

**COURT OF COMMON PLEAS
PROBATE DIVISION
HAMILTON COUNTY, OHIO**

ESTATE OF	:	CASE NO. 972360
CHRISTINA M. MORRIS	:	
	:	
	:	OPINION AND ENTRY
	:	DENYING ALLOWANCE OF
	:	FIDUCIARY'S CLAIM
	:	
	:	
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This matter came before Judge Wayne F. Wilke on November 3, 1997, regarding an application for the allowance of a claim against the Estate. The claim was brought by the Administrator of this estate, Eric A. Morris, and he was represented by Robert T. Butler.

FACTS

The decedent herein, Christina M. Morris, died intestate on December 17, 1996 survived by two minor children. Eric A. Morris, who is the decedent's former spouse, was appointed Administrator on May 19, 1997. On September 26, 1997, the Administrator filed an application for the allowance of a claim against the Estate in the "approximate amount of \$25,000.00", said approximate amount representing one-half of the mortgage amount paid on real estate which was titled in the name of both the decedent and the Administrator. For the reasons that follow, the Court shall deny the claim in its entirety.

CONCLUSIONS OF LAW

Ohio Revised Code §2117.02 provides the mechanism for a fiduciary to present a claim against an estate. That section prohibits a claim from being paid unless allowed by the court. Additionally, when the claim exceeds five hundred dollars, all interested

persons must be notified of the hearing that shall be conducted to elicit testimony with respect to the claim. Most importantly, R.C. §2117.02 obligates a fiduciary to present any claim the fiduciary may have against the estate within three months after the date of appointment.

Statutes of limitations, such as the three month period in which a fiduciary may present a claim in R.C. §2117.02, have been found to bear a real and substantial relationship to the public's general welfare in that they require the orderly and timely prosecution of claims. *Burgess v. Eli Lilly & Co.* (1993), 66 Ohio St.3d 59, 63. Where by statute a right of action is given which did not exist at common law, and the statute giving the right fixes the time within which the right may be enforced, the time so fixed becomes a limitation or condition on such right and will control no matter in what forum the action is brought. *Castrovinci v. Castrovinci* (1952), 93 Ohio App. 133.

In this case, the presentment of claims by a fiduciary against an estate is a purely statutory right. Accordingly, Ohio public policy requires the Court to strictly enforce the statute of limitations, despite the sometimes harsh result. Here, it is patently clear that the claim was filed outside of the three-month statute of limitations. The Court therefore denies Eric A. Morris' claim against the Estate of Christina M. Morris.

SO ORDERED.

WAYNE F. WILKE, JUDGE

cc: Robert T. Butler