

COURT OF COMMON PLEAS  
VINTON COUNTY, OHIO  
PROBATE DIVISION

Originally Drafted and Adopted: May 10, 1985  
By: Judge Phillip Rose

IN THE COURT OF COMMON PLEAS  
PROBATE DIVISION  
VINTON COUNTY, OHIO

IN THE MATTER OF THE ADOPTION OF: RULES OF COURT

JOURNAL ENTRY

NOW THEREFORE the following rules shall be adopted and all prior rules be replaced effective January 1, 2012.



Judge N. Robert Grillo

**RULES OF SUPERINTENDENCE FOR COURT OF COMMON PLEAS PROBATE DIVISION: PREFACE**

Delay in criminal and civil cases in the trial courts of Ohio and delay and inconsistency in handling estates in the probate division are always serious problems in the administration of justice. It is to be remembered that the courts are created not for the convenience or benefit of the judges and lawyers, but to serve the litigants and the interests of the public at large. When cases are unnecessarily delayed, the confidence of all people in the judicial system suffers. The confidence of the people in the ability of our system of government to achieve liberty and justice under law for all is the foundation upon which the American system of government is built.

The following rules are designed (1) to expedite the disposition of both criminal and civil cases in the trial courts of this state, while at the same time safeguarding the inalienable rights of litigants to the just processing of their causes; (2) to expedite and make consistent the disposition of estates and other cases in the probate division of the court of common pleas; and (3) to serve that public interest which mandates the prompt disposition of all cases before the courts.

**PROBATE DIVISION OF THE COURT OF COMMON PLEAS**

**RULE 1: HOURS OF THE COURT**

The Probate Court of Vinton County shall be open for the transaction of ordinary business from 8:30 a.m. to 4:00 p.m. on Monday, Tuesday, Wednesday, Thursday and Friday, with legal holidays as provided by law to be observed.

**RULE 2: CONDUCT IN THE COURT**

1. Proper decorum in the Court is necessary to the administration of the Court's function; any

FILED

FEB 16 2017

CLERK OF COURT  
SUPREME COURT OF OHIO  
FILED

JAN 02 2012

N. Robert Grillo  
PROBATE JUDGE  
VINTON COUNTY, OHIO

conduct which interferes, or tends to interfere, with the proper administration of the Court's business is prohibited.

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

### **RULE 3: EXAMINATION OF PROBATE FILES, RECORDS, AND OTHER DOCUMENTS**

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

2. Copies of any open records may be obtained at a cost per page as authorized by the judge.

3. The Cost per page of any open records shall be fifty (.50) cents per page.

4. Files of adoption and mental illness proceedings are confidential. Access to those files may be authorized by the judge.

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

### **RULE 4: SUMMONS AND NOTICE**

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

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

### **RULE 5: REQUEST FOR JURY TRIAL**

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

### **RULE 6: CONTINUANCES**

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

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

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

### **RULE 7: FILINGS AND JUDGMENT ENTRIES**

1. All filings shall be on eight and one-half by eleven inch paper, without backings, of stock that can be microfilmed.

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

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

4. Papers containing partially or wholly illegible signatures of counsel, parties or officers administering oaths may be refused for filing, or, if filed, may be stricken from the files, unless the

typewritten or printed name of the person whose signature is purported to appear is clearly indicated thereon.

5. All pleadings are to be typed or printed and correctly captioned.

6. Unless the Court otherwise directs, counsel for the party in whose favor a verdict or opinion is rendered shall, within seven days thereafter, prepare the proper judgment entry and submit the original to the Court with a copy to counsel for the opposing party. Counsel for the opposing party shall have seven days to object to the Court. Upon failure to comply with this rule, the matter may be dismissed or the Court may prepare and file the appropriate entry.

#### **RULE 8: COURT COSTS**

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

2. The deposit may be applied as filings occur.

3. Each petition for adoptive placement or petition for adoption shall be secured by a deposit at the time of filing of such petition in the amount of \$100.00.

#### **RULE 9: APPLICATION TO PROBATE A WILL (STANDARD FORM 2.0)**

1. Notice of Probate a Will shall require at least seven days written notice when complying with O.R.C. 2107.13.

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

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

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

#### **RULE 10: APPLICATION FOR LETTERS OF ADMINISTRATION**

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

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

#### **RULE 11: APPOINTMENT AND COMPENSATION OF APPRAISERS IN ESTATES AND LAND SALES PROCEEDINGS**

1. When required by law, there will be one suitable and disinterested appraiser appointed.

2. Said appraiser, if appointed from the approved list of appraisers provided in accordance with Section 2113.03 of the O.R.C. shall not require further approval of the Court as provided by Section 2115.06 of the O.R.C. Licensed real estate brokers, actively engaged in real estate business in Vinton County, Ohio are

suitable, if disinterested, appraisers and may be appointed without prior approval.

3. If such appraiser has not been preapproved, the executor or administrator shall then submit written qualifications of appraiser with the application to appoint the appraiser.

4. Fiduciaries, without special application to the Court, may allow to the appraiser as compensation for his services a reasonable amount agreed upon between the fiduciary and the appraiser, or an amount to be computed on the gross value of the assets appraised in the estate (as set forth in the inventory filed in the Court) at a rate of \$1.00 per thousand dollars of value with a minimum fee of \$20.00, or limited as the Court may order.

5. Fees for appraisals shall be computed on the full value of the property appraised.

6. In agreeing upon the amount of compensation with the schedule set forth in paragraph B of this rule, the fiduciary and the appraiser shall take into consideration the time and work reasonably required in appraising the assets as well as the type and character of the property appraised.

7. If, by reason of the special and unusual character of the property to be appraised, the fiduciary is of the opinion that the appraisal requires the services of persons expert in the evaluation of such property, an expert appraiser may be appointed and reasonable compensation paid therefore, subject to the approval of the Court.

8. If the amount of compensation cannot be agreed upon, the fiduciary shall file an application for allowance of compensation for each appraiser. Otherwise, no court order is necessary and credit may be taken for payment in the next regular account as provided by law, subject to all exceptions which may be thereafter filed.

#### **RULE 12: INVENTORY**

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

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

#### **RULE 13: CLAIMS FILED WITH THE COURT**

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

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

#### **RULE 14: APPLICATION TO SELL PERSONALTY**

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

O.R.C. 2109.45 and 2113.42.

## **RULE 15: ACCOUNTS**

- A) The statutory time for the filing of an account shall be adhered to and citations may be issued when filings are late, unless an application for extension of time for filing has been granted. The application shall set forth the time needed and the accompanying judgment entry shall have a blank space for the Court to insert the number of additional days granted.
- B) If a fiduciary is delinquent in filing an account or exhibiting assets and no extension has been granted, a citation may be issued, requiring the fiduciary to appear forthwith and to show cause why the account has not been filed or why the assets have not been exhibited.
- C) Each fiduciary's account shall be supported by vouchers, as required by R. C. 2109.30. The vouchers shall be referenced to the account by number, letter or date. The account shall also set forth, at the end thereof:
- 1) A recapitulation of cash receipts, disbursements and bank deposits, representing cash on hand at the end of the accounting period.
  - 2) A statement of personal property on hand, other than cash, at the end of the account period, including a statement of any changes in the property during the period covered by the account.
  - 3) A statement indentifying all real estate owned by the ward or real estate to which the fiduciary holds legal title for, or on behalf of, the ward or beneficiary.
  - 4) A statement of compensation paid to the fiduciary and his counsel.
  - 5) When an account, in proper form and duly executed has been completed for filing, the account with all Vouchers is to be submitted to the Clerk for review.
  - 6) The account will be file marked and placed on list for publication and approval. The vouchers may be returned to the fiduciary for safekeeping. The Court may order deposit of original vouchers or copies thereof with the account.
- D) If land has been sold by the fiduciary during the accounting period, the account shall show the gross amount of the proceeds of sale and the distribution thereof, with the escrow statement on receipts of the land sale expenditures attached thereto.
- E) Guardian Accounts for more than one minor shall show each ward's proportionate share of the credits and debits and shall separately state each ward's property at the end of the accounting period.
- F) Receipts for distributive shares signed by persons holding power of attorney may be accepted, provided such power of attorney is recorded in the State of Ohio and a photo copy of the recorded power is attached to the account.
- G) Exhibiting Assets.
- 1) The Court may require that all assets be exhibited at the time of filing a partial account.
  - 2) Cash balances may be verified by exhibiting a bank statement, passbook, or a current letter from the financial institution in which the funds are deposited certifying the amount of funds on deposit to the credit of the fiduciary. Assets held in a safety deposit box of a fiduciary or by a surety company on fiduciary's bond may be exhibited by filing a current inventory thereof. The inventory shall be certified by the manager of the safety deposit box department of the financial institution leasing the safety deposit box or by a qualified officer of the surety company if the assets are held by a surety. If the assets are held by a bank, trust company, brokerage firm, or other financial institution, such exhibition may be made by proper certification as to the assets so held. For good cause shown, the Court may designate a deputy clerk of the Court to make an examination of the assets located in the county, not physically exhibited to the Court, or may appoint a commissioner for the purpose if the assets are located outside the county. The commissioner appointed shall make a written report of his findings to the Court.
- H) A final or distributive account shall not be approved until all court costs have been paid.

## **RULE 16: LAND SALES – O.R.C. CHAPTER 2127**

- 1) In cases involving public sale the complainant shall, prior to the issuance of an order of sale, file with the Court evidence of title showing the record condition of the title to the premises described in the complaint, prepared and extended by a responsible abstract or title company or an attorney's certificate to a date subsequent to the date in which the complaint was filed.
- 2) In all cases where a public sale is authorized, complainant shall post a sign in a conspicuous place on the premises to be sold stating that the property will be sold at public sale and giving the time and place thereof. The complainant shall also give notice to all defendants of the time and place of sale at least three weeks prior to the date of sale in the method provided by Civ. R. 4.1. Prior to the sale, the complainant shall file an affidavit stating:
  - (1) that a sign was placed on the property;
  - (2) that the required notice was given to the defendants at least three weeks prior to the date of sale; and
  - (3) that the notice conformed to Civ. R. 4.1.
- 3) When an order of private sale is requested, excepting those cases where the consent of all necessary parties to the proceedings has been filed or cases involving the sale of fractional interests, the complainant shall be required, by affidavit or testimony under oath to establish:
  - (1) whether or not the sale has been the subject of prior negotiations;
  - (2) the amount offered for the sale of the property;
  - (3) the appraised value in the land sales proceedings;
  - (4) the identity of the prospective purchaser and counsel, if any;
  - (5) whether or not the proposed transaction will be, or has already been, placed in escrow; and
  - (6) the identity of the escrow agent.
- 4) The Court may, in its discretion, appoint a disinterested person, answerable to the Court, who shall investigate the circumstances surrounding the proposed transaction, view the property, ascertain whether the proposed sale is justified and report his findings in writing. The report shall be a part of the record. The compensation for the person performing these services shall be fixed by the Court according to the circumstances of each case, and shall be taxed as costs.
  - A) The provider of such title examination services shall be paid a reasonable fee of not less than Seventy Five Dollars (\$75.00). Which fees are determined to be cost of administration, taxed and distributed as court cost in the proceeding.
  - B) Upon agreement by the fiduciary this fee may be increased subject to court approval. If the fiduciary and the certifying attorney cannot agree on the fee for the title certification the matter shall be submitted to the Court for a decision. It is recommended but not required that the provider of the title exam be someone other than the attorney for the fiduciary.

## **RULE 17: GUARDIANS**

- 1) All applications for appointment of a guardian shall be captioned in the name of the proposed ward.
- 2) All applications for appointment of a guardian on the grounds of mental incompetency, or for dismissal of such guardianship, or for declaration of competency shall be accompanied by either a statement of a physician or, a statement that the prospective ward has refused to submit to an examination.
- 3) Payment for the support, maintenance or education of a ward shall not be approved until such time as the guardian files an application to determine, separate and apart from the account, the amount to be allowed for the support, maintenance or education of the ward, and until an inventory has been filed.
- 4) An application by a parent-guardian for the allowance of care and support of a minor shall allege, if such is the fact, that the father and mother are financially unable to provide the items for which the amount is sought.

**RULE 18: ESTATES OF MINORS AND PROPOSED INCOMPETENTS OF TEN THOUSAND DOLLARS OR LESS**

- 1) An application relating to a minor shall be submitted by the parent or parents or by the person having custody of the minor and shall be captioned in the name of the minor.
- 2) Only one application shall be filed on behalf of all minors of the same parents. The application shall indicate the amount of money or property to which each minor is entitled and to whom such money or property shall be paid or delivered.
- 3) If no guardian has been appointed for either the receipt of an estate of a minor or the receipt of a settlement for injury to a minor, the attorney representing the interests of the minor shall prepare an entry;
  - a. ordering the deposit of the funds in a local banking institution in the name of the minor;
  - b. impounding both the principal and interest; and
  - c. releasing the funds to the minor at the age of majority or upon further order of the Court.

The entry shall be presented at the time the entry dispensing with appointment of a guardian or approving settlement is approved. The attorney shall further be responsible for depositing the funds and for providing the financial institution with a copy of the entry, both within seven *days* of the entry's approval. The attorney shall obtain a receipt from the bank and deposit it with the Court.

**RULE 19: SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS (O.R.C. 2111.18)**

1. In an application by a guardian for approval of a settlement of an action for personal injuries to his ward, irrespective of amount, the parent or parents of such ward, if any, living in the county, shall be entitled to three days' notice by certified mail of the hearing on such application. The notice may be waived in writing.
2. The application may be accompanied by a current statement of the examining physician in respect to the injuries sustained, the extent of recovery thereof, and the physician's prognosis.
3. The presence of the injured minor and the parent may be required at the hearing on all applications.
4. The application shall state what additional consideration, if any, is being paid to persons other than the minor.
5. The application shall state what arrangement, if any, has been made with respect to counsel fees, which fees shall be subject to review by the Court.

**RULE 20: SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS UNDER TEN THOUSAND DOLLARS**

1. Applications involving the payment of ten thousand dollars (\$10,000) or less shall be by the parent or parents or by the person having custody of the minor, and shall be captioned' in the name of the minor.
2. The application may be accompanied by a current statement of the examining physician in respect to the injuries sustained, the extent of recovery thereof, and the physician's prognosis.
3. The presence of the injured minor and the parent may be required at the hearing on all applications.
4. The application shall state what additional consideration, if any, is being paid to persons other than the minor.
5. The application shall state what arrangement, if any, has been paid made with respect to counsel fees, which fees shall be subject to review by the Court.

## **RULE 21: SETTLEMENT OF CLAIMS FOR WRONGFUL DEATH**

1. Application for approval of settlement of a claim for wrongful death shall contain a statement of facts, including the amount to be received in settlement of the claim and the amount, if any, to be received in the settlement of the right of action for conscious pain and suffering. The statement shall include the proposed allocation of the compensation to be received in settlement of the action for wrongful death.
2. Unless waived by all interested parties, the application and proposed allocation shall be set for hearing and written notice shall be given to all interested parties.
3. The application shall state what arrangements have been made with respect to counsel fees, which fees shall be subject to review by the Court.

## **RULE 22: COUNSEL FEES IN CONNECTION WITH SETTLEMENT OF CLAIMS FOR WRONGFUL DEATH, CONSCIOUS PAIN AND SUFFERING, CLAIMS FOR PERSONAL INJURIES TO PERSONS UNDER GUARDIANSHIP; AND SETTLEMENT OF CLAIMS FOR PERSONAL INJURIES TO MINORS UNDER O.R.C. 2111.18**

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

## **RULE 23: COUNSEL FEES**

1. Attorney fees relative to all matters shall be governed by the Code of Professional Responsibility, DR-2-106. Attorney fees for the administration of estates shall not be paid until the final account is prepared for filing unless otherwise approved by the Court upon application and for good cause shown.
2. Attorney fees may be allowed if there is a written application which set forth the amount requested and will be awarded only after proper hearing, unless otherwise modified by local rule.
3. The Court may set a hearing on any application for allowance of attorney fees regardless of the fact that the required consents of the beneficiaries have been given.
4. Except for good cause shown, attorney fees shall not be allowed to attorneys representing fiduciaries who are delinquent in filing the accounts required by O.R.C. 2109.30.
5. If a hearing is scheduled on an application for the allowance of attorney fees, notice shall be given to all parties affected by the payment of fees, unless otherwise ordered by the Court.
6. An application shall be filed for the allowance of counsel fees for services rendered to a guardian, trustee, or other fiduciary. The application may be filed by the fiduciary or attorney. The application shall set forth a statement of the services rendered and the amount claimed in conformity with Paragraph A.
7. The Court does not have, nor is there recognized, any minimum or maximum fees which will automatically be approved by the Court. Prior to a fiduciary entering into a contingent fee contract with an attorney for services, an application for authority to enter into the agreement shall be filed with the Court.
8. Nothing in this rule shall in any way prevent or prohibit any attorney charging a fee less in amount than that calculated in accordance with the below schedule.
9. Nothing in this rule shall prohibit any fiduciary and his attorney from negotiating with each other for payment of a fee different in amount from that calculated in accordance with the below schedule; subject however to review and approval by the Court as provided herein.
10. In the event that a fiduciary and attorney negotiate for the payment of a fee in excess of the fee allowed by this schedule, an application for review and approval by the court must be made and entered prior to the rendition of the legal services.



11. The fee allowable to an attorney for a fiduciary, without prior application to the court for approval, shall be in accordance with the following schedule, provided however:

- a. The Court, in any case and upon its own motion, may require the attorney to justify the reasonableness of his fee;
- b. If the attorney feels that his fee as calculated pursuant to his schedule does not afford him reasonable compensation for his services with respect to a particular estate or matter, subject to this rule, he may file an application with the court for approval of an amount compensation which he determines to be reasonable;
- c. If the fiduciary or other person interested in an estate, guardianship or trust objects to the fee being claimed by the attorney, whether determined pursuant to this schedule, or otherwise, he may file his objection with the court. Upon the filing of such objection the court may require the attorney to justify the reasonableness of his compensation;
- d. In all cases in which the attorney fee taken is based upon the provisions of this schedule and shown in an account, the attorney shall attach a schedule to the account clearing setting forth the nature of the property, i.e. probate or non-probate, and the classification within such grouping, upon which such fee is based and the mathematical computation of the fee, together with a statement that the legal services were rendered and that the fee is reasonable compensation for the services rendered.
- e. Attorney fees are not based solely on a percentage formula of inventory or non probate assets, as ultimately the fee for legal services rendered must be reasonable for services rendered.
- f. Nothing in these rules shall be construed as setting a minimum or maximum fee for legal services rendered as an estate expense.

12. The compensation allowable to an attorney representing a fiduciary in the complete administration of a decedent's estate, subject to the provisions of this rule, shall be an amount equal to the sum of the following bases, except where otherwise noted, upon the filed inventory value or values as determined for Ohio estate tax purposes.

a. Probate Assets:

- i. Personal property (including (i) income received during the administration of the estate except income from the continuation of a business and (ii) the proceeds from the sale of real estate, except the proceeds resulting from the sales had under Chapter 2127 of the Ohio Revised Code:
  1. 8% of the first \$1,000.00 or part thereof;
  2. 6% of the next \$9,000.00 or part thereof;
  3. 4% of the next \$40,000.00 or part thereof;
  4. 3% of the balance
- ii. Real estate which has not been sold: 2% (two per-cent)
- iii. For land sale proceeding had under chapter 2127 of the Ohio Revised Code, the following amounts, based upon the sale price:
  1. 8% of the first \$1,000.00 or part thereof;
  2. 6% of the next \$9,000.00 or part thereof;
  3. 4% of the next \$40,000.00 or part thereof;
  4. 3% of the balance.

b. Non-Probate Assets:

- 1) Assets which are not subject to administration as part of the probate estate but which are administered by the fiduciary and reportable as part of the gross estate in proceedings for determination of Ohio estate tax (Life or credit life insurance is deemed not includable as non-probate assets) 11/2%(one and one-half percent).
- 2) The compensation allowable to an attorney who also acts as the fiduciary in a decedent's estate, subject to the provisions of this rule, shall be an amount as calculated from the above schedule plus one-half of the fee of a fiduciary as calculated pursuant to the statutory schedule. Provided said fee is

reasonable.

13. The compensation allowable to an attorney who obtains the release from administration of an estate and renders all legal services necessary, including preparation and filing of required tax returns, shall be 3% of the probate assets plus 1 ½% of the non-probate assets, as defined above.

- a. Attorney fees shall be based upon the reasonableness as an estate expense, and percentages of estate value are not the sole basis for determining reasonable attorney fees.

14. The compensation allowable to an attorney for representing a guardian or testamentary trustee in securing the appointment of such fiduciary and rendering necessary legal services to such fiduciary throughout the administration of such guardianships or trusts shall be by special application, except that the following suggested amounts will be allowed, without prior application to the Court, subject, however, to the provisions of this rule:

- a. \$200.00 for obtaining the appointment of a guardian;
- b. \$200.00 for obtaining the appointment of a trustee;
- c. For land sale proceedings had under Chapter 2127 of the Ohio Revised Code, the following amounts, based upon the sale price.
  - i. 8% of the first \$1,000.00 or part thereof;
  - ii. 6% of the next \$9,000.00 or part thereof;
  - iii. 4% of the next \$40,000.00 or part thereof;
  - iv. 3% of the balance.

15. A schedule for calculation of maximum attorney fees must be filed in each estate upon the filing of any account wherein attorney fees are claimed as disbursements or credits. Such schedule shall be upon the form attached to the rule and designated as Exhibit "A".

- a. All applications for approval of negotiated fees must be upon the form attached to this rule and designated as Exhibit "B". All applications for approval of negotiated fees must also have attached thereto a schedule for calculation of maximum attorney fees.

#### **RULE 24: EXECUTOR'S AND ADMINISTRATOR'S COMMISSIONS**

1. Where there is a claim for extraordinary services, an application shall be filed setting forth an itemized statement of the services rendered. The Court may require the application to be set for hearing with notice given to parties affected by the payment of fees in accordance with Civil Rule 4.1.
2. Except for good cause shown, commissions will not be allowed if there is a delinquency in the filing of an account.
3. The commissions of co-executors or co-administrators in the aggregate shall not exceed the commissions which would have been allowed to one executor or administrator acting alone, except where the instrument under which the co-executors serve provides otherwise.
4. Where counsel fees of an extraordinary nature have been awarded for services to the estate which normally would have been performed by the executor or administrator, the said executor's or administrator's fee shall be reduced by the amount awarded to counsel for those services rendered unless, for good cause shown, the Court finds that such a ruling would be unfair.

#### **RULE 25: GUARDIAN'S COMPENSATION**

1. Guardian's compensation shall be set by local rule and the schedule of compensation set forth in the local rule shall be filed with the Supreme Court in accordance C.P. Sup. R.44.
2. Additional compensation, reimbursement for expenses incurred and fees of a guardian of a person may be fixed by the Court upon application.

3. The Court may require that applications for fees or compensation be set for hearing and that written notice of the time and place of the hearing and the amount applied for be given as required by the Court. A copy of the notice, with certified mail return receipt attached, together with an affidavit of the service of such notice, shall be filed prior to the hearing.
4. The compensation of co-guardians in the aggregate shall not exceed the compensation which would have been payable if only one guardian had been performing the duties.
5. A separate schedule of the computation of the guardian's compensation shall be set forth in the guardian's account as a condition of its approval. The computation shall be on a form as set forth in conformity with a local rule adopted and filed in accordance with C.P. Sup. R. 44. Except for good cause shown, neither compensation for a guardian nor fees to the attorney representing the guardian, will be allowed when the guardian is delinquent in filing the account as required by O.R.C. 2109.30.
6. The compensation allowable annually to a guardian accountable to the Probate Court, without prior application to the Court for approval shall be in accordance with the following schedule, unless otherwise provided for in any instrument creating the relationship;
  - a. Income Fee during accounting period:
    - i. 6% of the first \$10,000.00 or part thereof;
    - ii. 5% of the next \$10,000.00 or part thereof;
    - iii. 4% of the balance
    - iv. Conversion of assets to cash is not considered income.
  - b. Principal Fee during accounting period:
    - i. \$3.00 per thousand of first \$100,000.00 or part thereof;
    - ii. \$2.50 per thousand of next \$200,000.00 or part thereof;
    - iii. \$1.50 per thousand of next \$500,000.00 or part thereof;
    - iv. \$1.00 per thousand on balance of Corpus.
  - c. A minimum annual fee of \$75.00 shall be allowed as compensation for such guardian in each guardianship.
  - d. Investment and re-investment of corpus, including conversion of corpus to cash shall not be considered income.
  - e. Receipt of corpus by guardian shall not be considered income.
  - f. Each guardian shall submit, together with the account which reflects the payment of the fee, a schedule setting forth the basis upon computing the fee, which shall include the "Fair Market Value" upon which the principal fee calculation is based. The principal fee shall be prorated if adjustments to corpus are made during the accounting period by additions, withdrawals or terminations.
  - g. The guardian may, with the prior approval of the court, be allowed a principal distribution fee upon the final distribution of any part of the corpus of the guardianship property in a maximum amount equal to 1% of the fair value of the part distributed.
  - h. The filing date of the first account of all guardians shall be seven (7) months after the anniversary date of appointment and such guardians shall further file accounts at least once each year thereafter unless otherwise directed by entry.

#### **RULE 26: TRUSTEE'S COMPENSATION**

1. Trustee's compensation shall be set by local rule and the schedule of compensation set forth in the local rule shall be filed with the Supreme Court in accordance with C.P. Sup. R.44.
2. Additional compensation for extraordinary services may be allowed upon application. The Court may require that the application be set for hearing and that notice thereof be given to interested parties in accordance with Civil Rule 4.1. Such notice shall contain a statement of the amount for which compensation is applied.

3. A separate schedule of the computation of a trustee's compensation, conforming to the form in conformity with a local rule adopted and filed in accordance with C.P. Sup. R. 44, shall be filed with the Court at the time of payment of the fee.
4. The compensation of co-trustees in the aggregate shall not exceed the compensation which would have been paid if only one trustee had been performing the duties except where the instrument under which the co-trustees are acting provides otherwise.
5. Except for good cause shown, neither compensation for a trustee, nor fees to the counsel representing the trustee, will be allowed while the trustee is delinquent in the account or accounting required by R.C.2109.30.
6. The compensation allowable annually to a testamentary trustee accountable to the Probate Court, without prior application to the court for approval shall be in accordance with the following schedule, unless otherwise provided for in any instrument creating the trust relationship:
  - a. Income Fee during accounting period:
    - i. 6% of the first \$10,000.00 or part thereof;
    - ii. 5% of the next \$10,000.00 or part thereof;
    - iii. 4% of balance
    - iv. Conversion of assets to cash is not considered income.
  - b. Principal Fee during accounting period:
    - i. \$3.00 per thousand of first \$100,000.00 or part thereof;
    - ii. \$2.50 per thousand of next \$200,000.00 or part thereof;
    - iii. \$1.50 per thousand of next \$500,000.00 or part thereof;
    - iv. \$1.00 per thousand on balance of Corpus.
  - c. A minimum annual fee of \$75.00 shall be allowed as compensation for such trustee in each trust.
  - d. Investment and re-investment of corpus, including conversion of corpus to cash shall not be considered income.
  - e. Receipt of corpus by trustee shall not be considered income.
  - f. Each trustee shall submit, together with the account which reflects the payment of the fee, a schedule setting forth the basis upon computing the fee, which shall include the "Fair Market Value" upon which the principal fee calculation is based. The principal fee shall be prorated if adjustments to corpus are made during the accounting period by additions, withdrawals or termination.
  - g. The trustee may, with the prior approval of the court, be allowed a principal distribution fee upon the final distribution of any part of the corpus of the trust property in a maximum amount equal to 1% of the fair value of the part distributed.
  - h. The filing date of the first account of all testamentary trustees shall be seven (7) months after the anniversary date of appointment and such testamentary trustees shall further file accounts at least once each year thereafter unless otherwise directed by entry.

## **RULE 27: LOCAL RULES**

1. The probate division of the court of common pleas may adopt supplementary rules concerning local practice in their respective courts which are not inconsistent with these rules. Such rules shall be filed with the Supreme Court.
2. The local rules shall be numbered to correspond with the numbering of these rules and shall incorporate the number of the rule, which it is intended to supplement. For example, a local rule which supplements C.P. Sup. R.28 shall be designated County Local Rule 28.1, etc.
3. The following compensation is fixed for court appointed counsel for services rendered in the mental proceedings as follows:
  - a. Probable cause hearing after swearing of witnesses pursuant to Chapter 5122. or Chapter 5123; of the Ohio Revised Code - \$7,500.00

- b. Full hearing after swearing of witnesses pursuant to Chapter 5122. or Chapter 5123. of the Ohio Revised Code - \$100.00
  - c. The fees of such attorneys shall be certified by such attorney and shall be taxed and collected as court costs as set forth in Section 5123.96 of the Revised Code of Ohio and otherwise as provided by law.
4. All attorneys and potential fiduciaries shall inspect and examine the index of deposited wills prior to filing or presentment for filing of an application for intestate administration or release of estate from intestate administration to determine if the decedent involved in the proceeding had deposited a will in Vinton County.
5. In accordance with Section 2301.24, Revised Code of Ohio, it is hereby ordered that compensation for Official Court Reporters for making transcripts and copies as provided in Section 2301.24, Revised Code of Ohio, is fixed by the Judges of the Common Pleas Court, General Division, for Vinton County, Ohio, as follows;
- a. Two dollars (\$2.00) per page for the original transcript.
  - b. One Dollar (\$1.00) per page for each copy of the transcript.

#### **RULE 28: EXCEPTION TO THE RULES**

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

#### **RULE 29: COMPLIANCE**

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

#### **RULE 30: JURY TRIAL SECURITY FOR COSTS**

Any party requesting a jury trial, in a civil matter shall, no later than 30 days before the matter is set for trial, deposit with the Probate Court the sum of \$300.00 as security for costs.

#### **RULE 31: DEPOSIT FOR TRANSCRIPT OF RECORDS**

Any party requesting a transcript of the record of proceedings in any case shall deposit with the Court reporter such amount for costs of the same as may be determined by said reporter to be adequate considering the nature of the case, length of record, and the amount of work involved in the preparation of such transcript.

#### **RULE 32: COURT COSTS - SPECIAL PROJECTS**

1. The Court finds 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, the rehabilitation of existing facilities, the acquisition of equipment the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges and magistrates, and other related services.
2. Therefore, pursuant to the authority vested in the Court of Ohio Revised Code 2303.201(E)(1), the Court orders that there be assessed as court costs an additional sum of \$25.00 per case effective January 1, 2012. More specifically, \$5.00 of the \$25.00 additional court costs shall be deposited in a separate fund to be used for the purpose of funding mediation and/or dispute resolution services. The remaining \$20.00 shall be deposited into this Court's special projects fund.

3. It is further ordered that effective January 1, 2012, all funds collected from the assessment be paid to the Treasurer of Vinton County for deposit into a general projects fund as specified above which shall accumulate and only be disbursed upon an order of the Court in amounts no greater than the actual cost of the special projects which the Court deems appropriate to fulfill the objectives of this order.

**RULE 33: NOTICE**

Pursuant to Ohio Rule of Civil Procedure 73(E)(7) which states "service of notice... by other method as the Court may direct," this Probate Court hereby adopts the following rule as to service effective May 3, 2012:

As an alternative service by publication, this Court adopts in addition to the use of newspaper publication, posting and mail to be accomplished by posting the notice in a conspicuous place in the Vinton County Courthouse, McArthur, Ohio, as well posting the notice in two (2) other public places where the Court designates being the Vinton County Sheriff's Office and the McArthur Police Station.

The notice will be posted in all three (3) locations for a twenty one (21) day period and hearing shall be held no less than twenty one (21) days after the last date of publication.

FILED

IN THE COURT OF COMMON PLEAS, VINTON COUNTY, OHIO  
PROBATE DIVISION

JAN 17 2015

*N. Robert Grillo*  
CLERK OF COURT  
VINTON COUNTY, OHIO

In the matter of: The Local Rules of Court

Entry/Order

As a matter of necessity and uniformity, the Court amended Rule 33 on May 3, 2012 as set forth in Exhibit 1, hereto attached and incorporated into this entry/order as Exhibit 1.

In reviewing its rules on 1-15-15, it also noticed that it did not have a case management plan and jury management plan for its Probate Division as it does for its Juvenile Division which was an oversight on this Court's behalf. Thus, attached as Exhibit 2 is a copy of Local Rule of Probate Court 34 titled "Case Management Plan" and Local Rule of Probate Court 35 entitled "Jury Management Plan."

Other than the amendment to Rule 33 (Exhibit 1) and new Rule 34 and new Rule 35 (Exhibit 2), this order is to certify that there has been no other changes to the Local Rules of the Vinton County Probate Court since their filing on January 2, 2012.



---

Judge N. Robert Grillo

Distribution to all parties and counsel of record

IN THE COURT OF COMMON PLEAS  
VINTON COUNTY, OHIO  
PROBATE DIVISION

**FILED**

MAY 03 2012

*N. Robert Grillo*  
PROBATE JUDGE  
VINTON COUNTY, OHIO

In the Matter of: The Local Rules of Probate Court

ENTRY

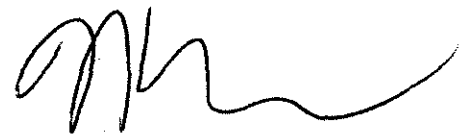
As a matter of necessity and uniformity, this Court hereby adopts the following rule which will become Rule 33 in regards to service:

**RULE 33: NOTICE**

Pursuant to Ohio Rule of Civil Procedure 73(E)(7) which states "service of notice... by other method as the Court may direct," this Probate Court hereby adopts the following rule as to service effective May 3, 2012:

As an alternative service by publication, this Court adopts in addition to the use of newspaper publication, posting and mail to be accomplished by posting the notice in a conspicuous place in the Vinton County Courthouse, McArthur, Ohio, as well posting the notice in two (2) other public places where the Court designates being the Vinton County Sheriff's Office and the McArthur Police Station.

The notice will be posted in all three (3) locations for a twenty one (21) day period and hearing shall be held no less than twenty one (21) days after the last date of publication.



**Judge N. Robert Grillo**



IN THE COURT OF COMMON PLEAS, VINTON COUNTY, OHIO JAN 15 2015  
PROBATE DIVISION

*N. Robert Grillo*  
PROBATE JUDGE  
VINTON COUNTY, OHIO

In the matter of: The Local Rules of Court, Adoption of New Court Rules 34 and 35

Entry/Order

As a matter of necessity and uniformity, the Court hereby adopts, effective immediately, the following Rules 34 and 35 in regard to Case Management Plan and Jury Management Plan respectively:

**Rule 34: Case Management Plan**

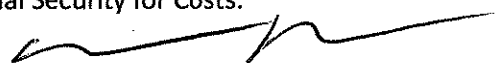
The following case management plan is adopted. Early management conference called an initial appearance/status conference/pretrial shall be scheduled by the court for all probate cases which are at issue as soon as possible by the court. At the initial appearance or at pretrial, the court will set a final hearing date with discovery deadlines. For cases which are not at issue, or in which parties have been served but are in default, the court shall advise counsel appropriately, and schedule the matter for further review, on a date certain.

**Rule 35: Jury Management Plan**

The responsibility for administration of the jury system shall be vested in the Judge, Clerk and Deputy Clerks who shall coordinate all procedures.

All procedures concerning jury selection and service shall be governed by Ohio Rules of Court and appropriate statutes.

Rule 30 of this Court adopted January 2, 2012 deals with Jury Trial Security for Costs.

  
\_\_\_\_\_  
Judge N. Robert Grillo

Distribution to all parties and counsel of record

FILED

JAN 15 2015

IN THE COURT OF COMMON PLEAS, VINTON COUNTY, OHIO  
PROBATE DIVISION

*N. Robert Grillo*  
PROBATE JUDGE  
VINTON COUNTY, OHIO

In the matter of: The Local Rules of Court, Adoption of New Court Rules 34 and 35

Entry/Order

As a matter of necessity and uniformity, the Court hereby adopts, effective immediately, the following Rules 34 and 35 in regard to Case Management Plan and Jury Management Plan respectively:

**Rule 34: Case Management Plan**

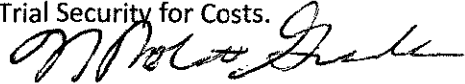
The following case management plan is adopted. Early management conference called an initial appearance/status conference/pretrial shall be scheduled by the court for all probate cases which are at issue as soon as possible by the court. At the initial appearance or at pretrial, the court will set a final hearing date with discovery deadlines. For cases which are not at issue, or in which parties have been served but are in default, the court shall advise counsel appropriately, and schedule the matter for further review, on a date certain.

**Rule 35: Jury Management Plan**

The responsibility for administration of the jury system shall be vested in the Judge, Clerk and Deputy Clerks who shall coordinate all procedures.

All procedures concerning jury selection and service shall be governed by Ohio Rules of Court and appropriate statutes.

Rule 30 of this Court adopted January 2, 2012 deals with Jury Trial Security for Costs.

  
\_\_\_\_\_  
Judge N. Robert Grillo

Distribution to all parties and counsel of record

**FILED**

**IN THE COURT OF COMMON PLEAS, VINTON COUNTY, OHIO  
PROBATE DIVISION**

APR 29 2015

*M Robert Grillo*  
PROBATE JUDGE  
VINTON COUNTY, OHIO

In the matter of: The Local Rules of Court, Adoption of New Court Rule 36

**ENTRY/ORDER**

As a matter of necessity and uniformity, the Court hereby adopts, effective immediately, the following Rule 36, effective immediately, in regards to Mediation.

The Court notes that there always has been a Rule on Mediation in this Court but that when it was adopted by the Vinton County Court of Common Pleas, Juvenile Division in Juvenile Rule 16, it somehow inadvertently did not get adopted by the Vinton County Court of Common Pleas, Probate Division at the same time although it was intended to. This entry/order adopting Rule 36 effective immediately is intended to correct that oversight.

**Rule 36: MEDIATION**

The General, Domestic Relations, Juvenile and Probate Divisions of the Common Pleas Court and County Court (hereinafter "Courts") adopt Local Rule 2007-1 effective January 1<sup>st</sup> 2007. Through Rule 2007-1 the Courts incorporate by reference the O.R.C. 2710 "Uniform Mediation Act" (UMA) and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

- a) Definitions - All definitions found in the "Uniform Mediation Act" (UMA) R.C. 2710.01 are adopted by this court through this local rule including, but not limited to the following:
- 1) "Mediation" means any process in which a mediator facilitates communication and negotiation between the parties to assist them in reaching a voluntary agreement regarding their dispute.
  - 2) "Mediator" means an individual who conducts a mediation.
  - 3) "Mediation Communication" means a statement, whether oral, in a record, verbal or non verbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.
  - 4) "Proceeding" means either of the following:
    - a. Judicial, administrative, arbitral or other adjudicative process. including related pre-hearing and post-hearing motions, conferences, and discovery;
    - b. A legislative hearing or similar process.
- b) Purpose: To promote greater efficiency and public satisfaction through the facilitation of the earliest possible resolution for Courts' cases through the use of mediation. To accomplish this goal, Court Mediation Services has been established.
- c) Scope: At any time any action under the jurisdiction of these courts may be referred to mediation by Courts. The following actions shall be exempted from mediation upon request of any party:
- 1) Cases in which one of the parties is mentally ill;
  - 2) In emergency circumstances requiring an immediate hearing by a jurist, or
  - 3) Cases in which the parties have achieved an executed Agreed Judgment Entry.
- d) Case Selection
- 1) Referral Process

- a. The court, on its own motion, or the motion of any of the parties may refer disputed issues to mediation in whole or in part by "Notice of Scheduled Mediation" which shall, at a minimum indicate the date, time, place and contact information of the mediation. All parties and counsel shall advise the assigned judge or magistrate of any domestic violence allegations known to them 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.
- b. A case in this court may be referred to Court Mediation Services in the following manner:
  - i. For formal proceedings, the court may order parties to participate in the mediation process.
  - ii. For formal proceedings, the court upon written or oral motion to the court may order parties to participate in the mediation process.
  - iii. For informal cases (pre-filing), a referral to Court Mediation Services may be made by court personnel.
- c. The mediation shall be communicated via a "Notice of Scheduled Mediation" which shall, at a minimum indicate the date, time, place and contact information of the mediation. All parties and counsel shall advise the assigned judge or magistrate of any domestic violence allegations known to them to exist or to have existed in the past, or which become known to them following entry of the referral to mediation order but before conclusion of all mediation proceedings, which allegations involve any two or more persons whose attendance is required by the referral order.
- 2) Eligibility of Cases: The Court Mediation Services will determine the eligibility and appropriateness of each referral prior to the commencement of the mediation process and may decline any referral(s) deemed inappropriate.
- 3) Mediator Selection and Assignment: The following methods may be used to determine the mediator for the case:
  - a. The court mediator may facilitate the mediation.
  - b. The court randomly assigns a mediator to the case from the court's roster of approved mediators.
  - c. Specific appointments may be made by the court taking into consideration the qualifications, skills, expertise, and caseload of the mediator in addition to the type, complexity and requirements of the case.
  - d. Parties may select a mediator from the court roster.
- e) Procedures: In accordance with all applicable provisions of this rule, if a case is deemed appropriate by the Court Mediation Services, mediation will be scheduled. A mediator may meet with the parties individually prior to bringing the parties together for any reason including, but not limited to further screening. A mediator may schedule multiple mediation sessions, if necessary and mutually acceptable for the resolution of the issues in part or in their entirety.
  - 1) The court shall utilize procedures for all cases that will: Ensure that parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.
  - 2) Screen for domestic violence both before and during mediation.
  - 3) Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.
  - 4) The Court Mediation Services will create a brochure to be displayed in public areas and have available by mediators and other staff to distribute to clients as appropriate. The brochure will include:
    - a. local attorney referral contact information,

- b. information regarding Children Services and
  - c. resource information for local domestic violence prevention, counseling, substance abuse and mental health services.
- 5) The Court shall prohibit the use of mediation in any of the following:
- o As an alternative to the prosecution or adjudication of domestic violence;
  - a. In determining whether to grant, modify or terminate a protection order;
  - b. In determining the terms and conditions of a protection order; and
  - c. In determining the penalty for violation of a protection order.
- f) Party/Non-Party Participation
- 1) Parties to informal cases may voluntarily attend mediation sessions.
  - 2) Parties who are ordered into mediation in formal cases shall attend scheduled mediation sessions. The court may order parties to return to mediation at any time in formal cases.
  - 3) A judge, magistrate and/or mediator may require the attendance of the parties' attorneys at the mediation sessions if the mediator deems it necessary and appropriate.
  - 4) If counsel of any party to the mediation becomes aware of the identity of a person or entity whose consent is required to resolve the dispute, but has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the assigned judge or magistrate.
  - 5) If the opposing parties to any case are:
    - a) related by blood, adoption, or marriage;
    - b) have resided in a common residence; Or
    - c) have known or alleged domestic violence at any time prior to or during the mediation, then the parties and their counsel have a duty to disclose such information to the mediator and have duty to participate in any screening required by the court.
  - 6) By participating in mediation a nonparty participant, as defined by R.C. 2710.01(D), agrees to be bound by this rule and submits to the court's jurisdiction to the extent necessary for enforcement of this rule. Any nonparty participant shall have the rights and duties under this rule attributed to parties except as provided by R.C. 2710.03(B) (3) and 2710.04(A) (2).
- g) Confidentiality/Privilege
- 1) All mediation communications related to or made during the mediation process are subject to and governed by the "Uniform Mediation Act" (UMA) O.R.C. 2710.01 to 2710.10, O.R.C., the Rules of Evidence and any other pertinent judicial rule(s).
  - 2) All mediation communications related to or made during the mediation process are subject to and governed by the "Uniform Mediation Act" (UMA) R.C. 2710.01 to 2710.10 and the Rules of Evidence and any other pertinent judicial rule(s). In furtherance of the confidentiality set forth in this rule, parties and non-parties desiring confidentiality of mediation communications shall execute a written "Agreement to Mediate" prior to the mediation session. If a new or different person(s) attend a subsequent session, their signatures shall be obtained prior to proceeding further in the process. A blank "Agreement to Mediate" form is available for review by any prospective participant by contacting the Courts.
- f) Mediator Conflicts of Interest: In accordance with R.C. 2710.08(A) and (B), the Mediator assigned by the Court to conduct a mediation shall disclose to the mediation parties, counsel, if applicable, and any nonparty participants any known possible conflicts that may affect the Mediator's impartiality as soon as such conflict(s) become known to the Mediator. If counsel or a mediation party requests that the assigned Mediator withdraw because of the facts so disclosed, the assigned Mediator should withdraw and request that the assigned Judge or Magistrate appoint another Mediator from the list of qualified Mediators that is maintained by the Court. The parties shall be free to retain the mediator by an informed, written waiver of the conflict of interest(s).

g) Termination: If the assigned Mediator determines that further mediation efforts would be of no benefit to the parties, he or she shall inform all interested parties and the Court that the mediation is terminated using the procedure required by this Court.

h) Stay of Proceedings: All remaining court orders shall continue in effect. No order is stayed or suspended during the mediation process except by written court order. Mediation shall not stay discovery, which may continue through the mediation process in accordance with applicable rules, unless agreed upon by the parties and approved by the judge or magistrate assigned to the case.

i) Continuances

1) It is the policy of this court to determine matters in a timely way. Continuances of scheduled mediations shall be granted only for good cause shown after a mutually acceptable future date has been determined. The case may be continued by the Mediation Coordinator or the Judge or Magistrate who referred the case. Except as authorized by the court, the existence of pending motions shall not be good cause for a continuance and no continuance will be granted unless the mediation can be scheduled prior to the final pretrial. If a continuance of a scheduled mediation is requested and the proposed new date is within 45 days of the initial referral to mediation, then the request shall be made to the Mediation Coordinator. If the requested date is more than 45 days after the referral to mediation, then the request must be made to the judge or magistrate assigned to the case.

2) It is the policy of this court to determine matters in a timely way. Continuances of a scheduled mediation will be granted only by the Judge, Magistrate or staff mediator, where applicable, for good cause. Extension of time for compliance with deadlines not involving a court hearing will be permitted only on a showing to the court that the extension will not interrupt the scheduled movement of the case. Requests for continuances and extensions, and their disposition, will be recorded in the file of the case. Where continuances and extensions are requested with excessive frequency or insubstantial grounds, the court may adopt one or all of the following procedures:

a. Cross-referencing all requests for continuances and extensions by the name of the lawyer requesting them.

b. Requiring that requests for continuances and stipulations for extensions be in writing and the parties notified.

c. Summoning lawyers who persistently request continuances and extensions to warn them of possibility of sanctions and to encourage them to make necessary adjustments in management of their practice. Where such measures fail, restrictions may properly be imposed on the number of cases in which the lawyer may participate at one time.

j) Mediation Case Summary: Attorneys may, at their option, or must if required on a specific case by the judge and/or magistrate, submit a "Mediation Case Summary" to the mediator which shall contain the following: Insert applicable provisions, such as:

1) Summary of material facts.

2) Summary of legal issues.

3) Status of discovery.

4) List special damages and summarize injuries or damages.

5) Settlement attempts to date, including demands and offers.

k) Mediation Memorandum of Understanding: The assigned mediator, parties or counsel, if applicable, as agreed by the parties, may immediately prepare a written memorandum memorializing the agreement reached by the parties. The "Mediation Memorandum" may be signed by the parties and counsel (if the "Mediation Memorandum" is signed it will not be privileged pursuant to R.C. 2710.05 (A) (1)). The written "Mediation Memorandum of Understanding" may become an order of the court after review and approval by the parties and their attorney, if applicable. No oral agreement by counselor with parties or an officer of the

court will be regarded unless made in open court.

l) Mediator Report: At the conclusion of the mediation and in compliance with R.C. 2710.06 the court shall be informed of the status of the mediation including all of the following:

- 1) Whether the mediation occurred or was terminated;
- 2) Whether a settlement was reached on some, all or none of the issues; and
- 3) Attendance of the parties.
- 4) Future mediation session(s), including date and time.

m) Qualifications

1) Qualifications: To be a court approved mediator the following qualifications apply:

- a. Commitment to Continuing Education.
- b. Membership in a Mediation Association.
- c. Minimum number of years mediating a specific type of case(s). etc.

2) List of Qualified Mediators: The court maintains a list of qualified Mediators which shall be maintained by the Courts and a copy shall be distributed to all Judges and Magistrates of the Court.

a. All those on the list of qualified mediators shall submit to the Courts a regularly updated Curriculum Vitae (including a list of training related to the field of dispute resolution and professional or association memberships) which CV shall be provided by the Courts to those requesting information on an assigned Mediator's qualifications to mediate a dispute pursuant the requirements set forth in O.R.C. 27 10.08(C).

b. The Court will review applications of person seeking to be added to the list of qualified Mediators in accordance with the procedures adopted by the Judges of the Court.

n) Fees and Costs: All costs shall be determined by the court, if applicable. The parties may agree between themselves to apportion the costs of the mediation. Unless otherwise agreed by the parties, the mediation costs shall be shared equally. In the event that the parties cannot agree, the court shall determine the apportionment of the mediation costs to the parties. The court may waive costs for the parties who are unable to pay. Mediation shall not be ordered where a party is indigent unless the mediation is available at no cost to the party.

o) Sanctions: If any individual ordered by the court to attend mediation fails to attend mediation without good cause, the court may impose sanctions which may include, but are not limited to, the award of attorney's fees and other costs, contempt or other appropriate sanctions at the discretion of the assigned Judge or Magistrate.



Judge N. Robert Grillo

Distribution to all members of the Vinton County Bar Association

**FILED**

**MAY 29 2015**

**ADOPTION OF LOCAL PROBATE RULE 37.0**

*M Robert Grillo*  
PROBATE JUDGE  
VINTON COUNTY, OHIO

In accordance with Rule 5 of the Rules of Superintendence for the Courts of Ohio, notice is hereby given of the adoption of Local Rule 37.0 to the Local Rules of the Vinton County Court of Common Pleas, Probate Division. The local rule is listed below and will be effective June 1, 2015.

**RULES GOVERNING THE COURTS OF OHIO  
VINTON COUNTY-RULES OF THE COURT OF COMMON PLEAS  
Probate Division**

**Rule 37.0      Guardianship**

**(A) Emergency Guardianship.** Pursuant to Ohio Revised Code Section 2111.02, if a minor or incompetent has not been placed under a guardianship, and if an emergency exists and it is reasonably certain that immediate action is required to prevent significant injury to the person or estate of the minor or incompetent, at any time after it receives notice of the emergency, the Probate Court, ex parte, may issue any order that it considers necessary to prevent injury to the person or estate of the minor or incompetent, or may appoint an emergency guardian for a maximum period of seventy-two hours.

Applications for emergency guardianship must be accompanied by a completed Statement of Expert Evaluation (Form 17.1), along with a completed Supplement for Emergency Guardian of Person (Form 17.1A). Applications should also contain any attachments or exhibits that may assist the Probate Court in determining whether to grant an emergency guardianship.

Once the Application has been filed and the appropriate filing fee paid, the Application and any accompanying materials will be reviewed by the Judge. The Judge may, but is not required to, meet with the applicant or attorney filing the Application.

Emergency guardianship will be granted only if there is reasonable certainty that immediate action is required to prevent significant injury to the person or estate of the individual. The Probate Court recognizes that emergency guardianship should not be granted where another remedy may be appropriate.

If the Judge declines to grant an emergency guardianship, the Probate Court may, in its discretion, schedule the matter on an expedited basis.

If the Judge approves the request for emergency guardianship, the following will occur:

1. A Judgment Entry will issue granting emergency guardianship for a period of seventy-two (72) hours.



2. A hearing will be scheduled within seventy-two (72) hours in order to determine whether to extend the emergency order for up to thirty (30) days.
3. A hearing will be scheduled on the regular guardianship docket for hearing on the Application for Appointment of Guardian.
4. As soon as possible after the issuance of the emergency guardianship order, a Probate Court Investigator will visit with the respondent in order to serve notice of the emergency guardianship proceedings and scheduled Probate Court hearings.

After notice to the respondent and hearing, the Probate Court may extend the seventy-two (72) hour emergency guardianship for a period not to exceed thirty (30) days, in which case a Judgment Entry will issue.

**(B) Comments and Complaints.** The following procedure will be followed upon the Court's receipt of a complaint or comment regarding a guardian:

- (1) Only complaints filed on the designated form, accompanied by the appropriate filing fee, will be received and docketed by the Probate Court. Complainants are encouraged to attach supporting documentation and affidavits to their complaint.
- (2) Upon receipt, the complaint will be docketed by the Probate Court Clerk and delivered to the Guardianship Department for review.
- (3) Upon receipt, the Guardianship Clerk will log the complaint into the database maintained by the Probate Court for the purpose of monitoring such complaints.
- (4) The complaint will be promptly delivered to the Judge, who will develop a plan of action for the complaint within ten (10) days. Plans of action may include any of the following:
  - (a) The matter may be set for Review Hearing, in which case a copy of the Complaint will be sent to the guardian and hearing notice will be sent to the complainant and the guardian.
  - (b) The Judge may conduct an investigation into the complaint, which may or may not involve the use of a Probate Court Investigator, after which a written response will be prepared and sent to the complainant and the guardian.
  - (c) The Judge may determine that, on its face, the complaint does not warrant further action, in which case a written response will be prepared and sent to the complainant.
- (5) In all cases in which the Probate Court generates a response pursuant to Items (4)(b) or (c) above, the response of the Probate Court will be docketed and the complaint and response will be maintained in the Probate Court file.
- (6) At the conclusion of the Review Process, the Guardianship Clerk will make a notation in to the database regarding the disposition of the complaint.

The above Review Process does apply to those communications received by the ward. However, complaints filed by the ward do not need to be on the designated form; do not

incur a filing fee; and are set before a Judge subject to the limitations set forth in Ohio Revised Code Section 2111.49(C).

- (C) Comments and Complaints Retention.** Comments and complaints submitted to the Probate Court shall be kept in a manner consistent with the local rules and/or practices of this court.
- (D) Previous rules of this Court concerning Guardianships.** All previous guardianship rules of this Court not inconsistent with Rule 37, Rule 37.1, Rule 37.2, Rule 37.3, 37.4, 37.5, 37.6 and 37.7 shall remain in full force and effect.

HISTORY: (Effective 6-1-15)

**FILED**

MAY 29 2015

*M Robert Guillo*  
PROBATE JUDGE  
VINTON COUNTY, OHIO

**ADOPTION OF LOCAL RULE 37.1**

In accordance with Rule 5 of the Rules of Superintendence for the Courts of Ohio, notice is hereby given of the adoption of Local Rule 37.1 to the Local Rules of the Vinton County Court of Common Pleas, Probate Division. The local rule is listed below and will be effective June 1, 2015.

**RULES GOVERNING THE COURTS OF OHIO  
VINTON COUNTY-RULES OF THE COURT OF COMMON PLEAS  
Probate Division**

**Rule 37.1 Guardian of Estate – Bonding**

Pursuant to Ohio Revised Code Section 2109.04, an individual appointed as guardian of the estate of a minor or incompetent is required to post bond with a penal sum in an amount that is fixed by the Probate Court unless the Court specifically waives the requirement for a bond. In the event that the guardian is unable to post bond, or deems it inexpedient to post bond, the guardian may be required to secure the services of legal counsel for the purpose of filing a Motion for Deposit of Personal Property pursuant to Ohio Revised Code Section 2109.13. A Motion for Deposit of Personal Property shall be granted only where the guardian is an attorney, or where the guardian is represented by legal counsel. Said representation shall continue until a Verification of Receipt and Deposit (Probate Court Form 22.3) is filed with the Probate Court.

HISTORY: (Effective 6-1-15)

**FILED**

MAY 29 2015

**Adoption of local rule 37.2**

*M Robert Guillo*  
PROBATE JUDGE  
VINTON COUNTY, OHIO

In accordance with Rule 5 of the Rules of Superintendence for the Courts of Ohio, notice is hereby given of the adoption of local rule 37.2 to the Local Rules of the Vinton County Court of Common Pleas, Probate Division. The local rule is listed below as to the Application for Appointment of Emergency Guardian or Issuance of Emergency Order and will be effective June 1, 2015.

**Rules Governing the Courts of Ohio  
Vinton County-Rules of the Court of Common Pleas  
Probate Division**

**Rule 37.2 Application for Appointment of Emergency Guardian or Issuance of Emergency Order to be used in this Court (Form set forth as part of Rule 37.2)**

IN THE COURT OF COMMON PLEAS, VINTON COUNTY, OHIO  
PROBATE DIVISION

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

Case No. \_\_\_\_\_

**APPLICATION FOR APPOINTMENT OF EMERGENCY GUARDIAN OR ISSUANCE OF EMERGENCY ORDER**

The undersigned states that:

1. \_\_\_\_\_ is in need of an Emergency Guardian or the issuance of an Emergency Court Order to prevent the imminent risk of significant injury to the person or property of \_\_\_\_\_.
2. Attached is an Affidavit setting forth the underlying facts that indicate such imminent risk and support the basis of this Application.
3. Applicant is seeking the following specific orders from the court to prevent significant injury: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

WHEREFORE, Applicant requests the court issue an Emergency Guardianship or other restrictive orders as set forth in the application.

---

APPLICANT

---

Address

---

---

Phone No.

---

Email address

---

Attorney for Applicant

---

Address

---

---

Phone No.

---

Email address

---

Attorney Registration No.

**FILED**

MAY 29 2015

*M Robert Guillo*  
PROBATE JUDGE  
VINTON COUNTY, OHIO

**Adoption of Local Rule 37.3**

In accordance with rule 5 of the Rules of Superintendence for the Courts of Ohio, notice is hereby given to the adoption of Local Rule 37.3 to the Local Rules of the Vinton County Court of Common Pleas, Probate Division. The Local Rule is listed below as to the Affidavit in Support of Emergency Application and will be effective June 1, 2015.

**Rules Governing the Courts of Ohio  
Vinton County-Rules of the Common Pleas  
Probate Division**

**Rule 37.3 Affidavit in Support of Emergency Application to be used in this Court (form set forth as part of rule 37.3)**

IN THE COURT OF COMMON PLEAS  
VINTON COUNTY, OHIO  
PROBATE DIVISION

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

Case No.

**AFFIDAVIT IN SUPPORT OF EMERGENCY APPLICATION**

The undersigned Applicant, after being duly sworn, states the following:

1. The imminent risk of significant injury to the person or property of \_\_\_\_\_

Is as follows: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. The nature or type of significant injuries that might result without court order are:

\_\_\_\_\_

\_\_\_\_\_

---

3. The property and location of such that might suffer significant injury is described as follows: \_\_\_\_\_

4. The date that imminent risk was discovered by applicant: \_\_\_\_\_

5. Reasonable efforts that applicant has taken to otherwise prevent significant injury without court order \_\_\_\_\_

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

\_\_\_\_\_  
Applicant

Sworn to and subscribed before this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_

\_\_\_\_\_  
Notary Public/Deputy Clerk

**FILED**

MAY 29 2015

*M Robert Guillo*  
PROBATE JUDGE  
VINTON COUNTY, OHIO

**Adoption of Local Rule 37.4**

In accordance with rule 5 of the Rules of Superintendence for the Courts of Ohio, notice is hereby given to the adoption of Local Rule 37.4 to Local Rules of the Vinton County Court of Common Pleas, Probate Division. The Local Rule is listed below as to the Notice to Guardian Submission of Comments or Complaints, Superintendence Rule 66.03 (B) (2)

**Rule 37.4 Notice to Guardian Submission of Comments or Complaints, Superintendence Rule 66.03 (B) (2) (form set forth as part of rule 37.4)**

**PROBATE COURT OF \_\_\_\_\_ COUNTY, OHIO**

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

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

**NOTICE TO GUARDIAN  
SUBMISSION OF COMMENTS OR COMPLAINTS  
[Sup.R. 66.03(B)(2)]**

You are hereby notified that this Court has received the attached comments/complaints regarding your performance as Guardian of the Person/Estate of the above-named Ward. The Court will consider these comments or complaints, notify you of their disposition, and inform you if a hearing is necessary.

[Attach copy of comments or complaints.]

\_\_\_\_\_  
Probate Judge

By: \_\_\_\_\_  
Deputy Clerk



**FILED**

MAY 29 2015

**Adoption of local rule 37.5**

*M Robert Guillo*  
PROBATE JUDGE  
VINTON COUNTY, OHIO

In accordance with Rule 5 of the Rules of Superintendence for the Courts of Ohio, notice is hereby given to the adoption of Local Rule 37.5 to the Local Rules of the Vinton County Court of Common Pleas, Probate Division. The Local Rule is listed below as to Notice to Guardian and Maker of Comments or Complaints-Disposition of Comments or Complaints, Superintendence Rule 66.03 (B) (5).

**Rule 37.5 Notice to Guardian and Maker of Comments or Complaints-Disposition of Comments or Complaints, superintendence rule 66.03 (B) (5) (form set forth as part of rule 37.5)**

**PROBATE COURT OF \_\_\_\_\_ COUNTY, OHIO**

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

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

**NOTICE TO GUARDIAN AND MAKER OF COMMENTS OR COMPLAINTS-DISPOSITION OF COMMENTS OR COMPLAINTS  
[Sup.R. 66.03 (B)(5)]**

You are hereby notified that this Court has received comments or complaints regarding the Guardian's performance in this case. The Court has considered the comments or complaints and will maintain them in the Court's records. The Court has determined that:

- a hearing is not necessary and no further action will be taken at this time.
- a hearing is necessary and is scheduled for \_\_\_\_\_ at \_\_\_\_\_ .m.

\_\_\_\_\_  
Probate Judge

MAY 29 2015

*M Robert Grills*  
PROBATE JUDGE  
VINTON COUNTY, OHIO

**Adoption of local rule 37.6**

**In accordance with rule 5 of the Rules of Superintendence for the Courts of Ohio, notice is hereby given to the adoption of Local Rule 37.6 to the Local Rules of the Vinton County Court of Common Pleas, Probate Division. The Local Rule is listed below as to Notification of Compliance with Guardian Education Requirements, Superintendence Rules 66.06 and 66.07.**

**Rule 37.6 Notification of Compliance with Guardian Education Requirements, Superintendence Rule 66.06, Superintendence Rule 66.07 (form set forth as part of rule 37.6).**

**PROBATE COURT OF \_\_\_\_\_ COUNTY, OHIO**

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

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

**NOTIFICATION OF COMPLIANCE WITH  
GUARDIAN EDUCATION REQUIREMENTS  
[Sup.R. 66.06, Sup.R. 66.07]**

The undersigned, currently serves as the Guardian of the above-named Ward, and hereby reports to the Court that I have successfully completed:

- the guardian fundamentals course pursuant to Sup.R. 66.06; or
- the continuing education course pursuant to Sup.R. 66.07

Title of Course: \_\_\_\_\_

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

Location of Course: \_\_\_\_\_

Education Provided by: \_\_\_\_\_

[Attach certificate of completion if applicable.]

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

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

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

**FILED**

MAY 29 2015

**Adoption of local rule 37.7**

*M Robert Gills*  
PROBATE JUDGE  
VINTON COUNTY, OHIO

In accordance with Rule 5 of the Rules of Superintendence for the Courts of Ohio, notice is hereby given to the adoption of Local Rule 37.7 to the Local Rules of the Vinton County Court of Common Pleas, Probate Division. The Local rule is listed below as to Notice of Application for Change of Address, Superintendence Rule 66.08 (B).

Rule 37.7 Notice of Application for Change of Address, Superintendence Rule 66.08 (B) (form set forth as part of rule 37.7)

PROBATE COURT OF \_\_\_\_\_ COUNTY, OHIO

GUARDIANSHIP OF: \_\_\_\_\_

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

**NOTICE OF/APPLICATION FOR CHANGE OF ADDRESS  
[Sup.R. 66.08 (E)]**

Guardian's New Address: \_\_\_\_\_

Guardian's Old Address: \_\_\_\_\_

Ward's New Address: \_\_\_\_\_

Ward's Old Address: \_\_\_\_\_

New Telephone Number: \_\_\_\_\_

Reason: \_\_\_\_\_

[Attach additional pages if necessary.]

\_\_\_\_\_  
Applicant's Name

\_\_\_\_\_  
Signature

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

**ENTRY ON APPLICATION TO CHANGE ADDRESS OF THE WARD**

This \_\_\_\_\_ day of \_\_\_\_\_ this cause came to be heard on the application of the guardian of the above-named ward. Based on the information/testimony presented, the Court hereby finds that it is in the best interest of the ward that the application is APPROVED/DENIED. Therefore, the Court ORDERS that the Application to Change the Address of the Ward is APPROVED/DENIED and the ward SHALL/SHALL NOT be moved from the current residence.

IT IS SO ORDERED.

\_\_\_\_\_  
Probate Judge

MAY 29 2015

*M Robert Grillo*  
PROBATE JUDGE  
VINTON COUNTY, OHIO**Adoption of local rule 37.8**

In accordance with Rule 5 of the Rules of Superintendence for the Courts of Ohio, and Ohio Rule of Superintendence 66.01-66.09 and amended Sup. Rule 73, the Court recognizes and acknowledges that there will be substantial changes to Ohio's Guardianship Law as it relates to adult guardians of the person and estate. The local rule is listed below and would be effective June 1, 2015.

Likewise, this Court realizes that the need for such guardianships will only increase as the age of our population increases, including but not limited to people on limited and/or fixed incomes. The Court also believes that because of such changes that more and more attorneys will become involved and/or be needed in the process, either as the attorneys for the guardianships (for the applicants/proposed guardians and/or the ward) or to serve as the guardians of such persons and/or estates due to:

- (1) the expense involved in the initial six hour training and subsequent three hour trainings required by the new law for guardians which may prevent many lay people and relatives from wanting to or being able to be guardians;
- (2) due to the expense involved in conducting the background checks which will be incurred by all individuals other than attorneys as background checks are not required by attorneys as certificates in good standing will suffice; and
- (3) because the new law may be much more difficult for some lay persons to comply with and/or to understand in many instances.

Furthermore, this Court realizes and acknowledges that the indigent guardianship fund of the Vinton County Court of Common Pleas, Vinton County, Ohio, Probate Division is extremely small and finds such rule necessary to be adopted to expend as efficiently as possible the monies in said fund for the best interest of the wards.

As a result, the Court is giving notice of the adoption of Local Rule 37.8 to the Local Rules of the Vinton County Court of Common Pleas, Probate Division. The Local rule is listed below as to Attorney Fees that can be Charged in Adult Guardianship Cases that can be paid out of the Indigent Guardianship Fund.

**Rule 37.8-Attorney Fees that can be Charged in Adult Guardianship Case that can be paid out of the Indigent Guardianship Fund.**

- **Private Cases:** The Attorney is free to charge whatever fee that he and his client agree upon as part of the lawyer-client relationship, subject to court approval. This fee shall be paid for by the client of the attorney, not the indigent guardianship fund.
- **All other Cases (in particular those in which the proposed ward and/or ward is on a limited and/or fixed income):** The Attorney shall bill in accordance with whatever the current court appointed rate for Vinton County. Currently, that rate is \$40 per hour for in-court and \$30 per hour for out-of-court services. The Court, as it does in indigent criminal cases, will also consider reimbursement for such things as court costs, expert evaluations, etc. on a case to case basis when submitted as part of the Attorney's bill.

- **Extraordinary fees:** The Court will consider, upon written request, granting extraordinary fees where such fees are warranted.
- **Form of Bill and Proposed Order to be Submitted:** The bill shall be submitted in detail describing the work done and the time spent on each item, similar to what one does when submitting to the Court a bill for payment when representing indigent defendants and/or juveniles in this county. It should not be on the public defender forms as these are not public defender cases but should be itemized in sufficient detail so the Court can determine what work was performed. Likewise, a proposed order to approve said fees shall be submitted with the bill for payment.

JUL 30 2015

*M. Robert Guille*  
PROBATE JUDGE  
VINTON COUNTY, OHIO**Adoption of local rule 37.9**

In accordance with Rule 5 of the Rules of Superintendence for the Courts of Ohio, notice is hereby given to the adoption of Local Rule 37.9 to the Local Rules of the Vinton County Court of Common Pleas, Probate Division. The Local rule is listed below as Communication with the Ward, Superintendence Rule 66.09 (F) and Annual Plan Rule 66.08 (G). This local rule is listed below and would be effective June 1, 2015.

Rule 66.09 (F) states as follows:

- (1) A Guardian shall strive to know a ward's preferences and belief system by seeking information from the ward and the ward's family and friends.
- (2) A Guardian shall do all of the following:
  - (a) Meet with the ward as needed, but not less than once quarterly or as determined by the Probate Division of the Court of Common Pleas;
  - (b) Communicate privately with the ward;
  - (c) Assess the ward's physical and mental conditions and limitations;
  - (d) Assess the appropriateness of the ward's current living arrangement;
  - (e) Assess the needs for additional services;
  - (f) Notify the court if the ward's level of care is not being met;
  - (g) Document all complaints made by a ward and assess the need to report the complaints to the Court of Common Pleas.

Rule 66.08 (G) sets forth the General Responsibilities of the Guardian to submit an Annual Plan.

"A guardian of a person shall file annually with the Probate Division of the Court of Common Pleas a guardianship plan as an addendum to the Guardian's Report. A Guardian of the estate may be required to file an annual guardianship plan with the Probate Division of the Court of Common Pleas. The guardianship plan shall state the guardian's goals for meeting the ward's personal and financial needs.

Rule 37.9 Form needed to Complete Requirements of Rule 66.09 (F) and 66.08 (G), namely the communication with the Ward and Annual Plan Rule.



PROBATE COURT OF \_\_\_\_\_ COUNTY, OHIO

GUARDIANSHIP OF: \_\_\_\_\_

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

ANNUAL GUARDIANSHIP PLAN

[Sup.R. 66.08 (G)]

[Attach as addendum to Form 17.7-Guardian's Report.]

Date: \_\_\_\_\_, 20\_\_

For the period \_\_\_\_\_, 20\_\_ through \_\_\_\_\_, 20\_\_

1. Guardianship inception date?

\_\_\_\_\_, 20\_\_

2. Type of Guardianship?

- Person
- Estate (If Estate only, proceed to question 19)
- Both Person and Estate

3. Current Residence of the Ward (at time of filing)?

_____	_____
Name of Facility (if applicable)	Address
_____	_____
Phone Number	City, State, Zip

4. Type of Residence/Facility?

- Private home       Apartment       Senior Housing
- Independent Living       Assisted Living Nursing Home
- Other: \_\_\_\_\_

5. Prior to current residence, Ward lived at the following location(s) during the past year:  
A.

\_\_\_\_\_  
Name of Facility (if applicable) From: \_\_\_\_\_, 20\_\_

To: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Address

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

Type of Residence/Facility?

- Private home
- Apartment
- Senior Housing
- Independent Living
- Assisted Living Nursing Home
- Other: \_\_\_\_\_

B.

\_\_\_\_\_  
Name of Facility (if applicable) From: \_\_\_\_\_, 20\_\_

To: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Address

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

Type of Residence/Facility?

- Private home
- Apartment
- Senior Housing
- Independent Living
- Assisted Living Nursing Home
- Other: \_\_\_\_\_

(Attach additional pages if necessary)

6. Who is taking Ward to the doctor?

- Ward can transport self
- I transport ward and accompany to appointments
- \_\_\_\_\_ transports ward
- Other: \_\_\_\_\_

7. Who is ensuring Ward's medical needs?

- I make the doctor appointments and administer medications
- Nursing Home/Assisted Living Facility
- Other: \_\_\_\_\_

8. When was ward's last medical/doctor appointment?

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

9. Over the previous year, Ward took medications for the following:

- Anxiety
- Depression
- Cardiac issues
- Diabetes
- Memory problems
- Psychosis
- Other: \_\_\_\_\_

10. Ward's Assistive Devices?

- Dentures
- Hearing Aid
- Wheelchair
- Walker
- Crutches
- Glasses
- Other: \_\_\_\_\_

11. Guardian proposes the following as to provision of Ward's medical and rehabilitative services:

- Physical Therapy
- Routine examination by Primary Care Physician
- Routine examination by Dentist

- Routine examination by Ophthalmologist
- Routine examination by Specialist: \_\_\_\_\_
- Speech Therapy
- Occupational Therapy
- The Ward retains the right to make his or her own decisions.
- Other: \_\_\_\_\_

12. Guardian proposes the following as to provision of Ward's mental health services:

- Routine examination by Psychiatrist/Psychologist
- Ongoing outpatient treatment
- Ongoing inpatient treatment
- None
- Other: \_\_\_\_\_

13. Guardian proposes the following as to provision of Ward's personal care services (bathing, grooming, feeding, etc.):

- Nurses and Aides
- Care Facility
- Family and friends
- None
- Other: \_\_\_\_\_

14. What are the arrangements for Ward's preparation of meals/food?

- Ward can prepare own meals
- Ward can shop for own food
- I shop & prepare ward's food/meals
- Meals on Wheels comes \_\_\_\_\_ days per week
- Meals are provided at nursing home/assisted living facility
- Other: \_\_\_\_\_

15. Ward's level of Social Skills?

- High (maintains friendships)
- Moderate (can carry on a conversation)
- Low (does not communicate)

16. What are Ward's frequent social interactions & recreation activities?

- |   |  |                                    |
|---|--|------------------------------------|
| <input type="checkbox"/> Attends Church Services  | <input type="checkbox"/> Plays Cards   | <input type="checkbox"/> Shopping  |
| <input type="checkbox"/> Frequent Family Visits   | <input type="checkbox"/> Day trips out | <input type="checkbox"/> Puzzles   |
| <input type="checkbox"/> Watches TV               | <input type="checkbox"/> Crafts        | <input type="checkbox"/> Music     |
| <input type="checkbox"/> Computer/Internet        | <input type="checkbox"/> Reading       | <input type="checkbox"/> Gardening |
| <input type="checkbox"/> Socializing with Friends | <input type="checkbox"/> Volunteering  |                                    |
| <input type="checkbox"/> Other: _____             |  |                                    |

17. Guardian proposes the following as to provision of Ward's social services:

- Adult Day Care
- Counseling
- Home Care
- Senior Center visits
- Sheltered workshops
- Other: \_\_\_\_\_

18. Guardian's goals for meeting Ward's personal needs: (MUST BE COMPLETED BY GUARDIAN OF THE PERSON.)

---

---

---

---

---

(Attach additional pages if necessary)

19. Ward's sources of income?

- Social Security
- Social Security Disability Income
- Medicare
- Medicaid
- Pension
- Other: \_\_\_\_\_

20. Current value of Ward's estate?

Total Value of Personal Estate	\$ _____
Total Value of Real Estate	\$ _____
Annual Rent on Real Estate	\$ _____
Other Annual Income	\$ _____
Total	\$ _____

21. Guardian's goals for meeting Ward's financial needs: (MUST BE COMPLETED)

---

---

---

---

---

---

---

---

[Attach additional pages if necessary]

\_\_\_\_\_  
Guardian Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

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

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

FILED

IN THE COURT OF COMMON PLEAS, VINTON COUNTY, OHIO  
PROBATE DIVISION

JUL 15 2016

*N. Robert Grillo*  
PROBATE JUDGE  
VINTON COUNTY, OHIO

In the matter of: The Local Rules of Court, Adoption of New Court Rule 38.0

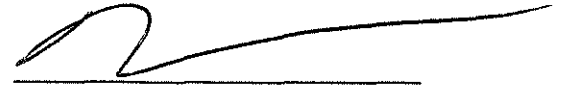
Entry/Order

As a matter of necessity and uniformity, the Court hereby adopts, effective immediately, the following Rule 38.0, in regard to the filing of the FBI/BCI background checks in adoption cases:

**Rule 38.0 Filing of FBI/BCI background checks in adoption cases**

The Court hereby orders that an FBI/BCI background check be filed in adoption cases at the time of the filing of the petition for adoption. Failure to do so may result in the Court not proceeding with the case until said FBI/BCI background check is filed.

Rule 38.0 of this Court adopted July 14, 2016, goes into effect immediately upon the signing of this Entry/Order.



Judge N. Robert Grillo

Distribution to all counsel that practice before this Court on a regular basis