

**CRAWFORD COUNTY COMMON PLEAS COURT
PROBATE DIVISION**

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LOCAL RULE 5(B)(2).1 — JURY MANAGEMENT PLAN

The jury management plan for the Probate Division of the Crawford County Common Pleas Court shall be the same as the jury management plan for the General Division of the Crawford County Common Pleas Court as set forth in Local Rule 1.5 of the Local Rules for the General Division of the Crawford County Common Pleas Court and the same is incorporated herein *in toto* by reference, the same as if it were fully rewritten herein at length.

LOCAL RULE 9.1 — COURT SECURITY PLAN

On January 22, 1998, this division of the Crawford County Common Pleas Court, in conjunction with the General and Domestic Relations Divisions of the Crawford County Common Pleas Court, entered into and implemented a local Court Security and Procedure Plan as required by Rule 9 of the Rules of Superintendence for the Courts of Ohio. The plans various strategic components for surveillance and emergency response procedures are considered confidential and not a matter of public record. All persons transacting business with the court or participating in proceedings before the court shall be subject to the Crawford County Court Security and Procedure Plan as adopted and from time to time as amended.

LOCAL RULE 11.1 — OFFICIAL RECORDING AND TRANSCRIPTS

(A) Pursuant to Superintendence Rule 11(A) the proceedings before the judge or magistrate will be recorded either by audio-electronic/magnetic or digital-electronic recording devices and preserved on magnetic tapes or digital discs and those preserved magnetic tapes or digital discs will be the official record of the court. If any other recording procedure is desired, it must be provided by the requesting party, who shall be solely responsible to make the necessary arrangements for the alternative procedure, including the payment of the cost thereof.

(B) Any interested party may make a transcription of an electronically recorded proceeding. The party so requesting shall assume responsibility to arrange for the transcription from the preserved magnetic tape or digital disc and assume the cost thereof. The original or an exact duplicate of the original magnetic tape or digital disc will be made available by the court for this purpose. The original transcript created under this paragraph shall be filed with the court and shall supersede and replace the preserved audio or digital recording as the official record of the court.

(C) Requests for transcripts for the benefit of indigent parties shall be submitted to the court by appropriate motion and supported by an affidavit of indigency so as to allow for a determination that the transcript should be prepared at public expense.

(D) The court will allow a party or counsel for a party to a recorded proceeding to listen to the preserved electronic record of that hearing at the court offices at such time as would be available to the use of the equipment for that purpose.

(E) No public use shall be made by any person, including a party, of any record or transcript thereof except in the course of an appeal or as authorized by an order of the court.

(F) The preserved audio tape or digital disc record of a proceeding will be maintained by the court for a period of three (3) years from the date of the hearing. Any interested person desiring to preserve the record beyond that period of time must arrange to have the record transcribed as provided by paragraph (B) of this rule and file the original transcript in the underlying case,

(G) Notwithstanding the foregoing, in all jury trials the record will be taken by a court reporter appointed by the court specifically for that proceeding.

LOCAL RULE 16.1 — MEDIATION

(A) Pursuant to O.R.C. Sec. 3109.052 the General Division of the Crawford County Common Pleas Court adopted a mediation program plan as set forth in Local Rule 50 of the Local Rules of Court for the General Division of the Crawford County Common Pleas Court and the same is incorporated herein *in toto* by reference, the same as if it were fully re-written herein at length.

(B) In any matter determined to be appropriate by the judge or magistrate the parties may be ordered to participate in mediation of the presenting disagreement and the formal proceedings thereon shall be stayed until completion of the mediation process.

LOCAL RULE 53.1 — HOURS OF THE COURT

The Probate Court and its offices shall be open for the transaction of business from 8:30 o'clock A.M. to 4:30 o'clock P.M. daily except Saturday, Sunday and legal holidays.

LOCAL RULE 56.1 — CONTINUANCES

(A) No case in which a hearing date has been assigned, and Summons or Notice of Hearing thereon has been completed upon all other parties affected shall be continued except for good cause shown and only by the Judge or Magistrate to whom the matter has been assigned. Specifically, Deputy Clerks have not been granted any authority over continuances.

(B) No hearing may be continued solely by the agreement of counsel or the parties without the permission of the Judge or Magistrate.

(C) A party requesting the continuance must have notified all other parties and attorneys of record, either in person, by telephone or in writing, prior to making said continuance request.

(C) In situations where the request for a continuance is found to be well taken and sustained, the party so benefiting shall assume sole responsibility to prepare a Judgment Entry of Continuance to a date certain and assume sole responsibility for adequate and sufficient Notice of the continued hearing date upon all other parties affected.

LOCAL RULE 58.1 — DEPOSITS FOR COURT COSTS

As of September 22, 2008 the following is the schedule for court cost deposits.

- (A) Application to Probate Will - \$40.00
- (B) Application for Authority to Administer an Estate - \$61.00
- (C) Application for Release from Administration with a Will - \$96.00
- (D) Application for Release from Administration without a Will - \$76.00
- (E) Application for Summary Release with a Will - \$51.00
- (F) Application for Summary Release without a Will - \$31.00
- (G) Adoptions - \$107.00
- (H) Adoption Placements - \$40.00
- (I) Adult Guardianships - \$131.00
- (J) Minor Guardianships with a Relative - \$61.00
- (K) Minor Guardianships with a Non-Relative - \$136.00
- (L) Application to Establish a Trust - \$66.00

LOCAL RULE 61.1 — VALUE OF REAL ESTATE

The listed market value of real estate as found in the Crawford County Auditor's property tax valuation records may be accepted as the readily ascertainable value of the real estate and except where an heir, beneficiary or creditor files an objection to the use of said value, no further appraisal of said real estate shall be required. A certified copy of said auditor's tax valuation record shall be attached to Form 6.1 - Schedule of Assets or Form 5.1 — Assets and Liabilities of Estate to be Relieved from Administration, whichever is applicable.

LOCAL RULE 61.2 — VALUE OF MOTOR VEHICLE

The market value of any motor vehicle as found in the current N.A.D.A. Official Used Car Guide under the category "Average Retail" may be accepted as the readily ascertainable value of the motor vehicle and except where an heir, beneficiary or creditor files an objection to the use of said value, no further appraisal of said motor vehicle shall be required. A copy of the appropriate page from said booklet shall be attached to Form 6.1 — Schedule of Assets or Form 6.1 — Schedule of Assets and Liabilities of Estate to be Relieved from Administration, whichever is applicable.

LOCAL RULE 64.1 — ACCOUNTS

Because of the prevalent use of Electronic Funds Transfer by financial institutions, resulting in no cancelled check being available to a fiduciary for filing as a voucher with an account, the court will accept as a voucher of such a transaction a statement from the financial institution specifying the payee, the check amount and the date the funds were electronically withdrawn from the fiduciary's account to the payee.

LOCAL RULE 66 — GUARDIANSHIP

PROCEDURES 66.01 EXEMPTION

This court has experienced numerous situations of individuals in the county who are either physically impaired or cognitively impaired who require assistance for the adequate provision and maintenance of daily living essentials and have had an immediate family member, other relative or long-time trusted friend performing those supportive services on their behalf without the benefit of a power-of-attorney or guardianship or of any type of remuneration, and, in the course of performing those services, have now encountered community obstacles that prohibit them from continuing this course of altruistic service without the designation of an official capacity to act on behalf of the impaired individual, so in consideration of such a situation this court finds good cause not to burden said person with the specific requirements of Sup. R. 66.01 through 66.09 upon them applying for guardianship so as to be able to continue that course of supportive services and to grant them an exemption from those provisions but only upon them establishing to the satisfaction of the court by clear and convincing objective facts that the foregoing altruistic relationship previously existed for an adequate period of time to engender trustworthiness and fidelity.

66.02 EMERGENCY GUARDIANSHIP PROCEDURES

Upon having filed an Application for Appointment of a Guardian any request for emergency guardianship authority, as provided in O.R.C. Sec. 2111.02(B)(3), before the formal appointment hearing shall be as follows:

1. A request for emergency guardianship authority shall be by written motion setting forth in particularity (a) the nature of the presenting emergency and (b) setting forth with reasonable certainty why immediate action is required to prevent significant injury to the person or estate, and attaching any verified documentation supporting those allegations;

2. Upon adequate proof an *ex parte* order may issue appointing an emergency guardian or such other order as under the circumstances may be necessary to prevent injury to the person or estate;

3. The person requesting the emergency order shall be responsible to promptly prepare a Judgment Entry formalizing the order of the court;

4. A written copy of the orders so issued shall be served upon the prospective ward as soon as practicable after its issuance, together with a Notice of Hearing upon the continued necessity of the emergency order. Service of same is preferred by the guardianship investigator, if available, but can be accomplished by any competent person as provided in Civ. R. 4.1(B);

5. By statute said foregoing *ex parte* emergency order shall be effective for only seventy- two (72) hours, which could be extended up to an additional thirty (30) days after appropriate hearing upon any continued necessity.

66.03 GRIEVANCE PROCEDURES

1. Grievances or complaints regarding the performance of a guardian shall be in writing and shall set forth with particularity the nature of the grievance or complaint, the date of the occurrence of same, and the names and addresses of any other persons with knowledge of the occurrence;

2. Said written grievance or complaint shall be filed with the Clerks of the Crawford County Probate Court at 112 E. Mansfield Street, Suite 103, Bucyrus, Ohio 44820;

3. A copy of said grievance or complaint shall be provided to the guardian, who shall be provided ten (10) days to respond thereto. Said time for a response could be extended upon good cause shown;

4. Depending upon what is involved, the court may refer the grievance or complaint to the guardianship investigator for an independent investigation;

5. The court shall consider the grievance or complaint and depending upon the nature thereof reserves the right to schedule an oral hearing upon the matter;

6. The court will notify in writing the person making the complaint and the guardian of the disposition of the grievance or complaint;

7. The materials involved with the grievance or complaint will be maintained in the court's file of the guardianship.

66.04 CRIMINAL BACKGROUND CHECK

A criminal background check as required by the guardianship rules will have the same meaning as in section 109.572 of the Revised Code and when required it shall be the responsibility of the applicant for appointment as a guardian to arrange and secure completion, at their expense, of a said criminal records check and present a copy of same for filing of record in the case proceedings.

66.05 GUARDIAN EDUCATION

When required, it shall be the responsibility of the applicant or appointed guardian to comply with Sup R. 66.06 and 66.07 and file with the court appropriate documentation of compliance.

66.06 RESIDENCE ADDRESS OF WARD AND GUARDIAN

The guardian shall notify the court of any change in residence of the ward and the ward's proper mailing address. Also, the guardian shall notify the court of any changes in their mailing address.

LOCAL RULE 68.1 — SETTLEMENT OF INJURY CLAIMS OF MINORS

LOCAL RULE 69.1 — SETTLEMENT OF CLAIMS OF ADULT WARDS

LOCAL RULE 70.1 — SETTLEMENT OF WRONGFUL DEATH AND SURVIVAL CLAIMS

(A) Except where the parents or guardian of a minor, the guardian of an adult ward or a fiduciary have obtained prior approval of the court to enter into a contingent fee contract for legal services for the recovery for injuries or claims which provides a rate of compensation different than the following, counsel will be allowed fees on the amount obtained in accordance with the following schedule:

33-1/3% of the first \$100,000.00; and
30% of the amount over \$100,000.00

(B) In the absence of a prior approved contingent fee contract, upon written application additional compensation may be granted upon it being demonstrated to the satisfaction of the court that extraordinary services were required and rendered.

LOCAL RULE 71.1 — COUNSEL FEES

(A) Counsel fees allowed as part of the expenses for administering a decedent's estate, trust or guardianship shall be based upon the actual services performed by the attorney and the reasonable value of the services.

(B) All applications for the allowance of attorney fees shall set forth an itemized statement of the services performed, the date those services were performed, the time expended in rendering the services and the rate charged per hour.

(C) Where all interested parties have consented in writing to the amount of counsel fees, an application need not be made for the allowance of same, provided the consent is endorsed on the fiduciary's account or evidenced by a separate instrument filed with the account. This provision shall not apply to guardianships.

(D) Prior to a fiduciary entering into a contingent fee contract with an attorney for services, an application for authority to enter into the contract shall be filed and approved by the Court.

LOCAL RULE 73.1 — GUARDIAN'S COMPENSATION

(A) Unless otherwise provided by law or ordered by the Court, a guardian may charge for his ordinary services an amount computed in accordance with the following schedule:

(1) In estates where the fair market value of the principal is less than \$100,000.00, the guardian may receive compensation as follows:

During each accounting period required by statute, 4% of the first \$3,000.00 of income and 3% of the balance in excess of \$3,000.00; and 4% of the first \$3,000.00 of expenditures and 3% of the balance in excess of \$3,000.00.

An annual fee of \$2.00 per \$1,000.00 of the fair market value of the principal.

Minimum compensation of \$50.00 per year.

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

(2) In estates where the fair market value of the principal is \$100,000.00 or more, the guardian may receive as annual compensation an amount to be computed on the fair market value of the principal, in accordance with the following schedule:

\$5.00 per \$1,000.00 on the first \$100,000.00 of the fair market value of the principal;

\$4.00 per \$1,000.00 on the next \$200,000.00 of the fair market value of the principal;

\$3.00 per \$1,000.00 on all over \$1,000,000.00 of the fair market value of the principal.

(B) For the purpose of computing a guardian's compensation as herein provided in (A)(1) and (A)(2) above, the fair market value of the principal shall be determined by the guardian as of the date of his appointment and as of each anniversary thereafter. The compensation so determined may be charged during the ensuing year. The annual principal valuation shall be adjusted from time to time to reflect additions to and withdrawals from the principal of the estate and the compensation for the remaining portion of the annual period shall be similarly adjusted to reflect such revised valuation.

(C) Additional compensation, reimbursement for expenses incurred and fees of a guardian of the person only may be fixed by the Court on application therefore.

(D) The Court may require that an application for fees or compensation be set for hearing and that written notice of the time and place of the hearing and the amount applied for be given to all interested parties. A copy of the notice, with certified mail return receipt attached, together with an affidavit of the service of such notice, shall be filed with the Court prior to the hearing.

(E) The compensation of co-guardians in the aggregate shall not exceed the compensation which would have been allowed if only one guardian had been acting.

(F) A separate schedule of the computation of the guardian's compensation shall be set forth in the guardian's account as a condition of its approval.

(G) Except for good cause shown, neither compensation for a guardian nor fees to the attorney representing the guardian, will be allowed when the guardian is delinquent in filing an account as required by O. R.C. Sec. 2109.30.

LOCAL RULE 74.1 — TRUSTEE'S COMPENSATION

(A) Except where the instrument creating the trust makes provision for compensation, a testamentary trustee may charge annually for ordinary services performed by the trustee in connection with the administration of each separate trust estate:

- (1) An amount to be computed on the fair market value of the principal of the trust property, in accordance with the following schedule, such compensation to be charged one-half to income and one-half to principal, unless otherwise provided in the instrument creating the trust:
\$8.00 per \$1,000.00 on the first \$200,000.00 of the fair market value of the principal;
\$6.00 per \$1,000.00 on the next \$800,000.00 of the fair market value of the principal;
\$4.50 per \$1,000.00 on all over \$1,000,000.00 of the fair market value of the principal;
the trustee may charge a minimum fee of \$600.00.
- (2) There may be allowed an amount equal to 1% of the fair market value of any distribution or payment from the principal of the trust property. This amount shall be charged against and deducted from the distribution or payment.

(B) For the purpose of computing the trustee's compensation as herein provided, the fair market value of the principal of the trust property shall be determined by the trustee as of a date, determined by the trustee, such date to commence during the month of the original receipt of the trust property and each anniversary date thereafter.

[At the option of the trustee, fee evaluations may be made on a quarterly basis, each evaluation to be coordinated with the original annual evaluation date as selected by the trustee — if this option is selected by the trustee, the trustee must continue to compute his trustee's fee on the quarterly basis, unless upon application to the Court, a change in fee evaluation method is allowed.]

(C) Additional compensation for extraordinary services may be allowed upon application to the Court. The Court may require that the application be set for hearing and notice thereof be given to all interested parties. The application shall contain a statement of the reason for the extraordinary services rendered and the amount of extraordinary compensation requested.

(D) The compensation of co-trustees in the aggregate shall not exceed the compensation which would have been payable if only one trustee had been acting, except in the following instances:

- (1) Where the instrument under which the co-trustees are acting provides otherwise; or
- (2) Where all the interested parties have consented in writing to the amount of the co-trustee's compensation, and the consent is endorsed on the trustee's account or evidenced by separate instrument filed therewith.

(E) A separate schedule of the computation of the trustee's compensation shall be shown in the trustee's account as a condition of its approval.

(F) Except for good cause shown, neither compensation for a trustee nor fees to the attorney representing the trustee will be allowed while the trustee is delinquent in filing an account required by O.R.C. Sec. 2109.30.

LOCAL RULE 78.1 — CASE MANAGEMENT

(A) General Civil Actions and Will Contests: Within two weeks of completion of service, or the filing of an answer, the case will be scheduled for a pre-trial conference. The pre-trial shall determine if discovery has been completed, define the particular issues involved in the case and determine a schedule for resolving any preliminary motions. Upon resolving any preliminary motions, within two weeks the matter shall be scheduled for adjudication on the merits for a date definite with Notice thereof to all parties of interest and counsel of record.

(B) Decedent's Estates, Guardianship Estates and Trusts: The statutory time for filing an inventory, accounts and guardian's reports will be strictly adhered to and the citation procedure of O.R.C. Sec. 2109.31 will be employed to exact compliance. Decedent's Estates which have been open for more than one year will be subject to a mandatory appearance of the fiduciary and counsel for the estate, or written status report, to determine what hindrances exist to prevent closing the estate and filing a final account. Based upon the contents of the biennial guardian's report, those guardianships requiring intervention will be scheduled for a hearing with Notice thereof to all affected parties and the investigator shall be required to conduct an updated investigation.

(C) Involuntary Hospitalization of the Mentally Ill and Involuntary Institutionalization of the Mentally Retarded: These matters have special statutory time limits and those time limits will be strictly complied with.

(D) General Motions and Exceptions to Inventories or Accounts: Upon filing the matter shall be scheduled for a preliminary conference hearing at the earliest available opportunity upon the Court calendar with Notice thereof to all parties and counsel of record. If the matter is not resolved at that hearing the Court will determine the particular issues involved, if all relevant discovery materials have been exchanged and the number of witnesses anticipated to be called at trial and then the matter shall be scheduled for trial on a date certain, allowing adequate time upon the calendar for the full development of the evidence at trial and Notice of said trial date shall be given to all parties of interest and counsel of record.