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# **Advanced Topics in Probate Law**

**The New Requirement for Probate IOTAs**

**Wayne Rice, Esq.**

**132nd General Assembly (2017-2018)**

**HB 223**

**AN ACT**

To amend sections 2109.41, 2323.58, 2323.581, 2323.582, 2323.583, 2323.584, 2323.585, 2323.586, 2323.587, and 4705.09 of the Revised Code relative to transfers of structured settlement payment rights and relative to the placement of fiduciary funds in interest on lawyer's trust accounts.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 2109.41, 2323.58, 2323.581, 2323.582, 2323.583, 2323.584, 2323.585, 2323.586, 2323.587, and 4705.09 of the Revised Code be amended to read as follows:

Sec. 2109.41. (A) Immediately after appointment and throughout the administration of a trust, but subject to section 2109.372 of the Revised Code and except as provided in division (C) of this section, every fiduciary, pending payment of current obligations of the fiduciary's trust, distribution, or investment pursuant to law, shall deposit all funds received by the fiduciary in the fiduciary's name as such fiduciary in one or more depositories. Each depository shall be a bank, savings bank, savings and loan association, or credit union located in this state. A corporate fiduciary, authorized to receive deposits of fiduciaries, may be the depository of funds held by it as fiduciary. All deposits made pursuant to division (A) of this section shall be in such class of account as will be most advantageous to the trust, and each depository shall pay interest at the highest rate customarily paid to its patrons on deposits in accounts of the same class.

(B) The placing of funds in such depositories under the joint control of the fiduciary and a surety on the bond of the fiduciary shall not increase the liability of the fiduciary.

(C) A fiduciary of a trust or estate may transfer funds received by the fiduciary in the fiduciary's name as such fiduciary to the fiduciary's attorney for deposit in an interest on lawyer's trust account established under division (A)(1)(b) of section 4705.09 of the Revised Code that is maintained by the attorney if both of the following conditions are satisfied:

(1) The attorney, in consultation with the fiduciary, has determined that the funds are nominal in amount and will be held in the interest on lawyer's trust account for a short period of time.

(2) The probate court, upon petition by the fiduciary, has approved the deposit.

Sec. 2323.58. As used in this section and sections 2323.581 to 2323.587 of the Revised Code:

(A) "Annuity issuer" means an insurer that has issued ~~an insurance~~ a contract that is used to fund periodic payments under a structured settlement.

(B) ~~"Applicable law "Assignee" means any of the following, as applicable in interpreting the terms of a party acquiring or proposing to acquire structured settlement agreement:~~

~~(1) The laws of the United States;~~

~~(2) The laws of this state, including principles of equity that are applied in the courts of this state;~~

~~(3) The laws of any other jurisdiction if any of the following applies:~~

~~(a) The laws of that other jurisdiction govern the structured settlement.~~

~~(b) A court or a responsible administrative authority approved the structured settlement agreement under the laws of that other jurisdiction.~~

~~(c) The transfer of payments under the structured settlement is subject to the laws of that other jurisdiction payment rights from a transferee of those rights.~~

(C) "Dependent" ~~means~~ includes a spouse of a payee, a minor child of a payee, ~~or~~ and any other member of the family of a payee or other person for whom, ~~by law or by court order or decree,~~ the payee is legally obligated to provide support, including alimony.

(D) "Discounted present value" means the ~~fair~~ present value of the future payments ~~under a structured settlement that is~~ determined by discounting those payments to the present, using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States internal revenue service.

(E) "Gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from such consideration.

(F) "Independent professional advice" means the advice of an attorney, a certified public accountant, an actuary, or any other licensed professional adviser ~~if all of the following apply:~~

~~(1) The payee has engaged the services of the licensed professional adviser to render advice concerning the legal and other implications of a transfer of structured settlement payment rights.~~

~~(2) The licensed professional adviser has signed a statement to the effect that the licensed professional adviser rendered advice to the payee concerning the legal and other implications of a transfer of structured settlement payment rights.~~

~~(3) The licensed professional adviser is not affiliated in any manner with, referred by, or compensated in any manner by the transferee of the structured settlement payment rights.~~

~~(4) The compensation of the licensed professional adviser is not affected by whether or not a transfer of structured settlement payment rights occurs.~~

~~(F)~~ (G) "Interested party" ~~includes the payee~~ means, with respect to a structured settlement, the payee, any beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement ~~agreement~~ obligor, and any other party to the structured settlement that has continuing rights or obligations to receive or make payments under the structured settlement ~~agreement~~.

~~(G)~~ (H) "Net advance amount" means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under division (E) of section 2323.582 of the Revised Code.

(I) "Payee" means an individual who is receiving periodic payments under a structured settlement ~~agreement~~ that are excludable from the individual's gross income under federal income taxation laws applicable to that individual and who proposes to make a transfer of the rights to receive those periodic payments.

~~(H)~~ (J) "Periodic payments" includes both continuing monthly or other periodic payments and scheduled future lump-sum payments under a structured settlement.

~~(I)~~ (K) "Qualified assignment agreement" means an agreement that provides for a qualified assignment, as defined in section 130 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 130(c), as amended, ~~through an assignment of the liability under a structured settlement agreement to make periodic payments as damages, on account of personal injury or sickness.~~

~~(J) "Responsible administrative authority" means any government authority of another state vested by the law of that state with the original exclusive jurisdiction over the settled claim resolved by a structured settlement.~~

~~(K) "Settled claim" means the original tort claim resolved by a structured settlement.~~

(L) "Structured settlement" means an arrangement for periodic payments of damages for ~~injury to a person~~ personal injuries or sickness that is established by a settlement or a court judgment in resolution of a tort claim.

(M) "Structured settlement agreement" means an agreement, judgment, stipulation, or release that embodies the terms of a structured settlement, including the rights of a payee to receive periodic payments.

(N) "Structured settlement obligor" means the party that has the obligation to make continuing periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement.

(O) "Structured settlement payment rights" means the rights under a structured settlement agreement to receive periodic payments from a structured settlement obligor or an annuity issuer if either of the following applies:

(1) The payee, ~~the structured settlement obligor, or the annuity issuer with respect to the structured settlement agreement~~ is a resident of this state.

(2) The structured settlement agreement was approved by a court in this state.

(P) "Terms of a structured settlement" includes the terms of a structured settlement agreement, ~~an insurance~~ the annuity contract, a qualified assignment agreement, and any order or approval by a court, ~~a responsible administrative authority,~~ or other government authority authorizing or approving the structured settlement.

(Q) "Transfer" means a sale, assignment, pledge, hypothecation, or any other form of alienation or encumbrance of structured settlement payment rights made by a payee for consideration.

"Transfer" does not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, in the absence of any action to redirect the structured settlement payments to that institution, or an agent or successor in interest thereof, or otherwise to enforce the blanket security interest against the structured settlement payment rights.

(R) "Transfer agreement" means an agreement that provides for the transfer of structured settlement payment rights from a payee to a transferee.

(S) "Transfer expense" means any expense of a transfer that is required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including but not limited to, court filing fees, attorneys' fees, escrow fees, lien recordation fees, judgment and lien search fees, finder's fees, commissions, and other payments to a broker or other intermediary. "Transfer expense" does not include pre-existing obligations of the payee payable for the payee's account from the proceeds of a transfer.

(T) "Transferee" means a party acquiring or proposing to acquire structured settlement payment rights through a transfer ~~of those rights~~.

Sec. 2323.581. No direct or indirect transfer of structured settlement payment rights shall be effective, and no structured settlement obligor or annuity issuer shall be required to make any

payment directly or indirectly to a transferee or assignee of structured settlement payment rights, unless the transferee has provided the payee and other interested parties with the disclosures required by section 2323.582 of the Revised Code and the transfer has been approved in advance in a final order of a court of competent jurisdiction in accordance with sections 2323.583 and 2323.584 of the Revised Code based on express findings by the court of all of the following:

(A) The transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents.

(B) The payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has either received that advice or knowingly waived in writing the opportunity to seek and receive that advice.

(C) The transfer does not contravene any applicable statute or order of any court or other government authority.

Sec. 2323.582. Not less than ten days prior to the date on which a payee becomes obligated under signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement, in boldface type of the minimum size of fourteen points, setting forth all of the following:

(A) The amounts and due dates of the structured settlement payments that would be transferred under the transfer agreement;

(B) The aggregate amount of the payments described in division (A) of this section;

(C) The discounted present value of the payments described in division (A) of this section, which shall be identified as the "calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities," and the amount of the applicable federal rate used in determining the discounted present value;

(D) The gross advance amount payable to the payee in exchange for or as consideration for the transfer of the structured settlement payments described in division (A) of this section;

(E) An itemized listing of all brokers' commissions, service charges, application fees, processing fees, closing costs, filing fees, administrative fees, legal fees, notary fees, and other commissions, fees, costs, expenses, and charges payable by the payee or deductible from the gross amount otherwise payable to the payee as described in division (D) of this section applicable transfer expenses, other than attorneys' fees and related disbursements payable in connection with the transferee's application for approval of the transfer, and the transferee's best estimate of the amount of any such fees and disbursements;

(F) The net advance amount payable to the payee after deduction from the gross amount payable

~~to the payee as described in division (D) of this section of all commissions, fees, costs, expenses, and charges described in division (E) of this section;~~

~~(G) The quotient, expressed as a percentage, obtained by dividing the net amount payable to the payee as described in division (F) of this section by the discounted present value of the payments described in division (C) of this section effective annual interest rate, which shall be disclosed as follows: "On the basis of the net amount that you will receive from us and the amounts and timing of the structured settlement payments that you are transferring to us, you will, in effect, be paying interest to us at a rate of..... per cent per year";~~

~~(H) The aggregate amount of any penalty and the aggregate amount of any or liquidated damages, including penalties, payable by the payee in the event of any breach of the transfer agreement by the payee;~~

~~(I) That the payee has the right to cancel the transfer agreement, without penalty or further obligation, not later than the third business day after the date the agreement is signed by the payee;~~

~~(J) That the payee has the right to seek and receive independent professional advice regarding the proposed transfer and should consider doing so before agreeing to transfer any structured settlement payment rights.~~

~~Sec. 2323.583. A court of competent jurisdiction may approve~~ Following a transfer of structured settlement payment rights ~~only in a final order that is based on the express findings of the court, and the express findings shall include~~ pursuant to sections 2323.58 to 2323.585 of the Revised Code, all of the following apply:

~~(A) The transferee has provided to the payee a disclosure statement that complies with section 2323.582 of the Revised Code, and the payee has confirmed the payee's receipt of the disclosure statement, as evidenced by the payee's notarized signature on a copy of the disclosure statement~~ structured settlement obligor and the annuity issuer may rely on the court order approving the transfer in redirecting periodic payments to an assignee or transferee in accordance with the order approving the transfer and shall, as to all parties except the transferee or an assignee designated by the transferee, be discharged and released from any and all liability for the redirected payments. That discharge and release shall not be affected by the failure of any party to the transfer to comply with sections 2323.58 to 2323.585 of the Revised Code or with the court order approving the transfer.

~~(B)(1) Except as provided in division (B)(2) of this section, the payee has established that the transfer is fair and reasonable and in the best interests of the payee and the payee's dependents.~~

~~(2) If, on the effective date of the transfer agreement, a federal hardship standard exists, the~~

~~payee has established that the transfer meets that hardship standard.~~

~~(C) The payee has received independent professional advice regarding the legal and other implications of the transfer.~~

~~(D) If The transferee shall be liable to the structured settlement obligor and the annuity issuer, as follows:~~

~~(1) For any taxes incurred by the structured settlement obligor or annuity issuer as a consequence of the transfer, if the transfer contravenes the terms of the structured settlement involved, all of the following have been complied with:~~

~~(1) Each dependent whom the payee is legally obligated to support by court order or decree, in a written approval and waiver, approves the transfer and waives the right to require that the structured settlement payments be made to the payee in accordance with the terms of the structured settlement.;~~

~~(2) Any court or responsible administrative authority that previously approved the structured settlement, other than the court from which the approval of the transfer is sought under sections 2323.58 to 2323.585 of the Revised Code, has expressly approved the transfer in writing For any other liabilities or costs, including reasonable costs and attorneys' fees, arising from compliance by the structured settlement obligor or annuity issuer with the court order approving the transfer or from the failure of any party to the transfer to comply with sections 2323.58 to 2323.585 of the Revised Code.~~

~~(3) The transferee has provided to the court in which the application for approval of the transfer was filed all of the signed original copies of the approvals required under divisions (D)(1) and (2) of this section.~~

~~(4) The transferee has furnished each interested party copies of the approvals required under divisions (D)(1) and (2) of this section.~~

~~(E) The transferee has given written notice of the transferee's name, address, and taxpayer identification number to the annuity issuer and the structured settlement obligor and has filed a copy of that notice with the court in which the application for approval of the transfer was filed.~~

~~(F) The (C) Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and any transferee or assignee or between two or more transferees or assignees.~~

~~(D) Any further transfer of structured settlement payment rights by the payee may be made only if the transfer complies with all of the requirements of sections 2323.58 to 2323.585 of the Revised~~

~~Code and does not contravene any applicable law.~~

Sec. 2323.584. (A) A ~~person~~ transferee shall file an application under sections 2323.58 to 2323.585 of the Revised Code for the approval in advance of a transfer of structured settlement payment rights in the probate division of the court of common pleas of the county in which the payee resides, except that if the structured settlement agreement was approved by a court of common pleas or other Ohio state court, the application shall be filed in the Ohio state court that approved the structured settlement agreement. ~~If the structured settlement agreement was not approved by an Ohio court, a person shall file an application under sections 2323.58 to 2323.585 of the Revised Code for the approval in advance of a transfer of structured settlement payment rights in the probate division of the court of common pleas of the county in which the payee, the structured settlement obligor, or the annuity issuer resides.~~

(B) The following procedures shall apply to an application for the approval in advance by a court of a transfer of structured settlement payment rights under division (A) of this section:

(1) ~~Upon the filing of the application, the~~ The court shall ~~set a date and time for~~ hold a timely hearing on the application ~~and shall notify the transferee of the date, time, and place of the hearing~~. The payee shall appear in person at the hearing unless the court determines that good cause exists to excuse the payee from appearing in person.

(2) Not less than twenty days prior to the date set by the court for the hearing on an application filed pursuant to this section, the transferee shall file with the court and shall serve on ~~the court or any responsible administrative authority that previously approved the structured settlement,~~ on all interested parties, ~~and on the annuity issuer and the structured settlement obligor~~ including a parent or other guardian or authorized legal representative of any interested party who is not legally competent, in the manner prescribed in the Rules of Civil Procedure for the service of process, a notice of the proposed transfer and the application for its approval in advance. The notice shall include all of the following:

(a) A copy of the application;

(b) A copy of the transfer agreement;

(c) A copy of the disclosure statement provided by the transferee pursuant to section 2323.582 of the Revised Code ~~and signed by the payee pursuant to division (A) of section 2323.583 of the Revised Code;~~

(d) The payee's name, age, and county of residence and the number and ages of each of the payee's dependents;

(e) A summary of both of the following:

(i) Any prior transfers by the payee to the transferee or an affiliate, or through the transferee or an affiliate to an assignee, within the four years preceding the date of the transfer agreement and any proposed transfers by the payee to the transferee or an affiliate, or through the transferee or an affiliate to an assignee, applications for approval of which were denied within the two years preceding the date of the transfer agreement;

(ii) Any prior transfers by the payee to any person or entity other than the transferee or an affiliate, or an assignee of the transferee or an affiliate, within the three years preceding the date of the transfer agreement and any prior proposed transfers by the payee to any person or entity other than the transferee or an affiliate, or an assignee of a transferee or affiliate, applications for approval of which were denied within the one year preceding the date of the current transfer agreement, to the extent that the transfers or proposed transfers have been disclosed to the transferee by the payee in writing or otherwise are actually known to the transferee.

(f) Notification of the date, time, and place of the hearing on the application;

~~(e)~~ (g) Notification that any interested party may support, oppose, or otherwise respond to the application, either in person or by counsel, by submitting to the court a written response containing the interested party's support of, opposition to, or comments on the application or by participating in the hearing;

~~(f)~~ (h) Notification of the manner of filing a written response to the application and the time within which the response is required to be filed, which time shall be not less than fifteen days after the service of the transferee's notice, in order for the court to consider it.

~~(3) Within fifteen days after receipt of the notice described in division (B)(2) of this section, any interested party who wishes to respond to the application shall file a written response with the court personally or by certified mail, return receipt requested.~~

~~(4) At the conclusion of the hearing on an application under this section, the court may grant or deny the approval of the transfer. The court shall enter its order accordingly. If the court grants the approval of the transfer, it shall include in its order all of the express findings specified in section 2323.583 of the Revised Code. If the court denies the approval of the transfer, it shall include in its order the reasons for the denial.~~

~~(5) An order of the court made under division (B)(4) of this section is a final and appealable order.~~

Sec. 2323.585. (A) No payee who proposes to make a transfer of structured settlement payment rights shall incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee or any assignee based on a failure of the transfer to comply with any of the requirements of sections 2323.581 to 2323.584 of the Revised Code.

(B) No provision of this section or section 2323.581, 2323.582, 2323.583, or 2323.584 of the Revised Code may be waived by any payee.

(C) No provision of this section or section 2323.581, 2323.582, 2323.583, or 2323.584 of the Revised Code authorizes any transfer of structured settlement payment rights in contravention of applicable law or ~~gives effect to~~ implies that any transfer of structured settlement payment rights that is void under any applicable law under a transfer agreement that was entered into prior to the effective date of this amendment is valid or invalid.

(D) Any transfer agreement entered into on or after the effective date of this amendment by a payee who resides in this state shall provide that disputes under the transfer agreement, including any claim that the payee has breached the agreement, are to be determined in and under the laws of this state. No such transfer agreement shall authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

(E) No transfer of structured settlement payment rights shall extend to any payments that are life-contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for both of the following:

(1) Periodically confirming the payee's survival;

(2) Giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

(F) If the payee cancels a transfer agreement, or if the transfer agreement otherwise terminates, after an application for approval of a transfer of structured settlement payment rights has been filed and before it has been granted or denied, the transferee shall promptly request dismissal of the application.

Sec. 2323.586. ~~The Compliance with section 2323.582 of the Revised Code and the fulfillment of the conditions set forth in section 2323.581 of the Revised Code shall be solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor and nor the annuity issuer under a transfer or transfer agreement are immune from shall bear any responsibility for, or any liability based upon any claim by the payee, or any party, other than a transferee, claiming through the payee, as to any structured settlement payment rights or periodic payments that are the subject of the transfer or transfer agreement arising from, noncompliance with the requirements or failure to fulfill the conditions.~~

Sec. 2323.587. A violation of or failure to comply with section 2323.581, 2323.582, 2323.583, 2323.584, 2323.585, or 2323.586 of the Revised Code is an unfair or deceptive act or practice in violation of section 1345.02 of the Revised Code.

Sec. 4705.09. (A)(1)(a) Any person admitted to the practice of law in this state by order of the supreme court in accordance with its prescribed and published rules, or any law firm or legal professional association, may establish and maintain an interest-bearing trust account, for purposes of depositing client funds held by the attorney, firm, or association that are nominal in amount or are to be held by the attorney, firm, or association for a short period of time, with any bank, savings bank, or savings and loan association that is authorized to do business in this state and is insured by the federal deposit insurance corporation or the successor to that corporation, or any credit union insured by the national credit union administration operating under the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751, or insured by a credit union share guaranty corporation established under Chapter 1761. of the Revised Code. Each account established under this division shall be in the name of the attorney, firm, or association that established and is maintaining it and shall be identified as an IOLTA or an interest on lawyer's trust account. The name of the account may contain additional identifying features to distinguish it from other trust accounts established and maintained by the attorney, firm, or association.

(b) Any person admitted to the practice of law in this state by order of the supreme court in accordance with its prescribed and published rules, or any law firm or legal professional association, may establish and maintain an interest-bearing trust account, for purposes of depositing funds received by a client, in the client's name as fiduciary of a trust or estate, with any bank, savings bank, or savings and loan association that is authorized to do business in this state and is insured by the federal deposit insurance corporation or the successor to that corporation, or any credit union insured by the national credit union administration operating under the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751, or insured by a credit union share guaranty corporation established under Chapter 1761. of the Revised Code. Each account established under this division shall be in the name of the attorney, firm, or association that established and is maintaining it and shall be identified as an IOLTA or an interest on lawyer's trust account. The name of the account shall contain additional identifying features to distinguish it from other trust accounts established and maintained by the attorney, firm, or association and to distinguish it from an IOLTA established and maintained under division (A)(1)(a) of this section.

No funds received by a client, in the client's name as fiduciary of a trust or estate, shall be deposited into an IOLTA established under division (A)(1)(b) of this section unless the deposit has been approved by the probate court under section 2109.41 of the Revised Code.

Notwithstanding any contrary provision in Chapter 2109. of the Revised Code, a probate court examining a trust or estate may only access the account information of an IOLTA created under this section for purposes of obtaining information related to that particular trust or estate and shall not access records of the IOLTA that pertain to assets of any other estate or trust held in the IOLTA.

(2) Each attorney who receives funds belonging to a client shall do one of the following:

(a) Establish and maintain one or more interest-bearing trust accounts in accordance with division (A)(1) of this section or maintain one or more interest-bearing trust accounts previously established in accordance with that division, and deposit all client funds held that are nominal in amount or are to be held by the attorney for a short period of time in the account or accounts;

(b) If the attorney is affiliated with a law firm or legal professional association, comply with division (A)(2)(a) of this section or deposit all client funds held that are nominal in amount or are to be held by the attorney for a short period of time in one or more interest-bearing trust accounts established and maintained by the firm or association in accordance with division (A)(1) of this section.

(3) No funds belonging to any attorney, firm, or legal professional association shall be deposited in any interest-bearing trust account established under division (A)(1) or (2) of this section, except that funds sufficient to pay or enable a waiver of depository institution service charges on the account shall be deposited in the account and other funds belonging to the attorney, firm, or association may be deposited as authorized by the Code of Professional Responsibility adopted by the supreme court. The determinations of whether funds held are nominal or more than nominal in amount and of whether funds are to be held for a short period or longer than a short period of time rests in the sound judgment of the particular attorney. No imputation of professional misconduct shall arise from the attorney's exercise of judgment in these matters.

(B) All interest earned on funds deposited in an interest-bearing trust account established under division (A)(1) or (2) of this section shall be transmitted to the treasurer of state for deposit in the legal aid fund established under section 120.52 of the Revised Code. No part of the interest earned on funds deposited in an interest-bearing trust account established under division (A)(1) or (2) of this section shall be paid to, or inure to the benefit of, the attorney, the attorney's law firm or legal professional association, the client or other person who owns or has a beneficial ownership of the funds deposited, or any other person other than in accordance with this section, section 4705.10, and sections 120.51 to 120.55 of the Revised Code.

(C) No liability arising out of any act or omission by any attorney, law firm, or legal professional association with respect to any interest-bearing trust account established under division (A)(1) or (2) of this section shall be imputed to the depository institution.

(D) The supreme court may adopt and enforce rules of professional conduct that pertain to the use, by attorneys, law firms, or legal professional associations, of interest-bearing trust accounts established under division (A)(1) or (2) of this section, and that pertain to the enforcement of division (A)(2) of this section. Any rules adopted by the supreme court under this authority shall conform to the provisions of this section, section 4705.10, and sections 120.51 to 120.55 of the Revised Code.

SECTION 2. That existing sections 2109.41, 2323.58, 2323.581, 2323.582, 2323.583, 2323.584,

2323.585, 2323.586, 2323.587, and 4705.09 of the Revised Code are hereby repealed.

SECTION 3. Sections 2323.58, 2323.581, 2323.582, 2323.583, 2323.584, 2323.585, 2323.586, and 2323.587 of the Revised Code, as amended by this act, shall apply to a transfer of structured settlement payment rights under any transfer agreement entered into on or after the effective date of this act.

**IN THE PROBATE COURT OF MAHONING COUNTY, OHIO  
JUDGE ROBERT N. RUSU, JR.**

**IN THE MATTER OF THE**

**CASE NO.:** \_\_\_\_\_

- ESTATE**
- GUARDIANSHIP**
- TRUST**

**OF:** \_\_\_\_\_

**MOTION TO DEPOSIT FUNDS INTO  
LAWYER'S TRUST ACCOUNT  
(R.C. § 2109.41)**

Now comes \_\_\_\_\_, as \_\_\_\_\_ of the  
Applicant Name Title of Fiduciary  
within matter and after consultation with undersigned Counsel and states the following:

1. That I am in possession of the following funds: *(describe funds in detail including amount)*

- 2. That these funds are nominal in amount;
- 3. That I request that these funds be allowed to be held in my lawyer's Trust account (IOLTA) for a short period of time as authorized by R.C. § 2109.41; and
- 4. That I estimate that these funds will be distributed by \_\_\_\_\_  
Date

\_\_\_\_\_  
Counsel Signature

\_\_\_\_\_  
Fiduciary Signature

\_\_\_\_\_  
Counsel Printed Name

\_\_\_\_\_  
Fiduciary Printed Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Telephone Number

Registration Number: \_\_\_\_\_

**IN THE PROBATE COURT OF MAHONING COUNTY, OHIO  
JUDGE ROBERT N. RUSU, JR.**

**IN THE MATTER OF THE**

**CASE NO.:** \_\_\_\_\_

- ESTATE**
- GUARDIANSHIP**
- TRUST**

**OF:** \_\_\_\_\_

**JUDGEMENT ENTRY**

For good cause shown, the within Fiduciary is authorized to deposit the funds listed in the accompanying *Motion* into the lawyer's Trust account established under R.C. §4705.09(A)(1)(b). If said funds cannot be distributed by \_\_\_\_\_, then the Court shall be notified by the Fiduciary in writing of why the funds cannot be distributed and a new date of distribution provided.

Dated: \_\_\_\_\_

\_\_\_\_\_  
**Honorable Robert N. Rusu, Jr., Judge**