

Local Rules of Court
Geauga County Court of Common Pleas
Probate Division
(Effective January 15, 1994)
(Revised July 27, 1994)
(Revised Date July 1, 2009)
(Revised Date October 20, 2016)

Index to Rules

Local Probate Rule 1.....	Hours of Court
Local Probate Rule 2.....	Examination of Files, Records and Other Documents
Local Probate Rule 3.....	Filings and Judgment Entries
Local Probate Rule 4.....	Court Costs
Local Probate Rule 5.....	Appt. & Comp. of Appraisers and Land Sale Proceedings
Local Probate Rule 6.....	Inventory
Local Probate Rule 7.....	Application to Sell Property
Local Probate Rule 8.....	Accounts
Local Probate Rule 9.....	Guardianship
Local Probate Rule 10.....	Trusts
Local Probate Rule 11.....	Counsel Fees
Local Probate Rule 12.....	Fiduciary Fees in General
Local Probate Rule 13.....	Continuances
Local Probate Rule 14.....	Adult Protective Services
Local Probate Rule 15.....	Adoption
Local Probate Rule 16.....	Records Retention
Local Probate Rule 17.....	Case Flow Management
Local Probate Rule 17.....	Record Requests

Local Probate Rule 1

Hours of the Court

1. The Court and its offices will be open for the transaction of business from 8:00 A.M. to 4:30 P.M. daily, except Saturday, Sunday, and legal holidays, unless otherwise determined by the Court.

Local Probate Rule 2

Examination of Probate Files, Records, and Other Documents

1. Court records shall not be removed from the Court, unless authorized by Judgment Entry.
2. Confidential files shall not be inspected, unless authorized by judgment entry.

Local Probate Rule 3

Filings and Judgment Entries

1. Supreme Court numbers assigned to attorneys representing fiduciaries shall be included on papers, pleadings.
2. Papers, pleadings, and other documents that are incomplete may be refused for filing, or, if filed, may be stricken from the files.
3. Upon the filing of any civil complaint affecting an estate, a trust, or guardianship, the fiduciary shall file a notice of litigation with the Court. The notice may conform to the form attached as form PP4.
4. All numbers for use to identify persons or accounts shall be redacted from all documents filed with the court, except for the last four digits. The party filing pleadings and documents with the court is responsible for redactions. To the extent necessary, personal identifying numbers may be submitted on a separate form prescribed by the court under seal.
5. The court shall accept facsimile requests for continuances and cancellation of hearing. All other pleadings must be original documents.

Local Probate Rule 4

Court Costs

1. Papers, pleadings, and other documents may be refused for filing, or, if filed, may be stricken for failure to make deposits, or to pay Court costs, except for good cause shown.
2. Failure of the fiduciary to make additional deposits, or to pay Court costs except for good cause shown, shall be grounds for removal.

Local Probate Rule 5

Appointment and Compensation of Appraisers in Estate and Land Sale Proceedings

1. An appraiser must be experienced in appraising property in Geauga County, Ohio, and shall not be a member of the family, business associate, or client of the fiduciary, the fiduciary's attorney or other person interested in the estate.
2. An appraiser on the Court's approved appraiser list may be approved without hearing. A hearing on the qualifications of the appraiser shall be held if the appraiser is not on the Court approved list.
3. Any appraiser who wishes to be placed on the Court's pre-approved list may apply in writing to the Court. The application shall be accompanied by copies of any documentation of the applicant's qualifications.
4. Executors or administrators without special application to the Court may allow to the appraiser, if only one is used, as compensation for his services, any amount agreed upon between the fiduciary and the appraiser but not in excess of an amount to be computed on the gross appraised value of all appraised assets of the estate in accordance with the following schedule:
 - (A) One and a half dollars (\$1.50) per thousand on the first fifty thousand dollars (\$50,000.00) and
 - (B) Seventy-five cents (\$.75) per thousand on the balance. If one or two additional appraisers are used, the maximum for each appraiser is one dollar (\$1.00) per thousand for (A) and fifty cents (\$.50) per thousand for (B). No fee shall be charged on assets consisting of cash, money on deposit, or listed securities. The maximum compensation for an appraiser as to all assets is limited to five hundred

dollars (\$500.00).

Additional compensation for extraordinary services performed may be allowed by the Court upon application filed by the fiduciary.

If, by reason of the special and unusual character of the property to be appraised, the fiduciary is of the opinion that the appraisal requires the services of persons expert in the evaluation of such property, such expert opinion may be secured and reasonable compensation paid therefore.

In land sale proceedings the appraisers appointed by the Court may be compensated in the same manner as provided above. The amount paid each appraiser shall be set forth in the entry of distribution and be subject to the approval of the Court.

An appraiser may waive all or any part of the compensation to which he may be entitled under this rule.

Local Probate Rule 6

Inventory

1. Except for good cause shown, estate assets shall not be transferred or distributed to beneficiaries or legatees until the inventory and appraisal has been filed and approved.
2. Except for good cause shown, the costs of citations for failure to timely file the inventory may be deducted from the fiduciary's compensation, counsel fees, or from both.

Local Probate Rule 7

Application to Sell Property

1. The affidavit and report required by O.R.C. 2109.45 and 2113.42 shall include a statement of whether or not the property was purchased by the fiduciary, by a member of the fiduciary's family, or by an agent of the fiduciary.

Local Probate Rule 8

Accounts

1. Except for good cause shown, the costs of citations may be deducted from the fiduciary's compensation, counsel fees, or from both.
2. If a fiduciary is delinquent in filing an account, and no extension of

time for filing has been granted, the Court may refuse to appoint the fiduciary to another office of trust.

3. Fiduciaries of estates shall file an initial account within six months of the date of his appointment and every twelve months thereafter until the estate is closed. Guardians and Trustees of estates shall file accounts every two years from the date of their appointment, unless the Court specifically orders an annual accounting.
4. If accounts of executors, administrators, guardians, trustees, assignees, etc., are not filed within the time prescribed by statute or rule, the Court on its own motion or on the motion of any interested party will cite the delinquent fiduciary to appear and show cause why he has not filed such account.
5. If an estate is not closed within 6 months and additional time is required for that purpose, a written motion must be presented to the Court, as part of the account, stating why an extension is necessary and showing the condition of the estate. (See Standard Form 13.8)
6. No administrator or executor will be discharged on the filing of a final or distributive account until an application has been filed to determine the Ohio Estate Tax, if any, chargeable against the estate administered and a certificate of determination of tax liability has been filed with the Court.
7. In estates where decedents died on or after June 23, 1994, upon filing of an account, the fiduciary shall obtain a date for a hearing on the account from the Probate Court Clerk. In an administration, notice pursuant to O.R.C. 2109.33 shall be given to all those entitled to receive property under Chapter 2105 of the Ohio Revised Code. If the decedent died testate, notice shall be given to legatees and devisees named in the decedent's will, and to any surviving spouse. Notice shall also be given to any other individuals specifically named by the Court. (See Local Form PP8).

Notice Pursuant to this local rule shall be pursuant to Civil Rule 73(E). Proof of Service of Notice shall be filed prior to the date of the hearing. (See Local Form PP7)

Waivers of Notice may be submitted in lieu of actual notice.
(July 27, 1994 Revision)

1. Except for good cause shown, the hearing on the application for the appointment of a guardian for a minor shall be attended by the applicant and the proposed ward.
2. Guardianship assets shall not be expended until a written application has been heard by the Court, and allowed by Judgment Entry.
3. If a minor is in the care or custody of any person other than the parties entitled to notice by law, a reasonable notice of the application to be appointed must be given to such person. Minors of legal age to choose guardians must appear personally in Court to make their choice of guardian, unless for good cause their presence is waived.
4. Guardians, unless otherwise provided by law, are allowed an amount for ordinary services not to exceed the following:

Three percent on all amounts received and three percent on all amounts paid out during accounting periods on sums not exceeding \$1,000.00; two percent on all amounts received and two percent on all amounts paid during accounting periods on sums in excess of \$1,000.00. No percentage will be allowed on balances carried forward from one accounting period to another, nor will an investment of funds be considered as an expenditure; neither will the final distribution of unexpended balances to a ward at the closing of a guardianship be considered as an expenditure. The foregoing allowance is subject to a minimum charge of \$25.00 per year.

On motion, further allowances for extraordinary services or expenses may be made by the Court when it is shown that the same is just and reasonable.

5. Request for payment of attorney fees must set forth services rendered plus hours involved and hourly rate.
6. No payment for the support, maintenance, or education of a ward will be approved unless the guardian files a written application for approval of the Court prior to payment.
7. Guardianship of a minor shall not be granted for the sole purpose of facilitating a change in the child's school district.

8. Except for good cause shown, before a guardian is appointed, a criminal background check of the applicant(s) shall be performed for the Court by Geauga County Jobs and Family Services. The applicant is responsible for the cost of the criminal background check unless otherwise ordered by the Court. Applicants who are attorneys at law licensed by the Supreme Court of Ohio may produce a certificate of good standing in lieu of a criminal background check.
9. Comments and complaints regarding guardians shall be filed with the Probate Court per Rule 66 of the Rules of Superintendence to the Guardianship Program Director's attention. Per Rule 66, the Guardianship Program Director shall review and investigate all complaints promptly and take appropriate action. If the Director recommends removal, the matter shall be referred to the Judge or Magistrate with notice to guardian and a hearing.
10. Except for good cause shown, an application for an emergency guardianship shall be filed in person by the applicant and shall contain a current statement of expert evaluation and a supplement for emergency guardian form stating an opinion that an emergency exists and it is reasonably certain that immediate action is required to prevent significant injury to the person or estate of the minor or incompetent. Except for good cause shown, the proposed ward shall be notified as soon as possible of the appointment of an emergency guardian.
11. All guardians are required to fulfill the Supreme Court's guardianship education requirements per Superintendence Rules 66.06 and 66.07 unless otherwise ordered by the Court. At application, all guardians shall complete Local Form PP10G, the Acknowledgement/ Waiver Request of Guardianship Application Requirements. All waiver requests shall be subject to Court hearing. Failure to submit Local Form PP10G may result in denial of future guardianship education waiver requests.
12. Compensation for services as guardian of an indigent ward may be paid from the indigent guardianship fund. Before payments will be approved from the indigent guardianship fund an Affidavit of Indigency must be filed in the case. Local Form PP11G Application for Payment of Guardianship Fees from the Indigent Guardianship Fund must be filed before funds are approved. The rate for compensation paid from the indigent guardianship fund is \$400.00 annually, unless otherwise ordered in a particular case. In no case

shall the guardian's compensation be paid from the county indigent guardianship fund where the guardian is related by blood or marriage to the ward or where the guardian or his/her employer receives compensation from third parties for guardianship services.

Local Probate Rule 10

Trusts

1. (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:

\$9.50 per \$1,000.00 on the first \$200,000.00 of the fair market value of the principal;
\$7.50 per \$1,000.00 on the next \$800,000.00 of the fair market value of the principal;
\$5.50 per \$1,000.00 on all over \$1,000,000.00 of the fair market value of principal; the trustee may charge a minimum fee of \$750.00.

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.
3. A corporate Trustee that provided a service that invests all available income and/or principal cash on a daily basis may be allowed an amount equal to one-half of one percent (0.5%) on an annual basis of the amount invested, but not in excess of \$100.00 per month.

- (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 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 valuation basis, unless upon application to the Probate Court, a change in fee valuation method is allowed.)

- (C) Additional compensation for extraordinary services may be allowed upon application. The Court may require that the application be set for hearing and notice thereof be given to interested parties in accordance with Civil Rule 4.1. The notice shall contain a statement of amount of the compensation sought.
- (D) The compensation of co-trustees in the aggregate shall not exceed the compensation which would have been payable if only one trustee has 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-trustees’ account or evidenced by separate instrument filed therewith.
- (E) A separate schedule of the computation of 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 counsel representing the trustee will be allowed while the trustee is delinquent in filing an account required by O.R.C. 2109.30.

Local Probate Rule 11

Counsel Fees

- 1. (A) The allowance of counsel fees for the administration of an estate, a trust, or a guardianship shall be based upon the actual services performed by the attorney, and the reasonable value of services. Fees shall be paid only after they have been approved by the Court. Fees shall not be paid while an overdue account or inventory is outstanding.

Fee bills containing fees for the services of a paralegal shall clearly identify the person providing the services as a paralegal. The application shall outline the nature of the paralegal's training justifying the hourly rate requested.

- (B) Application for approval of fees shall be presented in the form of an itemized billing, listing services performed and the amount of time spent on each service and the hourly rate charged for services, unless another method of applying for fees is pre-approved by the Court.
- (C) Applications for the payment of fees shall be signed by both the fiduciary and the attorney. An attorney who can not obtain the consent of the fiduciary may submit a motion for payment of fees without the fiduciaries signature and serve notice on the fiduciary and interested parties. Said motion shall state the reason why he is unable to secure the fiduciary's consent. A hearing will be held on the application at the request of either party or on the Court's own motion.
- (D) Any application for fees that appears to be excessive to the Court, and which has not been agreed to by all interested parties shall be set for hearing. Any application for fees that appears excessive to the Court, but agreed to by all interested parties may be set for hearing.

2. In claims for wrongful death or injuries, for conscious pain and suffering, and for claims for personal injuries to persons under guardianship or to minors, charges for attorney fees must not be in excess of thirty-three and one third percent (33 1/3%) provided, however, that additional compensation may be granted upon showing of special facts establishing extraordinary services performed in the investigation of the case or time spent in the trial of the action. Application for such additional compensation shall be supported by a detailed statement of such extraordinary services performed in preparation for trial and appeal.

Local Probate Rule 12

Fiduciary Fees in General

1. If the Court determines that the fiduciary has delegated duties and responsibilities he could reasonably have been expected to perform, the Court may reduce the amount of compensation owed the fiduciary by the amount paid for such services.

2. The Court will consider allowance of compensation for any extraordinary services and expenses upon application, supported by a detailed statement of such services.
3. No person serving as a fiduciary shall be entitled to a fee in excess of the fee established by rule or statute unless the instrument naming them as fiduciary provides for some other method determining compensation, or unless some other method of determining compensation is approved by the Court.
4. Any professional serving as a fiduciary who also wishes to be compensated for professional services provided to the estate must have a contract for those services pre-approved by the Court. Any proposed contract for services shall be served on all interested parties and may be ruled on without hearing if no objections are filed.

Local Probate Rule 13

Continuances

1. Motions for continuances shall be timely filed in writing with the Court. Motions for continuances filed within 14 days of a hearing shall contain a statement informing the Court why the motion had not been filed more timely.

Local Probate Rule 14

Adult Protective Services

1. Upon the filing of a Petition for Protective Services pursuant to Chapter 5101 of the Ohio Revised Code, the caseworker filing the petition shall be appointed by the Court to personally serve the petition and notice on the adult named in the petition. (Form PP1)
2. The Geauga County Job and Family Services shall provide the Court with the name of the adult's attorney, caretaker, and spouse. If none exist, the Department shall provide the Court with a precipe for service. (Form PP3)
3. The Department shall serve the petition and special notice on the adult and orally advise him of information contained on the notice form. (Form PP2)

Local Probate Rule 15

Adoption

1. References for adoption shall be sent directly to the Court by the individual making the reference. References shall not be reviewed in

advance of filing by the petitioner or his attorney. References are due within 7 days of the filing of the petition.

Local Probate Rule 16

Records Retention and Management

1. The Court considers the paper filings, digital images of paper filings and microfilm images of paper filings as the official record of the Probate Division of the Geauga County Common Pleas Court.
2. Sup.R.26, 26.01 & 26.04 governing records management and retention are hereby adopted by the Probate Division of the Geauga County Court of Common Pleas as the minimum standard governing the production, maintenance, preservation and destruction of Court records subject to the following specific local rules:
 - a. Paper records of documents created prior to 1960, adoptions, dockets, records of documents, journals, indexes and marriage license records shall not be destroyed.
 - b. All other paper records of other cases shall be destroyed 10 years after a case is closed for purpose of Supreme Court Reporting so long as a digital or micro film record of the case has been made and preserved.

Local Probate Rule 17

Case Flow Management

1. Civil Actions
 - a. A pretrial conference shall be set within 30 days of the answer day of all civil proceedings except land sale proceedings. At the initial pretrial if the case is not settled, the discovery time table shall be set and the matter shall be set for second pretrial within 90 days, unless it is determined by the court that longer period of discovery is needed. If a settlement is not reached at the second pretrial, the matter shall be set for trial.
 - b. Except as otherwise ordered by the Court, witness lists, exhibit lists, proposed jury instructions, and proposed jury interrogatories are due to be filed prior to the second pretrial. Pretrial motions must be filed within the time periods established by the civil rules. All pretrial motions should be filed prior to the second pretrial.
 - c. Land sale proceedings shall be set for trial within 90 days of the

answer date. No pretrial will be scheduled unless requested by a party.

2. Estates and Guardianships

- a. Statutory time schedules for filing inventories, accountings and reports of distribution and supporting documentation shall be followed. Requests for extensions of time to file inventories, accountings and reports of distribution must be filed in writing. Failure to timely file an inventory, accounting, or report of distribution shall result in the case being set for citation hearing. Citation hearings may be canceled by written motion if documents necessary to compete the inventory, accounting or report of distribution are timely filed prior to the citation hearing.
- b. Accountings and inventory shall be set for ghost hearing when filed. Accountings and inventories shall be set for actual hearing on the court's own motion, or upon the timely filing of objections by any interested party.
- c. If estates that are required to remain open for purposes of litigation, fiduciaries shall be required to file status reports every six months until the estate is closed. Failure to file a timely status report shall result in the case being set for status hearing.
- d. Applications for approval of wrongful death settlements shall be heard within 45 days of the filing of the application.

3. Miscellaneous Special Proceedings

- a. All other miscellaneous special proceedings shall be set within statutory guidelines. Hearings for miscellaneous special proceedings shall be set within 90 days of the filing of the complaint or petition initiating the proceeding unless statutory guidelines require otherwise.

Local Probate Rule 18

Records Requests

The charge for paper copies of public records is \$0.05 per page. The charge for certified copies is \$1.00 per page. Requesters may ask that documents be mailed to them. They may be charged the actual cost of the postage and mailing supplies. The Geauga County Probate Court may require the requestor to pay in advanced the cost of providing the copies, including postage.

