

Basic Probate Court Jurisdiction

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The probate courts in Michigan have exclusive jurisdiction over all matters relating to the settlement of a decedent's estate, whether testate or intestate, who was domiciled in Michigan or domiciled out-of-state leaving an estate within Michigan to be administered. This includes:

- All internal affairs of the estate
- Estate administration
- Settlement and distribution
- Declaration of rights involving estates devisees heirs of fiduciary
- Construction of a will, determination of heirs
- Determination of death of an accident or disaster victim under Section 1208 (MCLA 700.1302(a)).

The probate courts also have exclusive jurisdiction over all proceedings that concern the validity, internal affairs, or settlement of a trust; the administration, distribution, modification, reformation or termination of a trust; or declaration of a right that involves a trust, trustee or trust beneficiary. Trust jurisdiction includes but is not limited to the following proceedings:

- Appointment or removal of a trustee
- Review of trustee fees
- The settlement of interim or final accounts
- The ascertainment of beneficiaries
- Questions arising during the administration or distribution of a trust, including the construction of a will or trust
- Termination of the existence or nonexistence of immunity, power, privilege, duty or right
- Registration of trust
- Actions involving settlement of an irrevocable trust (MCLA 700.1302(b)).

The probate court also has exclusive jurisdiction over proceedings that concern guardianships, conservatorships or protective proceedings (except as provided in Section 1021) (MCLA 700.1302(b)).

Finally, probate courts have exclusive jurisdiction over any of the proceedings to require, hear or settle the accounts of a fiduciary and to order, upon request of an interested party, instructions or directions to a fiduciary that concern an estate within the court's jurisdiction (MCLA 700.1302(d)).

EPIC further defines that the probate courts have concurrent legal and equitable jurisdiction over matters defined below in regard to an estate of a decedent, protected individual, ward or trust:

- Determine a property right or interest
- Authorize partition of property
- Authorize or compel specific performance of a contract in a joint or mutual will or a contract to leave property by a will
- Ascertain if individuals have survived as provided in this act
- Determine cy pres or a gift grant request or devisee in a trust
- Hear and decide actions against the distributee or fiduciary of the estate to enforce liability that arises because the estate was liable upon a claim or demand before distribution of the estate
- Impose a constructive trust
- Hear and decide a claim by or against fiduciary or trust for the return of property
- Hear and decide a contract, proceeding or action by or against an estate, trust ward
- Settle accountings of agents under powers of attorneys
- Bar an incapacitated or minor wife of her dower right (MCLA 700.1303)

There are also two specific forms of civil actions that can be commenced at the probate court. MCR 5.101(C) states that any action against another filed by a fiduciary and any action filed by a claimant after notice that the claim has been disallowed can be commenced in probate court. These are commenced by filing a complaint titled "Civil Action" with the appropriate probate court. Please note that these civil actions are governed by the rules that are applicable to civil actions in circuit court.

If you have any specific questions or concerns with respect to the exclusive or concurrent jurisdiction of the probate court, please contact Jill Koney Daly or me at your convenience. Stay tuned.