

Items of Interest

by *Rebecca A. Schmelz*
Probate Court Administrator



Judge's Copies

Please note that it is necessary to deliver a judge's copy of all motions, briefs and non-initiating petitions to chambers no later than 4:30 p.m. one week prior to the hearing. A judge's copy of all responses and briefs must be delivered no later than noon on Friday before the hearing. Include a copy of the Notice of Hearing or indicate the hearing date on the judge's copy. If you have an e-filing case, please submit a judge's hard copy of all motions for summary disposition, reconsideration, or rehearing directly to Judge O'Brien's chambers.

Proposed Orders

A proposed order should be prepared and presented to the court clerk at the time of the hearing. If you bring copies, up to four true copies will be prepared for you in the courtroom upon the signing of the order.

Revisions to EPIC

Outlined below are a portion of the latest revisions to EPIC that can be found in 2012 PA 173 and 2012 PA 210. These changes are effective October 1, 2012.

- A felon convicted of committing abuse, neglect or exploitation with respect to a decedent forfeits all benefits in relation to the decedent's estate. MCL 700.2803(1)

- The full forfeitures, revocations and severances of rights required under MCL 700.2803 do not apply if they would occur because of abuse, neglect or exploitation and the decedent executed a governing instrument after the date of conviction expressing a specific intent to allow the felon to inherit or otherwise receive the estate or property of the decedent. MCL 7800.2803(7)
- The rights afforded an individual for whom a guardian has been sought under MCL 700.5306 are now specifically delineated in MCL 700.5306A(1). Subsection (2) of the statute requires a GAL to inform the ward in writing of his or her rights as enumerated. A SCAO form is to be developed to assist with this requirement.
- If the court determines that financial protection is required for the ward, it may order the guardian to petition for the appointment of a conservator. If there is no conservator and the guardian determines that there is more cash or property that is readily convertible into cash in the ward's estate than was estimated and reported to the court by the GAL, the guardian shall report the additional cash or property to the court. MCL 700.5319

(continued on page 32)

Claims Against Stockbrokers

ANTHONY TROGAN, ESQ.

29 Years Experience

(248) 737-2150

(continued from page 29)

- If the court determines that the value of cash and readily convertible property in a conservator's control exceeds the limit for administering a decedent's estate under MCL 700.3982 (currently \$21,000 for 2012), the court shall require a bond unless one or more of the following apply:
 - (A) the estate contains no property readily convertible to cash and the cash is in a restricted account with a financial institution,
 - (B) the conservator is granted trust powers under section 4401 of the Banking Code of 1999, 1999 PA 276, MCL 487.14401,
 - (C) the court determines that requiring a bond would impose a financial hardship on the estate,
 - (D) the court states on the record the reasons why a bond is not necessary. MCL 700.5410(1)
- When utilizing the powers delineated in MCL 700.5423, a conservator shall record an order allowing the sale, disposal, mortgage or pledge of or placement of a lien on real property. MCL 700.5422(3)
- MCL 700.5423(3) has been expanded to specify that the protected individual's principal dwelling

cannot be sold or otherwise disposed of without the court's approval. In addition, the restrictions on the conservator's powers now include that the conservator cannot mortgage, pledge, or cause a lien to be placed on a protected individual's principal dwelling, real property or interest in real property without court approval.

- MCL 700.5305 has been amended to add the following GAL duties:
- GAL shall ask the individual and the petitioner about the amount of cash and property readily convertible into cash that is in the individual's estate and shall inform the court of the amount in the GAL report,
- GAL shall inform the court whether one or more actions should be taken in addition to the appointment of a guardian

E-filing

Don't forget that free e-filing training is available at the court for you and your staff. The trainings are held generally twice per month on Wednesday mornings at 9:00, 10:00 and 11:00 a.m. Exact dates may be found at www.oakgov.com/clerkrod/e-filing. Advance registration is not required.



Racing against time

*to make the courthouse
filing deadline?*

Use the OCBA File-by-Fax Service!

Circuit Court Mediation Summaries • Praecipes • Acceptances/Rejections • Witness Lists
Appearances • Briefs • Motions • Civil Actions • Driver's Restoration • *AND MUCH MORE!*

Phone: (248) 858-1585 – Fax: (248) 338-9540

Copies only 10 cents/page • Fax services discounted for OCBA members • We bill you for copies & faxes