

IN THE COURT OF COMMON PLEAS, PROBATE DIVISION, GEAUGA COUNTY, OHIO
Judge Timothy J. Grendell

Information Sheet
Summary Release from Administration

WARNING

This Information Sheet is intended to provide you with an overview of the subject matter, effective as of the date noted in the upper left-hand corner. This Information Sheet is not intended to provide you with all legal information that may be necessary for you to decide upon a course of action, and the information provided may not be error-free, complete, or accurate. Moreover, this Information Sheet may not accurately describe the cited sections of the Ohio Revised Code or cited case law. Finally, this Information Sheet is not intended as a substitute for legal advice from a competent licensed attorney, who is familiar with all of the relevant facts of your case, and therefore the Help Center recommends that you seek legal advice from a competent licensed attorney that you select before taking any action. While the Help Center can provide you with a limited amount of general legal information, neither the Help Center staff nor any other Court employee can give you any legal advice.

Background.

The Ohio Revised Code gives priority to the claim of a funeral director for unpaid funeral and burial expenses, and the claim of a surviving spouse to an Allowance for Support,¹ above the claims of the Decedent's other unsecured creditors.² Essentially, an applicant for a Summary Release from Administration is filing as a creditor, and not as a beneficiary or next-of-kin. Generally speaking, if the value of the probate property is equal to or less than (i) the lesser of \$5,000 or the funeral director bill and other court-approved funeral and burial expenses and (ii) if there is a surviving spouse, then the adjusted Allowance for Support, in which case there is no money remaining to pay the unsecured creditors or to make a distribution to the other beneficiaries of the probate estate, then R.C. 2113.031 offers an "applicant-creditor" a relatively simple process to obtain a court order of summary release from administration without any requirement of notifying creditors or beneficiaries of the probate estate, and without the need to apply to the Court to have the Decedent's Will admitted to probate. Probate property may include the Decedent's interest in financial accounts, stocks and bonds, real estate, unpaid wages, uncashed checks, refunds, and automobiles not selected under R.C. 2106.18. Please review the probate information sheet titled "Probate Process Overview" for a description of probate property and non-probate Property.

¹ See generally probate information sheet titled "Rights of Surviving Spouse."

² R.C. 2117.25(A)//

Requirements for Summary Release from Administration. Please read R.C. 2113.031(A) and (B). In summary, the Court may issue an order of Summary Release from Administration in one of two situations. For the purpose of this discussion, the phrase “Funeral and Burial Expenses” means the sum of (i) the decedent’s funeral bill (including both funeral and burial expenses) and (ii) other court-approved funeral expenses only.

First – If the value of the Decedent’s probate property does not exceed the lesser of: (1) \$5,000; or (2) the total amount of Funeral and Burial Expenses, then any person, who has paid, or is obligated to pay, those expenses, may apply for a Summary Release from Administration.³

Second – If the Decedent has a surviving spouse, then that spouse may apply for a Summary Release from Administration if either of two circumstances apply

- **First Circumstance.** The Decedent's Funeral and Burial Expenses have been prepaid, and the value of the probate property does not exceed the total of the following items:
 - The Allowance for Support permitted under R.C. 2106.13. Please review the probate information sheet titled “Rights of Surviving Spouse.” Generally, the amount for the Allowance for Support is \$40,000, but subject to an adjustment for (a) minor children or (b) automobiles selected by the surviving spouse under R.C. 2106.13;⁴ and
 - An amount equal to the lesser of: (i) \$5,000, or (ii) Decedent's Funeral and Burial Expenses.⁵
- **Second Circumstance.** The Decedent's Funeral and Burial Expenses have not been prepaid, the Decedent's surviving spouse has paid or is obligated in writing to pay the Funeral and Burial Expenses, and the value of the probate property does not exceed the total of the items described above in the First Circumstance.

KEY POINT – If the Funeral and Burial Expenses have not been prepaid, then the surviving spouse may not file a Summary Release solely upon the basis of the Allowance for Support, but rather only if the surviving spouse has paid (or is obligated to pay) the Funeral and Burial Expenses. If the spouse paid a funeral other than the funeral director bill, then the spouse will need court approval using the form titled Application for Approval of Other Funeral Expense (GC PF 5.12).

Determination of ‘Value. To determine the value of the probate property, if the probate property is (i) a vehicle, (ii) a financial account, or (iii) stocks or bonds, then the value must be the date of death value.⁶

Procedure to Obtain an Order for Summary Release from Administration

If you intend to serve as the Estate Representative⁷ and to commence a probate proceeding, you need to decide whether to proceed as a Full Administration, Release from Administration, or Summary Release

³ See R.C. 2113.031(B)(1).

⁴ See probate information sheet titled “Rights of Surviving Spouse.”

⁵ See R.C. 2113.031(A) for the definition of “funeral and burial expenses.”

⁶ See R.C. 2113.031(C)(2)(d).

⁷ “Estate Representative” is the person appointed by the probate court to handle the probate estate, whether the probate process is a Full Administration (in which case the name of that person is the Executor, Administrator, or Administrator with Will Annexed), the Commissioner of a Release from Administration, or the applicant of a Summary Release from Administration. Sometimes that person is called a “fiduciary.”

from Administration. If you conclude that a Summary Release from Administration is available to you, then before you proceed you should review the probate information sheets titled “Probate Process Overview,” “Jurisdiction of Ohio Probate Courts,” and “Rights of a Surviving Spouse,” and please read the “Checklist – Summary Release from Administration,” which is on the Court’s website.

Preliminary Considerations. Before you decide whether the Decedent’s probate estate qualifies for a Summary Release from Administration, please to the following:

- Jurisdiction and Venue. Confirm that this Court is the proper court to accept an Application for Summary Release from Administration (Form 5.10). Carefully review the probate information sheet titled “Jurisdiction of Ohio Probate Courts.” Generally, the Application for Summary Release from Administration (Form 5.10) must be filed in the county where the Decedent resides at the time of death.
- Timing. If the Applicant, who paid the funeral director’s bill (and other approved funeral and burial expenses), is not the surviving spouse, then the Applicant should consider filing the Application for Summary Release from Administration (Form 5.10) within six months after the decedent’s date of death. If the applicant does not present the claim against the estate in accordance with R.C. 2117.06(A) within six months after the date of death, then the claim for reimbursement of the funeral bill could be barred under R.C. 2117.06(C). See the probate information sheet titled “Creditor Rights.”⁸
- Identify Next-of-Kin. The applicant should create a list of the name of each person who is next-of-kin to the Decedent and as to each such person, the address, the relationship to the Decedent, and the birthdate of any minor. The next of kin is determined by R.C. Chapter 2105, with a focus on R.C. 2105.06. Identify those next-of-kin whose current address is unknown but include the last known address. If the Decedent has a surviving spouse or any surviving or predeceased lineal descendants (i.e., children or grandchildren), then include required information for each of them including a predeceased child, and including the name and address of each lineal descendent of a predeceased child. If the Decedent does not have a surviving spouse or any surviving lineal descendants, then include the required information for any surviving parent, and if none, then any surviving brothers and sisters (and the lineal descendants or any deceased siblings).
- Determine if Decedent had a Safe Deposit Box. Determine whether the Decedent had a safe deposit box. Check with the bank that has the Decedent’s checking account. If you locate a safe deposit box, then review the “Checklist - Safe Deposit Box” on the Court’s website. You may obtain a court order by filing the form titled Application For Appointment Of Commissioner To Report On The Contents Of A Safe Deposit Box (GC PF 41.0), together with: (1) a redacted death certificate, (2) the form titled Surviving Spouse, Children, Next of Kin, Legatees and Devisees (Form 1.0), and (3) a Judgment Entry titled Judgment Entry Appointing Commissioner to Inventory Safe Deposit Box (GC PF 41.1). Of course, if the safe deposit box is jointly owned, then the surviving owner can open the safe deposit box without need of a court order.
- Tax Refunds. Determine whether the Decedent is entitled to any income tax (federal or state) refunds. See the discussion below regarding income tax returns and review the probate information sheet titled “Creditor Rights.”

⁸ See *Osbourne v. Osbourne*, 114 Ohio App.3d 412 (1996)(2nd App. Dist. – Greene Cty.)

- Unclaimed Funds. The Decedent may be owed unclaimed funds for any variety of reasons, including a deposit refund, forgotten bank account, expense reimbursement, wages, etc. Consider contacting the Ohio Division of Unclaimed Funds. The website is <https://www.com.ohio.gov/unfd/>. The website has a useful tool to search for unclaimed funds. The phone number is 877-644-6823. The mailing address is Ohio Department of Commerce, Division of Unclaimed Funds, 77 South High Street, 20th Floor, Columbus, OH 43215-6133.
- Allowance for Support Reduction. If applicable, determine whether the Allowance for Support must be reduced as required by R.C. 2106.13(C) by reason of (i) the value of a vehicle selected under R.C. 2106.18 or (ii) Decedent's minor children who are NOT children of the surviving spouse. See "Other Matters to Consider" set forth below.
- Funeral Director's Bill. Obtain a copy of the funeral director's bill. If that funeral bill has been paid, then obtain (i) a copy of the funeral director bill showing a balance due of zero or "paid in full," and (ii) proof of payment by the person who paid that funeral bill (e.g., a cancelled check), which must be paid by the applicant, or if waived, a copy of the waiver of payment by the funeral director. The funeral bill must be paid before any distribution to the beneficiaries or heirs. If there is no funeral expense, typically the result of the Decedent having donated the body, and the body was cremated by the donee institution, then obtain a statement from that institution explaining the event and file a copy of that statement in lieu of the paid funeral director's bill.
 - If (i) surviving spouse files the Application for Summary Release from Administration (Form 5.10) and has NOT paid the funeral bill and (ii) someone other than the surviving spouse paid the funeral bill or other court-approved funeral and burial expenses and does not seek reimbursement from the estate, then the surviving spouse should consider having that person sign and then file with the Clerk the form titled Assignment of Creditor Rights - Funeral (GC PF 4.54A).
- Other Funeral Expenses.⁹ If the applicant intends to determine and obtain court approval for recoverable funeral expenses other than those billed by the funeral director, then gather the evidence of those expenses and proof of payment by the applicant. Court approval is required, which may be obtained by preparing and filing with the Court the form titled Application for Approval of Funeral Expenses (GC PF 5.12).
- Medicaid Issues.¹⁰ Determine whether there is a duty to notify the Ohio Medicaid Estate Recovery Program. There may be an obligation to provide such notice, which could result from the decedent (or the decedent's predeceased spouse) having benefited from Medicaid payments. The Ohio Medicaid Estate Recovery Unit may be able to recover such benefits from any non-probate property as well as probate property.
- Identify the Decedent's Probate Property.
 - As noted in the "Checklist - Summary Release From Administration," make a detailed list of the Decedent's probate property, including gathering copies of all documents that

⁹ See R. C. 2113.031(A)(2)(b)

¹⁰ See R.C.2117.061(B)(2). For general information see:

<https://medicaid.ohio.gov/Portals/0/Resources/Publications/Forms/ODM07400.pdf>

evidence title to property (such as, legal description for real property, vehicle certificate of title, financial account statements, digital assets, retirement account statements, stock certificates, bonds, uncashed checks, tax refunds, State of Ohio unclaimed funds, digital assets, copy of wages due from employer if possible, etc.).

- The value of the probate property listed should be the current value.
- Obtain Financial Information. If the Decedent owned financial accounts and you do not know the account balances or account numbers, and if the financial institution will not release that information to you, then you can obtain a court order that requires the financial institution to release that information to you. Read Geauga Probate Local Rule 78.23 and the “Checklist – Medical and Financial Information,” which is on the Court’s website and which explains the process and forms to be prepared and filed with the Court to obtain a court order.
- Digital Assets. Review (i) the probate information sheet titled “Digital Assets” and (ii) the form titled Digital Asset Certification (GC PF 6.5). You need to prepare and file that form together with the Application for Summary Release from Administration (Form 5.10). You must make a careful search to determine to what extent the Decedent owned Digital Assets.
- Tangible Personal Property. Review the form titled Tangible Personal Property Certification (GC PF 6.6). You need to prepare and file that form together with the Application for Summary Release from Administration (Form 5.10). You must make a careful search to determine to what extent the Decedent owned tangible personal property, particular that which has significant value, for example jewelry, collections, antiques, artwork, etc.
- Firearms. The Decedent may own or possess (i) firearms that are regulated by federal or state law or (ii) Dangerous ordnance as defined by R.C. Sec. 2923.11(K). Federal or state law may regulate the Fiduciary regarding the possession, use, storage, sale, transport, and the distribution of such probate property to certain beneficiaries, particularly beneficiaries who reside in another state. Such federal and state law is complex. Some beneficiaries are not permitted by law to own, possess, or use certain firearms, resulting from age, criminal background, mental health issues, use of drugs, or citizenship status (e.g., illegal alien). Depending upon the nature of a firearm or Dangerous ordnance, the applicant may have risk arising from violation of federal or state law, including criminal law. If the Decedent owned firearms or Dangerous ordnance and the applicant does not have an attorney, then it is highly recommended that the applicant obtain legal advice from an attorney, who has experience with such issues. Please review the probate information sheet titled “Firearms Law and Probate Concerns.”
- Appraisal. Decide whether any probate property must be appraised.¹¹ If so, determine who will be the appraiser, depending upon the nature of the probate property to be appraised. The Estate Representative may select more than one appraiser.¹² See the Court’s website

¹¹ See generally Information Sheet “Probate Process Overview.”

¹² R.C. 2115.06

for a list of preapproved appraisers.¹³ The Estate Representative may pay the cost of the appraiser from the probate property after being appointed by the Judge.

- The general rule is that any probate property that (i) does not have a readily ascertainable value or (ii) can be valued as provided in Geauga Probate Local Rule 78.5(D)(1)(a)(2) (e.g., real property, vehicles, or tangible personal property and digital assets of minimal value) must be appraised.¹⁴ You should review the probate information sheet titled “Probate Process Overview” regarding appraisers and the appraisal of probate property.

Note: Depending upon the circumstances, if the Estate Representative has a factual basis to determine the value of probate property that does not have a readily ascertainable value, the Court may waive the requirement to obtain an appraisal and accept the value that the Estate Representative determines. The Estate Representative could prepare and file with the Court the form titled Application for Order Dispensing with Appraisal (GC PF 4.7).

- Again, if probate property includes an ownership interest in real property or a vehicle, then the value may be determined by means other than appraisal. Again, see Geauga Probate Local Rules 78.5(D)(1)(a)(2).
 - Vehicles. Rather than appraisal, the Court will accept the value of a vehicle as established by Kelley Blue Book (or similar resource).¹⁵ If you elect to determine value using Kelley Blue Book, then make a photocopy of the page that sets forth the value and file it with the Court when you file the Application for Summary Release from Administration (Form 5.10).
 - Real Estate. The Court may accept as the value of real estate the value set forth on the latest assessment by the county auditor for determining real estate taxes – or “letter of valuation” from the County Auditor’s Office (or the Auditor’s REALink site¹⁶). If you intend to establish value in that manner, then you must prepare and file with the Court the form titled Application for Order Dispensing with Appraisal (GC PF 4.7). Additionally, make a photocopy of the auditor’s letter of valuation (or REALink printout) and file it with the Court when you file the Application for Summary Release from Administration (Form 5.10).
- Death Certificate. Obtain a copy of the Death Certificate. Typically, the funeral director can obtain it for you. The Court does not require a certified copy. Before filing with the Court, the applicant must: (1) shrink the size of the death certificate to letter-size and (2) redact the Decedent’s social security number
- Identification. If an attorney does not represent you, then gather (1) a government-issued photographic identification (e.g., a current driver’s license or passport), and (2) evidence of current

¹³ Loc.R. 5 of the Court of Common Pleas of Geauga County, Probate Division

¹⁴ R.C. 2115.02

¹⁵ See <https://www.kbb.com/>

¹⁶ See <http://geaugarealink.co.geauga.oh.us/realink/>

mailing address (e.g., recent utility bill, bank statement account, property tax bill, voter registration card).

- Spousal Selection of Motor Vehicle. If the surviving spouse is the applicant, did the surviving spouse select any motor vehicle under R.C. 2106.18 and R.C. 4505.10? If so, the applicant must file the form titled Surviving Spouse Selection of Automobile (GC PF 55.0). The amount of Allowance for Support (i.e., \$40,000) may need to be reduced.
 - If a surviving spouse selects one or more automobiles under R.C. 2106.18(A), then those automobiles are not an estate asset and need not be listed on Application for Summary Release from Administration (5.10) or included in the form titled Entry Granting Summary Release From Administration (Form 5.11).
 - Moreover, If a surviving spouse selects more than one automobile under R.C. 2106.18(A), then the Allowance for Support prescribed by R.C. 2106.13 is reduced by the value of the automobile having the lowest value of the automobiles so selected. The value of the automobile is determined by the affidavit (form BMV 3773) that the surviving spouse executes for the BMV pursuant to R.C. 4505.10(B).

Preparation of Document to be Filed. Review the “Checklist - Summary Release of Administration”

- Application for Summary Release from Administration. In order for the Estate Representative to have the authority to collect the probate property and distribute the probate property in accordance with law, the Judge must appoint the Estate Representative. To receive such authority from the Judge the applicant must prepare and file with the Court the form titled Application for Summary Release from Administration (Form 5.10).
 - You will indicate the basis upon which you may proceed with a Summary Release from Administration.
 - Be sure to indicate all known names of the Decedent on the Court forms, especially if different names are indicated on financial accounts, stock certificates, vehicle titles, real estate deeds, etc.
 - You will describe the Probate Assets and their value.
 - The Application for Summary Release from Administration (Form 5.10) is a public record. Do not include on the Application for Summary Release from Administration (Form 5.10) any information concerning the identity of the Decedent or the probate property, known as “personal identifiers.”¹⁷ Examples of personal identifiers are the Decedent’s social security number, bank account numbers, or other brokerage or financial account numbers. Instead, provide such information to the Court by completing and filing the form titled Confidential Disclosure of Personal Identifier (Form 45(D)). That form is not a public record, and the Court will keep it confidential. However, with respect to financial accounts that have a unique account number, you should include the last four digits in the description of each

¹⁷ Geauga Probate Local Rule 57.2(C).

such account on page two of the form titled Application for Summary Release from Administration (Form 5.10) - see Geauga Probate Local Rule 78.1(F).

Note: If you intend to include paid funeral expenses that are not included in the funeral director's bill, then complete and file with the Court the form titled Application for Approval of Other Funeral Expenses (GC PF 5.12).

- Regarding tangible personal property consisting of household goods, clothing, furnishings, which do not have a significant value, you need not identify such items separately on the Application for Summary Release from Administration (Form 5.10). You may indicate on that listing something like "household goods, clothing, furnishings" and assign a value based upon a reasonable estimate of what you could sell such items at a public auction. Regarding tangible personal property that has a significant value, such as jewelry, artwork, or collections you must separately list those items on the Application for Summary Release from Administration (Form 5.10). Depending upon how you complete the form titled Tangible Personal Property Certification (GC PF 6.6), you may be required to prepare and file the form titled Supplemental Schedule of Assets (GC PF 6.1A).
- Regarding Digital Assets, you need not identify the Digital Assets on the Application for Summary Release from Administration (Form 5.10). Depending upon how you complete the form titled Digital Asset Certification (GC PF 6.5), you may be required to prepare and file the form titled Supplemental Schedule of Assets (GC PF 6.1A).
- The applicant's signature on the Application for Summary Release from Administration (Form 5.10) must be notarized.
- If the Decedent died with a Will, there is no need to file an Application to Probate Will, or otherwise present the Will to the Probate Court. However, please read the probate information sheet titled "The Decedent's Will." The applicant should consider depositing the Will with the Court in case additional Probate Property is later found.
- List of Surviving Spouse, Children, Next-of-Kin, Legatees and Devises. Prepare and file together with the Application for Summary Release from Administration (Form 5.10), the form titled Surviving Spouse, Children, Next of Kin, Legatees and Devises (Form 1.0).¹⁸ If there is a surviving spouse or surviving lineal descendants, then include (i) the name and address of each predeceased child, and (ii) under the name of a predeceased child insert the name and address of that child's lineal descendants. Moreover, you must correctly check one of the boxes toward the bottom of the front page of Form 1.0.
- Other Documents to be Filed.
 - Death Certificate. Together with the Application for Summary Release from Administration (Form 5.10), file with the Court a letter-size copy of the death certificate, with the Decedent's social security number redacted.

¹⁸ See Geauga Probate Local Rule 78.5(A)(2).

- Residency Affidavit. If the Decedent's residence on the death certificate is different from the Decedent's actual residence in Geauga County as of the date of death, then prepare and file with the Court the form titled Residency Affidavit (GC PF 052).
- Proof of Payment – Funeral Bill. Together with the Application for Summary Release from Administration (Form 5.10), file with the Court a copy of the funeral bill showing a zero balance due or "paid in full." If the funeral bill has been paid or prepaid, then obtain and file with the Court a copy of the proof of payment, or if waived, a copy of the waiver of payment. If there is no funeral expense, typically the result of the Decedent having donated the body, and the body was cremated by the donee institution, then obtain and file with the Court a statement from that institution explaining the event and file a copy of that statement in lieu of the paid funeral director's bill.
- Proof of Ownership.
 - Real Property. Regarding any real property that is probate property, the Estate Representative shall: (i) file with the Clerk a copy of the deed for the real property; and (ii) describe the real property on the applicable court document by the street address, legal description, and the tax parcel identification number.
 - Vehicles. Regarding any vehicles (including motorcycles, recreational vehicles, boats, airplanes, etc.) that are probate property, the Estate Representative must file with the Application for Summary Release from Administration (Form 5.10) a copy of the certificate of title or (if not obtainable, then the registration of title) for each vehicle.
 - Financial Accounts. Regarding financial accounts (for example, checking and saving accounts, certificates of deposit, brokerage accounts, retirement accounts, life insurance, annuities, etc.), the Estate Representative must attach to the Application for Summary Release from Administration (Form 5.10) a copy of the statements or other evidence of ownership. Regarding those financial accounts that have a unique account number, you must only include the last four digits in the description of each such account on page two of the Application for Summary Release from Administration (Form 5.10).
 - Stocks and Bonds. Regarding any stocks and bonds not held in a brokerage account that are probate property, the Estate Representative must provide copies of those instruments.
 - Uncashed Checks, Wages. Regarding any uncashed checks and unpaid wages that are probate property, the Estate Representative must provide copies of those checks or wage statements.
- Personal Identification. Unless you are represented by an Ohio attorney, present to the clerk (1) a government-issued photographic identification (e.g., a current driver's license or passport), and (2) evidence of current mailing address (e.g., recent utility bill, bank statement account, property tax bill, voter registration card).

- Digital Asset Certificate. Prepare and file with the Court the form titled Digital Asset Certification (GC PF 6.5).¹⁹ Be prepared to file the form titled Supplemental Schedule of Assets (GC PF 6.1A) if requested by the Court.
- Tangible Personal Property Certificate. Prepare and file with the Court the form titled Tangible Personal Property Certification (GC PF 6.6).²⁰ Be prepared to file the form titled Supplemental Schedule of Assets (GC PF 6.1A) if requested by the Court.
- Surviving Spouse Selection of Automobile. If surviving spouse is the applicant, then prepare and file the form titled Surviving Spouse Selection of Automobile (GC PF 55.0).
- Medicaid Recovery Acknowledgment. Prepare and file with the Court the form titled Medicaid Recovery Acknowledgment (GC PF 4.29) if the applicant is not represented by an attorney.
- Entry Granting Summary Release from Administration. Prepare and file with the Application for Summary Release from Administration (Form 5.10) the form titled Entry Granting Summary Release from Administration (Form 5.11).
- Be Prepared to Pay the Court Costs. The court costs are listed on the Court's website. Please understand that the payment of court costs is really a deposit against the actual court costs incurred. If the actual court costs are more than the deposit, then the Estate Representative shall pay the additional court costs. Likewise, if the actual court costs are less than the deposit, the Court will reimburse the Estate Representative for that excess amount. If the applicant is indigent and prepares and files the Financial Disclosure form (ODP-206R) together with the filing, then the Clerk will permit the filing without payment of the security deposit; provided however that if the Court disapproves that form, then the applicant must pay the security deposit no later than 30 Calendar Days after the court order of disapproval. (See Geauga Probate Local Rule 58.2(A))

Other Matters to Consider

- Allowance for Support.
 - Minor Children. If there are surviving minor children of the Decedent who are entitled to receive an Allowance for Support under RC 2106.13 (see the probate information sheet titled "Rights of Surviving Spouse"), then
 - the Estate Representative should prepare and file the form titled Application for Family Allowance (Form 7.1); and
 - If the Judge must allocate the Family Allowance as provided in RC 2106.13, then the Estate Representative should prepare and file the form titled Application for Apportionment of Family Allowance (Form 7.2).

¹⁹ See Geauga Probate Local Rule 78.5(A)(3)(a).

²⁰ See Geauga Probate Local Rule 78.5(A)(3)(a).

- Selection of Automobiles. If surviving spouse selects more than one automobile under R.C. 2106.18(A), then the Allowance for Support prescribed by R.C. 2106.13 is reduced by the value of the automobile having the lowest value of the automobiles so selected. The value of the automobile is determined by the affidavit that the surviving spouse executes for the BMV pursuant to R.C. 4505.10(B).
- Transfer of Real Property. If the probate property includes real property, then the Estate Representative should prepare and file with the Court the forms titled Application for Certificate of Transfer (Form 12.0) and Certificate of Transfer (Form 12.1). When the Court issues the Certificate of Transfer, then that document should first be filed with the County Auditor's office, and then with the Court Recorder's office.
- Transfer of Motor Vehicles. If the probate property includes a motor vehicle (including motorcycles, recreational vehicles, boats, airplanes, etc.), then at the bottom of page one of the Application for Summary Release from Administration (Form 5.10), the Estate Representative should describe the vehicle as presented on the Certificate of Title (or registration), including (i) Year, (ii) Body Type, (iii) Model, (iv) Make, (v) Mfrs Serial Number, and (vi) Cert. of Title No. After the Judge has signed the Entry Granting Summary Release from Administration (Form 5.11), a certified copy of both the Application for Summary Release from Administration (Form 5.10) and the Entry Granting Summary Release from Administration (Form 5.11) will be mailed to the applicant, then the applicant should deliver those documents to the BMV and a new certificate of title should be issued in the name of the applicant. Note that vehicles selected by the surviving spouse under RC 2106.18 are not probate property, and the surviving spouse can affect the transfer of title for such motor vehicles by presenting to the BMV the death certificate and the certificate of title.
- Tax Concerns. Please review the probate information sheet titled "Creditor Rights." Additionally, review IRS Publication 559. You may have a duty to file the Decedent's federal and Ohio income tax returns, and possibly an income tax return for the probate estate. The filing of those tax returns could result in a refund. You should consider hiring a tax advisor to assist you.
- Social Security and VA benefits. Consider contacting the Social Security Administration or the Veteran's Administration to determine whether benefits are payable to the probate estate as the result of the Decedent's death.
- Reopen Summary Release from Administration. If a proceeding for Summary Release from Administration is opened and closed and if there are newly discovered probate assets after the closing of that proceeding, then it may be possible for the applicant to reopen the proceeding as a Summary Release from Administration. Depending upon the value of the initial probate property and the value of the newly discovered probate property, the Court may require a full administration, including the filing of an inventory and a final and distributive account, or possibly a Release from Administration. However, if the value of the initial probate property and the value of the new probate property still permits a Summary Release from Administration, then the applicant could prepare and file the form titled "Application to Reopen Estate – Summary Release from Administration" (GCPF 5.0R).

LEGAL PRACTICE IN THE PROBATE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO AND INDIVIDUALS WHO ARE HANDLING THEIR OWN LEGAL MATTERS. IF AN INDIVIDUAL WISHES TO HANDLE HIS OR HER OWN CASE, THAT PERSON MAY ATTEMPT TO DO SO, HOWEVER DUE TO THE

COMPLEXITY OF THE LAW AND THE DESIRE TO AVOID COSTLY ERRORS, MANY PERSONS WHO HAVE MATTERS BEFORE THE COURT ARE REPRESENTED BY AN ATTORNEY.

IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT'S FORMS, BE AWARE THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE, AND EMPLOYEES OF THE GAUGA COUNTY PROBATE COURT, INCLUDING THE HELP CENTER STAFF, FROM PROVIDING YOU WITH LEGAL ADVICE. IF YOU NEED LEGAL ADVICE, THEN YOU SHOULD CONTACT AN ATTORNEY OF YOUR CHOOSING.