

**RULES OF PRACTICE
SENECA COUNTY COURT OF COMMON PLEAS
PROBATE DIVISION**

JAY A. MEYER, JUDGE

EFFECTIVE

February 10, 2016

TABLE OF CONTENTS

RULE 5
LOCAL RULES.

RULE 9
SECURITY PLAN
 SENECA COUNTY LOCAL RULE 9.1
 SENECA COUNTY LOCAL RULE 9.2

RULE 11.0
RECORD OF PROCEEDINGS
 SENECA COUNTY LOCAL RULE 11.1

RULE 16
MEDIATION.
 SENECA COUNTY LOCAL RULE 16.01
 SENECA COUNTY LOCAL RULE 16.02
 SENECA COUNTY LOCAL RULE 16.03
 SENECA COUNTY LOCAL RULE 16.04
 SENECA COUNTY LOCAL RULE 16.05
 SENECA COUNTY LOCAL RULE 16.06
 SENECA COUNTY LOCAL RULE 16.07

RULE 26.04.01
RECORD RETENTION

RULE 27
TECHNOLOGY

RULE 53
HOURS OF THE COURT
 SENECA COUNTY LOCAL RULE 53.1.

RULE 54
CONDUCT IN COURT.
 SENECA COUNTY LOCAL RULE 54.01
 SENECA COUNTY LOCAL RULE 54.02
 SENECA COUNTY LOCAL RULE 54.03
 SENECA COUNTY LOCAL RULE 54.04
 SENECA COUNTY LOCAL RULE 54.05

RULE 55
EXAMINATION OF PROBATE RECORDS.
 SENECA COUNTY LOCAL RULE 55.1.
 SENECA COUNTY LOCAL RULE 55.2.
 SENECA COUNTY LOCAL RULE 55.3

A

RULE 56

CONTINUANCES AND EXTENSION OF TIME.....
 SENECA COUNTY LOCAL RULE 56.1.....
 SENECA COUNTY LOCAL RULE 56.2.....

RULE 57

FILINGS AND JUDGMENT ENTRIES.....
 SENECA COUNTY LOCAL RULE 57.1.....
 SENECA COUNTY LOCAL RULE 57.2.....
 SENECA COUNTY LOCAL RULE 57.3.....
 SENECA COUNTY LOCAL RULE 57.4.....
 SENECA COUNTY LOCAL RULE 57.5.....
 SENECA COUNTY LOCAL RULE 57.6.....
 SENECA COUNTY LOCAL RULE 57.7.....
 SENECA COUNTY LOCAL RULE 57.8.....
 SENECA COUNTY LOCAL RULE 57.9.....
 SENECA COUNTY LOCAL RULE 57.10.....
 SENECA COUNTY LOCAL RULE 57.11.....
 SENECA COUNTY LOCAL RULE 57.12.....
 SENECA COUNTY LOCAL RULE 57.13.....

RULE 58

DEPOSIT FOR COURT COSTS.....
 SENECA COUNTY LOCAL RULE 58.1.....
 SENECA COUNTY LOCAL RULE 58.2.....

RULE 59

WILLS.....

RULE 60

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

RULE 61

APPRAISERS.....
 SENECA COUNTY LOCAL RULE 61.1.....

RULE 62

CLAIMS AGAINST ESTATE.....
 SENECA COUNTY LOCAL RULE 62.1.....

RULE 63

APPLICATION TO SELL PERSONALTY.....
 SENECA COUNTY LOCAL RULE 63.1.....

B

RULE 64

ACCOUNTS
 SENECA COUNTY LOCAL RULE 64.1
 SENECA COUNTY LOCAL RULE 64.2
 SENECA COUNTY LOCAL RULE 64.3
 SENECA COUNTY LOCAL RULE 64.4
 SENECA COUNTY LOCAL RULE 64.5
 SENECA COUNTY LOCAL RULE 64.6
 SENECA COUNTY LOCAL RULE 64.7
 SENECA COUNTY LOCAL RULE 64.8

RULE 65

LAND SALES - R.C. CHAPTER 2127.
 SENECA COUNTY LOCAL RULE 65.1

RULE 66

GUARDIANSHIPS
 SENECA COUNTY LOCAL RULE 66.1
 SENECA COUNTY LOCAL RULE 66.2
 SENECA COUNTY LOCAL RULE 66.3
 SENECA COUNTY LOCAL RULE 66.4
 SENECA COUNTY LOCAL RULE 66.5
 SENECA COUNTY LOCAL RULE 66.6
 SENECA COUNTY LOCAL RULE 66.7
 SENECA COUNTY LOCAL RULE 66.8
 SENECA COUNTY LOCAL RULE 66.9
 SENECA COUNTY LOCAL RULE 66.10
 SENECA COUNTY LOCAL RULE 66.16
 SENECA COUNTY LOCAL RULE 66.17
 SENECA COUNTY LOCAL RULE 66.18

RULE 67

ESTATES OF MINORS OF NOT MORE THAN TEN THOUSAND DOLLARS
 SENECA COUNTY LOCAL RULE 67.1

RULE 68

SETTLEMENT OF INJURY CLAIMS OF MINORS.
 SENECA COUNTY LOCAL RULE 68.1

RULE 69

SETTLEMENT OF CLAIMS OF OR AGAINST ADULT WARDS.
 SENECA COUNTY LOCAL RULE 69.1

RULE 70

SETTLEMENT OF WRONGFUL DEATH AND SURVIVAL CLAIMS

RULE 71

COUNSEL FEES.

SENECA COUNTY LOCAL RULE 71.1.....
 SENECA COUNTY LOCAL RULE 71.2.....
 SENECA COUNTY LOCAL RULE 71.3.....
 SENECA COUNTY LOCAL RULE 71.4.....
 SENECA COUNTY LOCAL RULE 71.5.....
 SENECA COUNTY LOCAL RULE 71.6. **AMENDED 2/10/16**.....
 SENECA COUNTY LOCAL RULE 71.7.....

C

RULE 72
 EXECUTOR'S AND ADMINISTRATOR'S COMMISSIONS.....
 SENECA COUNTY LOCAL RULE 72.1.....

RULE 73
 GUARDIAN'S COMPENSATION.....
 SENECA COUNTY LOCAL RULE 73.1.....
 SENECA COUNTY LOCAL RULE 73.2.....
 SENECA COUNTY LOCAL RULE 73.3.....
 SENECA COUNTY LOCAL RULE 73.4.....

RULE 74
 TRUSTEE'S COMPENSATION.....
 SENECA COUNTY LOCAL RULE 74.1.....
 SENECA COUNTY LOCAL RULE 74.2.....
 SENECA COUNTY LOCAL RULE 74.3.....
 SENECA COUNTY LOCAL RULE 74.4.....

RULE 75
 LOCAL RULES.....
 SENECA COUNTY LOCAL RULE 75.1
 (OHIO ESTATE TAX RETURNS).....
 SENECA COUNTY LOCAL RULE 75.2
 (OHIO RULES OF CIVIL PROCEDURE).....
 SENECA COUNTY LOCAL RULE 75.3
 (JURY TRIAL REQUESTS).....
 SENECA COUNTY LOCAL RULE 75.4
 (INVENTORY).....
 SENECA COUNTY LOCAL RULE 75.5
 (SUBSTITUTION OF COUNSEL).....
 SENECA COUNTY LOCAL RULE 75.6
 (WITHDRAWAL OF COUNSEL).....
 SENECA COUNTY LOCAL RULE 75.7
 (FILING BY ELECTRONIC TRANSMISSION).....
 SENECA COUNTY LOCAL RULE 75.8
 (NAME CHANGES).....
 SENECA COUNTY LOCAL RULE 75.9

RULE 76
EXCEPTION TO THE RULES

RULE 77
COMPLIANCE

D

RULE 78
PROBATE DIVISION OF THE COURT OF COMMON PLEAS -- CASE MANAGEMENT
IN DECEDENT'S ESTATES, GUARDIANSHIPS, AND TRUSTS.
 SENECA COUNTY LOCAL RULE 78.1

RULE 79
ADOPTION ASSESSOR

APPENDICES

APPENDIX A
DEPOSITS FOR COURT COSTS

APPENDIX A-1
SCHEDULE OF COURT COSTS

APPENDIX B
COMPUTATION OF ATTORNEY FEES

APPENDIX B-1
ATTORNEY FEES

APPENDIX B-2
EXAMPLES OF EXTRAORDINARY SERVICES

APPENDIX C
COMPUTATION OF GUARDIAN FEES

APPENDIX C-1
GUARDIAN FEE GUIDELINES

APPENDIX C-2 – AMENDED 2/20/2016
ATTORNEY FEES FOR GUARDIANSHIPS

APPENDIX D
TRUSTEE'S FEE COMPUTATION

APPENDIX D-1
TRUSTEE FEE GUIDELINES

APPENDIX E
COMPUTATION OF EXECUTOR/ADMINISTRATOR FEES

APPENDIX E-1
EXECUTOR/ADMINISTRATOR GUIDELINES

APPENDIX F
GUIDELINE FOR FEES IN GUARDIANSHIPS

APPENDIX I
RECORD RETENTION SCHEDULE

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

**RULES OF SUPERINTENDENCE AND LOCAL RULES OF COURT
RULE 5
(LOCAL RULES)**

(A) Adoption of local rules.

- (1) Nothing in these rules prevents the adoption of any local rule of practice that promotes the use of any device or procedure to facilitate the expeditious disposition of cases. Local rules of practice shall not be inconsistent with rules promulgated by the Supreme Court.
- (2) A local rule of practice shall be adopted only after the Court or division provides appropriate notice and an opportunity to comment on the proposed rule. If the Court or division determines that there is an immediate need for the rule, the Court or division may adopt the rule without prior notice and opportunity for comment, but promptly shall afford notice and opportunity for comment.
- (3) Upon adoption, the Court or division shall file a local rule of practice with its clerk and the clerk of the Supreme Court. On or before the first day of February of each year, each Court or division of a Court shall do one of the following:
 - (a) File with the clerk of the Supreme Court a complete copy of all local rules of the Court or division in effect on the immediately preceding first day of January.
 - (b) Certify to the clerk of the Supreme Court that there were no changes in the immediately preceding calendar year to the local rules of the Court or division.

- (B)** In addition to local rules of practice adopted pursuant to division (A)(1) of this rule and any other Rule of Superintendence, each Court or division, as applicable, shall adopt the following by local rule:

A case management plan for the purposes of ensuring the readiness of cases for pretrial and trial, and maintaining and improving the timely disposition of cases. In addition to any other provisions necessary to satisfy the purposes of division (B)(1) of

this rule, the plan shall include provisions for an early case management conference, referral to appropriate and available alternative dispute resolution programs, establishment of a binding case management schedule, and a pretrial conference in cases where the trial Judge determines a conference is necessary and appropriate. A municipal or county Court may establish separate provisions or exceptions from the plan for small claims, traffic, and other types of cases that the Court determines would not benefit from the case management plan.

- (1) Jury management plan for purposes of ensuring the efficient and effective use and management of jury resources. In addition to any other provisions necessary to satisfy the purposes of division (B)(2) of this rule, the plan shall address the provisions of the Ohio Trial Court Jury Use and Management Standards adopted by the Supreme Court of Ohio on August 16, 1993.

RULE 9 (SECURITY PLAN)

- (A) For purposes of ensuring security in court facilities, each court should develop and implement a court security policy and procedures plan. In addition to any other provisions necessary to satisfy the purposes of this rule, the plan shall address the provisions of the Ohio Court Security Standards adopted by the Supreme Court of Ohio on October 17, 1994. The plan shall not be a public record.
- (B) For purposes of ensuring security in court facilities, information describing the type or level of security in a building in which court is conducted and that is contained in a court security review conducted by a local court or the Supreme Court shall not be a public record.

RULE 9.1 (SECURITY PLAN)

1. Pursuant to a Supreme Court of Ohio resolution dated July 26, 1995, the Seneca County Probate Court has determined the entire Security Plan as submitted to the Supreme Court of Ohio, effective June 26, 1995, be maintained as confidential and not a matter of public record.

RULE 9.2 (SECURITY PLAN)

2. No person shall have on his or her person or under his or her control any dangerous weapon or dangerous ordinance other than law enforcement officers and Court Bailiffs on official business. Any person within the confines of the courthouse shall be subject to search at any time by the Sheriff of Seneca County, Ohio. The sheriff or his deputies are allowed to search any and all spectators at his discretion.

RULE 11.0
(RECORD OF PROCEEDINGS)

The court herein adopts Superintendence Rule 11.

RULE 11.1
(RECORD OF PROCEEDINGS)

- A. The Court records all hearings electronically. The audio-electronic recording shall be the official record. A transcript of the audio-electronic recording may be requested by proper motion. In addition, any party, at that party's own expense, may provide a court reporter.
- B. A transcription of the record shall be made at the expense of the person requesting such transcription unless otherwise ordered by the Court. The transcription shall be made by an agent of the Court. The agent shall charge the customary fee charged by a private reporter for services in Seneca County for such transcription or as otherwise provided for by Seneca County Common Pleas Local Rule. Transcripts will be released upon payment of the transcription fee. Failure to timely pay the fee may result in sanctions being issued by the Court against the person who ordered the transcript.
- C. The original CD or other recording device of the audio-electronic recording shall be maintained by the court for a period of 1 year from journalization of the final entry or judgment in the case. However, if a written request for transcription has been made, the original CD or other recording device shall become part of the record of proceedings.

RULE 16
(MEDIATION)

The Seneca County Probate Court, to the extent not modified by the local rules, incorporates by reference the ORC 2710, the “Uniform Mediation Act” (UMA) and Rule 16 of the Ohio Rules of Superintendence.

**RULE 16.01
(DEFINITIONS)**

1. Mediation: Any process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute.
2. Mediation communication: A statement, whether oral, in a record, verbal or nonverbal, that occurs during a mediation or is made for the purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.
3. Mediator: An individual who conducts mediation.
4. Non-party participant: A person, other than a party or mediator, that participates in a mediation.

**RULE 16.02
(REFERRAL AND PARTICIPATION IN MEDIATION)**

All contested matters within the Probate Court may be mediated. Mediation is a voluntary and non-binding option for resolving contested matters before the Court which is open to parties who wish to participate. Cost for mediation will be determined by the Court based on its resources, provided that the parties utilize the Court Mediator. Parties who wish to utilize mediation may be accompanied by their attorneys and other designated individuals subject to the discretion of the Mediator.

Prior to the initial pre-trial in a contested matter, counsel shall discuss the appropriateness of mediation with their client and with opposing counsel. After discussion of mediation with their client, counsel may submit a written request for mediation. Upon review of the case, the Court, if appropriate, may issue an order to refer the case to mediation. The Court reserves the right to refer a case to mediation on its own. Any party opposing a written request for mediation shall file a written response within seven (7) days of receiving notice of the request for mediation,

**RULE 16.03
(PROCEDURES)**

In accordance with all applicable provisions of this rule, if a case is deemed appropriate

by the Court and the Court Mediator, mediation will be scheduled. A mediator may meet with parties individually prior to bringing the parties together for any reason including but not limited to further screening. A mediator may schedule multiple mediation sessions, if necessary and mutually acceptable for the resolution of the issues in part or in their entirety.

(1) The court shall utilize procedures for all cases that will:

- Ensure that parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.
- Prohibit the use of mediation in any of the following:
 - As an alternative to the prosecution or adjudication of domestic violence;
 - In determining whether to grant, modify or terminate a protection order;
 - In determining the terms and conditions of a protection order; and
 - In determining the penalty for violation of a protection order.

**RULE 16.04
(MEDIATION CASE SUMMARY)**

Each party shall submit to the mediator a summary of facts and circumstances of the dispute together with any arguments in support of their case. Parties shall provide any additional information or material which they believe will aid the mediator in understanding the dispute or which the mediator requests relevant to the issues at hand.

**RULE 16.05
(REPORT OF MEDIATOR)**

At the conclusion of any mediation, the mediator shall inform the Court in compliance with ORC 2710.06 who attended the mediation and whether the case has settled. This report shall be submitted by the mediator within 10 days of the conclusion of the mediation.

RULE 16.06
(CONFIDENTIALITY/PRIVILEGE/LEGAL ADVICE)

The mediation process is confidential. All mediation communications as defined herein and by statute are privileged.

The mediation process shall be considered a compromise negotiation for purposes of the Federal Rules of Evidence and Ohio Rules of Evidence.

The mediator is disqualified as a witness, consultant, or expert in any pending or future action relating to the dispute between the parties.

The efforts of any mediator approved by the Seneca County Probate Court shall not be construed as giving legal advice.

RULE 16.07
(EFFECT OF ONGOING COURT ORDERS ON MEDIATION)

Ongoing Court Orders such as discovery or temporary Orders remain in effect throughout the mediation process. Further, specific Orders of the Court as to a particular case may supersede these general mediation rules.

RULE 26
(RECORD RETENTION)

The Seneca County Probate Court has adopted the Local Record Retention Schedule attached as Appendix I, which will be followed in conjunction with Rule 26 of the Rules of Superintendence for the Courts of Ohio.

RULE 27
(TECHNOLOGY)

The Court herein adopts Superintendence Rule 27.

RULE 53
(HOURS OF THE COURT)

Each Court shall establish hours for the transaction of business.

RULE 53.1

The Probate Court and its offices shall be open for the transaction of business from 8:30 A.M. to 4:30 P.M. daily except Saturday, Sunday, and legal holidays, consisting of Martin Luther King Day, President's Day, Memorial Day, 4th of July, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and the day after, close at noon on Christmas Eve, Christmas Day, and New Year's Day.

RULE 54 (CONDUCT IN THE COURT)

- (A) Proper decorum in the Court is necessary to the administration of the Court's function. Any conduct that interferes or tends to interfere with the proper administration of the Court's business is prohibited.
- (B) No radio or television transmission, voice recording device, other than a device used by a Court reporter making a record in a proceeding, or the making or taking of pictures shall be permitted without the express consent of the Court in advance and pursuant to Sup. R. 12.

Rule 54.01

All attorneys shall be on time for all court appearances.

RULE 54.02

All attorneys, parties and witnesses should wear appropriate attire to Court. The Court considers appropriate attire as clothing Seneca County residents would wear to important events in their lives. Counsel should ensure that their clients and witnesses are appropriately attired. Failure of such may result in the hearing or trial being postponed and costs assessed.

RULE 54.03

All attorneys shall stand when addressing the Court.

RULE 54.04

No smoking is allowed in any of the Court's offices, conference rooms, courtrooms or general vicinity.

Rule 54.05

The Court will not tolerate any inappropriate facial expression, grimaces or gestures during any Court appearance. Rude and disrespectful behavior toward opposing counsel, parties, witnesses, jurors or Court staff will not be tolerated. Any of these actions may be considered by the Court as direct Contempt.

RULE 55 (EXAMINATION OF PROBATE RECORDS)

- (A) Open records shall not be removed from the Court. All other cases may be removed when approved by the Judge or Clerk. Violation of this rule may result in the issuance of a citation for contempt. Cases must be returned within 7 days.
- (B) Copies of records may be obtained at a cost per page as authorized by the Judge.
- (C) Adoption, mental illness, and mental retardation proceedings are confidential. Records of those proceedings, and other records that are confidential by statute, may be accessed as authorized by the Judge.
- (D) A citation for contempt of Court may be issued against anyone who divulges or receives information from confidential records without authorization of the Judge.

RULE 55.1

Uncertified copies of any public record may be obtained at the cost of \$.05 per page.

RULE 55.2 (PUBLIC RECORDS POLICY)

It is the policy of the Seneca County Common Pleas Court Probate Division, to adhere to Ohio's Public Records Act and to those portions of the Ohio Revised Code and the Rules Superintendence (and any amendments thereto), that require certain records to remain confidential. Any denial of public records in response to a valid request must be accompanied by an explanation. If the request is in writing, the explanation must also be in writing.

A. Public Records

This court, in accordance with the Ohio Revised Code, defines records as including the following: any document paper, electronic (including, but not limited to e-mail), or other format – that is created or received by, or comes under the jurisdiction of a public office that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office. All records of this court are public record unless confidential or otherwise exempt from disclosure under the Ohio Revised Code or the Rules of Superintendence (and any amendments thereto).

- B. It is the policy of this court that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying. Record retention scheduled are to be updated regularly and posted prominently.
- C. Certain records kept by this court are excluded from public inspection by applicable provisions of the Ohio Revised Code and the Rules of Superintendence, if applicable, (and any amendments thereto), and shall not be released to the general public. These records include, but are not limited to:
 - 1. Adoption records or documents (R.C. 149.43(A)(1)(d));
 - 2. Judges or Magistrate’s trial notes (R.C. 149.43(A)(1)(g));
 - 3. Putative Father Registry information (R.C. 149.43(A)(1)(e));
 - 4. Estate tax returns in the possession of the Probate Court, Department of Taxation, County Auditor, County Treasurer and Ohio Attorney General (R.C. 5731.90);
 - 5. Medical records which include documents pertaining to Medical history, diagnosis, prognosis, or medical condition of a patient including psychiatric history, diagnosis and prognosis (R.C. 149.43(A)(1)(a));
 - 6. Confidential law enforcement investigatory records (R.C. 149.43(A)(1)(h));
 - 7. Records the release of which is prohibited by state or Federal law (R.C. 149.43(A)(1)(v)).
- D. Each request for public records should be evaluated for a response using the following guidelines:
 - 1. Although no specific language is required to make a request, the requestor must at least identify the records requested with sufficient clarity to allow the court to identify, retrieve, and

review the records. If it is not clear what records are being sought, the records custodian must contact the requestor for clarification, and should assist the requestor in revising the request by informing the requestor of the manner in which the office keeps its records.

2. The requestor does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record. It is this court's general policy that this information is not to be requested.
3. Public records are to be available for inspection during regular business hours, with the exception of holidays. public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. "Prompt and "reasonable" take into account the volume of records requested; the proximity of the location where the records are stored; the accessibility of the records; and, the necessity for any legal review of the records requested.
4. Each request should be evaluated for any estimated length of time required to gather the records. Routine requests for records should be satisfied immediately if feasible to do so. all requests for public records must either be satisfied or be acknowledged in writing by the court within five (5) business days following the court's receipt of the request. If a request is deemed significantly beyond "routine", such as seeking a voluminous number of copies or requiring extensive research, the acknowledgement must include the following: i) an estimated number of business days it will take to satisfy the request, ii) an estimated cost if copies are requested; and iii) any items within the request that may be exempt from disclosure.
5. Any denial of public records must include an explanation. If portions of a record are public and portions are exempt, the Exempt portions are to be redacted and the remainder released, if permitted by Ohio law. If there are redactions, each redaction must be accompanied by a supporting explanation.
6. Those seeking public records will be charged only the actual cost of making copies. Requestors may ask that documents be mailed to them. They will be charged the actual cost of the postage and mailing supplied.
7. Documents in electronic mail format are records as defined in the Ohio Revised Code when their content relates to the business of the court and is not confidential or otherwise exempt

by applicable Ohio law or the Rules of Superintendence, or any amendments thereto. E-mail is to be treated in the same fashion as records in other formats and should follow the same retention schedules.

8. Records in private e-mail accounts used to conduct public business are subject to disclosure, and all employees or representatives of the court are instructed to retain their e-mails that relate to public business and to copy them to their business e-mail accounts and/or to the court's records custodian.
9. This policy applies to all departments of the Probate Division.

**RULE 55.3
(SOCIAL SECURITY NUMBERS/ACCOUNT NUMBERS)**

- A. Social security numbers are confidential and the full social security number shall not be filed in any filing in this court that is available for inspection by the general public. It is the responsibility of the person filing the public record document to comply with this rule and to redact the public record document before filing to conform to this rule. Social security numbers disclosed on marriage applications and estate tax returns are sequestered as confidential non-public records.
- B. All financial account numbers in any public record document filed in this court shall disclose only the last four digits of the account number. It is the responsibility of the person filing the document to redact the remaining digits of the account number.

**RULE 56
(CONTINUANCES & REQUEST FOR EXTENSION OF TIME)**

- (A) Motions for continuance and extension of time shall be submitted in writing with the proper caption and case number.
- (B) Except on motion of the Court, no continuance and extension of time shall be granted in the absence of proof of reasonable notice to, or consent by, the adverse party or the party's counsel. Failure to object to the continuance within a reasonable time after receiving notice shall be considered consent to the continuance.
- (C) A proposed entry shall be filed with a motion for continuance or extension of time, leaving the time and date blank for the Court to set a new date.

RULE 56.1

All applications for extensions of time must be signed by both the fiduciary and the attorney of record pursuant to Sup. R. 78.

RULE 56.2

All applications for continuances of hearings, pretrials and trials shall be submitted to the Court at least 7 days prior to the scheduled date for the event sought to be continued, absent emergency or cause deemed sufficient by the Court.

RULE 57

(FILINGS AND JUDGMENT ENTRIES)

- (A) All filings, except wills, shall be on eight and one-half by eleven-inch paper, without backings, of stock that can be microfilmed.
- (B) All filings shall contain the name, address, telephone number, and attorney registration number of the individual counsel representing the fiduciary and, in the absence of counsel, the name, address, and telephone number of the fiduciary. Any filing not containing the above requirements may be refused.
- (C) Failure of the fiduciary to notify the Court of the fiduciary's current address shall be grounds for removal. Not less than ten days written notice of the hearing to remove shall be given to the fiduciary by regular mail at the last address contained in the case file or by other method of service as the Court may direct.
- (D) Filings containing partially or wholly illegible signatures of counsel, parties or officers administering oaths may be refused, or, if filed, may be stricken, unless the typewritten or printed name of the person whose signature is purported to appear is clearly indicated on the filing.
- (E) All pleadings, motions, or other filings are to be typed or printed in ink and correctly captioned. Headings must be positioned 4 (four) inches from the top of the page.
- (F) Unless the Court otherwise directs, counsel for the party in whose favor a judgment is rendered, shall prepare the proposed judgment entry and submit the original to the Court with a copy to counsel for the opposing party. The proposed judgment entry shall be submitted within seven days after the judgment is rendered. Counsel for the opposing party shall have seven days to object to the Court. If the party in whose favor a judgment is rendered fails to comply with this division, the matter may be dismissed or the Court may prepare and file the appropriate entry.

(G) The Court will not accept for filing any pleading or document which contains the social security number of an individual absent prior Court approval.

(H) Signatures of filings should be signed in blue ink.

RULE 57.1

The attorney's Supreme Court registration number, along with the attorney's name, address, telephone number, telefax number and business email address must be included on all filings (including the accounts). This information is required before a case can be entered in the computer.

RULE 57.2

All signatures of counsel, parties or officers administering oaths must have the person's typewritten or printed name clearly indicated under the signature on the filing.

RULE 57.3

(DISPENSE WITH FURTHER ADMINISTRATION)

Where an estate is opened for purposes of admitting the will only or filing an estate tax return only or both and no further administration is contemplated, the attorney shall so advise the Court in writing at the time of filing.

RULE 57.4

(FORMS REQUIRED FOR AN ADOPTION)

1. The original petition for adoption, form 18.0.
2. Consents, form 18.3.

Consent of CASA

Consent of Judge if permanent custody

Consent of agency – if agency placed

Consent to be signed by biological mother

Consent to be signed by biological father

Consent of minor age 12 years or older must be executed in the presence of the court

3. Entry Finding Consent not necessary, form 18.4.

4. Affidavit for Publication and Order for Publication – to be filed if publication is

necessary.

5. Petitioner's Account, form 18.9.
6. Orders for Hearing, Notice and for Appointment of Investigator, form 18.1.
7. Final Order of Adoption, form 18.7.
8. Certificate of Adoption – State of Ohio Department of Health, form HEA 2757.
9. Adoption Certificate for Parents, form 18.8.
10. Statement of Adopted Person
11. Disclosure Statement (not needed on step-parent adoption)

**RULE 57.5
(FORMS REQUIRED FOR TESTATE ESTATES)**

1. Original will.
2. Application to Probate Will, form 2.0.
3. Surviving Spouse, Next of Kin, form 1.0.
4. Certificate of Service of Notice of Probate of Will, form 2.4.
5. Waiver of Notice of Probate of Will, form 2.1.
6. Notice of Probate of Will, form 2.2.
7. Appointment of Appraiser, form 3.0.
8. Application for Authority to Administer, form 4.0.
9. Fiduciary's bond, form 4.2 if necessary.
10. Waiver of Right to Administer, if necessary, form 4.3.
11. Notice of Hearing on Appointment of Fiduciary, form 4.4 (if necessary)
12. Entry Appointing Fiduciary, Letters of Authority, form 4.5. (2 entries required)

**RULE 57.6
(FORMS REQUIRED FOR INTESTATE ESTATE)**

1. Application for Authority to Administer, form 4.0.
2. Surviving Spouse, Next of Kin, form 1.0.
3. Fiduciary's bond, form 4.2
4. Waiver of Right to Administer, form 4.3.
5. Notice of Hearing on Appointment of Fiduciary, form 4.4. (if necessary)
6. Appointment of Fiduciary, Letters of Authority, form 4.5. (2 entries required)

RULE 57.7
(FORMS REQUIRED FOR RELEASE ADMINISTRATION)

1. Application to Relieve Estate from Administration, form 5.0.
2. Surviving Spouse, Next of Kin, form 1.0.
3. Assets & Liabilities of Estate to be Relieved from Administration, form 5.1.
4. Waiver of Notice of Application to Relieve Estate from Administration, form 5.2.
5. Notice of Application to Relieve Estate, if needed, form 5.3.
6. Entry Relieving Estate from Administration, form 5.6. (2 entries required)
7. Report of Distribution, form 5.9.

RULE 57.8
(FORMS REQUIRED FOR FILING A SUMMARY RELEASE)

1. Application for Summary Release from Administration, form 5.10.
2. Surviving Spouse, Next of Kin, form 1.0.
3. Entry Granting Summary Release from Administration, form 5.11. (2 entries required)
4. Copy of paid funeral bill.

IF YOU HAVE A WILL THE ABOVE APPLIES ALONG WITH THE FOLLOWING:

Probating will: Application to Probate Will, form 2.0
Waiver of Notice of Probate of will, form 2.1
Certificate of Service of Notice of Probate of Will, form 2.4
Notice of Probate of Will, form 2.2

Not Probating will: Steps 1 through 4 along with the original will and Entry to file decedent's will without probate.

**RULE 57.9
(FORMS REQUIRED FOR FILING A TRANSFER OF MOTOR VEHICLE)**

1. Application for Certificate of Transfer of Motor Vehicle, form 9.C.
2. Authority to Transfer Title of Automobile, form 40W.

**RULE 57.10
(FORMS REQUIRED FOR FILING A TRANSFER OF REAL ESTATE)**

1. Application for Certificate of Transfer, form 12.0.
2. Certificate of Transfer, form 12.1. (2 entries required)

**RULE 57.11
(FORMS REQUIRED FOR FILING A GUARDIANSHIP, ALLEGED INCOMPETENT)**

1. Application for Appointment of Guardian, form 17.0.
2. Next of Kin of Proposed Ward, form 15.0.
3. Waiver of Notice and Consent, form 15.1.
4. Statement of Expert Evaluation, form 17.1.

5. Fiduciary's Acceptance, form 15.2.
 6. Guardians Bond, if needed, form 15.3.
 7. Notice to Prospective Ward of Application & Hearing, form 17.3.
 8. Notice of Hearing for Appointment of Guardian of Alleged Incompetent, form 17.4.
 9. Oath of Guardian, form 15.9.
 10. JE Appointment of Guardian for Incompetent Person, form 17.5.
 11. Letters of Guardianship, form 15.4. (2 entries needed)
- **** If filing Emergency Guardianship all the above documents needed including 17.1A, Supplement for Emergency Guardian of Person. ****

**RULE 57.12
(FORMS REQUIRED FOR A MINOR GUARDIANSHIP)**

1. Application for Appointment of Guardian of Minor, form 16.0.
2. Next of Kin, form 15.0.
3. Waiver of Notice & Consent, form 15.1.
4. Fiduciary's Acceptance, form 15.2.
5. Affidavit, form 16.1.
6. Selections of Guardian by Minor, form 16.2.
7. Notice of Hearing for Appointment of Guardian of Minor, form 16.3.
8. Notice of Hearing for Appointment of Guardian of Minor, form 16.4.
9. JE Appointment of Guardian of Minor, form 16.5.
10. Oath of Guardian, form 15.9.
11. Letters of Guardianship, form 15.4. (2 letters needed)

RULE 57.13

Any other forms deemed necessary by the Probate Court.

**RULE 58
(DEPOSIT FOR COURT COSTS)**

- (A) Deposits in the amount set forth in a local rule shall be required upon the filing of any action or proceeding and additional deposits may be required.
- (B) The deposit may be applied as filings occur.

RULE 58.1

Deposits in the amount set forth in Appendix A shall be required upon the filing of all actions and proceedings listed therein. Otherwise, the filings will not be accepted by the Court. The balance of any Court costs shall be paid when the final account or any partial account is filed.

RULE 58.2

Court costs as set forth in the Schedule of Court Costs contained herein as Appendix A-1 shall be charged and collected, and shall be in full for all services rendered in the respective proceedings. Appendix is subject to modification by the Court and that all parties should verify they have the most recent schedule before filing.

**RULE 59
(WILLS)**

- (A) Before an application is made to admit the will to probate, to appoint an estate fiduciary, or to relieve an estate from administration, each applicant or the applicant's attorney shall examine the index of wills deposited pursuant to section 2107.07 of the Revised Code. Wills deposited pursuant to section 2107.07 of the Revised Code previous to the will offered for probate shall be filed in the estate proceedings for record purposes only.
- (B) Fiduciaries appointed to administer testate estates shall file a Certificate of Service of Notice of Probate of Will (Standard Probate Form 2.4) within one hundred twenty days of their appointment or be subject to removal proceedings. If required by the Court, proof of service shall consist of either waivers of notice of the probate of the will or original certified mail return receipt cards as provided under Civil Rule 73(E)(3). A waiver of notice may not be signed by any minor, or on behalf of a minor sixteen or seventeen years of age. See Civil Rule 4.2.

RULE 60
(APPLICATION FOR LETTERS OF AUTHORITY TO ADMINISTER ESTATE
AND NOTICE OF APPOINTMENT)

- (A) Notice of an application for appointment of administrator shall be served at least seven days prior to the date set for hearing. If there is no known surviving spouse or next of kin resident of the state, the notice shall be served upon persons designated by the Court.
- (B) The administrator shall give notice of the appointment within seven days after the appointment to all persons entitled to inherit, including persons entitled to an allowance for support, unless those persons have been provided notice of the hearing on the appointment or have waived notice.
- (C) The probate court shall serve by certified mail the spousal citation and summary of rights required by R.C. 2106.02 to the surviving spouse within 7 days of the initial appointment of the administrator or executor, unless a different time is established by local rule or unless the 8.6, Waiver of Service to Surviving Spouse of the Citation to Elect is filed.

RULE 61
(APPRAISERS)

- (A) Without special application to the Court, a fiduciary may allow to the appraiser as compensation for services a reasonable amount agreed upon between the fiduciary and the appraiser, provided the compensation does not exceed the amount allowed by local Court rule. If no local Court rule exists, the compensation shall be subject to Court approval.
- (B) If, by reason of the special and unusual character of the property to be appraised, the fiduciary is of the opinion that the appraisal requires the services of persons qualified in the evaluation of that property, a qualified appraiser may be appointed and allowed compensation as provided in division (A) of this rule.

RULE 61.1

The following persons shall be approved by the Court as qualified appraisers of real

Estate when they submit to the court their State of Ohio Real Estate License or their Membership to the National or State of Ohio Appraisers Association. Persons asking to be put on the Court's appraisers list need to submit the areas they are qualified in appraising.

EXAMPLE

A. REAL PROPERTY

- 1. Farms**
- 2. Commercial**
- 3. Homes**
- 4. Industrial**

B. Personal Property

- 1. Jewelry**
- 2. Antiques**
- 3. Household Furnishings**
- 4. Stocks and Bonds**
- 5. Tools**
 - a. Mechanics**
 - b. Farm Tools**
 - c. Shop**
- 6. Coins**
- 7. Stamps**
- 8. Art Work**
- 9. Corporate Assets**
- 10. Livestock**
- 11. Vehicles**

The Court will maintain an alphabetical list of all such approved persons, available to the general public in the selection of real estate appraisers for filings in this Court. The Court may from time to time add to and delete from this list in its discretion based on the above qualifications.

When it is necessary to determine the value of property other than realty, including but not limited to coins, stamps, books, art, there shall be submitted to the Court an independent application for an appraiser in that particular field along with a statement of his/her qualifications in such specialty. The Court's approval of the application shall be based upon the information admitted in each case. In lieu of the appointment of an appraiser for real property, the executor or administrator may accept the valuation of the real property by the county auditor.

RULE 62 (CLAIMS AGAINST ESTATE)

- (A) When a claim has been filed with the Court pursuant to section 2117.06 of the Revised Code, the fiduciary shall file a copy of any rejection of claim with the Court.
- (B) If the Court requires a hearing on claims or the fiduciary requests a hearing on claims or insolvency, the fiduciary shall file a schedule of all claims against the estate with the Court. The schedule of claims shall be filed with the fiduciary's application for hearing or within ten days after the Court notifies the fiduciary of a Court-initiated hearing.

RULE 62.1

All creditors having claims against the estate shall present their claims in either of the following ways: (a) in writing to the executor or administrator, or (b) in writing to the executor or administrator with a copy being sent to the Probate Court.

RULE 63 (APPLICATION TO SELL PERSONALTY)

An application to sell personal property shall include an adequate description of the property. Except for good cause shown, an order of sale shall not be granted prior to the filing of the inventory.

RULE 63.1

Before the Probate Court confirms a sale made under an order of private sale, the fiduciary shall file a statement indicating that the private sale was made after diligent endeavor to obtain the best price for the property and that the private sale was at the highest price he could get for the property.

RULE 64 (ACCOUNTS)

- (A) The vouchers or other proofs required by Section 2109.302 and 2109.303 of the Revised Code and receipts filed or exhibited pursuant to section 2109.32(B)(1)(b) of the Revised Code, shall be referenced to the account number, letter, or date.

- (B) If land has been sold during the accounting period, the account shall show the gross amount of the proceeds and include a copy of the closing statement itemizing all of the disbursements.
- (C) Receipts for distributive shares signed by persons holding power of attorney may be accepted, provided the power of attorney is recorded in the county in which the estate is being administered and a copy of the recorded power is attached to the account.
- (D) Exhibiting assets.
 - (1) The Court may require that all assets be exhibited at the time of filing a partial account.
 - (2) Cash balances may be verified by exhibiting a financial institution statement, passbook, or a current letter from the financial institution in which the funds are deposited certifying the amount of funds on deposit to the credit of the fiduciary. Assets held in a safe deposit box of a fiduciary or by a surety company on a fiduciary's bond may be exhibited by filing a current inventory of the assets. The inventory shall be certified by the manager of the safe deposit box department of the financial institution leasing the safe deposit box or by a qualified officer of the surety company if the assets are held by a surety. If the assets are held by a bank, trust company, brokerage firm, or other financial institution, exhibition may be made by proper certification as to the assets so held. For good cause shown, the Court may designate a deputy clerk of the Court to make an examination of the assets located in the County, not physically exhibited to the Court or may appoint a commissioner for that purpose if the assets are located outside the county. The commissioner appointed shall make a written report of findings to the Court.
- (E) A final or distributive account shall not be approved until all Court costs have been paid.

RULE 64.1
(ACCOUNTS OF ADMINISTRATORS AND EXECUTORS)

- (A) Within six months of appointment, every administrator and executor shall render a final and distributive account of the administrator's or executor's administration of the estate, unless an application to extend has been filed and approved.
- (B) Every account shall include an itemized statement of all receipts of the

administrator or executor during the accounting period and of all disbursements and distributions made by the executor or administrator during the accounting period. In addition, the account shall include an itemized statement of all funds, assets, and investments of the estate known to or in the possession of the administrator or executor at the end of the accounting period and shall show any changes in investments since the last previous account.

(C) In estate of decedents in which the sole legatee, devisee, or heir is also the administrator or executor of the estate, no partial accountings are required, and the administrator or executor shall not file a final account or final and distributive account. In lieu of filing a final account, the administrator or executor of an estate of that type shall be discharged by filing with the Court within thirty days after completing the administration of the estate a certificate of termination of an estate that states all of the following:

1. All debts and claims presented to the estate have been paid in full or settled finally.
2. That all estate tax returns, if any, have been filed and estate tax has been paid.
3. All attorney's fees have been waived by or paid to counsel of record of the estate, and all executor or administrator fees have been waived or paid.
4. The amount of attorney's fees and the amount of administrator or executor fees that have been paid.
5. That all the remaining assets have been distributed to the sole legatee, devisee, or heir.

(D) Not later than thirteen months after appointment, every administrator and executor shall render an account of the administrator's or executor's administration, unless a certificate of termination is filed.

(E) Waivers are required by all residuary beneficiaries on a final account.

(D) When a final account is presented for filing all receipts, waivers and/or notices must be filed. If not all filings listed above are provided to the court an extension of time needs to be filed. The Court will not accept final accountings without all necessary paperwork.

(E) A final or distributive account shall not be approved until all Court costs have been paid.

RULE 64.2
(ACCOUNTS OF GUARDIANS AND CONSERVATORS)

- (A) The first guardianship account is due one year after the appointment of the Guardian of the estate and all other accounts are due annually thereafter. If the guardianship is for the person only, no account is required.
- (B) The first conservatorship account is due one year after the appointment of the conservatorship and all other accounts are due annually thereafter.
- (C) Every account shall include an itemized statement of all receipts of the guardian or conservator during the accounting period and of all disbursements and distributions made by the guardian or conservator during the accounting period. The itemized disbursements and distributions shall be verified by vouchers or proof, except in the case of an account rendered by a corporate fiduciary subject to Section 1111.28 of the Revised Code. In addition, the account shall include an itemized statement of all funds, assets, and investments of the estate known to or in the possession of the guardian or conservator at the end of the accounting period and shall show any changes in investments since the last previous account.
- (D) When a guardian or conservator is authorized by law to distribute the assets of the estate, in whole or in part, the guardian or conservator may do so and include a report of the distribution in the guardian's or conservator's succeeding account.
- (E) The Court may waive, by order, an account required of a guardian of the estate or of a guardian of the person and estate, other than an account made pursuant to Court order, if any of the following circumstances apply:
 - 1. The assets of the estate consist entirely of real property.
 - 2. The assets of the estate consist entirely of personal property, that property is held by a bank, savings and loan association, or trust company in accordance with section 2109.13 of the Revised Code, and the Courts has authorized expenditures of not more than ten thousand dollars annually for the support, maintenance, or, if applicable, education of the ward.
 - 3. The assets of the estate consist entirely of real property and of personal property that is held by a bank, savings and loan association, or trust company in accordance with section 2109.13 of the Revised code, and the Court has authorized expenditures of not more than ten thousand dollars annually for the support, maintenance, or, if applicable, education of the ward.

RULE 64.3
(ACCOUNTS OF TESTAMENTARY TRUSTEES AND OTHER FIDUCIARIES)

- (A) The first testamentary trusteeship account is due one year after the appointment of the trustee and all other accounts due annually thereafter.
- (B) The first account for other fiduciaries is due one year after the appointment and all other accounts due annually thereafter.
- (C) Every commissioner shall file a report of distribution within 6 months of appointment.
- (D) Every account shall include an itemized statement of all receipts of the testamentary trustee or other fiduciary during the accounting period and of all disbursements and distributions made by the testamentary trustee or other fiduciary during the accounting period. The itemized disbursements and distributions shall be verified by vouchers or proof, except in the case of an account rendered by a corporate fiduciary subject to section 1111.28 of the Revised Code. In addition, the account shall include an itemized statement of all funds, assets, and investments of the estate or trust known to or in the possession of the testamentary trustee or other fiduciary at the end of the accounting period and shall show any changes in investments since the last previous account. The accounts of testamentary trustees shall, and the accounts of other fiduciaries may, show receipts and disbursements separately identified as to principal and income.
- (E) Every account shall be upon the signature of the testamentary trustee or other fiduciary. When two or more testamentary trustees or other fiduciaries render an account, the Court may allow the account upon the signature of one of them.
- (F) When a testamentary trustee or other fiduciary is authorized by law or by the instrument governing distribution to distribute the assets of the estate or trust, in whole or in part, the testamentary trustee or other fiduciary may do so and include a report of the distribution in the testamentary trustee's or fiduciary's succeeding account.

RULE 64.4
PHOTOCOPIES OF VOUCHERS WITH APPLICABLE ACCOUNTS

In the event that vouchers are required for a particular account, and in the event that the financial institution does not return original vouchers to the account holder, photocopies of canceled checks are acceptable for filing with the Court in all applicable accountings on the condition that: (i) the photocopies are complete copies of the originals, (ii) the photocopies are clearly legible, and (iii) the front and back of said checks are

photocopied.

RULE 64.5

Pursuant to Rule 26.04 (D) (1) of the Ohio Rules of Superintendence, after the Court has reviewed and reconciled the vouchers or checks or other evidence filed in support of expenditures or distributions stated in an account, the vouchers, proof, or other evidence filed in support of the expenditures or distributions stated in an account will be returned to the fiduciary.

RULE 64.6

An application and order must be submitted for any attorney fees taken on a partial account. Then computation of attorney fees (Appendix B herein) must be filed with the application.

RULE 64.7

A receipt for a distributive share executed on behalf of his/her principal by a person holding a valid power of attorney may be accepted if a copy of the valid power of attorney is attached to the account.

RULE 64.8

Bank certificates must be filed with applicable partial accounts.

RULE 65 (LAND SALES - R.C. CHAPTER 2127)

- (A) In all land sale proceedings, the plaintiff, prior to the issuance of an order finding the sale necessary, shall file with the Court evidence of title showing the record condition of the title to the premises described in the complaint and prepared by a title company licensed by the state of Ohio, an attorney's certificate, or other evidence of title satisfactory to the Court. Evidence of title shall be to a date subsequent to the date on which the complaint was filed.

- (B) The plaintiff shall give notice of the time and place of sale by regular mail at least three weeks prior to the date of a public sale to all defendants at their last known addresses. Prior to the public sale, the plaintiff shall file a certificate stating that the required notice was given to the defendants at their last known addresses. The plaintiff must also give notice of the time and place of a public sale by advertisement at least three weeks successively in a newspaper published in the county where the land is situated.
- (C) In all private land sale proceedings by civil action, the judgment entry confirming sale, ordering issuance of deed, and ordering distribution shall show the gross amount of the proceeds and include a copy of the proposed closing statement itemizing all of the proposed disbursements.
- (D) The Court may appoint a disinterested person, answerable to the Court, who shall investigate the circumstances surrounding the proposed transaction, view the property, ascertain whether the proposed sale is justified and report findings in writing. The report shall be a part of the record. The compensation for the person performing these services shall be fixed by the Court, according to the circumstances of each case, and shall be taxed as costs.

RULE 65.1

All interested parties in a land sale proceeding shall be named as defendants in the complaint (including the Treasurer of Seneca County and the Treasurer of any other Ohio County if selling land outside of Seneca County) and no order of sale shall be issued by the Court unless the Rules of Civil Procedure have been complied with regarding service of process and answers by defendants.

RULE 66 (SERIES NUMBERING, GUARDIANSHIPS)

Due to the manner in which the Supreme Court of Ohio has numbered Sup. R. 66.01 through 66.09 by using 4 digits, all of this Court's local rules pertaining to Guardianships shall be similarly numbered.

RULE 66.01 (DEFINITIONS)

The terms defined in Sup. R. 66.01 have the same meaning when used in Loc. R. 66.

RULE 66.02

(APPLICATION OF RULES)

The Local Rule 66 applies to all guardianships administered through this Court, unless otherwise indicated in the particular Local Rule, or unless expressly waived by Court Order.

RULE 66.03

(A) Emergency Guardianships

Consistent with Rule of Superintendence Rule 66.03 (A). The following process is established for emergency guardianships in the Seneca County Probate Court. The following forms shall be completed and filed with the Court. All forms can be accessed on the Court's website: www.senecajpcourt.com

<u>Form #</u>	<u>Name</u>
15.0	Next of Kin of Proposed Ward
15.1	Waiver of Notice and Consent
15.2	Fiduciary's Acceptance
15.4	Letters of Guardianship
17.0	Application for Appointment of Guardian of Alleged Incompetent
17.1A	Supplemental For Emergency Guardian of Person
17.1	Statement of Expert Evaluation
17.3	Notice to Prospective Ward of Application and Hearing Affidavit of Indigency

At the time of filing, a filing fee is required (See Appendix A). This filing fee may be waived if an Affidavit of Indigency is filed with the Court and the Court finds the guardianship to be indigent.

As provided by statute, the Court may appoint an emergency guardian for a maximum period of seventy-two (72) hours. For good cause shown, after hearing, the Court may extend an emergency guardianship for a specified period, but not to exceed an additional thirty (30) days.

(B) Guardian Comments & Complaints

Consistent with Rule 66.03 (B) of the Rules of Superintendence for the Courts of Ohio, the Seneca County Probate Court establishes the following process for submitting comments or complaints regarding the performance of guardians appointed by the Court and for considering such comments and complaints.

- The Probate Court Investigator(s) are designated to accept and consider comments and complaints submitted to the Seneca County Probate Court concerning guardians.
- Comments or complaints may be submitted in writing to Probate Court, 108 Jefferson Street, Tiffin, Ohio, 44883 or via facsimile at (419) 448-5060.
- Upon receipt of a comment or complaint, the Court will provide a copy to the guardian who is the subject of the comment or complaint. A certificate of service

will be filed in the case file showing that this step has taken place. Time permitting, the guardian may be given the opportunity to respond to the comment or complaint.

- The comment or complaint will then be forwarded to the probate court judge for prompt consideration and appropriate action, if any is necessary.
- The Court shall maintain a written record in the guardianship case file regarding the nature and disposition of the comment or complaint.
- The Court shall notify the person making the comment or complaint and the guardian of the disposition of the comment or complaint.

**RULE 66.04
(RESERVED)**

RULE 66.05

(A) Guardian Background Checks

An applicant for appointment as guardian, including as an emergency guardian, must submit to a civil and criminal record check satisfactory to the Court and execute such consent, if any, as may be requested by the Court to authorize the Court to perform that record check. In place of a civil and criminal background check, an Ohio attorney applicant currently in good standing with the Supreme Court of Ohio, shall obtain and submit to the Court a Certificate in Good Standing with disciplinary information, issued by the Supreme Court of Ohio.

The Seneca County Indigent Guardianship Program and Advocacy & Protective Services, Inc. ("APSI") are exempt from this requirement.

(B) Guardian with Ten or More Adult Wards

To assist the Court in meeting its supervisory responsibilities under Sup.R. 66.05(B) and in satisfaction of the responsibilities arising under Sup.R. 66.08(H), on or before January 31 of each year, a guardian with ten or more wards through the Probate Courts of Ohio shall submit a roster of his/her wards with this Court on a standard form adopted for that purpose by the Ohio Supreme Court. The roster shall include a listing of the guardian's wards, the case number and the appointing Court. The guardian shall have a continuing duty to advise the court of any change in the ward(s) under his/her care or the guardian's name, address, telephone number and electronic mail address within ten days of the change occurring.

A guardian with 10 or more wards shall include with the Guardian's Report form, a statement indicating whether the guardian is aware of any circumstances that may disqualify the guardian from continuing to serve as a guardian.

The Seneca County Indigent Guardianship Program and APSI are exempt from this requirement.

RULE 66.06

(A) Guardian Fundamentals Training Requirement

A guardian holds a unique role with respect to the ward and the guardian has an obligation to obtain an understanding of the fundamentals of that relationship. Formalized training is one means to gain that competency.

Every guardian for an adult not related to the ward by consanguinity (a blood relationship) or affinity (kinship by marriage) must meet the guardianship fundamentals training requirements under Sup.R. 66.06 by completing prior to appointment or within six months thereafter, a six-hour guardian fundamentals course provided by the Supreme Court of Ohio, or with prior approval of that Court, another entity.

Those failing to meet the requirement shall be subject to citation for being in contempt of court and subject to sanctions including, but not limited to imposition of a fine, denial of compensation, and removal. The guardian is responsible for providing to the Court in a timely manner documentation that establishes compliance with the guardian fundamentals training requirement.

(B) Exceptions

An individual who was previously appointed by the Court to serve as a guardian and was actively serving as a guardian on June 1, 2015 is exempt from the six-hour fundamentals training course.

The Seneca County Indigent Guardianship Program and APSI are exempt from the six-hour fundamentals training course.

For good cause, upon written motion, the Court may modify or waive the six-hour fundamentals training course.

RULE 66.07

(A) Guardian Continuing Education

All guardians must annually attend the three-hour continuing training provided by the Supreme Court of Ohio.

(B) Exceptions

Any guardian appointed by this Court for a ward to whom the guardian is related by consanguinity (blood relationship) or affinity (kinship by marriage) is exempt from the annual three – hour continuing education training if the Court Wise Training Course is completed and Certificate of Completion is filed with the Clerk.

Those failing to meet the requirement shall be subject to citation for being in contempt of court and subject to sanctions including, but not limited to imposition of a fine, denial of compensation, and removal. The guardian is responsible for providing to the Court in a timely manner documentation that establishes compliance with the guardian continuing education requirement.

The Seneca County Indigent Guardianship Program and APSI are exempt from the annual three-hour training course requirement

For good cause, upon written motion, the Court may modify or waive the annual three-hour training course requirement.

RULE 66.08
(GENERAL RESPONSIBILITIES OF THE GUARDIAN TO THE COURT)

(A) Orders, rules, and laws

A guardian shall obey all orders of this Court establishing the guardianship and shall perform duties in accordance with local rules and state and federal law governing guardianships.

(B) Pre-appointment meeting

Unless otherwise determined by this Court, an applicant-guardian shall meet with a proposed ward at least once prior to appearing before the court for a guardianship appointment.

(C) Reporting abuse, neglect, or exploitation

A guardian shall immediately report to this Court and, when applicable, to adult protective services any appropriate allegations of abuse, neglect, or exploitation of a ward.

(D) Limitation or termination of guardianship

A guardian shall seek to limit or terminate the guardianship authority and promptly notify this Court if any of the following occurs:

- (1) A ward's ability to make decisions and function independently has improved;
- (2) Less restrictive alternatives are available;
- (3) A guardianship is no longer in the best interest of a ward;

(4) A ward has died.

(E) Change of residence

(1) A guardian shall notify this Court of a ward's change of residence and the reason for the change. Except if impracticable, the guardian shall notify the court no later than ten days prior to the proposed change.

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

(F) Court approval of legal proceedings

A guardian shall seek approval from this Court before filing a suit for the ward.

(G) Annual plan

A guardian of a person or the estate shall file annually with the Probate Clerk a guardianship plan as an addendum to the guardian's report. The guardianship plan shall simply state the guardian's goals for meeting the ward's personal and/or financial needs going forward

(H) Ward's principal income

A guardian shall inform this Court and apply to close the guardianship of the estate if the principal income of the ward is from governmental entities, a payee for that income is identified, and no other significant assets or income exist.

(I) Limits on guardian's compensation

(1) A guardian's compensation is subject to [Sup.R. 73](#).

(2) A guardian who is in receipt of fees other than through the guardianship of the estate shall report to this Court the source and entity which reviewed and authorized payment.

(3) A guardian shall not receive incentives or compensation from any direct service provider providing services to a ward.

(J) Conflict of interest

A guardian shall avoid actual or apparent conflicts of interest regarding a ward's personal or business affairs. A guardian shall report to this Court all actual or apparent conflicts of interest for review and determine as to whether a waiver of the conflict of interest is in the best interest of the ward.

(K) Filing of ward's legal papers

In addition to filing an inventory, if applicable, pursuant to [R.C. 2111.14\(A\)\(1\)](#) and within three months after the guardian's appointment, a guardian shall file with this Court a list of all of the ward's important legal papers, including but not limited to estate planning documents, advance directives, and powers of attorney, and the location of such legal papers, if known at the time of the filing.

(L) Inventory, Fund Release, Expenditures and Identification of Legal Documents

Within three months of appointment, a guardian of the estate shall file an inventory of the ward's assets and income. Funds in the name of the ward shall not be released to the guardian without the approval of an Application to Release Funds (Form 15.6) or other specific court order. The expenditure of funds by a guardian shall not be approved until a Guardian's Inventory (Form 15.5) has been filed and an Application to Expend Funds (Form 15.7) has been approved.

Within three months of appointment, the guardian shall file a list of all of the ward's known important legal papers, including but not limited to estate planning documents, advance directive and the location of such papers. If it becomes known to the guardian that such information has changed or the existence of other important legal papers becomes known, the guardian shall report that new information to the Court in writing within thirty days of discovery.

(M) Guardians Report and Statement of Expert Evaluation

The first Guardian's Report is due one year after the appointment of the guardian and due annually thereafter.

In all guardianships based on incompetence, a Statement of Expert Evaluation prepared by a Licensed Physician, Licensed Clinical Psychologist, Licensed Social Worker or Developmental Disability Team shall be filed by the guardian one year after the appointment of the guardian and subsequent statements of expert evaluation are due annually thereafter.

RULE 66.09

(GENERAL RESPONSIBILITIES OF THE GUARDIAN TO THE WARD)

(A) Professionalism, character, and integrity

A guardian shall act in a manner above reproach, including but not limited to avoiding financial exploitation, sexual exploitation, and any other activity that is not in the best interest of the ward.

(B) Exercising due diligence

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

(C) Least restrictive alternative

Unless otherwise approved by this Court, a guardian shall make a choice or decision for a ward that best meets the needs of the ward while imposing the least limitations on the ward's rights, freedom, or ability to control the ward's environment. To determine the least restrictive alternative, a guardian may seek and consider an independent assessment of the ward's functional ability, health status, and care needs.

(D) Person-centered planning

A guardian shall advocate for services focused on a ward's wishes and needs to reach the ward's full potential. A guardian shall strive to balance a ward's maximum independence and self-reliance with the ward's best interest.

(E) Ward's support system

A guardian shall strive to foster and preserve positive relationships in the ward's life unless such relationships are substantially harmful to the ward. A guardian shall be prepared to explain the reasons a particular relationship is severed and not in the ward's best interest.

(F) Communication with ward

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

(G) Direct services

Except as provided in [Sup.R. 66.04\(D\)](#), a guardian shall not provide any direct services to a ward, unless otherwise approved by the Court.

(H) Monitor and coordinate services and benefits

A guardian shall monitor and coordinate all services and benefits provided to a ward, including doing all of the following as necessary to perform those duties:

- (1) Having regular contact with all service providers;
- (2) Assessing services to determine they are appropriate and continue to be in the ward's best interest;
- (3) Maintaining eligibility for all benefits;
- (4) Where the guardian of the person and guardian of the estate are different individuals, consulting regularly with each other.

(I) Extraordinary medical issues

- (1) A guardian shall seek ethical, legal, and medical advice, as appropriate, to facilitate decisions involving extraordinary medical issues.
- (2) A guardian shall strive to honor the ward's preferences and belief system concerning extraordinary medical issues.

(J) End of life decisions

A guardian shall make every effort to be informed about the ward's preferences and belief system in making end of life decisions on behalf of the ward.

(K) Caseload

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

(L) Duty of confidentiality

A guardian shall keep the ward's personal and financial information confidential, except when disclosure is in the best interest of the ward or upon order of this Court.

**RULE 66.10
(POWERS OF ATTORNEY BY GUARDIAN PROHIBITED)**

The Court, through this Local Rule, exercises its discretion under R.C. 2111.50(A)(2)(c) and hereby prohibits a guardian appointed by the Court from executing a power of attorney or any other document which 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.

**RULE 66.16
(GUARDIANSHIP TERMINATION)**

A termination of guardianship shall require written notice to the Court.

**RULE 66.17
(INDIGENT WARDS)**

The applicant or the guardian must file with the Court an Affidavit of Indigency, if the waiver of court costs is being requested or payment of compensation from the Indigent Guardianship Fund is being requested. False affidavits are punishable by findings of contempt, prosecution, or other sanctions.

**RULE 66.18
(ADDITIONAL COST DEPOSIT)**

Pursuant to RC 2111.031 and in addition to the basic cost deposit, the Court may require an Applicant for a guardianship to make an advance cost deposit in an amount the Court determines necessary (a) to defray the anticipated costs of examinations of an alleged incompetent, and (b) to cover the fees and costs to be incurred to assist the Court in deciding whether a guardianship is necessary.

**RULE 67
(ESTATES OF MINORS OF NOT MORE THAN TEN THOUSAND DOLLARS)**

- (A) Each application relating to a minor shall be submitted by the parent or parents or by the person having custody of the minor and shall be captioned in the name of the minor.
- (B) Each application shall indicate the amount of money or property to which the minor is entitled and to whom such money or property shall be paid or delivered. Unless the Court otherwise orders, if no guardian has been appointed for either the receipt of an estate of a minor or the receipt of a settlement for injury to a minor, the attorney representing the interests of the minor shall prepare an entry that orders all of the following:
 - (1) The deposit of the funds in a financial institution in the name of the minor;

- (2) Impounding the principal and interest;
 - (3) Releasing the funds only upon an order of the Court or to the minor at the age of majority.
- (C) The entry shall be presented at the time the entry dispensing with appointment of a guardian or approving settlement is approved. The attorney shall be responsible for depositing the funds and for providing the financial institution with a copy of the entry. The attorney shall obtain a Verification of Receipt and Deposit (Standard Probate Form 22.3) from the financial institution and file the form with the Court within seven days from the issuance of the entry.

RULE 67.1

Unless objection is received, the case will automatically close once the court receives the verification of deposit and receipt. This case can be reopened if necessary. Once the child reaches the age of 18 the money will be distributed to the minor.

RULE 68 (SETTLEMENT OF INJURY CLAIMS OF MINORS)

- (A) An application for settlement of a minor's claim shall be brought by the guardian of the estate. If there is no guardian appointed and the Court dispenses with the need for a guardian, the application shall be brought by the parents of the child or the parent or other individual having custody of the child. The noncustodial parent or parents shall be entitled to seven days notice of the application to settle the minor's claim which notice may be waived. The application shall be captioned in the name of the minor.
- (B) The application shall be accompanied by a current statement of an examining physician in respect to the injuries sustained, the extent of recovery, and the permanency of any injuries. The application shall state what additional consideration, if any, is being paid to persons other than the minor as a result of the incident causing the injury to the minor. The application shall state what arrangement, if any, has been made with respect to counsel fees. Counsel fees shall be subject to approval by the Court.
- (C) The injured minor and the applicant shall be present at the hearing.

RULE 68.1

- (A) The presence of the minor and his or her parents is required for the hearing on the application for approval. Attendance may be waived only upon proper written motion for good cause shown.
- (B) A formal record shall be made of all hearings.
- (C) All settlement agreements shall be filed with the Court before a hearing date is set. This rule will be waived only in the most extraordinary circumstances.
- (D) In structured settlements the settlement agreement shall contain all the requirements of Sup. R. 68 or any other document that the court may require.
- (E) The application must be filed with the Court before a hearing date is set.
- (F) The party requesting the hearing date is to serve notice to all interested parties, including the minor and the minor's parents, of said hearing date.

RULE 69

(SETTLEMENT OF CLAIMS OF OR AGAINST ADULT WARDS)

- (A) An application for settlement of a claim in favor of or against an adult ward shall be brought by the guardian of the estate. Notice of the hearing on the application shall be given to all persons who are interested parties to the proposed settlement, as determined by the Court. The Court may authorize or direct the guardian of the ward's estate to compromise and settle claims as the Court considers to be in the best interest of the ward. The Court may dispense with notice of hearing.
- (B) The application for settlement of an injury claim shall be accompanied by a current statement of an examining physician describing the injuries sustained, the extent of recovery from those injuries, and permanency of any injuries. The application shall state what additional consideration, if any, is being paid to persons other than the ward as a result of the incident causing the injury to the ward. The application shall state what arrangement, if any, has been made with respect to counsel fees. Counsel fees shall be subject to approval by the Court.

RULE 69.1

- (A) The presence of the ward and guardian is required for the hearing on the application for approval. Attendance may be waived only upon proper written

motion for good cause shown.

- (B) A formal record shall be made of all hearings.
- (C) All settlement agreements shall be filed with the Court before a hearing date is set. This rule will be waived only in the most extraordinary circumstances.
- (D) In structured settlements the settlement agreement shall contain all the requirements of Sup. R. 69 or any other document that the court may require.
- (E) The application must be filed with the Court before hearing date is set.
- (F) The party requesting the hearing date is to give notice to all interested parties, including the ward and guardian, of said hearing date.

**RULE 70
(SETTLEMENT OF WRONGFUL DEATH AND SURVIVAL CLAIMS)**

- (A) An application to approve settlement and Distribution of Wrongful Death and Survival Claims (Standard Probate Form 14.0) shall contain a statement of facts, including the amount to be allocated to the settlement of the claim and the amount, if any, to be allocated to the settlement of the survival claim. The application shall include the proposed distribution of the net proceeds allocated to the wrongful death claim.
- (B) The fiduciary shall give written notice of the hearing and a copy of the application to all interested persons who have not waived notice of the hearing. Notwithstanding the waivers and consents of the interested persons, the Court shall retain jurisdiction over the settlement, allocation, and distribution of the claims.
- (C) The application shall state what arrangements, if any, have been made with respect to counsel fees. Counsel fees shall be subject to approval by the Court.

**RULE 71
(COUNSEL FEES)**

- (A) Attorney fees in all matters shall be governed by the Rules of Professional Responsibility. (Now 1.5, former DR2-106)
- (B) Attorney fees for the administration of estates shall not be paid until the final account is prepared for filing unless otherwise approved by the Court upon application and for good cause shown.
- (C) Attorney fees may be allowed if there is a written application that sets forth the

amount requested and will be awarded only after proper hearing, unless otherwise modified by local rule.

- (D) The Court may set a hearing on any application for allowance of attorney fees regardless of the fact that the required consents of the beneficiaries have been given.
- (E) Except for good cause shown, attorney fees shall not be allowed to attorneys representing fiduciaries who are delinquent in filing the accounts required by section 2109.30 of the Revised Code.
- (F) If a hearing is scheduled on an application for the allowance of attorney fees, notice shall be given to all parties affected by the payment of fees, unless otherwise ordered by the Court.
- (G) An application shall be filed for the allowance of counsel fees for services rendered to a guardian, trustee, or other fiduciary. The application may be filed by the fiduciary or attorney. The application shall set forth a statement of the services rendered and the amount claimed in conformity with division (A) of this rule.
- (H) There shall be no minimum or maximum fees that automatically will be approved by the Court.
- (I) Prior to a fiduciary entering into a contingent fee contract with an attorney for services, an application for authority to enter into the fee contract shall be filed with the Court, unless otherwise ordered by Local Court Rule. The contingent fee on the amount obtained shall be subject to approval by the Court.

RULE 71.1

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

RULE 71.2

Upon written motion the Court may approve payment of partial attorney fees for the administration of estates before the final account is prepared for filing. The motion for payment must be substantiated with either an hourly rate charge multiplied by the number of hours or a calculation of the percentage of the estate that has been completed multiplied by the total fee permitted by the suggested schedule in Appendix B-1. See Appendix B for the form for computation of attorney fees. However, the payment of fees to attorneys representing fiduciaries who are delinquent in filing any account required by R.C. 2109.30 will not be allowed.

RULE 71.3

Hearing will be held only if Court deems necessary.

RULE 71.4

Counsel fees for the administration of a decedent's estate as set forth in Appendix B-1 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 executor or administrator in the complete administration of a decedent's estate. Filing of an application for authority to enter into a contingent fee contract is not required if the percentages are equal to or less than those set forth in Appendix B-1. SUCH SCHEDULES, HOWEVER, ARE NOT TO BE CONSIDERED AS SCHEDULES OF MINIMUM OR MAXIMUM FEES TO BE CHARGED, NOR WILL THEY BE AUTOMATICALLY APPROVED.

RULE 71.5

Examples of extraordinary services which may be compensated in addition to the foregoing are suggested in Appendix B-2 attached hereto. All applications for extraordinary attorney fees must include the computation of attorney fees. See Appendix B attached hereto.

RULE 71.6

When an attorney is appointed as executor, administrator, or guardian, and that attorney or other attorney with the same law firm is acting as attorney for the fiduciary, the combined total fees allowed may not exceed the fiduciary fee permitted by these Local Rules plus one-half of the attorney fees permitted by these Local Rules (See Appendix C-2).

RULE 71.7

Counsel fees on indigent cases shall follow the guidelines set by the Seneca County Commissioners by resolution effective January 1, 2014. \$45.00 an hour out of court time and \$55.00 an hour in court time.

**RULE 72
(EXECUTOR'S AND ADMINISTRATOR'S COMMISSIONS)**

- (A) Additional compensation for extraordinary services may be allowed upon an application setting forth an itemized statement of the services rendered and the amount of compensation requested. The Court may require the application to be set for hearing with notice given to interested persons in accordance with Civil Rule 73(E).
- (B) The Court may deny or reduce commissions if there is a delinquency in the filing of an inventory or an account, or if, after hearing, the Court finds that the executor or administrator has not faithfully discharged the duties of the office.
- (C) The commissions of co-executors or co-administrators in the aggregate shall not exceed the commissions that would have been allowed to one executor or administrator acting alone, except where the instrument under which the co-executors serve provides otherwise.
- (D) Where counsel fees have been awarded for services to the estate that normally would have been performed by the executor or administrator, the executor or administrator commission, except for good cause shown, shall be reduced by the amount awarded to counsel for those services.

RULE 72.1

Unless otherwise provided by law or ordered by the Court, an executor or administrator may charge for his/her ordinary services on an annual basis an amount computed in accordance with the attached schedule, Appendix E-1, and computed on the attached form, Appendix E.

**Rule 73
(Guardians Compensation)**

- (A) Guardian's compensation shall be set by these local rules.
- (B) Additional compensation for extraordinary services, reimbursement for expenses incurred and compensation of a guardian of a person only may be allowed upon an application setting forth an itemized statement of the services rendered and

expenses incurred and the amount for which compensation is applied. The Court may require the application to be set for hearing with notice given to interested persons in accordance with Civil Rule 73(E).

- (C) The compensation of co-guardians in the aggregate shall not exceed the compensation that would have been allowed to one guardian acting alone.
- (D) The Court may deny or reduce compensation if there is a delinquency in the filing of an inventory or account, or after hearing, the Court finds the guardian has not faithfully discharged the duties of the office.

RULE 73.1

Unless otherwise provided by law or ordered by the Court, a guardian may charge for his ordinary services on an annual basis an amount computed in accordance with the attached schedule, Appendix C-1, and computed on the attached form, Appendix C.

RULE 73.2

Compensation computed on income will not be allowed on balances carried forward from one accounting period to another, nor will an investment of funds or the final distribution of unexpected balances to a ward at the close of a guardianship be considered as an expenditure.

RULE 73.3

Guardians for indigent wards not related by consanguinity (a blood relationship) or affinity (kinship by marriage) may be compensated as follows:

- (A) Establishment Compensation – Upon written application, after the initial appointment of the guardian, \$200.00.
- (B) Annual Compensation – Upon written application, \$200.00 per year.

For good cause, upon written motion, the Court may reduce or waive the indigent guardian compensation articulated in this local rule.

RULE 74 (TRUSTEE'S COMPENSATION)

- (A) Trustee's compensation shall be set by local rule.
- (B) Additional compensation for extraordinary services may be allowed upon an application setting forth an itemized statement of the services rendered and the amount of compensation requested. The Court may require that the application

be set for hearing with notice given to interested parties in accordance with Civil Rule 73(E).

- (C) The compensation of co-trustees in the aggregate shall not exceed the compensation that would have been allowed to one trustee acting alone, except where the instrument under which the co-trustees are acting provides otherwise.
- (D) Except for good cause shown, neither compensation for a trustee nor fees to counsel representing the trustee shall be allowed while the trustee is delinquent in the filing of an account.
- (E) The Court may deny or reduce compensation if there is a delinquency in the filing of an inventory or account, or after hearing, the Court finds the trustee has not faithfully discharged the duties of the office.

RULE 74.1

Except where the instrument creating a trust makes provisions for compensation, a testamentary trustee may charge an annual fee for the ordinary services performed by the trustee in connection with the administration of each separate trust as established by Appendix D-1.

RULE 74.2

For the purpose of computing trustee's 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 the trustee's 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 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 valuations.

RULE 74.3

Additional compensation for extraordinary service may be allowed upon application. The Court may require that such application be set for hearing and notice thereof be given to interested parties in accordance with Civil Rule 4.1. Such notice shall contain a statement of the amount of such compensation applied for.

RULE 74.4

A separate schedule of the computation of trustee's compensation shall be filed conforming to the form in Appendix D and filed with the Court at the time of payment of said fee.

RULE 75 (LOCAL RULES)

Local rules of the Court shall be numbered to correspond with the numbering of these rules and shall incorporate the number of the rule it is intended to supplement. For example, a local rule that supplements Sup. R. 61 shall be designated County Local Rule 61.1

RULE 75.1 (OHIO ESTATE TAX RETURNS)

- (A) The person preparing any Ohio Estate Tax Return shall calculate the percentage of distribution of the subdivisions share of tax on both Ohio Estate Tax Forms 2 and 5. Any incomplete estate tax filings may be returned to the preparer.
- (B) All estate tax filings must be accompanied by a copy of the decedent's will, if applicable.

RULE 75.2 (OHIO RULES OF CIVIL PROCEDURE)

- (A) The Ohio Rules of Civil Procedure shall apply to any proceeding where notice, other than service of summons, is required by law or deemed necessary by the Court and the statute providing for such notice does not direct the manner of its service.
- (B) In case personal service of summons or notice is required upon non-residents of the county and if a fee is charged by the sheriff then a deposit is necessary.

RULE 75.3 (JURY TRIAL REQUESTS)

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

**RULE 75.4
(INVENTORY)**

- (A) The statutory time for filing of an inventory shall be adhered to and citations may be issued when filings are late unless application for an extension of time for filing has been granted. Applications for an extension shall set forth the time needed and the accompanying judgment entry shall have a blank space for the Court to insert the number of days granted.
- (B) The Schedule of Assets shall contain the legal description and the parcel number.
- (C) Waivers need to be signed by all residuary beneficiaries and attorney of record.
- (D) If waivers are not signed, fill out form 6.3, Notice of Hearing. These notices will be sent by certified mail by the Court.
- (E) When an inventory is filed and real estate is listed, an appointment of appraiser must be filed, unless the auditor's valuation of the real estate is presented to the court in lieu of an appraiser.
- (F) If all necessary forms for filing an Inventory is not complete, then an extension of time needs to be filed. The Court will not accept an Inventory unless all paperwork is provided. (Inventory 6.0, Schedule of Assets 6.1, Waiver of Notice 6.2 and/or Notice of Hearing 6.3).

**RULE 75.5
(SUBSTITUTION OF COUNSEL)**

Substitution of counsel may be approved only upon submission of the following to the Court:

- (A) A certification from the attorney transferring the case stating:
 - (1) New counsel has been retained and the name, address and telephone number of newly retained counsel;
 - (2) That the newly retained counsel or the client has received the transferring attorney's entire file on the case, or that the client or retained counsel has been given express written notice of where and when the entire file may be examined; and
 - (3) That a written notice containing all Court dates and deadlines has been given to the newly retained counsel or to the client who

wishes to proceed *pro se*.

- (B) A proposed entry of substitution.
- (C) Counsel accepting the substitution shall, upon acceptance, file with the Court a notice of substitution of counsel.
- (D) Payment of all outstanding Court costs on the case.

**RULE 75.6
(WITHDRAWAL OF COUNSEL)**

Withdrawal of counsel may be approved only upon submission of the following to the Court:

- (A) A certification from the attorney seeking to withdraw from the case stating:
 - (1) The reason for the need to withdraw;
 - (2) That the client has received the withdrawing attorney's entire file on the case, or that the client has been given express written notice of where and when the entire file may be examined;
 - (3) That a written notice containing all Court dates and deadlines has been given to the client; and
 - (4) That the attorney has given the client an explanation of the case and the consequences of this action; including notice to the client that if he/she fails to appear personally, or through counsel, at any scheduled event in the case, the Court may hold the client in contempt of Court.
- (B) A proposed entry.
- (C) Payment of all outstanding Court costs on the case.

**RULE 75.7
(FILING BY ELECTRONIC SUBMISSION)**

Pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission to (419) 448-5060 subject to the following conditions:

A) Applicability and Exceptions

- 1.01) These rules apply to all probate proceedings in the Seneca County Probate Court.
- 1.02) In order to preserve confidentiality all filings, documents, and reports concerning mental illness, adoptions, or any document that may contain information covered by the Health Insurance Portability Accountability Act, including but not limited to Investigator Reports and Expert Evaluations, are not permitted to be filed via facsimile filings.
- 1.03) Documents required to be certified, notarized, or documents intending to initiate a case, such as but not limited to complaints, applications to probate will and accompanying documents, application for relief from administration, applications to change name, marriage license applications, applications to appoint guardian, application for emergency guardianship, applications for minor settlement, application for removal of fiduciary, documents required to be notarized, or any other documents as the Clerk of Court deems necessary are not permitted to be filed via facsimile.

B) Definitions

- 2.01) A facsimile transmission is the transmission of a source document by a facsimile machine which encodes a document into electronic and optical signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving machine.
- 2.02) This Rule or the definitions in this section do not apply to or include transmission via email.
- 2.03) A facsimile machine means a machine either capable of transmitting or receiving a facsimile transmission as a stand alone machine or as part of a computer system.
- 2.04) Fax is an abbreviation for facsimile and refers to the document transmitted or to be transmitted via a facsimile machine.
- 2.05) Source document means the document transmitted to the court by facsimile machine/system.
- 2.06) Effective as original document means the facsimile copy of the source document received by the Clerk of Court and maintained as the original document in the court's file.

- 2.07) Effective date and time of filing means the date and time that a facsimile filing is accepted by the Clerk of Court for filing.

C) Original Filing

- 3.01) All documents submitted via facsimile filing are accepted as the effective original document in the Court file.
- 3.02) The person submitting the document shall maintain the original/source copy and make it available to the Probate Court upon demand for inspection. The document shall be retained by this person for the requisite time period until opportunities for post judgment relief are exhausted.

D) Fax Requirements

- 4.01) All facsimile filings shall conform to the requirements of Civil Rule 10 and shall include a facsimile transmission sheet conforming to the requirements of Rule 4.02 of this section.
- 4.02) All facsimile filings shall include a cover page as designated in Form 4.1. The cover page shall include:
- a. The name of the court;
 - b. The caption of the case;
 - c. The case number;
 - d. The assigned judge;
 - e. The description of the document being filed (e.g. Defendant's Answer to Doe's Amended Complaint, Plaintiff Smith's Response to Defendant's Motion to Dismiss, Plaintiff's Notice of Filing Exhibit G);
 - f. The date of transmission;
 - g. The transmitting fax number;
 - h. The indication of the total number of pages included in the transmission, including the cover page;
 - i. If a judge or case number has not been assigned, state that fact on the cover page;

j. The name, address, telephone number, fax number, Supreme Court registration number, if applicable, and the email address of the person filing the fax document if available; and

k. If applicable, a statement explaining how the costs are being submitted.

4.03) If a facsimile filing is sent by fax to the Clerk of Court without the cover page as designated in this rule, the Clerk at their discretion may:

a. Enter the document in the case docket and file the document if the document contains all other necessary information;

Or

b. Deposit the document in a file of failed faxed documents with a notation as to the reason for the failure. In this instance the document **shall not** be considered filed with the Clerk of Courts.

4.04) The Clerk of Courts is not required to notify the transmitting party of a failed fax filing, but may notify if practical to inform the party.

E) Signature

5.01) All facsimile filings shall include a signature or indication of the party filing such document as controlled by this rule.

5.02) Any signature on electronically submitted documents shall be considered that of the attorney or the party it purports to be for all purposes. If it is established that the documents were transmitted without authority, the Court shall order the filing stricken.

5.03) Any document in which the original signature does not or will not appear on the facsimile copy shall include the notation /s/ followed by the name of the signer on the source document to indicate that the original document contains the signature in the place specified.

F) Exhibits

6.01) If an exhibit is not included in the facsimile filing the appropriate box shall be checked on the cover sheet.

6.02) An insert page shall be inserted in the place of such exhibit explaining why the exhibit is not being transmitted. Unless the Court otherwise orders, the filer is to provide a copy of the missing exhibit to the court not later than five business days following the facsimile filing.

- 6.03) Failure to adhere to the above rules regarding the filing of exhibits may result in the Court striking the document and/or exhibit.
- 6.04) Any exhibit filed pursuant to Rule 6.02 shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, caption of the case, the case number, name of the judge, and the title of the exhibit being filed (e.g. Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendant's Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this Court. See Form 6.1.

G) Time for Filing

- 7.01) Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the Clerk time stamps the document received, as opposed to the date and time of the fax transmission. For purposes of this rule, the office of the Clerk shall be deemed to receive facsimile transmission of documents on the basis of 24 hours per day seven days a week including holidays. Faxes received on weekends, after normal business hours, or on holidays will not be file stamped until the next business day. Documents will be filed stamped in the queue order received based upon the time and date stamp imprinted by the facsimile machine.
- 7.02) **The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sending party. Anyone using facsimile is urged to verify receipt by the Clerk's Office.**
- 7.03) Fax filings may not be sent directly to the Court for filing, but may only be transmitted directly through the facsimile machine operated by the Clerk of Courts.

H) Document/Filing Requirements

- 8.01) All facsimile submissions of filings shall include a proposed judgment entry when appropriate.
- 8.02) No facsimile submissions shall exceed ten (10) pages in length.

RULE 75.8 (NAME CHANGES)

Children under 7 years of age are excused from the hearing on the application to

change their name. Persons who are 7 years of age and older must attend the hearing on the application to change their name. Attendance may be waived for good cause shown.

RULE 75.9

The Court adopts any other Superintendence Rule that is deems appropriate to practice, included but not limited to Rules 44-47.

RULE 76 (EXCEPTION TO THE RULES)

Upon application, and for good cause shown, the probate division of the Court of Common Pleas may grant exception to Sup. R. 53 to 79.

RULE 77 (COMPLIANCE)

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

RULE 78 (PROBATE DIVISION OF THE COURT OF COMMON PLEAS -- CASE MANAGEMENT IN DECEDENT'S ESTATES, GUARDIANSHIP, AND TRUSTS)

- (A) Each fiduciary shall adhere to the statutory or Court-ordered time period for filing the inventory, account, and, if applicable, guardian's report and statement of expert evaluation. The citation process set forth in section 2109.31 of the Revised Code shall be utilized to ensure compliance. The attorney of record and the fiduciary shall be subject to the citation process. The Court may modify or deny fiduciary commissions or attorney fees, or both, to enforce adherence to the filing time periods.
- (B) A continuance to extend the time for filing an inventory, account, guardian's report or statement of expert evaluation shall not be granted unless the fiduciary has

signed for the continuance or unless for good cause shown.

- (C) The Court may issue a citation to the attorney of record for a fiduciary who is delinquent in the filing of an inventory, account, guardian's report or statement of expert evaluation 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.
- (D) Upon filing of the exceptions to an inventory or to an account, the exceptor shall cause the exceptions to be set for a pretrial within thirty days. The attorneys and their clients, or individuals if not represented by an attorney, shall appear at the pretrial. The trial shall be set as soon as practical after pretrial. The Court may dispense with the pretrial and proceed directly to trial.

RULE 78.1
(CASE MANAGEMENT OF ESTATES, GUARDIANSHIPS, TRUSTS, ET AL.)

A. SUPERVISION OF ESTATES, TRUSTS AND GUARDIANSHIPS

1. On or before the first day of October of each year, each Judge shall complete an annual physical inventory of cases reported as pending on the applicable statistical report forms. Within three months of initial election or appointment to the bench, each Judge shall complete a physical case inventory with subsequent inventories being due on or before the first day of October of each ensuing year. See, Sup. R. 38
 - a. The inventory involves the review of each case file to ensure an accurate count of pending cases. The Probate Judge will decide whether physically checking closed or inactive cases is necessary, but pending cases must be reviewed.
 - b. The inventory should give the status of each case.
 - c. A computer printout of cases may be used to begin the process of verifying pending cases, but a physical review of case files shall be conducted.
 - d. Documentation of the physical inventory requires reporting the date of the most recent inventory in the box provided on the statistical report forms.
2. Notice of Admission of Will to Probate.
 - a. When a will has been admitted to probate, the fiduciary. . .

shall, within two weeks of the admission of the will to probate, give a notice . . . by certified mail to the surviving spouse of the testator, to all persons who would be entitled to inherit from the testator. . . if the testator had died intestate, and to all legatees and devisees named in the will. The notice shall mention the probate of the will and, if a particular person being given the notice is a legatee or devisee named in the will, shall state that the person is named in the will as beneficiary. A copy of the will admitted to probate is not required to be given with the notice.

b. The notice of the admission of the will to probate and the certificate of giving notice or waiver of notice shall be given or filed by the fiduciary for the estate or by the applicant for the admission of the will to probate, the applicant for a release from administration, any other interested person, or the attorney for the fiduciary or for any of the preceding persons. The certificate of giving notice shall be filed not later than two months after the appointment of the fiduciary unless the Court grants an extension that time. Failure to file the certificate in a timely manner shall subject the fiduciary to the citation and penalty provisions of section 2109.31 of the Revised Code.

1.) The Court keeps a tickler for the filing of the Certificate

a.) If the certificate is not filed within 75 days after the appointment of the fiduciary, the Court will issue a citation to the attorney.

3. Notice to File Inventory in Estates, Trusts or Guardianships

a. "Within three months after the date of the executor's or administrator's appointment, unless the Probate Court grants an extension of time for good cause shown, the executor or administrator shall file with the Court an inventory of the decedent's interest in real estate located in this state and of the tangible and intangible personal property of the decedent that is to be administered and that has come to the executor's or administrator's possession or knowledge. The inventory shall set forth values as of the date of death of the decedent. If a prior executor or administrator has done so, a successor executor or administrator need not file an inventory, unless, in the opinion of the court, it is necessary. Any asset, the value of which is readily ascertainable, is not required to be appraised but shall be included in the

inventory." R.C. 2115.02

- b. "Every guardian appointed to take care of the estate of a ward shall ... make and file within three months after his appointment a full inventory of the real and personal property of the ward, its value, and the value of the yearly rent of the real property, provided that, if the guardian fails to file the inventory for thirty days after he has been notified of the expiration of the time by the Probate Judge, the Judge shall remove him and appoint a successor." R.C.2111.14. If the guardianship is for the person only, an inventory is not required.
- c. "Each fiduciary as to whom definite provision is not made in Sections 2111.14 and 2115.02 of the Revised Code, shall make and file within three months after his appointment a full inventory of the real and personal property belonging to the trust, its value, and the value of the yearly rent of the real property." R.C. 2109.58
- d. Notice must go out timely to the fiduciary to file the inventory.
 - 1.) One month before the time required by R.C. sections 2115.02, 2111.14 and 2109.58 for the filing of the inventory, a reminder is sent to the attorney to indicate that an inventory will be due.
 - 2.) One month after the time required by R.C. sections 2115.02, 2111.14 and 2109.58 for the filing of the inventory, a notice is sent to the fiduciary and a copy is sent to the fiduciary's attorney to indicate that an inventory was due.
 - 3.) If the inventory is not filed within 15 days after the notices are sent, a citation is issued to the fiduciary and to the fiduciary's attorney pursuant to Sup. R. 78(A).
 - 4.) If the fiduciary fails to file the inventory timely, the fiduciary is subject to removal and a successor may be appointed.
 - 5.) The Court will grant an extension of time for good cause shown.

4. Surviving Spouse's Right of Election

- a. After the initial appointment of an administrator or executor of the estate, the probate Court shall issue a citation to the surviving spouse, if any is living at the time of the issuance of the citation, to elect whether to exercise the surviving spouse's rights under Chapter 2106 of the Revised Code, including, after the probate of a will, the right to elect to take under the will or under section 2105.06 of the Revised Code.
- b. The Court must notify the spouse of his or right of election unless the 8.6, Waiver of Service to Surviving Spouse of the Citation to Elect, is filed.

5. Accounting by the fiduciary.

a. Accounts of Administrators and Executors

- 1.) Within six months of appointment, every Administrator and executor shall render a final and distributive account of the administrator's or executor's administration of the estate, unless an application to extend has been filed and approved.
- 2.) After the initial account is rendered, every administrator and executor shall render further accounts at least once each year.

b. Accounts of Guardians and Conservators

- 1.) The first guardianship account is due one year after the appointment of a guardian of the estate and all other accounts are due annually thereafter. If the guardianship is for the person only, no account is required, except upon an order of the Court that the Court issues for good cause shown either at its own instance or upon the motion of any person interested in the estate.
- 2.) The first conservatorship account is due one year after the appointment of a conservator and all other accounts due annually thereafter.

c. Accounts of Testamentary Trustees and Other Fiduciaries

- 1.) The first trusteeship account is due one year after the appointment of the trustee and all other accounts due annually thereafter.

2.) Accounts for other fiduciaries are due one year after the appointment and all other accounts due annually thereafter.

- a.) One month before the time required for the filing of any account, a reminder is sent to the attorney to indicate that an account will be due.
- b.) One month after the time required for the filing of an account, a notice is sent to the fiduciary and a copy of the notice is sent to the fiduciary's attorney to indicate that an account was due.
- c.) If an account is not filed 15 days after the notices are sent, a citation is issued to the fiduciary and the fiduciary's attorney pursuant to Sup.R. 78 (A).
- d.) If the account is not timely, the fiduciary is subject to being removed with a successor fiduciary being appointed.
- e.) When a final account is filed and approved and all Court costs paid, the case will be closed.

d. The Court will grant extensions for the following reasons:

1.) Extensions for Accounts of Administrators and Executors.

- a.) An Ohio estate tax return must be filed for the estate.
- b.) A proceeding contesting the validity of the decedent's will pursuant to section 2107.71 of the Revised Code has been commenced.
- c.) The surviving spouse has filed an election to take against the will.
- d.) The administrator or executor is a party in a civil action.

- e.) The estate is insolvent.
- f.) For other reasons set forth by the administrator or executor, subject to Court approval, it would be detrimental to the estate and its beneficiaries or heirs to file a final and distributive account.

2.) Extensions for Accounts of Guardians and Conservators.

- a.) For good cause shown.

3.) Extensions for Accounts of Trustees and other fiduciaries.

- a.) For good cause shown

6. A Report of Distribution

- a. R.C. 2113.03 governs the procedure for releases of administration.

- b. A Report of Distribution is due 6 months after the Court signs the entry relieving the estate from administration.

- 1.) One month before the time required for the filing of the Report of Distribution, a reminder is sent to the attorney to indicate that an account will be due.
- 2.) One month after the time required for the filing of a Report of Distribution, a notice is sent to the Commissioner and a copy is sent to the Commissioner's attorney to indicate that the Report of Distribution was due.
- 3.) If a Report of Distribution is not filed within 15 days after the notice is sent, a citation is issued to the commissioner and the commissioner's attorney pursuant to Sup.R. 78 (A).
- 4.) When the commissioner's report is filed and approved and all Court costs paid, the estate is closed.
- 5.) The Court is able to accommodate extensions of time for the filing of a Report of Distribution .

7. Guardian's Report and Statement of Expert Evaluation

- a. Seneca County Local Rule 66.3 requires that the guardian's report be filed one year after the appointment of the guardian and is due annually thereafter.
- b. Thirty (30) days before the time required by Seneca County Local Rule 66.3 for the filing of a guardian's report, a reminder is sent to the guardian and a copy of the reminder is sent to the guardian's attorney to indicate a report will be due.
- c. Thirty (30) days after the time required by Seneca County Local Rule 66.3 for the filing of a guardian's report a notice is sent to the guardian and a copy of the notice is sent to the guardian's attorney to indicate a report was due.
- d. If the guardianship is for the estate only, a guardian's report is required.
- e. Seneca County Local Rule 66.4 requires that a statement of expert evaluation prepared and signed by a Licensed Physician, Licensed Clinical Psychologist, Licensed Social Worker, or Mental Retardation Team is to be filed one year after the file date of the initial Statement of Expert Evaluation.
- f. The Court is able to accommodate extensions of time for filing the guardian's report and the statement of expert evaluation.

B. CASE MANAGEMENT OF ADVERSARY PROCEEDINGS

1. The following are primary categories of adversarial proceedings: Will Contest, Declaratory Judgment, Determination of Heirs, Construction of Will, Concealment of Assets, Complaint to Sell Real Estate, Complaint to Purchase, Complaint for Judgment Entry Declaring Will Valid, Presumption of Death Appropriations, and Complaint for Instructions.
2. Physical inventory of all cases open and pending shall be completed on or before October 1 of each year. Sup. R. 38
3. Each quarter an accounting of the case inventory is made listing all new cases filed during the quarter, deleting all cases where final judgment was rendered, and showing the total number of open cases at the end of the quarter.
4. A pretrial conference is set 30 days after the answer date.
5. Notice of the pretrial conference shall be given to all attorneys of

record by mail at least 14 days prior to pretrial.

6. All requests for continuances of the pretrial conference shall be by motion and shall be submitted to the Court at least 7 days prior to the scheduled date for the pretrial conference, absent emergency or cause deemed sufficient by the Court.
7. At the conclusion of the pretrial conference, the Court shall prepare a pretrial order setting forth:
 - a. Discovery deadline date.
 - b. Exchange of witness list deadline date.
 - c. Pleading and briefing schedules.
 - d. A trial date.

C. MENTAL ILLNESS CASES

1. Physical inventory of all cases open and pending must be completed on or before October 1 of each year. Sup. R. 38.
2. Each quarter an accounting of the prior quarter should be made.
 - a. Listing all new cases that were filed.
 - b. Removing any cases where final judgment has been rendered.
 - c. Listing the total number of cases open at the end of the quarter.

D. ADOPTION CASES

1. Physical inventory of all cases open and pending must be completed on or before October 1 of each year. Sup. R. 38.
2. Each quarter an accounting of the prior quarter should be made.
 - a. Listing all new cases that were filed.
 - b. Removing any cases where final judgment has been rendered.
 - c. Listing the total number of cases open at the end of the quarter.

E. MISCELLANEOUS CASES

1. The following are primary categories of miscellaneous cases:
Name Changes, Minor's Settlement, Adult Protective Services, etc.
2. Physical inventory of all open cases shall be completed on or before October 1 each year. Sup. R. 38

3. Each quarter an accounting of the case inventory is made listing all new cases filed during the quarter, deleting all cases where final judgment was rendered, and showing the total number of open cases at the end of the quarter.

RULE 79 (ADOPTION ASSESSOR)

As required by law, adoption assessors shall conduct home studies for the purpose of ascertaining whether a person or persons seeking to adopt a minor is/are suitable to adopt. A written report of the home study shall be filed with the Court at least twenty days before the petition for adoption is heard. The report shall contain the opinion of the assessor as to whether the person(s) who is the subject of the report is suitable to adopt a minor as well as additional material as is required under the laws of Ohio. Upon Order of the Court, the costs of the home study and other proceedings shall be paid by the person seeking to adopt, and, if the home study is conducted by a public agency or public employee, portions of the costs representing any services and expenses shall be taxed as costs and paid into the State treasury or County treasury, as the Court may direct.

The Seneca County Probate Court uses the following cost schedule:

Home Study Basic Fee: The basic fee for a step parent home study is \$300 and \$400.00 for a private adoption. This basic fee is for a home study report resulting from a single home visit. During this visit the assessor makes face-to-face contact with the prospective adoptive parent and the minor to be adopted, as well as all other children or adults residing in the prospective adoptive home.

Extraordinary Fees: The Court may Order an additional fee in certain instances including:

- (a) Upon Application of Assessor: An adoption assessor may make Application to the Court if they believe that additional fees should be assessed.
- (b) Adoption which would require extensive traveling: If the assessor must travel extensively, the Court, on a case by case basis, may issue an Order directing the Petitioner to pay an amount over and above any standard fee.

APPENDIX A INITIAL DEPOSITS FOR COURT COSTS

Adoption Step Parent \$552.50
Step Parent 2nd child – \$525.50
Each additional child – \$525.50

Adoption Home Study \$300.00 (included in adoption fee)

Agency placed adoption 1st child – \$252.50
Agency placed adoption 2nd child - \$225.50
Each additional child – \$225.50

Private Adoption \$652.50
Adoption Home Study \$400.00 (included in fee)

Adult Adoption \$230.50

Foreign Adoption \$289.50

Application for Placement \$591.00

Release of Adoption Information \$53.00

Estates-Full Administration \$218.00

Release from Administration \$153.00 (with will) \$173.00

Reopen Estate \$54.00 (Full Administration) \$58.00 (Release Estate)

Exceptions to Inventory (Accounting) \$128.00

Claim Against Estate \$10.00

Insolvency \$128.00

Deposit Will \$40.00

Deposit Will & Tax \$53.00

Tax only – no Will \$48.00

Ancillary Administration \$218.00

Guardianship: Minor \$270.00
Each additional child \$183.00

Guardianship: Incompetent \$273.00

Conservatorship \$273.00

Transferring in Guardianship \$101.00

Motion to Terminate Guardianship \$43.00

Minor's Settlement \$148.00

Structured Settlement \$123.00

Name Change (Review Times) \$198.00 (Advertiser Tribune) \$199.00

Summary Release \$70.00 (with will) \$90.00

Wrongful Death \$138.00

Complaint to Sell Real Estate \$143.00

Trust \$155.00

Declaratory Judgment \$128.00

Marriage License \$50.00

Disinterment of Remains \$143.00

Foreign Transcript (coming in) \$48.00 plus \$1.00 per page

Transcript (going out) \$1.00 per page plus \$1.00 per certification

DEPOSITS MUST ACCOMPANY ALL INITIAL FILINGS OF NEW CASES. OTHERWISE, THE PAPERS WILL NOT BE ACCEPTED FOR FILING. ALL DEPOSITS WILL BE APPLIED TOWARD FINAL COSTS. THE COURT MAY REQUIRE ADDITIONAL DEPOSITS.

**APPENDIX A-1
SCHEDULE OF COURT COSTS**

I. R.C. 2101.16 Fees; cost of investigations; advance deposit

(A) The fees enumerated in this division shall be charged and collected by the Probate Judge and shall be in full for all services rendered in the respective proceedings:

1. Account, in addition to advertising charges.	12.00
Waivers and proof of notice of hearing on account, per page, minimum one dollar	1.00
2. Account of distribution, in addition to advertising charges	7.00
3. Adoption of Child, Petition for	20.00
4. Alter or Cancel Contract for Sale or Purchase of Real Estate, Petition to	20.00
5. Application and order not otherwise provided for in this section or by rule adopted pursuant to division (E) of this section	5.00
6. Appropriation Suit, per day, hearing on	20.00
7. Birth, Application for Registration of	7.00
8. Birth Record, Application to Correct	5.00
9. Bond, Application for New or Additional	5.00
10. Bond, application for release of surety or reduction of	5.00
11. Bond, receipt for securities deposited in lieu of	5.00
12. Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar.	1.00
13. Citation and Issuing Citation, Application for	5.00
14. Change of Name, Petition for	20.00
15. Claim, Application of Administrator or Executor for Allowance of Administrator's or Executor's Own	10.00
16. Claim, Application to Compromise or Settle	10.00
17. Claim, Petition for Authority to Present	10.00
18. Commissioner, Appointment of	5.00
19. Compensation for Extraordinary Services and Attorney's Fees for Fiduciary Application for	5.00
20. Competency, Application to Procure Adjudication for	20.00
21. Complete Contract, Application to	10.00
22. Concealment of Assets, Citation for	10.00
23. Construction of Will, Petition for	20.00
24. Continue Decedent's Business, Application to	10.00
Monthly Reports of Operation	5.00
25. Declaratory Judgment, Petition for	20.00
26. Deposit of Will	5.00
27. Designation of Heir	20.00
28. Distribution in Kind, Application, Assent, and Order for	5.00
29. Distribution under §2109.36 of the Revised Code, Application for an Order of	7.00
30. Docketing and indexing proceedings, including the filing and noting of all necessary documents, maximum fee \$15.00	15.00
31. Exceptions to any Proceeding Named in this Section, Contest of Appointment	10.00
32. Election of Surviving Partner to Purchase Assets of Partnership, Proceedings Relating to	10.00
33. Election of Surviving Spouse Under Will	5.00
34. Fiduciary, Including an Assignee or Trustee of an Insolvent Debtor or any Guardian or Conservator Accountable to the Probate Court, Appointment of	35.00
35. Record of such Will, additional per page	1.00
36. Forms, when supplied by the Probate Court - not to exceed	10.00
37. Heirship, Petition to Determine	20.00
38. Injunction Proceedings	20.00

39. Improve Real Estate, Petition to	20.00
40. Inventory with Appraisalment	10.00
41. Inventory without Appraisalment	7.00
42. Investment or Expenditure of Funds, Application for	10.00
43. Invest in Real Estate, Application to	10.00
44. Lease for Oil, Gas, Coal, Other Mineral, Petition to	20.00
45. Lease or Lease and Improve Real Estate, Petition to	20.00
46. Marriage License	10.00
Certified abstract of each marriage	2.00
47. Minor or Mentally Ill Person, Etc., Disposal of Estate Under \$10,000	10.00
48. Mortgage or Mortgage and Repair or Improve Real Estate, Petition to	20.00
49. Newly Discovered Assets, Report of	7.00
50. Nonresident Executor/Administrator to Bar Creditors' Claims, Proceedings by	20.00
51. Power of Attorney or Revocation of Power, Bonding Company	10.00
52. Presumption of Death, Petition to Establish	20.00
53. Probating Will	15.00
Proof of notice to beneficiaries	5.00
54. Purchase Personal Property, Application of Surviving Spouse to	10.00
55. Purchase Real Estate at Appraised Value, Petition of Surviving Spouse to	20.00
56. Receipts in Addition to Advertising Charges, Application and Order to Record	5.00
Record of those receipts, additional, per page 1.00	
57. Record in excess of fifteen hundred word in any proceeding in the Probate Court, per page	1.00
58. Release of estate by mortgagee or other lienholder	5.00
59. Relieving estate from administration	60.00
60. Removal of Fiduciary, Application for	10.00
61. Requalification of Executor or Administrator	10.00
62. Resignation of Fiduciary	5.00
63. Sale Bill, Public Sale of Personal Property	10.00
64. Sale of Personal Property and Report, Application for	10.00
65. Sale of Real Estate, Petition for	25.00
66. Terminate Guardianship, Petition to	10.00
67. Transfer of Real Estate, Application, Entry and Certificate Fee	7.00
68. Unclaimed Money, Application to Invest	7.00
69. Vacate Approval of Account or Order of Distribution, Motion to	10.00
70. Writ of Execution	5.00
71. Writ of Possession	5.00
72. Wrongful Death, Application and Settlement of Claim for	20.00
73. Year's Allowance, Petition to Review	7.00
74. Guardian's Report, Filing and Review of	5.00

(B) (1) In relation to an application for the appointment of a guardian or the review of a report of a guardian under Section 2111.49 of the Revised Code, the Probate Court, pursuant to Court order or in accordance with a Court Rule, may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to Section 2111.041 or division (A)(2) of Section 2111.49 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the Court finds that an alleged incompetent or a ward is indigent, the Court may waive the costs, fees, and expenses of an investigation.

(2) In relation to the appointment or functioning of a guardian for a minor or the guardianship

of a minor, the Probate Court may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to Section 2111.042 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the Court finds that the guardian or applicant is indigent, the Court may waive the costs, fees, and expenses of an investigation.

(C) Thirty dollars of the \$35 dollar fee collected pursuant to division (A)(33) of this section and \$20 of the \$60 fee collected pursuant to division (A)(58) of this section shall be deposited by the county treasurer in the indigent guardianship fund created pursuant to Section 2111.51 of the Revised Code.

(D) The fees of witnesses, jurors, sheriffs, coroners, and constables for services rendered in the Probate Court or by order of the Probate Judge, shall be the same as provided for like services in the Court of Common Pleas.

(E) The Probate Court, by rule, may require an advance deposit for costs, not to exceed \$125, at the time application is made for an appointment as executor or administrator or at the time a will is presented for Probate.

(F) The Probate Court, by rule, shall establish a reasonable fee, not to exceed \$50, for the filing of a petition for the release of information regarding an adopted person's name by birth and the identity of the adopted person's biological parents and biological siblings pursuant to Section 3107.41 of the Revised Code, all proceedings relative to the petition, the entry of an order relative to the petition, and all services required to be performed in connection with the petition. The Probate Court may use a reasonable portion of a fee charged under authority of this division to reimburse any agency, as defined in Section 3107.39 of the Revised Code, for any services it renders in performing a task described in Section 3107.41 of the Revised Code relative to or in connection with the petition for which the fee was charged.

(G) (1) Thirty dollars of the \$50 fee collected pursuant to division (A)(2) of this section shall be deposited into the "Putative Father Registry Fund", which is hereby created in the state treasury. The Department of Human Services shall use the money in the fund to fund the department's costs of performing its duties related to the Putative Father Registry established under Section 3107.062 of the Revised Code.

(2) If the department determines that money in the putative father registry fund is more than is needed for its duties related to the putative father registry, the department may use the surplus moneys in the fund as permitted in division © of section 2151.3529 [2151.35.29], division (B) of section 2151.3530 [2151.35.30], or section 5103.155 [5103.15.5] of the Revised Code.

DOD 4/15/00 or before

**APPENDIX B
COMPUTATION OF ATTORNEY FEES
IN THE PROBATE COURT OF SENECA COUNTY, OHIO**

ESTATE OF _____ Case Number: _____

TOTAL ASSETS = (PER INVENTORY) \$ _____

0 - \$5,000.00	6%	\$ 300.00
\$5001.00 - \$15,000.00	4% OVER	\$ 5,000.00
OVER \$15,000.00	3% OVER	\$15,000.00

1. PROBATE FEE TOTAL \$ _____

**TOTAL NON-PROBATE ASSETS
(AS VALUED IN THE OHIO ESTATE TAX RETURN):** \$ _____

A. Non-Probate – Living Trust		
Up to \$25,000.00	3.5%	\$ _____
Over \$25,000.00	2.5%	\$ _____
B. Non-Trustee Assets		
Up to \$25,000.00	2%	\$ _____
Over \$25,000.00	1%	\$ _____

2. NON-PROBATE FEE TOTAL \$ _____

EXTRAORDINARY FEES (ITEMIZED AND ATTACHED TIME RECORDS, IF AVAILABLE)

1. _____
2. _____
3. _____
4. _____

3. EXTRAORDINARY FEES TOTAL \$ _____

Total Attorney Fee: (SUM OF 1, 2, & 3,) \$ _____

Attorney Fee Taken on Prior Account (-) _____

Balance Of Attorney Fees Requested on Final Account \$ _____

ATTORNEY'S SIGNATURE

FIDUCIARY'S SIGNATURE

Typed or Printed Attorney's Name

Typed or Printed Fiduciary's Name

Date Approved by the Court

Jay A. Meyer, Probate Judge

Use after DOD 4/15/00

**APPENDIX B-1
COMPUTATION OF ATTORNEY FEES FOR ESTATE**

ESTATE OF _____ **CASE NO.** _____

1.	5% of all probate assets, including real estate <u>sold</u>	\$ _____
2.	3% of all <u>transferred</u> real estate	\$ _____
3.	2% of first \$20,000.00	\$ _____
	1% of balance	
	of all property subject to Ohio Estate tax, such as joint and survivorship, power of appointment, contemplation of death, annuities, pension or profit sharing, Excluding life insurance paid to beneficiary.	
	Sub total	\$ _____
4.	Attorney acting also as fiduciary is entitled to one-half of sub-total	\$ _____
5.	Advances court costs	\$ _____
6.	Advanced recording costs	\$ _____
7.	Costs	\$ _____
	Total	\$ _____

Approved and authorized:

Approved:

Executor/Administrator

Attorney

IT IS SO ORDERED.

Judge

APPENDIX B-2
EXAMPLES OF EXTRAORDINARY SERVICES

Examples of extraordinary services which may be compensated in addition to the foregoing suggested guidelines on ordinary fees include, but are not limited to, the following:

- A. In a Court other than the Probate Court.
- B. In a contested matter in the Probate Court.
- C. In connection with the preparation or filing, audit, protest or contest of an income or gift tax return, or liability incurred by the decedent or personal representative.
- D. In connection with the settlement of estate or inheritance taxes with respect to insurance not payable to the estate, gifts in contemplation of death, or general testamentary powers of appointment not exercised by the decedent, and other negotiation not represented by assets included in the "gross value" of the estate.
- E. With respect to problems of valuation or taxability of property for estate and inheritance taxes or to the protest of such taxes.
- F. Preparation and filing of the federal estate tax returns.
- G. In connection with matters which are unusual or excessive for the size of the estate involved.
- H. In connection with the performance of duties normally performed by the personal representative, but which fall to the lawyer because of personal representative's inexperience, lack of ability, or absence from the place from which the assets of an estate must be managed.
- I. Sale of business or business assets.
- J. Proceedings to determine heirship.
- K. Proceedings involving partnership.
- L. Sale of real estate by land sale or election of spouse to take at appraisal value.

**APPENDIX C
COMPUTATION OF GUARDIAN FEES
IN THE PROBATE COURT OF SENECA COUNTY, OHIO**

Case Name: _____ Case Number: _____

ACCOUNTING PERIOD OF: _____, _____ to _____, _____

ORDINARY FEES

Total Income During Period	\$	
I. \$0-\$1,000 Income @ 4%		
(excludes income from rental property managed by guardian)	\$	
\$1,000 - Up Income @ 3%	\$	
Total Fee from Income		\$ _____
Total Expenses During Period	\$	
II. \$0-\$1,000 Expenses @ 4%		
(excludes rental property expenses)	\$	
\$1,000 - Up Expenses @ 3%	\$	
Total Fee from Expenses		\$ _____
III. Principal at Beginning of Accounting Period	\$	
times (x) .0015	\$	
Total Fee from Principal		\$ _____
IV. Gross Rental Property Income from Property Managed by Guardian times (x) .10	\$	
Total Fee from Rental Income		\$ _____
V. Extraordinary Fees		
(itemize and attach time records)		
A. _____	\$	
B. _____	\$	
C. _____	\$	
D. _____	\$	
Total Extraordinary Fees		\$ _____
Total I-V		\$ _____
Total Fees Requested		\$ _____

ATTORNEY'S SIGNATURE

FIDUCIARY'S SIGNATURE

Typed or Printed Attorney's Name

Typed or Printed Fiduciary's Name

Date Approved by the Court

Jay A. Meyer, Probate Judge

**APPENDIX C-1
GUARDIAN FEE GUIDELINES**

A. COMPUTATION OF GUARDIAN FEES – ANNUALLY

1. \$0 - \$1,000.00 income
4% of income (excludes income from rental property managed by guardian)

\$41,000.00 - up income
3% of income
2. \$0 - \$1,000.00 expenses
4% of expenses (excludes rental property expenses)
3. \$1.50 per thousand principal
4. 10% of gross rental property income if managed by guardian
5. Minimum of \$50.00 per year

B. ATTORNEY FEES

1. Attorney fees up to \$200.00 for representing a guardian subsequently appointed including the filing of an inventory and an entry approving the inventory will normally be approved without application.
2. Attorney fees up to \$225.00 for preparing and filing an annual account and entry approving said account will normally be approved without application.

**APPENDIX C-2
COMPUTATION OF ATTORNEY FEES FOR GUARDIANSHIP**

GUARDIANSHIP OF _____ CASE NO. _____

- | | |
|--|----------|
| 1. 3% of the income during the accounting period | \$ _____ |
| 2. 3% of expenditures during accounting period
(Not including any expenditures for attorney fees) | \$ _____ |
| 3. 5% for Sale of Real Estate proceedings | \$ _____ |
| 4. Attorney acting also as guardian is entitled
to one-half of sub-total (Per Local Rule 71.6) | \$ _____ |
| 5. Advanced court costs. | \$ _____ |

Total

\$ _____

Approved and authorized:

Guardian

Attorney

IT IS SO ORDERED.

Judge

**APPENDIX D
TRUSTEE'S FEE COMPUTATION
IN THE PROBATE COURT OF SENECA
COUNTY, OHIO**

Case Name: _____ Case Number: _____

- | | | |
|---|-----|----------|
| 1. 6% of the first \$1,000.00 | fee | \$ _____ |
| 2. 4% of the next \$4,000.00 | fee | \$ _____ |
| 3. 2% of all income over \$5,000.00 | fee | \$ _____ |
| 4. Principle | | |
| Fee of \$1.50/\$1,000.00 on first \$500,000.00 | | \$ _____ |
| Fee of \$1.00/\$1,000.00 on balance over \$500,000.00 | | \$ _____ |
| | fee | \$ _____ |
| 5. Principle Distribution Fee
1% | fee | \$ _____ |

RECAPITULATION

Item 1 Fee	\$ _____	
Item 2 Fee	\$ _____	
Item 3 Fee	\$ _____	
Item 4 Fee	\$ _____	
Item 5 Fee	\$ _____	
Item V. Fee	\$ _____	
Extraordinary Fees (from application)	\$ _____	
Total Fees Requested		\$ _____

ATTORNEY'S SIGNATURE

FIDUCIARY'S SIGNATURE

Typed or Printed Attorney's Name

Typed or Printed Fiduciary's Name

Date Approved by the Court

Jay A. Meyer, Probate Judge

APPENDIX D-1
TRUSTEE FEE GUIDELINES

1. Income from realty and personal as follows:
 - 6% of the first \$1,000.00
 - 4% of the next \$4,000.00
 - 2% of all income over \$5,000.00

2. In addition thereto, there shall be a fee allowed of \$1.50 per \$1,000.00 on the first \$500,000.00 of the corpus of the trust and \$1.00 per \$1,000.00 on the balance over \$500,000.00. This amount shall be based upon the reasonable current market value of the corpus both real and personal handled by the fiduciary chargeable to the principal, except that, with the written consent of the income beneficiaries, all or a portion of said fee may be chargeable to income.

3. In addition thereto, there shall be a distribution fee on the corpus both real and personal of 1% based upon the reasonable market value of the property at the time of distribution.

4. Except on special application, when an attorney or his associate or partner serve in the dual capacity as attorney for the trust or trustee, the total fees charged in both capacities shall not exceed one and one-half times the trustee's fee allowable.

**APPENDIX E
COMPUTATION OF EXECUTOR/ADMINISTRATOR FEES
IN THE PROBATE COURT OF SENECA COUNTY, OHIO**

Estate of: _____ Case Number: _____

Total personal property probate assets
and real estate sold under authority in
will or order of court per 2113.35 \$ _____

\$1 - \$100,000.00	\$ _____	x .04 =	\$ _____	
\$100,001 - \$400,000.00	\$ _____	x .03 =	\$ _____	
\$400,001 -	\$ _____	x .02 =	\$ _____	

SUB TOTAL \$ _____

REAL ESTATE NOT SOLD
Appraiser Value \$ _____ x .01 = \$ _____

Real Estate not subject to administration but is includable for
purposes for computing Ohio Estate Tax, except joint and
survivorship property. Appraised value \$ _____ x .01 = \$ _____

All property not subject to administration that is
includable for purposes of computing Ohio Estate
Tax, except joint and survivorship property. \$ _____ x .01 = \$ _____

PER AGREEMENT TOTAL \$ _____

ATTORNEY'S SIGNATURE

FIDUCIARY'S SIGNATURE

Typed or Printed Attorney's Name

Typed or Printed Fiduciary's Name

Date Approved by the Court

Jay A. Meyer, Probate Judge

APPENDIX E-1
EXECUTOR/ADMINISTRATOR GUIDELINES
O.R.C. 2113.35

4% on the first \$100,000

3% on all above \$100,000 and not exceeding \$400,000

2% on everything over \$400,000

1% on the value of real estate that is not sold

1% on the value of all property that is not subject to administration and that is includable for purposes of the Ohio estate tax, except joint and survivorship property.

**SENECA COUNTY PROBATE COURT RECORDS RETENTION
SCHEDULE**

<i>Record Title</i>	<i>Retention Period</i>	<i>Media Type</i>
Administrative	Sup. Rule 26.01	
Bank Records	3 years (and completed audit)	Paper
Cash Books	3 years (and completed audit)	Paper
Daily Correspondence (messages, notes, emails not essential to case file)	Destroyed in course of business	Various
Supreme Court (Annual) Report	2 Copies kept permanently	Paper
Employment applications	2 years for posted positions	Paper
Employee Benefit and Leave (insurance info/applications)	3 years (and completed audit)	Paper
Employee History and Discipline	10 years after termination	Paper
Fiscal (budgets and purchasing)	3 years	Paper
Payroll Records	3 years	Paper
Receipts and Cashbook Balancing	3 years (and completed audit)	Paper
Contracts, Bids, Proposals	3 years	Paper
Case Records	Sup. Rule 26.04	
Adoptions	Permanent	Paper
Birth Records	Permanent	Paper
Death Records	Permanent	Paper
Estates	Permanent	Microfilm
Civils	Permanent	Microfilm
Marriage	Permanent	Paper

<i>Record Title</i>	<i>Retention Period</i>	<i>Media Type</i>
Non-adj. Civil Commitments	Destroyed upon dismissal	Paper
Civil Commitments	3 Years after Closing	Paper
Trusts	Permanent	Microfilm
Guardianships	Permanent	Microfilm
Name Changes	Permanent	Microfilm
All Other Case Types	Permanent	Microfilm
Indexes, Journals, Dockets	Permanent	Microfilm
Audio, Video, Steno, Transcripts (any media used to record a hearing)	10 years	Audio
Exhibits	45 days following expiration of appeal time	Various