

**MEDINA COUNTY
COURT OF COMMON PLEAS
PROBATE DIVISION LOCAL RULES**

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GENERAL RULES

I. AUTHORITY

The following rules have been adopted by the Medina County Court of Common Pleas, Probate Division, pursuant to Article IV, Section 5(B) of the Ohio Constitution and Rule 5 of the Ohio Supreme Court Rules of Superintendence for the Courts of Common Pleas. These rules have been adopted in accordance with Rule 75 of the Ohio Supreme Court Rules of Superintendence for the Courts of Common Pleas for the purpose of the efficient and expeditious management of cases and controversies before this Court.

II. EFFECTIVE DATE.

These rules become effective on March 1, 2016, and are subject to amendment as required by the court.

III. CITATION

These rules shall be cited as Medina Probate Local Rule ____, or Med. Prob. L. R. ____.

IV. APPLICATION

These rules apply only to the Probate Division of the Medina County Court of Common Pleas.

VI. APPLICATION OF THE RULES OF CIVIL PROCEDURE TO THE PROBATE COURT

The Ohio Rules of Civil Procedure shall apply to proceedings in the Medina Probate Court as stated in Civil Rule 1. Civil Rule 73 is incorporated by reference as if fully rewritten herein.

**MEDINA COUNTY COURT OF COMMON PLEAS
PROBATE DIVISION
LOCAL RULES**

SUP. R. 8 COURT APPOINTMENTS

MEDINA PROBATE LOCAL RULE 8.1

APPOINTMENTS

Persons appointed by the Court to serve as appraisers, fiduciaries, attorneys, guardians *ad litem*, and independent medical evaluators shall be selected from lists maintained by the Court.

Appointments will be made from such lists taking into consideration the qualifications, skills, expertise, and caseload of the appointee in addition to the type, complexity, and requirements of the case.

Court appointees who are also licensed Ohio attorneys will be paid a reasonable fee with consideration given to the factors contained in Rule 1.5 of the Ohio Rules of Professional Conduct, the Ohio Revised Code, this Court's Local Rules and Administrative Orders relating to fees.

Court appointees who are not licensed Ohio attorneys will be paid compensation as directed by the Ohio Revised Code and this Court's Local Rules and Administrative Orders.

MEDINA PROBATE LOCAL RULE 8.2

Appointed Counsel for Indigent Persons Facing Termination of Parental Rights in Adoption Cases

A. General Procedure.

Pursuant to Section 120.33(A)(4) of the Ohio Revised Code, each request for reimbursement for expenditures on indigent cases must contain the following:

- (1) A Motion, entry and certification form (OPD-1026R);
- (2) A completed Ohio Public Defender form OPD-206R, *Financial Disclosure/Affidavit of Indigency* (Attorney Guardian *ad litem* should attach form, but completion of the financial information is not necessary); and
- (3) A copy of the Appointment Order.

B. Reimbursement Timeframe.

Requests for payment for services rendered shall be submitted to the court within 30 days of the last court appearance.

C. Reimbursement Amount.

Reimbursement for representation in probate adoption proceedings will be made based on the current county maximum rate for out-of-court services and in-court services.

D. Maximum Amount Allowed.

The prescribed maximum fees per case permitted in probate adoption proceedings are as stated in County Resolution Number 20-0596 or any subsequently adopted county resolution. Fees in excess of this amount will only be considered upon completion of the requirements outlined in letter (E) below.

E. Extraordinary Fees.

Cases eligible for extraordinary fees are ones which, because of extraordinarily complex issues, lengthy trials, or other reasons, warrant compensation at a rate which exceeds maximums established by the Ohio Public Defender and adopted by the county. Reimbursements to the county for extraordinary fees is subject to the following requirements:

- (1) Extraordinary fees must be requested by Motion with supporting memorandum and proposed order; and
- (2) Extraordinary fees must be clearly documented in the appropriate sections on the Motion, Entry, and Certification form.

[Supplements Sup. R. 8 Court Appointments]

SUP. R. 9 COURT SECURITY PLANS

MEDINA PROBATE LOCAL RULE 9.1

SECURITY PLAN

Pursuant to the Court Security Standards established by the Supreme Court of Ohio, the Medina County Probate Court Security Policies and Procedures Plan shall be maintained as confidential and not a matter of public record.

[Supplements Sup. R. 9 Court Security Plans]

MEDINA PROBATE LOCAL RULE 9.2

WEAPONS IN COURT FACILITY

No weapons are permitted in the court facility except those carried by sworn law enforcement officers and court security officers certified through the Ohio Peace Officers Training Council.

Law enforcement officers who are parties to a judicial proceeding as a plaintiff, defendant, witness or interested party outside the scope of their employment as law enforcement officers shall not bring weapons into the court facility.

The carrying of concealed weapons is regulated by the Medina County Sheriff, the Ohio Revised Code and the orders of the Presiding Judge of the Medina County Court of Common Pleas.

[See Ohio Court Security Standards 4 and 5]

[Supplements Sup. R. 9 Court Security Plans]

SUP. R. 11 RECORDING OF PROCEEDINGS

MEDINA PROBATE LOCAL RULE 11.1

RECORDING OF PROCEEDINGS

(A) The Court will make a digital recording of the proceedings as the official record of the Court unless a stenographic record of the proceedings is requested. Parties who desire to have a contemporaneous stenographic record of the proceedings must make their own arrangements for a court reporter at least twenty-four hours prior to the scheduled hearing. The requesting party shall pay the costs related to the appearance of the stenographer at the hearing and the transcript of the stenographic record unless otherwise ordered by the Court.

(B) Any interested person may request that an audio recording be transcribed by a stenographer approved by the Court. The person making the request shall pay the costs of the transcription preparation and for the transcript itself.

(C) The court's original digital recording of the proceedings will not be made available to the parties. The Court will make a copy of the digital recording upon request by an interested person. Arrangements must be made with the Court to have proceedings copied at a cost per the Schedule of Deposit for Court Costs.

(D) All digitally recorded proceedings will be maintained by the Court for three (3) years from the date of the hearing. Upon the expiration of three (3) years from the date of the hearing, the Court will destroy the Court's original recordings. Any interested person desiring to preserve the record longer than three (3) years from the date of hearing must make arrangements to have the record transcribed prior to the expiration of three (3) years from the date of the hearing.

(E) No persons present at a hearing shall be permitted to record the proceedings by any other means other than as provided in paragraph A unless approved by the Court in advance of the hearing.

[Supplements Sup. R. 11 Recording of Proceedings]

SUP. R. 15/16 ARBITRATION/MEDIATION

MEDINA PROBATE LOCAL RULE 16.1

REFERRAL

The Court may, at its own discretion or upon the motion of any party, refer a case or issue to arbitration and/or mediation.

LOCAL RULE 16.2

MEDIATION

A. General

- (1) The provisions of the Ohio Uniform Mediation Act, Revised Code Chapter 2710, are hereby incorporated by reference and apply to all cases referred by the Court for mediation.
- (2) The Medina County Court of Common Pleas, Probate Division, has discretion to encourage parties to use mediation in any civil action filed in this Court. A case is referred to mediation by order of the Court. The Court may issue an order for mediation upon its own motion, upon the motion of any party or by referral from the mediator. Any case may be referred to mediation for the purpose of obtaining a settlement as to an entire case or any contested issue within a case.
- (3) "Mediator" is defined to mean any individual who mediates cases pursuant to an order of this Court, regardless of whether that individual is an employee, an independent contractor or a volunteer. A "court mediator" is defined to mean any mediator referred by the Court. A "private mediator" is any mediator chosen by the parties.

- (4) Cases chosen for mediation will be referred to a court mediator. However, the parties may agree upon a private mediator if all of the following apply:
 - (a) The private mediator must have the following qualifications:
 - (i) be an attorney in good standing with the Ohio Supreme Court;
 - (ii) have a minimum of five (5) years of experience with the types of matters at issue; and,
 - (iii) Meet the requirements of Superintendence Rule 16.23, Mediator Education and Training.
 - (b) The parties shall inform the Court of the private mediator and that mediator's qualifications at or before the initial case management conference; and,
 - (c) The parties understand that they will be responsible for the costs of a private mediator and they have agreed to a division of the costs of mediation at or prior to the initial case management conference.

B. Case Selection and Timing for Mediation

- (1) All contested probate matters may be referred to mediation. Before the initial case management conference in a case, counsel shall discuss the appropriateness of mediation with their clients and opposing counsel.
- (2) At the initial case management conference the parties and counsel shall advise the Court of the results of their discussions concerning mediation. At that time and at subsequent conferences, if necessary, the Court may explore with the parties and counsel the option of using mediation.
- (3) Mediation shall not be used as an alternative to the prosecution or adjudication of domestic violence, to determine whether to grant, modify or terminate a protection order, to determine the terms and conditions of a protection order or to determine the penalty for violation of a protection order.
- (4) All parties and counsel shall advise the Court and mediator of any domestic violence allegations between two or more persons required to attend mediation, known to exist or to have existed in the past or which become known to them following entry of the order for mediation but prior to the conclusion of mediation. Such parties shall have a duty to participate in any screening required by Rule 16 of the Rules of Superintendence for the

Courts of Ohio both prior to and in the mediator's discretion, during the mediation sessions.

- (5) The parties shall be prohibited from participating in mediation when domestic abuse or domestic violence is alleged, suspected, or present unless all of the following conditions are satisfied:
 - (a) The parties participate in the screening noted above with the Court and mediator for domestic abuse and domestic violence and for the capacity of the parties to mediate;
 - (b) The person who is or may be the victim of domestic abuse or domestic violence is fully informed about the mediation process, right to decline participation in the mediation process, and of the option to have a support person, in addition to an attorney, present in the mediation sessions;
 - (c) The parties have acknowledge that they have the capacity to mediate without fear of coercion or control;
 - (d) A safe mediation environment for the parties and all other persons can be arranged;
- (6) Mediation shall be terminated by the mediator if there is a threat of domestic abuse, domestic violence, or coercion between the parties.

C. Mediation Fees

- (1) Fees for court mediator services shall be paid in an amount set by the Court, as amended from time to time. After the Court receives notice of completion of mediation services from the mediator, the mediator shall be paid from the funds of the Medina County Probate Court allocated for mediation purposes. The Court may determine that in order to provide effective mediation, it is necessary for the parties to pay all or part of the expenses of court mediation. The Court shall tax as costs to the parties all or any portion of the total fees for mediation.
- (2) Costs of private mediation shall be fully paid by the mediating parties.

D. Duties of Parties/Non-Party Participants/Attorneys

- (1) Parties shall attend mediation as ordered. If a party is a legal entity then an agent with authority to settle shall attend on behalf of the entity. If parties wish, their attorneys or other individuals they designate may accompany them and participate in the mediation process.

- (2) All parties and agents shall personally attend all mediation sessions unless excused by the mediator. All parties and agents must be prepared to discuss all relevant issues, including settlement terms.
- (3) If any counsel or party to the mediation becomes aware of the identity of a person or entity whose consent is required to resolve the dispute but who has not yet been joined as a party in the pleading, they shall promptly inform the mediator and Court of such fact.
- (4) By participating in the mediation process, a non-party participant, as defined by R.C. §2710.01(D), submits to the Court's jurisdiction to the extent necessary for enforcement of this rule. Any non-party participant shall have the rights and duties under this rule as are attributed to parties, except that no evidence privilege shall be expanded.

E. Duties of Mediator

(1) General Responsibilities

- (a) Within fourteen days of the completion of the mediation process, the mediator shall inform the Court of the attendance of all participants, whether or not any settlement has been reached and whether efforts to settle the case through mediation should be continued or if the case is being returned to the Court for further proceedings.
- (b) No other information shall be communicated by the mediator to the Court unless all who hold a mediation privilege, including the mediator, have consented to such disclosure.

F. Continuances

Requests for continuances of mediation shall be directed to the mediation office. Continuances shall only be granted for good cause shown and after a mutually acceptable new date has been determined.

G. No Stay of Proceedings

All remaining court orders shall remain in effect while mediation is pending. No order is stayed or suspended during the mediation process.

H. Confidentiality

- (1) Mediation communications are privileged as described in R.C. §2710.03 through R.C. §2710.05.
 - (a) **General.** All mediation communications related to or made during the mediation process are subject to and governed by the Uniform Mediation Act. Mediation communications are confidential, and no one shall disclose any of

these communications unless all parties and the mediator consent to disclosure. This Court may impose penalties for any improper disclosures made in violation of this rule. Disputes regarding confidentiality should first be addressed with the mediator or mediation department where possible.

- (b) Exceptions. All mediation communications are confidential with the following exceptions:
- (i) Parties may share all mediation communications with their attorneys;
 - (ii) Certain threats of abuse or neglect of a child or an adult;
 - (iii) Statements made during the mediation process to plan or hide an ongoing crime;
 - (iv) Statements made during the mediation process that reveal a felony.

I. Immunity

A mediator acting pursuant to this rule shall have all immunity conferred by statute, rule and common law.

J. No Advice

The efforts of the mediator shall not be construed as giving legal advice. The Court may have materials for legal or other support services available in the community. The mediator is authorized to provide such resource information; however, such distribution shall not be construed as a recommendation of or referral to such resource. The recipient of that information is charged with the duty to investigate those resources independently.

K. Administrative Dismissal

If the parties fail to dismiss a settled case within the later of thirty (30) days of the time noted in the entry giving the Court notice of settlement, then the Court may dismiss the case administratively. Upon such administrative dismissal, court costs shall be paid from the funds deposited. If court costs exceed the funds deposited, each party shall bear their own costs.

L. Sanctions

If any of the individuals or entities ordered by the Court to attend mediation fails to attend mediation without good cause, the Court may impose sanctions including the award of attorney's fees and other costs (including costs of mediation), contempt or other appropriate sanctions.

M. Mediator Complaints

(1) All comments or complaints regarding the performance of mediators, private or court, shall be submitted in writing via electronic format or hard copy and signed by the individual making the comment or complaint. Comments or complaints submitted by telephone, orally, or which are made anonymously, will not be considered by the Court.

(2) Within five business days of receipt of the comment or complaint, the Court shall forward a copy to the mediator by regular mail.

(3) Within five business days of receipt, the comment or complaint will be referred to one of the Court's magistrates or the Judge to determine (a) if further investigation is necessary; (b) whether the mediator should be barred from receiving subsequent mediation referrals from the Court; (c) any other orders that the Court determines is necessary; and/or (d) that the comment or complaint should be dismissed as unsubstantiated, lacking in specificity, insufficient, and/or repetitive.

(4) A copy of the comment or complaint and any documents related thereto, including the disposition of the complaint, shall be maintained in the mediator's file. Except upon order of the Court, complaints regarding mediators and the dispositions thereof shall not be available for public inspection.

N. Referral to Resources

The court administrator shall maintain resources for mediation parties, including victims and suspected victims of domestic violence, encouraging appropriate referrals to legal counsel and other support services such as Children Services, domestic violence prevention, counseling, substance abuse and mental health services.

[Supplements Sup. R. 16 Mediation]

SUP. R. 26 COURT RECORDS MANAGEMENT & RETENTION

MEDINA PROBATE LOCAL RULE 26.04.1

PROBATE COURT RECORDS MANAGEMENT AND RETENTION

All exhibits offered for admission during a hearing or trial shall be labeled by party name, case number, date, and letter or number, or a combination of letter and number. In a proceeding recorded by a stenographer, custody of the 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.

The Probate Court has a Schedule of Records Retention and Disposition filed as an attachment to its Administrative Order on Records Retention and Disposition, which will be followed in conjunction with the Rules of Superintendence for the Courts of Ohio.

[Supplements Sup. R. 26 Court Records Retention and Management]

SUP. R. 45 COURT RECORDS-PUBLIC ACCESS

MEDINA PROBATE LOCAL RULE 45.1

OMISSION OF PERSONAL IDENTIFIERS PRIOR TO SUBMISSION OR FILING

When submitting a case document to the Court or filing a case document with the clerk of court, a party to a judicial action or proceeding shall omit personal identifiers from the document pursuant to Sup. R. 45.

“Personal Identifiers” means social security numbers, except the last four (4) digits; financial account numbers, including but not limited to debit card, charge card, and credit card numbers; employer and employee identification numbers; and a juvenile’s name in an abuse, neglect, or dependency case, except for the juvenile’s initial or a generic abbreviation such as “CV” for child victim.

When personal identifiers are omitted from a case document filed with this Court, the party shall submit or file that information on a separate form. The party shall use the Probate Court Confidential Disclosure of Personal Identifiers form to provide the Court with this information. The form is available in the Rules Appendix.

The responsibility for omitting personal identifiers from a case document submitted to the Court or filed with the clerk of court pursuant to Sup. R. 45(D)(1) shall rest solely with the party. The Court or clerk will not review the documents to confirm that the party has omitted personal identifiers, and shall not refuse to accept or file a document on that basis.

(Reference Administrative Order 2010-001 effective February 3, 2010)

[Supplements Sup. R. 45 Court Records – Public Access]

SUP. R. 51 STANDARD PROBATE FORMS

MEDINA PROBATE LOCAL RULE 51.1

FORM AVAILABILITY

Approved forms for use in the Medina County Probate Court will be available at the Court clerk’s office in paper form and/or at www.medinaprobate.org in a .pdf format. Upon request, the deputy clerk may transmit forms via facsimile or electronic mail.

SUP. R. 52 SPECIFICATIONS FOR PRINTING PROBATE FORMS

MEDINA PROBATE LOCAL RULE 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.

[Supplements Sup. R.52 Specifications for Printing Probate Forms]

MEDINA PROBATE LOCAL RULE 52.2

FORM SPECIFICATIONS

The type size for the body of all forms filed in this Court cannot be less than ten (10) point, or greater than twelve (12) point.

[Supplements Sup. R.52 Specifications for Printing Probate Forms]

SUP. R. 53 HOURS OF THE COURT

MEDINA PROBATE LOCAL RULE 53.1

HOURS OF THE COURT

The Probate Court shall be open for the transaction of business from 8:00 AM to 4:30 PM, Monday through Friday, except holidays. All pleadings requiring a new case number or the payment of Court costs shall be filed by 4:30 PM.

[Supplements Sup. R.53 Hours of the Court]

SUP. R. 55 EXAMINATION OF PROBATE RECORDS

MEDINA PROBATE LOCAL RULE 55.1

WITHDRAWAL OF FILES

(A) Court records shall not be removed from the Court, except when approved by the Judge. No minors shall be permitted in the vaults wherein court records are stored.

(B) Copies of public records may be obtained from the Court at cost. Copies may be made upon paper, upon the same medium upon which the Court keeps it, or upon any other medium upon which the Court determines that it reasonably can be duplicated as a part of normal operations. No other duplication is permitted, including but not limited to scanning or photographing by the requestor.

(C) Adoption, mental illness, and mental retardation proceedings are confidential. Records of those proceedings, and other records that are confidential by statute, may only be accessed as authorized by the Judge.

(D) In the event that the size and/or volume of a public record is too large to copy without disrupting the activities of the clerks' office, the Court may make arrangements with a copying service to be chosen by the Court to copy a public record at the cost of the requesting member of the public.

[Supplements Sup. R.55 Examination of Probate Records]

SUP. R. 57 FILINGS AND JUDGMENT ENTRIES

MEDINA PROBATE LOCAL RULE 57.1

FACSIMILE FILINGS

The Court currently does not accept filings by facsimile transmission or electronic mail.

[Supplements Sup. R.57 Filings and Judgment Entries]

MEDINA PROBATE LOCAL RULE 57.2

COMPLETE STREET ADDRESS

When required on a Court document, an attorney or fiduciary address must be a street address. Use of post office boxes is not acceptable unless a street address is also available for use in conjunction with the post office box address. The address of the fiduciary must be the fiduciary's legal residence.

[Supplements Sup. R.57 Filings and Judgment Entries]

MEDINA PROBATE LOCAL RULE 57.3

CASE NUMBER

All filings, including attachments, must have the case number on each sheet.

[Supplements Sup. R.57 Filings and Judgment Entries]

MEDINA PROBATE LOCAL RULE 57.4

SIGNATURES

All filings, including waivers and consents, shall contain a signature that is handwritten, typed (i.e. /s/), copied, or electronically verified. All handwritten signatures shall be legible. Any illegible signature shall include the typed or printed name of the person signing. Non-attorneys may not sign on behalf of an attorney. Any signature on documents transmitted by electronic means shall be considered as that of the attorney or person submitting the filing. The Court may strike any filing that does not comply with this rule.

[Supplements Sup. R.57 Filings and Judgment Entries]

MEDINA PROBATE LOCAL RULE 57.5

FIDUCIARY SIGNATURE

Any pleading, filing, or other document which, by law or rule, requires the fiduciary's signature, shall have the signature of the fiduciary. The attorney for the fiduciary may not sign for the fiduciary. In all matters with multiple fiduciaries, the signature of all fiduciaries is required.

[Supplements Sup. R.57 Filings and Judgment Entries]

MEDINA PROBATE LOCAL RULE 57.6

COURT FILINGS

All filings must be legible, on 8-1/2" x 11" paper and the type size for the body of the document and must be not less than ten (10) point or greater than twelve (12) point. The Court will accept for filing only those pleadings which are complete.

All pleadings, Standard Probate Forms, and other filings shall be single-sided with the exception of original documents that are filed (i.e. wills and powers of attorney). The deputy clerk shall not accept for filing any noncompliant filings, unless otherwise directed by the Court.

[Supplements Sup. R.57 Filings and Judgment Entries]

MEDINA PROBATE LOCAL RULE 57.7

FORWARDING COPIES

The Court will return file-stamped copies by mail if they are submitted with a return, self-addressed, stamped envelope with sufficient postage to cover the postage cost.

[Supplements Sup. R.57 Filings and Judgment Entries]

MEDINA PROBATE LOCAL RULE 57.8

ISSUANCE OF SUMMONS

A request or praecipe for issuance of summons shall be filed with all original and amended complaints or petitions in civil actions.

Whenever certified or express mail is used for service of process under Rule 4.1(A) and Rule 73(E) of the Rules of Civil Procedure, evidence of service of process shall be by an “electronic return receipt” showing to whom the certified or express mail was delivered, the date of delivery, the address where delivered and the electronically stored signature of the person accepting service.

A signed return receipt shall be downloaded and placed in the file. If the delivery is unsuccessful, the procedure for failed delivery outlined in Civil Rule 4.1 shall be followed.

All service of process of complaints or other documents served using virtual service of process are subject to review and/or challenge as further outlined in Civil Rule 4.1, with confirmation of service of process data being made available through the Clerk’s office.

[Supplements Sup. R.57 Filings and Judgment Entries]

MEDINA PROBATE LOCAL RULE 57.9

COMPUTER MEDIA

In addition to filing written original documents, the parties may, or if the Court directs, shall submit proposed entries, briefs, memoranda, jury instructions, or other documents on computer media formatted in a manner which may be utilized by the Court’s word processing system.

[Supplements Sup. R.57 Filings and Judgment Entries]

MEDINA PROBATE LOCAL RULE 57.10

CERTIFICATE OF NOTICE OF ENTRY OF JUDGMENT

Any proposed entry or order submitted to the Court which is subject to Civ. R. 58(B) as modified by Civ. R. 73(I) shall contain a certificate of service including the names and addresses of all parties and other interested persons required to be served.

[Supplements Sup. R.57 Filings and Judgment Entries]

MEDINA PROBATE LOCAL RULE 57.11

LENGTH OF BRIEFS

Supporting, opposing, and memorandum briefs shall not exceed fifteen (15) pages exclusive of any supporting documents. Briefs exceeding fifteen (15) pages will not be considered by the court without prior leave of Court.

[Supplements Sup. R.57 Filings and Judgment Entries]

MEDINA PROBATE LOCAL RULE 57.12

DEATH CERTIFICATE

Upon the initial filing of any matter captioned in the name of a deceased individual, or the termination of a guardianship due to the death of the ward, the applicant or guardian shall exhibit to the court a certified copy of the decedent's death certificate unless waived by the court for good cause shown.

[Supplements Sup. R.57 Filings and Judgment Entries]

MEDINA PROBATE LOCAL RULE 57.13

CASES ASSIGNED TO A VISITING JUDGE

All filings in matters assigned to a visiting judge are to be filed in duplicate and shall have the name of the visiting judge shown in the case caption. The deputy clerk receiving the filing is to be informed at the time of each filing that the matter has been assigned to a visiting judge. The original filing shall be filed with the clerk of the probate court and the duplicate copy shall be submitted to the visiting judge.

SUP. R. 58 DEPOSIT FOR COURT COSTS

MEDINA PROBATE LOCAL RULE 58.1

DEPOSITS

The Court will accept Visa, MasterCard, Discover Card, cash, checks, money orders, cashier's checks, attorney checks, title company, or fiduciary checks for all required fees and costs except marriage licenses, which must be paid in cash.

A party who submits a dishonored check is subject to court sanction including, but not limited to, citation, removal, and/or dismissal of the case. The Court will not accept a check from a party as payment for any required fees and costs after one check is returned as dishonored.

Cost deposits and fees not established by statute are stated in the Court's latest administrative order establishing such cost deposits and fees.

[Supplements Sup. R. 58 Deposit for Court Costs]

MEDINA PROBATE LOCAL RULE 58.2

RELEASE OF ADOPTION INFORMATION

Effective March 20, 2015, all requests for the release of adoption information must be made through the Ohio Department of Health.

[Supplements Sup. R. 58 Deposit for Court Costs]

MEDINA PROBATE LOCAL RULE 58.3

FILING TRANSCRIPTS, EXHIBITS, OR FOREIGN RECORDS

The filing fee required by Section 2101.16(A)(57) of the Ohio Revised Code for a record in excess of 1,500 words shall be paid at the time of filing the transcript, exhibits, or foreign records.

[Supplements Sup. R. 58 Deposit for Court Costs]

MEDINA PROBATE LOCAL RULE 58.4

COURT COSTS

The Court maintains a Schedule of Filing Fees and Costs Deposits stating the amount of costs not set by statute in the form of an administrative order. Said administrative order is subject to change without notice but the Court will make every effort to make any changes in filing fee or cost deposit amounts available to the bar and the public.

[Supplements Sup. R. 58 Deposit for Court Costs]

SUP. R. 59 WILLS

MEDINA PROBATE LOCAL RULE 59.1

CERTIFICATE OF SERVICE OF PROBATE OF WILL

Whenever a will is offered for and admitted to probate, the applicant shall file a Certificate of Service of Notice of Probate of Will (Form 2.4) within two months of the appointment of a fiduciary, or if no fiduciary is appointed, not later than two months after the admission of the will to probate. Failure to file a certificate of service may result in the issuance of a citation or removal proceedings.

Proof of service shall consist of legible waivers or the original certified mail return receipt verification attached to a copy of the notice sent or proof of delivery by commercial carrier. Any certificate of service filed without the proper proof will be deemed insufficient.

[Supplements Sup. R. 59 Wills]

**SUP. R. 60 APPLICATION FOR LETTERS OF AUTHORITY TO ADMINISTER ESTATE
AND NOTICE OF APPOINTMENT**

MEDINA PROBATE LOCAL RULE 60.1

FIDUCIARY'S ACCEPTANCE

All executors and administrators shall personally sign and file the Fiduciary's Acceptance, Form 4.8 prior to the issuance of the Letters of Authority.

[Supplements Sup. R. 60 Application for Letters of Authority to Administer Estate and Notice of Appointment]

MEDINA PROBATE LOCAL RULE 60.2

APPOINTMENT OF NONRESIDENT 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 Section 2109.21 of the Ohio Revised Code and use as the attorney of record an attorney licensed to practice law in this State. To assure the assets remain in Medina County, Ohio, during the administration of the estate or trust, the applicant should meet one or more of the following criteria as the Court may require:

- (A) Place a substantial amount of the decedent's personal assets in a custodial depository in this county, pursuant to Section 2109.13 of the Ohio Revised Code
- (B) Have a co-fiduciary who is a resident of this State;
- (C) Post a bond in compliance with Section 2109.04 of the Ohio Revised Code;
- (D) Any other orders that this Court finds are reasonable.

[Supplements Sup. R. 60 Application for Letters of Authority to Administer Estate and Notice of Appointment]

SUP. R. 61 APPRAISERS

MEDINA PROBATE LOCAL RULE 61.1

APPRAISERS' FEES

(A) Appraisers' fees for real estate shall be based upon the entire undivided value of the assets subject to appraisal (not the decedent's interest in the property which may be fractional). Fees shall be computed at the rate of not more than:

- (1) \$1.50 per thousand for the first \$200,000 of valuation;
- (2) \$1.00 per thousand in excess of \$200,000 of valuation;
- (3) The minimum appraiser fee shall be \$50.00.

When an appraisal of multiple properties is performed, the above fee schedule shall apply to each property, not the aggregate value of all properties. Fees paid in compliance with this rule may be paid without application and entry.

(B) If a Medina County appraiser is employed to appraise real estate located in another county, in addition to the fee calculation in paragraph (A) above, the appraiser may also charge a mileage fee.

(C) Any appraiser fee requested in excess of the above schedule and appraisals of personalty must either be by agreement between the fiduciary and the appraiser or must be approved by the Court prior to the appraisal being made.

(D) Unless there is a dispute, or an appraisal is required for other purposes, a Court-appointed appraiser shall not be necessary in the following situations:

- (1) In estates relieved from administration, a printout or correspondence from the County Auditor attesting to the auditor's appraised value will be accepted as the appraised value of the real estate for Probate Court purposes and on the Ohio estate tax return.

(2) Where the estate is comprised of personal property of readily ascertainable value.

(E) All appraisers shall give the fiduciary and the attorney of record a written appraisal of each property appraised on the appropriate form provided by the Court or a form which is in substantial compliance therewith. The signature of the appraiser shall constitute a certification that the appraisal was performed truly, honestly, and impartially.

(F) Appraisers' fees shall be paid by the fiduciary within four (4) months after the appraisal is completed unless otherwise ordered by the Court. The proceedings shall remain open until the fiduciary has accounted for the payment of the appraisal fee. Should payment not be made pursuant to this rule, the fiduciary and/or attorney shall be held personally liable for the payment of the appraisers' fees.

(G) Any request to use an appraiser who is not on the Court's approved list may be set for hearing at the discretion of the Court. The Court will approve an appraiser if the appraiser is identified by name, firm address, and phone number; provides a copy of his or her license, certification or other proof of appraisal credentials; and provides proof that he or she holds professional liability insurance in an amount no less than \$300,000.00.

[Supplements Sup. R. 61 Appraisers]

MEDINA PROBATE LOCAL RULE 61.2

APPRAISER SELF-DEALING

During the administration of the estate or within twelve (12) months of the appointment of the appraiser, no appraiser shall directly or indirectly purchase or negotiate the purchase, sale, trade, or management of property that he or she has appraised, unless waived by order of the Court with the consent of all heirs and beneficiaries.

[Supplements Sup. R. 61 Appraisers]

SUP.R. 62 CLAIMS AGAINST ESTATE

MEDINA PROBATE LOCAL RULE 62.1

FILING

Any claim against an estate filed with the Court pursuant to Ohio Revised Code Section 2117.06 shall be accompanied by a deposit of \$26.00. The Clerk shall serve notice of the claim along with an order directing the fiduciary to respond via certified mail.

[Supplements Sup. R. 62 Claims Against Estate]

SUP. R. 64 ACCOUNTS

MEDINA PROBATE LOCAL RULE 64.1

ACCOUNT REQUIREMENTS

(A) All accounts must be personally signed by the fiduciary and contain the full name, current resident address, and telephone number of the fiduciary.

(B) All fiduciaries must sign the account when multiple fiduciaries have been appointed.

(C) For decedents' estates, the filing of a final and distributive account, as required by Section 2109.301(B) of the Ohio Revised Code, shall be automatically extended without application to one (1) year following the date of appointment of the estate fiduciary. Upon approval of an application to extend administration beyond one year, 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 not 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) Statements in lieu of a partial account or waivers of a partial account will not be accepted unless the sole beneficiary or heir is also the fiduciary of the estate.

(F) All accounts shall be set for a hearing. Notice of the hearing on an account shall be given by the fiduciary to all heirs in an intestate estate and all residuary beneficiaries in a testate estate, unless waived. Notice of the hearing on an account shall be given to all current trust beneficiaries unless waived. Notice of the hearing on account may be given by ordinary mail with a certificate of mailing. The original certificate of mailing must be filed along with a copy of the notice of hearing that is mailed.

(G) Any account which lists a sale of real property shall have attached to the account a complete settlement statement from the closing of the sale of the real property.

[Supplements Sup. R. 64 Accounts]

MEDINA PROBATE LOCAL RULE 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. The fiduciary will also be subject to citation and possible removal.

[Supplements Sup. R. 64 Accounts]

MEDINA PROBATE LOCAL RULE 64.3

ACCOUNT DOCUMENTATION

The Court requires documentation substantiating an account such as bank statements to be submitted when filing an account. In lieu of submitting such documentation in a solvent decedent's estate, the fiduciary may file with the account, a waiver and consent from all beneficiaries acknowledging each received a copy of the account, waives notice of the hearing on the account, and consents to the filing of the account. The signature of each beneficiary must be dated.

In accounts filed by guardians, conservators, and trustees, the itemized disbursements and distributions shall be verified by bank statements and cancelled checks, except in the case of an account rendered by a corporate fiduciary.

[Supplements Sup. R. 64 Accounts]

MEDINA PROBATE LOCAL RULE 64.4

EVIDENCE OF ASSETS

All assets must be disclosed at the time of filing a partial account. The fair market value of the assets remaining in the fiduciary's hands shall be disclosed as of the last day covered by the account.

[Supplements Sup. R. 64 Accounts]

MEDINA PROBATE LOCAL RULE 64.5

SCHEDULE OF DEBTS

The fiduciary of an estate shall file a schedule disclosing all debts/claims against the estate when it appears to the fiduciary that the estate may be insolvent or in any matter where there will be a land sale proceeding to pay debts/claims.

[Supplements Sup. R. 64 Accounts]

SUP. R. 65 LAND SALES

MEDINA PROBATE LOCAL RULE 65.1

EVIDENCE OF TITLE

The Court will not issue an order finding the sale necessary in a land sale proceeding until the plaintiff has filed evidence of title showing the record condition of the title to the premises described in the complaint. Evidence of title must be prepared on a date subsequent to the date of the complaint.

[Supplements Sup. R. 65 Land Sales]

MEDINA PROBATE LOCAL RULE 65.2

APPRAISALS

An appraisal is required in all land sales unless the real property to be sold has been appraised in a decedent's estate or in a ward's guardianship and the appraisal, on which the inventory was made, is less than one year old. The Court may waive the appraisal requirement upon written motion of the Plaintiff for good cause shown.

SUP. R. 66 GUARDIANSHIPS

MEDINA PROBATE LOCAL RULE 66.01

NUMBERING AND DEFINITIONS

Due to the manner in which the Supreme Court of Ohio has numbered Sup. R. 66.01 through 66.09 by using 4 digits, all of this Court's Local Rules pertaining to adult guardianships shall be similarly numbered.

The terms defined in Sup. R. 66.01 have the same meaning when used in Medina Probate Local Rule 66.01, et seq.

[Supplements Sup. R. 66.01 Definitions]

MEDINA PROBATE LOCAL RULE 66.02

APPLICATION OF RULES

Local Rules 66.01 through 66.15 apply to all adult incompetent guardianships administered through this Court, unless indicated in the particular Local Rule, or unless expressly waived by Court Order.

[Supplements Sup. R. 66.02 Application of Rules]

MEDINA PROBATE LOCAL RULE 66.03

EMERGENCY GUARDIANSHIPS

Every application for the appointment of an emergency guardian shall be accompanied by an original Statement of Expert Evaluation (Form 17.1) and Supplement for Emergency Guardianship of Person (Form 17.1A) signed by the evaluator. The applicant must file a written motion in order for the Court to consider whether the emergency guardianship should be extended for an additional 30 days. The applicant shall attend the hearing on the motion to extend the guardianship.

GUARDIAN COMMENTS AND COMPLAINTS

- (A) All comments or complaints regarding the performance of guardians appointed by the Court shall be submitted in writing via electronic format or hard copy and signed by the individual making the comment or complaint. Comments or complaints submitted by telephone, orally, or which are made anonymously, will not be considered by the Court.
- (B) Within five business days of receipt of the comment or complaint, the Court shall forward a copy to the guardian by regular mail.
- (C) Within five business days of receipt, the comment or complaint will be referred to one of the Court's magistrates or the Judge to determine (a) if an investigation by the Court's Investigator is necessary; (b) whether a review or removal hearing should be scheduled; (c) any other orders that the Court determines is necessary and in the ward's best interest; and/or (d) that the comment or complaint should be dismissed as unsubstantiated, lacking in specificity, insufficient, and/or repetitive.
- (D) A copy of the comment or complaint and any documents related thereto shall be made a part of the case file and accessible to the public, unless otherwise excluded by law. A record of the comment or complaint shall also be maintained in a separate docket reserved for comments and complaints against guardians.

[Supplements Sup. R. 66.03 Local Guardian Rule]

MEDINA PROBATE LOCAL RULE 66.04

(RESERVED)

[Supplements Sup. R. 66.04 Establishment of Guardianship]

MEDINA PROBATE LOCAL RULE 66.05

GUARDIAN BACKGROUND CHECKS

An applicant for appointment as a guardian, including as an emergency guardian, must submit to a criminal record check satisfactory to the Court. In place of a criminal background check, an applicant, who is an Ohio attorney and currently in good standing with the Supreme Court of

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

GUARDIAN WITH TEN OR MORE ADULT WARDS

To assist the Court in meeting its supervisory responsibilities under Sup. R. 66.05(B) and in satisfaction of the responsibilities arising under Sup. R. 66.08(H), by January 31st of each year, a guardian with ten or more wards throughout all the probate courts of Ohio, shall register with this Court. The registration shall include a listing of the guardian's wards, the case number and the appointing court. The guardian in such cases shall advise the Court of any change in the guardian's name, address, telephone number and electronic mailing address within ten days of the change occurring.

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

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

[Supplements Sup. R. 66.05 Responsibilities of Court Establishing Guardianships]

MEDINA PROBATE LOCAL RULE 66.06

GUARDIAN FUNDAMENTALS TRAINING REQUIREMENT

Every guardian not related to the ward by consanguinity (a blood relationship) or affinity (kinship by marriage) must meet the guardianship fundamentals training requirements under Sup. R. 66.06 by completing a six-hour guardian fundamentals course provided by the Supreme Court of Ohio, or with prior approval of this Court, another entity. The course must be completed prior to appointment or within six months after appointment. Those failing to meet the requirement shall be subject to citation for being in contempt of court and subject to sanctions including, but not limited to, imposition of a fine, denial of compensation, and removal. A guardian who has served at any time after June 1, 2010, or who is serving on June 1, 2015, shall have until June 1, 2016, to complete the guardian fundamentals course, unless the Court waives or extends the requirement for good cause. The guardian is responsible for providing to the Court in a timely manner documentation that establishes compliance with the guardian fundamentals training requirement.

Every guardian of a ward to whom the guardian is related by consanguinity (blood relationship) or affinity (kinship by marriage) must attend this Court's local guardian training program. Unless otherwise ordered by the Court, the guardianship training must be completed within six months after appointment. Failure to attend the training in a timely manner shall be

subject to citation for being in contempt of court and subject to sanctions including, but not limited to, imposition of a fine, denial of compensation, and removal.

Every guardian of a ward who has previously trained through the Volunteer Guardianship Program is exempt from this training.

The Court may require an otherwise exempt guardian, or applicant for guardianship, to complete a designated guardianship fundamentals training course.

[Supplements Sup. R. 66.06 Guardian Pre-Appointment Education]

MEDINA PROBATE LOCAL RULE 66.07

GUARDIAN CONTINUING EDUCATION

Every guardian of an adult shall annually complete a three-hour guardian continuing education course provided by the Supreme Court of Ohio, or with prior approval of this Court, another entity.

If a guardian fails to comply with the guardian continuing education requirement, the guardian shall not be eligible for further appointment until the requirement is met. The guardian also may be subject to citation for being in contempt of court and subject to sanctions including, but not limited to, imposition of a fine, denial of compensation, and removal.

By January 1st of the first calendar year after completing the guardian fundamentals course, or this Court's local training, the guardian is responsible for providing to this Court documentation demonstrating compliance with this guardian continuing education requirement, including the title, date, location and provider of the education, or a certificate of completion containing such information.

[Supplements Sup. R. 66.07 Guardian Continuing Education]

MEDINA PROBATE LOCAL RULE 66.08

GENERAL RESPONSIBILITIES OF THE GUARDIAN TO THE COURT

A guardian shall obey all orders of the Court and shall perform duties in accordance with local rules and state and federal law governing guardianships.

Unless otherwise determined by the Court, an applicant for guardianship shall meet with a proposed ward at least once prior to appearing before the Court for a guardianship appointment.

A guardian shall immediately report to the Court and, when applicable, to adult protective services, the long-term care ombudsman, or law enforcement any appropriate allegations of abuse, neglect, or exploitation of a ward.

A guardian shall seek to limit or terminate the guardianship authority and promptly notify the Court if any of the following occurs: (1) a ward's ability to make decisions and function independently has improved; (2) less restrictive alternatives are available; (3) a plenary guardianship is no longer in the best interest of a ward; (4) a ward has died.

A guardian shall notify the Court of a ward's change in residence and the reason for the change. Except if impracticable, the guardian shall notify the Court no later than ten days prior to the proposed change.

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

A guardian shall seek approval from this Court before filing a suit for the ward unless the suit is filed in the Medina County Court of Common Pleas, Probate Division.

A guardian shall inform the Court and apply to close the guardianship of the estate if the principal income of the ward is from governmental entities, a payee for that income is identified, and no other significant assets or income exist.

A guardian who is in receipt of fees other than through the guardianship of the estate shall report to the Court the source and entity which reviewed and authorized payment.

A guardian shall not receive incentives or compensation from any direct service provider providing services to a ward.

A guardian shall avoid actual or apparent conflicts of interest regarding a ward's personal or business affairs. A guardian shall report to the Court all actual or apparent conflicts of interest for review and determination as to whether a waiver of the conflict of interest is in the best interest of the ward.

In addition to filing an inventory, if applicable, pursuant to Revised Code Section 2111.14(A)(1) and within three months after the guardian's appointment, a guardian shall file with the Court a list of all the ward's important legal papers, including, but not limited to, estate planning documents, advance directives, and powers of attorney, and the location of such legal papers, if known at the time of the filing.

[Supplements Sup. R. 66.08 General Responsibilities of Guardian]

MEDINA PROBATE LOCAL RULE 66.09

GENERAL RESPONSIBILITIES OF THE GUARDIAN TO THE WARD

A guardian shall act in a manner above reproach, including but not limited to avoiding financial exploitation, sexual exploitation, and any other activity that is not in the best interest of the ward.

A guardian shall exercise due diligence in making decisions that are in the best interest of a ward, including but not limited to communicating with the ward and being fully informed about the implications of the decisions.

Unless otherwise approved by the Court, a guardian shall make a choice or decision for a ward that best meets the needs of the ward while imposing the least limitations on the ward's rights, freedom, or ability to control the ward's environment. To determine the least restrictive alternative, a guardian may seek and consider an independent assessment of the ward's functional ability, health status, and care needs.

A guardian shall advocate for services focused on a ward's wishes and needs to reach the ward's full potential. A guardian shall strive to balance a ward's maximum independence and self-reliance with the ward's best interest.

A guardian shall strive to foster and preserve positive relationships in the ward's life unless such relationships are substantially harmful to the ward. A guardian shall be prepared to explain the reasons a particular relationship is severed and not in the ward's best interest.

A guardian shall strive to know a ward's preferences and belief system by seeking information from the ward and the ward's family and friends. The guardian is encouraged to identify those persons with whom the ward desires to communicate and facilitate the communication that the guardian believes is in the best interest of the ward.

A guardian shall do all of the following:

- (a) Meet with the ward as needed, but not less than once quarterly or as determined by the Court;
- (b) Communicate privately with the ward;
- (c) Assess the ward's physical and mental conditions and limitations;
- (d) Assess the appropriateness of the ward's current living arrangements;
- (e) Assess the needs for additional services;
- (f) Notify the court if the ward's level of care is not being met;

- (g) Document all complaints made by a ward and assess the need to report the complaints to the court of common pleas.
- (h) Encourage visitation and communication with the ward so long as such visitation and communication is in the best interest of the ward;
- (i) Promptly submit a list of names to the court of any persons or entities whom the guardian has excluded or seeks to exclude from visiting or communicating with the ward.

A guardian shall not provide any direct services to a ward, unless otherwise approved by the Court.

A guardian shall monitor and coordinate all services and benefits provided to a ward, including doing all of the following as necessary to perform those duties:

- (1) Having regular contact with all service providers;
- (2) Assessing services to determine they are appropriate and continue to be in the ward's best interest;
- (3) Maintaining eligibility for all benefits;
- (4) Where the guardian of the person and guardian of the estate are different individuals, consulting regularly with each other.

A guardian shall seek ethical, legal, and medical advice, as appropriate, to facilitate decisions involving extraordinary medical issues.

A guardian shall strive to honor the ward's preferences and belief system concerning extraordinary medical issues.

A guardian shall make every effort to be informed about the ward's preferences and belief system in making end of life decisions on behalf of the ward.

A guardian shall appropriately manage the guardian's caseload to ensure the guardian is adequately supporting and providing for the best interest of the wards in the guardian's care.

A guardian shall keep the ward's personal and financial information confidential, except when disclosure is in the best interest of the ward or upon order of the Court.

[Supplements Sup. R. 66.09 Responsibilities of Guardian to Ward]

MEDINA PROBATE LOCAL RULE 66.10

GUARDIAN'S REPORT

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

A guardian of a person of an adult ward shall also annually file with the Court a guardianship plan as an addendum to the guardian's report. The guardianship plan shall state the guardian's goals for meeting the ward's personal and financial needs.

[Supplements Sup. R. 66 Guardianships]

MEDINA PROBATE LOCAL RULE 66.11

DEPOSIT OF WILL BY GUARDIAN

The guardian must deposit with the Court for safekeeping any instrument known to the guardian and executed by the ward that would constitute a "will" under R.C. 2107.01.

[Supplements Sup. R. 66 Guardianships]

MEDINA PROBATE LOCAL RULE 66.12

GUARDIANSHIP OF MINORS

(A) A certified copy of the minor's birth certificate must be filed with the guardian's application. The copy must demonstrate that it was certified within the twelve months preceding the application, unless otherwise waived by the Court.

(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.

(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 Revised Code Section 2111.02(A).

(E) Personal Service of notice of hearing to a minor aged 14 years or older is made by the deputy clerk. It is the responsibility of the applicant to present the minor before the deputy clerk for service at least seven days prior to the hearing on the application. If a court investigation is ordered, personal service is made by the Court Investigator. Upon motion, alternate methods of personal service may be ordered by the Court.

(F) Notice of the hearing on appointment of guardian for a minor is required to be made upon each parent of the minor whose name or address is known or with reasonable diligence can be ascertained unless the parent is under a disability other than being a minor. The deputy clerk will issue certified mail notice to each parent's address provided in the application. The applicant is responsible for filing further instructions for service of notice if certified mail service is unsuccessful.

If a parent's name or address is unknown, the applicant is required to make reasonable efforts to locate the name or address. Such efforts may include searches of phonebooks, the internet, social media websites, and online criminal records. An applicant must be prepared to inform the Court at the hearing of efforts made to locate this information.

(G) A report of the Court's Investigator is not mandatory, but may be ordered by the Court in its discretion at any point in the proceedings.

(H) An applicant for appointment as a guardian over either the person or estate of a minor must submit to a criminal record check satisfactory to the Court.

[Supplements Sup. R. 66 Guardianships]

MEDINA PROBATE LOCAL RULE 66.13

RELEASE OF FUNDS

Funds in the name of the ward shall not be released to the guardian without a specific Court Order. The guardian is not required to file a separate application to release funds when repetitive transfers are made from the same account into a guardianship account.

[Supplements Sup. R. 66 Guardianships]

MEDINA PROBATE LOCAL RULE 66.14

CHANGE OF ADDRESS

In addition to the Guardian's responsibility to report a change in an incompetent ward's residence pursuant to Local Rule 66.08, any guardian appointed by this Court shall inform the Court as to the change of address of either the guardian or the ward within thirty (30) days of the address change. Failure to report a change in address may result in removal of the guardian.

[Supplements Sup. R. 66 Guardianships]

MEDINA PROBATE LOCAL RULE 66.15

TERMINATION

Applications to terminate a guardianship of a minor require notice to all persons designated in Revised Code Section 2111.04 and any other individuals who received actual notice of the original appointment of the guardian. If the minor is 14 years old or older at the time the application is filed, the Court's Investigator shall personally serve the minor with notice of the application. A report of the Court's Investigator is not necessary, unless ordered by the Court. All applications to terminate a guardianship of a minor shall be scheduled for a hearing.

[Supplements Sup. R. 66 Guardianships]

SUP. R. 67 ESTATES OF MINORS OF NOT MORE THAN TWENTY-FIVE THOUSAND DOLLARS

MEDINA LOCAL RULE 67.1

DISPENSE WITH GUARDIANSHIP

Applications to pay or deliver the estate of a minor without the appointment of a guardian shall follow the notice requirements set forth in Revised Code Section 2111.04.

[Supplements Sup. R. 67 Estates of Minors of Not More than Ten Thousand Dollars]

MEDINA LOCAL RULE 67.2

BIRTH CERTIFICATE

A certified copy of the minor's birth certificate must be presented to the Court upon the filing of the application to dispense with guardianship. The copy must demonstrate that it was certified within the 90 days preceding the application, unless otherwise waived by the Court.

[Supplements Sup. R. 67 Estates of Minors of Not More than Ten Thousand Dollars]

MEDINA PROBATE LOCAL RULE 67.3

ATTORNEY RESPONSIBILITY

In cases wherein the minor's estate will be less than Twenty-Five Thousand Dollars, the attorney representing the interest of the insurer may assume the duties imposed by Sup. R. 67(B) and (C) provided that the Applicant has executed the *Minor Settlement Waiver* form provided by the Court.

[Supplements Sup. R. 67 Estates of Minors of Not More than Ten Thousand Dollars]

MEDINA PROBATE LOCAL RULE 67.4

DEPOSIT AND ANNUAL ACCOUNT VERIFICATION

Pursuant to Sup. R. 67(C), the attorney representing the applicants or the payor in the matter shall acknowledge responsibility for depositing the funds and providing the financial institution with a copy of the entry. The attorney shall obtain an executed Verification of Receipt and Deposit (Standard Probate Form 22.3) from the financial institution and file the form with the Court within seven (7) days of the issuance of the entry.

If the assets are delivered to a custodian or deposited in the name of the minor with a depository authorized to receive fiduciary funds, the applicant shall file an annual verification of the account balance either by submitting a bank statement dated within 30 days of the filing or by submitting Form 22.3A – Verification of Account.

[Supplements Sup. R. 67 Estates of Minors of Not More than Ten Thousand Dollars]

SUP. R. 68 SETTLEMENT OF INJURY CLAIMS OF MINORS

MEDINA PROBATE LOCAL RULE 68.1

BIRTH CERTIFICATE

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. The copy must demonstrate that it was certified within the 90 days preceding the application, unless otherwise waived by the Court.

[Supplements Sup. R. 68 Settlement of Injury Claims of Minors]

MEDINA PROBATE LOCAL RULE 68.2

SETTLEMENT CONFERENCE

It is suggested that the attorney representing the minor, prior to bringing the clients to Court to settle a minor's claim, personally appear to discuss the settlement with the Court. At this conference, the matter may be set for hearing by the court upon request.

[Supplements Sup. R. 68 Settlement of Injury Claims of Minors]

MEDINA PROBATE LOCAL RULE 68.3

SEPARATE CASE NUMBER

Settlements of a minor's claims are separate proceedings in this Court and shall proceed under the supplemental case number assigned to the guardianship, if any.

[Supplements Sup. R. 68 Settlement of Injury Claims of Minors]

MEDINA PROBATE LOCAL RULE 68.4

ANNUAL ACCOUNT VERIFICATION

If the estate is delivered to a custodian or deposited in the name of the minor with a depository authorized to receive fiduciary funds, the applicant shall file an annual verification of the account balance either by submitting a bank statement dated within 30 days of the filing or by submitting Form 22.3A – Verification of Account.

[Supplements Sup. R. 68 Settlement of Injury Claims of Minors]

MEDINA PROBATE LOCAL RULE 68.5

STRUCTURED SETTLEMENTS

In the event that parties involved in claims for injuries to minors or incompetents desire to enter into a structured settlement, defined as a settlement wherein payments are made on a periodic basis, the following rules shall apply:

- (A) The application shall include a signed statement from one of the following independent professionals, specifying the present value of the settlement, and the method of calculation of that value: an actuary, certified public accountant, certified financial planner, chartered life underwriter, chartered financial consultant, or an equivalent professional.

(B) If the settlement is to be funded by an annuity, the application shall include a signed statement by the annuity carrier or the broker procuring the policy stating:

(1) The annuity carrier is licensed to write annuities in Ohio.

(2) The annuity carrier's ratings from at least two of the following organizations, which meet the following criteria:

a. **A.M. Best Company:** A++, A+, or A;

b. **Duff & Phelps Credit Rating Company** (Claims Paying Ability Rating): AAA, AA+, or AA;

c. **Moody's Investors Service** (Financial Strength): Aaa, Aa1, or Aa2;

d. **Standard & Poor's Corporation** (Financial Strength): AAA, AA+, or AA;

e. **Weiss Research Inc.:** A+ or A.

(C) In addition to the requirements of Paragraph (B) above, an annuity carrier must meet any other requirement the Court considers reasonably necessary to assure that funding to satisfy periodic payment settlements will be provided and maintained.

[Supplements Sup. R. 68 Settlement of Injury Claims of Minors]

MEDINA PROBATE LOCAL RULE 68.6

ATTORNEY'S FEES

All attorneys' fee agreements for settlement of injury claims of minors must receive prior approval from the Court before a settlement will be approved. Said agreements will be subject to the requirements of Sup. R. 71 and Medina Probate Local Rule 71.

[Supplements Sup. R. 68 Settlement of Injury Claims of Minors]

SUP. R. 70 SETTLEMENT OF WRONGFUL DEATH AND SURVIVAL CLAIMS

MEDINA PROBATE LOCAL RULE 70.1

SETTLEMENT OF CLAIMS

The application to settle a claim for wrongful death and the apportionment of the proceeds are two distinct matters for which the Court may require separate hearings.

[Supplements Sup. R. 70 Settlement of Wrongful Death and Survival Claims]

MEDINA PROBATE LOCAL RULE 70.2

WRONGFUL DEATH PROTOTYPE TRUST

The Court has adopted and filed a prototype Wrongful Death Trust by administrative order. Attorneys who wish to use the prototype must file an acknowledgment that the trust conforms to the current prototype. An attorney who wishes to create his or her own form of trust must submit the form of trust to the Court at least seven (7) days prior to the hearing on the wrongful death settlement.

[Supplements Sup. R. 70 Settlement of Wrongful Death and Survival Claims]

MEDINA PROBATE LOCAL RULE 70.3

WRONGFUL DEATH TRUST WITH MULTIPLE BENEFICIARIES

A separate wrongful death trust, with its own case number, shall be created for each trust beneficiary.

[Supplements Sup. R. 70 Settlement of Wrongful Death and Survival Claims]

MEDINA PROBATE LOCAL RULE 70.4

SETTLEMENT CONFERENCE

It is suggested that the attorneys, prior to bringing the clients to Court to settle the wrongful death and survival claims, shall request a settlement conference to discuss the settlement with the Court. At this conference, the matter may be set for hearing.

[Supplements Sup. R. 70 Settlement of Wrongful Death and Survival Claims]

MEDINA PROBATE LOCAL RULE 70.5

ATTORNEY'S FEES

All attorneys' fee agreements for settlement of wrongful death and survival claims must receive prior approval from the Court before a settlement will be approved. Said agreements will be subject to the requirements of Sup. R. 71 and Medina Probate Local Rule 71.

[Supplements Sup. R. 70 Settlement of Wrongful Death and Survival Claims]

SUP. R. 71 COUNSEL FEES

MEDINA PROBATE LOCAL RULE 71.1

ATTORNEY'S FEES

Attorneys are expected to be familiar with Rule 1.5 of the Ohio Rules of Professional Conduct which governs the reasonableness of fees.

(A) When an attorney has been employed in the administration of a decedent's probate estate, reasonable attorney's fees shall be paid from the estate by the fiduciary as part of the expenses of administration. In determining whether the amount of attorney fees charged is reasonable, the court will be guided by Rule 1.5 of the Ohio Rules of Professional Conduct.

(B) Subject to section (C) herein, fees shall be charged and paid upon presentation of a written and detailed billing statement which includes an itemization and date of the services performed, the time expended, the individual(s) who performed the services, and the hourly rate charged.

(C) The payment between the attorney and the fiduciary is a contractual relationship between them. The attorney and the fiduciary may determine the method by which the attorney will be paid. Subject to Court approval, if the fiduciary agrees, the attorney may utilize a fee schedule, so long as the attorney has also informed the fiduciary of the possibility that fees may be determined at an hourly rate. The fee schedule may not be considered or represented to clients as a schedule of minimum or maximum fees to be charged. The attorney must then submit to the Court a written document explaining the fee arrangement at the time that the estate is filed. This Court provides an attorney's fee computation worksheet for use in estate administration. A detailed billing statement that is less than or equal to the computation calculation is presumed reasonable under Rule 1.5 of the Ohio Rules of Professional Conduct. Attorneys who provide representation for the administration of estates that are inventoried at over five hundred thousand dollars (\$500,000.00) shall also present detailed billing statements when filing the attorney's fee computation worksheet. An itemized billing statement must be attached to the computation if it is filed without consents from all beneficiaries or heirs whose share is affected by the payment of attorney's fees.

(D) An attorney submitting an application for payment of fees must also present the Court with a proposed order.

(E) Upon retention of the attorney by the fiduciary, the fiduciary is personally liable under that personal contract to the attorney for the amount agreed upon. However, the fiduciary is entitled to credit himself or herself in the accounting for a reasonable amount of administrative expense, which includes the attorney fee.

(F) Although the attorney and the fiduciary reach an agreement relative to the payment of attorney fees, the Court still holds the ultimate authority as to the granting of the payment of said fees. While Superintendence Rule 71 requires a hearing, a hearing may be waived upon request and order of the Court. The request to dispense with the hearing must be supported by a statement of the facts as to why a hearing would not be required. No motion to dispense with the hearing is required in the event that all affected parties have consented.

(G) In the event that an attorney's fee is paid pursuant to a land sale proceeding, no additional fees will be approved relative to that proceeding.

(H) Attorney's fees shall not be allowed for preparation of attorney fee applications, hearings on attorney's fees, and service of notice of hearing on attorney's fees.

[Supplements Sup. R. 71 Counsel Fees]

MEDINA PROBATE LOCAL RULES 71.2

ATTORNEY SERVING AS FIDUCIARY

In all matters where an attorney is the fiduciary of the estate, guardianship, or trust, and that attorney or another is the attorney of record, detailed records shall be maintained describing the time expended and the services rendered. Said records shall be submitted to the Court for review upon request. Rules 1.5 of the Ohio Rules of Professional Conduct shall govern the reasonableness of all fees. The Court assumes an attorney, appointed as fiduciary, has been selected due to the attorney's special knowledge and abilities.

The attorney fiduciary shall not be represented by independent counsel without prior authorization by the Court.

[Supplements Sup. R. 71 Counsel Fees]

MEDINA PROBATE LOCAL RULE 71.3

EARLY PAYMENT OF ATTORNEY'S FEES

Attorney's fees for the administration of decedents' estates shall not be paid or advanced from any source until the final account or final closing documents are prepared for filing unless otherwise approved by the Court upon application. Such application shall contain a statement that the fee is being required in advance of the time permitted by Sup. R 71(B) and shall set forth the reason for requesting the early payment of fees. The application shall be accompanied by consent as to the amount and the timing of the fees by all beneficiaries who have yet to receive their complete distribution or shall be set for hearing with notice to the non-consenting beneficiaries.

[Supplements Sup. R. 71 Counsel Fees]

MEDINA PROBATE LOCAL RULE 71.4

NOTICE AND CONSENT FOR ATTORNEY’S FEES IN ESTATES

Application for attorney’s fees in estates, made at the time of the filing of the final account, shall include a statement of the amount of the fees and a statement of services rendered. The applicant shall give notice of the hearing of the fees to one hundred percent (100%) of the persons whose interests are affected by the payment of the fees, including creditors if the estate is insolvent.

If persons entitled to greater than fifty percent (50%) of the assets used for the payment of the fees file their written consent to the fees, the Court may, subject to Sup. R. 71(B), dispense with the filing of the application, the hearing on the fees, and permit the fees to be paid subject to any exceptions to the final account by non-consenting beneficiaries or creditors.

[Supplements Sup. R. 71 Counsel Fees]

MEDINA PROBATE LOCAL RULE 71.5

NOTICE AND CONSENT FOR ATTORNEY’S FEES IN GUARDIANSHIPS

In guardianship administration, the Court shall consider applications for attorney’s fees for the establishment of the guardianship upon the filing of the inventory, and shall consider additional fees quarterly and upon the filing of each account. Notice of the application shall be given to the guardian of the estate. The guardian of the estate may waive notice of the hearing and consent to the payment of fees.

After the death of the ward, the Court will consider attorney’s fees and guardian’s fees as liens on the ward’s assets. If the fees are approved by the Court, the fees may be paid out of the guardianship assets and included in the final guardianship account.

The Court may require notice of the hearing on the fees be given to the estate fiduciary of the deceased ward or other interested persons.

[Supplements Sup. R. 71 Counsel Fees]

MEDINA PROBATE LOCAL RULE 71.6

NOTICE AND CONSENT FOR ATTORNEY’S FEES IN TRUSTS

In trust administration, the Court shall consider applications for attorney’s fees for the establishment of the trust upon the filing of the inventory, and shall consider additional fees quarterly and upon the filing of each account.

Notice of application shall be given to the trustee. The trustee may waive notice of the hearing and consent to payment of fees. The Court may require notice of the hearing on the payment of the fees be given to the trust beneficiaries who are affected by the payment of fees.

[Supplements Sup. R. 71 Counsel Fees]

MEDINA PROBATE LOCAL RULE 71.7

CONTESTED FEES

The burden is upon the attorney to prove the reasonableness of the fee as governed by Rule 1.5 of the Ohio Rules of Professional Conduct. A detailed fee statement will be required which includes the itemization and date of service performed, the time expended, the individual(s) who performed the services, and the hourly rate charged.

[Supplements Sup. R. 71 Counsel Fees]

MEDINA PROBATE LOCAL RULE 71.8

CONTINGENT FEES

All fiduciaries shall make written application to the Court for authority to enter into a contingent fee contract. The application must be accompanied by a case plan, time projection, and estimated costs, as available, which upon request of counsel, may be reviewed *in camera*. Upon review, the Court will either give preliminary approval or disapprove the request. Preliminary approval shall be subject to final review at the conclusion of the matter that is the subject of the contingent fee contract.

In minor settlement cases where no guardian has been appointed, the attorney shall make the above application, under the Court's Administrative Order on minor settlement cases. Before settlement may be approved, a guardianship must be established or dispensed with under its own case number.

In establishing an estate, guardianship, or dispensing with the appointment of a fiduciary for the primary purpose of settling or resolving a claim, the attorney's fees associated with bringing the proceedings before this Court shall be assessed as a portion of the contingent fee, unless otherwise ordered by the Court for good cause shown. The Court may allocate the payment of this fee between the contingent fee and the beneficial interests.

[Supplements Sup. R. 71 Counsel Fees]

MEDINA PROBATE LOCAL RULE 71.9

ATTORNEY'S FEES IN ESTATES RELEASED FROM ADMINISTRATION

Attorney's fees in estates released from administration may be approved without hearing if all affected beneficiaries or heirs at law consent to the payment of fees. Fees must be disclosed on Form 5.1, a computation of attorney worksheet, or a motion for attorney's fees and a copy provided to each consenting person. The Court reserves the right to set hearings on attorney's fees in any case regardless of the consent of all affected persons.

SUP. R. 73 GUARDIAN'S COMPENSATION

MEDINA PROBATE LOCAL RULE 73.1

GUARDIAN'S COMPENSATION

(A) Guardian's compensation is subject to Sup. R. 73. Guardian's compensation for services as guardian of the estate in non-indigent guardianships shall be computed annually upon application and entry and shall be supported by calculations and documentation. The following fee schedule shall apply unless extraordinary fees are requested. Extraordinary fee applications shall be set for hearing unless hearing is waived by the Court.

(1) Income/Expenditure Fee. Excluding income from rental real estate, four percent (4%) of the first \$10,000 of income received, plus three percent (3%) of the balance in excess of \$10,000, and four percent (4%) of the first \$10,000 of expenditures except expenditures pertaining to rental real estate, plus three percent (3%) of the balance in excess of such \$10,000. If the guardian manages rental real estate, a fee amounting to ten percent (10%) of gross rental real estate income may be allowed. If the guardian receives net income from rental real estate actively managed by others, then the guardian shall treat such net income as ordinary income. No fee shall be allowed to the guardian on expenditures pertaining to rental real estate. As used in this rule, "income" shall mean the sum of income as defined in Section 1340.03 O.R.C., plus pension benefits, plus net gains from the sale of principal. **Assets held by the ward at the date of appointment are deemed to be principal and not income.**

(2) Principal Fee. \$3.00 per thousand for first \$200,000 of fair market value, and \$2.00 per thousand on the balance of the corpus, unless otherwise ordered.

(3) Principal Distribution Fee. \$3.00 per thousand for the first \$200,000 of fair market value of corpus distributed upon the termination of the guardianship, and \$2.00 per thousand on the balance of the corpus distributed upon the termination of the guardianship, unless otherwise ordered.

(B) Compensation for services as guardian of the person only shall be set for hearing unless the hearing is waived by the Court.

(C) Compensation for corporate fiduciaries who are exempt from bond pursuant to Section 1111.21 O.R.C. shall be compensated pursuant to their published fee schedule if the fee schedule is filed in this Court under the court's administrative order on fee schedules.

(D) All motions, including applications for compensation, by guardians of veterans must comply with Chapter 5905 O.R.C. and all other rules and regulations of the Department of Veterans Affairs.

[Supplements Sup. R. 73 Guardian's Compensation]

MEDINA PROBATE LOCAL RULE 73.2

GUARDIAN'S COMPENSATION IN INDIGENT CASES

In guardianship cases where the ward has been declared indigent by the Court, compensation for attorneys appointed as guardians or counsel for the ward shall be Sixty Dollars (\$60.00) per hour compensation for in-court services and out-of-court services rendered by the attorney/guardian, or as otherwise approved by the Court. Unless otherwise approved by the Court, the attorney shall file applications for fees no less frequently than quarterly and within sixty (60) days after December 31st of each year. Failure to file applications for fees under the time lines set forth in this rule may result in denial of the request for fees

Attorney/Guardians shall receive a maximum of One Thousand Dollars (\$1,000.00) in compensation in such cases each year thereafter, unless extraordinary fees have been separately applied for and approved by the court, or as otherwise approved by the Court in new or existing cases.

[Supplements Sup. R. 73 Guardian's Compensation]

SUP. R. 74 TRUSTEE'S COMPENSATION

MEDINA PROBATE LOCAL RULE 74.1

TRUSTEE'S COMPENSATION

(A) Except where the instrument creating the trust makes provision for compensation, trustees subject to this Court's jurisdiction may, upon application and entry, be allowed compensation quarterly and upon filing of accounts for ordinary services in connection with the administration of each separate trust in accordance with the following schedule.

(1) Income Fee. Six percent (6%) of the gross income received during the accounting period not exceeding \$10,000 of gross income, five percent (5%) of the next \$10,000 of gross income, and four percent (4%) of such gross income exceeding \$20,000, chargeable to income unless otherwise ordered. As used in this rule, "income" shall mean the sum of income, plus pension benefits, plus net gains from the sale of principal accrued during the trust administration. Assets held by the trustee at the date of appointment are deemed to be principal and not income.

(2) Principal Fee. \$5.00 per thousand for the first \$200,000 of fair market value, and \$4.00 per thousand on the next \$200,000, and \$3.00 per thousand on the balance of the corpus, chargeable to the principal, unless otherwise ordered.

(3) Principal Distribution Fee. \$5.00 per thousand for the first \$200,000 of fair market value of corpus distributed, and \$4.00 per thousand of the next \$200,000, and \$3.00 per thousand of the corpus distributed, unless otherwise ordered.

(B) Compensation for corporate fiduciaries entitled to conduct business in Ohio pursuant to Revised Code Sections 1111.03 or 1111.06 shall be compensated in accordance with their published fee schedule in this court under the court's administrative order on such compensation. Vested trust beneficiaries affected by the payment of fees shall be notified by the trustee of any changes in its corporate fee schedule.

(C) Additional compensation for extraordinary services or allowance for expenses may be granted on application and entry, which shall be set for hearing unless waived by the Court.

[Supplements Sup. R. 74 Trustee's Compensation]

SUP. R. 78 CASE MANAGEMENT IN DECEDENT'S ESTATES, GUARDIANSHIP, AND TRUSTS

MEDINA PROBATE LOCAL RULE 78.1

CASE MANAGEMENT

For the purpose of insuring the readiness of proceedings in the Medina County Probate Court, the following procedure shall be in effect:

I. CIVIL ACTIONS: (Excluding Land Sales)

(A) All cases must have a general file number before a civil action may be filed.

(B) A status conference and a pretrial conference shall be conducted in all civil actions unless otherwise ordered by the Court.

(C) Within thirty (30) days after the final answer day, the case will be set by the court for a status conference.

(D) Status Conference. All counsel must have full authority to enter into binding orders. Unless otherwise ordered by the Court, the following matters and decisions shall be addressed at the status conference:

- (1) the possibility of settlement of the action;
- (2) a discovery schedule shall be agreed upon by all parties or set by the Court;
- (3) a date of exchange of expert witness reports shall be determined;
- (4) a final date for filing of all motions which shall not be later than twenty-eight (28) days before the pretrial conference. No further motions shall be considered without good cause shown and leave of Court;
- (5) the date for the pretrial conference shall be set by the Court and shall be no more than fourteen (14) days before the trial;
- (6) the date for trial shall be set by the Court.

(E) Pretrial Conference. All counsel must have full authority to enter into binding orders. Unless otherwise ordered by the Court, the following matters and decisions shall be addressed at the pretrial conference:

- (1) The Court may rule on any pending motions;
- (2) The following shall be submitted:
 - a. trial briefs;
 - b. witness lists;
 - c. exhibit lists;
 - d. exhibits as ordered by the Court;
 - e. proposed jury instructions;
 - f. proposed jury interrogatories;
- (3) Clients shall be present unless their presence has been excused by the Court.

(F) The trial date shall not be continued without good cause shown and order of the Court.

II. CIVIL ACTIONS: LAND SALES

- (A) All cases must have a general file number before a civil action may be filed.
- (B) All land sales which have not been concluded within one (1) year from the date of filing shall be set for a status conference.
- (1) The fiduciary and the attorney must attend the status conference.
 - (2) A written status report shall be submitted to the Court at the status conference. The status report shall address pending issues and the efforts being made to conclude the land sale.
 - (3) The fiduciary shall show cause why the Court should not order public sale of the real estate.
- (C) Motions for a fixed price shall be set for hearing with notice to all parties who have entered an appearance and all parties in default whose names and addresses are known or with reasonable diligence can be ascertained.
- (D) The Court shall appoint a guardian *ad litem*, when required or upon motion, in land sale proceedings. The guardian *ad litem* shall receive the service of summons on behalf of an incompetent ward, unless service is waived. A minimum fee of \$50.00 shall be assessed as costs for payment of the guardian *ad litem*'s services.

III. MOTIONS

- (A) All motions filed in this Court shall be accompanied by a memorandum stating the grounds and citing the authorities relied upon. Opposing counsel or a party shall serve the response memorandum on or before the fourteenth (14th) day after the date of service as set forth on the certificate of service attached to the served copy of the motion. The moving party shall serve any reply memorandum on or before the seventh (7th) day after the date of service as set forth on the certificate of service attached to the served copy of the response memorandum. On the twenty-eighth (28th) day after the motion is filed, the motion shall be deemed submitted to the Court unless a prior written request for an oral hearing has been filed and approved by the Court. The time and length of any oral hearing shall be fixed by the Court. Except as otherwise provided, this rule shall apply to all motions.
- (B) Motions for summary judgment are subject to the preceding Paragraph (A) and set for non-oral hearing on the twenty-eighth (28th) day following the filing of the motion for summary judgment. The filing of opposing affidavits and supporting documents are subject to Civ. R. 56.
- (C) Motions for temporary restraining orders, preliminary injunctions, or similar urgent equitable relief, applications and motions relating to administrative matters, and appointments shall be deemed submitted to the Court as determined by the Court. When required, notice of the time and place of the hearing shall be served upon any adverse party or their counsel by the moving party.

(D) Interrogatories under Civ. R. 33, requests for production or inspection under Civ. R. 34, and requests for admissions under Civ. R. 36 shall be served upon other counsel or parties in accordance with these rules, but shall not be filed with the Court. A notice that such discovery requests were filed and noting the date on which they were filed may be filed with the Court for informational purposes. A notice that discovery requests were responded to may be filed with the Court. If relief is sought under Civ. R. 26(C) or Civ. R. 37 concerning any interrogatories, requests for production or inspection, and requests for admissions, copies of the portions of the documents which are in dispute shall be filed with the Court contemporaneously with any motion filed under Civ. R. 26(C) or Civ. R. 37.

IV. MENTAL ILLNESS AND MENTAL RETARDATION HEARINGS

All hearings shall comply with Revised Code Chapters 5122 and 5123.

V. MISCELLANEOUS MATTERS

All miscellaneous matters shall be reviewed at least annually, and the Court shall order further action as necessary.

VI. FAILURE TO COMPLY

Failure to comply with this Case Management Rule may result in dismissal pursuant to Civ. R. 41 and other sanctions, including but not limited to, payment of costs and attorney fees.

[Supplements Sup. R. 78 Case Management in Decedent's Estates, Guardianship, and Trusts]

MEDINA PROBATE LOCAL RULE 78.2

GUARDIAN AD LITEM

Each plaintiff in a land sale that requires the appointment of a guardian ad litem shall file a motion requesting the appointment of a guardian ad litem and submit a proposed entry including the name of an attorney at law to the Court who is willing to serve as a guardian ad litem in the matter. The guardian ad litem shall have no interest in the case of any kind nor relationship to any of the parties. If a plaintiff is unable to locate an attorney willing to serve as guardian ad litem, the plaintiff shall so note in the motion requesting appointment of a guardian ad litem and the Court shall select a guardian ad litem from a list of attorneys willing to serve in that role.

In land sale proceedings, a minimum fee of two hundred dollars (\$200.00) shall be paid for each guardian ad litem appointed and the fee shall be paid from the proceeds of the land sale at the time of closing. No prior court approval is required for this minimum fee. A guardian ad litem may request fees beyond the minimum fee based upon the particular circumstances of a case. Such fees shall be requested by motion and a statement of time shall accompany the motion. Upon court approval, such fees shall be paid from the proceeds of the land sale at the time of closing.

[Supplements Sup. R. 78 Case Management in Decedent's Estates, Guardianship, and Trusts]

MEDINA PROBATE LOCAL RULE 78.3

WITHDRAWAL OF COUNSEL

(A) An attorney desiring to withdraw shall file an application to withdraw stating the reasons for withdrawal. The Court shall not issue an entry approving the withdrawal unless the certificate of service filed with the application demonstrates it was served on all parties, including the attorney's former client.

(B) An attorney will not be permitted to withdraw from a case within twenty (20) days prior to a trial or dispositive hearing, except for extraordinary circumstances that require permission of the Court.

(C) Substitution of counsel shall be in writing but does not require approval of the Court. Notice shall be given to all attorneys, unrepresented parties, and interested persons.

[Supplements Sup. R. 78 Case Management in Decedent's Estates, Guardianship, and Trusts]

MEDINA PROBATE LOCAL RULE 78.4

INVENTORY

(A) In lieu of the appraiser signing the estate inventory, the fiduciary may attach to the inventory the original appraisal(s) containing the signature of the appraiser(s).

(B) The inventory shall contain the address, legal description, and parcel number of any interest in real estate. The inventory shall contain the VIN or title number for any motor vehicles. The inventory shall contain the last 4 digits for all financial accounts of any kind.

(C) The inventory will not be approved unless the bond, when required, is of such an amount as required by law or by order of the Court. A guardian's inventory shall include the projected annual income of the ward.

(D) The Court will not approve the distribution, sale, or expenditure of any estate or guardianship assets prior to the filing of the inventory, except for good cause shown.

(E) All fiduciaries must sign the inventory when multiple fiduciaries have been appointed.

(F) Pursuant to Revised Code Section 2115.16 and Civil Rule 73(E)(7), unless notice is waived, upon filing of an inventory as required by Revised Code Section 2115.02 the executor or administrator shall serve the notice of the hearing by ordinary mail upon the surviving spouse and all next of kin in an intestate estate and to all beneficiaries in a testate estate. If three months has not

expired from the filing of the certificate of service of notice of probate of will at the time the inventory is filed, the executor or administrator shall serve the notice of the hearing by ordinary mail upon all heirs at law.

[Supplements Sup. R. 78 Case Management in Decedent's Estates, Guardianship, and Trusts]

MEDINA PROBATE LOCAL RULE 78.5

REQUEST FOR JURY TRIAL

The Local Rules of the Medina County Common Pleas Court, General Division, as they relate to juries, shall apply to proceedings in the Probate Division, except to the extent that by their nature they would be clearly inapplicable.

[Supplements Sup. R. 78 Case Management in Decedent's Estates, Guardianship, and Trusts]

MEDINA PROBATE LOCAL RULE 78.6

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 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 if applicants are residents of Medina County, Ohio, and not less than thirty (30) days prior to placement if applicants are not residents of Medina 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 for the petitioners. When the petitioner is the guardian of the minor to be adopted, the Court shall require a placement hearing. The adoption petition shall not be set for hearing until after the placement is complete.

(D) In all adoption cases, Court costs are required to be paid at the time of the filing. The Court should be consulted in advance for current deposit information.

(E) The criminal background checks pursuant to Revised Code Section 2151.86(B) and petitioner's accounts shall be filed in all cases.

(F) In all adoptions, married petitioner(s) must be married for not less than one (1) year prior to the final approval of the adoption.

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

[Supplements Sup. R. 78 Case Management in Decedent's Estates, Guardianship, and Trusts]

MEDINA PROBATE LOCAL RULE 78.7

SURETY BONDS

(A) A 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 this State. The Court will maintain a separate case file for each company to register the company and its agents. Agents must file a power of attorney from the company prior to executing bonds for that company.

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

(C) Bond required by law or Court order shall be in an amount not less than double the probable value of the personal estate including all sources of income during the accounting period.

(D) The bond premium shall be paid by the fiduciary upon receipt of the bill for the bond premium. The proceedings shall remain open until the fiduciary has accounted for the payment of the bond premium. Should payment not be made pursuant to this rule, the fiduciary may be held personally liable for its payment.

[Supplements Sup. R. 78 Case Management in Decedent's Estates, Guardianship, and Trusts]

MEDINA PROBATE LOCAL RULE 78.8

RELEASE OF ESTATES FROM ADMINISTRATION

(A) The Court will approve and appoint Commissioners, when required, in estates released from administration.

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

[Supplements Sup. R. 78 Case Management in Decedent's Estates, Guardianship, and Trusts]

MEDINA PROBATE LOCAL RULE 78.9

ADDITIONAL FEES

(A) The fee for computerized legal research as authorized by Revised Code Section 2101.162(A) shall be Three and No/100 Dollars (\$3.00) per case, excluding marriage license applications.

(B) The fee for computerization as authorized by Revised Code Section 2101.162(B) shall be Ten and No/100 Dollars (\$10.00) per case and Nine and No/100 Dollars (\$9.00) per marriage license application.

(C) The fee for dispute resolution as authorized by Revised Code Section 2101.163(A) and 2101.163(B) shall be Ten and No/100 Dollars (\$10.00) per case and Five and No/100 Dollars (\$5.00) per marriage license application.

[Supplements Sup. R. 78 Case Management in Decedent's Estates, Guardianship, and Trusts]

MEDINA PROBATE LOCAL RULE 78.10

WILLS DEPOSITED FOR SAFEKEEPING

Any person placing a will on deposit in this Court shall sign a written statement acknowledging the will is being placed on deposit at the request of the testator or guardian of the testator and identify the testator's current address and telephone number.

After the testator's death, wills deposited for safekeeping pursuant to Revised Code Section 2107.07 shall only be released to the person named in the indorsement on the envelope of the will, if there is a person named who demands it.

[Supplements Sup. R. 78 Case Management in Decedent's Estates, Guardianship, and Trusts]

MEDINA PROBATE LOCAL RULE 78.11

OBJECTIONS TO MAGISTRATE'S DECISION

A decision of a magistrate will be reviewed by the judge by filing an Objection to Magistrate's Decision in accordance with Rule 53 of the Ohio Rules of Civil Procedure.

The objection shall be accompanied by a supporting memorandum which shall include citations of law relied upon by the objector in support of their position. If an issue of fact is part or wholly the basis for the objection, an accurate quotation or partial or complete transcript of the testimony shall be filed in support of the objection to the magistrate's decision and must be filed with

the Court by the moving party within thirty (30) days after the filing of the objections, unless the judge, in writing, extends the time. Partial transcripts may be permitted upon leave of the Court.

Failure to file a partial or complete transcript when one is required by this Rule is a basis for dismissal of the objections.

All objections will be decided upon the written memoranda unless the movant requests an oral hearing. Notice of the date and time of the oral hearing will be made by the court on all other parties including any guardian *ad litem*.

Memoranda opposing the objections may be filed by any party within seven (7) days of the filing of the objection to magistrate's decision.

[Supplements Sup. R. 78 Case Management in Decedent's Estates, Guardianship, and Trusts]

MEDINA PROBATE LOCAL RULE 78.12

MOTION TO RELEASE INFORMATION

An attorney seeking information on behalf of the an estate for the purpose of determining the existence of accounts and balances for the decedent may move the court for an order authorizing the release of information by a financial institution for the purpose of pursuing an estate administration in this court. Any such order will constitute authority to release information only and will not constitute authority to release any funds.

[Supplements Sup. R. 78 - Case Management in Decedent's Estates, Guardianship, and Trusts]

MEDINA PROBATE LOCAL RULE 78.13

SERVICE BY COMMERCIAL CARRIER

In all civil actions and for notices authorized under Civ.R. 73(E), a party may request service of summons or a notice authorized under Civ.R. 73(E) to be served by a commercial carrier by filing written instructions for service with the deputy clerk. Absent such a request, service of summons, or notices authorized under Civ.R. 73(E) requiring service, shall be issued by certified mail through the U.S. Postal Service. A party requesting service by a commercial carrier shall deposit such additional costs as provided by this Court's Cost Deposit Schedule and shall provide a commercial carrier account billing number for costs to be charged to by the commercial carrier.

MEDINA PROBATE LOCAL RULE 78.14

LEAVE TO PLEAD

(A) A party is permitted one automatic leave to plead, not to exceed twenty-eight (28) days, in which to plead to a complaint, counterclaim, cross-claim or third party complaint by filing

with the Clerk of Court a certification of leave to plead. This automatic certification of leave to plead does not require judicial approval. This automatic certification does not apply in cases wherein the Revised Code provides for a shortened responsive pleading period due to the nature of the action (i.e. objections to termination or withdrawal of life-sustaining treatment). In such cases, any leave to plead, if needed, shall be requested by motion pursuant to paragraph (E).

(B) An automatic leave to plead is obtained by filing a certification of leave to plead. The certification shall (1) state that no prior extensions of time have been obtained; (2) affirmatively state the new due date for filing the party's pleading; (3) be signed by the party or counsel for the party; and (4) be served on all other parties to the case.

(C) The certification shall be effective only if it is filed with the Clerk within the time prescribed by the Ohio Rules of Civil Procedure for filing the party's answer or other responsive pleading. A certification that is not timely filed or otherwise does not comply with this Rule shall not be effective to extend the time for filing the party's pleading.

(D) If an additional extension of time is requested, the party requesting the extension must file a motion stating the reasons why a second extension is requested and prepare a proposed journal entry and submit it to the Court along with the motion.

(E) A party seeking leave to respond to any other pleading, request or motion must do so by written motion. The movant shall prepare a proposed journal entry and submit it to the Court along with the motion.

LOCAL RULE APPENDIX

**Medina County Probate Court
Cost Deposit Schedule**

**Updated Version Coming Soon – Please see website
www.medinaprobate.org for latest version**

**PROBATE COURT OF MEDINA COUNTY, OHIO
MEDINA, OHIO
Kevin W. Dunn, Judge**

IN THE MATTER OF _____
CASE NO. _____

Confidential Disclosure of Personal Identifiers
(Rule 45 (D) (2) of the Rules of Superintendence for the Courts of Ohio)

	<p align="center">COMPLETE PERSONAL IDENTIFIER</p> <p><i>Use this column to list the personal identifiers that have been redacted from the document that is to be placed in the case file.</i></p>	<p align="center">CORRESPONDING REFERENCE</p> <p><i>Use this column to list the reference or abbreviation that will refer to the corresponding complete personal identifier.</i></p>	<p align="center">LOCATION</p> <p><i>Use this column to identify the document(s) where the reference appears in place of the personal identifier</i></p>
1.			
2.			
3.			
4.			

Check if additional pages are attached.

Signature of person submitting the information

THIS IS PAGE _____ OF _____ PAGES

Name:

 First Middle Last Attorney
 Number

Current Business Address:

 City County State Zip Code

BACKGROUND DISCLOSURE STATEMENT

DRIVING HISTORY

YES **NO**

- 1. Do you have a valid Ohio Driver's license?
- 2. Have you been convicted of any moving traffic violation in the past 10 years?
- 3. Have you had any traffic violations involving alcohol or drugs in the past 10 years?

BACKGROUND

- 4. Have you ever been convicted of a violation of law? Do not disclose expunged or sealed offenses.
- 5. Have you ever been charged with a crime involving a minor?
- 6. Have you ever committed an act that resulted in a child being adjudicated abused or neglected?
- 7. If you are an attorney, do you have any condition or impairment which currently affects your ability to competently practice law?

CONDUCT

- 8. Have you ever been disbarred, suspended, censured, sanctioned, or otherwise reprimanded or disqualified as a member of the legal profession or another profession, or as a holder of public office?
- 9. Have you ever been the subject of any written charges, complaints, or grievances to a court or administrative agency concerning your conduct as a Guardian *ad Litem* or attorney, including any now pending?
- 10. Has any surety on any bond on which you were the principal been required to pay any money on your behalf in the past 10 years?
- 11. Have you been denied a license for business, trade, or profession in the past 10 years?

CIVIL

- 12. Have you had any judgments issued against you?
- 13. Have you declared bankruptcy in the last 7 years?
- 14. Have you been ordered to pay child support or spousal support?
 - a. If so, are your payments current?

If you answered yes to any of the questions above, furnish a thorough explanation.

Medina Probate Local Rules

I, the undersigned applicant, have read the foregoing background disclosure statement and have answered all questions truthfully and completely. I understand that failure to answer any question completely and honestly will result in denial or loss of eligibility to serve as a guardian ad litem in the Medina County Common Pleas Court, Juvenile Division. I further understand that I have the ongoing duty to supplement my answers to the questions herein.

STATE OF OHIO }
 } ss.
COUNTY OF _____ }

Signature of Applicant

Subscribed and sworn to or affirmed before me this _____ day of _____, _____.

month year

Notary Public

My commission expires _____

Medina County Probate Court Form