

Practice Tips for Filing

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Did you know that the Oakland County Probate Estates counter served over 41,000 people last year! It's an amazing number when you realize that each one of those people are presenting documents for filing and may or may not know some of the court policies. Below I list a few hints that might help you prepare your documents and reduce the time it takes in line with those other 41,000 people to file your pleadings.

SCAO Forms:

There are numerous ways that you can obtain State Court Administrative Office-approved forms. There is a Web site – www.courts.michigan.gov – that can link you to the forms. There also exists the “EPIC Center,” which is an excellent Web page maintained by the Institute of Continuing Legal Education. The Web site is <http://www.icle.org/michlaw/scao>. This site contains court rules, technical amendments and, of course, the forms. Many of you may also know that Judge Harter of Calhoun County maintains an EPIC Web site that currently has more than 400 EPIC questions and answers. This Web page is located at <http://courts.co.calhoun.mi.us>.

We do urge that where an SCAO form exists, you use it! However, we will accept hand-drafted documents if they contain the following language: “This document is a replication of the SCAO-approved form. No alterations or deletions have been made.”

A Few Hints:

1. While this seems obvious, pleadings should be “type-written” or written in blue or black ink in the English language. MCR 5.113(A)(1)(a). The pleading must also include the full year prefix and a proper case suffix.
2. Does an attorney need to sign a document? The court rule requires that when a person is represented by an attorney, the signature of the attorney is required if the SCAO form has the preprinted line for “attorney signature.” The court will continue to require the attorney’s signature as long as you are the attorney of record. If you no longer represent that party, you must take steps to

remove your name from the file by seeking an order terminating your appearance or an order of substitution of attorney. Further, an attorney may sign an application petition “or other paper” as defined in MCR 5.114(A)(3) but an attorney may not sign an *Inventory, Account, Acceptance of Appointment, Sworn Closing Statement* and *Bond*. There also exists an issue of whether or not the courts should accept for filing stamped signatures of attorneys. Clearly, we will not accept copies of signatures on documents but we are reviewing our policy with respect to whether a stamped signature is appropriate. Oftentimes it is difficult to determine whether a signature is a copy and the courts are very concerned about maintaining the integrity of pleadings.

Filing Fees:

Supreme Court Administrative Order 1995-2 sets the filing fee for opening an estate at \$100. Motions and Accounts cost \$15.00 to file and there is no filing fee on Inventories and Notices of Continued Administration. The Oakland County Probate Court accepts cash and checks but not credit cards at this time.

Penalty and Perjury Statement:

Pursuant to Court Rule 5.114(B)(1), an application, petition, inventory, accounting, proof of claim or proof of service must either: (1) be authenticated by a verification under oath by the person making it, or (2) contain this statement immediately above the date and signature:

“I declare under the penalties of perjury that this has been examined by me and that its contents are true to the best of my information, knowledge and belief.”

If you are drafting your own documents this is a requirement, but note that all SCAO forms contain this language.

Court Hours:

The Oakland County Probate Court is open from 8:00 a.m. to 5:00 p.m. for filing. Recognize, however, that after 4:30 p.m., the court may not have sufficient time to com-

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plete the necessary paperwork and it may not be considered filed until the next day.

Accounts:

Due to the large number of accounts that were improperly filed through the mail, Oakland County has developed a policy wherein accounts from the tri-county area must be filed in person at the counter. It does not matter who files these accounts, but they must be filed at the counter in an attempt to cure all defects while the person is here.

Filing Conveniences:

The Oakland County Probate Court permits filing by fax pursuant to Local Court Rule 2.402. Our Probate fax number is: 248-452-2016. Please note, however, that the

documents must be received prior to 4:30 p.m. to be considered filed for that day and we will not accept documents which require a filing fee unless the filing fee is received simultaneously. Also please note that the transmitter does not need to subsequently file the original document but is required to retain the original document for purposes of court review.

The court also maintains a pleading drop-off box near the cashier's desk for *Proofs of Service* and *Guardian Ad Litem Reports*, which may be dropped off for same-day processing.

If you have questions or concerns regarding our filing procedures, please do not hesitate to contact either myself or the Chief of Probate Estates and Mental Health, Jill Koney Daly. Stay tuned!

Just a Few of the Reasons to Visit the OCBA's NABE Luminary Award-Winning Web Site.

- ★ You can **register online** for seminars, events and membership applications
- ★ **Scrolling text box feature** highlights current and important information about OCBA activities
- ★ **Get copies of the OCBA forms** you need: *Case Evaluator Guidelines*, *District and Circuit Court Case Evaluator Applications*, *File-by-Fax forms*, and *Room Rental forms*! **NOW AVAILABLE:** *Lawyer Referral Service* applications!
- ★ We have **banner ad space** available for you to promote your services. Click on **ad info** at any targeted ad space for details
- ★ Read your **President's Message** online every month
- ★ Go to the **Member Log-In** and take advantage of member-only services and exclusive business software from License Online, or get connected with other members in the **Professionalism Listserv**
- ★ Sign up for the **OCBA Speakers Bureau**
- ★ **NEW!!!** We now have an **Online Legal Career Center** where you can take advantage of FREE, confidential services such as resume posting, job searches, and MORE!

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