PROBATE COURT OF BUTLER COUNTY, OHIO
JOHN M. HOLCOMB, JUDGE

ESTATE OF _____ **, DECEASED**

CASE NO. _____

WAIVER OF SERVICE TO SURVIVING SPOUSE
OF THE CITATION TO ELECT
[R.C. 2106.01(A)]

The undersigned, surviving spouse of the above named decedent, being eighteen years of age or older and not under disability, waives the service of the citation required by section 2106.01(A) of the Revised Code.

I acknowledge I have received Standard Probate Form 8.3, Summary of General Rights of Surviving Spouse.

I understand that most of my rights must be exercised within five months from the date of the initial appointment of the administrator or executor. If I do not timely elect to exercise any specific right, it will be conclusively presumed I have elected not to exercise that right and the right will be forfeited.

_____
Date

_____
Signature of Surviving Spouse

_____
Typed or printed name of surviving spouse

_____
Attorney for Fiduciary

_____
Typed or Printed Name

_____
Address

_____
City, State, Zip

_____
Telephone Number (include area code)

Attorney Registration No. _____

PROBATE COURT OF BUTLER COUNTY, OHIO
JOHN M. HOLCOMB, JUDGE

ESTATE OF _____

CASE NO. _____

SUMMARY OF GENERAL RIGHTS OF SURVIVING SPOUSE

[R.C. 2106.02]

To _____ _____
Surviving Spouse Address

_____
City, State, Zip Code

This is a summary of your general rights as surviving spouse under Chapter 2106 of the Revised Code. Many of these rights have specific time limits in which they must be exercised. If you have questions concerning your rights, you should discuss them with an attorney of your choice. The Court cannot advise you.

1. Election to Take Under or Against the Will (R.C. 2106.01 - 2106.08)

If you elect to take against the Will, you are entitled to one-half of the decedent's net estate, unless there are two or more of the decedent's children or their lineal descendants surviving, in which case you are entitled to one-third of the decedent's net estate. You will not be entitled to receive any assets given to you under the Will.

If you elect to take under the Will, you will receive those assets given to you under the Will.

Whichever choice you make, (unless you elect to take under the Will and the Will specifically precludes you from exercising these rights), you will not be barred from your rights to purchase certain assets at the appraised value, to remain in the mansion house (the residence) for one year, to receive an allowance for support, to receive not more than two automobiles (the combined value of which shall not exceed 65,000) and one watercraft and one outboard motor owned by the decedent, and to such other rights as a surviving spouse may be entitled under the law.

Although your election may not affect certain non-probate property, such as joint and survivorship, payable on death, and transfer on death property, it may have an effect on other types of non-probate property, including property held in trust.

Before making your election, you are entitled to file a complaint in this Court asking that the Will be construed.

If you elect to take under the Will, you may do so in writing if you wish, but you may also do so by taking no action.

If you elect to take against the Will, you must do so in person before the Probate Judge or a Magistrate. This election must be exercised within five months from the date of the initial appointment of the administrator or executor of the estate or it is forfeited.

2. Right to Receive Mansion House (R.C.2106.10)

Depending upon the value of the real estate, you may have the right to receive the mansion house (the residence) as part of your inheritance.

3. Right to Place Charge on Real Estate (R.C. 2106.11)

If there is no will and there are insufficient assets to pay the specific monetary share due to the surviving spouse pursuant to R.C. 2106.05, you have the right to place a charge (lien) on any real property included in the probate estate in the amount of the unpaid portion of the specific monetary share.

CASE NO. _____

4. Allowance for Support (R.C. 2106.13)

You may be entitled to an allowance for support. For deaths occurring after March 18, 1999, the amount is $40,000 of probate assets. If there are one or more minor children of the decedent, not the children of the surviving spouse, this Court will apportion the allowance among those children and the surviving spouse.

5. Right to Remain in the Mansion House (R.C. 2106.15)

You have the right to remain in the mansion house (the residence), if it is a probate asset, for a period of one year from the date of death without the payment of rent to the estate. If the mansion house is sold to pay debts during this period of time, you may be entitled to the fair rental value of the mansion house. This election must be exercised within five months from the initial appointment of the administrator or executor or the right is forfeited.

6. Right to Purchase Property (R.C. 2106.16)

You have the right to purchase assets of the probate estate at the appraised values.The application or petition to purchase the assets must be filed within one month of the approval of the inventory or the right is forfeited.

7. Right to Automobiles (R.C. 2106.18)

You may be entitled to receive up to two automobiles, not specifically bequeathed, that would otherwise be included in the probate estate and do not exceed an aggregate value of 65,000. This right may affect the amount you may receive under the allowance for support. This right must be exercised within five months from the initial appointment of the administrator or executor or the right is forfeited.

8. Right to Watercraft and Outboard Motor (R.C. 2106.19)

You may be entitled to receive one watercraft and one outboard motor, not specifically bequeathed, that would otherwise be included in the probate estate. This right must be exercised within five months from the initial appointment of the administrator or executor or the right is forfeited.

9. Right to Reimbursement of Funeral Bill (R.C. 2106.20)

You may be entitled to be reimbursed for the payment of the funeral bill.

10. Right to Challenge Antenuptial or Separation Agreement (R.C.2106.22)

You are entitled to file an action to contest the validity of an antenuptial or separation agreement. This action must be filed within four months after the appointment of the executor or administrator or the right is forfeited.

This is a summary of your general rights. There may be additional rights to which you are entitled.

Ohio Revised Code § 2106.25 states:

Unless otherwise specified by a provision of the Revised Code or this section, a surviving spouse shall exercise all rights under Chapter 2106. of the Revised Code within five months of the initial appointment of an executor or administrator of the estate. It is conclusively presumed that a surviving spouse has waived any right not exercised within that five-month period or within any longer period of time allowed by the court pursuant to this section. Upon the filing of a motion to extend the time for exercising a right under Chapter 2106. of the Revised Code and for good cause shown, the court may allow further time for exercising the right that is the subject of the motion.

PROBATE COURT OF BUTLER COUNTY, OHIO
JOHN M. HOLCOMB, JUDGE

ESTATE OF _____ **, DECEASED**

CASE NO. _____

ELECTION OF SURVIVING SPOUSE TO TAKE UNDER WILL

[R.C. 2106.05]

I, decedent's surviving spouse, elect to take under decedent's Will.

_____ _____

Date Surviving Spouse

Approved By:

_____

Attorney for Surviving Spouse

_____

Typed or Printed Name

_____

Address

_____

_____

Phone Number (include area code)

Attorney Registration No. _____

PROBATE COURT OF BUTLER COUNTY, OHIO
JOHN M. HOLCOMB, JUDGE

ESTATE OF _____ **, DECEASED**

CASE NO. _____

ELECTION OF SURVIVING SPOUSE TO TAKE AGAINST WILL

[R.C. 2106.01 and 2106.06]

I, decedent's surviving spouse, elect to take against decedent's Will.

Decedent's Will, my rights under the Will, and my rights by electing to take against the Will have been explained to me.

_____ _____

Date Surviving Spouse

The above election to take against decedent's Will was made by the surviving spouse in person, before me. Before accepting the election, I explained to the surviving spouse the decedent's Will, the rights under the Will, and rights by electing to take against the Will.

_____

Probate Judge/Magistrate

Approved By:

_____

Attorney for Surviving Spouse

_____

Typed or Printed Name

_____

Address

_____

_____

Phone Number (include area code)

Attorney Registration No. _____

PROBATE COURT OF BUTLER COUNTY, OHIO
JOHN M. HOLCOMB, JUDGE

ESTATE OF _____, DECEASED

CASE NO. _____

COMMISSION TO ASCERTAIN VALUE OF PROVISION FOR SURVIVING SPOUSE UNDER LEGAL DISABILITY UNDER WILL AND VALUE OF RIGHTS AT LAW

[R.C. 2106.08]

To: _____

It having come to the knowledge of the Butler County Court of Common Pleas, Probate Division, Butler County, Ohio, that, by reason of legal disability, the surviving spouse of _____, deceased, late of _____ County, is unable to make an election as provided by R.C. 2106.01 to take under the Will of the decedent which was heretofore admitted to Probate in this Court, or under R.C. 2105.06. Therefore, you are hereby authorized and directed to ascertain the value of the provision made for such spouse by the testator and the value of the rights in the estate of such testator under R.C. 2105.06, the adequate support needs of the surviving spouse. In ascertaining the adequate support needs of the surviving spouse, you are directed to consider applicable resources, age, probable life expectancy, physical and mental condition, and the present and reasonably anticipated future needs of the surviving spouse.

You will make due return of this order with your findings endorsed thereon to this Court without necessary delay.

Given under my hand and seal of the Butler County Probate Court on _____.

_____ _____

Date Probate Judge

PROBATE COURT OF BUTLER COUNTY, OHIO
JOHN M. HOLCOMB, JUDGE

ESTATE OF _____, DECEASED

CASE NO. _____

JOURNAL ENTRY APPOINTING COMMISSIONER TO ASCERTAIN VALUES

[R.C. 2106.08]

On this day, personally appeared in open Court _____ and made application for the appointment of some suitable person to ascertain the value of the provision made by _____, deceased, in his/her Will for his/her surviving spouse, the value of his/her rights in the estate of such testator under R.C. 2105.06, and the adequate support needs of the surviving spouse, it appearing to the Court that the surviving spouse is unable to make an election by reason of legal disability.

It is, therefore, ordered by the Court that _____, a suitable person, be and hereby is appointed as commissioner to perform the duties aforesaid, and that a commission be issued unto him/her accordingly, and that he/she make due report thereof to this Court with all convenient speed.

_____ _____

Date Probate Judge

PROBATE COURT OF BUTLER COUNTY, OHIO
JOHN M. HOLCOMB, JUDGE

ESTATE OF _____, DECEASED

CASE NO. _____

APPLICATION FOR APPOINTMENT OF COMMISSIONER WHERE SPOUSE IS UNDER DISABILITY

[R.C. 2106.08]

The undersigned respectfully represents that _____, deceased, late of said county, died testate on _____, leaving _____ as surviving spouse; that the Will was duly admitted to Probate on _____; and that the surviving spouse is under legal disability by reason of _____ and is unable to make an election as provided by R.C. 2107.39.

Therefore, the undersigned hereby makes application to the Court to appoint some suitable person to ascertain the value of the provisions made for such surviving spouse by the testator and the value of the rights in the estate of such testator under R.C. 2105.06, and the adequate support needs of the surviving spouse.

_____
Attorney for Applicant

_____
Typed or Printed Name

_____
Street Address

_____
City State Zip Code

_____
Phone Number (include area code)

Attorney Registration No. _____

_____
Applicant's Signature

_____
Applicant's Typed or Printed Name

_____
Street Address

_____
City State Zip Code

_____
Phone Number (include area code)

PROBATE COURT OF BUTLER COUNTY, OHIO
JOHN M. HOLCOMB, JUDGE

ESTATE OF _____, DECEASED

CASE NO. _____

JOURNAL ENTRY MAKING ELECTION FOR SURVIVING SPOUSE UNDER LEGAL DISABILITY

[R.C. 2106.08]

This day came _____ who was heretofore appointed as commissioner to ascertain the value of the provision made in the Will of _____, deceased, for his/her surviving spouse who is now under legal disability and the value of the rights in the estate of such testator under R.C. 2105.06, and files his/her report, the adequate support needs of the surviving spouse. After taking into consideration other available resources, age, probable life expectancy, physical and mental condition, and the present and reasonably anticipated future needs of the surviving spouse, the Court finds that it _____ necessary to take under R.C. 2105.06 to provide adequate support for the surviving spouse during the life expectancy of the surviving spouse.

It is now ordered that an election for the surviving spouse to take the Will be, and hereby is, made; and it is further ordered that the election so made shall be entered upon the journal of this Court.

_____ _____

Date Probate Judge