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CLERK OF COURT
SUPREME COURT OF OHIO

CRAWFORD COUNTY COMMON PLEAS COURT
PROBATE DIVISION

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LOCAL RULE 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 re-written herein at length.

See Superintendence Rule 5

LOCAL RULE 2 - 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.

See Superintendence Rule 9

LOCAL RULE 3 - OFFICIAL RECORDING AND TRANSCRIPTS

(A) Pursuant to Superintendence Rule 11(A) the proceedings before the judge or magistrate will be recorded by digital recording devices and preserved on the Court's servers and those digital recordings will be the official record of the court. Any party may make a formal public record request for a digital copy of a proceeding. A digital copy on disc will be created and released to the party providing the matter is subject to public record requests upon payment for the cost of the same set at \$5.00. 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 a digitally recorded proceeding. The party so requesting shall assume responsibility to arrange for the transcription of the digital disc and assume the cost thereof. The 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.

(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 digital record of that hearing at the court offices at such time as would be available to the use of the equipment for that purpose as determined by the court.

(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 recording of a proceeding will be maintained by the court on its server.

See Superintendence Rule 11

LOCAL RULE 4 - MEDIATION

(A) Pursuant to 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.

See Superintendence Rule 16.21

LOCAL RULE 5 - 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.

See Superintendence Rule 53

LOCAL RULE 6 - 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 do not have authority to grant 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. Said party shall also seek the consent of the other parties.

(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 Magistrate Order or 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.

See Superintendence Rule 56

LOCAL RULE 7 - DEPOSITS FOR COURT COSTS

As of January 6, 2021 the following is the schedule for court cost deposits.

(A) Application for Full Estate - \$200.00

(B) Application for Release from Administration with a Will - \$200.00

(C) Application for Release from Administration without a Will - \$200.00

(D) Application for Summary Release with a Will - \$150.00

(E) Application for Summary Release without a Will - \$150.00

(F) Adoptions - \$170.00

- (G) Adoption Placements - \$150.00
- (H) Adult Guardianships - \$200.00
 - Adult Guardianships for alleged wards over age 60- \$300.00
- (I) Minor Guardianships with a Relative - \$200.00
- (J) Minor Guardianships with a Non-Relative - \$200.00
- (K) Application to Establish a Trust - \$150.00
- (L) Application for a Marriage License - \$100.00
- (M) Application for a Name Change (adult and minor) - \$100.00
- (N) Motions or Objections in pending, dismissed or closed cases - \$150.00
- (O) Deposit of Wills - \$50.00
- (P) Complaints - \$250.00
- (Q) Counterclaims - \$150.00
- (R) Minor Settlement - \$75.00
- (S) Miscellaneous Structured Settlement - \$75.00

See Superintendence Rule 58

LOCAL RULE 8 — 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.

See Superintendence Rule 61

LOCAL RULE 9 — VALUE OF MOTOR VEHICLE

The market value of any motor vehicle as found in the current N.A.D.A. Official Used Car Guide or Kelly Blue Book 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.

See Superintendence Rule 61

LOCAL RULE 10 — 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.

See Superintendence Rule 64

LOCAL RULE 11 — GUARDIANSHIP

ROCEDURES

11.01 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.

See Superintendence Rule 66.02(A)

11.02 EMERGENCY GUARDIANSHIP PROCEDURES

Upon having filed an Application for Appointment of a Guardian any request for emergency guardianship authority, as provided in 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.

See Superintendence Rule 66.03(A)

11.03 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.

See Superintendence Rule 66.03(B)

11.04 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.

See Superintendence Rule 66.05(A)

11.05 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.

See Superintendence Rule 66.05, 66.06 and 66.07

11.06 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.

See Superintendence Rule 66.08(E)

LOCAL RULE 12 — 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 gross amount recovered

(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.

See Superintendence Rule 70

LOCAL RULE 13 — COUNSEL FEES

(A) Counsel fees shall be allowed as part of the expenses for administering a decedent's estate, or trust shall be in compliance with Rule 71 of the Ohio Rules of Superintendence and Rules 1.15 and 1.5 of the Ohio Rules of Professional Conduct.

(B) Counsel shall establish a written fee agreement which is to be signed by counsel and the fiduciary at the commencement of representation. This fee agreement shall set forth the terms of the agreement and shall be provided to all interested parties. Counsel shall either serve a copy of the signed contract on all interested parties with proof of service filed with the court or a waiver of same prior to the inventory. The fee agreement may be for actual service performed on an hourly basis or based on a percentage of assets or on a fixed amount. If said contract is based on a fixed amount or a percentage of assets, a schedule shall be within the agreement setting forth with specificity the percentages charged based on the type and/or the amount of each asset.

(C) "Interested parties" are defined as all parties who are either heirs or named beneficiaries that will have an economic impact upon payment of fees (by way of example all residual beneficiaries in a will).

(D) In keeping with the intent of Rule 71, above, counsel shall provide a copy of the final account to all interested parties to afford them an opportunity to request a

hearing or to question the fees charged. Should a hearing be requested or needed in regards to the fee charged, counsel shall provide to the court a copy of the fee agreement and an itemized statement for services rendered if the fee agreement is based on an hourly rate, or a memorandum setting forth the basis and reasoning why the percentage basis or set fee is in compliance with Rule 71 of the Ohio Rules of Superintendence. If a hearing is requested or set, all parties shall be notified of the same pursuant to Civil Rule 4 of the Ohio Rules of Civil Procedure.

See Superintendence Rule 71

LOCAL RULE 14 — GUARDIAN'S COMPENSATION

- (A) Unless otherwise provided by law or ordered by the Court, a guardian may charge for 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 fair market value of the principal;
 - \$4.00 per \$1,000.00 on the next \$200,000.00 of fair market value of the principal;
 - \$3.00 per \$1,000.00 on all over \$1,000,000.00 of 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.

See Superintendence Rule 73

LOCAL RULE 15 — 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 principal;
\$6.00 per \$1,000.00 on the next \$800,000.00 of the fair market value of principal;
\$4.50 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 \$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 R.C. Sec. 2109.30.

See Superintendence Rule 74

LOCAL RULE 16 — 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 pretrial 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) Each fiduciary shall adhere to the statutory or court ordered time period for filing an inventory, account, and, if applicable guardian's report. The citation process set forth in section 2109.31 of the Revised Code shall be utilized to ensure compliance. The attorney of record and the fiduciary shall be subject to the citation process. The court may modify or deny fiduciary commissions or attorney fees, or both, to enforce adherence to the filing time periods.

(C) (1) If a decedent's estate must remain open more than six (6) months pursuant to R.C. 2109.301(B)(1), the fiduciary shall file an application to extend administration (Standard Probate Form 13.8).

(2) An application to extend the time for filing an inventory, account, or guardian's report, shall not be granted unless the fiduciary has signed the application.

(D) The fiduciary and the attorney shall prepare, sign, and file a written status report with the court in all decedent's estates that remain open after a period of thirteen months from the date of the appointment of the fiduciary and annually thereafter. At the Court's discretion, the fiduciary and the attorney shall appear for a status review.

(E) The Court may issue a citation to the attorney of record for a fiduciary who is delinquent in the filing of an inventory, account, or guardian's report to show cause why the attorney should not be barred from being appointed in any new proceeding before the court or serving as attorney of record in any new estate, guardianship, or trust until all of the delinquent pleadings are filed.

(F) Upon filing of exceptions to an inventory or to an account, the exceptor shall cause the exceptions to be set for a pretrial within thirty (30) days. The attorneys and their clients, or individuals if not represented by an attorney, shall appear at the pretrial. The trial shall be set as soon as practical after pretrial. The court may dispense with the pretrial and proceed directly to trial.

See Superintendence Rule 78

LOCAL RULE 17—MEDICAID ESTATE RECOVERY PROGRAM

(A) It is the responsibility of the attorney or the "person responsible for the estate", as defined and used in R.C. 2117.061(A)(2), and as used in this Rule, to submit a properly completed Medicaid Estate Recovery Program notice form to the administrator of the Medicaid Estate Recovery Program not later than thirty (30) days after the occurrence of any of the following:

(1) The granting of letters of administration or letters testamentary;

(2) The filing of an application for release from administration or summary release from administration.

(B) The court requires, in every case, the attorney or the person responsible for the estate to abide by the following (inclusive of transfers pursuant to R.C. 2113.61(D) where there has been no administration and none is contemplated):

- (1) Ohio Supreme Court Standard Probate Form 7.0 shall be filed with this court with proof of service of Ohio Supreme Court Standard Probate Form 7.0(A) attached [see subsection (B)(2) below].

NOTE- FORM 7.0(A) SHALL NOT BE FILED WITH THIS COURT, ONLY PROOF THAT THE SAME WAS SERVED UPON THE MEDICAID ESTATE RECOVERY PROGRAM. SAID PROOF SHALL BE ATTACHED TO FORM 7.0 AND FILED WITH THIS COURT.

- (2) Ohio Supreme Court Standard Probate Form 7.0(A) shall be served upon Medicaid Estate Recovery by certified mail, return receipt requested. Proof of service of Form 7.0(A) shall be attached to Form 7.0 as stated above.
 - (3) In lieu of filing the above forms, counsel and/or “the person responsible for the estate” may file a letter from the Medicaid Estate Recovery Program and/or its counsel stating that there is/will be no Medicaid Estate Recovery Program claim/lien against the estate of the decedent (or that any claim has been satisfied).
 - (4) In lieu of filing the above forms and/or letter, counsel and/or “the person responsible for the estate” may file a letter from the Medicaid Estate Recovery Program and/or its counsel stating the amount of the Medicaid Estate Recovery Program claim/lien against the estate of the decedent.
- (C) The attorney and the person responsible for the estate are reminded that, pursuant to R.C. 2117.061(D), the administrator of the Medicaid Estate Recovery Program shall present a claim for estate recovery to the person responsible for the estate of the decedent or the person’s legal representative not later than ninety (90) days after the date on which the Medicaid Estate Recovery Notice is received under division (B) of this rule or one year after the decedent’s death, whichever is later. The attorney and the person responsible for the estate should be mindful of this statute prior to distributing any estate assets.