

**COMMON PLEAS COURT OF MAHONING COUNTY OHIO**

**PROBATE DIVISION**

**JUDGE MARK BELINKY**

**LOCAL RULES OF COURT**

**Revised May 4, 2009**

## **INTRODUCTION**

**Pursuant to Rule 5 of the Rules of Superintendence for the Courts of Ohio, the Mahoning County Probate Court adopts the following local rules of practice to facilitate the expeditious disposition of cases. These rules shall be read in conjunction with rules promulgated by the Supreme Court of Ohio and shall be consistent therewith. As required by Rule 75 of the Rules of Superintendence for the Courts of Ohio, these local rules are numbered to correspond with the numbering of the Rules of Superintendence they are intended to supplement. The Court has determined that certain Rules of Superintendence do not require any supplementation and their omission herein is by design. The Court reserves the right to revise and amend these local rules as required pursuant to Rule 5.**

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## **SUPERINTENDENCE RULE 8**

### **COURT APPOINTMENTS**

#### **Loc. R. 8.1 Court Appointments**

Persons appointed by the Court to serve as fiduciaries, appraisers, attorneys, masters, investigators, guardians ad litem, trustees for suit or in any other capacities, shall be selected from lists maintained by the Court. Appointments shall be made taking into consideration the qualifications, skills and expertise of the appointee and the type and complexity of the case. Any individual interested in serving in any of the aforementioned capacities shall file their resume with the Court for its consideration.

### **Loc. R. 8.2 Compensation**

Persons appointed herein shall receive reasonable compensation pursuant to the Ohio Revised Code, the local rules of Court pertaining to fees, including any fee schedule established by the Court, and Rule 1.5 of the Ohio Rules of Professional Conduct.

### **Loc. R. 8.3 Periodic Review**

The Court shall review this appointment procedure periodically to ensure the equitable distribution of appointments among persons on each list maintained by the Court.

## **SUPERINTENDENCE RULE 9**

### **SECURITY PLAN**

#### **Local R. 9.1 Security Plan**

The Court has adopted a court security policy and procedures plan addressing the provisions of the Ohio Court Security Standards adopted by the Supreme Court of Ohio and shall review the same from time to time.

#### **Local R. 9.2 Confidentiality**

Any information contained in the plan and any information resulting from a court security review conducted by a local court or the Supreme Court shall not be a public record.

**SUPERINTENDENCE RULE 11**  
**RECORDING OF PROCEEDINGS**

**Loc. R. 11.1 Recording of Proceedings**

The Court shall make an audio recording of proceedings before the Court that shall serve as the record of the Court unless said recording is waived by all interested parties present at the proceeding. Parties or other interested persons who desire to have the recording of the proceeding transcribed shall request the transcript from a stenographer approved by the Court. The requesting party shall pay the full cost of the transcript upon completion. The Court will allow a party or interested person to listen to a recording of a proceeding upon request made no less than twenty-four (24) hours in advance. Tapes of proceedings shall not be removed from the Court, unless the person requesting use of the tape is a Common Pleas Court stenographer. Tapes shall be maintained by the Court for three (3) years from the date of hearing.

**Loc. R. 11.2 Stenographic Transcription**

Parties who desire to have a contemporaneous stenographic record of the proceedings must make their own arrangements at least 24 hours prior to the scheduled hearing, for a court reporter to appear at the hearing. The requesting party shall pay the costs associated with the stenographic record unless otherwise ordered by the Court. A transcript filed with the Court shall supersede the audio recording as the official record of the Court.

**Loc. R. 11.3 Use of Contents of Recordings**

An interested party shall not be allowed 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.

**SUPERINTENDENCE RULE 26**  
**COURT RECORDS MANAGEMENT AND RETENTION**

**Loc. R. 26.1 Court Records Management and Retention**

The Court maintains a Schedule of Records Retention and Disposition pursuant to Rule 26 *et seq* of the Rules of Superintendence for the Courts of Ohio.

**Loc. R. 26.2 Exhibits**

All exhibits offered for admission during a proceeding shall be properly labeled by party name and item identification. If the proceeding is audio recorded, the exhibits shall be filed in the Court case file. If the proceeding is recorded by a stenographer, custody of the exhibits offered for admission shall be given to the custody of the stenographer unless otherwise ordered by the Court. Upon agreement of the parties and approval of the Court, copies of the exhibits may be substituted for the originals.

**SUPERINTENDENCE RULE 51**  
**STANDARD PROBATE FORMS**

**Local R. 51 Standard Probate Forms**

Standard Probate forms as promulgated by the Rules of Superintendence for the Courts of Ohio and by the Mahoning County Probate Court are available on the Court website at [www.mahoningcountyoh.gov](http://www.mahoningcountyoh.gov) [click on Judges then Probate Court Judge].

**SUPERINTENDENCE RULE 52**  
**SPECIFICATIONS FOR PRINTING PROBATE FORMS**

**Local R. 52.1 Computer Forms**

Computer generated forms must comply with the specifications and format outlined by the Rules of Superintendence of the Courts of Ohio. Forms may deviate from the Standard Forms of Local Forms if so required by the particular nature of the case.

**Local R. 52.2 Specifications**

The font size for the body of all forms filed with the Court cannot be less than ten (10) point, nor greater than twelve (12) point. In the event a form or pleading filed with the Court has a reverse side, a space for the case number shall be provided at the top right hand corner on the reverse side. Any subsequent page, after the first page of any form or pleading, shall contain a space for the case number at the top right hand corner of the subsequent page or pages. All exhibits and attachments filed with the Court shall have the case number designated thereon.

**SUPERINTENDENCE RULE 53**  
**HOURS OF THE COURT**

**Local R. 53 Hours of the Court**

The Probate Court shall be open for the transaction of business from 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays. All pleadings requiring a new case number or payment of Court costs shall be filed by 4:00 p.m.

**SUPERINTENDENCE RULE 55**  
**EXAMINATION OF PROBATE RECORDS**

**Local Rule 55.1 Removal of Records**

Records shall not be removed from the Court except when approved by the Judge or a Magistrate as evidenced by a removal card. No person may withdraw more than three (3) files at a time. Only attorneys and recognized title examiners are permitted to remove files from the Court.

**Local Rule 55.2 Photocopies**

Copies of records may be obtained at the cost of Ten cents (\$.10) per page. Copying of records that are confidential by law is strictly prohibited. Inspection of confidential files must be authorized by prior court order.

**SUPERINTENDENCE RULE 57**  
**FILINGS AND JUDGMENT ENTRIES**

**Local Rule 57.1 Facsimile and Electronic Filings**

The Court will not accept filings by facsimile transmission or electronic mail.

**Local Rule 57.2 Street Address**

When required on a Court document, an address must be a street address and, if applicable, any post office box numbers used as a mailing address. Upon satisfactory proof that there is no known street address but only a post office box, the Court may permit the use of the post office box only.

### **Local Rule 57.3 Case Number**

All filings, including exhibits and attachments, must have the case number on each page, including the reverse side of two-sided filings.

### **Local Rule 57.4 Signatures**

All filings must contain original signatures except when the Court permits otherwise. The fiduciary and his or her counsel, if any, shall sign all documents filed with the Court, including but not limited to, applications for counsel fees. In the event there are multiple fiduciaries, the signature of each fiduciary is required on all documents. Counsel may not sign on behalf of the fiduciary. Notwithstanding the foregoing, Counsel may execute and file on behalf of the fiduciary a report of Distribution of Wrongful Death Proceeds with copies of the checks evidencing distribution attached thereto.

### **Local Rule 57.5 Return Copies**

The Court will not return file stamped copies by mail unless accompanied by a return, self addressed envelope stamped with sufficient postage.

### **Local Rule 57.6 Computer Disks**

In addition to filing original documents, the Court may direct that proposed entries, briefs, memoranda, jury instructions or other documents be submitted on a computer disk formatted in a manner which may be utilized by the Court's word processing system.

### **Local Rule 57.7 Certificate of Notice of Judgment Entry**

Any proposed judgment entry submitted which is the subject to Civil Rule 58(B) and Civil Rule 73(I) shall contain a certificate of service including the names and addresses of all parties and other interests persons required to be served.

### **Local Rule 57.8 Length of Briefs**

Briefs shall not exceed fifteen (15) pages in length, exclusive of any supporting documents. Briefs exceeding fifteen (15) pages shall not be accepted without prior leave of Court.

### **Local Rule 57.9 Social Security Numbers**

Social security numbers shall not be filed in any filing that is available for public inspection. Applicants for guardians will provide their social security number and the social security number for the proposed Ward on a form that will not be disclosed to the public. Social security numbers disclosed on marriage license applications and estate tax returns are sequestered as confidential, non-public records.

### **Local Rule 57.10 Notice of Litigation**

Upon the filing of any legal action that affects an estate, trust or guardianship, the fiduciary shall file a Litigation Status Report, Local Form 78.5(A), with the Probate Court identifying the court or tribunal in which the litigation was filed, the names and addresses of the parties and their counsel, the case number and a brief description of the nature of the litigation and status of the same.

## **SUPERINTENDENCE RULE 58**

### **DEPOSIT FOR COURT COSTS**

#### **Local 58.1 Deposits for Court Costs**

Deposits for Court costs for all proceedings shall be determined by the Court and the costs schedule shall be made available to the public.

The balance of the costs due shall be paid at the time an accounting or waiver of accounting or a final judgment entry is filed. The Court reserves the right to require additional deposits during the course of a proceeding as the Court deems necessary. The

costs shall be paid by cash, money orders, cashier's checks or official bank checks. The Court will accept checks from an attorney, title company or trust company.

### **Local Rule 58.2 Costs of Publication**

The *Daily Legal News* is designated as the law journal in which the calendar of the Court, including such proceedings and notices as required by law or the Court, is published. These publication charges shall be charged as costs.

### **Local Rule 58.3 Deposit for Jury Trial**

Upon the filing of a demand for a jury trial, the party making the demand shall file an advance deposit of \$500 or such other amount as the Court may require.

## **SUPERINTENDENCE RULE 61**

### **APPRAISERS**

#### **Local Rule 61.1 Appraisals**

The fiduciary may name an appraiser or request the Court to name an appraiser to appraise any asset of an estate. Any asset, the value of which is readily ascertainable, is not required to be appraised but shall be included in the Inventory. It is presumed that the County Auditor's valuation of a parcel of real estate, whether improved or unimproved, is a readily ascertainable value and may be used in lieu of a formal appraisal. A copy of the valuation shall be attached to the Inventory. Notwithstanding the foregoing, the Court may, at its discretion, order a formal appraisal of the subject premises.

#### **Local Rule 61.2 Appraisers**

An appraiser of real estate must be experienced in appraising Mahoning County property and shall not be a member of the decedent's or ward's family and shall not be a family member, business associate, client or agent of the fiduciary or attorney of record.

### **Local Rule 61.3 Personal Property Appraisers**

An appraiser of personal property must be experienced in appraising the type of personal property being appraised.

### **Local Rule 61.4 Fees for Appraisals**

Appraisers' fees shall be agreed upon between the fiduciary of the estate and the appraiser. Appraisers may file a motion with the Court requesting fees for services rendered.

## **SUPERINTENDENCE RULE 63** **APPLICATION TO SELL PERSONAL PROPERTY**

### **Local Rule 63 Affidavit and Report**

The affidavit and report required by R.C. 2109.45 and R.C. 2113.42 shall include a statement that the personal property was not purchased by the fiduciary, a family member, business associate, client or agent of the fiduciary.

## **SUPERINTENDENCE RULE 64** **ACCOUNTS**

### **Local Rule 64.1 Vouchers**

For estates wherein the date of death occurs after April 8, 2004, vouchers or receipts evidencing disbursements during the administration of a decedent's estate must be maintained by the fiduciary but shall not be required to be filed with the Court with any accounting. The Court may require vouchers or receipts to be filed with any accounting at its discretion.

## **Local Rule 64.2 Standard Forms**

The standard accounting forms prescribed by the Ohio Supreme Court shall be used when preparing and filing accounts for estates, guardianships, testamentary trusts and wrongful death trusts. Notwithstanding the foregoing, corporate fiduciaries may use their computer generated transaction statements evidencing the administration of the estate, guardianship or trust during the subject accounting period in lieu thereof and shall not be required to transpose the entries to the Ohio Supreme Court standard accounting forms.

## **SUPERINTENDENCE RULE 66**

### **GUARDIANSHIPS**

#### **Local Rule 66.1 Statement of Expert Evaluation**

Where a physician or clinical psychologist states on a Statement of Expert Evaluation or the Court determines that to a reasonable degree of medical certainty the Ward's mental incompetence will not improve, the Court may dispense with the filing of subsequent Statements of Expert Evaluation when filing the subsequent guardian's reports.

#### **Local Rule 66.2 Confidentiality of Reports**

Medical and psychological reports are confidential and there shall be no access to these reports without prior court order.

#### **Local Rule 66.3 Indigent Wards**

For purposes of the indigent guardianship fund, an adult ward or alleged incompetent will be rebuttably presumed to be indigent if his or her personal property is less than One Thousand Five Hundred and No/100 Dollars (\$1500.00) and his or her

annual income is less than the U.S. Department of Health and Human Services poverty guidelines.

**Loc. R. 66.4 Criminal Background Check**

All Applicants who are applying to be appointed guardian of the person and/or estate of a prospective Ward are required to submit to a criminal background check unless so waived by the Court. Each Applicant shall execute a Consent to Criminal Background Check and shall authorize the Mahoning County Sheriff's Department to perform a criminal background check on the Applicant using the WEBCHECK system, to have the results sent directly to the Mahoning County Probate Court to become a permanent part of the Court's file and public record and to have the results sent by the Mahoning County Probate Court to the Applicant, counsel for the Applicant and to the Court Investigator. The costs for the background check shall be paid by the Applicant directly to the Mahoning County Sheriff and shall be considered expenses of administration that are reimbursable. This rule shall not apply to corporate Applicants or licensed Attorneys.

**SUPERINTENDENCE RULE 67**

**ESTATES OF MINORS OF NOT MORE THAN TEN THOUSAND DOLLARS**

**Local Rule 67 Release of Funds at Age of Majority**

Upon the minor attaining the age of 18 years, funds shall be released to the former minor by the institution holding the funds unless exigent circumstances brought to the Court's attention require otherwise. The former minor shall present satisfactory proof of identity and date of birth to the Court which shall issue and deliver to the former minor a Court form authorizing the institution to release the funds to the minor.

**SUPERINTENDENCE RULE 68**  
**SETTLEMENT OF INJURY CLAIMS OF MINORS**

**Local Rule 68.1 Structured Settlements**

In the event that parties involved in claims for injuries to minors or incompetents desire to enter into a structured settlement, defined as a settlement wherein payments are made on a periodic basis, the following rules shall apply:

(A) The application shall include a signed statement from one of the following independent professionals, specifying the present value of the settlement, and the method of calculation of that value: an actuary, certified public accountant, certified financial planner, chartered life underwriter, chartered financial consultant, or an equivalent professional.

(B) If the 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:

- (1) The annuity carrier is licensed to write annuities in Ohio.
- (2) The annuity carrier's ratings from at least two of the following organizations, which meet the following criteria:
  - a. A.M. Best Company: A++, A+, or A;
  - b. Fitch Ratings: AAA, AA+, or AA;
  - c. Moody's Investors Service: Aaa, Aa1, or Aa2;
  - d. Standard & Poor's Corporation: AAA, AA+, or AA;
  - e. Weiss Research Inc: A+ or A.

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

**Local Rule 68.2 Release of Funds**

Upon the minor attaining the age of 18 years, funds may be released to the former minor by the institution holding the funds unless exigent circumstances brought to the

Court's attention require otherwise. The former minor shall present satisfactory proof of identity and date of birth to the Court which shall issue and deliver to the former minor a Court form authorizing the institution to release the funds to the minor.

## **SUPERINTENDENCE RULE 71**

### **COUNSEL FEES**

#### **Local Rule 71.1 Counsel Fees**

The allowance of counsel fees as part of the expense for administering a decedent's estate, trust, adoption, guardianship or any matter before the Court shall be based upon the actual services performed by the attorney and the reasonable value of services. The factors set forth in Rule 1.5 of the Ohio Rules of Professional Conduct shall be considered. The Court determines that \$150 per hour is reasonable value for legal services rendered and shall be the standard hourly rate. Counsel may request a fee based upon an hourly rate in excess of the standard hourly rate for extraordinary services rendered. The Court may adjust said fee as equity so requires.

#### **Local Rule 71.2 Application for Estate Fees**

An application for allowance of counsel fees for legal services rendered as attorney for the fiduciary of a decedent's estate shall conform to the computation schedule prescribed by the Court. The schedule shall apply to all decedent estates including an estate relieved from administration. There shall be a minimum fee of \$500 for all estates. The Court may, in its discretion, require or consider an itemized application for counsel fees.

#### **Local Rule 71.3 Application for Fees for Non-estate Cases**

All other applications for the allowance of counsel fees shall set forth an itemized statement of the services performed by counsel, the date of said services, the time involved in rendering said services and the rate charged per hour.

#### **Local Rule 71.4 Paralegals**

In all applications for fees, counsel shall include a separate itemization of services rendered by paralegals or other professionals who are not lawyers.

#### **Local Rule 71.5 Consent to Fees**

If all the interested parties of a proceeding consent to the application for counsel fees, the Court shall approve the same, unless the Court determines, in its sole discretion, that same fees are unreasonable or require adjustment.

#### **Local Rule 71.6 Counsel Serving as Fiduciary of Estate**

In the event an attorney serves as fiduciary of an estate, the attorney shall receive the full fiduciary commission as determined in accordance with Revised Code Section 2113.35 and one-half (1/2) the permissible attorney fee pursuant to the Court's attorney fee computation schedule, unless the Court determines that same fees are unreasonable or require adjustment.

#### **Local Rule 71.7 Contingency Fee Agreement**

Prior to a fiduciary entering into a contingent fee contract with an attorney for legal services, an application for authority to enter into the contract shall be filed with and approved by the Court. In the event a decedent entered into a contingency fee agreement prior to the death of the decedent, said agreement shall be filed with the Court and the terms of said agreement shall be binding upon the fiduciary of the estate unless the Court determines that the proposed fees are unreasonable.

**SUPERINTENDENCE RULE 73**  
**GUARDIAN’S COMPENSATION**

**Local Rule 73.1 Guardian’s Compensation**

Guardians shall be compensated for their services rendered annually pursuant to the computation schedule prescribed by the Court. The Court may permit compensation to be paid on a periodic basis [such as quarterly or semi-annually] upon application by the Guardian.

**Local Rule 73.2 Additional Compensation**

The Guardian may request additional fees for extraordinary services rendered on behalf of the Ward by filing an Application that shall set forth an itemized statement of the services performed by the Guardian, the date of said services and the time involved in rendering said services.

**Local Rule 73.3 Corporate Fiduciaries**

Corporate fiduciaries which are exempt from bond pursuant to Revised Code Section 1111.21, may be compensated in guardianship cases in accordance with their published fee schedule which shall be filed with the Court.

**SUPERINTENDENCE RULE 74**  
**TRUSTEE’S COMPENSATION**

**Local Rule 74.1 Trustee Compensation**

Except where the instrument creating the trust makes provision for compensation, trustees subject to the Court’s jurisdiction may, upon application and entry, be allowed compensation annually for ordinary service in connection with the administration of each separate trust in accordance with the compensation schedule prescribed by the Court.

The Court may permit compensation to be paid on a periodic basis [such as quarterly or semi-annually] upon application by the Trustee.

### **Local Rule 74.2 Additional Compensation**

The Trustee may request additional fees for extraordinary services by filing an Application that shall set forth an itemized statement of the services performed by the Trustee, the date of said services and the time involved in rendering said services.

### **Local Rule 74.3 Corporate Fiduciaries**

Compensation for corporate fiduciaries which are exempt from bond pursuant to Revised Code Section 1111.21 may be compensated in accordance with their published fee schedule which shall be filed with the Court. Vested trust beneficiaries affected by the payment of fees shall be notified by the trustee of any changes in its corporate fee schedule.

## **SUPERINTENDENCE RULE 75**

### **INTERPRETERS**

#### **Local Rule 75.1 Interpreters**

##### **(A) Deaf or Hard of Hearing Persons.**

These Rules shall comply with the Americans with Disabilities Act (ADA) for people who are deaf or hard of hearing. The Court shall inquire of the person with a hearing disability the type of reasonable accommodation needed. If a request for an interpreter is not made, but the party or witness could benefit from the services of an interpreter, the Court shall advise the party they have a right to participate in and understand the proceedings and inquire as to the best way to communicate with them. In order to ensure equal access to justice for people who are deaf or hard of hearing, it is strongly recommended that the services of a certified interpreter be used by Counsel.

The Interpreter must be qualified under Evidence Rule 604 and Title II of the ADA. Priority shall be given to those interpreters holding a Specialist Certificate: legal (SC:L) from the registry of interpreters for the deaf (RID). If an SC:L interpreter is not available other certifications may be appropriate.

**(B) Foreign Language.**

The Court shall presume the need for an interpreter when an attorney or *pro se* litigant indicates that a party or witness to the proceeding requests an interpreter because of English language deficiencies. If a request for an interpreter is not made, but it appears a party or witness has limited English proficiency, the Court will determine the need for an interpreter. Interpreters must be qualified under Evidence Rule 604. An impartial certified interpreter shall be used at all times. If a certified interpreter is not available, a candidate to serve as interpreter must have relevant training, specialized skills and knowledge, including familiarity with legal terminology, slang, idioms, and dialectical variations. Being bi-lingual does not qualify a person to interpret, unless the Court so permits.

**(C) Prohibited Interpreters.**

Family members, personal acquaintances, judges, attorneys and court personnel shall not function as interpreters.

**SUPERINTENDENCE RULE 78**

**CASE MANAGEMENT**

**Local Rule 78.1 General Procedure**

All cases must have a general file number before a civil action may be filed. A status conference and a pretrial conference shall be conducted in all civil actions unless otherwise ordered by the Court. Within thirty (30) days after the final answer day, the case shall be set by plaintiff's counsel for a status conference. Plaintiff's counsel shall

give not less than fourteen (14) days notice of the status conference to all counsel of record and/or all parties not represented by counsel who have entered an appearance.

### **Local Rule 78.2 Estate Relieved from Administration**

The Court may waive notice of publication of an application to relieve an estate from administration filed pursuant to Revised Code Section 2113.03 in its sole discretion.

### **Local Rule 78.3 Inventory**

(A) Decrease in Value of Inventory-in the event the fiduciary determines that an assets was incorrectly included in the original Inventory or the original Inventory included an incorrect valuation that results in a decrease in value of the original Inventory, the Inventory must be amended and service of the notice of the hearing on the amended Inventory effectuated unless said notice is waived in writing.

(B) Increase in Value of Inventory-in the event the fiduciary determines that the original Inventory included an incorrect valuation that results in an increase in valuation of the original Inventory, the fiduciary shall amend the Inventory, but a new hearing on the amended Inventory shall not be not required. The fiduciary or counsel shall notify the surviving spouse and beneficiaries of the estate of the change in the Inventory.

(C) Newly Discovered Asset- when newly discovered assets come into the hands of the fiduciary after the filing of the original inventory, an amended Inventory is not required. The fiduciary shall report the newly discovered asset to the Court pursuant to Revised Code Section 2113.69.

(D) Notice of Hearing on Inventory-the Court shall serve the Notice of Hearing on Inventory upon the surviving spouse and beneficiaries of the estate and any other interested party the Court or the fiduciary deems necessary.

### **Local Rule 78.4 Real Estate Trusts**

If a testamentary trust is comprised only of real estate, accountings shall be waived by the Court. The trustee shall file a Status Report annually.

### **Local Rule 78.5 Wrongful Death and Survival Cases**

In the event an estate is opened to pursue a wrongful death or survival case, whether there are probate assets to administer or not, in addition to the standard forms to administer an estate, the applicant shall file the following:

(A) Litigation Status Report. Local Form 78.5(A)

(B) Application to approve Contingency Fee Agreement with copy of agreement attached thereto pursuant to Local Rule 71.7.

If the estate is opened for the sole purpose of pursuing a wrongful death or survival case, and the will excuses bond, or bond is excused by law, no bond is required, unless the Court determines bond is required. In the event there is no will or the will does not excuse bond, a minimum bond in the amount of \$40,000 is required. An Inventory and accountings shall not be required if there are no probate assets to administer. A Status Report shall be filed annually.

Counsel for the fiduciary may receive and deposit proceeds of settlements in their IOLTA account. Counsel shall file an application to distribute the wrongful death proceeds from their IOLTA account within thirty (30) days of the accumulated deposited proceeds totaling \$3,000.00. A Report of Distribution shall be filed for each Court ordered application to distribute within thirty (30) days of date of the Court distribution order.

In the event a case is ongoing, such as an asbestos case or other product liability case, and it is anticipated that there will be more than one distribution of settlement proceeds, a hearing shall be conducted on the first application to distribute settlement proceeds but not thereafter on subsequent applications to distribute unless the Court so requires.

### **Local Rule 78.6 Status Conference**

All counsel must have full authority to enter into binding orders, including settlement orders. Unless otherwise ordered by the Court, the following matters shall be addressed at the status conference:

(A) Possibility of settlement.

(B) Discovery schedule as agreed upon by the parties or set by the Court.

(C) Date of exchange of expert witnesses shall be determined.

(D) A final date for filing of all motions which shall not be later than fourteen (14) days before the pretrial conference, unless approved by the Court for good cause shown.

(E) The date of the pretrial conference

(F) The trial date shall be set by the Court.

Status conferences are not required for Land sale proceedings unless so ordered by the Court or requested by a party.

### **Local Rule 78.7 Pretrial Conference**

All counsel must have full authority to enter into binding orders, including settlement orders. Unless otherwise ordered by the Court the following matters shall be addressed at the pretrial conference:

(A) The Court may rule on pending motions.

(B) Trial briefs, witness lists, exhibit lists, exhibits ordered by the Court, proposed jury instructions and proposed jury interrogatories shall be submitted.

Pretrial conferences are not required for Land sale proceedings unless so ordered by the Court or requested by a party.

### **Local Rule 78.8 Miscellaneous**

Clients shall be present unless their presence has been excused by the Court. The trial date shall not be continued without good cause and order of the Court.

### **Local Rule 78.9 Jury Management Plan**

Mahoning County Probate Court adopts and incorporates in its entirety by reference the Mahoning County Common Pleas Court Jury Use and Management Plan as amended. In addition thereto, any party requesting a jury demand pursuant to Rule 38 of the Ohio Rules of Civil Procedure shall deposit with the Clerk of this Court the sum of \$400.00 at the time of the demand. In the event the jury demand is withdrawn prior to trial or the case is settled without the need for a jury trial, then said deposit shall be refunded.