

**COURT OF COMMON PLEAS OF UNION COUNTY, OHIO**

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**PROBATE DIVISION**

# **Local Rules of Probate Practice and Procedure**



**HON. RICK RODGER, JUDGE**  
UNION COUNTY PROBATE COURT

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**December 10, 2025**

**UNION COUNTY PROBATE COURT**  
Local Rules of Practice and Procedure

---

## **Table of Contents**

<b>Sup.R. 5</b>	<b>Local Rules .....</b>	<b>6</b>
Loc.R. 5.1 – Local Rules .....		6
Loc.R. 5.2 – Numbering .....		6
Loc.R. 5.3 – Withdrawal of Counsel .....		6
Loc.R. 5.4 – Case Management Plan .....		6
Loc.R. 5.5 – Jury Use and Management Plan .....		6
Loc.R. 5.6 – Technology Plan .....		6
Loc.R. 5.7 – Electronic Case Filing System .....		7
Loc.R. 5.8 – Remote Appearances .....		7
Loc.R. 5.9 – Use of Physical Restraints Upon a Child .....		10
<b>Sup.R. 8</b>	<b>Court Appointments .....</b>	<b>10</b>
Loc.R. 8.1 – Appointment Lists .....		10
Loc.R. 8.2 – Appointed Counsel, Indigency .....		11
<b>Sup.R. 9</b>	<b>Court Security Plans .....</b>	<b>12</b>
Loc.R. 9.1 – Security Plan .....		12
<b>Sup.R. 11</b>	<b>Recordings of Proceedings .....</b>	<b>12</b>
Loc.R. 11.1 – Digital Audio Recordings .....		12
Loc.R. 11.2 – Written Transcripts .....		12
Loc.R. 11.3 – Stenographic Record .....		12
<b>Sup.R. 12</b>	<b>Conditions for Recording and Broadcasting Proceedings .....</b>	<b>13</b>
Loc.R. 12.1 – Recording Prohibitions .....		13
Loc.R. 12.2 – Request to Record, Photograph or Broadcast .....		13
<b>Sup.R. 19</b>	<b>Magistrates .....</b>	<b>14</b>
Loc.R. 19.1 – Objections or Motions to Set Aside .....		14
<b>Sup.R. 26</b>	<b>Court Records Management and Retention .....</b>	<b>14</b>
Loc.R. 26.1 – Court Records Management and Retention .....		14
<b>Sup.R. 45</b>	<b>Court Records – Public Access .....</b>	<b>14</b>
Loc.R. 45.1 – Protected Information .....		14
<b>Sup.R. 51</b>	<b>Standard Probate Forms .....</b>	<b>15</b>
Loc.R. 51.1 – Local Forms .....		15
Loc.R. 51.2 – Filing Checklists .....		15
<b>Sup.R. 52</b>	<b>Specifications for Printing Probate Forms .....</b>	<b>15</b>
Loc.R. 52.1 – Substitute Forms .....		15
<b>Sup.R. 53</b>	<b>Hours of the Court .....</b>	<b>15</b>
Loc.R. 53.1 – Hours of Operation .....		15

**UNION COUNTY PROBATE COURT**  
Local Rules of Practice and Procedure

---

<b>Sup.R. 54</b>	<b>Conduct in the Court.....</b>	<b>15</b>
Loc.R. 54.1 – Conduct in Court.....		15
<b>Sup.R. 55</b>	<b>Examination of Probate Records.....</b>	<b>16</b>
Loc.R. 55.1 – Examination of Probate Records.....		16
Loc.R. 55.2 – Location of Probate Records.....		17
<b>Sup.R. 56</b>	<b>Continuances .....</b>	<b>17</b>
Loc.R. 56.1 – Motions to Continue Hearings .....		17
Loc.R. 56.2 – Motions to Extend Time to File .....		18
<b>Sup.R. 57</b>	<b>Filings and Judgment Entries .....</b>	<b>18</b>
Loc.R. 57.1 – Physical Format of Filings.....		18
Loc.R. 57.2 – Filing by Email.....		18
Loc.R. 57.3 – Filing by Facsimile .....		19
Loc.R. 57.4 – Forwarding Copies, Service of Court Entries .....		19
Loc.R. 57.5 – Filing Original Documents, Redaction .....		19
Loc.R. 57.6 – Real Estate Transfers Only.....		20
<b>Sup.R. 58</b>	<b>Deposit for Court Costs.....</b>	<b>20</b>
Loc.R. 58.1 – Deposit for Court Costs .....		20
Loc.R. 58.2 – Requests to Waive Deposit, Costs Due to Indigency .....		20
Loc.R. 58.3 – Ongoing Duty to Report Indigency Status .....		21
Loc.R. 58.4 – Witness Fees .....		22
<b>Sup.R. 60</b>	<b>Application for Letters of Authority to Administer Estate and Notice of Appointment.....</b>	<b>22</b>
Loc.R. 60.1 – Appointment of Nonresident Executor or Trustee .....		22
Loc.R. 60.2 – Self-Represented Applicants .....		22
<b>Sup.R. 61</b>	<b>Appraisers .....</b>	<b>23</b>
Loc.R. 61.1 – Suitable, Disinterested Appraiser Required.....		23
Loc.R. 61.2 – Personal Property Valuations, Appraisal .....		23
Loc.R. 61.3 – Real Estate Valuations, Appraisal .....		23
Loc.R. 61.4 – Auctioneers’ Fees .....		24
Loc.R. 61.5 – Hearing Upon Inventory.....		24
<b>Sup.R. 62</b>	<b>Claims Against Estate .....</b>	<b>24</b>
Loc.R. 62.1 – Claims Filed with the Court.....		24
Loc.R. 62.2 – Insolvent Estates .....		24
Loc.R. 62.3 – Medicaid Estate Recovery Acknowledgement .....		25
<b>Sup.R. 64</b>	<b>Accounts.....</b>	<b>25</b>
Loc.R. 64.1 – Accounts .....		25
Loc.R. 64.2 – Account Contents, Evidence.....		25
Loc.R. 64.3 – Notice, Hearing Upon Accounts .....		27
Loc.R. 64.4 – Partial Accounts in Decedent’s Estates .....		27

**UNION COUNTY PROBATE COURT**  
Local Rules of Practice and Procedure

---

Loc.R. 64.5 – Accounts Compliance Review .....	27
<b>Sup.R. 65 Land Sales – R.C. Chapter 2127.....</b>	<b>27</b>
Loc.R. 65.1 – Evidence of Title .....	27
Loc.R. 65.2 – Confirmation of Sale, Report of Distribution .....	28
<b>Sup.R. 66 – Guardianships .....</b>	<b>29</b>
Loc.R. 66.1 – Guardianships, Generally .....	29
Loc.R. 66.2 – Guardianship of Minors.....	29
Loc.R. 66.3 – Guardianship of Adults .....	30
Loc.R. 66.4 – Adult Guardian’s Ongoing Responsibilities .....	31
Loc.R. 66.5 – Adult Guardianship Comments and Complaints.....	33
<b>Sup.R. 67 – Estates of Minors Not More Than Twenty-Five Thousand Dollars.....</b>	<b>33</b>
Loc.R. 67.1 – Application to Dispense with Guardianship of Minor .....	33
Loc.R. 67.2 – Hearing; Notice and Appearance Required .....	34
Loc.R. 67.3 – Distribution of Proceeds.....	34
Loc.R. 67.4 – Designation of Successor Custodian.....	34
<b>Sup.R. 68 – Settlement of Injury Claims of Minors .....</b>	<b>35</b>
Loc.R. 68.1 – Application to Settle Minor’s Claim .....	35
<b>Sup.R. 70 Settlement of Wrongful Death and Survival Claims .....</b>	<b>35</b>
Loc.R. 70.1 – Settlement of Wrongful Death and Survival Claims .....	35
<b>Sup.R. 71 Counsel Fees .....</b>	<b>35</b>
Loc.R. 71.1 – Counsel Fees.....	35
Loc.R. 71.2 – Court-Appointed Counsel Fees .....	36
Loc.R. 71.3 – Attorney Fees – Full Administration of Decedent’s Estates .....	37
Loc.R. 71.4 – Attorney Fees – Attorney Serving as Fiduciary .....	42
Loc.R. 71.5 – Attorney Fees – Guardianships (Non-Indigent).....	42
Loc.R. 71.6 – Attorney Fees – Trusts .....	43
Loc.R. 71.7 – Contingent Fee Agreements.....	43
Loc.R. 71.8 – Contested Attorney Fees .....	43
<b>Sup.R. 72 Executor’s and Administrator’s Commissions.....</b>	<b>43</b>
Loc.R. 72.1 – Additional Compensation.....	43
<b>Sup.R. 73 Guardian’s Compensation.....</b>	<b>44</b>
Loc.R. 73.1 – Guardian’s Compensation (Non-Indigent Ward) .....	44
Loc.R. 73.2 – Guardian’s Notice of Payment for Direct Services .....	45
<b>Sup.R. 74 Trustee’s Compensation .....</b>	<b>45</b>
Loc.R. 74.1 – Trustee’s Compensation.....	45
<b>Sup.R. 75 Local Rules .....</b>	<b>46</b>
Loc.R. 75.1 – Adoptions .....	46
Loc.R. 75.2 – Change or Conforming Legal Name; Evidence .....	47
Loc.R. 75.3 – Minor’s Application for Marriage License.....	47

**UNION COUNTY PROBATE COURT**  
Local Rules of Practice and Procedure

---

Loc.R. 75.4 – Report of Distribution Required .....	47
Loc.R. 75.5 – Custodial Deposits in Lieu of Bond .....	48
Loc.R. 75.6 – Fiduciary’s Change of Address .....	48
<b>Sup.R. 78 Case Management in Decedent’s Estates, Guardianship, and Trusts .....</b>	<b>48</b>
Loc.R. 78.1 – Removal or Citation for Non-compliance .....	48
<b>Appendices to Union County Probate Local Rules .....</b>	<b>49</b>
App. A Schedule of Deposits and Court Costs (Loc.R. 58.1) .....	49
App. B Local Forms .....	49
App. C Filing Checklists .....	49
App. D Former Loc.R. 71.1 (A), (B): Counsel Fees in Decedent’s Estates .....	49

## **Sup.R. 5      Local Rules**

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### **Loc.R. 5.1 – Local Rules**

These rules and the appendices hereto shall be known as “Local Rules of Probate Practice and Procedure” and cited as “Loc.R. \_\_\_\_.” Pursuant to this Court’s adoption, these rules are effective December 10, 2025, and apply to all proceedings pending or initiated on and after that date. The local rules shall be construed in conjunction with the Court’s filing checklists (see [Loc.R. 51.2](#)), which shall control and set forth the use of specific local forms (see [Loc.R. 51.1](#)), in addition to the Supreme Court of Ohio Standard Probate Forms (hereinafter referred to as “SPF”, followed by the numerical designation of the form). Filing checklists and local forms are available exclusively on the Probate Division’s website, though copies may be purchased in the Clerk’s Office.

### **Loc.R. 5.2 – Numbering**

These local rules are numbered in reference to and in application of the Rules of Superintendence for the Courts of Ohio, pursuant to [Sup.R. 75](#). Any exceptions to [Sup.R. 53](#) to [79](#) are made pursuant to [Sup.R. 76](#). All references to rules are to statewide rules governing the courts of Ohio adopted by the Supreme Court of Ohio, unless otherwise identified. These local rules shall be read in conjunction with the Rules of Superintendence that they supplement, in addition to the Ohio Revised Code. Pursuant to R.C. 1.01, references to the “R.C.” are to the Ohio Revised Code.

### **Loc.R. 5.3 – Withdrawal of Counsel**

An attorney may not withdraw as legal counsel without prior Court approval and only if such withdrawal will not prejudice the client. If an attorney desires to terminate their representation, they shall prepare a motion that demonstrates reasonable grounds to withdraw, such as those specifically set forth in the Ohio Rules of Professional Conduct and endorse a certificate of service indicating delivery to all parties and counsel of record. A proposed entry shall also be submitted. If the attorney’s client agrees to the withdrawal, the client shall endorse the motion and the proposed entry with their signature. The Court may approve or deny the motion without a hearing.

### **Loc.R. 5.4 – Case Management Plan**

In accordance with [Sup.R. 5\(D\)\(1\)](#) and [Sup.R. 78](#), the Court has adopted a Case Management Plan, which is available upon request from the office of the Clerk of the Probate Court.

### **Loc.R. 5.5 – Jury Use and Management Plan**

In accordance with [Sup.R. 5\(D\)\(2\)](#), the Court has adopted the Jury Use and Management Plan set forth in Loc.R. 31 of the General Division of the Union County Court of Common Pleas. The plan is set forth on the General Division’s website.

### **Loc.R. 5.6 – Technology Plan**

In accordance with [Sup.R. 5\(E\)](#), the Court has adopted and maintains a Court Technology Plan, available upon request from the office of the Clerk of the Probate Court. The plan sets forth the Court’s current technology solutions to access court services, including remote access to hearings, electronic case filing and records access. The plan also describes

procedures to inform the public about the use and availability of technology solutions and how the solutions will comply with any accessibility accommodation requirements, including any applicable requirements of the “Americans with Disabilities Act.”

### **Loc.R. 5.7 – Electronic Case Filing System**

Attorneys in practice before this Court shall adhere to the rules administering the Court’s web-based Electronic Case Filing (“e-filing,” “eFiling” or “ECF”) System, which are set forth in the current Joint Administrative Order issued and shared by all divisions of the Union County Common Pleas Court. The current order is displayed on the Court’s website and within the [ECF web portal](#), and is effective on the date of any e-filing in any pending or new matter.

Attorneys shall register for an ECF account. E-filing is mandatory for attorneys of record in all Probate case types except Adoptions, Appeals and Notices of Appeal, Involuntary Commitments/Mental Illness, and Minors’ Settlements. Emergency Guardianships and Adult Protective Services cases cannot be initiated through the ECF, but once initiated, e-filing is mandatory. For additional prohibitions and exceptions regarding e-filing in Probate matters, see Exhibit C of the current Joint Administrative Order as published within the ECF portal. See also [Loc.R. 57.5](#), regarding submission of original source documents after e-filing.

### **Loc.R. 5.8 – Remote Appearances**

**(A) Purpose.** This rule sets forth the Court’s practices and procedures related to remote appearances for proceedings in any matter, when permitted by these rules, Court order, statute, or other rules of Court. Participants shall include parties, their attorneys and witnesses. Proceedings shall include conferences, hearings and evidentiary hearings.

**(B) Jurisdiction.** Every witness who testifies remotely, but is physically located outside of Union County, Ohio, shall affirm on the record that they submit to the jurisdiction of Union County, Ohio, for the purpose of enforcement of their oath or affirmation (including for consideration of perjury or other charges).

**(C) Permitted Appearances.** Participants shall appear in any proceeding before the Court in any one or more of the following manners.

**(1) In Person.** All participants shall physically appear for hearings in the same courtroom (or other authorized location) unless the Court orders otherwise or grants leave to appear remotely prior to the start of proceeding and for good cause shown (see subsection (D)). An in-person appearance is the default appearance type for all proceedings before the Court.

**(2) Remote by Video Conferencing.** The Court may schedule and conduct proceedings in whole or in part via video conferencing. Additionally, the Court may permit individual participants to appear remotely by video conferencing, upon request made prior to the proceeding and for good cause shown (see subsection (D)).

**(3) Remote by Telephone.** The Court may schedule and conduct proceedings in whole or in part via telephone. Additionally, the Court may permit individual participants to appear remotely by telephone upon request made prior to the start of the proceeding and for good cause shown (see subsection (D)). For evidentiary hearings, appearance by video conferencing is required for any remote appearance, absent prior approval of the Court.

**(D) Motions to Appear Remotely.**

**(1) Motion.** If a proceeding is not scheduled by the Court to be conducted remotely, leave of Court is required for a participant or a witness to appear remotely for an in-person hearing. The written motion shall be served on all parties or their counsel of record. The motion may be granted if no objection is reported and for good cause shown. Motions to appear remotely shall be filed as far in advance of the hearing as reasonable under the circumstances. Under emergent circumstances that arise less than five (5) business days before the scheduled hearing, the movant shall call the Clerk's office before filing their motion.

**(2) Objection.** Any party who objects to the motion to appear remotely should promptly file a written response and set forth the basis of their objection. If the motion was filed less than five (5) business days before the scheduled hearing, the Court will hear the motion, objection and oral arguments at the beginning of the scheduled proceeding, unless circumstances clearly establish that the hearing must be continued.

**(3) Modification.** Even if the Court has scheduled a remote proceeding or permitted a remote appearance for good cause shown, the Court may rescind that order or continue the proceeding to require an in-person appearance if the Court determines that an in-person appearance will materially assist in the determination, effective management, or resolution of the matter.

**(E) Confidential Attorney-Client Communication.** Provisions will be made to preserve the confidentiality of attorney-client privilege and communication during any proceeding involving a remote appearance. Prior to the proceeding, the attorney and party are responsible to determine how they will communicate during the proceeding if both appear from different physical locations. During recesses, the bailiff can utilize the video conferencing software to facilitate private communication if the attorney and party are both appearing remotely from different physical locations. The Court will recess as necessary to permit alternative methods of communication (e.g., phone).

**(F) Remote Presentation of Witness Testimony.** With prior leave of Court, witnesses may be permitted to appear remotely and offer sworn testimony via video conferencing. The party calling the witness is responsible to ensure the witness possesses the appropriate equipment and sufficient internet connectivity to participate remotely. Witnesses shall not testify in a location where other persons are present or while operating a moving vehicle. Witnesses shall not read from or refer to any documentation (including digital records) that is not identified for the purposes of the record and permitted by the Court.

**(G) Remote Presentation of Evidence.**

**(1) Generally.** Failure to comply as set forth herein may result in exclusion of the evidence, to the admitting party's detriment. Deviation from these procedures may be granted with leave of Court, for good cause. Unless directed by the Court, exhibits marked and presented under this subsection shall not be e-filed by the proponent through the Electronic Case Filing System. If submitted digitally (via email), court costs will be assessed to generate a tangible copy of any proposed exhibit. Exhibits not admitted (absent objection) will not be retained for the record.

**(2) Proponent of Evidence Remote.**

**(a) Pre-submission of proposed exhibits.** If a party and/or their attorney (if represented) will not be physically present in the courtroom to tender physical evidence to the Court during an evidentiary hearing, the proponent shall submit their anticipated, proposed exhibit(s) to a



**UNION COUNTY PROBATE COURT**  
Local Rules of Practice and Procedure

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deputy clerk via email prior to the hearing, and comply with the directives, *infra*. Facsimile submission should not be utilized unless permission is granted by the Court or a deputy clerk (see [Loc.R. 57.3](#)). When requested by the proponent during the hearing, a deputy clerk/bailiff will tender the submitted exhibit(s) to the Court.

**(b) Proposed exhibits shall be properly marked.** The party who initiated (or reopened) the matter shall mark their proposed exhibits with numbers. A responding party shall mark their proposed exhibits with letters. In the case of multiple responding parties, each shall mark their proposed exhibits with their name, party role, and the exhibit letter (e.g., Respondent John Doe's Exhibit A; Respondent Jane Doe's Exhibit D).

**(c) Proposed exhibit list.** If more than three (3) proposed exhibits will be provided to the deputy clerk (via email) under this rule, the proponent also shall submit an exhibit list that: lists all proposed exhibits (in order as marked); provides a reasonable description or a title for each exhibit; and states the length (number of pages) of each exhibit. The list is for the deputy clerk's reference only and will not be admitted, absent motion and order of the Court.

**(d) Submission.** The proposed, marked exhibits can be submitted to a deputy clerk as tangible, physical copies or digitally (via email). The deputy clerk will not distribute digital copies or create tangible copies of the exhibits (unless directed by the Court). The proponent is responsible to provide the proposed exhibits to all attorneys and self-represented parties prior to the hearing, in accordance with the applicable rules (unless receipt is specifically waived).

**(3) Authenticating Witness Remote.** If a witness who is not physically present in the courtroom during the presentation of evidence will identify, authenticate or testify as to an exhibit, the proponent shall mark the exhibit and, prior to the hearing, provide either a digital or tangible (physical) copy of that marked exhibit to the witness. A tangible copy of the marked exhibit shall be tendered to the Court prior to presentation of the remote witness' testimony. Alternatively, the proponent can utilize the Court's video conferencing software to cast or share the digital image of the marked exhibit with the remote witness, but only if a tangible copy of the marked exhibit has been tendered to the Court. When testifying, the remote witness shall testify as to an exact copy of the marked exhibit that the proponent has tendered to the Court.

**(H) Technical Standards.** To facilitate remote video conferencing, the Court's equipment, software and use thereof conforms to the following minimum requirements.

**(1) Recording.** Hardware and software technologies are installed in all courtrooms and integrated with the Court's audio recording system, which allows the Court to generate a verbatim audio record of the proceeding. All proceedings will be recorded, exclusive of proceedings such as conferences held in chambers to discuss procedural issues, during which no evidence is presented.

**(2) Functionality.** All participants have the ability to hear and communicate with each other simultaneously. The video conferencing software can restrict access to proceedings (e.g., waiting room, mute, password protection, dismiss features).

**(3) Presentation of Evidence.** All participants can see, hear, or otherwise observe any documents, physical evidence, or exhibits presented during the proceedings, either by video or other software or medium authorized by the Court and in accordance with the Rules of Evidence.

**(4) Accessibility.** The equipment and software can accommodate people with disabilities in compliance with the Americans with Disabilities Act. The software has accessibility and language access features (e.g., a separate audio channel for interpreters, live subtitling) and can be used with devices that allow for manipulation of contrast, images, and text size. If participants are present in the courtroom, assisted listening devices are available to amplify the sound of proceedings in the courtroom. Litigants and participants who require use of these technologies are encouraged to contact the Clerk's office as soon as a matter is open or upon receipt of any notice of hearing.

**(5) No Virtual Access.** Absent specific order, no virtual public access shall be permitted to any hearing, nor will the Court broadcast any proceedings virtually.

**(I) Instructions, Troubleshooting.** Remote participants shall adhere to the written instructions provided by the Court. Instructions are included with Court notices of any remote hearing or provided by the Deputy Clerks. Assistance with troubleshooting can be provided via phone or email from the Deputy Clerks during the Court's normal business hours.

### **Loc.R. 5.9 – Use of Physical Restraints Upon a Child**

(A) In accordance with [Sup.R. 5.01](#), children who appear before the Court in any proceeding shall not be physically restrained by any method, unless the judge or a magistrate who conducts the proceeding determines on the record that there are no less restrictive alternatives to the use of restraints because either:

(1) The child represents a current and significant threat to the safety of the child's self or other persons in the courtroom; or

(2) There is a significant risk that the child will flee the courtroom.

(B) The judge or magistrate conducting the proceeding shall permit any party to the proceeding to be heard on the issue of whether the use of physical restraint is necessary for that child during that court proceeding. The hearing on the issue of restraint shall be held as soon as possible upon the child being brought into the court proceeding. Restraints may be left in place until the hearing on the use of restraints is complete.

(C) When it is determined that a child must be physically restrained, the least restrictive method of restraint to meet the risk shall be utilized. The restraint should not unnecessarily restrict the movement of the child's hands unless the need for restraint of the hands has been demonstrated.

(D) This rule shall not limit the ability of law enforcement, security personnel or other court staff from physically restraining a child during transport to or from the Court or during recess of the proceedings to ensure proper functioning of the courtroom and/or to maintain the safety and security of Court facilities, personnel, or the public therein.

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## **Sup.R. 8      Court Appointments**

### **Loc.R. 8.1 – Appointment Lists**

**(A) Appointment Lists.** The Court maintains a list of attorneys who are willing to accept Court appointments to serve as legal counsel, guardians or guardians ad litem. Attorneys who wish to be added to the appointment lists should submit a letter and resume to the Judge, via the Office of the Probate Clerk, for consideration. Removal from the lists will be at the sole

discretion of the Judge. Appointments will be equitably distributed among all attorneys on the list, subject to the Court's discretion, upon consideration of the attorney's skills, their expertise in the designated matter, their case load and their desire to be appointed to a matter when contacted by the Court.

**(B) Attorney Guardians.** Attorneys who seek appointment as guardians for adult Wards shall comply with [Loc.R. 66.3](#)(C) and display proof of completion of guardian education ([Sup.R. 66.06](#)). Thereafter, the attorney shall display proof of completion of continuing education ([Sup.R. 66.07](#)) requirements annually to remain eligible for appointment.

**(C) Attorney Guardians ad litem.** Attorneys who seek appointment as guardians ad litem shall be otherwise qualified pursuant to [Sup.R. 48](#) et. seq., shall display proof to the Court of compliance with guardian ad litem pre-service education ([Sup.R. 48.04](#)). Thereafter, the attorney shall display proof of completion of continuing education ([Sup.R. 48.05](#)) requirements annually to remain eligible for appointment.

**(D) Compensation.** Appointed legal counsel and guardians ad litem shall be paid a reasonable fee with consideration given to the factors contained in Rule 1.5 of the Ohio Rules of Professional Conduct, the Ohio Revised Code and these local rules. An application for fees, accompanied by an itemized statement of services rendered, shall be submitted to the Court by all appointed counsel. See [Loc.R. 71.1](#) for rates of compensation.

## **Loc.R. 8.2 – Appointed Counsel, Indigency**

**(A) Appointment of Counsel for Indigents.** If a party is entitled by law to be represented by Court-appointed counsel in a Probate matter, upon application and a finding of eligibility due to demonstrated indigency, such party will be appointed counsel at public expense. (See [Loc.R. 58.3](#), regarding the ongoing duty to report indigency status.)

**(B) Adoption Consent.** In matters concerning consent to the adoption of a minor child, the party whose consent is alleged as unnecessary may request the appointment of counsel if indigent. To request Court appointment of counsel, the party shall complete and file the Financial Disclosure Form promulgated by the Ohio Public Defender ([Form 206R](#)) and pay the mandatory application fee of \$25 upon filing. The form will be forwarded to the Office of the Union County Public Defender for a determination of eligibility. If eligible, counsel will be appointed. For representation in appellate level proceedings, the party must reapply.

**(C) Guardianship, Mental Illness, Involuntary Treatment and Adult Protective Services.** The alleged incompetent adult or Ward in an adult guardianship or the respondent of a mental illness, involuntary treatment or adult protective services matter, may request that the Court appoint counsel to represent them at no cost due to their indigency. To apply, the alleged incompetent/Ward, respondent, or their proposed fiduciary/fiduciary shall complete and file an affidavit representing the indigency of the subject person (see Local Forms, [Appendix B](#)). If the Court finds the party is indigent, an attorney will be appointed, and the attorney's fee will be paid at public expense. If the Court finds the person is not indigent or if their indigency status changes during the pendency of the matter (see [Loc.R. 58.3](#)), the costs of appointed legal counsel will be assessed as ordered by the Court.

**Sup.R. 9      Court Security Plans**

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**Loc.R. 9.1 – Security Plan**

The Court has developed and implemented a Court Security Plan to maintain the safety of persons using Court facilities. The plan, and any other “infrastructure record” or “security record” as defined in R.C. [149.433](#) are confidential and not public records. All persons entering Court facilities are subject to the Security Plan, including security screening procedures upon entering the Court facilities. The Court’s facilities include the public parking lots surrounding the facilities.

**Sup.R. 11      Recordings of Proceedings**

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**Loc.R. 11.1 – Digital Audio Recordings**

Digital audio recordings of proceedings are the official transcript and record of proceedings before the Court, subject to [Loc.R. 11.2\(B\)](#). A copy of an audio recording of a proceeding will be provided upon request unless release of the recording is prohibited by law or rule. The cost for the audio copy shall be prepaid (see [Loc.R. 58.1](#)). The contents of a recorded hearing shall not be utilized in subsequent pleadings or argument before the Court, absent leave of Court, unless a written transcript of the entire hearing, generated by an approved court reporter, is filed with the Court (see [Loc.R. 11.2](#)). The Court will maintain digital audio recordings in accordance with the Court’s current Records Retention Schedule. Any person desiring to preserve the record beyond that period must arrange to have the record transcribed as provided by these rules and file the written transcript with the Court.

**Loc.R. 11.2 – Written Transcripts**

(A) Requests to prepare a written transcript of a proceeding or a portion thereof shall be filed with the Court. The Court’s approved court reporter will prepare the transcript unless otherwise specifically requested and ordered. The requesting party shall prepay in full all costs necessary to prepare the transcript directly to the Court’s approved court reporter and shall file a notice to inform the Court of the total amount and date paid as proof of payment of said costs. The Court will provide the digital audio recording to the court reporter, who shall not release the digital recording without prior Court approval.

(B) The complete written transcript of an entire proceeding filed with the Court shall supersede the digital recording as the official record of that proceeding. Copies of transcripts shall be requested directly from the court reporter. No copies of transcripts will be provided from the Court’s files.

(C) Requests to prepare a written transcript at public expense for the benefit of an indigent party shall be filed in accordance with [Loc.R. 58.2\(C\)](#).

**Loc.R. 11.3 – Stenographic Record**

Parties who desire a stenographic record of proceedings shall request leave of Court at least forty-eight (48) hours prior to the scheduled hearing. The requesting party shall make their own arrangements for a court reporter, and the costs of the stenographic record shall be paid by the requesting party unless otherwise ordered by the Court.

**Sup.R. 12    Conditions for Recording and Broadcasting Proceedings**

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**Loc.R. 12.1 – Recording Prohibitions**

**(A) Recording devices defined.** For purposes of this rule, a recording device is defined as any machine, instrument, equipment, artifice, or a software application thereof capable of recording (*i.e.*, capturing, photographing, listening, saving, storing) or transmitting audio or video, still images, signals, or data, by any means, including covertly. Such devices include but are not limited to: cellular or mobile telephones; computers; tablets; recorders (digital, tape or other medium); wearable technologies; headsets; microphones; cameras of any kind; and devices that operate transcription software, system features or applications capable of recording or transmitting.

**(B) Restricted areas defined.** For the purposes of this rule, restricted areas are defined as all courtrooms and facilities in which Court proceedings are conducted (in session or in recess), including virtual locations; the judge's chambers; magistrates' offices; employee offices; secure employee work areas located behind the Clerk's office service counters; and any other area designated as restricted and otherwise not open and accessible to the public without permission by signage, order of the Court or directive of Court employees.

**(C) Unauthorized recording prohibited.** No person shall operate or utilize any recording device to record, capture, broadcast or live stream any court proceedings (including, but not limited to: hearings, mediations, conferences, conversations or events) or court business that occurs within any restricted areas of the Union County Courthouse and Justice Center, virtually (regardless of the participants' physical location), or any off-site physical location, without written authorization of the Court (see [Loc.R. 12.2](#)). No covert electronic recordings shall be made in Court facilities. No juror, witness, or litigant shall have their image taken in Court facilities by any person. Cellular telephones and other electronic devices shall be turned off or silenced during Court proceedings or when interacting with Court personnel.

Equipment supplied, operated or controlled by the Court and the Union County Sheriff's Office is exempt from this prohibition. Any violation of this rule or the Court's orders may constitute contempt of Court and subject the person to sanctions, including fines or incarceration.

**Loc.R. 12.2 – Request to Record, Photograph or Broadcast**

**(A) Written Request; Authorization.** In the absence the Court's written authorization, no recording equipment or recording of proceedings shall be utilized or made of official Court proceedings or in restricted areas (see [Loc.R. 12.1\(B\)](#)). A request to record, photograph or broadcast proceedings shall be upon application filed as far in advance as is reasonably possible, but not later than one (1) business day prior to the proceeding. Upon a showing of good cause, the Court may waive the advance notice provision. Any authorizing order will set forth conditions and be filed in the record of the case. If a proceeding for which authorization was granted is continued for more than 30 days, a new request shall be filed.

**(B) Limitations.** No recording shall be made of jurors in any Court facility or virtual proceedings. Under no circumstances shall photographs, video or audio be recorded or transmitted of any victim of crime or undercover law enforcement agent.

**(C) Equipment.** Any non-portable equipment shall be placed and ready for operation prior to the commencement of the Court session. No person shall bring equipment into the courtroom while Court is in session unless approved by the Court. Unless otherwise ordered, pooling of



equipment is required in all proceedings and shall be arranged by those who seek to record or broadcast before the session begins.

**(D) Contempt.** Upon the failure of any person to comply with the conditions prescribed by [Sup.R. 12](#), [Sup.R. 54](#) or the directives and orders of this Court, the Court may revoke permission to broadcast, record or photograph proceedings. Any violation of this rule or the Court's orders may constitute contempt of Court and subject the person to sanctions, including fines or incarceration, pursuant to R.C. Chapter [2705](#).

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## **Sup.R. 19    Magistrates**

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### **Loc.R. 19.1 – Objections or Motions to Set Aside**

All objections to a Magistrate's Decision ([Civ.R. 53\(D\)\(2\)](#)) or motions to set aside a Magistrate's Order ([Civ.R. 53\(D\)\(3\)](#)) shall be accompanied by a memorandum in support. Motions to set aside a Magistrate's Order may be scheduled for hearing. If a finding of fact or the weight of the evidence is a basis for the objection or motion, a written transcript of the proceedings before the magistrate shall be filed with the Court in accordance with [Loc.R. 11.2](#). Failure to file a transcript when required is a basis for dismissal of the objection or motion. Partial written transcripts may be permitted with leave of Court.

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## **Sup.R. 26    Court Records Management and Retention**

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### **Loc.R. 26.1 – Court Records Management and Retention**

The Court will follow the records retention directives set forth in the Ohio Revised Code, the applicable Rules of Superintendence (see [Sup.R. 26 et seq.](#)) and the Records Retention Schedule approved and adopted by the presiding Judge pursuant to [Sup.R. 26\(G\)](#) and available from the Union County Records Commission, as amended from time to time. Records not otherwise addressed by the Rules of Superintendence are retained in accordance with the Records Retention Schedule.

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## **Sup.R. 45    Court Records – Public Access**

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### **Loc.R. 45.1 – Protected Information**

**(A) Personal Identifying Numbers.** The entirety of any personal identifying number (as defined by [Sup.R. 44\(H\)](#)) shall be omitted or redacted from documents prior to filing. Social security numbers shall be omitted from all filings. Financial account numbers shall be partially redacted to disclose only the last four (4) digits of the number. Any omitted or redacted number shall be identified in full upon a Confidential Disclosure of Personal Identifiers (SPF 45(D)) form. The responsibility to omit or redact rests solely with the filer. As deemed necessary, the Court may redact or restrict direct and remote public access to such information in accordance with [Sup.R. 45\(E\)](#). (See also [Loc.R. 57.6](#))

**(B) Health Information.** Unless required by applicable law in a confidential proceeding, and except in cases in which a statement of expert evaluation is required, documents that disclose health information that is otherwise protected under federal law (e.g., Health Insurance Portability and Accountability Act of 1996) or similar state law, shall not be filed. If such

information is submitted without a motion and proposed order to restrict public access to the documents, the Court will issue an order sua sponte in accordance with [Sup.R. 45\(E\)](#).

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**Sup.R. 51    Standard Probate Forms**

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**Loc.R. 51.1 – Local Forms**

The Standard Probate Forms promulgated by the Supreme Court of Ohio should be utilized as appropriate, unless a specific local form has been created in support of these rules. Standard Probate Forms are available from the website maintained by the Supreme Court of Ohio. Local forms adopted in conjunction with these rules are available on the Probate Court's website. See [Appendix B](#). Forms generated by other Ohio Probate Courts may be accepted for filing if they comply with Ohio law and neither the Supreme Court of Ohio nor this Court have promulgated a similar form. Physical copies of local forms are available for a fee from the Office of the Union County Probate Clerk.

**Loc.R. 51.2 – Filing Checklists**

The Court provides multiple filing checklists, which are available on the Probate Court's website to assist parties and counsel in their understanding of the general procedure of most proceedings. The checklists indicate which Standard Probate Forms, local forms and other documents must be filed. The checklists are directive as to general procedure but not intended as legal advice. See [Appendix C](#).

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**Sup.R. 52    Specifications for Printing Probate Forms**

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**Loc.R. 52.1 – Substitute Forms**

Any substitute form that is a modified version of a Standard Probate Form must comply with the specifications and format mandated by the Ohio Revised Code or the Ohio Rules of Superintendence and feature the same blank lines and exact wording of the Standard Probate Form it replaces. The signature of the preparer constitutes a certification that the substitute form complies with the Rules of Superintendence and these local rules.

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**Sup.R. 53    Hours of the Court**

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**Loc.R. 53.1 – Hours of Operation**

The Union County Probate Court is open for business from 8:30 a.m. to 4:00 p.m., Monday through Friday. The Court is closed Saturdays, Sundays, legal holidays, pursuant to the order of the Court, for weather emergencies or at other times as may be appropriate or necessary.

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**Sup.R. 54    Conduct in the Court**

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**Loc.R. 54.1 – Conduct in Court**

To fulfill the Court's duty to dispense justice, resolve disputes, and protect the rights of those who appear before the Court, the Court will ensure that the conduct of all participants is appropriate and not disruptive while assuring that the levels of security are adequate to

maintain order and safety. Whether appearing before the Court in person (physically before the Court) or remotely, all participants are expected to adhere to this rule.

Attorneys shall dress in a manner consistent with their profession and the dignity and decorum of the Court. Participants and spectators shall appear and conduct themselves, in both demeanor and attire, in a manner that does not disrupt, delay or undermine the dignity of the proceedings.

At the discretion of the judicial officer or any assigned court employee, electronic devices may be barred from a courtroom and temporarily impounded for return to the owner. All hearing participants and spectators may be subject from time to time to other safety requirements as outlined by an administrative order of this Court or as ordered or commanded by an officer of the Court.

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## **Sup.R. 55    Examination of Probate Records**

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### **Loc.R. 55.1 – Examination of Probate Records**

**(A) Generally.** The records of the Court are open to inspection by the public during the regular office hours of the Court, subject to exceptions. Certain Probate cases, records, information, documents, indexes, and journals are confidential and/or exempt from public records access. The records of confidential proceedings and specific documents or information deemed confidential by law or rule may be accessed only as authorized by the Presiding Judge, Ohio law, the Rules of Superintendence, and these rules.

**(B) Adoption Records.** Adoption proceedings and records thereof are not public records (R.C. [149.43](#)(A)(1)(d)) and deemed confidential ([Sup.R. 55](#)(C)). An adoption record becomes a public record seventy-five (75) years after the date created (R.C. [149.43](#)(A)(1)).

**(1) Requests for Nonidentifying Information.** Per R.C. [3107.66](#)(B), an adult adopted person, an adoptive parent of a minor adopted person, an adoptive family member of a deceased adopted person, or a birth parent or adult birth sibling can request nonidentifying information (R.C. [3107.60](#)(B)) from the adopted person's record. The requestor shall provide sufficient identification and file the appropriate request form provided by this Court (see Local Forms, [Appendix B](#)).

**(2) Requests for Identifying Information.** Per R.C. [3107.38](#)(B), all requests for identifying information (R.C. [3107.01](#)(F)) from adoption records created less than seventy-five (75) years ago must be filed directly with the Ohio Bureau of Vital Statistics.

**(C) Civil Commitment, Mental Illness and Developmental Disability Records.** Civil commitment records and reports (including epilepsy, lunacy, mental illness, mental retardation and/or profoundly deaf matters) are confidential ([Sup.R. 55](#)(C)). Records created at least one hundred and twenty-five (125) years prior to the date of request are not confidential.

**(1) Subject person living, or deceased less than fifty (50) years.** Proceedings and records are confidential, subject to exceptions provided by R.C. [5122.31](#)(A), R.C. [5119.28](#)(A) and R.C. [5123.89](#)(B).

**(2) Subject person deceased at least fifty (50) years.** Records and reports relating to a person who has been deceased for at least fifty (50) years are not confidential (R.C. [5122.31](#)(A)(14); R.C. [5119.28](#)(A)(16)). To examine such records, the requestor must present proof to the Court (e.g., death certificate, obituary, etc.) that reasonably establishes both the



identity and date of death of the person in question (unless the Court has determined the date of death).

**(D) Ohio Estate Tax records.** Ohio Estate tax filings filed after November 8, 1990 are confidential (R.C. [5731.90](#)).

**(E) Settlements of Minors Claims.** All settlement of minor's claims filed after April 3, 2023, are not subject to disclosure, except upon motion and show of good cause (R.C. [2111.18](#)).

**(F) Wills on Deposit.** A will on deposit for safe keeping is not a public record (R.C. [2107.07](#)).

## **Loc.R. 55.2 – Location of Probate Records**

Physical case files shall not to be removed from the Court facilities without the permission of the presiding judge. Individuals who seek to view Probate Court records should call the Office of the Probate Clerk to determine the location and availability of the records.

Generally, historical and closed records are stored at the Union County Records Center and Archives (128 South Main Street, Marysville) and may be viewed with the assistance of an archivist. Generally, open and recently closed matters are held in the Office of the Probate Clerk, located in the Union County Courthouse (215 West Fifth Street, Marysville) in Room B06, and may be viewed with the assistance of a deputy clerk. Photocopies of public records may be obtained upon payment of costs in accordance with [Loc.R. 58.1](#). Record images stored on microfilm shall constitute an original record pursuant to R.C. [9.01](#). Some historical records are available by searching the records collections available online through the Union County Records Center and Archives' [website](#).

## **Sup.R. 56 Continuances**

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### **Loc.R. 56.1 – Motions to Continue Hearings**

**(A) Form of Motion; Endorsements.** A written motion requesting continuance of a hearing shall state the reason for the continuance, including when and by what method the movant informed all parties (or attorney, if represented) of the request to continue. The motion shall reflect the endorsement of approval of each party (or counsel, if represented), indicate if any party does not consent, and indicate if any party did not respond to the movant's request to continue. Nonconsenting parties may respond to the motion or move the Court for a hearing upon the motion to continue.

**(B) Alternate Dates for Hearing.** The motion shall provide at least three (3) alternative dates for the rescheduled hearing to which all parties agree and that have been verified by a deputy clerk as available dates for the rescheduled hearing. Non-moving parties who do not consent to the continuance must cooperate to identify available hearing dates, notwithstanding their objection. Failure to communicate or to provide the movant with available dates within two (2) business days of a request may constitute the non-moving party's waiver of any conflict with the rescheduled date.

**(C) Timely Filing of Motion.** Exclusive of emergent and unforeseen circumstances, a motion to continue shall be filed as far in advance of the hearing date as practicable. If counsel requests a continuance due to conflicting trial or hearing dates, a file-stamped copy of the conflicting assignment shall be attached to the motion. A motion to continue filed the day of

the hearing will not be granted absent the personal appearance of the movant, except for good cause shown.

**(D) Proposed Entry.** The motion must be accompanied by a proposed journal entry. The Court retains the exclusive authority to grant continuances. The continuance is not granted until the Court's journal entry is filed.

## **Loc.R. 56.2 – Motions to Extend Time to File**

In any proceeding, a motion for extension of time to file inventories, reports, accounts, schedules and similar Probate filings due on a date certain pursuant to law, rule or Court order shall be filed with the Court. The motion shall state with specificity the reasons why timely filing is not possible, when documentation can be filed and shall be signed by both the fiduciary and their attorney (if any). A proposed journal entry shall be submitted therewith for the Court's review.

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## **Sup.R. 57 Filings and Judgment Entries**

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### **Loc.R. 57.1 – Physical Format of Filings**

**(A) Three-inch margin on first page of pleadings required.** To accommodate the Court's official time and date file stamp, the first page of any pleading, motion or proposed entry filed shall display a blank, three inch (3") top margin and each page thereafter shall display a blank, one inch (1") top margin. Standard or local forms promulgated by the Supreme Court of Ohio, a local, state or federal agency, by this Court or another Ohio Probate Court (see [Loc.R. 51.1](#)) are exempt from this requirement. The Court will not accept pleadings for filing that do not comply with this rule.

**(B) Typewritten Forms; Legible handwriting.** All forms and pleadings prepared and filed by attorneys shall be typewritten (generated by a computer or typewriter), exclusive of original signatures. Handwritten forms and pleadings prepared and filed by self-represented litigants may be accepted for filing if legible. Upon request of a clerk or the Court, self-represented litigants may be required to submit typewritten pleadings before the submission is accepted.

**(C) Dimensions.** No document e-filed or physically filed shall exceed the dimensions 8½" wide by 11" long, unless the document is an original document (e.g., Decedent's Original Last Will and Testament).

### **Loc.R. 57.2 – Filing by Email**

**(A) Email Filing in Open Matters.** Generally, the Joint Administrative Order regarding the Court's Electronic Case Filing System (see [Loc.R. 5.7](#)) forbids filing by email, with exception of certain case types that are not available for e-filing. Self-represented litigants may be permitted to email their filings (if required deposits or costs are otherwise paid and current) with permission granted by the Court or a deputy clerk. If the Clerk's office accepts a filing by email, the cost of printing the document for the record will be assessed in accordance with R.C. 2746.04(A) and R.C. 2303.20(Y), as set forth in [Loc.R. 58.1](#). No proceedings or actions shall be initiated by email.

**(B) Filing, Return.** Any filing permitted by email shall be considered filed with the Court as of the date and time a deputy clerk applies the Court's official time and date file stamp, as opposed to the date and time of the email transmission. Submissions received will be

reviewed, and if complete, file-stamped before the end of the next business day after submission. If requested, filers may retrieve physical copies of the filing from the Clerk's Office during regular business hours; copy fees will be assessed. If requested, copies can be return emailed; electronic transmission fees will be assessed to the requesting party in accordance with R.C. 2746.04(A) and R.C. 2303.20(Y), as set forth in [Loc.R. 58.1](#).

### **Loc.R. 57.3 – Filing by Facsimile**

**(A) Facsimile Filing.** Filers shall not submit filings via facsimile unless a deputy clerk of this Court grants express permission to file. Filers shall contact the Clerk's Office during regular business hours to request permission to file by facsimile. Generally, the Joint Administrative Order regarding the Court's Electronic Case Filing System (see [Loc.R. 5.7](#)) forbids filing by facsimile. If the Clerk's office accepts a filing by facsimile, the cost of printing the document for the record will be assessed in accordance with [Loc.R. 58.1](#). No proceedings or actions shall be initiated by facsimile.

**(B) Filing, Return.** If the clerk accepts a filing by facsimile, it shall be considered filed with the Court as of the date and time a deputy clerk applies the Court's official file stamp, not the date and time of the transmission. Submissions will be reviewed, and if complete, file-stamped before the end of the next business day after submission. If requested, filers may retrieve physical copies of the filing from the Clerk's Office during regular business hours; copy fees will be assessed. If requested, the filing can be return faxed; electronic transmission fees will be assessed to the requesting party in accordance with R.C. 2746.04(A) and R.C. 2303.20(Y), as set forth in [Loc.R. 58.1](#).

### **Loc.R. 57.4 – Forwarding Copies, Service of Court Entries**

The Court will not return file-stamped copies of filings by regular U.S. mail unless a self-addressed, stamped envelope is provided, the requestor pre-pays the costs, and funds are on deposit to which costs may be billed if necessary.

This Court will serve its entries and orders via the Court's Electronic Case Filing System (see [Loc.R. 5.7](#)) upon the registered attorneys of record in any matter. Upon all others, service shall be by ordinary U.S. Mail, unless another method of service is required by law, rule or order, or specifically requested. Service costs will be assessed in accordance with [Loc.R. 58.1](#).

### **Loc.R. 57.5 – Filing Original Documents, Redaction**

**(A) Generally.** After a document has been e-filed (via the ECF), or filed by email or facsimile, filers should not thereafter file the original source document again unless required by the current ECF Joint Administrative Order (see [Loc.R. 5.7](#)), these rules, or the Court. The digital image of the document shall be considered the original document for purposes of the record.

**(B) Maintenance by Filer.** After the digital image has been e-filed, original source documents (*i.e.*, an original certificate of death, documents that contain original signatures, etc.) shall be maintained by the filer until the case is closed and all opportunities for post-judgment relief are exhausted. The filer shall produce any original document upon request of the Clerk or order of the Court. Failure to maintain and preserve the original document may be considered contempt of court.

**(C) Original Last Will and Testament.** A decedent's original last will and testament shall be filed for record in any estate matter initiated for administration with this Court. eFilers shall redact any personal identifying information found in the decedent's last will and testament (e.g., social security numbers, see [Sup.R. 44\(H\)](#)) before uploading the digital image of the original will. If the matter is not initiated through the ECF, and redaction of personal identifiers is required, the filer should provide a redacted photocopy of the will when they physically present the original last will and testament for probate. Only the redacted version of the will shall be available within the public record.

**(D) Certificate of Death.** Self-represented litigants shall present the decedent's original certificate of death to the Clerk's office upon filing an application to relieve an estate from administration or summary release from administration (unless a motion for extension of time to file is filed and granted by order of the Court). For a full administration, the death certificate shall be presented prior to filing the inventory. The original certificate of death will be photocopied by the Clerk's office, redacted for the record, and returned to the applicant to be maintained (see section (B) of this rule). Attorney eFilers shall redact any personal identifying information in the document (e.g., social security number, see [Sup.R. 44\(H\)](#)) before uploading the digital image of the certificate to the ECF. Only the redacted version of the certificate shall be available within the public record. If e-filed, the original death certificate does not need to be displayed to the Clerk's office.

### **Loc.R. 57.6 – Real Estate Transfers Only**

An application for a certificate of transfer of real estate may be approved pursuant to R.C. [2113.61](#)(D) without administration of estate or release from administration if: six (6) months have elapsed since the date of death; the sole probate asset of the decedent is real estate; and the filer verifies the estate is not subject to Medicaid Estate Recovery (see [Loc.R. 62.3](#)).

## **Sup.R. 58    Deposit for Court Costs**

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### **Loc.R. 58.1 – Deposit for Court Costs**

A deposit of funds, as security for court costs and fees, shall be required upon the initial filing of any action or proceeding pursuant to the local schedule of deposits, fees and court costs (see [Appendix A](#)) in effect on the date of filing and as published to the Court's website. Court costs and fees will be assessed for each action, proceeding or request as required by law and as set forth in the schedule. If a deposit is inadequate to cover costs or fees for any subsequent filing, or the filer is not the payor of the original deposit, the filing may not be accepted without payment of an additional deposit, fee or cost. The Court or any deputy clerk may require additional deposits or issue an invoice. Upon the close of any matter, no refund shall issue of a remaining balance of five dollars (\$5.00) or less on deposit; the balance shall be transferred in total to the Union County Indigent Guardian Fund created pursuant to R.C. [2111.51](#).

### **Loc.R. 58.2 – Requests to Waive Deposit, Costs Due to Indigency**

**(A) Filing Deposits.** In accordance with R.C. [2323.311](#), indigent filers may file an application and affidavit (see Local Forms, [Appendix B](#)) to waive prepayment of a deposit upon initiation of any matter. The Deputy Clerks will permit immediate filing of the action, and the application will be reviewed by the Court. If the Court determines the filer is not indigent, the Court will

order the deposit to be paid before proceedings continue. Failure to tender the deposit if ordered may result in dismissal of the action. During the pendency of matter, the Court may review the status of the filer's continuing indigency and order that party to pay some or all the costs and fees. The filer shall have an ongoing duty to report changes in their indigency status pursuant to [Loc.R. 58.3](#).

**(B) Indigence of Adult Ward or Alleged Incompetent.**

(1) An adult Ward or alleged incompetent adult is rebuttably presumed not to be indigent, therefore a deposit for costs shall be paid upon filing application to appoint a guardian or at any time thereafter as required by [Loc.R. 58.1](#). If an applicant believes that the Ward/alleged incompetent is indigent and without the means to pay costs of the action, the applicant shall file an affidavit representing the indigency of the adult Ward or alleged incompetent adult and affidavit in support (see Local Forms, [Appendix B](#)). The Court will permit the action to be filed without deposit for costs, pending the Court's determination of indigency.

(2) The Court will hear evidence as to the alleged incompetent's indigency at the hearing upon the application to appoint the guardian. To prevail upon an application to determine indigency, the applicant should submit sufficient evidence (documentation, testimony) to establish that the Ward/proposed Ward's personal property is worth less than \$2,000.00 and their annual income is equal to or less than the Federal Poverty Guidelines for that year, as promulgated by the U.S. Department of Health and Human Services. If the Court declares a Ward/proposed Ward to be indigent, the Court will waive payment from the Ward's estate for court costs, counsel fees and independent expert fees. If the Court finds the Ward is not indigent, all costs of the action shall be paid from the estate of the Ward. An adult Ward or an alleged incompetent with a special needs trust does not qualify for indigent status.

(3) The fiduciary shall have an ongoing duty to report as to the Ward's indigency status pursuant to [Loc.R. 58.3](#).

**(C) Preparation of Written Transcripts at Public Expense.** Indigent parties (R.C. [2323.311](#)) are entitled to the preparation of a written transcript (see [Loc.R. 11.2](#)) at public expense to object to the decision of a magistrate or to appeal the final orders of this Court. The party claiming indigency shall file a motion requesting preparation of the written transcript at public expense (R.C. [2301.24](#)), if previously determined indigent by this Court in the matter. Otherwise, the party shall file a motion for preparation at public expense, an application affidavit for waiver of costs due to indigency (see Local Forms, [Appendix B](#)) and a proposed entry. The motion may be scheduled for hearing at the discretion of the Court.

**Loc.R. 58.3 – Ongoing Duty to Report Indigency Status**

All parties or litigants determined indigent for any purpose before this Court, and their fiduciaries (if applicable), shall have an ongoing duty to report and update the Court in writing as to any change to their indigent status. If the indigent party is found to have received income, pecuniary benefits, or to hold assets of such value that the person was not indigent at the time indigency was represented to the Court or is no longer indigent during pendency of the matter, the Court may revise its prior finding of indigency, order compensation for appointed counsel as if retained, and order payment of all or part of the attorney's fee and court costs from assets of the subject estate. Failure to inform the Court in accordance with this rule may subject the person (party, litigant or fiduciary) with this duty to report to contempt of this Court and any penalties as provided by law.



### **Loc.R. 58.4 – Witness Fees**

Upon filing a praecipe to request the Court issue a subpoena to a witness, the filer shall submit to the Court a check or money order (made out to the witness) in payment of witness fees and mileage, in accordance with R.C. [2101.16](#)(D), R.C. [2335.06](#) and Civ.R. [45](#)(B). If an attorney of record serves a subpoena, the return should indicate the amount of fees and mileage prepaid.

### **Sup.R. 60 Application for Letters of Authority to Administer Estate and Notice of Appointment**

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#### **Loc.R. 60.1 – Appointment of Nonresident Executor or Trustee**

**(A) Procedure to Appoint Nonresident Executor or Trustee.** Generally, executors and trustees shall be residents of the State of Ohio. In accordance with R.C. [2109.21](#)(B), the Court may appoint a non-resident if the applicant qualifies for appointment. To be considered for appointment, the proposed non-resident executor or trustee shall:

- (1) Be represented by an attorney licensed to practice law in the State of Ohio;
- (2) Provide the Court a copy of their current, state-issued photo identification and sufficient proof of their current residence and mailing addresses; and
- (3) File an affidavit that attests:
  - (a) the applicant is either related to the testator by consanguinity or affinity or resides in a state that has statutes or rules that authorize the appointment of a non-resident person who is not related to testator by consanguinity or affinity; and
  - (b) the applicant will not remove assets located in Union County at the decedent's death without written permission of the Court or prior to distribution of the assets to the proper beneficiaries.

**(B) Criteria for Appointment of Nonresident Executor or Trustee.** To ensure the estate assets remain in Union 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:

- (1) Place a substantial amount of the decedent's personal assets in a custodial depository in this county, pursuant to R.C. [2109.13](#);
- (2) Serve with a co-fiduciary who is a resident of this state; or
- (3) Post a surety bond (in an amount to be fixed by the Court) in accordance with R.C. [2109.04](#), even if the will nominating the person authorizes them to serve without bond. The Court may dispense with a surety bond if, upon written motion and for good cause shown, either the non-resident person applying for appointment as executor is the sole beneficiary or the non-resident person and the other named executor(s) constitute the only beneficiaries of the estate.

#### **Loc.R. 60.2 – Self-Represented Applicants**

Upon filing an application for authority to administer a decedent's estate, to relieve an estate from administration, or for a summary release from administration, any applicant who is not represented by an attorney shall sign and file a written self-representation acknowledgement

(see Local Forms, [Appendix B](#)), display their current state-issued photo identification, and provide proof of their current residence and mailing addresses.

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**Sup.R. 61     Appraisers**

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**Loc.R. 61.1 – Suitable, Disinterested Appraiser Required**

Appraisers appointed by this Court shall be suitable (qualified) and disinterested (having no personal relation to the decedent, beneficiaries, fiduciary, or the attorney of the estate, and no expectations in the interest in the estate assets). Notwithstanding [Loc.R. 61.3](#), during administration of the estate, the appraiser shall not directly or indirectly purchase or acquire, negotiate the purchase, sale, trade, or management of the property they appraised, except at public auction. The appraiser, any party to the action, or counsel of record who becomes aware of information that suggest a direct conflict with these requirements shall immediately inform the Court.

**Loc.R. 61.2 – Personal Property Valuations, Appraisal**

**(A) Value Readily Ascertainable.** The fiduciary of any decedent's estate shall file documentation evidencing the value of any item of personal property (tangible or intangible) with a readily ascertainable value and submit the documentation with the inventory or pleading that seeks to establish the value of the asset. The Court will accept a report generated by any reasonable source to establish the value of a motor vehicle or any other asset.

**(B) Value Not Readily Ascertainable.** As to personal property without a readily ascertainable value or with unique or unusual characteristics, the fiduciary shall apply to the Court for appointment of a suitable (qualified) and disinterested special appraiser (SPF [3.0](#)). The fiduciary shall append to the application a description of characteristics of the property that necessitate the special appraisal, the nature of the proposed special appraiser's qualifications, and the proposed rate of compensation.

**(C) Payment.** The fiduciary shall not pay the appraiser prior to the appraiser's appointment by the Court. Unless otherwise ordered, the appraiser's fee shall be paid within thirty (30) days after the filing of the inventory or sixty (60) days after the completion of the appraisal, whichever occurs first. The estate shall not close until the fiduciary has accounted for the payment of the fees. The fiduciary shall be personally liable for appraisers' fees not paid pursuant to this rule.

**Loc.R. 61.3 – Real Estate Valuations, Appraisal**

**(A) Auditor's Valuation.** The Court will accept the Union County Auditor's valuation to establish the value of real property if attached to and filed with an application to appoint or dispense with the appointment of an appraiser (R.C. [2115.06](#)).

**(B) Appraiser's Qualifications.** Real estate appraisals shall be made by licensed real estate agents, brokers, auctioneers, credentialed real estate appraisers, real estate loan officers of a local financial institution, or such other professionals who by experience and training are qualified to make real estate appraisals. The licensed real estate agent or listing broker contracted for the sale of the real estate is not disqualified as an appraiser.

**(C) Appraiser's Fee.** The appraiser's fee for residential real estate shall not exceed four hundred dollars (\$400.00). Requests for a fee more than \$400.00 shall be made by separate

application to the Court, with good cause shown to exceed that amount. For any other type of real estate (e.g., farmland, commercial, mineral rights, etc.), the real estate shall be appraised for a reasonable fee as the fiduciary and the appraiser agree pursuant to a written contract for services. If the fee is disputed as excessive or unreasonable by a person required to pay any portion of the fees, the burden of proving the reasonableness of a fee is upon the appointed appraiser. Payment of the fee is subject to the Court's approval.

### **Loc.R. 61.4 – Auctioneers' Fees**

In accordance with R.C. [2113.41](#)(B), the fees paid to a licensed auctioneer for appraisal and sale, as well as the expenses for advertising and marketing, shall be reasonable and in the best interests of the estate. Auctioneer's fees that do not exceed fifteen (15) percent of the total sale price (plus expenses) for the sale of personal property, and that do not exceed six (6) percent of total sale price (plus expenses) for the sale of real property will be presumed reasonable, subject to rebuttal and for good cause shown. Payment of fees is subject to Court approval upon filing of the account that reports payment from the proceeds of the sale. The burden of proving the reasonableness of a fee is upon the auctioneer if fees are disputed as excessive or unreasonable.

### **Loc.R. 61.5 – Hearing Upon Inventory**

**(A) Non-Oral Hearing.** Upon filing any inventory in a decedent's estate, the Court will schedule a non-oral hearing. On the day scheduled for hearing, the inventory will be examined by the Court as provided by law. If exceptions are timely filed or a formal hearing is timely requested, the non-oral hearing will be continued for formal hearing.

**(B) Notice of Hearing.** The fiduciary shall serve notice of the non-oral hearing by regular U.S. Mail upon all persons reported upon SPF [1.0](#), unless notice is waived or the names or addresses are unknown and cannot with reasonable diligence be ascertained. Prior to the date scheduled for non-oral hearing, the fiduciary shall file the certificate of service of notice of the hearing (see Local Forms, [Appendix B](#)), with a copy of the notice sent appended thereto, and waivers of notice (if any) not previously filed.

## **Sup.R. 62    Claims Against Estate**

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### **Loc.R. 62.1 – Claims Filed with the Court**

No estate, guardianship or trust shall be closed until all claims that have been filed with the Court have been resolved. Any creditor who presents a claim against an estate to the Court (R.C. [2117.06](#)(A)(1)(b)) shall pay local costs for the claim upon filing (see [Loc.R. 58.1](#)). The claims of any corporation shall be e-filed by their attorney of record (see [Loc.R. 5.7](#)). Failure to abide by this rule may result in rejection of the proposed filing of the claim.

### **Loc.R. 62.2 – Insolvent Estates**

Insolvency proceedings shall be commenced by filing a representation of insolvency (SPF [24.0](#)) and schedule of claims (SPF [24.4](#)), with submission of a proposed judgment entry setting hearing and ordering notice (SPF [24.1](#)). The Court will schedule a formal hearing, and the fiduciary (or attorney for the fiduciary) shall notify all creditors of the hearing by certified mail. Prior to the hearing, the fiduciary (or attorney) shall file SPF [24.3](#) and the certified mail returns, consents or other proofs of notice with the Court as verification of service of notice. Upon



receipt of the returns, the Court will approve the judgment entry of insolvency (SPF [24.6](#)) and the journal entry ordering distribution, making any necessary changes and attaching an amended schedule of claims form only if needed. The Court may require counsel to serve additional notice to creditors or submit a proposed entry.

### **Loc.R. 62.3 – Medicaid Estate Recovery Acknowledgement**

Every applicant or proposed fiduciary not represented by counsel who applies for authority for the administration of an estate, the transfer of real estate, or release or summary release from administration of an estate, shall file an affidavit of Medicaid Estate Recovery Acknowledgement (see Local Forms, [Appendix B](#)).

## **Sup.R. 64    Accounts**

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### **Loc.R. 64.1 – Accounts**

**(A) Exceptions.** Exceptions to any requirements of these local rules regarding accounts (Loc. R. 64.1, *et seq.*) may be made only upon written application and order of the Court approving the requested exception(s), for good cause shown.

**(B) Timeliness.** Fiduciaries shall file accounts in guardianships (*see also* [Loc.R. 66.08\(B\)](#)), conservatorships and trusts annually. For decedent estates, fiduciaries shall file accounts at the intervals required by law or as otherwise ordered by the Court. Failure to file an account timely will subject the fiduciary (and their attorney, if any) to the citation process set forth in R.C. [2109.31](#) and [Sup.R. 78](#). No expenditure, sale, distribution, or fee will be approved while the fiduciary is delinquent in filing an account. No final account will be accepted for filing until all court costs have been paid. In releases from administration, the report of distribution shall be filed within sixty (60) days after appointment of the commissioner, unless an extension of time is granted for good cause shown.

**(C) Signature Required.** An account shall be signed by all fiduciaries. If a fiduciary's signature cannot be obtained, the filer shall file a written explanation for the absence and describe the efforts made to obtain the signature.

### **Loc.R. 64.2 – Account Contents, Evidence**

**(A) Itemized Statement.** An itemized statement shall accompany all accounts that lists and describes all income, proceeds, and other receipts, as well as all expenses, disbursements, distributions, and other financial transactions for the accounting period. Itemized statements filed with accounts shall report, in chronological order, all receipts (income), followed by all disbursements.

**(B) Evidence of Assets.** The fiduciary shall exhibit proof of all assets remaining in the fiduciary's hands to the Court at the time of the filing of any partial account. As to intangible assets, the fiduciary shall provide written proof of the existence and value of the assets (*i.e.*, account balances for the accounting period). Cash balances shall be established by the bank statement issued at the end of the accounting period. In lieu thereof, the Court will accept a bank certificate or other current original writing from a depository or brokerage firm that states the amount on deposit at the end of the accounting period. For custodial depository accountings, the fiduciary shall file an annual verification of funds with restricted access (*see* Local Forms, [Appendix B](#)).

**(C) Evidence of Income.** An account must add to the beginning balance all assets acquired or discovered, all income received, and other forms of financial gain (realized and unrealized) since the beginning of the subject estate (for a first account) or since the last accounting on all subsequent accounts. If an account reflects the sale of real estate, the account shall state both the receipt of the gross amount of the proceeds (income) and the payment of the gross amount of disbursements. A copy of the settlement statement that itemizes all proceeds and disbursements from the sale shall be filed with the account.

**(D) Evidence of Payment.**

**(1) Form.** A “voucher” is defined as documentary evidence of an expense paid, distribution made, amount of loss (realized and unrealized), and all other forms of expenditure from the estate. Such evidence includes original or photocopied receipts, cancelled checks (or digital images thereof), written acknowledgments (of the amount paid, signed by the payee) or other appropriate evidence that payment in an amount certain was made by the fiduciary and received by the payee. Statements or reports issued by or from the digital records of a financial institution that indicate the account number and report all transactions and balances will be accepted, including statements printed from the account record as it appears online.

**(2) Display of Vouchers Required.** Vouchers, referenced to the account by number, letter, or date (see [Sup.R. 64\(A\)](#)) shall be displayed with all accounts of guardianships, trusts, and conservatorships, or the account will not be accepted for filing.

**(3) Display of Vouchers Not Required for Accounts of Decedents’ Estates.** Vouchers of payments are not required to be displayed with a decedent’s estate account, unless otherwise ordered by the Court, the exception set forth in (D)(3)(a) of this rule, or as required by these rules (see [Loc.R. 64.5](#)). Attorneys (and self-represented fiduciaries) shall sign and file a certification of compliance (see Local Forms, [Appendix B](#)), to establish that they have reviewed all vouchers reported upon the account and can present the records to the Court for review upon request of a Probate Clerk or by order of the Court.

**(a) Exception: Disbursements from a Decedent’s Estate.** For any disbursement or distribution to an heir or beneficiary of a decedent’s estate, the fiduciary shall file that person’s signed notice of receipt of distribution with the account or a photocopy of the check that issued the disbursement. No additional proof of disbursement is required if the person received a vehicle or parcel of real property that was previously transferred by order of the Court.

**(4) Recordkeeping.** Vouchers not filed shall be maintained by the fiduciary (or their attorney, if any) and shall be promptly displayed upon request of a Probate Clerk or by order of the Court. The fiduciary shall preserve all vouchers in their records until the subject estate is closed and terminated, and all opportunities for post judgment relief are exhausted (the time for appeal has expired, or appeals have been heard and decided). See [Loc.R. 64.5](#).

**(5) Clerk Review.** The Court may order and the Probate Deputy Clerks are authorized to require the display of any additional or alternative evidence (including any or all vouchers) to resolve any demonstrated or suspected issue with a specific account. A proposed account submitted for filing will not be filed until the requested documentation is provided and reviewed and discrepancies (if any) resolved.

**(E) Attorney’s Fees.** Any application for approval of attorney fees shall be filed with or prior to the account in which the fees are reported. See [Loc. 71.1](#), et seq.

### **Loc.R. 64.3 – Notice, Hearing Upon Accounts**

**(A) Non-Oral Hearing.** Upon filing any account, the Court will schedule a non-oral hearing. On the day scheduled for hearing, the account will be examined by the Court as provided by law. If exceptions are timely filed or a formal hearing is timely requested, the non-oral hearing will be continued, and the account will be scheduled for a formal hearing.

**(B) Notice of Hearing.** The fiduciary (or their attorney) shall issue and serve the account and notice at least 15 days prior to the hearing date. Notice of hearing on the account for a decedent's estate shall be given to all next of kin in an intestate estate and to all beneficiaries in a testate estate, except corporate or charitable beneficiaries. Notice of hearing for the account of a testamentary trust shall be given to all beneficiaries. Notice of hearing on a guardian's account shall be given to all next of kin of the Ward who reside in Ohio.

**(C) Proof of Notice.** Any person who has not signed a waiver of notice of the hearing shall be served notice. Notice regarding a partial account may be served by regular U.S. Mail. Notice regarding any other account shall be served by certified mail, return receipt requested. The certificates of service of notice of the hearing, the return receipt ("green card" or electronic return receipt) or other proof of service, and waivers (if any) shall be filed with a copy of the notice sent prior to the date scheduled for non-oral hearing.

### **Loc.R. 64.4 – Partial Accounts in Decedent's Estates**

**(A) Waiver.** A partial account in a decedent's estate may be waived pursuant to R.C. [2109.301](#)(A), unless the Court orders a full accounting for a particular accounting period. A waiver of a partial account does not waive the requirement to file a status report.

**(B) Status Report.** A status report signed by the fiduciary of a decedent's estate shall be filed with the Court when filing a partial account or waiver of partial account. The status report shall include pertinent information such as the status of the administration, efforts to close the estate, the steps needed to be completed before the estate may be closed, and any other pertinent information to apprise the Court.

### **Loc.R. 64.5 – Accounts Compliance Review**

The Court is empowered to inquire into, consider and determine all matters relating to any account, pursuant to R.C. [2101.24](#)(A)(1)(c), (e) and (m). The Court reserves the right to identify any account submitted or filed and conduct a detailed review to determine compliance with Ohio law and these rules. If an account is selected for review, the Court will order the fiduciary (and their attorney, if represented) to deliver supporting documentation on a date certain (including any or all vouchers); see [Loc.R. 64.2](#)(D)(1)). It is expected that the fiduciary (and their attorney, if represented) will have the documentation readily available to provide to the Court if ordered to do so. The filing of consents or waivers to an account does not insulate the account from a detailed compliance review.

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## **Sup.R. 65 Land Sales – R.C. Chapter 2127**

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### **Loc.R. 65.1 – Evidence of Title**

**(A) Notice of Designated, Disinterested Title Examiner.** Upon filing a complaint for authority to sell lands, the plaintiff shall file a notice to the Court (see Local Forms, [Appendix B](#)) identifying the designated title examiner. The title examination shall be conducted by either an

Ohio attorney experienced in examining real estate titles or a duly licensed title insurance agent (on behalf of a licensed title insurance company). The examiner shall be disinterested in the proceedings, therefore: shall not be affiliated with, employed by or in business with any parties or counsel of record to the action, and have no expectancy of financial benefit from the sale or subject estate or trust, other than receipt of the fees to conduct the title examination, to write and file the opinion or judicial reports, and/or to issue the title insurance policy (if applicable).

**(B) Examination, Reports.** The examiner shall review documents within the public record regarding the subject premises and file one or more written reports as evidence of the record title. The report shall provide, at minimum: the legal description of the real property; the name of the owner(s) of record; citation to the recorded instrument by which the current record acquired title; and a description of all recorded exceptions to the owner's fee simple title (e.g., defects, liens, interests, claims, or encumbrances, etc.) that affect or impugn marketability of the title.

**(1) Attorney Title Opinion Letter.** An attorney examiner's title opinion letter shall provide substantially the same information suggested by Ohio Title Standard 2.3 (adopted by the Ohio State Bar Association) and shall not purport to provide indemnity. An attorney examiner should review the land sale action and provide an opinion as to whether all necessary persons appear to have been named parties.

**(2) Judicial Reports.** As a title insurance policy for record title only, the contents of a Preliminary or Final Judicial Report shall comport with Ohio law, the regulations of the Ohio Department of Insurance, and federal law, as applicable.

**(C) Timely Filing.** Preliminary evidence of title shall be filed within fourteen (14) days of filing the complaint and effective to a date subsequent to the filing of the complaint. If more than six (6) months elapse from issuance of the order of sale, an Updated Judicial Report/Opinion shall be filed not later than fourteen (14) days prior to the closing. The Final Judicial Report/Opinion shall be filed within ninety (90) days after the deed is recorded, to indicate that all liens (if any) are satisfied of record.

**(D) Fees.**

**(a) Payment.** Fees for all opinions and reports shall be paid from the net proceeds of sale (R.C. [2127.28](#)). If the sale is not completed, the fee will be deemed as court costs upon motion (with invoice appended) and taxed as costs to the estate.

**(b) Amount.** A title examiner's fee of up to \$400.00 shall be presumed reasonable; a fee in excess \$400.00 will be approved if complex or novel issues regarding marketability of title are present. A fee of up to \$75.00 will be permitted for any necessary updates. Fees for a title examination with title insurance shall be as permitted by the Ohio Department of Insurance (ref. R.C. Chapter [3953](#)) and the Ohio Title Insurance Rating Bureau.

**Loc.R. 65.2 – Confirmation of Sale, Report of Distribution**

**(A) Entry Confirming Sale.** At least seven (7) days prior to closing, the plaintiff shall submit the proposed judgment entry confirming the sale, ordering issuance of deed, and ordering payments and distributions in accordance with R.C. [2127.38](#). The proposed entry shall be signed by all attorneys of record (approved or approved as to form). The plaintiff shall also file

notice of the proposed closing statement and specifically inform the Court if the sale is unlikely to generate proceeds sufficient to pay all expenses, fees, taxes and liens.

**(B) Report of Distribution.** Within fifteen (15) days of closing the sale of the real property, the plaintiff shall file a Return of Order of Sale with a signed copy of the final closing disclosure statement required by the Consumer Finance Protection Bureau (CFPB). Upon the filing of the Final Judicial Report (see [Loc.R. 65.1\(C\)](#)) the plaintiff shall submit a proposed journal entry that approves the distribution, assesses all final court costs and closes the case.

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## **Sup.R. 66 – Guardianships**

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### **Loc.R. 66.1 – Guardianships, Generally**

**(A) Appearance of Proposed Ward at Hearing.** A proposed Ward shall personally appear before the Court at the hearing to establish a guardianship unless evidence is presented that such an appearance would be physically impossible or detrimental to their health and general welfare. Such evidence may include, but is not limited to: medical certificates, affidavits and/or testimony of family members, nursing home personnel, or other persons having personal knowledge of the facts.

**(B) Powers of Attorney Prohibited.** Pursuant to the discretion granted in accordance with R.C. [2111.50\(A\)\(2\)\(c\)](#), the Court hereby prohibits any guardian to create a power of attorney or any other document that purports to appoint an agent to execute any of the duties or responsibilities imposed upon the guardian by law, rule, or order of the Court, unless otherwise approved by a specific order of the Court when exceptional needs are proven to exist.

**(C) Deposit in Lieu of Bond.** Guardianship funds and property shall be deposited by the guardian in accordance with R.C. [2109.41](#). The depository shall verify receipt and deposit in writing (see Local Forms, [Appendix B](#)) that it holds said funds pursuant to the orders of this Court, and that absent a Court order, the financial institution will not permit the guardian or any other person to draw on said funds or permit the funds to be used as a pledge or collateral for a loan.

**(D) Expenditures of Ward's Property.** Other than regular allowances as granted by the Court (*i.e.*, monthly allowance), no guardianship funds shall be expended without a Court order that specifically authorizes the expenditure. The guardian shall file a written application (SPF [15.7](#)) that sets forth the proposed expenditure and the reasons therefore (with documentation attached, if available).

### **Loc.R. 66.2 – Guardianship of Minors**

**(A) Birth Certificate.** A certified copy of the minor's birth certificate must be displayed to the Court upon application to establish a guardianship for the minor. If the action is initiated through the ECF and a digital image of the original birth certificate is e-filed, the original birth certificate does not need to be filed thereafter (see [Loc.R. 5.7](#)).

**(B) Jurisdiction.** The Court will not accept filing of an application for guardianship of a minor if the sole purpose for the guardianship is for school enrollment, or if another Court has jurisdiction over custody of the minor. If the minor has not been a resident of Ohio for six (6) months, the Court will not appoint a guardian unless it is established that: the minor has been abandoned (no contact) by their parents for more than 90 days; the minor has a medical emergency; or the minor's "home state" has declined jurisdiction (see Ohio's Uniform Child



Custody Jurisdiction Enforcement Act, R.C. Chapter [3127](#)). Minors are deemed to have the residence of their custodian(s), therefore an application for the guardianship of a minor shall be filed in the minor's county of residence unless the home county has specifically declined jurisdiction and granted this Court authority to proceed.

**(C) Non-relative Guardian.** If a non-relative applies for guardianship of a minor, proof of the identity of child's parents must be filed with the Court by the applicant. If the minor is currently living with the applicant, then documentation (*i.e.*, sworn affidavits, certified court orders) must be filed to evidence how the child was placed in the home. At the Court's discretion, the Court may order the applicant to submit to an Ohio BCI or FBI Criminal Records History Check or other criminal history report before appointment.

**(D) Annual Account.** The guardian of the estate shall file an account annually. If the minor's funds are held in a restricted custodial account or pursuant to an annuity contract until the minor attains the age of majority, the guardian and/or attorney shall annually file a status letter or a Custodial Year End Report (see Local Forms, [Appendix B](#)) with the most recent bank statement evidencing the account balance.

**(E) Termination of Minor's Guardianship.** Applications to terminate the guardianship of a minor (SPF [27.9](#)), filed for any reason other than if the Ward obtains the age of majority or the death of the Ward, shall be served upon all persons designated by R.C. [2111.04](#) and any other individuals who received actual notice of the original appointment of the guardian. Interested individuals may consent to the termination by signing a waiver of notice of hearing and consent to the termination (see Local Forms, [Appendix B](#)). An application to terminate that is not accompanied by all necessary consents shall be scheduled for hearing. If the minor has reached the age of majority, a final account shall be filed; the fiduciary shall obtain a written receipt from the Ward (see Local Forms, [Appendix B](#)), a copy of which shall be filed with the Court. The final account shall be filed within 30 days after administration of the Ward's estate is complete.

## **Loc.R. 66.3 – Guardianship of Adults**

### **(A) Emergency Adult Guardianships, Orders ([Sup.R. 66.03](#)(A))**

**(1) Initial Pleadings, Deposit.** Emergency guardianships cannot be initiated by e-filing through the ECF (see [Loc.R. 5.7](#)). To initiate proceedings for an ex parte emergency guardianship or emergency order, the applicant shall file: an application and affidavit in support (see Local Forms, [Appendix B](#)); a statement of expert evaluation (SPF 17.1); a supplement for emergency guardianship of person (SPF [17.1A](#)); the next of kin of proposed Ward (SPF 15.0); and the affidavit of the guardian applicant (SPF [66.05](#)). The application should include any attachments or exhibits that may assist the Court. The applicant shall pay the appropriate deposit as set forth in [Loc.R. 58.1](#) or, if the Ward is indigent, comply with the process set forth in [Loc.R. 58.2](#)(B).

**(2) Process Upon Review.** If the Court declines to grant an emergency guardianship or emergency orders, the Court may schedule the matter for hearing on an expedited basis. If the Court approves the request for emergency guardianship or emergency orders, a Judgment Entry will issue granting emergency guardianship or emergency orders for a period of seventy-two (72) hours. As soon as possible after the issuance of the emergency guardianship or emergency order, a Probate Court Investigator will visit with the respondent to serve notice of any written orders and any scheduled hearing.

**(3) Extension.** If a motion to extend the emergency guardianship or orders is filed, a hearing will be scheduled within seventy-two (72) hours to determine whether to extend the emergency guardianship or orders for up to thirty (30) days.

**(4) Subsequent Guardianship.** If an application for appointment of guardian of alleged incompetent in a full guardianship is filed, a hearing will be scheduled on the regular guardianship docket. Any remaining funds on deposit will be applied to the action for full guardianship.

**(B) Affidavit of Proposed Guardian.** In accordance with [Sup.R. 66.05](#)(A)(2), each applicant who proposes to be named as guardian for an incompetent adult shall complete and file an affidavit of proposed guardian (SPF [66.05](#)) when filing their application for appointment as a guardian.

**(C) Attorney Guardian.** In accordance with [Sup.R. 66.05](#) (A)(1)), upon application to appoint an attorney as a guardian of an adult Ward or alleged incompetent, the attorney shall file a standard certificate of good standing with disciplinary information that was issued by the Supreme Court of Ohio not more than 180 days prior to filing the application. Attorney guardians shall have an ongoing duty to report to the Court any activity that would adversely affect their ability to serve as guardian or to remain in good standing. The cost to secure a certificate of good standing shall not be borne by the Ward or the Court.

**(D) Non-Attorney Guardians.** All non-attorney applicants to be appointed as a guardian of an adult Ward or alleged incompetent must submit a BCI background check prior to appointment. Guardians shall have an ongoing duty to report to the Court any activity that would adversely affect their ability to serve as guardian. The cost to secure a background check shall not be borne by the Ward or the Court.

## **Loc.R. 66.4 – Adult Guardian’s Ongoing Responsibilities**

### **(A) Guardian’s Education Courses.**

**(1) Guardian Fundamentals Course** (see [Sup.R. 66.06](#)). Prior to their appointment, but not later than six (6) months after appointment, a guardian shall file notice (SPF [27.2](#)) and proof that they completed the six (6) hour guardian fundamentals course provided by the Supreme Court of Ohio. Leave may be requested to complete another course if the course can be determined compliant with [Sup.R. 66.06](#)(A).

**(2) Annual, Continuing Education** (see [Sup.R. 66.07](#)). On or before January 1 of each year after a guardian was appointed, a guardian shall file notice (SPF [27.2](#)) and proof that they completed a three (3) hour guardianship continuing education course provided and/or approved by the Supreme Court of Ohio. Leave may be requested to complete another course if the course can be determined compliant with [Sup.R. 66.07](#)(A).

### **(B) Court Approval to Change of Ward’s Residence** ([Sup.R. 66.08](#)(E)).

**(1) Notice of Change of Address.** The guardian shall file a notice (SPF [27.3](#)) and proposed entry (SPF [27.4](#)) to inform the Court of any change of address of the guardian or the Ward within ten (10) days of the address change. Failure to timely and accurately notify the Court may result in removal of the guardian.

**(2) Application to Approve Move Ward to a More Restrictive Setting.**

**(a) Documentation Required.** The guardian shall file an application (see Local Forms, [Appendix B](#)) for the Court's approval to move a Ward to a more restrictive setting. The application shall set forth reasons why the Ward cannot continue to reside in the current, approved setting or a setting with the same approved levels of restriction. The application shall be accompanied by written documentation (*i.e.*, a level of care assessment; report generated by treating professional or case manager who examined the Ward and authorized, recommended or approved the relocation) that establishes why the more restrictive setting is necessary and reasonable to provide for the specific needs of the Ward and their daily living activities, and that no less restrictive alternatives exist to properly meet the Ward's needs.

**(b) Time to File; Hearing.** The application shall be filed at least ten (10) days before the proposed date of relocation. If the move is an emergency, the guardian shall file the application within seven (7) days after the date of relocation and explain the emergency circumstances that precluded advance filing. The Court may schedule the application for hearing and serve notice upon the Ward at least seven (7) days prior to the hearing.

**(C) Annual Mandatory Reports.**

**(1) Annual Guardian's Report.** Annually from the date the guardianship was established, a guardian of the person and of the estate shall file a Guardian's Report (SPF [17.7](#)), including for any guardianship that the Court has dispensed with the filing of an annual account.

**(2) Annual Statement of Expert Evaluation.** Unless otherwise ordered by the Court, each annual Guardian's Report (SPF [17.7](#)), shall be accompanied by a Statement of Expert Evaluation (SPF [17.1](#)). If a licensed physician or clinical psychologist reports the opinion that to a reasonable degree of medical or psychological certainty, the Ward's mental capacity will not improve, the guardian may file application to dispense with the filing of subsequent statements of expert evaluation (see Local Forms, [Appendix B](#)).

**(3) Custodial Year End Report.** If the Court has dispensed with the filing of an annual account, the guardian (of a person and estate, or of estate only) shall also file a Custodial Year End Report (see Local Forms, [Appendix B](#)) evidencing the guardianship estate assets, with a copy of documentation that evidences the current financial account balance. Statements or reports issued by or from the digital records of a financial institution that indicate the account number and report the balance will be accepted, including statements printed from the account record as it appears online.

**(4) Annual Guardian's Plan.** ([Sup.R. 66.08\(G\)](#)). The guardian of the person shall file an Annual Guardianship Plan (SPF [27.7](#)) and the guardian of the estate shall file an Annual Guardianship Plan (SPF [27.8](#)), and describe the guardian's goals and plans to meet the personal and/or financial needs of the Ward.

**(D) Deposit of Ward's Will, Notice of Legal Papers** ([Sup.R. 66.08\(L\)](#)). The guardian shall deposit with the Court for safekeeping any instrument known to the guardian and executed by the Ward that would constitute the Ward's last will and testament under R.C. [2107.01](#). The Clerk will issue a certificate of deposit as a receipt for the deposited will to the guardian. If the guardian cannot obtain the will, but knows of its existence, location and who has possession of it, the guardian shall file notice of that information in writing to the Court. The guardian shall also provide notice (SPF [27.11](#)) of the Ward's important legal documents, including estate



planning documents, advance directives and powers of attorney, and the location of such documents, if known.

### **Loc.R. 66.5 – Adult Guardianship Comments and Complaints**

(A) Comments and complaints regarding the performance of guardians appointed by this Court may be submitted in writing to the attention the Union County Probate Court by ordinary mail, in person, or by email ([probatecourt@unioncountyohio.gov](mailto:probatecourt@unioncountyohio.gov)). Attorneys may submit via the ECF. Submission of supporting documentation and notarized affidavits is encouraged.

(B) Upon receipt, the comment or complaint will be docketed, and notice will be provided to the subject guardian. The comment or complaint will be promptly delivered to the Judge or a magistrate, who will develop a plan of action within ten (10) days. Disposition of the comment or complaint will be provided to the guardian and the person who submitted the comment or complaint. Court action may include any of the following:

(1) The matter may be scheduled for hearing, in which case a hearing notice will be sent to the guardian and the person submitting the comment or complaint.

(2) The Court may conduct an investigation, which may involve the use of a Probate Court Investigator, after which a written report will be prepared and sent to the guardian and the person submitting the comment or complaint.

(3) The Court may determine that, on its face, the comment or complaint does not warrant further action, in which case a written response will be prepared and sent to the person submitting the comment or complaint.

(4) The Court will docket the comment or complaint and the Court's response within the file of the subject guardianship and maintain a separate record regarding the nature and disposition of the comment or complaint.

(5) This process does not apply to communications received from the Ward. Comments or complaints filed by the Ward do not incur a filing fee, and may be scheduled for hearing before the Court subject to the limitations set forth in R.C. [2111.49](#)(C).

### **Sup.R. 67 – Estates of Minors Not More Than Twenty-Five Thousand Dollars**

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#### **Loc.R. 67.1 – Application to Dispense with Guardianship of Minor**

**(A) Application Required.** In accordance with R.C. [2111.18](#), to request the Court to dispense with a guardianship for a minor (the net proceeds of which do not exceed \$25,000), a written application (see Local Forms, [Appendix B](#)) to dispense with the guardianship or to authorize payment or delivery of a claim, gift or transfer to the estate of a minor shall be filed. The application shall be filed contemporaneously with the application to settle the minor's claim.

**(B) Minor Unrepresented before Probate Court.** If the minor and their parent(s) or legal custodian are not represented by legal counsel, the Court may appoint a Guardian ad litem for the minor. The costs for the Guardian ad litem's services shall be assessed as costs of the proceedings and allocated to the applicant, the minor, or the insurer advancing the settlement, as may be determined appropriate by the Court. The attorney who prepares or files the application shall provide the Court contact information for the family (residence address, phone numbers and email addresses). The attorney representing the interests of the payor shall not

represent the minor before the Court but may be ordered to assume the duties set forth in [Sup.R. 67\(C\)](#).

### **Loc.R. 67.2 – Hearing; Notice and Appearance Required**

**(A) Notice.** Not less than seven (7) days prior to the hearing, the applicant shall serve written notice of the hearing (see Local Forms, [Appendix B](#)) and the application(s) upon any parent who has not waived notice. The applicant shall file proof of service, with a copy of the notice sent, prior to the hearing.

**(B) Attendance at Hearing.** The minor, the applicant, their parent(s) or the person having custody of the child, the child's guardian (if any) and the attorney of record for the child or applicant (if any) shall attend any hearing upon applications made under this rule, unless a motion to excuse the appearance, with good cause shown, is sustained by the Court.

### **Loc.R. 67.3 – Distribution of Proceeds**

Unless otherwise ordered by the Court, funds of a minor shall be deposited in a financial institution authorized to receive fiduciary funds, in the sole name of the minor, with principal and interest compounded, and so held until the minor attains the age of majority. If the applicant requests that funds be delivered in lieu of deposit, a narrative statement shall be attached to the application to dispense that sets forth good cause for the request.

Either the applicant, the attorney for the applicant, or the attorney for the payor shall: (1) provide the financial institution with a certified copy of the entry approving the claim and ordering deposit; (2) cause the funds to be deposited; (3) obtain a Verification of Receipt and Deposit (SPF [22.3](#)) from the financial institution; and (4) file the signed verification with the Court within seven (7) days from the issuance of the entry.

### **Loc.R. 67.4 – Designation of Successor Custodian**

**(A) Petition.** If a custodian resigns, becomes incompetent, or dies without a successor having been named by the donor/transferor or by the custodian, and there is no legal representative (*i.e.*, an executor, administrator, conservator of estate, or guardian of estate) of the donor or custodian willing to designate a successor custodian, a petition may be filed to designate a successor custodian in accordance with the Ohio Transfer to Minors Act (R.C. Chapter [5814](#)). The petition may suggest the name of a suitable successor, though the appointment is within the Court's discretion. Proof of the existence, balance, and current registration for the custodial asset(s) shall be filed with the petition.

**(B) Hearing, Notice.** The Court will schedule the petition for hearing. The petitioner shall serve notice of the petition and hearing upon the minor's guardian and the minor beneficiary, and file proof of service, with a copy of the notice sent, prior to the hearing. Recipients of the notice shall be directed to show cause why the relief prayed for in the petition should not be granted. The Court will conduct a hearing before designating the successor custodian and grant any relief that the Court finds to be in the best interest of the minor.

## **Sup.R. 68 – Settlement of Injury Claims of Minors**

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### **Loc.R. 68.1 – Application to Settle Minor’s Claim**

**(A) eFiling; Birth Certificate, Statement of Examining Physician.** eFiling is prohibited in actions to settle a minor’s claim. A certified copy of the minor’s birth certificate shall be displayed to the Court upon filing an application to settle a minor’s claim. A copy will be made for the Court’s file and the original will be returned. Unless otherwise ordered by the Court, the applicant shall also file the current statement of an examining physician that describes the injuries sustained, the extent of the recovery, and the physician’s prognosis.

**(B) Attorney’s Responsibilities.** If the minor and their parent(s) are not represented by counsel, the attorney who prepares or drafts the pleadings shall be responsible to deposit the funds and to provide the financial institution with a certified copy of the entry (SPF 22.2). Said attorney shall obtain a verification of receipt and deposit (SPF [22.3](#)) from the financial institution and file with Court within seven (7) days of the entry.

**(C) Notice, Proof of Service.** Not less than seven (7) days prior to the hearing, the applicant shall serve written notice of the hearing (see Local Forms, [Appendix B](#)), and the application upon any parent who has not waived notice. The applicant shall file the proof of service, with a copy of the notice sent, prior to the hearing.

**(D) Attendance at Hearing.** The minor, their parent(s) or the person having custody of the child, the child’s guardian (if any) and the attorney of record for the child or applicant (if any) shall attend any hearing upon applications made under this rule, unless a motion to excuse the appearance, with good cause shown, is sustained by the Court.

## **Sup.R. 70 Settlement of Wrongful Death and Survival Claims**

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### **Loc.R. 70.1 – Settlement of Wrongful Death and Survival Claims**

Interested parties may waive notice of hearing (SPF [14.1](#)) upon an application to approve the settlement and distribution (SPF [14.0](#)). Otherwise, the applicant shall serve written notice of the hearing not less than ten (10) calendar days before the hearing and file proof of service prior to the hearing. The hearing may be non-oral, at the discretion of the Court. If a beneficiary is a minor, notice to the minor must comply with Civ.R. 4.2(B). The report of distribution shall be filed within thirty (30) days of the entry approving the settlement.

## **Sup.R. 71 Counsel Fees**

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### **Loc.R. 71.1 – Counsel Fees**

**(A) Generally.** The Court expects that attorneys are familiar and shall comply with [Sup.R. 66.08](#), [Sup.R. 71](#), and Prof.Cond.R. 1.5 governing the fees and expenses of attorneys. As provided in [Sup.R. 71](#)(D), the Court may schedule a hearing upon any application or request for allowance or payment of attorney fees.

**(B) Payors other than Fiduciary.** All fees charged by an attorney representing a fiduciary in matters before this Court shall be disclosed to the Court, regardless of the source of payment. If the source of payment is other than the fiduciary, counsel shall identify the source of payment within any accounting or reports of distribution. For the purposes of this rule,

fiduciary also includes commissioners and applicants for relief from administration. If an account is not required, the payment shall be disclosed upon the Certificate of Termination or the filing of a notice to the Court, endorsed by the payor of the fees.

**(C) Services Not Billable; Rates.** Attorneys will not be compensated to prepare any required documentation regarding the attorney's compensation, including the local guideline schedule calculation, any itemized billing or cost statements, or to prepare for or appear for hearing regarding the attorney's compensation.

## **Loc.R. 71.2 – Court-Appointed Counsel Fees**

**(A) Rates of Compensation.** Upon application and approval, attorneys appointed to represent persons entitled to court-appointed counsel for trial court level proceedings will be compensated as follows. The rates set forth are established within the Union County Board of Commissioners' assigned counsel fee schedule adopted pursuant to R.C. 120.33, the Ohio Public Defender's Commission, and this Court.

**(1) Adoption.** Attorneys appointed through the Union County Public Defender to represent indigent parents in adoption matters (regarding issues of consent and the termination of parental rights) will be compensated as approved by the Union County Commissioners and the Office of the Ohio Public Defender.

**(2) Guardianships.** Attorneys appointed to represent an indigent, alleged incompetent adult will be compensated at the rate of \$75.00 per hour, with a maximum fee of \$600.00 (8 hours) for the proceedings through initial appointment of the guardian (issuance of letters of authority).

**(3) Mentally Illness, Involuntary Treatment for Alcohol or Other Drug Abuse.** Attorneys appointed to represent an indigent respondent will be compensated at the rate of \$75.00 per hour with a maximum of fee of \$450.00 (6 hours) per case.

**(4) Adult Protective Services.** Attorneys appointed to represent the indigent person subject of an adult protective services proceeding will be compensated at the rate of \$75.00 per hour with a maximum fee of \$450.00 (6 hours) per case.

**(5) Guardian ad litem for Incompetent or Minor Party in Land Sale.** Attorneys appointed to serve as a Guardian ad litem for an incompetent or minor defendant/party in a Land Sale proceeding will be compensated at the rate of \$125.00 per hour with a maximum fee of \$750.00 (6 hours) per case (absent good cause shown to grant extraordinary fee). Fees shall be paid from the gross proceeds of the sale or converted to court costs to the subject estate if the land sale is not completed.

**(6) All other matters.** Attorneys appointed to represent indigent persons in all other matters will be compensated at the rate of \$75.00 per hour with a maximum fee of \$375.00 (5 hours) per case.

### **(B) Application for Payment of Appointed Counsel Fees.**

**(1) Adoption Consent.** Counsel appointed to represent indigent parents in contested adoption matters shall bill as directed by the Union County Public Defender.

**(2) All other matters.** Appointed counsel shall file an application for approval of fees, a proposed entry, and an itemized statement of services rendered and expenses incurred, within thirty (30) days of the final hearing. If appropriate, the Court may order statements to be filed

periodically. Upon a determination that the represented party is not indigent and that a party or the estate is ordered to pay all or a portion of the fees, the attorney bears the burden to prove the reasonableness of the fees should the payor claim that the fees are excessive or unreasonable.

**(C) Extraordinary Fees.** The Court will consider a motion to approve an extraordinary fee (a fee that exceeds the maximum allowed by this rule) when the circumstances, complexity and requirements of the case establish the reasonableness of additional fees.

**(D) Reduction or Denial of Fees.** In its discretion, the Court may reduce or deny fees and issue a journal entry stating the reasons for the reduction or denial.

### **Loc.R. 71.3 – Attorney Fees – Full Administration of Decedent’s Estates**

**(A) Effective Date.** This rule shall be effective immediately upon adoption for optional use, but mandatory for all estates initiated for decedents whose date of death occurs on or after April 1, 2026. Until mandatory, attorneys may continue to apply for approval of fees in decedent’s estates in accordance with prior Loc.R. 71.1, archived in [Appendix D](#) of these rules.

#### **(B) Procedure for payment or approval of fees.**

**(1) Court’s approval.** In accordance with R.C. [2113.36](#), any payment of attorney fees from estate assets to the attorney who represents the fiduciary remains subject to the Court’s review and approval of the final account, and in consideration of exceptions to an account (if any) filed by nonconsenting, affected beneficiaries or creditors (in the case of insolvency). The Court may schedule a hearing to consider the attorney’s fees and expenses even if sufficient consents to the fee are filed.

**(2) Required Filings.** Exclusive of any additional documentation that may be required as set forth in this rule, if any account reports payment of attorney’s fees, the attorney shall complete and file all of the following:

(a) the Attorney’s Fee Computation Schedule and Certification (see Local Forms, [Appendix B](#)), countersigned (approved) by the fiduciary;

(b) an itemized statement of expenses, if any costs or expenses were advanced or incurred by the attorney; and

(c) a Confidential Inventory of Non-Probate Assets (see Local Forms, [Appendix B](#)), if fees will be requested regarding such assets (see section (C)(5) of this rule).

**(3) Application for Approval of Attorney Fees: When Not Required.** The Fiduciary is authorized to pay the attorney’s fee upon final account, without filing an application for the Court’s approval to pay the fee, in either of the following circumstances.

**(a) Requested fee equal to or less than schedule; more than half of residual interests consent.** If the attorney’s requested fee is equal to or less than the fee estimated under the local schedule, the fiduciary is authorized to pay the attorney’s fee submission of the Final Account if sufficient affected persons (defined as one or more persons, individually or jointly, who are collectively entitled to at least 50.1 percent of the residual estate) consent to payment of the fee.

In addition to the documents required by section (B)(2) of this rule, the attorney shall also file the completed and signed Waiver and Consent to Attorney’s Fee (see Local Forms, [Appendix](#)

[B](#)) for each consenting, affected heir at law or beneficiary of the residual estate to establish that more than half of the residual interests consent to payment of the requested fee.

**(b) Requested fee exceeds schedule (Extraordinary Fee); 100 percent of residual interests consent.** If the attorney requests an extraordinary fee (a fee that exceeds the estimated fee under the local guideline schedule), the fiduciary is authorized to pay the attorney's fee upon filing the final account (without application and without prior approval of the Court) if all affected persons (defined as one or more persons, individually or jointly, who are collectively entitled to 100 percent of the residual estate) consent to payment of the fee.

In addition to the documents required in section (B)(2) of this rule, the attorney shall also file:

(i) the attorney's itemized billing statement(s) of fees (see section (E) of this rule), which shall demonstrate that all services performed were reasonable and necessary for the full and complete administration of the decedent's estate, and demonstrate the extraordinary nature of those services (see subsection (F) of this rule); and

(ii) the completed and signed Waiver and Consent to Attorney's Fee (see Local Forms, [Appendix B](#)) for each consenting, affected heir at law or beneficiary of the residual estate to establish that all the residual interests consent to payment of the requested fee.

**(4) Application for Approval of Attorney Fees: When Required.**

**(a) Consent Insufficient.** The fiduciary is not authorized to pay the requested attorney's fee upon submission of the Final Account without the Court's approval if insufficient consent to pay the fee is filed (see (B)(3)(a) and (b) of this rule). The attorney shall file an application for approval of the attorney's fee and proposed entry (see Local Forms, [Appendix B](#)); and all documents required by section (B)(2) of this rule. If approval of additional compensation for services of an extraordinary nature (extraordinary fee) is requested, the attorney shall also file their itemized billing statement(s) (see section (E) of this rule) and a memorandum in support (see section (F) of this rule).

**(b) Attorney Fiduciary, Partner or Associate.** If the attorney is also serving as the fiduciary, or the attorney and fiduciary are partners or associates, application for approval is required; see [Loc.R. 71.4\(A\)](#).

**(c) Early Payment.** If payment of the fee is requested prior to the Final Account, application for approval is required (see section (G) of this rule).

**(d) Hearing and Notice.** Applications for approval of attorney fees shall be considered upon the pleadings prior to the non-oral hearing on the final account. If written exceptions are filed, the application will be scheduled for formal hearing. See [Loc.R. 71.8](#). Any person who has consented to the attorney fee and waived notice of hearing on the account shall be deemed to have waived notice of hearing. Otherwise, notice will issue from the Court to all persons who have not waived notice of the hearing upon the account and to any non-consenting affected beneficiaries. In the case of insolvency, the notice and hearing are deemed a part of the insolvency proceedings if the requested fees are included on the Insolvency Schedule of Claims and the creditor was served in the insolvency proceedings.

**(C) Attorney's Fee Computation Schedule and Certification – Local Guideline Schedule.**

**(1) Purpose.** Rule 1.5 of the Rules of Professional Conduct shall govern the reasonableness of all attorney fees, notwithstanding these local rules or consents to the fees. The Attorney's Fee Computation Schedule and Certification (see Local Forms, [Appendix B](#)) is the local



guideline schedule. The schedule is an advisory tool intended to estimate the amount of attorney fees for legal services of an ordinary nature that the Court would consider reasonable and necessary for the administration of a decedent's estate. The fee calculated shall not be interpreted to reflect either the minimum or maximum fee that this Court may approve, or that a fee less than the schedule will be automatically approved. The Court will presume that a total fee request that is equal to or less than the fee calculated by the schedule is reasonable, subject to rebuttal by an excepting party. The Court reserves the right to hold a hearing on any fees regardless of any other provisions of these rules. The schedule shall be completed and filed with or not more than thirty (30) days prior to the final account, or at any time the fiduciary intends to pay the attorney's fee.

**(2) Basis.** The local guideline schedule estimates attorney fees based upon the value/proceeds of probate assets subject to administration as reflected upon the inventory and the value of the decedent's "non-probate" assets not subject to administration, if: the attorney provided legal services to the fiduciary to manage said property, the attorney has not and will not receive separate compensation for those services; and the attorney files a Confidential Inventory of Non-Probate Assets (see Local Forms, [Appendix B](#)) to substantiate the value of the non-probate assets.

**(3) Certification required.** Attorney fees shall be requested only for actual legal services performed, and as agreed and memorialized in the written contract for services between the fiduciary and the attorney. The attorney shall sign the fee computation schedule to certify that amounts entered upon the schedule are accurate, the fee requested pursuant to the schedule accurately reflect the fees for actual legal services performed, and that a written contract for services and all itemized billing statements, if requested by the Court or required by this rule, will be produced to substantiate the amount of fees requested. The fiduciary shall countersign the completed fee computation schedule.

**(4) Local Guideline Schedule Rates: Probate Estate Assets.**

**(a) Personal Property.** The assets of a probate estate include: the value of all tangible and intangible personal property, which shall total both the value (appraised or estimated) of personal property not sold; the gross proceeds of personal property sold; and the value of all other income received by the estate for which the fiduciary accounts. As to those assets, the following rates shall apply to estimate a reasonable and ordinary fee:

- (i) Ten (10) percent of the first \$25,000 of value and/or proceeds;
- (ii) Five (5) percent of the next \$75,000 of value and/or proceeds;
- (iii) Three (3) percent of the next \$300,000 of value and/or proceeds; and
- (iv) One (1) percent of the balance of value and/or proceeds (over \$400,000).

**(b) Real Estate.**

(i) As to real estate sold under authority of the will or upon consent, the following rates shall apply to estimate an ordinary fee: four (4) percent of the first \$100,000 gross proceeds; and one (1) percent of the balance.

(ii) As to real estate sold in judicial proceedings (*i.e.*, Land Sale, foreclosure), the following rates shall apply to estimate an ordinary fee: six (6) percent of the first \$100,000 of gross proceeds; and three (3) percent of the balance.

(iii) As to real estate transferred and not sold, including transfers in accordance with the will, by consent, certificate of transfer, transfer by deed in lieu of foreclosure, etc., the following rate shall apply to estimate an ordinary fee: three (3) percent of the first \$100,000 of gross proceeds; and one (1) percent of the balance.

**(5) Local Guideline Schedule Rates: Decedent's Non-Probate Assets.**

**(a) Non-Probate Assets.** The local guideline schedule will estimate attorney fees based upon the value of property in which decedent had an interest on the date of death that are not subject to administration, but would have been includable in the gross estate for the purposes of computing the Ohio Estate Tax (see R.C. [5731.02](#)), if the decedent's death occurred prior to Jan. 1, 2013 (see R.C. Chapter [5731](#)). A fiduciary may be responsible to manage said non-probate assets (see R.C. [2113.35\(B\)](#)) and may require the legal services of the attorney to fulfill their responsibilities. The attorney may request fees based upon the value of non-probate assets only if the attorney provided legal services to manage those assets and the attorney has not and will not receive separate compensation for legal services as to those assets.

**(b) Confidential Inventory.** The attorney shall display a Confidential Inventory of Non-Probate Assets (see Local Forms, [Appendix B](#)), an itemized inventory that demonstrates the basis for the total value of the non-probate assets entered upon the guideline schedule. The inventory shall describe each asset upon which fees are requested, list its value, and indicate whether the value is actual, estimated, or appraised. Attorneys shall display the inventory to the Court for verification through the ECF by submitting it as a "proposed order for judicial review." The Confidential Inventory will not be filed for record. The fiduciary shall approve and sign the Confidential Inventory.

**(c) Certification.** The attorney shall file a certification regarding the confidential inventory (see Local Forms, [Appendix B](#)) to certify that the inventory is accurate, the attorney provided legal services to assist the fiduciary in managing the listed assets, and confirm that no separate compensation for those services has been nor will be received. The attorney shall certify their understanding of section (C)(5)(e) of this rule and that if required by the Court, the attorney will promptly display an itemized billing record of all legal services provided regarding the non-probate assets. The fiduciary shall approve and sign the certification.

**(d) Rate.** As to non-probate assets for which the fiduciary required the legal services of the attorney, the following rate shall apply to estimate an ordinary fee pursuant to the local schedule: one (1) percent of the total value.

**(e) Caveat.** Attorneys are expected to request reasonable fees for legal services actually provided, and to adjust their fee request accordingly should the local guideline schedule calculate an estimated fee as to non-probate assets that is clearly excessive.

**(D) Written Fee Agreement, Estimate Regarding Fees.** Counsel fees shall be as agreed upon between the fiduciary and the attorney of their choosing. The written contract should, at minimum, explain the Court's attorney fee structure and the rates of compensation for legal services as to both probate and non-probate assets (if applicable), and estimate the total fee for legal services to complete administration of the decedent's probate estate. The Court reserves the right to request that the attorney or fiduciary display a copy of the fee agreement for the Court's review.



**UNION COUNTY PROBATE COURT**  
Local Rules of Practice and Procedure

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**(E) Itemized Billing Statements.** Attorneys shall maintain an itemized statement that reflects all legal services performed. The Court may require the Attorney to display an itemized statement at any time, and if so requested or ordered, the attorney shall promptly provide the statement. An itemized billing statement shall reflect billing for legal services actually performed, in chronological order, and:

- (1) Describe the legal services actually performed, including legal services that were provided to the fiduciary as to non-probate assets (if any);
- (2) State the amount of time expended for each service (in time increments of one-tenth (0.1) of an hour);
- (3) Identify the individual(s) who performed each service and the hourly rate(s) charged by each individual who performed the services;
- (4) Report if any fees for legal services were prepaid by any source and identify that source;
- (5) Provide an itemized list of all costs or expenses advanced or incurred by the attorney; and
- (6) Certify that all work/expenses were necessary and reasonable to assist the fiduciary to complete administration of the estate and to manage non-probate assets (if any).

**(F) Extraordinary Fee.** An extraordinary fee is any fee in excess of the fee calculated by the local guideline schedule. If the attorney requests payment of an extraordinary fee, the attorney shall file an itemized billing statement (see section (E) of this rule) when filing the guideline schedule and report the additional fee requested in the certification of the schedule. If sufficient consent is not granted (see section (B)(4) of this rule) by residual interests to pay an extraordinary fee, an application for approval of the attorney fees shall be filed, with a memorandum in support and all documents required by section (B)(4) of this rule. The billing statement and memorandum shall demonstrate circumstances that justify compensation greater than the fee estimated by the guideline schedule. Relevant considerations include, but are not limited to: the attorney (or their staff) completed activities ordinarily the responsibility of the fiduciary; excessive discord and/or dysfunction among parties consternated the orderly administration and/or required the attorney to devote excessive time to negotiate and facilitate communications; the presentation of complex or novel legal issues; unusual challenges to identify, locate, serve and/or communicate with potential heirs or other parties; or that contested or novel issues required formal hearings to be scheduled and held during the administration.

**(G) Early Payment of Partial Attorney Fees.** Notwithstanding Sup.R. 71(B), payment of partial attorney fees prior to the conclusion of an estate may be permitted upon application and for good cause shown. The attorney shall file the application for approval of the attorney's fee with all documents set forth in [Loc.R. 71.3\(B\)\(2\)](#); and a memorandum in support. If available, any signed Waiver and Consent to Attorney's Fee (see Local Forms, [Appendix B](#)) of the persons whose interests are affected by the payment of the fees can be filed with the application. The Court in its discretion may schedule the application for hearing. Absent good cause shown, the partial fee request shall not exceed 50 percent of the total fees estimated under the local guideline schedule for the complete administration. Grounds to approve partial payment of fees may include but are not limited to: the payment of attorney fees provides an income tax benefit to the estate; the estate is involved in protracted litigation; or the administration of the estate has extended beyond twelve months from the date the fiduciary was appointed, for circumstances beyond the fiduciary's and the attorney's control.

### **Loc.R. 71.4 – Attorney Fees – Attorney Serving as Fiduciary**

**(A) Decedent's Estates.** In all estate matters in which the attorney of record also serves as fiduciary (or the attorney's law partner or associate is appointed as the fiduciary), and regardless of consents to the fee, an application for approval of attorney's fee (see Local Forms, [Appendix B](#)) and entry shall be filed with: the Attorney Fee Computation Schedule and Certification, the attorney's itemized billing statement, and the Fiduciary's Statutory Commission Schedule. The combined fees shall not exceed the statutory fiduciary's commission (R.C. [2113.35](#)), plus one-half of the attorney fees pursuant to the local schedule. A formal hearing will be scheduled unless all affected interests consent to payment of both the fee and the commission or hearing is waived by the Court.

**(B) Guardianships.** In all guardianships in which the attorney of record also serves as the guardian (or the attorney's law partner or associate is appointed as guardian), an application for approval of the attorney's fee shall be filed with the attorney's itemized billing statement. The combined fees shall not exceed the guardian's compensation as allowed by [Loc.R. 73.1](#), plus one-half of the attorney fees. The Court may schedule the application for formal hearing.

### **Loc.R. 71.5 – Attorney Fees – Guardianships (Non-Indigent)**

**(A) Generally.** Attorney fees paid to provide legal services and to represent a fiduciary or proposed fiduciary in the establishment and administration of a guardianship shall be reasonable, necessary, and beneficial to the guardianship.

**(B) Application required.** An application for approval of attorney fees to be paid from guardianship assets shall be accompanied by an itemized billing statement that describes the legal services actually performed (as defined in [Loc.R. 71.3\(E\)](#)). The attorney shall provide an itemized list of all costs or expenses advanced or incurred by the attorney and report if any fees were prepaid by any source and identify that source. If the attorney is also the guardian, see [Loc.R. 71.4](#). Notice of the application shall be given to the guardian of the estate, if any, who may waive notice of the hearing on the application and consent to the payment of fees (see Local Forms, [Appendix B](#)).

**(C) Initial Application.** The Court will consider an initial application for attorney fees relating to the establishment of the guardianship:

- (1) in a guardianship of the person only, after the issuance of the Letters of Guardianship; and
- (2) in a guardianship of the estate only, or of the person and the estate, after the filing of the inventory (and if applicable, the filing of the verification of restricted deposit of assets; see [Loc.R. 75.6](#)).

**(D) Subsequent Application.** The Court will consider an application for additional fees annually upon the filing of each account or at the conclusion of any special proceedings or matters.

**(E) Termination.** After the termination of the guardianship, the Court will consider attorney fees and guardian's compensation as liens upon the Ward's assets. If the fees are approved by the Court, the fees may be paid from the guardianship assets and included in the final guardianship account. Upon the death of the Ward, the Court may require that notice of the hearing on the fees be given to the fiduciary of the deceased Ward's estate or to other interested persons.

### **Loc.R. 71.6 – Attorney Fees – Trusts**

In the administration of trusts, the Court shall consider an application to approve payment of attorney fees for the establishment of the trust upon the filing of the inventory and verification of restricted deposit, if applicable. All applications shall be accompanied by an itemized statement of the legal services performed (as defined in [Loc.R. 71.3\(E\)](#)). Applications for additional fees shall be considered annually upon the filing of each account.

### **Loc.R. 71.7 – Contingent Fee Agreements**

If any portion of a settlement involving claims for injuries to a minor or an adult Ward, or for wrongful death or survival claims is a structured settlement, and a contingent fee agreement is utilized, the Court may require the attorney to provide expert evidence of the present value of the settlement and use that present value to fix and determine the attorney's contingent fees.

### **Loc.R. 71.8 – Contested Attorney Fees**

Exceptions to payment of attorney fees shall be filed in writing not less than five (5) days prior to the non-oral hearing upon the account that reports the payment (see R.C. [2109.33](#)). The matter will be scheduled for a formal hearing. Unless already filed, not less than fifteen (15) days before the formal hearing, the attorney shall file and serve upon the movant a detailed fee statement (see [Loc.R. 71.3\(E\)](#)) to establish the reasonableness of the fee. The burden is upon the attorney to prove the reasonableness of the fee, as governed by Prof. Cond. R. 1.5. The Court may award attorney fees of not more than \$500.00 to the prevailing party.

## **Sup.R. 72    Executor's and Administrator's Commissions**

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### **Loc.R. 72.1 – Additional Compensation**

In addition to the fiduciary's statutory commission (R.C. [2113.35](#)) to complete their ordinary duties, the Court may approve additional compensation for the actual and necessary expenses of the fiduciary, as well as for any extraordinary services provided, if benefit to the estate (R.C. [2113.36](#)). The fiduciary shall file an application for additional compensation (see Local Forms, [Appendix B](#)), with an affidavit in support. A Fiduciary's Compensation Schedule (see Local Forms, [Appendix B](#)), which calculates the ordinary statutory commission, shall be completed and filed with any application for additional compensation. If reimbursement for expenses is requested, the fiduciary shall file an itemized statement of expenses incurred; vouchers are not required, though the fiduciary shall be prepared to display that proof promptly if ordered by the Court. If compensation for extraordinary services is requested, the fiduciary shall file an itemized statement that describes each service, listed by the date provided, the time expended, and calculates the total amount charged for each service. The hourly rate shall not exceed \$25.00 per hour. The Court may approve a higher hourly rate if the fiduciary demonstrates they possess and utilized special skills or training to provide the extraordinary services. The consents of any affected heir or beneficiary should be filed with the application. The application will be considered during the non-oral review hearing of the Final Account. At the discretion of the Court, or if exceptions to the account are filed that specifically object to the additional compensation, the matter will be scheduled for formal hearing.

**Sup.R. 73    Guardian's Compensation**

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**Loc.R. 73.1 – Guardian's Compensation (Non-Indigent Ward)**

**(A) Schedule for Ordinary Compensation.** If compensation for ordinary services is desired, the guardian of the estate for a non-indigent Ward shall file an application, affidavit in support, the Guardian's Compensation Schedule (see Local Forms, [Appendix B](#)), and proposed entry for approval of compensation. Unless otherwise provided by law or ordered by the Court, a guardian may annually request payment for their ordinary services in an amount computed in accordance with the following schedule. All requested fees are subject to Court review and approval, as well as to exceptions filed as provided by law. No compensation shall be approved while an account is delinquent.

**(1) Income Fee:** Excluding income from rental real estate, four percent (4%) of the first ten thousand dollars (\$10,000.00) of income received, plus three percent (3%) of the balance in excess of the first ten thousand dollars (\$10,000.00).

**(a)** "Income" shall mean the sum of income as defined by the Ohio Principal and Income Act (R.C. Chapter [5812](#)), including pension benefits and net gains from the sale of principal. The following shall not be considered income: receipt of corpus by the fiduciary; balances brought forward from a prior accounting period; and investment and reinvestment of corpus, including conversion of corpus to cash.

**(2) Expenditures Fee:** Excluding expenditures pertaining to rental real estate, four percent (4%) of the first ten thousand dollars (\$10,000.00) of expenditures, plus three percent (3%) of the balance in excess of the first ten thousand dollars (\$10,000.00).

**(3) Real Estate Management Fee:** If the guardian manages rental real estate, a fee amounting to ten percent (10%) of gross rental real estate income may be allowed. If the guardian receives net income from rental real estate that is actively managed by others, then the guardian shall treat such net income as ordinary income. No fee shall be allowed to the guardian upon expenditures pertaining to rental real estate.

**(4) Principal Fee:** Three Dollars (\$3.00) per thousand for the first two hundred thousand dollars (\$200,000.00) of fair market value, and Two Dollars (\$2.00) per thousand on the balance of the corpus, unless otherwise ordered. Assets held by the Ward on the date of the guardian's appointment are deemed to be principal and not income.

**(5) Principal Distribution Fee:** Three Dollars (\$3.00) per thousand for the first two hundred thousand dollars (\$200,000.00) of fair market value of corpus distributed upon the termination, and Two Dollars (\$2.00) per thousand on the balance. This fee shall be allowed only upon the termination of the guardianship, unless otherwise ordered.

**(6) Initiation.** For services provided to initiate the Guardianship until the inventory is filed, the guardian will be allowed a one-time fee of \$350.00.

**(7) Minimum Annual Fee.** Regardless of the amount calculated pursuant to the Guardian's Compensation Schedule, the guardian of the estate shall be permitted a minimum annual compensation of \$350.00.

**(B) Additional Compensation.** The Court may approve additional compensation for actual and necessary expenses and for extraordinary services (not required of or ordinarily provided by the guardian). The guardian shall file an application for additional compensation (see Local

Forms, [Appendix B](#)), with an affidavit in support. A Guardian's Compensation Schedule (see Local Forms, [Appendix B](#)) shall be completed and filed. If reimbursement for expenses is requested, the guardian shall file an itemized statement of expenses incurred (with vouchers). If compensation for extraordinary services is requested, the guardian shall file a billing statement that describes each service (listed by the date provided, reporting the time expended and total amount charged for each service). The hourly rate shall not exceed \$25.00 per hour. The Court may approve a higher hourly rate if the guardian demonstrates they possess and utilized special skills or training to provide extraordinary services. The application shall be scheduled for formal hearing unless waived by the Court.

**(C) Compensation for Guardian of Person Only.** Compensation for the guardian of person only may be allowed upon application to the Court, submitted with the consent to payment and waiver of notice of hearing signed by the guardian of the estate. Such applications shall be scheduled for hearing unless waived by the Court.

**(D) Notice of Receipt of Fees.** Not less than thirty (30) days after receipt, a guardian who is in receipt of fees other than through the guardianship of the estate shall give notice to the Court of the source and entity that reviewed and authorized payment. No guardian shall accept incentives or compensation as a direct service provider to the Ward without first filing notice of notice to the Court (see [Loc.R. 73.2](#)).

### **Loc.R. 73.2 – Guardian's Notice of Payment for Direct Services**

Any guardian who is not a family member of their Ward shall file notice with the Court (see Local Forms, [Appendix B](#)) if the guardian will receive compensation from a third-party payor to provide direct services to their Ward. The guardian's notice will demonstrate guardian is certified to provide services by Medicaid or similar third-party payor; provide information about the payor; indicated the guardian will be paid by Medicaid or similar third-party payor and not from the Ward's funds; and describe how the provision of and compensation for direct services is in the best interest of the Ward. Proof of the guardian's certification as a direct service provider shall be filed with the notice. If requested by the Court, the guardian shall provide a copy of the applicable direct services contract (R.C. [5126.03](#)) for review. See *also* [Sup.R. 66.09](#)(G).

## **Sup.R. 74 – Trustee's Compensation**

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### **Loc.R. 74.1 – Trustee's Compensation**

**(A) Approval Required.** The Court reserves the right to determine the reasonableness of trustee compensation in all cases. No compensation shall be approved while an account is delinquent, except for good cause shown.

**(B) Schedule for Ordinary Compensation.** Unless the instrument creating the trust makes provision for compensation, or as otherwise provided by statute or ordered by the Court, a trustee shall file an application to be compensated not more than annually to be compensated for ordinary services. The trustee shall file a Trustee Compensation Schedule (see Local Forms, [Appendix B](#)), at the same rates as set forth in [Loc.R. 73.1](#)(A) and (B)(1)-(5). The trustee shall be allowed a minimum annual fee of \$200.00. The final distribution of funds from a trust shall not be considered an expenditure for the purpose of computing the trustee's compensation.



**(C) Corporate Fiduciaries.** Corporate fiduciaries who are exempt from bond pursuant to R.C. 1111.21 may be compensated in accordance with their published fee schedule if the fee schedule is filed with this Court. Vested trust beneficiaries affected by the payment of fees shall be notified by the trustee of any changes in its corporate fee schedule.

**(D) Additional Compensation.** The Court may approve additional compensation for actual and necessary expenses and for extraordinary services (not required of or ordinarily provided by the trustee) if the trustee is eligible to be compensated for their ordinary commission pursuant to the schedule as provided by this rule. The trustee shall file an application for additional compensation (see Local Forms, [Appendix B](#)), with an affidavit in support. A Trustee's Compensation Schedule (see Local Forms, [Appendix B](#)) shall be completed and filed. If reimbursement for expenses is requested, the trustee shall file an itemized statement of expenses incurred (with vouchers). If compensation for extraordinary services is requested, the trustee shall file a billing statement that describes each service (listed by the date provided, reporting the time expended and total amount charged for each service). The hourly rate shall not exceed \$25.00 per hour. The Court may approve a higher hourly rate if the trustee demonstrates they possess and utilized special skills or training to provide extraordinary services. The application shall be scheduled for formal hearing unless waived by the Court.

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## **Sup.R. 75    Local Rules**

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### **Loc.R. 75.1 – Adoptions**

**(A) eFiling.** eFiling is prohibited in Adoptions. See [Loc.R. 5.7](#).

**(B) Minor Adoptions.**

**(1) Investigation Required.** No petition for the adoption of a minor will be heard upon the merits thereof until an examination of the home and character of the petitioner(s) has been made by an assessor appointed by the Court. The fee of the assessor, including expenses, shall be taxed as costs unless otherwise ordered by the Court.

**(2) Statement of the Adopted Person.** The statement of the adopted person shall be filed in each adoption of a minor child, regardless of the child's age (see Local Forms, [Appendix B](#)).

**(3) Stepparent Adoption.** Upon application of a stepparent to adopt their spouse's child, the couple shall be married at least one (1) year prior to filing a petition for adoption.

**(C) Adult Adoptions.**

**(1) Letters of Reference.** Upon filing the petition to adopt an adult, the petitioner(s) shall file at least four letters of reference written and signed by persons who are not related to the petitioner(s).

**(2) Statement of Licensed Professional.** If adult is to be adopted under R.C. [3107.02](#)(B)(1) or (2), the petitioner(s) shall file an affidavit of a licensed physician, clinical psychologist, independent social worker, professional clinical counselor, or the adult's developmental disability team indicating that the adult is totally or permanently disabled and/or the adult is determined to be a person with an intellectual disability.

**(3) Stepparent Adoption.** If an adult is to be adopted by a stepparent under R.C. [3107.02](#)(B)(3) or (5), the petitioner shall file a certified copy of the petitioner's Marriage Record



Abstract (available from the County Probate Court that issued the marriage license) that evidences the petitioner's marriage to the adult's parent.

**(4) Proof of Placement or Custody.** If adult is to be adopted under R.C. [3107.02](#)(B)(3), the petitioner(s) shall file proof of foster or kinship placement, such as a certified Juvenile Court entry and/or the affidavit of the representative of a public children services agency (PCSA). If the adult is to be adopted under R.C. [3107.02](#)(B)(4), file proof of foster or kinship placement, such as a certified Juvenile Court order that placed the child in the permanent custody of a public children services agency and/or the affidavit of the representative of a PCSA.

## **Loc.R. 75.2 – Change or Conforming Legal Name; Evidence**

**(A) Documentary Evidence in Support of Application.** The applicant for a change of name or conformation of legal name of an adult or minor child shall submit sufficient documentary evidence to the Court in support of the application. Photocopies will be accepted upon filing the application. Required documentation includes the applicant's or minor child's certified birth certificate and a color photocopy of the applicant's (or the minor child's, if any) most recent government-issued photo identification. If an original certified birth certificate is submitted to the clerk, it will be copied and returned to the applicant. A passport will be accepted in lieu of a birth certificate if no birth certificate is available. At the hearing upon an application, the applicant shall bring all original documents to display to the Court as evidence upon request.

**(B) Motion to Dispense with Formal Hearing.** Pursuant to R.C. [2717.08](#), the Court may dispense with a formal hearing. Applicants must file a motion and proposed entry for a non-oral hearing upon the application and demonstrate good cause to dispense with the formal hearing.

**(C) Motion for Confidentiality of Proceedings.** Pursuant to R.C. [2717.11](#), this Court may seal the proceedings and waive the notice requirement. Applicants must file a motion and proposed entry and demonstrate satisfactory proof that open records of the name change or conformity, or publication of the hearing notice required by R.C. [2717.08](#) would jeopardize the applicant's personal safety (ref. SPF [21.6](#), [21.6A](#), [21.6B](#)).

## **Loc.R. 75.3 – Minor's Application for Marriage License**

A 17-year-old child who seeks to marry a person not more than four (4) years older must first apply in a Juvenile Court for permission to marry in accord with R.C. [3101.01](#) *et seq.* A certified copy of the judgment entry granting the Juvenile Court's consent for the marriage must be filed at least 14 calendar days before the application the marriage license will be issued. The minor and their intended spouse shall complete pre-marriage counseling with the counselor of their choice. With their application, the applicants shall submit an original letter signed by the clergy member, marriage officiant or professional therapist who conducted the pre-marriage counseling to verify that marriage counseling was completed.

## **Loc.R. 75.4 – Report of Distribution Required**

In actions to relieve an estate from administration, a report of distribution (see Local Forms, [Appendix B](#)) shall be filed within 60 days after appointment of the commissioner, unless an extension of time is granted or the report is waived by order of the Court for good cause.

### **Loc.R. 75.5 – Custodial Deposits in Lieu of Bond**

All custodial deposits of personal property, securities and monies shall comply with R.C. [2109.13](#). Institutions desiring to be a depository must satisfy the Court of their authorization and certification by the State of Ohio. For leave of Court to establish a custodial deposit in lieu of bond, the fiduciary shall file a motion and proposed entry (see Local Forms, [Appendix B](#)). The fiduciary shall present a certified copy of the Court's entry to the custodial depository, and request a verification of receipt and deposit in lieu of bond (see Local Forms, [Appendix B](#)). Upon completion, the verification shall be filed with the Court. Thereafter, the fiduciary shall annually secure and file verification from custodial depository that discloses the year-end balance and all activity of each account. The statements shall be filed between January 1st and February 28th of each year unless otherwise ordered. The fiduciary shall be notified by the Court if the initial verification or annual statements are not received timely.

### **Loc.R. 75.6 – Fiduciary's Change of Address**

In accordance with R.C. [2109.21](#)(F), a fiduciary shall file a notice to inform the Court as to any change of address (see Local Forms, [Appendix B](#)) within fourteen (14) days of the address change. Failure to notify the Court under this rule may result in removal of the fiduciary.

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## **Sup.R. 78 Case Management in Decedent's Estates, Guardianship, and Trusts**

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### **Loc.R. 78.1 – Removal or Citation for Non-compliance**

Each fiduciary shall adhere to the statutory or court-ordered time for filing the inventory, account, and, if applicable, guardian's reports and any other reports as the Court shall require. The citation process set forth in R.C. [2109.31](#) shall be utilized to ensure compliance. Both the attorney of record and the fiduciary shall be subject to the citation process. The Court may modify or deny fiduciary commissions or attorney fees, or both, to enforce adherence to the filing time periods.

No expenditure, sale, distribution, or fee will be approved while the fiduciary is delinquent in filing an account. Pursuant to [Sup.R. 78](#)(D), the Court may issue a citation to the attorney of record for a fiduciary whose required filing is delinquent to show cause why the attorney should not be barred from being appointed in any new proceeding before the Court or serving as attorney of record in any new estate, guardianship, or trust, until all of the delinquent pleadings are filed.

## **Appendices to Union County Probate Local Rules**

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**App. A      Schedule of Deposits and Court Costs ([Loc.R. 58.1](#))**

Current effective schedule is available on the Probate Division's [website](#).

**App. B      Local Forms**

Current effective Local Forms are published upon the Probate Division's [website](#).

**App. C      Filing Checklists**

Current effective Checklists are published upon the Probate Division's [website](#).

**App. D      Former Loc.R. 71.1 (A), (B): Counsel Fees in Decedent's Estates**

Superseded by [Loc.R. 71.3](#) herein. Forms referenced in this rule remain available on the Probate Division [website](#) until the period of permissible use expires. See [Loc.R. 71.3\(A\)](#) regarding the expiration of former Loc.R. 71.1.

**Former Loc.R. 71.1 – Counsel Fees**

(A) This Court hereby adopts and will follow Rule 1.5 of the Ohio Rules of Professional Conduct with respect to approval of all attorney fees. Counsel fees shall be reasonable and beneficial to the estate. An Application for Counsel Fees shall be filed in estates, guardianships, and trusts, and shall include a Schedule of Computation of Fees (see Appendix, Forms LR7 & LR8). Applications for allowance of attorney fees in decedent's estate shall include a statement by the applicant/attorney that said attorney will file the final account within thirty days, unless exception is made by Court order. Counsel fees as set forth below may serve as a guide in determining fees for complete services rendered as attorney for an executor, administrator, guardian, trustee, or other fiduciary accountable to the Probate Court. The schedules, however, are guidelines only, and are not to be considered or represented to clients, as schedules of minimum or maximum fees to be charged.

(B) **Administration of Decedent's Estate.** Counsel fees for the administration of a decedent's estate as set forth below may serve as a guide in determining fees to be charged to the estate for legal services of an ordinary nature rendered as attorney for the fiduciary in the complete administration of a decedent's estate.

(1) Attorney fees herein may be based upon the total estate as determined by the higher value as shown on the inventory, what is or what would be included on a federal tax return, or account. The total estate includes real and personal property as well as probate and non-probate assets. (*rev. 4/15/17*)

In these cases, attorney fees may be based on the following: 6% of the first \$5,000.00 or part thereof; 3% of the balance.

(2) Extraordinary fees may be allowed if they are included on the schedule of computation and a separate itemized statement of services rendered is attached in support thereof.

(3) If the fiduciary acts as his/her own attorney or employs anyone in his/her law firm to represent him/her as fiduciary and based his/her fee upon the above schedule, the amount of the attorney fees so determined shall be reduced by one half of the amount of any commission that he/she receives as fiduciary pursuant to Ohio Revised Code Section 2113.35 and these rules.

**UNION COUNTY PROBATE COURT**  
Local Rules of Practice and Procedure

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- (4) The Court may allow the attorney fee requested without hearing, provided the fiduciary and the attorney have signed the application stating the services were necessary and beneficial to the estate and that the amount requested is reasonable. The Court may on its own motion or that of any interested party set the application for hearing.
- (5) An application for allowance of attorney fees must include a certification by the attorney that he/she will file the final account within thirty (30) days of the filing of the application for allowance of fees, unless exception is granted by the Court, upon written application of the attorney (Form LR8).
- (6) See Appendix, Forms LR 7 and 8 – Schedule of Computation of Attorney Fees for Decedent’s Estate and Application for Allowance of Attorney Fees for Decedent’s Estate.