

LAKE COUNTY PROBATE COURT  
LOCAL RULES



*Judge Mark J. Bartolotta*

Revised/Effective  
1-1-2018

**IN THE COURT OF COMMON  
PLEAS DIVISION OF PROBATE  
LAKE COUNTY, OHIO**

These Rules supplement the Rules of Superintendence for the Court of Common Pleas, in particular, the rules applicable to the Probate Division, Rules 50 through 90. Each Lake County Rule corresponding with a Rule of Superintendence incorporates the number of the rule to which it corresponds.

**LAKE COUNTY RULE 8. Court Appointments.**

Persons appointed by the court to serve as, fiduciaries, attorneys, counsel for involuntary psychiatric commitment proceedings, investigators, guardians ad litem and trustees for suit, shall be selected by the court.

Appointments will be made taking into consideration the qualifications, skill, expertise and caseload of the appointee in addition to the type, complexity and requirements of the case.

Court appointees will be paid a reasonable fee with consideration given to the factors contained in Rule 1.5 of the Ohio Rules of Professional Conduct, the Ohio Revised Code and the Local Rules of Court relating to fees.

**LAKE COUNTY RULE 11. Recording of Proceedings.**

**Court Reporters/Audiotape Recording.**

The court will make arrangements to have a court reporter present in jury trials only. The parties are responsible for obtaining a court reporter in all other cases, if desired. The court will make an audio recording upon the written request of a party. Said request shall be made in writing at least three (3) days prior to the commencement of the proceeding. The court will release the audiotape to a court reporter for transcription at the expense of the party requesting a transcript of the proceeding in writing.

All hearings before a magistrate shall be recorded by audiotape or other electronic or digital means in the court's discretion.

The court shall maintain all electronically or digitally recorded proceedings pursuant to the Rules of Superintendence for the Courts of Ohio ("Rules of Superintendence"). Any interested person desiring to preserve the record beyond the time frame set forth in the Rules of Superintendence must make arrangements to have the record transcribed.

An interested party shall not be permitted to use the contents of a recording in subsequent pleadings or in argument before the court unless a transcript of the entire hearing is filed with the court. A transcript filed with the court shall supersede the digital or electronic recording as the official record of the court.

**LAKE COUNTY Rule 12. Broadcasting/Photographing Proceedings.**

The court hereby adopts Sup.R. 12, and any amendments thereto, in its entirety, regarding the conditions for broadcasting and photographing court proceedings. All requests for permission for the broadcasting, televising, recording, or photographing in the courtroom shall be in writing and shall be made part of the record of the proceedings. The Court Administrator and Chief Deputy Clerk of the Lake County Probate Court is designated the court's representative for media contact.

**LAKE COUNTY RULE Rule 13.**

All prospective fiduciaries must view any orientation videos available for guardianship and/or estate proceedings.

**LAKE COUNTY RULE 53. Hours of the Court.**

The court and its offices shall be open for the transaction of business from 8:00 a.m. to 4:30 p.m. daily, except Saturday, Sunday, and legal holidays.

**LAKE COUNTY RULE 55. Examination of Probate Records.**

No records or papers shall be taken from this court to be used as evidence elsewhere, but certified copies can be obtained for such purpose.

**LAKE COUNTY RULE 56. Continuances.**

No extension of time will be allowed within which to file an inventory, account or guardian's report except for good cause shown. Requests for extensions shall be made by motion with the signature of the client and must (1) contain the reason for the request; (2) be accompanied by a stamped, self-addressed envelope and a judgment entry leaving the time and date blank for the court to set a new date; and (3) be personally signed by the fiduciary. No continuance shall be granted in the absence of proof of reasonable notice to, or consent by, the adverse party or the party's counsel. Failure to object to the continuance within a reasonable time after receiving notice shall be considered consent to the continuance.

**LAKE COUNTY RULE 57. Filings and Judgment Entries.**

**Rule 57.1. In General.**

Unless otherwise provided by law, applications, motions and exceptions in controverted cases will be heard at any time after notice to the opposing party, except in cases requiring immediate action. All motions, applications and exceptions should be typewritten and filed with the court. The original copy of the motion shall bear an endorsement showing service of a copy upon the adverse party or the party's attorney and the method of service. The motion must be accompanied by a proposed judgment entry.

Responses to motions must be filed within 14 days of the date of service, except such time may be extended by motion for good cause shown. Pursuant to Civ.R. 11, all pleadings and memoranda, including proposed judgment entries, must contain an original signature and a signature block with attorney registration number.

**LAKE COUNTY RULE 58. Deposit for Court Costs.**

The court may require a deposit sufficient to cover the anticipated costs except when otherwise directed by law or the Court.

Court costs are due and payable at the discretion of the court. All court costs due must be paid when an account is filed.

**LAKE COUNTY RULE 59. Wills.**

All fiduciaries appointed to administer estates of decedents who have died testate on or after May 31, 1990, are required to file a Certificate of Service of Notice of Probate of Will within the time prescribed by law. Proof of service will consist of either waivers of notice of admission of the will to probate or the original certified mail return receipt cards as provided under Civ.R. 73(E)(3).

**LAKE COUNTY RULE 60. Application for Letters of Administration.**

All documents necessary to open an estate must be filed at the time the estate is opened or they will be returned.

**LAKE COUNTY RULE 61. Appraisers.**

**Rule 61.1. Appraiser Shall Be Independent and Disinterested.**

No person who has been appointed appraiser shall, during the administration of the estate or within one year of his or her appointment, whichever is shorter, directly or indirectly, purchase or negotiate the purchase or sale of properties inventoried or appraised by the appraiser or those to be inventoried or appraised by him or her.

Appraisers shall not be (1) a relative of the decedent, or a relative of the family of the decedent; (2) a relative of the attorney representing the fiduciary; or (3) a business associate of either the family or the attorney.

**Rule 61.2. Appraiser's Compensation.**

Compensation for appraisers is to be computed on the gross appraised value of all assets of the estate, in accordance with the following schedule:

- (A) \$1.50 per \$1,000 on the first \$100,000; and
- (B) \$1.00 per \$1,000 on the next \$200,000; and

(C) \$.75 per \$1,000 on the balance.

If additional appraisers are used, the maximum for each appraiser is \$1.00 per \$1,000 for (a) and \$.50 per \$1,000 for (b).

If, however, the estate consists in whole or part of cash, money on deposit or listed securities, the appraiser's compensation as to such assets shall be one-half of the above fee as to such assets. The maximum compensation for an appraiser as to all assets is limited to \$500; the minimum fee is \$40.

The court may allow additional compensation for extraordinary services performed upon application filed by the fiduciary.

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. NOTE: Assets whose values are readily ascertainable are not appraised. An appraiser's fee is computed only on the decedent's interest in the assets that are appraised.

**LAKE COUNTY RULE. Rule 61.3. Appraisals of Guardianship Assets.**

As provided in Local Rule 66.9, a ward's personal property shall be appraised prior to sale and shall be sold at the appraised value. Local Rules 61.1, providing that appraisers must be independent and disinterested; and 61.2, appraiser's compensation, are applicable to appraisals of guardianship assets.

**LAKE COUNTY RULE 62. Insolvency Proceedings.**

Insolvency hearings may be held in full administration and guardianship cases. Insolvency proceedings shall be commenced by the fiduciary filing a representation of insolvency accompanied by a schedule of claims. The attorney shall indicate on the schedule of claims the amount of the proposed payment to each creditor. The court shall set a hearing on the insolvency on a notice form provided by the attorney. The attorney shall notify all creditors of the hearing by certified mail, and bring the receipts to the hearing.

These receipts shall be retained in the case file.

**LAKE COUNTY RULE 63. Application to Sell Personalty.**

An application to sell personal property shall include an adequate description of the property. Except for good cause shown, an order of sale shall not be granted prior to the filing of the inventory.

**LAKE COUNTY RULE 64. Accounts.**

**Rule 64.1. When Due.**

All trustees and guardians of the estate must submit their fiduciary accounts each year on the anniversary date of their appointment.

**Rule 64.2. Vouchers.**

Guardians must submit receipts and canceled checks or photocopies (front and back) from their guardian checking account; personal checks of guardians cannot be accepted as vouchers.

In any case wherein a computer printout (statement of transaction) is presented as an itemized statement of receipts and disbursements, approval of all beneficiaries must be obtained and filed with the account.

In lieu of submitting vouchers in a solvent decedent's estate, the fiduciary may file with the account a waiver and consent from the heirs at law or beneficiaries under a Will acknowledging that each person received a copy of the account, waives notice of hearing on the account, and consents to the account. The signature of each heir at law or beneficiary under a Will must be dated. The attorney for the fiduciary must sign his or her name on the account if vouchers are not submitted.

The court, on its own motion, may require the fiduciary to submit vouchers with his or her account.

**Rule 64.3. Citations.**

If accounts of fiduciaries are not filed within the time prescribed by statute, the court,

on its own motion, may cite the delinquent fiduciary to appear and show cause why the fiduciary has not filed the account. Upon issuance of a citation, a continuance shall not be granted until the fiduciary has personally appeared at a show cause hearing.

If an estate cannot be closed within six months of the fiduciary's appointment, application to extend administration must be filed pursuant to statute.

**RULE 64.4. Final and Distributive Account Upon Termination of Minor Guardianship of Estate and Release of Funds**

The guardian of the estate of a minor shall file a Final and Distributive Account no later than thirty days after the minor's 18th birthday. The Final and Distributive Account shall report the receipts and disbursements occurring during the final accounting period of the minor guardianship, and include the final amount to be distributed to the former minor ward. The former minor ward shall sign the Final and Distributive Account along with the guardian indicating the former minor ward's acknowledgment of the final amount to be distributed to them as a legal adult.

The guardian shall prepare and file an Application to Release Funds to Guardian (SPF 15.6) along with the Final and Distributive Account requesting the final amount remaining in the guardianship be released to the former minor ward.

**LAKE COUNTY RULE 65. Land Sales.**

In all land sale proceedings, the plaintiff, prior to the issuance of an order finding the sale necessary, shall file with the court evidence of title showing the record condition of the title to the premises described in the complaint and prepared by a title company licensed by the state of Ohio, an attorney's certificate, or other evidence of title satisfactory to the court.

A Judicial Report is required to be filed in all land appropriation cases pursuant to R.C. Chapter 163 and all land sale proceedings pursuant to R.C. Chapter 2127.

## **LAKE COUNTY RULE 66. Guardianships.**

Due to the manner in which the Supreme Court of Ohio has numbered Sup.R. 66.01 through 66.09, by using four digits, the Lake County Probate Court's Local Rules pertaining to Guardianships shall be similarly numbered.

### **Rule 66.01. Definitions.**

The terms defined in Sup.R.66.01 have the same meaning when used in Loc.R. 66.

### **Rule 66.02. Application of Rules.**

The Local Rules pertaining to guardianships apply to all adult guardianships administered through this Court, unless otherwise indicated in the particular Local Rule or unless expressly waived by Court Order.

### **Rule 66.03(A). Emergency Guardianships.**

- (1) If a minor or incompetent has not been placed under a guardianship and if an emergency exists and it is reasonably certain that immediate action is required to prevent significant injury to the person or estate of a minor or incompetent, at any time after it receives notice of the emergency, the Court may issue any order that it considers necessary to prevent injury to the person or estate of the minor or incompetent or may appoint an emergency guardian for a maximum period of seventy-two hours.
- (2) Pursuant to Sup.R. 66.03(A) this Court has adopted the following process for emergency guardianships. Except for good cause shown, all applications for the appointment of an *ex parte* emergency guardianship shall be accompanied by:
  - (a) A Statement of Expert Evaluation (SPF 17.1);
  - (b) A Supplement for Emergency Guardian of Person, signed by a doctor or an affidavit, which may be LCPC Form 66.03 A, that describes the imminent risk of significant injury to the person or property of the minor or incompetent, the

nature or type of significant injury that might result without court order, a description and location of property that might suffer significant injury, the date the imminent risk was discovered by the applicant, and the reasonable efforts the applicant has taken to otherwise prevent significant injury without court order;

- (c) An Application for Appointment of Guardian (SPF 16.0 or SPF 17.0), including the next of kin form, waiver of service by next of kin form (if applicable), and consent to webcheck criminal background check.

The Court will not accept a facsimile, except for good cause shown.

- (3) If an applicant is appointed *ex parte*, the applicant shall attend the 72-hour hearing to determine whether to extend the emergency guardianship for up to 30 additional days. The applicant is required to notify any interested parties, including the ward, of the 72 hour hearing.

**Rule 66.03(B). Guardian Comments and Complaints.**

(1) This Rule is applicable to all guardians appointed by the Court pursuant to R.C. 2111.02. Comments and complaints (hereinafter collectively referred to as “complaints”) received regarding the performance of guardians and the resulting documents and correspondence are considered to be case documents and accessible to the public, unless otherwise excluded pursuant to Civ.R 44(C)(2). The Court will note actions with respect to the complaints on the case docket. The Court will communicate complaints about a guardian’s performance to the guardian and/or the guardian’s counsel expeditiously and pursuant to this Local Rule.

- (2) Complaints shall be made, in writing, to the Lake County Probate Court. The Court will not accept or act upon an oral or telephonic complaint, other than to provide the address to which to hand-deliver or mail the written complaint. The Court will not accept complaints by facsimile or email except for good cause shown. The

Court will not accept an anonymous complaint.

(3) When the Court receives a complaint regarding a guardian's performance, the following procedure will be followed:

- (a) The Probate Court Guardianship Clerk(s) first shall file the complaint and then shall deliver the complaint to a Probate Court Magistrate.
- (b) The Guardianship Clerk shall send the guardian who is the subject of the complaint a copy of the complaint within five court days of the filing of the complaint.
- (c) Within ten court days of receipt of the complaint, the Probate Magistrate or Probate Judge shall perform an initial review of the complaint and the guardianship case. Once reviewed, the Probate Magistrate or Probate Judge shall take one of the following actions:
  - i. The Judge or Magistrate may determine that, on its face, the complaint does not warrant further action, in which case a written response will be prepared and sent to the complainant and guardian.
  - ii. The Judge or Magistrate may have the matter investigated, which may or may not involve the use of a Probate Court Investigator, after which a written response will be prepared and sent to the complainant and guardian.
  - iii. The Judge or Magistrate may set the matter for hearing.

(4) When a ward is a veteran and the Court appointed the guardian under R.C. Chapter 5905, notice of the complaint, reports, hearings, and actions shall be provided to the Administrator of Veterans Affairs of the United States pursuant to R.C. 5905.03.

(5) All complaints and actions thereon shall be filed in the guardianship case in which the person, who is the subject of the complaint, is the guardian.

**Rule 66.04 [RESERVED]**

**Rule 66.05 (A). General Responsibilities.**

- (1) Before a guardian is appointed, an applicant must submit to a criminal background check using the WEBCHECK system. Each applicant shall sign the Consent to WEBCHECK Criminal Background Check (LCPC Form 17.11), which is filed with the Court. If an Applicant has not been a resident of Ohio continuously for the last five years, the Applicant also must obtain an FBI criminal records check.
  - a. Applicant shall go to the Lake County Education Service Center, or any other WEBCHECK location in Lake County, within five days of filing the Application for Appointment of Guardian. Each applicant is responsible for making their own appointment. All background checks must be mailed directly to the Probate Court, not to the Applicant.
  - b. An attorney in good standing with the Ohio Supreme Court is not required to obtain a criminal background check.
- (2) Each Guardian shall file the Notification of Compliance with Guardian Education Requirements (SPF 27.2) upon completion of the Guardian Fundamentals Course pursuant to Sup.R. 66.06 or the Continuing Education Course pursuant to Sup.R. 66.07. within 30 days of course completion.

**RULE 66.05(B). Guardians with Ten or More Wards.**

- (1) To assist the Court in meeting its supervisory responsibilities under Sup.R. 66.05(B) and in satisfaction of the responsibilities arising under Sup.R 66.08(H) a guardian with ten or more wards throughout the probate courts of Ohio shall register with the Court, utilizing the Annual Registration Form (SPF 27.5). The Annual Registration Form for Guardian's With 10 or More Wards shall be filed by April 1st of each year.
- (2) The registration form shall include a listing of the guardian's wards, the case number, and the appointing court. The guardians in said cases shall advise the Court

of any changes in the guardian's name, address, telephone number, facsimile number, or electronic mail address within ten days of the change occurring.

(3) If the guardian will be seeking compensation from the guardianship or the Court, the guardian shall file the Annual Fee Schedule Form (SPF 27.6), with the Annual Registration Form, which differentiates guardianship services fees, as established by local rule, from legal fees or other direct services.

(4) A guardian with ten or more wards shall include with the Annual Guardian's Report a statement indicating whether the guardian is aware of any circumstances that may disqualify the guardian from continuing his or her appointment as guardian.

**RULE 66.06. Guardian Fundamentals Training/Pre-appointment Education.**

(1) Every guardian of an adult ward must meet the guardianship fundamentals training requirements under Sup.R. 66 by completing a six-hour guardian fundamentals course prescribed by the Ohio Supreme Court. The guardian fundamentals course must be completed prior to appointment or within six months of the date of appointment.

(a) Those failing to meet the requirement shall be subject to hearing on said failure; not receiving additional guardianship appointments until the failure has been rectified; or citation for being in contempt of court, subjecting the guardian to sanctions including, but not limited to, imposition of a fine, denial of compensation, and removal.

(b) An individual serving as guardian on June 1, 2015 or who has served as a guardian during the five years immediately preceding June 1, 2015, shall have until June 1, 2016 to complete the guardian fundamentals court, unless the Court waives or extends the requirement for good cause.

(c) The guardian is responsible for providing the Court, in a timely manner, documentation that establishes compliance with the guardianship fundamentals training requirement.

**Rule 66.07. Guardian Continuing Education.**

After completing the guardian fundamentals course, every guardian of an adult ward shall complete annually a three-hour guardian continuing education course provided by the Supreme Court of Ohio, or with prior approval of the Lake County Probate Court, another entity.

If a guardian fails to comply with the guardian continuing education requirement, the guardian shall not be eligible for further appointment until the requirement is met. The guardian also may be subject to sanctions and/or removal.

By December 31<sup>st</sup> of the first calendar year after completing the guardian fundamentals course, or its waiver by Court order, the guardian is responsible for providing to this Court a completed Notification of Compliance with Guardian Education Requirements (SPF Form 27.2), demonstrating compliance with this guardian continuing education requirement.

**Rule 66.08(A). [RESERVED]**

**Rule 66.08(B). Pre-appointment Meeting.**

The person seeking to be appointed as the guardian is expected to have met with the proposed ward at least once prior to appearing before the Court for the hearing on the application, unless the Court has waived the pre-appointment meeting for good cause.

**Rule 66.08(C). Reporting Abuse, Neglect, or Exploitation.**

If the guardian becomes aware of allegations of abuse, neglect or exploitation of the ward, the guardian shall immediately report the same to the appropriate law enforcement authorities and the Court.

**Rule 66.08(D). Limitation or Termination of Guardianship.**

A guardian shall seek to limit or terminate the guardianship authority pursuant to Sup.R. 66.08(D).

**Rule 66.08(E). Change of Residence.**

A guardian appointed by this Court shall inform the Court as to any change of address for either the guardian or the ward. This notification must be made within ten days of the address change using the Notice of/Application for Change of Address form (SPF 27.3), and if applicable, shall include as an attachment an Entry on Application to Change Address of the Ward (SPF 27.4). If the ward's residence is changed, the reason for the change should be indicated. Failure to notify the Court under this rule may result in removal of the guardian and/or a reduction in or denial of the guardian's compensation.

The guardian shall not move the ward from Lake County, Ohio or into a more restrictive setting without prior Court approval, unless a delay in obtaining authorization for the change of residence or setting would affect the health and safety of the ward.

**Rule 66.08(F). Court Approval of Legal Proceedings.**

The guardian shall seek prior approval of this Court before initiating litigation on behalf of the ward. The guardian shall file an Application to Commence Legal Proceedings for Ward (LCPC Form 15.13.) before filing suit for the ward.

**Rule 66.08(G). Guardian's Report and Annual Plan.**

The guardian of the person of an adult incompetent shall file an annual Guardian's Report (SPF 17.7) on or before January 2<sup>nd</sup> of each year. Unless otherwise ordered by the Court, each Guardian's Report for an incompetent adult shall be accompanied by a Statement of Expert Evaluation (SPF 17.1).

The guardian of the person and guardian of the estate of an adult incompetent shall file with the annual Guardian's Report an Annual Guardianship Plan (SPF 27.7, SPF 27.8) stating the guardian's goals and plans for meeting the personal and/or financial needs of the ward.

**Rule 66.08(H). Annual Registration.**

A guardian appointed by the Court who has ten or more wards under the guardian's

care shall register annually with the Court pursuant to Local Rule 66.05(B).

**Rule 66.08(I). [RESERVED]**

**Rule 66.08(J). Limits on Guardian's Compensation.**

If applicable, a guardian shall file a completed Notification of Guardian's Receipt of Fees Other Than Through Guardianship (SPF 27.10) so as to comply with the requirements of Sup.R. 66.08(J).

**Rule 66.08(K). Conflict of Interest.**

The guardian shall avoid conflicts of interest with the ward and endeavor to avoid the appearance of impropriety (perceived self-serving, self-dealing or perceived actions adverse to best interest decisions) when dealing with the ward's assets and needs. A potential conflict for the guardian may arise if the guardian's immediate family (parent, spouse, or child) is being employed or contracted by the guardian. The guardian shall disclose all conflicts to the Court in a clear and unequivocal manner. Such disclosure facilitates a determination whether the conflict can be mitigated or eliminated through the use of a guardian ad litem, a limitation of the powers of the guardian, or other appropriate actions.

**Rule 66.08(L). Filing of Ward's Legal Papers and Notice of Ward's Death.**

Within three months of appointment, the guardian shall file a completed Notification of Ward's Important Legal Papers (SPF 27.11) to list all of the ward's known important legal papers, including but not limited to estate planning documents, advance directives, and the location of such papers. The guardian shall file, along with said list, copies of any advance directives and power of attorney agreements executed by the ward. If it becomes known to the guardian that changes have been made to the ward's legal documents or said documents' location, or the existence of other important legal papers becomes known, the guardian shall report that new information to the Court in writing within thirty days of discovery.

The guardian shall deposit for safekeeping with the Court any instrument known

to the guardian and executed by the ward that would constitute a “Will” under R.C. 2107.01, if the Will is in the possession of the guardian. If the ward’s Will is not in the possession of the guardian, upon being advised of the location, the Court shall order the holder to deposit the Will with the Court.

The guardian shall notify the Court within forty-five days of the death of the ward. Failure to comply may result in the removal of the guardian and attorney, and/or a disallowance of guardian and/or attorney fees.

**Rule 66.09. General Responsibilities of the Guardian to the Ward.**

The guardian shall treat the ward with respect and dignity.

The guardian (or if an attorney is appointed as guardian, a representative of the attorney’s office) shall visit the ward at least once every three months. Failure to comply may result in the removal of the guardian. If a Volunteer Visitor visits the ward, the Volunteer Visitor shall file a Visitor’s Report with the Court.

Unless a guardian is related to the ward by consanguinity (a blood relationship) or affinity (kinship by marriage), the guardian shall not deliver direct services to the ward, as defined in Sup.R. 66.01(B), without approval of this Court.

**Rule 66.10. Guardianships of Minors.**

When proceedings for the appointment of a guardian of a minor are presented to this Court, the following shall apply:

- (A) A certified copy of the minor’s birth certificate must be displayed to the Court with the guardianship application. A copy will be made by the Court and the original will be returned to the submitter.
- (B) The Court will not establish a guardianship solely for the purpose of school enrollment.
- (C) The Court will not establish any guardianship over the person of a minor where another Court has jurisdiction over custody of the minor.

- (D) If a minor is in the care or custody of any person other than the parties entitled to notice by law, reasonable notice of the Application for Appointment of Guardian of Minor must be given to such person.
- (E) Minors must appear personally in court unless their presence is waived for good cause shown.
- (F) An application for allowance of care and support of a minor shall allege, if such is the fact, that the father and mother are financially unable to provide the items for which the amount is sought.

**Rule 66.11. Next of Kin for Guardianship of Incompetent Adults.**

For purposes of completing the Next of Kin of Proposed Ward form (SPF 15.0) and pursuant to R.C. 2111.01(E), the applicant for appointment as guardian shall identify any person, whether or not an Ohio resident, who at that time would be entitled to inherit from the proposed ward under the Ohio laws of intestacy, and all known children of the proposed ward, if applicable.

**Rule 66.12. Guardian's Inventory, Release of Ward's Funds, and Expenditures of Guardianship Funds.**

Within three months of appointment, a guardian of the estate shall file an Inventory of the ward's assets and income. If the assets include real estate, a legal description of the ward's real estate interest shall accompany the Inventory. Funds in the name of the ward shall not be released to the guardian without the approval of an Application to Release Funds to Guardian (SPF 15.6), or other specific court order. The expenditure of funds by a guardian shall not be approved until a Guardian's Inventory (SPF 15.5) and an Application for Authority to Expend Funds (SPF 15.7) have been filed.

**Rule 66.13. Powers of Attorney by Guardian Prohibited.**

The Court, through this Local Rule, exercises its discretion under R.C. 2111.50(A)(2)(c) and hereby prohibits a guardian appointed by the Court from executing a

power of attorney or any other document which purports to appoint an agent to execute any of the duties or responsibilities imposed upon the guardian by law, rule, or order of the Court, unless otherwise approved by a specific order of the Court.

**Rule 66.14. Terminations.**

The guardian shall complete and file an Application to Terminate Guardianship (SPF 27.9) if he or she believes termination of the guardianship is appropriate.

Except for the termination of a guardianship of a minor attaining the age of majority or upon death of the ward, a termination of guardianship shall require notice to all persons designated in R.C. 2111.04, and to any other individual who received actual notice of the original appointment of the guardian. It is the responsibility of the applicant for termination to perfect service pursuant to Civ.R. 73 when termination is requested. A Certificate of Service with supporting documentation satisfactory to the Court must be filed prior to the consideration of the application.

**Rule 66.15. Indigent Ward.**

The applicant or the guardian must file with the Court an Affidavit of Indigency (LCPC Form 15.14) if the waiver of court costs is being requested, or payment of compensation from the Indigent Guardianship Fund is being requested. False affidavits are punishable by findings of contempt, prosecution, or other sanctions.

**Rule 66.16. Veterans' Guardianships.**

Veterans' Guardianships are governed by R.C. Chapter 5905, and to the extent that there are special rules established therein for veterans' guardianships, those rules shall apply. In every other respect, the general guardianship laws and rules shall apply.

**Rule 66.17. Right to Vote.**

No adult person adjudicated incompetent shall lose the right to vote, except upon motion, notice, and hearing before the Court.

**Rule 66.18. Additional Cost Deposit.**

Pursuant to R.C. 2111.031 and in addition to the basic cost deposit, the Court may require an applicant for appointment as guardian to make an advance cost deposit in an amount the Court determines necessary (a) to defray the anticipated costs of examinations of an alleged incompetent and (b) to cover the fees and costs to be incurred to assist the Court in deciding whether a guardianship is necessary.

**Rule 66.19. Disposition of Real Estate by Guardian.**

A guardian of the estate may sell at public or private sale, grant options to sell, exchange, re-exchange, or otherwise dispose of any parcel of real estate belonging to the estate at any time, at prices, and upon terms that are consistent with R.C. 2127.012, and may execute and deliver deeds and other instruments of conveyance if all of the conditions set forth in R.C. 2127.012 are met.

Consent(s) to Power to Sell Real Estate (Guardianships) and Judgment Entry on Bond (LCPC Form 15.18, LCPC Form 15.18(A)) and Next of Kin of Proposed Ward form shall be filed with every disposition of real estate belonging to the estate pursuant to R.C. 2127.012.

If the guardian cannot dispose of real estate belonging to the estate in accordance with R.C. 2127.012, the guardian shall commence land sale proceedings consistent with R.C. Chapter 2127.

**LAKE COUNTY RULE 67. Estate of Minors of Not More Than \$25,000.**

Where a minor is entitled to funds less than \$25,000, those funds are to be deposited in a restricted account in lieu of bond for the benefit of the minor until the minor reaches the age of eighteen (18) or upon further order of the court. A receipt of deposit must be returned to the court within 7 days from the date of the entry. These funds cannot be used by or for the minor prior to the age of eighteen (18) unless authorized by the court and then can only be used for the benefit of the ward.

Estates of minors of more than \$25,000 require the appointment of a guardian of the minor's estate unless, upon motion to the Court, the Court finds reasonable and proper cause exists to waive the requirement.

**LAKE COUNTY RULE 68. Structured Settlements.**

If the minor's settlement is to be funded by an annuity, the application shall include a signed statement by the annuity carrier or the broker procuring the policy stating:

- (A) The annuity carrier is licensed to write annuities in Ohio.
- (B) The annuity carrier's ratings from at least one of the following organizations, which meet the following criteria:
  - (1) A.M. Best Company: A++, A+, or A.
  - (2) Moody's Investors Service (financial strength): Aaa, Aa1, or Aa2.
  - (3) Standard & Poor's Corporation (financial strength): AAA, AA+, or AA.
- (C) The annuity shall be protected in the event of the annuity carrier's bankruptcy or insolvency.

In addition to the requirement of paragraph (B) above, an annuity carrier must meet any other requirements the court considers reasonably necessary to assure that funding to satisfy periodic payment settlements will be provided and maintained.

**LAKE COUNTY RULE 69. Settlement of Claims of or Against Adult Wards.**

An application for settlement of a claim in favor of or against an adult ward shall be brought by the guardian of the estate. The application for settlement of an injury claim shall be accompanied by a current statement of the examining physician describing the injuries sustained, the extent of recovery from those injuries, and permanency of any injuries. Counsel fees shall be subject to approval by the court.

**LAKE COUNTY RULE 70. Settlement of Wrongful Death and Survival Claims.**

Any wrongful death trust created under the authority of R.C. 2125.03(A)(2) shall contain a provision requiring bond pursuant to R.C. 2109.04 or deposit of the funds in lieu of bond pursuant to R.C. 2109.13. An application for court approval of any expenditure shall be made prior to the expenditure of funds.

**LAKE COUNTY RULE 71. Counsel Fees.**

**Rule 71.1. Contingency Fees.**

In claims for wrongful death or injuries, for conscious pain and suffering and in claims for personal injuries to persons under guardianship or to minors, attorney fees must not be in excess of 33 1/3 % of the gross award/amount. Additional compensation, however may be granted upon a showing of special facts establishing extraordinary services performed in the investigation of the case or trial or appeal of the action. A detailed statement of the extraordinary services performed in such preparation shall support application for additional compensation.

**Rule 71.2. Ordinary Fees.**

The schedules of compensation set forth below shall serve as a guide in determining the fees to be charged to the estate for legal services of an ordinary nature rendered as counsel for the executor or administrator in the complete administration of a decedent's estate. Such schedules, however, are not to be considered as schedules of minimum or maximum fees to be charged. See Sup.R. 71. Further, if by reason of the application of such percentages to values of assets or to amounts of income, a disparity or injustice results, such disparity or injustice may be reviewed either on the court's own motion with respect to any account reflecting such compensation or upon exceptions to such an account. The court will review attorney fees based on the factors set forth in Rule 1.5 of the Ohio Rules of Professional Conduct. The attorney may receive for his or her fee a percentage of the estate in conformity with the following schedules:

(A) On the appraised value of personal property included in the inventory, unless sold, then on the amount of the gross proceeds from the sale of such personal property, on the gross proceeds from the sale of real estate whether made under a power stated in the Will or by land sale proceedings, on estate income for which the fiduciary accounts and on money actually advanced to pay debts or legacies:

4.0% on the first \$100,000

3.0% on the next \$300,000

2.0% on the balance

On the gross proceeds of real estate sold in a land sale proceeding: 2 %

(B) Transfer of real property by application, court order and certificate of transfer, to the heirs: 1% of the value of the real property

(C) On the gross amount of money paid for real estate by the surviving spouse, purchasing at appraised value: 2%

(D) Completion of a land contract but not on any uncompleted contract of sale made by the decedent: 2%

(E) Legal services provided for administering nonprobate assets of the estate: 1%

When due to special circumstances, the fees previously described will not result in fair and reasonable compensation, the court requires an application for allowance of extraordinary compensation.

If the attorney or member of the attorney's firm is the fiduciary, a hearing may be scheduled in which the attorney must demonstrate that the fees were provided in the capacity as attorney rather than executor, and that those fees are reasonable.

A Computation of Ordinary Attorney Fees-Decedent's Estate (LCPC Form 4.0) shall be filed with every request for ordinary attorney fees.

### **Rule 71.3. Extraordinary Fees.**

The court will consider the allowance for any extraordinary services and expenses

upon application, supported by detailed statements of such services and expenses. Nothing in the fee guidelines shall be construed as a bar to such application.

**Rule 71.4. Hourly Rate Contracts.**

In cases where the attorney has agreed to an hourly rate contract with the fiduciary, application shall be made to the court for allowance, supported by a detailed statement of such services and a copy of the contract. The Court has determined that an hourly charge of \$175.00 may be fair, reasonable, and customary in the locality; however, said hourly fee shall not be construed as a maximum or minimum fee. The Court shall consider the factors set forth under Rule 1.5 of the Ohio Rules of Professional Conduct.

**Rule 71.5. Itemization of Attorney Fees.**

All applications for the allowance of attorney fees shall include an itemized statement of services performed, the date services were performed, the time spent in rendering the services and the rate charged per hour and must be signed by both the fiduciary and counsel.

**Rule 71.6. Consent to Fees.**

Where all residuary legatees and devisees have consented in writing to the amount of counsel fees, an application need not be made for the allowance of fees if they are ordinary fees in compliance with Local Rule 71.2, provided the consent is endorsed on the fiduciary account. If the attorney fees are in excess of the guidelines set forth in Local Rule 71.2, an application shall be filed with the court unless the residuary legatees and devisees consent in writing by separate instrument filed with the court, evidencing that the consent is knowingly made. The separate instrument shall set forth the computation of fees under the guidelines set forth under Local Rule 71.2(A), state the fact that the attorney fees are in excess of said guidelines, state the reason for the extraordinary attorney fees, and the amount of the attorney fees requested.

The Court may schedule a hearing on attorney fees although the residuary legatees

and devises consented to the attorney fees as set forth above. A hearing is mandatory when exceptions to an application for fees or to an accounting based on fees are filed.

A hearing is mandatory when exceptions to an application for fees or to an accounting based on fees are filed.

**Rule 71.7. Deferment of Fees in Guardianships/Trusts.**

Attorney fees applicable to guardianship or trust cases may be deferred one accounting period only. Attorney fees and allowance for extraordinary services and expenses are subject to further review if exceptions should be filed to an account.

**LAKE COUNTY RULE 72. Executor's and Administrator's Commissions.**

Executors and administrators may receive compensation in conformity with the Ohio Revised Code 2113.35. No allowance for fiduciary fees in excess of the amount prescribed by law or by these Rules or for expenses incurred by the fiduciary will be made unless an application is filed with the court setting forth in detail the services rendered or expenses incurred and the amounts claimed before payment is made.

The court may require the application be set for hearing and notice as provided by the Ohio Rules of Civil Procedure given to all interested parties. The notice shall contain a statement of the amount of fiduciary fees or compensation for special services requested and a concise statement of the services rendered. Competent interested parties may waive notice and consent to the application.

Nonprobate assets shall not be included for the purpose of computing either fiduciary fees under the percentage schedules prescribed by statute or by these Rules, except as provided by R.C. 2113.35(C). If additional services are performed by the fiduciary by reason of the existence of nonprobate assets, fees may only be allowed on application as set forth above.

**LAKE COUNTY RULE 73. Guardian’s Compensation.**

**Rule 73.1. Ordinary and Extraordinary Services**

Guardians, unless otherwise provided by law, are allowed an amount for ordinary services not to exceed the following:

- (A) 4% on all amounts received and 4% on all amounts paid out during accounting periods on sums not exceeding \$100,000;
- (B) 3% on all amounts received and 3% on all amounts paid out during accounting periods on sums in excess of \$100,000;
- (C) No percentage will be allowed on balances carried forward from one accounting period to another;
- (D) An investment of funds is not to be considered an expenditure;
- (E) A final distribution of unexpended balances to a ward at the closing of a guardianship shall be considered an expenditure.

Guardian fees may be deferred one accounting period only.

Guardian’s compensation for ordinary services shall be computed annually upon application, and shall be supported by calculations and documentation. A Calculation of Guardian Compensation form (LCPC Form 15.15) shall be filed in support of the request for compensation.

Additional compensation for extraordinary services, reimbursement of expenses incurred, and compensation of a guardian of a person only may be allowed upon application setting forth an itemized statement of the services rendered and expenses incurred, and the amount for which compensation is applied. The Court may set said application for hearing with notice given to interested persons in accordance with Civ.R. 73(E).

**Rule 73.2. Payment from Indigent Guardianship Fund.**

Applications for payment from the Indigent Guardianship Fund must be accompanied by an itemization of services. An Affidavit of Indigency (LCPC Form 15.14) shall be filed in the

guardianship before payments will be approved from the Indigent Guardianship Fund, as directed in Local Rule 66.15.

Application for payment may be made no earlier than 12 months after date of appointment as guardian. Attorney and guardian fees paid from the Indigent Guardianship Fund shall be no more than \$50 per hour for a maximum fee of \$800 per guardianship case for a period of one year. Payment from the Indigent Guardianship Fund shall not be deferred from year to year. All requests for fees in addition to this amount shall be made by filing an Application for Extraordinary Fees, which may be set for hearing at the discretion of the Court.

**LAKE COUNTY RULE 74. 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 as follows:
  - (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:
    - \$11.00 per \$1,000 on the first \$200,000 of the fair market value of the principal;
    - \$9.00 per \$1,000 on the next \$800,000 of the fair market value of the principal;
    - and
    - \$5.50 per \$1,000 on all amounts over \$1,000,000 of the fair market value of the principal.
  - (2) An amount may be allowed 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 provides 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 per month.

- (4) A separate fee, based on time expended, may be charged for the preparation and filing of fiduciary income tax returns. Said fee shall not exceed \$500.00, except for good cause shown.
- (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 the date 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 date as selected by the trustee. If the trustee selects this option, the trustee must continue to compute the trustee's fee on the quarterly valuation basis, unless upon application to the court, a change in fee valuation method is allowed.
- (C) An application for allowance of ordinary and extraordinary trustee's compensation shall be submitted to the court for approval with the annual trustee's account. The application required by Sup.R. 74(B) for the payment of extraordinary fees shall set forth an itemized statement of the services performed, the date services were performed, the time spent in rendering the services, and the rate charged per hour. The court may require that the application be set for hearing with notice given to interested parties in accordance with Civ.R 73(E). Trustee's compensation of an ordinary or extraordinary nature shall not be paid from the trust estate until the application has been approved by judgment entry.
- (D) The compensation of co-trustees in the aggregate shall not exceed the compensation that 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 separate instrument filed contemporaneously.
- (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 as long as the trustee is delinquent in filing an account required by R.C. 2109.30.

**LAKE COUNTY RULE 75. Local Rules.**

The local rules shall be numbered to correspond with the numbers of the Rules of Superintendence.

**LAKE COUNTY RULE 76. Exception to the Rules.**

The court may grant exception to the local rules for good cause shown.

**LAKE COUNTY RULE 77. Compliance.**

Failure to comply with these rules may result in sanctions as the court may direct.

**LAKE COUNTY RULE 78. Case Management.**

**Rule 78.1. Notice and Summons.**

Service by notice and summons shall be made as provided by the Ohio Rules of Civil Procedure in effect on the date the original pleading is filed in court.

Praecipes for witnesses in the trial of any cause must be filed as early as is reasonably possible prior to the time set for trial.

**Rule 78.2. Notice of Litigation.**

Upon the filing of any legal action that affects an estate, a trust or guardianship, the fiduciary shall file a notice of litigation with the court. The fiduciary shall also notify the court within 30 days of the conclusion of the litigation.

**Rule 78.3. Continuances.**

No extension of time will be allowed within which to file an inventory, account or guardian's report except for good cause shown. Requests for extensions shall be made by motion with the signature of the client and must (1) contain the reason for the request; (2) be accompanied by a stamped, self-addressed envelope and a judgment entry leaving the time and date blank for the court to set a new date; and (3) be personally signed by the fiduciary. No continuance shall be granted in the absence of proof of reasonable notice of, or consent by, the adverse party or the party's counsel. Failure to object to the continuance within a reasonable time after receiving notice shall be considered consent to the continuance.

If a fiduciary is delinquent in filing an inventory, account and/or guardian's report and no extension of time for filing has been granted, the court may refuse to appoint the fiduciary or attorney for the fiduciary to another office of trust.

**Rule 78.4. Attorney Withdrawal.**

No attorney shall be permitted to withdraw from a case, including those cases where the client discharges the attorney, later than 20 days prior to a trial or a dispositive hearing unless the attorney obtains court approval upon good cause shown.

**Rule 78.5. Procedure.**

After a suit has been filed and the answers of the defendants have been filed, the court will issue a judgment entry setting forth the rules of procedure to effectuate the most economical and efficient use of the court's time during trial and to speed the case to conclusion. The judgment entry shall state the rules relating to pretrial procedure, expert witnesses, pretrial conferences, trial procedures and settlement of cases. The judgment entry is incorporated by reference and made a part herein.

**Rule 78.6. Pretrial Conferences.**

The Probate Court through the Assignment Commissioner will schedule one pretrial

conference before the court, or a magistrate appointed by the court, with counsel for the parties and the parties. At the pretrial conferences, unless otherwise notified, both counsel and the parties must be present, except that parties not within the jurisdiction of the court may be excused if the party is available by telephone. At the pretrial, the court will issue a pretrial order setting forth the requirements to be followed prior to and during trial and set the matter for trial on a date certain. The parties have the option to mediate cases if both parties agree. The request for mediation must be made within thirty (30) days of the pretrial conference. An attorney may be considered as mediator.

**LAKE COUNTY RULES 89 TO 93 [Reserved for Rules of Superintendence.]**

**LAKE COUNTY RULE 94. Inventories.**

**Rule 94.1. Citations.**

If inventories, or other necessary proceedings, are not filed by fiduciaries within the time prescribed by statute, the court may issue a citation sua sponte unless the court granted additional time.

No extension of time will be allowed within which to file an inventory except for good cause shown. Requests for an extension of time shall be made in accordance with Local Rule 78.3.

**Rule 94.2. Motion to Correct Inventory.**

Inventories shall not be amended. Assets improperly included on an inventory, inaccurately valued or incorrectly described, must be reconciled by a motion to correct the inventory with corresponding judgment entry that rectifies the inaccuracy and reflects the estate's total value.

Assets inadvertently omitted from an inventory or later discovered, may be submitted as newly discovered assets in estates and on a supplemental inventory in guardianships.

**Rule 94.3. Notice of Filing of Inventory.**

Upon the filing of an inventory, the fiduciary shall serve notice of the hearing by ordinary mail, unless waived, upon the surviving spouse, all next-of-kin in an intestate estate and all beneficiaries in a testate estate. See R.C. 2115.02, 2115.16 and Civ.R. 73(E)(7).

At any time prior to or at the hearing, the fiduciary shall file a certificate evidencing that the proper parties have been served or have waived notice.

**LAKE COUNTY RULE 95. Distributions to Minors.**

If the Last Will and Testament of a decedent provides a monetary bequest to a minor and that bequest is not more than \$10,000, the executor or administrator shall not make any such monetary distribution to the minor without first applying to the court for an order authorizing the manner in which the distribution is to be made.

This rule does not apply if the Last Will and Testament provides that the distribution be made in accordance with Ohio Transfers to Minors Act under R.C. 1339.39 et seq., provided, however, that the court receives documentation that the funds have been deposited in accordance with the Act within 30 days of the deposit.

**LAKE COUNTY RULE 96. Fiduciary's Bond.**

Bond is required for all out-of-state executors.

The executor, administrator or trustee will be required to give a bond even if the bond is requested to be dispensed with by the provision of a will or trust, if a showing is made that a bond is necessary to protect creditors or beneficiaries.

**LAKE COUNTY RULE 97. Adoption Policy.**

In all cases of adoption, the child to be adopted must be present in open court and the exact age must be stated in the application. The court will hear no application for adoption until after an examination of the home of the applicant(s) and an investigation as to their character(s) has been made by a party appointed by the court.

If the child is in the custody of a person other than the parties to the adoption proceedings and the person is not entitled to notice by law, reasonable notice nevertheless shall be given to the person regarding the pendency of the application.

**LAKE COUNTY RULE 98. Mediation.**

In order to promote greater efficiency and public satisfaction through the facilitation of the earliest possible resolution of court cases in Lake County, Ohio, the following procedures shall be effective on May 7, 2007. The court incorporates by reference the “Uniform Mediation Act” (UMA), R.C. Chapter 2710.

**(A) Cases Referred to Mediation.**

- (1) Cases will be referred to mediation in one of two ways: (a) by a joint motion to mediate or stipulation signed by all parties; or (b) selection by the judge of this court for referral.
- (2) Participation in mediation is voluntary unless referred by the court. If the case is referred by the court, the parties are not required to reach a settlement of the case.
- (3) Exceptions to a judgment entry referring a case to mediation shall be made by a motion filed within ten (10) days of such order.
- (4) A case is referred to mediation on the date when the judge of this court issues a judgment entry. Referral of a case to mediation shall not operate as a stay of proceedings, and is not justification for discontinuing any remaining discovery and preparation, which may continue through the mediation process in accordance with the applicable rules, unless otherwise agreed upon by the parties and ordered by the court.

(5) A mediator will be assigned by the court, or agreed to by the parties, to conduct the mediation within sixty (60) days of the date of the judgment entry ordering the case to mediation.

(B) **Attendance of Interested Parties.**

(1) The following persons are considered interested parties to the mediation and shall physically attend the mediation session:

(a) in a guardianship case, the applicants for guardianship and the known next-of-kin;

(b) all individual parties; or an officer, director, or employee having full authority to settle the claim for a corporate party; or in the case of a governmental entity or agency, a representative with full authority to negotiate on behalf of the entity or agency and to recommend settlement to the appropriate decision making body;

(c) the party's counsel primarily responsible for handling of the matter, if any; and

(d) a representative of the insurance carrier for any insured party who has full authority to settle without further consultation.

(C) **Mediation Proceeding.**

(1) The mediation shall be held at a place agreed to by the parties. The parties also may make use of the court's additional hearing room on the Second Floor of the West Annex of the Lake County Courthouse.

(2) The mediator shall fix a time for the mediation to occur not more than sixty (60) days after the referral to mediation and shall notify the parties, or

their counsel, in writing, at least ten (10) days before the mediation, of the time and place of the mediation.

- (3) Counsel or the mediator shall promptly notify the Lake County Probate court in the event of a case settlement or dismissal occurring prior to the mediation.
- (4) The mediator's actions shall not be construed as giving legal advice.
- (5) If, for any reason, the parties wish to seek a continuation of the mediation of the case, the party seeking the continuation shall make all necessary arrangements for the continuance, including written permission from the opposing counsel and the court. The party shall select a new date convenient to the mediator, all counsel, and all parties required to attend.
- (6) The parties shall participate in the mediation in good faith and cooperate in all matters pertaining to the mediation. Along with face-to-face sessions, the mediation process shall provide an opportunity for the parties and their attorneys to engage in whatever other appropriate steps may be helpful in settling the matters in dispute.
- (7) The court may order the parties to return to mediation at any time.
- (8) Attorneys may, at their option, or must, if required on a specific case by the judge, submit a "Mediation Case Summary" to the mediator which shall contain the following: (a) summary of material facts; (b) summary of legal issues; (c) status of discovery; (d) settlement attempts to date, including demands and offers.
- (9) Immediately upon conclusion of the mediation, the mediator shall submit a report to the court indicating only the status of the mediation, i.e., whether the mediation occurred or was terminated; whether a settlement was reached on some, all, or none of the issues; attendance of the parties; and

future mediation sessions, including date and time. In cases in which parties, interested parties, or party representatives having full authority to settle were not present, this shall also be noted in the mediation report. The mediator should not include a summary of the discussions had by the parties.

- (10) The mediator, parties or counsel, as agreed by the parties, may immediately prepare a written settlement agreement of an agreement reached by the parties signed by a party or party representative with authority to sign and a by a lawyer representing each party. A party representative who signs a written settlement agreement is presumed to have full authority to bind the party. The written agreement will not be privileged pursuant to R.C. 2710.05(A)(1). No agreements developed in mediation shall be legally binding until reviewed and approved by the parties and their attorneys. In cases in which an agreement is reached, the parties or their attorneys shall submit final judgment entries to the court within fourteen days of the conclusion of the mediation, or earlier if ordered by the court. If an agreement is not reached, the case shall be returned to the judge of this court.

**(D) Sanctions for Failure to Participate or Attend.**

If any party fails to participate or fails to attend a duly ordered mediation without good cause, the court may impose sanctions, including an award of attorneys' fees and other costs, contempt, or other appropriate sanctions.

**(E) Confidentiality of Mediation.**

- (1) All mediation communications related to or made during the mediation process are subject to and governed by the "Uniform Mediation Act" (UMA), R.C. 2710.01 to 2710.10.

- (2) The mediation proceedings and discussions shall constitute settlement conferences under the applicable rules of evidence. Nothing said or disclosed during the settlement conferences nor any document produced during settlement conferences that is not otherwise discoverable shall be admissible as evidence or for impeachment or other purposes in any judicial, arbitration, or administrative action.
- (3) Statements made during a mediation conference do not constitute admissions against interest, and cannot be used as evidence or for impeachment in any subsequent proceeding.
- (4) No party, person, or entity shall call or subpoena the mediator to testify or produce any notes or documents related to the mediation discussions. If called or subpoenaed, the mediator may refuse to testify or produce notes or documents. Any party, person or entity that attempts to compel such testimony or production will be liable and shall indemnify the mediator against any liabilities, costs, and expenses, including reasonable attorney's fees which may be incurred in resisting such compulsion.

(F) **Mediator Compensation.**

- (1) The mediator shall receive payment in the amount of \$150 per hour.
- (2) The parties shall split the fees equally and expenses of the mediation, unless they agree on a different share as part of a mediated settlement, and that the mediator shall be paid no later than thirty (30) days after receipt of the expenses and fees.
- (3) The mediator shall not be entitled to receive fees until after filing the report of mediation with this court.

(G) **Mediation Fund.**

A party desiring to mediate the case or a party in a case ordered to mediation may apply by written motion and affidavit to the court, averring that by reason of poverty the party is unable to make the payment for compensation to the mediator required by these rules. The motion shall be filed within seven (7) days after the order of referral to mediation. If the judge is satisfied of the truth of the statements in the affidavit, the mediator's compensation shall be paid from the court's mediation fund.

Funds from the mediation fund may be used for disputes existing in guardianship cases, including, but not limited to, the appointment of a guardian, placement and medical treatment of the ward.

**LAKE COUNTY RULE 99. Change of Address.**

All fiduciaries and attorneys shall notify the court in writing within 30 days of a change of address. It is the responsibility of each attorney of record to notify the court in writing if a fiduciary dies or moves out of the state of Ohio. Failure to comply with this rule may lead to the removal of the fiduciary and attorney and/or a disallowance of fiduciary and/or attorney fees.

**LAKE COUNTY RULE 100. Redaction of Personal Information.**

Counsel has the duty to redact certain personal information, including bank account numbers, except for the last four digits, and social security numbers. At the conclusion of a minor settlement hearing, the Court will seal medical records in cases involving personal injuries. The Revised Code also deems adoption, civil commitment, and tax documents as confidential and the Court will not release them from court files.

All pro se persons must follow the Local Rules.

Upon good cause shown, the court may grant exception to the foregoing Local Rules depending upon the circumstances presented in a particular case.