

FAIRFIELD COUNTY PROBATE COURT

RULES OF COURT

Judge Terre L. Vandervoort

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1. HEARINGS & PROCEDURES

1.1 SESSIONS OF COURT

Regular session of Court shall be from 9:00 a.m. to 4:00 p.m., with a lunch break from 12:00 p.m. to 1:00 p.m. and the clerk's office shall be open from 8:00 a.m. to 4:00 p.m., Monday through Friday, except for legal holidays and such other occasions as may be specifically ordered by the Court. Additionally, the Court shall be closed the day after Thanksgiving and at noon on Good Friday, Christmas Eve and New Year's Eve.

1.2 RECORDING OF PROCEEDINGS

Amended 1/7/11

- (A) Unless otherwise ordered by the Court, all matters of record shall be preserved by electronic recording.
- (B) Anyone wishing to have a written transcript of a proceeding shall contact the court's appointed reporter and request the same in writing. If a party wishes to use a court reporter other than the one appointed by the Court, a motion for the same must be submitted to and approved by the Court.
- (C) If a party desires an audio copy of a hearing, as opposed to a written transcript, a request must be made to the Court. A copy will be provided on a CD at the cost of \$10.

1.3 COSTS FOR TRANSCRIPT OF PROCEEDING

Amended 9/10/12

Pursuant to Ohio Revised Code Section 2301.24, the Court hereby affixes the cost of a transcript prepared by a court reporter at \$5.25 per page. Said cost shall include the preparation of an original transcript to be filed with the Court and a copy to be provided to the requesting party.

A deposit set by the court report shall be posted prior to the start of any transcript and the cost shall be paid in full prior to the filing of said transcript unless the cost has been ordered to be paid by the county treasury.

Further, once an original transcript has been filed with the Court, an electronic copy shall be provided via email to any party to the case, if requested, and the same shall be free of charge. A request for a paper copy of a transcript shall be made to and provided by the clerk of the court in which it is filed at the current copy rate.

Original & one copy	\$ 5.25 per page
Minimum Transcript Fee.....	\$50.00
Expedited Transcript Fee.....	\$75.00

1.4 CONTINUANCES

(A) All motions for continuance must be in writing or made in open court. All motions must set forth the reason for the continuance and a copy of the same shall be given to opposing counsel.

(B) A continuance may be granted on the grounds of the inability to procure the testimony of an absent witness when it appears that due diligence was used to procure such testimony. To obtain a continuance on this ground, the party making the application must support the same by affidavit stating what is expected to be proven by such witness. If the Court finds that the testimony so set forth to be immaterial, or if both parties consent to the reading of the affidavit into evidence, the application will not be sustained and the cause will proceed to trial.

(C) Counsel shall immediately, upon being notified of a hearing date, inform their clients and witnesses of such date and if it appears that one or more of the witnesses will not be available for trial on that date, counsel shall immediately arrange to take the deposition of such witness or witnesses so that the trial can proceed as assigned.

(D) Where a continuance of a cause is requested on the ground that an attorney in the case is already engaged on the date set for trial in another court of record, the Motion for Continuance shall be filed forthwith. Failure to immediately notify the Court of a conflicting assignment shall result in the refusal of the Court to grant a continuance.

(E) All Motions for a Continuance shall be accompanied by a proposed Journal Entry ordering the reassignment of said case for a date certain. In the event a continuance is granted, the Court may, in its discretion, assess costs and expenses against the moving party.

1.5 JURY TRIALS

Amended 9/14/05

In every case in which a jury demand is filed, the requesting party shall be required to post a deposit as follows no later than **seven (7) days** after the date of the entry scheduling the matter for jury trial:

Deposit for a one-day jury trial shall be **\$750.00**.

Deposit for each additional day scheduled for jury trial shall be **\$270.00**.

Failure to post the appropriate deposit within time shall constitute a waiver of jury and the matter shall proceed as a trial to the court.

1.6 ENTRIES

Amended 9/25/06

It is the responsibility of the party filing a motion with the Court to submit a corresponding entry to either set a hearing on the same or for the Court to rule on said entry. On matters heard by the Court, it will be the responsibility of the prevailing party to timely submit entries in accordance with the Court's findings.

1.7 FINDINGS OF FACT

A party who requests findings of fact and conclusions of law shall also file, within ten (10) days after filing said request with the Court, a proposed findings of fact and conclusion of law and submit a copy thereof to opposing counsel. Opposing counsel shall then, within ten (10) days, submit any objections thereto and/or his/her proposed findings of fact and conclusions of law.

Failure of any party to request, submit or object to the findings within said time frame constitutes a waiver of the same.

1.8 COURT SECURITY

A plan for court security is on file with the Administrative Director's Office of The Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio and is not treated as public record.

2.0 PLEADINGS & COURT FILINGS

2.1 **PAPER**

Amended 9/25/06

All pleadings and papers filed with this Court shall be on 8-1/2 x 11 inch paper, preferably double-spaced. The foregoing shall not apply to any Exhibits. All documents filed with this Court shall include counsel's Supreme Court registration number along with other identifying information such as address and phone number.

All pleadings and documents filed with the Court (excluding original wills and exhibits) shall be single sided.

2.2 **PLEADING SIGNATURES**

Effective 2/3/03

All original pleadings filed with the Court shall be signed in blue ink. Pleadings signed in black ink shall be returned.

2.3 **FILES**

No files shall be removed from the Court without the written permission of the Court.

2.4 **EXAMINATION OF FILES, RECORDS AND OTHER DOCUMENTS**

Effective 6/1/01

All files are open to the public with the exclusion of adoption, mental and tax records. Copies may be obtained at 5 cents per page. Copies may be certified at an additional cost.

2.5 **ELECTRONIC FILING**

Effective 1/1/05

- (A) The definition of "electronic filing" for the purpose of this rule of Court will be limited to fax. Pleadings or other papers, with the exception of those set out below, may be filed by paper facsimile with the Court to **740-687-0942**. Any pleading and/or other papers shall be deemed filed upon receipt and shall be file-stamped the date of receipt. Any pleading or papers received after 4:00 p.m. shall be considered filed the next day of court business.
- (B) Any document filed by fax shall be accepted as the original filing. The person making said filing shall maintain the original in his or her records and have available for production on request by the Court the source document and accompanying cover sheet.
- (C) All pleadings or papers filed by fax shall be accompanied by a cover page containing the following information:
1. The name of the court;
 2. Title of the case;
 3. The case number;
 4. The title of the document being filed and the number of pages thereto;
 5. Date of transmission;

6. Name of the individual filing the document with contact information and transmitting fax number.

(D) Any pleading filed by fax that does not comply with the above requirements or is defective upon its face shall not be considered filed with the Court.

(E) The following documents may not be filed by facsimile:

1. Any original complaint, motion or document requiring a filing fee.

2.6 GUARDIANS

The Court will not accept for filing any guardianship for a minor where the only purpose of the guardianship is to establish a residency for school purposes.

2.7 ESTATES OF MINORS AND PROPOSED INCOMPETENTS *Amended 8/22/12*

Applications on behalf of alleged incompetents will not be entertained until such time as the Physician's Certificate is received from a physician. At the time of the filing of a biennial accounting in the guardianship of an incompetent person, the Guardian may have completed and submit a "Guardian's Report Addendum" indicating the expert evaluator's opinion that, within a reasonable degree of medical or psychological certainty, the Ward's mental capacity will not improve. (Guardian's Report Addendum is located on page 3 of the Statement of Expert Evaluation form.) Once the Guardian's Report Addendum is filed, further Statements of Expert Evaluation are not required; however, the Guardian's Report shall still be required.

If a settlement of a minor's claim (1.9) or other distribution to a minor is under \$25,000, then no guardianship will be opened. If the amount to be distributed to a minor is over \$5,000, but less than \$25,000, then no guardianship will be opened but all funds shall be deposited with an approved financial institution in the name of the Probate Judge and the child. Any distribution from said funds shall be only upon written motion and the Court's approval shall be in entry form. A copy of the entry shall be furnished to the applicant.

2.8 SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS UNDER \$25,000

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

2.9 MOTIONS AND HEARINGS

All motions and responses shall be submitted in writing with the proper case heading and number accompanied by memorandum on the related law.

All motions shall be ruled upon by the Court based upon the pleadings without hearing, unless an oral hearing is requested by the parties and the Court grants the same or a hearing is desired by the Court.

2.10 TAX PROCEEDINGS

All estate tax filings in the Probate Court shall conform to the requirements of Chapter 5731 of the Revised Code of Ohio.

The Ohio Estate Tax Return should be filed in Probate Court no sooner than three months from the date of appointment. Said Tax Return must be filed prior to transfer of any real estate.

Each attorney or person filing a taxable return shall also prepare and deliver to the Probate Court a notice, on the form prescribed by the tax commissioner, for service upon the County Auditor.

2.11 INVENTORY AND APPRAISAL/TRANSFER OF REAL ESTATE *(Amended 3/7/12)*

In lieu of valuation of real property by an appraiser, the fiduciary may use the market value of the real property as listed in the Fairfield County Auditor's property records as the readily ascertainable value of the real property. Likewise, any real property located in another county of this state, that County Auditor's property records may be used as the readily ascertainable value. A copy of the County Auditor's valuation shall be attached to Standard Probate Form 6.1 or 5.1, whichever is applicable, and no further appraisal shall be required.

In the event the fiduciary chooses to appoint an appraiser, such appraiser appointed under Ohio Revised Code Section 2115.06 shall be a suitable disinterested person and the fee shall be \$30 per hour for actual time involved in the appraisal of the assets. Appraisers are paid by the fiduciaries and not by the Court.

The automobile taken by the spouse under Revised Code Section 2113.532(A) must be described even though it is not a probate asset.

All real estate with metes and bounds descriptions or lot numbers must be taken to the Auditor's office for approval before filing with the Court.

2.12 SCHEDULE OF CLAIMS

A Schedule of Claims is no longer required to be filed in this Court.

2.13 PERSONAL PROPERTY

A Report of Sale is no longer required.

2.14 APPLICATION FOR CERTIFICATE OF TRANSFER OF REAL ESTATE

In all intestate estates with surviving spouse electing to take the mansion house as part of their intestate share, a copy of the final account shall accompany the application in order for the Court to compute the monetary charge pursuant to Ohio Revised Code 2105.063.

2.15 CIVIL PROCEDURES

The Court will issue all summons and will send the same by certified mail with return receipts requested.

All notices will be issued by the Court to the attorney of record and service to all parties shall be made by the attorney of record, unless specifically stated otherwise in the Code.

2.16 FAMILY ALLOWANCE

In estates where there is a surviving spouse and/or minor children, a Family Allowance shall be filed to indicate what asset was chosen in compliance with Revised Code Section 2106.13.

2.17 ADOPTION – HOME ASSESSMENTS

Effective 5/10/04

All home assessment reports on adoption matters must be filed with the Court no later than the Monday preceding said adoption hearing. Failure to have the same timely filed will result in a continuance of said hearing by the Court, *sua sponte*.

2.18 ADOPTION CONSENTS

Effective 3/28/06

Any birth parent that desires to consent to an adoption of their child shall be required to appear before the Court to execute the same. Said consent shall not be accepted unless birth parent has completed the mandatory birth parent counseling no later than 72 hours prior to giving consent. A birth parent consenting to a step-parent adoption or a birth parent residing out of state shall be excluded from this requirement.

3. COUNSEL, COMPENSATION & COSTS

3.1 APPEARANCE OF COUNSEL

All counsel representing a party in any pending case before this Court shall file an appearance in writing so that the same may be entered upon the record. Said appearance may be made on the form provided by the Court or any written pleading. Attorneys failing to file such written appearance shall forfeit notice of hearing, recognition as counsel for a party and other courtesies provided by the Court.

3.1(a) WITHDRAWAL OF COUNSEL

Effective 9/25/06

A written motion and entry must be presented to the Court if counsel wishes to withdraw representation of a party. Counsel may not withdraw representation without permission being granted by the Court in writing.

3.2 COUNSEL FEES

Counsel fees for the administration of a decedent's estate as set forth in Appendix B attached hereto, may serve as a guide in determining fees to be charged to the estate for legal services of an ordinary nature rendered as attorney for the fiduciary in the complete administration of a decedent's estate. If a disparity or injustice results upon the application of these percentages of values, in respect to any account reflecting such compensation or upon exceptions to such an account, the Court may review the same on its own motion.

Examples of extraordinary services which may be compensated in addition to the foregoing suggested guidelines on ordinary fees, includes, but is not limited to, the provisions or services set forth in Appendix C attached hereto.

3.3 APPOINTED COUNSEL FEES

Counsel appointed by the Court shall be paid at the rate of \$50 per hour for time spent in court and \$40 per hour for time out of court. Counsel shall apply for payment on the approved application forms, itemizing the time billed and indicating whether in court or out and attaching a copy of the court entry of appointment. Said application for fees shall be submitted to the Court within 60 days of the completion of said matter.

3.4 GUARDIAN'S COMPENSATION

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

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

For the purpose of computing a guardian's compensation as herein approved, the fair market value of the principal shall be determined by the guardian as of the date of his/her appointment and as of each anniversary thereafter. The compensation so determined may be changed during the ensuing year. The annual principal valuation shall be adjusted from time to time to reflect additions to and withdrawals from the principal of the estate, and the compensation for the remaining portion of the annual periods shall be similarly adjusted to reflect such revised valuation.

3.5 TRUSTEE'S COMPENSATION

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

3.6 COURT COSTS

Deposits in the amount set forth in Appendix A attached hereto shall be required upon the filing of any actions and proceedings listed therein.

3.7 REFUNDS OF MONEY ON DEPOSIT

In the interest of economy for the taxpayers of Fairfield County, any money held on deposit with this Court in an amount less than One Dollar (\$1.00) shall be paid into the County General Fund rather than refunded by check to the depositor.

3.8 ATTORNEY FEES IN INDIGENT GUARDIANSHIPS

Effective 11/2/07

Invoices for payment of attorney fees shall be submitted within 30 days of the appointment and/or filing of inventory and then on a quarterly, bi-annual or annual basis for ongoing services. Payment shall be made upon motion and entry through the Indigent Guardianship Fund as funds become available.

The Court shall not reimburse for court costs and other routine office expenses, nor preparation of invoices. Requests for extraordinary costs shall be submitted, in advance, by motion and entry to the Court.

Any attorney appointed by the Court to represent a Ward in a Guardianship matter shall be appointed by entry and a copy of such entry shall be attached to any invoice submitted to the Court for payment of attorney fees.

Effective 11/15/07

Any legal fees submitted on behalf of an applicant in a matter where no guardian has been appointed shall not be paid.

Effective 11/15/07

A schedule of attorney fees is set forth in Appendix F attached.

4.0 RECORD RETENTION

(Revised 12/7/07)

4.1 **MEDIUM** (Superintendence Rule 26)

The Court adopts the combined indexes, dockets and journals as defined in **Superintendence Rule 26** through **26.05**. The indexes, dockets and journals shall be maintained in an electronic medium. The records shall be **permanently** retained. Microfilm, digital imaging or electronic data shall be considered the permanent record. Traditional paper or bound book records may be destroyed after having been transferred to such medium. **Case files** shall be maintained in traditional paper medium until after having been converted to digital imaging.

4.2 **ADMINISTRATIVE RECORDS** (Superintendence Rule 26.01)

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.

Bank Transaction Records, whether paper or electronic, shall be retained for **three (3) years** or until the issuance of an audit report by the Auditor of State, whichever is later.

Cash Books, including receipt and disbursement records, shall be retained for **three (3) years** or until the issuance of an audit report by the Auditor of State, whichever is later.

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 of no value by the person holding the record.

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 of no value by the person holding the record.

Drafts and Informal Notes, consisting of transitory information used to prepare the official record in any form may be destroyed in the normal course of business as soon as they are considered of no value by the person holding the record.

Employment Applications shall be retained for **two (2) years**.

Employee Benefit and Leave Records, including copies of life and medical insurance records, shall be retained by the appropriate fiscal officer for **three (3) years** or until the issuance of an audit report by the Auditor of State, whichever is later.

Employee History and Discipline Records, shall be retained for **ten (10) years** after termination of employment.

Fiscal Records, including but not limited to copies of the transactional budgeting, unclaimed funds, records, payment of jurors and witnesses, shall be retained for **three**

(3) years or until the issuance of an audit report by the Auditor of State, whichever is later.

Grant Records shall be retained for **three (3) years** after expiration of the grant.

Payroll Records shall be retained for **three (3) years** or until the issuance of an audit report by the Auditor of State, whichever is later.

Publications received may be destroyed in the normal course of business as soon as they are considered of no value by the person holding the record.

Receipt and Balance Records shall be retained for **three (3) years** or until the issuance of an audit report by the Auditor of State, whichever is later.

Request for Proposals, Bids and Resulting Contracts received in response to requests for proposals, bids and resulting contracts shall be retained for **three (3) years** or until the issuance of an audit report by the Auditor of State, whichever is later.

4.3 **COURT RECORDS** *(Superintendence Rule 26.03)*

Index, Docket and Journal shall be retained **permanently**.

Vouchers, Proof or Other Evidence filed in support of expenditures or distribution in an account, after being reviewed and verified, may be returned to the fiduciary.

Nonessential Notes, Notice, Letter, Form or other Documents in a case file that is not essential to providing a record of the case and the judgment of the probate division may be destroyed.

Judge, Magistrate and Clerk Notes, Drafts and Research may be destroyed at the discretion of the preparer or as soon as they are considered of no value by the person holding the record.

4.4 **PROBATE CASE FILES** *(Superintendence Rule 26.04)*

Adoption records shall be retained **permanently**.

Birth and Death Registrations dated prior to 1908 shall be **permanently** retained.

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

Marriage License records shall be retained **permanently**.

All **Original Wills** shall be **permanently retained**.

4.5 **DESTRUCTION OF RECORDS** (*Superintendence Rule 26*)

Paper Records. Traditional paper or bound book records may be destroyed after having been transferred to electronic medium.

Notification. The Clerk shall notify, **in writing**, the Ohio Historical Society of all case files that were created **prior to 1960** or have a **retention period greater than 10 years** which are scheduled for destruction **sixty (60) days** prior to the destruction of the records and offer the original records for safekeeping to them. These records may be transferred to the possession of said entity as long as they maintain the records as **public records**. The records may **not** be destroyed or otherwise disposed of by said organizations without prior written consent of the Court.

Exhibits, depositions and transcripts may be destroyed after the conclusion of the litigation and the exhaustion of the times for direct appeal upon the following conditions:

- a) 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.
- b) The written notification apprises the party who tendered the exhibits, depositions or transcripts that the exhibits, depositions or transcripts that the exhibits, depositions or transcripts will be destroyed within sixty (60) days if not retrieved.
- c) The written notification informs the party who tendered the exhibits, depositions or transcripts of the location for retrieval of the exhibits, depositions or transcripts.
- d) The party who tendered the exhibits, deposition or transcripts does **not** retrieve the exhibits, depositions or transcripts within sixty (60) days from the date of notification.

4.6 **RECORD RETENTION SCHEDULE**

Any records not specifically set forth in Superintendence Rule 26 may be listed in the Court's Record Retention Schedule attached hereto as Appendix G.

5.0 FUNCTIONS OF THE COURT

5.1 APPOINTMENT OF AGENT

The Fairfield County Auditor, acting as agent for the Ohio Department of Taxation, has been appointed as deputy by this Court for the purpose of performing inventories of safe-deposit boxes for the purpose of removing and delivering to the Court decedent's Will from said safe-deposit box. Decedent's Will shall be immediately removed, sealed in an envelope and delivered to the Court for safe storage until an Application to Probate Will is filed.

The Auditor is permitted to release said Will to an attorney present at the inventory of the safe-deposit box upon proper receipt thereof.

5.2 MARRIAGE LICENSES

Effective 9/25/96

Pursuant to Section 3101.05 of the Ohio Revised Code, the Court finds good cause to waive the waiting period on all marriage licenses. Marriage licenses shall be issued at the time of application.

6.0 JURY MANAGEMENT PLAN

6.1 OPPORTUNITY FOR SERVICE

- A. The opportunity for jury service shall not be denied nor 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 Fairfield County, Ohio.

6.2 JURY LIST SOURCE

An entry setting forth the number of jurors required for the jury term shall be sent to the Jury Manager of the Fairfield County Common Pleas Court, General Division, and random juror selection shall take place pursuant to said Division's Jury Management Plan.

6.3 ELIGIBILITY FOR JURY SERVICE

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, Fairfield 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.

6.4 TERM OF AVAILABILITY FOR JURY SERVICE

Jurors shall be on call during the four month term and will be given as much notice as possible if actually called to serve.

6.5 EXEMPTION, EXCUSE AND DEFERRAL

- A. All automatic excuses from jury service are eliminated.
- B. Prospective jurors may be rescheduled or excused for good cause shown, such as financial hardship, personal or family illness, child care hardship, employment responsibilities or previously planned trips.
- 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 shall be in writing.

6.6 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 each panel member is available to counsel in writing one week before jury selection is to begin. (**Appendix G** Jury Questionnaire)
- C. The judge should ensure that the privacy and personal security of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process.
- D. In all cases, the voir dire process shall be held on the record.
- 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 matters such as 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.

6.7 REMOVAL FROM THE JURY PANEL FOR CAUSE

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

6.8 PEREMPTORY CHALLENGES

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.

6.9 ADMINISTRATION OF THE JURY SYSTEM

- A. The administration of the jury system, once jurors are selected for service by the General Division Jury Manager, shall be the responsibility of the Probate and Juvenile Court Judge and administered by the Court Administrator or deputy clerks as assigned.
- B. All procedures concerning jury selection and service should be governed by Ohio Rules of Court.

6.10 NOTIFICATION AND SUMMONING PROCEDURES

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

- A. Delivered by ordinary mail;
- B. Phrased so as to be readily understood by an individual unfamiliar with the legal and jury system; and,
- C. A summons should clearly explain how and when the recipient must respond and the consequences of a failure to respond.
- D. 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.
- E. Policies and procedures should be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.
- F. See example of notification letter (**Appendix H**) which is delivered to prospective jurors via ordinary mail, along with a summons.

6.11 MONITORING THE JURY SYSTEM

The Court shall review 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 qualifications 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.

6.12 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.

6.13 JURY FACILITIES

The Court shall provide an adequate and suitable environment for jurors.

- A. The entrance and registration area shall be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
- B. Jurors shall be accommodated in pleasant waiting facilities furnished with suitable amenities.
- C. Jury deliberation rooms shall include space, furnishings and facilities conducive to reaching a fair verdict.
- D. Juror facilities shall be arranged to minimize contact between jurors and the parties, counsel and the public.

6.14 JUROR COMPENSATION

- A. Persons called for jury service shall receive a reasonable fee for their service pursuant to statutory authority.
- B. Such fees shall be paid at the end of the term.
- C. Employers shall be prohibited from discharging, laying off, denying advancement opportunities to, or otherwise penalizing employees who miss work due to jury service.

6.15 JUROR INSTRUCTION

The trial judge should:

- A. Give preliminary instructions to all prospective jurors.
- B. Give instructions directly following empanelment of the jury to explain the jury's role, the trial procedures including note-taking, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;
- C. 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 deliberation. Such instructions may be made available to the jurors in writing during the deliberations;
- D. Before dismissing a jury at the conclusion of a case, the trial judge should:

1. Release the jurors from the duty of confidentiality;
 2. Explain their rights regarding inquiries from counsel or the press;
 3. Either advise them that they are discharged from service or specify when they must call or report; and
 4. Express appreciation to the jurors for their service, but not
 5. express approval or disapproval of the verdict.
- E. All communication 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.

6.16 JURY DELIBERATIONS

- A. Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision making.
- B. The judge should instruct the jury concerning appropriate procedures to be followed during deliberations.
- 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 interests of justice.

6.17 SEQUESTRATION OF JURORS

- A. A jury may 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 achieve the purpose of sequestration; and minimize the inconvenience and discomfort of the sequestered jurors.
- E. Training shall be provided to personnel who escort and assist jurors during sequestration.

**APPENDIX A
SCHEDULE OF COMMON COURT DEPOSITS & FEES**

STANDARD COURT COSTS (Fund Designation)	GUARDIANSHIP	EMERGENCY GUARDIANSHIP	SHORT FORM RELEASE	FULL ADMINISTRATION (NO WILL)	FULL ADMINISTRATION (WILL)	RELEASE FROM ADMINISTRATION (NO WILL)	RELEASE FROM ADMINISTRATION (WILL)
General Fund	\$30.26	\$30.26	\$55.26	\$30.26	\$45.26	\$55.26	\$70.26
Legal Aid Fund R.C. 2303.201(C)(1)	\$25.74	\$25.74	\$25.74	\$25.74	\$25.74	\$25.74	\$25.74
Computer Fund R.C. 2101.162 (A)(1)	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
Special Projects Fund R.C. 2303.201(E)(1)	\$35.00	\$0.00	\$25.00	\$35.00	\$35.00	\$35.00	\$35.00
Computer Research R.C. 2101.162 (A)(1)	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00
Indigent Guardian Fund R.C. 2101.16 (C)	\$30.00	\$30.00	\$20.00	\$30.00	\$30.00	\$20.00	\$20.00
Investigator Fee R.C. 2101.16 (B)(1)	\$60.00	\$60.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Administrative Deposit	\$35.00	\$0.00	\$0.00	\$65.00	\$80.00	\$20.00	\$25.00
	\$229.00	\$159.00	\$139.00	\$199.00	\$229.00	\$169.00	\$189.00
STANDARD COURT COSTS (Fund Designation)	SUMMARY RELEASE	WILL FOR RECORD ONLY/ AUTHENTICATED WORK	DISINTERMENT	STEP PARENT ADOPTION *	AGENCY ADOPTION	PRIVATE ADOPTION *	FOREIGN ADOPTION OR ADULT ADOPTION
General Fund	\$55.26	\$0.26	\$25.26	\$45.26	\$45.26	\$45.26	\$25.26
Legal Aid Fund R.C. 2303.201(C)(1)	\$25.74	\$25.74	\$25.74	\$25.74	\$25.74	\$25.74	\$25.74
Computer Fund R.C. 2101.162 (A)(1)	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
Special Projects Fund R.C. 2303.201(E)(1)	\$25.00	\$25.00	\$35.00	\$35.00	\$35.00	\$35.00	\$25.00
Computer Research R.C. 2101.162 (A)(1)	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00
Indigent Guardian Fund R.C. 2101.16 (C)	\$20.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Investigator Fee R.C. 2101.16 (B)(1)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Administrative Deposit	\$0.00	\$15.00	\$0.00	\$126.00	\$126.00	\$226.00	\$21.50
Putative Father Registry Fund R.C. 2101.16(F)(1)	\$0.00	\$0.00	\$0.00	\$30.00	\$30.00	\$30.00	\$30.00
	\$139.00	\$79.00	\$99.00	\$275.00	\$275.00	\$375.00	\$140.50
STANDARD COURT COSTS (Fund Designation)	FIDUCIARY'S CLAIM	LAND SALE COMPLAINT	ALL OTHER CIVIL COMPLAINTS	MINOR'S SETTLEMENT	CORRECTION OR REGISTRATION OF BIRTH RECORD	TRUST	NAME CHANGE
General Fund	\$25.26	\$25.26	\$25.26	\$25.26	\$0.26	\$30.26	\$45.26
Legal Aid Fund R.C. 2303.201(C)(1)	\$25.74	\$25.74	\$25.74	\$25.74	\$25.74	\$25.74	\$25.74
Computer Fund R.C. 2101.162 (A)(1)	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
Special Projects Fund R.C. 2303.201(E)(1)	\$25.00	\$35.00	\$35.00	\$35.00	\$35.00	\$35.00	\$35.00
Computer Research R.C. 2101.162 (A)(1)	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00
Indigent Guardian Fund R.C. 2101.16 (C)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$30.00	\$0.00
Investigator Fee R.C. 2101.16 (B)(1)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Administrative Deposit	\$20.00	\$70.00	\$50.00	\$20.00	\$21.50	\$15.00	\$150.50
	\$109.00	\$169.00	\$149.00	\$119.00	\$95.50	\$149.00	\$269.50

Please call the Probate Court for deposits not listed on this sheet

**Common Ongoing Probate Court Charges
(R.C. 2101.16)**

GENERAL ONGOING FILINGS	GENERAL ONGOING FILING FEES	GUARDIANSHIP ONGOING FILINGS	GUARDIANSHIP ONGOING FILING FEES	ESTATE ONGOING FILINGS	ESTATE ONGOING FILING FEES	ADDITIONAL CHARGES AND FEES	FEES
Waivers (Per Page)	\$1.00	Guardian's Report	\$5.00	Election of Surviving Spouse Under Will	\$5.00	Certified Copies (Per Page)	\$1.00
Misc. Application and Order or Motion and Entry	\$5.00	Petition to Terminate Guardianship	\$10.00	Report of Newly Discovered Assets	\$7.00	Issuing Citations	\$5.00 + Postage
Application for Fiduciary's Claim	\$10.00	Application to Expend Funds	\$10.00	Application of Surviving Spouse to Purchase Personal Property	\$10.00	Certified Abstract of Marriage Certificate	\$2.00
Application for Attorney or Fiduciary Fees	\$5.00	Application to Release Funds	\$5.00	Application for Sale of Personal Property	\$10.00	Recording Fee (Per Page for Individual Filings over 10 Pages)	\$1.00
Application for Distribution of Kind	\$5.00			Petition for Sale of Real Property	\$25.00	Notice of Past-Due Item	\$2.00 + Postage
Bonding Company Power of Attorney	\$10.00			Application, Entry, and Certificate for Transfer of Real Property	\$7.00	Citation for Past-Due Item	\$7.00 + Certified Mail Charge
Motion to Vacate Approval of Account or Order of Distribution	\$10.00			Account of Distribution	\$7.00	Certified Mail	\$6.48 + Postage
Deposit in lieu of Bond	\$5.00			Appointment of Appraiser/ Dispense with Appraisal	\$5.00	* ADOPTION HOME STUDY	HOME STUDY IS NECESSARY FOR STEP-PARENT AND PRIVATE ADOPTIONS & VARIES BASED ON VENDOR USED
Motion for Declaratory or Summary Judgment	\$20.00			Transfer of Motor Vehicle (Including 1 Certified Copy)	\$5.00	Marriage Licenses	\$65.00
Creditor's Claim	\$10.00			Transfer of Real Estate (Including 1 Certified Copy)	\$7.00	Reopen Estate	\$75.00 Deposit
Inventory	\$10.00			Consent to Sell Real Estate	\$5.00	Insolvency	\$50.00 Deposit
Accounts	\$12.00			Certificate of Termination	\$5.00	Wrongful Death Proceedings	\$75.00 Deposit

Please call the Probate Court for charges not listed on this sheet

APPENDIX B

COUNSEL FEE GUIDELINES: ESTATES

1. **PERSONAL PROPERTY AND INCOME**

- A. 5% of first \$50,000.00
- B. 4% of next \$50,000.00
- C. 3% of next \$300,000.00
- D. 2% of balance

2. **REAL ESTATE**

- A. Certificate of Transfer
 - i. \$500.00 x the number of separate tax parcels + number of exceptions
- B. Real Estate sold by Power of Sale
 - i. 4% of first \$50,000.00
 - ii. 3% of next \$50,000.00
 - iii. 2% of balance
- C. Real Estate sold by Land Sale Proceeding
 - i. 6% of first \$50,000.00
 - ii. 5% of next \$50,000.00
 - iii. 4% of balance

3. **EXTRAORDINARY FEES**

Extraordinary fees may be granted upon application to the Court based upon the time expended and services rendered. Please see Appendix F.

APPENDIX C

EXECUTOR'S & ADMINISTRATOR'S FEE GUIDELINE

1. FEE GUIDELINE

- A. 4% of first \$100,000.00 (personalty and income from personalty)
- B. 3% of next \$300,000.00 (personalty and income from personalty)
- C. 2% of the balance (personalty and income from personalty)
- D. 1% of real estate not sold
- E. 1% of property not subject to administration, that would have been includable for purposes of computing Ohio estate tax (except joint and survivorship)

2. EXTRAORDINARY FEES

Extraordinary fees may be granted upon application to the Court based upon the time expended and services rendered. Please see Appendix F.

APPENDIX D

COUNSEL FEE GUIDELINES: GUARDIANSHIPS

1. GUARDIAN – NON-INDIGENT

A. Guardian of Person

- i. Annual fee of billable hours shall not exceed \$1500.00 unless the Court authorizes a higher fee

B. Guardian of the Estate

- i. 5% of all annual income
- ii. 3% of all annual expenses
- iii. 10% of all annual gross rentals from real estate actually managed by the guardian
- iv. 3% of the value of all tangible and intangible personal property remaining in the guardian's hands at the time of the annual account

C. Guardian of Person and Estate

- i. Fees should not exceed the total of the guideline of each individual category

2. GUARDIAN – INDIGENT (ALL FEES SHALL BE BILLED AT \$40.00/HOUR OUT OF COURT AND \$50.00/HOUR IN COURT)

A. Establishing Guardianship

- i. Billable hours shall not exceed \$500.00 unless the Court authorizes a higher fee

B. Ongoing Service

- i. Billable hours shall not exceed \$520.00 unless the Court authorizes a higher fee

C. Appointment as Attorney for the purpose of an Objection

- i. Billable hours shall not exceed \$400.00 unless the Court authorizes a higher fee

3. ATTORNEY FOR THE GUARDIANSHIP – NON-INDIGENT

- A. Annual fee of billable hours shall not exceed \$1,000.00 unless the Court authorizes a higher fee

4. ATTORNEY FOR THE GUARDIANSHIP – INDIGENT

- A. Annual fee of billable hours shall not exceed \$250.00 unless the Court authorizes a higher fee

APPENDIX E

TRUSTEE'S FEES

1. FEE GUIDELINES

- A. On income from real property
 - i. 10% of gross income on property managed by trustee.
 - ii. 1% of adjusted gross income on property managed by someone else provided that management fees and trustee's fee combined do not exceed 10% of gross income
 - 1. Adjusted gross income is gross income less operating expenses before depreciation and management fees deduction
- B. On principal
 - i. 1% of balance
- C. On distribution of principal (other than termination):
 - i. 1% of reasonable market value of principle property distributed to be paid from the distribution

2. EXTRAORDINARY FEES

- A. Extraordinary fees may be awarded upon application at discretion of the Court

APPENDIX F

EXAMPLES OF EXTRAORDINARY SERVICES

This list of examples of extraordinary services includes, but is not limited to, the following:

- A. In a court other than the Probate Court
- B. In a contested matter in the Probate Court
- C. In connection with the preparation or filing, audit, protest or contest of an income or gift tax return, or liability incurred by the decedent or personal representative
- D. In connection with the settlement of estate taxes with respect to insurance not payable to the estate, gifts in contemplation of death, or general testamentary powers of appointment not exercised by the decedent, and other negotiation not represented by assets included in the "gross value" of the estate
- E. With respect to problems of valuation or taxability of property for estate taxes or to the protest of such taxes
- F. Preparation and filing of federal estate tax returns.
- G. Services in connection with sale of real estate under power of will or land sale proceedings, 1% of the total sale price
- H. In connection with matters which are unusual or excessive for the size of the estate involved
- I. In the connection with the performance of duties normally performed by the personal representative, but which fall to the lawyer because of personal representative's inexperience, lack of ability or absence from the place from which assets of estate must be managed
- J. Sale of business or business assets
- K. Proceedings to determine heirship
- L. Proceedings involving partnership
- M. Completion of land contract
- N. Any other civil proceeding

APPENDIX G

RECORD RETENTION SCHEDULE

(1) Schedule Number	(2) Record Title and Description	(3) Retention Period	(4) Media Type	(5) For use by Auditor of State or OHS-LGRP	(6) RC-3 Required by OHS- LGRP
	PURSUANT TO SUPERINTENDENCE RULE 26				
07-00001	Administrative Journal: Court entries or a record of court entries regarding policies and issues not related to cases. (Sup. R. 26.01A)	Permanent	Multi		X
07-00002	Quarterly Report to Ohio Supreme Court * <i>*Not specified in Superintendence Rule 26.01</i>	2 Years after report year	Paper		
07-00003	Bank Records: Bank transaction records (Sup. R. 26.01C)	3 Years or until issuance of audit report by Auditor of State, whichever is later.	Multi		
07-00004	Cash Books: Includes expense & receipt ledgers. (Sup. R. 26.01D)	3 Years or until issuance of audit report by Auditor of State, whichever is later.	Multi		
07-00005	Communication Records: Including routine phone messages. (Sup. R. 26.01E)	May be destroyed in the normal course of business as soon as they are considered to be of no value to the person holding them.	Multi		

07-00006	Correspondence & General Office Records: Including all sent & received correspondence. (Sup. R. 26.01F)	May be destroyed in the normal course of business as soon as they are considered to be of no value to the person holding them.	Multi		
07-00007	Drafts & Informal Notes: Includes transitory information used to prepare the official record. (Sup. R. 26.01G)	May be destroyed in the normal course of business as soon as they are considered to be of no value to the person holding them.			
07-00008	Requests for Proposals, Bids & Resulting Contracts (Sup. R. 26.01P)	3 Years after expiration of contract that is awarded pursuant to Request for Proposal	Multi		
07-00009	Employment Benefit & Leave Records: Including court office copies of life & medical insurance records. (Sup. R. 26.01I)	3 Years or until issuance of audit report by Auditor of State, whichever is later.	Multi		
07-00010	Employee History & Discipline: Includes hiring, promotion, evaluation, attendance, medical issues, discipline, termination & retirement issues related to court employees (Sup. R. 26.01J)	10 Years after termination of employment	Multi		

07-00011	Fiscal Records: includes copies of transactional budgeting & purchasing maintained by another office or agency (<i>payments to witnesses & jurors, unclaimed funds & similar documents</i>) (Sup. R. 26.01K)	3 Years or until issuance of audit report by Auditor of State, whichever is later.	Multi		
07-00012	Grant Records (Sup. R. 26.01L)	3 Years after expiration of grant	Multi		
07-00013	Payroll Records: Records of personnel time & copies of payroll records maintained by another office or agency. (Sup. R. 26.01M)	3 Years or until issuance of audit report by Auditor of State, whichever is later.	Multi		
07-00014	Publications: Publications received. (Sup. R. 26.01N)	May be destroyed in the normal course of business as soon as they are considered to be of no value to the person holding them.			
07-00015	Receipt records: Receipt & balancing records	3 Years or until issuance of audit report by Auditor of State, whichever is later.	Multi		
07-00016	Employment Applications: Applications received for posted or advertised positions. (Sup. R. 26.01H)	2 Years	Paper		

07-00017	Exhibits, Depositions & Transcripts Sup. R. 26(F)	At the conclusion of litigation, including times for direct appeal after written notification is sent to submitting party in accordance with Sup. R. 26(F)	Multi		
07-00018	Judge, Magistrate & Clerk Notes, Drafts & Research (Sup. R. 26.03E)	May be destroyed at the discretion of the preparer. Notification not required.	Multi		
07-00019	Records of Compliance to Retention Schedule (Sup. R. 26) or Ohio Public Records Compliance	5 Years and no longer of value to the court. Notification not required.	Multi		
07-00020	Court Stenographer & Recordings of Official Proceedings	2 Years	Multi		
07-00021	Reading, Informational & Reference Copies	Until no longer of value; notification not required	Multi		
07-00022	Professional Organizations & Association Files	1 Year	Multi		
07-00023	Computer Generated Administrative & Fiscal Reports: Non-specific & periodic	Until no value; notification not required.	Multi		
07-00024	Annual Budget: Copy	5 Years & of no value to the court	Multi		
07-00025	Annual Budget: Supporting documents & records	3 Years after budget approved	Multi		

07-00030	Paper Media: Records converted to an alternative media, including photography, microfilm & electronic data processing. Sup. R. 26(D)(2)(d)	May be destroyed after converted to other approved media.	Multi		
07-00100	Journal, Docket & Index Sup. R. 26.04(E)(4)	Permanent	Multi		X
07-00102	Case Files: Estates Sup. R. 26.04(E)(8)	12 Years after case closed.	Multi		X
07-00104	Case Files: Guardianships Sup. R. 26.04(E)(8)	12 Years after case closed.	Multi		X
07-00106	Case Files: Trusts Sup. R. 26.04(E)(8)	12 Years after case closed.	Multi		X
07-00108	Case Files: Civil Actions Sup. R. 26.04(E)(8)	12 Years after case closed.	Multi		X
07-00110	Case Files: Adoptions (Sealed proceedings) Sup. R. 26.04(E)(1)	Permanent	Multi		
07-00112	Case Files: Miscellaneous Sup. R. 26.04(E)(8)	12 Years after case closed.	Multi		
07-00114	Case Files: Civil Commitment Records: Mental Illness & Mental Retardation Sup. R. 26.04(E)(3)	3 Years after case is closed	Multi		
07-00116	Marriage License records Sup. R. 26.04(E)(6)	Permanent	Multi		X
07-00118	Original Wills	Permanent	Paper		X
07-00119	Birth & Death Records prior to 1908 Sup. R. 26.04(E)(2)	Permanent	Paper		X
07-00120	Evidence filed in support of expenditures or distributions: vouchers, proof or other evidence filed in support of an account. Sup. R. 26.04(E)(5)	3 Years after date of filing.	Paper		
07-00121	All Other Records Sup. R. 26.04(E)(8)	12 years after matter closed.			

ENTRY

The foregoing rules are hereby adopted as the local rules of the Fairfield County
Probate Court.

Terre L. Vandervoort

JUDGE TERRE L. VANDERVOORT