

NOTICE

PROPOSED RULES OF COURT

Pursuant to Sup R 5(A) the following proposed Local Rules of Court for the Allen County Probate Court are scheduled to be adopted and effective as of May 1, 2010. These rules shall be open for comment until Friday, April 23, 2010. Any comments should be submitted in writing as follows:

Mail: Court Administrator
 Allen County Probate Court
 P.O. Box 1243
 Lima, OH 45802

E-Mail: thamman@allencountyohio.com

It is not required, but would be helpful, to include contact information with your comments.

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. Extensions 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; 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 a 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) Videotaped Testimony and Evidence

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 videotape is filed. It is the responsibility of the party intending to use any videotape testimony at trial to:

- (1) File the video tape and written transcript with the Deputy Clerks seven (7) days prior to trial;
- (2) Notify the Court of the intended use seven (7) days prior to trial;
- (3) Ensure the necessary equipment will be available; and
- (4) Provide other equipment or personnel, if necessary.

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 Code 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) [R.C. 2109.30.1(B)(1)], the fiduciary shall file an application to extend administration (Standard Probate Form 13.8).

(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)]

A jury management plan, as required by Sup R 5(B)(2) has been adopted by this Court and is found in **APPENDIX A**.

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 or other person authorized by the court. The authorized person or 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 to 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 an 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 deadlines 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 participate 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 have available by mediators and other staff for distribution, including but not limited to parties participating in a mediation. The materials will include local attorney contact information; resource information for 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; in determining the terms and conditions of 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 though 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

involves 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 or 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 approval 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) days 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 (Chapter 2710 ORC); 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 Revised Code Section 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. In cases in which an agreement is reached, the parties or 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-approved by the court.

All mediators will provide an application for an order 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 on the Court's website.

Rule 26.1 Court Records Management and Retention

[Supplementing Sup Rules 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 at any time after 90 days (to provide necessary time for any appeal and to process payment) 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 Clerks’ Office), shall be open for the transaction of business from **9:00 A.M. to 4:00 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, Legal 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 of any estate shall include the full name (including the middle name) of the decedent. The initial filing in a case for the appointment of a guardian shall include the full name (including the middle name) of the potential ward. The initial filing in a case for the appointment of a conservator shall include the full name of the applicant.

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 a guardianship due to the death of the ward, the applicant shall exhibit to the court a certified 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:

Except as otherwise specifically 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": Complaints, Applications for the Appointment of Guardian, and Civil Commitment Affidavits) 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)

(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 transmitting FAX number;
 - (VIII) an 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 file 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 it 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 and 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 exception 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

[Supplementing Sup R 57(B)]

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 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 O.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 O.R.C. 2101.162 (A)(2) and (3).

(C) Computerization Fees:

Pursuant to the authority of O.R.C. 2101.162 (B)(1), as amended effective 3/24/93, 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 (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 O.R.C. 2101.162 (B)(1) and (2).

(D) Mediation Filing Fee:

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: and estate, wrongful death, guardianship, trust, minor settlement, civil action, correction of birth, registration of birth, change of name, or adoption.

The probate court shall pay to the county treasurer of Allen County all fees collected under R.C. 2101.163 (A). The treasurer shall place the funds from the fees in a separate fund to be disbursed upon an order of the probate judge.

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.

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.

59.1 Hearing On Inventory/Notice

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

Upon the filing of the inventory required by section 2115.02 of the Revised Code, the probate court forthwith shall set a day, not later than one month after the day the inventory was filed, for a hearing on the inventory.

Pursuant to R.C. 2115.16, unless notice is waived, upon filing of an inventory the executor or administrator shall serve notice of hearing

in a manner authorized by Civ.R. 73 (E) upon the surviving spouse and all parties listed on the SPF 1.0 form. Proof of service of notice shall be by affidavit in conformity with Civ.R. 73(F).

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

Rule 64.1 Accounts

[Supplementing Sup R 64]

(A) The time for filing fiduciary accounts 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 and 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 Verification of Income:

[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 and back shall be included; and the checks must be endorsed, cashed and bank encoded.

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 [2109.30.2 and 2109.30.3] of the Revised Code and receipts filed or exhibited pursuant to section 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 reconciliation in the record or file, may be returned to the fiduciary or retained 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 department of the financial institution leasing the safe deposit box or by a 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.

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.

64.5 Hearing on Account/Notice:
[Supplementing Sup R 64]

Any notices required by this Rule shall comply with Sup R 73(E) and may be waived in a writing that is filed with the court. Proof of service of notice shall be by affidavit in conformity with Civ.R. 73(F).

(A) In addition to the other provisions of R.C. 2109.33, the Probate Court, after notice to the fiduciary upon the motion of any interested person for good cause shown or at it's own instance, may order that a notice of hearing pursuant to that section is to be served upon persons the court designates.

(B) Accounts of Executors and Administrators:

As provided for by R.C. 2109.33, notice of the hearing on a final account shall be given by the fiduciary to all heirs in an intestate estate and to all residuary beneficiaries in a testate estate, unless waived.

(C) Accounts of Guardians:

A guardian shall not be required to give notice of hearings for Partial Accounts except in the case of Veteran's Guardianships, where notice shall be given to the Veteran's Administration.

In the case of a Final Account or Final and Distributive Account, the fiduciary is required to file waivers of notice of hearing or serve notice of hearing on the following persons whose addresses are known:

- (1) In the case of an incompetent, to the ward's next of kin, and to the fiduciary of the ward's estate (if any).
- (2) In the case of a minor, to the ward if the ward has reached the age of majority, otherwise to the ward's next of kin.

(C) Accounts of Trustees and Other Fiduciaries:

The trustee is required to file waivers of notice of hearing or serve notice of hearing on the following persons whose addresses are known:

- (1) All current beneficiaries [as defined by R.C. 5801.01(F)]; and

(2) if a charitable trust, to the Ohio Attorney General, Charitable Trust Division.

Rule 66.1 Guardianships of Minors

[Supplementing Sup R 66]

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

(B) 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.

(C) 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.

(D) 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.

Rule 66.2 Guardian's Report

[Supplementing Sup R 66]

(A) All guardians 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 bi-annually thereafter.

(B) The Guardian's Report shall be filed by the guardian of the person of the ward, except that if no 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.

Rule 66.3 Change of Address

[Supplementing Sup R 66]

A guardian shall inform the Court in writing as to any change of address of the guardian or the ward within thirty (30) days of the address change. Failure to notify the Court under this rule may result in the guardian being removed.

Rule 66.4 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.

Rule 66.5 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 or possible ward.

- (B) Expenditures shall be made from the county Indigent Guardianship Fund established pursuant to R.C. section 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 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, fee, 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. Unless otherwise ordered, in the case of a minor, the Court shall utilize the same general guidelines, but shall consider the assets and income of the parents and applicants(s).

Rule 67 Estates of Minors of Not More Than Ten 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)
[Supplementing Sup R 71]

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

(B) Prof. Conduct Rule 1.5 shall govern the reasonableness of all fees, notwithstanding statutory allowances and/or consents to the fees. Court reserves the right to set any fees requiring court approval for hearing regardless of any other provisions of these Rules.

(C) In all matters where an attorney is the fiduciary of the estate, guardianship or trust, and that attorney or another attorney is attorney of record, detailed records shall be maintained describing time (by 10ths of the hour) and services as fiduciary and as attorney, which records shall, upon request be submitted to the Court for review. The Court assumes an attorney, appointed as fiduciary, has been selected due to the attorney's knowledge and abilities resulting in a savings of fees to the estate, guardianship or trust.

Upon review of the records, the Court may set the fees for hearing, regardless of the submission of consents to the fees.

(D) Counsel shall:

- (1) Discuss alternative methods of charging fees with the fiduciary;
- (2) Offer fee arrangements that reflect the true value of the services rendered;
- (3) Reach agreements respecting fees with the fiduciary as early in the attorney-client relationship as possible;
- (4) Provide written agreements as to all fee arrangements.

(E) Attorneys are expected to be familiar with Prof. Conduct Rule 1.5 that governs the reasonableness of fees.

(F) 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.

(G) Unless otherwise ordered, applications for attorney fees 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 the attorney fees contained therein. The Court reserves the right to order formal notice and hearing on any application for attorney fees.

Rule 71.2 Attorney Fees in Estates

(Supplementing Sup R 71)

(A) Hearing on Attorney Fees Generally Required:

- (1a) Attorney fees will be awarded only after written application and hearing, except as modified herein. Attorney fees for the administration of estates shall not be paid until a final account is prepared for filing, unless otherwise approved by the Court.

(1b) If the fee arrangement with the fiduciary/client is based on an hourly rate the attorney fee application shall include:

- (a) an itemized statement of the services performed;
- (b) the date services were performed;
- (c) the time spent rendering the services (by 10ths of the hour);
- (d) and, the hourly rate charged.

(1c) If the fee arrangement with the fiduciary/client is not based on an hourly rate the attorney fee application shall disclose the manner in which the requested fees have been calculated.

(B) No hearing required: Unless otherwise ordered by the Court, no hearing on an application for attorney fees 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 a solvent estate.
- (2) If a “Consent to Payment of Attorney Fees” form [ES-3] completed by the beneficiaries (solvent estate) and the beneficiaries and creditors (insolvent estate) whose share will be charged with the payment of any part of the fee is filed with the Court. In such cases a guardian may consent for the guardian’s ward, the fiduciary of a deceased beneficiary’s estate may consent on behalf of the deceased beneficiary, and a testamentary trustee may consent on behalf of the trust beneficiaries.
- (3) The attorney fee, as computed on the “Attorney Fee Application and Compensation Statement” (ES-2) form is within the Guideline Fee (see p. 30), and subsection (4) does not apply. Note that any request for extra-ordinary fees will generally require a hearing unless another exception applies.

- (4) The attorney for the estate or another attorney is also the executor or administrator and the requested attorney fee does not exceed one-half the guideline fee set forth below.
- (5) Total fee charged does not exceed \$1,000.00.

GUIDELINE FEE

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 in the complete administration of a decedent's estate. The guide is not to be considered or represented to clients as schedules 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 upon the gross proceeds of real estate that is sold under a power of sale under the will or by consent under O.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 a rate of 2%.
- (3) 2% on joint and survivorship property included for the purpose of computing Ohio Estate Tax,* and
- (4) 1% of non-probate property included for the purposes of

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

(C) When an application for attorney fees that is signed by the fiduciary contains an itemized description of the legal services performed, the Court may approve the application without a hearing subject to the filing of any exceptions as provided for by law.

* Computation to be shown on compensation statement even if no return required.

(D) Notice of Hearing: Any application for attorney fees which does not qualify for an exception pursuant to section B. of this Local Rule shall be set for hearing before the Judge or a Magistrate. In such case the attorney filing the fee application shall serve notice pursuant to CIV R 73 (E) on the following parties:

(1) Solvent Estate:

- (a) Fiduciary;
- (b) all the persons whose interests are affected by the payment of the fees; and
- (c) Others, if ordered by the Court.

(2) Insolvent Estate:

- (a) Fiduciary;
- (b) all the persons whose interests are affected by the payment of the fees, including creditors; and
- (c) Others, if ordered by the Court.

(3) Notice of hearing shall be by form ES-4, with any waiver of notice and consent to the fee by form ES-5. The current versions of these forms are available from the Deputy Clerks. Proof of service of notice shall be in conformity with CIV R 73 (F).

Rule 71.3 Approval of Attorney Fees in Guardianships
(Supplementing Sup R 71)

(A) Non-Indigent Case

A completed “Attorney Fee Application, Compensation Statement”, local form “GD/TR” 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 procedures 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 Trusts

(Supplementing Sup R 71)

A completed "Attorney Fee Application, Compensation Statement", local form "GD/TR" 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.

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" 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 a 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, trustees subject to this Court's jurisdiction may, upon application and entry, be allowed compensation annually for ordinary services in connection with the administration of each separate trust 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's Fees" 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. 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 for by law.
- (D) Additional compensation for extraordinary services, 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.

