

MUSKINGUM COUNTY COMMON PLEAS COURT

PROBATE DIVISION

LOCAL RULES OF COURT

**Adopted as Local Rules of Court pursuant to Common Pleas
Superintendence Rule 5 (previously Rule 44).**

**The following Rules will take effect February 1, 2016, and shall
supersede existing Rules of Court on that date.**

Rule 32.1 amended effective February 1, 2016.

**Addition of Local Rules 66.01 through 66.20 effective February 1,
2016.**

MUSKINGUM COUNTY COMMON PLEAS COURT

PROBATE DIVISION

LOCAL RULES OF COURT

**Adopted as Local Rules of Court pursuant to Common Pleas
Superintendence Rule 5 (previously Rule 44).**

**The following Rule will take effect January 1, 2016, and shall
supersede existing Rules of Court on that date.**

Rule 25.1 amended effective January 1, 2016.

MUSKINGUM COUNTY COMMON PLEAS COURT

PROBATE DIVISION

LOCAL RULES OF COURT

**Adopted as Local Rules of Court pursuant to Common Pleas
Superintendence Rule 5 (previously Rule 44).**

**The following Rule will take effect August 29, 2011, and shall
supersede existing Rules of Court on that date.**

Rule 20.1 amended effective August 29, 2011.

MUSKINGUM COUNTY COMMON PLEAS COURT

PROBATE DIVISION

LOCAL RULES OF COURT

**Adopted as Local Rules of Court pursuant to Common Pleas
Superintendence Rule 5 (previously Rule 44).**

**The following Rule will take effect January 1, 2011, and shall
supersede existing Rules of Court on that date.**

Rule 43.1 amended effective January 1, 2011.

MUSKINGUM COUNTY COMMON PLEAS COURT

PROBATE DIVISION

LOCAL RULES OF COURT

**Adopted as Local Rules of Court pursuant to Common Pleas
Superintendence Rule 5 (previously Rule 44).**

**The following Rule will take effect March 5, 2008, and shall supersede
existing Rules of Court on that date.**

Rule 20.1 amended effective March 5, 2008.

MUSKINGUM COUNTY COMMON PLEAS COURT

PROBATE DIVISION

LOCAL RULES OF COURT

**Adopted as Local Rules of Court pursuant to Common Pleas
Superintendence Rule 5 (previously Rule 44).**

**The following Rule will take effect May 23, 2007, and shall supersede
existing Rules of Court on that date.**

Rule 40.1 amended effective May 23, 2007

MUSKINGUM COUNTY COMMON PLEAS COURT

PROBATE DIVISION

LOCAL RULES OF COURT

**Adopted as Local Rules of Court pursuant to Common Pleas
Superintendence Rule 5 (previously Rule 44).**

**The following Rule will take effect December 30, 2005, and shall
supersede existing Rules of Court on that date.**

Rule 43.1 amended effective December 30, 2005

MUSKINGUM COUNTY COMMON PLEAS COURT

PROBATE DIVISION

LOCAL RULES OF COURT

**Adopted as Local Rules of Court pursuant to Common Pleas
Superintendence Rule 5 (previously Rule 44).**

**The following Rule will take effect November 20, 2005, and shall
supersede existing Rules of Court on that date.**

Rule 25.1 amended effective November 20, 2005

MUSKINGUM COUNTY COMMON PLEAS COURT

PROBATE DIVISION

LOCAL RULES OF COURT

**Adopted as Local Rules of Court pursuant to Common Pleas
Superintendence Rule 5 (previously Rule 44).**

**The following Rule will take effect August 12, 2005, and shall
supersede existing Rules of Court on that date.**

Rule 40.1 amended effective August 12, 2005

MUSKINGUM COUNTY COMMON PLEAS COURT

PROBATE DIVISION

LOCAL RULES OF COURT

**Adopted as Local Rules of Court pursuant to Common Pleas
Superintendence Rule 5 (previously Rule 44).**

**The following Rules will take effect October 29, 2003, and shall
supersede existing Rules of Court on that date.**

Rule 32.1 amended effective October 29, 2003

Rule 32.2 amended effective October 29, 2003

MUSKINGUM COUNTY COMMON PLEAS COURT

PROBATE DIVISION

LOCAL RULES OF COURT

**Adopted as Local Rules of Court pursuant to Common Pleas
Superintendence Rule 5 (previously Rule 44).**

**The following Rules will take effect October 2, 2000, and shall
supersede existing Rules of Court on that date.**

Rule 25.1 amended effective October 2, 2000

Rule 28.1 amended effective October 2, 2000

Rule 33.1 amended effective October 2, 2000

Rule 42.1 amended effective October 2, 2000

Rule 32.1 amended effective May 10, 2001

INDEX

<u>RULE NO.</u>	<u>TITLE</u>	<u>PAGE NO.</u>
RULE 18.1	HOURS OF THE COURT	15
RULE 19.1	CONDUCT IN THE COURT	16
RULE 20.1	EXAMINATION OF PROBATE RECORDS AND OTHER DOCUMENTS	17
RULE 21.1	SUMMONS AND NOTICE	18
RULE 22.1	REQUEST FOR JURY TRIAL	19
RULE 22.2	JURY MANAGEMENT PLAN	20
RULE 23.1	CONTINUANCES	27
RULE 24.1	FILINGS AND JUDMENT ENTRIES	28
RULE 25.1	COURT COSTS	29
RULE 26.1	APPLICATION TO PROBATE WILL	32
RULE 27.1	APPLICATION FOR LETTERS OF ADMINISTRATION	33
RULE 28.1	APPOINTMENT AND COMPENSATION OF APPRAISERSIN ESTATES AND LAND PROCEEDINGS	34
RULE 29.1	INVENTORY	35
RULE 29.2	INVENTORY - NOTICE OF HEARING	36
RULE 30.1	CLAIMS FILED WITH THE COURT	40
RULE 31.1	APPLICATION TO SELL PERSONALTY	41
RULE 32.1	ACCOUNTS	42
RULE 32.2	FIDUCIARY ACCOUNTS - NOTICE	44
RULE 33.1	LAND SALES (R.C. CHAPTER 2127)	50
RULE 35.1	ESTATES OF MINORS AND PROPPES INCOMPETENTS OF TEN THOUSAND DOLLARS OR LESS	51

INDEX

<u>RULE NO.</u>	<u>TITLE</u>	<u>PAGE NO.</u>
RULE 36.1	SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS (R.C. 2111.18)	52
RULE 37.1	SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS UNDER TEN THOUSAND DOLLARS	53
RULE 38.1	SETTLEMENT OF CLAIMS FOR WRONGFUL DEATH	54
RULE 39.1	COUNSEL FEES IN CONNECTION WITH SETTLEMENT OF CLAIMS WRONFUL DEATH, CONSIIOUS PAIN AND SUFFERING; CLAIMS FOR PERSONAL INJURIES TO PERSONS UNDER GUARDIANSHIPS; AND SETTLEMENT OF CLAIMS FOR PERSONAL INJURIES TO MINORS UNDER §2111.18 O.R.C.	55
RULE 40.1	COUNSEL FEES	57
RULE 41.1	EXECUTOR'S AND ADMINISTRATOR'S COMMISSIONS	58
RULE 42.1	GUARDIAN'S COMPENSATION	59
RULE 43.1	TRUSTEE'S COMPENSATION	63
RULE 44.1	LOCAL RULES	65
RULE 45.1	EXCEPTION TO THE RULES	66
RULE 46.1	CASE MANAGEMENT AND PRE-TRIAL PROCEDURE	67
RULE 48.1	COURT SECURITY POLICY AND PROCEDURE PLAN	70
RULE 49.1	PETITION FOR RELEASE OF INFORMATION	71

INDEX

<u>RULE NO.</u>	<u>TITLE</u>	<u>PAGE NO.</u>
RULE 66.01	DEFINITIONS	72
RULE 66.02	APPLICATION OF RULES	73
RULE 66.03 (A)	EMERGENCY GUARDIANSHIPS	74
RULE 66.03 (B)	GUARDIAN COMMENTS AND COMPLAINTS	75
RULE 66.04		78
RULE 66.05 (A)	GUARDIAN BACKGROUND CHECKS	80
RULE 66.05 (B)	GUARDIAN WITH TEN OR MORE ADULT WARDS	81
RULE 66.06	GUARDIAN FUNDAMENTALS TRAINING EQUIPMENT	82
RULE 66.07	GUARDIAN CONTINUING EDUCATION	83
RULE 66.08	GENERAL RESPONSIBILITIES OF THE GUARDIAN TO THE COURT	84
RULE 66.09	GENERAL RESPONSIBILITIES OF THE GUARDIAN TO THE WARD	85
RULE 66.10	GUARDIANSHIP OF MINORS	86
RULE 66.11	NEXT OF KIN FOR GUARDIANSHIP OF INCOMPETENT ADULTS	87
RULE 66.12	INVENTORY, FUND RELEASE, EXPENDATURES AND IDENTIFICATION OF LEGAL DOCUMENTS	88
RULE 66.13	GUARDIANS REPORT	89
RULE 66.14	DEPOSIT OF WILL BY GUARDIAN	90
RULE 66.15	POWERS OF ATTORNEY BY GUARDIAN PROHIBITED	91
RULE 66.16	TERMINATIONS	92
RULE 66.17	INDIGENT WARDS	93
RULE 66.18	VETERAN'S GUARDIANSHIPS	94
RULE 66.19		95
RULE 66.20	ADDITIONAL COST DEPOSIT	96

LOCAL RULE 18.1

HOURS OF THE COURT

The Probate Court and its offices shall be open for business from 8:30 o'clock A.M. to 4:30 o'clock P.M. Monday through Friday. The Probate Court and its offices shall be closed on Saturday, Sunday and legal holidays.

LOCAL RULE 19.1

CONDUCT IN THE COURT

RESERVED.

LOCAL RULE 20.1

EXAMINATION OF PROBATE RECORD AND OTHER DOCUMENTS

AMENDED AUGUST 29, 2011

Copies of any open record may be obtained at a cost of Ten Cents (10¢) per page plus reimbursement for postage where applicable.

LOCAL RULE 21.1

SUMMONS AND NOTICE

In case personal service of summons or notice is required upon non-residents of the County, a deposit for service by the Sheriff of that County will be \$10.00.

LOCAL RULE 22.1

REQUEST FOR JURY TRIAL

RESERVED.

LOCAL RULE 22.2

JURY MANAGEMENT PLAN

The attached Ohio Trial Court Jury Use and Management Standards are hereby adopted by the Muskingum County Probate Court.

OHIO TRIAL COURT JURY USE AND MANAGEMENT STANDARDS

August 16, 1993

The Ohio Trial Court Jury Use and Management Standards were adopted as guidelines by the Supreme Court on August 16, 1993.

Standard

- 1 Opportunity for Service
- 2 Jury Source List
- 3 Random Selection Procedures
- 4 Eligibility for Jury Service
- 5 Term of and Availability for Jury Service
- 6 Exemption, Excuse, and Deferral
- 7 Voir Dire
- 8 Removal from the Jury Panel for Cause
- 9 Peremptory Challenges
- 10 Administration of the Jury System
- 11 Notification and Summoning Procedures
- 12 Monitoring the Jury System
- 13 Juror Use
- 14 Jury Facilities
- 15 Juror Compensation
- 16 Juror Orientation and Instruction
- 17 Jury Size and Unanimity of Verdict
- 18 Jury Deliberations
- 19 Sequestration of Jurors

STANDARD 1 Opportunity for Service

A. The opportunity for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.

B. Jury service is an obligation of all qualified citizens.

Commentary

Standard 1 is essentially identical to the ABA Standard.

It is the obligation of every court to reasonably accommodate the special needs of physically handicapped jurors. While physically handicapped jurors may pose special issues for courts and their personnel, these issues are manageable.

Support agencies and advancing technologies exist to aid courts in accommodating the special needs of hearing impaired and visually impaired jurors, for example.

The obligation of jury service falls on all citizens; it is vitally important that the legal system open its doors to each person who desires to serve on a jury.

Reference is made to the ADA.

Ohio Statutes

O.R.C. 2313.47 Race or color shall not disqualify a juror.

STANDARD 2 Jury Source List

A. The names of potential jurors should be drawn from a jury source list compiled from one or more

regularly maintained lists of persons residing in the court jurisdiction.

B. The jury source list should be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.

C. The court should periodically review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible.

D. Should the court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action should be taken.

Commentary

Standard 2 is identical to the ABA Standard.

There should be a periodic review of the representativeness and inclusiveness of the jury source list.

Ohio Statutes

O.R.C. 1901.25 Selection and impaneling of a jury.

O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

O.R.C. 2311.42 Authorizes the drawing of a jury from an adjoining county if a party to the case is the board of county commissioners.

O.R.C. 2313.06 Provisions relative to the summoning of jurors using lists of voters and licensed drivers.

O.R.C. 2313.07 Construction of a jury wheel and the use of data processing equipment in drawing jurors.

O.R.C. 2313.08 Contains provisions relative to the annual jury list.

O.R.C. 2313.09 Supplemental jury lists.

O.R.C. 2313.15 Report of names of jurors excused.

O.R.C. 2313.20 Notice of drawing.

O.R.C. 2313.21 Conduct of drawing.

O.R.C. 2313.26 Order for additional number of jurors.

STANDARD 3 Random Selection Procedures

A. Random selection procedures should be used throughout the juror selection process. Any method may be used, manual or automated, that provides each eligible and available person with an equal probability of selection. These methods should be documented.

B. Random selection procedures should be employed in:

1. Selecting persons to be summoned for jury service;
2. Assigning prospective jurors to panels; and
3. Calling prospective jurors for voir dire.

C. Departures from the principle of random selection are appropriate:

1. To exclude persons ineligible for service in accordance with Standard 4;
2. To excuse or defer prospective jurors in accordance with Standard 6;
3. To remove prospective jurors for cause or if challenged peremptorily in accordance with Standards 8 and 9; and
4. To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel in accordance with Standard 13.

Commentary

Standard 3 is essentially identical to the ABA Standard.

Ohio Statutes

- O.R.C. 1901.25 Selection and impaneling of a jury.
- O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.
- O.R.C. 2101.30 Drawing of a jury in probate cases.
- O.R.C. 2313.07 Construction of a jury wheel and the use of data processing equipment in drawing jurors.
- O.R.C. 2313.08 Contains provisions relative to the annual jury list.
- O.R.C. 2313.09 Supplemental jury lists.
- O.R.C. 2313.15 Report of names of jurors excused.
- O.R.C. 2313.21 Conduct of drawing.

STANDARD 4 Eligibility for Jury Service

All persons should be eligible for jury service except those who:

- A. Are less than eighteen years of age;
- B. Are not citizens of the United States;
- C. Are not residents of the jurisdiction in which they have been summoned to serve;
- D. Are not able to communicate in the English language; or
- E. Have been convicted of a felony and have not had their civil rights restored.

Commentary

Standard 4 is identical to the ABA Standard.

Legislative changes recommended in order for Standard 4 to be consistent with Standard 6.

Ohio Statutes

- O.R.C. 1901.25 Selection and impaneling of a jury.
- O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.
- O.R.C. 2961.01 Precludes convicted felons from serving as jurors.

STANDARD 5 Term of and Availability for Jury Service

- A. The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.
- B. A term of service of one day or the completion

of one trial, whichever is longer, is recommended. However, a term of one week or the completion of one trial, whichever is longer, is acceptable.

C. Persons should not be required to maintain a status of availability for jury service for longer than two weeks except in jurisdictions where it may be appropriate for persons to be available for service over a longer period of time.

Commentary

Standard 5 is essentially identical to the ABA Standard.

Courts should reduce, to the extent possible, the number of days a person serves and the period of availability.

STANDARD 6 Exemption, Excuse, and Deferral

A. All automatic excuses or exemptions, with the exception of statutory exemptions, from jury service should be eliminated.

B. Eligible persons who are summoned may be excused from jury service only if:

1. Their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and they are excused for this reason by a judge; or

2. They request to be excused because their service would be a continuing hardship to them or to members of the public and they are excused by a judge or a specifically authorized court official.

C. Deferrals for jury service for reasonably short periods of time may be permitted by a judge or a specifically authorized court official.

D. Requests for excuses and deferrals and their disposition should be written or otherwise made or recorded. Specific uniform guidelines for determining such requests should be adopted by the court.

Commentary

Standard 6 has been changed from the ABA Standard to be consistent with the O.R.C.

Deferrals are encouraged rather than the granting of excuses.

With a shorter term of service (see Standard 5), reasons for being excused should be reduced.

The Jury Management Project Team recommends that all statutory exceptions be eliminated, with the exception of O.R.C. 2961.01 on which the team makes no statement.

Ohio Statutes

- O.R.C. 737.26 Exempts fireman from jury duty.
- O.R.C. 1907.25 Selection and impaneling of a jury.
- O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.
- O.R.C. 2313.12 Jury exemptions; proof of exemptions.
- O.R.C. 2313.13 Postponement of jury service; temporary excuse or discharge.
- O.R.C. 2313.14 Failure to attend after postponed service.
- O.R.C. 2313.15 Report of names of jurors excused.
- O.R.C. 2313.16 Reasons for which jurors may be excused.
- O.R.C. 2313.27 Evasion of jury service.

O.R.C. 2313.36 Exemptions from jury service in court of record.

O.R.C. 5919.20 Exempts certain officers and personnel of the Ohio National Guard from jury service.

O.R.C. 5920.10 Exempts members of the Ohio Military Reserve from jury duty.

O.R.C. 5921.09 Exempts members of the Ohio Naval Militia from jury service.

STANDARD 7 Voir Dire

A. Voir dire examination* should be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.

B. To reduce the time required for voir dire, basic background information regarding panel members should be made available to counsel in writing for each party on the day on which jury selection is to begin.

C. The trial judge should conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.

D. The judge should ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process.

E. In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.

Commentary

Standard 7 is essentially identical to the ABA Standard.

The questionnaire shall be handled in a manner to ensure privacy.

When prospective jurors are initially sworn, the oath should also indicate that the answers to the jury questionnaire are true.

Ohio Statutes

O.R.C. 1907.25 Selection and impaneling of a jury.

O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

Court Rules

Civ.R. 47 Jurors.

Crim.R. 24 Trial jurors.

STANDARD 8 Removal from the Jury Panel for Cause

If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual should be removed from the panel. Such a determination may be made on motion of counsel or by the judge.

Commentary

Standard 8 is essentially identical to the ABA Standard.

Jurors should be reminded that jury service is an obligation of each qualified citizen (see Standard 1).

Ohio Statutes

O.R.C. 1901.25 Selection and impaneling of a jury.

O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

O.R.C. 2313.42 Challenge for cause of persons called as jurors.

O.R.C. 2313.43 Challenge of petit jurors.

O.R.C. 2945.25 Causes for challenging jurors.

O.R.C. 2945.26 Challenge of juror for cause.

Court Rules

Civ.R. 47 Jurors.

Crim.R. 24 Trial jurors.

STANDARD 9 Peremptory Challenges

A. Rules determining procedure for exercising peremptory challenges should be uniform throughout the state.

B. Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.

C. In civil cases, the number of peremptory challenges should not exceed three for each side. If the court finds that there is a conflict of interest between parties on the same side, the court may allow each conflicting party up to three peremptory challenges.

D. In criminal cases, the number of peremptory challenges should not exceed:

1. Six for each side when a death sentence may be imposed upon conviction;

2. Four for each side when a sentence of imprisonment (state institution) may be imposed upon conviction; or

3. Three for each side in all other prosecutions. One additional peremptory challenge should be allowed for each defendant in a multi-defendant criminal proceeding.

E. In criminal and civil proceedings each side should be allowed one peremptory challenge if one or two alternate jurors are impaneled, two peremptory challenges if three or four alternates are impaneled, and three peremptory challenges if five or six alternates are impaneled. These additional peremptory challenges shall be used against an alternate juror only, and the other peremptory challenges allowed by law shall not be used against an alternate juror.

Commentary

Standard 9 has been changed from the ABA Standard to be consistent with the O.R.C. and Ohio Rules of Court.

Ohio Statutes

O.R.C. 1901.25 Selection and impaneling of a jury.

O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

O.R.C. 2938.06 Number of jurors and challenges.

- O.R.C. 2945.21 Peremptory challenges.
- O.R.C. 2945.23 Use of peremptory challenges.

Court Rules

- Civ.R. 47 Jurors.
- Crim.R. 24 Trial jurors.

STANDARD 10 Administration of the Jury System

A. The responsibility for administration of the jury system should be vested exclusively in the judicial branch of government.

B. All procedures concerning jury selection and service should be governed by Ohio Rules of Court.

C. Responsibility for administering the jury system should be vested in a single administrator acting under the supervision of the administrative judge of the court.

Commentary

Standard 10 is essentially identical to the ABA Standard. Standard 10 suggests that current legislation be repealed.

Ohio Constitution

Article IV, Section 5(B) Allows the Supreme Court to adopt Rules of Practice and Procedure and permits courts to adopt rules concerning local practice that do not conflict with Supreme Court Rules.

Ohio Statutes

- O.R.C. 1901.14 Authorizes the adoption of local rules regarding the summoning of jurors.
- O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.
- O.R.C. 2313.01 Authorizes the appointment of jury commissioners.
- O.R.C. 2313.02 Compensation and appointment of deputies and clerks in the office of jury commissioners.
- O.R.C. 2313.03 Oath of office for jury commissioners.
- O.R.C. 2313.04 Lists cases in which the deputy jury commissioner may act.

STANDARD 11 Notification and Summoning Procedures

A. The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person should be:

1. Combined in a single document;
2. Phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; and
3. Delivered by ordinary mail.

B. A summons should clearly explain how and when the recipient must respond and the consequences of a failure to respond.

C. The questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:

1. Determining whether a person meets the criteria for eligibility;
 2. Providing basic background information ordinarily sought during voir dire examination; and
 3. Efficiently managing the jury system.
- D. Policies and procedures should be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.

Commentary

Standard 11 is essentially identical to the ABA Standard.

Ohio Statutes

- O.R.C. 1905.28 Gives the mayor of a municipal corporation the authority to compel the attendance of jurors.
- O.R.C. 1907.29 Cross-references to civil and criminal rules and authorizes the punishment by contempt for summoned jurors who refuse to serve.
- O.R.C. 2101.30 Drawing of a jury in probate cases.
- O.R.C. 2313.10 Notice to jurors to appear and testify before jury commissioners.
- O.R.C. 2313.11 Failure of summoned juror to attend or testify.
- O.R.C. 2313.14 Failure to attend after postponed service.
- O.R.C. 2313.25 Service and return of venire.
- O.R.C. 2313.26 Order for additional number of jurors.
- O.R.C. 2313.29 Failure of juror to attend.
- O.R.C. 2313.30 Arrest for failure to attend.

STANDARD 12 Monitoring the Jury System

Courts should collect and analyze information regarding the performance of the jury system on a regular basis in order to evaluate:

- A. The representativeness and inclusiveness of the jury source list;
- B. The effectiveness of qualification and summoning procedures;
- C. The responsiveness of individual citizens to jury duty summonses;
- D. The efficient use of jurors; and
- E. The cost-effectiveness of the jury management system.

Commentary

Standard 12 is essentially identical to the ABA Standard, and the Jury Standard Project Team recognizes that the information gathered must be analyzed to ensure efficient jury management.

STANDARD 13 Juror Use

A. Courts should employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.

B. Courts should determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both

the number of individuals summoned for jury duty and the number assigned to jury panels.

1. Courts using jury pools should ensure that each prospective juror who has reported to the court is assigned for voir dire; and

2. Courts using panels should ensure that each prospective juror who has reported to the court is assigned for voir dire.

C. Courts should coordinate jury management and calendar management to make effective use of jurors.

Commentary

Standard 13 is essentially identical to the ABA Standard.

Ohio Statutes

O.R.C. 2313.19 Number of jurors drawn.

O.R.C. 2313.24 Number of jurors; exception for smaller counties.

STANDARD 14 Jury Facilities

A. Courts should provide an adequate and suitable environment for jurors.

B. The entrance and registration area should be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.

C. Jurors should be accommodated in pleasant waiting facilities furnished with suitable amenities.

D. Jury deliberation rooms should include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms should be ensured.

E. To the extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.

Commentary

Standard 14 is essentially identical to the ABA Standard.

Ohio Statutes

O.R.C. 1907.29 Cross-references to civil and criminal rules and authorizes the punishment by contempt for summoned jurors who refuse to serve.

O.R.C. 2313.05 Office and supplies for the jury commissioners.

O.R.C. 2315.03 Deliberations of jury.

O.R.C. 2945.33 Keeping and conduct of the jury after case is submitted to the jury.

Rules of Superintendence

M.C.Sup.R. 17 Court facility standards.

STANDARD 15 Juror Compensation

A. Persons called for jury service should receive a reasonable fee for their service and expenses.

B. Such fees should be paid promptly.

C. Employers shall be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

Commentary

Standard 15 is essentially identical to the ABA Standard.

Ohio Statutes

O.R.C. 1901.25 Selection and impaneling of a jury.

O.R.C. 1907.28 Authorizes county courts to adopt local rules regarding jury selection and impaneling.

O.R.C. 2101.16 Cross-references to other sections regarding jury fees.

O.R.C. 2313.34 Discharge of juror; compensation.

STANDARD 16 Juror Orientation and Instruction

A. Orientation programs should be:

1. Designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors; and

2. Presented in a uniform and efficient manner using a combination of written, oral, and audiovisual materials.

B. Courts should provide some form of orientation or instructions to persons called for jury service:

1. Upon initial contact prior to service;

2. Upon first appearance at the court; and

3. Upon reporting to a courtroom for voir dire.

C. The trial judge should:

1. Give preliminary instructions to all prospective jurors.

2. Give instructions directly following impanelment of the jury to explain the jury's role, the trial procedures including notetaking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;

3. Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. Such instructions should be made available to the jurors during deliberations;

4. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system; and

5. Recognize utilization of written instructions is preferable.

6. Before dismissing a jury at the conclusion of a case:

a. Release the jurors from their duty of confidentiality;

b. Explain their rights regarding inquiries from counsel or the press;

c. Either advise them that they are discharged from service or specify where they must report; and

d. Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.

D. All communications between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.

Commentary

Standard 16 is essentially identical to the ABA Standard with addition of C., 4.

Reference may be made to *Ohio Jury Instructions*.

Ohio Statutes

O.R.C. 2945.10 Order of trial proceedings, including the charge to the jury.

O.R.C. 2945.11 Charge to the jury on questions of law and fact.

O.R.C. 2945.34 Admonition to be administered to jurors if they are separate during trial.

Court Rules

Civ.R. 51 Instructions to the jury; objections.

Crim.R. 30 Instructions to the jury.

STANDARD 17 Jury Size and Unanimity of Verdict

Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law.

Commentary

Standard 17 has been changed from the ABA Standard to be consistent with the O.R.C.

Ohio Constitution

Article I, Section 5 Trial by jury; reform in civil jury system.

Ohio Statutes

O.R.C. 1901.24 Cross-references to civil and criminal rules relating to juries.

O.R.C. 1907.29 Cross-references to civil and criminal rules and authorizes the punishment by contempt for summoned jurors who refuse to serve.

O.R.C. 2938.06 Number of jurors and challenges.

Court Rules

Civ.R. 38 Jury trial of right.

Civ.R. 48 Juries; majority verdict; stipulation of number of jurors.

Civ.R. Form 18 Judgment on jury verdicts.

Crim.R. 23 Trial by jury or by the court.

STANDARD 18 Jury Deliberations

A. Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision-making.

B. The judge should instruct the jury concerning appropriate procedures to be followed during deliberations in accordance with Standard 16C.

C. The deliberation room should conform to the recommendations set forth in Standard 14C.

D. The jury should not be sequestered except under the circumstances and procedures set forth in Standard 19.

E. A jury should not be required to deliberate after a reasonable hour unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.

F. Training should be provided to personnel who escort and assist jurors during deliberation.

Commentary

Standard 16 is essentially identical to the ABA Standard.

Counsel and appropriate court personnel should remain readily available during jury deliberations.

Juries should be provided with a pleasant, comfortable, secure, and safe place in which to work.

Ohio Statutes

O.R.C. 2315.03 Deliberations of jury.

O.R.C. 2315.04 Duty of officer in charge of jury.

O.R.C. 2945.32 Contains the oath to be administered to an officer if the jury is sequestered.

O.R.C. 2945.33 Keeping and conduct of the jury after case is submitted to the jury.

Court Rules

Civ.R. 18 Judgment on jury verdict.

Crim.R. 30 Instructions to the jury.

STANDARD 19 Sequestration of Jurors

A. A jury should be sequestered only for good cause, including but not limited to insulating its members from improper information or influences.

B. During deliberations in the guilt phase and penalty phase, the jury shall be sequestered in a capital case.

C. The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration.

D. Standard procedures should be promulgated to:

1. Achieve the purpose of sequestration; and
2. Minimize the inconvenience and discomfort of the sequestered jurors.

E. Training shall be provided to personnel who escort and assist jurors during sequestration.

Commentary

Standard 19 differs from the ABA Standard.

1. "Should" was changed to "shall" in C and E.

2. Jury escorts may be law enforcement personnel.

Standard 19 has been changed to be consistent with the O.R.C.

Ohio Statutes

O.R.C. 2315.04 Duty of officer in charge of jury.

O.R.C. 2945.31 Allows, but does not require, sequestering of jurors after a trial has commenced.

O.R.C. 2945.33 Requires sequestration of jurors in capital cases once a case is submitted to the jury.

Court Rules

Crim.R. 24 Trial jurors.

LOCAL RULE 23.1

CONTINUANCES

RESERVED.

LOCAL RULE 24.1

FILINGS AND JUDGMENT ENTRIES

RESERVED.

LOCAL RULE 25.1

AMENDED THE 1ST DAY OF JANUARY, 2016

COURT COSTS

An advance deposit for costs in the amounts set forth below shall be required in the following actions and proceedings:

- | | |
|--|-----------------|
| 1. <u>ESTATES (WITH OR WITHOUT WILL</u> | \$215.00 |
| 2. <u>RELEASE OF ESTATE FROM ADMINISTRATION</u> | \$175.00 |
| 3. <u>SUMMARY RELEASE FROM ADMINISTRATION</u> | \$150.00 |
| 4. WILL FILE ONLY | \$33.00 |
| 5. TAX ONLY | \$33.00 |
| 6. WILL AND TAX ONLY | \$38.00 |
| 7. <u>GUARDIANSHIPS AND TRUSTS</u> | |
| A. Guardianships – Incompetents | \$240.00 |
| B. Guardianships – Minors | \$190.00 |
| C. Conservatorships | \$190.00 |
| D. Trusts | \$150.00 |

CASH BASIS THEREAFTER

- | | |
|--|-----------------|
| 8. <u>LAND SALE PROCEEDINGS</u> | \$150.00 |
| 9. <u>WILL CONTEST</u> | \$150.00 |
| 10. <u>WRONGFUL DEATH</u> | \$88.00 |
| 11. <u>CIVIL ACTIONS NOT OTHERWISE LISTED</u> | |
| A. Declaratory Judgments | \$150.00 |
| B. Will Construction | \$150.00 |
| C. Determination of Heirs | \$150.00 |
| D. Concealment of Assets | \$150.00 |

12. SUMMARY LAND SALE \$74.00

13. ADOPTIONS

A. Placement Applications (Due at time of filing) \$550.00

B. Adoption Petition (Step Parent and/or Grandparent) \$400.00

(Private Adoptions and/or Legal Custodians) \$800.00
(Cost includes one Ohio Birth Certificate. If
birth occurred outside the State of Ohio, costs
may be more and will be billed when amount is
determined)

C. Adult Adoptions \$200.00

D. Filing Petition for Release of \$50.00
Identifying Information

14. CHANGE OF NAME \$125.00

Publication Costs paid directly to newspaper
by Applicant

15. MINOR'S CLAIM \$88.00

16. MARRIAGE LICENSE \$60.00

17. SERVICE BY CERTIFIED MAIL. COSTS COLLECTED
DEPENDENT UPON NUMBER OF NOTICES REQUIRED.

All other probate proceedings shall be on a cash basis due at the time of hearing.

Upon depletion of any advance deposit, additional deposits will be requested.

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

18. RECORD AND TRANSCRIBING TESTIMONY

A. In all proceedings in which a record is made, a fee shall be assessed.

B. A fee for transcribing testimony shall be paid by the person requesting such service.

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

LOCAL RULE 26.1

APPLICATION TO PROBATE A WILL

RESERVED.

LOCAL RULE 27.1

APPLICATION FOR LETTERS OF ADMINISTRATION

An Applicant for Letters of Administration in an estate where there is no surviving spouse a resident of Ohio, nor known next of kin a resident of Ohio, shall cause seven (7) days written notice of the time and place of hearing to be served on a spouse and all competent next of kin, if any, residing outside of the State of Ohio known to the applicant.

LOCAL RULE 28.1

AMENDED OCTOBER 2, 2000 BY DELETING PARAGRAPH A
OF RULE AMENDED JULY 1, 1989

APPOINTMENT OF APPRAISERS IN ESTATES
AND LAND SALE PROCEEDINGS

A. The Executor or Administrator may request appointment of any qualified person to act as appraiser, with the appointment subject to Court approval.

B. Qualifications for an appraiser shall be attached to the request for Appointment of Appraiser.

LOCAL RULE 29.1

ADOPTED SEPTEMBER 19, 1994

INVENTORY

The time for filing the Inventory in all decedents' estates shall automatically be extended from one month (2115.02 O.R.C.) to three (3) months unless otherwise ordered by the Court.

LOCAL RULE 29.2

EFFECTIVE SEPTEMBER 19, 1994

INVENTORY - NOTICE OF HEARING

The Executor or Administrator shall serve notice of the hearing on the Inventory, or shall cause the notice to be served, upon the following persons:

1. To all heirs in an intestate estate;
2. To all beneficiaries in a testate estate;
3. To the surviving spouse.

Notice shall be given by one of the methods set forth in Civil Rule 73 and proof of service of notice shall be made by one of the methods set forth in Civil Rule 73(F). Persons entitled to notice may waive the same in writing by using the attached form "Waiver of Notice of Hearing on Inventory" (Form 6.2) or a form later adopted by the Supreme Court.

The Probate Court, after notice to the Executor or Administrator, either upon the Motion of any interested party for good cause shown or at its own instance, may order that notice of the hearing on the Inventory is to be served upon additional persons that the Court designates.

The notice required under this Local Rule of Court shall be made using the attached form "Notice of Hearing (Inventory and Appraisal)" or a form later adopted by the Supreme Court and proof of service of notice shall be made by filing the attached form "Affidavit of Service (Inventory and Appraisal)", together with the attachments required by Civil Rule 73(F).

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

ESTATE OF _____, DECEASED

CASE NUMBER _____

NOTICE OF HEARING
(Inventory and Appraisal)

To: _____

Notice is hereby given that the Fiduciary in the above-referenced estate has filed the Inventory and Appraisal on the _____ day of _____, 19____. On the _____ day of _____, 19____ at _____ o'clock ____M. the Court will conduct a hearing on the Inventory and Appraisal. For good cause, the hearing may be continued for the time that the Court considers reasonable. Exceptions to the Inventory or to the allowance for support provided by Section 2106.13 of the Revised Code may be filed at any time prior to five days before the date set for the hearing or the date to which the hearing has been continued, by any person interested in the estate or in any of the property included in the Inventory, but the time limit for filing of exceptions shall not apply in case of fraud or concealment of assets. At the hearing, the executor or administrator and any witness may be examined under oath.

This Notice is served in accordance with Section 2115.16 of the Ohio Revised Code.

Dated at Zanesville, Ohio this _____ day of _____, 19____.

Fiduciary

LOCAL RULE 30.1

CLAIMS FILED WITH THE COURT

RESERVED.

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

ESTATE OF _____, DECEASED

CASE NUMBER _____

AFFIDAVIT OF SERVICE
(Inventory and Appraisal)

The undersigned hereby states that the following named persons have been served with Notice of the Hearing on the above-referenced inventory and appraisal, or have waived Notice of the Hearing.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

The Waiver or notification of the Notice of the Hearing is attached hereto as required by Civil Rule 73(F).

Fiduciary

Sworn to and subscribed in my presence this ____ day of _____, 19____.

Notary Public

LOCAL RULE 31.1

APPLICATION TO SELL PERSONALTY

RESERVED.

LOCAL RULE 32.1

AMENDED THE 1st DAY OF FEBRUARY, 2016

ACCOUNTS

A. Accounts of Executors or Administrators shall comply with the requirements of Ohio Revised Code Section 2109.301. Receipts or vouchers shall not be required with respect to Accounts of Administrators or Executors. Provided however, the Court, in its discretion, may require vouchers or receipts.

B. Accounts of Guardians or Conservators shall be governed by Ohio Revised Code Section 2109.302. The Court will refuse to accept any Account for filing not accompanied by receipts for all disbursements over \$10.00 EXCEPT for accounts filed by Corporate Fiduciaries subject to Section 1109.16 of the Ohio Revised Code. If the financial institution used by the Fiduciary does not return canceled checks to the Fiduciary, and does not otherwise provide the names of the payees on Fiduciary checks, the Court will accept, in lieu thereof, as an exhibit to the Account, a schedule of checks, showing the check number, date, amount and payee.

C. Accounts of Testamentary Trustees or other Fiduciaries shall be governed by Ohio Revised Code Section 2109.303. The Court will refuse to accept any Account for filing not accompanied by receipts for all disbursements over \$10.00 EXCEPT for accounts filed by Corporate Fiduciaries subject to Section 1109.16 of the Ohio Revised Code. If the financial institution used by the Fiduciary does not return canceled checks to the Fiduciary, and does not otherwise provide the names of the payees on Fiduciary checks, the Court will accept, in lieu thereof, as an exhibit to the Account, a schedule of checks, showing the check number, date, amount and payee.

D. When an Account presented for filing has been reviewed and accepted, all disbursements for which a receipt has been furnished will be check-marked by the receiving Deputy Clerk and the receipts (for Accounts where receipts or vouchers are required) will be returned to the filing party.

E. The time for filing an Account by an Executor or Administrator is set forth in Ohio Revised Code Section 2109.301. Every Administrator and Executor, within six (6) months after appointment, shall render a Final and Distributive Account of the Administrator's or Executor's administration of the Estate unless one of the circumstances described in Ohio Revised Code Section 2109.301(B) apply. Every Guardian or Conservator shall render an Account for the administration of the Ward's Estate annually. Every Testamentary Trustee shall render an Account of the Trustee's administration of the Trust annually.

F. No Application to Extend the Time for filing an Account shall be accepted for filing unless it is signed by all Fiduciaries. Rule 78(B), Rules of Superintendence for the Courts of Ohio.

G. An Application for Extending the Time for filing an Account that is filed more than thirty (30) days after the Account is due shall not be approved unless the attorney and all Fiduciaries personally appear before the Court.

H. A second Application for Extension of Time to file the same Account shall not be approved unless the attorney and all Fiduciaries personally appear before the Court.

I. No Partial Account shall be accepted for filing if the ending date is more than ninety (90) days prior to the filing date.

J. Partial Accountings may be waived pursuant to the provisions of 2109.301(A).

LOCAL RULE 32.2

AMENDED THE 29TH DAY OF OCTOBER, 2003

FIDUCIARY ACCOUNTS – NOTICE

A. Every Fiduciary's Account required by Section 2109.32 of the Ohio Revised Code (including, Accounts of Executors or Administrators, Trustees and Guardians of the Estate) shall be set for hearing before the Probate Court not earlier than 30 days after the filing of the Account. No notice of the hearing on a Partial Account is required to be given, but the Fiduciary may serve notice in accordance with Section 2109.33 of the Ohio Revised Code. With respect to decedents' estates, notice of the hearing on a Final Account shall be given to all heirs in an intestate estate and to all residuary beneficiaries in a testate estate and to the surviving spouse. An Administrator or Executor filing an Account pursuant to Section 2109.301 of the Ohio Revised Code shall provide at the time of filing the Account a copy of the Account to each heir of an intestate estate or to each beneficiary of a testate estate unless one of the exceptions of 2109.32(B) apply. With respect to a Trustee Account, Notice of the Hearing on a Final Account shall be given to all income and remainder beneficiaries. With respect to a Guardian of the Estate, Notice of the Hearing on a Final Account shall be given as directed by the Probate Court. The notice required by this Local Rule shall be made by using the attached form "Notice of Hearing on Account" with respect to hearings involving one account only and served by one of the methods set forth in Civil Rule 73. With respect to hearings involving the filing of prior Accounts, the Notice required by this Local Rule shall be made by using the attached form "Notice of Hearing on Account (Prior Accounts)" and served by one of the methods set forth in Civil Rule 73. Copies of Accounts that are the subject of the hearing shall be served with the Notices required by this Rule. Proof of service of Notice shall be made by filing the attached form "Affidavit of Service (Fiduciary's Account)" together with the attachments required by Civil Rule 73(F).

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

ESTATE OF _____, DECEASED

CASE NUMBER _____

NOTICE OF HEARING ON ACCOUNT

_____ Account (First, Second, etc. or
Final and Distributive)

TO: _____

Notice is hereby given that the Probate Court of Muskingum County, Ohio, located on the first floor of the Court House at the corner of Fourth and Main Streets in Zanesville, Ohio, on the _____ day of _____, 19____ at _____ o'clock _____ .M. will inquire into, consider and determine all matters relative to the above-referenced account which was filed on the _____ day of _____, 19____, and the manner in which the Fiduciary has executed his/her Trust, including the investment of Trust funds, and may order the Account approved and settled or make any other order as the Court considers proper.

The period of time covered by the Account is from the _____ day of _____, 19____ until the _____ day of _____, 19____. A copy of the Account filed is attached for your examination.

All persons notified are, unless they have executed a Waiver, required to examine the Account, to inquire into the contents of the Account and into all matters that may come before the Court at the hearing on the Account, and to file any exceptions that the person may have to the Account at least five (5) days prior to the hearing on the Account, and that upon failure to file exceptions, the Account may be approved without further notice.

This Notice is served in accordance with Section 2109.33 of the Ohio Revised Code.

Dated at Zanesville, Ohio, this _____ day of _____, 1994.

Fiduciary
-17-1-A-

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

ESTATE OF _____, DECEASED

CASE NUMBER _____

NOTICE OF HEARING ON ACCOUNT
(Prior Accounts)

_____ Account (First, Second, etc. or
Final and Distributive)

TO: _____

Notice is hereby given that the Probate Court of Muskingum County, Ohio, located on the first floor of the Court House at the corner of Fourth and Main Streets in Zanesville, Ohio, on the _____ day of _____, 19____ at _____ o'clock _____ M. will inquire into, consider and determine all matters relative to the above-referenced account which was filed on the _____ day of _____, 19____, and the manner in which the Fiduciary has executed his/her Trust, including the investment of Trust funds, and may order the Account approved and settled or make any other order as the Court considers proper.

The period of time covered by the Account is from the _____ day of _____, 19____ until the _____ day of _____, 19____. Prior Accounts that have been settled in this matter are set forth below:

<u>Date Previous Account Filed</u>	<u>Period of Time Covered By Account</u>
_____, 19____.	_____, 19____ until _____, 19____.
_____, 19____.	_____, 19____ until _____, 19____.
_____, 19____.	_____, 19____ until _____, 19____.

A copy of the Account most recently filed and copies of all previously filed Accounts are attached for your examination.

-17-1-B-

All persons notified are, unless they have executed a Waiver, required to examine the Account, to inquire into the contents of the Account and into all matters that may come before the Court at the hearing on the Account, and to file any exceptions that the person may have to the Account at least five (5) days prior to the hearing on the Account, and that upon failure to file exceptions, the Account may be approved without further notice. The approval of the Account filed most recently will terminate any rights possessed by you to vacate the Order settling each prior Account specified above, except as provided in Section 2109.35 of the Revised Code. Under penalty of losing those rights, you are required to examine each prior Account specified above, inquire into its contents and, file any exceptions that you may have to the prior Accounts at least five (5) days prior to the hearing set forth above.

This Notice is served in accordance with Section 2109.33 of the Ohio Revised Code.

Dated at Zanesville, Ohio, this ____ day of _____, 1994.

Fiduciary

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

ESTATE OF _____, DECEASED

CASE NUMBER _____

AFFIDAVIT OF SERVICE

_____ Account (First, Second, etc. or
Final and Distributive)

The undersigned hereby states that the following named
persons have been served with Notice of the Hearing on the
above-referenced Account, or have waived Notice of the Hearing
and consented to the approval of the same:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

The Waiver or notification of the Notice of the Hearing is
attached hereto as required by Civil Rule 73(F).

Fiduciary

Sworn to and subscribed in my presence this _____ day of
_____, 19____.

Notary Public

-17-1-E-

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

ESTATE OF _____, DECEASED

CASE NUMBER _____

WAIVER OF NOTICE OF HEARING
(Fiduciary's Account)

The undersigned, being the surviving spouse, next of kin, legatees or devisees of decedent, or attorneys representing any of them, hereby waive service of Notice of the Hearing on the _____ (First, Second, etc. or Final and Distributive) Account filed by the _____ and hereby consent to the approval of same.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

LOCAL RULE 33.1

LAND SALES - R.C. CHAPTER 2127

AMENDED OCTOBER 2, 2000

The Attorney's Certificate required by C.P. Sup. R. 65 shall guarantee record title only and shall extend to the first root of title beyond forty (40) years.

A fee of \$200.00 plus an additional \$100.00 for each additional chain of title covering the real estate described in the Complaint to Sell will be allowed to the attorney furnishing the Certificate of Title, in addition to any other fee which the attorney is entitled to under these Rules. The premium of a Title Insurance Company issuing a supporting preliminary and/or final judicial report may be allowed as an expense of the Land Sale, in addition to the fee of attorney for certifying title, upon prior application to the Court.

In all sales under O.R.C. 2127.11 (Summary Proceeding), the Application shall be set for hearing and the Plaintiff shall give the Defendants notice of the time and place of hearing in the method provided in Civil Rule 73E.

The Bond required to be executed in Lane Sale Proceedings pursuant to O.R.C. 2127.27 shall be filed in the case wherein the fiduciary received his/her appointment.

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

LOCAL RULE 35.1

ESTATES OF MINORS AND PROPOSED INCOMPETENTS
TEN THOUSAND DOLLARS OR LESS

RESERVED.

LOCAL RULE 36.1

SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS
(O.R.C. 2111.18)

The presence of the injured child and one parent
IS required at all hearings on Applications.

LOCAL RULE 37.1

SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS
UNDER TEN THOUSAND DOLLARS

The presence of the injured child and one parent
IS required at all hearings on Applications.

LOCAL RULE 38.1

SETTLEMENT OF CLAIMS FOR WRONGFUL DEATH

RESERVED.

LOCAL RULE 39.1

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 MINORS UNDER SEC. 2111.18

RESERVED.

LOCAL RULE 40.1

AMENDED THE 24TH DAY OF MAY, 2007

COUNSEL FEES

A schedule of compensation based on percentage of value of assets reported in an estate is hereinafter set forth as a guide to determining reasonable and approvable attorney fees for attorneys representing an executor, administrator, or commissioner in the administration of a decedent's estate or release from administration. Said schedule is not to be considered as setting minimum or maximum fees to be charged.

SCHEDULE

6% of the first \$4,000.00
4% of the next \$16,000.00
3% of the excess over \$20,000.00

Computation of attorney fees may use the highest valuation of all property, real and personal, whether said valuation is that set forth in the Inventory and Appraisal filed with the Court, or the valuation as would be reportable and includable in the Ohio Estate Tax Return or United States Estate Tax Return, whether or not such return is required to be filed.

The Court may approve the attorney fee when it follows the above guidelines without hearing when the fiduciary and the attorney have signed and approved the final and distributive Fiduciary Account to be filed with the Court. A description and computation shall be provided for review by the Court when the attorney fees calculated by the guidelines include assets which are considered non-probate assets.

Attorney fees which exceed the guidelines set forth above must have the written consent of the fiduciary and all residual beneficiaries. The consent shall state the fee calculated pursuant to the schedule set forth above and the amount by which the requested fee exceeds the schedule. The consent shall be filed with the Court. In such cases, the Court may allow the attorney fee requested without a hearing, or the Court may, on its own Motion or that of any interested party, set the matter for hearing.

Releases from administration or estates with total assets, probate and non-probate of less than \$10,500.00 are permitted an attorney fee up to \$500.00 instead of the fee computed by the guideline. Summary Releases from Administration with total assets, probate and non-probate, of less than \$2,000.00 are permitted an attorney fee up to \$250.00 instead of the fee computed by the guidelines.

When an attorney seeking approval of an attorney fee is also the fiduciary in the Estate, the allowable attorney fee shall be reduced by one-half (1/2) the amount he or she receives as fiduciary compensation. A partial attorney fee may be paid only upon approval by the Court upon Application to the Court and for good cause shown.

Computation of Attorney Fees

Date Prepared: 12/9/2004

The Estate of:

John William Doe

Case Number:

1234567

Attorney:

Description of Assets:

Probate assets as reported on the
Inventory and Appraisalment

\$20,000.00

Non-probate assets, including those
assets reportable and includable on
the Ohio Estate Tax Return or the
United States Estate Tax Return:

Residence (survivorship property)

\$150,000.00

Bank Account 1 (joint and survivorship)

\$50,000.00

Bank Account 2 (joint and survivorship)

\$25,000.00

Trust Assets

\$500,000.00

TOTAL ESTATE VALUE

\$745,000.00

Guideline	Amount	%	Fee	Total
Up to \$4,000	\$4,000.00	6%	\$240.00	
\$4,001 to \$20,000	\$16,000.00	4%	\$640.00	
Above \$20,000	\$725,000.00	3%	\$21,750.00	
Total Attorney Fee				\$22,630.00
Less: Courtesy Discount				(\$630.00)
Attorney Fee as Billed				\$22,000.00

LOCAL RULE 41.1

EXECUTOR'S AND ADMINISTRATOR'S COMMISSIONS

RESERVED.

LOCAL RULE 42.1

GUARDIAN'S COMPENSATION

AMENDED OCTOBER 2, 2000 BY ADDING
LAST PARAGRAPH ON PAGE 27

The compensation allowed annually to a Guardian of the estate accountable to the Probate Court, without prior application to the Court for approval, shall be in accordance with the following schedule:

A. A one time fee equal to 2% of the value of all corpus set forth on the Inventory, except for real estate. The fee chargeable with respect to real estate shall be \$2.50 per \$1,000 of the fair market value as reported on the Inventory.

B. RECEIPTS - 6% of all receipts (but not including real estate rentals and conversion of assets to cash) received; 10% of the gross income attributable to real estate rentals where the fiduciary is managing such real estate.

C. DISBURSEMENTS - 2% of all disbursements, including final distribution.

D. The Guardian shall also receive additional compensation upon the proceeds of real estate that is sold in the same amount that an Executor or Administrator would receive pursuant to Ohio Revised Code Section 2113.35. Provided, however, a Guardian shall receive a minimum fee with respect to the sale of real estate of \$750.

E. The Guardian shall also receive additional compensation upon the gross proceeds of tangible personal property that is sold as follows:

1. For the first \$100,000 at the rate of 4%;
2. All above \$100,000 and not exceeding \$400,000 at the rate of 3%;
3. All above \$400,000 at the rate of 2%.

F. INDIGENT GUARDIANSHIP FEES.

1. Upon Motion of Guardian filed after January 1, 1990, with Affidavit stating the ward is indigent, except for property allowed by welfare rules, and that ward's estate cannot pay for services of a Guardian, the Court will allow an annual fee of \$150.00 to the Guardian and an annual fee of \$150.00 to the Guardian's attorney, if any. In any case, when the Guardian and Guardian's attorney are one and the same person, an annual fee of \$225.00 will be allowed.
2. Out-of-pocket expenses of the Guardian will be considered for payment if the same are fair and reasonable and proved by receipt or otherwise, but in no event will expenses be allowed in excess of the amount allowed for compensation.
3. All fees and expenses payable with respect to indigent guardianships shall be paid from the Indigent Guardianship Fund established after January 1, 1990 by this Court.

A minimum annual fee of \$150 will be allowed in each guardianship (for the estate). The Court may require in proper cases that any application for compensation be set for hearing and written notice thereof be given to all interested parties in the manner directed by the Court. In that event, said notice shall contain a statement of the amount of compensation applied for. The Guardian's compensation shall be calculated using the attached form and the completed form shall be attached to the Guardian's Account for the period in which the Guardian's compensation was calculated.

The compensation allowed annually to a Guardian of the person accountable to the Probate Court shall be determined by the Court upon application.

In all Motions, including applications for compensation, guardians of veterans MUST comply with O.R.C. 5905 and all other rules and regulations of the Department of Veterans Affairs, which may apply.

IN THE PROBATE COURT OF MUSKINGUM COUNTY, OHIO

IN THE MATTER OF:

CASE NO.

COMPUTATION OF GUARDIAN'S COMPENSATION

(1) FEE BASED UPON INVENTORY CORPUS:
(except for real estate) \$ _____ x 2% \$ _____

REAL ESTATE REPORTED ON INVENTORY:
\$ _____ x \$2.50 per \$1,000 \$ _____

(2) FEES BASED UPON RECEIPTS:
6% of all receipts (but not including
real estate rentals and conversion of
assets to cash) \$ _____

10% of gross income attributable to
real estate rentals (where the fiduciary
is managing such real estate) \$ _____

(3) FEES BASED UPON DISBURSEMENTS:
2% of all disbursements \$ _____

(4) FEES BASED UPON SALE OF REAL ESTATE:
(a) 4% of first \$100,000 \$ _____
(b) 3% of next \$300,000 \$ _____
(c) 2% of balance \$ _____
(d) TOTAL \$ _____

OR

(a) Minimum fee for sale of real estate - \$750
*The Guardian is entitled to the greater
of either the total listed in (d) above or \$750 \$ _____

(5) FEES BASED UPON SALE OF TANGIBLE PERSONAL PROPERTY:

(a) 4% of first \$100,000 \$ _____

(b) 3% of next \$300,000 \$ _____

(c) 2% of balance \$ _____

(d) TOTAL \$ _____

GRAND TOTAL \$ _____

Attorney

Guardian

LOCAL RULE 43.1

TRUSTEE'S COMPENSATION

AMENDED JANUARY 1, 2011

Unless provided for in the instrument which creates the trust relationship, the compensation allowed annually to a testamentary trustee accountable to the Probate Court, without prior applications to the Court for approval, shall be in accordance with the following schedule:

ANNUAL FEE

Investment, Administrative & Accounting Services – Based on Market Value of Assets.

- (1.00%) on first..... \$500,000
- (0.90%) on next.....\$500,000
- (0.80%) on next..... \$1,000,000
- (0.70%) on balance

Tax Processing Fee

- A reasonable preparation fee will be charged for quarterly tax estimate analysis, a year-end tax information letter, and tax return processing.

Additional Services

- Out-of-pocket Expenses – as incurred
- Extraordinary Services – based on time and expense
 - Examples of these expenses are:
 - Additional copies of statements
 - Letters of opinion on legal issues, whether from internal or outside legal counsel
 - Research of historical cost basis
 - Preparation of manual checks
 - Real estate management

Termination or Distribution Fee

- 1.00% of Market Value.
 - Additional charges may be assessed based on time and expense.

The determination of the Market Value for purpose of computing annual Trustee compensation may be made monthly and Trustee fees may be paid monthly.

The Court may require that any Application for Compensation in excess of the amounts set forth above be set for hearing and written Notice thereof given to all qualified beneficiaries as defined by Ohio Revised Code Section 5801.01. Such written Notice shall be served in the manner directed by the Court and shall contain a statement of the amount of compensation applied for.

There is no minimum Trustee fee set by local rule. However, a Trustee may apply for a minimum annual fee upon Motion and Memorandum. In such case, the Trustee shall serve the Motion and Memorandum on all qualified beneficiaries along with Notice of the hearing date set for the Motion.

LOCAL RULE 44.1

LOCAL RULES

Members of the Muskingum County Bar Association and other attorneys practicing law in this County are invited to submit proposed local rules that could aid in fostering prompt and just administration of Probate matters. In any instance where a rule is proposed, the Court will survey the local Bar and make a determination whether or not it should be adopted.

LOCAL RULE 45.1

EXCEPTION TO THE RULES

RESERVED.

LOCAL RULE 46.1

CASE MANAGEMENT AND PRE-TRIAL PROCEDURE

For the purpose of insuring the readiness of civil cases in the Probate Division for Pre-Trial, final Pre-Trial and Trial, the following procedures shall be in effect:

I. CIVIL ACTIONS

- A. A Pre-Trial Conference shall be conducted in all civil cases prior to being scheduled for trial, except in land sale proceedings.
- B. Within thirty (30) days after the answer day the case shall be set by the Court for a Pre-Trial Conference.
- C. Notice of the Pre-Trial Conference shall be given to all counsel of record by mail and/or telephone by the Court not less than fourteen (14) days prior to the conference. Any application for continuance of the conference shall BE IN WRITING and filed with the Court in a timely manner.
- D. The following decisions shall be made at the Pre-Trial Conference and all counsel attending MUST have full authority to enter into a binding Pre-Trial Order.
 - 1. A definite discovery schedule shall be agreed upon by all parties for the completion of all discovery.
 - 2. A definite date for exchange for expert witnesses shall be determined.
 - 3. A definite date for filing of all motions which date shall not be later than seven (7) days before the final Pre-Trial. The date for the final Pre-Trial shall be set by the Court and shall be held approximately one week prior to the trial.
- E. The following decisions shall be made at the final Pre-Trial and all counsel attending MUST have full authority to enter into a binding final Pre-Trial Order.

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

F. The trial date shall not be changed nor shall the trial be continued without order of the Court and after the showing of good cause.

II. LAND SALES

All land sales which have not been concluded within one (1) year from the date of filing shall be set for Pre-Trial Conference within ten (10) days following the expiration of one year.

A. The following decisions shall be made at the Pre-Trial Conference and all counsel attending MUST have full authority and enter into a binding Pre-Trial Order.

1. The attorney of record and fiduciary MUST attend the Pre-Trial Conference.
2. A written status report SHALL be filed with the Court no later than seven (7) days prior to the Pre-Trial Conference.
3. The status report shall address the issues as to the efforts being made to sell the real estate and when the case will be closed.

III. DECEDENTS' ESTATES

A. The statutory time for filing of an account (R.C. 2109.30) shall be adhered to and the citation procedure (R.C. 2109.31) shall be utilized, if necessary, to gain compliance.

B. Objections to Inventory and Objections to Account. The Court shall set a Pre-Trial Conference within thirty (30) days after filing.

1. The Court, at the Pre-Trial Conference, shall set the matter for an evidentiary hearing within thirty (30) days after filing.

C. All decedents' estates, which are current as to filed accounts, that remain open after a period of one year and nine months shall be subject to a status conference. The Fiduciary and the attorney shall be present and a written status report shall be submitted to the Court at the time of the status conference.

IV. WRONGFUL DEATH SETTLEMENTS

All hearings shall be held within thirty (30) days of the filing of the Form 14.0, provided however, if either a Guardian or Guardian Ad Litem is necessary to be appointed, the hearing shall be held within fifteen (15) days after the appointment.

V. GUARDIANSHIPS

Adequate statutory provisions exist to control timeliness of filings; however, each case shall be reviewed not less than bi-annually.

VI. TRUSTS

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

VII. MOTIONS

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

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

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

LOCAL RULE 48.1

IN THE COMMON PLEAS COURT OF MUSKINGUM COUNTY, OHIO
PROBATE DIVISION
COURT SECURITY POLICY AND PROCEDURE PLAN

Pursuant to Rule 9(D) of the Rules of Superintendence for Courts of Common Pleas, the Probate Division of the Court of Common Pleas of Muskingum County, Ohio adopts the following Court Security Policy and Procedures Plan.

The Court will create a Court Security Advisory Committee to assist the Court in developing and implementing Court Security Standards. The Committee shall consist of at least the following:

- A. The Chief of Police of the City of Zanesville or representative.
- B. The Sheriff of Muskingum County, Ohio or representative.
- C. A member of the Board of County Commissioners of Muskingum County, Ohio.
- D. The President of the Muskingum Bar Association or representative.
- E. A representative of the Zanesville City Council.
- F. A representative of the Zanesville/Muskingum County Community.
- G. The two General Division Judges, the Probate/Juvenile Judge, the Municipal Judge, and the two County Court Judges.

EFFECTIVE JULY 1, 1995

LOCAL RULE 49.1

Pursuant to Section 2101.16(F) of the Ohio Revised Code, the Court establishes \$50.00 as the fee for the filing of a Petition for the Release of Information regarding an adopted person's name by birth and identity of the adopted person's biological parents and biological siblings pursuant to Section 3107.41 of the Ohio Revised Code.

EFFECTIVE DECEMBER 3, 1996

LOCAL RULE 66.01

DEFINITIONS

The terms defined in Sup. R. 66.01 have the same meaning when used in Loc.R. 66.01 through 66.20.

LOCAL RULE 66.02

APPLICATION OF RULES

The Local Rules guardianship rules apply to all guardianship administered through this Court, unless otherwise indicated in the particular Local Rule, or unless expressly waived by Court Order.

LOCAL RULE 66.03(A)

EMERGENCY GUARDIANSHIPS

Pursuant to Sup.R. 66.03(A) this Court has adopted the following process for emergency guardianships. Every application for the appointment of an *ex parte* emergency guardianship shall be accompanied by: (a) a Statement of Expert Evaluation (SPF 17.1) (as supplemented for emergency guardianships with (SPF 17.1A); (b) a completed Next of Kin form (SPF 15.0); (c) a narrative statement signed by the applicant setting forth anecdotal information describing the imminent risk of significant injury to the person or property of the minor or incompetent that justifies an *ex parte* emergency appointment;(d) compliance with Court's requirements with respect to background checks and credibility; and (e) photo identification of the applicant. The applicant is expected to file an application for appointment of guardian (SPF 16.0 or SPF 17.0, as is applicable) within seven days of the filing of the *ex parte* emergency guardianship.

LOCAL RULE 66.03(B)

GUARDIAN COMMENTS AND COMPLAINTS

Pursuant to Sup.R. 66.03(B) this Court has adopted the following process for submitting and considering comments or complaints regarding the performance of guardians appointed by this Court.

This local rule is applicable to all guardians appointed by the Court pursuant to RC 2111.02. Comments and complaints (hereinafter collectively referred to as “complaints”) received regarding the performance of guardians and the resulting documents and correspondence are considered to be case documents and accessible to the public, unless otherwise excluded pursuant to Superintendence Rule 44 (C)(2). The Court will note actions with respect to the complaint in the case docket. The Court will communicate complaints about a guardian’s performance to the guardian and/or the guardian’s counsel expeditiously and pursuant to the local rule.

The Court will not accept or act upon an oral or telephonic complaint against a guardian, other than to provide the address to which to hand-deliver, fax, e-mail, or mail the written complaint. The Court will not accept an anonymous complaint. When the Court receives the written complaint regarding a guardian’s performance, it will date-stamp the complaint. Complaints received electronically on days the Court is closed shall be deemed to have been received on the next day the Court is open.

When a complaint is received at the Court by hand delivery or electronic means:

- (A) Within five (5) workdays of receipt of the complaint the Court shall send a letter to the complainant acknowledging the receipt of the complaint and providing a copy of this rule.**
- (B) Within ten (10) workdays of the, the Court shall perform an initial review of the complaint after a study of the guardianship case, and**

- (1) Send the complainant a letter dismissing the complaint as unsubstantiated/unspecific/insufficient and send a copy of the complaint and response to the guardian or guardian's counsel; or**
- (2) Send a copy of the complaint to the guardian and/or guardian's attorney and request a response to the complaint within fifteen (15) court days from the date of mailing. The forwarding letter shall advise the guardian and/or attorney that a failure to respond will result in a show cause hearing being set with the attendance of the guardian required. A copy of the forwarding letter shall be provided to the complainant; or**
- (3) Notify the guardian and/or the guardian's counsel and the complainant and refer the matter to the Coordinator of the Court's Guardianship Visitor Program for assignment to a Court Visitor and a report within fifteen (15) court days from the date of referral; or**
- (4) Notify the guardian and/or guardian's counsel and refer the matter to the Court Investigator for an investigation and a report within fifteen (15) court days from the date of referral; and/or**
- (5) When appropriate, refer the matter to the appropriate law enforcement agency pursuant to RC 2101.26 if the complaint alleges abuse, neglect, or exploitation of the ward. When the Court refers a complaint to law enforcement, the Court will take such emergency action as it determines necessary to protect the interests of the ward while being cognizant of the need to have minimal impact on investigation by the law enforcement.**

(C) Upon the expiration of the period for the responsive reports from guardian, the Court Visitor, or Court Investigator to be filed, or upon their earlier filing, the case file (including the written response(s) and the complaint) shall be submitted to the Court and within five (5) court days the Court shall do one or more of the following:

- (1) Find the complaint to have been resolved or unsubstantiated and advise the complainant, guardian and/or counsel accordingly by letter;**
- (2) Set a review conference or a show cause hearing with notice to the complainant, the ward, the guardian and/or guardian's counsel, and other interested parties; or**
- (3) Appoint a guardian ad litem to represent the best interests of the ward; or**
- (4) Appoint of a special master commissioner to investigate the issues and to report with findings and recommendations pursuant to RC 2101.06 with notice to all interested parties. When the commissioner's report is filed, the Probate Court will set for hearing with notice to the ward, the ward's guardian ad litem, if any, the guardian and/or the guardian's counsel and the complainant.**

Except when administratively dismissing a complaint, or acting in an emergency, the Court shall not act without a hearing. The Court shall issue findings and conclusions with respect to any hearing held on the complaint. The Court's journalization relating to the Decision will close the complaint.

LOCAL RULE 66.04 (RESERVED)

LOCAL RULE 66.04 (RESERVED)

LOCAL RULE 66.05(A)

GUARDIAN BACKGROUND CHECKS

An applicant for appointment as a 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, may obtain and submit to the Court a Certificate in Good Standing with disciplinary information, issued by the Supreme Court of Ohio.

LOCAL RULE 66.05(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) by January 31 of each year, a guardian with ten or more wards through the probate courts of Ohio shall register with this Court on the local Multi-Guardian Annual Registration Form, or on a standard form adopted for that purpose by the Ohio Supreme Court. The registration shall include a listing of the guardian's wards, the case number and the appointing Court. The guardian in such cases shall advise the Court of any change in the guardian's name, address, telephone number and electronic mail address within ten days of the change occurring.

If the guardian will be seeking compensation from the guardianship or from the Court, the guardian shall accompany the annual registration with a fee schedule that differentiates guardianship services fees as established by local rule from legal fees or other direct services.

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

LOCAL RULE 66.06

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 month 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. A guardian who has served at any time after June 1, 2015, or who is serving on June 1, 2015, shall have until June 1, 2016 to complete the guardian fundamentals course, unless the Court waives or extends the requirement for good cause. The guardian is responsible for providing to the Court in a timely manner documentation that establishes compliance with the guardian fundamentals training requirement.

Every guardian of a minor ward and every guardian of an adult ward to whom the guardian is related by consanguinity (blood relationship) or affinity (kinship by marriage) must attend any training program(s) designated by the Court. A guardian who has (a) previously completed this Court's local guardianship training program; (b) completed the guardian fundamentals training program offered by the Supreme Court of Ohio, or a similar course approved by it; (c) been appointed by this Court as a guardian prior to June 1, 2015, is *exempt* from this training upon providing such documentation supporting the exemption as the Court may require. Unless otherwise ordered by the Court, the guardianship training must be completed prior to appointment, or within six months thereafter. The failure to attend the training in a timely manner may result in a citation in contempt, sanctions, and/or removal of the guardian.

LOCAL RULE 66.07

GUARDIAN CONTINUING EDUCATION

After completing the guardian fundamentals course, every guardian of an adult not related to the ward by consanguinity (a blood relationship) or affinity (kinship by marriage) shall annually complete a three-hour guardian continuing education course provided by the Supreme Court of Ohio, or with prior approval of that Court, another entity.

If a guardian fails to comply with the guardian continuing education requirement, the guardian shall not be eligible for further appointment until the requirement is met. The guardian also may be subject to sanctions and/or removal.

By December 31 of the first calendar year after completing the guardian fundamentals course, or its waiver by Court order, the guardian is responsible for providing to this Court documentation demonstrating compliance with this guardian continuing education requirement, including the title, date, location and provider of the education, or a certificate of completion containing such information.

LOCAL RULE 66.08

GENERAL RESPONSIBILITIES OF THE GUARDIAN TO THE COURT

The person seeking to be appointed as the guardian is expected to have met with the proposed ward at least once prior to appearing before the Court for the hearing on the application, unless the Court has waived the pre-appointment meeting for good cause.

If the guardian becomes aware of allegations of abuse, neglect or exploitation of the ward, the guardian shall immediately report the same to the appropriate law enforcement authorities and the Court.

A guardian appointed by this Court shall inform the Court as to any change of address for either the guardian or the ward. This notification must be made within ten (10) days of the address change. If the ward's residence is changed the reason for the change should be indicated. Failure to notify the Court, under this rule, may result in the guardian being removed and/or the guardian's compensation being reduced or denied.

The guardian shall not move the ward from Muskingum County, Ohio or into a more restrictive setting without prior Court approval, unless a delay in obtaining authorization for the change of residence or setting would affect the health and safety of the ward.

While a guardian is generally required to seek prior approval of this Court before filing a suit for the ward, prior approval shall not be required when the suit is being filed in this Court.

The guardian shall avoid conflicts of interest with the ward and endeavor to avoid the appearance of impropriety (perceived self-serving, self-dealing or perceived actions adverse to best interests decisions) when dealing with the ward's assets and needs. A potential conflict for the guardian may arise if the guardian's immediate family (parent, spouse, or child) is being employed or contracted by the guardian. The guardian shall disclose all conflicts to the Court in a clear and unequivocal manner. Doing so, facilitates a determination whether the conflict can be mitigated or eliminated through the use of a guardian ad litem, a limitation of the powers of the guardian, or other actions.

The guardian shall obey all orders of this Court and shall perform all guardianship duties in accordance with the state and federal laws and rules and this Court's local rules, as all of them may be effective during the guardianship.

LOCAL RULE 66.09

GENERAL RESPONSIBILITIES OF THE GUARDIAN TO THE WARD

The guardian shall treat the ward with respect and dignity.

The guardian shall meet with the ward at least quarterly throughout the year, or more often if needed to promote the best interests of the ward.

Unless a guardian is related to the ward by consanguinity (a blood relationship) or affinity (kinship by marriage), the guardian shall not deliver the ward direct services, as defined in Sup. R. 66.01(B), without approval of this Court.

The guardian shall deposit ward's last will and testament with the Court for safekeeping pursuant to Loc.R.59.2, if the will is in the possession of the guardian. If the ward's will is not in the possession of the guardian, upon being advised of the location, the Court shall order the holder to deposit the will with the Court for safekeeping.

LOCAL RULE 66.10

GUARDIANSHIP OF MINORS

With proceedings for the appointment of a guardian of a minor are presented to this Court, the following shall apply:

- (A) A certified copy of the minor's birth certificate must be displayed to the Court with the guardianship application. A copy will be made by the Court and the original will be returned to the submitter.**
- (B) The Court will not establish a guardianship solely for the purpose of school enrollment.**
- (C) The Court will not establish any guardianship over the person of a minor where another Court has jurisdiction over custody of the minor.**
- (D) When the minor has not been in Ohio for 6 months, the Court will not accept for filing an Application for Guardianship unless it is alleged that the minor has been (1) abandoned (no contact) by the parents for more than 90 days, (2) has a medical emergency, or (3) the minor's "home state" has declined jurisdiction. (See Ohio's Uniform Child Custody Jurisdiction Enforcement Act – Chapter 3127.)**

LOCAL RULE 66.11

NEXT OF KIN FOR GUARDIANSHIP OF INCOMPETENT ADULTS

For purposes of completing the Next of Kin of Proposed Ward (SPF 15.0), the applicant, pursuant to R.C. 2111.01(E), shall identify any person, whether or not an Ohio resident, who at that time would be entitled to inherit from the proposed ward under the Ohio laws of intestacy and all known children of the proposed ward.

LOCAL RULE 66.12

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. If the assets include real estate, a legal description of the ward's real estate interest should accompany the Inventory. Funds in the name of the ward shall not be released to the guardian without the approval of an Application to Release Funds (SPF 15.6) or other specific court order. The expenditure of funds by a guardian shall not be approved until a Guardian's Inventory (SPF 15.5) has been filed and an Application to Expend Funds (SPF 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 directives 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.

LOCAL RULE 66.13

GUARDIANS REPORT

Annually, the guardian of the person of an adult incompetent shall file the Guardians Report (SPF 17.7). Unless otherwise ordered by the Court each Guardians Report for an incompetent shall be accompanied by a Statement of Expert Evaluation (SPF 17.1). If a physician or clinical psychologist states as an Additional Comment on a Statement of Expert Evaluation, that is their opinion that to a reasonable degree of medical or psychological certainty that the ward's mental capacity will not improve, the Court, may dispense with the filing of subsequent Statements of Expert Evaluation with the Guardians Report.

Pursuant to Sup.R. 66.08(G) the guardian of the person for an adult who is not related to the ward by consanguinity (a blood relationship) or affinity (kinship by marriage) shall include with the annual Guardians Report an addendum stating the guardian's goals and plans for meeting the personal needs of the ward. The Court may request that the guardian of the estate of an adult incompetent submit a report identifying the guardian's goals and plans for financially meeting the ward's needs.

LOCAL RULE 66.14

DEPOSIT OF WILL BY GUARDIAN

The guardian must deposit with the Court for safekeeping any instrument known to the guardian and executed by the ward that would constitute a “will” under R.C. 2107.01. The guardian will comply with Loc.R. 59.2 when depositing the instrument. The Clerk shall issue to the Guardian a Certificate of Deposit of Will (Loc.F. 59.2B) as a receipt for the deposited will.

LOCAL RULE 66.15

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.

LOCAL RULE 66.16

TERMINATIONS

Except for the termination of a guardianship of a minor attaining the age of majority or upon the death of the Ward, a termination of a guardianship shall require notice to all persons designated in R.C. 2111.04 and to any other individuals who received actual notice of the original appointment of the guardian. It is the responsibility of the applicant for termination to perfect service pursuant to Civ.R. 73 when a termination is requested. A Certificate of Service with supporting documentation satisfactory to the Court must be filed prior to the consideration of the application.

LOCAL RULE 66.17

INDIGENT WARDS

The applicant or the guardian must file with the court an Affidavit of Indigency, (Loc.F 66.11A) 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.

LOCAL RULE 66.18

VETERAN'S GUARDIANSHIPS

Veterans' Guardianships are governed by R.C. Chap. 5905 and to the extent that there are special rules established therein for veterans' guardianship, those rules shall apply. In every other respect, the general guardianship laws and rules shall apply.

LOCAL RULE 66.19 (RESERVED)

LOCAL RULE 66.20

ADDITIONAL COST DEPOSIT

Pursuant to R.C. 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.