

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

CHECKLIST – SHORT FORM RELEASE

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 legible and completed in their entirety. The clerks may refuse to accept 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 before taking any action:

Recommended Reading – before deciding to prepare and file an Application for Short Form Release from Administration, the Help Center recommends that to you read the following probate information sheets, which are located on the Court's website:

- Probate Process Overview
- Creditor Rights

Background

- Short Form Release is only available if:
 - the total value of the probate property is \$1,000 or less;
 - the probate property does not include real property;
 - the filing of the Application for Short Form Release from Administration is more than six months after the Decedent's date of death;
 - all persons listed on Form 1.0 - Surviving Spouse, Children, Next of Kin, Legatees and Devisees sign the "Consent of Interested Parties;" and
 - the decedent's funeral director bill has been paid in full.

Filing Requirements

- **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.
- **Identification** - [if applicant is not represented by an attorney - see Geauga Probate Local Rule 78.10] (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).

- **Form 1.0 - Surviving Spouse, Children, Next of Kin, Legatees and Devisees**
- **Form GC PF 4.60 - Application for Short Form Release from Administration**
- **GC PF 4.61 - Judgment Entry Approving Short Form Release of Estate from Administration**
- **Funeral Bill** - (1) must provide evidence (a) that the funeral bill was paid in full and (b) of who paid that bill (e.g., cancelled check, receipt), or (2) if a funeral bill is not due and owing (e.g., the funeral director was prepaid or the decedent's body was donated and cremation costs were paid by a third party), then provide satisfactory evidence establishing that fact.
- **Form GC PF 4.54 - Waiver of Reimbursement for Funeral and Burial Expenses** – if the person who paid the funeral director's invoice after decedent's death is not being reimbursed from the probate property.
- **Form GC PF 4.29 - Medicaid Recovery Acknowledgment** [if applicant is not represented by an attorney - see Geauga Probate Local Rule 78.5(D)(4)]
- If required by Sup.R. 45 and Geauga Probate Local Rule 57.2(C), then **Form 45(D) – Confidential Disclosure of Person Identifiers**
- **Court Cost Deposit** - arrange for payment of the court cost deposit. See the “Probate Court Costs” on the Court's website. See additional note below regarding indigent applicant.
- **Application to Probate Will.** If the decedent died with a valid will, and if the applicant (i) is not the sole next of kin as noted on page 1 of form 1.0 and the sole beneficiary as noted on page 2 of form 1.0 or (ii) does not otherwise qualify to file an Application for Summary Release from Administration (see the probate information sheet titled “Summary Release from Administration”), then the applicant must file an application to probate that will (see the checklist titled “Probating Decedent's Will”).

Additional Notes

- Jurisdiction and Venue. Confirm that this Court has jurisdiction to accept the filing of an Application to Relieve Estate from Administration and appoint you as a Commissioner, and that the proper venue is Geauga County. See the probate information sheet titled “Jurisdiction of Ohio Probate Courts.”
- 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). Finally, consider whether the Decedent designated an heir at law under R.C. 2105.15, and if so, obtain a certified copy of the court order.

- **Form GC PF 5.9 Report of Distribution** – This form must be prepared and filed with the Court no more than 30 days after appointment as the Commissioner.
- **Evidence of Ownership and Value** – In addition to the form titled Application for Short Form Release from Administration (Form GC PF 4.60), the applicant shall file with the Court evidence of title (e.g., financial account statements, certificate of title, etc.) and evidence of value (e.g., Kelley Blue Book report).

- Indigent If the applicant 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 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)).
- Firearms. The applicant should first review the probate information sheet titled “Firearms Law and Probate Concerns,” then the applicant should determine whether the Decedent owned or possessed any (i) Firearms or (ii) Dangerous ordnance as defined by R.C. Sec. 2923.11(K). Federal or state law may regulate the applicant regarding the possession, storage, sale, transport, and the distribution of such probate property to certain beneficiaries, particularly beneficiaries who reside in another state. If the Decedent owned or possessed such probate property and if the applicant does not have an attorney, then it is highly recommended that the applicant obtain legal advice from an attorney who is familiar with such legal issues.

PROBATE COURT OF GEAUGA COUNTY, OHIO
JUDGE TIMOTHY J. GRENDALL

ESTATE OF _____, DECEASED

Case No. _____

**SURVIVING SPOUSE, CHILDREN, NEXT OF KIN,
 LEGATEES AND DEVISEES**

[R.C. 2105.06, 2106.13 and 2107.19]

**[Use with those applications or filings requiring some or all of the
 information in this form, for notice or other purposes. Update as required]**

The following are decedent's known surviving spouse, children, and the lineal descendants of deceased children, if none, the following are decedent's next of kin who are or would be entitled to inherit under the statutes of descent and distribution.

Name	Residence Address	Relationship to Decedent	Birth date of Minor
_____	_____	Surviving Spouse	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

NOTICE - The Clerk will not accept for filing this Form 1.0 if (i) a surviving spouse and at least one lineal descendant or a minor child of decedent is listed above and (ii) one of the following boxes is NOT checked.

[Check whichever of the following is applicable]

- The surviving spouse is the natural or adoptive parent of all of the decedent's children.
- The surviving spouse is the natural or adoptive parent of at least one, but not all, of the decedent's children.
- The surviving spouse is not the natural or adoptive parent of any of the decedent's children.
- There are minor children of the decedent who are not the children of the surviving spouse.
- There are minor children of the decedent and no surviving spouse.

PROBATE COURT OF GEAUGA COUNTY, OHIO
JUDGE TIMOTHY J. GRENDALL

ESTATE OF _____, DECEASED

CASE NO. _____

APPLICATION FOR SHORT FORM RELEASE FROM ADMINISTRATION
(Total Value of the Probate Property is \$1,000 or less)

The undersigned states, to the best of his or her knowledge after reasonable due diligence, that:

1. The above-named decedent died on _____, and the decedent's legal residence as of decedent's date of death is:

_____, in Geauga County.

2. As of decedent's date of death, the decedent's probate property did not include any real property.

3. The decedent's probate property to be release from administration and distributed is the following: [attach extra sheet if needed]

Probate Property Description	Value
_____	\$ _____
_____	\$ _____
_____	\$ _____

4. The decedent's funeral director bill was prepaid OR paid by: _____, who is being reimbursed through this distribution or has waived reimbursement in writing.

5. Decedent did have a will did not have a will.

6. All of decedent's creditors (including the Ohio Medicaid Recovery Program, the U.S. Department of the Treasury, and the Ohio Department of Taxation), who currently are legally entitled to payment from the probate property, have been paid, except for the creditor claims noted below, which will be paid from the probate property.

Creditor Name	Claim Description	Amount Due
_____	_____	\$ _____
_____	_____	\$ _____

Case No. _____

7. The applicant requests that this court appoint the applicant as Commissioner to collect and distribute the probate property as follows:

Creditor	Probate Property	Value
_____	_____	\$ _____
_____	_____	\$ _____

Distributee	Probate Property	Value
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

[Attorney signature]

[Applicant signature]

[Print name]

[Print name]

[Print address]

[Print address]

[Print Phone Number]

[Print Phone Number]

Attorney Reg. No. _____

Attorney Email: _____

ACKNOWLEDGMENT OF CREDITOR RIGHTS

The undersigned persons, who receive probate property from the Commissioner, acknowledge that a return of the probate property may be required if any creditor claims are timely filed and the distributed probate property is required to pay valid creditor claims in accordance with statutory priorities.

Signature

Distributee Name

Case No. _____

CONSENT OF INTERESTED PARTIES

Each of the undersigned (i) acknowledges receipt of a copy of this Application for Short Form Release from Administration, (ii) consents to the appointment of the Commissioner, (iii) consents to the distribution of decedent's probate property that is described above to the creditors, if any, and the distributee(s) noted above, (iv) consents to the value assigned to the probate property without appraisal, and (v) assigns all rights of inheritance to such probate property to the distributee(s) noted above.

Signature

Print Name

**PROBATE COURT OF GEAUGA COUNTY, OHIO
JUDGE TIMOTHY J. GRENDALL**

ESTATE OF _____, DECEASED

CASE NO. _____

**[] JUDGMENT ENTRY [] MAGISTRATE'S DECISION
APPROVING SHORT FORM RELEASE
OF ESTATE FROM ADMINISTRATION**

The Court finds that the Application for Short Form Release from Administration is appropriate in this estate. Therefore, the Court **ORDERS** that

1. _____ is appointed Commissioner, to receive, sell if needed, and distribute the probate property or proceeds thereof and to execute all necessary documents to accomplish the receipt, sale, or distribution, all as set forth in the Application for Short Form Release from Administration.
2. The Commissioner shall file a Report of Distribution with proof of the distributions no later than 30 days after this Judgment Entry. Upon the filing and acceptance of the Report of Distribution this case is terminated and the file closed.

Date: _____, 20____

Judge / Magistrate

JUDGMENT ENTRY APPROVING MAGISTRATE'S DECISION

The Court, upon independent review of the record, finds the Magistrate's Decision to be well taken. The Court has reviewed the Decision for any errors pursuant to Civ. Rule 53 and adopts the Magistrate's Decision as an Order of this Court. The Magistrate's Decision is incorporated into the Entry by reference.

Date: _____, 20____

Judge

PROBATE COURT OF GEAUGA COUNTY, OHIO
JUDGE TIMOTHY J. GRENDALL

ESTATE OF _____, DECEASED

Case No. _____

REPORT OF DISTRIBUTION

The undersigned submits this Report of Distribution, reporting the distribution of probate property in accordance with the previous order of this Court in the following manner:

Date of Sale or Distribution	To Whom Sold or Distributed	Description	Proceeds or Value
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

Signature _____

 Print Name

JUDGMENT ENTRY MAGISTRATE'S ORDER

The within report and distribution having been made according to law and the former order of the Court, it is ordered that the report and distribution are hereby approved.

 Judge / Magistrate

PROBATE COURT OF GEAUGA COUNTY, OHIO
JUDGE TIMOTHY J. GRENDALL

ESTATE OF _____, DECEASED

CASE NO. _____

MEDICAID RECOVERY ACKNOWLEDGMENT

[R.C. § 2117.061]

As the person responsible for this estate (executor, administrator, commissioner, or the person who filed for a Release or Summary Release), I acknowledge that it is my duty to ascertain within 30 days after filing the initial application of appointment whether the decedent was:

- (1) 55 years of age or over on the date of death; and
- (2) recipient of medical assistance (Medicaid) benefits under R.C Chapter 5162.

I further acknowledge that *if the answer to both of those determinations is "yes"*, then I have a further duty to determine whether I must prepare SC Form 7.0(A) - "Notice of Administrator of Medicaid Estate Recovery Program," and timely mail that notice to the Medicaid Recovery Administrator at:

Administrator, Medicaid Estate Recovery
30 E. Broad St., 14th Floor
Columbus, OH 43215

After mailing that Notice of Administrator of Medicaid Estate Recovery Program, I will promptly file with the Court SC Form 7.0 - "Certification of Notice to Administrator of Medicaid Estate Recovery Program.

Print Full Name

**PROBATE COURT OF GEAUGA COUNTY, OHIO
JUDGE TIMOTHY J. GREDELL**

IN RE _____

CASE NO. _____

Waiver of Reimbursement for Funeral and Burial Expenses

The undersigned, having paid:

[] funeral expenses, which are included in a funeral director's bill, in the amount of \$_____

[] and other court-approved funeral and burial expenses, in the amount of \$_____

waives and releases all rights to be reimbursed for all such expenses paid by the undersigned on behalf of this estate.

Dated: _____, 20____

Print Name

PROBATE COURT OF GEAUGA COUNTY, OHIO
JUDGE TIMOTHY J. GRENDALL

ESTATE OF _____, DECEASED

Case No. _____

APPLICATION TO PROBATE WILL

[R.C. 2107.11, 2107.18, and 2107.19]

Applicant states that the decedent died on _____

Decedent's domicile was _____

Street Address

City or village, or Township if unincorporated

County

Post Office

State

Zip Code

A document purporting to be decedent's last will is attached and offered for probate, and applicant waives notice of probate of this will.

Decedent's surviving spouse, children, next of kin, legatees, and devisees, known to applicant, are listed on the attached Form 1.0.

Signature - Attorney for Applicant

Signature - Applicant

Type or print name

Type or print name

Street Address

Street Address

City, State, Zip Code

City, State, Zip Code

Phone Number (include area code)

Phone number (include area code)

Attorney Registration No. _____

WAIVER OF NOTICE OF PROBATE OF WILL

The undersigned, being persons entitled to notice of the probate of this will, waive such notice. After a certificate is filed evidencing these waivers and any notices given, any action to contest the validity of this will must be filed no more than three months after the filing of the certificate for estates of decedents who die on or after January 1, 2002, and no more than four months after the filing of the certificate for estates of decedents who die before January 1, 2002.

Signature

Print Name

CASE NO. _____

ENTRY ADMITTING WILL TO PROBATE

The Court finds that the purported will of decedent, either on its face or from testimony of the witnesses complies with applicable law. It is therefore admitted to probate and ordered recorded. The Court further orders that notice of the probate be given to all parties entitled to notice.

Date

Judge

CERTIFICATE OF WAIVER OF NOTICE

The undersigned states that all persons entitled to notice:

[Check applicable boxes]

- Have waived notice of the application for probate of this will or of a contest as to jurisdiction.
- Have waived notice of this will's admission to probate. The waivers are filed herein.
- Have not been notified because their names or places of residence are unknown and cannot with reasonable diligence be ascertained.

- _____
 Fiduciary
 Applicant for the admission of this will to probate
 Applicant for a release from administration
 Other interested person
 Attorney for any of the above

Attorney Registration No. _____

PROBATE COURT OF GEauga COUNTY, OHIO
JUDGE TIMOTHY J. GRENDALL

ESTATE OF _____, DECEASED

Case No. _____

WAIVER OF NOTICE OF PROBATE OF WILL

[R.C. 2107.19(A)(2)]

The undersigned, being persons entitled to notice of the probate of this will, waive such notice. After a certificate is filed evidencing these waivers and any notices given, any action to contest the validity of this will must be filed no more than three months after the filing of the certificate for estates of decedents who die on or after January 1, 2002, and no more than four months after the filing of the certificate for estate of decedents who die before January 1, 2002.

Signature

Print Name

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

**PROBATE COURT OF GEAUGA COUNTY, OHIO
JUDGE TIMOTHY J. GRENDALL**

ESTATE OF _____, DECEASED

CASE NO. _____

WAIVER OF RIGHT TO CONTEST WILL

The undersigned acknowledge that the decedent's will was admitted to probate by this court and that the undersigned has a right to contest the validity of that will under R.C. 2107.71. The undersigned waive(s) the right to contest the decedent's will and the time limit for bringing a will contest action as provided for in R.C. 2107.76.

Signature

Printed Name

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

PROBATE COURT OF GEAUGA COUNTY, OHIO
JUDGE TIMOTHY J. GREDEL

ESTATE OF _____, DECEASED

Case No. _____

NOTICE OF PROBATE OF WILL

[R.C. 2107.19(A)]

To : _____

You are hereby notified that the decedent died on _____, that the Decedent's Will was admitted to probate by this Court located at **231 Main Street, Ste. 200, Chardon, Ohio 44024**, on _____, 20_____.

This notice is given to all persons who would be entitled to inherit from the decedent had the decedent died intestate and to all legatees and devisees named in this will who do not waive notice. You are receiving this notice as: [check all of the following that apply]

- The Surviving Spouse.
- A person who would be entitled to inherit from the decedent had the decedent died intestate.
- A legatee or devisee named in the will.

After a certificate is filed evidencing any notice given, any action to contest the validity of this will must be filed no more than three months after the filing of the certificate for estates of decedents who die on or after January 1, 2002, and no more than four months after the filing of the certificate for estates of decedents who die before January 1, 2002.

Date

Typed or Printed Name

Street Address

City State Zip

Phone Number (include area code)

- _____
 Fiduciary
 Applicant for the admission of this will to probate
 Applicant for a release from administration
 Other interested person
 Attorney for any of the above

Attorney Registration No. _____

PROBATE COURT OF GEAUGA COUNTY, OHIO
JUDGE TIMOTHY J. GRENDALL

ESTATE OF _____, DECEASED

CASE NO. _____

CERTIFICATE OF SERVICE OF NOTICE OF PROBATE OF WILL

[R.C. 2107.19(A)(3)]

The undersigned states that all persons entitled to notice:

[Check all applicable boxes]

- Have waived notice of the admission of this will to probate. The waivers are filed herein.
- Have received notice of the admission of this will to probate.
- Have been notified of the hearing on the probate of this will or a contest as to jurisdiction.
- Evidence of notification is filed herein.
- Have not been notified because their names or places of residence are unknown and cannot with reasonable diligence be ascertained.

[] Fiduciary

[] Applicant for the admission to this will to probate

[] Applicant for a release from administration

[] Other interested person

[] Attorney for any of the above

Attorney Registration No. _____

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

Information Sheet
Probate Process Overview

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.

The Fundamental Purpose of Probate

- Background. When a person dies owning probate property (the “Decedent”), the probate court judge will determine who should receive that probate property. Of course, the judge cannot take any action until an interested person: (i) notifies the judge of the death of the Decedent, (ii) applies to the judge to be appointed as the person responsible to handle the probate estate under the judge’s direction and according to law, and (iii) informs the judge of the extent of Decedent’s probate property (“Probate Property”), the valid creditor claims, and the identifies the Decedent’s beneficiaries and next-of-kin. Thus, probate is a legal proceeding to determine who is entitled to receive the Decedent’s Probate Property.¹ The recipients of Probate Property could be (i) creditors, (ii) the surviving spouse (and minor children, if any), (iii) persons named in a valid Will (the “Beneficiaries), or next-of-kin if there is not a valid Will (the “Heirs”). Generally, the probate legal proceeding is conducted in the Decedent’s county of residence at time of death.²
- Probate and Non-Probate Property. A Decedent can own two types of property, which are Probate Property and Non-Probate Property. The probate court is only concerned with the reporting, administration, and distribution of the Decedent’s Probate Property. The Decedent’s Will, if any, only affects the distribution of Probate Property. If the Decedent died without owning any Probate Property, then there is no need for a probate proceeding, even if the Decedent died with a valid Will.
 - Probate Property. Essentially, Probate Property is property that the Decedent solely owns or owns jointly but without rights of survivorship. Examples of Probate Property are:

¹ See generally R.C. 2101.24 for a description of the types of matters handled by a probate court.

² R.C. 2107.11 and R.C. 2113.01

- Real Property, where the deed shows the Decedent as an owner of that real property or owned jointly by the Decedent and one or more other persons, but without survivorship rights,³ and without the recording of a valid Transfer on a Death Designation Affidavit);⁴
- Titled Personal Property (such as a car, truck, RV, motorcycle, mobile home, trailer, watercraft, aircraft, etc.) where ownership is evidenced by a certificate of title (but without any survivorship rights or transfer-on-death designation);⁵
- Tangible Personal Property, such as household goods, clothing, jewelry, artwork, collections, etc.;
- Cash;
- Precious metals (e.g., gold or silver)
- Financial Accounts, such as bank or brokerage accounts, etc. (but without any survivorship rights or payable on death designation);
- Stocks and Bonds (unless held in a brokerage account with survivorship rights or payable on death designation);
- Business property if the Decedent owned a sole proprietorship business;
- Business interests (e.g., stock, partnership interest, LLC membership interest);
- Intellectual property (e.g., patents, copyrights, etc.);
- Digital Assets, which could be digital photos, videos, music, emails, social media accounts, cryptocurrency (e.g., bitcoins), etc. (see the probate information sheet titled “Digital Assets”);
- Firearms (please read the probate information sheet titled “Firearms Law and Probate Concerns”).
- Money owed to the Decedent, such as a personal injury claim, unpaid wages, rental security deposit, insurance refund checks, nursing home refunds, social security benefits, VA benefits, and a loan made by the Decedent, including a loan to a beneficiary, even if the Will forgives the repayment of that debt;⁶
- Uncashed checks in Decedent’s name;
- Wages owed by an employer to a surviving spouse, children, or parents before the appointment of the Estate Representative;⁷

³ See R.C. 5302.20

⁴ Regarding a Transfer-On-Death Designation Affidavit, see R.C. 5302.22.

⁵ R.C. 2131.12 and 2131.13

⁶ R.C. 2115.11

⁷ R.C. 2113.04

- Unclaimed funds;⁸
- Income tax refunds (e.g., federal, state, city);
- A death benefit from life insurance or annuities policies with no valid beneficiary designation; and
- A death benefit from retirement accounts (e.g. IRAs or 401k accounts) with no valid beneficiary designation.

If the Probate Property includes real property located outside the State of Ohio, then the Estate Representative⁹ must start a separate probate proceeding in the state where that real property is located and should consider obtaining legal advice to assist with that probate proceeding – generally referred to as an ancillary proceeding. Review the information sheet titled “Ancillary Administration.”

- Non-Probate Property. Non-Probate Property is property that, by its nature, determines who should receive the Non-Probate Property upon death. Often, before death, the Decedent will create Non-Probate Property as part of an estate plan to avoid probate. Title to Non-Probate Property passes directly to named survivors upon the Decedent’s death. The Decedent’s Will does not apply to the disposition of Non-probate Property and Non-Probate Property is NOT subject to the probate court. Moreover, with few exceptions, the Decedent’s creditors have no claim against Non-Probate Property.¹⁰ Examples of Non-Probate Property are:
 - Real Estate that is owned jointly with survivorship rights,¹¹ or transfer on death by reason of a valid and recorded Transfer on Death Designation Affidavit;¹²
 - Life insurance and annuity policies with a valid beneficiary designation;
 - Retirement accounts, such as IRAs or 401k accounts, with a valid beneficiary designation;
 - Financial Accounts, such as bank accounts or brokerage accounts that are (i) owned jointly, but with a right of joint and survivorship (WROS accounts) or (ii) payable on death accounts;
 - Property held in a valid Trust that the Decedent established and funded while living;

⁸ See the website <https://www.com.ohio.gov/unfd/>. The website has a useful tool to search for unclaimed funds

⁹ “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.”

¹⁰ The state of Ohio, through the Medicaid Estate Recovery Program has the right to proceed against Non-Probate Property.

¹¹ R.C. 5302.17, 5302.20, and R.C. 5302.21

¹² R.C. 5302.22, R.C. 5302.222, R.C. 5302.23, R.C. 5302.24

- Vehicles (e.g., motor vehicle, all-purpose vehicle, off-highway motorcycle, watercraft, or outboard motor) that pass on death to a surviving person by right of (i) joint ownership with right of survivorship¹³ or transfer-on-death designation; or (ii) a recorded transfer-on-death form.¹⁴
- Vehicles selected by a surviving spouse under R.C. 2106.18.¹⁵

Regarding Non-Probate Property, if the person, who is named as the designated beneficiary or as the joint owner with survivorship rights of Non-Probate Property, does not survive the Decedent, then that property is deemed to be Probate Property. For example, if the Decedent has a bank account that is payable-on-death to his son and that son is not living when the Decedent died, then that bank account is the Decedent's Probate Property.

Regarding any specific property, in some cases it can be challenging to decide whether that property is Probate Property or Non-Probate Property. Consider these examples:

- Financial Accounts.
 - P.O.D. Accounts.¹⁶ A bank statement for the Decedent's checking account may show only the name of the Decedent as the owner. On the face of it, you might conclude that the checking account is probate property of the Decedent. However, it is possible that the checking account is Non-Probate Property if the Decedent signed a "payable-on-death" (POD) form provided to the Decedent by a bank officer. In that case, the person or persons named as beneficiary on the POD form will receive that property, and that checking account is not Probate Property. You may need to ask the bank whether the Decedent signed a POD form.
 - WROS Accounts.¹⁷ A bank statement for the Decedent's checking account may show both the Decedent's name and the name of another person. Unless that bank statement clearly shows that the checking account is a joint and survivor account (typically the bank statement will have a designation such as "WROS" (i.e., "with right of survivorship), you cannot determine whether the account is Non-Probate Property, with the ownership of that account being solely in the name of the surviving person, or whether a one-half interest in that account is Probate Property. Again, you may need to ask the bank whether that account is a joint and survivor bank account.
- Real Estate.
 - Survivorship Tenancy.¹⁸ Ohio law permits two or more persons to own real property as a survivorship tenancy (making that real estate Non-

¹³ R.C. 2131.12

¹⁴ R.C. 2131.13

¹⁵ See *generally* Information Sheet "Rights of Surviving Spouse."

¹⁶ See R.C. 2131.10

¹⁷ See R.C. 1109.07

¹⁸ See R.C. 5302.20

Probate Property). A Survivorship deed is not limited to a husband and wife. For example, if the deed indicates that a husband and wife are the co-owners of the real estate, then depending upon the wording of the deed,¹⁹ if one of the spouses dies, then the surviving spouse is fully vested in the title to that real estate.²⁰ Typically, the surviving tenant will file an affidavit and a certified copy of the death certificate with the county auditor, and then the county recorder, which provides a public record that the surviving tenant has full title to the real estate. However, a mere examination of the deed does not necessarily allow a conclusion that the real estate is Non-Probate Property. For example, if the two persons named on the deed were married, but subsequently were divorced, then the ownership of the real estate could become a tenancy in common, thus causing tenancy interest of the Decedent in the real estate to be Probate Property.²¹

- Transfer on Death Designation Affidavit.²² Before December 28, 2009, Ohio permitted a “Transfer on Death” Deed that would permit the sole owner of real estate to name one or more persons to own the real estate upon the death of the sole owner. Effective December 28, 2009 such deeds executed on or after December 28, 2009 are ineffective.²³ However, effective December 28, 2009, Ohio law permits a transfer on death designation affidavit, which allows the sole owner to cause that real estate to be owned as Non-Probate Property by preparing and filing with the county recorder a “transfer on death designation affidavit,” naming persons as beneficiaries of the real property upon the death of the owner, similar to a beneficiary designation form for a life insurance policy.

THE KEY POINT – You have the duty to determine what property of the Decedent is Probate Property or Non-Probate Property. As to any specific property, the Help Center cannot give you advice or an opinion as to whether that property is Probate Property or Non-Probate Property. If you need assistance to determine whether the Decedent’s property is Probate Property or Non-Probate Property, then you should obtain legal advice from an attorney of your choosing. This is particularly true regarding any real property owned by the Decedent.

Once again, to the extent that Decedent’s property is Probate Property, then Decedent’s creditors may have a claim against those assets. However, to the extent that Decedent’s property is Non-Probate Property, then that property may not be subject to the claims of most creditors.

- Fundamental Purpose. The fundamental purpose of probate administration is to:
 - identify, gather, and safeguard the Decedent’s Probate Property;

¹⁹ R.C. 5302.17 sets forth the form of a survivorship deed.

²⁰ R.C. 5302.

²¹ See R.C. 5302.20(C)(5).

²² See R.C. 5302.22, R.C. 5302.222, and R.C. 5302.23

²³ Please note that any Transfer on Death Deed signed before December 28, 2009, is still effective.

- inform the Court of the nature and extent of that Probate Property;
- obtain an appraiser when required;
- investigate all potential creditor claims and identify the Decedent's creditors who have a valid claim against the probate estate or the Probate Property;²⁴
- identify both the Beneficiaries under a valid Will and the Decedent's Heirs (even if there is a valid Will), and determine each person's name, age, address, and degree of relationship to the Decedent;²⁵
- follow the Judge's instructions and abide by all filing date requirements and other requirements;
- with a Full Administration, inform the Judge by filing a timely inventory and periodically inform the Judge of the probate proceedings (typically by the timely filing of an Account²⁶ or written status report when needed); and
- distribute the Probate Property in accordance with law, which generally means to the Decedent's:
 - Surviving Spouse or minor children in accordance with those rights given to them by law²⁷ (see the probate information sheet titled "Rights of Surviving Spouse");
 - Creditors, who have a valid claim against the probate estate or the Probate Property, including court costs, costs of administration (fiduciary and attorneys' fees), funeral and burial expenses, government claims (such as under the Medicaid Estate Recovery Program or federal and state income taxes). (Review the probate information sheet titled "Creditor Rights");²⁸
 - Beneficiaries under a valid Will, or the Heirs if there is no valid Will or if the valid Will does not dispose of all the Probate Property.

Five Types of Probate Proceedings. There are at least five types of probate proceedings. The person who seeks to be appointed as the Estate Representative must determine which probate proceeding will be used. The five probate proceedings are known as:

- Full Administration – See probate information sheet titled "Full Administration."
- Release from Administration²⁹ – see probate information sheet titled "Release from Administration."

²⁴ See generally the Information Sheet titled "Creditor Rights"

²⁵ Typically, the Decedent's Beneficiaries are those person and entities that are named in the Decedent's Will. The Decedent's next-of-kin are described in R.C. 2105.06 (see generally R.C. Chapter 2105). If the Decedent died without a valid Will, then those persons who inherit are the Decedent's nearest next-of-kin (the "Heirs").

²⁶ "Account" means the forms Fiduciary's Account (Probate Form 13.0), Receipts and Disbursements (Probate Form 13.1), and Assets Remaining in the Fiduciary's Hands (Probate Form 13.2).

²⁷ See generally Information Sheet "Rights of Surviving Spouse"

²⁸ See generally Information Sheet "Creditor Rights"

²⁹ R.C. 2113.03

- Summary Release from Administration³⁰ – see probate information sheet titled “Summary Release from Administration.”
- Real Estate Certificate of Transfer³¹ – see the checklist titled “Checklist – Certificate of Transfer.”
- Short Form Release from Administration - see the checklist titled “Checklist – Short Form Release from Administration.”

In all circumstances, the interested person can select a Full Administration by filing the appropriate forms with the Probate Court. If a Will is presented, that person must be named in the Will as the Executor, and if appointed by the Judge, that person is known as the “Executor.” If a Will is not presented (to the knowledge of that person no Will exists), then the applicant, if appointed by the Judge, is known as the “Administrator.” If a Will is admitted to probate, but the applicant is not named as the Executor in the Will and no person named in the Will as Executor is available or suitable for appointment, then, if appointed by the Judge, the applicant is known as the “Administrator with Will Annexed.”

Key Point - Typically, a Full Administration is the most complex and time-consuming of the five types of probate proceedings. Depending upon the value of the Probate Property, the interested person could apply for (i) a Release from Administration, (ii) a Summary Release from Administration, (iii) Real Estate Certificate of Transfer, or (iv) a Short Form Release from Administration. Before applying to be appointed the Executor or Administrator, you should review the applicable probate information sheets regarding a Release from Administration or a Summary Release from Administration or the website checklist titled “Checklist-Certificate of Transfer” or “Checklist – Short Form Release from Administration.”

If the interested person files an application to be appointed as Executor or Administrator, and if the probate court so appoints the applicant, then, at a later date, the Executor or Administrator cannot proceed with a Release from Administration or a Summary Release from Administration without a court order permitting the conversion. If the Executor or Administrator decides that a Release from Administration or a Summary Release from Administration is more appropriate, then that Fiduciary may seek a court order to convert the Full Administration by preparing and filing with the Court the form titled Motion to Convert Decedent’s Estate Proceeding (GC PF 4.33).

Who are the Beneficiaries and Heirs?

Any person who is at least 18 years old, of sound mind and memory, and not under restraint may make a Will, and thus decide who will receive his or her Probate Property.³² The Will must be executed in accordance with law.³³ For example, a person has the right to leave all of his or her Probate Property to a charity or a friend, and thus disinherit all of his or her family members, including a spouse and children.³⁴ However, if a person dies without a valid Will (possibly as the result of a

³⁰ R.C. 2113.031

³¹ R.C. 2113.61(D)(1)

³² R.C. 2107.02

³³ R.C. Chapter 2107 provides the specifics of creating a Will, and more specifically, R.C. 2107.03.

³⁴ However, *see generally* the Information Sheet “Rights of a Surviving Spouse,” which describes other rights of a surviving spouse to Probate Property, regarding the provisions in the Will.

Will Contest),³⁵ or if the valid Will does not dispose of all of the Probate Property, then that Probate Property not disposed of by a valid Will must be distributed in accordance with a statute known as the “Statute of Descent and Distribution.”³⁶ In effect, that statute defines who receives the Probate Property to the extent that a valid Will does not name all persons entitled to receive the Probate Property. Those persons identified in the Statute of Descent and Distribution are known as the Decedent’s Heirs (or next-of-kin”). There are several categories of Heirs depending upon who survives the Decedent and the survivor’s relationship to the Decedent, and those categories are prioritized. For example, R.C. 2105.06 includes the following:

When a person dies intestate³⁷ having title or right to any personal property, or to any real property or inheritance, in this state, the personal property shall be distributed, and the real property or inheritance shall descend and pass in parcenary, except as otherwise provided by law, in the following course:

- (A) If there is no surviving spouse, to the children of the intestate or their lineal descendants, per stirpes;*
- (B) If there is a spouse and one or more children of the decedent or their lineal descendants surviving, and all the decedent's children who survive or have lineal descendants surviving also are children of the surviving spouse, then the whole to the surviving spouse;*
- (C) If there is a spouse and one child of the decedent or the child's lineal descendants surviving and the surviving spouse is not the natural or adoptive parent of the decedent's child, the first twenty thousand dollars plus one-half of the balance of the intestate estate to the spouse and the remainder to the child or the child's lineal descendants, per stirpes;*
- (D) If there is a spouse and more than one child or their lineal descendants surviving, the first sixty thousand dollars if the spouse is the natural or adoptive parent of one, but not all, of the children, or the first twenty thousand dollars if the spouse is the natural or adoptive parent of none of the children, plus one-third of the balance of the intestate estate to the spouse and the remainder to the children equally, or to the lineal descendants of any deceased child, per stirpes;*

The Estate Representative must determine who are the Heirs as defined by R.C. 2105.06 even if the Decedent has a valid Will and that Will disposes of all the Probate Property. The reason is that the Heirs are entitled to be notified if the Court admits the Will to probate. For example, they have a right to contest the Will, and if successful, then the Probate Property would pass to the Heirs. (Review the probate information sheet titled “The Decedent’s Will.”).

Note that the surviving spouse has rights to receive Probate Property even if the surviving spouse is not named as a beneficiary in a valid Will. That results from R.C. 2106.01. Please read the probate information sheet titled “Rights of Surviving Spouse” if the Decedent is survived by a surviving spouse.³⁸

The Estate Representative should make every reasonable effort to determine whether the Decedent died with a Will. In addition to searching the Decedent’s home and contacting the Decedent’s attorney, the Estate Representative should inquire as to whether the Decedent had a safe deposit box, perhaps at the bank where the Decedent has a checking account.³⁹ Additionally, the Estate Representative should check with the probate clerk of courts office. A Will may have been deposited with the probate court or filed with the probate court after death.⁴⁰ The Court maintains a Will Index

³⁵ See R.C. 2107.71 for a description of a Will Contest.

³⁶ R.C. 2105.06. See generally R.C. Chapter 2105.

³⁷ “Intestate” means there is no valid Will, or the valid Will does not dispose of all the Probate Property.

³⁸ See generally R.C. Chapter 2106 regarding rights of surviving spouse.

³⁹ See the “Checklist – Safe Deposit Box” on the Court’s website

⁴⁰ R.C. 2107.07

that identifies all Wills that were deposited. Review the website checklist titled “Checklist – Will for Deposit and Delivery.”

Appraisal of Probate Property.

For several reasons, it is important to know the value of Probate Property. If the value of any Probate Property is not “readily ascertainable,” then, unless the Court dispenses with an appraisal by court order, the Estate Representative must hire an appraiser and have the appraiser perform an appraisal and prepare and deliver to the Estate Representative an appraisal report that is acceptable to the Judge.⁴¹

Examples of Probate Property that have a readily ascertainable value, and thus an appraisal is not needed as to those items, include:

- Bank accounts
- Financial accounts
- Retirement accounts
- Publicly-traded stocks and bonds
- Checks
- Death benefits for insurance policies or retirement benefits

Examples of Probate Property that do NOT have a readily ascertainable value, and thus an appraisal is likely to be required as to those items, include:

- Real property (however, in lieu of an appraisal, you may be able to establish the value using the value set forth on the assessment by the county auditor, nearest the Decedent’s date of death, for determining real estate taxes – or “letter of valuation” from the County Auditor’s Office).
- Vehicles [automobiles, trucks, RVs, motorcycles, boats, etc.] (however, in lieu of an appraisal, you may be able to establish the value using the value set forth in Kelley Blue Book)
- Digital Assets – domain names, customer lists, etc.
- A business (for example a sole proprietorship, or ownership interest in a non-public business entity, such as a corporation, limited liability company, partnership)
- Debts owed to the Decedent that may not be fully collectible
- Artwork
- Collections
- Jewelry
- Intellectual property

Income Tax Consequence. If Probate Property is sold either during the estate administration or after distribution, the value of the Probate Property as shown on the Inventory may result in an unintended income tax consequence to the estate or the beneficiaries depending upon the sale price. The Estate Representative should consider obtaining tax advice from a tax professional before deciding to use the “letter of valuation” or “REALink” information from the County Auditor’s Office or other methods of valuation, including appraisal, before assigning a value to Probate Property.

A grey area is household goods and personal effects (other than valuable jewelry, artwork, collections, or antiques) or articles of clothing. Typically, those items can be assigned a value in bulk, based upon an estimate of what could be received from a yard sale or house auction. If you decide

⁴¹ R.C. 2115.02 and Loc.R. 5 of the Court of Common Pleas of Geauga County, Probate Division.

to file an application for a Full Administration, a Release from Administration, or a Summary Release from Administration, you must file form GC PF 6.6 - Tangible Personal Property Certification. Depending upon the information provided by that form, the Judge will determine whether those items of tangible personal property must be appraised and whether they must be disclosed in a supplemental inventory.

Characteristics of an Effective Estate Representative The following characteristics of an effective Estate Representative are:

- being highly organized;
- keeping complete and accurate records;
- capable of establishing and managing a checking account solely for the probate estate administration, to account for the receipt of all income or other payments to the probate estate and the payment of all disbursements;
- learning and conducting all procedures required, in a timely manner, to complete the administration of the probate estate;
- understanding and attending to the rights of creditors and the surviving spouse or minor children;
- keeping a positive relationship with the Beneficiaries or Heirs, and keeping them informed; and
- understanding personal limits and seeking professional advice when needed.

Using Legal Counsel

While there are reasons why persons may choose not to hire an attorney to represent them, including financial considerations, you should consider whether you need an attorney.

You may need an attorney if:

- you do not have the time or capability to fully understand the law that applies to your case, including applicable statutes and tax requirements;
- the Decedent had creditors, including bank loans, credit cards, judgement creditors, etc. (an attorney can provide you with a plan to deal with those creditors);
- you need some legal advice (the Help Center cannot give you legal advice), for example whether to proceed under a Full Administration, Release from Administration, a Summary Release from Administration, Short Form Release from Administration, or a Certificate of Transfer (per R.C. 2113.61(D)(1), or whether certain creditors should be paid or not paid;
- the Decedent has a surviving spouse or surviving minor children, who have special rights under the law;
- one or more of the Beneficiaries or Heirs may object to your actions or the provisions in the Decedent's Will;

- The Decedent owned or possessed Firearms (see the probate information sheet titled “Firearms Law and Probate Concerns”);
- one or more of the creditors, Beneficiaries or Heirs have hired an attorney;
- you are too close to the probate matter, too emotional, and you will have trouble thinking logically and objectively;
- the Decedent was self-employed or owned a business; or
- You need assistance to determine what is the Probate Property and the Non-Probate Property of the Decedent.

You may not need an attorney if

- the probate estate is straight-forward and all interested persons or entities (creditors, surviving spouse, Beneficiaries, or Heirs) will agree with the actions you intend to take;
- the probate estate can be handled as a Release from Administration, a Summary Release from Administration, Short Form Release from Administration, or a Certificate of Transfer (per R.C. 2113.61(D)(1));
- you understand all options and can make informed choices;
- you are willing to learn and have the time needed to understand the applicable law and the rules of procedure;
- you have the time required to handle your duties and to do so in a timely manner;
- you understand your obligations regarding all tax filings;
- you are capable of following instructions and working on your own; or
- You are able to determine what is the Probate Property and the Non-Probate Property of the Decedent.

Risks of Representing Yourself

The risks of representing yourself including the following:

- you could violate federal or state tax law regarding the filing of the Decedent’s tax returns;
- you could violate state law regarding the Medicaid Estate Recovery Program;
- you could be sued by a disgruntled creditor, Beneficiary, or Heir;
- you could violate the rights provided to a surviving spouse or surviving minor children;
- You could make a mistake determining what is the Probate Property and the Non-Probate Property of the Decedent; or

- If the Decedent died owning or possessing Firearms you could violate state and federal law and be exposed to penalties and even a prison sentence.

Tips for Representing Yourself

If you decide to proceed without being represented by an attorney, then you should consider the following:

- Research the law that is applicable to your case. The Court's website has links that are helpful for you to research the law on the Internet. Additionally, the Help Center has various probate information sheets that may assist you. Those probate information sheets contain footnotes that specifically reference applicable law. You might consider a limited consultation with an attorney just to make sure you are on the right track.
- Read all the probate information sheets and website checklists that are applicable to your case.
- Check the Ohio Unclaimed Funds website, searching under the Decedent's name.⁴²
- Keep track of all deadlines, especially deadlines for filing documents with the Court, tax authorities, and the Medicaid Estate Recovery Program.
- If the Decedent has creditors, consider a consultation with an attorney, BEFORE you file any documents with the court, and develop a strategy regarding the timing of all filings and the payment of creditors.
- Establish a checking account solely for the probate estate administration, to account for the receipt of all income or other payments to the probate estate and the payment of all disbursements.
- Maintain a calendar and tickler system to remind you of filing deadlines, and other requirements.
- Consider a consultation with a tax advisor regarding required tax filings and the assigned value for Probate Property.
- Consider whether the Decedent's death will cause the payment of special benefits under social security or the Veteran's Administration.
- Determine whether the Decedent had a safe deposit box.
- If the Decedent was employed, consider whether the employer may owe past due wages or bonuses.
- Consider a consultation with an attorney as to whether any real property owned by the Decedent is Probate Property or Non-Probate Property.

LEGAL PRACTICE IN THE PROBATE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO AND

⁴² <<https://www.com.ohio.gov/unfd/>>

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 GEAUGA 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.