

## **TOP TEN LIST**

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SUMMIT COUNTY PROBATE COURT  
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### **Waiver of Service of Spousal Elective Rights**

Problems:

- a. Form 8.6 – Failure to submit signed waiver of Citation to Elect

### **Partial Accounts**

Rules of Superintendence 64 Accounts

(D) Exhibiting assets.

- (1) The court may require that all assets be exhibited at the time of filing a partial account.
- (2) Cash balances may be verified by exhibiting a financial institution statement, passbook, or a current letter from the financial institution in which the funds are deposited certifying the amount of funds on deposit to the credit of the fiduciary.

Problems:

- a. Failure to attach copy of bank statement
- b. Verifying balance remaining

### **Application to Expend Funds**

Problems:

- a. No documentation supporting expenditures
- b. Filing multiple applications instead of listing multiple expenditures on one application.  
\$20.00 filing fee per application and order

### **Incorrect/Inconsistent Names; No AKA**

Problems:

- a. Death certificate
- b. Will
- c. Real estate

### Final Accounts – Estates

#### Rule of Superintendence 64 Accounts

(B) If land has been sold during the accounting period, the account shall show the gross amount of the proceeds and include a copy of the closing statement itemizing all of the disbursements.

(C) Receipts for distributive shares signed by persons holding power of attorney may be accepted provided the power of attorney is recorded in the county in which the estate is being administered and a copy of the recorded power is attached to the account.

#### Problems:

- a. Failure to include paid funeral bill
- b. Failure to include paid appraiser receipt
- c. Failure to include HUD closing statement
- d. Failure to check final costs

### Death Certificate

#### Local Rule 57.1 Filing and Judgment Entries

(3) Upon the initial filing of any matter captioned in the name of a deceased person, the applicant shall submit a certified copy of the deceased person's death certificate.

The Clerk will inspect and copy the original and return it. The record will be kept in the confidential file.

#### Problems:

- a. Failure to provide death certificate

### Estate Inventory

#### Local Rule 61.3 Inventory/Schedule of Assets

The Schedule of Assets shall contain the legal description and the parcel number of all real estate included in the Inventory of the Estate and VIN for all motor vehicles.

#### Problems:

- a. Incomplete/Incorrect legal description – fractional interest not specified
- b. No fiscal office print out of value
- c. Incomplete/incorrect VIN for motor vehicles
- d. No waiver from surviving spouse of taking of inventory

### Transfer of Motor Vehicle

#### Rule of Superintendence 63 Application to Sell Personalty

An application to sell personal property shall include an adequate description of the property. Except for good cause shown, an order of sale shall not be granted prior to the filing of the inventory.

### ORC 2113.55 Distribution in Kind

Before making distribution in kind of property which is not specifically bequeathed, an executor or administrator shall obtain the approval of the probate court or the consent of all of the legatees or distributees whose interests may be affected by such distribution. A distribution in kind may be made to any beneficiary, including an executor, administrator, trustee, guardian, and the surviving spouse.

#### Problems:

- a. Form 9.0 – Application to Sell Personal Property – intestate, no power to sell in will
- b. Form 10.0 – Application to Distribute in Kind – intestate, testate – no specific bequest
- c. Form ES.4 – Power to sell in will; sole beneficiary; specific bequest
- d. Inventory must be filed
- e. Missing or incorrect VIN

### Certificate of Service – Notice after probate

#### ORC 2107.19 Notice of Admission of Will to Probate

(1)(4) The notice of the admission of the will to probate required by the division (1)(1) of this section and the certificate of giving notice or waiver of notice required by division (A)(3) of this section shall be given or filed by the fiduciary for the estate of by the applicant.

#### Rule 73(F) O.R.C.P.

When service is made without court intervention, proof of service of notice shall be made by affidavit. When service is made by United States certified or express mail or by commercial carrier service, the return receipt which shows delivery shall be attached to the affidavit. When service is made by United States ordinary mail, the prior returned certified or express mail envelope which shows that the mail was refused or unclaimed shall be attached to the affidavit.

Service of notice by United States ordinary mail shall be complete when the fact of mailing is entered of record except as stated in division (E)(5) of this rule. Service by publication shall be complete at the date of the last publication.

#### Problems:

- a. Waivers not filed
- b. Verification of service not attached; green cards, online proof of service; verification of regular mail
- c. Failure to include copy of notice Form 2.2 per ORC 2107.19 (A)(4)

### Initial Fiduciary Appointment; Failure to Provide

#### Problems:

- a. ES.1 - Order Dispensing with appraisal
- b. ES.2 - Wrongful death order
- c. ES.3 - Litigation order
- d. Form 3.0 – Appointment of appraiser