



**GERNER &
KEARNS** CO.,
L.P.A.
Attorneys at Law



Seminar Materials

October 21, 2009

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Power of Attorney

Payable on Death Accounts

Foreclosure Timelines and Costs

(513) 241-7722

**Gerner & Kearns Co.,
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Power of Attorney

I. Definition – Authorization to act on someone else’s behalf in a legal or business matter.

II. Statute – ORC 1337

III. Requirements

- A. Signed
- B. Acknowledged
- C. Notarized
- D. Real Property - Recorded

IV. Types

- A. General
- B. Limited
- C. Health Care

V. Powers

VI. Revocation – 1337.091

VII. Questions that arise

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1337.18 Form creating power of attorney.

(A) The following form may be used to create a power of attorney:

Power of Attorney

Principal (Person Granting the Power)

Name:

Address:

Telephone:

1. Notice to Principal.

As the principal, you are using this document to give authority to another person, known as your agent or attorney-in-fact, to make decisions regarding your money and property. Your agent will have the powers that you indicate below to make decisions about your money and property without advance notice to you or approval by you.

Unless expressly authorized in the power of attorney, a power of attorney does not grant authority to an agent to do any of the following:

- (a) Create, modify, or revoke a trust;
- (b) Fund with your property a trust not created by you or a person authorized to create a trust for your benefit;
- (c) Make or revoke a gift of your property in trust or otherwise;
- (d) Create or change rights of survivorship in your property or in property in which you may have an interest;
- (e) Designate or change the designation of a beneficiary to receive any property, benefit, or contractual right on your death, such as insurance benefits and retirement benefits;

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(f) Create in the agent or a person to whom the agent owes a legal duty of support the right to receive property, a benefit, or a contractual right in which you have an interest;

(g) Delegate the powers granted under the power of attorney to another person.

(h) Elect or change a retirement allowance plan of payment on your behalf under Ohio Revised Code Chapter 145., 742., 3305., 3307., 3309., or 5505., other than a joint and survivor annuity leaving one-half to your spouse if you are married, a single life annuity if you are single, or any plan that includes a partial lump sum option; except that no express authority is necessary to elect a plan that meets the minimum requirements of a court order to elect a plan that will pay a lifetime benefit to a former spouse.

(i) If authorized under Ohio Revised Code section 145.814, change an election made under Ohio Revised Code section 145.19 or 145.191.

(j) Terminate your membership in the public employees retirement system, state teachers retirement system, school employees retirement system, Ohio police and fire pension fund, or state highway patrol retirement system by withdrawing your accumulated employee contributions.

The powers that you give to your agent are explained more fully in Ohio Revised Code sections 1337.19 and 1337.20. If you have any questions about this document or the powers that you are giving to your agent, you should obtain legal advice.

2. Notice to Agent.

Once you accept designation as the agent under this document or exercise authority granted to you by the principal, a fiduciary relationship is created between you and the principal. Unless otherwise modified in this power of attorney, your duties include the duty to do all of the following:

(a) Act in good faith, with reasonable care for the best interests of the principal;

(b) Take no action beyond the scope of the authority given to you in this document;

(c) Keep complete record of all receipts, disbursements, and transactions conducted for the principal.

If you violate the terms of this document or the fiduciary duties created by this relationship, you will be liable to the principal or the principal's successors for loss or damage caused by your violation.

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If there is anything about this document or your duties that you do not understand, you should obtain legal advice.

3. Designation of Agent(s).

I, the above-named principal, hereby appoint and designate the following as my Attorney(s)-in-Fact. (Insert the name(s), address(es), and telephone number(s) of your agent(s) below. If more space is needed, you may attach additional sheets.)

Name: Name:

Address: Address:

Telephone: Telephone:

4. Designation of Successor Agent(s).

(Optional: acts if any named Agent dies, resigns, or is otherwise unable to act or serve.)

I, the above-named principal, hereby appoint and designate the following as my successor Agent(s).

First Successor: Second Successor:

Name: Name:

Address: Address:

Telephone: Telephone:

[If more than one Agent is designated, check the box in front of one of the following statements.]

Each Agent may independently exercise the powers granted.

All Agents must jointly exercise the powers granted.

A majority in number of Agents must jointly exercise the powers granted.

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Any person can rely on a statement by a successor Agent that he or she is properly acting under this document and may rely conclusively on any action or decision made by that successor Agent. That person does not have to make any further investigation or inquiry.

5. Grant of Power.

I, the above-named Principal hereby appoint the above named Agent(s) to act as my agent(s) in any way that I could act with respect to the following matters, as each of them is defined in Ohio Revised Code section 1337.20:

[To grant all of the following powers, initial the line in front of (W) and ignore the lines in front of the other powers. To grant one or more, but fewer than all, of the following powers, initial the line in front of each power you are granting. To withhold a power, do not initial the line in front of it. You may, but need not, cross out each power withheld.]

Initial

- (A) Real property transactions
- (B) Tangible personal property transactions
- (C) Stock and bond transactions
- (D) Commodity and option transactions
- (E) Banking and other financial institution transactions
- (F) Business operating transactions
- (G) Proprietary interests and materials transactions
- (H) Insurance and annuity transactions
- (I) Retirement plan transactions
- (J) Safe deposit box transactions
- (K) Estate, trust, and other beneficiary transactions
- (L) Borrowing transactions

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(M) Fiduciary transactions

(N) Personal relationships and affairs

(O) Benefits from Social Security, Medicare, Medicaid, and other governmental programs, or military service

(P) Records, reports, and statements

(Q) Tax matters

(R) Licenses

(S) Access to documents

(T) Employment of agents

(U) Power to delegate

(V) Claims and litigation

(W) All powers listed above

Special Instructions:

[On the following lines or on additional pages you may give special instructions limiting or extending the powers granted to your Agent.]

6. Commencement and Duration of Power.

This power of attorney is effective:

[Check the appropriate box below to the left of your choice. If you do not check any box, this power of attorney will become effective when you sign it.]

[] Immediately.

[] Upon my incapacity as determined by the following person or persons and set forth in an affidavit:

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Upon my incapacity as determined by two physicians and set forth in an affidavit.

Upon the following future date or event:

This power of attorney shall terminate:

[Check the appropriate box below to the left of your choice. If you do not check any box, this power of attorney will terminate upon your death.]

Upon my death.

Upon my incapacity as determined by the following person or persons and set forth in an affidavit:

Upon my incapacity as determined by two physicians and set forth in an affidavit.

Upon the following future date or event:

7. Durability of Power.

[The authority granted in this power of attorney can be effective even during a period of disability. Check the appropriate box below if you want this power of attorney to be effective or to not be effective during any period of disability.]

This power of attorney will continue in force and effect even during any period in which I am disabled.

This power of attorney will not be in force and will have no effect during any period in which I am disabled.

8. Obtaining Personal Health Information.

My Agent shall be treated as my personal representative for all purposes relating to my Personal Health Information as provided in 45 CFR 164.502(g)(2) and for the Health Insurance Portability and Accountability Act of 1996.

My Agent shall not be treated as my personal representative for any purposes relating to my Personal Health Information as provided in 45 CFR 164.502(g)(2) and for the Health Insurance Portability and Accountability Act of 1996.

9. Compensation of Agent.

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[Your Agent will be reimbursed for all reasonable expenses incurred in acting under this power of attorney. Check the appropriate box below to indicate whether you want your Agent also to be reasonably paid or not to be paid for services rendered as Agent.]

My Agent is entitled to reasonable compensation for services rendered as Agent under this power of attorney.

My Agent shall not receive any compensation for services rendered as Agent under this power of attorney.

10. Exoneration of Agent(s).

My Agent is released from any liability to me and my estate arising out of the acts or failures to act of my Agent, except for willful misconduct or gross negligence. I agree to indemnify and hold my Agent harmless against any liability or expense, including attorney's fees, that my Agent may incur as the result of acting or failing to act under this instrument, except for liability and expense resulting from willful misconduct or gross negligence.

11. Exoneration of Third Parties.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party learns of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

12. Self-Dealing.

[With respect to the Agent's right to or not to enter into transactions with you, check the box in front of one of the following statements.]

My Agent can enter into transactions with me or in my behalf in which my Agent is personally interested as long as the terms of the transaction are fair to me, notwithstanding any law prohibiting acts of self-dealing.

My Agent cannot enter into transactions with me or in my behalf in which my Agent is personally interested.

13. Property to Which this Instrument Applies.

[Your Agent will have authority over some or all of your property. Check the appropriate box below to indicate whether your Agent's authority is over all of your property or over only some of

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your property. If your Agent's authority is over only some of your property, identify the property not subject to this power of attorney.]

[] This instrument will apply to all of my property, real or personal, wherever located.

[] This instrument will apply to all of my property, real or personal, wherever located except for the following:

[On the following lines or on additional pages you may list property not subject to this power of attorney.]

14. Amending and Revocation.

I may amend or revoke this power of attorney at any time by a signed instrument delivered to my Agent. If this instrument has been filed or recorded in public records, then any amendment or revocation also will be similarly filed or recorded, but a similar filing or recording of the amendment or revocation will not be necessary to effectuate the amendment or revocation with respect to my Agent and to all persons who have actual knowledge of the amendment or revocation.

15. Nomination of Guardian.

[With respect to your right to nominate a guardian of your person or estate, or both, check the box in front of one of the following statements.]

[] If a guardian or conservator is ever needed for my estate, I nominate my Agent or any other person that my Agent nominates as my guardian or conservator. This nomination revokes any other nomination I may have made in any other document dated prior to the date of this power of attorney, including any nomination set forth in a Health Care Durable Power of Attorney.

[] If a guardian or conservator is ever needed for my estate, I nominate as my guardian or conservator. This nomination revokes any other nomination I may have made in any other document dated prior to the date of this power of attorney, including any nomination set forth in a Health Care Durable Power of Attorney.

[] I do not nominate any person as the guardian or conservator of my estate under this instrument.

16. Governing Law.

The laws of the State of Ohio will govern all questions pertaining to the validity and construction of this power of attorney.

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IN WITNESS WHEREOF, I have signed this Power of Attorney on [Date]

(Principal's Signature)

[This instrument should be notarized or witnessed, or both, as applicable law may require or as may be desired.]

On [Date], this instrument was signed by [Name of Principal] in our presence and was acknowledged and declared by the Principal to be the Principal's Power of Attorney. Immediately thereafter, at the Principal's request, in the Principal's presence, and in the presence of each other, we signed this instrument as subscribing witnesses.

(Witness)

(Witness)

This document was acknowledged before me [Date] by [Name of Principal] who is known to me or from whom I have obtained adequate proof of identity.

(Signature of notarial officer)

(Seal, if any)

(Title and Rank)

[My commission expires:]

(B) Except as otherwise required by the Revised Code, a person may create a power of attorney using the form set forth in division (A) of this section or any other form that is valid under the common law of this state.

(C) A power of attorney may incorporate by reference any one or more powers set forth in section 1337.20 of the Revised Code by referencing the appropriate division of that section and the power or powers to be incorporated.

Effective Date: 03-29-2006

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Payable on Death Accounts

I. Definition – ORC 2131.10

II. Changes

III. Vesting

IV. Pros and Cons

V. Questions that arise

2131.10 Payable on death accounts.

A natural person, adult or minor, referred to in sections 2131.10 and 2131.11 of the Revised Code as the owner, may enter into a written contract with any bank, building and loan or savings and loan association, credit union, or society for savings, authorized to receive money on an investment share certificate, share account, deposit, or stock deposit, and transacting business

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in this state, whereby the proceeds of the owner's investment share certificate, share account, deposit, or stock deposit may be made payable on the death of the owner to another person or to any entity or organization, referred to in such sections as the beneficiary, notwithstanding any provisions to the contrary in Chapter 2107. of the Revised Code. In creating such accounts, "payable on death" or "payable on the death of" may be abbreviated to "P.O.D."

Every contract of an investment share certificate, share account, deposit, or stock deposit authorized by this section shall be deemed to contain a right on the part of the owner during the owner's lifetime both to withdraw the proceeds of such investment share certificate, share account, deposit, or stock deposit, in whole or in part, as though no beneficiary has been named, and to designate a change in beneficiary. The interest of the beneficiary shall be deemed not to vest until the death of the owner.

No change in the designation of the beneficiary shall be valid unless executed in the form and manner prescribed by the bank, building and loan or savings and loan association, credit union, or society for savings.

Effective Date: 08-29-2000

Ohio Foreclosure Timelines and Costs

- I. Demand Letter (30)

- II. Complaint
 - A. Pre-Approval of legal
 - B. Fees

- III. Service (30-90)
 - A. Types

- IV. Dispositive Motions (60)
 - A. Default Judgment
 - B. Summary Judgment

- V. Judgment Entry (30)

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VI. Praecipe for Order of Sale

A. Fees

VII. Appraisal (30-60)

A. Costs

VIII. Sale (30-180)

A. Taxes

B. Costs

IX. Confirmation (30)

A. Fees

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Ohio County Civil Complaint/Foreclosure Filing Fee Schedule

County	Fees	Effective Date
Adams	Foreclosure: \$500	
Allen	Foreclosure: \$525 for up to 5 defendants on the Complaint; additional \$50 for more than 5 defendants	
Ashland	Foreclosure: \$440; Over 5 Defendants: \$10 per Defendant for Certified Mail Service	4/6/2009
Ashtabula	Foreclosure: \$545	
Athens	Foreclosure: \$401	8/25/2009
Auglaize	Civil Complaint: \$200	
Belmont	Civil Complaint: \$200 for up to 3 defendants; \$10 for each additional defendant over 3; Count the number of defendants on the Complaint, not the number of defendants from the Service Instructions.	4/1/2009
Brown	Civil Action: \$250; plus an additional \$10 for each Defendant over five in number	
Butler	Foreclosure: \$600; Amended \$25; plus \$5 for each defendant Amended/Answer and Cross Claim-\$25.00 plus \$5.00 per defendant(PS and CM)	
Carroll	Foreclosure: \$275	
Champaign	Foreclosure: \$250; Amended Complaint: \$50.00	8/24/2009
Clark	Foreclosure \$600; Amended/Reissue Complaints: \$20 Per Defendant (from summons); Answer & Cross claims \$100	4/20/2009
Clermont	Foreclosure: \$300 for up to 12 defendants on complaint; For 13 or More Defendants: \$20 Per Defendant; Count the number of defendants on the Complaint, not the number of defendants from the Service Instructions.	
Clinton	Civil Action: \$200	
Columbiana	Foreclosure Action: 1-2 Defendants \$430; 3-5 Defts \$450; 6-10 Defts \$500; Over 10 Defts \$550; (includes the \$300 for not using Sheriff Service). Count the number of defendants on the Complaint, not the number of defendants from the Service Instructions.	
Coshocton	Civil Case: \$84	
Crawford	Civil Case: \$300	
Cuyahoga	Foreclosure Complaint: \$475; Each address on complaint over 10 is \$5.00 each; Service By Publication Filing- additional \$250	
Darke	Foreclosure (1-3 Defendants): \$700; For 4 or More Defendants: \$25 Per Defendant. Count the number of defendants on the Complaint, not the number of defendants from the Service Instructions.	
Defiance	Foreclosure: \$228	
Delaware	Foreclosure (Up to 5 Defendants): \$688; Foreclosure (6 Plus Defts): \$713; Count the number of defendants on the Complaint, not the number of defendants from the Service Instructions. Amended \$100; Crossclaim or Counterclaim \$100.	
Erie	Foreclosure: \$650	
Fairfield	Foreclosure: \$575	
Fayette	Foreclosure: \$500	
Franklin	Foreclosure: \$300	
Fulton	Civil Complaint: \$228; Publication Deposit for Foreclosure & Service By Publication: \$500	
Gallia	Foreclosure: \$485	7/17/2009
Geauga	Foreclosure: \$335; 6 or More Defendants: \$50 Per Defendant. Count the number of defendants on the Complaint, not the number of defendants from the Service Instructions.	
Greene	Foreclosure: \$525; with over 5 defendants on Complaint, add \$10 per defendant. Amended Complaints with Service, add \$10 per defendant from service instructions. Re-issue/Alias, \$10 per service defendant. COUNTER CLAIMS, CROSS CLAIMS, THIRD-PARTY COMPLAINTS \$100.	
Guernsey	Foreclosure: \$350	
Hamilton	\$225 in county plaintiff (includes up to 4 services) Out of County Plaintiff: \$255 (includes up to 4 services) Additional \$35 on the 5th defendant; Services on six or more defendants additional \$7 (each service) ***Service is from number of defendants listed on the Complaint ONLY***Filing fee checks need to be made out to Clancy Clerk of Courts. Do not hold up case for filing if check is made out to Hamilton county clerk of courts. For Reissue and Amended cases: \$7 per Certified Mail Defendant.	9/26/2009
Hancock	Foreclosure Complaint: \$500 for 5 parties or less; Additional \$50 for more than 5 parties	
Hardin	Civil Actions: \$250 (includes one defendant); Each Additional Defendants on the complaint: \$25 Per Defendant. Count the number of defendants on the Complaint, not the number of defendants from the Service Instructions.	4/17/2009
Harrison	Foreclosure: \$376	
Henry	Civil Complaint: \$228	
Highland	Foreclosure Complaint: \$500 (five or less defendants); each additional defendant \$20; Amended Complaints/Re-Issues \$20 Per Defendant	
Hocking	Foreclosure: \$700; Answer & Cross Complaint/Counterclaim: \$25.	
Holmes	Foreclosure: \$450 for up to 4 defendants on complaint; For 5 or More Defendants: \$25 Per Defendant; Count the number of defendants on the Complaint, not the number of defendants from the Service Instructions.	
Huron	Foreclosure: \$375	
Jackson	Civil Actions: \$175	

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10/13/2009

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Ohio County Civil Complaint/Foreclosure Filing Fee Schedule

County	Fees	Effective Date
Jefferson	Civil Complaint: \$125 (1 Defendant); Additional Defendants: \$6.50 Per Defendant includes CM/PS/Sheriff	6/3/2009
Knox	Civil Actions: \$300; Cross-Complaint, Counterclaim or Third Party Complaint \$100	
Lake	Foreclosure: \$500	6/9/2009
Lawrence	Foreclosure: \$200	
Licking	Civil Petition/Complaint: \$150	
Logan	Foreclosure: \$300 Deposit for Costs	
Lorain	Foreclosure Complaint: \$575; Amended Foreclosure Complaint: \$100.00 flat fee; Cross Complaint, Counter Claim, or Third Party Complaint: \$100 ** *ALL Pricing includes up to 5 defendants listed on the complaint. There is an additional \$50.00 charge for additional defendants UP TO 5 more. 1-5 def's=\$575.00; 6-10 def's=\$625.00; 11-15 def's=\$675.00; 16-20 def's=\$725.00; 21-25 def's=\$775.00; 26-30 def's=\$825.00; 31-35 def's=\$875.00; 36-40 def's=\$925.00	7/30/2009
Lucas	Foreclosure: \$550	
Madison	Foreclosure Cases: \$900	
Mahoning	Foreclosure: \$200	
Marion	Foreclosure: \$150	
Medina	Foreclosure: \$425 - an additional \$10 is required for each defendant named on the complaint in excess of 5; COUNTER CLAIMS, CROSS CLAIMS, THIRD-PARTY COMPLAINTS and AMENDED COMPLAINTS \$100	
Meigs	Foreclosure: \$585	
Mercer	Foreclosure: \$250; Each Additional Defendant Over 2 on the complaint: \$25 Per Defendant	
Miami	Civil Petition/Complaint: \$200	
Monroe	Foreclosure: \$500; all other complaints(including cross-complaints): \$150	9/9/2009
Montgomery	Foreclosure: \$500	10/1/2009
Morgan	Foreclosure Complaint: \$295 for up to 5 defendants; \$30 for each defendant over 5. Count the number of defendants on the Complaint, not the number of defendants from the Service Instructions.	
Morrow	Foreclosure: \$425 for 5 or less services; 6-8 mailing or services \$475; over 8 \$25 each (total number of services for both PS and CM); Amended Complaint \$400; Counter or Cross Claim \$300	
Muskingum	Foreclosure: \$100	
Noble	All Civil Cases: \$150	4/6/2009
Ottawa	Foreclosure: \$500	4/6/2009
Paulding	Foreclosure: \$200	
Perry	Civil Complaint: \$130	
Pickaway	Deposit of \$325	
Pike	Complaint: \$175	
Portage	Foreclosure: \$350	
Preble	Foreclosure: \$500	
Putnam	Foreclosure: \$450	
Richland	Foreclosure: \$255	8/4/2009
Ross	Foreclosure: \$300	
Sandusky	Foreclosure: \$1,550 (Includes Most Publication Fees)	
Scioto	Foreclosure: \$475 for up to 5 defendants; \$10 for each additional defendant over 5; Count the number of defendants on the Complaint, not the number of defendants from the Service Instructions; Amended \$100; Cross-Claim \$100	9/18/2009
Seneca	Foreclosure: \$1,100	
Shelby	Civil Complaint: \$300	4/6/2009
Stark	Foreclosure: \$500; (the Clerk requires an additional \$50 security deposit (to cover costs) for every 5th summons-or address (beginning with the fifth summons) named on a complaint.	10/1/2009
Summit	Foreclosure: \$325 includes first Defendant, then additional \$25 Fee For Each Additional Summons(Process Service and Certified Mail); Amended Cases/Reissues: \$25.00 per Summons SummitCountyFilingFee.pdf	
Trumbull	Foreclosure: \$565	
Tuscarawas	Foreclosure: \$180 (includes first defendant); Each Additional Defendant listed on complaint: \$10 Per Defendant. Count the number of defendants on the Complaint, not the number of defendants from the Service Instructions. Reissue cases-\$10.00 per Certified Mail defendant.	7/27/2009
Union	Foreclosure: \$535	
Van Wert	Foreclosure: \$775	4/6/2009
Vinton	Foreclosure: \$350	
Warren	Foreclosure: \$250	
Washington	Civil Action (5 or Less Defendants): \$125; Additional Defendants: \$5 Per Defendant	4/6/2009
Wayne	Foreclosure: \$410	
Williams	Civil Deposit: \$375	
Wood	Foreclosure: \$180	
Wyandot	Civil Cases: \$1000	

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