

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

Information Sheet  
Relief from Administration

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**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.

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Background

R.C. 2113.03 provides an applicant with a process to obtain a court order to distribute the probate property ("Probate Property") without having to undergo a Full Administration if the value of the Probate Property is relatively modest. The applicant may be any "interested person."<sup>1</sup> However, unlike a Summary Release from Administration, the applicant for a Release from Administration proceeding must (i) notify interested parties as the Court directs, and (ii) if the Decedent died with a Will, then the applicant must also file the Decedent's Will with the Court to be admitted to probate.<sup>2</sup> Probate Property may include the Decedent's interest in financial accounts, digital assets, household goods, furnishings, personal effects, collections, stocks and bonds, real estate, vehicles, unpaid wages, tax funds, unclaimed funds, and uncashed checks.<sup>3</sup> Automobiles selected by the surviving spouse under R.C. 2106.18 are not considered Probate Property. The applicant must account for and disclose to the Court all Probate Property known to the applicant. Please review the probate information sheet titled "Probate Overview Process." The applicant must determine which of Decedent's property is Probate Property and which is Non-probate Property. A probate court is only concerned about Probate Property.

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<sup>1</sup> R.C. 2113.03(B).

<sup>2</sup> See generally Information Sheet "The Decedent's Will."

<sup>3</sup> See generally Information Sheet "Probate Process Overview" for a definition of Probate Property.

## Requirements to Relieve Estate from Administration

The Court will only issue an order that relieves the estate from administration in two situations.

**First** – If the Decedent died without a surviving spouse, then the total value of the Probate Property must not be greater than \$35,000 and, or

**Second** – If the Decedent died with a surviving spouse, then the value of the Probate Property must not be greater than \$100,000, and either of the following applies:<sup>4</sup>

- (1) The Decedent had a valid Will that gives all the Decedent's Probate Property to the surviving spouse; or
- (2) The Decedent died without a valid Will, but the surviving spouse is entitled to receive all of the Probate Property as provided for by either:
  - a. R.C. 2105.06 (the "Statute of Descent and Distribution"),<sup>5</sup> or
  - b. R.C. 2105.06 (the "Statute of Descent and Distribution"), together with R.C. 2106.13 (the "Allowance for Support" statute),<sup>6</sup> which could be applicable even if the surviving spouse is not the natural parent of all of the Decedent's children. If the applicant is relying upon the \$40,000 provided by R.C. 2113.03, then consider filing form 7.1 – Application for Family Allowance" to obtain a court order granting the Family Allowance. Review the probate information sheet titled "Rights of Surviving Spouse."

However, even if either of those requirements is met, the Judge is not required to issue an order relieving the estate from administration, but rather may require a Full Administration, depending upon the particular facts of the probate estate.

Also note that any automobiles, which the surviving spouse selects under R.C. 2106.18, are not included in Probate Property<sup>7</sup> and thus not included in the calculation of \$100,000. See the probate information sheet titled "Rights of Surviving Spouse."

**Third** – If the probate estate is insolvent (i.e., the debts are greater than the Probate Property values), the Court may not approve an Application to Relieve Estate from Administration (Form 5.0), but rather may require a Full Administration, depending upon the particular facts of the probate estate.

## Initial Steps

If you intend to serve as the Estate Representative<sup>8</sup> and commence a probate proceeding, you first need to decide whether to proceed as (i) a Full Administration, (ii) a Release from Administration,

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<sup>4</sup> R.C. 2113.03(A)(2).

<sup>5</sup> See generally Information Sheet "Probate Process Overview."

<sup>6</sup> R.C. 2113.03(A)(2)(b). Also see generally Information Sheet "Rights of Surviving Spouse," and specifically the paragraph titled "Right of Inheritance."

<sup>7</sup> See generally Information Sheet "Rights of Surviving Spouse" regarding the right to select automobiles. Additionally, automobiles that pass to a survivor by reason of survivorship are not included in Probate Property.

<sup>8</sup> "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

(iii) a Summary Release from Administration, (iv) a Short Form Release from Administration (if the aggregate value of the Probate Property is \$1,000 or less), or (v) an Application for Certificate of Transfer (if the only Probate Property is real property). Before you decide and before you prepare any court documents, you should review the probate information sheets titled “Probate Process Overview,” “Jurisdiction Ohio Probate Courts,” “Creditor Rights,” “Rights of a Surviving Spouse,” and “The Decedent’s Will.” Regardless of the probate process you select, much of the information set forth in those information sheets is applicable. In order to proceed, you must be an “interested person.”<sup>9</sup> An interested person could be a creditor, next-of-kin, or beneficiary named in a Will. If the Decedent died with a Will, you do not necessarily have to be a person named in that Will as executor.

If a Release from Administration is available to you, and if you decide to proceed with a Release from Administration, then please consider the following:

- Jurisdiction and Venue. Confirm that this Court is the proper court to accept an Application to Relieve Estate from Administration. Carefully review the probate information sheet titled “Jurisdiction of Ohio Probate Courts.” Generally, an Application to Relieve Estate from Administration must be filed in the county where the Decedent resided at the time of death.
- 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.
- Determine if the Decedent has a Will. Please review the probate information sheet titled “The Decedent’s Will,” which provides information regarding the determination of whether the Will (including a lost, damaged, or destroyed Will) should be admitted to probate. Unlike a Summary Release from Administration proceeding, if the Decedent died with a Will, that Will must be presented to the Court when filing an Application to Relieve Estate from Administration.
- Identify the Decedent’s Creditors.
  - Create a list of all creditors, including the name (and the address and phone number if possible), a description of the claim, and the amount owed. You will need that information to prepare the form titled Assets and Liabilities of Estate to be Relieved from Administration (Form 5.1) and to decide when to file the Application to Relieve Estate from Administration (Form 5.0). The Estate Representative may owe a duty to certain creditors. Additionally, the Estate Representative must determine whether the Decedent owed the Estate Representative any money. Moreover, the debt owed to the Estate Representative is not entitled to preference over other creditors of the same class.<sup>10</sup> Please carefully review the probate information sheet titled “Creditor Rights” for numerous issues pertaining to creditors.
  - Determine whether the probate estate is insolvent. If so, then the applicant may be required to proceed with a Full Administration regardless of the value of the Probate Property.

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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.”

<sup>9</sup> R.C. 2113.03(B).

<sup>10</sup> R.C. 2117.01

- Consider whether to wait six months following the Decedent's date of death before filing the Application to Relieve Estate from Administration. If the Decedent died with creditors, be sure to read the probate information sheet titled "Creditor Rights," and perhaps hire an attorney for legal advice regarding the payment of creditor claims.
  - Obtain a copy of the funeral director's bill, even if the funeral bill was prepaid. If that funeral bill has been paid or prepaid, then obtain (i) a copy of the funeral bill showing a zero-balance due and (ii) proof of payment by the person who paid that funeral bill (e.g., a cancelled check), or if waived, a copy of the waiver of payment by the funeral director. 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. Please review the information sheet titled "Creditor Rights" for more detailed information regarding the duty of the Commissioner to reimburse from the estate a person who paid the funeral bill.
    - If the person who paid the funeral bill or other court-approved funeral and burial expenses does not seek reimbursement from the estate, then the Estate Representative should have that person sign and then file Form GC PF 4.54 - Waiver of Reimbursement for Funeral and Burial Expenses.
  - If the Estate Representative decides to reject a creditor claim, then the Estate Representative should refer to the probate information sheet titled "Creditor Rights."
  - Determine whether the probate estate is illiquid – i.e., not sufficient cash or other personal property to pay creditor claims, including the Allowance for Support or specific gifts under the Will. You may need a Court order to sell personal or real property in order to make needed payments.
- Identify Beneficiaries.
    - The applicant should create a list of the name of each person and entity that is named in the Will, who has survived the Decedent, and who has a vested right to distribution under the Will (a "Beneficiary) including as to each vested Beneficiary, the address, the relationship to the Decedent, and the birthdate of any minor. On that list indicate those persons whose current address is unknown, and those persons whose name is unknown.
    - If the Decedent died with a valid Will, then the Will defines the Beneficiaries of the Probate Property.<sup>11</sup> In that event, the applicant must file the Will with the Court, and allow the Judge to determine if the Will is valid according to law.<sup>12</sup> See the probate information sheet titled "The Decedent's Will."

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<sup>11</sup> That is true except to the extent that the Will does not dispose of all the Probate Property, in which case that Probate Property will pass to the Decedent's next-of-kin, but subject to the rights of a surviving spouse. See probate information sheets titled "Probate Process Overview" and "Rights of a Surviving Spouse."

<sup>12</sup> See *generally* the probate information sheet "The Decedent's Will."

- Sometimes the Will may not describe Beneficiaries by name, but rather by describing a class of persons. For example, the Will might say – “I leave the remaining assets to my lineal descendants, per stirpes.” In that example, the Beneficiaries are defined by the “Statute of Descent and Distribution,” which is R.C. 2105.06.<sup>13</sup>
- Identify the Next-of Kin.
  - In addition to a list of the Beneficiaries, 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 (the Next-of Kin”), 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 (e.g., children or grandchildren), then include the required information for each of them including a predeceased child, and including the name and address of each lineal descendant 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 (both whole and half siblings), and the lineal descendants or any deceased siblings.
  - If there is doubt as to who is a Next-of-Kin, then the Estate Representative may file a complaint with the Court under R.C. Chapter 2123, requesting the Court to determine heirship. An example might be if the Decedent fathered a child outside of wedlock. In such case, you should contact an attorney for assistance.
  - Finally, R.C. 2105.15 permits a person, who is legally competent, to designate a person as a Next-of-Kin of the declarant. For example, a person could designate a child born out of wedlock as the declarant’s child, the result being that the designated child would share with any of the declarant’s other children if the declarant died intestate (e.g., without a valid will admitted to probate). The declaration of Next-of-Kin is accomplished by filing the declaration in a probate court and obtaining a court order accepting the declaration. A certified copy of the court record is evidence of that declaration. The applicant should make inquiry to determine whether the Decedent ever made such a declaration.
- Determine Rights of Surviving Spouse (or Minor Children). If the Decedent has a surviving spouse or minor children, then be sure to review the probate information sheet titled “Rights of Surviving Spouse (or Minors)” and determine how to satisfy each of those rights from the Probate Property. Those rights, in most cases, are superior to the creditor rights, and in all cases, superior to the rights of other Beneficiaries or Next-of-Kin.
- Medicaid Issues.<sup>14</sup> 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.

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<sup>13</sup> See generally probate information sheet “Probate Process Overview.”

<sup>14</sup> See R.C.2117.061(B)(2). For general information see:

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

- Identify the Decedent's Probate Property.
  - Make a detailed list of the Decedent's Probate Property, including gathering all documents that evidence title to property (such as deeds for real property and current county auditor tax bills, vehicle titles, digital assets, financial account statements, retirement account statements, stock certificates, bonds, uncashed checks, tax refunds for year of death, unclaimed funds, intellectual property, digital assets, copy of wages due from the employer if possible, etc.)
    - 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. Gather the most recent monthly statement for the financial accounts.
    - 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 to Relieve Estate from Administration. You must make a careful examination 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 the Tangible Personal Property Certification (GC PF 6.6) together with the Application to Relieve Estate from Administration. You must make a careful examination to determine to what extent the Decedent owned tangible personal property, particular that which has significant value, for example jewelry, collections, antiques, artwork, etc.
    - 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."
    - Unclaimed Funds. The Decedent may be owed unclaimed funds for any variety of reasons, including a deposit refund, a bank account, an 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, 20<sup>th</sup> Floor, Columbus, OH 43215-6133. If the Decedent has a right to unclaimed funds, then print the relevant information on that website describing the unclaimed funds.
    - Intellectual Property. The Decedent may own intellectual property, which could include patents, copyrights, or trademarks, both federal and state. If so, obtain copies of documents that evidence such property.

- Business Interests. The Decedent may own business interests, which could include shares of stock of a corporation that is not publicly traded, a partnership interest, or a membership interest in a limited liability company. Obtain copies of documents that evidence such property and the ownership such business entities.
- 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 Estate Representative regarding the possession, use, storage, sale, transport, and the distribution of such Probate Property to certain Beneficiaries or Next-of-Kin, particularly such persons who reside in another state. Such federal and state law is complex. Some Beneficiaries or Next-of-Kin 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 Estate Representative may have a risk arising from violation of federal or state law, including criminal law. If the Decedent owned firearms or Dangerous ordnance and the Estate Representative does not have an attorney, then it is recommended that the Estate Representative obtain legal advice from an attorney, who has experience with such issues. Please review the probate information sheet titled “Firearms Law and Probate Concerns.” Prepare a list describing (i) each Firearm including the name of manufacturer, the model, and the serial number, and (ii) the Dangerous Ordnance.
- 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 must obtain a court order to open a safe deposit box.
- Allowance for Support. If there is a surviving spouse or minor children, please review R.C. 2106.13 and the Help Center probate information sheet titled “Rights of Surviving Spouse.”
- Determine whether any Probate Property is Concealed. Decide whether any of the Decedent’s Probate Property is concealed or held by another person. If that is the case, then R.C. 2109.50 to 2109.56 provides a legal process to discover and include that Probate Property in the probate estate.<sup>15</sup> The Help Center recommends that you obtain an attorney to assist you with the process set forth in R.C. 2109.50 to 2109.56. The Help Center cannot assist you with the preparation of the required complaint or related documents.
- Determine any Pending Lawsuits involving the Decedent. If there is a pending claim in a court of record against the Decedent at the time of death or if after appointment the Estate Representative has actual knowledge of such litigation, then R.C. 2117.06(E) requires the Estate Representative to give written notice to the Court within 10 days after acquiring such actual knowledge. If the Decedent filed a lawsuit

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<sup>15</sup> See Supreme Court of Ohio Probate Bench Cards – “CONCEALMENT OF ASSETS”

against another person before death, then the Estate Representative should promptly contact the attorney of record after appointment as Estate Representative.

- Determine any Certificated Property. Determine such Probate Property (e.g., automobiles, trucks, motorcycles, four-wheelers, boats, airplanes, mobile homes, etc.) and obtain a copy of the certificate of title (or registration if the certificate of title cannot be found).
- Determine any Real Property. Determine whether the probate property includes real property, and if so, obtain a copy of the deed and related current county auditor tax bills.
- Decide whether any Probate Property must be Appraised.<sup>16</sup> 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.<sup>17</sup> See the Court's website for a list of preapproved appraisers.<sup>18</sup> The Estate Representative may pay the cost of the appraiser from the Probate Property after being appointed by the Judge.

**Note:** If applicant is unsure whether the value of the Probate Property is \$35,000 or less (or \$100,000 or less with surviving spouse),<sup>19</sup> and thus whether a Release from Administration is available, then the applicant can select an appraiser from the Court's approved list, and if the appraiser's report indicates that the Probate Property is \$35,000 or less (or \$100,000 with surviving spouse), then the applicant can proceed with the Release from Administration, and attach the appraiser's report to the "Application to Relieve Estate from Administration" (Form 5.0). Of course, if the appraiser's report indicates that the Probate Property is above \$35,000 (or \$100,000 with surviving spouse), then typically the applicant must proceed with a Full Administration.

- The general rule is that any Probate Property, which (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.<sup>20</sup> 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). Try to obtain the consent of all interested parties.

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<sup>16</sup> See generally Information Sheet "Probate Process Overview."

<sup>17</sup> R.C. 2115.06

<sup>18</sup> Loc.R. 5 of the Court of Common Pleas of Geauga County, Probate Division

<sup>19</sup> Review the probate information sheet titled "Right of Surviving Spouse" for more information.

<sup>20</sup> R.C. 2115.02

- 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).
  - Financial Accounts. Financial Accounts should be valued at current value - see Geauga Probate Local Rules 78.5(C)(8).
  - Vehicles. Rather than appraisal, the Court will accept the value of a vehicle as established by Kelley Blue Book.<sup>21</sup> 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 to Relieve Estate from Administration” (Form 5.0).
  - 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 site<sup>22</sup>). If you intend to establish value in that manner, then make a photocopy of the auditor’s letter of valuation (or REALink printout) and file it with the Court when you file the “Application to Relieve Estate from Administration” (Form 5.0).
    - Income Tax Consequence. If a real property is sold either during the estate administration or after distribution, then the value of that real property as shown on the form “Assets and Liabilities of Estate” to be Relieved from Administration may result in an unintended income tax consequence to the estate or the Beneficiaries or Next-of-Kin 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” from the County Auditor’s Office (or REALink print-out).

Procedure to Obtain an Order Relieving the Estate from Administration. First, carefully review the “Checklist – Release from Administration.” Second, consider the following matters.

- Preliminary Matters. Before preparing and filing the Application to Relieve Estate from Administration (Form 5.0), the applicant should attend to the following:
  - Digital Asset Certificate. Make a good faith examination to determine the extent and nature of the Decedent’s Digital Assets. Review the probate information sheet titled “Digital Assets Certificate.” If necessary, in order to obtain a court order to gather information regarding Custodial Digital Assets, then prepare and file with the Court the form titled “Application for Authority over Digital Assets” (Form GC PF 6.5B).<sup>23</sup> Before or together with the filing of that application, prepare and file with the Court the form titled “Digital Asset Certification” (GC PF 6.5).<sup>24</sup> Be prepared to file the form titled “Supplemental Schedule of Assets” (GC PF 6.1A) if requested by the Court.

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<sup>21</sup> See <https://www.kbb.com/>

<sup>22</sup> See <http://geaugarealink.co.geauga.oh.us/realink/>

<sup>23</sup> See Geauga Probate Local Rule 78.5(A)(3)(c).

<sup>24</sup> See Geauga Probate Local Rule 78.5(A)(3)(a).

- Tangible Personal Property Certificate. Make a good faith examination to determine the extent and nature of the Decedent's Tangible Personal Property (e.g., household goods, collections, artwork, jewelry, personal effects, clothing, etc.). Before or together with the filing of the "Application to Relieve Estate from Administration," prepare and file with the Court the form titled "Tangible Personal Property Certification" (GC PF 6.6).<sup>25</sup> Be prepared to file the form titled "Supplemental Schedule of Assets" (Form GC PF 6.1A) if requested by the Court.
- Application to Relieve Estate from Administration. For the Estate Representative to have the authority to collect the Probate Property, satisfy the rights of a surviving spouse (or minor children), pay the valid creditor claims, and distribute the remaining Probate Property to the Beneficiaries or Next-of-Kin of the probate estate, the Judge must appoint the Estate Representative (i.e., known as the "Commissioner"). To receive such authority from the Judge, the applicant must file the form titled "Application to Relieve Estate from Administration" (Probate Form 5.0). On that application the Estate Representative will indicate whether the Decedent had a Will and whether it was admitted to probate. If the Decedent has a valid Will or a Will that was lost, damaged or destroyed, please review the probate information sheet titled "The Decedent's Will." In that event, the applicant must complete the process of having that Will presented to the Court for admission to probate. The applicant should review the "Checklist - Probating Decedent's Will," on the Court's website and the probate information sheet titled "The Decedent's Will."
- List of Surviving Spouse, Children, Next-of-Kin, Legatees and Devises. Prepare and file, together with the "Application to Relieve Estate from Administration" (Probate Form 5.0), the form titled "Surviving Spouse, Children, Next of Kin, Legatees and Devisee" (Form 1.0).<sup>26</sup> If there is a surviving spouse or surviving lineal descendants, then include (i) the name and date of death of each predeceased child, and (ii) under the name of a predeceased child insert the name and address of that child's lineal descendants, if any. Moreover, you must correctly check one of the boxes toward the bottom of the front page of Form 1.0.
- List of Debts and Assets. The Estate Representative must prepare the form titled "Assets and Liabilities of Estate to be Relieved from Administration" (Form 5.1), and file it together with the Application to Relieve Estate from Administration.
  - 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 form "Assets and Liabilities of Estate to be Relieved from Administration." You may indicate on that listing something like "household goods, clothing, furnishings" and assign an aggregate value based upon a reasonable estimate of the price that you could sell such items for at a public auction. Regarding tangible personal property that has a significant value, such as jewelry, artwork, or collections, you must have those items appraised and separately list those items on the form "Assets and Liabilities of Estate to be Relieved from Administration."
  - The form titled "Assets and Liabilities of Estate to be Relieved from Administration" is a Public Record. Do not include on that form any information concerning the identity of the Decedent or the Probate Property, known as "personal identifiers." Examples of personal identifiers are the Decedent's social security number, bank account numbers, or other brokerage or financial account numbers. Instead, provide such

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<sup>25</sup> See Geauga Probate Local Rule 78.5(A)(3)(a).

<sup>26</sup> See Geauga Probate Local Rule 78.5(A)(2).

information to the Court by completing and filing the form titled “Confidential Disclosure of Personal Identifier” (Form 45(D)).<sup>27</sup> 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 such account on that form.

- The value of the Probate Property listed should be the current value.
- Proof of Ownership.
  - Real Property. Regarding any real property that is Probate Property, the applicant shall: (i) describe the real property on the applicable court document by the street address and the tax parcel identification number, and (ii) file with the Clerk a copy of the deed and the most current county auditor’s tax bill; provided that if the real property is in Geauga County, Ohio, then a copy of the “Tax Card,” which is displayed <https://realestate.geauga.oh.gov/>, after completing the search.
  - Vehicles. Regarding any vehicles (including motorcycles, recreational vehicles, boats, airplanes, etc.) that are Probate Property, the applicant must file with the Application for Relief from Administration (Form 5.0) 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 applicant must attach to the Application to Relieve Estate from Administration a copy of the monthly statements or other evidence of ownership, which display the current value of that Probate Property. Regarding those financial accounts that have a unique account number, the applicant must only include the last four digits in the description of each such account.
  - Stocks and Bonds. Regarding any stocks and bonds not held in a brokerage account that are Probate Property, the applicant must provide copies of those instruments.
  - Uncashed Checks, Wages. Regarding any uncashed checks and unpaid wages that are Probate Property, the applicant must provide copies of those checks or wage statements.
- Evidence of Value. See the discussion above regarding the appraisal of Probate Property. If an appraisal is not required for any real property or vehicles that are Probate Property, then file with the Application to Relieve Estate from Administration a copy of the: (1) the County Auditor’s Valuation Letter (or REALink print-out) regarding real property (or other acceptable valuation report), and (2) Kelley Blue Book Value regarding any vehicle (or other acceptable valuation report). Additionally, the applicant must prepare and file with the Court the form titled “Application for Order Dispensing with Appraisement” (GC PF 4.7), and try to obtain the consent of all interested parties.
- Death Certificate. Together with the Application to Relieve Estate from Administration, the applicant must file with the Court a letter-size copy of the death certificate, with the Decedent’s social security number redacted.

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<sup>27</sup> See Geauga Probate Local Rule 57.2(C)

- 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 the applicant could prepare and file with the Court the form titled "Residency Affidavit" (GC PF 052).
- Proof of Payment – Funeral Bill. Together with the Application to Relieve Estate from Administration, the applicant must file with the Court a copy of (i) the funeral bill (both funeral and burial costs), even if the funeral cost is prepaid, showing "paid-in-full" or a balance due of zero, and (ii) proof of payment by the person who paid the bill (e.g., cancelled check). If the funeral bill has been paid, then the applicant should obtain 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 the applicant should 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.
- Personal Identification. Unless the applicant is represented by an Ohio attorney, obtain (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).
- Background Certification and Records Check. Together with the Application to Relieve Estate from Administration, the applicant must prepare and file with the Court the form titled Background Certification and Records Check (GC PF 4.30).
- Medicaid Recovery. If the applicant is not represented by an attorney, then prepare and file with the Court the form titled Medicaid Recovery Acknowledgment (GC PF 4.29), (and if required prepare and file the appropriate forms with the Ohio Medicaid Estate Recovery Unit and then file with the Court the form titled Certification of Notice to Administrator of Medicaid Estate Recovery Program (Form 7.0) – see the probate information sheet titled "Creditor Rights."
- Notice of Filing Application to Relieve Estate from Administration.
  - Waiver of Notice of Filing. Those persons identified as a Next-of-Kin on the front page of Probate Form 1.0 have a right to be informed that the applicant filed an Application to Relieve Estate from Administration. To the extent possible the Estate Representative should obtain from each of such person a waiver of notice, which is on page 2 of Probate Form 5.0 or is on the form titled Waiver of Notice of Application to Relieve Estate from Administration (Form 5.2). That waiver of notice is in addition to any notice or waiver that is required if the Decedent died with a Will and the Will is presented to the Court and admitted to probate. Thus, to the extent possible, the applicant should have each such person sign a waiver of notice and file that waiver of notice when the applicant files the Application to Relieve Estate from Administration.
  - Notice of Filing of Application. To the extent that the notice of filing of the Application to Relieve Estate from Administration is not waived by the surviving spouse, if any, or any of the Next of Kin and vested Beneficiaries, then: (1) the applicant shall give notice, using form titled "Notice of Application to Relieve Estate from Administration" (Form 5.3), at least two weeks before the hearing date to each person who has not waived such notice, in accordance with Civ.R. 73(E). 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.

If such notice cannot be delivered to the surviving spouse or any Next of Kin or vested Beneficiary because a name or address is unknown, then the Estate Representative must give notice by publication and may do so by publication on the Court's website by filing an affidavit, using GC Form "GC PF 62.0 - Affidavit for Notice by Publication" with a copy of the applicable notice attached. Please review Geauga Probate Local Rule 78.5(C)(3).

- Judgment Entry. When filing an Application to Relieve Estate from Administration, the Applicant must prepare and file with that application the form titled Entry Relieving Estate from Administration (Form 5.6).
- Be Prepared to Pay the Court Cost Deposit. 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, then the Court will reimburse the Estate Representative for that excess amount.
- Report of Distribution. After the distribution of all Probate Property as ordered by the Court and within 60 days after the court order, the Estate Representative must prepare and file with the Court the form titled Report of Distribution (Form 5.9), which, if accepted by the Court, will close the probate proceeding.

#### Other Matters to Consider

- Allowance for Support.
  - Minor Children. If the Estate Representative determines that 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), or the form titled Application for Apportionment of Family Allowance (Form 7.2), as applicable. See the Information Sheet titled "Rights of Surviving Spouse (or Minors) for more information.
  - 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" (Probate Form 12.0) and "Certificate of Transfer" (Probate 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 on page 2 of the Entry Relieving Estate from Administration (Form 5.6), the Estate Representative should enter the name of the Distributee, and under the “Property” description, the Estate Representative should describe the vehicle as presented on the Certificate of Title, including (i) Year, (ii) Body Type, (iii) Model, (iv) Make, (v) Mfrs Serial Number, and (vi) Cert. of Title No. After the Estate Representative receives the signed judgment entry, the Estate Representative should deliver a certified copy of that court order to the Title Bureau and a new certificate of title should be issued. Note that automobiles selected by the surviving spouse under RC 2106.18 are not Probate Property, and the surviving spouse can cause the transfer of title for such automobiles by presenting to the title bureau the death certificate and the certificate of title.
- Unanimous Waiver of Will Contest. If a Will was admitted to probate, then unless all interested parties sign a waiver of the right to file a Will Contest and that waiver is filed with the Court, the Court will not issue a judgment entry relieving the estate from administration until the three-month Will Contest period has expired and no Will Contest has been filed with the Court. Consider using and filing form “GC PF 3.4 – Waiver of Right to Contest Will.” The three-month Will Contest period commences on the date that the Commissioner files the Certificate of Service of Notice of Probate of Will (Form 2.4).
- Tax Concerns. Please review 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 or an obligation to pay an income tax. You should consider hiring a tax advisor to assist you.
- Medicaid Estate Recovery Program. Again, please review the probate information sheet titled “Creditor Rights.” You may have a duty to:
  - prepare and deliver a notice, by certified mail, return receipt requested, to the Administrator of the Medicaid Estate Recovery Program not later than 30 days after the date that you were appointed the Estate Representative, using the form titled Notice to Administrator of Medicaid Estate Recovery Program (Form 7.0A).<sup>28</sup>
  - Promptly after delivery of the Notice to Administrator of Medicaid Estate Recovery Program, prepare and file with the Court the form titled Certification of Notice to Administrator of Medicaid Estate Recovery Program (Form 7.0), with the signed “green card” and copy of that notice attached.
- 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.
- Federal Income Tax Issues. The Internal Revenue Service may be a creditor of the Decedent’s estate. As noted in the probate information sheet titled “Creditor Rights,” when appointed as the Estate Representative, you may have duties and liabilities to the Internal Revenue Service regarding the filing of decedent’s tax returns and the payment of income taxes as noted in IRS Publication 559. You should discuss that publication with your tax advisor. Additionally, you should discuss with your tax advisor whether you should prepare

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<sup>28</sup> R.C. 2117.061(B)(2).

and file IRS Form 56, which is intended to notify the Internal Revenue Service of the creation and termination of a fiduciary relationship. Finally, before distributing Probate Property, you should discuss with your tax advisor whether you should (i) again file IRS form 56, noting that you are terminating your fiduciary relationship, (ii) file IRS form 4810, which is a request to the Internal Revenue Service to promptly assess the Decedent's income tax liabilities, and (iii) file IRS form 5495, which is a request to the Internal Revenue Service to discharge you from any liability to the Internal Revenue Service as the fiduciary of the Decedent's estate.

- Illiquid Estate. An illiquid estate is an estate that has sufficient assets to pay valid creditor claims but does not have sufficient cash to pay those claims or to make other needed payments, such as repairs to Probate Property before sale. An example would be a probate estate that consists primarily of real estate. In that case, the Estate Representative may have a duty to file a complaint to obtain a court order to sell the real property under R.C. 2127 titled "Land Sale." For more information, see the probate information sheet titled "Land Sale."

If such payments must be made and the only available cash is that of the Estate Representative's personal assets (or that of other family members), then the Estate Representative should not make payments on behalf of the probate estate from his or her personal checking account, but rather should consider loaning the required cash to the probate estate by depositing sufficient cash in the estate checking account. Then the Estate Representative can make the required payments directly from the estate checking account. Handling payments in this manner results in a better method for accounting for all probate estate payments. Eventually, the loan made by the Estate Representative may be paid after the illiquid Probate Property is sold, assuming the sale proceeds are sufficient.

**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 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.**