

This & That

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Last summer, I had the opportunity to speak at the 41st Annual Probate and Estate Planning Seminar. I was asked to give practical tips and reminders to the practitioners. What I found after my speech was that many practitioners came up to me and thanked me for this helpful information. They understood that while the various counties all follow the law, their practices and policies vary greatly with respect to the day-to-day filings. So, I thought it would be helpful to periodically report through this column some practice tips and reminders.

New Forms:

Effective June 1, 2001, you will see distributed at our counter PC 666(a), entitled *Alternatives to Guardianship*. This is a new four-page handout that we are required to distribute whenever someone inquires about adult guardianships or petitions for a guardian of a legally incapacitated individual. This handout speaks on alternatives to guardianships, defines the role of a guardian, and when the court can appoint a guardian. (This form does not apply to developmentally disabled persons guardianships). It speaks to emergency situations and temporary guardianships as well.

PC 667, entitled *Alternatives to Conservatorships*, is also available and it is designed for the information of individuals who are inquiring about or petitioning for conservatorships.

Both PC 666 & 667 are now available in Spanish.

The inventory form (PC 577) was also revised in that the SCAO removed the appraisal language and included instructions on the back of the form as to how to complete it.

Speaking of forms, many questions have been asked with respect to attorneys presenting computer-generated forms. While initially our policy was that we only accepted the official forms from the State Court Administrative Office, we recognize the hardship this may cause practitioners. This was our policy for the simple reason that we did

not want the staff to review and compare the forms to make sure that there is no required language deleted or additional language added which would require review. However, if you add the language, "This document is a replication of the SCAO-approved form. No alterations or deletions have been made," on the bottom of the word-process documents, we will accept your filing. You should, however, be careful to ensure that there are no additions or deletions, to avoid any future issues.

We will also accept the ICLE-approved computer-generated word-processing forms and documents known as "Hot Docs."

Reminders:

A. Publish for Creditors Once

MCR 5.306(c)(4) and MCL 700.7504 state that you only need to publish once for creditors. If it indicates that there is no personal representative and you have a decedent, the trustee can publish for creditors. It is not necessary to publish again when opening a decedent estate. Oakland County Probate Court will accept an *Affidavit of Publication* from the trust as proof of publication on the decedent's estate.

B. Conservators Need Hearings on Petitions for Approval of Real Estate

Effective June 1, 2001, the statute specifically indicates that there has to be a hearing before the conservators can sell real estate (not PR's) even if full waivers and consents are presented. In the future there may be a court rule which removes this requirement; however, we are getting a lot of questions on this and you should understand that presently we do require hearings for these petitions.

C. Reports and Accounts Served on Wards and Interested Persons

Also effective June 1, 2001, the code requires the fiduciary to serve the wards and interested persons

with all reports and accounts. This requirement is noted on the back of their updated *Letters of Authority*. While the court does not monitor whether service has been done, we will accept the proofs of service for filing if presented.

D. Hearings on Minor Guardianships

Please remember that when petitioning for a limited minor guardianship, the petitioners must be at the hearing. It is also very reasonable – and a judge’s preference – that the proposed guardians and minor be present (if the minor is 14 years of age or older). If the petitioners absolutely cannot attend the hearing, they should be available that morning for a conference call, as some of our judges will, in fact, call them to elicit testimony from them. We are developing a new *Parental Attendance* form which will ascertain from the parties whether the parents will be at the hearing and whether an interpreter will be needed.

E. Funeral Bills

On a few occasions, we have had situations where a body was left to science and there was no funeral bill. In opening a small estate, the question arose as to what documentation would be required in lieu of a funeral bill. It is our policy that if there is documentation indicating that the body was in fact donated to science, we will not need to see the funeral bill to open a small estate. (If there is a funeral home listed on the death certificate, we would be seeking a bill for their services.) Finally, for those who passed away more than 10 years ago, we will accept an affidavit in lieu of the paid funeral bill. Any documentation supporting this would be helpful, of course.

I will write articles from time to time that have various sundry reminders and practical tips for you. If you have any suggestions on future topics, please do not hesitate to contact me at your convenience. Stay tuned!