

Relief From Administration

“Life is full of misery, loneliness, and suffering - and it's all over much too soon.”

Woody Allen

Chief Magistrate George R. Wertz
Summit County Probate Court

Payment of wages of deceased employee without administration. R. C. 2113.04

(A) Any employer, including the state or a political subdivision, at any time after the death of an employee, may pay all wages or personal earnings due to the deceased employee to the following, preference being given in the order named, without requiring letters testamentary or letters of administration to be issued upon the estate of the deceased employee, and without requiring an Ohio estate tax release if the wages or personal earnings do not exceed five thousand dollars:

(1) The surviving spouse;

(2) Any one or more of the children eighteen years of age or older;

(3) The father or mother of the deceased employee.

(B) The payment of wages or personal earnings under division (A) of this section is a full discharge and release to the employer from any claim for the wages or personal earnings. If letters testamentary or letters of administration are thereafter issued upon the estate of the deceased employee, any person receiving payment of wages or personal earnings under that division is liable to the executor or administrator for the sum received by the person.

Real Estate Only R.C. 2113.61 (D)

Form ER.11

- Six months from Date of Death
- Original Will, Application to Probate Will, Form 2.0, Waiver of Notice of Probate Will, Form 2.1, and Certificate of Service, Form 2.4
- ET 22 if needed (DOD prior to 1/1/2013)
R.C. 5731.38 10 Year lien from DOD

- Paid Funeral Bill
- Copy of Death Certificate
- No Medicaid Estate Recovery
- *“In my house I'm the boss, my wife is just the decision maker.” - Woody Allen*

Short Form Release

(ER. 4, ER. 5) (FCMLPF)

- Estate is less than \$4,500.00
- No stocks, No Real estate
- Motor vehicle titles, unclaimed funds, last paychecks, bank accounts
- Some proof of value

- Provision to Order Title Bureau to issue title
- Treated as Distribution in Kind
- Paid funeral bill
- Copy of Death certificate

- Waivers from all next of kin/ person who paid funeral bill
- Will probate / record only – separate cases
- If surviving spouse, no waivers from children
- *“If you're not failing every now and again, it's a sign you're not doing anything very innovative.” - Woody Allen*

Summary Release R. C. 2113.031

- There is no surviving spouse; and
- The value of the assets to be probated does not exceed \$5,000.00; and
- The applicant has paid or is obligated in writing to pay the decedent's funeral; and
- Burial expenses that are equal to or greater than the assets to be probated
- Proof of Insurance policy where applicant was beneficiary

OR

- There is a surviving spouse; and
- The value of the estate assets do not exceed \$45,000.00;
- The surviving spouse paid/responsible/to pay the decedent's funeral/burial expenses;
- Proof of Insurance policy where applicant was beneficiary;

and

The surviving spouse is also entitled to the entire allowance of support provided for under Section 2106.13 of the Revised Code.

- Copy of Death Certificate
- Copy of funeral bill
- If will, will to be probated/record only
- Motor vehicle, the motor vehicle's year, make, model, body type, manufacturer's vehicle identification number, certificate of title number, and date of death value;

- Fiscal Office value for real estate; Application for Certificate of Transfer
- Total number of the shares and bonds and their date of death value and, for each share or bond, its serial number, the name of its issuer, its date of death value, and, if any, the name and address of its transfer agent.
- Financial institution accounts, institution's name and the account number and date of death balance; (last four numbers)
- No accounting/Report
- No need for Commissioner
- No need to publish

Release from Administration. 2113.03

- The value of the assets of the estate is thirty-five thousand dollars or less.
- The value of the assets of the estate is one hundred thousand dollars or less and either of the following applies:
- The decedent devised and bequeathed in a valid will *all of the assets* of the decedent's estate to a person who is named in the will as the decedent's spouse, and the decedent is survived by that person.

- The decedent is survived by a spouse and the decedent's surviving spouse is entitled to receive all of the assets of the decedent's estate under section 2105.06 of the Revised Code
- The court may appoint a commissioner to execute all necessary instruments of conveyance, including the instruments of conveyance and other documents required for the transfer of title upon the sale of real property pursuant to section 2127.011 of the Revised Code. Form 11.0

- The commissioner shall receipt for the property, distribute the proceeds of the conveyance upon court order, and report to the court after the delivery, sale, or transfer of personal or real property from an estate that has been relieved from administration.
- Commissioner's Report due in 60 days Form 5.6; the notice 30 days; then show cause.
- If the decedent died testate, *the will shall be presented for probate*, and, if admitted to probate, the court may relieve the estate from administration and order distribution of the estate under the will.

- *Any delivery of personal property or transfer of real property pursuant to an order relieving an estate from administration is made subject to the limitations pertaining to the claims of creditors set forth in divisions (B) and (C) of section 2117.06 of the Revised Code.*
- *This section does not affect the ability of qualified persons to file an application for a summary release from administration under section 2113.031 of the Revised Code or to file an application for the grant of letters testamentary or letters of administration.*

“Life is divided into the horrible and the miserable.”

- Woody Allen

Claims against Estate R.C. 2117.06

- *All creditors ... shall present their claims in one of the following manners:*
- To the executor or administrator in a writing
- To the executor or administrator in a writing, and to the probate court by filing a copy of the writing with it;

- In a writing that is sent by ordinary mail addressed to the decedent and that is actually received by the executor or administrator [within six months after the death]
- *...all claims shall be presented within six months after the death of the decedent, whether or not the estate is released from administration or an executor or administrator is appointed during that six-month period.*

- A claim against an estate must be timely presented in writing to the executor or administrator of the estate in order to meet the mandatory requirements of R.C. 2117.06(A)(1)(a), and under that subdivision, delivery of the claim to a person not appointed by the probate court who gives it to the executor or administrator fails to present a claim against the estate. *Wilson v. Lawrence*, 2017-Ohio-1410, 150 Ohio St. 3d 368,

- Query: Can a creditor present a claim against a Commissioner?
- *"Money is better than poverty, if only for financial reasons."* - Woody Allen

- Every executor or administrator shall proceed with diligence to pay the debts of the decedent
R.C. 2117.25(A)
- Presentation unnecessary
- Costs of Administration
- Family allowance
- Debts entitled to a preference under the laws of the United States (OSBA List serve)
R.C. 2117.25 (D)(1)

- Personal property taxes, claims made under the Medicaid estate recovery program ... and obligations for which the decedent was personally liable to the state or any of its subdivisions... of which the executor or administrator has knowledge, regardless of presentation. R.C. 2117.25 (D)(1).

- MEDICAID! “Person responsible for the estate” is defined as “the executor, administrator, commissioner, or person who filed pursuant to section 2113. 03 of the Revised Code for release from administration of an estate.”

R.C. 2117.061 (A)(2)

- Query: Is a Commissioner liable for payment of claims not required to be presented of which he has knowledge?
- *“Another good thing about being poor is that when you are seventy your children will not have you declared legally insane in order to gain control of your estate.” - Woody Allen*

Funeral Bill

- Party argued the bill of the funeral director is a claim against the estate that must be presented to the deceased's personal representative pursuant to R.C. 2117.06. The trial court denied the application to relieve estate from administration at that time because it found it would be *inequitable* for the funeral home bill to remain unpaid. The statutes governing the administration of estates give *special significance* to funeral expenses. *In re Estate of Cooke, 2011-Ohio-1637, ¶ 25*

- Query: Will the Court Relieve an estate from administration when the funeral bill is unpaid?
- *“I'm not afraid of death; I just don't want to be there when it happens.” — Woody Allen*

Representing the Creditor

- Agreement to amend Assets and Liabilities form
- Motion to Intervene
- Motion to vacate
- Application for Authority to Administer
- Objection to Release from Administration
(Creditors will not be prejudiced. Removal from statute in 1994)

Representing the Estate

- Reject claim as not being presented
- Wait six months
- File amended assets and liabilities
- Agreement to amend Assets and Liabilities form
- Insolvent Release R.C. 2117.17

Publication on Release

- “... after notice to all interested parties by publication in a newspaper of general circulation in the county, unless the notices are waived or found unnecessary”
2113.03(B)
- Assets in excess of stated liabilities
- Within six months of date of death

Hearing on Release

- Not all waivers
- No waiver / paid funeral bill
- Insolvency



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RELEASES FROM ADMINISTRATION:

**George R. Wertz, Chief Magistrate
Summit County Probate Court**