

RULES OF PRACTICE AND PROCEDURE
FOR THE
COURT OF COMMON PLEAS
PROBATE/JUVENILE DIVISIONS
OF
CARROLL COUNTY

EFFECTIVE DATE: SEPTEMBER 17, 2021

HONORABLE SEAN R.H. SMITH, JUDGE

CARROLL COUNTY COMMON PLEAS
PROBATE/JUVENILE COURT
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Pursuant to the authority granted in Article IV section 5(B) of the Constitution of the State of Ohio and the Rules of Superintendence for the Courts of Ohio, it is Ordered that the following be the Rules of Practice and Procedure in the Common Pleas Court – Probate/Juvenile Divisions of Carroll County, Ohio.

RULE 1 COMPLIANCE

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

RULE 2 LOCAL RULES

The Probate/Juvenile Division of the Court of Common Pleas may adopt supplementary rules concerning local practice which are not inconsistent with these rules. Such rules shall be filed with the Supreme Court.

These Rules replace all previous Rules adopted by this Court.

RULE 3 HOURS OF SESSION

The Probate/Juvenile Courts shall be open for the transaction of business from 8:00 A.M. to 4:00 P.M. Monday through Friday each week except on those days designated by law as legal holidays. Such days and hours may be modified by the Judge to meet special circumstances or the exigencies of trial.

RULE 4 CASE MANAGEMENT

The Deputy Clerk of the Probate Court and the Deputy Clerk of the Juvenile Court shall monitor the progress of all cases and shall report directly to the Judge the status of all pending matters before the Court. Legal counsel shall be advised of the status of their cases from time to time, as required by the Judge.

Said respective Deputy Clerks shall keep appropriate records, issue necessary notices and compile required counts of pending cases for reporting purposes to the Supreme Court of Ohio.

In those cases where service has not been made within thirty (30) days of filing upon the party to be served, the Deputy Clerk shall notify Plaintiff's or Movant's counsel. If service has not been accomplished within thirty (30) more days, the Court shall dismiss said action for want of prosecution, subject to refileing.

RULE 5 COURT RECORDS

The Judge, as ex-officio Clerk of Probate and Juvenile Court, is responsible for all pleadings and papers filed.

Attorneys and recognized real estate title abstractors are permitted to withdraw files of this Court only upon signing a receipt for the same at the time of withdrawal and upon the following conditions

- A. No active files may be withdrawn under any circumstances.
- B. Closed files may be withdrawn, but shall be returned within three (3) business days. The date of removal shall be noted on the receipt signed by the Attorney removing the file.
- C. Attorneys and abstractors who fail to return files on time may be denied the privilege of this rule.
- D. Adoption, Juvenile and Mental Illness case files are confidential. Access to these files may be authorized by the Court only and in its discretion.
- E. A Citation for Contempt of Court shall be issued against anyone who divulges or receives confidential information from the Adoption or Mental Illness files without authorization of the Courts.

Copies of all pleadings and journal entries of record shall be available to counsel representing any party to a case.

When a member of the general public requests copies of records or to review records maintained by this Court, the employee shall ask that individual to complete a "Request for Public Record" and submit it to any clerk of the Court. However, a request for documents does not have to be in writing to be considered a formal request (Zauderer vs. Joseph, 62 Ohio App. 3d 752; 577 N.E. 2d 444 (Franklin County)). If the requester will not complete the form, the clerk shall complete the form to the best of her/his knowledge before providing copies of the documents. After a clerk reviews the request, the clerk shall provide said copies within a reasonable time unless the information requested is excluded from public inspection.

The following records or information are excluded from public inspection and shall not be released to the general public.

- A. Adoption records or documents (RC §149.43(A)(1))

B. Probation documents including community service, theft diversion and Reach Our Youth documents for children on probation. (RC §149.43)

C. Judge's trial notes (RC §149.43)

D. Putative father registry information (RC §149.43(c))

E. Records of Minors seeking approval for an abortion (RC §149.43(A)(1))

F. DNA records (RC §149.43(A)(1))

G. Records maintained by the Department of Youth Services pertaining to children in its custody released to the Department of Rehabilitation and Correction (RC §149.43(A)(1))

H. Estate tax returns in the possession of the Probate Court, Department of Taxation, County Auditor, County Treasurer, Attorney General (RC §5731.90)

I. Medical Records which include documents pertaining to medical history, diagnosis, prognosis, or medical condition of a patient including psychiatric history, diagnosis and prognosis (RC §194.43(A)(1) and (3) and §2151.14 and JUV.R. (B))

J. Confidential Law Enforcement investigatory records which would create a high probability of an information source or witness who was promised confidentiality, specific investigatory work, information that would endanger the life or physical safety of a victim, witness, confidential information source or law enforcement personnel (RC §149.43(A)(1) and (2)(a)-(d))

K. Sealed or Expunged records (ORC §2151.358)

L. Recording of Proceedings or adjudicatory and dispositional proceedings in abuse, neglect, dependent and unruly and delinquent cases, and permanent custody cases. Proceedings include receiving an admission or denial as well as evidentiary hearings. Recordings shall be released at the Judge's discretion (R.JUV.P. 37(B))

M. Fingerprints and Photographs and records of an arrest or custody that was the basis for taking the photograph or fingerprint (RC §2151.313(D)(3))

RULE 6 CONDUCT IN THE COURTROOM

Any conduct that interferes or tends to interfere with the proper administration of the Court is prohibited. Persons who are not parties to the case shall not be allowed in the Courtroom for confidential juvenile and probate cases only with the consent of the Court.

No pagers or cell phones shall be permitted in the Courtroom unless audible signal is turned off.

Proper attire and demeanor are required at all times for parties appearing before the Court.

RULE 7 RECORDING OF PROCEEDINGS - TRANSCRIPTS

A. All testimony or other oral proceedings shall be recorded by audio electronic means. The original electronic audio recording of the proceeding will not be made available to any party, person, or entity. If a transcript is requested, the Court may retain the services of a court reporter to type the audio transcript. The party, person, or entity requesting the transcript shall be responsible for the costs and expenses of the court reporter unless the transcript is for purposes of appeal and the requesting party is indigent. All recorded transcripts of proceedings and exhibits shall be maintained by the court for a minimum of three (3) months from the date of the final appealable order in the case or final decision on appeal, whichever is later.

B. A one hundred dollar (\$100.00) deposit is required at the time a transcript is requested. Transcript fees are set at \$3.75 per page for the original transcript. Copies will be provided for a fee of \$2.50 per page. If the transcript is requested for purposes of appeal and the requesting party is indigent, the fee will be \$3.00 per page for the original transcript and \$1.50 per page for copies, which will be paid by the Court. Transcripts will not be released until payment of the fees has been made in full to the Deputy Clerk.

RULE 8 BROADCASTING/PHOTOGRAPHING PROCEEDINGS

The Judge may permit the broadcasting or recording by electronic means and the taking of photographs in court proceedings that are open to the public as provided by Ohio law and in conformity with Rule 12 of the Rules of Superintendence of the Courts of Ohio.

Requests for variance from this Rule shall be submitted to the Judge in writing, and the Court's ruling on the request shall be made a part of the record.

The Judge shall specify the place or places in the Courtroom where media representatives are to be seated or positioned.

For recording and broadcast purposes, microphones and other electronic equipment necessary for the audio pickup shall be as inconspicuous as possible, but may be visible.

Arrangements between or among media for “pooling” of equipment shall be the responsibility of the media representatives. “Pooling” arrangements are to be made outside the Courtroom and without imposing on the Judge or Court personnel. If disputes arise over arrangements between or among media representatives, the Judge may exclude all contesting representatives from the proceedings.

The Judge may prohibit the use of electronic or photographic equipment that produces distracting sound or light. No artificial lighting other than that normally used in the Courtroom shall be employed.

To the extent practicable, media representatives shall be afforded a clear view of the proceedings, but shall not be permitted to move about in the Courtroom during proceedings from the places where they have been positioned by the Judge, except to leave or enter the Courtroom. Provided, however, that once proceedings have commenced, the Judge may restrict media representatives from leaving or entering the Courtroom until an appropriate break in the proceedings is recognized by the Court.

There shall be no audio pickup or broadcast of conferences conducted in a Court facility between attorneys and clients or of conferences conducted at the bench between Counsel and the Judge.

Media representatives shall not be permitted to transmit or record anything other than the Court proceedings from the Courtroom while the Court is in session.

The Judge shall inform Jurors, Victims, and Witnesses of their right to object to being filmed, videotaped, recorded or photographed, and media representatives shall honor any such objection. This Rule shall apply not only in the Courtroom but also within the Court facility and grounds.

Any violation of this Rule by a media representative may result in exclusion of that media representative and media source from further proceedings; confiscation of the media equipment then being utilized by the representative

pending conclusion of the proceedings and further Hearing; and such other sanctions as the Court may deem appropriate for contempt.

This Rule shall not be construed to grant media representatives any lesser or greater rights than permitted by law.

RULE 9 COURT APPOINTED COUNSEL

The Court shall maintain a list of appointees qualified to serve in the capacity designated by the Court. Any attorney licensed to practice in the State of Ohio may submit his/her name for inclusion on the appointment list. The Court may consider the skill and expertise of the appointee in the designated area of the appointment and the management by the appointee or his or her current caseload.

An attorney appointed by the Court to provide legal representation for an indigent shall be compensated, pursuant to law and a schedule adopted by the Board of Carroll County Commissioners. The reasonableness and award of such fees is left to the Court's discretion.

Fees and expenses for representation shall be submitted to the Court on the forms established by the Office of the Ohio Public Defender within 30 days of the final disposition. Applications for fees, which are greater than the maximum allowed by the Carroll County Fee Schedule for Assigned Counsel, must be accompanied by a Motion for Extraordinary Fees and a Judgment Entry.

RULE 10 COUNSEL OF RECORD

Each attorney representing a party in this Court and who is not Court-appointed shall see that he or she is properly listed as counsel of record for said party in accordance with JuvR 4(D) by filing a written notice with the Court. Failure to so notify the Clerk shall be deemed a waiver of any notice required under these Court rules. The Attorney may also appear personally at a Court hearing and inform the Court of said representation.

The Court will not consider such representation to continue for the purpose of any case other than the particular case in which appearance is entered, unless otherwise notified in writing.

Subsequent to entering an appearance, the attorney or his or her firm will be considered counsel of record until such time as a Journal Entry of withdrawal is approved by the Court and filed in the case.

RULE 11 LEAVE OF COUNSEL REQUIRED

A. Counsel for any party shall be permitted by the Court to withdraw from an action in all cases where he or she is obligated or permitted to withdraw under Disciplinary Rule 2 - 110 of the Ohio Code of Professional Responsibility.

B. When counsel's client consents to counsel's withdrawal, counsel shall file with the Court a written Motion to Withdraw, together with an entry and appearance of substitute counsel. The Court need not allow a continuance of the matter because counsel has been substituted.

C. In all other cases counsel shall file a written Motion to Withdraw with the Court and counsel shall send written notice to the client of the time, date, and place of the hearing of the Motion by certified mail, return receipt requested. A copy of said notice shall be attached to the Motion. In the event that counsel is unable to locate his client, he/she shall submit with his/her Motion a statement as to his/her efforts to communicate with his/her client.

D. If the Motion is granted, counsel shall notify his/her client of his withdrawal by sending a copy of the Entry by certified mail, return receipt requested, at the client's last known address. A copy of the Entry permitting withdrawal shall be filed and docketed by the Clerk, with a copy provided to the Assignment Commissioner and all other counsel of record of parties unrepresented by Counsel.

RULE 12 COMMUNICATIONS WITH JUDGE

A. No attorney or party shall discuss the merits either orally or in writing, of any litigation with the Judge presiding over the matter before final disposition thereof without the presence of or by mailing or delivering a copy of any writing to opposing counsel or the party, if not represented.

B. If it is determined that an issue in a pending action needs to be discussed with the Judge prior to hearing or disposition of the action, the attorney desiring said conference may, with notice to or concurrence of opposing counsel, request a conference with the Judge.

RULE 13 MEDIATION

The Court shall maintain a list of those who are certified to act as a mediator. Appropriate cases may, upon completion of necessary pleadings or motions, be referred by the Judge to a mediator for a mediation conference. In addition, the parties themselves may initiate mediation. The Court shall be given

notice of any mediation initiated by the parties. During such time as the case is being mediated, all further action in the case shall be stated.

The mediator shall file a Report of Mediation at the conclusion of the mediation whether it is successful or not.

Statements made during a mediation conference are subject to Evidence Rule 408

RULE 14 JURY TRIALS

A. Any party to an appropriate Probate matter may demand a trial by jury by serving upon the other parties a demand therefor at any time after the commencement of the case and not later than fourteen days after the last pleading directed to such issue.

B. Any party demanding a trial by jury shall, upon the filing of the demand, also pay the additional deposit as set forth in Rule 34 hereof.

C. Unless the party making the demand specifies the issues to be tried by jury, all issues will be deemed to have been demanded for trial by jury.

D. All communication between the Trial Judge and the Jurors, from the time prospective Jurors report to the courtroom until the Jury is dismissed, shall be either in writing or on the record. The parties shall be advised of such communications and shall be given an opportunity to be heard.

E. A Jury shall be sequestered only for good cause. Good cause includes insulating members of a Jury from improper information or influence. The Trial Judge shall have discretion to sequester a Jury on motion or **sua sponte** and shall have the responsibility to set and manage the conditions of sequestration in order to achieve the purpose and to minimize the inconvenience and discomfort of Jurors. Court personnel shall be given training as to escorting and assisting Jurors during sequestration.

RULE 15 AUTHORITY OF PROBATION OFFICERS

A. With confirmation and approval of the Judge, Juvenile Probation Officers shall have the power and authority to take a child into custody and to place the child into detention or shelter care upon the request of law enforcement or when in their judgment there is probable cause to believe the child has committed an offense that would be a crime if committed by an adult or probable cause to believe the child is unruly and the child is a danger to himself/herself or

others or a substantial flight risk. The Court shall hold a hearing on any child so detained no later than the end of the Court's next business day following such detention.

B. Juvenile Probation Officers are authorized to provide transportation for the child to and from the detention facility for court purposes in County owned vehicles.

C. Juvenile Probation Officers of the Carroll County Common Pleas Court, Juvenile Division, shall be and hereby are vested with power and authority, prior to a detention hearing, to release a child from detention or shelter care, and to place him or her in house arrest with his or her parent, guardian or custodian, or other person able to provide supervisory care and able to return the child to Court when required.

D. Juvenile Probation Officers shall remove physical restraints placed on a child prior to the commencement of a proceeding unless the Court determines on the record, after providing an opportunity to be heard, that there is no less restrictive alternative and that the physical restraint of the child is necessary because of either of the following:

- 1.) The child represents a current and significant threat to the safety of the child's self or others;
- 2.) There is a significant risk that the child will flee the courtroom;
- 3.) Juveniles who are pregnant or postpartum up to six weeks after childbirth shall not be restrained except in accordance with RC§2152.75.

RULE 16 COURT SECURITY PLAN

Pursuant to C.P. Sup R.9(D), the court establishes as follows:

A. Together with the General Division, this Court shall appoint a "Local Security Advisory Committee" (consisting of at least one representative of the following groups in Carroll County: the judges, law enforcement agency responsible for courthouse security, funding authority, local Bar Association, and the community as deemed appropriate by the Court);

B. The Courts shall develop and implement a local "Security Policy and Procedure Plan" that will address the Ohio Court Security Standards adopted by the Supreme Court of Ohio on October 17, 1994.

C. The "Local Security Advisory Committee" shall as soon as practicable adopt a Security Operations Manual which shall create written directives for the purpose of ensuring security within the Court while preserving

accessibility to the public. The Security Operations Manual shall not be available for public access.

RULE 17 PARENTING TIME SCHEDULE

Pursuant to RC §3109.051(F)(2), this Court adopts as a standard minimum parenting time schedule as set forth hereinafter as Appendix "D & E". Said guidelines may be modified as appropriate upon hearing in conformity with RC §3109.051(D).

RULE 18 SPECIAL PROJECTS

Pursuant to RC §2303.201(F)(1), the Court determines that for its efficient operation, additional fees are necessary to acquire and pay for Special Projects of the Court that are permitted by the statute.

Therefore, effective October 3, 2005, it is Ordered that the Deputy Clerk of Juvenile Court is authorized and directed to charge as court costs a fee of \$5.00 per case or filing for the Special Projects Fund for the Court of Common Pleas, Juvenile Division for all cases and post-judgment motions including, but not limited to delinquency, unruly, juvenile traffic offense, juvenile tobacco offender, domestic relations case or motion, contributing, paternity and other civil causes of action.

RULE 19 JUVENILE COURT COSTS AND DEPOSITS

ABUSE, NEGLECT, DEPENDENCY (Private filings)	\$65.00
ALL TRAFFIC CASES	\$65.00
APPLICATION FOR COURT APPOINTED COUNSEL	\$25.00
DELINQUENCY AND UNRULY CASES	\$65.00
FELONY DELINQUENCY CASES	\$95.00
COMPLAINTS (Parentage/Custody/Visitation/Support)	\$70.00
RE-OPENING OF CUSTODY CASE	\$50.00
SERVICE BY PUBLICATION	\$100.00
PERSONAL SERVICE (within Carroll County)	\$50.00
PERSONAL SERVICE (outside Carroll County)	\$150.00

RULE 20 ATTORNEY REGISTRATION NUMBER

Effective January 1, 1992, every attorney at law licensed to practice law in this state shall include his/her Ohio Supreme Court registration number on all documents filed in this Court.

RULE 21 FILINGS AND JUDGMENT ENTRIES

A. All filings, (except wills), shall be on eight and one-half by eleven inch paper, without backings.

B. All papers filed shall contain the name, address, telephone number and e-mail address of the individual counsel representing the fiduciary and, in the absence of counsel, the name, address, telephone number and e-mail address of the fiduciary or pro se party. Any paper not containing the above requirements may be refused for filing by the Court.

C. Upon prior approval of the Court, pleadings, reports and documents may be filed by email or the facsimile provided, however, an initial case filing shall not be filed by facsimile or email. The Court's facsimile number is 330-627-6004. The Court's email address is: for Juvenile: vimes@carrollcountyohio.us; for Probate: dlefevre@carrollcountyohio.us

D. No pleading filed by email or facsimile that requires a filing fee shall be accepted by the Clerk until the court costs or fee has been paid.

E. Papers containing partially or wholly illegible signatures of counsel, parties or officers administration oaths may be refused for filing, or if filed, may be stricken from the files, unless the typewritten or printed name of the person whose signature is purported to appear is clearly indicated thereon.

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

G. Briefs shall be less than fifteen pages unless written permission is granted by the Court. All unreported cases cited in the brief must be attached and is not counted toward the fifteen page maximum limit.

RULE 22 JUDGMENT ENTRIES AND ORDERS

A. In all juvenile traffic offender, delinquency, unruly, adult criminal, paternity, and support cases, the Court will prepare all orders unless otherwise ordered.

B. Judgment Entries in abuse, neglect, and dependency cases shall be prepared by the assistant prosecuting attorney on behalf of the Carroll County Department of Job and Family Services unless the Court otherwise directs.

C. Judgment Entries in custody or visitation cases shall be prepared by the Court unless the parties are in agreement, in which case the Entries shall be prepared by counsel for the parties unless the Court otherwise directs

D. Judgment Entries in contested probate cases shall prepared by the Court unless the parties are in agreement, in which case the Entries shall be prepared by counsel for the parties unless the Court otherwise directs.

E. Judgment Entries prepared by designated counsel shall be submitted to the Court for filing within fourteen (14) days of the date of the pretrial conference or hearing unless that time period is extended at the discretion of the Court. Failure to submit entries within the required time may result in the issuance of a notice of intent to dismiss.

RULE 23 DISMISSALS

Due to the statistical reporting requirements imposed by the Rules of Superintendence, all dismissals of original actions and post-judgment matters must be approved by the Court. A dismissal on the appearance docket by counsel is not effective until approved or ordered by the Court.

Cases which have been on the docket for six (6) months without any proceedings taken therein, except those awaiting final trial assignment, shall be subject to dismissal by the Court, after notice to counsel of record or to a pro se party, for want of prosecution unless good cause is shown to the contrary.

RULE 24 FAILURE TO APPEAR OR FAILURE TO COMPLY

Should a party or counsel fail to appear at a conference held pursuant to this Rule or fail to comply with the directions set forth in the Rule, an ex-parte hearing may be held and judgment of dismissal or default or other appropriate judgment may be entered and sanctions imposed.

RULE 25 PERSONAL IDENTIFIERS

Social Security Numbers, except for the last four digits, and all financial account numbers, employer and employee identification numbers, are personal identifiers which are confidential pursuant to Sup. Rule 44 and shall not be included in any filing in this Court that is available for inspection by the general public. The responsibility for redacting personal identifiers rests solely with the person filing or submitting the document or their attorney. The Court shall not review documents for compliance with this rule, or redact documents, or seal documents that fail to comply with this rule.

RULE 26 SUMMONS AND NOTICE

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 any case where personal service of summons or notice is required or requested, an additional deposit is required for service as set by these rules.

RULE 27 CIVIL / PROBATE / JUVENILE ACTIONS

I. PRE-TRIALS

A. The Court may schedule a Pre-Trial Conference in any matter before the Court where it appears that it is beneficial for isolation of issues and to explore settlement possibilities. Any party may request a Pre-Trial and for good cause shown, the Court shall schedule a Pre-Trial Conference.

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

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

D. When all issues preliminary to trial have been resolved, the Court shall set a trial date. At that time the court may issue a trial order and schedule a final Pre-Trial Conference at which all counsel and clients shall be present.

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

II. LAND SALES

All land sales which have not been concluded within one (1) year from the date of filing shall be set for a Pre-Trial Conference

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

A. The attorney of record and the fiduciary must attend the Pre Trial Conference. Upon application of the fiduciary, and for good cause shown, the Court may excuse the presence of the fiduciary.

B. A written status report shall be filed with the Court on or before the date set for the Pre-Trial Conference which the report shall address issues as to the efforts being made to sell the real estate and when the case will be closed.

III. DECEDENT'S ESTATES

A. The inventory and accounts shall be filed within the statutory time periods (RC §2115.02 and RC §2109.30) unless an extension has been granted by the Court. The citation procedure (RC §2109.31) shall be utilized if necessary to gain compliance.

B. The Court shall set a Pre-Trial Conference within thirty (30) days of the filing of objections to an inventory and objections to an account.

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

C. The fiduciary in all decedent's estates, which are current as to filed accounts, that remain open after a period of one (1) year shall be subject to a status conference. At the status conference, the fiduciary shall submit a written status report.

IV. WRONGFUL DEATH SETTLEMENTS

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

V. GUARDIANSHIPS

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

VI. TRUSTS

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

VII. MOTIONS

A. The moving party shall file and serve with the motion a brief written statement of support and a list of citations of authorities in support. Opposing counsel or a party may file and serve a response memorandum within fourteen (14) days thereafter.

B. All motions shall be determined upon the pleadings without oral hearing unless an oral hearing is requested in writing for good cause shown.

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

RULE 28 GUARDIAN AD LITEM

A. The guardian ad litem will advocate for the best interest of the child and shall assist the Court in its determination of the best interest of the child.

B. In order to be appointed as a guardian ad litem, the individual must complete the training and education approved by The Supreme Court of Ohio. In addition, they must consent to a criminal and civil background check for the Court to determine their fitness to serve as a guardian ad litem.

C. A guardian ad litem shall perform the following duties:

- 1.) Meet with the child at least once before dispositional or other hearing or state in his or her written report why such meeting is impracticable or unnecessary.
- 2.) Meet with each parent separately as well as observe the child's interaction with each parent or state in his or her written report why this is impracticable or unnecessary.
- 3.) Observe the residence or proposed residence of the child.
- 4.) Interview the child, if age and developmentally appropriate, and ascertain the wishes and concerns of the child.
- 5.) Contact any medical or mental health providers who may be involved.
- 6.) Contact any counselors who may be involved.
- 7.) Contact the child's school if of school age.
- 8.) File a written report and distribute copies to counsel and parties at least seven (7) days prior to any initial dispositional hearing, permanent custody hearing upon a motion requesting a change in disposition. Counsel may permit their clients to read the report and discuss it with them. Conversations that a guardian ad litem has with parents and the child are not confidential in nature. The guardian ad litem may petition the court to restrict distribution of the report for good cause shown.

D. A guardian ad litem may request the Court to order any party to submit to any assessment or evaluation whether physical, psychological, psychiatric, of parenting skills and abilities, or related to issues of substance abuse. Should such a request be made, the Court shall afford all parties a reasonable opportunity to respond. Should the Court order an assessment or evaluation, it shall determine the party or parties responsible for payment of same. The Court may tax the charges as costs where appropriate.

E. A guardian ad litem shall appear and participate in any hearing for which the duties of a guardian ad litem or any issues substantially within the scope of appointment of the guardian ad litem are to be addressed.

F. Guardian ad litem appointed in delinquency, unruly, and abuse/neglect/dependent cases shall be paid in accordance with the guidelines established by The Ohio Public Defender's Office or by contract or agreement with the Court Appointed Special Advocates (CASA) office. All other guardian ad litem shall be paid directly by the parties as ordered and apportioned by the Court.

G. Complaints regarding the performance of guardians as litem shall be submitted to the judge in writing for consideration and appropriate action in accordance with Sup. Rule 48.07 (J).

RULE 29 FIRM TRIAL DATES

Firm trial dates will be fixed by the Court at the earliest possible stage in the proceedings as deemed appropriate by the Court.

When a firm trial date has been set by the Court, continuances will not be granted for the convenience of any attorney or party, or by reason of assignments of counsel in another court except for good cause shown where the attorney can prove that he had no way of knowing of the conflict sufficiently in advance of the trial date to obtain competent counsel to substitute for him in the trial of the case assigned, or for other good cause shown in which the Court believes, in the interest of justice, the trial must be continued.

RULE 30 CONTINUANCES

Requests for continuances shall be submitted in writing by Motion and proposed journal entry which shall state:

- A. The reason for the request shall be noted. If the continuance is requested on the cause of a conflict with another Court, the Motion shall include the name of the Judge, name of the case, case number, the date and time of conflict and when the case was scheduled for trial.
- B. The Entry shall include language as follows: This matter has been continued to (day) , (date) , at (time) . The new date shall be obtained from the Deputy Clerk.
- C. A second continuance request by the same counsel for the same matter shall bear the signature of the client, as well as counsel's signature.
- D. Requests for continuances shall be made at least ten (10) days prior to the trial or hearing date, emergency and sufficient cause (such as illness) excepted.
- E. Counsel shall attempt to gain consent to the continuance by the adverse party or his counsel, who shall sign their approval to the proposed Entry, emergency excepted.

RULE 31 MOTIONS FOR SUMMARY JUDGMENT

Motions for Summary Judgment shall be managed in compliance with Civil Rule 56. Motions for Summary Judgment shall be decided without oral argument, unless oral argument is requested and found to be necessary by the Court.

Pursuant to Rule 56 (c), the Court shall set a hearing date by entry and cause notice to be served upon counsel.

The Court shall decide the Motion for Summary Judgment based upon the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts or evidence and written stipulations of fact timely filed. Documents not expressly mentioned in Rule 56 (c) shall be attached to an affidavit and filed. To avoid exclusion by the Court, the documents must be properly filed with the Deputy Clerk. No document unfiled with the Deputy Clerk shall be considered.

RULE 32 FINDINGS OF FACT AND CONCLUSION OF LAW

When a request under Rule 52 of the Ohio Rules of Civil Procedure is timely made for findings of fact and conclusion of law, the Court may direct the party making the written request to prepare within seven (7) days proposed findings of fact and conclusions of law and submit them to the Court and to opposing counsel and parties unrepresented by counsel.

Within seven (7) days thereafter, opposing counsel or a party unrepresented by counsel shall submit any objections or counterproposals to the Court in writing. Only those findings of fact and conclusions of law made or adopted by the Court shall be incorporated into the record.

RULE 33 PRO SE MOTIONS

The Court will accept a Pro Se Motion and schedule the Pro Se Motion for a hearing if all of the following apply:

- A. The motion contains all of the required information for filing including the case name and number;
- B. The motion is typed or legibly handwritten in ink;
- C. The original motion and one copy is provided to the Court;
- D. The motion states clearly the relief sought and with particularity the grounds for the relief;
- E. The motion is signed by the person seeking relief.
- F. A precipe for service is filed.

If the motion does not include all of the above, the Court will request a properly completed Pro Se Motion before scheduling a hearing.

RULE 34 PROBATE COURT COSTS AND DEPOSITS

The Court reserves the right to require advance deposits at any time and such advance deposits shall be in accordance with the following schedule:

A. FULL ESTATE ADMINISTRATION (With or Without Will)	\$50.00
B. RELEASE OF ESTATE FROM ADMINISTRATION	\$125.00
C. GUARDIANSHIPS	\$100.00
D. TRUSTS	\$100.00
E. LAND SALE PROCEEDINGS	\$100.00
F. JURY DEMAND	\$500.00
G. WRONGFUL DEATH	\$50.00
H. CIVIL ACTIONS NOT OTHERWISE LISTED	\$50.00
(Civil Action, Determination of Heirship, Declaratory Judgment, Exceptions to an Inventory, Exceptions to an Account, etc.)	
I. SUMMARY LAND SALE	\$50.00
J. APPLICATION FOR ADOPTION	\$200.00
K. CHANGE OF NAME/NAME CONFORMITY	\$71.00
L. SUMMARY RELEASE	\$70.00
With Certificate of Transfer	\$77.00
M. ANCILLARY ADMINISTRATION	\$50.00
N. RE-OPEN ESTATE	\$35.00
O. WILL – DEPOSIT ONLY	\$35.00
P. AUTHENTICATED COPIES ISSUED	
(plus \$0.10 per page for certified copies)	\$10.00
Q. BIRTH CORRECTION	\$25.00
R. BIRTH REGISTRATION	\$25.00
S. DISINTERMENT	\$35.00
T. MARRIAGE LICENSE	\$50.00
U. MINOR’S SETTLEMENT	\$50.00
V. OHIO ESTATE TAX RETURN ONLY	\$50.00
W. CERTIFIED COPIES OF MARRIAGE RECORDS	\$ 3.00
X. ALL COPIES (per page)	\$ 0.10
Y. SPECIAL PROJECTS	\$25.00
Z. SERVICE BY PUBLICATION	\$100.00
AA. PERSONAL SERVICE	\$50.00

Upon depletion of any advance deposit, additional deposits may, from time to time, be ordered by the Court.

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

The record of the Court is kept by a taping system and the Court shall assess a minimum fee of \$25.00 for each proceeding taped. All matters are taped, unless counsel waives a record. Waivers of records may be in writing or orally made before commencement of the proceeding.

RULE 35 APPLICATION TO PROBATE A WILL (STANDARD FORM 2.0)

A. Notice of Probate of a Will shall require at least seven (7) days written notice when complying with RC §2107.13.

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

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

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

RULE 36 APPLICATION FOR LETTERS OF ADMINISTRATION

A. Any person who files an Application for Letters of Administration shall cause to be served upon such persons as required by law, written notice of the time and place of the hearing on the application. Waivers may be filed as permitted by the Ohio Rules of Civil Procedure. All written notices must contain the time and place of the hearing and shall be served upon such persons at least seven (7) days prior to the date set for hearing.

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

C. Any person who files an Application for Letters of Administration in an

estate where there is no surviving spouse resident of Ohio and no known next of kin resident of Ohio, shall cause to be served on the spouse and all competent next of kin, if any, residing outside of the state, known to the applicant, a written notice of the time and place of the hearing.

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

D. An applicant to be appointed fiduciary of a decedent's estate or trust, who is not a resident of the State of Ohio, must be in compliance with RC §2109.21 and use as counsel of record as an attorney licensed to practice law in Ohio. All nonresident fiduciaries are required to post bond pursuant to RC §2109.04(A)(1).

RULE 37 FIDUCIARY BONDS

A. Pursuant to RC §2109.04(A)(2), if the instrument dispenses the giving of bond, the Court will appoint a fiduciary without bond unless in the opinion of the Court the interest of the estate or trust demands it.

B. Should the instrument not dispense with the giving of bond, or if there is no instrument, the Court may nonetheless upon an application to dispense with bond and waivers of bond signed by all vested beneficiaries or heirs entitled to inherit, dispense with the giving of bond.

C. Where a bond is necessary or required, the applicant shall post a surety bond twice the probable value of the personal estate or such other amount as determined to be appropriate by the Court.

RULE 38 APPOINTMENTS AND COMPENSATION OF APPRAISERS

A. When requested, the Court, upon application, shall appoint an appraiser that possesses the qualifications, training, experience, or ability, who is not related by blood or marriage to the decedent, nor a beneficiary of the estate, nor related by blood, marriage or employment to the attorney for the estate, nor related by blood or marriage to the fiduciary.

B. The Court shall accept the County Auditor's market value for real estate. If the County Auditor's valuation is not utilized, the appraisal of real estate shall be made by a licensed real estate agent, broker, auctioneer, credentialed real estate appraiser, or such other person who by training and experience is qualified.

C. The fiduciary may use the value listed in the current N.A.D.A. Guide,

Kelley Blue Book, or other comparable guide to reflect the readily acceptable value of any motor vehicle without further appraisal. The fiduciary should provide to the Court a copy of the guide used.

D. Household goods that are appraised may be grouped as “One Lot”.

E. Fiduciaries, without special application to the Court, may allow to the appraiser as compensation for his or her services a reasonable amount agreed upon between the fiduciary and the appraiser, the same to be shown on the fiduciary’s account.

F. All appraisals shall be submitted in written form and shall: 1) identify the property with a general description; 2) be based upon a Market Value Data Approach to valuation; 3) list the amount appraised; 4) be dated; and 5) be signed by the appraiser.

RULE 39 INVENTORY

A. Notice of filing of the inventory shall be given in accordance with RC §2115.16. All waivers of hearing are to be filed at the time of the filing of the inventory. If all the waivers of hearing are not filed at the time of the filing of the inventory, the notices of hearing on inventory shall be prepared by the applicant or the attorney for the applicant and shall be submitted to the Court. The Court shall send the notices by certified mail to all of the following who are known to be residents of Ohio: 1) Surviving Spouse; 2) Next of kin and beneficiaries under the will; and 3) Attorneys representing any of the above.

B. The statutory time for filing of an inventory (ninety (90) days from date of appointment of fiduciary) shall be adhered to and citations may be issued when filings are late unless application for an extension of time for filing has been granted. Applications for 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.

RULE 40 DEATH CERTIFICATES

All estates presented to the court for Probate or presented for a Release from Administration shall have included a death certificate for the decedent. Such death certificate shall be filed within thirty (30) days of the initial filing and no estate shall be closed without a death certificate filed.

RULE 41 CLAIMS FILED WITH THE COURT

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

B. Whenever the Court requires a hearing on claims or the fiduciary requests a hearing on claims pursuant to RC §2117.17, the fiduciary shall file a schedule of all claims against the estate with the Court. The schedule of claims shall be filed with the fiduciary's application for hearing or within ten (10) days after the Court notifies the fiduciary of a Court-initiated hearing.

- C. A schedule of Debts shall be required to be filed by the fiduciary if:
1. The Court, upon its own Motion, shall so order;
 2. Any interested person shall, by Motion, request such a filing (counsel may anticipate that such Motion will be approved without notice);
 3. The estate appears at any time prior to six (6) months after appointment of the fiduciary to be insolvent;
 4. Any claim is presented which is thereafter rejected in whole or in part by the fiduciary.

RULE 42 APPLICATION TO SELL PERSONALTY

Where authority is given pursuant to the Will or where consents have been filed for all interested parties, the fiduciary may sell the personal property of the estate. In all other instances, the fiduciary may file an application for sale of the personal property along with a judgment entry and order of sale shall include an adequate description of the property to be sold and shall provide that the sale has been at the best price obtainable in the current market or at a price fixed by the Court. Except for good cause shown, an order of sale shall not be granted prior to the approval of the inventory or inventory and appraisal. No sale shall be confirmed until an affidavit is filed as required by RC §2109.45 and RC §2113.42.

RULE 43 ACCOUNTS

A. The statutory time for the filing of an account shall be adhered to and citations may be issued when filings are late, unless an application for extension of time for filing has been granted. The application shall set forth the time needed and the accompanying judgment entry shall have a blank space for the Court to insert the number of additional days granted.

B. If a fiduciary is delinquent in filing an account or exhibiting assets and no extension has been granted, a citation may be issued, requiring the fiduciary to appear forthwith and to show cause why the account has not been filed or why the assets have not been exhibited.

C. Each fiduciary's account shall include an itemized statement of all receipts of all disbursements and distributions made during the accounting period as required by RC §2109.301.

D. If land has been sold by the fiduciary during the accounting period, the account shall show the net amount of the proceeds of sale and the distribution thereof, with the settlement statement or closing disclosure attached thereto.

E. Guardian Accounts shall show the principal, income, and disbursements of the ward and shall separately state the ward's property at the end of the accounting period.

F. Copies of all bank statements and/or brokerage statements for the period of the account shall be attached to the account at the time of filing. Copies of any Settlement Statement or Closing Disclosure for any real or personal property sold during the period of the account shall also be attached to the account.

G. A final or distributive account shall not be approved until all court costs have been paid.

H. The Court requires an itemized statement of Receipts and Disbursements with an account. The Court shall refuse to accept any account not accompanied by the Receipts and Disbursements.

I. A statement of the Computation of Attorney Fees and Fiduciary Fees shall be filed with the account in a form prescribed by the Court.

RULE 44 LAND SALES

A. In cases involving public sale the complainant shall, prior to the issuance of an order of sale, file with the Court a Preliminary Judicial Report, Commitment for Title Insurance, or other evidence of title showing the record condition of the title to the premises described in the complaint, prepared and extended by a responsible abstract or title company or an attorney to a date withing thirty (30) days of the date in which the complaint was filed.

B. All land sales by executors and administrators shall be in accordance with RC §2127.01 et seq.

RULE 45 RELIEVING ESTATE FROM ADMINISTRATION

A. Appraisal of Assets.

1. Real Estate – The Court will accept the Carroll County auditor's tax appraisal valuation or an appraisal by a real estate professional pursuant to Rule 37 hereof. A copy must be attached to Form 5.1.
2. Personal Property – If the property is money, stocks, bonds, or other property, the value of which is readily ascertainable, then no appraisal is necessary, as to those assets. If the property value is not readily ascertainable, then an appraiser shall be selected subject to the approval by the Court provided, however, household furnishings passing to the surviving spouse may be returned without an appraisal, subject to Court approval.
3. Motor Vehicles – Valuation of motor vehicles shall be in accordance with Rule 37 (c) hereof, however, an appraisal is not necessary for the automobile selected by surviving spouse under RC §2113.532(A).

B. Commissioner – A commissioner shall be appointed by the Court for the following:

1. To make distribution in kind.
2. To sell personal property.
3. To pay outstanding debts.
4. To execute documents titled personal property.
5. In cases of insolvency to pay debts in proper priority and to make distribution.

C. Publication of notice to creditors and all interested persons:

1. Publication of notice is not required if assets are less than statutory limits and there is no surviving spouse and/or minor children of the decedent, and there is a paid funeral bill or waiver by the funeral director or a funeral payment

agreement, and a Notice to Distributee (Form 10.4) is filed for each beneficiary.

2. Publication of notice is not required if assets are less than the statutory limits and the decedent is survived by minor children but no surviving spouse, and there is a paid funeral bill or waiver by the funeral director or a funeral payment agreement
3. Publication of notice is not required if assets are less than \$100,000.00 and there is a surviving spouse who inherits the entire probate estate, and there is a paid funeral bill or waiver by the funeral director or a funeral payment agreement, and a Notice to Distributee (Form 10.4) is filed for each beneficiary.

RULE 46 GUARDIANSHIPS

A. GUARDIANSHIP OF MINORS:

1. All applications for appointment shall be captioned in the name of the proposed ward. A separate application must be filed for each proposed ward.
2. Applications for a guardian of a minor solely for the purpose of establishing residency for school purposes shall not be accepted.
3. A certified copy of the minor's birth certificate shall be filed with the application.
4. Minors who are not U.S. citizens or resident aliens are not considered to be residents or have legal settlement as set forth in RC §2111.02(A).

B. GUARDIANSHIPS OF INCOMPETENT:

1. Application for appointment shall be captioned in the name of the proposed ward.
2. Applications shall be accompanied by a Statement of Expert Evaluation signed by an appropriate professional or with a notation that the prospective ward has refused to submit to such an examination.

3. Except for good cause shown, the Court shall order a criminal background check on each applicant. The applicant will be required to sign any necessary consent within five days of the filing of the application. In the event that the background check indicates a criminal conviction that would disqualify the applicant, the Court, at its discretion, may hold a hearing for further determination. At the hearing, the applicant shall have the burden of proof to show that he or she is suitable despite the conviction.

RULE 46.1 GUARDIANSHIP HEARINGS

Except for good cause shown, the hearing on the application for appointment of a guardian shall be attended by both the applicant and the proposed ward

RULE 46.2 EMERGENCY GUARDIANSHIPS

An application for an emergency guardianship shall contain a Statement of Expert Evaluation signed by an appropriate professional along with a supplement for emergency guardianship form setting forth an opinion. That an emergency exists and that immediate action is necessary to prevent significant injury to the proposed ward.

RULE 46.3 COMMENTS/COMPLAINTS

Comments and complaints regarding guardians shall be filed and made part of the record unless otherwise ordered by the Court. A copy of any filed comment or complaint shall be provided to the guardian unless otherwise ordered by the Court. Comments and complaints may be addressed by the Court Investigator assigned to the guardianship. Allegations of abuse, neglect and/or exploitation shall be reported pursuant to RC §5101.61. If deemed appropriate, the matter may be set for hearing or for further investigation. If set for hearing, the complainant shall be notified and be given the opportunity to appear. Upon conclusion of the hearing, the complainant shall be notified of any action taken unless otherwise ordered by the Court.

RULE 46.4 GUARDIANSHIP PLAN

The guardian of the person shall develop a written plan which sets goals for meeting the ward's needs. The plan shall be filed with the Court and updated bi-annually

RULE 46.5 GUARDIAN'S REPORT

All guardians are required to file a Guardian's Report (Form 17.7) on the first anniversary after the Letters of Guardianship are issued and bi-annually thereafter.

RULE 46.6 CHANGE OF ADDRESS

A. A guardian shall inform the Court of a change of the guardian's address within thirty (30) days of the change. Failure to notify the Court of a change of address may result in the removal of the guardian.

B. A guardian shall notify the Court of a ward's proposed change of address at least ten (10) days prior to the proposed change. A ward's change of address shall be subject to Court approval unless a delay in authorizing the change would adversely affect the health or safety of the ward.

RULE 46.7 MEDICAL RECORDS

All medical or psychological records, reports, assessments, and evaluations of the ward shall be confidential and not subject to public inspection without prior approval of the Court.

RULE 46.8 END OF LIFE DECISIONS

A guardian shall immediately notify the Court in writing if the guardian is exercising authority to make end of life decisions under Sup. R. 66.09 (J); consenting to withholding or withdrawing life-sustaining treatment from the ward under R.C. §2133.08; authorizing a Do Not Resuscitate (DNR) order for the ward under R.C. §2133.21 to 2133.26 and O.A.C. 3701-62; or if the ward is placed in hospice care. The writing shall contain a short recitation of the reasons the action was taken under this rule.

RULE 47 ESTATES OF MINORS OF TWENTY-FIVE THOUSAND DOLLARS OR LESS

A. An application relating to a minor shall be submitted by the parent or

parents or by the person having custody of the minor and shall be captioned in the name of the minor.

B. The application shall indicate the amount of money or property to which each minor is entitled and to whom such money or property shall be paid or delivered.

C. If no guardian has been appointed for either the receipt or 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; (1) ordering the deposit of the funds in a local banking institution in the name of the minor; (2) impounding both the principal and interest; and (3) releasing the funds to the minor at the age of majority or upon further order of the Court. The entry shall be presented at the time the entry dispensing with appointment of a guardian or approving settlement is approved. The attorney shall further be responsible for depositing the funds and for providing the financial institution with a copy of the entry, both within seven (7) days of the entry's approval. The attorney shall obtain a receipt from the bank and deposit it with the Court.

RULE 48 SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS

A. In an application by a parent as natural guardian or by a guardian for approval of a settlement of an action for personal injuries to his ward, irrespective of amount, the parent or parents of such ward, if any, living in the country, shall be entitled to three (3) days' notice by certified mail of the hearing on such application. The notice may be waived in writing.

B. The application may be accompanied by a current statement of the examining physician in respect to the injuries sustained, the extent of recovery thereof, and the physician's prognosis.

C. The presence of the injured minor and the parent may be required at the hearing on all applications.

D. The application shall state what additional consideration, if any, is being paid to persons other than the minor.

E. The application shall state what arrangement, if any, has been made with respect to counsel fee, which fees shall be subject to review by the Court.

F. The Attorney representing the applicant or the payor shall acknowledge responsibility for depositing the funds and providing the financial institution with a copy of the Entry. The attorney shall obtain a verification of deposit and receipt

from the financial institution and file the verification with the Court within seven (7) day thereafter.

RULE 49 MINOR'S TRUSTS

An application to create a trust for a minor without the appointment of a guardian may be filed in accordance with the decedent's Will (and Codicil) or as a wrongful death settlement trust (R.C. §2125.03), special need trust (R.C. §2111.05(B)(3), or for an inheritance (R.C. §2111.182). Should the funds be held in a restricted account at a financial institution with offices located in the State of Ohio, no bond shall be required.

RULE 50 STRUCTURED SETTLEMENTS

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

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

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

1. The annuity carrier is licensed in the State of Ohio.
2. The annuity carrier's rating from at least two (2) of the following organizations, which meet the criteria set forth below:
 - a. A.M. Best Company: A++, A+, or A;
 - b. Fitch Company: AAA, AA+, or AA;
 - c. Moody's Investors Service: Aaa, Aa1, or Aa2;
 - d. Standard & Poors: AAA, AA+, or AA;
 - e. Weiss Research, Inc.: A+ or A

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

D. There shall be no premature withdrawals or hypothecation of the structured settlement without prior Court approval.

RULE 51 SETTLEMENT OF CLAIMS FOR WRONGFUL DEATH

A. Application for approval of settlement of a claim for wrongful death shall contain a statement of facts, including the amount to be received in settlement of the claim and the amount, if any, to be received in the settlement of the right of action for conscious pain and suffering. The statement shall include the proposed allocation of the compensation to be received in settlement of the action for wrongful death.

B. Unless waived by all interested parties, the application and proposed allocation shall be set for hearing and written notice shall be given to all interested parties.

C. The application shall state what arrangements have been made with respect to counsel fees, which fees shall be subject to review by the Court.

RULE 52 SETTLEMENT OF WRONGFUL DEATH AND SURVIVOR CLAIMS

A. Application for approval of settlement of a claim for wrongful death or survival shall contain a statement of facts, including the amount to be received in settlement of the claim and the amount, if any, to be received in the settlement of the action for wrongful death or survival.

B. Unless waived by all interested parties, the application and proposed allocation shall be set for hearing and written notice shall be given to all interested parties.

C. The application shall state what arrangements have been made with respect to counsel fees, which fees shall be subject to review by the Court.

RULE 53 COUNSEL FEES IN CONNECTION WITH SETTLEMENT OF CLAIMS FOR WRONGFUL DEATH, CONSCIOUS PAIN AND SUFFERING; CLAIMS FOR PERSONAL INJURIES TO PERSONS UNDER GUARDIANSHIP; AND SETTLEMENT OF CLAIMS FOR PERSONAL INJURIES TO MINOR UNDER ORC §2111.18.

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

RULE 54 COUNSEL FEES

A. Attorney fees relative to all matters shall be governed by the Code of Professional Responsibility, DR. 2-106.

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 which sets forth the amount requested and will be awarded without hearing, provided the proper consents of beneficiaries have been filed with the Court.

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 ORC §2109.30.

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 an executor, administrator, guardian, trustee, or other fiduciary. The application may be filed by the fiduciary or attorney. The application shall set forth a statement of the services rendered and the amount claimed in conformity with Paragraph A.

H. The Court does not have, nor is there recognized, any minimum or maximum fees which will automatically be approved by the Court.

I. Computation of Attorney's Fees shall be filed with the Court on a form provided by the Court (Attached hereto as Appendix A) or in like or similar form providing the requested information and securing the appropriate signatures.

J. Where the attorney, law partner or firm associate is appointed the fiduciary, The total administration fee may not exceed the statutory fiduciary commission plus one-half of the amount set forth on the attached Appendix A.

K. The Court reserves the right, on its own motion, to deny any fees or compensation which appear to be excessive or unjust.

RULE 55 EXECUTOR'S AND ADMINISTRATOR'S COMMISSIONS

A. Upon written application, executors and administrators shall be allowed an amount that does not exceed the statutory commission.

B. Where there is a claim for extraordinary services, an application shall be filed setting forth an itemized statement of the services rendered. The Court may require the application to be set for hearing with notices given to parties affected by the payment of fees.

C. Except for good cause shown, commissions will not be allowed if there is a delinquency in the filing of an account.

D. The commissions of co-executors or co-administrators in the aggregate shall not exceed the commissions which would have been allowed to one (1) executor or administrator acting alone, except where the instrument under which the co-executors serve provides otherwise.

E. An application by executors and administrators for extraordinary commission need not be filed where all the interested parties have consented in writing to the amount of executor's or administrator's commissions and the consent is endorsed on the final account or evidenced by separate instrument filed therewith.

RULE 56 GUARDIAN'S COMPENSATION

A. A guardian of the estate shall be allowed compensation based upon principal, income and disbursements as computed in accordance with Appendix B attached to these rules.

B. Additional compensation, reimbursement for expenses incurred and fees

of a guardian of a person may be fixed by the Court upon application.

C. The Court may require that applications for fees or compensation be set for hearing and that written notice of the time and place of the hearing and the amount applied for be given as required by the Court. A copy of the notice, with certified mail return receipt attached, together with an affidavit of the service of such notice, shall be filed prior to the hearing.

D. The compensation of co-guardians in the aggregate shall not exceed the compensation which would have been payable if only one (1) guardian had been performing the duties.

E. Except for good cause shown, neither guardian fees nor compensation for the attorney representing the guardian will be allowed when the guardian is delinquent in filing the account as required by RC §2109.30.

RULE 57 TRUSTEE'S COMPENSATION

A. A trustee shall be allowed compensation based upon principal, income and disbursements as computed in accordance with Appendix C attached to these rules.

B. Additional compensation for extraordinary services may be allowed upon application. The Court may require that the application be set for hearing and that notice thereof be given to interested persons. Such notice shall contain a statement of the amount for which compensation is applied.

C. The compensation of co-trustees in the aggregate shall not exceed the compensation which would have been paid if only one (1) trustee had been performing the duties 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 the counsel representing the trustee, will be allowed while the trustee is delinquent in the account or accounting required by ORC §2109.30.

E. Trustee's compensation in excess of those computed in accordance with Appendix C shall be allowed where the instrument creating such trust specifically provides for such compensation.

RULE 58 EXCEPTION TO THE RULES

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

RULE 59 PRE-DEATH PROBATE OF WILL DECLARATORY JUDGMENT PROCEDURE AND FORM OF COMPLAINT

The Complaint need not name as parties defendant any persons beyond the scope of ORC §2107.081 (A) even though parties named in a prior Will may not be necessary parties (see ORC §2107.081 (A)), they may be proper parties

Deposit the original Will with the appropriate Court official who will record the Will in a special index for deposited Wills.

A Civil Action must then be filed with a request for service, and the required deposit.

The Court shall index and docket this action in the same manner as any other civil action and issue Summons and Notice of Hearing to all parties.

The Court, if the Will is found valid, prepares and files duplicate original entries. One of the entries is sealed with the Will in an envelope to be secured by the Court, and the other is public record in the Court file.

This Court adopts the position that the testator has the right to have the Will remain confidential unless otherwise ordered. The determination of testamentary capacity is not anticipated to be necessary to be determined from examining the Will or dispositive provisions thereof.

RULE 60 RULES TO EXPEDITE COMPETENCY PROCEEDINGS PURSUANT TO SECTIONS 2152.51 TO 2152.59 RC.

A. This rule is to ensure that proper notice of competency hearings is provided to the appropriate person, and to ensure that any proceedings on an underlying complaint are stayed pending the determinations under sections 2152.51 to 2152.59 Revised Code.

B. Juvenile competency proceedings shall be scheduled and heard on an expedited basis. Hearings in juvenile competency proceedings shall be held in strict compliance with applicable deadlines as established by statute or by this rule.

C. Upon the conclusion of each hearing, the Court shall provide written notice to the prosecuting attorney, the child's attorney, the child's guardian ad litem, and the child's parents, guardian, or custodian of the date, time, and place of the next scheduled hearing. Mailed notices shall not be required for any party or other individual designated in this rule to whom notice of the next hearing was provided in writing upon conclusion of the immediately preceding hearing.

D. Upon the filing of a motion for determination regarding a child's competency or upon the Court's own motion, the Court shall stay all delinquency proceedings pending a determination of competency. If, upon a determination of competency, the Court determines that the child is not competent, but could likely attain competency, the court order staying the delinquency proceedings shall remain in effect until such time as the child attains competency or the proceeding is dismissed.

RULE 61 NAME CHANGE AND NAME CONFORMITY PROCEEDINGS

This rule governs name change and name conformity proceedings under section 2717 Revised Code.

A. Choosing Correct Proceeding

A name change proceeding, name conformity proceeding and birth record correction proceeding serve different purposes. Each action has its own requirements. The Court will determine if the application is the appropriate procedure to accomplish the person's intent based on the circumstances.

A name change proceeding seeks to change all or part of a person's name to a different name going forward.

A name conformity proceeding is solely to correct misspellings, inconsistencies or errors on one or more official identity documents evidencing a person's current legal name. A name conformity corrects errors that occurred in the past. It does not change a person's name, but merely identifies conflicting problems in their official identity documents and corrects those problems by a Court Order so that all of the person's official identity documents are consistent and conformed to prove the applicant's chain of identity and reflect the legal name the person currently uses.

A birth record correction proceeding only corrects clerical errors in the birth record of a person who was born in Ohio. A birth record correction proceeding

may not be substituted for a name change proceeding or name conformity proceeding.

B. Documentation Requirements on Name Change Proceedings

An applicant seeking a name change must provide photocopies of the following documents relating to applicant or minor with the application:

- Birth Certificate
- Social Security Card
- Driver's License or State issued ID Card (if any)

Upon review of the application, the Court may order the submission of other documents the Court deems relevant to the application.

The applicant must redact (black out) social security numbers, driver's license numbers, and driver's license issuance and expiration dates on all documents submitted to protect the privacy and confidential information of the applicant or minor.

C. Documentation Requirements on Name Conformity Proceedings

An applicant seeking to conform a legal name must provide photocopies of all official identity documents relating to the applicant or minor with the application, including:

- Birth Certificate
- Social Security Card
- Driver's License or State issued ID Card (if any)
- Marriage Record (if any)
- Divorce Decree (if any)
- Passport (if any)
- All other documents for which name conformity is sought

Upon review of the application, the Court may order the submission of other documents the Court deems relevant to the application.

The applicant must redact (black out) social security numbers, driver's license numbers, and driver's license issuance and expiration dates on all documents submitted to protect the privacy and confidential information of the applicant or minor.

D. Hearing on Adult Name Change and Adult Name Conformity Proceedings

Generally, the Court will not require a hearing and will dispense with notice on an adult name change or an adult name conformity proceeding. The Court may require a hearing if the Court determines that the application presents any irregularities or issues, or if the Court determines that the legal interests of another party may be affected by the proceeding. If the Court requires a hearing, it will determine the manner, scope and content of the hearing notice. The applicant is responsible for serving the hearing notice.

E. Hearings on Minor Name Change and Minor Name Conformity Proceedings

In uncontested name change proceedings and name conformity proceedings for a minor in which the consent of both natural parents of the minor is filed simultaneously with the application, the Court generally will not require a hearing and will dispense with notice.

If an application for name change of a minor or application to conform name of a minor is filed without the written consent of both natural or adoptive parents, or if the Court determines that the application presents any irregularities or issues, the Court will schedule the application for a hearing. Notice of the hearing will comply with paragraph F of this Rule. The applicant must appear at the hearing. The minor may attend the hearing, but is not required to be present unless the Court orders otherwise.

F. Service of Notice on Minor Name Changes and Minor Name Conformity Proceedings

Any parent or alleged father who has not consented to a minor's name change or name conformity will be served by the Court with notice of the hearing pursuant to Civ. R. 73. If a parent or alleged father's whereabouts are unknown, the Court will require the applicant to publish notice of the hearing, at the applicant's expense, to the parent or alleged father who has not consented in a newspaper of general circulation in Carroll County, one time at least 30 days before the hearing. The applicant must file proof of publication of the notice with the Court no later than five (5) Calendar Days before the date of hearing on the application.

G. Contested Proceedings

If any name change proceeding or name conformity proceeding becomes contested, the Court will convert the scheduled hearing date to a pretrial

conference, during which the Court will set a new hearing date. At the pretrial conference, the Court will determine whether to excuse a minor who is the subject of the action from appearing at the hearing and whether the Court will conduct an *in camera* interview of the minor before the hearing. The applicant and the person contesting the application must attend the pretrial conference personally or through their legal counsel.

H. Confidentiality

If an applicant for a name change or name conformity desires the proceeding and the record to be confidential, the applicant must file a request for confidentiality supported by an affidavit or other sufficient proof that notice of the hearing or public access to the record would jeopardize the applicant's personal safety. A proposed entry must accompany the request. If the Court grants the applicant's request, the Court will waive notice and permanently seal the file.

APPENDIX "A"

PROBATE COURT OF CARROLL COUNTY, OHIO
IN RE: CASE NO.

COMPUTATION OF ATTORNEY FEES

	ASSETS	FEE
1.) Total of Personalty, Income and Real Property sold under Power of Will	\$	
A. 4 - 1/2% of first \$100,000.00	\$	
B. 3 - 1/2% of next \$300,000.00	\$	
C. 2 - 1/2% of balance (over \$400,000.00)		\$
2.) On real property not sold at a rate of 2%	\$	\$
3.) Real Estate sold by judicial sale as set by judgment entry confirming the proceedings.		\$
4.) All other property not otherwise included.		
A. If no Federal Estate Tax required 1 - 1/2% of all property subject to tax	\$	\$
B. If Federal Estate Tax is required 2 - 1/2% of all property subject to tax	\$	\$
5.) Extraordinary fees allowed by Court	\$	
TOTAL ASSETS	\$	
6.) Total attorney fees per computation		\$
Attorney fees taken on prior accounting	\$	
Balance of attorney fees requested on final account		\$

Date approved by Court

Fiduciary

Judge

Attorney

APPENDIX "B"

IN RE: _____ CASE NO. _____

Accounting period of _____ to _____

ORDINARY GUARDIAN FEES

Total income during period \$

- 1.) 0 - \$5,000.00 income @ 4% \$
over \$5,000.00 income @ 3% \$

TOTAL FEE FROM INCOME \$

Total expenses during account period \$

- 2.) 0 \$5,000.00 expenses @ 4% \$
over \$5,000.00 expenses @ 3% \$

TOTAL FEE FROM EXPENSES \$

Principal at beginning of accounting period \$

- 3.) \$3.00/\$1,000.00 on first \$250,000.00 \$
\$2.00/\$1,000.00 amount over
\$250,000.00 \$

TOTAL FEE FROM PRINCIPAL \$

- 4.) Extraordinary fees (Itemize and attach time records)

TOTAL EXTRAORDINARY FEES \$

TOTAL FROM ITEMS 1 - 3 \$

TOTAL FEES REQUESTED \$

Date approved by Court

Guardian

Judge

Attorney

APPENDIX "C"

IN RE: _____ CASE NO. _____

Accounting period of _____ to _____

ORDINARY TRUSTEE'S FEES

Total income during period \$ _____

1.) 0 - \$5,000.00 income @ 4% \$ _____
over \$5,000.00 income @ 3% \$ _____

TOTAL FEE FROM INCOME \$ _____

Total expenses during account period \$ _____

2.) 0 - \$5,000.00 expenses @ 4% \$ _____
over \$5,000.00 expenses @ 3% \$ _____

TOTAL FEE FROM EXPENSES \$ _____

Principal at beginning of accounting period \$ _____

3.) \$3.00/\$1,000.00 on first \$250,000.00 \$ _____
\$2.00/\$1,000.00 amount over \$250,000.00 \$ _____

TOTAL FEE FROM PRINCIPAL \$ _____

4.) Extraordinary fees (Itemize and attach time records)

TOTAL EXTRAORDINARY FEES \$ _____

TOTAL FROM ITEMS 1 - 3 \$ _____

TOTAL FEES REQUESTED \$ _____

Date approved by Court

Trustee

Judge

Attorney

APPENDIX D

COURT OF COMMON PLEAS, CARROLL COUNTY, OHIO STANDARD CHILD COMPANIONSHIP SCHEDULE

1. For a Child age 0 – 1 year old:

Standard visitation would entitle the non residential parent to be entitled to visit with the child at least twice per week starting at four hours per visit and to be expanded based upon the child's age, health, and/or eating habits to one midweek visit and one visit on the weekend. The weekend visit to be expanded to one overnight visit depending on the child

For a Child age 1 – 3 years old:

The court would expect to expand visitation from one overnight expanding to two overnights consecutively every other weekend Friday to Sunday visitation plus one midweek visit.

For a Child age 4 and above:

The court would anticipate every other weekend plus one midweek visit with the child every week for a limited duration from three – six hours.

2. Alternate weekends from Friday at 7:00 p.m. to Sunday at 7:00 p.m.

3. All visitation shall have an agreed starting time. A parent late more than thirty minutes shall forfeit that visitation period unless an emergency has occurred and the late parent has called to make other arrangements.

4. For the purpose of visitation, there are seven holidays as follows:

- (1) New Year's Day
- (2) Martin Luther King Day
- (3) Easter
- (4) Memorial Day
- (5) The 4th of July
- (6) Labor Day
- (7) Thanksgiving

The odd-numbered years the mother shall have the child on the odd-numbered days and the father shall have visitation on the even-numbered days. In the even-numbered years, the father shall have the odd-numbered holidays and the mother the even-number holidays.

5. Each year at Christmas time the custodial parent shall have the child on Christmas Day and the non-custodial parent shall have the child from 1:00 p.m. to 9:00 p.m. Christmas Eve. Once the child attains school age the court's standard visitation would include a shared division of the Christmas Break and/or any

spring/holiday break that could either be shared or alternated as the parties may agree.

6. On Mother's Day, Father's Day, and the respective parent's birthday annually, the child will be with the appropriate parent on those days.

7. The non-custodial parent shall be entitled to summer visitation based upon the following schedule:

For a child age 0-1 years old: one week summer visitation

For a child age 2-3 years old: two non-consecutive weeks of summer visitation

For a child age 4-12 years old: summer visitation should be expanded to up to six weeks

Summer visitation that does not entail the child leaving the community would entitle the other parent to a midweek visit with the child.

8. The child shall celebrate his birthday in the home of the custodial parent, unless it falls on a visitation day, and the other parent can make up for the birthday with a separate birthday party, if desired.

9. Visitation does not mean picking the child up and then leaving him with someone else. The non-custodial parent shall furnish all transportation to and from the child's residence.

10. Additional visitation shall be by agreement of the parties.

11. Non-emergency cancellations require a minimum of twenty-four hours advance notice. Visitations cancelled by the custodial parent must be made up during the same calendar month. Visitations cancelled by the non-custodial parent are forfeited.

12. If one party is entitled to one week, two weeks, or up to six weeks visitation, the other party is entitled to the same number of weeks of visitation that would not include the other party having companionship during any visitation period. The parent exercising the visitation shall make phone contact at least once per week with the other parent so they can have communication of the child during the break.

13. All visitations are subject to the needs of the child and shall be exercised for the benefit of the child under the circumstances.

14. These are the Standard Companionship Rules of the Court, and they will be changed or modified by the Court if it is shown that there is need for such a change.

(Effective January 5, 2011)

APPENDIX E

COURT OF COMMON PLEAS, CARROLL COUNTY, OHIO OUT-OF-STATE CHILD COMPANIONSHIP GUIDELINE

- 1) One (1) week during the “Spring Break” if such period exceeds seven days. The Residential parent shall inform the non-residential parent as to the exact dates of this school vacation, and the parties shall agree on the period of visitation, by February 1 each year.
- 2) Up to a maximum of six (6) weeks of the “summer vacation” at the non-residential parent’s election upon not less than thirty (30) days advance written notice. The weeks need not necessarily be consecutive. The child(ren)’s needs, age, and pre-scheduled summer activities shall be considered by the parents when selecting both the timing and amount of summer visitation.
- 3) Any two or three day “long” weekend upon ten (10) days advance notice to the residential parent.
- 4) One-half of the “Christmas vacation” upon thirty (30) days advance written notice to the residential parent. The residential parent, absent an agreement to the contrary, shall have the child(ren) on Christmas Day annually. The non-residential parent may elect to exercise visitation prior to, or after, Christmas Day depending on when the school vacation commences.
- 5) Additional visitation shall be by agreement of the parties and in the best interest of the child(ren).
- 6) Transportation expenses will generally be the responsibility of the party exercising visitation.
- 7) These are “standard” rules for out-of-state companionship, and they are subject to modification by the Court if a need to do so is demonstrated.

APPENDIX F

IN THE COURT OF COMMON PLEAS OF CARROLL COUNTY, OHIO JUVENILE DIVISION

IN THE MATTER OF:

Case No.

PUBLIC ACCESS TO ABUSE, NEGLECT, DEPENDENCY CASES

JUDGMENT ENTRY

The Court finds that pursuant to Ohio Rule of Superintendence 45 (E) that the Court can restrict public access to case documents if it finds by clear and convincing evidence that the presumption of public access is outweighed by a higher interest after considering the following:

- a) Whether public policy is served by restricting public access;
- b) Whether any state, federal, or common law exempts the document or information from public access;
- c) Whether factors that support restriction of public access exist, including risk of injury to persons, individual privacy rights and interests, proprietary business information, public safety, and fairness of the adjudicatory process.

The Court finds that abuse, neglect, dependency cases have historically been considered nonpublic due to the sensitive nature of the proceedings. The damage to families and children due to the prejudicial nature of the proceeding outweighs the value of public access to such cases. The Court finds that the Rule recognizes these issues by specifically referring to these types of cases in its definition of "Personal identifiers". Furthermore, the Court's attempt to comply with the Rule by using initials has created confusion and an undue burden in the administration of these cases.

Bases upon the above findings finds by clear and convincing evidence that all abuse, neglect, and dependency cases should be restricted from access by the public. The Court may Order a specific case to be a public record upon a Motion and good cause shown.

IT IS HEREBY ORDERED THAT all Abuse, Neglect, and Dependency cases shall be restricted from public access unless specifically Ordered by the Court after Motion and good cause shown.

SEAN R.H. SMITH, JUDGE

These supplemental rules concerning local practice in this Probate and Juvenile Division of this Court have been this date adopted by me thus superceding all previously adopted local rules until this Court adopts other rules.

SEAN R H SMITH, JUDGE

Certificate

In accordance with SupR 5, I have this date caused these rules to be filed with the Supreme Court by forwarding them by U.S. Mails, postage prepaid.

SEAN R.H. SMITH, JUDGE

Date: _____, 2021