



Welcome to the 2019 Tomato Session



Probate Court Update and
Probate Case Law Update
Presented by Judge Elinore Marsh Stormer
and Magistrate Crystal Burnett

Magistrate Crystal Burnett

2019 Local Rule Changes



☞ Rule 57.5 Electronic Transmission Filings

☞ **6. Fees:** There are no specific costs related to Electronic Filings except to the extent that the filings are taxed as costs to any case. **Filings in excess of ten pages shall be assessed a copying charge at the rate of ten cents a page.** It is the sender's responsibility to ensure that there **are** sufficient funds deposited with the Court with which to satisfy the cost relating to the filing.

2019 Local Rule Changes



7. **Filing:** Acceptance or Rejection. The Court is authorized to reject any electronic filing if it fails to comply with any of the requirements of this rule. The Court shall notify sender of said rejection.

2019 Local Rule Changes



☞ COMMENT:

- ☞ E-mail Filings: Under Civil Rule 5(E), pleadings, motions, applications and other filings may be filed with the Court by e-mail transmission subject to conditions in the rule. This Local Rule is adopted for the convenience of those filing documents with the Court but the Court does not assume any new or additional responsibilities, obligations or liabilities by virtue of this Rule. The filer remains responsible for any requirements pertaining to time, costs or otherwise when using this method of filing. **In making copies, the Court will attempt to keep necessary copying of attachments to a minimum to reduce expenses for parties.**
- ☞ This Local Rule pertains only to the method of filing and does not change any other requirements in the Local or Civil Rules or Ohio Statutes such as obtaining the consent of parties or counsel or obtaining signatures or the authorization to sign for opposing counsel.

2019 Local Rule Changes



- ❧ Local Rule 66.1 Guardianships
- ❧ C) Guardian Comments and Complaints.
- ❧ (1) A Complaint filed regarding a Guardian must be written and signed by the complainant.
- ❧ The Complaint will be docketed. **There is a \$15.00 filing fee for complaints. At the discretion of the judge or magistrate, the fee may be refunded at the conclusion of the complaint process.**
- ❧ (2) The Court will perform an initial review of the complaint and:
 - ❧ (a) Send a copy of the complaint to the guardian and/or guardian's attorney.
 - ❧ (b) Refer the matter to the Court Investigator assigned to the guardianship for an investigation and report.

2019 Local Rule Changes



- ❧ (3) The Court Investigator will submit the case file and investigative report to the Judicial Officer assigned to the guardianship who will do one or more of the following:
 - ❧ (a) Find the complaint is resolved or unsubstantiated and advise the complainant, guardian and/or counsel accordingly;
 - ❧ (b) Refer the matter to mediation under the Court's Mediation Rule (Loc.R. 16.1);
 - ❧ (c) Set a status conference or a show cause hearing with notice to the complainant, the ward, the guardian and/or guardian's counsel, and other interested parties;...

**PROBATE COURT OF SUMMIT COUNTY, OHIO
ELINORE MARSH STORMER, JUDGE**

IN THE GUARDIANSHIP OF: _____
CASE NO. _____

APPLICATION TO APPOINT LIMITED GUARDIAN OF THE ESTATE

[R.C. 2111.04]

Applicant is guardian of the person of the above referenced Ward. Applicant moves the Court for an Order for appointment as limited guardian of the Estate for the following reasons:

Applicant asks that all bonds, inventories, and accounts be dispensed with and that a letter of limited guardianship of the estate be issued.

Date

Attorney/ Applicant's Signature

Attorney/ Applicant's Typed or Printed Name

Attorney Supreme Court Number

Attorney Email Address

Applicant Signature

Applicant's Printed Name

Applicant Address

Applicant Telephone Number (include area code)

Applicant Email Address

PROBATE COURT OF SUMMIT COUNTY, OHIO
ELINORE MARSH STORMER, JUDGE

IN GUARDIANSHIP OF _____

CASE NO. _____

ENTRY APPOINTING LIMITED GUARDIAN OF THE ESTATE

Upon application and for good cause shown _____, is
appointed as limited guardian of the estate for the following purpose(s):

All requirements of bond, inventory and accounting are dispensed with. Upon verification of and completion of the specific limited powers granted, the limited guardianship of the estate shall be terminated.

IT IS SO ORDERED.

JUDGE ELINORE MARSH STORMER

APPROVED:

Attorney/Applicant Signature

Attorney/Applicant Printed Name

Address

City State Zip

Telephone Number (include area code)

Supreme Court Registration Number



2019 Case Law Update



Creditor's Claim Against Estate

Embassy Healthcare v. Bell

Ohio Supreme Court



- ✧ Embassy operated a nursing facility where Robert Bell lived and Embassy contractually agreed to provide necessaries for him.
- ✧ Mr. Bell and his wife Cora contractually agreed to pay nursing facility.

Embassy Healthcare v. Bell

Ohio Supreme Court



- ☞ Mr. Bell subsequently died. Six months and three days later, nursing facility billed Mrs. Bell seeking payment from her husband's estate. No estate had been opened at that time.
- ☞ Embassy sued Mrs. Bell in small claims court under R.C. 3103.03, the necessities statute.

Embassy Healthcare v. Bell

Ohio Supreme Court



- ❧ What is the “*Necessaries Doctrine*”?
 - ❧ In common law, a husband was liable to third parties for necessaries, i.e. food, shelter, clothing and medical services, that those third parties provided to his wife.
 - ❧ Under the statute, R.C. 3103.03, if a married person neglects to support their spouse, any third party may supply the spouse with necessaries and recover the reasonable value of those necessaries from the person who neglected to support their spouse.

Embassy Healthcare v. Bell

Ohio Supreme Court



- ✧ Mrs. Bell moved for summary judgment - the six month statute of limitations for presenting claims to a decedent's estate had run (R.C. 21117.06)
- ✧ So what did the trial court do?

Embassy Healthcare v. Bell

Ohio Supreme Court



- ✧ The trial court held that the nursing facility debt was an estate debt. Embassy had to seek payment from the estate before pursuing its claim against Cora for necessaries. Because Embassy missed the six month statute of limitations under R.C. 2117.06, it was time barred. What did the 12th District do on appeal?
- ✧ The 12th District reversed, holding that a claim for necessaries can be pursued independently from a claim against an estate. What did the Supreme Court do?

Embassy Healthcare v. Bell

Ohio Supreme Court



✧ The Supreme Court reversed, holding that a creditor must present its claim for unpaid necessities to the decedent's estate under R.C. 2117.06 before it can pursue a claim individually against the surviving spouse under the necessities statute.



Estates

In re Estate of Hamad

Court of Appeals, 9th District



- ☞ Upon his father's death, Mr. Hamad became the executor of his father's will.
- ☞ Over time, Mr. Hamad became the sole owner of the family business, which was located on land owned by the father's trust.

In re Estate of Hamad

Court of Appeals, 9th District



- ⌘ According to the terms of the will, the family business was to pay the trust rent for the usage of the property. The rental income was to be divided among the father's six children.
- ⌘ Mr. Hamad failed for several years to collect income and remit it to the trust.

In re Estate of Hamad

Court of Appeals, 9th District



- ❧ The probate court held a hearing on a motion to remove Mr. Hamad as executor. What did the probate court do?
- ❧ The probate court removed Mr. Hamad as executor and refused to accept the final accounting of the estate because it failed to account for the rent that should have been paid to the trust. Mr. Hamad appealed.
- ❧ What did the Ninth District do on appeal?

In re Estate of Hamad

Court of Appeals, 9th District



☞ The 9th District reviewed the removal of Mr. Hamad under an abuse of discretion standard and found that the probate court did not abuse its discretion when it removed Mr. Hamad because of his failure to fulfill the duties he owed to the estate as the executor to manage and protect the value of the real estate, which included collecting any rents owed.

Martin v. Steiner

Court of Appeals, 9th District



- ❧ The father of both parties to the lawsuit signed a power of attorney appointing his daughter as his attorney in fact. Before his death, the father signed a survivorship deed conveying his farm to himself and his daughter.
- ❧ After he died, his daughter was named fiduciary of the estate and executed a deed conveying the farm to herself and her husband.

Martin v. Steiner

Court of Appeals, 9th District



- ❧ The brother filed an action in court seeking to have both of the deeds declared void because of undue influence and violation of fiduciary duty.
- ❧ The lower court applied the family gift presumption, which presumes any gift made as between family members constitutes a valid gift. The brother appealed. How did the appellate court rule?

Martin v. Steiner

Court of Appeals, 9th District



✧ The 9th District held that the lower court should have applied a presumption of undue influence. The court explained that where family members are also in a fiduciary relationship, the family gift presumption does not apply.

In re Estate of Lewis

Court of Appeals, 11th District



✧ Michael Lewis died on December 10, 2015. Mr. Lewis executed a will in 2014, which provided that all of his property should pass to “my wife, Christina Lewis.”

In re Estate of Lewis

Court of Appeals, 11th District



Three days after Lewis' death, an attorney filed an application for authority to administer his estate that listed an Ellen McCoy as the surviving spouse and stated that Mr. Lewis died intestate. Six months later, Christina Lewis filed an application to admit Lewis' will to probate with her as surviving spouse.

In re Estate of Lewis

Court of Appeals, 11th District



- ✧ Christina testified that she married Lewis in 2008 and remained married to him until his death. She also testified that Mr. Lewis had subsequently married a Carolyn Lewis, but that they were divorced.
- ✧ Ms. McCoy testified that had also been previously married to Lewis and that, to her knowledge, they never got divorced. She further testified that she was aware of the subsequent Carolyn Lewis marriage and divorce but had only provided an affidavit that she had never divorced Lewis.

In re Estate of Lewis

Court of Appeals, 11th District



- ❧ The Magistrate found that since Ms. McCoy had never initiated divorce proceedings against Lewis, the subsequent marriage to Christina was invalid. The trial court adopted the Magistrate's decision and concluded that Ms. McCoy was Lewis' surviving spouse.
- ❧ What did the appellate court decide?

In re Estate of Lewis

Court of Appeals, 11th District



- ❧ Christina argued on appeal that the trial court abused its discretion by determining that Ms. McCoy is Mr. Lewis' surviving spouse because the effect of the trial court's judgment is to permit Ms. McCoy to mount a collateral attack against the divorce decree between Mr. Lewis and Carolyn Lewis. A collateral attack against a divorce decree cannot be made by challenging a party's status as surviving spouse in the context of a probate action.
- ❧ Ms. McCoy testified that at the time of Mr. Lewis' divorce from Carolyn, she did not want to participate in the divorce action, and she did not think that she was entitled to any of the assets at issue in the divorce. What did the appellate court decide?

In re Estate of Lewis

Court of Appeals, 11th District



- ❧ The appellate court held that Ms. McCoy effectively disclaimed her property rights as Lewis' spouse by failing to assert them in the divorce action despite having notice of those proceedings.
- ❧ The Court concluded that Ms. McCoy's attempt to assert rights as a surviving spouse constituted an impermissible collateral attack on the judgment of divorce between Mr. Lewis and Carolyn. The trial court abused its discretion by concluding that Ms. McCoy is Mr. Lewis' surviving spouse.

Simmonds v. Ward

Summit County Court of Common Pleas, Probate Division

- ⌘ Plaintiff, George Simmonds, is the grandson and only living heir of the Decedent, Dorothy Kates. Decedent executed a trust on September 9, 2009 which contained three *in terrorem* provisions.
- ⌘ The *in terrorem* clauses provided that any beneficiary that challenged the trust provisions or asset distributions would be treated as if he/she predeceased the distribution of the estate without surviving issue.

Simmonds v. Ward

Summit County Court of Common Pleas, Probate Division

- ❧ Dorothy executed several versions of the trust, each with the *in terrorem* clauses but naming different beneficiaries. The final version named Simmonds and a long time care giver, Connie Ward as beneficiaries.
- ❧ After Decedent's death, the Plaintiff filed a complaint alleging Undue Influence and Misappropriation of Assets under O.R.C. § 2109.50. The Plaintiff alleged that Connie Ward unduly influenced Decedent into creating a bequest for herself. The Plaintiff requested that the court deem the provision granting a bequest to Connie Ward or her descendants null and void.

Simmonds v. Ward

Summit County Court of Common Pleas, Probate Division

- ❧ The Defendants filed a Motion for Summary Judgment to enforce the *in terrorem* clauses. Plaintiff admitted that he knew of the *in terrorem* clauses. How did the court rule?
- ❧ The court held that by filing the action against the estate, Plaintiff knowingly violated the *in terrorem* clauses in Decedent's trust. Ohio law recognizes *in terrorem* provisions as valid and strictly enforces them without regard to exceptions of good faith and probable cause. The case just went up on appeal.

Kanarios v. Kanarios

Summit County Court of Common Pleas,
Probate Division

- Decedent executed his Last Will and Testament and the Konstantinos Kanarios Trust on June 26, 1992. The will is a pour over will and directs the co-executors to transfer the residue of his estate into the Trust. At the time of his death, Konstantinos owned several pieces of real estate located in Greece.

Kanarios v. Kanarios

Summit County Court of Common Pleas,
Probate Division



☞ Plaintiff, Angelo Kanarios, filed a complaint seeking a declaratory judgment and an accounting in connection with real estate in Greece. Plaintiff wanted the court to declare that the co-executors of the estate have a duty and obligation to convey all the real property located in Greece into the Trust.

Kanarios v. Kanarios

Summit County Court of Common Pleas, Probate Division

- Defendant, Aliko Kanarios, filed a Motion to Dismiss for lack of subject matter jurisdiction, improper venue, and failure to state a claim. He claimed that the Summit County Probate Court lacked jurisdiction to exercise control over real property located in another country and that the co-executor and trustee lack the power to exercise the relief requested by Plaintiff.
- What did the court do?

Kanarios v. Kanarios

Summit County Court of Common Pleas, Probate Division

- ✧ The trial Court cited the Ohio Supreme Court , which has held that a court with *in personam* jurisdiction over the parties can validly issue a decree directing a party to convey land located in another jurisdiction.
- ✧ Since R.C. 2101.24(A) vests the probate court with exclusive jurisdiction to direct and control the conduct of executors, the probate court has jurisdiction over the persons in this action and the power to enforce a remedy upon those persons.

Kanarios v. Kanarios

Summit County Court of Common Pleas,
Probate Division

- ☞ Since R.C. 2101.24(A) vests the probate court with exclusive jurisdiction to direct and control the conduct of executor, it has jurisdiction over the persons in this action and the power to enforce a remedy upon those persons. Therefore, the probate court held that it has *in personam* jurisdiction over the parties and subject matter jurisdiction over the Ohio trust, will, and fiduciaries.

Kanarios v. Kanarios

Summit County Court of Common Pleas, Probate Division

- ☞ Civ. R.3(C) provides that venue is proper in the county in which the Defendant resides, the Defendant conducted activities that gave rise to the claim, or in which the executor was appointed. The court held that venue was proper because Summit County is where the Defendant resided, the will was probated, and the co-executors were appointed.
- ☞ The court also held that the Plaintiffs have pled sufficient facts in support of the claim and the court has the authority, if proven, to grant their requested relief.



Accounting

Colburn v. Cooper

Court of Appeals, 11th District



- From 2008 until 2016 Michael was his mother's power of attorney. In 2016 his mother was placed under guardianship.
- Michael's sister Cheryl filed a complaint against him alleging misuse and mismanagement of assets belonging to their mother while serving as POA.

Colburn v. Cooper

Court of Appeals, 11th District



- ⌘ Michael moved to dismiss the complaint arguing that Cheryl lacked standing, because the rights of a presumptive heir or named beneficiary to demand an accounting under R.C. 1337.36 only vest upon the death of the principal.
- ⌘ The Probate Court found for Michael and dismissed the complaint without explanation.
- ⌘ How did the Court of Appeals rule?

Colburn v. Cooper

Court of Appeals, 11th District



✧ The Court of Appeals disagreed with Michael, finding that there was nothing to support his position that a principal must be deceased before a presumptive heir or designated beneficiary has the right to seek an accounting.



Charitable Trusts – Cy Pres

FirstMerit Bank v. AGMC

Court of Appeals, 5th District



- ⌘ Donor established a trust and named “Massillon Community Hospital, its successors or assigns” as a beneficiary.
- ⌘ At the time the trust was established, Massillon Community Hospital was being operated as a not for profit hospital.

FirstMerit Bank v. AGMC

Court of Appeals, 5th District



- ⌘ Prior to the trust income behind disbursed, Akron General Medical Center bought Massillon Community Hospital and began running a for profit hospital.
- ⌘ Upon the death of the donor, the trustee filed an action seeking a declaratory judgment as to whom the disbursement should be made, since Massillon Community Hospital no longer existed.

FirstMerit Bank v. AGMC

Court of Appeals, 5th District



- ✧ The probate court applied the doctrine of *cy pres* and awarded the proceeds of the trust to the Health Foundation of Greater Massillon and the Massillon Rotary Foundation Trust, in order to ensure the donor's charitable intent was carried out.
- ✧ How did the Fifth District rule on appeal?

FirstMerit Bank v. AGMC

Court of Appeals, 5th District



✧ The 5th District agreed with the probate court, finding that because the donor had a charitable intent that could no longer be carried out it was appropriate to apply the doctrine of *cy pres* to ensure that it could be.



Guardianship

In re Guardianship of Rosenberger

Court of Appeals, 11th District



- ✧ In 2016, Susan Doudican filed an Application for Appointment as Guardian of her half-sister, Norma Rosenberger. Ms. Rosenberger had previously hired Northwest Trustee and Management Service for financial services naming them as agent under a durable general power of attorney agreement. Part of that agreement nominated Northwest to serve as a guardian if one was needed.
- ✧ In 2017, The probate court adopted the magistrate's decision recommending that Doudican be appointed the guardian of Norma Rosenberger's person and estate.

In re Guardianship of Rosenberger

Court of Appeals, 11th District



- ❧ Northwest argued that they were an interested party, necessary for the adjudication of Ms. Rosenberger's rights, and they had not received proper notice of the guardianship application, or the hearing, and were therefore deprived of the opportunity to assert their rights.
- ❧ The probate court denied Northwest's motion to intervene.
- ❧ How did the appellate court rule?

In re Guardianship of Rosenberger

Court of Appeals, 11th District



- ✧ The appellate court agreed that Northwest's status as Ms. Rosenberger's power of attorney did make them an interested party until the POA was terminated. However, the court went on to hold that that status did not entitle Northwest to notice of the hearing under R.C. 2111.04.
- ✧ Designation as a financial power of attorney alone does not entitle one to notice of hearing on a guardianship application.

Sosnoswsky v. Koscianski

Court of Appeals, 8th District



- ☞ Sosnoswsky filed two virtually identical complaints, one in the probate division and one in the general division, alleging that due to a trustee's fraudulent conveyance, she never received trust money to which she was entitled.
- ☞ The trustee was the plaintiff's mother who was also a ward of the probate court. The complaints named the trustee's guardian, Koscianski, as the defendant.

Sosnoswsky v. Koscianski

Court of Appeals, 8th District



- ❧ The allegations in the complaints dealt solely with the ward's actions which took place prior to the guardianship.
- ❧ The general division granted the guardian's motion to dismiss for lack of subject matter jurisdiction, holding that the probate court had exclusive jurisdiction for all matters arising under R.C. 2101.24. Sosnoswsky appealed.
- ❧ How did the appellate court rule?

Sosnoswsky v. Koscianski

Court of Appeals, 8th District



- ❧ The appellate court found for Sosnoswsky, holding that R.C. 2101.24 does not provide for jurisdiction over claims made against a ward for conduct occurring prior to the guardianship.
- ❧ The probate court only has exclusive jurisdiction over executors, guardians, conservators, testamentary trustees, and fiduciaries, not actions taken by a ward prior to the appointment of a guardian. The general division was incorrect in dismissing the case for lack of jurisdiction.

Weinberg v. Weinberg

Court of Appeals, 2nd District



- ⌘ An attorney applied to be Mr. Weinberg's guardian. The application included a S.E.E. which indicated that Mr. Weinberg had Alzheimer's type dementia and his condition would not improve.
- ⌘ Prior to his dementia, Mr. Weinberg executed a trust for the benefit of his spouse and children and served as trustee until his death. While the application for guardianship was still pending, Mr. Weinberg, as trustee, executed a series of four assignments on behalf of the trust, by which the trust's interests in four Michigan based limited partnerships were to transfer to his daughter upon his death.

Weinberg v. Weinberg

Court of Appeals, 2nd District



- ⌘ The son filed a complaint challenging the validity of those assignments on three grounds, the most relevant here being that the assignments were invalid as a matter of law pursuant to R.C. 2111.04(D). The probate court dismissed the son's cause of action and he appealed.
- ⌘ On appeal, the son argued that because the daughter had notice of her father's impending guardianship proceeding during the time that the assignments were executed, they were per se invalid under R.C. 2111.04(D). What did the appellate court do?

Weinberg v. Weinberg

Court of Appeals, 2nd District



✧ The appellate court disagreed. R.C. 2111.04(D) prohibits gifts to be made by an alleged incompetent during the pendency of a hearing for competency. In this case, the assignment stated “for value received the Sylvan Weinberg Revocable Trust does hereby sell, assign, and transfer unto Appellee a certain interest in one of four Michigan based limited partnerships.”

Weinberg v. Weinberg

Court of Appeals, 2nd District



- ✧ The court held that because the Trust, not Mr. Weinberg, was the “owner” of the partnership interests, the prohibition in R.C. 2111.04(D) did not apply and as a result, the gifts were valid.



Adoption

In re Adoption of A.C.B

Court of Appeals, 6th District



- ⌘ Appellant and his wife divorced in 2013. As part of the settlement agreement, mother was awarded full custody of their son A.C.B and the father agreed to pay \$85 a week in child support.
- ⌘ In 2013, the appellant father moved to Kosovo, but he communicated with his son via Skype.
- ⌘ In 2015, mother married appellee, and in 2017 appellee petitioned to adopt the child.

In re Adoption of A.C.B

Court of Appeals, 6th District



- ⌘ Appellee alleged that the father's consent was not required pursuant to R.C. 3107.07(A), because the child's father had failed, without justifiable cause, to provide for the child for a period of at least one year preceding the filing of the adoption petition.
- ⌘ In 2017, two days before the adoption petition was filed, appellant made one child support payment of \$200. Prior to that, the last child support payment appellant made was \$100 in 2016.

In re Adoption of A.C.B

Court of Appeals, 6th District



- ✧ In 2018, the trial court held a hearing and concluded that the father's consent was not required for the adoption because he had failed to provide for the support of the child as required by judicial decree, and his failure was not justifiable.
- ✧ Father appealed, arguing that the court abused its discretion by not recognizing the controlling precedent of *Celestino v. Schneider*, sixth district case that held that "any contribution toward child support, no matter how meager, satisfies the maintenance and support requirements of the statute." How did the sixth district court rule?

In re Adoption of A.C.B

Court of Appeals, 6th District



- ✧ The sixth district court cited several Ohio District Court cases that showed that the Ohio districts are split on the issue of whether any contribution, no matter how small, satisfies the statutory requirement.
- ✧ The court then pointed to a 2012 Ohio Supreme Court case, *In re Adoption of M.B.*, and held that the Supreme Court case was broad enough to implicitly overrule the ruling in *Celestino*.

In re Adoption of A.C.B

Court of Appeals, 6th District



- ✧ In keeping with the Supreme Court's holding in *In re Adoption of M.B*, the sixth district court held that a trial court has discretion to determine whether the payments made by the contesting parent constitute maintenance and support under the statute, and that the trial court's determination would not be disturbed unless absent an abuse of discretion.
- ✧ The court found no abuse of discretion, and the trial court's ruling was upheld.



Attorney Fees

Estate of Brunger

Court of Appeals, 11th District



- ❧ In 2017, appellant filed a motion for extraordinary attorney fees and an application for estate attorney fees and attached an itemized fee bill
- ❧ Simultaneously, each beneficiary of the estate filed a “consent to payment of attorney fees outside court guidelines.”
- ❧ The probate court summarily denied the appellant’s motion for extraordinary fees, without holding a hearing, finding that the attorney’s fees as requested were not extraordinary.

Estate of Brunger

Court of Appeals, 11th District



On appeal, appellant argued that the probate court abused its discretion by denying her motion without first holding a hearing. Appellant pointed to the Portage County Probate Court Local Rules which, she argued, required the court to hold a hearing on her request for extraordinary fees. What did the appellate court do?

Estate of Brunger

Court of Appeals, 11th District



- ❧ The appellate court did not agree that the local rule required the court to hold a hearing on her request for extraordinary fees, but stated that the local rule gives the probate court discretion to hold a hearing on any application for attorney fees, even when the beneficiaries have given consent.
- ❧ The appellate court did find, however, the denial of appellant's motion without determining the reasonable value of legal services provided by appellant to the estate was an abuse of discretion.

Estate of Brunger

Court of Appeals, 11th District



- ❧ The court explained, that when a request for extraordinary fees is made, the court must review both ordinary and extraordinary services claimed to have been rendered and determine if the fees payable exceed the reasonable value of ordinary services
- ❧ Here, the probate court summarily denied the request for extraordinary fees without analysis or discussion. Because of the court's lack of analysis, it was impossible to determine whether the court had actually engaged in such a review. The trial court's denial of the motion, without explanation, constituted an abuse of discretion.

The End!



Stu's Views

© Stu All Rights Reserved www.STUS.com



It turns out "fiduciary"
means you have to give it back.