

## **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](http://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. \_\_\_\_\_

**APPLICATION TO REOPEN ESTATE AND QUALIFY  
FIDUCIARY**

Applicant asks to reopen the estate and qualify as fiduciary. Decedent died on \_\_\_\_\_ . Applicant states that it is necessary to reopen the estate for the following reason(s):

- ☐ property to be administered  
nature of property \_\_\_\_\_  
amount \_\_\_\_\_
- ☐ claims
- ☐ other (specify): \_\_\_\_\_

**[Check one of the following]**

- ☐ The decedent's will waives bond or a bond is not required by law
- ☐ Applicant offers the attached bond in the amount of \$ \_\_\_\_\_

**[Check one of the following]**

- Applicant is:
- ☐ prior fiduciary for the estate
  - ☐ sole beneficiary under the Will or sole heir at law
  - ☐ a next of kin
  - ☐ an interested party or attorney

\_\_\_\_\_  
Attorney for Applicant

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone No. [include area code]

\_\_\_\_\_  
Phone No. [include area code]

Attorney Registration No. \_\_\_\_\_

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

ESTATE OF \_\_\_\_\_, DECEASED

CASE NO. \_\_\_\_\_

**FIDUCIARY'S ACCEPTANCE  
(EXECUTOR/ADMINISTRATOR)**

I, the undersigned, hereby accept the duties which are required of me by law, and such additional duties as are ordered by the Court. As executor/administrator of the estate I will:

- 1) Give notice of the admission of the will to probate to all heirs and beneficiaries within 2 weeks and file a certificate of notice of probate of will within 2 months.
- 2) Make and file any inventory of the real and personal assets of the estate within 3 months after appointment, or such time as extended by the Court.
- 3) Deposit funds which come into my hands in a lawful depository located within this State. Estate checking accounts must provide canceled checks, as these canceled checks may be required to prove the accounts.
- 4) Keep estate funds in separate estate accounts at all times during the administration of the estate.
- 5) Invest all funds, in a lawful manner.
- 6) Make and file the final and distributive account within 6 months following my appointment, or such time thereafter as extended by the Court.
- 7) File all tax documents as required by law.
- 8) Maintain adequate insurance to reasonably protect any property that I may hold as a fiduciary.
- 9) Obey all Orders of the Court.

I acknowledge that I am subject to removal as such fiduciary if I fail to perform such duties. I further acknowledge that I am subject to possible civil and criminal penalties for improper conversion of the property that I hold as a fiduciary.

**NOTICE:** Attorney fees shall not be paid until the final account is prepared for filing unless otherwise approved by the Court.

Every fiduciary, before entering upon the execution of a trust, shall receive letters of appointment from a probate court having jurisdiction of the subject matter of the trust. [R.C. 2109.02].

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Executor/Administrator)

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

ESTATE OF \_\_\_\_\_, DECEASED

CASE NO. \_\_\_\_\_

**ENTRY GRANTING APPLICATION TO REOPEN ESTATE  
AND QUALIFY FIDUCIARY**

Upon application to reopen the estate and qualify the fiduciary, the Court finds the same to be well taken and hereby orders that the estate be reopened and further that \_\_\_\_\_ be (re) appointed as Executor/Administrator/Commissioner of said estate.

**[Check one of the following]**

- ☐ Bond is dispensed with by the will.
- ☐ Applicant has executed and filed an appropriate bond, which is approved by the Court.

**[Check one of the following]**

- ☐ The fiduciary shall file a Report of Distribution within sixty days.
- ☐ The fiduciary shall file a Final Account within one year.
- ☐ The filing of a Report of Distribution or a Final Account shall not be required.

\_\_\_\_\_  
Ralph Winkler, Probate Judge

**CERTIFICATE OF APPOINTMENT AND INCUMBENCY**

The above document is a true copy of the original kept by me as custodian of the records of this Court. It constitutes the appointment and Letters of Authority of the named fiduciary, who is qualified and acting in such capacity.

\_\_\_\_\_  
Ralph Winkler, Probate Judge/Clerk

[Seal]

\_\_\_\_\_  
Date

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

ESTATE OF \_\_\_\_\_, DECEASED

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

# REPORT OF DISTRIBUTION - REOPEN ESTATE

Now comes your duly appointed \_\_\_\_\_ herein and submits the Report in said matter. Distribution of the assets has been made in accordance with the previous order of this Court in the following manner:

DATE OF SALE OR DISTRIBUTION	TO WHOM SOLD OR DISTRIBUTED	DESCRIPTION	PROCEEDS OR VALUE

Fiduciary

## JUDGMENT ENTRY

Date \_\_\_\_\_

The within Report of Distribution having been made according to law and the former order of the Court, it is ordered that the Report of Distribution are hereby approved.

Ralph Winkler, Probate Judge