

COMMON PLEAS COURT
BUTLER COUNTY, OHIO
PROBATE DIVISION

LOCAL RULES

BUTLER COUNTY COURTHOUSE

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As originally adopted and made effective beginning 12/15/2004
and including Amendments adopted through 9/30/2014

Conduct and operations in the Probate Division of the Butler County, Ohio Court of Common Pleas (Butler County Probate Court) are governed by the applicable Rules of Superintendence for the Courts of Ohio supplemented by local rules of practice adopted by the Butler County Probate Court, which follow. The Rules of Superintendence may be found on the Ohio Supreme Court's website at: <http://sc.ohio.gov/LegalResources/Rules/default.asp>, and are incorporated in their entirety into these Local Rules by reference.

The Butler County Probate Court's Local Rules of Practice are numbered to correspond with the numbering of the Rules of Superintendence for the Court of Ohio. The effective date of all Butler County Probate Court Rules contained herein was December 15, 2004, except for rules that have been amended since that date. For rules that have been amended since December 15, 2004, the effective date of the amendment is set forth immediately following the new or amended paragraph.

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B.C.L.R. 8.1 APPOINTMENTS

(A) Appointment of Counsel in Civil Commitment and Civil Institutionalization Proceedings.

1. The Clerk shall maintain a list of attorneys who have expressed a willingness to accept appointments to serve as the counsel for persons for whom a civil commitment or civil institutionalization is sought, or persons for whom a civil commitment or civil institutionalization has been established and for whom the Court deems the appointment is necessary and proper.

[Effective date: 4/3/2009]

2. Assignment of counsel to represent persons for whom a civil commitment or civil institutionalization is sought, or persons for whom a civil commitment or civil institutionalization has been established and for whom the Court deems the appointment is necessary and proper shall be done in a manner that shall ensure an equitable distribution of appointments among persons on the appointment list. The determination of equitable distribution shall take into account the individual appointee's education and professional experience and their particular knowledge of the types of specific issues presented by the particular case to which they are appointed, as well as the number of times that they have been appointed with respect to the times others have been appointed.

[Effective date: 4/3/2009]

3. The procedure by which all such appointments are made shall be reviewed periodically by the Court to ensure the equitable distribution of appointments among persons on the list maintained by the Court's Clerk.

[Effective date: 4/3/2009]

4. The manner of compensation and rate at which persons appointed will be compensated for services provided as a result of appointment, including if applicable, a fee schedule, shall be set by order of the Court, in accordance with applicable statutes and administrative rules.

[Effective date: 4/3/2009]

(B) Appointment of Counsel in Guardianship Proceedings.

1. The Clerk shall maintain a list of attorneys who have expressed a willingness to accept appointments to serve as the counsel for persons for whom a guardianship is sought, or persons for whom a guardianship has been established and for whom the Court deems the appointment is necessary and proper.

[Effective date: 4/3/2009]

2. Assignment of counsel to represent persons for whom a guardianship is sought, or persons for whom a guardianship has been established and for whom the Court deems the appointment is necessary and proper shall be done in a manner that shall ensure an equitable distribution of appointments among persons on the appointment list. The determination of equitable distribution shall take into account the individual appointee's education and professional experience and their particular knowledge of the types of specific issues presented by the particular case to which they are appointed, as well as the number of times that they

have been appointed with respect to the times others have been appointed.

[Effective date: 4/3/2009]

3. The procedure by which all such appointments are made shall be reviewed periodically by the Court to ensure the equitable distribution of appointments among persons on the list maintained by the Court's Clerk.

[Effective date: 4/3/2009]

4. The manner of compensation and rate at which persons appointed will be compensated for services provided as a result of appointment, including if applicable, a fee schedule, shall be set by order of the Court, in accordance with applicable statutes and administrative rules.

[Effective date: 4/3/2009]

(C) Appointment of Attorneys as Guardians.

1. The Clerk shall maintain a list of attorneys who have expressed a willingness to accept appointments to serve as the guardian of the person or the guardian of the estate of persons for whom a guardianship is either being sought or for whom guardianship proceeding is pending.

[Effective date: 4/3/2009]

2. Appointment of attorneys appointments to serve as the guardian of the person or the guardian of the estate of persons for whom a guardianship is either being sought or for whom guardianship proceeding is pending shall be done in a manner that shall ensure an equitable distribution of appointments among persons on the appointment list. The determination of equitable distribution shall take into account the individual appointee's education and professional experience and their particular knowledge of the types of specific issues presented by the particular case to which they are appointed, as well as the number of times that they have been appointed with respect to the times others have been appointed.

[Effective date: 4/3/2009]

3. The procedure by which all such appointments are made shall be reviewed periodically by the Court to ensure the equitable distribution of appointments among persons on the list maintained by the Court's Clerk.

[Effective date: 4/3/2009]

4. The manner of compensation and rate at which persons appointed will be compensated for services provided as a result of appointment, including if applicable, a fee schedule, shall be set by order of the Court, in accordance with applicable statutes and administrative rules.

(D) Appointment of Attorneys as Guardians ad Litem.

1. The Clerk shall maintain a list of attorneys who have expressed a willingness to accept appointments to serve as the Guardians ad Litem.

[Effective date: 4/3/2009]

2. Appointment of attorneys to serve as Guardians ad Litem shall be done in a

manner that shall ensure an equitable distribution of appointments among persons on the appointment list. The determination of equitable distribution shall take into account the individual appointee's education and professional experience and their particular knowledge of the types of specific issues presented by the particular case to which they are appointed, as well as the number of times that they have been appointed with respect to the times others have been appointed.

[Effective date: 4/3/2009]

3. The procedure by which all such appointments are made shall be reviewed periodically by the Court to ensure the equitable distribution of appointments among persons on the list maintained by the Court's Clerk.

[Effective date: 4/3/2009]

4. The manner of compensation and rate at which persons appointed will be compensated for services provided as a result of appointment, including if applicable, a fee schedule, shall be set by order of the Court, in accordance with applicable statutes and administrative rules.

[Effective date: 4/3/2009]

(E) Appointment of Attorneys as Fiduciaries in Estate and Trust Administration Proceedings.

1. The Clerk shall maintain a list of attorneys who have expressed a willingness to accept appointments to serve as the fiduciaries in estate administration proceedings and in trust administration proceedings.

[Effective date: 4/3/2009]

2. Appointment of attorneys to serve as the fiduciaries in estate administration proceedings and in trust administration proceedings shall be done in a manner that shall ensure an equitable distribution of appointments among persons on the appointment list. The determination of equitable distribution shall take into account the individual appointee's education and professional experience and their particular knowledge of the types of specific issues presented by the particular case to which they are appointed, as well as the number of times that they have been appointed with respect to the times others have been appointed.

[Effective date: 4/3/2009]

3. The procedure by which all such appointments are made shall be reviewed periodically by the Court to ensure the equitable distribution of appointments among persons on the list maintained by the Court's Clerk.

[Effective date: 4/3/2009]

4. The manner of compensation and rate at which persons appointed will be compensated for services provided as a result of appointment, including if applicable, a fee schedule, shall be set by order of the Court, in accordance with applicable statutes and administrative rules.

[Effective date: 4/3/2009]

B.C.L.R. 50.1 SEPARATE CASE FILING REQUIREMENTS

(A) In any proceeding involving a wrongful death trust created pursuant to R.C. 2125.03(B), a separate case shall be opened with respect to each beneficiary of the trust.

(B) In guardianship proceedings, a separate Application for Appointment of Guardian (Standard Probate Form 16.0 or Standard Probate Form 17.0) shall be filed with respect to each ward.

(C) In conservatorship proceedings, a separate Application for Appointment of Conservator (Standard Probate Form 20.0) shall be filed with respect to each conservatee.

(D) In adoption proceedings, a separate Petition for Adoption (Standard Probate Form 18.0) shall be filed with respect to each person being adopted.

(E) In name change proceedings, a separate Application for Change of Name (Standard Probate Form 21.0 or Standard Probate Form 21.2) shall be filed with respect to each person for whom a change of name is being sought.

B.C.L.R. 52.1 SPECIFICATIONS FOR COMPUTER-GENERATED FORMS

The Court will accept computer-generated probate forms, provided the following conditions are met:

(A) Such forms shall comply with the provisions of Rule 51 and Rule 52 of the Rules of Superintendence for the Probate Division of the Court of Common Pleas.

(B) Such forms shall be in the same form as those provided by the Court with respect to type-style, font, pitch, line spacing, eight and one-half by eleven inch page size, and twenty-four pound bond or heavier stock.

(C) Counsel, by filing computer generated forms, certifies to the Court that any computer-generated forms filed are in full compliance with the Rules of Superintendence and the Local Rules of Court. All printed material shall be in the same sequence and in the same location on the page as the Standard Probate Form. In the event of multiple page forms or two-sided forms, the printed material shall be on the same side or same page as the Standard Probate Form.

(D) The Court may reject such forms that deviate from the format of the Standard Probate Forms provided by the Court. Such forms may be rejected prior to filing or stricken from the record upon discovery and may subject the lawyer or law firm to such other sanctions as the court deems appropriate.

B.C.L.R. 53.1 BUTLER COUNTY PROBATE COURT HOURS OF OPERATION

The Butler County Probate Court and its offices at 101 High Street 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.

B.C.L.R. 54.1 CONDUCT IN BUTLER COUNTY PROBATE COURT

Counsel shall not initiate or institute any discussion on a pending case with the judge or magistrate unless all counsel of record are present, or have been reasonably requested or notified to be present at a specific time fixed by the Court.

B.C.L.R. 55.1 INSPECTION OF BUTLER COUNTY PROBATE COURT RECORDS

(A) No Court file or other Court record may be removed from the premises of the Court without an order signed by the Probate Judge. Violation of this rule may result in the issuance of a citation for contempt.

(B) Civil commitment case files, adoption case files and other filings and records designated by law or by the Probate Court as confidential shall not be examined by any person without the express authorization of the Probate Judge or a Probate Court Magistrate. When authorized, such examination shall take place within the presence of the Probate Judge, a Probate Court Magistrate, or a Probate Court Deputy Clerk. Violation of this rule may result in the issuance of a citation for contempt.

B.C.L.R. 57.1 ADDITIONAL FILING REQUIREMENTS

(A) All documents presented for filing must be computer generated or typewritten and wholly legible. The clerk may reject for filing any documents that are partially or wholly illegible or are not suitable for microfilming or digital imaging.

B.C.L.R. 58.1 COURT COSTS

Deposits shall be required upon the initial filing of any action or proceeding. The deposit may be applied as filings occur and additional deposits may be required. The court shall maintain and make available a current list of costs.

B.C.L.R. 58.2 WITNESS FEES

Upon the filing of a praecipe for subpoena of witnesses, the party shall deposit, for each witness, an amount sufficient to pay the witness fee as prescribed by R.C. §2335.06.

B.C.L.R. 59.1 STANDARD PROBATE FORM 1.0 FILING REQUIREMENT (TESTATE)

(A) A fully completed list of the Surviving Spouse, Children, Next of Kin, Legatees, and Devises (Standard Probate Form 1.0) shall be filed with each Application to Probate Will (Standard Probate Form 2.0).

B.C.L.R. 60.1 STANDARD PROBATE FORM 1.0 FILING REQUIREMENT

(A) A fully completed list of the Surviving Spouse, Children, Next of Kin, Legatees, and Devises (Standard Probate Form 1.0) shall be filed with each Application for Authority to Administer Estate (Standard Probate Form 4.0). [In estates in which an Application to Probate Will (Standard Probate Form 2.0) has been filed with an accompanying Standard Probate Form 1.0, it will not be necessary to file a second Standard Probate Form 1.0.]

(B) If during the administration of an estate the executor or administrator, or, in those cases in which an application to relieve the estate from administration has been filed the applicant, discovers that any information set forth on the Standard Probate Form 1.0 is incorrect, the executor, administrator, or applicant shall promptly file an amended Standard Probate Form 1.0 setting forth the correct information.

B. C. L. R. 60.2. MISCELLANEOUS REQUIREMENTS REGARDING THE FILING OF APPLICATION FOR AUTHORITY TO ADMINISTER ESTATE

[Effective date: 11/7/2008]

(A) Except as otherwise provided in this Rule, applicants seeking to be appointed as the executor or administrator of a decedent's estate shall fully complete all portions of the Application For Authority To Administer Estate (Standard Probate Form 4.0), including the portion of the form that requires a statement by the applicant of the "estimated value of the estate." Failure to fully complete the Form 4.0, including the portion of the form that requires a statement by the applicant of the "estimated value of the estate," will be deemed to be an incomplete filing and may be rejected by the Clerk, or if filed, may later be stricken from the Court's record without hearing. *(NOTE: A notation on the portion of Form 4.0 that requires a statement by the applicant of the "estimated value of the estate," such as "to be determined," or "unknown," or some similar phrase or term, shall be deemed to constitute an incomplete filing.)*

[Effective date: 11/7/2008]

(1) The requirement set forth in paragraph (A) above shall not apply to a decedent's estate in which (a) the estate is being opened to pursue a claim for wrongful death or survival action as a result of personal injury and there are no probate assets to be administered, or (b) the estate is being opened solely for the purpose of filing or continuing a cause of action in favor of or against the decedent's estate. As set forth in paragraph (C) of this rule, in the case of either (a) or (b) above, the applicant shall file a "Classification Form For Estates (BCPC Form 412) stating that either (a) or (b) applies.

[Effective date: 11/7/2008]

(B) Except as otherwise provided in this Rule or ordered by the Court, applicants seeking to be appointed as the executor or administrator of a decedent's estate shall file with their Application For Authority To Administer Estate (Standard Probate Form 4.0), an appropriate Fiduciary's Bond (Standard Probate Form 4.2), unless (1) the decedent's will requests that no bond be required, or (2) applicant is a trust company duly qualified in Ohio, or (3) the applicant is decedent's surviving spouse and is entitled to the entire net proceeds of the estate, or the applicant is the decedent's next of kin entitled to the entire net proceeds of the estate and there is no will. The Fiduciary's Bond shall be in a penal sum not less than double the value of the probable value of the decedent's personal estate and of the annual rentals which come into such person's hands as the fiduciary.

[Effective date: 11/7/2008]

(C) In any case in which (a) the estate is being opened to pursue a claim for wrongful death or survival action as a result of personal injury and there are no probate assets to be administered, or (b) the estate is being opened solely for the purpose of filing or continuing a cause of action in favor of or against the decedent's estate, at the time of the filing of the Application For Authority To Administer Estate (Standard Probate Form 4.0), the applicant shall also file a "Classification Form For Estates (BCPC Form 412) stating that either (a) or (b) applies.

[Effective date: 11/7/2008]

B.C.L.R. 61.1 INVENTORY AND APPRAISAL (ESTATES)

(A) Within three months after the date of the fiduciary's appointment, the fiduciary shall file with the Probate Court an Inventory and Appraisal (Standard Probate Form 6.0) with an attached Schedule of Assets (Standard Probate Form 6.1), unless the Court grants an extension of time.

(B) The street address, auditor's parcel number, and legal description of all decedent's real property located in Ohio shall be set forth on the Schedule of Assets (Standard Probate Form 6.1).

(C) Counsel for the estate shall examine record title to each parcel of real property in the estate from the time it was acquired by the decedent.

(a) Not later than the date on which the Inventory (Standard Probate Form 6.0) and the corresponding Schedule of Assets (Standard Probate Form 6.1) are due to be filed, counsel for the estate, or if there is no counsel for the estate then counsel employed by the fiduciary to examine record title to each parcel of real property in the estate from the time it was acquired by the decedent, shall file with the Court a fully completed "Statement of Counsel Concerning Examination of Record Title" (BCPC Form 462), stating therein that counsel "has examined the real estate records of the County in which the hereinafter real estate is located, as set out in the Inventory and Appraisal filed herewith and described specifically below, and that to the best of the undersigned's knowledge, from said records, the above decedent had at the time of decedent's death the interest in the real estate which is set forth in the Inventory and Appraisal."

[Effective date: 2/1/2005]

(D) Each item of personal property set forth on the Schedule of Assets (Standard Probate Form 6.1) shall be identified as being tangible personal property or intangible personal property.

(E) Unless otherwise ordered by the Court, in estates wherein the fiduciary determines, in good faith, that the total fair market value of all the decedent's household goods and furniture is less than \$6,000.00, the decedent's household goods and furniture may be considered assets the value of which is readily ascertainable, and which need not be appraised. In the event that an interested party objects to any such determination and files an exception to the inventory pursuant to R.C. §2115.16, the fiduciary shall obtain a formal appraisal of decedent's household goods and furniture prior to the hearing on such exception.

(F) Motor vehicles, the value of which is listed in published compilations of motor vehicle values generally used and relied upon by the public or by persons in the motor vehicle sales industry, may be considered assets, the value of which is readily ascertainable, and which need not be appraised.

(G) The name and address of appraisers shall be typed or printed underneath each appraiser's signature on the Appraiser's Certificate portion of Standard Probate Form 6.0. In lieu of the appraiser's signature on Standard Probate Form 6.0, a copy of the actual appraisal, signed by the appraiser, may be attached to the Standard Probate Form 6.0.

(H) Upon the filing of an inventory as required by R.C. §2115.02, the fiduciary may serve notice of the hearing pursuant to Civ. R. 73 upon the surviving spouse, children, next of kin, and any beneficiary named under the will, as well as any attorneys who represent the same, unless such notice is waived.

(I) The court shall maintain a list of persons who the court has pre-approved as suitable and disinterested appraisers. A person may make application to have his/her name added to the list or the application may be proposed on his/her behalf. Such application should set forth his/her qualifications. If the court determines that the applicant is qualified, his/her name may be added to such list as the court periodically updates its list. In any proceeding in which the fiduciary or attorney desires an appraiser for that one proceeding only who is not on the approved list, the attorney or fiduciary may make application, which may be in letter form, for the appointment of such person in that proceeding only. Such application should set forth the reasons for such appointment and the qualifications of the proposed appraiser.

B.C.L.R. 62.1 BOND PREMIUMS

No estate, guardianship, or trust shall be closed until all claims filed with the court have been resolved, including claims for bond premiums. Bond premiums shall be regarded as administrative expenses and shall be paid when due. No application need be made for authority to pay bond premiums.

B.C.L.R. 62.2 INSOLVENT ESTATES

(A) When an estate is insolvent, the executor, administrator, or the applicant or commissioner in the case of an estate being released from administration, shall file a schedule of all claims against the estate with the court. The schedule of claims shall state the name and address of each claimant as it appears on each claim, the amount claimed, the date of presentation of the claim, the class into which the claim falls for payment under R.C. §2117.25, the security held therefor, date of maturity, if not yet due, whether allowed or rejected by the

executor or the administrator, and the date of such allowance or rejection.

(B) When an estate is insolvent and after a schedule of claims is filed pursuant to division (A) above, a hearing shall be scheduled and notice shall be given to all claimants in accordance with Civ. R. 73. The attorney for the estate shall be responsible for serving notice of the hearing on each claimant and shall file with the court proof of such service at or before the time of the hearing.

B.C. L. R. 64.1 ADDITIONAL REQUIREMENTS FOR ACCOUNTS

(A) Every account shall include an itemized statement of all receipts of the fiduciary during the accounting period and of all disbursements and distributions made by the fiduciary during the accounting period. The itemized disbursements and distributions shall be verified by vouchers or canceled checks which shall be referenced to the account by number, letter or date, or by other proof, except in the case of an account rendered by a corporate fiduciary subject to R.C. §1111.28. For estates of decedents whose death occurs on or after January 1, 2002 no vouchers or canceled checks are required to be submitted with the account, but compliance with the provisions of R. C. §2109.30.1 will be required.

(B) Every account shall include an itemized statement of all funds, assets and investments of the estate or trust known to or in the possession of the fiduciary at the end of the accounting period and shall show any changes in investments since the last previous account.

(C) The accounts of testamentary trustees shall, and the accounts of other fiduciaries may, show receipts and disbursements separately identified as to principal and income.

(D) Upon the filing of every account, the fiduciary, except corporate fiduciaries subject to R.C. §1111.28, shall exhibit to the Court, for its examination, the securities shown in the account as being in the hands of the fiduciary, or the certificate of the person in possession of the securities, if held as collateral or pursuant R.C. §2109.13 or R.C. §2131.21, and a passbook or certified bank statement showing as to each depository the fund deposited to the credit of the trust.

(E) All corporate fiduciaries shall file a recapitulation of its accounts in conformity with Standard Probate Form 13.0, or as otherwise directed by the Court.

(F) An affidavit affirming that there are no assets in the hands of the fiduciary and an entry dispensing with the account may be presented in lieu of a current account in wrongful death cases.

B.C.L.R. 64.2 SHOW CAUSE HEARINGS

A fiduciary who has been cited shall personally appear in court for a show cause hearing. Counsel shall not appear in lieu of a cited fiduciary unless the Court grants leave for the attorney to appear in that capacity.

B.C.L.R. 65.1 APPRAISER FEES IN LAND SALE PROCEEDINGS

Appraisers appointed under R.C. §2127.22 shall be paid such compensation as the Court thinks proper for services performed by them. Unless otherwise ordered by the Court, the amount of such compensation shall be determined at the time the executor, administrator, or guardian makes the return of their proceedings pursuant to R.C. §2127.35.

B.C.L.R. 66.1 GUARDIANSHIPS - ADDITIONAL RULES

(A) A Statement of Expert Evaluation (Standard Probate Form 17.1) filed concerning an application for the appointment of a guardian on the grounds of mental incompetency shall be maintained as a confidential record.

(B) The Investigator's Report on Guardianship (Standard Probate Form 17.8) filed concerning an application for the appointment of a guardian on the grounds of mental incompetency shall be maintained as a confidential record.

(C) An Application for Authority to Expend Funds (Standard Probate Form 15.7) shall not be approved if the guardian's account required to be filed by R.C. §2109.30 is overdue.

(D) Funds shall not be released to a guardian except upon an order of the court.

(E) None of a ward's assets may be accessed through an automated teller machine or debit card. Electronic payment of routine and recurring expenses is permitted with court approval.

(F) Applicants seeking to be appointed as the guardian of a minor or as the guardian of an incompetent shall execute and file with the Court an Authorization for Release of Information form (BCPC 500G), expressly authorizing: (1) Adult Protective Services in Butler County and surrounding counties to release to the Butler County Probate Court, for an in camera inspection by the Court, any reports that may involve the applicant that concern allegations of abuse, neglect, or the exploitation of an adult, (2) Butler County Sheriff, and surrounding counties and municipalities to release to the Butler County Probate Court copies of any records of arrest and/or conviction concerning any criminal charges that the applicant may have, (3) Butler County Probate Court to obtain from Ohio Courts Network (OCN) current and previous residences, civil and criminal history records, driving records, birth records, public records, or any criminal justice agency records that the applicant may have in any federal, state, or county jurisdictions.

[Effective date:???

(1) Except as otherwise provided in this rule, in all guardianship proceedings that involve a person who is alleged to be incompetent or who has previously been found to be incompetent (such person hereinafter referred to as the ward), persons seeking to be named as either the guardian of the person, guardian of the estate, or guardian of the person and estate of the ward shall file with the Court a fully executed "Authorization for Release of Information" (BCPC Form 500G) at the time of the filing of the applicant's Application For Appointment Of Guardian Of Incompetent (Standard Probate Form 17.0). This requirement shall not apply when the applicant is a corporation or when the applicant is an attorney who is licensed to practice law in the state of Ohio. This requirement may otherwise be waived by the court for good cause

shown.

[Effective date: 8/28/2013]

(2) Except as otherwise provided in this rule, in all guardianship proceedings that involve a person who is a minor (such person hereinafter referred to as the ward), persons seeking to be named as either the guardian of the person, guardian of the estate, or guardian of the person and estate of the ward shall file with the Court a fully executed "Authorization for Release of Information" (BCPC Form 500G) at the time of the filing of the applicant's Application For Appointment Of Guardian Of Minor (Standard Probate Form 16.0). This requirement shall not apply when the applicant is a corporation or when the applicant is an attorney who is licensed to practice law in the state of Ohio. This requirement may otherwise be waived by the court for good cause shown.

[Effective date: 8/28/2013]

(3) The admissibility of any reports submitted to the Butler County Probate Court by Butler County Adult Protective Services for an in camera inspection shall be determined by the Court at the time of the hearing on the matter then pending before the Court, taking into account any applicable statutes and/or rules of evidence, in addition to any other applicable law. The confidential or privileged nature provided to any such report by any applicable statute or other law shall remain in full force and effect, unless otherwise ordered by this Court.

[Effective date: 8/28/2013]

B.C.L.R. 67.1 ESTATES OF MINORS NOT EXCEEDING TEN THOUSAND DOLLARS

(A) The attorney for said minor, or in case the applicant is not represented, the attorney for the payor, shall be responsible to immediately deposit said funds and thereafter file a completed Verification of Receipt and Deposit (Standard Probate Form 22.3) within seven (7) days of the issuance of the entry.

B.C.L.R. 68.1 SETTLEMENT OF CLAIMS FOR INJURIES TO MINORS

(A) An application for settlement of a minor's claim that exceeds Ten Thousand Dollars (\$10,000) shall be brought by the guardian of the estate. If the gross amount of the claim for injuries does not exceed Ten Thousand Dollars (\$10,000) , the application shall be brought by the parent(s) of the child, the guardian of the child, or the person having custody of the child.

B.CL.R. 68.2 STRUCTURED SETTLEMENTS

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

(A) The application shall include an affidavit from an independent certified public accountant or equivalent professional, specifying the present value of the settlement and the method by which that value was calculated.

(B) If the settlement is to be funded by an annuity, the annuity shall be provided by an annuity carrier which meets or exceeds the following criteria:

(1) The annuity carrier must be licensed to write annuities in Ohio and, if affiliated with the liability carrier or the person or entity paying the settlement, must be separately capitalized, licensed and regulated and must have a separate financial rating.

(2) The annuity carrier must have a minimum of \$100,000,000.00 of capital and surplus, exclusive of any mandatory security valuation reserve.

(3) The annuity carrier must have one of the following ratings from at least two of the following rating organizations:

(a) A.M. Best Company: A++, A+, or A;

(b) Moody's Investors Service (Financial Strength): Aaa, Aa1, or Aa2;

(c) Standard & Poor's Corporation (Claims Paying/Solvency): AAA or AA;

(d) Duff & Phelps Credit Rating Company (Claims Paying Ability Rating): AAA, AA+, or AA.

(4) In addition to the requirement of subsection (3) immediately above, an annuity insurer must meet any other requirement the Court considers reasonably necessary to assure that funding to satisfy periodic-payment settlements will be provided and maintained.

(5) A qualified insurer issuing an annuity contract pursuant to a qualified funding plan under these rules may not enter into an assumption reinsurance agreement for the annuity contract without the prior approval of the Court, the owner of the annuity contract, and the claimant having the beneficial interest in the annuity contract. The Court shall not approve assumption reinsurance unless the re-insurer is also qualified under these rules.

(6) The annuity insurance carrier and the broker procuring the policy shall each furnish the court with an affidavit certifying that the carrier meets the criteria set forth in subsection 3 above, as of the date of the settlement, and that the qualification is not likely to change in the immediate future. The broker's affidavit shall state that the determination was made with due diligence based on rating information which was available, or should have been available, to an insurance broker in the structured settlement trade.

(7) In the event the parties desire to place the annuity with a licensed insurer in Ohio that does not meet the above criteria, the Court may consider approving the same, but only if the annuity obligation is bonded by an independent insurance or bonding company, licensed in Ohio, in the full amount of the annuity obligation.

(C) After the filing of the Report of Distribution and Entry Minor's Claim (Standard Probate Form 22.4), and provided that no monies remain as assets of the guardianship and no payments will be made to the minor under the terms of the structured settlement prior to the minor reaching eighteen years of age, the guardianship may be terminated with the approval of the Court.

B.C.L.R. 70.1 WRONGFUL DEATH SETTLEMENTS

(A) All interested parties to the distribution of the net proceeds of the settlement shall be listed by name, residence, and relationship to the decedent on the proposed entry approving settlement or distributing wrongful death proceeds.

(B) The term “interested parties” who are subject to notice as set forth in R.C. §2125.02, shall include the surviving spouse, the children and the parents of the decedent or other next of kin who claim to have suffered damages.

(C) The presence of the fiduciary of the estate shall be required at the hearing regarding an application to approve a wrongful death settlement or proposed distribution.

(D) Unless otherwise ordered by the court, the fiduciary of the estate shall file a Report of Distribution (Standard Probate Form 14.3) within 30 days of the filing of the Entry Approving Settlement (Standard Probate Form 14.2).

B.C.L.R. 71.1 COUNSEL FEES

(A) A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee.

(B) A fee is clearly excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee. Factors to be considered as guides in determining the reasonableness of a fee include the following:

- (1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) The fee customarily charged in the locality for similar legal services.
- (4) The amount involved and the results obtained;
- (5) The time limitations imposed by the client or by the circumstances;
- (6) The nature and length of the professional relationship with the client;
- (7) The experience, reputation, and ability of the lawyer or lawyers performing the services;
- (8) Whether the fee is fixed or contingent.

(C) Counsel shall:

- (1) Discuss alternative methods of charging fees with the fiduciary;
- (2) Offer fee arrangements that reflect the true value of the services rendered;
- (3) Reach agreements respecting fees with the fiduciary as early in the attorney-client relationship as possible;
- (4) Determine the amount of fees by consideration of many factors and not just time spent;
- (5) Provide written agreements as to all fee arrangements.

(D) Counsel rendering services to an estate, guardianship, or testamentary trust shall

maintain an itemized statement of the services performed, the date the services were performed, the time spent in rendering the services, and if the fee arrangement with the estate is based on an hourly rate, the hourly rate charged. Time increments should be kept in one-tenth (0.1) of an hour.

(E) Upon the filing of an application for allowance of counsel fees for services rendered to an estate, the applicant shall give notice of a hearing on the application to all of those persons whose interests are affected by payment of the fees. If persons entitled to greater than fifty percent of the assets to be used for the payment of fees file their written consent to the allowance of counsel fees and counsel for the estate certifies this fact to the Court, the Court may dispense with the hearing on the application for allowance of counsel fees, and authorize that the counsel fees be paid subject to any exceptions to the fiduciary's account filed by any non-consenting beneficiaries or other interested parties.

(F) For good cause shown, the Court may dispense with a hearing on any application for allowance of counsel fees, and authorize that the counsel fees be paid subject to any exceptions to the fiduciary's account filed by any non-consenting beneficiaries or other interested parties.

(G) Upon the filing of an application for allowance of counsel fees for services rendered to a guardianship or testamentary trust, the Court may dispense with a hearing on the application for allowance of fees, and authorize that the counsel fees be paid subject to any exceptions to the fiduciary's account filed by any non-consenting interested parties.

(H) If assets being relieved from administration are used to pay counsel fees for services rendered in such estates, then the counsel fees shall be listed as an estate debt on the back of the Schedule of Assets and Liabilities of Estate to be Relieved from Administration (Standard Probate Form 5.1). The allowance of counsel fees shall be determined at the time of the hearing on the application to relieve. In estates relieved from administration, counsel fees shall not be paid until after the Entry Relieving the Estate from Administration (Standard Probate Form 5.6) has been approved by the Court.

(I) In estates of decedents in which the sole legatee, devisee, or heir is also the executor or administrator, and in which no partial accountings and no final account or final and distributive account is required by law, an application for allowance of attorney fees may be filed with the Court prior to the filing of a Certificate of Termination (Standard Probate Form 13.6).

B.C.L.R. 71.2 CONTINGENT FEE AGREEMENTS

(A) In the event that any portion of a settlement involving claims for injuries to minors, claims involving adult wards, or claims for wrongful death is a structured settlement, defined as a settlement wherein payments are made on a periodic basis, and a contingent fee agreement is used, the present value of the settlement shall be used to fix and determine the attorney's contingent fees.

B.C.L.R. 73.1 GUARDIAN'S COMPENSATION

(A) Guardian's compensation shall be allowed in accordance with the following schedule:

(1) Corporate Guardians: Recognizing the competitive atmosphere in which corporate fiduciaries operate and which acts as a restraint on what they charge for their services:

(a) A guardian may charge fees in accordance with its schedule for these services which it may publish from time to time.

(b) Published fee schedules are to be filed in the Court upon the effective date of this rule and whenever a change is made or requested by the Court.

(c) On each accounting where fees have been taken, an affidavit will be required, asserting that the fees charged represent those published in its schedule during the period of the accounting.

(2) Individual Guardians:

Fees shall be determined by application and entry.

(B) Additional compensation, reimbursement for expenses incurred and fees of a guardian of a person may be fixed by the court upon application.

(C) The court may require that an application for fees or for additional compensation be set for hearing and that written notice of the time and place of the hearing and the amount applied for be given as required by the court. A copy of the notice, with certified mail return receipt attached, together with an affidavit of the service of such notice, shall be filed prior to the hearing.

(D) The compensation of co-guardians in the aggregate shall not exceed the compensation which would have been payable if only one guardian had been performing the duties.

(E) Except for good cause shown, neither compensation for a guardian nor fees to the attorney representing the guardian, will be allowed when the guardian is delinquent in filing the account as required by R.C. §2109.30.2.

B.C.L.R. 73.2 VETERANS ADMINISTRATION - GUARDIANSHIPS

With respect to moneys received from the Veterans' Administration and revenue or profit from any property wholly or partially acquired therewith, compensation payable to guardians shall be based upon services rendered and shall not exceed five per cent of the amount of moneys received from the Veterans' Administration during the period covered by the account required by R.C. §5905.11. In the event of extraordinary services by any guardian, the Court, upon petition and hearing thereon, may authorize reasonable additional compensation. A copy of the petition and notice of hearing thereon shall be given the proper office of the Veterans' Administration in the manner provided in the case of hearing on a guardian's account or other pleading. No commission or compensation shall be allowed on the moneys or other assets received from a prior guardian nor upon the amount received from liquidation of loans or other investments. All applications for guardian compensation or attorney fees shall be set for hearing, and notice shall be given to the Veterans Administration office, unless a waiver or consent is obtained from the Veterans Administration.

B.C.L.R. 74.1 TRUSTEE'S COMPENSATION

(A) Trustee's compensation shall be allowed in accordance with the following schedule:

(1) Corporate Trustee: Recognizing the competitive atmosphere in which corporate fiduciaries operate and which acts as a restraint on what they charge for their services:

(a) A trustee may charge fees in accordance with its schedule for these services which it may publish from time to time.

(b) Published fee schedules are to be filed in the court upon the effective date of this rule and whenever a change is made or whenever requested by the court.

(c) On each accounting where fees have been taken, an affidavit will be required, asserting that the fees charged represent those published in its schedule during the period of the accounting.

(2) Individual Trustees:

Fees shall be determined by application and entry.

B.C.L.R. 75.1 LOCAL RULES - SPECIAL PROVISIONS

(A) Civil commitment of the mentally ill.

(1) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life. *[Effective date: 9/17/2014]*

(2) Each Affidavit (Mental Illness) (BCPC Form 801) filed with the Butler County Probate Court shall be signed by a person who has information to believe or has actual knowledge that the person alleged in the Affidavit is a mentally ill person subject to court order. *[Effective date: 9/17/2014]*

(3) "Mentally ill person subject to court order" means a mentally ill person who, because of the person's illness:

(a) Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm; and/or

(b) Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior or evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm or other evidence of present dangerousness; and/or

(c) Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community; and/or

(d) Would benefit from treatment for mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person; and/or

(e) Would benefit from treatment as manifested by evidence of ALL of the

following:

(i) The person is unlikely to survive safely in the community without supervision, based on a clinical determination.

(ii) The person has history of lack of compliance with treatment for mental illness and at least one of the following applies:

(a) At least twice within the thirty six months prior to the filing of an affidavit seeking court-ordered treatment of the person under section 5122.111 of the Revised Code, the lack of compliance has been a significant factor in necessitating hospitalization in a hospital or receipt of services in a forensic or other mental health unit of a correctional facility, provided that the thirty-six month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the thirty-six month period.

(b) Within the forty-eight months prior to the filing of an affidavit seeking court-ordered treatment of the person under section 5122.111 of the Revised Code, the lack of compliance resulted in one or more acts of serious violent behavior toward self or others or threats of, or attempts at, serious physical harm to self or others, provided that the forty-eight month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the forty-eight month period.

(iii) The person, as a result of mental illness, is unlikely to voluntarily participate in necessary treatment.

(iv) In view of the person's treatment history and current behavior, the person is in need of treatment to prevent a relapse or deterioration that would be likely to result in substantial risk of serious harm to the person or others.

[Effective date: 9/17/2014]

(4) An Affidavit (Mental Illness) filed in the Butler County Probate Court shall be filed in accordance with the requirements of chapter 5122 of the Revised Code using B.C.P.C. Form 801 (Effective 9/17/14), or a form substantially similar thereto, and said Affidavit shall be signed before a Probate Judge, Magistrate, Deputy Clerk, a Notary Public, or other person authorized by law to administer oaths.

[Effective date: 9/17/2014]

(5) When an Affidavit (Mental Illness) (BCPC Form 801) has been accepted and an Order of Detention (Mental Illness) (BCPC Form 800) issued, the Court shall promptly appoint an attorney to represent the patient/respondent. While the patient/respondent is being held pursuant to the Order of Detention (Mental Illness) (BCPC Form 800), a "voluntary" commitment shall not be accepted, unless the record or entry has been signed and approved by the patient/respondent's court-appointed counsel.

[Effective date: 9/17/2014]

(B) Adoptions.

(1) In all adoption proceedings involving minors the petitioner shall execute and file with the Court an Authorization for Release of Information (BCPC Form 324) and shall file, or cause to be filed, the results of a criminal records check performed pursuant to R.C. §2151.86.

(2) In all adoption proceedings involving minors, the petitioner shall file a preliminary estimate Petitioner's Account (Standard Probate Form 18.9) at the time of the filing of the Petition for Adoption of Minor (Standard Probate Form 18.0) and a final Petitioner's Account

(Standard Probate Form 18.9) not later than ten (10) days prior to the date of the final hearing.

(3) In all adoption proceedings involving minors, the petitioner shall file an Affidavit (BCPC Form 308) containing the information required by R.C. §3109.27.

(4) In all adoption proceedings, all court costs shall be paid on or before the date of the final hearing, and the court may withhold the release of any certified copy of the Final Decree of Adoption (Standard Probate Form 18.6 or 18.7) until all court costs are paid and the Ohio Department of Job and Family Services Certificate of Adoption (Form HEA 2757) has been prepared by the petitioner or petitioner's counsel and filed with the court.

(5) After the filing of the Final Decree of Adoption (Standard Probate Form 18.6 or 18.7) the petitioner or petitioner's counsel shall be responsible for obtaining a new birth certificate from the Ohio Department of Health, Division of Vital Statistics.

(6) After the filing of a Final Decree of Adoption (Standard Probate Form 18.6 or 18.7) involving a minor for whom a child support order was in effect at the time of the filing of the decree, petitioner or petitioner's counsel shall give notice to the domestic relations court or the juvenile court that issued the child support order and to the Butler County Child Support Enforcement Agency that the minor has been adopted. The name of the child after the adoption shall remain confidential.

(7) All adoption records shall be confidential and no person shall be entitled to review any adoption record without the express authorization of the court. Request for copies of adoption records must be made in writing by filing a Request for Copy of Adoption Documents (BCPC Form 317).

(8) The initial filing fee for a Petition for Release of Information (BCPC Form 311) filed pursuant to R.C. §3107.41(B)(1) shall be \$22.00.

(C) Exhibits.

(1) Attachments to a pleading will remain with the pleading. Exhibits introduced by a party at hearing or trial will be retained separately by the court. After the time for an appeal has expired and all costs have been paid, a party may petition the court for the return of an original exhibit. Alternatively, the court may destroy such exhibits pursuant to Sup.R. 26(F).

(D) Electronic transmission filings.

(1) In conformity with Civil Rule 5(E), and beginning April 11, 1994, pleadings and other papers may be filed with the clerk by facsimile transmission, subject to the following provisions:

(a) A document filed by facsimile transmission shall be accepted as the original, consistent with Civil Rule 5(E), if the person sending the document by facsimile transmission files with the clerk of courts the original document, together with any fees and costs, by the close of business on the fifth day after the date of transmission. Failure to so file the original and pay the fees and costs shall result in such document being stricken without motion; the document shall thereupon be deemed not filed.

(b) The person filing the document by facsimile shall provide therewith identification information on a cover page, including the caption of the document. The cover page shall indicate the number of pages included in the transmission.

(c) Subject to paragraph (a) above, all documents filed by facsimile shall be considered filed when the date and time have been stamped thereon by the clerk of courts. For the purpose of this section, the date and time stamp produced by the clerk's facsimile machine shall constitute the date and time stamp of the clerk of courts. All risks of transmission shall be borne by the sender.

(d) Fees for this service are as follows: \$2.00 per transmission, plus \$0.25 per page for the first ten (10) pages; all additional pages will cost \$0.50 per page. Each transmission shall be limited to one (1) case. The clerk assumes no new responsibilities or liabilities by virtue of this local rule.

(E) Contested matters that are not civil actions.

(1) All applications, exceptions, objections, or motions in contested matters shall be supported by a memorandum that is incorporated into or annexed to the motion. Motions and supporting memoranda shall be filed in duplicate. The clerk shall deliver the duplicate copy to the assignment commissioner, who shall be responsible for delivering it to the judge to whom the case has been assigned. Service of motions shall be effected pursuant to the provisions of Civil Rule 73.

(2) All motions shall be submitted for decision without oral argument unless the original motion or subsequent memorandum either in support of or in opposition to the motion contains the wording "Oral Argument Requested" in the caption. The court may order oral argument on any motion.

(3) Unless an extension of time is granted for good cause shown, any memorandum in opposition to a motion, or a memorandum of a co-party in support of the motion, shall be filed within fourteen (14) days of the filing of the motion and the movant shall file any reply memorandum in support of the motion within seven (7) days of the filing of the last memorandum in opposition. No memorandum shall exceed fifteen (15) pages in length without leave of court. Unless oral argument is requested, a motion shall be considered submitted to the court for decision upon the expiration of said time period.

(F) Miscellaneous.

(1) Attorneys shall not act as sureties in any cause, nor shall they be permitted to become surety on the bond of any fiduciary.

(2) No certified copies of entries or Entry Appointing Fiduciary; Letters of Authority (Standard Probate Form 4.5) will be issued unless all required filings have been made.

(3) When the court determines that a guardian ad litem is necessary or appropriate, the court shall appoint a suitable and disinterested person as guardian ad litem.

(4) Trial Court Jury Use and Management Standards for the Court shall be the same as those rules and regulations used by the Butler County Jury Commissioner, as set forth in the Butler County Common Pleas Court General Division Local Rules.

(G) Name changes.

(1) A certified copy of a minor's birth certificate shall be attached to all Application(s) for Change of Name of Minor (Standard Probate Form 21.2).

(2) A certified copy of an applicant's birth certificate shall be attached to all Application(s) for Change of Name of Adult (Standard Probate Form 21.0), unless this requirement is expressly waived by the court.

(H) Release from administration.

(1) A fully completed Surviving Spouse, Children, Next of Kin, Legatees and Devisees (Standard Probate Form 1.0) shall be filed with each Application to Relieve Estate from Administration (Standard Probate Form 5.0) that is filed in the Court. If the applicant discovers that the information set forth on the Standard Probate Form 1.0 is in any way incorrect, the applicant shall promptly file an amended Standard Probate Form 1.0 setting forth the correct information.

(2) A fully completed Assets and Liabilities to be Relieved from Administration (Standard Probate Form 5.1) shall be filed with each Application to Relieve Estate from Administration (Standard Probate Form 5.0) that is filed in the court.

(3) The name and address of the appraiser shall be typed or printed underneath the appraiser's signature on the Certification portion of Standard Probate Form 5.1. The appraiser shall be paid in accordance with section 2115.06 of the Revised Code.

(4) Unless otherwise ordered by the Court, residential real estate included in the Assets and Liabilities to be Relieved from Administration (Standard Probate Form 5.1) may be considered as property the value of which is readily ascertainable and may be included in Standard Probate Form 5.1 at a value equal to the true value of such real estate as determined by the county auditor in accordance with section 5713.03 of the Revised Code. If the county auditor's valuation is used pursuant to this rule, a copy of the property record card reflecting the county auditor's valuation as of the date of decedent's death shall be attached to Standard Probate Form 5.1.

(5) When an estate contains real property, counsel for the estate shall examine record title to each parcel of real property in the estate from the time it was acquired by the decedent.

a. At the time of the filing of the "Assets And Liabilities Of Estate To Be Relieved From Administration" (Standard Probate Form 5.1) or an "Application For Summary Release From Administration (Standard Probate Form 5.10), counsel for the estate, or if there is no counsel for the estate then counsel employed by the applicant to examine record title to each parcel of real property in the estate from the time it was acquired by the decedent, shall file with the Court a fully completed "Statement of Counsel Concerning Examination of Record Title" (BCPC Form 462), stating therein that counsel "has examined the real estate records of the County in which the hereinafter real estate is located ... and that to the best of the undersigned's knowledge, from said records, the above decedent had at the time of decedent's death the interest in the real estate which is set forth in the [accompanying Certificate of Transfer]."

[Effective date: 2/1/2005]

(6) Personal property set forth on the Schedule of Assets (Standard Probate Form 6.1) shall be designated as being tangible personal property or intangible personal property.

(7) In estates wherein the total value of all the household goods and furniture is less than \$6,000.00, the household goods and furniture will be considered assets, the value of which is readily ascertainable and which need not be appraised, but shall be included in the inventory at a fair market value determined in good faith by the fiduciary.

(8) Motor vehicles, the value of which is listed in published compilations of motor vehicle values generally used and relied upon by the public or by persons in the motor vehicle sales industry, will be considered assets, the value of which is readily ascertainable and which need not be appraised, but shall be included in the inventory.

B.C.L.R. 78.1 CASE MANAGEMENT IN DECEDENT'S ESTATE, GUARDIANSHIP AND TRUSTS

The fiduciary of every decedent's estate shall file a written status report whenever a partial account, waiver of partial account, or affidavit and entry in lieu of a partial account is filed. If an estate is not fully administered within two years, the matter will be referred to a magistrate to determine whether court intervention is necessary.

B.C.L.R. 78.2 CASE MANAGEMENT AND PRE-TRIAL PROCEDURE FOR CIVIL ACTIONS

The following shall apply to all civil actions filed in the court unless otherwise provided in these local rules. Civil actions filed in the court shall include actions seeking a determination of the validity of a will during the testator's lifetime filed pursuant to R.C. §2107.081 and R.C. §2731.03, other actions seeking declaratory judgments filed pursuant to R.C. §2731.03, actions seeking the direction or judgment of the court filed pursuant to R.C. §2107.46, actions to contest the validity of a will filed pursuant to R.C. §2107.71, actions to sell real estate filed pursuant to R.C. §2127.10, actions seeking authority to lease real estate filed pursuant to R.C. §2111.27, actions to improve a ward's real estate filed pursuant to R.C. §2127.33, and any other actions filed in the court to which the Rules of Civil Procedure apply.

(A) Filings.

(1) Any paper submitted to the clerk for filing shall contain in legible or printed form the name, address, and telephone number of the attorney who will act for the party, together with his designation as trial counsel.

(2) The proof of service on all filings shall state the date and manner of service and, in addition, shall state the name and business address of each attorney or party to whom the filing is directed, and shall be signed in accordance with Ohio Civil Rule 11.

(3) Beginning January 1, 1992, each attorney will include, as part of his identification, his or her Ohio Supreme Court registration number.

B.C.L.R. 78.3 INCORPORATION BY REFERENCE OF THE LOCAL RULES OF THE GENERAL DIVISION OF THE COURT OF COMMON PLEAS

The Local Rules of the General Division of the Butler County Court of Common Pleas shall apply to all civil proceedings filed in the Court and are incorporated in these Rules by reference.