

COMMON PLEAS COURT OF PERRY COUNTY, OHIO

PROBATE DIVISION

JUDGE LUANN COOPERRIDER



LOCAL COURT RULES

REVISED JUNE 2019

***Perry County Probate Court
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LOCAL RULE #1 COURT APPOINTMENTS

Persons appointed by the Court to serve as fiduciaries, attorneys, magistrates in proceedings, investigators, guardian ad litem, and trustees for suit, shall be at the Court's discretion.

Appointments will be granted by taking into consideration the qualifications, skills, expertise, and caseload of the appointee in addition to the type, complexity, and requirements of the case.

LOCAL RULE #2 RECORDING OF PROCEEDINGS

The Court will make an audio recording of proceedings as the official record of the Court. Parties wishing to have a stenographic record of the proceedings must make their arrangements in advance to have a court reporter appear at the hearing. The requesting party shall pay the cost for the transcription.

The interested party will not be permitted to use the contents of a recording in any pleadings filed with the Court or in argument before the Court unless a transcript of the entire hearing is filed with the Court.

All audio recorded proceedings will be maintained by the Court for 30 days after the case has been terminated. Any interested person desiring to preserve a record beyond this time period must make arrangements to have the record transcribed in its entirety.

LOCAL RULE #3 EXHIBITS

All exhibits offered for admission during a hearing or trial must be labeled by party name and item identification. In a proceeding by a Court clerk/bailiff custody of exhibits admitted or offered shall be given to the clerk/bailiff unless otherwise ordered by the Court. Upon agreement of all parties or ordered by the Court, copies may be substituted for the original exhibit. Disposal of exhibits shall be pursuant to Sup. R. 26.

LOCAL RULE #4 CONTINUANCES

Any request for a continuance must be filed in writing. The party requesting the continuance must notify the opposing counsel and if possible obtain their consent and approval prior to filing the motion for continuance.

LOCAL RULE #5 COMPUTERIZED FORMS

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

LOCAL RULE #6 HOURS OF THE COURT

The Probate Court shall be open for business from 8:30 a.m. to 4:30 p.m., Monday through Friday, except holidays and any closed paid days filed at the County Commissioners office. All filings requiring a new case number or payment receipt **must** be filed by 4:00 p.m.

LOCAL RULE #7 PHOTOCOPIES

Copies of any public record may be obtained at the cost of Twenty-Five Cents (.25) per page. Certified copies of marriage records are Three dollars and certified birth and death certificates are Ten dollars each.

LOCAL RULE #8 FACSIMILE FILINGS

The Court will accept filings by facsimile transmission only if the original document is received within three business days.

LOCAL RULE #9 FILING REQUIREMENTS

All filings must have the case number on each page. Duplicate copies must be filed with a self-addressed, stamped envelope for return. All filings must contain original signatures and blue ink is preferred. The attorney may not sign for the fiduciary. Filings must be legible, on 8½” x 11” paper. The Court will only accept filings that are complete.

LOCAL RULE #10 ISSUANCE OF SUMMONS

A request for Issuance of Summons shall be filed with all original and amended complaints or petitions in civil actions.

LOCAL RULE #11 CERTIFICATE OF SERVICE

Any proposed entry submitted to the Court shall contain a certificate of service including the names and addresses of all parties and other interested persons required to be served.

LOCAL RULE #12 CERTIFICATE OF SERVICE OF NOTICE OF PROBATE OF WILL

The Certificate of Service of Notice of Probate of Will needs to be filed not later than two months after the appointment of the fiduciary, if no fiduciary has been appointed, not later than two months after the will has been admitted to probate. Proof of service shall consist of either waivers of the probate of the will or original certified mail receipt cards. The attorney or fiduciary is responsible for obtaining the waivers of probating the will and sending copies of the will to those required to waive by law.

LOCAL RULE #13 SOCIAL SECURITY NUMBERS & ACCOUNT NUMBERS

Social Security numbers are confidential and will not be required on any documents that are available for inspection by the general public. All financial asset account numbers filed in this court shall disclose only the four digits of the account number. It is the responsibility of the person filing the document to redact the remaining digits of the account number.

LOCAL RULE #14 DEPOSITS FOR COURT COSTS

The Court conducts business on a cash/check basis. The Court does not accept credit/debit cards. There are minimum deposits required on all filings. This list can be obtained by calling the Court and requesting a copy of the current deposit requirements. The cost to file a claim against an estate is Ten Dollars.

LOCAL RULE #15 ADDITIONAL FEES

The fee for computer legal research as authorized by Ohio R.C. 2101.162 (A) shall be three dollars per case excluding marriage applications. The fee for computerization as authorized by Ohio R.C. 2101.162 (B) shall be ten dollars.

LOCAL RULE # 16 NEWSPAPER PBLICATION

The *Perry County Tribune* is designated as the law journal in which proceedings and notices that are required by law to be published. The cost for publishing will be paid directly to the newspaper and must be paid before the hearing.

LOCAL RULE #17 FILINGS FOR MATTERS ASSIGNED TO AN ACTING JUDGE

All filings in matters assigned to an Acting Judge are to be filed in duplicate with a deputy clerk of this Court and shall have the name of the Acting Judge shown in the caption. The original and duplicate shall be filed with the clerk of the Probate Court. The clerk will then submit the filings to the Acting Judge.

LOCAL RULE #18 FIDUCIARIES

All executors and administrators shall personally sign and file the Fiduciary's Acceptance prior to the issuance of the Letters of Authority. 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 uses an attorney licensed by this State. To assure the assets remain in Perry 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:

1. Have a co-fiduciary who is a resident of this State
2. Post bond in compliance with Ohio R.C. 2109.04
3. Deposit a substantial amount of the decedent's assets in a financial institution in this county.

All accounts must be personally signed by the fiduciary and contain the name, address, and telephone number of the fiduciary.

LOCAL RULE #19 IDENTIFICATION WITH PHOTOGRAPH REQUIRED

An applicant filing any type of pleading in this Court who is not represented by an attorney, shall exhibit a picture identification and proof of a current address.

LOCAL RULE #20 DEATH CERTIFICATES

A copy of the death certificate must be filed with any estate.

LOCAL RULE #21 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.

LOCAL RULE #22 ATTORNEY FEES IN ESTATES

Applications for attorney fees in estates shall include a statement of the amount of the fees and a statement of the services rendered. The application must be approved and signed by the fiduciary. The attorney may be paid upon preparation of the final account with an application and entry.

LOCAL RULE #23 TIME FOR FILINGS

For all estates filed in this Court, the final distribution account is due six months after the appointment of the fiduciary. This time may be extended to thirteen months by filing a motion to extend giving the reason. Accounts not filed in compliance with this rule shall be subject to citation.

For guardianships and trusts, the first account is due no later than one year following the date of appointment of fiduciary and on the anniversary date thereafter unless otherwise ordered by the Court.

LOCAL RULE #24 RELEASE OF ESTATES FROM ADMINISTRATION

The Court shall appoint Commissioner(s) in an estate released from administration. A release may be filed when it is evidenced that the assets are \$100,000.00 or less and the surviving spouse is entitled to all of the assets for a decedent dying on or after March 18, 1999 or the assets are \$35,000.00 or less and the decedent died on or after November 09, 1994.

A short form/summary release may be filed when it is evidenced that the assets are less than \$5,000.00 or less than \$40,000.00 when there is a surviving spouse and/or minor children of the decedent and the funeral expenses must have been paid or waived.

The Court may waive notice of hearing when it appears no beneficiaries or creditors will be prejudiced.

When filing an application to Relieve Estate from Administration, applicant shall provide the Court with a copy of the decedent's death certificate.

All applicants to relieve an Estate from Administration, who is not represented by an attorney, shall show proof of identification.

LOCAL RULE #25 OHIO ESTATE TAX RETURN

When an Ohio estate tax return is not otherwise required to be filed, an Ohio estate tax form 22 shall be filed as stated in Ohio R.C. 5731.21, if the value of the estate of the decedent, as defined in division (A) of Ohio R.C. 5731.01, includes

any interest in real estate, and the decedent has been deceased for less than ten years. No return shall be filed for estates of decedents dying on or after January 1, 2013.

LOCAL RULE #26 SURVIVING SPOUSE WAIVER OF SERVICE OF THE CITATION TO ELECT

A surviving spouse may waive service of the citation required under section 2106.01(A) of the Revised Code by filing a written waiver of citation. The waiver shall include an acknowledgement of receipt of the description of the rights of the surviving spouse required by division (B) of section 2106.02 of the Ohio Revised Code.

LOCAL RULE #27 ELECTRONIC PROOF OF SERVICE

The Court shall accept electronic receipts as proof of service for certified mail from the United States Postal Service via internet only when paper form of service is not available.

LOCAL RULE #28 CASE MANAGEMENT

To insure the readiness of proceedings in the Perry County Probate Court, the following procedure shall be in effect:

I. Civil Actions: (Excluding Land Sales)

A pretrial conference shall be conducted in all civil actions unless waived by the Court.

The case shall be set by plaintiff's counsel for a status hearing within thirty days after the final answer.

Plaintiff's counsel shall give at least fourteen days' notice of the status hearing to all counsel of record and/or parties not represented by counsel who have entered an appearance.

During the status hearing, all counsel will have full authority to enter into binding orders. Unless otherwise ordered by the Court. Matters and decisions to be addressed are as follows:

- (1) The possibility of a settlement;
- (2) A schedule for discovery shall be agreed upon by all parties or set by Court;
- (3) A date for exchange of witness lists and reports;
- (4) Date for filing of all motions which shall not be later than twenty-eight days;
prior to the pretrial hearing. Without good cause, no other motions

will be considered after this time;

- (5) The Court shall set the date for the pretrial and shall not be more than fourteen days before the trial.

Pretrial Conference. All legal counsel must have full authority to enter into a binding order. The following matters and decisions shall be addressed at the Pretrial conference.

- (1) The Court may rule on any pending motions;
- (2) At the pretrial the following shall be submitted:
 - A. trial briefs
 - B. witness lists
 - C. exhibit lists
 - D. any exhibits that are ordered by the Court
 - E. proposed jury instructions and proposed jury interrogatories
- (3) Clients shall be present unless their presence has been excused by the Court.
 - F. witness lists exchanged between parties and/or presented to the Court are to provide the name and address and telephone number if known of each potential witness to be called.

II Civil Actions: Land Sales

All land sales which have not been concluded within one year from the date of filing shall be set for a status conference by the plaintiff's attorney within thirty days following the expiration of the one year.

- (1) Both fiduciary and attorney must attend the status conference.
- (2) A written status report shall be submitted to the Court at this conference. This report shall address any pending issues and the efforts being made to finalize the sale.
- (3) Proof shall be shown as to why the Court should not order a public sale of the real estate

III Motions

Any motions filed in this Court must be accompanied by a memorandum stating the grounds and citing the authorities relied upon. Opposing counsel or parties shall serve the response memorandum no later than fourteen days after the date of service as stated on the certificate of service that is attached to the served copy of the motion. On the twenty-eighth day after the motion is filed, the motion shall be deemed submitted to the Court.

Motions for summary judgments are subject to the preceding paragraph and will be set for a non-oral hearing on the twenty-eight day following the filing of the motion for summary judgment. The filing of opposing affidavits and supporting documents are subject to Civil Rule 56.

LOCAL RULE #29 WITHDRAWAL OF COUNSEL

Any attorney wishing to withdraw shall file a motion to withdraw stating the reasons. The Court shall not approve an entry until the following conditions have been followed:

- (1) Notice has been given to the client;
- (2) Notice has been given to all attorneys and unrepresented parties.

No attorney will be permitted to withdraw from a case less than twenty days prior to a trial unless there are extraordinary circumstances that will then require the Court's permission.

Counsel substitution shall be filed with the Court in writing but does not require approval of the Court. Notice shall be sent to all attorneys and all unrepresented parties.

LOCAL RULE #30 INVENTORY

All fiduciaries must sign the inventory when there is multiple fiduciaries appointed.

An original appraisal containing the name and signature of the appraiser may be filed in lieu of the appraiser signing the inventory and appraisal form (6.0).

The inventory shall contain the address, legal description and parcel/lot number of the interest in the real estate of the decedent/ward.

The inventory will not be accepted for filing unless the bond, when required is of a sufficient amount.

The Court will not approve the distribution, sale or expenditure of any assets in an estate or guardianship prior to the filing and approval of the inventory.

The attorney or fiduciary is responsible for obtaining the waiver. A copy of the inventory is to be sent to all heirs entitled to notice by law.

LOCAL RULE #31 EXTENDED ADMINISTRATION

All estates being filed must comply with the six month administration schedule set forth by the Ohio R.C. 2109.301 (B). When meeting the requirements for an extended administration, as stated in Ohio R.C. 2109.301 (B) (1) (a-f) the fiduciary shall file a notice to extend the filing deadlines (13.10/13.8).

When a successor fiduciary is appointed, the estate will be rescheduled for a six month administration unless there is an application to extend administration.

LOCAL RULE #32 SPECIAL NEEDS TRUSTS

The requirements for a special needs trust are outlined in the Ohio R.C. 5111.151(F) (1). The Court has outlined the additional following terms as follows:

- (1) Bond shall be posted unless the assets of the trust are in a custodial account pursuant Ohio R.C. 2109.13 or the appointed trustee is exempt from posting a bond under Ohio R.C. 111.21.
- (2) No expenditures will be permitted without prior approval of the Court.
- (3) The State of Ohio holds all rights as a beneficiary of a trust.
- (4) The Court requires that an annual account shall be filed.

LOCAL RULE #33 JURY TRIALS

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

A required deposit for a one day jury trial shall be \$250.00 and \$100.00 per day for each additional scheduled day. 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.

LOCAL RULE #34 GUARDIANSHIP OF MINORS

A copy of the minor's birth certificate must be filed with the guardian's application. The Court will not grant a guardianship for school purposes only. This issue can be determined by the Juvenile Court Division. The Court will not grant guardianship of a minor when another Court has jurisdiction over the custody of this child. Funds of the minor may not be released without the consent of the Court. It is the responsibility of the guardian to keep the Court informed on any address changes of the ward and/or guardian. The notification must be made

within 30 days of the address change. Failure to comply with any of the above rules may result in removal of the guardian.

If a settlement of a minor's claim or other distribution to a minor is less than \$25,000.00 then no guardianship will be opened.

LOCAL RULE #35 GUARDIAN REPORTS AND TERMINATIONS

The guardian of the person must file the guardian's report and expert evaluation on an annual basis. If there is a guardian of a person's estate it is necessary to file an account annually. If determined by the Court that the ward's mental competence will not improve, the yearly expert evaluation may be waived.

When applying for termination of a deceased ward, a copy of the death certificate needs to be attached.

LOCAL RULE #36 NOTICE FOR GUARDIANSHIP OF ADULTS

When applying for guardianship, the applicant must provide names and addresses of all adult children of the proposed ward. The Court will serve them with notice of the time and date of the hearing, unless the notice is waived.

LOCAL RULE #37 INDIGENT GUARDIANSHIPS

For the purposes of the indigent guardianship fund, an alleged incompetent must meet the following requirements: have personal property not exceeding One Thousand Five Hundred Dollars and have an annual income of less than the U.S. Department of Health and Human Services poverty guidelines. All adults that qualify for Medicaid are presumed to be indigent.

LOCAL RULE #38 MINOR ESTATES/ SETTLEMENTS/WRONGFUL DEATH - CLAIMS UNDER TWENTY FIVE THOUSAND DOLLARS

A motion will be required to dispense with the appointment of a guardian. A copy of the minor's birth certificate must be filed with the motion to dispense. The attorney representing the interests of the payer in a minor's settlement action shall not assume the duties imposed by Sup. R 35 (C).

LOCAL RULE #39 SETTLEMENT OF INJURY CLAIMS OF MINORS

A copy of the minor's birth certificate must be presented with the application to settle the minor's claim.

The attorney representing the applicants shall acknowledge responsibility for depositing the funds and providing the financial institution with a copy of the Court entry. The attorney shall obtain a verification of receipt and deposit from the financial institution and file the form with the Court within thirty days of the issuance of the entry.

LOCAL RULE #40 STRUCTURED SETTLEMENTS

In the event that parties involved in claims for injuries to minors desire to enter into a structured settlement wherein payments are not made until the minor reaches the age of majority, the following rules apply: The application should have an attached signed statement by a CPA, certified financial planner, chartered life underwriter, or equivalent professional and include the present value. If the settlement is deposited into an annuity the application shall include a signed statement by the carrier or broker stating the rating from the past two years.

LOCAL RULE #41 ATTORNEY FEES IN GUARDIANSHIPS & TRUSTS

The Court shall consider applications for attorney fees for the establishment of a guardianship upon the filing of the inventory. Additional fees may be considered at the time of each yearly account is filed. An application for attorney fees must be submitted to the court with the consent of the guardian/trustee.

LOCAL RULE #42 CONTINGENT FEES

All fiduciaries shall submit an application in writing to the Court for the authority to enter into a contingent fee agreement. Upon review, the Court will either give approval or disapprove the request.

LOCAL RULE #43 GUARDIAN'S COMPENSATION

Guardian's compensation for services as guardian of the estate shall be approved on an annual basis upon application and entry that is supported by documentation. Extraordinary fee applications shall be set for hearing. The following fee schedule shall apply. Four percent (4%) of the first \$10,000.00 of income received plus three percent (3%) of the balance in excess of \$10,000.00 excluding income from rental real estate. The fee schedule shall also include four

percent (4%) of the first \$10,000.00 of expenditures pertaining to rental real estate plus three percent (3%) of the balance in excess of \$10,000.00. Compensation for services as guardian of the person only shall be determined by the Court.

LOCAL RULE #44 PAYMENTS FROM INDIGENT GUARDIANSHIP FUND

All services charged in an indigent case must be billed to the Court within fifteen (15) months from the date the service was rendered. Payment will be made at the discretion of the Court.

LOCAL RULE #45 TRUSTEE'S COMPENSATION

Except when the Trust makes a provision for compensation, trustees may make application with an entry to be compensated on an annual basis. The schedule for compensation is as follows: Six percent (6%) of the gross income received during the current accounting period not exceeding \$10,000.00 of gross income, five percent (5%) of the next \$10,000.00 of gross income and four percent (4%) of such gross income exceeding \$20,000.00 unless otherwise ordered.

Compensation for corporate trustees who are exempt from bond pursuant to Ohio R.C. 1111.21 may be compensated in accordance with their published fee schedule when filed in this Court.

Any additional compensation for extraordinary services may be granted on application and entry at the discretion of the Court.

LOCAL RULE #46 GUARDIAN AD LITEM

The Court shall appoint each guardian ad litem. In a land sale preceding there is a minimum fee of fifty (\$50.00) Dollars for each guardian ad litem that is appointed. In all other proceedings, the amount of the guardian ad litem fee will be determined upon the statement of services and may be assessed as costs.

LOCAL RULE #47 ADOPTIONS

The Court requires that an original and a copy of all petitions and decrees shall be filed in every adoption case. Additional copies may be requested as required for service.

In private placement adoptions, a preplacement application in a form prescribed by the Court shall be filed by the proposed adopting parents not less than fifteen (15) days prior to placement.

Once the application has 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 parents have met with the adoption assessor, whichever occurs later, for the placement and consent by the parents.

Court costs are required to be paid at the time of the filing. The Court clerks can quote current deposit information.

A criminal background check and petitioner's account shall be filed in all cases pursuant Ohio R.C. 2151.86(B).

In all adoptions, married petitioner(s) must be married for not less than six months prior to filing an adoption.

In all placement hearings where a birth parents of the child to be adopted is a minor, that the parent shall be represented by an attorney. The fees for the attorney for the birth parent will be assessed as costs to the petitioner.

LOCAL RULE #48 RELEASE OF ADOPTION INFORMATION

The fee for filing a request for the release of adoption information shall be Fifty Dollars.

LOCAL RULE #49 CUSTODIAL DEPOSITS

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.

LOCAL RULE #50 SURETY BONDS

Any surety company, prior to executing a fiduciary bond, must register with the Court and file proof that the company is authorized to do business within the state of Ohio.

Attorneys are not permitted to act as sureties in any case or become sureties on the bond of any fiduciary.

No personal sureties will be accepted by this Court.

Bond required by law or court order shall be in an amount not less than two times the value of the personal estate.

Bond must be approved in writing by a bonding agency before letters of authority will be issued in all matters that require a bond. Any additional bonds must be approved in writing by a bonding agency prior to court approval.

LOCAL RULE #51 SERVICE OF SUMMONS

When the Court issues services of summons on the defendant(s) in a civil action pursuant to Civ. R. 4, the Court will only include the summons and a copy of the complaint.

LOCAL RULE #52 MARRIAGE LICENSE APPLICANTS

Pursuant to Ohio R.C. 3101.05 any minor applying for a marriage license must provide proof of having had marriage counseling and make an appointment with the Judge prior to applying. The Judge, at the appointment, will determine whether the minor can then apply for their license.

APPENDIX A

Local Rules for Superintendence Rule 66 Guardianships

A. Residency

The last county of residence in Ohio in which a ward resided prior to losing the cognitive ability to choose, shall be the ward's legal residence for the purpose of establishing a guardianship.

B. Criminal Background Check

All applicants applying for an appointment as a guardian as well as all current A. guardians who were serving as a guardian prior to this rule must submit an application to the Court to obtain a criminal background check. There will be no charge to the applicant for this service. Local attorneys are exempt from a background check.

C. New Guardian Training

Sup. Rule 66.06 (A) governs the education requirements for new guardians appointed by this Court. All guardians must successfully complete a six hour fundamentals course provides by the Supreme Court of Ohio via internet. The appointing Court may extend and or waive the requirement. This is determined on a case by case basis.

D. Guardian Continuing Education

All guardians may successfully complete a yearly three hour continuing education course. This requirement will be determined on a case by case basis and may be waived by the court if the guardian is a parent or if the ward is living in a state facility.

E. Complaints against the Guardians

Any individual who has reasonable cause to believe that a guardian has neglected their obligation to the ward may file a written complaint with the Court and ask for a review hearing. This must be completed on the Courts Guardian Complaint Form. The Court will then investigate the complaint and allegations in complaint. The Court will determine if there is a need to set this matter for a hearing and do so at the Court's earliest availability. All parties must appear at the hearing or the complaint will be dismissed.

F. Ten or More Wards

The Probate Court shall maintain a roster including name, address and phone number of all guardians with ten or more wards. This list will be reviewed each January to determine if they are compliant.

APPENDIX B

DEPOSITS FOR COURT COSTS **(AMENDED AS OF JUNE 1, 2019)**

Full Administrations	\$200.00
Release of Administration	\$100.00
Release of Administration (with will)	\$115.00
Summary Release	\$ 48.00
Will to Sleep	\$ 48.00
Foreign Record (Plus \$1.00 per page for cert. pages)	\$ 38.00
Wrongful Death only	\$ 43.00
Minor Settlement	\$ 55.00
Civil Action	\$125.00
Registration or Correction of Birth (Plus \$21.50 for state issued birth certificate)	\$ 30.00
Name Change (Plus publication cost paid directly to Perry Co. Tribune)	\$102.00
Name Change-Return to Maiden Name (Plus publication cost paid directly to Perry Co. Tribune)	\$ 79.00
Adoption (Plus Home Study Fee of \$175.00 paid directly to Court Investigator)	\$200.00
Trust	\$ 75.00
Guardianship (Plus \$100.00 paid directly to Court Investigator for home study)	\$150.00