

WAYNE COUNTY COURT OF COMMON PLEAS, PROBATE DIVISION
LOCAL RULES OF COURT
(Effective January 1, 2010)

RULE 9.1:

CASE MANAGEMENT

(A) Scheduling

Upon service of the complaint, the Court shall make a scheduling order. Excepted from this requirement are appropriation cases, injunctions, and any other cases as determined by the Court. The Court shall make a scheduling order only after consulting with all counsel of record at a scheduling conference.

The scheduling order shall limit the time 1) to join new parties and to amend the pleadings; 2) to file and hear motions; 3) to complete discovery. It may also include the trial and pre-trial date(s), and any other matters appropriate to the particular case. Pre-trial conferences will be scheduled on the Court's own motion or upon the written request of counsel. The schedule shall not be modified except by order of the Court.

(B) Motions

1. *Summary Judgment.*

Motions for summary judgment will be decided without oral hearing unless oral argument is requested and determined necessary by the Court. Upon the filing of the motion, the Court will fix a "hearing" date as required by Civil Rule 56(C).

2. *All Other Motions.*

All other motions will be decided without oral hearing unless oral argument is requested and determined necessary by the Court. The moving party shall file with the motion a supporting memorandum containing the authorities relied upon and any affidavits or other supporting documents required or appropriate to file with the motion. Each party opposing the motion shall file a written response within fourteen (14) days after receipt of the motion. Reply or additional briefs or memoranda shall be submitted only with the approval of the Court.

3. *Continuances.*

This rule supplements Rules 7 and 23 of the Rules of Superintendence for Courts of Common Pleas and shall apply to all requests for continuance. Requests for continuance should be submitted to the Court at least fourteen (14) days prior to the trial or hearing date, or no later than five days after notice, whichever is earlier. Requests for continuance shall be by motion, accompanied by a proposed entry, which shall include:

a) the reason for the request. If the reason is another case scheduled on the same date in another court, the motion shall include the name of the court, the case caption, the date and time of the conflicting case, and the date the conflicting case was assigned for trial or hearing;

b) the time and date of the current assignment;

c) a new date obtained from the Chief Deputy Clerk in the event the Court grants the motion for continuance.

(C) Trial

1. Motions *in limine* shall be filed not less than three (3) days prior to trial, except for good cause shown.

2. At least one (1) day prior to trial, if requested by the Court, the parties shall file trial briefs with the Court stating their respective cases, both factual and legal, and bring to the Court's attention any anticipated legal issues which counsel expects to arise during the trial. Copies shall be furnished to opposing counsel prior to trial.

RULE 9.2:

COURT SECURITY

(A) Superintendence Rule 9(A) of the Ohio Rules of Superintendence of the Courts requires the Court to develop and implement a court security plan. The Court has met that requirement. In compliance with Rule 9(B), the plan is not available for public access.

RULE 15.

JURY USE AND MANAGEMENT

I. Opportunity for Service

A. The opportunity for jury service shall 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 of Wayne County, Ohio.

II. Jury Source List

A. Pursuant to court order, the jury source list shall be obtained from the Board of Elections' tape of registered voters. The court shall designate a key number based on the total number of registered voters and the number of jurors needed for a year of service.

- B. The jury source list shall be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.
- C. The court shall annually review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction.
- D. Should the court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action shall be taken.

III. Random Selection Procedures

- A. The Jury Commission shall, in the manner prescribed by law, by means of a computer program and equipment which will thoroughly intermix and randomize the names from the voter registration tape without exposing them, select an adequate number of persons who shall constitute the prospective jurors for that calendar year.
- B. Departures from the principle of random selection are appropriate only to comply with lawful exceptions.

IV. Eligibility for Jury Service

- A. All persons shall be eligible for jury service except those who:
 - 1. Are less than eighteen years of age;
 - 2. Are not citizens of the United States;
 - 3. Are not residents of the jurisdiction in which they have been summoned to serve; to wit, Wayne County;
 - 4. Are not able to communicate in the English language;
 - 5. Have been convicted of a felony and have not had their civil rights restored.

V. 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. Jurors shall be "on call" for a two-month period. They do not report every day. (The court has a telephone system allowing jurors to call to hear a message which informs them as to whether they are still needed for jury service.) Once

seated, a juror is excused for the remainder of the term.

VI. Exemption, Excuse and Deferral

- A. All automatic excuses or exemptions, with the exception of statutory exemptions, from jury service should be eliminated.
- B. Prospective jurors are excused for the following reasons: over age 70 and request to be excused; elected public officers, physicians, attorneys at law, cloistered members of religious organizations, dentists, persons on active military duty, members of the Ohio National Guard, active volunteer firefighters who have served for five consecutive years.
- C. Deferrals for jury service for reasonably short periods of time may be permitted by a judge or specifically authorized court official.
- D. Requests for excuses and deferrals and their disposition shall be written or otherwise made or recorded.

VII. Voir Dire

- A. Voir dire examination shall 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 for each party in writing prior to the day on which jury selection is to begin. See Exhibit A.
- C. The trial judge shall conduct the voir dire examination. Counsel will then supplement the court's voir dire.
- 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 all cases, the voir dire process shall be on the record.
- F. Rules on Voir Dire
 - 1. The cases may not be argued in any way while questioning the jurors.
 - 2. Counsel may not engage in efforts to indoctrinate jurors.
 - 3. Jurors may not be questioned concerning anticipated instructions or theories of law. This does not prevent general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.

4. Jurors may not be asked what kind of verdict they might return under any circumstance.
5. Questions are to be asked collectively of the entire panel whenever possible.

VIII. Removal from the Jury Panel for Cause

- A. In 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 shall be removed from the panel. Such a determination may be made on motion of counsel or by the judge.

IX. Peremptory Challenges

- A. Rules determining procedure for exercising peremptory challenges shall be in accordance with the Ohio Civil and Criminal Rules adopted by the Supreme Court of Ohio and applicable statutory authority.

X. Administration of the Jury System

- A. The responsibility for administration of the jury system shall be vested exclusively in the Wayne County Common Pleas Court.
- B. All procedures concerning jury selection and service should be governed by Ohio Rules of Court.

XI. 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. Phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; and
 2. 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 jury 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.

E. The notification letter is Exhibit B to this rule. It is delivered to prospective jurors by ordinary mail. Jurors who fail to report for service may face contempt charges, depending on the circumstances.

XII. Monitoring the Jury System

A. The Court shall collect and analyze information regarding the performance of the jury system annually in order to evaluate:

1. The representativeness and inclusiveness of the jury source list;

2. The effectiveness of qualification and summoning procedures;

3. The responsiveness of individual citizens to jury duty summonses;

4. The efficient use of jurors; and

5. The cost-effectiveness of the jury management system.

XIII. Juror Use

A. The court shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.

B. The court shall 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.

XIV. Jury Facilities

A. The court shall provide an adequate and suitable environment for jurors.

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

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

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

deliberation rooms shall be ensured.

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

XV. Juror Compensation

- A. Persons called for jury service should receive a fee for their service in the amounts set by the Board of County Commissioners pursuant to R.C. 2313.34.
- B. Such fees shall 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.

XVI. Juror Orientation and Instruction

- A. The court shall have an orientation program:
 - 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 and oral materials.
- B. The trial judge should:
 - 1. Give preliminary instructions to all prospective jurors.
 - 2. Give instructions directly following empanelment 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. Use written instructions.

6. Before dismissing a jury at the conclusion of a case, the trial judge should:
 - a. Release the jurors from their duty of confidentiality;
 - b. Explain their rights regarding inquiries from counsel or the press;
 - c. Advise them that they are discharged from service; and
 - d. Express appreciation to the jurors for their service, but not express approval or disapproval of the results of their deliberation.
- C. 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.
- XVII. Jury Size and Unanimity of Verdict
 - A. Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law.
- XVIII. 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 and shall conform with existing Ohio law.
 - B. The judge should instruct the jury concerning appropriate procedures to be followed during deliberations.
 - C. 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.
 - D. Training should be provided to personnel who escort and assist jurors during deliberations.
- XIX. Sequestration of Jurors
 - A. A jury should be sequestered only when required by law or for good cause, including but not limited to insulating its members from improper information or influences.

- B. 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.

RULE 18.1:

Hours of the Court

The Probate Court and its offices shall be open for the transaction of business from 8:00 A.M. to 4:30 P.M. Monday through Friday. The Court shall be closed on Saturdays, Sundays, legal holidays, and such other times as the Probate Judge may order.

RULE 19.1:

CONDUCT IN COURT

Reserved.

RULE 20.1:

EXAMINATION OF PROBATE FILES, RECORDS, AND OTHER DOCUMENTS

Reserved.

RULE 21.1:

SUMMONS AND NOTICE

Reserved.

RULE 22.1:

REQUEST FOR JURY TRIAL

Reserved.

RULE 23.1:

CONTINUANCES

(See 9.1)

RULE 24.1:

FILINGS AND JUDGMENT ENTRIES

RULE 25.1:

COURT COSTS

(As amended effective December 2, 1996)

(A) **Additional Fee for Computer System.** Pursuant to RC §2101.162, and to effect the efficient operation of the court by means of a computer system, a fee in the amount of Ten Dollars (\$10.00), in addition to the fees set forth in RC §2101.16(A), shall be charged for the following services:

- (1) Account
- (3) Adoption of child, petition for
- (4) Alter or cancel contract for sale, petition for
- (6) Appropriation suit, per day, hearing in
- (14) Change of name, petition for
- (15) Claim, application of administrator or executor, for own
- (16) Claim, application to compromise or settle
- (17) Claim, petition for authority to present
- (20) Competency, application to procure adjudication
- (21) Complete contract, application to
- (22) Concealment of assets, citation for
- (23) Construction of will, petition for
- (24) Continue decedent's business, application to
- (25) Declaratory judgment, petition for
- (27) Designation of heir
- (30) Docketing and indexing proceedings
- (31) Exceptions to any proceeding named in this section
- (32) Election of surviving partner
- (34) Fiduciary, appointment of
- (35) Foreign will, application to record
- (37) Heirship, petition to determine
- (38) Injunction proceedings
- (39) Improve real estate, petition to
- (40) Inventory with appraisalment
- (41) Inventory without appraisalment
- (42) Investment or expenditure of funds, application for
- (43) Invest in real estate, application for
- (44) Lease for oil, gas, coal, or other mineral, petition to
- (45) Lease or lease and improve real estate, petition to
- (46) Marriage license
- (47) Minor or mentally ill person, disposal of estate under Ten Thousand
- (48) Mortgage, petition to
- (50) Nonresident executor or administrator to bar creditor's claims
- (51) Power of attorney or revocation of power, bonding company
- (52) Presumption of death, petition to establish
- (53) Probating will
- (54) Purchase personal property, application of surviving spouse
- (55) Purchase real estate at appraised value
- (59) Relieving estate from administration
- (60) Removal of fiduciary, application for
- (61) Requalification of executor or administrator
- (63) Sale bill, public sale of personal property
- (64) Sale of personal property and report, application for
- (65) Sale of real estate, petition for
- (66) Terminate guardianship, petition to
- (69) Vacate approval of account or order of distribution
- (72) Wrongful death, application and settlement of claim for

Ten Dollars (\$10.00) shall also be added to the fee charged under RC §2101.16(F) [Petition for Release of Information Regarding Adoption] and the Docketing of an Appeal.

(B) Advance Deposit: Costs. An advance deposit for costs, in the amount set forth below, shall be required at the time of filing in the following actions and proceedings:

1. Filing application for probate of will with full administration	\$125.00
2. Filing application for appointment of administrator with full administration	\$125.00
3. Filing application for release from administration (testate or intestate)	\$125.00
4. Filing application for ancillary administration	\$125.00
5. Filing application for appointment of guardian of incompetent	\$150.00
6. Filing application for appointment of guardian of minor	\$100.00
7. Filing application for appointment of conservator	\$100.00
8. Filing application for appointment of trustee	\$100.00
9. Filing Application for adoption (non-agency placement)	\$250.00
(agency placement)	\$110.00
10. Filing pre-placement application for adoption	\$150.00
11. Filing land sale proceeding	\$50.00
12. Filing will contest proceeding	\$50.00
13. Filing civil action not otherwise listed (including, but not limited to Declaratory Judgment, Will Construction, Determination of Heirship, Exceptions to Inventory or Account)	\$50.00
14. Filing application to change name	\$100.00

Advance costs shall be held without interest, and upon dismissal or termination of any case or action, any deposit of more than One Dollar (\$1.00) will be paid to the attorney of record, and no further accounting shall be required.

(C) Record and Transcribing Testimony

1. When required by law or upon request a record of the court's proceedings shall be taped on the Court recording instrument. The cost of transcription shall be paid to the

Court prior to its release.

2. A party may make arrangements to make a record of the Court's proceedings by a certified stenographer or stenographic machine acceptable to the Court, the cost of which shall be borne by such party, unless otherwise ordered by the Court, and the original of such transcription shall be filed with the Court as the Court's record.

RULE 26.1:

APPLICATION TO PROBATE A WILL (STANDARD FORM 2.0)

Reserved

RULE 27.1:

APPLICATION FOR LETTERS OF ADMINISTRATION

Reserved

RULE 28.1:

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

(A) When required by law, there shall be one suitable and disinterested appraiser appointed by the fiduciary of an estate with court approval. The following persons shall be disqualified from being such an appraiser:

1. A person related by blood or marriage to the decedent;
2. A beneficiary of the estate;
3. A person related by blood, marriage or employment to the attorney for the estate; and
4. A person related by blood, marriage or employment to the fiduciary for the estate.

(B) Real Estate appraisals shall be made by licensed real estate agents, brokers, auctioneers, credentialed real estate appraisers, or such other persons who by experience and training are qualified to make real estate appraisals.

(C) No appraiser shall be permitted to directly or indirectly purchase or acquire any of the property he or she appraises, except at public auction.

(D) Readily ascertainable value of real property: Notwithstanding sections (A) through (C) of this rule, the market value of real estate as found in the Wayne County Auditor's property records may be accepted as the readily ascertainable value of the property and no further appraisal of such property shall be required except as provided under section (F) of this rule.

(E) Readily ascertainable value of motor vehicle: Notwithstanding sections (A) through (C) of this rule, the market value of any motor vehicle as found in the current N.A.D.A. Official Used Car Guide under the category of "Avg Retail" may be accepted as the readily ascertainable value of the property and no further appraisal of such property required except as provided under section (F) of this rule.

(F) An administrator, executor, fiduciary, beneficiary, or creditor of a decedent's estate may file a written request with the Probate Court not later than the date set for hearing on the inventory and Appraisal pursuant to RC §2115.16 that any property deemed to have been appraised by readily ascertainable value shall be appraised by a suitable and disinterested appraiser as provided in sections (A) through (C) of this rule.

RULE 29.1:

INVENTORY

Reserved

RULE: 30.1:

CLAIMS FILED WITH THE COURT

Reserved

RULE 31.1:

APPLICATION TO SELL PERSONALTY

Reserved

RULE 32.1:

ACCOUNTS

Reserved

RULE 33.1:

LAND SALES - R.C. CHAPTER 2127

- (A) Reserved
- (B) Reserved
- (C) Reserved
- (D) Reserved

(E) An executor who has a testamentary power to sell real estate may list such real estate for sale with a licensed real estate broker, or may contract to have such real estate sold by public auction, and may pay such broker's or auctioneer's customary commission from the proceeds of any sale made pursuant to such listing, all without specific court order.

RULE 34.1:

GUARDIANS

- (A) A separate guardianship must be filed and case file set up for each proposed ward.
- (B) The Court will not accept for filing any guardianship for a minor where the sole purpose of the guardianship is to establish a residency for school purposes.
- (C) Reserved
- (D) Reserved
- (E) Applications and entries to expend funds will not be accepted for filing or approval until

an inventory has been filed and all accountings are current.

RULE 35.1:

**ESTATES OF MINORS AND PROPOSED INCOMPETENTS
OF TEN THOUSAND DOLLARS OR LESS**

Reserved

RULE 36.1:

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

(A) Reserved

(B) Unless otherwise ordered by the Court, all minor settlement applications must be accompanied by a current statement of the examining physician in respect to the injuries sustained, the extent of recovery thereof, and a physician prognosis.

(C) The injured minor and at least one custodial parent shall appear at the hearing on all applications unless the presence of either is excused by the Court prior to hearing.

(D) Reserved

(E) Reserved

(F) In cases of questionable liability, the Court may require the attorney representing the minor to make such declaration in writing to be filed with the Court.

RULE 37.1:

**SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS
UNDER TEN THOUSAND DOLLARS**

(A) Reserved

(B) Unless otherwise ordered by the Court, the application shall be accompanied by a current statement of the examining physician describing the injuries sustained, the extent of recovery thereof, and the treating physician's prognosis, including a release for further treatment.

(C) The injured minor and at least one custodial parent shall appear at the hearing on all applications unless the presence of either is excused by the Court prior to hearing.

(D) Reserved

(E) Reserved

(F) In cases of questionable liability, the Court may require the attorney representing the

minor to make such declaration in writing to be filed with the Court.

(G) Probate Superintendency Rule 35(C) shall apply to all settlements covered by this rule unless otherwise ordered by the Court.

RULE 38.1:

SETTLEMENT OF CLAIMS FOR WRONGFUL DEATH

(A) Reserved.

(B) Reserved.

(C) Reserved.

(D) In general, the application to settle a claim for wrongful death and apportionment of the proceedings are two distinct matters, especially if a trust is to be established for a minor until age 25. However, if all parties are competent adults, the matter may be concluded in one hearing.

(E) The Court suggests that the attorney, prior to settling a claim and bringing clients to court, personally come to the court to discuss the settlement and proposed distribution with the Court.

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 RC 2111.18**

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

RULE 40.1:

COUNSEL FEES

(A) Reserved

(B) Reserved

(C) When an attorney has been employed in the administration of an estate, reasonable attorney fees will be allowed as part of the expenses of administration. In determining the reasonableness of such fees there shall be considered: the time and effort required; the complexity and difficulty of the estate and the various matters and questions involved

therein, including the determination of federal and state income and estate taxes; the degree of skill required to perform these services for the best advantage of the estate; fees customarily charged in this county for such services; the amount and character of the assets, including non-probate assets includable in the gross estate for estate tax purposes, and the liabilities of the estate; the benefits resulting to the estate from the services; the experience and ability of the attorney or attorneys performing the services; and all other relevant factors.

As a procedural matter, fees not in excess of those computed under Subparagraphs (1) through (6) hereinafter set forth will be presumed reasonable and allowed without formal application upon hearing of the fiduciary's account showing payment thereof, in the absence of exceptions to the account or the filing of a formal application to fix such fees.

Fees in excess of those computed under Subparagraphs (1) through (6) hereinafter set forth or a request for extra-ordinary fees shall be by written application and shall be set for hearing, unless otherwise ordered by the Court.

1. On the value of all personal estate, including income therefrom, received and accounted for by the fiduciary, and on the proceeds of real estate sold under authority in a will:

4% on the first \$100,000

3% on the next \$300,000

2.5% on the balance

Where money is contributed by a beneficiary to pay liabilities of the estate in order to avoid sale of assets and permit the transfer thereof to the beneficiary, the money so contributed shall not be considered as personal estate or proceeds for the purpose of determining fees.

2. On the value of real estate transferred to heirs or devisees by affidavit or certificate of transfer, where no sale is involved: 2%.

3. On the value of joint and survivorship property and all other non-probate property subject to Ohio estate tax: 2% of the amount includable in the total gross property subject to tax.

4. On the proceeds of real estate sold in a land sale proceeding, including a purchase by the surviving spouse at the appraised value, the same percentages as listed in Subparagraph (1) above, but computed on such proceeds separately from the computation under Subparagraph (1); provided, however, that the minimum fee on such proceeds shall be \$600.

5. For all legal services in the administration of an estate, a minimum fee of \$300.

6. Where the attorney, law partner, or firm associate is appointed as fiduciary, one-half (1/2) of the fee computed under Subparagraphs (1) through (5) above, in addition to the statutory fiduciary's fee.

The basis for valuation for property sold by the fiduciary shall be the gross proceeds of sale, as accounted for in the fiduciary's final account or judgment entry, and for all other property the date of death value as finally fixed for purposes of computing the Ohio estate tax.

Fees are based on providing all ordinary legal services for complete administration of an estate in the Probate Court and which may include the preparation and filing of decedent's final tax returns: Federal, State, and Local; fiduciary tax returns, Federal, State, and Local; Ohio Estate Tax Determination and Federal Estate Tax Determination, if applicable.

The foregoing Subparagraphs (1) through (6) are not intended to establish either minimum or maximum fees, and the Court at any time during administration will fix the amount of attorney fees, either on exceptions to the account by any interested party, or on application by the Executor, the Attorney, or any beneficiary of the estate affected by the amount of such fees.

A computation scheduled shall be provided by the Court. Said computation shall be signed by the attorney and filed with the final account in the estate, and with a partial account when fees have been taken.

RULE 40.2:

COUNSEL FEES

As to all other matters, an application for the allowance of attorney fees shall set forth an itemized statement of the services performed, the date services were performed, the time spent in rendering the service and the rate charged per hour.

RULE 41.1:

EXECUTOR'S AND ADMINISTRATOR'S COMMISSIONS

Reserved

RULE 42.1:

GUARDIAN'S COMPENSATION

(A) Guardians, unless otherwise provided by law or ordered by the Court, may charge an amount for ordinary services in accordance with the following schedule:

1. Amounts equal to 3% on all amounts of income plus an amount equal to 3% on all amounts expended during the accounting period.
2. Investments and reinvestments of funds constituting corpus shall not be considered as income or disbursements in applying the above formula, nor shall the final distribution of unexpended balance to the ward or the ward's personal representative at the expiration of the guardianship be considered as an expenditure in applying the above formula.
3. The foregoing allowance is subject to a minimum charge of \$75.00 per year.

4. Compensation for servicing mortgages and land contracts in lieu of the compensation allowed in Paragraph 1 above may be charged at annual rate of 3/4 of 1% of the principal.

5. Additional compensation for management of real estate as may be ordered by the Court on written motion.

6. On written motion, further allowances for extraordinary services or expenses may be ordered by the Court when it is shown that the same is just and reasonable.

7. If the real estate of the ward is sold through a land sale proceedings, guardian's compensation shall be the same as that fixed by law for administrators and executors. The fund realized from the land sale proceedings shall not be considered as income under paragraph 1 above.

RULE 43.1:

TRUSTEE'S COMPENSATION

(A) Testamentary trustees shall be allowed compensation annually for ordinary services performed in connection with the administration of each separate trust estate, not to exceed an amount computed in accordance with the following schedules:

1. Income Compensation. Five percent (5%) of gross income (but not including conversion of assets to cash) not exceeding \$20,000, and three percent (3%) of gross income in excess of \$20,000, chargeable to income unless otherwise ordered.

2. Principal compensation. Four Dollars (\$4) per thousand on the first \$100,000 of principal, and three dollars (\$3) per thousand on the balance of principal, chargeable to principal unless otherwise ordered. Principal compensation may be computed quarterly based on fair market value at the end of the quarter or may be computed annually based on fair market value at the end of the year.

3. Principal distributions. One percent (1%) of the fair market value of all distributions of principal chargeable to principal unless otherwise ordered.

4. Minimum compensation. The foregoing allowance is subject to a minimum charge of \$120 per year, chargeable 1/2 to income and 1/2 to principal unless otherwise ordered.

The foregoing rule shall apply to all accounts filed by testamentary trustees on and after January 1, 1985, but only to the portion of such accounts reflecting transactions on or after January 1, 1983. Compensation based on transactions on or before December 31, 1982, shall be computed in accordance with prior Rule 51 (effective January 1, 1977).

RULE 44.1:

LOCAL RULES
Reserved

RULE 45.1:

EXCEPTIONS TO THE RULES
Reserved

RULE 46.1:

COMPLIANCE
Reserved

RULE 47.1:

MOTIONS AND HEARINGS
(Superseded by Rule 4.1)

RULE 48.1:

RELIEVING ESTATES FROM ADMINISTRATION

(A) Except as hereinafter provided, standard forms shall be used in relieving estates from administration.

(B) On the schedule of debts, decedent's funeral bill and/or burial expenses shall be shown. The attorneys fees to be charged in the release of administration must also be listed.

(C) In the event the known debts exceed the assets listed and they are not paid or secured to be paid by the heirs or next of kin, one publication in a newspaper of general circulation shall be made setting forth the name of the decedent, the date of decedent's death, the probate court case number, and notice to creditors that the estate is being released from administration and will be settled unless a creditor applies for application as administrator of the estate within 14 days after this publication. Unless a creditor, within 14 days after such publication, files an application for appointment of an administrator, debts listed in the schedule may be settled according to statutory priority.

(D) A short form release of administration and judgment entry or order on a form prescribed by the court may be filed in each case where the assets of the estate are less than six thousand dollars (\$6,000) and there is a surviving spouse and/or minor children or less than one thousand dollars (\$1,000) and no surviving spouse or minor children and evidence is presented at the time of filing establishing that the funeral bill or burial expenses to the extent of the estates priority allowance have been paid.

RULE 49.1:

FEES OF GUARDIAN AD LITEM

(A) Unless otherwise ordered by the Court, a fee of twenty dollars (\$20) shall be taxed as costs for each guardian ad litem appointed.

RULE 50.1:

ATTORNEYS AS SURETIES

(A) Attorneys shall not act as sureties in any case, nor shall they be permitted to become sureties on the bond of any fiduciary.

RULE 51.1:

TAX PROCEEDINGS (Reserved)

Rule 75.1:

ELECTRONIC RETURN RECEIPT

(A) The Wayne County Court of Common Pleas - Probate Division shall accept service of process methods as outlined in Civil Rule 4.1 Process: methods of service, which methods shall include electronic return receipt service of process utilizing technology developed by the United States Postal Service for service by certified mail. This technology does not modify Civil Rule 4.1(1) Service by Certified Mail, but merely provides for electronic technology in the sending of certified mail and receipt of confirmation to show to whom the mail was delivered, the date of delivery and address where delivered, all in accordance with the now-existing Civil Rules.

(B) All service of process of complaints or other documents served with electronic return receipt services of process are subject to review and / or challenge as further outlined in Civil Rule 4.1, with confirmation of service of process data being made available through this Clerk's Office.