

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
IN ITS PROBATE JURISDICTION
TRUSTS, EQUITY AND PROBATE LIST

S XXX 20XX XXXXX

IN THE MATTER of the will and estate of NAME, deceased

BETWEEN:

FULL NAME Plaintiff/s

- and -

FULL NAME Caveator/s

GENERAL FORM OF ORDER

JUDICIAL REGISTRAR:

DATE MADE:

ORIGINATING PROCESS: Originating motion filed [date] and **summons for caveat directions** filed [date]

HOW OBTAINED: On return of the summons for caveat directions

ATTENDANCE: No appearances; orders made on the papers pursuant to r 59.07 of the *Supreme Court (General Civil Procedure) Rules 2015 (the Rules)*

OTHER MATTERS:

- A. [Name] (the **deceased**) died on [date of death] leaving a **will** dated [date].
- B. In this proceeding, the plaintiff seeks a **grant** of [insert type of grant]
- C. The caveator objects to the making of the grant.
- D. The plaintiff does not concede that the caveator has established a prima facie case.
- E. The Court cannot make orders for joinder on the basis that the question of whether the caveator has a prima facie case is outstanding. To join the caveator at this time would determine this matter.
- F. In the interests of the just, efficient and the costs effective progress of this proceeding, these orders allow the caveator to file and serve amended grounds (if they are so advised) and for the plaintiff to make an election to file any application that it may wish to make in relation to the amended grounds ahead of the next return date.

- G. If the plaintiff elects not to issue such summons, the parties are to address the Court at the return date as to potential joinder of the caveator and consequential case management directions, including to mediation.
- H. [If the plaintiff seeks to file any further affidavits in support of the application for a grant at this time (such as in response to a requisition from the Registrar) an explanation is to be included here].
- I. For the avoidance of doubt, these orders do not provide the caveator leave to file additional material in support of their grounds of objection (such any affidavits) nor leave to issue any subpoena.
- J. This order is signed by the Judicial Registrar pursuant to r 60.02(1) of the *Rules*.

THE COURT ORDERS BY CONSENT THAT:

1. By 4 pm on [2 weeks], the caveator may file and serve any new or amended grounds of objection they are advised to file.
2. Pursuant to s 42(1)(d) of the *Civil Procedure Act 2010*, by 4 pm on [4 weeks],
 - (a) the caveator, if at that time legally represented, file and serve a proper basis certification in respect of the allegations of fact contained in the amended grounds of objection or any amended grounds of objection; and
 - (b) the plaintiff, if at that time legally represented, file and serve a proper basis certification in respect of the claim for a grant of representation in this proceeding.
3. By 4 pm on [6 weeks], the plaintiff may file and serve any summons seeking strike out of the caveat or seeking a *prima facie* case hearing, without any affidavit in support, and returnable for directions on the same date as the adjourned date for this proceeding.
4. The hearing listed for [date] is vacated and the proceeding is adjourned to the Trusts, Equity and Probate List at 10:30 am on [insert directions date].
5. Liberty to apply.
6. Costs reserved.

DATE AUTHENTICATED:

Lawyers for the plaintiff

Lawyers for the caveator