

**FILED**

**NOV 22 2022**

**PROBATE COURT OF NOBLE COUNTY, OHIO**

COMMON PLEAS COURT  
PROBATE DIVISION  
NOBLE COUNTY  
**FILED**

**JUL 14 2020**

**JOHN W. NAU  
JUDGE**

CLERK OF COURT  
SUPREME COURT OF OHIO

**IN THE MATTER OF LOCAL RULES  
OF COURT FOR THE PROBATE DIVISION  
OF THE COURT OF COMMON PLEAS OF  
NOBLE COUNTY, OHIO**

**JOURNAL ENTRY  
(C.P. Sup. Rule 44)**

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Pursuant to C.P. Sup. Rule 44, the following rules are adopted as Local Rules of Court for the Probate Division of the Court of Common Pleas of Noble County, Ohio.

These Local Rules shall take effect July 1, 2020, and shall supersede existing rules of the Court on that date.

**LOCAL RULE 18.1  
HOURS OF THE COURT**

The Probate Court and its offices shall be open for transaction of business from 8:00 o'clock AM to 11:30 o'clock AM, and from 12:30 o'clock PM until 4:00 o'clock PM except Thursday afternoon. The Court shall be closed on Saturdays, Sundays, Legal Holidays, and Thursday afternoons.

The hours of the Court may be modified upon order of the Judge on a day to day basis to meet existing exigencies.

**LOCAL RULE 19.1  
CONDUCT OF THE COURT**

Reserved.

**LOCAL RULE 20.1  
EXAMINATION OF PROBATE FILE, RECORDS AND OTHER DOCUMENTS  
WITHDRAWAL OF FILES**

(A) Attorneys are permitted to withdraw files of this Court only upon signing a receipt of the same at the time of withdrawal and upon the following conditions:

No files may be withdrawn without first obtaining the approval of the Judge or the senior deputy clerk present.

Active files withdrawn must be returned on or before the next working day. All other files withdrawn must be returned within five (5) working days.

Attorneys who fail to return files on time may be denied the privilege of this rule.

A Citation for Contempt of Court shall be issued against any attorney who fails to return a file, in the condition withdrawn, after notice from the Court to return such file.

**LOCAL RULES 21.1**  
**SUMMONS AND NOTICE**

Reserved.

**LOCAL RULE 22.1**  
**REQUEST FOR JURY TRIAL**

Reserved.

**LOCAL RULE 23.1**  
**CONTINUANCES**

(A) Motions for continuances in non-adversary proceedings may be granted by the Court without hearing.

Motion for continuances in adversary proceedings will be set for hearing unless the adverse party agrees to the requested continuance.

(B) The judgment entry accompanying a motion for continuance may, with the prior approval of the assignment clerk, contain the new time and date.

**LOCAL RULE 24.1**  
**FILINGS AND JUDGMENTS**

AD HOC FORMS. All ad hoc forms, i.e. pleadings, motions, journal entries, applications, certificates, and other papers filed in the Probate Court, except will, shall be on paper size 8 ½ by 11 inches, and shall have a margin at the top of the front face of the sheet of at least 1 1/8 inches.

All other margins and specifications shall be in accordance with Superintendence Rule 57, where applicable.

**LOCAL RULE 25.1**  
**COURT COSTS**

(A) **ADVANCE DEPOSITS: COSTS.** An advance deposit for costs, in the amount set forth below shall be required in the following actions and proceedings:

(1) <u>FULL ESTATE ADMINISTRATION</u> (With or without Will) Balance of costs due, if any, payable upon filing of account.	\$125.00
(2) <u>RELEASE OF ESTATE FROM ADMINISTRATION</u>	\$125.00
(3) <u>SUMMARY RELEASE</u>	\$73.00
(4) <u>PROCEEDING TO BAR LIENS</u>	\$100.00
(5) <u>A. GUARDIANSHIPS</u>	\$100.00
<u>B. TRUSTS</u>	\$100.00
Balance of Deposit in Guardianships and Trusts returned after approval of Inventory, Cash basis thereafter.	
(6) <u>LAND SALE PROCEEDINGS</u>	\$100.00
(7) <u>WILL CONTEST</u>	\$100.00
(8) <u>WRONGFUL DEATH</u> Otherwise Cash Basis Day of Hearing	\$100.00
(9) <u>CIVIL ACTIONS NOT OTHERWISE LISTED</u> (Declaratory Judgments, Will Constructions, Determination of Heirs, and Concealed Asset Cases)	\$100.00
(10) <u>SUMMARY LAND SALE</u>	\$100.00
(11) <u>APPLICATION FOR ADOPTIONS</u>	\$200.00
(12) <u>CHANGE OF NAME</u> (When Service is to be made)	\$100.00

All other probate proceedings shall be on a cash basis due at time of hearing. Upon depletion of any advance deposit, additional deposits may from time to time be ordered by the Court.

Upon termination of any case or action, any deposit balance will be returned to the attorney of record, and no further accounting shall be required.

**(B) RECORD AND TRANSCRIBING TESTIMONY.**

(1) A fee of transcribing testimony shall be paid by the person requesting such service in the amount of \$2.50 for each 8 ½ by 11 page or part thereof so transcribed, for the original transcript.

An advance deposit, in the amount estimated by the Court to cover the costs of transcribing the record, may be required at the time a transcript is ordered. In any event, the completed transcript will not be delivered until the full cost of transcribing the record has been paid, except in those cases in which the party on whose behalf the transcript is ordered is entitled to a free transcript pursuant to law.

(2) A fee of .50 per page or part thereof shall be paid for each copy of the transcribed testimony after payment of the original. All other copies will be \$2.00 per page.

**LOCAL RULE 26.1**

**APPLICATION TO PROBATE A WILL (STANDARD FORM 2.0)**

Reserved.

**LOCAL RULE 27.1**

**APPLICATION FOR LETTERS OF ADMINISTRATION**

A person who files an Application for Letters of Administration in an estate where there is no surviving spouse resident of Ohio nor known next of kin resident of Ohio, shall cause to be served on the spouse and all competent next of kin, if any, residing outside of the state, known to the applicant, an written notice of the time and place of the hearing.

The notice shall be served on such person at least (7) seven days prior to the date of the hearing.

**LOCAL RULE 28.1**

**APPOINTMENT AND COMPENSATION OF APPRAISERS IN  
ESTATES AND LAND SALE PROCEEDINGS**

Reserved.

**LOCAL RULE 29.1**  
INVENTORY

(A) Unless notice is waived, upon filing of an inventory as required by RC 2115.02, the executor or administrator shall serve the Notice of Hearing on Inventory upon the surviving spouse, and upon all next of kin in an intestate estate or upon all beneficiaries in a testate estate, and also upon any person who is interested in the estate, in accordance with the Rules of Civil Procedure.

(B) Prior to the hearing on inventory, the fiduciary shall file (1) a certificate which identifies the person(s) upon whom notice was served and the manner of service, and/or (2) waivers obtained from those who waived notice in lieu of being served.

**LOCAL RULE 30**  
USE OF ELECTRONICALLY PRODUCED TICKET

The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in the Noble County Common Pleas Court, Probate and Juvenile Divisions. The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket.

**LOCAL RULE 30.1**  
CLAIMS FILED WITH THE COURT

In all estates that are open as of May 1, 2015 or opened thereafter, the Fiduciary shall file *Local Form 7.1* if standard *Form 7.0* is not filed.

**LOCAL RULE 31.1**  
APPLICATION TO SELL PERSONALTY

Reserved.

**LOCAL RULE 32.1**  
**ACCOUNTS**

(A) Vouchers for an estate accounting do not need to accompany the account presented for filing. The Court may require vouchers on an account of which an objection has been filed.

(B) A statement of the Computation of Fiduciary Fees shall be filed with the account. See Appendix B.

(C) Unless notice is waived, upon the filing of all fiduciary accounts as required by RC 2109.32, the fiduciary shall serve a copy of the account and the notice of the hearing in accordance with the Rules of Civil Procedure upon, the following, whose addresses are known.

1. Decedent's Estates- To the surviving spouse; and all next of kin in an intestate estate and to all beneficiaries in a testate estate.
2. Guardianships- To the ward, if living, or to all next of kin of the ward, if the ward is deceased.
3. Trusts- To all the trust beneficiaries.
4. Regardless of the nature of the matter, to counsel of any represented party described above.

(D) Prior to the hearing on account, the fiduciary shall file (1) a certificate which identifies the person(s) upon whom notice was served and the manner of service, and/or (2) waivers obtained from those who waived notice in lieu of being served.

**LOCAL RULE 33.1**  
**LAND SALES—R.C. CHAPTER 2127**

(A) The attorney's certificate required by C.P. Sup. R. 33 shall guarantee record title only and shall extend to the first root of the title beyond forty years.

A fee of \$150.00 plus an additional \$100.00 for each additional chain of title covering the real estate described in the complaint to sell will be allowed to the attorney furnishing the certificate of title, in addition to any other fee which the attorney is entitled to under these rules.

The premium of a title insurance company issuing a supporting preliminary and/or final judicial report may be allowed as an expense of the land sale, in addition to the fee of attorney for certifying title, upon prior application to the Court.

(B) In all sales under ORC 2127.22 (Summary Proceeding) the application shall be set for hearing and the plaintiff shall give the defendants notice of the time and place of hearing in the method provided in Civil rule 73E.

(C) The bond required to be executed in land sale proceedings pursuant to ORC 2127.27 shall be filed in the case wherein the fiduciary received his appointment.

(D) Every Administrator or Executor who sells real estate pursuant to the power of sale granted in ORC 2127.011 shall file a report of such sale prior to, or contemporaneously with, the filing of the final account, specifically setting forth the type of sale (private or public), the sale price, the appraised value, the name and address of the purchaser, and so much of the legal description as will enable a title examiner to identify the property. (In most cases the description as carried on the tax duplicate will be adequate for this purpose.)

(E) In an proceeding wherein an order of sale for real estate has been forwarded to the Sheriff of this County, and the sale ultimately occurs, the successful bidder at such sale shall deposit with the Sheriff, at the time of such sale, the sum of \$500.00 or 5% of the appraised value, whichever amount is greater. Said deposit is to be applied to the purchase price, or in an appropriate case, as otherwise provided by Court order.

### **LOCAL RULE 34.1** **GUARDIANS**

**THE REQUIREMENTS IN THIS RULE APPLY TO ALL GUARDIANSHIPS.**

#### **A. Residency**

A minor or alleged incompetent who is not a citizen of the United States or a resident alien is not considered by this Court to be a resident of this County or to have a legal residence in this County for purposes of R.C. §2111.02(A).

#### **B. Criminal Background Check**

All applicants for appointment as a guardian must submit with the application the results of a criminal background check. The applicant must pay the cost of the criminal background check. The requirements in this Rule do not apply if the applicant is the natural or adoptive parent of a minor ward, a state agency or an attorney licensed and in good standing to practice law in Ohio, or is related by consanguinity or affinity to the ward.

#### **C. Incident Reports**

Any guardian, attorney or other person in a fiduciary relationship with a ward who has reasonable cause to believe that the ward is being abused, neglected, exploited or otherwise subjected to danger of emotional, physical or financial harm must immediately report it to the Court, describing in sufficient detail the basis for the belief. The Court will determine if the incident report will be made a part of the official record. The Court will promptly investigate all incident reports that it receives and will determine whether there is a reasonable basis for further action.

#### D. Complaints against Guardians

Any person or entity who has reasonable cause to believe that a guardian has engaged in any act of wrongdoing or neglect affecting the ward may file a request for a review hearing with the Court. The Court will promptly consider and investigate all complaints against a guardian that it receives. If the Court believes there is a reasonable basis for the allegations in the complaint, the Court will set the matter for hearing at the earliest available opportunity. The person or entity who filed the complaint must appear in person at the hearing to testify and prove the allegations. If they fail to appear, the Court may dismiss the complaint. The guardian must also appear in person at the hearing.

#### E. Authority to Expend Funds

No guardian of a ward's estate may expend any of the ward's funds without prior Court authorization. The application for authority to expend funds must describe the payee, the amount and the purpose of each proposed expenditure. It must also specify whether the proposed expenditures are recurring expenses or non-recurring expenses. The Court will not approve any expenditures of the ward's funds until the guardian has filed an inventory, unless the guardian shows that delaying the authorization will be detrimental to the ward.

#### F. Authority to Sell Ward's Assets

No guardian of a ward's estate may sell, exchange, transfer or otherwise dispose of any of the ward's assets until the guardian has filed an inventory, unless the guardian shows to the Court that delaying the transaction will be detrimental to the ward.

#### G. Veterans' Benefits

All guardianships of the ward's estate that involve veterans' benefits are subject to and must comply with R.C. Chapter 5905 and all rules and regulations of the Department of Veterans' Affairs. All applications for authority to expend funds, including all applications to pay guardian or attorney fees, must also be approved by the Department of Veterans' Affairs. In the alternative, the application may be set for hearing with notice given to the Department of Veterans' Affairs.

#### H. Ward's Death

If the ward dies, the guardian must notify the Court in writing within 30 Calendar Days after the death. This notice is the responsibility of the guardian of the person. If there is no guardian of the person, the notice is the responsibility of the guardian of the estate.

I. In all guardianships, if the guardian is a relative of the ward, the Court may exempt the guardian from some of the requirements of Superintendence Rules 66.01 through 66.09.



**LOCAL RULE 34.2**  
**GUARDIANSHIP OF MINORS**  
**THIS RULE GOVERNS GUARDIANSHIPS OF MINORS.**

**A. Coordination with Other Proceedings**

The Court will not establish a guardianship of the person of a minor if another court has pending or continuing jurisdiction over the custody of the minor.

**B. No Guardianship for School or Custody Purposes**

The Court will not accept for filing any application for guardianship of a minor where the sole or primary purpose of the proposed guardianship is to establish residency for the minor to enroll in school or for purposes of transferring physical custody of a minor from a parent to any other person. Custody for these purposes is a matter that must be submitted to and determined by the Juvenile Division or the Domestic Relations Division of the Common Pleas Court.

**C. Birth Certificate**

Upon filing an application for appointment as guardian of a minor, the applicant must simultaneously file a true and accurate copy of the minor's birth certificate.

**D. Expenditures for Minor's Health, Education, Maintenance or Support**

If the guardian of a minor's estate is also the minor's natural or adoptive parent, and the guardian applies to the Court for authority to expend funds of the minor for items that can reasonably be considered relating to the minor's health, education, maintenance or support, generally the Court will not approve such expenditures of the minor's estate in these circumstances, unless the applicant establishes to the Court's satisfaction that the expenditure is necessary and the parent or parents do not have the financial resources to pay the expense.

**E. Notice of Termination**

All applications to terminate the guardianship of a minor before the minor reaches the age of 18 years require notice to be served on all persons entitled to notice under R.C. §2111.04(A)(1), to all persons who received actual notice of the original appointment of the guardian, and to such other persons as the Court may order. The applicant is responsible for serving the notice.

**F. Grandparent's Power of Attorney**

No guardian of a minor is permitted to create a power of attorney under R.C. §3109.52 that transfers any of the guardian's powers or obligations to a grandparent of the child with whom the child is residing without this Court's prior authorization.

### **LOCAL RULE 34.3**

#### **GUARDIANSHIP OF MENTALLY INCOMPETENT ADULT THIS RULE GOVERNS GUARDIANSHIPS OF MENTALLY INCOMPETENT ADULTS.**

##### **A. Notice of Hearing**

In addition to those entitled to notice of the hearing on the application for appointment of a guardian of an adult under R.C. §2111.04(B), the Court may order that notice also be served on, and in the same manner, other persons as the Court may direct. If not otherwise entitled to notice by statute, the applicant must provide the Court with the names and addresses of all of the proposed ward's adult children who are known to reside in Ohio. The Court will serve notice of the hearing on those children. Any notice required by law or by this Rule may be waived.

##### **B. Burden of Proof**

At the hearing on the application for appointment of a guardian of the person or estate of a mentally incompetent adult, the applicant bears the burden of proving, by clear and convincing evidence both of the following: (i) the ward's mental incompetence; and (ii) that no less restrictive alternative exists to the proposed guardianship.

###### **1. Existence of Powers of Attorney**

If the proposed ward has executed a valid durable power of attorney or durable power of attorney for health care that remain in effect, the applicant must file true and accurate copies of the powers of attorney with the application for appointment as guardian. At the hearing, the applicant must present satisfactory evidence of why one or both of the powers of attorney are ineffective in meeting the ward's needs.

###### **2. Rebuttable Presumption**

The Court establishes a rebuttable presumption that valid durable powers of attorney are less restrictive alternatives to guardianship.

##### **C. Effect on Powers of Attorney**

If the Court appoints the guardian, and the guardian is also the designated ward's agent under a valid durable power of attorney or durable power of attorney for health care that remain in effect, the Court may order that one or both powers of attorney are deemed terminated and void, or may order that one or both powers of attorney remain valid and effective for purposes that the Court directs. If the guardian is permitted to use either or both powers of attorney, the guardian is accountable to the Court for all activities undertaken as agent under the powers of attorney.

If the Court appoints the guardian, and the guardian is not the designated agent under a valid durable power of attorney or durable power of attorney for health care, the powers of attorney are automatically deemed terminated and void, unless the Court orders otherwise.

#### D. Deposit of Wills

The guardian must deposit the originals of all wills of the ward with the Court for safekeeping, pursuant to the procedure in R.C. §2107.07. The guardian must deposit the will(s) no later than the earlier of: (i) the date of filing the inventory; or (ii) 30 Calendar Days after discovery of the ward's will(s).

#### E. Guardian's Report

The guardian of an incompetent adult must file a guardian's report under R.C. §2111.49 with the Court on or before the second anniversary of the date of appointment and on or before the appointment anniversary date every two years thereafter. The Court may order periodic reports more frequently.

##### 1. Interim Guardian's Report

If the guardian becomes aware of any changes or other material circumstances affecting the ward that would otherwise be required to be disclosed on a guardian's report, the guardian must file an interim guardian's report disclosing the change or other material circumstances within 30 Calendar Days after first becoming aware of the changes or circumstances.

##### 2. Who Must File

The guardian of the person is responsible for filing the guardian's report. If there is no guardian of the person, the guardian of the estate is responsible for filing the guardian's report.

##### 3. Statement of Expert Evaluation

If the original Statement of Expert Evaluation indicates to a reasonable degree of medical certainty that it is unlikely that the ward's mental competence will ever improve, the guardian is not required to obtain or submit subsequent Statements of Expert Evaluation with the guardian's reports.

### **LOCAL RULE 34.4 EMERGENCY GUARDIANSHIPS**

**THIS RULE GOVERNS EMERGENCY GUARDIANSHIPS OF A MINOR OR MENTALLY INCOMPETENT ADULT UNDER R.C. §2111.02(B)(3).**

#### A. Overview of Proceeding

An emergency guardianship is an ex parte proceeding that materially affects the legal rights of the proposed ward without prior notice or opportunity to be heard, even though for a limited time and purpose. As such, the Court will strictly scrutinize all evidence presented to determine whether the appointment of an emergency guardian is the only feasible alternative for the necessary protection of the proposed ward. The applicant bears the burden of proof by clear and convincing evidence.

**B. Application**

A person desiring to be appointed emergency guardian must prepare and file supporting evidence and other supporting documentation proving the need for the appointment.

**1. Minimum Evidence**

At a minimum, the applicant must file with the application one or more affidavits of persons having direct knowledge of the circumstances showing that the proposed ward faces an imminent risk of serious injury to his or her person or estate, and why immediate Court action is required to prevent that injury.

**2. Additional Evidence**

The applicant may, and is strongly encouraged, to present additional supporting documentation evidencing the truth of the statements in the application and supporting affidavits.

**3. Less Intrusive Means**

The affidavits and additional evidence the applicant files must also establish that no less intrusive means exists to prevent injury to the proposed ward's person or estate without immediate Court intervention.

**C. Extension**

If the emergency guardian desires to extend the emergency guardianship beyond the initial 72 hour appointment period, he or she must apply to the Court for an extension. The maximum extension is 30 Calendar Days. The Court will not grant additional extensions, absent a showing of exceptional circumstances.

**D. Notices**

The person over whom the emergency guardianship is sought is the only person required to be served with any notices required under R.C. §2111.02(B)(3), unless the Court requires notice to other persons.

**LOCAL RULE 35.1**

ESTATES OF MINOR AND PROPOSED INCOMPETENTS  
OF TEN THOUSAND DOLLARS OR LESS

Reserved.

**LOCAL RULE 36.1**

SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS (RC 2111.18)

Reserved.

**LOCAL RULE 37.1**

SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS  
UNDER TEN THOUSAND DOLLARS

Reserved.

**LOCAL RULE 38.1**  
**SETTLEMENT OF CLAIMS FOR WRONGFUL DEATH**

Reserved.

**LOCAL RULE 39.1**  
**COUNSEL FEE IN CONNECTION WITH SETTLEMENT OF CLAIMS FOR  
WRONGFUL DEATH, CONSCIOUS PAIN AND SUFFERING, CLAIMS FOR  
PERSONAL INJURIES TO PERSON UNDER GUARDIANSHIP; AND  
SETTLEMENT OF CLAIMS FOR PERSONAL INJURIES TO MINORS UNDER  
ORC 2111.18**

Reserved.

**LOCAL RULE 40.1**  
**COUNSEL FEES**

A. Introduction. The schedule of compensation hereinafter set forth shall serve as a guide in determining fees allowable to an attorney for services rendered as attorney for an executor, administrator, guardian, trustee, or other fiduciary accountable to the Probate Court.

Such schedules, however, are not to be considered as schedules of minimum or maximum fees to be charged.

The application for attorney fees shall be accompanied by a computation of attorney fees calculated pursuant to the Schedule of Computation herein, regardless of whether the attorney is seeking a fee calculated other than pursuant to this schedule. If the attorney fee being sought exceeds the fee as calculated pursuant to the schedule set forth herein, such application shall be accompanied by an itemized statement of time and services rendered for the full fee being sought by the attorney in addition to the aforesaid computation.

The Court may allow the attorney fee requested without hearing provided the fiduciary and the attorney have signed the application indicating the services were necessary and beneficial to the estate and that the amount requested is reasonable. In the alternative the Court may on its own motion or that of any interested party set the application for hearing.

The appraised values of property, as shown in the inventory, and where applicable, the taxable values, as determined for Ohio Estate Tax purposes or Federal Tax purposes, shall be used as the basis for determining attorney fees pursuant to the schedule of compensation.

B. SCHEDULE OF COMPENSATION

(1). ADMINISTRATION OF DECEDENT'S ESTATE

(a) Definitions

(i) Probate Assets:

All personal property included in the inventory, unless sold, then the amount of the gross proceeds from the sale of such or personal property; proceeds from sale of real estate; the estate income for which fiduciary account; the money actually advanced to the estate to pay debts, taxes, expenses of administration or legacies.

(ii) Other Assets:

Real Estate not sold and, assets, at the full value of such assets, which are not subject to administration as part of the probate estate, including

(1) Those which were owned in whole or part by the decedent at the time of death, but passed to some third party or parties other than through the estate (excluding joint and survivorship property and property payable on death to a beneficiary other than the estate); and

(2) Those that were not owned by the decedent at the time of death but would have been reputable or part of the gross estate in proceedings for the determination of Federal Estate Tax, but only if Federal Estate Filings, including successor forms, are actually filed.

(b) Fees shall be the sum of the amounts calculated as follows:

(i) Complete Administration:

Probate Assets:

4% of the first \$100,000.00

3% of the next \$300,000.00

2% of all over \$400,000.00

Other Assets:

1% of Total

(ii) Release from Administration

Probate Assets:

2% of Total

Other Assets:

1% of Total

(c) If the fiduciary acts as his/her own attorney and bases his/her attorney fee upon the above schedule, the amount of the attorney fee so determined shall be reduced by one-half ( $\frac{1}{2}$ ) the amount of a commission he/she receives as fiduciary pursuant to ORC 2113.35.

**(2) GUARDIANSHIPS AND TRUSTS:**

Attorney fees for services rendered to a guardian or trustee may be based upon the following:

(a) Obtaining appointment of guardian or trustee: \$250.00

(b) Where real estate is sold as a result of a judicial land sale proceeding under Chapter 2127 ORC, the following amounts, based upon the gross proceeds:

6% of the first \$3,000.00 or part thereof:

4% of the next \$12,000.00 or part thereof:

3% of the next \$20,000.00 or part thereof:

2% of the balance.

(c) In addition to the above, any fee agreed to by the guardian or trustee and the attorney in the amount of \$400.00 or less, for necessary legal services rendered to the guardian or trustee during the accounting period, including assistance in preparation of accounts.

(d) In lieu of the foregoing, the attorney may elect to be compensated at the same rate and in the same manner as the guardian or a trustee under Local Rule 42.1 or 43.1 provided that the principal fee referenced in Local Rule 42.1 (A)(b) or 43.1 (A) (b) may be taken only once, that being in the first accounting.

(3) ATTORNEY FEES IN OTHER MATTERS

An application shall be filed for the allowance of attorney fees for services rendered in all matter not otherwise provided for above. The application shall set forth a concise statement of the services rendered and the amount claimed. An itemized statement of the services for which compensation is requested shall be attached to the application.

(C) COMPUTATION OF ATTORNEY FEES (Decedent's Estate) FORM.

I. The form to be filed pursuant to Local Rule 40.1 (A) for computation of attorney fees in decedent's estates shall be substantially as set for in Appendix A-1.

LOCAL RULE 41.1

EXECUTORS AND ADMINISTRATORS COMMISSIONS.

Reserved.

LOCAL RULE 42.1

GUARDIAN'S COMPENSATION

(A) Unless otherwise provided by law or ordered by the Court, a guardian may charge annually for his ordinary services an amount computed in accordance with the following schedule:

- (a) Income fee: 5% of the gross income plus an additional 2% of the gross income attributable to real estate rentals where the fiduciary is managing such real estate, chargeable to income;
- (b) Principal Fee: \$3.00 per \$1,000.00 on the first \$100,000.00; \$2.50 per \$1,000.00 on the next \$200,000.00; and \$1.50 per \$1,000.00 on the balance; of the fair market value of the corpus, annually chargeable to principal unless otherwise ordered.
- (c) Such guardian may, with the approval of the Court, be allowed a principal distribution fee upon the final distribution of any part of the corpus of the guardianship property equal to one percent (1%) of the fair value of the part distributed, and the amount shall be charged against and deducted from such distribution or payment. A minimum annual fee of \$100.00 will be allowed in each guardianship.

For purposes of determining compensation based on income, the following shall NOT be considered income:

- (a) Receipt of corpus by guardian;
- (b) Balances carried forward from one accounting period to another; and
- (c) Investment and reinvestment of corpus, including conversion of corpus to cash.

For purposes of computing the compensation as herein provided, the fair market value of the principal of the trust property shall be determined by the guardian as of the date of his appointment and as of each anniversary thereafter. The compensation so determined may be charged during the ensuing year. The annual fair market value of the principal shall be adjusted from time to time to reflect additions to and withdrawals from the principal of the trust estate, and the compensation for the remaining portion of the annual period shall be similarly adjusted to reflect such revised valuation.

Additional compensation for extraordinary services or allowance of expenses of a guardian; and the compensation of guardian of person only may be allowed upon application to the Court.

(B) COMPUTATION OF GUARDIAN'S FEE: FORM. The form to be filed pursuant to CP Superintendence Rule 42(F) for computation of Guardian's compensation shall be substantially as set forth in Appendix C.

**LOCAL RULE 43.1**  
**TRUSTEE'S COMPENSATION**

(A) Except where the instrument creating the trust makes provision for compensation, unless otherwise provided by statute or ordered by the Court, a testamentary trustee may charge annually for ordinary services performed in connection with the administration of each separate trust estate an amount computed in accordance with the following schedule:

- (a) Income Fee: 5% of the gross income plus an additional 2% of gross income attributable to real estate rentals where the fiduciary is managing such real estate, chargeable to income;
- (b) Principal Fee: \$3.00 per \$1,000.00 on the first \$100,000.00; \$2.50 per \$1,000.00 on the next \$200,000.00; and \$1.50 per \$1,000.00 on the balance; of the fair market value of the corpus, annually chargeable to principal unless otherwise ordered.
- (c) Such trustee may, with the approval of the Court, be allowed a principal distribution fee upon the final distribution of any part of the corpus of the trust property equal to one percent (1%) of the fair value of the part distributed, and the amount shall be charged against and deducted for such distribution of payment. A minimum annual fee of \$100.00 will be allowed in each trust.

For purposes of determining compensation based on income, the following shall NOT be considered income:

- (a) Receipt of corpus by trustee;
- (b) Balances carried forward from one accounting period to another; and
- (c) Investment and reinvestment of corpus, including conversion of corpus to cash.

For purposes of computing the compensation as herein provided, the fair market value of the principal of the trust property shall be determined by the trustee as of the date of his appointment and as of each anniversary thereafter. The compensation so determined may be charged during the ensuing year. The annual fair market value of the principal shall be adjusted from time to time to reflect additions to and withdrawal from the principal of the trust estate, and the compensation for the remaining portion of the annual period shall be similarly adjusted to reflect such revised valuation.

Additional compensation for extraordinary services of a trustee may be allowed upon application to the Court.

(B) COMPUTATION OF TRUSTEE'S FEE: FORM. The form to be filed pursuant to CP Superintendence Rule 43(C) for computation of trustee's compensation shall be substantially as set forth in Appendix C.



**LOCAL RULE 44.1**  
**LOCAL RULES**

A. **Fiduciary's Bond**

- (1) When bond is required to be posted by a fiduciary, as a general rule, the Court will approve the bond executed by the fiduciary and a commercial surety company licensed to do business in the State of Ohio.
- (2) Personal sureties, pledged property, and mortgaged real estate may be accepted as security, upon application to the Court. Such application to the Court shall contain a certification from an Attorney, licensed to practice in Ohio, certifying that the unencumbered equity in such property is equal to or greater than the amount of such bond. The attorney for the fiduciary shall prepare the necessary documents and file them as required to preserve the priority of the interest in such security. Should foreclosure on such security be required, all costs of such foreclosure shall be deducted from the fiduciary fee and the attorney fees, as deemed equitable by the Court.

**LOCAL RULE 45.1**  
**EXCEPTIONS TO THE RULES**

Reserved.

**LOCAL RULE 46.1**  
**COMPLIANCE**

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

**LOCAL RULE 47**  
**TRANSCRIPT PROCEDURES**

The Clerk shall not permit any party or any person to make a copy of or remove trial transcripts from a file. Attorneys, parties to the action, or other interested parties shall be referred to the Court Reporter of the Court in which the case is pending or in which the case was tried.

Pursuant to Attorney General Opinion 2002-14, a party or prosecuting attorney in a civil or criminal action in the Court of Common Pleas of Noble County, Ohio, may obtain a photocopy of a transcript previously prepared in the action from the Court's file without paying the Court Reporter who prepared the transcript the compensation fixed by this Court.

IT IS HEREBY ORDERED that the compensation rate for photocopies of transcripts mentioned above will be (two) \$2.00 per page.

## LOCAL RULE 91.1

### I. CIVIL ACTIONS

A. At least one pre-trial conference shall be conducted in all civil cases prior to being scheduled for trial, except in land sale proceedings.

B. Within sixty (60) days after the answer day the case shall be set by the Court for a pre-trial conference.

C. Notice of the pre-trial conference shall be given to all counsel of record by mail or telephone by the Court not less than fourteen (14) days prior to the conference, unless a shorter period is necessary due to the exigencies of the case. A continuance of the conference may be granted for good cause shown.

D. In addition to resolving all matters which can properly be resolved at the pre-trial conference, a trial date shall be set by the Court, unless a further pre-trial conference is scheduled. The further pre-trial conference shall be scheduled to be held with sixty (60) days, unless a longer period is agreed to by the Court upon request of the parties and for good cause shown.

When all issues preliminary to trial have been resolved, the Court shall set a trial date. At the same time the Court will schedule a final pre-trial conference to be held approximately ten (10) days prior to the trial.

E. The following decisions shall be made at the final pre-trial conference and all counsel attending must have full authority to enter into a binding final pre-trial order:

1. The Court will rule on all pre-trial motions.
2. Briefs on any legal issues shall be submitted.
3. Proposed jury instructions shall be submitted.
4. Proposed jury interrogatories shall be submitted.
5. Clients shall be present.
6. No motions shall be heard after the final pre-trial without leave of Court and without good cause being shown.

F. The trial date may be changed by the Court upon its own motion or upon motion by a party for good cause shown.

### II. LAND SALES

All land sales which have not been concluded within one (1) year from the date of filing shall be set for a pre-trial conference.

A. The following decisions shall be made at the pre-trial conference and all counsel attending must have full authority to enter into a binding pre-trial order:

1. The attorney of record and the fiduciary must attend the pre-trial conference. Upon application of the fiduciary, and for good cause shown, the Court may excuse the presence of the fiduciary.
2. A written status report shall be filed with the Court on or before the date set for the pre-trial conference, which report shall address the issues as to the efforts being made to sell the real estate and when the case will be closed.

### III. DECEDENT'S ESTATES

A. All accounts shall be filed within the statutory time period (ORC 2109.30) unless an extension has been granted by the Court. The citation procedure (ORC 2109.31) shall be utilized if necessary to gain compliance.

B. The Court shall set a pre-trial conference within thirty (30) days of the filing of objections to an inventory and objections to an account.

1. The Court at the pre-trial conference shall set the matter for an evidentiary hearing within thirty (30) days thereafter, unless a longer period of time is necessitated by the Court docket.

C. The fiduciary in all decedent's estates, which are current as to filed accounts, that remain open after a period of one (1) year stating therein why the estate has not been completed.

### IV. WRONGFUL DEATH SETTLEMENTS

A. A hearing shall be scheduled within thirty (30) days following the filing of the Form 14.0, provided however, if either a guardian or guardian ad litem is necessary to be appointed the hearing shall be scheduled within fifteen (15) days after appointment, unless a longer period of time is necessary (1) due to docket constraints or (2) for other good cause shown.

### V. GUARDIANSHIPS

A. Adequate statutory provisions exist to control timeliness of filings. However, each guardianship case shall be reviewed annually.

### VI. TRUSTS

A. Adequate statutory provisions exist to control timeliness of filings. However, each Trust case shall be reviewed annually.

### VIII. MOTIONS

A. Oral arguments of motions may be permitted on application and proper showing.

B. The moving party shall serve and file with the motion a brief written statement in support of the motion and a list of citations of authorities in support.

C. The Court shall set a hearing within thirty (30) days after receipt of the request for hearing.

  
JOHN W. NAU, JUDGE

**APPENDIX A-1**  
**PROBATE COURT OF NOBLE COUNTY, OHIO**

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

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

**APPLICATION FOR ALLOWANCE OF ATTORNEY FEE**

**Basis for Calculations:**

Probate Assets:		Totals
Personal Property	_____	
Income	_____	
Real Property (sold)	_____	
		_____
		Total Probate Assets
Other Assets:		
Real Property (not sold)	_____	
Non-Probate that would have been subject to	_____	
Estate Tax, EXCEPT J & S Property, and POD Property	_____	
as itemized on attachment.	_____	
		_____
		Total Other Assets

1. Fees based upon Total Probate Assets:
    - 4% of first \$100,000.00 \_\_\_\_\_
    - 3% of next \$300,000.00 \_\_\_\_\_
    - 2% of balance \_\_\_\_\_
  
  2. Fee based upon Total Other Assets at 1% \_\_\_\_\_
- TOTAL FEE** \$ \_\_\_\_\_

\_\_\_\_\_  
 Attorney

\_\_\_\_\_  
 Administrator/ Executor

**ENTRY**

The Court allows the sum of \$ \_\_\_\_\_ to Attorney \_\_\_\_\_  
 for services rendered to the Estate, payable as an expense of administration.

\_\_\_\_\_  
 Date

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

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**APPENDIX B**  
**COMPUTATION OF ADMINISTRATORS & EXECUTORS FEE**  
**(Decedent's Estates)**

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

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

Basis for Calculations:

	Totals
<b>Probate Assets:</b>	
Personal Property _____	
Income _____	
Real Property (sold) _____	
	Total Probate Assets
<b>Other Assets:</b>	
Real Property (not sold) _____	
Non-Probate that would have been subject to Estate Tax, EXCEPT J & S Property, and POD Property as itemized on attachment. _____	
	Total Other Assets

1. Fees based upon Total Probate Assets:
  - 4% of first \$100,000.00 \_\_\_\_\_
  - 3% of next \$300,000.00 \_\_\_\_\_
  - 2% of balance \_\_\_\_\_
  
2. Fee based upon Total Other Assets at 1% \_\_\_\_\_
  
- TOTAL FEE** \$ \_\_\_\_\_

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Administrator/ Executor

**APPENDIX C**

PROBATE COURT OF NOBLE COUNTY, OHIO

IN THE MATTER OF \_\_\_\_\_

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

COMPUTATION OF GUARDIAN'S/TRUSTEE'S COMPENSATION

PERSONAL PROPERTY

INCOME FEE \$ \_\_\_\_\_ × 5% (gross income) \$ \_\_\_\_\_

\$ \_\_\_\_\_ × 2% (gross income)  
attributable to real estate rentals where the fiduciary  
is managing such real estate, chargeable to income \$ \_\_\_\_\_

PRINCIPAL \$ \_\_\_\_\_ × \$3.00 per \$1,000.00  
on the first \$100,000.00 \$ \_\_\_\_\_

\$ \_\_\_\_\_ × \$2.50 per \$1,000.00  
on the next \$200,000.00 \$ \_\_\_\_\_

\$ \_\_\_\_\_ × \$1.50 per \$1,000.00  
on the balance \$ \_\_\_\_\_

PRINCIPAL DISTRIBUTION UPON TERMINATION  
(with approval of Court)

\$ \_\_\_\_\_ × 1% \$ \_\_\_\_\_

**TOTAL** \$ \_\_\_\_\_

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Guardian/Trustee

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

COMMON PLEAS COURT  
PROBATE DIVISION  
NOBLE COUNTY  
FILED

JUL 14 2020

JOHN W. NAU  
JUDGE

IN THE MATTER OF THE  
ADOPTION OF RULES OF COURT

**JOURNAL ENTRY**

The Supreme Court of Ohio, pursuant to Article 4, Section 5, of the Ohio Constitution, prescribes certain rules of practice and procedure. The Court finds it is necessary to adopt additional rules not inconsistent with the rules promulgated by the Supreme Court of Ohio.

It is hereby ORDERED in all instances where the Noble County Common Pleas Court Rules for the Probate Division are in conflict with the new Ohio Civil Rules of Practice and Ohio Rules of Superintendence, that the Civil Rules of Practice and the Ohio Rules of Superintendence be and they are hereby in full force and effect.

It is further ORDERED the following shall be the rules of regulation of the practice and proceedings in the Probate Division of the Common Pleas Court of Noble County, Ohio, until otherwise ordered by this Court. All previous rules are hereby repealed and rescinded.

Effective as of July 1, 2020.

  
\_\_\_\_\_  
JOHN W. NAU, JUDGE