. If the assets are held by a bank, trust company, brokerage firm, or other financial institution, exhibition may be made by proper certification as to the assets so held, or other proof acceptable to the court.

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 findings to the court.

The assets remaining in fiduciary's hands shall disclose the fair market value of the assets as of the last day covered by the account.

**Rule 64.4 Payment of Costs:**

[Supplementing Sup.R. 64(E)]

A final or distributive account shall not be approved until all court costs have been paid, or waived by order of the court.

**Rule 64.5 Hearing on Account/Notice:** [effective 3/1/14]  
[Supplementing Sup.R. 64]

Unless notice is waived in a writing signed by the person entitled to Notice and filed with the Court, any notices required by this Rule shall comply with Civil Rule 73(E).

(A) Pursuant to R.C. 2109.33, the Court on its own motion, or upon motion of any interested person for good cause shown after notice to the fiduciary, may order that notice of hearing be served upon other interested persons in the manner the Court prescribes.

(B) Accounts of Executors and Administrators

Pursuant to R.C. 2109.33, Notice of Hearing on a final account shall be given by the fiduciary to all heirs of an intestate estate, and to all residuary beneficiaries of a testate estate.

(C) Accounts of Guardians

A guardian shall not be required to give Notice of Hearings on partial accounts except in a case in which the ward is a military veteran. In such cases, Notice shall be given to the Veteran's Administration as required by R.C. 5905.11. In the case of a final or final and distributive account, the guardian shall provide notice as follows:

- (1) in the case of a minor ward who has reached the age of majority to the ward.
- (2) in the case of an incompetent who has been restored to competency, to the ward.
- (3) in the case of a deceased incompetent, to the fiduciary of the ward's estate, if any.

(D) Accounts of Trustees and Other Fiduciaries

A trustee is required to serve Notice of Hearing on accounts to all current beneficiaries as defined in R.C. 5801.01.

## **Rule 66 Guardianships**

[Supplementing Sup.R. 66]

### **(A) Guardianships of Adults**

All applicants for the appointment of a guardian on the grounds of mental incompetency shall be accompanied by either a statement of a physician or clinical psychologist or a statement that the prospective ward has refused to submit to an examination.

### **(B) Guardianships of Adults and Minors**

An application for Authority to Expend Funds (Standard Probate Form 15.7) shall not be approved until an Inventory (Standard Probate Form 15.5) has been filed.

### **(C) Guardianship of Minors**

(1) A separate guardianship must be filed and a corresponding case file established for each proposed ward.

(2) A certified copy of the minor child's birth certificate shall be filed with every SPF 16.0 – Application for Appointment of a Guardian of A Minor, unless waived by the Court.

(3) The Court will not consider an application unless accompanied by a properly completed custody affidavit in conformity with R.C. 3127.23. An affidavit in conformity with 3109.04(M) shall be completed by the applicant as to the applicant and other members of the applicant's household. The affidavit(s) shall be filed on forms approved by the Court.

(4) No guardian of the person of a minor may create a power of attorney pursuant to R.C. 3109.52 transferring the guardian's rights and responsibilities without specific authority of the Court.

(5) An application for 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, and shall be accompanied by an affidavit from the parent confirming such inability.

(6) The process for the emergency guardianship of minor shall be governed by

Local Rule 66.03(A).

(7) The process for submitting comments or complaints regarding the performance of a guardian of a minor shall be governed by Local Rule 66.03(B).

(8) The processes and policies for an Indigent Guardianship found at Local Rule 66.12 apply when the ward is a minor.

(9) Change of Residence:

(a) A guardian shall notify this Court in writing of a ward's change of residence and the reason for the change. Except as impractical, the guardian shall notify the court no later than ten days prior to the proposed change. The guardian shall utilize any applicable Standard Probate Form or in lieu thereof, the applicable local form.

(b) A guardian shall not move the ward from Allen County, Ohio, or to a more restrictive setting in or outside of the county of the ward's appointment without prior approval of the Court, unless a delay in authorizing the change of residence would affect the health and safety of the ward. The guardian shall utilize any applicable Standard Probate Form or in lieu thereof, the applicable local form.

### **Rule 66.01 Definitions**

[Supplementing Sup.R. 66.01]

The terms defined in Sup.R. 66.01 have the same meaning when used in Local Rules 66.02 thru 66.09.

### **Rule 66.02 Application of Rules**

[Supplementing Sup.R. 66.02]

Local Rules 66(C) applies to guardianships of a minor only. In addition, Local Rules 66(B), 66.03, 66.05(A) and 66.12 apply to guardianships of minors. Sup.R. 66(A) and (B), and 66.01 through 66.12 shall apply in all adult guardianship cases where the probate court appoints a guardian pursuant to R.C. 2111.02. The court, for good cause shown, may exempt a guardian who is related to the ward by consanguinity (blood) or affinity (marriage) from the requirements of Ohio Rules of Superintendence 66.01 through 66.09 and related Local Rules of Court 66.01 through 66.09. Any request to be exempted shall be submitted in writing utilizing any applicable Standard Probate Form or in lieu thereof, the

applicable local form.

## **Rule 66.03 Local Guardianship Rules**

[Supplementing Sup.R. 66.03]

### **(A) Emergency Guardianships**

(1) In light of the significance of the personal rights at issue and the complexity of the issues involved it is strongly recommended that applicants seeking to establish an emergency guardianship be represented by counsel. Any Applicant who is an attorney admitted to practice and in good standing with the Ohio Supreme Court may act as his or her own counsel in the proceeding unless ethically precluded from doing so by the Ohio Rules of Professional Conduct.

(2) Any Application for the appointment of an emergency guardian for an alleged incompetent must be accompanied by a fully completed Next of Kin of Proposed Ward (SPF 15.0), a Statement of Expert Evaluation (SPF 17.1), and a Supplement (SPF 17.1(A)). Applications should also contain any attachments or exhibits that may assist the Probate Court in determining whether to grant an emergency guardianship.

(3) Any Application for the appointment of an emergency guardian for a minor must accompany a fully completed Next of Kin of Proposed Ward (SPF 15.0) and the affidavit required by R.C. 3127.23. Unless excused by the Court for good cause shown, if the minor is over the age of 14 years, there shall also be filed with the Application a completed and executed Selection of Guardian by Minor Over Fourteen Years of Age (SPF 16.2).

(4) Prior to filing an Application for appointment of emergency guardian, the Applicant shall secure and file with the Court a background check report from both the Ohio Bureau of Criminal Investigation and the Federal Bureau of Investigation. If the Applicant seeks appointment as emergency guardian prior to the filing of the background reports required by this rule, the Applicant shall submit with the emergency Application proof that the reports have been requested from the designated agencies and an Affidavit signed by the Applicant setting forth any

Criminal offenses of any nature of which the Applicant had been charged or convicted. The Applicant shall then file the background check reports with the Court immediately upon receipt.

(5) Potential Applicants for appointments of an emergency guardian for a minor are cautioned that the probate court is generally not the proper forum for the litigation of custody disputes and that such actions should be brought in the Domestic Relations or Juvenile Division of the Common Pleas Court as appropriate.

(6) Unless otherwise ordered by the Court, an Application for the appointment of an emergency guardian for an will be considered and decided without hearing based upon the Application, Statement of Expert Evaluation, the Supplement and any attachments or exhibits submitted under section (2) above. In lieu of the ex parte appointment of an emergency guardian, the Court will consider any other less restrictive order necessary and sufficient to prevent injury to the person or estate of the minor or alleged incompetent.

(7) in the event that the Court either grants the Application to establish the emergency guardianship or issues other orders necessary to prevent injury to the person or estate, a written copy of the orders shall be served upon the proposed ward as soon as possible after being issued. Unless otherwise ordered, any emergency order shall continue in force and effect for a period of 72 hours. Unless for good cause shown, no extension of any emergency order beyond 72 hours shall be granted without a hearing held after notice to the minor or incompetent. Any such extension will be granted for a specified period not to exceed 30 days.

(8) Within 72 hours after the issuance of any emergency order under section 6 above, the Court will hold a hearing to consider whether the emergency order should continue in force and effect for a specified period not to exceed an additional 30 days. The proposed ward and other interested parties shall be given notice of the hearing schedule pursuant to this section as soon as practicable after the hearing has been scheduled. For good cause shown, the time for holding this 72 hour hearing may be extended by the Court. "Good cause" for an extension of the time for holding a hearing under this section shall include the unavailability of the proposed ward to receive service of notice of the hearing because he or she cannot be located or are otherwise not being made available to receive notice. In such case, the Court may extend the emergency order pending service and hearing.

(9) If it is expected that the need for the guardianship will continued after the emergency period granted by the Court, an Applicant is expected to file an Application for Appointment of Guardian (SPF 16.0 or 17.0) within seven (7) days after the completion of the hearing extending the emergency guardianship beyond

the initial 72 hour period.

(10) If no Application to establish a full guardianship is filed following the establishment of an emergency guardianship, the appointment and authority of the emergency guardian shall terminate when the order of appointment expires. In such case, an emergency guardian of the estate or of the person and estate shall file an Inventory and First and Final account with the Court within 30 days after the expiration of the emergency guardianship (R.C. 2109.302(A)).

### **(B) Comments or Complaint Regarding the Performance of Guardians**

The parties and counsel participating in a case where a guardian has been appointed, including an emergency guardian, may present comments or complaints regarding the performance of a guardian as follows:

(1) Any comments or complaints regarding the performance of a guardian shall be in writing signed by the party submitting the comment or complaint and submitted to the attention of the Judge of the Probate Court. Anonymous complaints or comments will not be considered and addressed by the Court under this Rule.

(2) Within five (5) days of receipt, the Court will provide a copy of the comments or complaints and a Court notice of the response date to the guardian who is the subject of the comments or complaints.

(3) Within ten (10) days after notified of the comment(s) or complaint(s) the guardian may respond in writing to the comment(s) or complaint(s). A copy of any response will be provided to the commenting or complaining party by the Court.

(4) Within thirty (30) days of the filing of any comments or complaints, and after receipt of all appropriate information, including any supplements or amendments requested by the Court, the Court shall either issue a disposition in writing or shall set the matter for a formal hearing.

Any written disposition shall be mailed and/or FAXED to the person who submitted the comments or complaints, and to the guardian. If a formal hearing is

Scheduled the person who submitted the comments or complaints and the guardian shall be served with notice of the hearing in a manner consistent with Civ.R. 73. In such case, the disposition shall be by order of the Court.

(5) The Court reserves the right as the superior guardian to take any actions and issue any orders it deems necessary to protect the person and property of a ward pending disposition following the receipt of comments or complaints concerning the performance of a guardian appointed by the Court.

(6) The comments or complaints and the disposition thereof shall be maintained in and made a part of the guardianship case filed.

#### **Rule 66.04 Reserved**

#### **Rule 66.05 Responsibilities of Court Establishing Guardianships**

[Supplementing Sup.R. 66.05]

##### **(A) Guardian Background Check**

An applicant for appointment as a guardian, including an emergency guardian and/or the guardian of a minor, shall file with the Court a criminal background check report from both the Ohio Bureau of Criminal Investigation and the Federal Bureau of Investigation with the court. Instead of the criminal background check report, an Ohio attorney currently in good standing with the Ohio Supreme Court may obtain and submit to the Court a Certificate in Good Standing with disciplinary information issued by the Supreme Court. The reports required under this Rule shall be filed with the Court prior to the hearing on the Application for Appointment.

##### **(B) Guardian with Ten or More Wards**

To assist the Court in meeting its supervisory responsibilities under Sup.R. 66.05(B) and in satisfaction of the responsibilities arising under Sup.R. 66.08(H) by January 31 of each year, a guardian with ten or more wards appointed through the probate courts of Ohio shall register with this Court in writing utilizing any applicable Standard Probate Form or in lieu thereof, the applicable local form. The guardian shall notify the court in writing within ten days of any change to the guardian's name, address, telephone number, and electronic mail address.

A guardian of ten or more wards shall submit to the court an annual fee schedule that differentiates guardianship services fees, as established pursuant to local rule, from legal or other direct services.

A guardian with ten or more wards shall include with the Guardian's Report form,

a statement indicating whether the guardian is aware of any circumstances that may disqualify the guardian from continuing to serve as guardian.

(C) The Court shall maintain a file or other record on each guardian of an adult evidencing proof of the guardian's having completed a qualifying fundamentals court pursuant to Sup.R. 66.06, unless waived; the guardian's annual compliance with Sup.R. 66.07, "Guardian Continuing Education"; and compliance with Local Rule 66.05(B).

### **Rule 66.06 Guardian Fundamentals Training Requirement**

[Supplementing Sup.R. 66.06]

A guardian holds a unique role with respect to the ward and the Guardian has an obligation to obtain an understanding of the fundamentals of that relationship. Formalized training is one means to gain that competency. Every guardian for an adult must meet the guardianship fundamentals training requirements under Sup.R. 66.06 by successfully completing, prior to appointment or within six months thereafter, a six-hour guardian fundamentals course provided by the Ohio Supreme Court, or with prior approval of this Court, another entity. Those failing to meet the training requirement shall be subject to citation for being in contempt of court and compensation, and removal. An individual serving as a guardian on June 1 2015, or who served as a guardian during the five years immediately proceeding that date shall have until June 1, 2016, to complete the training, unless the Court waives or extends the requirement for good cause. Any request for a waiver or extension of time shall be submitted in writing utilizing any applicable Standard Probate Form or in lieu thereof, the applicable local form.

The guardian is responsible for providing to the Court in a timely manner documentation that established compliance with the guardian fundamentals training requirement utilizing any applicable Standard Probate Form or in lieu thereof, the applicable local form.

### **Rule 66.7 Guardian Continuing Education**

[Supplementing Sup.R. 66.07]

After successfully completing the guardian fundamentals course a guardian of an adult annually shall successfully complete a three-hour guardian continuing education course provided by the Ohio Supreme Court, or with the prior approval of this Court, another entity.

By December 31 of each year, a guardian is responsible for providing to this Court documentation demonstrating compliance with the guardian continuing education requirement utilizing any applicable Standard Probate Form or in lieu thereof, the applicable local form.

If a guardian fails to comply with the guardian continuing education requirement, the guardian shall not be eligible for new appointments to serve as guardian until the requirement is satisfied. Those failing to meet the training requirement shall be subject to citation for being in contempt of court and subject to sanctions, including, but not limited to imposition of a fine, denial of compensation, and removal.

If the deficiency in continuing education is more than three calendar years, the guardian shall complete, at a minimum, a six-hour fundamentals course pursuant to Sup.R. 66.06(A) to qualify again to serve as guardian.

## **Rule 66.8 General Responsibilities of Guardian**

[Supplementing Sup.R. 66.08]

### **(A) Orders, Rules and Laws**

A guardian shall obey all orders of the probate division of a court of common pleas establishing the guardianship and shall perform duties in accordance with local rules and state and federal law governing guardianships. A guardian who fails to obey the orders of the Court or comply with the requirements of the Ohio Rules of Superintendence and/or the Local Rules of Court shall be subject to citation for being in contempt of court and subject to sanctions, including, but not limited to imposition of a fine, denial of compensation, and removal.

### **(B) Pre-Appointment Meeting**

Unless otherwise determined by this Court on a case-by-case basis, an applicant-guardian shall meet with a proposed ward at least once prior to appearing before the Court for a guardianship appointment.

**(C) and (D) are Reserved**

### **(E) Change of Residence**

(1) A guardian shall notify this Court of a ward's change of residence and the reason for the change. Except as impractical, the guardian shall notify the court not later than ten days prior to the proposed change. The guardian shall utilize any applicable Standard Probate Form or in lieu thereof, the applicable local form.

(2) A guardian shall not move the ward from Allen County, Ohio, or to a more restrictive setting in or outside of the county of the ward's appointment without prior approval of the Court, unless a delay in authorizing the change of residence would affect the health and safety of the ward. The guardian shall utilize any applicable Standard Probate Form or in lieu thereof, the applicable local form.

#### **(F) Court Approval of Legal Proceedings**

While a guardian is generally required to seek prior approval of this Court before filing a suit for the ward, prior approval is not required when the suit is being filed in this Court. The guardian shall utilize any applicable Standard Probate Form or in lieu thereof, the applicable local form.

#### **(G) Annual Plan**

A guardian of the person, estate, or person and estate, shall annually file with this Court and Annual Guardianship Plan as an addendum to the Guardian's Report. The guardianship plan shall state the guardian's goals for meeting the ward's person and financial needs for the next year. The guardian shall utilize any applicable Standard Probate Form or in lieu thereof, the applicable local form.

#### **(H) thru (K) Reserved**

#### **(L) Filing of Ward's Legal Papers**

In addition to filing an Inventory, if applicable, pursuant to R.C. 2111.14(A)(1) and within three months after the guardian's appointment, a guardian shall file with the Court a list of all of the ward's important legal papers, including but not limited to estate planning documents, advance directive, and powers of attorney, and the location of such legal papers, if known at the time of the filing. The guardian shall utilize an applicable Standard Probate Form or in lieu thereof, the applicable local form.

#### **Rule 66.09 Reserved**

#### **Rule 66.10 Guardian's Report**

[Supplementing Sup.R. 66]

(A) All guardians of an incompetent are required to file their Guardian's Report

(SPF 17.7) as detailed in Section 2111.49 of the Revised Code on the first anniversary after the date of the issuance of the Letters of Guardianship and annually thereafter.

(B) The Guardian's Report shall be filed by the guardian of the person of the ward, except that if not guardian of the person was appointed the Report shall be filed by the guardian of the estate of the ward.

(C) The Guardian's Report shall include a Statement of Expert Evaluation unless this requirement has been dispensed with by the Court pursuant to the Court's Local Rule 66.11.

(D) The Guardian's Report shall include, as an Addendum, the Annual Plan required by Sup.R. 66.08(G).

### **Rule 66.11 Statement of Expert Evaluation**

[Supplementing Sup.R. 66]

Where 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 Court may dispense with the filing of subsequent evaluations. An order to dispense with the filing of subsequent evaluations is not automatically granted and any request to dispense with the filing of subsequent evaluations shall be in writing and filed with the Court. The Court may set the matter for hearing or may issue an appropriate order without hearing.

### **Rule 66.12 Indigent Guardianships**

[Supplementing Sup.R. 66]

(A) Persons requesting that cost deposits and/or costs be waived and/or that attorney fees and expenses shall be paid from the Indigent Guardianship Fund shall file any form required by the Court and shall notify the Court of any material change in the income or assets of the ward of possible ward.

(B) Expenditures shall be made from the county Indigent Guardianship Fund established pursuant to R.C. 2111.51 only for payment of a cost, fee, charge or expense associated with the establishment, opening, maintenance or termination of a guardianship for an adult indigent ward.

For purposes of this Rule, "cost, fee, charge or expense" shall include attorney fees only for: 1) representation of the applicant for appointment as guardian of an indigent ward; 2) representation of the ward; or 3) as

guardian ad litem appointed for the ward. Any other expenditures from the county Indigent Guardianship Fund shall be approved only upon specific motion of the party seeking payment of the cost, fee, charge or expense, and when determined by the Court to be of benefit to the ward or estate.

Unless otherwise ordered, the Court will determine qualifications for payment of costs, fees, charges or expenses from the county Indigent Guardian Fund based on the assets and income of an adult ward using 100% of the U.S. Department of Health and Human Services poverty guidelines.

**Rule 67 Estates of Minors of Not More Than Twenty-Five Thousand Dollars**  
[Supplementing Sup.R. 67]

If no attorney represents the interests of the minor, the attorney representing the interests of the payer shall assume the duties imposed by Sup.R. 67(B) and (C).

**Rule 71.1 Attorney Fees (All case types)** [Effect 3/1/14]  
[Supplementing Sup.R. 71]

(A) All fees charge by counsel representing a fiduciary in matters before the Court, including but not limited to services performed on decedent's estates, guardianship and trusts, must be disclosed on the fiduciary's account, regardless of the source of the payment. If the source of payment is other than the assets of the estate, guardianship or trust over which the fiduciary has been appointed, 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 from signed by the payer of the fees.

(B) Professional Conduct Rule 1.5 shall govern the reasonableness of all fees, notwithstanding statutory allowances or consents to the fees. The Court reserves the right to hold a hearing on any fees requiring court approval regardless of any other provisions of these Rules.

(C) In all matters where an attorney is the fiduciary of an estate, guardianship or trust, and that attorney or another attorney is attorney of record, separate time records, shall be maintained for services performed as fiduciary and as counsel, which records shall be submitted to the Court for review upon the request of the Court.

(D) Any attorney fees authorized by these rules to be taken without a hearing shall be shown as a credit on the account for the accounting period in which the fees were taken and shall be subject to exceptions as provided by law.

(E) Unless otherwise ordered, applications for the approval of the payment of attorney fees from estate assets shall not be scheduled for a separate hearing, but shall be considered at the hearing on the account. Any person or entity who has waived notice of hearing on the account, or who has been served with notice of hearing on the account shall be deemed to have waived or been served with notice of hearing on the application for approval of any attorney fees reflected in the account.

**Rule 71.2 Attorney Fees in Estates [Effect 3/1/14]**  
[Supplementing Sup.R. 71]

(A) Hearing on Attorney Fees Generally Required:

Except as otherwise set forth in this Rule, attorney fees will be approved for payment by the fiduciary only after written application and hearing as set forth in Local Rule 71.1(E) above. Unless otherwise approved by the Court, attorney fees shall not be approved for payment by the fiduciary until a final account has been prepared for filing.

(B) No Hearing Required:

Unless otherwise ordered by the Court, no hearing on an application for the approval of attorney fees for payment by the fiduciary shall be required if any of the following apply:

- (1) payment of the fee is included in an accounting or certificate of termination filed by the fiduciary who is also the sole beneficiary of the estate.
- (2) a Consent to Payment of Fees (Form ES-3) has been signed and filed with the Court by all beneficiaries of the estate whose share will be charged with the payment of any part of the fee.
- (3) the attorney fee sought to be approved for payment by the fiduciary does not exceed the fees calculated utilizing the Attorney Fee Application and Compensation Statement (Form ES-2) and the Guidelines for attorney fees set forth in Section C below.
- (4) the application for approval of attorney fees for payment by the fiduciary contains an itemized description of the legal services performed and the time expended for each service.

(5) the attorney for the estate or another attorney is also executor or administrator of the estate and the attorney fee requested does not exceed one-half (1/2) of the Guideline Fee set forth in Section C below.

(6) the total attorney fee requested does not exceed \$1,000.00.

(C) Guideline Fees in Decedent's Estates:

Attorney fees for the administration of a decedent's estate as set forth below 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 fiduciary is the complete administration of a decedent's estate. The guide is not to be considered or represented to clients as a schedule of minimum or maximum fees to be charged. This guideline shall not be used by the attorney to receive a fee that would be unreasonable under Rule 1.5 of the Ohio Rules of Professional Conduct.

(1) On the personal property which is subject to administration and for which the fiduciary is charged, and on the gross proceeds of real estate that is sold under a power of sale under the will or by consent under R.C.

2127.01 as follows:

(a) for the first \$100,000 at the rate of 4%

(b) all above \$100,000 and not exceeding \$400,000 at the rate of 3%

(c) all above \$400,000 at the rate of 2%

(2) On real property that is not sold at the rate of 2%

(3) 2% on joint and survivorship property included for the purpose of computing the Federal Estate tax return, whether or not the estate is required to file such return.

(4) 1% on non-probate property included for purposes of computing the Federal Estate tax return, whether or not the estate is required to file such return, but excluding joint and survivorship property and the proceeds of life insurance payable to a beneficiary other than the decedent's estate.

Funds advanced to the estate shall not be included in the calculation under this Guideline.

(D) Memorandum of Non-Probate Assets:

If attorney fees calculated and submitted for approval for payment from estate assets are based in part on non-probate assets included under subsections (C)(3) and (4) above, counsel shall file with the Application for Approval of Attorney Fees a memorandum itemizing the non-probate assets included in the calculation of the attorney fees.

(E) Notice of Hearing:

Any application for approval of payment of attorney fees by the fiduciary of an estate for which hearing is required under subsection (A) and (B) above shall be heard at the time of the hearing on the final account. Any person or entity who has waived notice of hearing on the account, or who has been served with notice of hearing on the account shall be deemed to have waived or been served with notice of hearing on the application for the approval of payment of attorney fees by the fiduciary.

### **Rule 71.3 Approval of Attorney Fees in Guardianship**

[Supplementing Sup.R. 71]

#### **(A) Non-Indigent Case:**

A completed “Attorney Fee Application, Compensation Statement”, local form “GD-2” shall be filed with all accounts and whenever approval of attorney fees is being requested without an account being filed. No hearing shall be required if the appropriate form is completed in an acceptable manner and the fee is approved by the Court. The Court reserves the right to set any application for formal hearing.

#### **(B) Indigent Case:**

Attorney fees in Indigent Guardianship cases shall be paid in conformity with the current policies and procedure in such cases. Current versions of the policies, procedures and forms are available from the Deputy Clerks and/or the Court’s web site.

### **Rule 71.4 Approval of Attorney Fees in Trust**

[Supplementing Sup.R. 71]

A completed “Attorney Fee Application, Compensation Statement”, local form “TR-2” shall be filed with all account and whenever approval of attorney fees is being requested without an account being filed. No hearing shall be required if the appropriate form is completed in an acceptable manner and the fee is approved by the Court. The Court reserves the right to set any application for formal hearing.

### **Rule 72.1 Executor’s and Administrator’s Commissions**

[Supplementing Sup.R. 72]

(A) Executor’s and Administrator’s commissions shall be governed by 2113.35 and C.P. Sup.R. 72.

(B) Executor’s or Administrator’s commissions shall not be paid until the final account is prepared for filing unless otherwise approved by the Court upon proper

application and for good cause shown.

(C) A “Fiduciary Fees - Application and Compensation Statement”, form ES-1, shall be filed with any account which contains a disbursement for such a fee, or in any case where an application for any such fee is being filed prior to the preparation of the final account, or if extraordinary commissions are being applied for.

(D) Any request for extraordinary fees shall be attached to the regular application and shall, as to all services for which extraordinary compensation is requested, recite the services performed, the time spent in the performance of the services (by 10ths of an hour), the amount of additional compensation requested, and a brief explanation as to why the services were out of the ordinary.

(E) Unless otherwise ordered, applications for executor’s and administrator’s compensation shall not be scheduled for a separate hearing, but shall be considered at the hearing on the account. Approval of an account shall constitute approval of any executor or administrator fees contained therein. The Court reserves the right to order formal notice and hearing on any application for compensation.

**Rule 73.1 Guardian’s Compensation Schedule** [Supplementing Sup.R. 73]

(A) The compensation that may be taken by guardians as a credit in their accounting for ordinary services, without application and order first obtained must be less than or equal to that provided by the schedule found in **APPENDIX C**.

(B) For corporate guardians: A fee may be charged on the same basis as the corporate guardian charges its clients as trustee of a living trust (Lowest living trust fees to apply unless otherwise ordered). Each corporate fiduciary shall file its current fee schedule with this Court. Any amendments to the schedule must be filed before a fee computed under the amended schedule is credited to an account.

(C) A computation of guardian’s fees shall be filed with each account where guardian’s fees have been paid. The current version of the “Compensation Statement - Guardian's Fees” (GD-1 form) shall be used to compute the allowed guardian’s fees. Existence of the fee schedule is not approval by the Court of the reasonableness of the fee so taken, and any credit for a fee in such amount shall be subject to exceptions to the account as provided by law.

(D) Additional compensation for extraordinary services; reimbursement for

expenses incurred: compensation of a guardian of the person only; or compensation for ordinary services at an hourly rate may only be allowed upon application and hearing. Notice of the hearing on the application in conformity with Civ.R. 73(E) shall be given by the guardian to interested persons as ordered by the Court. Proof of service of notice shall be in conformity with Civ.R. 73(F). Where there is an claim for extraordinary services; fees of a guardian of the person only; or for ordinary services at an hourly rate, the application shall set forth an itemized statement of the services performed, the date the services were performed, the time spent in rendering the services (by 10ths of the hour) and the rate charged per hour.

(E) All applications for compensation of guardians of veterans must comply with Chapter 5905 of the Ohio Revised Code and all other rules and regulations of the Department of Veterans Affairs.

**Rule 74.1 Trustee's Compensation Schedule**  
[Supplementing Sup.R. 74]

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

(B) Compensation for corporate fiduciaries who are exempt from bond pursuant to Ohio Revised Code section 1111.21 may be compensated in accordance with their published fee schedule. A copy of the applicable fee schedule shall be filed with the application for fees.

(C) A computation of trustee's fees shall be filed with each account where trustee's fees have been paid. The current version of the "Compensation Statement - Trustee Fees" (TR-1 form) shall be used to compute the allowed trustee's fees. Existence of the fee schedule is not approval by the Court of the reasonableness of the fee so taken, and any credit for a fee in such amount shall be subject to exceptions to the account as provided by law.

(D) Additional compensation for extraordinary services and expenses incurred, may only be allowed after hearing. Notice of the hearing on the application shall be

given by the trustee to interested persons as ordered by the Court. Where there is a claim for extraordinary services, the application shall set forth an itemized statement of the services performed, the date the services were performed, the time spent in rendering the services (by 10ths of the hour), and the hourly rate.

# APPENDIXES

APPENDIX A JURY MANAGEMENT PLAN [Rule 5.4]

APPENDIX B DEPOSITS FOR COURT COSTS [Rule 58.1]

APPENDIX C GUARDIAN'S COMPENSATION  
SCHEDULE [Rule 73.1]

APPENDIX D TRUSTEE'S COMPENSATION  
SCHEDULE [Rule 74.1]

## **APPENDIX A JURY MANAGEMENT PLAN**

[As required by Sup.R. 5(B)(2)] Note: Some functions are performed by the Jury Commission and/or the General Division on behalf of all divisions of the Allen County Common Pleas Court. [Ex. see Rules 102(B)(3) and (4)]

### **1.02 Purpose of Jury Management Plan**

Pursuant to C.P. Sup.R. 5(B)(2), the Court hereby adopts a jury management plan for implementation of the jury standards adopted by the Ohio Supreme Court.

#### **1.02(A) Opportunity for Service**

(1) The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief; income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.

(2) Jury service is an obligation of all qualified citizens.

#### **1.02(B) Jury Source List**

(1) The names of potential jurors shall be drawn from a jury source list compiled from one or more regularly maintained lists of persons residing within the court's jurisdiction.

(2) The jury source list shall be representative and should be as inclusive of the adult population as is feasible.

(3) The court shall periodically review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction, and is feasible.

(4) In the event the court determines that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action shall be taken.

### 1.02(C) Random Selection Procedures

(1) Random selection procedures shall be used throughout the juror selection process. Any method may be used, manual or automated, that provides each eligible and available person with an equal probability of selection. These methods shall be documented.

(2) Random selection procedures shall be employed in:

(a) selecting persons to be summoned for jury service;

(b) to excuse or defer prospective jurors in accordance with Local Rule 1.02(F);

(c) to remove prospective jurors for cause or if challenged peremptorily in accordance with Local Rules 1.02(H) and (I); and

(d) to provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel in conformity with Local Rule 1.02(K).

### 1.02(D) Eligibility for Jury Service

All persons shall be eligible for jury service except those who:

(1) are less than eighteen years of age;

(2) are not citizens of the United States;

(3) are not residents of the jurisdiction in which they have been summoned to serve.

(4) are not able to communicate in the English language; or

(5) have been convicted of a felony and have not had their civil rights restored.

1.02(E) Term and Availability for Jury Service

(1) The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.

(2) A term of service of one day or the completion of one trial, whichever is longer, is recommended. However, a term of one week or the completion of one trial, whichever is long, is acceptable.

1.02(F) Exemption, Excuse, and Deferral

(1) All automatic excuses or exemptions, with the exception of statutory exemptions, from jury duty shall be eliminated.

(2) Eligible persons who are summoned may be excused from jury service only if:

(a) their ability to receive and evaluate information is so impaired that they are excused for this reason by a judge; or

(b) they request to be excused because their service would be a continuing hardship to them or to members of the public, and they are excused by a judge or specifically authorized federal official.

(3) Deferrals for jury service for reasonably short periods of time may be permitted by a judge or specifically authorized court official upon completion and filing of an Affidavit.

(4) Requests for excuses and deferrals and their disposition should be written or otherwise made or recorded.

1.02(G) Voir Dire Examination

(1) Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.

(2) To reduce the time required for voir dire, basic background information regarding panel members shall be made available to counsel in writing for each party prior to the day on which jury selection is to begin.

(3) The trial judge shall conduct a preliminary voir dire

examination. Counsel shall then be permitted to question panel members for a reasonable period of time as determined by the trial judge.

(4) The judge should ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process.

(5) The voir dire process shall be held on the record.

#### 1.02(H) Removal From the Jury Panel for Cause

If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual should be removed from the panel. Such a determination may be made on motion of counsel or by the Judge.

#### 1.02(I) Peremptory Challenges

Peremptory challenges shall be exercised in accordance with the applicable Rules of Procedure and/or statutes.

#### 1.02(J) Administration of the Jury System

(1) The responsibility for administration of the jury system shall be vested exclusively in the judges of the court.

(2) All procedures concerning jury selection and service shall be governed by Ohio Rules of Court.

(3) Responsibility for administering the jury system shall be vested in a single administrator acting under the supervision of the administrative judge of the court.

### 1.02(K) Notification for Service

(1) The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person shall be:

- (a) contained in a single document;
- (b) phrased to be readily understood by a person unfamiliar with the legal and jury systems; and
- (c) delivered by ordinary mail unless otherwise ordered.

(2) A summons shall clearly explain how and when the recipient must respond and the consequences of a failure to respond.

(3) The questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:

- (a) determining whether a person meets the criteria for eligibility;
- (b) providing basic background information ordinarily sought during voir dire examination; and
- (c) efficiently managing the jury system.

(4) The court shall coordinate jury management and calendar management to make effective use of Jurors.

### 1.02(N) Jury Facilities

(1) The court shall provide an adequate suitable environment for jurors.

(2) The entrance area shall be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the facility.

(3) Jurors shall be accommodated in pleasant waiting facilities furnished with suitable amenities.

(4) Jury deliberation rooms shall include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms should be ensured.

(5) To the extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.

#### 1.02(O) Jury Compensation

(1) Persons called for jury service shall receive a reasonable fee for their service and expenses.

(2) Such fees shall be paid promptly.

(3) Employers shall be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

(4) Policies and procedures shall be established for monitoring failures to respond to a summons and for enforcing a summons to report for a jury service.

#### 1.02(L) Monitoring of the Jury System

The courts shall collect and analyze information regarding the performance of the jury system on a regular basis in order to evaluate:

(1) the representativeness and inclusiveness of the jury source list;

(2) the effectiveness of qualification and summoning procedures;

(3) the responsiveness of individual jurors; and

(4) the efficient use of jurors; and

(5) the cost-effectiveness of the jury management system.

#### 1.02(M) Juror Service

(1) The court shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.

(2) The court shall determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

#### 1.02(P) Juror Orientation

(1) Orientation programs shall be:

- (a) designed to increase prospective juror's understanding of the judicial system and prepare them to serve competently as jurors; and
- (b) presented in a uniform and efficient manner using a combination of written, oral, audiovisual materials.

(2) The courts shall provide orientation or instructions to persons called for jury service:

- (a) upon initial contact prior of service;
- (b) upon first appearance at the court; and
- (c) upon reporting to the court for voir dire

(3) The courts shall provide orientation or instructions to persons called for jury service:

- (a) upon initial contact prior to service;
- (b) give instructions directly following impanelment of the jury to explain the jury's role, the trial procedures including note taking and questioning by jurors; the nature of evidence and its evaluation; the issues to be addressed, and the basic legal principles;
- (c) prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations; and on the appropriate method for reporting the results of its deliberations. Such instructions should be made available to the jurors during deliberations.

(d) prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system; and

(e) before dismissing a jury at the conclusion of a case:

(1) release the jurors of their duty of confidentiality;

(2) explain their rights regarding inquiries from counsel or the press;

(3) either advise them at they are discharged from service or specify where they must report; and

(4) express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.

(5) All communications between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and be given the opportunity to be heard.

#### 1.02(Q) Jury Deliberations

(1) Jury deliberations shall take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision making.

(2) The judge shall instruct the jury concerning appropriate procedures to be followed during deliberations.

(3) The jury shall not be sequestered except under the circumstances and procedures set forth in Local Rule 1.02(R).

(4) A jury shall not be required to deliberate after a reasonable hour unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.

(5) Training should be provided to personnel who escort and assist jurors during deliberation.

### 1.02(R) Jury Sequestration

(1) A jury shall be sequestered only for good cause, including but not limited to insulating its members from improper information or influences

(2) The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration.

(3) Standard procedures shall be promulgated to:

(a) achieve the purpose of sequestration; and

(b) minimize the inconvenience and discomfort of the sequestered jurors; and

(c) provided for the jury's security

(4) Training shall be provided to personnel who escort and assist jurors during sequestration.

## **JURY TRIAL LOCAL FORMS**

*This page is in development.*

**APPENDIX B**  
**DEPOSITS FOR COURT COSTS**  
(EFFECTIVE 3/15/2012)

Except as otherwise provided in Local Rule 58.1, deposits in the amount set forth below SHALL be required upon the filing of any actions and proceedings listed below:

a) Will Record Purposes Only	\$ 43.00
b) Probate of Will only	58.00
c) Filing of Ohio Estate Tax only	28.00
d) Filing Application for Summary Release	85.00
e) Filing Application for Probate of Will (Full Admin.)	175.00*
f) Filing Application for Probate of Will and Application for Release from Administration	165.00
g) Filing Application for Appointment of Administrator (no will)	175.00*
h) Filing Application for Release from Administration (no will)	150.00
i) Filing Application for Appointment of Guardian of Incompetent	250.00
j) Filing Application for Appointment of Guardian of Minor	180.00
k) Filing Application for Appointment of Conservator	180.00
l) Filing Application for Appointment of Testamentary Trustee	175.00
m) Filing Petition to Construe Will or Trust	175.00
n) Filing Complaint (civil action, land sale, etc.)	175.00
o) Filing Petition for Adoption	CALL CT.
p) Filing Petition for Adoption (agency)	225.00
q) Filing Petition for Adoption (step-parent)	475.00
r) Filing Petition for Adoption (adult)	225.00
s) Filing Application for Placement	225.00
t) Filing Authenticated or Exemplified Estate Proceedings	28.00 + 1.00/pg.
u) Filing Application for Minor's Settlement	115.00
v) Filing Application for Change of Name	140.00
w) Filing Application for Registration of Birth Record	89.00
x) Filing Application for Correction of Birth Record	87.00
y) Filing of Petition to Transfer Structured Settlement	125.00
z) Filing Application for Disinterment	60.00
aa) Filing of Proof of Claim in an Estate	10.00
bb) Filing for Application for Marriage License	50.00
cc) Certified copy of Marriage License: short form	2.00
long form	3.00
dd) Certified copy of Birth or Death Record	5.00

NOTICE: All deposits will be applied to final costs. Actual costs will be charged in all miscellaneous proceedings for which no deposit is required.

\*\* Publication requires a minimum \$750.00 deposit. Contact the Deputy Clerks for details.

\* Suggested deposit is \$250.00

## APPENDIX C

### GUARDIAN'S COMPENSATION SCHEDULE

Unless otherwise provided by law or ordered by the Court, a guardian may charge for ordinary services an amount computed in accordance with the following schedule during each accounting period required by the Local Rules of Court.

**Income/Expenditure Fee:** Excluding income from real estate, 4% of the first \$3,000 of income, and 3% of the balance in excess of \$3,000; and 4% of the first \$3,000 of expenditures and 3% of the balance in excess of \$3,000. "Income", as used in this rule, shall mean the money or property that the guardian receives as current return from a principal asset, plus installment receipts such as Social Security, Veteran's benefits, or a pension. "Expenditures" do not include distributions upon termination; the amount of the attorney and guardian's fees, or for expenditures pertaining to rental real estate. Conversion of assets to cash or reinvestments are not deemed income or expenditures under this rule. Assets held by the ward at the date of appointment are deemed to be principal and not income.

**Real Estate Management Fee:** If the guardian manages real estate, a fee amounting to 10% of the gross rental real estate income may be allowed. If the guardian receives net income from real estate actively managed by others the guardian shall treat such net income as ordinary income.

**Principal Fee:** \$2.50 per thousand for the first \$100,000 of fair market value of the principal; \$2.00 per thousand on the next \$300,000 of fair market value of the principal; \$1.50 per thousand of the fair market value of the balance unless otherwise ordered. The "fair market value" shall be as of the date of the accounting.

**Final Distribution Fee:** Such guardian may, *with approval of the Court*, be allowed a principal distribution fee on the final distribution of personal property corpus upon termination of the guardianship.

Additional compensation for extraordinary services or allowance for expenses may be granted upon application.

Existence of the above schedule is not approval by the Court of the reasonableness of the fee so taken, and the Court reserves the right to approve or disapprove any fee. Any credit for a fee is subject to exceptions to the account as provided by law.

## APPENDIX D

### TRUSTEE'S COMPENSATION SCHEDULE

Except where the instrument creating the trust makes provision for compensation, a testamentary trustee may charge for ordinary services performed by the trustee, in connection with the administration of each separate trust estate an amount computed in accordance with the following schedule during each accounting period required by statute or Local Rule.

**Income Fee:** 6% of the gross income received during the accounting period not exceeding \$10,000 of gross income. 5% of such income exceeding \$10,000 but not exceeding \$20,000; and 4% of such gross income exceeding \$20,000, chargeable to income, unless otherwise ordered. "Income" does not include the assets on the Inventory.

Conversion of assets to cash or reinvestments are not deemed as income.

#### **Principal Fee:**

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

**Distribution:** With approval of the court, such trustee may be allowed a principal distribution fee upon the final distribution of any part of the corpus of the trust property equal to 1% of the fair market value of the part distributed.

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

In every case, the determination of the value of the Trust estate for purposes of computing trustee's compensation shall be made as of the date of the accounting, using the market value with respect to assets having a listed value. As to assets which do not have a listed market value, a fair valuation as of the date of the accounting shall be the criterion.

# ATTORNEY FEE FORMS

## ESTATES

[Consent to Payment of Attorney Fees form ES-3](#) [Rule 71.2]

[Attorney Fee Application and Compensation Statement form ES-2](#) [Rule 71.2]

[Notice of Hearing on Attorney Fees in Estate form ES-4](#) [Rule 71.2]

[Waiver of Notice of Hearing on Application for Attorney Fees and Consent to Payment ES-5](#) [Rule 71.2]

## GUARDIANSHIPS

[Attorney Fee Application, Compensation Statement form GD/TR](#) [Rule 71.3]

[Application for Waiver/Payment of Court Costs, Fees, Expenses and Attorney Fees From Indigent Guardianship Fund](#) [Rule 71.3]

## TRUSTS

[Attorney Fee Application, Compensation Statement form GD/TR](#) [Rule 71.4]

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

**ESTATE OF \_\_\_\_\_, DECEASED**

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

**CONSENT TO PAYMENT  
OF ATTORNEY FEES**

[C.P.Sup.R.71 & Local R.71.2(B)(2)]

Each of the undersigned, being a residuary beneficiary or creditor, whose share will be charged with payment of any part of the fees, hereby consents to the payment of attorney fees in the amount of \$ \_\_\_\_\_.

In signing this Consent, the undersigned hereby acknowledges:

- (1) The receipt of a copy of the attorney's fee statement with a description of the services rendered to the estate.
- (2) The fee charged is NOT within the Court's fee guidelines; and the guideline fee has not been represented as a schedule of a minimum fee to be charged.
- (3) The fee may be approved by the Court without formal hearing.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

**ESTATE OF \_\_\_\_\_, DECEASED**

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

**ATTORNEY FEE APPLICATION, COMPENSATION STATEMENT  
[C.P.Sup.R. 71 & Local R.71.2]**

Now comes \_\_\_\_\_, attorney for the fiduciary of this estate, who applies for approval of attorney fees as follows:

**A. PROBATE FEE:**

Upon the amount of all the personal estate, including the income from the personal estate, that is received and accounted for by the fiduciary and upon the proceeds of real estate that is sold, as follows:

0-100,000	@4% .....	\$ _____
100,000-400,000	@3% .....	\$ _____
Over 400,000	@2% .....	\$ _____
Real property not sold	@2% .....	\$ _____

TOTAL PROBATE FEE \$ \_\_\_\_\_

**B. NON-PROBATE FEE: [Requires Memorandum. Local R.71.2(D)]**

1. Joint and survivorship property included for the purpose of computing the Federal Estate Tax Return, whether or not the estate is required to file such a return @ 2% \$ \_\_\_\_\_

2. Other non-probate property included for the purpose of computing the Federal Estate Tax Return, whether or not the estate is required to file such a return @ 1% \$ \_\_\_\_\_

[Exclusions apply – Local R. 71.2(C)]

TOTAL NON-PROBATE FEE \$ \_\_\_\_\_

**C. EXTRAORDINARY FEES:**

Attach itemized statement reciting the services performed, the time spent in the performance of the services, and the usual billing rate per hour for the attorney or staff member who performed the services, even if compensation is not being sought exclusively on the hours spent. A brief explanation as to why the services were out of the ordinary shall be included.

TOTAL EXTRAORDINARY FEE \$ \_\_\_\_\_

The attorney fee complies with Local Rule  71.2(B)(1);  Local R. 71.1(B)(2);  71.2(B)(3);  71.2(B)(4);  71.2(B)(5) or  Other (requires hearing or consent); or  No attorney fees taken this accounting period.

**TOTAL ATTORNEY FEES** \$ \_\_\_\_\_

**ATTORNEY FEES TO BE APPROVED** \$ \_\_\_\_\_

**Per fee Agreement**  **Courtesy Adjustment**

\_\_\_\_\_  
ATTORNEY/APPLICANT

\_\_\_\_\_  
FIDUCIARY

\_\_\_\_\_ Deputy Clerk

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

**ESTATE OF \_\_\_\_\_, DECEASED**

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

**NOTICE OF HEARING ON  
APPLICATION FOR ATTORNEY FEES**

[Local R. 71.2(D)]

To the following persons:

Name	
Name	Address
Name	Address
Name	Address

You are hereby notified that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, an application for allowance of attorney fees was filed in this case. The application requests approval of attorney fees in the amount of \$ \_\_\_\_\_ and reimbursement of costs advanced in the amount \$ \_\_\_\_\_. The hearing on the application will be held before this Court on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_M.

The Court is located on the 4<sup>th</sup> Floor of the Allen County Courthouse, 301 N. Main Street (corner of North and Main) Lima, OH 45801.

The application is available for inspection and copying at the Allen County Probate Court. At the hearing, you may examine and inquire into the contents of the application.

\_\_\_\_\_  
Fiduciary/Attorney for the Fiduciary

\_\_\_\_\_  
Attorney Registration No.

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

**ESTATE OF \_\_\_\_\_, DECEASED**

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

**WAIVER OF NOTICE OF HEARING  
ON APPLICATION FOR ATTORNEY  
FEES AND CONSENT TO PAYMENT**

[Local Rule 71.2(C)(3)]

Each of the undersigned, being a residuary beneficiary or creditor whose share will be charged with the payment of any part of the fees, hereby waives notice of hearing on the application for attorney fees and consents to the payment of attorney fees in the amount of: \$ \_\_\_\_\_.

In signing this Consent, the undersigned hereby acknowledges:

- (1) Receipt of a copy of the attorney's fee statement with a description of services rendered to the estate;
- (2) The fee charged is NOT within the Court's fee guidelines and the guideline fee has not been represented as a schedule of a minimum or a maximum fee to be charged.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

**GUARDIANSHIP OF** \_\_\_\_\_

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

**ATTORNEY FEE APPLICATION  
AND COMPENSATION STATEMENT**

[C.P.Sup.R.71 & Local R.71.3]

Now comes \_\_\_\_\_, attorney for the guardian who applies for approval of attorney fees herein as follows:

**A. ATTORNEY FEES:**

- 1) Attach a copy of any written fee agreement. If none, explain how the fee was determined (ex. flat fee; hourly fee).
- 2) For all applications for non-flat fee, attach an itemized statement reciting the services performed: the date services were performed; the time spent rendering the services (by 10ths of the hour) and the hourly rate charged. Include a brief explanation as to any services that were performed that were out of the ordinary.

ATTORNEY FEE REQUESTED: \$ \_\_\_\_\_

**B. EXPENSES:**

Itemize by type and amount, any expenses advanced by the attorney for which reimbursement is being sought.

Expense:	Amount:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

EXPENSES REQUESTED: \$ \_\_\_\_\_

**TOTAL FEES AND EXPENSES: \$ \_\_\_\_\_**

\_\_\_\_\_  
ATTORNEY

\_\_\_\_\_  
GUARDIAN

\_\_\_\_\_  
ATTORNEY REGISTRATION NO.

Reviewed \_\_\_\_ Deputy Clerk

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

TRUST OF \_\_\_\_\_

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

**APPLICATION FOR WAIVER/PAYMENT OF  
COURT COSTS, FEES, EXPENSES AND  
ATTORNEY FEES FROM INDIGENT  
GUARDIANSHIP FUND**

[Local Rule 71.3]

Now comes \_\_\_\_\_, appointed as attorney for the   
Applicant: \_\_\_\_\_  Ward; by judgment entry filed  
\_\_\_\_\_, 20\_\_\_\_, and pursuant to R.C. 2111.51 and otherwise, hereby  
moves this Court for an order waiving court costs, or in the alternative, paying court  
costs from the Indigent Guardianship Fund; and for payment of any non-attorney fees,  
expenses, and attorney fees from the Indigent Guardianship Fund, as follows:

1. Court costs	\$ _____	[or current amount]
2. Medical Evaluation Fees	\$ _____	
3. Other non-attorney fees [specify]	\$ _____	
_____	\$ _____	
_____	\$ _____	
4. Attorney Fees [Attach itemized statement]	\$ _____	
TOTAL	\$ _____	

WHEREFORE, Applicant moves the Court for an order to waive Court costs, or in the  
alternative, to order any costs paid from the Indigent Guardianship Fund; and for an  
order to pay any non-attorney fees, expenses, and attorney fees from the Indigent  
Guardianship Fund pursuant to R.C. 2111.51 and otherwise.

\_\_\_\_\_  
ATTORNEY AT LAW

\_\_\_\_\_  
ATTORNEY REGISTRATION NO.

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

**TRUST OF** \_\_\_\_\_

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

**ATTORNEY FEE APPLICATION  
AND COMPENSATION STATEMENT**

[C.P.Sup.R.71 & Local R.71.4]

Now comes \_\_\_\_\_, attorney for the trustee(s), who applies for approval of attorney fees herein as follows:

**A. ATTORNEY FEES:**

- 1) Attach a copy of any written fee agreement. If none, explain how the fee was determined (ex. flat fee; hourly fee).
- 2) For all applications for non-flat fee, attach an itemized statement reciting the services performed: the date services were performed; the time spent rendering the services (by 10ths of the hour) and the hourly rate charged. Include a brief explanation as to any services that were performed that were out of the ordinary.

ATTORNEY FEE REQUESTED: \$ \_\_\_\_\_

**B. EXPENSES:**

Itemize by type and amount, any expenses advanced by the attorney for which reimbursement is being sought.

Expense:	Amount:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

EXPENSES REQUESTED: \$ \_\_\_\_\_

**TOTAL FEES AND EXPENSES: \$ \_\_\_\_\_**

\_\_\_\_\_  
ATTORNEY

\_\_\_\_\_  
TRUSTEE

\_\_\_\_\_  
ATTORNEY REGISTRATION NO.

Reviewed \_\_\_\_\_ Deputy Clerk

# **FIDUCIARY FEE FORMS**

[Fiduciary Fees - Application and Compensation Statement \(ES-1\)](#)  
[Rule 72.1]

[Guardian's Fees – Application and Compensation Statement \(GD-1\)](#) [Rule 73.1]

[Compensation Statement-Trustee's Fees \(TR-1\)](#) [Rule 74.1]

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

ESTATE OF \_\_\_\_\_, DECEASED

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

**FIDUCIARY FEES - APPLICATION  
AND COMPENSATION STATEMENT**

[R.C. 2113.35, C.P.Supp.R. 72, Local R. 72.1]

Now comes \_\_\_\_\_, fiduciary, who applies for approval of fiduciary fees as follows:

**A. PERSONAL ESTATE FEE:**

All the personal estate, including the income of the personal estate, received and accounted for by them and upon the proceeds of real estate that is sold:

1. Personal property	\$ _____
2. Proceeds of real estate sold	\$ _____
3. Income	\$ _____
Subtotal	\$ _____
0-100,000 @ 4%	\$ _____
100,000-400,000 @ 3%	\$ _____
Over 400,000 @ 2%	\$ _____

TOTAL PERSONAL ESTATE FEE      \$ \_\_\_\_\_

**B. REAL ESTATE (NOT SOLD) FEE:**

1% of the value of real estate not sold

TOTAL REAL ESTATE FEE      \$ \_\_\_\_\_

**C. NON-PROBATE PROPERTY**

1% of all property not subject to administration that is includable for purposes of computing Ohio Estate Tax, except joint and survivorship property.\*

TOTAL NON-PROBATE FEE      \$ \_\_\_\_\_

**D. EXTRAORDINARY FEES: (applied for & approved)**

TOTAL EXTRAORDINARY FEES      \$ \_\_\_\_\_

**TOTAL FIDUCIARY FEES:**      \$ \_\_\_\_\_  
**BALANCE DUE (Total fees less any amounts**  
**taken with prior accounts)**      \$ \_\_\_\_\_

Reviewed \_\_\_\_\_ Deputy Clerk

\_\_\_\_\_  
FIDUCIARY

\* Attach itemized computation if no Ohio Estate Tax Return filed.

\_\_\_\_\_  
ATTORNEY

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

**GUARDIANSHIP OF** \_\_\_\_\_

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

**GUARDIAN'S FEES - APPLICATION  
AND COMPENSATION STATEMENT**

[C.P.Sup.R. 73, Local R. 73.1]

\_\_\_\_\_ Prior Account;  Final Account;

Accounting period of \_\_\_\_\_, 20\_\_ to \_\_\_\_\_, 20\_\_.

A. Income Fee: (see Local Rules, APPENDIX \_\_\_\_\_)

Income for period	\$ _____
1. 4% of the first \$3,000	\$ _____
2. 3% of balance	\$ _____

TOTAL INCOME FEE            \$ \_\_\_\_\_

B. Expense Fee: (see Local Rules, APPENDIX \_\_\_\_\_)

1. 4% of the first \$3,000	\$ _____
2. 3% of balance	\$ _____

TOTAL EXPENSE FEE            \$ \_\_\_\_\_

C. Real Estate Management Fee: (APPENDIX \_\_\_\_\_)

Gross real estate rental income	\$ _____
10% of gross	\$ _____

TOTAL REAL ESTATE MANAGEMENT FEE    \$ \_\_\_\_\_

D. Principal Fee: (see Local Rules, APPENDIX \_\_\_\_\_)

1. \$2.50 per \$1,000 for first \$100,000	\$ _____
2. \$2.00 per \$1,000 for next \$300,000	\$ _____
3. \$1.50 per \$1,000 for balance	\$ _____

TOTAL PRINCIPAL FEE            \$ \_\_\_\_\_

TOTAL ORDINARY FEES            \$ \_\_\_\_\_

II. EXTRA-ORDINARY FEES: [Per application and entry if applicable]            \$ \_\_\_\_\_

III. TOTAL FEES (ORDINARY & EXTRAORDINARY)            \$ \_\_\_\_\_

IV. TOTAL FEES REQUESTED (Cannot exceed III)            \$ \_\_\_\_\_

\_\_\_\_\_  
GUARDIAN

\_\_\_\_\_  
ATTORNEY

Reviewed \_\_\_\_\_ Deputy Clerk

ATTORNEY REG. NUMBER \_\_\_\_\_

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

**TRUST OF** \_\_\_\_\_

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

**COMPENSATION STATEMENT-  
TRUSTEE'S FEES**

[C.P.Sup.R. 42, L.R. 74.1 & Appendix D]

Accounting period of \_\_\_\_\_, 20\_\_ to \_\_\_\_\_, 20\_\_.

A. INCOME FEE: Income from period [excluding conversions of assets to cash]

1. 0-\$10,000 @ 6%	\$ _____
2. \$10,000-\$20,000 @ 5%	\$ _____
3. Over \$20,000 @ 4%	\$ _____
TOTAL	\$ _____

B. PRINCIPAL FEE: "Principal" = assets remaining less Income listed under "A" above

1. 0-\$100,000 @ \$4.00 per thousand	\$ _____
2. \$100,000 to \$300,000 @ \$3.50 per thousand	\$ _____
3. \$300,000 to \$500,000 @ \$3.00 per thousand	\$ _____
4. \$500,000 to \$1,000,000 @ \$2.00 per thousand	\$ _____
5. \$1,000,000 to \$1,500,000 @ 1.50 per thousand	\$ _____
6. Over \$1,500,000 @ \$1.00 per thousand	\$ _____
TOTAL	\$ _____

II. TOTAL ORDINARY FEES \$ \_\_\_\_\_

III. EXTRA-ORDINARY FEES: [If applicable] \$ \_\_\_\_\_

File an application with itemized listing of services, expenses  
and how fee was computed, along with a proposed entry.

IV. TOTAL FEES PER GUIDELINE: \$ \_\_\_\_\_

V. TOTAL FEES REQUESTED: \$ \_\_\_\_\_

\_\_\_\_\_  
TRUSTEE

\_\_\_\_\_  
ATTORNEY

Reviewed \_\_\_\_\_ Deputy Clerk

Note - In every case, the determination of the value of the trust estate for purposes of computing trustee's compensation shall be made as of the date of the accounting, using the market value with respect to assets having a listed market value. As to assets which do not have a listed market value, a fair valuation as of the date of the accounting shall be criterion.

# MEDIATION FORMS

Local attorney contact information;

Local domestic violence resource information;

Counseling, substance abuse and mental health services;

Information regarding Children's Services

[Mediation Intake Form](#) [Rule 16(E)]

[Mediation Memorandum Form](#) [Rule 16(F)]

[Application for Mediator Fees](#) [Rule 16(G)]

[Entry Granting Application For Mediator's Fees](#) [Rule 16(G)]

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

OF \_\_\_\_\_

[Estate, Guardianship, Trust, etc.]

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

**MEDIATION INTAKE FORM**

Upon referral to or request for mediation, each party must complete this form. Please respond to each question. Thank you for your cooperation.

Person completing form is (check one):  Plaintiff/Claimant/Other: \_\_\_\_\_  
 Defendant/Respondent/Other: \_\_\_\_\_

This matter is being referred for mediation upon request of (check all that apply):

Plaintiff/Claimant/Other                       Attorney for Plaintiff/Claimant/Other  
 Defendant/Respondent/Other                       Attorney for Defendant/Respondent/Other

**Plaintiff/Claimant/Other**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

**Defendant/Respondent/Other**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

If children are at issue in this matter, please give the full name, date of birth and address of each child.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Statement of dispute or claim (please summarize your understanding of the dispute or claim to be mediated):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dollar amount of claim/dispute (if applicable): \$ \_\_\_\_\_

Are there any Stalking, Civil Protection, or Temporary Protection orders in effect in involving any of the parties to your knowledge?  Yes  No

If yes, please state which type of order and whom it is against: \_\_\_\_\_  
\_\_\_\_\_

To your knowledge, are there any pending or prior Domestic Violence allegations involving any of the parties?  Yes  No

If yes, please give specifics to the best of your knowledge: \_\_\_\_\_  
\_\_\_\_\_

Have any of the parties been convicted of child abuse or domestic violence, relative to this case, to your knowledge?  Yes  No

If yes, please state the specifics to the best of your knowledge: \_\_\_\_\_  
\_\_\_\_\_

Would you prefer to have someone accompany you if the matter is mediated?  
 Yes  No

If yes, please state the person's name, full contact information, relationship to you; and describe how that person will be of help to you in the mediation:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify that to the best of my knowledge, the above information is accurate, and that I have circled the information, if any, that must be kept confidential.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

Upon completion of this form return it to: \_\_\_\_\_

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

\_\_\_\_\_ **OF** \_\_\_\_\_  
[Estate, Guardianship, Trust, etc.]

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

\_\_\_\_\_  
Plaintiff/Claimant/Other :

-vs- :

\_\_\_\_\_  
Defendant/Respondent/Other :

**MEDIATION  
MEMORANDUM**

Now comes \_\_\_\_\_, the duly-appointed mediator in this matter,  
who makes the following report to the Court as to the  status (interim)  final outcome of the  
mediation:

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---

---

---

---

Dated: \_\_\_\_\_

\_\_\_\_\_  
Mediator

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

\_\_\_\_\_ **OF** \_\_\_\_\_  
[Estate, Guardianship, Trust, etc.]

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

\_\_\_\_\_  
Plaintiff/Claimant/Other :

-vs- :

\_\_\_\_\_  
Defendant/Respondent/Other :

**APPLICATION FOR  
MEDIATOR'S FEES**

Now comes \_\_\_\_\_, the duly-appointed mediator in this matter,  
who applies for approval of mediator fees herein pursuant to Local rule 16 (G):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Subtotal      \$ \_\_\_\_\_

In addition, applicant applies for payment of the following expenses for the purposes and in the amounts  
previously approved by the Court as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Subtotal      \$ \_\_\_\_\_

TOTAL          \$ \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mediator

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

\_\_\_\_\_ **OF** \_\_\_\_\_  
[Estate, Guardianship, Trust, etc.]

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

\_\_\_\_\_  
Plaintiff/Claimant/Other :

-vs- :  
:

\_\_\_\_\_  
Defendant/Respondent/Other :

**ENTRY GRANTING APPLICATION  
FOR MEDIATOR'S FEES**

In the above captioned case, the Court hereby orders payment to \_\_\_\_\_  
\_\_\_\_\_, Mediator, the sum of \$ \_\_\_\_\_ for mediation services rendered on  
\_\_\_\_\_, 20\_\_\_\_\_.

The Court orders this fee paid in full from the Court Mediation Fund.

The Court orders this fee paid as follows:

Deputy Clerks to mail copies of this entry by regular U.S. Mail to the following:

IT IS SO ORDERED

\_\_\_\_\_  
JUDGE GLENN H. DERRYBERRY

# MISCELLANEOUS FORMS

[Application and Agreement –Indigent Guardianship Appointments](#) [RULE 8]

[Confidential Disclosure of Personal Identifiers 45\(D\)](#) [RULE 45]

[Affidavit of Service of Notice of Hearing on Inventory](#) [RULE59.1]

[Voucher](#) [RULE 64.2]

[Notice of Hearing on Account 13.5](#) [RULE 64.5]

[Affidavit of Service of Notice of Hearing on Account](#) [RULE 64.5]

[Custody Affidavit](#) [RULE 66.1]

[Guardian’s Report 17.7](#) [RULE 66.2]

[Statement of Expert Evaluation 17.1](#) [RULE 66.2]

**APPLICATION AND AGREEMENT  
INDIGENT GUARDIANSHIP APPOINTMENTS**

Now comes the undersigned and applies to be included on the list(s) of attorneys maintained and used by the Allen County Probate Court to appoint, as appropriate, counsel and/or guardians in Indigent Guardianship Cases. To assist the Court in complying with the provisions of C.P.Supp.R. 8 and Local Rule 8.1, the applicant states as follows: \*

1. Applicant's name: \_\_\_\_\_

Ohio Supreme Court Registration No. \_\_\_\_\_

2. Applicant's law firm name: \_\_\_\_\_

3. Business address: \_\_\_\_\_  
\_\_\_\_\_

4. Business phone: \_\_\_\_\_

Business FAX: \_\_\_\_\_

Cell phone (optional): \_\_\_\_\_

5. Normal business hours: \_\_\_\_\_

6. Applicant's Allen County vendor number:  
\_\_\_\_\_

[If none, applicant must file a W-9 form with the Allen Co. Auditor]

Applicant further states that he/she is willing to be appointed as the  attorney only  guardian only  attorney and/or guardian, in the following types of indigent guardianship proceedings: \*\*

Guardianships of Incompetents  Guardianship of Minors  Emergency Guardian  
person and estate

Person only

Person only

Estate only

Estate only

Person and estate

Person and estate

Applicant states that he/she  does  does not maintain professional liability (malpractice) insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate.

\* Applicant shall immediately advise the Court of any change of address or phone number.

\*\* Applicant reserves the right to refuse any appointment, however, once appointed withdrawal of counsel is subject to approval of the Court.

The Applicant states that he/she understands that compensation for services as court-appointed attorney and guardians in indigent guardianship cases is as follows:

**Attorney Fees\***

\$40.00 per hour for out-of-court services	No cap, but subject to
\$50.00 per hour for in-court-services	approval of the Court

**Guardian's Fees\***

\$30.00 per hour services as emergency guardian	No cap, but subject to
\$20.00 per hour services as guardian	approval of the Court

\* Requires written application on forms approved by the Court; itemized time statements, including a statement of the services performed, must be attached. The Court reserves the right to set a fee application for formal hearing.

The attorney further understands that unless otherwise ordered by this Court, court-appointed attorney and/or guardian fees shall not be paid unless and Indigent Fee Application has been filed with this court and payment has been ordered from the Indigent Guardianship Fund. Failure to follow the Court's procedures for Indigent Guardianship cases or the related orders of this Court could result in compensation being denied; the attorney and/or guardian being removed; and other sanctions imposed as the Court shall deem appropriate. This could include the attorney's removal from the appointment list. The attorney may at any time request that his/her name be removed from the appointment list.

Applicant agrees that if appointed as attorney and/or guardian pursuant to this Application and Agreement and any related court entries/orders, he/she is not an employee of the Allen County Probate Court and he/she shall exercise his/her professional and independent judgment in the performance of any and all services as a court-appointed attorney.

Dated: \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
ATTORNEY APPLICANT

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

**IN THE MATTER OF:** \_\_\_\_\_

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

**CONFIDENTIAL DISCLOSURE OF PERSONAL IDENTIFIERS**  
[Rule 45(D) of the Rules of Superintendence for the Courts of Ohio]

Complete Personal Identifier	Institution	Abbreviation	Form No.	Filing Date
Ex. 123-45-6789	Social Security	6789	22.3	7/1/2015
Ex. 0001234567	Anytown Bank Checking	Anytown #1	6.1	7/1/2015
1. _____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____
4. _____	_____	_____	_____	_____
5. _____	_____	_____	_____	_____
6. _____	_____	_____	_____	_____
7. _____	_____	_____	_____	_____
8. _____	_____	_____	_____	_____
9. _____	_____	_____	_____	_____
10. _____	_____	_____	_____	_____

Check if additional pages are attached

\_\_\_\_\_  
Signature of Filing Party

\_\_\_\_\_  
Printed Name

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

This is page \_\_\_\_ of \_\_\_\_ pages

ESTATE OF \_\_\_\_\_, DECEASED

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

**AFFIDAVIT OF SERVICE OF NOTICE  
ON HEARING ON INVENTORY**

The undersigned hereby states that all persons required to receive notice as provided in R.C. 2115.16 have received notice of the hearing on the inventory, or have waived notice of the hearing.

The waiver(s) and/or evidence of notification, including a copy of each notice, are attached hereto as required by Civil Rule 73 (F), or have previously been filed.

\_\_\_\_\_  
Fiduciary/Attorney

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Attorney Regis. No. [If signed by attorney]

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number

PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE

GUARDIANSHIP  
 ESTATE  
 TRUST OF: \_\_\_\_\_

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

VOUCHER

RECEIVED of \_\_\_\_\_,  
[Name of Fiduciary]

the  Executor  Administrator  Guardian  Trustee [check one]; the following:

\_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_)  
[Ex. One Thousand Dollars] (Ex. \$1,000.00)

Describe other property received: [ex. 50 shares of AT&T; or Leather couch & chair]  
This description should permit the listed property to be found/linked on the account for which the voucher is being filed.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF RECIPIENT

\_\_\_\_\_  
PRINTED OR TYPED NAME

Dated: \_\_\_\_\_ 20\_\_\_\_

PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE

ESTATE OF \_\_\_\_\_, DECEASED

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

NOTICE OF HEARING ON ACCOUNT

[R.C. 2109.33]

To:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby notified that a \_\_\_\_\_ account covering the period from \_\_\_\_\_ to \_\_\_\_\_ has been filed, and the hearing will be held on \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_M. The Probate Court is located at 301 N. Main St., 3rd Floor Lima, OH 45801.

You are required to examine the account, to inquire into the contents of the account, and into all matters that may come before the Court at the hearing on the account. Any exceptions to the account shall be filed in writing not less than five days prior to the hearing. Absent the filing of written exceptions, the account may be approved without further notice.

\_\_\_\_\_  
Fiduciary/Attorney for Fiduciary

Attorney Registration No. \_\_\_\_\_

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

- GUARDIANSHIP**
- ESTATE**
- TRUST OF:** \_\_\_\_\_

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

**AFFIDAVIT OF SERVICE  
OF NOTICE OF HEARING  
ON ACCOUNT**

The undersigned hereby states that all persons required to receive notice as provided in Local Rule 64.5 have received notice of the hearing on the account, or have waived notice of the hearing.

The waiver(s) and/or evidence of notification, including a copy of each notice, are attached hereto as required by Civil Rule 73 (F), or have previously been filed.

\_\_\_\_\_  
Fiduciary/Attorney

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Attorney Regis. No. [If signed by attorney]

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

**IN THE MATTER OF** \_\_\_\_\_ : **CASE NO.** \_\_\_\_\_  
**THE GUARDIANSHIP OF:**

\_\_\_\_\_ : **AFFIDAVIT**  
[R.C. 2111.02 & 3127.23]

**A Minor,**

\_\_\_\_\_  
**[To be filed only when a guardianship of the person of a minor is sought]**

Affiant being first duty sworn, deposes and says:

1. That the child's present address or whereabouts, the places where the child has lived with the last five years, and the names and present addresses of the person whom the child has lived during that period are:

Child's present address or whereabouts: \_\_\_\_\_  
\_\_\_\_\_

Child currently lives with: \_\_\_\_\_

From: \_\_\_\_\_ to \_\_\_\_\_ with \_\_\_\_\_

At \_\_\_\_\_

Person's current address \_\_\_\_\_

From: \_\_\_\_\_ to \_\_\_\_\_ with \_\_\_\_\_

At \_\_\_\_\_

Person's current address \_\_\_\_\_

From: \_\_\_\_\_ to \_\_\_\_\_ with \_\_\_\_\_

At \_\_\_\_\_

Person's current address \_\_\_\_\_

From: \_\_\_\_\_ to \_\_\_\_\_ with \_\_\_\_\_

At \_\_\_\_\_

[Attach additional sheets as needed]

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

2. That affiant  HAS  HAS NOT participated as a party, witness, or in any other capacity in any other proceeding concerning the allocation, between the parents of the same child, of parental rights and responsibilities for the care of the child including any designation of parenting time rights and the designation of the residential and legal custodian of the child or that otherwise concerned the custody of or visitation with the same child and if so, the court, case number and the date of the child custody determination, if any: [Complete following if applicable]

Name of Court: \_\_\_\_\_  
Location: \_\_\_\_\_  
Case No. \_\_\_\_\_  
Date of the child custody determination: \_\_\_\_\_

3. That affiant  DOES  DOES NOT know of any proceedings that could affect the current proceeding, including proceedings for enforcement of child custody determinations, proceedings, relating to domestic violence or protection orders, proceedings to adjudicate the child as abused, neglected, or dependent child, proceedings seeing termination of parental rights, and adoptions, and, if so, the court, the case number, and the nature of the proceeding. [Complete following if applicable]

Name of Court: \_\_\_\_\_  
Location: \_\_\_\_\_  
Case No. \_\_\_\_\_  
Nature of the proceeding: \_\_\_\_\_  
\_\_\_\_\_

4. That affiant  DOES  DOES NOT KNOW of any person who is not a party to the proceeding and has physical custody of the child or claims to be a parent of the child who is designated the residential parent and legal custodian of the child and to have parenting time rights with respect to the child or to be a person other than a parent of the child who has custody or visitation rights with respect to the child; and if so the names and addresses of those persons. [Complete following if applicable]

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_

[Attach additional sheets as necessary]

5. Information about criminal case(s): [R.C. 3109.049(M)]

List all of the criminal convictions, including guilty pleas, for you and the members of your household for the following offenses: any criminal offense involving acts that resulted in a child being abused or neglected; any offense that is a violation of R.C. 2919.25; any sexually oriented offense as defined in 2950.01; and any offense involving a victim who was a family or household member at the time of the offense and caused physical harm to the victim during the commission of the offense.

<u>Name</u>	<u>Case Number</u>	<u>Court, State, County</u>	<u>Charge</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

The following supplement(s) the information mandated by R.C. 3127.23

6. Check all boxes which apply:

- a.  The child's parents are married;
- b.  The child's parents were married but are divorced. If checked, state the date and/or court, if known: \_\_\_\_\_

- c.  The child's parents were never married;
- d.  The father-child relationship was determined in a paternity or other proceeding. If checked, insert court information at paragraph 3.

- e.  Unknown if parents were  married  divorced:

NOTE – If 2, 3, and/or 4 is/are answered in the affirmative, and the space provided is insufficient for full explanation, please attach additional sheets to complete.

Affiant realizes that he/she has a continuing duty to inform the Court of any child custody proceedings concerning the child in this or in any other state of which affiant obtains information during the pendency of this proceeding.

**Affiant  DOES  DOES NOT allege, under oath, that the health, safety, or liberty of a party or child would be jeopardized by the disclosure of identifying information.**

\_\_\_\_\_  
AFFIANT

Sworn to before me and subscribed in my presence this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

**IN THE MATTER OF THE GUARDIANSHIP OF:** \_\_\_\_\_

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

**GUARDIAN'S REPORT**

[R.C. 2111.49]

NOTE: If allotted space is inadequate to respond, write "See Exhibit" in the space and add appropriate exhibit letter sequence, then attach exhibit containing information requested for that space.

1. This is the  1st,  2nd,  3rd,  4th,  5th,  6th, or \_\_\_\_\_, Guardian's Report.

2. Ward's present address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Zip \_\_\_\_\_ Telephone \_\_\_\_\_

3. Ward's living arrangements at the above address are best described as:

a. His or her own apartment or home (includes assisted living facilities).

b. Private home or apartment of:

(1) the ward's guardian

(2) a relative of the ward, whose name is \_\_\_\_\_

and relationship is \_\_\_\_\_

(3) a non-relative whose name is \_\_\_\_\_

c. A foster, group or boarding home.

d. A nursing home.

e. A medical facility or state institution.

f. Other (describe) \_\_\_\_\_

g. If **c**, **d**, **e** or **f** is checked, complete the following:

(1) The name of the home, facility or institution \_\_\_\_\_

(2) The name of an individual at the home, facility or institution who has knowledge and is authorized to give information to the court about the ward.

Name \_\_\_\_\_

Telephone Number \_\_\_\_\_

4. The ward will be at the address given in Item 2:

a. Indefinitely.  b. Temporarily. The new address and telephone number is:

(1) Unknown. I will provide this information when known.

(2) \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Zip \_\_\_\_\_ Telephone \_\_\_\_\_

5. Guardian's contact with the ward.

a. Approximate number of times the guardian had contact with the ward during the period covered by this report: \_\_\_\_\_

b. The nature of those contacts (phone, personal, or other): \_\_\_\_\_  
\_\_\_\_\_

c. Date the ward was last seen by the guardian: \_\_\_\_\_

6. Have you observed any **major** change in the ward's physical or mental condition during the period covered by this report?  Yes  No

\_\_\_\_\_  
\_\_\_\_\_

If "yes" is checked, briefly describe the changes \_\_\_\_\_  
\_\_\_\_\_

7. The care giver to the ward is  Adequate  Not Adequate

If "Not Adequate" is checked, explain \_\_\_\_\_  
\_\_\_\_\_

8. The guardianship should be  Continued  Not Continued

If "Not Continued" is checked, explain \_\_\_\_\_  
\_\_\_\_\_

9. During the period covered by this report, the ward  has  has not been seen by a physician. If the ward has been seen, the last date was \_\_\_\_\_ and for the purpose of \_\_\_\_\_  
\_\_\_\_\_

Attached is a statement by a licensed physician, a licensed clinical psychologist social worker, or a mental retardation team, that has evaluated or examined the ward within three months prior to the date of this report regarding the need for continuing the guardianship. [R.C. 2111.49(A)(1)(l)](Form 17.1)

If an attorney has been consulted on this report: Date \_\_\_\_\_

\_\_\_\_\_  
Attorney's Signature

\_\_\_\_\_  
Guardian's Signature

\_\_\_\_\_  
Type or Print Attorney's Name

\_\_\_\_\_  
Type or Print Guardian's Name

\_\_\_\_\_  
Street

\_\_\_\_\_  
Street

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Telephone number

**(Knowingly giving false information on a Probate document is a criminal offense)**  
**[R.C. 2921.13(A)(11)]**

**PROBATE COURT OF ALLEN COUNTY, OHIO  
GLENN H. DERRYBERRY, JUDGE**

**IN THE MATTER OF THE GUARDIANSHIP OF:** \_\_\_\_\_

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

**STATEMENT OF EXPERT EVALUATION**  
[Sup.R. 66 & R.C. 2111.49]

Definition of Incompetent (R.C. 2111.0(D)): "Incompetent" means any person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide, or any person confined to a correctional institution within this State."

The Statement of Evaluation does not declare the individual competent or incompetent, but is evidence to be considered by the Court. The fee for completing this evaluation **WILL NOT** be paid by the Probate Court. Each evaluator should be secure payment form the Applicant/Guardian.

1. This Statement of Expert Evaluation is to be filed with or attached to:

A. Guardianship Application: Completed by  Licensed Physician or  Licensed Clinical Psychologist prior to the filing and attached to the application.

B. Guardian's Report: Completed by  Licensed Physician  Licensed Clinical Psychologist  Licensed Independent Social Worker  Licensed Professional Clinical Counselor or  Mental Retardation Team.

The evaluation or examination shall be completed within three months prior to the date of the Report. R.C. 2111.49

C. Application for Emergency Guardian:  of the person: a Licensed Physician shall complete the Supplement for Emergency Guardian, form 17.1A with specificity indicating the emergency, and why immediate action is required to prevent significant injury to the person. The Supplement shall be signed, dated, and attached as part of this completed Statement.

2. Statement completed by:

Name & Title/Profession: \_\_\_\_\_

Business Address: \_\_\_\_\_

Business Telephone Number: \_\_\_\_\_

3. Date(s) of evaluation: \_\_\_\_\_

Place(s) of evaluation: \_\_\_\_\_

Amount of time spent on evaluation: \_\_\_\_\_

Length of time the individual has been your patient: \_\_\_\_\_

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

4. Is the individual presently under medication?  Yes  No If yes, what is the medication, dosage, and purpose? \_\_\_\_\_

Are there any signs of physical and/or mental impairments caused by the medications themselves?

5. Is the individual mentally impaired?  Yes  No If yes, indicate the diagnosis below:

Mental/Retardation/Developmental Disabilities:  Profound  Severe  Moderate  Mild

Mental Illness: Type and Severity \_\_\_\_\_

Substance Abuse: Description \_\_\_\_\_

Dementia: Description \_\_\_\_\_

Other: Description \_\_\_\_\_

Please provide additional comments and test scores if available. (Continue comments on page 4):

6. During the examination did you notice an impairment of the individual's:

- |                                    |                              |                             |                                  |
|------------------------------------|------------------------------|-----------------------------|----------------------------------|
| a) Orientation                     | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |
| b) Speech                          | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |
| c) Motor Behavior                  | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |
| d) Thought Process                 | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |
| e) Affect                          | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |
| f) Memory                          | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |
| g) Concentration and comprehension | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |
| h) Judgment                        | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |

7. Please describe any impairments identified in question six. (Continue comments on page 4).

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

8. Is the individual physically impaired?  Yes  No If yes: Description \_\_\_\_\_

\_\_\_\_\_

9. Are there any special characteristics of the individual which should be considered in evaluating, the individual for guardianship:  Yes  No If yes: Explain \_\_\_\_\_

\_\_\_\_\_

10. Are there any indication of abuse, neglect or exploitation of the individual?  Yes  No If yes: Explain \_\_\_\_\_

\_\_\_\_\_

11. Do you believe the individual is capable of caring for the individual's activities of daily living or making decisions concerning medical treatments, living arrangements and diet?  Yes  No If no: Explain \_\_\_\_\_

\_\_\_\_\_

12. Do you believe this individual is capable of managing the individual's finances and property?  
 Yes  No If no: Explain \_\_\_\_\_

\_\_\_\_\_

13. Prognosis:

A. Is the condition stabilized?  Yes  No

B. Is the condition reversible:  Yes  No

14. In my opinion a guardianship should be:

Established/Continued

Denied/Terminated

I certify that I have evaluated the individual on \_\_\_\_\_, 20\_\_\_\_.

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

\_\_\_\_\_  
Signature of Evaluator

**GUARDIAN'S REPORT ADDENDUM**

(Not to be used with initial Application)

It is my opinion, based upon a reasonable degree of medical or psychological certainty, that the mental capacity of this ward will not improve.

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

\_\_\_\_\_  
Signature – Licensed Physician/Clinical Psychologist

