

**Client Focused, Client
First Since 1951**

We are always grateful for your trust in recommending us to others. A referral from you and your continued business are the highest compliments we could ever receive.

Inside this issue:

Leaping Lizards!
Ohio Law Now
Allows Postnuptial
Agreements 1

Senate Bill 202
Delivers a Win to
Creditors in
Probate Cases 2

Frivolous Lawsuit of
the Month 2

Client Bulletin

Volume XL, No. 3

March 31, 2023

Leaping Lizards! Ohio Law Now Allows Postnuptial Agreements

Imagine you are Oliver “Daddy” Warbucks from the 1982 movie *Annie* (you know, the spunky red-headed orphan who is selected to stay with Daddy Warbucks for a week). You are head-over-heels in love with your charming and talented secretary, Grace Farrell. There is nothing you want more than to marry her, but there is a nagging voice (*Punjab’s perhaps*) telling you to contact an attorney before the ceremony to be sure your assets are protected should something go awry in the marriage. When you mention a prenuptial agreement to Grace, tears well up in her eyes and she weeps at the thought of contemplating a possible divorce. Being the softy you are, you quickly agree that a prenuptial agreement is not necessary – your bond couldn’t *possibly* be broken (*says every engaged person*).

Until recently, Ohio couples like Daddy Warbucks and Grace were out of luck if they decided *after the wedding* that an agreement would have been prudent. Likewise, Ohio couples who entered into a prenuptial agreement were forever stuck with what they signed prior to the marriage...unless modified by the court under rare circumstances. Until recently, Ohio was one of five states that did not allow spouses to contractually alter their legal relations after they said, “I do.” This all changed on December 22, 2022 when Ohio Governor Mike DeWine signed Senate Bill 210 into law. Senate Bill 210, which went into effect on March 23, 2023, expands the ability of couples to alter their legal relations *after* the marriage. Among other things, the new law:

- Expands the ability for spouses to enter into agreements that alter legal relations.
- Establishes postnuptial agreements and treats them the same as prenuptial agreements.
- Allows spouses to modify prenuptial and postnuptial agreements.

To create a valid and enforceable agreement, regardless of whether there was any consideration (something of value given in return for a promise), four (4) requirements must be met. They are as follows:

1. The agreement is in writing and signed by both spouses;
2. The agreement is entered into freely without fraud, duress, coercion, or overreaching;
3. There was full disclosure, or full knowledge, and understanding of the nature, value, and extent of the property of both spouses; and
4. The terms do not promote or encourage divorce or profiteering by divorce.

Although it might be nice if more married couples could live happily ever after like Daddy Warbucks and Grace Farrell, the reality is that roughly 45-50% of couples do not. With the passage of Senate Bill 210, Ohio opened the door for married couples to prepare for the “what ifs” that creep up after they say, “I do.”

Elizabeth A. Miceli, Esq.
emiceli@mmpdlaw.com

MANOS, MARTIN &
PERGRAM CO., LPA

50 North Sandusky Street
Delaware, Ohio 43015

Phone: (740) 363-1313
Fax: (740) 363-1314

Visit us on the web
www.mmpdlaw.com



This bulletin provides general information and is not legal advice. Please contact us if you need legal advice.

If you have friends or associates whom you think would enjoy receiving a copy of this Client Bulletin, please feel free to forward it on. Thank you.

Senate Bill 202 Delivers a Win to Creditors in Probate Cases

Ohio law notoriously leaves little wiggle room regarding when and how creditors must present a claim against a deceased Ohioan's estate for the claim to be considered valid (Ohio Rev. Code Sec. 2117.06). Focusing on the when piece first, a creditor's claim for payment must be filed *within* six months of a decedent's date of death (regardless of whether notice was given of the debtor's death), *after* an estate has been opened, and *after* a fiduciary (i.e., executor or administrator) has been appointed. Fortunately, or unfortunately - depending on whether you are the creditor or debtor - the foregoing requirements remain intact. What has changed, however, is how creditors may present a valid claim.

On April 3, 2023, Senate Bill 202 goes into effect, which alters the three ways presentment of creditor claims may be made. Changes include the following:

- 1) Instead of requiring creditors to present claims in writing *only* to the fiduciary, creditors may now present the claim *either* to the fiduciary *or* to an attorney who is identified as counsel for the fiduciary in the probate court records for the estate of the decedent.
- 2) A creditor may present a claim directly to the probate court (provided the writing includes the probate court case number of the decedent's estate) in lieu of the prior requirement of filing a copy of the writing presented to the fiduciary.
- 3) A creditor may provide a writing to the fiduciary or to an attorney, as described above, *without* regard to whom the writing is addressed and without regard to whether it was sent by ordinary mail provided it is actually received by the fiduciary or the attorney.

As can be seen, the rules surrounding when a creditor's claim is valid can be tricky even with the relaxation of some of the requirements. When you are dealing with the unfortunate loss of a loved one, the last thing you want to think about are the intricacies of the probate process. Please give us a call if you find yourself in this situation and let us handle the rest.

Frivolous Lawsuit of the Month

Time is money, right? Florida consumer Amanda Ramirez sure thinks so. She filed a \$5 million class action lawsuit against the Kraft Heinz Company in late 2022, asserting that its Velveeta Shells & Cheese microwavable cups take longer to make than the 3.5 minutes stated on the packaging. Ms. Ramirez thinks the company should also include the time it takes to perform the other laborious actions involved, like tearing off the lid and mixing the contents. We - here at MM&P - are certainly relieved that someone so brave has finally chosen to address this pressing matter.

Elizabeth A. Miceli, Esq.
emiceli@mmpdlaw.com