

BOB SZALKA: GAL 2019 TRAINING OUTLINE

GAL PROCEDURES AND POLICIES

I. ABC'S OF GAL APPOINTMENTS:

- A: ALWAYS SUBMIT YOUR REPORT ON TIME!!! (AT LEAST 7 DAYS BEFORE HEARING);
- B: BE DILIGENT IN OBTAINING ALL PERTINENT FACTUAL INFORMATION;
- C: CCOURTEOUS, NOT CURT WITH PROPOSED WARD, PETITIONER, AND OTHERS IN CONDUCTING YOUR INVESTIGATION;
- D: DETAILED AND DESCRIPTIVE IN COMPLETING REPORT;
- E: EYES AND EARS OF COURT, EXTREMELY RELEVANT INFORMATION IS YOUR GOAL (I.E. FINANCIAL INFO. SHEET);
- F: FOREGO THE RECITATION OF YOUR STATUTORY REQUIREMENTS IN YOUR REPORT; FOLLOW THE FEE SCHEDULE IN YOUR BILLINGS;
- G: GREAT REPORTS GO A LONG WAY IN ASSISTING THE COURT IN MAKING DECISIONS;
- H: HEARING ATTENDANCE IS NOT REQUIRED;
- I: INVESTIGATE, INTERPRET, INFORM: 3 I'S OF GOOD REPORTS;
- J: JUST DO IT, DON'T COMPLAIN, REMEMBER YOU ARE HERE TO DO A SERVICE FOR COURT AND PROPOSED WARD, COMPLETE THAT JOB AND MOVE ON;
- K: KEEP YOUR PERSONAL OPINIONS TO YOURSELF; AS SGT. JOE FRIDAY (OF DRAGNET) USE TO SAY "JUST THE FACTS MAM";

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- L: LACK OF PREPARATION OR POORLY PREPARED REPORTS WILL NOT BE AN ACCEPTABLE PRACTICE IN THIS COURT;
- M: MASTER THE ART OF THE INTERVIEW: BE BRIEF YET CONCISE, DETAILED YET DIRECT, USE CHECKLISTS TO COVER THE NECESSARY AREAS;
- N: NEVER CALL THE COURT TO ASK QUESTIONS LIKE THESE:
WHEN IS MY REPORT DUE? WHAT SHOULD I PUT IN MY REPORT? HOW DO I BILL? WHAT IS A FINANCIAL REVIEW?
- O: ONLY BILL ACCORDING TO COURT GAL FEE SCHEDULE;
- P: PRESENT REPORT TO COURT AND PETITIONER IN APPROPRIATE TIME FRAME (7 DAYS BEFORE HEARING); POLICY LIMITS MUST BE VERIFIED ON SETTLEMENT MATTERS;
- Q: QUICKLY BECOME ACQUAINTED WITH FILE, AND IF NECESSARY, VISIT COURT TO REVIEW FILINGS IN COURT FILE;
- R: REVIEWS ON GUARDIAN REVIEWS ARE DUE 28 DAYS AFTER RECEIPT OF DOCUMENTS: KEEP TO THAT DEADLINE;
- S: STATEMENTS FOR FEES MUST ACCOMPANY REPORT (PROBATE COURT INVOICE);
- T: THREATS TO REQUEST REMOVAL OF FIDUCIARY FOR NONPAYMENT OF GAL FEE ARE NOT PROPER/ PETITION AND ORDER FOR PAYMENT SET FOR HEARING ALONG WITH FOLLOW UP SHOW CAUSE HEARING PROCEDURE TO FOLLOW;
- U: UNDERSTAND YOUR ROLE AND FUNCTION AS GAL, KNOW EPIC GAL PROVISIONS;
- V: VERIFY YOUR FINANCIAL INFORMATION IF POSSIBLE ALONG WITH INJURY INFORMATION IF SETTLEMENT MATTER IS BASIS FOR YOUR APPOINTMENT;
- W: WHEN PROCEDURAL ISSUES ARISE ON APPOINTMENT FIRST CONTACT MY OFFICE FOR DIRECTION;
- X: XTRA EFFORT IN PERFORMING YOUR ROLE IN THIE APPOINTED MATTER;
- Y: YOUR WORK AS A GAL PRESENTS A PICTURE OF YOU TO THE WARD, PETITIONER, INTERESTED PERSONS AND MOST IMPORTANTLY THE COURT; KEEP THAT IN MIND IN PERFORMING YOUR GAL ROLE;
- Z: ZERO ROOM FOR ERROR ON THESE FACTUAL INVESTIGATIONS WHICH IMPACT THE LIVES OF ADULTS AND MINORS IN THE PROBATE COURT SYSTEM;

II. REQUIREMENTS TO GET APPOINTMENTS:

- a. REVIEW EMAIL/ONLINE TRAINING LETTER AND SUBMIT SIGNED ATTORNEY REGISTRATION/PROFILE SHEET;
- b. PROVIDE EVIDENCE OF MALPRACTICE COVERAGE;
- c. ONE LIST, AND REQUIRED TO BE AVAILABLE FOR ALL KINDS OF APPOINTMENTS;
- d. WAITING LIST KEPT FOR THOSE WHO ARE NOT ON CURRENT LIST OF GAL/ATTORNEYS AND HAVE NOT ATTENDED TRAINING;

III. REQUIREMENTS ONCE ON LIST:

- a. BE AVAILABLE WHEN CALLED/EMAILED; APPOINTMENTS DONE ON ROTATIONAL BASIS;
WHEN CALLED/EMAILED, IF AVAILABLE RECEIVE/ACCEPT APPOINTMENT, IF NOT COURT MOVES ON TO NEXT ONE ON LIST;
- b. **FOLLOW PROPER PROCEDURE WHEN DOING GAL INVESTIGATION;**
- c. **SUBMIT REPORTS ON TIME;**
- d. SUBMIT FINANCIAL REVIEW CHECKLIST WITH REPORT (NOTE THERE IS A SPECIAL FINANCIAL REVIEW CHECKLIST FOR DD MATTERS ALSO);
- e. SUBMIT PROBATE COURT INVOICE WITH REPORT;
- f. INVOICE MUST BE ADDRESSED TO CORRECT PARTY (**COURT: IF NO ASSETS SITUATION;** ESTATE/PETITIONER/FIDUCIARY IF ASSETS);** **SEND YOUR PREPARED STATEMENT OF SERVICES RENDERED TO ESTATE/PETITIONER/FIDUCIARY IF THEY ARE TO PAY FOR YOUR SERVICES: DO NOT SEND PROBATE COURT INVOICE TO THEM FOR PAYMENT.** (SUCH PRACTICE IN PAST HAS RESULTED IN PROBATE COURT RECEIVING PAYMENT AND BEING REQUIRED TO SEND IT BACK);
- g. COPY OF INVOICE MUST ALWAYS BE PRESENTED TO COURT IRREGARDLESS AS TO WHOM IS BEING BILLED AND CASE NO. AND DATE OF SERVICE MUST BE INCLUDED ON INVOICE;
- h. CALL COURT AND SPEAK TO ME IF ISSUES ON PROCEDURE CONCERNING INVESTIGATION—DO NOT CALL COURT STAFF AND ASK WHAT SHOULD BE PUT IN REPORT, ETC.;

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- i. **FOLLOW MACOMB COUNTY PROBATE COURT FEE SCHEDULE FOR GAL APPOINTMENTS WHICH BECAME EFFECTIVE 12/1/14.(ATTACHED)**
- j. **MUST SUBMIT COPY OF REPORT TO PETITIONER WHEN SUBMITTING ORIGINAL TO COURT;**
- k. USE THE ACCEPTANCE OF TRUST AND REPORT OF GAL COVER SHEET WHEN DOING GAL REPORT AND ANSWER ALL STATEMENTS ON FRONT;
- l. USE PROPER GUARDIANSHIP REVIEW REPORT FORM WHICH MACOMB ADOPTED IN 6/2013;
- m. AS GENERAL RULE: REPORTS OF GALS MUST BE BROUGHT IN OR MAILED IN, NOT FAXED, NOT EMAILED;
- n. **REPORTS DUE IN COURT SEVEN DAYS BEFORE HEARING. COURT WILL CONTINUE EVALUATING GALS ON COMPLIANCE WITH THIS STANDARD;**
- o. INVOICES MUST BE SUBMITTED WITH GAL REPORTS, OR WITHIN 60 DAYS OF COMPLETION OF APPOINTMENT AS COURT APPOINTED ATTORNEY **AND ABSOLUTELY NO LATER THAN 60 DAYS AFTER END OF CALENDAR YEAR, NO EXCEPTIONS; BILLINGS SUBMITTED BEYOND THAT DEADLINE WILL NOT BE HONORED;**
- p. IF ASSIGNED GAL IN BOTH CONSERVATOR AND GUARDIAN FILE YOU MUST PRESENT AN ORIGINAL REPORT FOR EACH FILE.
- q. COURT IS MONITORING FREQUENCY OF REJECTIONS ON VARIOUS LISTS BY GALS/COURT ATTORNEYS;

PROBATE COURT PROCEDURES REVIEW

I. POLICY AND PROCEDURES:

A. FILING DOCUMENTS FOR MATTERS ALREADY SET FOR HEARING:

1. ALL FILINGS OF PROBATE DOCUMENTS AS A GENERAL RULE ARE TO BE FILED AT 5TH FLOOR, MACOMB COURT BUILDING, 40 N. MAIN, MT. CLEMENS, MI. **(AREA B)**
2. DOCUMENTS PRESENTED ON DAY OF HEARING FOR THE MATTER TO BE HEARD CAN BE PRESENTED AND FILED WITH COURT ANALYST WHO CHECKS IN PARTIES FOR HEARING **(AREA A)** (I.E. PROOFS OF SERVICE, ORDERS, APPEARANCES, OBJECTIONS, AND RESPONSES); THIS PROCEDURE IS ALLOWED BUT IS NOT SUGGESTED. **COURT PREFERS TO HAVE ALL DOCUMENTS ASSOCIATED WITH HEARING FILED AT LEAST THE DAY BEFORE THE HEARING.**
3. ACCOUNTS WHICH ARE BEING FILED WILL BE SET FOR HEARING BY ANALYSTS. THESE ACCOUNTS NEED TO BE **AUDITED PRIOR** TO THE DAY OF HEARING. AUDITING PROCESS REQUIRES SUPPORTING DOCUMENTATION OF INCOME AND EXPENSES. ACCOUNT HEARING DAYS AS A GENERAL RULE ARE TUESDAYS A.M., AND THURSDAYS A.M. AND P.M.
4. REQUEST FOR ADJOURNMENTS OF HEARINGS SET BEFORE THE RESPECTIVE JUDGES REQUIRE APPROVAL OF RESPECTIVE JUDGE'S SECRETARY (GAIL FOR JUDGE GEORGE AND MARSHA FOR JUDGE HARRISON) AND AN ORDER FOR ADJOURNMENT; (EXCEPTION ACCOUNT HEARINGS WHICH REQUIRE ORDER FOR ADJOURNMENT SENT TO COURT ANALYST);

B. FILING NEW MATTERS (GUARDIANSHIPS, CONSERVATORSHIPS, DECEDENT'S ESTATES, CIVIL MATTERS, TRUST FILES, PROTECTIVE ORDERS):

1. ALL SUCH NEW FILINGS ARE DONE AT THE COUNTER AT THE COUNTER AT 5TH FLOOR, MACOMB COURT BUILDING, 40 N. MAIN, MT. CLEMENS, MI; **(AREA B)**
2. DEPUTY REGISTERS TAKING IN SUCH FILINGS WILL SET HEARING DATE AND RETURN ONE SET OF FILED DOCUMENTS TO PARTY FILING NEW MATTER;
3. PETITIONER IS RESPONSIBLE FOR SERVING INTERESTED PERSONS AS DETERMINED BY COURT RULE (M.C.R. 5.125) AND PROVIDING PROPER PROOF OF SERVICE TO COURT;

4. Attorney Conferences: set by Court with Bob Szalka for failure to file necessary inventory, account, receipt, proof of deposit, restricted account agreement, failure to allow guardian review; This procedure is used in lieu of setting Show Causes. After Conference Court may extend time base on facts of case, may suspend, may administratively close. Attorney conferences are not adjourned. Conferences which are held result in Memorandum of Conference to Correct Deficiency prepared by Court;
5. EMAILING AND FAXING OF PLEADINGS IS NOT YET ALLOWED IN PROBATE COURT AS THE GENERAL RULE;
6. PETITIONER AND/OR THEIR ATTORNEY ARE RESPONSIBLE FOR PRESENTING PROPOSED ORDER ON DATE OF HEARING. COMPUTERS ARE AVAILABLE FOR PREPARATION OF YELLOW ORDERS IF NECESSARY ON DATE OF HEARING;
7. **PC 1033 Notice of Pre-Trial Conference has following statement now:**
“Please bring with you a statement of issues involved, stating concisely and without repetition the issues to be decided in the trial or evidentiary hearing followed by your answers to each issue. The Court will attach this statement to your pre-trial summary at the conclusion of the conference”; Note: on Judge George pretrials summaries you will get a contested hearing/Bench Trial/Jury Trial Procedural Order with summary.
8. Where Estate Administratively closed applicant/petitioner must file PC 607 Application/Petition to Reopen Estate and pay \$175.00 filing fee and or \$100.00 penalty fee if appropriate; In guardianship or conservatorship which is administratively closed a new petition to appoint guardian or conservator must be filed with \$175.00 filing fee and \$100.00 penalty fee if appropriate;
9. Written Notice of Death of ward **must** be provided to court within 14 days of death of ward. (See MCR 5.409(F)) and if accounts required account **must** be filed within 56 days of date of death;
10. Briefs being filed can be filed in court file and electronically at probatebriefs@macombgov.org
11. A helpful guide to Macomb county Probate Court has been prepared and is available as a handout at the court (a two sided document). It is also available on the Macomb County Probate Bar website and as a link on the Probate court website.

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12. Remember all parties appearing for a Hearing must sign in at the analyst area (Area A) And wait to be called or sent into the appropriate courtroom;
13. Parties can start signing in for 9:00 a.m. Hearings at 8:30 a.m. at Area A on the 5th floor;
14. OBJECTIONS FILED ON DAY OF HEARING REQUIRE FILING FEE TO BE PAID AT CASHIER'S OFFICE AND OBJECTIONS GIVEN TO ANALYST;
15. USE A GOOD DIARY SYSTEM (ELECTRONIC OR MANUAL). DO NOT RELY ON COURT STAFF TO SEND YOU NOTICE OF DEFICIENCY OR NOTICE OF ATTORNEY CONFERENCE TO TRIGGER SOME ACTION BY YOUR OFFICE;
16. BE RESPECTFUL TO OPPOSING COUNSEL, THE JUDGE, YOUR CLIENTS, WITNESSES AND MOST OF ALL COURT STAFF. IT NOT ONLY MAKES FOR A BETTER COURT EXPERIENCE, IT MAY PUT A SMILE ON SOMEONE'S FACE;
17. ACKNOWLEDGE GOOD QUALITY SERVICE BY COURT STAFF AND CONVERSELY INFORM COURT MANAGEMENT OF POOR OR DISCOURTEOUS SERVICE;
18. Court appointed counsel for ward in Petition to terminate guardianship is responsible for presenting necessary medical documentation to support termination. If condition is a psychological condition, medical from a psychologist/ psychiatrist is necessary. If medical issue, letter from treating doctor would be warranted;
19. Know the Probate Court Rules, especially definition of Interested persons, know the Estate and Protected Individuals Code, M.C.L.A 700.1100 ET SEQ;
20. New Petition and Order for Discovery where assets unknown for Petition and Order for Assignment;
21. Know Best Practices and Related Transaction Policy court has adopted;
22. Elder Abuse (use Vulnerable Adult Incident Report as guideline) to become familiar with it.
23. SCAO FORM must be used if available.

ROBERT SZALKA,
Director of Legal Services, Macomb County Probate Court 11/4/19