

**HURON COUNTY COMMON PLEAS COURT
PROBATE DIVISION
2 EAST MAIN STREET ROOM 106
NORWALK, OH 44857**

RULES OF COURT

Judge Timothy L. Cardwell

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It is hereby ordered, adjudged and decreed that, effective February 1, 2009, in accordance with Rule 5 of the Rules of Superintendence for the Probate Division of the Court of Common Pleas, the following shall constitute the local rules of the Probate Division of the Huron County Common Pleas Court of Huron County, Ohio.

Rule 1
Hours of the Court

The Probate Court and its offices shall be open for the transaction of business from 8:00 a.m. to 4:30 p.m. Monday through Friday of each week. The Court shall be closed on Saturday, Sunday and legal holidays.

Rule 2
Court Administrator

The Judge shall appoint an Administrator who will function as the chief non-judicial officer of the Court. In addition to providing general supervision of the Court's assignments, probation, jury, budgetary and personnel systems, the Court Administrator will implement the administrative policy decisions of the Court and perform such other duties as may be assigned by the Court. With the exception of the Magistrate, all other Court personnel shall be under the general supervision of the Court Administrator.

Rule 3
Case Management Plan

As adopted by the Probate Court on June 28, 1991, and docketed in this Court with Case Number 11444, Docket 25, Page 369, the Court's Case Management Plan shall be as follows:

COURT OF COMMON PLEAS
PROBATE DIVISION
HURON COUNTY, OHIO

In the Matter of
Probate Case Management Plan

Case Number: 11444
Docket Number: 25
Page Number 369

Pursuant to C.P. Sup.R. 9, the Court hereby establishes the following plan for the filing, processing and hearing of matters in the Huron County Common Pleas Court, Probate Division. The time frame established for each phase is to be followed as closely as possible with the primary goal being to move each case as expeditiously as possible.

I. Civil Actions

Adequate statutory provisions exist to control timeliness of filings.

- A. When a new civil action is filed, time requirements shall be noted in the case file.
- B. When an attorney fails to comply with time requirements, a notice of such shall be sent immediately by the Court to that attorney.

II. Land Sales

Notice shall be sent to the attorney for any land sale which has not been concluded within one (1) year from the date of filing. If the attorney fails to respond to the notice within fourteen (14) days, the matter shall be set for a pre-trial conference with the following requirements:

- A. The attorney of record must attend the pre-trial conference and must have full authority to enter into a binding pre-trial order.
- 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 the expected date upon which the case will be closed.

III. Decedents' Estates

- A. The statutory time for the filing of an account as required by O.R.C. §2109.30 shall be enforced and the citation procedure as provided by O.R.C. §2109.31 shall be utilized if necessary to gain compliance.
- B. The Court shall set a pre-trial conference within thirty (30) days after the filing of objections to the Inventory and objections to the Account and shall, at the pre-trial conference, set the matter for an evidentiary hearing within thirty (30) days thereafter.
- C. All decedents' estates which are current as to accounts but remain open after a statutory deadline shall be subject to a status conference. The fiduciary and the attorney shall be present, and a written status report shall be submitted to the Court at the time of the status conference.
- D. Any attorney filing a final account shall be required to provide receipts. All receipts shall be returned by the Court and shall be retained by the attorney or fiduciary. If the Court finds a discrepancy in the account, all documents shall be returned to the attorney for correction and shall not be accepted for filing.

IV. Wrongful Death Settlements

All hearings shall be held within thirty (30) days of the filing of Standard Probate Form 14.0; however, if appointment of a guardian or guardian ad litem is necessary, the hearing shall be held within fifteen (15) days after the appointment.

V. Guardianships and Trusts

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

VI. Motions

- A. Oral arguments of motions may be permitted on application and proper showing.
- B. 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.
- C. The Court shall set a hearing within thirty (30) days after receipt of the request.

Rule 4
Conduct in Court

Any conduct that interferes or tends to interfere with the proper administration of the Court is prohibited. Spectators shall be allowed in the Courtroom for confidential cases only with the consent of the Court. No pagers or mobile phones shall be allowed in the Courtroom unless audible signal is turned off. All mobile phones that are equipped with camera phones/recorders must be turned off. In addition any recording devices are prohibited in the courtroom.

Rule 5
Court Records

The Judge, as ex-officio Clerk of the Probate Court, is responsible for all pleadings and papers filed. No records shall be taken from the Court without the Court's permission. Copies of all pleadings and journal entries of record shall be available for counsel representing any party to a case.

Rule 6
Recording of Proceedings

All testimony or other oral proceedings shall be recorded by electronic means. Any party may provide a Court reporter at his/her own expense to make a written record from the electronic recording of any proceeding before the Court.

Rule 7
Court Appointed Counsel

The Court shall maintain a list of appointees qualified to serve in the capacity designated by the Court. Any attorney licensed to practice in the State of Ohio may submit his/her name for inclusion on the appointment list. The Court may consider the skill and expertise of the appointee in the designated area of the appointment and the management by the appointee of his or her current caseload.

Rule 8
Counsel of Record

Each attorney representing a party in this Court and who is not Court-appointed shall see that he or she is properly listed as counsel of record for said party in accordance with Rule 11 of the Rules of Civil Procedure by filing a written notice with the Court or by appearing personally at a Court hearing and informing the Court of said representation. The Court will not consider such representation to continue for the purpose of any case other than the particular case in which appearance is entered, unless otherwise notified in writing.

Subsequent to entering an appearance, the attorney or his or her firm will be considered counsel of record until such time as Journal Entry of withdrawal is approved by the Court and filed in the case.

Rule 9
Communications with Judge and Magistrate

- A. Ex parte Communications. No attorney or party shall discuss the merits either orally or in writing, of any litigation with the Judge or Magistrate presiding over the matter before final disposition thereof without the presence of or by mailing or delivering a copy of any writing to opposing counsel or the party, if not represented.
- B. Attorney Conferences. If it is determined that an issue in a pending action needs to be discussed with the Judge or Magistrate prior to hearing or disposition of the action, the attorney desiring said conference may, with notice to opposing counsel, request a conference with the Judge or Magistrate.

Rule 10
Pleadings

All pleadings, motions and memoranda filed with the Court shall contain the following information:

- A. Name, address, telephone number, facsimile number, e-mail address, and Supreme Court registration number of counsel;
- B. The current address of all parties to the action on original and post-judgment pleadings.

In all actions involving child support, the date of birth of the parties shall be included in the caption of the original pleadings and in all judgment entries.

Pleadings filed in the Probate Division of this Court will include the filing of the original, a copy for each additional case number listed on the pleading, and an extra copy for the Court of the pleading being filed.

The Court will not accept for filing any pleading that is incomplete in form or does not contain the correct number of copies.

Counsel shall file with the Clerk of Probate Court written notice of any change of address.

Rule 11 **Depositions**

Any deposition filed with the Clerk of this Court shall not be withdrawn except by leave of the Court.

The use of videotaped depositions and testimony is permissible, provided that the following guidelines are met:

- A. When testimony is recorded on videotape pursuant to Civil Rule 40 and Sup. R. 11 and 13, it will be the responsibility of counsel to instruct the person before whom the testimony is taken in accordance with Civil Rule 28(A), to note by the use of a digital counter or other clock device connected with the tape the point on the videotape where objections consecutively are made. The notary will then number the objections consecutively and attach this record to the certification when filed with the Clerk.
- B. Objections must be made at the conclusion of the questions and answers only. Counsel shall state the basis for the objection, and may read citations into the record at this time; however, additional citations may be provided to the Court at a later time. Any objections made prior to the completion of an answer may, in the Court's discretion, be disregarded and overruled.
- C. When cases are assigned for trial pursuant to Civil Rule 40 and Sup. R. 13 (B), a date will be assigned for the filing of plaintiff's testimony and defendant's testimony for editing. A copy of the transcript of the testimony or such portion thereof as is necessary to rule on any objections shall accompany a videotape deposition. The transcript shall be certified by the transcriber to be a true and accurate transcription.
- D. In all cases where testimony is recorded on videotape, the costs shall be assessed pursuant to Sup. R. 13(D).
- E. If videotape depositions are to be used in the trial of a case, the tape(s) must be filed with the Clerk of Courts, for editing by the Court, no later than seven (7) days prior to trial. Any videotapes submitted after this date will not be presented to the jury, unless for good cause shown, the Court grants leave to file said depositions out of rule. All videotape depositions must comply with the requirements of Sup. R. 13 (A). Except for good cause shown, there will be no trial continuances for inability of a medical expert to be present to testify.

- F. Videotape Trials: The Court may, in any appropriate case, order the recording of all testimony and evidence on videotape in accordance with Sup. R. 13 (B).
- G. Pursuant to Civil Rule 54 (D) and in compliance with Sup. R. 13 (D) deposition costs, including costs of video depositions, shall be taxed as costs and shall be recoverable by the prevailing party. This shall apply only to depositions used in lieu of testimony at trial.

Rule 12
Certificate of Service

Proof of service of all pleadings, motion, briefs, memorandum or other writing filed with Court shall be by certificate of service attached to such pleading, motion, brief, memorandum or other writing and shall include the names and addresses of the attorneys and/or parties served, not simply “all parties or counsel of record”.

Rule 13
Filing the Praecept for Subpoena

The Court strongly recommends that all praecipes for subpoenas be filed ten (10) days prior to the date the witness is to appear in Court. The Court reserves the right not to grant continuances due to the lack of service, unless the praecipes was timely filed.

Rule 14
Motions

All motions, unless made during a hearing or trial, shall be made in writing unless otherwise permitted by the Court. All motions shall state with particularity the grounds and shall clearly state the relief or order sought.

Motions filed in the Probate Division of this Court will include filing the original and a copy of the motion being filed.

Opposing counsel shall answer said motion within ten days after service thereof unless the Court establishes a different due date.

See O.R.C. §2101.16 for Security for Costs information and requirements.

Rule 15
Pro Se Motions

The Court will accept a Pro Se Motion and schedule the Pro Se Motion for a hearing if all of the following apply:

- A. The motion must be typed and include the case heading and case number
- B. The original motion and one copy is provided to the Court

- C. The motion states clearly the relief sought and with particularity the grounds for the relief.
- D. The motion is signed by the person seeking relief
- E. A precipe for service is filed

If the motion does not include all of the above, the Court will request a properly completed Pro Se Motion before scheduling a hearing.

See O.R.C. §2101.16 for Security for Costs information and requirements.

Rule 16
Pre-trial Conferences

The Court will schedule a pre-trial for all civil cases unless specifically waived by the Court. Such pre-trial conferences shall be held with the intention of accomplishing the objectives set forth in Rule 16 of the Ohio Rules of Civil Procedure. Pre-trials shall be held at such times as the Court shall direct. The Deputy Clerk of the Probate Court shall give notice of a pre-trial conference by delivering or mailing a copy of such notice to all known interested counsel and to all parties. Such pre-trial conferences shall be attended by counsel for the parties, who shall have their clients present, and by all un-represented parties. Counsel attending the pre-trial conference shall have complete authority to stipulate matters of evidence, to make admissions, and to discuss settlement. Parties or attorneys may be excused from pre-trials only with permission from the Court prior to the pre-trial conference.

Rule 17
Conduct of Counsel at Trial

Except by permission of the Court, only one counsel for each party will be permitted to speak on any interlocutory motion, or upon any question arising during the trial of a cause or a proceeding; and only one counsel for each party will be permitted to examine the same witness in any trial or proceeding before the Court.

In any argument to the Court or jury upon the trial of a cause, only two counsel for each party will be heard unless for special reasons the Court permits otherwise. The Court may limit the time for argument, as it may deem reasonable.

Only counsel and parties shall be seated at counsel table except as may be otherwise authorized by the Court.

Rule 18
Default Judgment

Default Judgments shall be granted in accordance with Civil Rule 55. Motions shall be accompanied by a proposed Judgment Entry.

When a principal party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules, the party entitled to a judgment by default shall apply in writing or orally to the Court therefore; but no judgment by default shall be entered against a minor or an incompetent person unless represented in action by a guardian or other representative who has appeared therein. If the party against whom judgment by default is sought has appeared in the action, he shall be served with written notice of the application for judgment at least seven (7) days prior to the hearing on such application, the date and time to be fixed by the Deputy Clerk of the Probate Court with the concurrence of the Judge assigned. If, in order to enable the Court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the Court may conduct such hearings or order such references as it deems necessary and proper and shall when applicable accord a right of trial by jury to the parties.

Rule 19
Jury Service

The Court adopts the Jury Management Plan filed July 13, 1998.

Rule 20
Court Security

The Huron County Common Pleas Court is charged with dispensing justice, resolving disputes, and protecting the constitutional rights of those who appear before the Court.

Accordingly, appropriate levels of security should exist in the Court to protect the integrity of the Court procedures, protect the rights of individuals before it, sustain the decorum and dignity of the Court, and assure that Court facilities are secure for all those who visit and work there.

Therefore, pursuant to Rule 9 of the Rules of Superintendence for Common Pleas Courts the Court establishes as follows:

This Court, in conjunction with the Common Pleas Court General Division and the Norwalk Municipal Court, has appointed a Local Advisory Committee consisting of representatives of each of the following groups: Judges, law enforcement officials responsible for Court security, County Commissioners, City of Norwalk Safety Service Director, county office holders with offices located in the Courthouse, Huron County Bar Association and members of the public.

The Court shall implement a local Security Plan and Procedure Plan which plan shall address the Ohio Court Security Standards adopted by the Supreme Court of Ohio on October 17, 1994.

The Local Court Security Advisory Committee shall adopt a Security Operations Manual, which manual shall establish written directives for the purpose of ensuring security within the Court while maintaining accessibility to the community.

Rule 21 **Mediation**

21.01 General provisions

Appropriate cases may, upon completion of necessary pleadings or motions, be referred by the Judge or a magistrate to a mediator for a mediation conference. Cases in which custody or visitation is disputed will be referred to mediation at the pretrial conference. Cases involving other disputed issues may also be referred to mediation. Prior to a case being referred to mediation, the judge or magistrate shall fully advise all parties of their right to legal representation. The following actions, however, shall be exempted from mediation:

- A. Cases in which one party has been convicted of, or pled guilty to, a violation of R.C. 2915.25 (domestic violence) within the past two years or when a civil temporary protection order involving the parties is in effect;
- B. Cases in which there are current allegations of domestic violence between the parties;
- C. Cases in which the geographic distance between the parties makes it not feasible for them to participate in mediation sessions;
- D. Cases in which one of the parties is mentally ill;
- E. In emergency circumstances requiring an immediate hearing by a jurist; or,
- F. Cases in which the parties have arrived at a resolution and executed an Agreed Judgment Entry.

The mediation conference shall be set at the earliest practical date, giving consideration to responsive pleadings, appearances by counsel for all the parties, and other facts and circumstances.

A referral to mediation shall be by judgment entry or magistrate's decision which shall set the time and place of the conference. All parties shall attend mediation when referred. Attendance by counsel is optional. Other individuals designated by a party may attend and participate in mediation, provided that such attendance or participation does not jeopardize the mediation process.

At the mediation conference, the mediator shall attempt to resolve the entire case. The mediator may schedule, recess or continue the conference and exercise such other powers as are necessary and proper for the mediation of cases.

Statements made during a mediation conference are subject to and governed by the “Uniform Mediation Act” (R.C. 2710.01 to 2710.10), R.C. 3109.052 and Rule 408 of the Ohio Rules of Evidence.

21.02 Special provisions involving domestic violence

All parties and counsel shall advise the judge or magistrate of any domestic violence allegations known to them to exist or to have existed in the past, or which become known to them following entry of the order but before conclusion of all mediation proceedings, which allegations involve any two or more persons whose attendance is required by the referral order.

The judge or magistrate shall ensure that any such victim or suspected victim of domestic violence has been referred to the Huron County Victims’ Assistance Program, or other comparable program.

Mediation shall not be used

- A. As an alternative to the prosecution or adjudication of domestic violence;
- B. In determining whether to grant, modify or terminate a protection order;
- C. In determining the terms and conditions of a protection order; and,
- D. In determining the penalty for violation of a protection order.

21.03 Mediator qualifications and training

A mediator to whom the Court makes referrals for mediation of allocation of parental rights and responsibilities and the care of, or visitation with, minor children shall satisfy all of the following:

- A. Possess a bachelor’s degree, or equivalent education experience as is satisfactory to the Court, and at least two years of professional experience with families. “Professional experience with families” includes mediation, counseling, casework, legal representation in family law matters, or such other equivalent experience satisfactory to the Court;
- B. Complete at least twelve hours of basic mediation training or equivalent experience as a mediator that is satisfactory to the Court; and,
- C. After completing the training required by Loc. R. 29.03(B), complete at least forty hours of specialized family or divorce mediation training that is provided by a training program approved by the Dispute Resolution Section in accordance with the standards established by the Supreme Court Advisory Committee on Dispute Resolution.

This mediator is also encouraged to comply with the Model Standards of Practice for Family and Divorce Mediation and the Special Policy Considerations for State Regulation of Family Mediators and Court Affiliated Programs, except when inconsistent with the terms of Loc. R. 21.

Rule 22
Motion for Contempt

A motion for contempt shall be commenced by the moving party filing the following:

- A. Motion
- B. Memorandum in Support
- C. Supporting Affidavits, if applicable
- D. Deposit for costs has been submitted to the Court, or a waiver of the deposit has been granted.

See O.R.C. §2101.16 – Security for Costs information and requirements.

Rule 23
**Examination of Files,
Records and Other Documents**

Introduction

It is the policy of the Huron County Common Pleas Court, Probate Division, that openness leads to a better informed citizenry, which leads to better government and better public policy. It is the policy of this Court to strictly adhere to Ohio’s Public Records Act *and* to those portions of the Ohio Revised Code and Ohio Rules of Civil Procedure that require certain records to remain confidential. Any denial of public records in response to a valid request must be accompanied by an explanation. If the request is in writing, the explanation must also be in writing.

Section 1. Public Records

This Court, in accordance with the Ohio Revised Code, defines records as including the following: any document – paper, electronic (including, but not limited to e-mail), or other format – that is created or received by, or comes under the jurisdiction of a public office that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office. All records of this Court are public unless confidential or otherwise exempt from disclosure under the Ohio Revised Code and the Ohio Rules of Civil Procedure.

Section 1.1

It is the policy of this Court that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying. Record retention schedules are to be updated regularly and posted prominently.

Section 1.2

Certain records kept by this Court are excluded from public inspection by applicable provisions of the Ohio Revised Code and Rule 55 of Rules of Superintendence and shall not be released to the general public. These records include, but are not limited to, the following:

- A) Adoption records or documents [O.R.C. §149.43(A)(1)(d)];

- B) Probation documents, including but not limited to probation officers' case notes, community service, any informal or diversion program and Reach Our Youth documents for children on probation [O.R.C. §149.43(A)(1)(b); O.R.C. §2151.14(B)];
- C) Judge's or Magistrate's trial notes [O.R.C. §149.43(A)(1)(g)];
- D) Putative father registry information [O.R.C. §149.43(A)(1)(e)];
- E) Records of Minors seeking approval for an abortion [O.R.C. §149.43(A)(1)(c)];
- F) DNA records [O.R.C. §149.43(A)(1)(j)];
- G) Records maintained by the Ohio Department of Youth Services pertaining to children in its custody released to the Department of Rehabilitation and Correction [O.R.C. §149.43(A)(1)(l)];
- H) Estate tax returns in the possession of the Probate Court, Department of Taxation, County Auditor, County Treasurer and Ohio Attorney General [O.R.C. §5731.90];
- I) Medical records which include documents pertaining to medical history, diagnosis, prognosis or medical condition of a patient including psychiatric history, diagnosis and prognosis [O.R.C. §149.43(A)(1)(a); O.R.C. 2151.14(B); Juv. R. 32(C)];
- J) Confidential law enforcement investigative records [O.R.C. § 149.43(A)(1)(h)];
- K) Sealed or expunged records [O.R.C. §2151.355 to 2151.358, *et seq.*];
- L) Recording of proceedings [Juv. R.37 (B)];
- M) Fingerprints and photographs, and records of an arrest or custody that were the basis of the taking of fingerprints or photographs [O.R.C. §2151.313(D)];
- N) Records the release of which is prohibited by state or federal law [O.R.C. §149.43(A)(1)(v)].

Section 2. Record Requests

Each request for public records should be evaluated for a response using the following guidelines:

Section 2.1

Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow the Court to identify, retrieve, and review the records. If it is not clear what records are being sought, the records custodian must contact the requester for clarification, and should assist the requestor in revising the request by informing the requestor of the manner in which the office keeps its records.

Section 2.2

The requestor does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record. It is this Court's general policy that this information is not to be requested.

Section 2.3

Public records are to be available for inspection during regular business hours, with the exception of holidays. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested; the proximity of the location where the records are stored; the accessibility of the records; and, the necessity for any legal review of the records requested.

Section 2.4

Each request should be evaluated for an estimated length of time required to gather the records. Routine requests for records should be satisfied immediately if feasible to do so. All requests for public records must either be satisfied or be acknowledged in writing by the Court within five business days following the Court's receipt of the request. If a request is deemed significantly beyond "routine," such as seeking a voluminous number of copies or requiring extensive research, the acknowledgement must include the following: a) an estimated number of business days it will take to satisfy the request; b) an estimated cost if copies are requested; and, c) any items within the request that may be exempt from disclosure.

Section 2.5

Any denial of public records requested must include an explanation. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the remainder released, if permitted by Ohio law. If there are redactions, each redaction must be accompanied by a supporting explanation.

Section 3. Costs for Public Records

Those seeking public records will be charged only the actual cost of making copies. Persons requesting documents may ask that the paperwork be mailed to them. They will be charged the actual cost of the postage and mailing supplies.

Section 4. E-mail

Documents in electronic mail format are records as defined in the Ohio Revised Code when their content relates to the business of the Court and is not confidential or otherwise exempt by applicable Ohio law. E-mail is to be treated in the same fashion as records in other formats and should follow the same retention schedules.

Section 4.1

Records in private e-mail accounts used to conduct public business are subject to disclosure, and all employees or representatives of the Court are instructed to retain their e-mails that relate to public business and to copy them to their business e-mail accounts and/or to the Court's records custodian.

This policy is adopted by the Huron County Common Pleas Court, Probate Division, on the 1st day of October, 2007 in response to recent statutory amendments regarding public records which became effective on 29 September 2007.

Rule 24
Court Costs - Probate Division

HURON COUNTY PROBATE COURT COSTS AND DEPOSITS:	
Full Estate	\$ 125.00
Full Estate - Successor Application to Administer	\$ 63.00
Release from Administration- without will	\$ 105.00
Release from Administration- with will	\$ 125.00
Paid upfront in Release from Admin. - Transfer Real Estate	\$ 7.00
Paid upfront in Release from Admin. - Transfer Motor Vehicle	\$ 6.00
Summary Release	\$ 85.00
Re-Open Estate	\$ 50.00
Re-open Estate- when Full or Release will now be filed this \$5.00 is to re-open estate & regular fee for full administration or release will also be assessed	\$5.00
Authenticated copies admitted - plus \$1.00 per page for certified copies received	\$53.00
Authenticated copies issued - plus \$.10 per page for certified copies	\$ 3.00
Will - Deposit Only (safekeeping purposes)	\$ 5.00
Will - Probate Only	\$ 48.00
Will as Exhibit Only	\$ 28.00
Tax Only Form 22	\$ 28.00
Tax Only Form 22 with Will	\$ 30.00
Tax Only Form 2	\$ 28.00
Tax Only Form 2 with Will	\$ 30.00
Accounts	\$ 25.00
Adoption - (Includes \$300.00 for home study & fee for new Ohio birth record)	\$ 465.50
Adoption - open closed file / Petition to release information	\$ 95.00
Birth Correction	\$ 64.50
Birth Registration	\$ 66.50
Civil Actions all other civil not listed otherwise (**see list below)	\$ 105.00
Disinterment	\$ 48.00
Guardianship - adults & minors	\$ 141.00
Guardianship - Emergency includes \$5 motion to extend emerg. Guard.	\$ 111.00
Guardianship -application for person when filed simultaneously with application for estate by two separate individuals	\$ 93.00
Jury Demand	\$ 25.00
Land Sales	\$ 105.00
Marriage License	\$ 57.00

Minor Settlement Only -includes \$5 for contingent fee contract	\$ 58.00
Minor Settlement within Minor Guardianship - includes \$5 for contingent fee contract	\$ 43.00
Name Change	\$ 101.00
Notice of Appeal - plus additional check for Clerk of Court \$150.00	\$ 25.00
Trust	\$ 105.00
Wrongful Death Settlement	\$ 48.00
Wrongful Death Settlement – Application to Approve Contingent Fee Contract	\$ 5.00

**Other civil: Declaratory Judgment, Determination of Heirship, Will Contest, Validity of Will, Concealment of Assets, Construction of will, Designation of Heir, etc.

Rule 25
Guardians

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 in the Juvenile Division of the Court under O.R.C. 2151.23(A).

Rule 26
Counsel fees in Connection with
Settlement of Claims for Wrongful death,
Conscious Pain and Suffering,
Claims for Personal Injuries to Persons under Guardianship and
Settlement of Personal Injuries to Minors under R.C. 2111.18

In cases where representation is on a contingent basis, counsel will be allowed fees on the amount obtained in accordance with the following schedule:

33 1/3% of the first \$100,000.00
25% of the amount over \$100,000.00

Upon written application additional compensation may be granted if the applicant demonstrates, and the Court is satisfied that, extraordinary services have been rendered.

Rule 27
Counsel fees
Decedent’s Estates; Trust or Guardianship

- A. Counsel fees allowed as part of the expense 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.

Determination of reasonable value includes consideration of the size of the estate, the nature, the extraordinary nature or complexity of administration and litigation, beneficial results of administration, litigation results achieved for the estate and risks involved together with professional liability exposure.

- B. All applications for the allowance of attorney fees shall set forth an itemized statement of the services performed, except that no application for allowance of fees need be filed when the final account sets forth fees computed within the limits of the following schedule:

Rule 28
Schedule of Fees for Ordinary Legal Services
in the Administration of Estates of Deceased
Persons which the Court will allow in the
Final Account without prior Application
and Approval of Attorney Fees

- A. On the value of all personal property actually administered (including cash advanced to pay debts, taxes, or legacies) and, the equitable value of all real property owned by the decedent, or on the amount of proceeds from the sale of any property, plus the income from such real and personal property for which the fiduciary accounts:
1. Whichever is greater, a \$300 fee or 5% of the first \$25,000.00
 2. 4.5% of the next \$25,000.00
 3. 4.0% of the next \$25,000.00
 4. 3.5% of the next \$25,000.00
 5. 3.0% of the balance
 6. 1% of the taxable value listed in the Ohio Estate Tax Return of (a) joint and survivorship accounts, (b) U.S. Bonds, and (c) other such property which passes or is payable on contract to a survivor on the death of another.
 7. 1% of the value of taxable inter vivos trusts (excluding life insurance proceeds), or gifts and transfers made by the decedent during his lifetime, which are subject to Ohio or Federal Estate Tax.
 8. On the sale of real estate by land sale proceedings or election of spouse to take at appraised value, a minimum fee of \$250.00, or a greater fee for reasonable services upon special or separate application.
 9. 1% of the differences in value between the decedent's gross estate for Federal Estate Tax purposes and the decedent's gross estate for Ohio Estate Tax purposes.
- B. Where all interested parties have consented, in writing, to the amount of counsel fees, an application need not be made for the allowance, provided the consent is endorsed on the fiduciary account, or evidenced by a separate instrument filed with the account. This provision shall not apply to guardianships.

Rule 29
Guardian's Compensation

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:

- A. \$8.00 per \$1,000.00 on the first \$200,000.00 of the fair market value of the principal;
- B. \$6.00 per \$1,000.00 on the next \$800,000.00 of the fair market value of the principal;
- C. \$4.50 per \$1,000.00 on all over \$1,000,000.00 of the fair market value of the principal;

Minimum compensation of \$300.00 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 an expenditure.

For purposes of computing a guardian's compensation as herein provided in A, B, or C 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.

- A. In estates wherein there is income from real property managed by the guardian there shall be additional compensation for such guardian in the amount of ten percent (10%) of the gross income from property managed by the guardian.
- B. Compensation may be allowed in addition to A, B, C, and D above, in an amount equal to one percent (1%) of the fair market value of any distribution or payment from principal, not including reinvestment. This amount shall be charged against and deducted from the distribution or payment.

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

The Court may require that applications 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 interested parties, as required by the Court. A copy of the notice, with certified mail return receipt attached, together with an affidavit of the services of such notice, shall be filed prior to the hearing.

The compensation of co-guardians in the aggregate shall not exceed the compensation which would have been payable of only one guardian had been acting.

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. The guardian's compensation may be reduced and the guardian may be surcharged if the principal and income is not managed in accord with the prudent investor rules.

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

Rule 30 **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 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:
 - a. \$8.00 per \$1,000.00 on the first \$200,000.00 of the fair market value of the principal;
 - b. \$6.00 per \$1,000.00 on the next \$800,000.00 of the fair market value;
 - c. \$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 of \$300.00

2. In estates where there is income from real property managed by the trustee, there shall be additional compensation for such trustee in the amount of ten percent (10%) of the gross income from property managed by the Trustee.
3. Compensation may be allowed in addition to 1 and 2 above, in an amount equal to one percent (1%) of the fair market value of any distribution or payment from principal, not including reinvestment. This amount shall be charged against and deducted from the distribution or payment.

B. For the purposes of computing the trustee's compensation as herein provided, the fair market value of the trust property shall be determined by the trustee as of the date (to be determined by the trustee) within the month that the trust corpus shall first receive substantial (other than nominal) funding, which date shall become the anniversary date for subsequent valuations regardless of the date of receipt of assets thereafter; provided, however, the trustee, at his own option, may evaluate quarterly for purposes of computing the trustee's annual fee. If this latter option is selected, the trustee must apply to the Court for permission to change to an annual basis.

- 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 the amount of 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 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-trustees' compensation, and the consent is endorsed on the trustees' account or evidenced by a 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 counsel representing the trustee will be allowed while the trustee is delinquent in filing an account required by O.R.C. §2109.30
- G. A trustee's compensation may be reduced and the trustee may be surcharged if the principal and income is not managed in accord with the prudent investor rules.

Rule 31
Appearances

Proceedings in the Probate Court may be closed to the public at the Judge's discretion. The Court may, upon request, allow a person with a direct interest in any case to be present.

Any person summoned to appear before the Court who fails to do so may be punished as in other cases for contempt of Court.

Rule 32
Continuances

Request for continuances will be made in accordance with Sup. R. 56. All applications for continuances shall be made as far in advance of hearing dates as practicable except as herein provided. All requests shall be in writing. Requests shall be granted only after notice to all other counsel and/or parties involved. No case will be continued on the day of the hearing except for good cause shown.

Rule 33
Jury Trials

All jury demands shall be pursuant to Rule 38 and 39 of Rules of Civil Procedure. Jury demands shall be accompanied by a cost deposit of \$25.00 pursuant to O.R.C. §2303.20 (E).

Rule 34
Exhibits

Exhibits shall be marked and copies provided to opposing counsel prior to hearing.

Rule 35
Magistrates

Pursuant to Rule 53 of the Ohio Rules of Civil Procedure Magistrates are empowered and authorized to hear and decide all cases assigned.

All decisions of the Magistrate shall be in writing. Magistrate's Orders shall take effect immediately unless stayed by Court order. Decisions of the Magistrate shall have full force and effect upon being adopted by the Court unless stayed by Court order. Decisions of the Magistrate shall have full force and effect upon being adopted by the Court unless timely written objections are filed.

Rule 36
Objections, Appeals, Magistrate Decisions/Orders

Pursuant to Rule 53 of Rules of Civil Procedure, any party to the action may file written objections to a Magistrate's Decision. The filing deadline is 14 days. A party shall have 10 days to appeal from a Magistrate's Order. A supporting memorandum shall accompany an objection or appeal. A memorandum in response may be filed by any party within seven (7) days of the filing of the objection or appeal and accompanying memorandum.

Upon timely filing of an objection or appeal, the Judge may affirm, reject or modify the Magistrate's Order or Decision upon review, or may hear additional evidence at his discretion. Objections or appeals may be set for oral hearing at the request of any party and the discretion of the Court.

Rule 37
Photographing and Broadcasting of Court Proceedings

The taking of photographs in the Courtroom, corridors and other areas adjacent to the Courtroom and the transmitting or sound recording of such proceedings for broadcasting by radio or television shall not be permitted unless authorized by the Court. Requests for permission to broadcast, televise, record or photograph in the Courtroom shall be made in writing to the Judge as far in advance as reasonably practicable but in any event not less than 24 hours prior to the Courtroom session to be broadcast, recorded or photographed.

Rule 38
Guardians ad Litem

The Court shall appoint a Guardian ad Litem when it finds it is necessary and appropriate to protect the interests of a child, ward, surviving spouse or other person or whenever the Court is required to do so by statute.

The role of the Guardian ad Litem is to assist the Court and to represent the interests of the child, ward, surviving spouse or other person with the primary focus being the best interest of the child, ward, surviving spouse or other person.

Guardian ad Litem shall have full access to Court records.

The Guardian ad Litem may subpoena and examine independent witnesses.

A Guardian ad Litem shall perform appropriate duties upon appointment. As the feasibility of some of the duties will depend on the age of the child, ward, surviving spouse or other person and the specific circumstances of each case, it is within the discretion of the Guardian ad Litem to tailor each of the following duties to the individual case:

- A. Interview each parent or party separately (or state in the report why such interviews would be unnecessary or impractical).
- B. Interview the child, ward, surviving spouse or other person separately (or state in the report why such interviews would be unnecessary).
- C. Observe each child's interaction with each parent.
- D. Investigate all significant persons and interview them independently, either in person or by telephone.
- E. Review pleadings and consult with each attorney as to position and issues.
- F. Contact any mental health providers involved in the case.
- G. Contact the school of the child.
- H. Contact health care providers, child service agencies, etc.
- I. Perform home visits (can be combined with interviews and observations).
- J. Evaluate the necessity of psychological evaluations or counseling.
- K. Communicate with the Children's Services caseworker.
- L. Attend all hearings and depositions concerning the child.
- M. Request appointment of an attorney to represent the Guardian ad Litem when necessary.

For good cause shown, the Guardian ad Litem may request that the Court order the parties and/or child to submit to physical, psychological or psychiatric evaluation.

A Guardian ad Litem is entitled to notice of all hearings and to receive copies of any and all filings made by the other parties to the action.

The Guardian ad Litem shall attend all Court hearings.

Unless otherwise directed by the Court the Guardian ad Litem shall prepare a written report and submit it to the Court and all parties.

A Guardian ad Litem has a duty to notify the Court and counsel if the wishes of the child, ward, surviving spouse or other persons are in opposition to the Guardian's recommendations.

Rule 39
Processing Overpayments Made by Parties

The Court finds that in the performance of its duties, it occasionally happens that a party paying fines, Court costs, or other monies payable through the Court, will pay more than the amount that is due, and further finds that this overpayment may not be discovered until such time that it is not practical to give change to the overpaying party.

When an overpayment that is equal to, or less than, \$5.00 in value is discovered, that no refund be made, and that the money be paid by the Clerk of this Court into the General Fund of Huron County as Court costs.

In those situations in which the amount of the overpayment is greater than \$5.00, all reasonable attempts be made by the Clerk of this Court to refund the amount of the overpayment to the paying party.

Rule 40
Compensation for Preparing Transcripts and Copies

Pursuant to Ohio Revised Code §2301.24 the Judge of the Probate Division fixes a new schedule of compensation for preparing/typing transcripts and copies pursuant to Ohio Revised Code §2301.23.

Any preparation/typing of transcript ordered after September 17, 1997, and made by ordinary photocopy method, the compensation for the Court reporter shall be computed and figured as follows:

- A. Compensation for preparation of the original transcript at the rate of \$4.50 per page, to remain in effect until further order of the Court, and in no case shall compensation for providing copies permit, in the case of a very short transcript, compensation for making a copy to exceed the compensation for an original transcript. For cases in which the cost of a copy would exceed the cost of the original preparation, the Court reporter shall use the cost of the original preparation for the copy charge.
- B. In the event that preparation of the transcript is requested to be prepared within fourteen (14) days, compensation for preparation of the original transcript at the rate of \$4.75 per page, to remain in effect until further order of the Court, and in no case shall compensation for providing copies permit, in the case of a very short transcript, compensation for making a copy to exceed

the compensation for an original transcript. For cases in which the cost of a copy would exceed the cost of the original preparation, the Court reporter shall use the cost of the original preparation for the copy charge.

- C. Compensation for preparation of a copy of a transcript will be a \$15.00 cover Charge, plus the following scale rate for the per page charge:

Number of Pages	Amount
1 to 25	\$3.75
26 to 50	\$7.50
51 to 75	\$11.25
76 to 100	\$15.00
101 to 125	\$18.75
126 to 150	\$22.50
151 to 175	\$26.25
176 to 200	\$30.00
201 to 225	\$33.75
226 to 250	\$37.50

And it is further ordered that preparation of transcripts shall be prepared as follows:

- A. For an Appeal the Court Reporter will prepare:
 - 1. The original transcript for filing with the Court of Appeals prepared billed as ordered above.
 - 2. A copy of the transcript at no charge for the Court’s file.
 - 3. A copy for parties upon request as ordered above.
- B. For a party or attorney, the Court Reporter will prepare:
 - 1. The original transcript for the attorney requesting the transcript, prepared and billed as ordered above.
 - 2. A copy of the transcript at no charge for the Court’s file.
 - 3. A copy for the parties upon request as ordered above.

All requests for transcripts will be made in writing. The Court Reporter will prepare a Judgment Entry with the estimated cost for said transcript and a deposit for the same will be made with the Clerk of this Court prior to preparation of the same.

Rule 41
Tobacco Use in the Huron County Courthouse

Whereas, the Court finds that tobacco smoke is a major contributor to indoor air pollution and that smoking in enclosed areas is detrimental to the public's health, welfare, comfort, and environment;

And whereas, the Court further finds that exposure to second-hand smoke is acutely harmful to nonsmokers with cardiovascular or respiratory disease and that the United States

Surgeon General has determined that smoking and the use of other tobacco products is a leading cause of disease, including lung cancer in healthy nonsmokers.

And whereas, the Court further finds that smoking in certain enclosed areas is a public nuisance and a cause of material annoyance, discomfort and physical irritation to the public;

It is hereby ordered, adjudged and decreed that effective the 21st day of February 1995, all areas within the Courthouse including hallways, stairwells, and restrooms shall be designated nonsmoking areas and the use of all tobacco in this Courthouse shall be prohibited. It is further ordered that the custodial personnel for the Courthouse post appropriate signs notifying the public of these prohibitions and that ashtrays be located outside the entrances so that any smoking material may be extinguished prior to entering the Courthouse.

Rule 42
Carrying of Weapons

No person shall knowingly carry or have on his person or ready at hand, any firearm, dangerous weapon or dangerous ordnance upon entering or while in the offices of the Probate Court, or upon entering or while in any Courtroom where this Court is conducting official business.

This Court order does not apply to law enforcement officers of this State or the United States, who are authorized to carry weapons or a dangerous ordnance and who are acting within the scope of their law enforcement duties.

The deputy clerk of this Court is directed to post a copy of this order at all entrances to this Court's facilities and all shall take notice from this order that any violations hereof shall be considered an act of direct contempt of Court and shall be subject to summary punishment and/or criminal prosecution.

Rule 43
Filing Documents by Facsimile Prohibited

The Provisions of this Local Rule pertain to the Huron County Probate Court only and are adopted under [Civil Rule 5(E)], [Civil Rule 73(J)], and [Appellate Rule 13(A)].

Effective November 1, 2004, Huron County Probate Court DOES NOT PERMIT any pleadings, new cases, or other legal documents to be filed by facsimile transmission. All new cases, pleadings, or other legal documents must be timely filed by mail or by personally delivering documents to the Huron County Probate Court, 2 East Main Street Room 106, Norwalk, Ohio 44857-1596.

Rule 44
Computerization Fund

Pursuant to Ohio Revised Code §2151.541, it is hereby determined that, for the efficient operation of this Court, additional funds are required to computerize the office of the Clerk of this Court.

Effective January 1, 1998, a total of \$13.00 shall be charged on the filing of each cause of action or appeal, on the filing, docketing and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under divisions (A), (P), (Q), (T) and (U) of Section 2303.20 of the Ohio Revised Code.

The County Auditor is hereby authorized and directed to pay all such money collected into the fund known as "The Probate and Juvenile Court Computerization Fund", account number 133-10200-133. The amount of \$13.00 for each filing as previously defined herein shall be paid over to the county treasury. The money deposited in the fund shall be used for procuring and maintaining computer systems for the clerk's office. Money shall be disbursed from the fund solely upon the order of the Probate Judge.

Rule 45
**Appointment of Judge to issue Search Warrant &
to hold preliminary hearings in probation revocation matters.**

It appearing that although the question of the propriety of a Judge entertaining a motion to suppress evidence obtained pursuant to a search warrant issued by that Judge has not in law been resolved and, that until said question is resolved, it is appropriate that another Judge should issue search warrants, evidence obtained by which may become the subject of a motion to suppress in the General Division of this Court; and it also further appearing that due process of law will be better observed if, pursuant to the mandate of Gagnon vs. Scarpelli, 36 L Ed 2d 656 (1973), the preliminary hearing in probation revocation matters were heard by another Judge as an independent decision maker, while the final hearing and ultimate decision in said matters should be left to the Judge of the General Division of this Court; and it further appearing that the business of the General Division is such as to warrant it; it is therefore ordered, adjudged and decreed that, until further order, Timothy L. Cardwell, Judge of the Probate and Juvenile Divisions of the Huron County Common Pleas Court, shall be, and he hereby is assigned, authorized, empowered and directed to (1) issue search warrants pursuant to Crim. R. 41, and otherwise in accordance with applicable requirements of the Revised Code; and (2) entertain and hold preliminary hearings in probation revocation matters, and make disposition of the same.

Nothing in this judgment and rule of Court shall be construed to prohibit or prevent any other Judge of Huron County, or other person lawfully authorized, from issuing search warrants.

Rule 46
Special Projects Fund

Whereas O.R.C. §2303.201 authorizes all divisions of the Court of Common Pleas to charge a fee, in addition to all other court costs, to be used to acquire and pay for special projects of the court, including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services; and

Whereas, the Court determines that, for the efficient operation of the Court, additional funds are necessary for these purposes;

It is therefore ORDERED that, pursuant to O.R.C. §2303.201(E), in addition to the fees and costs otherwise authorized by the Revised Code, the Clerk of this Court shall charge and collect on the filing of each criminal cause or civil action or proceeding the sum of FIFTEEN DOLLARS (\$15.00) effective 1 June 2004.

It is further ORDERED that, pursuant to O.R.C. §2303.201(E), all fees collected pursuant to this Order shall be paid to the Huron County Treasurer, which funds shall thereupon be placed in a separate fund to be disbursed upon Order of this Court.

It is further ORDERED that the mediation fund previously established by this Court by Order dated 3 July 2001 be terminated and that the remaining funds in this account be transferred to the Special Projects Fund.

Rule 47
Legal Aid Filing Fee Surcharge Increase

Pursuant to House Bill 66, 126th G.A., the Huron County Probate Court will effective October 1, 2005, collect the \$26.00 on the following cases: Adoptions, Full Estates, Guardianships, and Name Changes of which 1% will be retained by the Huron County Probate Court through the Huron County Commissioners, for administrative fees as allowed by this law, and be paid into the County's General fund at the end of each month.

These supplemental rules concerning local practice in this Probate Division of this Court have been this date adopted by me thus superceding all previously adopted local rules until this Court adopts other rules.

_____, Probate Judge
Timothy L. Cardwell

Certificate

In accordance with Rule 5 of Rules of Superintendence, I have this date caused these rules to be filed with the Supreme Court by forwarding them electronically.

_____, Probate Judge
Timothy L. Cardwell

Date:_____