|  |  |  |
| --- | --- | --- |
| IN THE SUPREME COURT OF VICTORIA AT X | | |
| COMMON LAW DIVISION | | |
| TESTATORS FAMILY MAINTENANCE LIST /CIVIL CIRCUIT LIST | | |
|  | | S ECI 20YY NNNN |
| IN THE MATTER of Part IV of the *Administration and Probate Act* 1958 | | |
| - and - | | |
| IN THE MATTER of the Will and Estate of DECEASED, deceased | | |
| **BETWEEN:** | |  |
| PLAINTIFF(S) | | Plaintiff(s) |
| - and - | |  |
| DEFENDANT(S) (who is sued as the Executor of the Will of DECEASED, deceased) | | Defendant(s) |
| **GENERAL FORM of Order** | | |
| JUDICIAL OFFICER: | The Honourable Justice [or] Associate Justice [X] / Judicial Registrar [X] | |
|  |  | |
| DATE MADE: | DD MM 20YY | |
|  |  | |
| ORIGINATING PROCESS: | Originating Motion | |
|  |  | |
| HOW OBTAINED: | On return of the [plaintiff’s/defendant’s] summons filed [X] or Pursuant to r 59.07 of the *Supreme Court (General Civil Procedure) Rule 2015* (Vic) (‘***Rules***’). | |
|  |  | |
| ATTENDANCE: |  | |
|  |  | |
| OTHER MATTERS: |  | |
| 1. The Court is informed that:    1. the estate of the deceased is valued at $X;    2. the plaintiff seeks [ ] by way of [provision/further provision];    3. all the beneficiaries of the estate of the deceased are capable adults;   [OR]  *otherwise* set out any beneficiary of the estate of the deceased who is adult persons under a disability, a minor, or who is unable to consent, including any unascertained beneficiaries;   * 1. the defendant …[*explanation by the defendant required by paragraph 7.7(b) of Practice Note SC CL 7 (Second Revision) if they seek order for leave for beneficiaries to join as defendants*].  1. The Court has read or relied on any document outlined in r 28.05(2) of the *Rules,* includingany position statement, filed prior to the making of these orders (‘**the Documents**’). 2. This Order is authenticated by the Judge/Associate Judge/Judicial Registrar pursuant to r 60.02(1)(b) of the *Rules.* | | |
| **THE COURT ORDERS [BY CONSENT] THAT:** | | |
| 1. [*See paragraph 7.7(b) of Practice Note SC CL 7 (Second Revision) if this order is applied for by the defendant*]By 4.00 pm on [ ], the plaintiff send a notice in the form of the Schedule to this Order to:    1. [ ]; and    2. [ ]. 2. [*If draft Order 1 above is to be made*] By 4.00 pm on [ ], any person named in order 1 of this Order has leave to apply to be added, by summons, as a defendant to this proceeding. 3. [*See* *paragraph 7.3 of Practice Note SC CL 7 (Second Revision)*] By 4.00 pm on  [ ], the defendant file and serve any [position statements [OR] affidavits] in opposition to the plaintiff’s claim. 4. [*See draft Order 3 above*] By 4.00 pm on [ ], the plaintiff file and serve any [position statements [OR] affidavits] on which the plaintiff intends to rely in reply. 5. The proceeding is referred to mediation by a Mediator appointed by agreement between the parties, failing such agreement to a Mediator appointed by the Court, and such mediation be concluded by [ ].   [OR]  The proceeding be referred to a Judicial Mediation before Judicial Officer or a Court-Annexed Mediation before a Specified Court Officer [not before X], at level 6, 223 Williams Street, Melbourne.   1. [*Only include for a Judicial Mediation or Court Annexed Mediation*] No later than 5 business days before the date appointed for the mediation, each party is to notify  [ADRCentre@supcourt.vic.gov.au](mailto:ADRCentre@supcourt.vic.gov.au) with the names and contact details of all persons expected to attend the mediation, including in the case of a virtual mediation listing, the email addresses of each attendee requiring a link. 2. The mediation shall be attended by those persons who have ultimate responsibility for deciding whether to settle the dispute and the terms of any settlement, and the lawyers who have ultimate responsibility to advise the parties in relation to the dispute and its settlement. 3. Not more than 14 days and not less than 7 days before the date fixed for: 4. the mediation of the proceeding; and 5. the trial of the proceeding,   the party who is the legal personal representative of the estate file and serve an affidavit setting forth the financial position of the estate.   1. The parties shall bring to the mediation and provide to the mediator a calculation of their costs of the proceeding up to and including the mediation. 2. [*Do not include for Judicial Mediation or Court Annexed Mediation*] The legal costs of the mediation in the first instance will be paid equally by the parties, but otherwise those costs are reserved to the Trial Judge. 3. [*Do not include for Judicial Mediation or Court Annexed Mediation*] Within 14 days after the date fixed for mediation, the Mediator must notify the Court at [tfm@supcourt.vic.gov.au](mailto:tfm@supcourt.vic.gov.au) whether or not the mediation has concluded. 4. The summons for directions is adjourned to [a date at least a month from the conclusion of the proposed mediation date], at 10.30 am. 5. Pursuant to rr 28.05(4) and 28A.06(1) of the *Rules*, the Documents remain confidential to the parties in the proceeding. 6. Each party has liberty to apply. 7. The costs of this day are reserved. | | |

|  |
| --- |
| **SCHEDULE**  Dear [*insert name*],  Re: The Will and Estate of [ ], deceased (‘**estate**’)  Supreme Court of Victoria proceeding S ECI [ ]  We are the lawyers acting for [name of plaintiff] in a proceeding issued by [name of plaintiff] in the Supreme Court of Victoria (‘**Court**’) against [name of defendant], in [his/her/their/its] capacity as [executor/administrator] of the estate under Part IV of the *Administration and Probate Act 1958* (Vic).  By the proceeding, [name of plaintiff] seeks [provision/further provision] from the estate. If the Court were to order the [provision/further provision] that [name of plaintiff] seeks, your entitlements [under the Will of the deceased/to share upon distribution of the estate on intestacy] might be reduced or extinguished.  The Order made on [date] (‘**Order**’) gives you leave to apply by 4.00 pm on [date in orders] to be added as a defendant to the proceeding. A copy of the Order is attached to this letter.  It is recommended that you seek legal advice regarding the proceeding and the Order as soon as possible.  If you are added as a defendant this does not necessary mean that your legal costs will be allowed out of the estate or ordered to be paid by any other party. In particular, if you and another party have the same or similar interests but are represented by separate lawyers, it is unlikely that more than one set of legal costs will be allowed out of the estate.  Copies of any documents filed in this proceeding [and a copy of the deceased’s Will] may be inspected by arrangement with our office.  Yours faithfully, |