

MERCER COUNTY COMMON PLEAS COURT

PROBATE DIVISION

Matthew L. Gilmore, Judge
Richard M. Delzeith, Magistrate

RULES OF COURT

Effective June 1, 2026

**Mercer County Courthouse
101 N. Main Street, Suite 307
Celina, Ohio 45822
419-586-8779**

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LOCAL RULES OF COURT

MERCER COUNTY COMMON PLEAS COURT PROBATE DIVISION

5.1 – Introduction

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

5.2 – Effective Date

The Local Rules were originally adopted and made effective March 01, 2026.

9.1 – Security Plan

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

11.1 – Recording of Proceedings

The Court will make an audio recording of the proceedings as the record of the Court. Parties who desire to have a stenographic record of the proceedings must make their own arrangements for a court reporter at least twenty-four (24) hours prior to the scheduled hearing. The costs of the stenographic record shall be paid by the requesting party unless otherwise ordered by the Court. The original audio electronic recording of the proceedings will not be made available to the parties. Arrangements must be made with the Court to have proceedings copied at a cost to be determined by the Court, or transcribed by a stenographer approved by the Court.

51.1 – Forms Availability

Approved forms for use in the Mercer County Probate Court are available at the Probate Clerk's Office on the third floor of the Mercer County Courthouse and available via the link on the Court's website. Two-sided forms shall be converted to one-sided.

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52.1 – Computerized Forms

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

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

53.1 – Hours of Court

The Probate Court shall be open for the transaction of business from 8:30 a.m. to 5:00 p.m. on Mondays, and from 8:30 a.m. to 4:00 p.m. daily, Tuesday through Friday. The Mercer County Probate Court shall be closed for all legal holidays, Christmas Eve, and the day following Thanksgiving, as observed by law. The Probate Clerk of Court, at the discretion, and upon the Order of the Judge, may be open or closed at other hours for matters of extraordinary nature or importance.

54.1 – Conduct in Court

- A. Proper decorum in the Court is necessary for the administration of justice.
- B. No radio or television transmission or voice recording other than equipment supplied by the Court for purposes of maintaining a record of proceedings shall be permitted without the express consent of the Court in advance and pursuant to C.P. Sup. R. 11.
- C. In any preliminary Probate matter presented to the Court, the Court may restrict the attendance at said hearing to next of kin, interested parties and their counsel.

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- D. Proper attire is required in the courtroom. Those inappropriately dressed may be denied access to the courtroom. The Judge, Magistrate and/or Bailiff shall determine appropriate dress.
- E. The Court does expect that all attorney's appearing before the Court dress in an appropriate professional manner, i.e. jackets and ties, appropriate length skirts/dresses, modest tops.

54.2 – Pro se Representation

Any person may represent himself or herself pro se in any matter before this Court except as otherwise ordered by the Court for good cause shown.

No person, who is not currently licensed to practice law in Ohio may assist another person in matters before this Court, unless appointed as a fiduciary or guardian ad litem or otherwise ordered by the Court.

If it comes to the attention of the Court, in open court, and in the presence of the Court, that a person, not a duly licensed Ohio attorney, or relative of a person, is representing, assisting, or advising a pro se person, the Court may summarily find such person in contempt of the Court. Such person, so found to be in contempt may be punished by this Court, as is provided by Ohio Revised Code Section 2705.01 et seq. and the matter will be referred to the Ohio Supreme Court's Commission on Unauthorized Practice of Law.

55.1 – Removal of Files

The Clerk shall not permit any of the files to be taken from the Clerk's Office except with the consent of the Clerk.

55.2 – Charges for Copies

Copies of any public records maintained in the Clerk's Office of the Probate Court of Mercer County, Ohio, may be obtained by any party at a cost of \$.25 per page.

57.1 – Facsimile/Electronic Filings

The Court will accept filings by facsimile transmission or electronic mailing after the initial case filings.

57.2 – Forwarding Copies

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

57.4 – Certificates of Transfer

Certificates of Transfer submitted for approval by the Court shall contain a prior instrument reference and a tax parcel number.

58.1 – Security Deposit for Court Costs

The Court requires advance deposits for court costs in accordance with the schedule attached as Appendix B. If the deposit is not provided the filings will not be accepted by the Court.

59.1 Deposit of Will

The cost to deposit a Will with the Court for safekeeping pursuant to R.C. 2107.07 is \$25.00.

61.1 – Appraisers & Appraisals

- A. When required by law, there shall be one suitable, unrelated and disinterested appraiser appointed by the executor or administrator of an estate with Court approval.
- B. Real estate appraisals shall be made by licensed real estate agents, brokers, auctioneers, credentialed real estate appraisers, real estate loan officers of local financial institutions, or such other persons who by experience and training are qualified to make real estate appraisals. A licensed real estate agent or broker who is the listing broker for the sale of the real estate is not disqualified as an appraiser.
- C. Readily ascertainable value of real property as found in the Mercer County Auditor's property records shall be accepted and no further appraisal of such property shall be required.

- D. No appraiser shall be permitted to directly or indirectly purchase or acquire any of the property he or she appraises, except at public auctions.
- E. Readily ascertainable value of motor vehicle: Notwithstanding sections (A) through (D) of this rule, the market value of any motor vehicle as found in the current N.A.D.A. Official Used Car Guide under the category “Av’g Retail” may be adopted as the readily ascertainable value of the property and no further appraisal of such property shall be required except as provided under Paragraph I of this rule.
- F. Description and Valuation of Stock:
 - (1) If the stock is publicly traded, its valuation may be obtained from any recognized stock exchange or over-the-counter quotation and said verification must be listed.
 - (2) If the stock represents an investment in a closed corporation, its value must be made by a duly appointed and qualified appraiser.
- G. Items of household goods are not required to be individually listed and individually valued.
- H. An administrator, executor, fiduciary, beneficiary, or creditor of a decedent’s estate may file a written request with the Probate Court not later than the date set for hearing on the Inventory and Appraisal pursuant to R.C. 2115.16 that any property deemed to be appraised by readily ascertainable value shall be appraised by a suitable and disinterested appraiser as provided in sections (A) through (D) of this rule.
- I. Unless there is a dispute, or an appraisal is required for other purposes, a Court-appointed appraiser shall not be necessary in estates relieved from administration.

64.1 – Accounts

- A. All accounts must be personally signed by the fiduciary and contain the full name, current address and telephone number of the fiduciary, if different from the name, address and telephone number listed on the application to administer.
- B. All fiduciaries must sign the account when multiple fiduciaries have been appointed.

- C. For decedent's estates, a final account or certificate of termination is due six months from the date of the appointment of the fiduciary. If a final account or certificate of termination cannot be filed in six months, either an application to extend administration or a notice to extend administration must be filed. A status report must be filed with any partial account subsequently filed. All subsequent accounts must be filed on an annual basis unless the Court orders otherwise. Accounts not filed in compliance with this rule shall be subject to citation.
- D. For guardianships and trusts, the first account shall be filed no later than one (1) year following the date of the appointment and all subsequent accounts shall be filed on an annual basis, unless otherwise ordered by the Court.
- E. Copies of the account shall be served as follows:
 - (1) Intestate Estate. No account shall be approved unless there is a certificate filed by the fiduciary or fiduciary's counsel that a copy of the account as filed has been personally served or mailed by ordinary U.S. Mail to the surviving spouse and all next of kin in an intestate estate.
 - (2) Testate Estate. No accounts shall be approved unless there is a certificate filed by the fiduciary or fiduciary's counsel that a copy of the account as filed has been personally served or mailed by ordinary U.S. Mail to the surviving spouse and all the beneficiaries at the addresses listed in the file except corporate or charitable beneficiaries, and except beneficiaries not required to be notified pursuant to Ohio Revised Code Section 2109.32(B)(1).
 - (3) Guardianships. No account shall be approved unless there is a certificate filed by the guardian or guardian's counsel that a copy of the guardian's account as filed has been personally served or mailed by ordinary U.S. Mail to all next of kin of the ward who reside in Ohio.
 - (4) Trusts. No account shall be approved unless there is a certificate filed by the fiduciary or fiduciary's counsel that a copy of the account as filed has been personally served or mailed by ordinary U.S. Mail to all the beneficiaries of the trust.

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 unless permission is granted by the Court. See also Sup.R.78.

64.3 – Vouchers

The Court does not require the filing of vouchers, canceled checks or receipts with the filing of partial or final accounts. However, such vouchers, receipts or canceled checks must be available for review by the Court if requested.

64.4 – Bond

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

64.5 – Evidence of Assets

The Court requires that all assets be documented at the time of filing a partial account and available to be exhibited to deputy clerk upon order or request of the Court.

64.6 – Court Costs

No account, certificate of termination or report of distribution will be accepted for filing without the appropriate court costs attached. At the conclusion of a case, if the remaining cost deposit balance for any depositor, is ten dollars (\$10.00) or less, it shall be transferred to the Mercer County Indigent Guardian Fund.

66.0 – Guardianships

The Court adopts Rules 66.01 – 66.09 of the Rules of Superintendence in addition to the following guardianship rules.

66.03 – Local Guardianship Rule

A. Emergency Guardianship (R.C. 2111.02): Required pleadings for an emergency guardianship are as follows:

1. Initial Filing: Application for Appointment of Emergency Guardian of Alleged Incompetent, Next of Kin of Proposed Ward, Statement of Expert

Evaluation with Supplement for Emergency Guardian of Person, Fiduciary's Acceptance and required deposit (see Appendix B).

2. Ex Parte Hearing: Ex Parte Judgment Entry Appointment of Emergency Guardian for Incompetent Person, Emergency Letters of Guardianship, Notice-72 Hour, Precipe, and Motion for 30 Day Extension.
3. 30 Day Extension Hearing: Entry Granting 30 Day Extension, Emergency Letters of Guardianship, and Notice-30 Day.
4. Affidavit of Supervisor/Administrator: Within five (5) days after the expiration of the 72 hour order an Affidavit of Supervisor/Administrator must be filed with the Mercer County Probate Court.
5. Form 17.0-Application for Appointment of Guardian of Alleged Incompetent OR Form 16.0-Application for Appointment of Guardian of Minor shall be filed with the Court immediately, so that the Court can serve all interested parties and to allow time for the Court Investigator to serve notice on the Ward, file a report with Court and to hold the hearing on the Application for Appointment, prior to the expiration of the thirty (30) day extension of the emergency guardianship.

B. COMPLAINTS: Comments or complaints regarding the performance of guardians appointed by this Court shall be submitted in writing to this Court to the attention of the Deputy Clerk.

1. The comments or complaints may be submitted electronically (please contact the Court for the appropriate email address), or in hard copy by regular U.S. mail or hand delivery at 101 N. Main Street, Room 307, Celina, Ohio 45822. Anonymous comments or complaints will not be accepted for filing.
2. The Court will provide a copy of the comment or complaint to the guardian who is subject of the comment or complaint and to the guardian's attorney, if any.
3. The comment or complaint will be filed in the guardianship case and the Judge shall promptly review the submitted comment or complaint and take appropriate action.
4. The Court shall notify the person making the comment or complaint, the guardian and their attorney, if any, of the disposition of the comment or complaint.

66.05--Responsibilities of Court Establishing Guardianships

All proposed guardians shall have a criminal background check conducted and the results shall be filed with the Court prior to the hearing on the Application for Appointment of Guardian of Alleged Incompetent. If the proposed guardian is an attorney, the Court will accept a certificate of good standing with disciplinary information issued by the Supreme Court in place of a criminal background check.

Each guardian appointed by the Court is required to submit to the Court information documenting compliance with the guardian qualifications pursuant to Sup.R. 66.06 or 66.07, as applicable.

66.08 – Annual Plan

- A. A guardian is required to prepare an annual guardianship plan stating the guardian's goals for meeting the ward's personal and financial needs. This will be filed as an addendum to the guardian's report. The court has discretion to require a guardianship plan from a guardian of the estate.

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

66.2 – Guardianships of Minors

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

66.3 – Deposit of Wills

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

66.4 – Change of Address

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

66.5 – Guardian’s Report

The guardian of the person shall file the guardian’s report. If there is only a guardian of the estate, the guardian’s accounting must be filed by this guardian.

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

66.6 – Termination

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

68.1 – Settlement of Injury Claims of Minors

A photocopy of the minor’s birth certificate must be presented to the Court upon the filing of the application to settle a minor’s claim.

71.1 – Counsel Fees – Decedent’s Estates

- A. Attorney fees are a matter between the fiduciary and the attorney, subject to the provisions of O.R.C. 2113.36 and the Code of Professional Conduct, Rule 1.5. Upon the application by the fiduciary, the Court will allow reasonable attorney fees to be taken as an expense to the estate. The fee calculation shall be submitted to the Court in writing, utilizing the format as set forth in Appendix A. Nothing in this rule shall in any way prevent or prohibit an attorney from charging a fee less or more than the amount that would be paid

if calculated in accordance with the schedule set forth in paragraph C. However, if said fee exceeds the amount that would be paid if calculated in accordance with the attached schedule, there must be either an explanation or an itemization of time to justify said fee which shall in any event be subject to the approval of the Court. This rule applies to administered estates and estates relieved from administration. No hearing will be had except on written application of a party.

- B. Counsel fees for the administration of a decedent's estate as set forth below may serve as a guide in determining fees to be charged to the estate by legal services of an ordinary nature rendered as attorney for the fiduciary in the complete administration of a decedent's estate.
- C. The following schedule is not to be considered or represented to clients as schedules of minimum or maximum fees to be charged.
 - (1) On the personal property which is subject to administration, including income earned in the estate, for which the fiduciary is charged and upon the proceeds of real estate that is sold under a power of will as follows:
 - a. For the first \$50,000 at a rate of 4%;
 - b. All above \$50,000 and not exceeding \$100,000 at a rate of 3%;
 - c. All above \$100,000 at the rate of 2%.
 - (2) On real property that is not sold at a rate of 2%.
 - (3) On real estate sold by judicial proceedings according to the judgment entry confirming the proceedings. (See Ohio Revised Code Section 2127.38)
 - (4) On all non-probate property included in the Federal Estate Tax Return at a rate of 1%.
 - (5) If no Federal Estate Tax Return is required, attorney ordinary hourly rate for assistance in administration of non-probate assets.
 - (6) For Releases from Administration, a reasonable fee or application of above percentage fees in the discretion of the attorney and commissioner, if applicable.
- D. Where the attorney, law partner or firm associated is appointed as the fiduciary, the total administration fee may not exceed the statutory fiduciary commission plus one-half of the guideline counsel fee.

- E. If by reason of the application of the above percentages to values of assets a disparity or injustice results, such disparity or injustice may be reviewed on the Court's own motion in respect of any account reflecting such compensation or upon exceptions to such an account.

71.2 – Counsel Fees – Guardianship

- A. Where the guardian, if the guardian is not the attorney, law partner or firm associate, consents in writing to the amount of counsel fees, and the counsel fees do not exceed the guidelines set forth in Paragraph B, no application need be made for the allowance thereof, provided such consent is endorsed on the account or evidenced by separate instrument filed therewith.

- B. Counsel fees for the establishment of the guardianship and filing of the inventory, at the conclusion of the filing of these documents is subject to the approval of the Court as to the reasonableness of those fees. The allowance of fees shall be in writing which sets forth the details supporting the calculations on which the requested fees are based. Set forth below is a guide in determining fees charged for ordinary legal services in establishing guardianships through the first account. There will be no duplicate payments for services provided. Any fees received for the establishment of the guardianship and the filing of the inventory shall be reflected. Such schedules, however, are not to be considered as schedules of minimum or maximum fees to be charged:
 - (1) Income and Disbursements:
 - 4% of the first \$10,000.00 of income and disbursements.
 - 3% of the next \$20,000.00 of income and disbursements.
 - 2% of income and disbursements in excess of \$30,000.00.

 - (2) Principal:
 - \$2.50 per thousand on the first \$250,000.00 of market value.
 - \$1.50 per thousand on excess of \$250,000.00 of market value.

- C. For purposes of determining compensation based on income, the following shall not be considered income:
 - (1) Receipts of corpus by guardian.
 - (2) Balance carried forward from prior accountings.
 - (3) Investment and reinvestment of corpus.

- D. If by reason of the application of the above percentages to income and disbursements a disparity or injustice results, such disparity may be reviewed on the Court's own motion in respect of any account reflecting such compensation.
- E. After the filing of the first account, all applications for attorney fees shall be those reasonable and beneficial to the guardianship and shall be in writing setting forth the calculations of such fees.

73.1 – Guardian's Compensation

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

- (1) Income and Disbursements:

- 4% of the first \$10,000.00 of income and disbursements
 - 3% of the next \$20,000.00 of income and disbursements
 - 2% of the excess of \$30,000.00 of income and disbursements

- (2) Principal:

- \$2.50 per thousand on the first \$250,000.00 of market value
 - \$1.50 per thousand on excess of \$250,000.00 of market value

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

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

74.1 – Trustee's Compensation

- A. Corporate Trustees

- (1) Except where the instrument creating the trust makes provisions for compensation, a testamentary trustee may charge fees on the same basis as it charges for living trusts.

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

B. Individual Trustees

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

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

75.1 – Adoptions

- A. An original petition, interlocutory decree and/or final decree shall be filed in every adoption case.
- B. Who can adopt is expanded to unmarried adults, married adults without the other spouse joining, stepparents, grandparents, adult siblings, legal custodians and guardians.
- C. In private placement adoptions, a pre-placement application in a form acceptable to the Court shall be filed by the proposed adopting parents not less than five (5) days prior to placement if applicants are residents of Mercer

County, Ohio, and not less than thirty (30) days prior to placement if applicants are not residents of Mercer County, Ohio.

- D. Once the applications have been approved by the Court, a hearing shall be held not less than seventy-two (72) hours after the birth of the child or after the parent(s) have met with the adoption assessor, whichever occurs later, for the placement and consent by the parents. Prior to the placement hearing, the Court shall be supplied with a statement from the child's physician as to the medical condition of the child to be placed. If the placement is approved, the adoption petition must be filed before the Court will issue a Hospital Release for the release of the child to the petitioners or the attorney of the petitioners. 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.
- E. Upon the filing of a petition for adoption that alleges that a parent has failed without justifiable cause to have more than de minimis contact with the minor or to provide for the maintenance and support of the minor, the clerk of courts shall send a notice to that parent with the following language in boldface type and in all capital letters:

"A FINAL DECREE OF ADOPTION, IF GRANTED, WILL TERMINATE YOUR PARENTAL RIGHTS AND RESPONSIBILITIES, INCLUDING THE RIGHT TO CONTACT THE MINOR. ALL LEGAL RELATIONSHIPS BETWEEN THE MINOR AND YOU AND YOUR RELATIVES WILL TERMINATE, SO THAT THE MINOR IS A STRANGER TO YOU AND YOUR RELATIVES FOR ALL PURPOSES, WITH THE EXCEPTION OF DIVISION (A)(1)(b) OF SECTION 3107.15 OF THE REVISED CODE. IF YOU OBJECT TO THE ADOPTION, AND THE MINOR WAS LESS THAN ONE YEAR OF AGE AT THE TIME THE PETITION FOR ADOPTION WAS FILED, YOU MUST DO BOTH OF THE FOLLOWING: (1) FILE A WRITTEN OBJECTION WITH THE COURT WITHIN FOURTEEN DAYS FROM THE DATE OF SERVICE OF NOTICE OF THE FILING OF THE PETITION AND OF THE TIME AND PLACE OF HEARING. (2) APPEAR AT THE HEARING. IF YOU OBJECT TO THE ADOPTION, AND THE MINOR WAS ONE YEAR OF AGE OR OLDER AT THE TIME THE PETITION FOR ADOPTION WAS FILED, YOU MUST DO BOTH OF THE FOLLOWING: (1) FILE A WRITTEN OBJECTION WITH THE COURT WITHIN TWENTY-EIGHT DAYS FROM THE DATE OF SERVICE OF NOTICE OF THE FILING OF THE PETITION AND OF THE TIME AND PLACE OF HEARING. FOR GOOD CAUSE SHOWN, THE COURT MAY EXTEND THE TIME IN WHICH A WRITTEN OBJECTION MAY BE FILED. (2) APPEAR AT THE HEARING. A FINAL DECREE OF ADOPTION MAY BE ENTERED IF

YOU FAIL TO FILE A WRITTEN OBJECTION ON TIME AND APPEAR AT THE HEARING. RIGHT TO AN ATTORNEY: YOU HAVE A RIGHT TO BE REPRESENTED BY AN ATTORNEY. IF YOU ARE INDIGENT AND UNABLE TO EMPLOY AN ATTORNEY, YOU ARE ENTITLED TO HAVE AN ATTORNEY PROVIDED FOR YOU PURSUANT TO CHAPTER 120. OF THE REVISED CODE. YOU MUST CONTACT THE COURT ON RECEIPT OF THIS NOTICE IF YOU ARE REQUESTING THAT AN ATTORNEY BE APPOINTED FOR YOU. THE COURT SHALL CONSIDER A WRITTEN REQUEST FOR AN ATTORNEY OR A NOTICE OF APPEARANCE FILED BY AN ATTORNEY ON YOUR BEHALF, IN ACCORDANCE WITH THE ABOVEMENTIONED TIME FRAMES, AS GROUNDS FOR AN EXTENSION TO FILE WRITTEN OBJECTIONS."

All notices required under this section shall be given as specified in the Rules of Civil Procedure. Proof of the service of notice shall be filed with the court before the petition is heard.

75.2 – Custodial Deposits in lieu of Bond

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

75.3 – Release of Estates from Administration

- A. Release of estates from administration and Summary Administrations shall be filed and approved by the Court in accordance with applicable law.
- B. The Court may waive a noticed hearing in such instance where it appears no beneficiaries or creditors will be prejudiced.

75.4 – Pro Hac Vice

- A. An attorney not licensed to practice law in the State of Ohio, but who is duly licensed to practice law in any other state or the District of Columbia, may, at the discretion of the Probate Judge, be permitted to represent a party or parties in any litigation pending or to be filed in this county after completion of all of the following conditions:
 - (1) File a written oath substantially in compliance with Rule 1, Section 8A of the Supreme Court Rules for the Government of the Bar;

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

76.1 – Exceptions

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

78.1 – Case Management and Pre-trial Procedure

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

A. Civil Actions.

- (1) A pre-trial conference shall be conducted in all civil cases prior to being scheduled for trial, except in land sale proceedings.
- (2) Within thirty (30) days after the answer day the case shall be set by the Court for a pre-trial conference.
- (3) Notice of the pre-trial conference shall be given to all parties or to counsel of record of those parties who are represented by mail and/or telephone by the Court not less than Fourteen (14) days prior to the

conference. Any application for continuance of the conference shall be in writing and filed with the Court in a timely manner.

- (4) The following decisions shall be made at the pre-trial conference and all counsel attending must have full authority to enter into a binding pre-trial order.
 - (a) A definite discovery schedule shall be agreed upon by all parties for the completion of all discovery.
 - (b) A definite date for exchange for expert witness reports shall be determined.
 - (c) A definite date for filing of all motions, which date shall not be later than seven (7) days before the final pre-trial.
 - (d) The date for the final pre-trial shall be set by the Court and shall be held approximately one (1) week prior to the trial.

- (5) The following decisions shall be made at the final pre-trial and all counsel attending must have full authority to enter into a binding final pre-trial order.
 - (a) The Court will rule on all pre-trial motions.
 - (b) Briefs on any legal issues shall be submitted.
 - (c) Proposed jury instructions shall be submitted.
 - (d) Proposed jury interrogatories shall be submitted.
 - (e) Clients shall be present.
 - (f) No motions shall be heard after the final pre-trial without leave of Court and without good cause being shown.

- (6) The trial date shall not be changed nor shall the trial be continued without order of the Court and after the showing of good cause.

B. Land Sales

- (1) At the time of filing, the attorney shall have completed a Report on Examination of Title or acquired a Judicial Report setting forth the present status of the real estate title, certifying title at least from the date of acquisition by the decedent/ward.

- (2) All land sales which have not been concluded within one (1) year from the date of filing shall be set for pre-trial conference within ten (10) days following the expiration of one (1) year.

- (3) The following decisions shall be made at the pre-trial conference and all counsel attending must have full authority and enter into a binding pre-trial order:
 - (a) The attorney of record and fiduciary must attend the pre-trial conference.
 - (b) A written status report shall be filed with the Court no later than seven (7) days prior to the pre-trial conference.
 - (c) The status report shall address the issues as to the efforts being made to sell the real estate and when the case will be closed.

C. Decedent's Estate

- (1) The statutory time or the time as extended by these rules or court order for filing of an account (R.C. 2109.30) shall be adhered to and the citation procedure (R.C. 2109.31) shall be utilized if necessary to gain compliance.
- (2) Upon the first application for extension of the filing of the inventory or account, the Court will grant a sixty (60) day extension for good cause shown. Any subsequent application(s) for extension of the filing of an inventory or account must contain a detailed explanation of the issue and the expected length of time it will take to resolve the issue. It is the Court's discretion to grant an extension depending on the circumstances.
- (3) Objections to inventory and objections to account. The Court shall set a pre-trial conference within thirty (30) days after filing and the Court, at the pre-trial conference, shall set the matter for an evidentiary hearing within thirty (30) days thereafter.
- (4) All decedents' estates, which are current as to filed accounts, which remain open after a period of thirteen (13) months shall be subject to a status conference if a written status report is not filed on an annual basis with each partial account.

D. Wrongful Death Settlements

All hearings shall be held within thirty (30) days of the filing of the Form 14.0, provided, however, if either a guardian or a guardian ad litem is necessary to be appointed, the hearing shall be held within thirty (30) days of the filing or fifteen (15) days after the appointment, whichever is later.

E. Guardianships

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

F. Trusts

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

G. Motions

- (1) The moving party shall serve and file with the motion a brief written statement in support of the motion and a list of citations of authorities in support.
- (2) All responses to motions shall be filed within fourteen (14) days.
- (3) The Court shall set a hearing within thirty (30) days after receipt of the request or, if no request, then it shall determine the matter as soon as practical.

95 - Reporting Mental Health Adjudications in Probate Court

- A. The Court has a duty to ensure complete, accurate, and timely submission of information into the State's computerized criminal history repository at the Bureau of Criminal Investigation (BCI), the Ohio Law Enforcement Automated Data System (LEADS), and other law enforcement databases.
- B. Upon a finding that an individual is a person with a mental illness subject to a court order under R.C. §5122.141 or R.C. §5122.15, a Notification Form for Record Checks Under R.C. §5122.311 is to be sent to BCI not later than 7 days after the adjudication or civil commitment. (R.C. §5122.311) If the adjudication is vacated, set aside, or terminated, the Court will notify BCI.
- C. Upon an individual being committed to a mental health facility, the Court will contact said facility to request notification upon the individual's discharge.
- D. If an individual no longer meets the criteria to be subject to a court order or dies, the Court will report this information to BCI.

Reporting to Law Enforcement & Reporting Plan Mercer County Probate/Juvenile Court

The Reporting to Law Enforcement & Reporting Plan has been created for the purpose of ensuring complete, accurate, and timely submission of information into Ohio's computerized criminal history repository at the Bureau of Criminal Investigation (BCI),

the Ohio Law Enforcement Automated Data System (LEADS), and other law enforcement databases and in compliance with Rule 5 of the Rules of Superintendence for Ohio Courts.

This plan was created with the collaboration of the Mercer County Sheriff's Office and Mercer County Prosecutor's Office

A. Obtaining & Reporting Fingerprinting

Below are the procedures and timelines for obtaining and reporting fingerprints as prescribed by the Revised Code and Supreme Court rules, including R.C.

§§109.57(A)(2), 109.60(A), 2151.311, 2151.313, 2152.71(A)(2), 2923.14, 2929.44(B), 2945.402(E)(1), and Sup.R. 95(C) and Crim.R. 9(A).

1. Fingerprints must be captured for juveniles when appearing in court for a felony or any offense of violence. (R.C. §109.60(A)(1)) The requirements of R.C. §2151.311 and 34 U.S.C. § 11133 must be followed when a juvenile is fingerprinted. At the juvenile's initial court appearance, the Court shall issue an order for the juvenile to be fingerprinted. (R.C. §109.60) The Court shall also inquire at the time of adjudication or disposition whether or not fingerprints have been taken. If the juvenile was not previously fingerprinted, the Court shall fingerprint the juvenile at that time. (R.C. §109.60) Once fingerprints are obtained from the juvenile, an Incident Tracking Number (ITN) is generated.
2. The Court employee who fingerprinted the juvenile shall file the BCI Form 2-71 Final Disposition with the appropriated Deputy Clerk. This form should include the Incident Tracking Number (ITN).
3. Prior to the initial court hearing, the Court Clerk shall review the charges to determine whether the offense mandates fingerprinting pursuant to RC §109.60(A)(1). If fingerprinting is required, the Clerk shall make a notation in the case file to ensure the Judge is informed to address the matter during the court proceedings. If the juvenile is in custody at the time of the hearing, the Court shall ensure that appropriate arrangements are made to obtain the juvenile's fingerprints as soon as possible.
4. After disposition is ordered in a case that has mandated fingerprints, the Court will send a report including said fingerprints to BCI. If the case is dismissed or no disposition is ordered, the Court shall include that information in its report to BCI.
5. If a case is transferred to another court (e.g. to Common Pleas Court or transferred to another county), the Court will forward a copy of the BCI Form 2-71 to the receiving court.
6. Persons under a weapons disability may apply to the Court for relief from weapons of disability. The application must contain the adjudications upon which the disability is based; the disposition served; and facts demonstrating the applicant is fit for relief. A copy of the application is to be served to the prosecutor who investigates the matter and is to raise any objections resulting

from the investigation with the Court. If relief from the disability is granted, the relief

- Only implies to the indictments recited in the application.
 - Only applies to firearms that were lawfully acquired, possessed, carried, or used by the applicant.
 - May be revoked by the Court at any time for good cause shown and upon notice to the applicant.
 - Is automatically void if the applicant commits any of the offenses upon which a disability to have weapons may be based, or upon the applicant becoming one of the classes of persons prohibited by statute from acquiring, having, carrying, or using weapons.
7. To obtain fingerprints, the Court will use a Livescan device. The Court will send the fingerprints and information of the case to BCI electronically through the File Transfer Protocol (FTPS). The Court will also utilize Henschen and Associates, Inc. for case management services.

B. Reporting Mental Health Adjudications in Probate Court

Below are the procedures and timelines for reporting mental health adjudications under R.C. §5122.311

1. Upon a finding that an individual is a person with a mental illness subject to a court order under R.C. §5122.141 or R.C. §5122.15, a Notification Form for Record Checks Under R.C. §5122.311 is to be sent to BCI not later than 7 days after the adjudication or civil commitment. (R.C. §5122.311) If the adjudication is vacated, set aside, or terminated, the Court will notify BCI.
2. Upon an individual being committed to a mental health facility, the Court will contact said facility to request notification upon the individual's discharge.
3. If an individual no longer meets the criteria to be subject to a court order or dies, the Court will report this information to BCI.

C. Reporting of Protection Orders

Below are the procedures and timelines for reporting a protection order as prescribed by the Revised Code and Supreme Court rules, including R.C. §§2151.34, 2903.213, 2903.214, 2919.26, and 3113.31 and Sup.R. 10.00-10.06.

1. Upon issuing any protection order, the Court will complete the Protection Order Notice to NCIC Form. This form is to be sent to the Mercer County Sheriff's Office for entry into the Law Enforcement Automated Data System (LEADS) upon the issuance, modification, dismissal, or termination of an ex parte order, consent agreement, or full protection order.
2. Once the Mercer County Sheriff's Office completes service for the protection order, the Protection Order Notice to NCIC Form will be forwarded to central dispatch at the Mercer County Sheriff's Office for entry into the Law Enforcement Automated Data System (LEADS).
3. When a misdemeanor case containing a protection order is dismissed after being upgraded to a felony, the clerk shall transfer all documentation regarding the protection order into the new felony case file.

D. Reporting to the Ohio Department of Public Safety

Below are the procedures and timelines for reporting information to the Ohio Department of Public Safety's Bureau of Motor Vehicles (BMV) pursuant to R.C. §§4510.03, 4513.37, and 5502.10 and Supreme Court rules.

1. All cases involving traffic violations and the operation of vehicles, streetcars, and trackless trolleys shall be given an ordered disposition. The assigned clerk must send the disposition to the BMV within seven days of the hearing.
 - This would also include cases involving aggravated vehicular homicide, vehicular homicide, a felony offense where a vehicle was used, or operating a vehicle impaired (OVI).

E. Procedures for Maintaining Reporting Records

Below are the procedures to ensure completeness and accuracy of records as required by the statutes and rules listed in divisions Sup.R. 5(F)(1)(a) and (b), 18 U.S.C. 922(g), and R.C. §2923.13 in the event of an audit by the Federal Bureau of Investigation, BCI, or state or local auditors.

1. Staff shall review and validate all records reported on a weekly basis. Upon discovery of any inaccurate, incomplete, or rejected reports, the assigned court staff shall promptly review the report to make any corrections.
2. The assigned staff will correct these reports by reviewing all court documents related to the case. If there is still confusion, the assigned staff may receive clarification from the Judge or Magistrate. Once all corrections are made, the assigned staff shall submit this to BCI. All corrections and submissions shall be completed as quickly as possible.
3. The Court will rely on the case management system of Henschen and Associates to notify staff of any fingerprints required to be captured based on the offense entered in the case. The Court will complete updates for Henschen and Associates as needed to keep the program up to date.
4. Staff will reference the website of the Ohio Supreme Court on a yearly basis to determine if there are any changes to reporting requirements.
5. All records will be retained pursuant to the Court's record retention schedule.

96 - Procedures for Sealing and Expunging Records

Below are the procedures and timelines for reporting sealed and expunged records into BCI's computerized criminal history repository, LEADS, and other law enforcement databases pursuant to the Revised Code, including Code Chapters 2151 and 2953 and R.C. §§2930.171 and 3113.31.

1. When a case is sealed or expunged, the assigned clerk will notify the Prosecutor's Office, the arresting officer, and any attorney involved with the case. The clerk also sends the Request for Sealing and Expungement Form to

BCI along with the signed court order. The Prosecutor will then notify any victims in the case pursuant to Marsy's Law requirements if applicable.

2. Once a case is sealed or expunged, the assigned clerk shall notate this with black marker on the outside of the case file. The same clerk shall also seal or expunge the case in the case management system in Henschen.

This Plan was hereby adopted on _____,
20____ and shall be reviewed and updated every three years.

Administrative Judge

Clerk of Court

Prosecutor

Mercer County Sheriff

100 - USE OF GENERATIVE ARTIFICIAL INTELLIGENCE

This rule is established to govern the use of Generative Artificial Intelligence ("GenAI") by attorneys or self-represented litigants in the preparation of materials submitted to the Court, and to ensure the ethical use of GenAI.

(A) Definitions

(1) "Artificial Intelligence" is technology which uses computer systems to imitate human intelligence and perform tasks. Artificial Intelligence relies on pre-defined rules and algorithms to perform tasks.

(2) "Generative Artificial Intelligence" is a branch of Artificial Intelligence which is trained on large datasets and generates new content, such as documents, images, or evidence.

(B) Disclosure of the Use of Generative Artificial Intelligence

(1) GenAI shall not be treated as a substitute for legal research or judgment. If an attorney or self-represented litigant uses GenAI in the preparation of materials submitted to the Court, such use shall be disclosed to the Court. The disclosure must be made at the time of the submission, and must include a general description of the GenAI used and its role in the preparation of the materials.

(2) The disclosure shall be made in a certification which verifies that the materials have been reviewed by the filer for accuracy, validity, and relevancy, and which certifies that the materials meet all legal and ethical standards. The certification shall be attached to the materials submitted.

© Review of Materials

- (1) An attorney or self-represented litigant who has used GenAI in the preparation, including the editing, of materials submitted to the Court is responsible for reviewing the accuracy, validity, and relevancy of the materials, and for ensuring the materials meet all legal and ethical standards, including any standards set forth in these Rules, the Ohio Rules of Procedure and the Ohio Rules of Professional Conduct.

D) Court Discretion

(1) The Court may request additional information regarding the use of GenAI in the preparation of any filing.

(2) The Court may strike or disregard a filing in which GenAI was used if the use of GenAI resulted in:

- (i) a procedural irregularity;
- (ii) a material misrepresentation; or
- (iii) a violation of court rules, including, these Rules, the Ohio Rules of Procedure, and the Ohio Rules of Professional Conduct.

E) Sanctions

(1) Any attorney or self-represented litigant who violates this Rule may be subject to sanctions, including but not limited to any sanction provided for in Civ.R. 11, such as imposing monetary sanctions, striking the submission, or dismissing the lawsuit. For attorneys, this may include a professional grievance being submitted to the Office of Disciplinary Counsel or a Local Certified Grievance Committee.

PROBATE COURT OF MERCER COUNTY, OHIO

ESTATE OF: _____, **DECEASED**

CASE NO.: _____

**APPENDIX A
ATTORNEY FEES FOR ESTATES**

Probate Assets, including personal property
subject to administration, income earned during
administration and the gross proceeds of
real estate sold:

\$ _____

0 - \$50,000 4% _____

Between \$50,000 and \$100,000 3% _____

Over \$100,000 2% _____

Total Probate Fee.....\$ _____

Real Property distributed and not sold: 2% x \$ _____\$ _____

Non Probate Property included in
Federal Estate Tax Return: 1% x \$ _____\$ _____

If no Federal Estate Tax Return required,
attorney ordinary hourly rate for
assistance in administration of non-
probate assets _____ hrs. x \$ _____\$ _____
(rate)

Extraordinary Fees (Must be Itemized)

- 1. _____\$ _____
- 2. _____\$ _____
- 3. _____\$ _____
- 4. _____\$ _____

Total Extraordinary Fees.....\$ _____

Total Attorney Fees (Sum of all lines).....\$ _____

Subtract Attorney Fee taken on Prior Account(s).....\$ _____

Balance of Attorney Fees.....\$ _____

Actual Fee taken, if less than above.....\$ _____

Attorney's Signature

Fiduciary's Signature

APPENDIX B
SECURITY DEPOSITS

The Probate Court requires the following deposits accompany the filing of all new cases:

Estates

Full Administration \$225.00

Release from Administration \$175.00

Summary Release from Administration

 With Will \$164.00

 Without Will \$139.00

Guardianships

 Incompetent \$325.00

 Minor \$325.00

Trusts \$175.00

Civil Filings \$175.00

 Jury Trial Requested \$1,000.00

Adoptions

 Agency/Private adoption with placement \$325.00

 Agency/Private adoption without placement \$230.00

 Stepparent adoption \$350.00

 Refinalization \$200.00

 Adult Adoption \$200.00

Name Changes

 Adult Name Change \$200.00

 Minor Name Change \$200.00

Registration of Birth \$50.00

Correction of Birth \$50.00

Minor Settlement \$100.00

Structured Settlement Transfer \$125.00

Application for Appointment of Emergency Guardian Form EG-1– page 2