

JUDGE KEVIN L. GREER

COMMON PLEAS COURT OF HIGHLAND COUNTY, OHIO

PROBATE DIVISION

LOCAL COURT RULES

**THE FOLLOWING RULES ARE SUPPLEMENTAL TO THE RULES
OF SUPERINTENDENCE FOR THE COURTS OF OHIO, THE
OHIO REVISED CODE AND THE RULES OF CIVIL PROCEDURE.**

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SUP. R. 11

RECORDING OF PROCEEDINGS

LOC. R. 11.1

RECORDING OF PROCEEDINGS

The Court will make an audio recording of the proceedings as the record of the Court. Parties who desire to have a stenographic record of the proceedings must contact the Court reporter at least 14 days prior to the scheduled hearing. The costs of the stenographic record shall be paid by the requesting party unless otherwise ordered by the Court. The original audio electronic recording of the proceedings will not be made available to the parties. Arrangements must be made with the Court to have proceedings copied or transcribed by a stenographer approved by the Court. Tapes of all electronically recorded proceedings will be maintained by the Court for five (5) years from the date of the hearing. Any interested person desiring to preserve the record beyond that period must make arrangements to have the record transcribed.

SUP. R. 51

STANDARD PROBATE FORMS

LOC. R. 51.1

FORM AVAILABILITY

Approved forms for use in the Highland County Probate Court are available at the Court. All forms are to comply with The Ohio Rules of Superintendence.

SUP. R. 52

**SPECIFICATIONS FOR PRINTING
PROBATE FORMS**

LOC. R. 52.1

COMPUTERIZED FORMS

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

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

SUP. R. 53

HOURS OF THE COURT

LOC. R. 53.1

HOURS OF THE COURT

The Probate Court shall be open for the transaction of business from 7:00 a.m. to 4:00 p.m., Monday through Friday, and from 8:00 a.m. to 12:00 noon on Saturday, except Holidays and at the discretion of the Judge.

SUP. R. 55

EXAMINATION OF PROBATE RECORDS

LOC. R. 55.1

WITHDRAWAL OF FILES

No court file shall be removed from the offices of the Probate Court without written Permission from the Judge.

LOC. R. 55.2

PHOTOCOPIES

Copies of any public record may be obtained at the costs of Ten cents (\$.10) per page.

SUP. R. 57

FILINGS AND JUDGMENT ENTRIES

LOC. R. 57.1

FACSIMILE FILINGS

The Court will not accept filings by facsimile transmission or electronic mail.

LOC. R. 57.2

COMPLETE STREET ADDRESS

When required on a Court document, an attorney or fiduciary address must be a street address and, if applicable, any post office box numbers used as a mailing address. The address of the fiduciary must be the fiduciary's legal residence.

LOC. R. 57.3

ORIGINAL SIGNATURES

All filings must contain original signatures. In all matters with multiple fiduciaries, the signature of all fiduciaries is required. Persons who are not an attorney may not sign on behalf of an attorney.

LOC. R. 57.4

FIDUCIARY SIGNATURE

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

LOC. R. 57.5

COURT FILINGS

All filings must be legible, on 8-1/2" x 11" paper and the type size for the body of the document be not less than ten (10) point or greater than twelve (12) point. The Court will accept for filing only those pleadings which are complete.

LOC. R. 57.6

FORWARDING COPIES

The Court will not return file-stamped copies by mail unless submitted with a return, self-addressed, stamped envelope with sufficient postage.

LOC. R. 57.7

ISSUANCE OF SUMMONS

A Request for Issuance of Summons shall be filed with all original and amended complaints or petitions in civil actions before the same will be issued.

LOC. R. 57.8

DISPOSITION OF EXHIBITS

All exhibits offered for admission during a hearing or trial shall be labeled by party name and item identification. In a proceeding recorded by a Court stenographer, custody of exhibits admitted or proffered shall be given to the stenographer, unless otherwise ordered by the Court. If the proceeding is electronically recorded, exhibits shall be filed in the Court case file, unless otherwise ordered by the Court.

Upon agreement of the parties or by order of the Court, copies may be substituted for the original exhibit.

Disposal of exhibits shall be pursuant to Sup. R. 26.

LOC. R. 57.9

**CERTIFICATE OF NOTICE OF ENTRY OF
JUDGMENT**

Any proposed entry submitted to the Court which is subject to Civ. R. 58 (B) as modified by Civ. R. 73(I) shall contain a certificate of service including the names and addresses of all parties and other interested persons required to be served.

SUP. R. 58

DEPOSIT FOR COURT COSTS

LOC. R. 58.1

DEPOSITS

The business of this Court shall be conducted on a cash basis. The Court will not accept personal checks. The court will only accept cash, money orders, cashier's checks, attorney, title company, or trust company checks.

- (A) Filing an application for appointment of any estate fiduciary shall require a minimum deposit of One Hundred Twenty-five and No/100 Dollars (\$125.00);
- (B) Filing any complaint, except for the presentation of a claim or a land sale, shall require a minimum deposit of One Hundred Fifty and No/100 Dollars (\$150.00);
- (C) Filing a subpoena shall require a minimum deposit of Eight and No/100 Dollars (\$8.00) for in county Sheriff service and Six and No/100 Dollars (\$6.00) for the witness fee. Subpoenas served out of county may require additional deposits and shall include a check for witness and mileage fees made payable to the witness.

LOC. R. 58.2

WITNESS FEES

Witness fees must be requested at the conclusion of the hearing for which the subpoena was issued or when the witness is released by the Court. If not requested at those times, the fee is waived. All unused portions of the subpoena deposit will be refunded to the depositor.

LOC. R. 58.3

RELEASE OF ADOPTION INFORMATION

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

LOC. R. 58.4

**FILING TRANSCRIPTS, EXHIBITS, OR
FOREIGN RECORDS**

The filing fee required by Ohio R. C. 2101.16(A)(57) shall be paid at the time of the request of the transcript.

SUP. R. 60

**APPLICATION FOR LETTERS OF AUTHORITY TO
ADMINISTER ESTATE AND NOTICE OF APPOINTMENT**

LOC. R. 60.1

**APPOINTMENT OF NONRESIDENT
FIDUCIARIES**

An applicant to be appointed fiduciary of a decedent's estate, or trust, who is not a resident of this state, must be in compliance with Ohio R.C. 2109.21 and use as the attorney of record an attorney licensed to practice law in this State. To assure the assets remain in Highland County, Ohio, during the administration of the estate or trust, the applicant must meet one or more of the following criteria as required by the Court:

- (A) Place a substantial amount of the decedent's personal assets in a custodial depository in this county, pursuant to Ohio R.C. 2109.13;
- (B) Have a co-fiduciary who is a resident of this State;
- (C) Post a bond in compliance with Ohio R.C. 2109.04.

LOC. R. 61.1

APPRAISERS' FEES

(A) Maximum appraisers' fees for real estate shall be based upon the entire undivided value of the assets subject to appraisal (not the decedent's interest in the property which may be fractional). Fees shall be computed at the rate of:

- (1) \$1.50 per thousand for the first \$200,000 of valuation;
- (2) \$1.00 per thousand in excess of \$200,000 of valuation.

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

(B) If a Highland County appraiser is employed to appraise real estate located in another county, in addition to the fee calculation in paragraph (A) above, the appraiser may also charge a mileage fee.

(C) Any appraiser fee requested in excess of the above schedule and appraisals of personalty must either be by agreement between the fiduciary and the appraiser or must be approved by the Court prior to the appraisal being made.

(D) Unless there is a dispute, or an appraisal is required for other purposes, a Court-appointed appraiser shall not be necessary in the following situations:

- (1) In estates relieved from administration, a statement attesting to the auditor's appraised value, signed by a representative of the County Auditor will be accepted as the appraised value of the real estate for Probate Court purposes and on the Ohio estate tax return.

(2) Where the estate is comprised of personal property of readily ascertainable value.

(E) All appraisers shall give the fiduciary and the attorney of record a written appraisal of each property appraised. The signature of the appraiser shall constitute a certification that the appraisal was performed truly, honestly, and impartially.

SUP. R. 64

ACCOUNTS

LOC. R. 64.1

FIDUCIARY'S SIGNATURE

(A) All accounts must be personally signed by the fiduciary and contain the full name, current resident address, and telephone number of the fiduciary.

(B) All fiduciaries must sign the account when multiple fiduciaries have been appointed unless for good cause shown the Court permits otherwise.

(C) For decedents' estates, the first account, as required by Ohio R.C. 2109.30, shall be automatically extended without application to twelve (12) months following the date of appointment of the estate fiduciary. All subsequent accounts must be filed on an annual basis unless the Court orders otherwise. Accounts not filed in compliance with this rule shall be subject to citation.

(D) For guardianships and trusts, the first account shall be filed not later than one (1) year following the date of the appointment and all subsequent accounts shall be filed on an annual basis, unless otherwise ordered by the Court.

LOC. R. 64.2

DELINQUENCY IN FILING AN ACCOUNT

No expenditure, sale, distribution, or fee will be approved while the fiduciary is delinquent in filing an account. See also Sup. R. 78.

LOC. R. 64.3**VOUCHERS**

The Court requires original vouchers to be displayed when filing accounts. The Court will accept as a voucher a statement from a financial institution specifying the payee, check amount, and date of payment.

In lieu of submitting vouchers in a solvent decedent's estate, the fiduciary may file with the account, a waiver and consent from all the beneficiaries acknowledging each received a copy of the account, waives notice of the hearing on the account, and consents to the filing of the account. The signature of each beneficiary must be dated.

The Court may accept a combination of vouchers and consents. In lieu of receiving waivers and consents from all the beneficiaries, vouchers from specific and pecuniary beneficiaries may be submitted with consents from all remaining beneficiaries.

Adding machine tapes shall be provided which reflect receipts, disbursements, and balances.

LOC. R. 64.4**PAYMENT OF DEBTS**

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

LOC. R. 64.5**CERTIFICATE OF ATTORNEY**

A Certificate of Attorney shall be properly executed and filed in each estate where an executor or administrator is appointed. See Appendix "A" for the form to be used.

SUP. R. 66**GUARDIANSHIPS**

LOC. R. 66.1**GUARDIANSHIPS OF MINORS**

(A) A certified copy of the minor's birth certificate must be filed with the guardian's application.

(B) The Court will not establish any guardianship over the person of a minor where another Court has jurisdiction over custody of the minor.

(C) Minors who are not U.S. citizens or are resident aliens, are not considered by this Court to be residents or have legal settlement as set forth in Ohio R.C. 2111.02(A).

LOC. R. 66.2 **RELEASE OF FUNDS**

Funds in the name of the ward shall not be released to the guardian without a specific Court Order.

LOC. R. 66.3 **CHANGE OF ADDRESS**

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

LOC. R. 66.4 **GUARDIAN'S REPORT**

Where a physician or clinical psychologist states on a Statement of Expert Evaluation that to a reasonable degree of medical certainty it is unlikely the ward's mental competence will improve, the Court may dispense with the filing of subsequent Statements of Expert Evaluation when filing their subsequent biennial guardian's reports.

LOC. R. 66.5 **TERMINATION**

Applications to terminate a guardianship of a minor require notice to all persons designated in Ohio R.C. 2111.04 and any other individuals who received actual notice of the original appointment of the guardian.

SUP. R. 67

ESTATES OF MINORS OR NOT MORE THAN TEN THOUSAND DOLLARS

LOC. R. 67.1

DISPENSE WITH GUARDIANSHIP

Applications to dispense with the appointment of a guardian shall follow the notice required in Ohio R.C. 2111.04.

LOC. R. 67.2

BIRTH CERTIFICATE

A certified copy of the minor's birth certificate must be presented to the Court upon the filing of the application to dispense with guardianship.

SUP. R. 68

SETTLEMENT OF INJURY CLAIMS OF MINORS

LOC. R. 68.1

BIRTH CERTIFICATE

A certified copy of the minor's birth certificate must be presented to the Court upon the filing of the application to settle a minor's claim unless previously filed in a Guardianship in this Court.

LOC. R. 68.2

SEPARATE CASE NUMBER

Settlement of a minor's claims are separate proceedings and shall not proceed under the case number assigned to the guardianship, if any.

Pursuant to Sup. R. 67(C), the attorney representing the applicants or the payor in the matter shall acknowledge responsibility for depositing the funds and providing the financial institution with a copy of the entry. The attorney shall obtain a Verification of Receipt and Deposit (Standard Probate Form 22.3) from the financial institution and file the form with the Court within seven (7) days of the issuance of the entry.

LOC. R. 68.3

STRUCTURED SETTLEMENTS

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

(A) The application shall include a signed statement from one of the following independent professionals, specifying the present value of the settlement, and the method of calculation of that value; an actuary, certified public accountant, certified financial planner, chartered life underwriter, chartered financial consultant, or an equivalent professional.

(B) If the settlement is to be funded by an annuity, the application shall include a signed statement by the annuity carrier or the broker procuring the policy stating:

- (1) The annuity carrier is licensed to write annuities in Ohio.
- (2) The annuity carrier's ratings from at least two of the following organizations, which meet the following criteria:
 - a. **A.M. Best Company:** A++, A+, or A;
 - b. **Duff & Phelps Credit Rating Company** (Claims Paying Ability Rating): AAA, AA+, or AA;
 - c. **Moody's Investors Service** (Financial Strength): Aaa, Aa1, or Aa2;
 - d. **Standard & Poor's Corporation** (Financial Strength): AAA, AA+, or AA;
 - e. **Weiss Research Inc.:** A+ or A.

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

SUP. R. 70 **SETTLEMENT OF WRONGFUL DEATH AND SURVIVAL CLAIMS**

LOC. R. 70.1 **SETTLEMENT OF CLAIMS**

The application to settle a claim for wrongful death and the apportionment of the proceeds are two distinct matters for which the Court may require separate hearings.

SUP. R. 71 **COUNSEL FEES**

LOC. R. 71.1 **ATTORNEY FEES**

Attorneys are expected to be familiar with DR2-106 of the Code of Professional Responsibility that governs the reasonableness of fees. Upon review of the records, the Court may set the fees for hearing, regardless of the submission of consent(s) to fees. The computation form is found in Appendix B to these Rules which shall be filed in each case.

LOC. R. 71.2 **ATTORNEY SERVING AS FIDUCIARY**

In all matters where an attorney is the fiduciary of the estate, guardianship, or trust, and that attorney or another is the attorney of record, detailed records shall be maintained describing time and services as fiduciary and as attorney, which records shall, upon request, be submitted to the Court for review. DR2-106 of the Code of Professional Responsibility shall govern the reasonableness of all fees, notwithstanding statutory allowances. The Court assumes an attorney, appointed as fiduciary, has been selected

due to the attorney's special knowledge and abilities resulting in a savings of fees to the estate, guardianship, or trust.

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

LOC. R. 71.3

EARLY PAYMENT OF ATTORNEY FEES

Attorney fees for the administration of decedents' estates shall not be paid or advanced from any source until the final account or final closing documents are prepared for filing unless otherwise approved by the Court upon application. Such application shall contain a statement that the fee is being required in advance of the time permitted by Sup. R. 71(B) and shall set forth the reason for requesting the early payment of fees. The application shall be accompanied by a consent as to the amount and the timing of the fees by all beneficiaries who have yet to receive their complete distribution or shall be set for hearing with notice to the nonconsenting beneficiaries.

LOC. R. 71.4

NOTICE AND CONSENT FOR ATTORNEY FEES IN ESTATES

Application for extraordinary attorney fees in estates (those above Appendix B), made at the time of the filing of the final account, shall include a statement of the amount of the fees and a statement of services rendered. The applicant shall give notice of the hearing on the fees to one hundred percent (100%) of the persons whose interests are affected by the payment of the fees, including creditors if the estate is insolvent.

LOC. R. 71.5

NOTICE AND CONSENT FOR ATTORNEY FEES IN GUARDIANSHIPS

In guardianship administration, the Court shall consider applications for attorney fees for the establishment of the guardianship upon the filing of the inventory, and shall

consider additional fees annually upon the filing of each account. Notice of the application shall be given to the guardian of the estate. The guardian of the estate may waive notice of the hearing and consent to the payment of fees.

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

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

LOC. R. 71.6

NOTICE AND CONSENT FOR ATTORNEY FEES IN TRUSTS

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

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

LOC. R. 71.7

CONTESTED FEES

The burden is upon the attorney to prove the reasonableness of the fees as governed by DR2-106 of the Code of Professional Responsibility. A detailed fee statement may be required which includes the itemization and date of service performed, time expended, identification of the individual(s) performing the services, and the hourly rate charged.

LOC. R. 71.8

CONTINGENT FEES

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

In minor settlement cases where no guardian has been appointed, the attorney shall make the above application.

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

SUP. R. 73

GUARDIAN'S COMPENSATION

LOC. R. 73.1

GUARDIAN'S COMPENSATION

(A) Guardian's compensation for services as guardian of the estate shall be computed annually upon application and entry and shall be supported by calculations and documentation. The following fee schedule shall apply unless extraordinary fees are requested. Extraordinary fee applications shall be set for hearing unless hearing is waived by the Court.

- (1) Income/Expenditure Fee. Four percent (4%) of the first \$10,000 of income received, plus three percent (3%) of the balance in excess of \$10,000, and four percent (4%) of the first \$10,000 of expenditures, plus

three percent (3%) of the balance in excess of such \$10,000. As used in this rule, "income" shall mean the sum of income as defined in Ohio R.C. 1340.03, plus pension benefits, plus net gains from the sale of principal. Assets held by the ward at the date of appointment are deemed to be principal and not income. See Appendix D.

(B) Compensation for services as guardian of the person only shall be set for hearing unless the hearing is waived by the Court.

(C) All motions, including application for compensation, by guardians of veterans must comply with Ohio R.C. Chapter 5905 and all other rules and regulations of the Department of Veterans Affairs.

SUP. R. 74

TRUSTEE'S COMPENSATION

LOC. R. 74.1

TRUSTEE'S COMPENSATION

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

- (1) Income Fee. Six percent (6%) of the gross income received during the accounting period not exceeding \$10,000 of gross income, five percent (5%) of the next \$10,000 of gross income, and four percent (4%) of such gross income exceeding \$20,000, chargeable to income unless otherwise ordered. As used in this rule, "income" shall mean the sum of income as defined in Ohio R.C. 1340.03, plus pension benefits, plus net gains from

the sale of principal accrued during the trust administration. Assets held by the trustee at the date of appointment are deemed to be principal and not income. See Appendix E.

(B) Additional compensation for extraordinary services or allowance for expenses may be granted on application and entry, which shall be set for hearing unless waived by the Court.

SUP. R. 75

LOCAL RULES

LOC. R. 75.1

GUARDIAN AD LITEM

The Court shall select and appoint each guardian ad litem. In all proceedings, the amount of the guardian ad litem fee will be determined upon motion supported by a statement of services. The guardian ad litem's fees may be assessed as costs.

LOC. R. 75.2

ADOPTIONS

(A) An original and a copy of all petitions, interlocutory decrees, and final decrees shall be filed in every adoption case. Additional copies of the petition shall be submitted as required for service.

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

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

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

(E) The criminal background checks pursuant to Ohio R.C. 2151.86(B) and petitioner's accounts shall be filed in all cases.

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

(G) In all placement hearings where a birth parent of the child to be adopted is a minor, that birth parent shall be represented by an attorney. The fees for the attorney for the birth parent will be assessed as costs to the petitioner.

LOC. R. 75.3

CUSTODIAL DEPOSITS IN LIEU OF BOND

All custodial deposits of personal property, securities, and monies must comply with Ohio R.C. 2109.13. All institutions desiring to be a depository must satisfy the Court of their authorization and certification by the State of Ohio.

LOC. R. 75.4

SURETY BONDS

(A) A surety company, prior to executing a fiduciary bond, must register with the Court and file proof that the company is authorized to do business within this State. Agents must file a power of attorney from the company prior to executing bonds for that company.

(B) Attorneys shall not act as sureties in any case, nor shall they be permitted to become sureties on the bond of any fiduciary.

(C) The Court will not accept personal sureties.

(D) Bond required by law or Court order shall be in an amount not less than double the probable value of the personal estate including all sources of income during the accounting period.

(E) The bond premium shall be paid by the fiduciary upon receipt of the bill for the bond premium. The proceedings shall remain open until the fiduciary has accounted for the payment of the bond premium. Should payment not be made pursuant to this rule, the fiduciary and attorney may be held personally liable for its payment.

LOC. R. 75.5

WILLS DEPOSITED FOR SAFEKEEPING

Any person placing a will on deposit in this Court shall sign a written statement acknowledging the will is being placed on deposit at the request of the testator or guardian of the testator and identify the testator's current address and telephone number.

- e. proposed jury instructions;
- f. proposed jury interrogatories;
- (3) Clients shall be present unless their presence has been excused by the Court.

(E) The trial date shall not be continued without good cause shown and order of the Court.

II. CIVIL ACTIONS: LAND SALES

(A) All cases must have a general file number before a civil action may be filed.

(B) All land sales which have not been concluded within one (1) year from the date of filing shall be set for status conference by plaintiff's counsel within thirty (30) days following the expiration of one (1) year.

- (1) The fiduciary and the attorney must attend the status conference.
- (2) A written status report shall be submitted to the Court at the status conference. The status report shall address pending issues and the efforts being made to conclude the land sale.
- (3) The fiduciary shall show cause why the Court should not order public sale of the real estate.

III. MOTIONS

(A) All motions filed in this Court shall be accompanied by a memorandum stating the grounds and citing the authorities relied upon. Opposing counsel or a party shall serve the response memorandum on or before the fourteenth (14th) day after the date of service as set forth on the certificate of service attached to the served copy of the

motion. The moving party shall serve any reply memorandum on or before the seventh (7th) day after the date of service as set forth on the certificate of service attached to the served copy of the response memorandum. On the twenty-eighth (28th) day after the motion is filed, the motion shall be deemed submitted to the Court unless a prior written request for an oral hearing has been filed and approved by the Court. The time and length of any oral hearing shall be fixed by the Court. Except as otherwise provided, this rule shall apply to all motions.

(B) Motions for summary judgments are subject to the preceding Paragraph (A) and set for non-oral hearing on the twenty-eighth (28th) day following the filing of the motion for summary judgment. The filing of opposing affidavits and supporting documents are subject to Civ. R. 56.

(C) Motions for temporary restraining orders, preliminary injunctions, or similar urgent equitable relief, applications and motions relating to administrative matters, and appointments shall be heard at a time set by the Court. When required, notice of the time and place of the hearing shall be served upon any adverse party or their counsel by the moving party.

IV. MENTAL ILLNESS AND MENTAL RETARDATION HEARINGS

All hearings shall comply with R.C. Chapters 5122 or 5123.

V. ADOPTIONS

The status of pending preplacement applications and adoption proceedings shall be reviewed annually and the Court may order further action as necessary. Additional rules on adoptions are located in Local Court Rule 75.2.

VI. MISCELLANEOUS MATTERS

All miscellaneous matters shall be reviewed annually and the Court shall order further action as necessary.

VII. FAILURE TO COMPLY

Failure to comply with this Case Management Rule may result in dismissal pursuant to Civ. R. 41 and other sanctions, including but not limited to, payment of costs and attorney fees.

LOC. R. 78.2

WITHDRAWAL OF COUNSEL

(A) An attorney desiring to withdraw shall file a motion to withdraw stating the reasons for withdrawal. The motion shall contain the last known address and telephone number of the client. The court shall not issue an entry approving the withdrawal until the attorney has filed a certification that the following conditions have been fulfilled:

- (1) Notice has been given to the client stating all filing deadlines affecting the client;
- (2) Notice has been given to all attorneys, unrepresented parties, and interested persons;
- (3) Attorneys withdrawing from representation of a fiduciary shall file the written acknowledgment of the withdrawal signed by the fiduciary or the withdrawal shall be granted only after a hearing with notice to the fiduciary. The attorney shall also notice any bonding agencies involved.

(B) No attorney shall be permitted to withdraw from a case sooner than twenty

(20) days prior to a trial or dispositive hearing, except for extraordinary circumstances that require permission of the Court.

(C) Substitution of counsel shall be in writing but does not require approval of the Court. Notice shall be given to all attorneys, unrepresented parties, and interested persons.

LOC. R. 78.3

INVENTORY

(A) In lieu of the appraiser signing the estate inventory, the fiduciary may attach to the inventory the original appraisal(s) containing the signature of the appraiser(s).

(B) The inventory shall contain the address, legal description, and parcel number of the interest in the real estate of the decedent or ward.

(C) All inventories for a decedent's estate shall be filed in duplicate, the original and a copy.

(D) The inventory will not be accepted for filing unless the bond, when required, is sufficient pursuant to Loc. R. 75.4. A guardian's inventory shall include the projected annual income of the ward.

(E) The Court will not approve the distribution, sale, or expenditure of any estate or guardianship or trust assets prior to the filing and approval of the inventory.

(F) All fiduciaries must sign the inventory when multiple fiduciaries have been appointed unless for good cause shown the Court permits otherwise.

LOC. R. 78.4

MEDIATION

(A) After the filing of an estate, guardianship application, trust, or any other action, the Court, on its own motion or the motion of any of the parties, may refer disputed issues to mediation.

(B) The mediation sessions may be held until all issues are resolved in a manner acceptable to the disputing parties, or until the mediator determines that continued mediation would not be productive.

(C) The Court may order parties to participate in or return to mediation at any time.

(D) Statements made during a mediation session shall be considered compromise negotiations and are not admissible as evidence pursuant to Evidence Rule 408. Mediators will not be permitted to testify regarding the substance of the mediation, including but not limited to, cooperation, or noncooperation of the parties.

(E) To be accredited and appointed by the Court, a mediator shall possess the following qualifications:

- (1) Be an attorney in good standing with Supreme Court of Ohio;
- (2) Have five (5) years of experience in handling probate matters; and,
- (3) Have completed forty (40) hours of advanced mediation training, which has been approved for Continuing Legal Education and is approved by the Court.

(F) Referral to mediation by the Court shall be by "Notice of Mediation" which shall indicate the time, place of the mediation, and the name and telephone number of the mediator.

(G) The parties are equally responsible for paying the mediator's fee for the first mediation session. If continued mediation sessions are necessary, the mediator's fee shall be borne equally by the parties, unless otherwise ordered by the Court. The court will determine the rate at which the mediator will be paid. The mediator's fee will be determined by the complexity of the issues in the matter being mediated. Any additional expenses associated with the mediation must be preapproved by the Court.

APPENDIX A

**IN THE HIGHLAND COUNTY COURT OF COMMON PLEAS
PROBATE DIVISION**

IN THE MATTER OF THE ESTATE _____, deceased

CASE NO.: _____

CERTIFICATE OF ATTORNEY

As attorney for the fiduciary and as an officer of the Court, I certify that I have reviewed the filings in this estate and that the following matters have been properly completed to the best of my knowledge and belief:

- Affidavit verifying notice of probate of will given to all persons entitled thereto pursuant to 2107.19 R.C. (Decedent died after 05/30/90)(S.Ct.R.59)
- All known assets included in the inventory or report of newly discovered assets
- Notice of hearing on inventory given to surviving spouse, all next of kin, beneficiaries and attorneys not waiving notice
- Family allowance properly apportioned, if applicable
- All claims presented to fiduciary or fiduciary's attorney have been paid or otherwise discharged
- Schedule of Claims filed if required by statute or local rule
- Explanation filed with Court if any claim not paid in full
- Notice issued to surviving spouse of right to elect, if required
- Federal and Ohio Estate Tax returns filed, if required
- Bond premiums paid, if any
- All real estate transferred
- All other assets properly accounted for and receipted for
- Manner of calculating attorney and fiduciary fees filed
- Vouchers for all expenditures and distributions filed
- Adding machine tape of account filed
- All other matters that have come to my attention have been properly disposed of to the benefit of all beneficiaries
- Notice given to distributees of potential liability

OTHER MATTERS COURT SHOULD BE AWARE OF:

Dated

Legal Counsel for the Estate

APPENDIX B
PROBATE COURT OF HIGHLAND COUNTY, OHIO

IN THE MATTER OF: _____ } CASE NUMBER _____
 _____ } APPLICATION, CONSENT AND ENTRY
 _____ } APPROVING ATTORNEY FEE

The undersigned consent to the payment of an attorney fee of \$ _____
 to _____

We understand that the following are among the factors considered as guides in determining the reasonableness of the fee:

- A. The time and labor required:
- B. The fee customarily charged in the locality for similar legal services,
- C. The amount involved and the results obtained.

The following guidelines is not a fee schedule but is intended as a guide in estimating the fee customarily charged in this locality for similar legal services.

	<u>ASSET TOTAL</u>		<u>FEE</u>
1. Probate Personal Property Plus Gross Proceeds			
From Sale of Real Estate			
The first \$100,000 at a rate of 4%	\$ _____ at 4%		\$ _____
The next \$300,000 at a rate of 3%	\$ _____ at 3%		\$ _____
All over \$400,000 at a rate of 2%	\$ _____ at 2%		\$ _____
2. Probate Real Estate Not Sold			
The first \$50,000 at a rate of 4%	\$ _____ at 4%		\$ _____
All over \$50,000 at a rate of 3%	\$ _____ at 3%		\$ _____
3. Non-Probate Assets as Set Forth in Ohio Estate Tax Return			
The first \$100,000 of personal property at a rate of 2%	\$ _____ at 2%		\$ _____
All over \$100,000 at a rate of 1%	\$ _____ at 1%		\$ _____
Non-Probate real estate at a rate of 1%	\$ _____ at 1%		\$ _____
TOTAL FEE			\$ _____

The undersigned believe that the fee as computed by the attorney is reasonable under the above factors.

 Attorney

 Fiduciary

 Beneficiary

 Beneficiary

 Beneficiary

 Beneficiary

ENTRY

_____ The foregoing fee agreement is within the Court's Rules and is approved as filed.
 _____ The agreement is not within the Court's Rules and is ordered set for hearing with notice to all interested parties.

 JUDGE

Appendix C

Application for and Computation of Executor/Administrator Fees
2113.35 O.R.C.

Personalty (Including income and proceeds from the sale of real estate)	\$ _____		
0 - \$100,000 @ 4%		4%	\$ _____
\$100,000 to \$400,000 @ 3%		3%	\$ _____
\$400,000 @ 2%		2%	\$ _____
 Real Estate (not sold) @ 1%	\$ _____	1%	_____
Non Probate Property @ 1% (except joint & survivorship property)	\$ _____	1%	_____
 Total Fiduciary Fees			\$ _____

Fiduciary or Attorney

Appendix D

Computation of Guardian Fees

Accounting Period From _____ to _____

Total Income \$ _____

0 - \$10,000 @ 4% 4% \$ _____

\$10,000 - @ 3% 3% \$ _____

Total Expenditures \$ _____

0 - \$10,000 @ 4% 4% \$ _____

\$10,000 - @ 3% 3% \$ _____

Total Guardian Fees \$ _____

Guardian or Attorney

Appendix E

Computation of Trustee Fees

Accounting Period From _____ to _____

Total Income \$ _____

0 - \$10,000 @ 6% 6% \$ _____

\$10,000 - \$20,000 @ 5% 5% \$ _____

\$20,000 - @ 4% 4% \$ _____

Total Income \$ _____

Trustee or Attorney

COURT OF COMMON PLEAS
PROBATE & JUVENILE DIVISIONS

HIGHLAND COUNTY COURTHOUSE
105 North High Street
Hillsboro, Ohio 45133

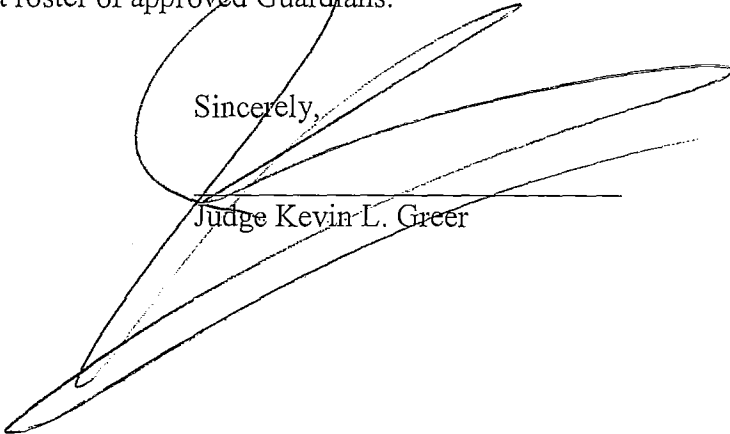
KEVIN L. GREER, JUDGE

Phone: (937) 393-9981
(937) 393-9982
Fax: (937) 393-0926

To comply with Rule 66 to the Rules of Superintendence for the Courts of Ohio, I have attached a copy of four new local rules as well as Rule 66. Please contact my office should you have questions or concerns.

At such time you have completed the requirements of Rule 66.06 please advise the Court should you request being placed on the Court roster of approved Guardians.

Sincerely,



Judge Kevin L. Greer

**HIGHLAND COUNTY COURT OF COMMON PLEAS
PROBATE DIVISION**

LOCAL RULES
(Effective 06/01/2015)

Rule 66.6 Emergency Guardianships

- A. For all applications for the appointment of an emergency guardian, evidence shall be presented and a physician shall personally appear unless otherwise ordered by the court and testify why it is reasonably certain that immediate action is required to prevent significant injury to the person of the minor or alleged incompetent. If the physician is not testifying, a statement of expert evaluation must be submitted with the application for appointment.
- B. The applicant shall exercise due diligence in giving notice of hearing upon the proposed ward in all emergency guardianships.

Rule 66.7 Guardianship-Veterans Affairs

- A. For all guardianship proceedings wherein the proposed ward is receiving income from the Department of Veterans Affairs, the VA shall be a necessary party and entitled to notice of all pleadings filed therein, including, but not limited to, the initial application for appointment and the annual accountings.
- B. The Court shall supply the guardian or the attorney for the guardian, at no cost, certified copies of any of the pleading filed in the proceedings, for submission to the Department of Veterans Affairs.
- C. All Applications for guardian's compensation or attorney's fees shall be set for hearing, and notice shall be given to the Department of Veterans Affairs, unless a Waiver or Consent is obtained.

Rule 66.8 Guardianship

The Judgment Entry Appointing Guardian for Incompetent Person (SPF 17.5) shall indicate whether the provisions of SupR 66.01 through 66.09 shall apply to the individual who is appointed guardian if that person is related to the ward by consanguinity or affinity.

Rule 66.9 Guardian Comments and Complaints

- A. Comments or complaints regarding the performance of guardians appointed by this Court may be submitted in writing via ordinary mail or fax. Anonymous comments or complaints will not be accepted for filing.
- B. The Court will provide a copy of the comment or complaint to the guardian who is the subject of the comment or complaint and to the guardian's attorney, if any.
- C. The comment or complaint will be filed in the guardianship case and will be reviewed and considered by the Court for appropriate action. The Court may, in its discretion, set a hearing on the matter. Notice of the hearing shall be served to both the guardian and person who filed the comment or complaint.
- D. The Court will issue a written decision or order regarding the comment or complaint. The decision or order shall be filed in the guardianship case and a copy shall be served upon the guardian and person who filed the comments or complaint.

1 RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO
2

3 **RULE 66.01. Definitions.**
4

5 As used in Sup.R. 66.01 through 66.09:
6

7 **(A) Best interest**
8

9 “Best interest” means decisions made for the benefit of or to improve the quality
10 of life of the ward.
11

12 **(B) Direct services**
13

14 “Direct services” means services typically provided by home and community-
15 based care and institutionally-based care providers, including medical and nursing
16 care, care or case management services, care coordination, speech therapy,
17 occupational therapy, physical therapy, psychological services, counseling,
18 residential, legal representation, job training, and any other similar services. The
19 term “direct services” does not include services of a guardian.
20

21 **(C) Guardian**
22

23 “Guardian” has the same meaning as in R.C. 2111.01(A), except it does not
24 include a person who is related by consanguinity or affinity to the ward.
25

26 **(D) Ward**
27

28 “Ward” means any adult found by a court of common pleas or division of the
29 court to be incompetent and for whom a guardianship is established.
30
31

32 **RULE 66.02. Application of Rules.**
33

34 **(A) General**
35

36 Except as provided in division (C) of this rule, Sup.R. 66.01 through 66.09 shall apply in
37 an adult guardianship case in a court of common pleas or division of the court where the
38 court or division appoints a guardian to protect and control an adult ward pursuant to
39 R.C. 2111.02.
40

41 **(B) Corporation as guardian**
42

43 Sup.R. 66.01 through 66.09 shall apply to the employees of a corporation who provide
44 guardianship services in an adult guardianship case in a court of common pleas or
45 division of the court where the court or division appoints the corporation as guardian.
46

47 (C) Family member guardians
48

49 Sup.R. 66.01 through 66.09 shall not apply in an adult guardianship case in a court of
50 common pleas or division of the court where the guardian appointed to protect and
51 control the ward is related by consanguinity or affinity to the ward but shall not preclude
52 the court or division from imposing any orders or conditions upon such guardian as the
53 court or division deems appropriate.
54
55

56 RULE 66.03. Local Guardianship Rule.
57

58 A court of common pleas or division of the court that establishes guardianships shall adopt a
59 local rule governing the establishment of guardianships that does all of the following:
60

61 (A) Allows for the establishment of an emergency guardianship;
62

63 (B) Establishes a process for emergency placement of a ward;
64

65 (C) Establishes a process for submitting and considering written comments and
66 complaints regarding the performance of guardians appointed by the court or division.
67 The process shall include each of the following:
68

69 (1) The designation of a person for accepting and considering comments and
70 complaints;
71

72 (2) A requirement that a copy of the submitted comment or complaint be
73 provided to the guardian who is the subject of the comment or complaint and the
74 administrative judge of the court or division for prompt consideration and
75 appropriate action by the judge;
76

77 (3) A requirement that the court or division maintain a written record in the
78 guardian's file regarding the nature and disposition of the comment or complaint;
79

80 (4) A requirement that the court or division notify the person making the
81 comment or complaint and the guardian of the disposition of the comment or
82 complaint.
83

84 (D) Addresses other provisions as the court or division considers necessary and
85 appropriate.
86
87

88 RULE 66.04. Establishment of Guardianship.
89

90 (A) Types of guardianship
91

92 (1) A court of common pleas or division of the court may establish either of the
93 following types of guardianships:

94 (a) A plenary guardianship, which shall be the most restrictive form of
95 guardianship. The guardian in a plenary guardianship shall make all decisions on
96 behalf of the ward.

97
98 (b) A limited guardianship, which shall be the least restrictive form of
99 guardianship. The guardian in a limited guardianship shall be authorized to make
100 decisions over a prescribed number of issues.

101
102 (2) When establishing the guardianship, the court of common pleas or division of the
103 court shall initially consider a limited guardianship.

104
105 **(B) County of residence**

106
107 The last county of residence in which a ward resided prior to losing the cognitive ability
108 to choose shall be the ward's county of residence for purposes of establishing a
109 guardianship, unless determined otherwise by the court of common pleas or division of
110 the court establishing the guardianship.

111
112 **(C) Guardianship of estate**

113
114 A court of common pleas or division of the court may waive establishing or continuing
115 the guardianship of the estate of a ward if the assets and principal income of the ward do
116 not support a guardianship of the estate.

117
118 **(D) Residential facilities and waiver programs**

119
120 A court of common pleas or division of the court shall not issue letters of guardianship to
121 any residential facility, waiver program, or employees of such care providers to serve as a
122 guardian for a resident or recipient of such direct services.

123
124
125 **RULE 66.05. Responsibilities of Court Establishing Guardianships.**

126
127 A court of common pleas or division of the court that establishes a guardianship shall do all of
128 the following:

129
130 (A) Conduct, or cause to be conducted, a criminal and civil background check and
131 investigation of information relevant to the applicant's fitness to serve as a guardian;

132
133 (B) Maintain a roster of all guardians appointed by the court or division, including the
134 name; address; telephone number; and, if available, electronic mail address of each
135 guardian. The court or division shall require each guardian to notify the court or division
136 of any changes to this information. The name of a guardian shall be the only information
137 on the roster available for public access pursuant to Sup.R. 44 through 47.

138

139 (C) Require each guardian appointed by the court or division to submit to the court or
140 division information documenting compliance with the guardian qualifications of Sup.R.
141 66.06;

142
143 (D) Require each guardian appointed by the court or division to submit to the court or
144 division on or before January 1st of each year certification to the court or division the
145 guardian is unaware of any circumstances that would disqualify the guardian from
146 servng as a guardian;

147
148 (E) On or before February 1st of each year review the roster of all guardians
149 appointed by the court or division to determine that each guardian is in compliance with
150 the education requirements of Sup.R. 66.06 or 66.07, as applicable, that the guardian has
151 performed satisfactorily on all appointments during the preceding calendar year, and that
152 the guardian is otherwise qualified to serve.

153
154
155 **RULE 66.06. Guardian Pre-Appointment Education.**

156
157 **(A) Requirement**

158
159 Except as provided in division (B) of this rule, a court of common pleas or division of the
160 court shall not appoint an individual as a guardian unless the individual has successfully
161 completed a six-hour guardian fundamentals course provided by the Judicial College of
162 the Supreme Court or, at any time prior to the effective date of this rule, completed an
163 “Ohio Guardian Training Program” approved by the Judicial College. The fundamentals
164 course shall include at a minimum education on the following topics:

- 165
166 (1) Establishing the guardianship;
167
168 (2) The ongoing duties and responsibilities of a guardian;
169
170 (3) Record keeping and reporting duties of a guardian;
171
172 (4) Any other topic that concerns improving the quality of the life of a ward.

173
174 **(B) Exception**

175
176 An individual serving as a guardian on [the effective date of this rule] or who served as a
177 guardian during the five years immediately preceding that date shall have one year from
178 that date to complete the training required under division (A) of this rule unless the
179 appointing court or division waives the requirement for good cause.

180
181
182
183
184
185

186 **RULE 66.07.** **Guardian Continuing Education.**

187
188 **(A) Requirement**
189

190 A guardian appointed by a court of common pleas or division of the court shall annually
191 complete a continuing education course that meets the following requirements:

192
193 (1) Is at least three hours in length;

194
195 (2) Is provided by the Judicial College of the Supreme Court or, with the prior
196 approval of the appointing court or division, another entity;

197
198 (3) Is specifically designed for continuing education needs of guardians and
199 consists of advanced education relating to the topics listed in Sup.R. 66.06(A)(1)
200 through (4).

201
202 **(B) Annual compliance**
203

204 On or before January 1st of each year, a guardian shall report to each court of common
205 pleas or division of the court from which the guardian receives appointments information,
206 including the title, date, and location of the education, documenting compliance with the
207 continuing education requirement pursuant to division (A) of this rule.

208
209 **(C) Failure to comply**
210

211 If a guardian fails to comply with the continuing education requirement of division (A) of
212 this rule, the guardian shall not be eligible to serve as a guardian until the requirement is
213 satisfied. If the guardian's deficiency in continuing education is three calendar years or
214 less, the guardian shall qualify to serve after completing a three hour continuing
215 education course offered under this rule. If the deficiency in continuing education is more
216 than three calendar years, the guardian shall complete a six hour fundamentals course to
217 qualify to serve.

218
219
220 **RULE 66.08.** **General Responsibilities of Guardian.**

221
222 **(A) Orders, rules, and laws**
223

224 A guardian shall obey all orders of the court of common pleas or division of the court
225 establishing the guardianship and shall perform duties in accordance with local rules and
226 state and federal law governing guardianships.

227
228 **(B) Pre-appointment meeting**
229

230 Unless otherwise determined by the court of common pleas or division of the court, an
231 applicant guardian shall meet privately with a proposed ward at least once prior to
232 appearing before the court or division for a guardianship appointment.

233 (C) Reporting abuse, neglect, or exploitation

234

235 A guardian shall immediately report to the court of common pleas or division of the court
236 and adult protective services any allegations of abuse, neglect, or exploitation of a ward.

237

238 (D) Providing court with relevant information and informed recommendation

239

240 A guardian shall provide the court of common pleas or division of the court with relevant
241 information and an informed recommendation regarding a ward's best interest.

242

243 (E) Limitation or termination of guardianship

244

245 A guardian shall seek to limit or terminate the guardianship authority and promptly notify
246 the court of common pleas or division of the court if any of the following occurs:

247

248 (1) A ward's ability to make decisions and function independently has
249 improved;

250

251 (2) Less restrictive alternatives are available;

252

253 (3) A plenary guardianship is no longer in the best interest of a ward;

254

255 (4) A ward is non-compliant or out of the guardian's control;

256

257 (5) A ward has died.

258

259 (F) Change of residence

260

261 (1) Except if impracticable, a guardian shall notify the court of common pleas or
262 division of the court of a ward's change of residence and reason for the change no later
263 than ten days prior to the proposed change.

264

265 (2) A ward's change of residence to a more restrictive setting in or outside of the
266 county of the guardian's appointment shall be subject to the court's approval, unless a
267 delay in authorizing the change of residence would affect the health and safety of the
268 ward.

269

270 (G) Court approval of legal proceedings

271

272 A guardian shall seek prior approval from the court of common pleas or division of the
273 court when filing for a civil commitment, marriage termination, or any other legal
274 proceedings concerning a ward.

275

276

277

278

279 (H) Annual plan
280
281 A guardian shall file annually with the court of common pleas or division of the court a
282 guardianship plan as an addendum to the annual report. The guardianship plan shall state
283 the guardian's goals for meeting the ward's personal and financial needs.
284

285 (I) Annual registration
286
287 A guardian shall annually register with the court of common pleas or division of the court
288 and provide such information as the court or division may require, including but not
289 limited to a fee schedule that differentiates guardianship services from legal or other
290 direct services.
291

292 (J) Ward's principal income
293
294 A guardian shall inform the court of common pleas or division of the court and apply to
295 close the estate if the principal income of the ward is from governmental entities, a payee
296 for that income is identified, and no other significant assets or income exist.
297

298 (K) Guardian's compensation
299
300 A guardian shall itemize all expenses relative to the guardianship of the ward and shall
301 not charge fees or costs in excess of those approved by the court of common pleas or
302 division of the court. Except as otherwise authorized by the court of common pleas or
303 division of the court, a guardian shall not receive incentives or compensation from any
304 direct service provider providing services to a ward.
305

306 (L) Conflict of interest
307
308 A guardian shall avoid actual or apparent conflicts of interest regarding a ward's personal
309 or business affairs. A guardian shall report to the court of common pleas or division of
310 the court all actual or apparent conflicts of interest for review and determination of
311 whether a waiver of the conflict of interest is in the best interest of the ward.
312

313 (N) Filing of ward's legal papers
314
315 A guardian shall file with the court of common pleas or division of the court an inventory
316 of all of the ward's important legal papers, including, but not limited to, estate planning
317 documents, advance directives, and powers of attorney.
318
319

320 **RULE 66.09. Responsibilities of Guardian to Ward.**

321
322 (A) Professionalism, character, and integrity
323
324 A guardian shall act in a manner above reproach, including but not limited to avoiding
325 financial exploitation, sexual exploitation, and any other activity that is not in the best
326 interest of the ward. A guardian shall not engage in sexual relations with a ward unless

327 otherwise authorized by the court of common pleas or division of the court establishing
328 the guardianship.

329
330 **(B) Exercising due diligence**

331
332 A guardian shall exercise due diligence in making decisions that are in the best interest of
333 a ward, including but not limited to communicating with the ward and being fully
334 informed about the implications of the decisions.

335
336 **(C) Least restrictive alternative**

337
338 Unless otherwise approved by the court of common pleas or division of the court, a
339 guardian shall make a choice or decision for a ward that best meets the needs of the ward
340 while imposing the least limitations on the ward's rights, freedom, or ability to control
341 the ward's environment. To determine the least restrictive alternative, a guardian may
342 seek and consider an independent assessment of the ward's functional ability, health
343 status, and care needs.

344
345 **(D) Person-centered planning**

346
347 A guardian shall advocate for services focused on a ward's wishes and needs to reach the
348 ward's full potential. A guardian shall strive to balance a ward's maximum independence
349 and self-reliance with the duty to keep the ward safe and protected.

350
351 **(E) Ward's support system**

352
353 A guardian shall strive to foster and preserve positive relationships in the ward's life
354 unless such relationships are substantially harmful to the ward. A guardian shall
355 document the reasons a particular relationship is severed.

356
357 **(F) Communication with ward**

358
359 (1) A guardian shall strive to know a ward's preferences and belief system by seeking
360 information from the ward and the ward's family and friends.

361
362 (2) Unless impracticable or inadvisable to do so, a guardian shall do each of the
363 following:

364
365 (a) Meet with the ward as needed, but not less than twice annually or more
366 often as determined by the court or division;

367
368 (b) Communicate privately with the ward;

369
370 (c) Assess the ward's physical and mental condition and limitations;

371
372 (d) Assess the appropriateness of the ward's current living arrangements;

373
374 (e) Assess the needs for additional services;

375 (f) Notify the court or division if the ward's level of care is not being met.

376

377 (g) Document all complaints made by a ward and assess the need to report the
378 complaints to the court of common pleas or division of court.

379

380 **(G) Direct services**

381

382 Except as provided in Sup.R. 66.04(D), a guardian shall not provide any direct services to
383 a ward, unless otherwise approved by the court.

384

385 **(H) Monitor and coordinate services and benefits**

386

387 A guardian shall monitor and coordinate all services and benefits provided to a ward,
388 including doing all of the following:

389

390 (1) Having regular contact with all service providers;

391

392 (2) Assessing services to determine they are appropriate and continue to be in
393 the ward's best interest;

394

395 (3) Maintaining eligibility for all benefits;

396

397 (4) Where the guardian of the person and guardian of the estate are different
398 individuals, consulting regularly with each other.

399

400 **(I) Extraordinary medical issues**

401

402 (1) A guardian shall seek ethical, legal, and medical advice, as appropriate, to
403 facilitate decisions involving extraordinary medical issues.

404

405 (2) A guardian shall strive to honor the ward's preferences and belief system
406 concerning extraordinary medical issues.

407

408 **(J) End of life decisions**

409

410 A guardian shall be informed about the ward's preferences and belief system in making
411 end of life decisions on behalf of the ward.

412

413 **(K) Caseload**

414

415 A guardian shall appropriately manage the guardian's caseload to ensure the guardian is
416 adequately supporting and providing for the best interest of the wards in the guardian's
417 care.

418

419 **(L) Duty of confidentiality**

420

421 A guardian shall keep the ward's personal and financial information confidential, except
422 when disclosure is in the best interest of the ward.