

**GEAUGA COUNTY PROBATE COURT
JUDGE TIMOTHY J. GRENDALL**

CHECKLIST - PROBATING DECEDENT'S WILL

These instructions are provided as a public service of the Geauga County Probate Court, are intended as a guideline only, and are not legal advice. Depending on the circumstances of each case, additional steps may be required that are not listed below. The clerks are not attorneys and therefore cannot answer legal questions or assist you in completing the forms or deciding which forms apply to your situation. The documents that you file must be typewritten or legibly handwritten, and completed in their entirety. The clerks may refuse for filing illegible or incomplete documents. The Court recommends that you obtain legal advice from your attorney or obtain assistance from the Court's Help Center before preparing and filing any forms. You may make an appointment with the Help Center by calling 440-226-7339. If you decide to proceed without assistance from your attorney or from the Court's Help Center, then you should read the following Probate Information Sheets before taking any action:

- Probate Process Overview
- Jurisdiction of Ohio Probate Courts
- The Decedent's Will
- Service of Notice; Subpoena

General Requirements – regarding both the probate of an original will and the probate of a lost, spoliated, or destroyed Will the following applies:

1. **Search Will Index** - Search the Court's Will Index to determine whether any of the Decedent's Wills have been deposited with the Court.¹ Search any bank safe deposit box leased by the Decedent to determine whether any of the Decedent's Wills are stored there.
2. **Copy of Death Certificate** - (1) must redact the social security number and (2) must be shrunk to letter-size.
 - **Form GC PF 4.52 Residency Affidavit** - if the Decedent's address on the Death Certificate is not in Geauga County.

Filing Requirements – Probate of Original Will

1. **Form 1.0 Surviving Spouse, Children, Next of Kin, Legatees and Devisees** Determine whether the Decedent has designated an heir at law as permitted under R.C.2105.15.
2. **Form 2.0 Application to Probate Will** (file the original Will with the Court together with Form 2.0)
3. **Notice of Probate of Will**
 - Waiver of Notice of Probate of Will - have Interested Persons (See Form 1.0) sign either (1) Waiver of Notice of Probate Will on Form 2.0, or (2) Form 2.1 Waiver of Notice of Probate of Will. You may file the Waiver of Notice of Probate Will together with Form 2.0 Application to Probate Will.

¹ See Sup.R. 59(A) and Geauga Probate Local Rule 59.1(C)

- Notice of Probate of Will - To the extent that any Interested Persons have not signed the Waiver of Notice of Probate of Will, then within two weeks after the Court has probated the Will, deliver to those Interested Persons, whose residence address is known, Form 2.2 “Notice of Probate of Will” in accordance with Civ. R. 73(E) - see R.C. §2107.19(A).
 - Regarding Interested Persons, whose name or residence address is unknown (and residence cannot be ascertained by reasonable diligence, RC 2107.19(B) provides that a Notice of Probate need not be served upon such persons by publication. However, the fiduciary may elect to do so by publication upon the Court’s website in accordance with Geauga Probate Local Rule 78.14.
- **Court Cost Deposit** - (If filed without a filing for a full administration or release from administration) arrange for payment of court cost deposit. See the “Probate Court Costs” on the Court’s website. See additional note below regarding indigent applicant.
- **Original Will** – If possessed by or under the control of the applicant, then deliver to the Clerk the original of the Decedent’s Will to be admitted to probate. If another person possesses or controls the original Will, then attach an affidavit explaining the pertinent facts, including the name, address and phone number of that person, to the extent known.

Filing Requirements – Probate of Lost, Spoliated, or Destroyed Will

1. **Form 1.0 Surviving Spouse, Children, Next of Kin, Legatees and Devisees** Determine whether the Decedent has designated an heir at law as permitted under R.C.2105.15.
2. **Form GC PF 42.1 - Application for Admission to Probate Lost, Spoliated, Or Destroyed Will** (file a copy of the Will with the Court together with form GC PF 42.1)
3. **Form GC PF 42.3 - Entry Admitting Lost, Spoliated, Or Destroyed Will to Probate**
4. **Waive of Notice of Hearing to Admit Lost, Spoliated, or Destroyed Will** – to the extent possible have all Interested Persons sign GC Form “GC PF 2.1A Waiver of Notice of Hearing and Consent - Admission to Probate of Lost, Spoliated, or Destroyed Will.” Consider using GC Form “GC PF 2.1B - Waiver of Notice of Hearing - Admission to Probate of Lost, Spoliated, or Destroyed Will” for those Interested Persons who are willing to waiver service of notice but are unwilling to consent to admission of probate of the Will.
5. **Notice of Hearing** – If all Interested Person have not waived service of notice, then after obtaining the hearing date from the deputy clerks, the applicant shall service notice of hearing to admit the Lost, Spoliated, or Destroyed Will to Probate in accordance with R.C. §2107.27(A)(i.e., certified mail, return receipt requested), no less than 10 days before the hearing date, upon all Interested Persons who have not waived notice using the form GC PF 42.2 “Notice of Hearing on Application for Admission to Probate of Lost, Spoliated, or Destroyed Will.”
 - Proof of Service. Before the Hearing, the Estate Representative shall provide the Court with proof of service of that notice by preparing and filing with the Court the form titled “Affidavit Evidencing Service of Notice” (GC PF 41.6) together with a copy of each such notice and evidence of service (e.g., the “green card”) for each notice. See Geauga Probate Local Rule 78.13.

- Publication. If service of form GC PF 42.2 “Notice of Hearing on Application for Admission to Probate of Lost, Spoliated, or Destroyed Will” cannot be completed upon all Interested Person’s or if the residence of one or more Interested Persons is unknown, then service of such notice shall be made by publication on the Court’s website in accordance with Geauga Probate Local Rule 78.14.
 - Determine whether there is a prior Will. If so, the Interested Persons to be notified include those persons who are beneficiaries under that prior Will.
6. **Notice of Probate of Will** - if the Court admits to probate the Lost, Spoliated, or Destroyed Will, then all Interested Parties are entitled to receive notice of probate unless they sign a waiver of notice.
- Waiver of Notice of Probate of Will - have Interested Persons (See Form 1.0) sign and file Form 2.1 “Waiver of Notice of Probate of Will.
 - Notice of Probate of Will - To the extent that any Interested Persons have not signed the Waiver of Notice of Probate of Will, then within two weeks after the Court has probated the Lost, Spoliated, or Destroyed Will, deliver to those Interested Persons Form 2.2 “Notice of Probate of Will” in accordance with Civ. R. 73(E) - see R.C. §2107.19(A). The fiduciary shall provide the Court with Proof of Service in accordance with Geauga Probate Local Rule 78.13.
 - Regarding Interested Persons, whose name or residence address is unknown (and residence cannot be ascertained by reasonable diligence, RC 2107.19(B) provides that a Notice of Probate need not be served upon such persons by publication. However, the fiduciary may elect to do so by publication upon the Court’s website in accordance with Geauga Probate Local Rule 78.14.
7. **Court Cost Deposit** - (If filed without a filing for a full administration or release from administration) arrange for payment of court cost deposit. See the “Probate Court Costs” on the Court’s website. See additional note below regarding indigent applicant.

Additional Notes

- Jurisdiction and Venue. Before filing any documents, please confirm that this Court has jurisdiction to admit decedent’s will to probate and that the proper venue is Geauga County. Review R.C. 2107.11 and determine what factors indicate the decedent’s domicile other than the death certificate – e.g., driver’s license, voting registration, filing federal and state income tax returns, etc.
- Preparation of Form 1.0. 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. Carefully review Geauga Probate Local Rule 78.5(A)(2).
- Certificate of Service of Notice of Probate of Will.² Irrespective of whether the Court admits to probate an Original Will or a Lost, Spoliated, or Destroyed Will, the fiduciary must prepare and file with the Court “Form 2.4 Certificate of Service of Notice of Probate of Will” no later than two

² See Sup.R. 59(B)

months after appointment as such and as required in R.C. §2107.19(A)(4), together with and to the extent applicable, (i) copy of the signed Waiver of Notice (e.g. the waiver of notice of Probate Will on Form 2.2 or Form 2.1 Waiver of Notice of Probate of Will); (ii) a copy of each completed Form 2.2 Notice of Probate of Will; and (iii) evidence of receipt or delivery of each Form 2.2 Notice of Probate of Will (e.g. copies of green-card receipts, return envelopes showing delivery refused or unclaimed, Certificate of Delivery for ordinary mail) upon those interested persons who did not sign a Waiver of Notice of Probate of Will.

- If a fiduciary is not appointed, then the applicant shall prepare and file with the Court Form 2.4 Certificate of Service of Notice of Probate of Will no later than two months after the Will is admitted to probate, together with the other documentation noted in the preceding paragraph.³
 - Service of Notice Upon Minor or Incompetent. Civ.R. 4.2 governs how to service notice upon a minor (under age 16) or an “incompetent” person. Civ.R. 4.2(B) provides that If the Interested Person is under 16 years of age, then the notice shall be served upon the guardian (e.g., natural parent) where that minor resides. Civ.R. 4.2(C) provides that if the Interested Person is “incompetent,” then the notice shall be served upon the incompetent’s guardian, or if none, then upon the incompetent.
 - Indigent. If the Filer is Indigent and prepares and files form GCPF 65.0 Financial Disclosure Affidavit 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 Filer 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)).
 - Original Will possessed or control by another Person. Consider preparing and filing a Complaint for Writ of Citation to Produce Will as permitted by R.C. 2107.09(A).
 - Declaration of Validity of Will. Consider whether the Decedent obtained a court order under R.C. 5817.10 that declares the Decedent’s will to be valid, and if so, obtain a certified copy of that court order and record.

³ R.C. 2107.19(A)(4)