



Ohio Revised Code

Section 2109.31 Citation to fiduciary to file account.

Effective: October 31, 2001

Legislation: House Bill 85 - 124th General Assembly

(A) If a fiduciary neglects or refuses to file an account, inventory, certificate of notice of probate of will, or report when due according to section 2107.19, 2109.30, 2111.49, or 2115.02 of the Revised Code or when ordered by the probate court, the court at its own instance may issue, and on the application of any interested party or of any of the next of kin of any ward shall issue, a citation as described in division (B) of this section to such fiduciary pursuant to Civil Rules 4.1 to 4.6 to compel the filing of the overdue account, inventory, certificate of notice of probate of will, or report.

(B) The citation that is required by division (A) of this section may contain any of the following:

(1) A statement that the particular account, inventory, certificate of notice of probate of will, or report is overdue;

(2) An order to the fiduciary to file the account, inventory, certificate of notice of probate of will, or report, or otherwise to appear before the court on a specified date;

(3) A statement that, upon the issuance of the citation, a continuance to file the account, inventory, certificate of notice of probate of will, or report may be obtained from the court only on or after the date specified pursuant to division (B)(2) of this section.

(C) If a citation is issued to a fiduciary in accordance with divisions (A) and (B) of this section and if the fiduciary fails to file the account, inventory, certificate of notice of probate of will, or report prior to the appearance date specified in the citation, the court may order, on that date, one or more of the following:

(1) The removal of the fiduciary;

(2) A denial of all or part of the fees to which the fiduciary otherwise would be entitled;



(3) A continuance of the time for filing the account, inventory, certificate of notice of probate of will, or report;

(4) An assessment against the fiduciary of a penalty of one hundred dollars and costs of twenty-five dollars for the hearing, or a suspension of all or part of the penalty and costs;

(5) That the fiduciary is in contempt of the court for the failure to comply with the citation and that a specified daily fine, imprisonment, or daily fine and imprisonment may be imposed against the fiduciary, beginning with the appearance date, until the account, inventory, certificate of notice of probate of will, or report is filed with the court;

(6) If the fiduciary does not appear in the court on the specified appearance date, that the fiduciary is in contempt of the court for the failure to comply with the citation, and that one of the following may occur:

(a) The fiduciary shall be taken into custody by the sheriff or a deputy sheriff and brought before the court.

(b) The fiduciary shall appear before the court on a specified date or otherwise be taken into custody by the sheriff or a deputy sheriff and brought before the court.

(D) The assessments, fines, and other sanctions that the court may impose upon a fiduciary pursuant to this section may be imposed only upon a fiduciary and shall not be imposed upon the surety of any fiduciary.