

A CITIZEN'S GUIDE TO COMMUNICATING WITH THE JUDGE AND MAGISTRATES

Why can't I communicate directly with the judge or magistrate on my case?

If the matters are contested, judges and magistrates are not allowed to communicate with individual parties. This is what the law calls an *ex-parte* communication (this is when a judge or magistrate only communicates with an individual party, on their own, without the knowledge of all parties to a case). In order to keep the court process as fair, equal and as transparent as possible, *ex-parte* communication is strictly forbidden. It is unfair for the court to share information without all of the parties present.

You cannot email the judge or magistrate, as the email is considered an *ex-parte* communication. In addition, emails are not pleadings (motions.) You cannot write a personal letter to the judge or magistrate as this may be considered an *ex-parte* communication.

How can I speak to the judge or magistrate on my case?

Typically, to speak to the judge or magistrate on your case, you must file a written motion with the court explaining what you want the court to do and all motions become part of the public record. You also have to send a copy of whatever you file to the other parties, or their attorney if they are represented by an attorney (this is called "service"). A motion is not considered an *ex-parte* communication because all parties are officially notified. You may be required to pay a filing fee when you file your written motion. Please note, there is no fee if you wish to speak to the magistrate in an uncontested matter, on their assigned walk-in days.

I've heard there's always a magistrate on duty to hear arguments immediately – what does that mean?

There is a magistrate on duty every business day. The on-duty magistrate may answer generic procedural questions. The on-duty magistrate may also discuss matters in an uncontested case. For all other matters, the on-duty magistrate is prohibited from speaking with you. To address the court for these matters, you must file a written motion. The on-duty magistrate will set the matter for hearing before the magistrate assigned on your case or the judge.

What if I need to tell the judge or magistrate something I don't want the other party to know about?

Unfortunately, you cannot withhold information from another party to your case. In order to keep the case fair to everyone involved, as soon as you tell the judge or magistrate something, you must also tell the other parties. All sides must have an opportunity to respond to the information that you have shared with the court.

**PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE**

IN THE MATTER OF: _____

CASE NO. _____

SELF-REPRESENTATION ACKNOWLEDGMENT

I acknowledge that I have read, understand and agree with all of the following statements:

1. The Court has recommended that I hire an attorney to represent me in this case. However, I have chosen to proceed with this case without the assistance of an attorney.
2. The Court and its Deputy Clerks are prohibited by law from providing legal advice. I will follow the instructions provided in the form packets and on the Court's website, www.probatect.org.
3. I am responsible for understanding and correctly applying any statutes, case law, rules, regulations, policies, and procedures that relate to this case, including, but not limited to, the Ohio Revised Code, Rules of Superintendence for the Courts of Ohio, Hamilton County Probate Court Local Rules of Practice, and the Ohio Rules of Civil Procedure.
4. The same standards that apply to attorneys and persons represented by attorneys in similar probate hearings will apply to myself.
5. If I do not fulfill my responsibilities in this case as required by law, I may be subject to sanctions or penalties as provided by law, which may include removal as fiduciary or being required to be represented by an attorney.
6. I may be personally liable to any person or entity that suffers damages as a result of anything I do or fail to do in this case that does not comply with the legal requirements.

Fiduciary/Applicant/Guardian

Typed Printed Name

Address

City/State/Zip

Telephone Number (include area code)

Email

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

ESTATE OF _____, DECEASED

CASE NO. _____

WAIVER OF RIGHT OF DISPOSITION
(R.C. 9.15, 2108.82)

The undersigned, being persons entitled to notice of the disposition of the Decedent's remains, waive such notice of the Application and consent to the disposition of the Decedent as stated in said application, and hereby acknowledge receipt of a copy of said application.

Signature

Signature

Type or Print Name

Type or Print Name

Signature

Signature

Type or Print Name

Type or Print Name

Signature

Signature

Type or Print Name

Type or Print Name

Signature

Signature

Type or Print Name

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Type or Print Name

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

ESTATE OF _____

CASE NO. _____

APPLICATION FOR RIGHT OF DISPOSITION

[R.C. 9.15, 2108.82]

Applicant states that decedent died on _____

Decedent's domicile was _____
Street Address

City, or Village, or Township (if unincorporated area) County

Post Office State Zip Code

Applicant asks to be assigned the right of disposition of the decedent's remains.

Attached is a list, known to the applicant, of the decedent's surviving spouse, child(ren), parent(s), grandparent(s), sibling(s), grandchild(ren), and lineal descendants of the deceased person's grandparents (R.C. 2105.06), and guardian at the time of death if a guardian had been appointed. **Use Form 1.0.**

The applicant states:

- ☐ The decedent is indigent
- ☐ The decedent did not execute a written declaration pursuant to R.C. 2108.70 to 2108.73 remained in force at the time of death; or
- ☐ That each person to whom the right of disposition has been assigned or reassigned pursuant to R.C. 2108.81(B) is disqualified from serving as a representative or successor representative as described in R.C. 2108.75 because: **(Check all that apply)**
- ☐ The person died.
 - ☐ The Probate Court declared or determined the person is incompetent.
 - ☐ The person resigned or declined to exercise the right as described in R.C. 2108.88.
 - ☐ The person refused to exercise the right within two days after notification of the decedent's death.
 - ☐ The person cannot be located with reasonable effort.
 - ☐ The person meets the criteria described in R.C. 2108.76 or 2108.77

State Reason: _____

CASE NO. _____

The applicant further states:

- ☐ The body will be privately buried or cremated by the decedent's estate, through Insurance policy, or by some other similar means.
- ☐ The body will be privately buried or cremated at the expense of the person to whom the right of disposition is assigned pursuant to R.C. 2108.81 and who has purchased goods or services associated with an exercise of the right.
- ☐ The body has not been claimed by any person for private interment or cremation at the person's own expense, or the body is claimed by an indigent person, and thus pursuant to R.C. 915, must be buried or cremated at the expense of the township or municipal corporation in which the decedent had a legal residence at the time of death.

The applicant further states in support of this application; _____

Attorney for Applicant Signature

Attorney for Applicant Print or Type Name

Address

City State Zip

Phone Number (Include Area Code)

Email Address

Attorney Registration Number _____

Applicant Signature

Applicant Print or Type Name

Address

City State Zip

Phone Number (Include Area Code)

Email Address

PROBATE COURT OF HAMILTON COUNTY, OHIO

RALPH WINKLER, JUDGE

ESTATE OF _____, DECEASED

CASE NO. _____

ORDER ASSIGNING RIGHT OF DISPOSITION

Pursuant to R.C. 2108.82, this Court assigns the Right of Disposition of the decedent's remains to

_____, currently residing at

Additionally, the Court orders that with regard to the reasonable costs of any goods or services purchased in connection with the exercise of the Right of the Disposition:

- ☐ The body will be privately buried or cremated by the decedent's estate, through an insurance policy, or by some other similar means.
- ☐ The body will be privately buried or cremated at the expense of the person to whom the right of disposition is assigned pursuant to R.C. 2108.81 and who has purchased goods or services associated with an exercise of the right.
- ☐ The body has not been claimed by any person for private interment or cremation at the person's own expense, or the body is claimed by an indigent person, and thus, pursuant to R.C. 9.15, must be buried or cremated at the expense of the township or municipal corporation in which the decedent had a legal residence at the time of death.

IT IS SO ORDERED.

RALPH WINKLER, JUDGE

APPROVED: _____
Attorney/Applicant Signature

Attorney/Applicant Print or Type Name

PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE

IN THE MATTER OF _____

CASE NO. _____

ENTRY SETTING HEARING

The Application/Motion _____
filed by _____, by and through counsel,
is hereby set for hearing on _____,
at _____ M. before Magistrate _____, Hamilton
County Probate Court, Room _____, _____ Floor, 230 E. Ninth Street, Cincinnati, Ohio
45202. The Court orders that notice of the hearing be given, as provided by law and
the rules of civil procedure, to those persons entitled to notice who have not waived
notice.

Ralph Winkler, Probate Judge

Attorney