

Delinquent or Suspended Fiduciaries

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Effective on April 7, 2003, a new procedure has been instituted by the Probate Court with respect to delinquent and/or suspended fiduciaries. As you are aware, it is Oakland County's practice to send out *Notice of Deficiencies* if a fiduciary has failed to file a required document with the court. The notice informs you that you have 28 days to file a document.

Our past practice provided that the court would automatically issue two 28-day extensions for the fiduciary to fulfill their duties. After the automatic two extensions, the court may have suspended a fiduciary's powers. The fiduciary was then permitted to simply file the delinquent documents and the court would reinstate the fiduciary.

The court's new policy places more of a burden upon the fiduciary. Once the fiduciary receives a *Notice of Deficiency*, the court will only automatically issue one 28-day extension for the fiduciary to comply or fulfill their duties. If a second 28-day extension is needed, the fiduciary or their attorney must make the request in writing using Oakland County Probate Court form 1030 entitled *Request for Extension of Time for Compliance* MCR 5.203 (C).

If a second extension is not requested and the delinquency continues, the court will suspend the fiduciary's power. To regain the powers, the fiduciary or their attorney must file the delinquent documents (with any required filing fee) along with a *Petition for Reinstatement* (PC 603). There is a \$15.00 filing fee required for the *Petition for Reinstatement* and the petition will either be set for hearing

and heard or filed with *Waivers and Consents* from all interested persons.

For your convenience, we have placed the *Request for Extension of Time for Compliance* MCR 5.203 (C) form on our Web site. You can click on the form to view it, choose and print the form, or you may also complete the form online and then print it. Currently we do not accept documents filed online (but we are working toward that end). The *Petition for Reinstatement*, while not on our Oakland County forms, can be accessed through our link to Michigan Courts.

Finally, please note that if the underlying document that the fiduciary is delinquent upon requires a hearing before a judge (i.e., an account) the *Petition for Reinstatement* will be set before the judge. If, however, the underlying document would not require a hearing (i.e., a *Report on Condition of Ward*, etc.) the *Petition for Reinstatement* will be heard before a Register hearing. As with all petitions, if *Waivers and Consents* are presented along with an order, the order will be entered without the necessity of a hearing.

We are hopeful that with the continued use of the *Notice of Deficiency* and the automatic 28-day extension, the fiduciaries can comply with their obligations without the necessity of being suspended and the requirement of filing a *Petition for Reinstatement*.

Oakland County Probate Court has posted notices around the court with this new procedure and we would be happy to answer any questions you may have. Stay tuned!