Lorain County Probate Court Judge James T. Walther

ESTATE OF: _____

CASE NO. _____

SUMMARY OF GENERAL RIGHTS OF SURVIVNG SPOUSE

[R.C. 2106.02]

To: _____ _____
Surviving Spouse Address

_____
City, State, Zip Code

This is a summary of your 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 descendents 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 pursuant to 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 these rights) you will not be barred from your rights to purchase certain assets at the appraised value, to remain in the family home for one year, to receive an allowance for support, to receive not more than two automobiles and one watercraft and one outboard motor owned by decedent, and to such other rights as a surviving spouse may be entitled under 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 of 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 amount due to the surviving spouse pursuant to R.C. 2106.05, you have the right to place a charge (lien) on any real estate subject to the probate estate in the amount of the unpaid portion of the specific monetary share.