



**Michigan Supreme Court
State Court Administrative Office
Trial Court Services Division
Michigan Hall of Justice
P.O. Box 30048
Lansing, MI 48909**

August 29, 2014

TO: Michigan Court Forms Committee, Estates and Trusts Work Group

FROM: Colin F. Boes, Forms and Manuals Analyst

RE: Agenda and Materials for **September 4, 2014 Meeting (CANCELLED)**

PLACE: **Proposals to be considered via email**

Below is the agenda for the September 4, 2014 meeting of the Michigan Court Forms Committee, Estates and Trusts Work Group. The meeting will not be held this year due to a lack of agenda items that need to be reviewed. Instead, we will be reviewing the items below by email response, after which we will determine if any changes should be made to the forms.

1. **PC 553, Petition to Determine Heirs**
PC 565, Testimony to Identify Heirs

A probate court administrator has suggested a modification may be necessary to these forms. Currently, PC 553 indicates, in item 4, that: "The names, relationships, and addresses of the heirs of the decedent are set forth in the attached sworn testimony form." However, the testimony form, PC 565, does not ask for the addresses. Instead, it only asks for the name and relationship.

Before the year 2000, PC 553 had a box for listing the name, address, and relationship. However, during the 2000 revisions to the probate forms, this was removed in favor of

the current statement in item 4. However, PC 565 was never modified to require the address to be listed.

MCR 5.308(B)(2)(a) provides that: “Any person may initiate a formal proceeding to determine intestacy and heirs without appointment of a personal representative by filing a petition and a sworn testimony form, executed before a person authorized to administer oaths, sufficient to establish the domicile of the decedent at the time of death and the identity of the interested persons.” This testimony would be form PC 565.

The rule only requires that the testimony form be “sufficient to establish . . . the identity of the interested persons.” MCR 5.308(B)(2)(a). While a notice must be sent to an interested person’s address generally, the rule does not require the address to be listed in the petition. MCR 5.308(B)(2)(b).

MCR 5.302(B) provides that the sworn testimony form need only be “sufficient to establish the identity of heirs and devisees” and that it must be submitted with the application or petition to commence a proceeding.

However, MCR 5.113, the general rule for pleading in probate court, requires all petitions, presumably including PC 553, to include the “mailing addresses of interested persons.” Heirs, or those who may be heirs, would seem to be interested persons under MCR 5.125(C)(1).

What modification should be made to either PC 553 or PC 565 so that the forms are consistent?

2. **PC 558, Application for Informal Probate and/or Appointment of Personal Representative (Testate/Intestate)**

A. The Court Rules, Procedures and Forms Committee of the Probate Council to the State Bar Association has suggested a modification to item 4 on PC 558. It currently says, “As far as I know or could ascertain with reasonable diligence, the names and addresses of the heirs and devisees of the decedent and other interested persons, the relation to the decedent, and the ages of any who are minors are:” The issue, they say, is with the terms “heirs and devisees.” MCL 700.3301(1) requires that the application include the names and address of, “the spouse, children, devisees, and heirs...” It is suggested that PC 558 be modified to include spouse and children” in addition to “heirs and devisees” because children are not necessarily heirs after application of MCL 700.2103 and this change would have the form track the statutory language. Further, the spouse or children may not otherwise be entitled to notice under MCR 5.125(C)(1), (2), or (3).

Should the form be modified to add “spouse” and “children” to item 4?

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- B.** Minor correction suggestion: Previously, it had been determined item 4 should have 5 lines for names, instead of 3. Space permitting, additional lines will be added to item 4.

Attachments