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5.1 Introduction

These local rules are adopted pursuant to the authority of Rule 5 of the Rules of Superintendence for the Court of Ohio as amended from time to time. These local rules are supplemental to the Rules of Superintendence for the Courts of Ohio and must be read in conjunction therewith.

5.2 Effective date

The effective date of these rules is August 26, 2011.

8.1 - Court Appointments.

The Probate Court may request practicing attorneys with law offices in Shelby County to be available for court appointments. Every attorney who practices in Probate Court shall be deemed competent to provide legal services for those who are unable to retain counsel.

The Probate Court shall maintain a list of attorneys according to date of admission to practice and shall appoint the most senior first then each succeeding attorney until the list is fully used. This is to ensure the equitable distribution of appointments among persons on the list. The list shall be maintained by the Chief Deputy Clerk. The list shall be reviewed annually for additions or deletions.

The following cases or proceedings are examples where the Court may appoint counsel:

1. Short Form Administrations.
2. Counsel for guardian of an Indigent.
3. Counsel for a ward wishing to terminate guardianship.
4. Counsel for Involuntary psychiatric commitment proceeding.
5. Guardian ad litem for minors seeking a settlement of a claim for personal injuries.
6. Representation of a parent who does not consent to an adoption.
7. Guardian ad litem for minors in land sale proceedings or similar cases.
8. Any other probate matter requiring the Court to appoint counsel for a party.

Compensation for Court appointed Counsel shall be paid at the rate of \$75.00 per hour with a maximum of \$400.00 for the first year and \$300.00 annually thereafter. The attorney shall document the time spent in the case. If the attorney is both guardian and counsel for the guardian, the attorney shall document the time spent in each capacity.

Attorneys serving as Guardians for indigent shall be compensated at the rate of \$50.00 per hour to the maximum of \$300.00 per year. If the attorney is both guardian and counsel for the guardian, the attorney shall document the time spent in each capacity.

Lay persons appointed as Guardians for indigents shall be compensated at the rate of \$25.00 per hour to the maximum of \$200.00 per year.

Court appointed counsel shall be paid a reasonable fee with consideration given to the factors contained in DR 2-106 of the Code of Professional Responsibility, the Ohio Revised Code and these Local Rules. The Court will consider an application for fees in excess of the maximum limit allowed by this Rule when the type, complexity and requirements of the case are such that the maximum is an unreasonable fee.

In any case where the indigent client receives a pecuniary benefit, the Court shall consider compensation

for counsel as if retained and may order the client to pay all or part of the fee. Compensation will also be paid from any cash assets in the estate.

8.2 Appointment of Interpreters.

When a party to or witness in a legal proceeding cannot readily understand or communicate because of a hearing, speech, or other impairment, the court shall appoint a qualified interpreter to assist such person. When possible, the court will appoint certified interpreters. If the court is unable to appoint a certified interpreter, the Judge will determine whether an uncertified interpreter is adequate for the job of court interpreting. In such cases, the Judge may need to conduct a *voir dire*.

Before entering upon official duties, the interpreter will be required to take an oath that he/she will make a true interpretation of the proceedings to the party or witness, and that he/she will truly repeat the statements made by such party or witness to the court, to the best of the interpreter's ability.

Qualified, private individuals who are appointed as interpreters will be reimbursed at a rate of \$20.00 per hour for a non-court hearing and \$25.00 per hour for a court hearing, with a minimum of one hour.

9.1 Security Plan.

Pursuant to a Supreme Court of Ohio resolution dated July 26, 1995, the Shelby County Probate Court has determined the entire Security Plan as submitted to the Supreme Court of Ohio, effective November 1, 1999, be maintained as confidential and not a matter of public record.

11.1 - Recording of Proceedings.

The Court will make an audio and video recording of the proceedings as the record of the Court. Parties who desire to have a stenographic record of the proceedings must make their own arrangements for a court reporter at least twenty-four (24) hours prior to the scheduled hearing. The costs of the stenographic record shall be paid by the requesting party unless otherwise ordered by the Court. The original audio electronic recording of the proceedings will not be made available to the parties. Arrangements must be made with the Court to have proceedings copied at a cost of Ten and No/100 Dollars (\$10.00) per disc, or transcribed by a stenographer approved by the Court. Discs of all electronically recorded proceedings will be maintained by the Court for two (2) years from the date of the hearing. Any interested person desiring to preserve the record beyond that period must make arrangements to have the record transcribed.

16.1 Mediation.

A) After the filing of an estate, guardianship application, trust, or any other action, the Court, on its own motion or the motion of any of the parties, may refer disputed issues to mediation.

(B) The mediation sessions may be held until all issues are resolved in a manner acceptable to the disputing parties, or until the mediator determines that continued mediation would not be productive.

(C) The Court may order parties to participate in or return to mediation at any time.

(D) Statements made during a mediation session shall be considered compromise negotiations and are not admissible as evidence pursuant to Evidence Rule 408. Mediators will not be permitted to testify regarding the substance of the mediation, including but not limited to, cooperation or noncooperation of the parties.

(E) To be accredited and appointed by the Court, a mediator shall possess the following qualifications:

(1) Be an attorney in good standing with the Supreme Court of Ohio;

(2) Have five (5) years of experience in handling probate matters; and,

(3) Have completed forty (40) hours of advanced mediation training, which has been approved for Continuing Legal Education and is approved by the Court.

(F) Referral to mediation by the Court shall be by “Notice of Mediation” which shall indicate the time, place of the mediation, and the name and telephone number of the mediator.

(G) The parties are equally responsible for paying one-half (1/2) of the mediator’s fee for the first mediation session. The Court will pay the remaining one-half (1/2) of the fee for the first mediation session unless otherwise ordered. A mediation session is defined as a four (4) hour period. If continued mediation sessions are necessary, the mediator’s fee shall be borne equally by the parties, unless otherwise ordered by the Court. The Court will determine the rate at which the mediator will be paid. The mediator’s fee will be determined by the complexity of the issues in the matter being mediated. Any additional expenses associated with the mediation must be preapproved by the Court.

(H) In compliance with Sup. R. 16, if the parties wish, their attorneys and other individuals they designate are allowed to accompany them and participate in mediation. At the outset of the mediation the parties are to be asked if they have ever been the victim of domestic violence. The parties are to be encouraged to seek legal counsel and support services, including victims and suspected victims of domestic violence. Mediation is not to be used in any of the following:

(1) As an alternative to the prosecution or adjudication of domestic violence;

(2) In determining whether to grant, modify or terminate a protection order;

(3) In determining the terms and conditions of a protection order; and,

(4) In determining the penalty for violation of a protection order.

26.1 Court Records Management and Retention Schedule

Pursuant to Rule 26 (G) of the Rules of Superintendence for the Courts of Ohio, the Probate Division of the Court of Common Pleas, Shelby County, Ohio adopts the following Records Management and Retention Rules of the Office of the Shelby County, Ohio Clerk of Courts.

The Court adopts the combined indexes, dockets and journals as defined in Superintendence Rule 26.01 through 26.05. The indexes, dockets and journals shall be maintained in an electronic medium. These records shall be permanently retained. Electronic records and back ups of the records shall be maintained until the records are microfilmed. Traditional paper or bound book records may be destroyed after having been microfilmed.

All exhibits, depositions and transcripts may be destroyed after the conclusion of the litigation, including times for direct appeal, upon satisfaction of all, the following conditions:

1. The Clerk of Courts notifies, in writing, the party who tendered the exhibits, depositions or

transcripts that the party may retrieve the exhibits, depositions or transcripts within sixty (60) days of the written notification.

2. The written notification informs the party who tendered the exhibits, depositions or transcripts that the exhibits, depositions or transcripts will be destroyed within sixty (60) days if not retrieved.
3. The written notification informs the party who tendered the exhibits, depositions or transcripts of the location for retrieval of the exhibits, depositions or transcripts.
4. The party who tendered the exhibits, depositions or transcripts does not retrieve the exhibits, depositions or transcripts, within sixty (60) days from the date of notification.

(Rule 26(F) of the Rules of Superintendence for the Courts of Ohio.)

The following retention scheduled shall apply to administrative records of the Probate Division of the Court of Common Pleas:

1. **Administrative Journal.** Administrative journals that consist of court entries, or a record of court entries, regarding policies and issues not related to cases shall be retained permanently.
2. **Annual reports.** Two copies of each annual report shall be retained permanently.
3. **Bank records.** Bank transaction records, whether paper or electronic, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.
4. **Cash books.** Cash books, including expense and receipt ledgers, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.
5. **Communication records.** Communication records, including routine telephone messages on any medium where official action will be recorded elsewhere, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.
6. **Correspondence and general office records.** Correspondence and general office records, including all sent and received correspondence, in any medium, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.
7. **Drafts and informal notes.** Drafts and informal notes consisting of transitory information used to prepare the official record in any other form may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the drafts and informal notes.
8. **Employment applications for posted positions.** Employment applications for posted or advertised positions shall be retained for two years.
9. **Employee benefit and leave records.** Employee benefit and leave records, including court office copies of life and medical insurance records shall be retained by the appropriate fiscal office for three years or until the issuance of an audit report by the Auditor of State, whichever is

later.

10. **Employee history and discipline records.** Records concerning the hiring, promotion, evaluation, attendance, medical issues, discipline, termination, and retirement of court employees shall be retained for ten years after termination of employment.
11. **Fiscal records.** Fiscal records, including copies of transactional budgeting and purchasing documents maintained by another office or agency, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.
12. **Grant records.** Records of grants made or received by a court shall be retained for three years after expiration of the grant.
13. **Payroll records.** Payroll records of personnel time and copies of payroll records maintained by another office or agency shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.
14. **Publications received.** Publications received by a court may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the publications.
15. **Receipt records.** Receipt and balancing records shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.
16. **Requests for proposals, bids, and resulting contracts.** Bequests for proposals, bids received in response to a request for proposal, and contracts resulting from a request for proposal shall be retained for three years after the expiration of the contract that is awarded pursuant to the request for proposal.

PROBATE DIVISION OF THE COURT OF COMMON PLEAS--RECORDS RETENTION SCHEDULE

(A) Definitions. As used in this rule.

1. **ADocket@** means a reference record that provides the dates and a summary of all hearings, pleadings, filings, orders, and other matters that are essential to an action, proceeding, or other matter in the probate division.
2. **AProbate record@** means a record that pertains to the duties of the probate division including, but not limited to, adoptions, marriage licenses, name changes, birth records, orders of civil commitment, the resolution of civil actions and the appointment and supervision of fiduciaries.
3. **ARecord of documents@** means a collection of single or several page documents in which each document represents the probate division's action in a single incident of the same duty of the probate division, such as the issuance of marriage licenses.

(B) Closed probate record or case file.

For purposes of this rule, a probate record or case file of an estate, trust, or other fiduciary relationship

shall be considered closed when a final accounting has been filed and, if required by law at the time of the filing, the account has been approved and settled. All other probate records and case files shall be considered closed when the probate division orders the matter closed or there is a final disposition of the action or proceeding for which the probate record or case file is kept.

(C) Required records.

1. Dockets.

- (a) The probate division shall maintain all of the following dockets:
 - (i) An administration docket showing the name of the deceased.
 - (ii) A guardian's docket showing the name of each ward and, if the ward is a minor, the ward's age and name of the ward's parents and any limited powers or limited duration of powers.
 - (iii) A civil docket in which the names of the parties to actions and proceedings shall be noted.
 - (iv) A testamentary trust docket showing the names of the testator and trustee or trustees.
 - (v) A change of name docket showing the name of the petitioner and the present and proposed names of the person whose name is to be changed.
 - (vi) A birth registration and correct docket showing the name of the person whose certificate is being registered or corrected;
 - (vii) A civil commitment docket showing the name of the prospective patient.
 - (viii) A separate adoption docket in accordance with section 3107.17 of the Revised Code, showing the name of the child as it would exist after finalization of the adoption and name or names of the adoptive parent or parents.
 - (ix) A paternity docket showing the birth name of the child who is the subject of the petition, the name of the father, the name of the mother, and the name of the child after adjudication.
 - (x) A miscellaneous docket showing the names of the parties or petitioners and the nature of the action or proceeding. The miscellaneous docket shall be limited to actions within the probate division's jurisdiction that are not kept in one of the other dockets described in division (C)(1) of this rule. If the number of filings warrants, a miscellaneous docket may be subdivided or grouped into sections containing files or records of similar content.
- (b) All dockets of the probate division shall contain the dates of filing or occurrence and a brief description of any bond and surety, letter of authority, and each filing order, or record of proceeding related to the case or action, with a reference to the file or record where the bond and surety, letter of authority, filing, order, or record of proceeding is to be found, and such other information as the court considers necessary.

(2) Records of documents.

- (a) The probate division shall maintain both of the following records of documents:

- (i) A record of wills, if wills are not copies and permanently retained as part of an estate case file under division (D)(2) of this rule, in which the wills proved in the court shall be recorded with a certificate of the probate of the will, and wills proved elsewhere with the certificate of probate, authenticated copies of which have been admitted to record by the court.
- (ii) A marriage record, in which shall be entered licenses, the names of the parties to whom the license is issued, the names of the persons applying for a license, a brief statement of the facts sworn to by the persons applying for a license, and the returns of the person solemnizing the marriage.
- (b) Records of documents of the probate division shall contain documents, applications or affidavits, either original or copies, and information pertaining to those documents, as found in division (C)(2)(a) of this rule or as considered necessary by the court.
- (3) **Journal.** The probate division shall maintain a journal for orders, entries, or judgments pertaining to the business and administration of the division, and the business and administration of the division, and other miscellaneous orders, entries or judgments which the court may consider necessary to journalize, including all of the following:
 - (a) Orders of appointment and oaths of office pursuant to section 2101.11 of the Revised Code of court personnel and other non-fiduciary appointees.
 - (b) Orders of reference to magistrates.
 - (c) Changes of the local rules of the probate division.
 - (d) Orders changing the hours for the opening and closing of the probate court.
- (4) **Indexes.** The probate division shall maintain an index for each docket, record of documents, and journal described in division (C) of this rule. Each index shall be kept current with names or captions of proceedings in alphabetical order and references into a docket, record or documents, journal, or case file where information pertaining to those names or proceedings may be found.
- (5) **Time stamp.** Upon the filing of any paper or electronic entry permitted by the probate division, a stamp or entry shall be placed on the paper or electronic entry to indicate the day, month, and year of filing.

(D) Destruction and preservation of probate records.

(1) The vouchers, proof, or other evidence filed with the probate division in support of the expenditures or distribution slated in an account, after review and reconciliation with the accounting and notation of reconciliation in the record or file, may be returned to the fiduciary or retained in accordance with division (D)(2) and (E) of this rule.

(2) All records, vouchers, inventories, accounts, pleadings, applications, petitions, records of adoptions, marriages and mental health commitments, wills, trusts, journals, indexes, dockets, records or documents related to estate or inheritance taxes, and other papers and filings of the probate division, may be preserved using any nationally accepted records and information management process in accordance with Sup. R. 26(D).

(3) In the probate division's discretion, any nonessential note, notice, letter form, or other paper, document, or memorandum in a case file that is not essential to providing a record of the case and judgment of the probate division may be destroyed prior to, or after, the case is closed. For purposes of division (D)(3) of this rule, evidence of service of notice of the initial complaint, petition, or application that establishes the probate division's jurisdiction is essential to providing a record of a probate case.

(4) Judge, magistrate, investigator, and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.

(E) Case file and probate record retention schedule.

(1) Adoption records. Adoption records shall be retained permanently.

(2) Birth and death registrations. Birth and death registrations dated prior to 1908 shall be retained permanently.

(3) Civil commitment records. Civil commitment records shall be retained for three years after the case is closed.

(4) Dockets, records of documents, journals and indexes. Dockets records of documents, journals, and indexes shall be retained permanently.

(5) Evidence filed in support of expenditures or distributions. Vouchers, proof, or other evidence filed in support of expenditures or distributions stated in an account shall be retained for three years after the date of filing.

(6) Marriage license records. Marriage license records shall be retained permanently.

(7) Trust accountings. Trust accountings shall be retained for twelve years after the date the accounting was approved.

(8) All other records. All other records shall be retained for twelve years after the date the case, cause, proceeding, or matter is closed or completed.

(F) Temporary estate tax orders. Divisions (D) and (E) of this rule do not apply to records of estates in which temporary estate tax orders are pending.

The Clerk of this Court shall notify, in writing, the Ohio Historical Society, the Shelby County Historical Society and the Shelby County Genealogical Society of all case files, dockets, journals and indexes scheduled for destruction sixty (60) days prior to the destruction of the records and offer the original records for safekeeping to them. The priority of the offer shall be in the order listed above. These records may be transferred to the possession of said entry as long as they maintain the records as public records. The records may not be destroyed or otherwise disposed of by the Ohio Historical Society, Shelby County Historical Society or Shelby County Genealogical Society without prior written consent of the Court.

51.1 - Form availability.

Approved forms for use in the Shelby County Probate Court are available at the Probate Clerk's Office and on our website, www.shelbycoprobate.org.

52.1 - Computerized Forms.

Computer generated forms must comply with the specifications and format outlined by the Rules of Superintendence. The signature of the applicant or attorney constitutes a certificate that the computer generated forms comply with the rules.

All computer forms presented for filing must be generated with the exact wording as well as blank lines as they appear in the uniform forms.

53.1 - Hours of Court.

The Probate Court shall be open for the transaction of business from 8:30 a.m. to 4:00 p.m. daily Monday through Friday, except legal holidays.

54.1 - Conduct in Court.

A. Proper decorum in the Court is necessary for the administration of justice.

B. In any preliminary Probate matter presented to the Court, the Court may restrict the attendance at said hearing to next of kin, interested parties and their counsel.

C. No radio or television transmission or voice recording other than equipment supplied by the Court for purposes of maintaining a record of proceedings shall be permitted without the express consent of the Court in advance and pursuant to C.P. Sup. R. 11.

55.1 - Removal of Files.

The Clerk shall not permit any of the files to be taken from the Clerk's office except in compliance with this rule.

A. No person shall be permitted to take a file from the Clerk's office containing an original will or codicil. **SAID WILL OR CODICIL SHALL BE REMOVED BY THE CLERK BEFORE THE FILE IS REMOVED.** All files removed from the Clerk's office may be taken for a period of two (2) business days. The Clerk shall release the file only on proper receipt. No attorney or law firm may withdraw more than two (2) files at a time.

B. Attorneys having offices in Shelby County may remove files without the permission of the Court subject to a revocation of that privilege if there are two or more violations of time periods.

C. All other persons, including attorneys not having offices in Shelby County, shall first obtain the written approval of the Court.

55.2 - Charges for copies.

Copies of any public records maintained in the Clerk's Office of the Probate Court of Shelby County, Ohio may be obtained by any party at a cost of \$.10 per page.

57.1 - Facsimile filings.

The provisions of this local rule are adopted under Civ.R.5(E) and Civ.R.73(J).

Pleadings and other papers may be filed with the Probate Court Clerk's Office by facsimile transmission to (937) 498-7260 subject to the following conditions:

APPLICABILITY

- A.** These rules apply to probate proceedings in the Shelby County Probate Court.
- B.** These rules do not apply to adoption and mental illness/mental retardation proceedings. In these proceedings no facsimile transmission of documents will be accepted.
- C.** The following documents will not be accepted for fax filing: original wills and codicils, documents required to be certified prior to filing.

ORIGINAL FILING

- A.** A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Probate Court Clerk's Office but must, however, maintain in his or her records and have available for production on request by the court the source document filed by fax, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.
- B.** The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post judgment relief are exhausted.

DEFINITIONS

As used in these rules, unless the context requires otherwise:

- A.** A Facsimile transmission@ means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.
- B.** A Facsimile machine@ means a machine that can send and receive a facsimile transmission.
- C.** AFax@ is an abbreviation for Facsimile@ and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

COVER PAGE

- A.** The person filing a document by fax shall also provide therewith a cover page containing the following information [sample cover page form attached]:

- (I) the name of the court;
- (II) the title of the case;
- (III) the case number;
- (IV) the title of the document being filed;
- (V) the date of transmission;
- (VI) the transmitting fax number;
- (VII) an indication of the number of pages included in the transmission, including the cover page;
- (VIII) if a case number has not been assigned, state that fact on the cover page;
- (IX) the name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available; and
- (X) if applicable, a statement explaining how costs are being submitted.

- B.** If a document is sent by fax to the Probate Court Clerk's Office without the cover page information listed above, the Clerk may, at its discretion:

enter the document in the Case Docket and file the document; or
send a faxed notice to the sending party of a failed fax filing.

SIGNATURE

- A.** A party who wishes to file a signed source document by fax shall either:

fax a copy of the signed source document; or

fax a copy of the document without the signature but with the notation A/s/@ followed by the name of the signing person where the signature appears in the signed source document.

- B.** A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.

EXHIBITS

- A.** Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.

- B.** Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed, and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court [sample exhibit filing notice attached].

TIME OF FILING

- A.** Subject to the provisions of these rules, all documents sent by fax and received by the Clerk shall be considered filed with the Clerk's Office as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. However, the fax machine will be available

to receive facsimile transmission of documents on the basis of 24 hours per day, seven days per week including holidays.

- B.** The Clerk's Office may, but need not, acknowledge receipt of a facsimile transmission.
- C.** The risks of transmitting a document by fax to the Clerk's Office shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk's Office through whatever technological means are available.

FEES AND COSTS

- A.** No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court costs and fees have been paid. Court costs and fees may be paid by cash, check or money order. Documents tendered to the Clerk without payment of court cost and fees, or with incomplete information on the charge authorization or request, or which do not conform to applicable rules will not be filed.
- B.** No additional fee shall be assessed for facsimile filings.

LENGTH OF DOCUMENT

Facsimile filing shall not exceed twenty (20) pages in length. The filer shall not transmit service copies by facsimile.

EFFECTIVE DATE

These local rules shall be effective August 1, 2011, and shall govern all proceedings in actions brought after they take effect and also further proceedings in pending actions, except to the extent that, in the opinion of the court, their application in a particular action pending on the effective date would not be feasible or would work an injustice, in which event, the former procedure applies.

57.2 - Forwarding copies.

The Court will not return file-stamped copies by mail unless submitted with a return, self-addressed stamped envelope.

57.3 - Disposition of exhibits.

All exhibits offered for admission during a hearing or trial shall be labeled by party name and item identification. In a proceeding recorded by a Court stenographer, custody of exhibits admitted or proffered shall be given to the stenographer, unless otherwise ordered by the Court. If the proceeding is electronically recorded, exhibits shall be filed in the Court case file, unless otherwise ordered by the Court.

Upon agreement of the parties or by order of the Court, copies may be substituted for the original exhibit.

Disposal of exhibits shall be pursuant to Sup. R. 26. See also Local Rule 26.1.

58.1 - Security Deposits for Court Costs.

Advance deposits for court costs shall be required in accordance with the schedule attached as Appendix A.

60.1 - Appointment of non-resident fiduciaries.

An applicant to be appointed fiduciary of a decedent's estate, or trust, who is not a resident of this state, must be in compliance with Ohio R.C. 2109.21 and use as the attorney of record an attorney licensed to practice law in this State. To assure the assets remain in Shelby County, Ohio, during the administration of the estate or trust, the applicant must meet one or more of the following criteria as required by the Court.

- A. Place a substantial amount of the decedent's personal assets in a custodial depository in this County, pursuant to Ohio R.C. 2109.13;
- B. Have a co-fiduciary who is a resident of this State.
- C. Post a bond in compliance with Ohio R.C. 2109.04.

61.1 - Appraisers & Appraisals.

A. When required by law, there shall be one suitable and disinterested appraiser appointed by the executor or administrator 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, real estate loan officer of local financial institutions, or such other persons who by experience and training are qualified to make real estate appraisals. A licensed real estate agent or broker who is the listing broker for the sale of the real estate is not disqualified as an appraiser.

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

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 Shelby County Auditor's property records shall be accepted as the readily ascertainable value of the property and no further appraisal of such property shall be required except as provided under Paragraph H of this rule. A copy of said evaluation shall be attached to Form 6.1 - Schedule of Assets - or Form 5.1 - Assets and Liabilities of Estate to be Relieved from Administration, whichever is applicable.

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 a current, nationally recognized used car guide, by determining the median value of the trade-in value and retail value listed, may be adopted as the readily ascertainable value of the property and no further appraisal of such property shall be required except as provided under Paragraph H of this rule. A copy of the appropriate page from said booklet shall be attached to Form 6.1 - Schedule of Assets - or Form 5.1 - Assets and Liabilities of Estate to be Relieved from Administration, whichever is applicable.

- F. Description and Valuation of Stock:
- (1) If the stock is publicly traded and its valuation obtained from any recognized stock exchange or over-the-counter quotation be listed.
 - (2) If the stock represents an investment in a closed corporation, its value must be made by a duly appointed and qualified appraiser.
- G. Items of household goods are not required to be individually listed and individually valued.
- H. 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 R.C. 2115.16 that any property deemed to be appraised by readily ascertainable value shall be appraised by a suitable and disinterested appraiser as provided in sections (A) through (C) of this rule.
- I. Unless there is a dispute, or an appraisal is required for other purposes, a Court-appointed appraiser shall not be necessary in estates relieved from administration.
- J. Hearing on Inventory and Appraisal: the Fiduciary shall provide Notice of Hearing on Inventory to the surviving spouse, next of kin, legatees and devisees, or may obtain a Waiver of Notice of Hearing on Inventory from those interested parties. The Fiduciary shall then file an Affidavit of Service of Notice of Hearing, along with said Notices or Waivers, no later than the date set for hearing of said Inventory.

64.1 - Accounts.

- A. All accounts must be personally signed by the fiduciary and contain the full name, current address and telephone number of the fiduciary, if different from the name, address and telephone number listed on the application to administer.
- B. All fiduciaries must sign the account when multiple fiduciaries have been appointed.
- C. For decedents' estates with a date of death 1/1/02 and after, a final account or certificate of termination is due six months from the date of the appointment of fiduciary. If a final account or certificate of termination cannot be filed in six months, either an application to extend administration or a notice to extend administration must be filed. A status report must be filed with any partial account subsequently filed. All subsequent accounts must be filed on an annual basis unless the Court orders otherwise. Accounts not filed in compliance with this rule shall be subject to citation.
- D. For guardianships and trusts, the first account shall be filed no later than one (1) year following the date of the appointment and all subsequent accounts shall be filed on an annual basis, unless otherwise ordered by the Court.
- E. Copies of the account shall be served as follows.
- (1) Intestate Estate. No account shall be approved unless there is a certificate filed by the fiduciary that a copy of the account as filed has been personally served or mailed by ordinary U.S. Mail to the surviving spouse and all next of kin in an intestate estate.
 - (2) Testate Estate. No accounts shall be approved unless there is a certificate filed by the fiduciary that a

copy of the account as filed has been personally served or mailed by ordinary U.S. Mail to the surviving spouse and all the beneficiaries at the addresses listed in the file except corporate or charitable beneficiaries.

- (3) Guardianships. No account shall be approved unless there is a certificate filed by the guardian that a copy of the guardian's account as filed has been personally served or mailed by ordinary U.S. Mail to all next of kin of the ward who reside in Ohio.
- (4) Trusts. No account shall be approved unless there is a certificate filed by the fiduciary that a copy of the account as filed has been personally served or mailed by ordinary U.S. Mail to all the beneficiaries of the trust.

F. Hearing on Account: the Fiduciary shall provide Notice of Hearing on Account to interested parties, or may obtain a Waiver of Notice of Hearing on Account from those interested parties. The Fiduciary shall then file an Affidavit of Service of Notice of Hearing, along with said Notices or Waivers, no later than the date set for hearing of said Account. Interested parties for an Account are designated as:

intestate estates:	surviving spouse and all next of kin
testate estates:	surviving spouse and all beneficiaries
guardianships:	all next of kin of the ward who reside in Ohio
trusts:	all beneficiaries of the trust

64.2 - Delinquency in filing an account.

No expenditure, sale, distribution, or fee will be approved while the fiduciary is delinquent in filing an account. See also Sup.R.78.

64.3 - Vouchers.

Where the fiduciary is represented by counsel, vouchers in support of an account are not required unless the court determines otherwise.

In all other cases, the court requires vouchers or a statement from a financial institution specifying the check amount, payment, date and payee to be displayed when filing accounts.

In lieu of submitting vouchers or statements from financial institutions in a solvent decedent's estate, the fiduciary may file with the account statements from all of the beneficiaries acknowledging that each received a copy of the account, that he or she consents to the filing of the account and the date of the consent.

64.4 - Bond.

An account will not be accepted for filing unless the bond, when required, is sufficient to cover twice the sum of the value of the personal property assets on hand plus one (1) year's projected income.

Upon application and hearing, the bond may be waived by the Court for good cause shown and with the consent of all beneficiaries capable of giving consent.

64.5 - Evidence of assets.

The Court requires that all assets be documented at the time of filing a partial account and available to be

exhibited to deputy clerk.

66.1 - Guardianships.

A separate guardianship must be filed and case file set up for each proposed ward.

66.2 - Guardianships of minors.

- A. A certified copy of the minor's birth certificate must be filed with the guardian's application.
- B. The Court will not establish a guardianship for school purposes only. Custody for school purposes is a matter to be heard and determined by the Juvenile or Domestic Relations Divisions of the Common Pleas Court.
- 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. Minors who are not U.S. citizens or resident aliens, are not considered by this Court to be residents or have legal settlement as set forth in Ohio R.C. 2111.02(A).

66.3 - Deposit of Wills

The guardian must deposit with the Court any and all wills of the ward for safekeeping pursuant to Ohio R.C. 2107.07.

66.4 - Change of Address.

A guardian appointed by this Court shall inform the Court as to any change of address of the guardian or the ward. This notification must be made within thirty (30) days of the address change. Failure to notify the Court under this rule may result in the guardian being removed.

66.5 - Guardian's Report.

For a guardianship of an incompetent person, the Guardian of the person shall file the Guardian's Report. If there is only a Guardian of the estate, the Guardian's Report must be filed by this Guardian.

Where a physician or clinical psychologist states on a Statement of Expert Evaluation that to a reasonable degree of medical certainty it is unlikely the ward's mental competence will improve, the Court may dispense with the filing of subsequent Statements of Expert Evaluation when filing their subsequent biennial guardian's reports.

For a guardianship of a minor child, the Guardian of the person shall file a Guardian's Report on an annual basis on the anniversary date of his/her appointment as Guardian. If there is only a Guardian of the estate, the Guardian's Report must be filed by this Guardian. The Guardian shall use the form supplied by the Court for this reporting requirement. Said Report may contain the following information: current address of Guardian, current address of ward, hospitalizations of ward since last Report, any changes in financial assets of the ward and/or unauthorized use of ward's funds without a Court Order, any concerns of the Guardian about the ward.

66.6 - Termination

Applications to terminate a guardianship of a minor require notice to all persons designated in Ohio R.C. 2111.04 and any other individuals who received actual notice of the original appointment of the guardian.

68.1 - Settlement of Injury Claims of Minors.

A certified copy of the minor's birth certificate must be presented to the Court upon the filing of the application to settle a minor's claim.

Current statement of examining physician in respect to injuries sustained, extent of recovery, and permanency of any injuries (*SupR 68B –statement is mandatory as opposed to discretionary*) must be on business letterhead, must be dated within six (6) months of the date it is filed, and must be legible.

68.2 - Settlement Conference.

It is suggested that the attorney, prior to bringing the clients to Court to settle a minor's claim, personally appear or telephonically discuss the settlement with the Court.

71.1 - Counsel Fees - Decedents' Estates.

A. Counsel fees for the administration of a decedent's estate shall be reasonable and beneficial to the estate. The application for fees shall be in writing which sets forth the details supporting the calculations on which the requested fees are based.

B. Where the residual beneficiaries have consented in writing to the amount of counsel fees and when all claims against the estate have been paid, an application need not be made for the allowance, provided the consent is endorsed on the fiduciary account or evidenced by a separate instrument filed with the account.

C. Where the attorney, on application to the Court prior to or during administration, requests a fixed fee, the Court, if it deems appropriate and after appropriate notice to the interested parties, will then fix a reasonable fee for service beneficial to the administration of the estate.

D. Counsel fees for the administration of a decedent's estate as set forth below may serve as a guide in determining fees to be charged to the estate by legal services of an ordinary nature rendered as attorney for the fiduciary in the complete administration of a decedent's estate.

E. The following schedules, however, are not to be considered or represented to clients as schedules of minimum or maximum fees to be charged.

1. On the personal property which is subject to administration for which the fiduciary is charged and upon the proceeds of real estate that is sold under a power of will as follows:
 - a. For the first \$50,000.00 at a rate of 4%;
 - b. All above \$50,000.00 and not exceeding \$200,000.00 at a rate of 3%;
 - c. All above \$200,000.00 at the rate of 2%.
2. On real property that is not sold at a rate of 2%.

3. On real estate sold by judicial proceedings according to the judgment entry confirming the proceedings.
 4. On all other property not included in this rule in which decedent had an interest at death, 1% of the total value of such property.
- F. Where the attorney, law partner or firm associated is appointed as the fiduciary, the total administration fee may not exceed the statutory fiduciary commission plus one-half of the guideline counsel fee.
- G. If by reason of the application of the above percentages to values of assets a disparity or injustice results, such disparity or injustice may be reviewed on the Court's own motion in respect of any account reflecting such compensation or upon exceptions to such an account.
- H. Postage fees (other than for overnight, certified or registered mail), copy costs, and telephone charges shall be considered part of the legal services of an ordinary nature rendered by the attorney for the fiduciary in the complete administration of a decedent's estate. An attorney may be reimbursed for the advancement of other costs and expenses, such as overnight, certified and registered mail, court deposits, court costs, vehicle titles, recording fees and death certificates. However, all such reimbursements are subject to Court review.
- I. When counsel fees are calculated pursuant to Local Rule 71.1 (E) (4), if a Memorandum or Estate Tax Return have not been filed, counsel shall provide the Court with an "informal correspondence" which itemizes the property values that were used in the computation of the fee permitted by Rule 71.1(E)(4). Pursuant to Local Rule 26.1 – Court Records Management and Retention Schedule, when the "informal correspondence" received by the Court is considered to be of no value by the Court, said "informal correspondence" may be destroyed in the normal course of business.

71.2 - Counsel Fees - Guardianship.

- A. Where the guardian, if the guardian is not the attorney, law partner or firm associate, consents in writing to the amount of counsel fees, and the counsel fees do not exceed the guidelines set forth in Paragraph B, no application need be made for the allowance thereof, provided such consent is endorsed on the account or evidenced by separate instrument filed therewith.
- B. Counsel fees for the establishment of the guardianship, filing of inventory and filing the first account shall be those reasonable and beneficial to the guardianship. The allowance of fees shall be in writing which sets forth the details supporting the calculations on which the requested fees are based. Set forth below is a guide in determining fees charged for ordinary legal services in establishing guardianships through the first account. Such schedules, however, are not to be considered as schedules of minimum or maximum fees to be charged:
1. Income and Disbursements:
 - 4% of the first \$5,000.00 of income and disbursements.
 - 3% of the next \$25,000.00 of income and disbursements.
 - 2% of income and disbursements in excess of \$30,000.00.
 2. Principal:
 - \$2.50 per thousand on the first \$250,000.00 of market value.

\$1.50 per thousand on excess of \$250,000.00 of market value.

C. For purposes of determining compensation based on income, the following shall not be considered income:

1. Receipt of corpus by guardian.
2. Balance carried forward from prior accountings.
3. Investment and reinvestment of corpus.

D. If by reason of the application of the above percentages to income and disbursements a disparity or injustice results, such disparity may be reviewed on the Court's own motion in respect of any account reflecting such compensation.

E. After the filing of the first account, all applications for attorney fees shall be those reasonable and beneficial to the guardianship and shall be in writing setting forth the calculations of such fees.

F. When the attorney, law partner or firm associated is appointed as the guardian, the attorney shall keep accurate time records that separate the duties of the guardian from that of the attorney. Compensation shall be approved for the reasonable value of services performed as attorney and as guardian. If the attorney fails to maintain accurate time records, the attorney will only be allowed the compensation determined under Rule 73.1 (Guardian's compensation).

G. Postage fees (other than for overnight, certified or registered mail), copy costs, and telephone charges shall be considered part of the legal services of an ordinary nature rendered by the attorney for the guardian in the administration of the guardianship. An attorney may be reimbursed for the advancement of other costs and expenses, such as overnight, certified and registered mail, court deposits, court costs, vehicle titles, recording fees and death certificates. However, all such reimbursements are subject to Court review.

71.3 - Counsel Fees - Trusts

A. An application must be filed for approval of attorney's fees in a trust. Said fees shall be reasonable and beneficial to the trust.

B. Postage fees (other than for overnight, certified or registered mail), copy costs, and telephone charges shall be considered part of the legal services of an ordinary nature rendered by the attorney for the trustee in the administration of the trust. An attorney may be reimbursed for the advancement of other costs and expenses, such as overnight, certified and registered mail, court deposits, court costs, vehicle titles, recording fees and death certificates. However, all such reimbursements are subject to Court review.

73.1 - Guardian's Compensation.

A. A guardian shall be allowed compensation for income and disbursements as follows:

1. Income and Disbursements:
 - 4% of the first \$5,000.00 of income and disbursements
 - 3% of the next \$25,000.00 of income and disbursements
 - 2% of the excess of \$30,000.00 of income and disbursements
2. Principal:

\$2.50 per thousand on the first \$250,000.00 of market value

\$1.50 per thousand on excess of \$250.00 of market value

B. For purposes of determining compensation based on income the following shall not be considered income:

- (1) Receipt of corpus by guardian
- (2) Balance carried forward from prior accountings
- (3) Investment and reinvestment of corpus

74.1 - Trustee's Compensation.

A. Corporate trustees

- (1) Except where the instrument creating the trust makes provisions for compensation, a testamentary trustee may charge fees on the same basis as it charges for living trusts.
- (2) Fee schedules shall be furnished to the Court on the 1st day of January of each year and whenever a change in fees is made within any calendar year.
- (3) A separate schedule of the computation of the trustee's compensation shall be set forth in the trustee's account as a condition of its approval.
- (4) Corporate trustees who fail to furnish to the Court its current fee schedules shall be limited to fees set forth in its last furnished schedule, or if no schedule has been filed, then to the amounts for individual trustees.
- (5) Corporate trustees may at their option elect to use the Individual Trustee's compensation schedule.

B. Individual trustees

Except where the instrument creating the trust makes provisions for compensation, the testamentary trustee may charge as follows:

- (1) Principal Fee. A fee of \$2.00 per \$1,000.00 of the market value of the principal held by the trustee.
- (2) Income Fee. A fee of six percent (6%) of the total of the income for the accounting period.
- (3) Principal Distribution Fee. A fee of one percent (1%) of the principal distributed during the accounting period.

75.1 - Adoptions.

A. An original and a copy of all petitions, interlocutory decrees and final decrees shall be filed in every adoption case. Additional copies of the petition shall be submitted as required for service.

B. In private placement adoptions, a pre-placement application in a form prescribed by the Court shall be filed by the proposed adopting parents not less than five (5) days prior to placement if applicants are residents of Shelby County, Ohio, and not less than thirty (30) days prior to placement if applicants are not residents of

Shelby County, Ohio.

C. Once the applications have been approved by the Court, a hearing shall be held not less than seventy-two (72) hours after the birth of the child or after the parent(s) have met with the adoption assessor, whichever occurs later, for the placement and consent by the parents. Prior to the placement hearing, the Court shall be supplied with a statement from the child's physician as to the medical condition of the child to be placed. If the placement is approved, the adoption petition must be filed before the Court will issue a Hospital Release for the release of the child to the petitioners or the attorney of the petitioners. The adoption petition shall not be set for hearing until after the placement is complete.

75.2 - Custodial deposits in lieu of bond.

All custodial deposits of personal property, securities and monies must comply with Ohio R.C. 2109.13. All institutions desiring to be a depository must satisfy the Court of their authorization and certification by the State of Ohio.

75.3 - Release of estates from administration.

A. The Court shall select and appoint Commissioners, when required, in estates released from administration.

B. A short form release from administration may be filed when evidence is presented to establish:

1. Gross assets are less than three thousand and no/100 dollars (\$3,000.00); or gross assets are less than ten thousand and no/100 dollars (\$10,000.00) and there is a surviving spouse and/or minor children of the decedent, and;
2. The funeral expenses to the extent of the estate priority pursuant to Ohio R.C. 2117.25(B) have been paid.

C. The Court may waive a noticed hearing in those instances where it appears no beneficiaries or creditors will be prejudiced.

D. If an Application to Relieve Estate from Administration is filed by the decedent's surviving spouse, no further notice of said Application to the parties listed on Form 1.0 will be required, unless the surviving spouse is not the natural parent of one or all of decedent's children.

75.4 - Pro Hac Vice.

A. An attorney not licensed to practice law in the State of Ohio, but who is duly licensed to practice law in any other state or the District of Columbia, may, at the discretion of the Probate Judge, be permitted to represent a party or parties in any litigation pending or to be filed in this county after completion of all of the following conditions:

1. File a written oath substantially in compliance with Rule 1, Section 8A of the Supreme Court Rules for the Government of the Bar;
2. The attorney must become familiar with Local Court Rules, Civil Rules, Rules of Evidence, and the Code of Professional Responsibility, and so certify to this Court in writing.

3. Be sponsored in writing by an attorney licensed to practice law in the State of Ohio. The motion made by the licensed attorney shall certify such out-of-state attorney's compliance with this rule and the Supreme Court Rules for the Government of the Bar;
 4. The sponsoring attorney shall submit with the motion and certification an entry authorizing the approval of the motion;
 5. The sponsoring attorney, or any other attorney licensed to practice law in the State of Ohio, shall be co-counsel with the attorney admitted, *pro hac vice*.
- B. The continuance of any scheduled trial or hearing date shall not be permitted solely because of the unavailability or inconvenience of the out-of-state attorney.

75.5 - Additional fees.

- A. The fee for computerized legal research as authorized by Ohio R.C. 2101.162(A) shall be Three and No/100 Dollars (\$3.00) per case and Three and no/100 Dollars (\$3.00) per marriage license application.
- B. The fee for computerization as authorized by Ohio R.C. 2101.162(B) shall be Ten and No/100 Dollars (\$10.00) per case and Ten and No/100 Dollars (\$10.00) per marriage license application.
- C. The fees for Special Projects Fund shall be Twenty Dollars (\$20.00) per case as authorized by Ohio R.C. 2303.201(E)(1), including a marriage license application.
- D. The fee for Dispute Resolution Fund shall be Five Dollars (\$5.00) per case as authorized by Ohio R.C. 2101.163, except for a marriage license application.

76.1 - Exceptions.

Upon application and for good cause shown, the Probate Court may grant an exception to these rules.

78.1 - Case Management and Pre-trial Procedure.

For the purpose of ensuring the readiness of civil cases in the Probate Division for pre-trial, final pre-trial and trial, the following procedures shall be in effect.

A. Civil Actions.

1. A pre-trial conference shall be conducted in all civil cases prior to being scheduled for trial, except in land sale proceedings.
2. Within thirty (30) days after the answer day the case shall be set by the Court for a pre-trial conference.
3. 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.
4. The following decisions shall be made at the pre-trial conference and all counsel attending must have full authority to enter into a binding pre-trial order.

- (a) A definite discovery schedule shall be agreed upon by all parties for the completion of all discovery.
 - (b) A definite date for exchange for expert witness reports shall be determined.
 - (c) A definite date for filing of all motions, which date shall not be later than seven (7) days before the final pre-trial.
 - (d) The date for the final pre-trial shall be set by the Court and shall be held approximately one week prior to the trial.
5. 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.
- (a) The Court will rule on all pre-trial motions.
 - (b) Briefs on any legal issues shall be submitted.
 - (c) Proposed jury instructions shall be submitted.
 - (d) Proposed jury interrogatories shall be submitted.
 - (e) Clients shall be present.
 - (f) No motions shall be heard after the final pre-trial without leave of Court and without good cause being shown.
6. 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.

B. Land Sales.

1. 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.
2. 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:
 - (a) The attorney of record and fiduciary must attend the pre-trial conference.
 - (b) A written status report shall be filed with the Court no later than seven (7) days prior to the pre-trial conference.
 - (c) 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.

C. Decedent's Estate.

1. The statutory time or the time as extended by these rules or court order 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.
2. Objections to inventory and objections to account. The Court shall set a pre-trial conference within thirty (30) days after filing and the Court, at the pre-trial conference, shall set the matter for an evidentiary hearing within thirty (30) days thereafter.
3. All decedents' estates, which are current as to filed accounts, which remain open after a period of thirteen months shall be subject to a status conference, if a written status report is not filed on an

annual basis with each partial account.

D. 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 a guardian ad litem is necessary to be appointed, the hearing shall be held within thirty (30) days of the filing or fifteen (15) days after the appointment, whichever is later.

E. Guardianships.

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

When the Statement of Expert Evaluation is filed, the entire form and appropriate boxes must be completed, it must be dated within three (3) months of the date it is filed, and must be legible.

F. Trusts.

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

G. Motions.

1. Oral arguments of motions may be permitted on application and proper showing.
2. 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.
3. All responses to motions shall be filed within fourteen (14) days.
4. The Court shall set a hearing within thirty (30) days after receipt of the request or, if no request, then it shall determine the matter as soon as possible after the response is filed, or if no response is filed, than as soon as possible after the fourteenth (14) day has elapsed from filing the motion.

H. Correspondence.

Copies of all correspondence addressed to the Court by any party or counsel shall be mailed or furnished to other counsel or parties in the case, and the correspondence to the Court shall disclose to whom copies were furnished. Correspondence not in compliance with the order shall be disregarded by the Court.

I. Certified Mail

Service of process by certified mail, return receipt requested, pursuant to Civil Rules 4.1, 4.3 and 4.5 may be perfected, if needed, through a "Track and Confirm" verification by the United States Postal Service. Said verification shall be filed and made part of the record.

J. Jury Management Plan

The Shelby County Probate Court adopts the jury management plan of the Shelby County Common Pleas Court, General Division, implemented April 21, 2009, attached hereto as Appendix D.

APPENDIX AA@

**REQUIRED DEPOSIT FOR FILINGS IN
SHELBY COUNTY PROBATE COURT**

A.	Application to File Will for record only.....	\$ 58.00
B.	Application for Authority to Administer Estate of Decedent (Testate or Intestate).....	\$ 130.00
C.	Application for Ancillary Administration.....	\$ 130.00
D.	Application for Release from Administration (testate or intestate.....	\$ 130.00
	Summary Release from Administration (Intestate).....	\$ 123.00
	(Testate).....	\$ 130.00
	1. Additional fee for certificate of transfer of real estate.....	\$ 7.00
	Short Form Release (Intestate).....	\$ 68.00
	Short Form Release (Testate).....	\$ 83.00
E.	Application to file will for record only and Non-taxable estate tax return *(plus \$1.00 per page if over 5 pages for tax return)	\$ 60.00*
F.	Application to file will for record only and Taxable estate tax return..... *(plus \$1.00 per page if over 5 pages for tax return)	\$ 62.00*
G.	Application to file will for record only (no taxes).....	\$ 58.00
H.	Tax Forms only.....	\$ 28.00
I.	Petition for Adoption.....	\$ 465.00
J.	Complaint (civil actions such as Will Contest, Land Sales, Determination of Heirs, etc.).....	\$ 150.00
K.	Application for Appointment of	
	1. Guardian of Minor.....	\$ 124.00
	2. Guardian of Alleged Incompetent – Emergency Appointment (unless Financial Disclosure/Affidavit of Indigency is filed and approved).....	\$ 124.00
	3. Guardian of Alleged Incompetent – after Emergency Appointment (unless Financial Disclosure/Affidavit of Indigency is filed and approved).....	\$ 115.00
	4. Guardian of Alleged Incompetent – without Emergency Appointment (unless Financial Disclosure/Affidavit of Indigency is filed and approved).....	\$ 239.00
	5. Conservator.....	\$ 155.00
L.	Exceptions to Inventory and Appraisal.....	\$ 10.00
M.	Exceptions to Account.....	\$ 10.00

N.	Filing a claim against an estate.....	\$ 10.00
O.	Petition for Release of Information Regarding Adopted Person's Names by Birth and/or Identity of Biological and/or Biological Sibling.....	\$ 50.00
P.	Application for Name Change.....	\$ 200.00
Q.	Minor's Settlement.....	\$ 63.00
	Minor's Settlement with Guardian.....	\$ 135.00
R.	Application for approval of Structured Settlement Payments.....	\$ 58.00
S.	Deposit of funds for a minor.....	\$ 63.00
T.	Trusts.....	\$ 105.00
U.	Legitimation.....	\$ 38.00
V.	Birth Correction.....	\$ 68.00
	Birth Registration.....	\$ 70.00
W.	Demand for Jury Trial.....	\$ 500.00
X.	Transcript.....	\$ 28.00*
	*(plus \$1.00 per page over 5 pages)	
Y.	Certification of any document.....	\$ 3.00
Z.	The Clerk may demand an additional security deposit in any amount up to \$150.00 if the initial deposit is insufficient to cover costs already incurred.	
AA.	Reopen a case.....	\$ 58.00
BB.	Request for a Foreign Birth Record.....	\$ 139.00
CC.	Inter Vivos Trust – Petition/Application.....	\$ 58.00
DD.	Ohio Uniform Transfer to Minors Act.....	\$ 58.00
EE.	Marriage License.....	\$ 66.00
FF.	Other matters not enumerated.....actual costs (2101.16)	
GG.	Fee for any record in excess of 1,500 words (equal to 5 pages) will be \$1.00 per page over the first five pages. (R.C. 2101.16A57)	
HH.	Fee for making a complete record upon conclusion of case will be \$1.00 per page of docket. (R.C. 2303.20H)	

II. Entry of Appearance/pleadings filed by secondary/third, etc. party \$ 50.00

If costs are not paid at the termination of litigation, the Clerk may apply the security deposit of the obligating party to the unpaid costs.

The Clerk may file Certificates of Judgment with the Clerk of the Common Pleas Court of this county or any other county against any of the parties for whom costs are due and to collect costs due by any other legal remedies.

Any remaining security deposit in the amount of \$2.00 or less will not be refunded; said remaining amount shall be paid into the Shelby County General Fund.

APPENDIX AB@

FACSIMILE FILING COVER PAGE

RECIPIENT INFORMATION:

NAME OF COURT: _____

FAX NUMBER: _____

SENDING PARTY INFORMATION:

NAME: _____

SUPREME COURT REGISTRATION NO.: _____

OFFICE/FIRM: _____

ADDRESS: _____

TELEPHONE NO.: _____

FAX NUMBER.: _____

E-MAIL ADDRESS (if available): _____

CASE INFORMATION:

TITLE OF THE CASE: _____

CASE NUMBER*: _____

TITLE OF THE DOCUMENT(S): _____

FILING INFORMATION:

DATE OF FAX TRANSMISSION: _____

NUMBER OF PAGES (including this page): _____

STATEMENT EXPLAINING HOW COSTS ARE BEING SUBMITTED, IF APPLICABLE:

*If a case number has not been assigned, please state that fact in the space provided.

APPENDIX AC@

PROBATE COURT OF SHELBY COUNTY, OHIO

IN THE MATTER OF:

CASE NO.

NOTICE OF FILING EXHIBIT A___@

_____ hereby files Exhibit A___@. The referenced pleading was filed by facsimile transmission with the Court on _____ [date]. Exhibit A___@ could not be accurately transmitted by fax and is therefore being timely filed as a separate document with the Court pursuant to Local Rule 57.1.

Respectfully submitted,

Attorney Name (Sup. Ct. Reg. No.)
Office/Firm
Address
Telephone
Facsimile
E-mail
Counsel for _____

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Filing Exhibit A___@ was sent by ordinary U.S. mail on _____ [date] to counsel for _____, _____ [name and address of recipient].

Attorney Name

APPENDIX AD@

Appendix G Shelby County Common Pleas Court Jury Use and Management Plan

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 Shelby County, Ohio.

II. Jury Source List

A. Pursuant to Court Order, the jury source list shall be obtained from the Secretary of State's Office list 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 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 shall be taken.

III. Random Selection Procedures

A. The jury source list from the Secretary of State's Office shall be imputed into the clerk's computer system. Thereafter, at least quarterly, during public viewing times, the names are drawn randomly. Thereafter, the jury commissioners read and examine the names selected. The list of names shall constitute the prospective list of jurors for a term of court.

After retrieving the requisite number, the venires, containing the names and the respective places of residence of the persons drawn, and specifying for what Court and for what term or part of a term they were drawn, shall be signed by the Clerk or her deputy or to her designated representative and all the attending officers or their designated representatives. The officers or their designated representatives shall certify that Section 2313.01 to 2313.46 of the Revised Code have been complied with.

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 18 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; Shelby County;
4. Are not able to communicate in the English language; or
5. Have been convicted of a felony and have not had their civil rights restored

V. Term and Availability for 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.

VI. Exemption, Excuse and Deferral

A. Prospective jurors may be excused for the following reasons, absence from the county, physical inability to serve, recent death of a juror's spouse or the recent death or dangerous illness or a near relative of the jury or juror's spouse, prior service within the same jury year, material harm to the interests of the juror or public, or the juror is a member of a cloistered religious organization. Any other request for excusal shall be reviewed by the Court.

B. Deferrals for jury service for reasonably sort periods of time may be permitted by the Judge or a specifically authorized Court official.

C. Requests for excuses and deferrals shall be in writing to the Judge and after disposition, filed with the Clerk's Office. **See Exhibit A.**

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

C. The Judge should ensure that the privacy of prospective jurors is reasonable protected, and the questioning is consistent with the purpose of the voir dire process.

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

E. Rules on Voir Dire

1. The case 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. 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 shall be removed from the panel. Such a determination may be made on motion of counsel or by the Court.

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 Shelby 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 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. Policies and procedures should be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service. Jurors who fail to report for service may be scheduled for a contempt hearing to inform the Judge as to why they did not appear. Sanctions are imposed as warranted.

XII. Monitoring the Jury System

The Court shall collect and analyze information regarding the performance of the jury system annually 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

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 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.

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

D. The jury deliberation room shall include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation room shall be ensured.

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

XV. Juror compensation

A. Persons called for jury service shall receive a reasonable fee for their service and expenses pursuant to statutory authority.

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 Instruction

A. The Judge shall:

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 note taking 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;

5. Before dismissing a jury at the conclusion of a case, the trial Judge should:

i. Release jurors from their duty of confidentiality

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

iii. Advise them that they are discharged from service and may be called during the sessions; and

iv. 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 or 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 regarding appropriate procedures to be followed during deliberations.

C. A jury should not be required to deliberate after normal business hours unless the trial Judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and such deliberations are required in the interest of justice.

D. Training shall be provided to personnel who escort and assist jurors during deliberation.

XIX. 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. The jury shall be sequestered after a capital case is submitted to the jury in conformity with existing Ohio law.

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.

Exhibit A
APPLICATION FOR EXCUSE FOR A JUROR
Common Pleas Court, Shelby County, Ohio

To the Judge of said Court:

Name of Applicant: _____ Telephone Number: _____

Being first duly sworn, I request to be excused from jury service because: _____

Applicant

Sworn to be fore me and signed in my presence, this ____ day of _____
2____.

Signature of Officer

The foregoing application is hereby approved/disapproved this _____ day of
_____, 2____.

Judge