

IN THE COURT OF COMMON PLEAS, PROBATE DIVISION, GEauga COUNTY, OHIO  
Judge Timothy J. Grendell

Information Sheet  
Service of Notice

---

**WARNING**

This Information Sheet is intended to provide you with a brief overview of the subject matter. It may not provide you with all information that you require to be fully informed of the law that is applicable to your case. Additionally, the information may not accurately describe the pertinent sections of the Ohio Revised Code that are referenced in the footnotes. You should read those sections that are referenced. The Ohio Revised Code has a link on the Court's website. Additionally, you should consider reading those sections that are footnoted using "Page's Ohio Revised Code Annotated," which can be found at the Geauga County Law Library in the basement of the Courthouse at 100 Short Ct. Street, Chardon, Ohio 44024. Page's Ohio Revised Code Annotated also will provide you a summary of applicable court decisions (known as "case law"). While the Help Center can provide you with a limited amount of information, the Help Center staff cannot provide you with legal advice, and this Information Sheet is not intended to provide you with legal advice that is applicable to your case. You must decide how to best use the information provided. In the footnotes you will see a reference such Civ. R. 73(E) That refers to Rule 73(E) of the Ohio Rules of Civil Procedure.

---

Background

From time to time the Fiduciary<sup>1</sup> of a probate proceeding is required to deliver a written notice to Interested Person advising them that certain action has been taken or that the Court has schedule a hearing based upon the filing of an application. Examples are (1) notice of a hearing to appoint an administrator to an estate, (2) notice of a hearing on an inventory, (3) notice of a hearing on an account, or (4) notice of a hearing to sell probate property. Civ. R. 73(E) governs how the Fiduciary shall service a written notice upon Interested Persons. There are three fundamental rules, which are a follows.

1. Service of Notice to Person whose Address is Known. For those persons who must receive a written notice and whose address is known, the manner of serving the required notice is set forth in Civ. R. 73(E)(1) through (5).<sup>2</sup>
2. Service of Notice to Persons whose Address is Unknown (or Persons are unknown). For those persons who must receive a written notice and whose address is unknown, or the persons are unknown, the manner of serving the required notice is set forth in Civ. R. 73(F).<sup>3</sup>

---

<sup>1</sup> "Fiduciary" means a the person appointed by the probate court to handle the probate estate, whether the probate process is a Full Administration (in which case the name of that person is the Executor, Administrator, or Administrator with Will Annexed), the Commissioner of a Release from Administration, or the applicant of a Summary Release from Administration; and includes a person appointed as a Guardian, Trustee, or Conservator.

<sup>2</sup> See also Geauga Probate Local Rule 78.13

3. Proof of Service. Additionally, and except when notice is provided by “publication,” when delivery of the notice is concluded, the Fiduciary must notify the Court that the required notice was in fact delivered. If service of notice is provided by publication in a newspaper, then the publisher will provide the Court with proof of service. Of course, when notice is provided by publication on the Court’s website, then proof of service is not required.

### **DETAILS - Service of Notice - Address is KNOWN.**

When the Fiduciary must deliver written notice to an Interested Person,<sup>4</sup> whose address is known, then Civ. R. 73(E)(1) through (5) govern, which states that the Fiduciary shall deliver the written notice:

1. by delivering a copy to the person to be served; or
2. by leaving a copy at the usual place of residence of the person to be served; or
3. by United States certified or express mail return receipt requested, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt, addressed to the person to be served at the person’s usual place of residence with instructions to the delivering postal employee or to the carrier to show to whom delivered, date of delivery, and the address where delivered; provided that the certified or express mail envelope or return of the commercial carrier is not returned showing failure of delivery; or
4. By United States ordinary mail after a returned United States certified or express mail envelope or return of the commercial carrier shows that it was refused; or
5. By United States ordinary mail after a United States certified or express mail envelope is returned with an endorsement stating that it was unclaimed; provided that the United States ordinary mail envelope is not returned by the postal authorities showing failure of delivery.

Unless the Geauga Probate Local Rules specify a specific notice form [e.g. “Notice of Probate of Will” (Form 2.2), “Notice of Hearing on Account” (Form 13.5), “Notice of Hearing on Inventory” (Form 6.3), “Notice of Hearing on Appointment of Special Administrator” (GC PF 4.17)], the Fiduciary should use the form titled “Notice of Hearing” (GC PF 4.18).

The Help Center recommends that the Fiduciary first deliver written notice as explained in (3) above - i.e. certified mail, return receipt requested. If the certified mail return envelope indicates that delivery was either “refused” or “unclaimed,” then the Help Center recommends that the Fiduciary then use ordinary mail to redeliver the notice and obtain from the post office a “Certificate of Delivery.” If the ordinary mail envelope is returned showing “failure of delivery,” then the Fiduciary should assume that person’s address is unknown, and the notice to that person should be made by “publication” - see below.

---

<sup>3</sup> See also Geauga Probate Local Rule 78.14

<sup>4</sup> “Interested Person” is defined in Geauga Probate Local Rule 2.1 and means all persons (and entities), including legal counsel, who are entitled to receive notice by Applicable Law.

## **DETAILS - Service of Notice - Address is UNKNOWN.**

When the Fiduciary must deliver written notice to an Interested Person,<sup>5</sup> whose address is unknown (or an Interested Person is unknown), then Civ. R. 73(E)(6) governs, which states that the Fiduciary shall deliver the written notice:

by publication once each week for three consecutive weeks in some newspaper of general circulation in the county when the name, usual place of residence, or existence of the person to be served is unknown and cannot with reasonable diligence be ascertained; provided that before publication may be utilized, the person giving notice shall file an affidavit which states that the name, usual place of residence, or existence of the person to be served is unknown and cannot with reasonable diligence be ascertained;

If you decide to provide notice by publication in a newspaper, in accordance with Civ. R. 73(E)(6), then the Help Center recommends the following process:

- Prepare the Notice. Prepare the appropriate written notice that you would use to provide notice to Interested Persons whose address is known - see above.
- Affidavit for Service by Publication. Prepare and file with the probate court an Affidavit that notifies the Court of the Interested Persons with an unknown address. The Estate Representative shall file with the Court an Affidavit as required by Civ. R. 73(E)(6), using the form titled “Affidavit for Notice by Publication” (GC PF 62.0) - with a copy of the applicable notice attached, and instructions, using the form titled “Instructions for Service by Publication” (GC PF 62.1).<sup>6</sup>
- Contact Publisher. After filing and receiving authorization from the probate clerk of courts, the Estate Representation will (i) contact the publisher as instructed by the probate clerk (most likely The News-Herald), (ii) deliver the appropriate notice to the publisher, (iii) request the notice be published once a week for three consecutive weeks,<sup>7</sup> and (iv) arrange for payment of the publication. The News-Herald is at 7085 Mentor Ave., Willoughby, Ohio 44094, telephone (440)-951-0000, and email address - [legals@news-herald.com](mailto:legals@news-herald.com).
- Completion of Service.<sup>8</sup> Service of notice by publication is deemed completed on the date of the last publication.

If you decide to provide notice by publication on the Court’s Website, in accordance with Geauga Probate Local Rule 78.14(B), then the Help Center recommends the following process:

- Prepare the Notice. Prepare the appropriate written notice that you would use to provide notice to Interested Persons whose address is known - see above.

---

<sup>5</sup> “Interested Person” is defined in Geauga Probate Local Rule 2.1 and means all persons (and entities), including legal counsel, who are entitled to receive notice by Applicable Law.

<sup>6</sup> See Geauga Probate Local Rule 78.14.

<sup>7</sup> Civ.R. 73(E)(6)

<sup>8</sup> Civ.R. 73(F)

- Affidavit for Service by Publication. Prepare and file with the probate court an Affidavit that notifies the Court of Interested Persons with an unknown address. The Estate Representative shall file with the Court an Affidavit as required by Civ. R. 73(E)(6), using the form titled “Affidavit for Notice by Publication” (GC PF 62.0) - with a copy of the applicable notice attached, and instructions, using the form titled “Instructions for Service by Publication” (GC PF 62.1).<sup>9</sup> Indicate at the bottom of the form titled “Affidavit for Notice by Publication” (GC PF 62.0) that you request that the clerk of courts cause notice of publication be made on the Court’s website. Generally, the posting of the applicable notice upon the Court’s website must be no less than three weeks before the hearing date.

## **DETAILS - Proof of Service of Notice.**

Generally, when the Fiduciary delivers written notice to an Interested Person, whose address is known, and as provided in Civ. R. 73(E)(1) through (5), then that the Fiduciary must provide the Court with “Proof of Service” - see Civ. R. 73(F) and Geauga Probate Local Rule 78.13.

Unless the Geauga Probate Local Rules or other Applicable Law specifically provide otherwise, the Estate Representative shall provide the Court with “Proof of Service” by preparing and filing with the Court GC Form “GC PF 41.6 - Affidavit Evidencing Service of Notice,” in accordance with Civ. R. 73(F) and Geauga Probate Local Rule 78.13. The Estate Representative shall attach to that affidavit (i) a copy of the notice what was delivered and (ii) evidence of delivery (e.g. return receipt that shows delivery, return envelope showing delivery was refused or unclaimed, and a Certificate of Delivery for ordinary mail.)

**LEGAL PRACTICE IN THE PROBATE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO AND INDIVIDUALS WHO ARE HANDLING THEIR OWN LEGAL MATTERS. IF AN INDIVIDUAL WISHES TO HANDLE HIS OR HER OWN CASE, THAT PERSON MAY ATTEMPT TO DO SO, HOWEVER DUE TO THE COMPLEXITY OF THE LAW AND THE DESIRE TO AVOID COSTLY ERRORS, MANY PERSONS WHO HAVE MATTERS BEFORE THE COURT ARE REPRESENTED BY AN ATTORNEY.**

**IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT’S FORMS, BE AWARE THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE, AND EMPLOYEES OF THE GEAUGA COUNTY PROBATE COURT, INCLUDING THE HELP CENTER STAFF, FROM PROVIDING YOU WITH LEGAL ADVICE. IF YOU NEED LEGAL ADVICE, THEN YOU SHOULD CONTACT AN ATTORNEY OF YOUR CHOOSING.**

---

<sup>9</sup> See Geauga Probate Local Rule 78.14.