

Motion Call Practices

by Lisa Symula
Family Division Administrator -
Probate/Juvenile Register



In Oakland County, Probate cases – which include decedents’ estates, adult guardianships and conservatorships, some minor conservatorships, and all trust matters – are divided between Probate Judge Barry M. Grant and Probate Judge Eugene Arthur Moore. Assignments are made on these cases on a blind draw basis. Minor guardianships in Oakland County are heard by the family division judges.

All matters set for hearing on routine Probate matters (not contested) are usually scheduled for Wednesday morning, which is known as our “motion” call. These matters are all set at 8:30 a.m. Please note that the Probate counter is open at 8:00 a.m. for your convenience.

When you arrive at court, you should first check the docket sheet that is posted on the windows/wall outside of the Probate counter area. If your case is highlighted, proceed directly to the courtroom to check in with the judge’s clerk. If your case is not highlighted, that means the file is not “ready for court.” Typically, the petitioner must file a *Proof of Service* or the guardian ad litem must file their report before the file will be released for hearing. Once these documents are filed, the file will be given to you and you can proceed to the court-room where you still must check in with the judge’s clerk.

It is helpful to notify the judge’s clerk if you believe your matter will be contested. The judges determine the date and time for hearings on all contested matters and they will indicate their approval of the special hearing date and time by initialing the *Notice of Hearing*.

After court, the file must be returned to the Probate counter for entry of order and issuance of *Letters of Authority*. Please note that if there is an attorney of record, they must prepare all court orders. The Oakland County Probate Court will prepare your *Letters of Authority*. Be sure to review your *Letters of Authority* as they contain the important due dates for you to diary. Do not rely on the court to be your “tickler system.”

As a reminder, we will accept forms for filing that are hand-drafted or generated from software. MCR 5.113(A)(1)(c) states that “a petition, motion, inventory, report, account or other paper in a proceeding must be substantially in the form approved by the State Court Administrator, if the form has been approved.” Accordingly, any hand-drafted documents or forms produced by word processing software must contain the following wording:

“This document is a replication of the SCAO approved form. No alterations or deletions have been made.”

If this is on your pleading, we will accept it for filing. You must remember, however, that the State Court Administrator continually revises their form and you need to make sure that you have the latest version of their form as well. Please remember that by adding this language, you are representing to the court that you have not deleted any relevant information or added any information. The Probate counter staff will not make a review of these forms.

We do have a marked basket at the cashier’s desk where you can drop off your proofs of service and guardian ad litem reports for same-day processing. This will save you from waiting in line on court mornings. It goes without saying that you should make sure that all of your documents are properly signed by your clients and you where required and you should have all necessary forms completed prior to your hearing. This will save you and your client time and expense!

I want to thank and acknowledge Jill Koney Daly, Chief of Estates and Mental Health, for the above material. (Sometimes, plagiarism is a good thing!)

Finally, I wanted to note a change from the Bench/Bar report printed in the May issue of *Laches*. Judge Hallmark reported at the 2001 Bench/Bar Conference that, due to construction of the two new courtrooms at the courthouse, our Probate Clerk’s offices would be relocated. The plans have changed and presently no Probate Court staff will be relocated due to the construction. Stay tuned!