

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**

Defendant/s

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**GENERAL FORM OF ORDER**

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JUDICIAL REGISTRAR:

DATE MADE:

ORIGINATING PROCESS:

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

HOW OBTAINED:

On return of the orders of Judicial Registrar [NAME] made [date]

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. By orders of the Court made [date], the caveator (as they then were) was added as a defendant.
- D. The defendant objects to the making of the grant.
- E. The Court is informed that mediation of this proceeding was concluded on [date] and the proceeding did not resolve.
- F. By these orders, the proceeding will be fixed for trial.
- G. This order is signed by the Judicial Registrar pursuant to r 60.02(1) of the *Rules*.

## **THE COURT ORDERS BY CONSENT THAT:**

1. The proceeding is set down for trial on [TRIAL DATE] before a Judge alone on an estimate that the trial will occupy [#] sitting days.
2. By [1 week prior to trial], the parties file their callover form in accordance with the form available on the Court's website.
3. By [6 weeks prior to trial], the plaintiff file a Notice of Trial in Form 48B.
4. In order to secure the trial date, the setting down and hearing fees are to be paid in accordance with the *Supreme Court (Fees) Regulations 2018* (Vic).
5. Any party must notify the Court on becoming aware of any circumstance that significantly affects the length of the trial estimate.
6. Any application to adjourn or vacate the trial date must be made as soon as it is known that the trial is not ready to proceed on the date fixed.

### **Witness outlines**

7. Subject to any order of the trial judge, evidence in the trial be given *viva voce*, with the parties providing a witness outline for each witness they intend to call.
8. By 4 pm on [18 weeks prior to trial], the plaintiff file and serve their witness outlines.
9. By 4 pm on [14 weeks prior to trial], the defendant file and serve their witness outlines.
10. Each party have available for use by the trial judge a copy of all its witness outlines in paper form and electronic form.
11. Each witness outline must satisfy the following formal requirements:
  - (a) it should be set out in numbered paragraphs; and
  - (b) it should be a brief outline of the evidence the witness will give.
12. The content of a witness outline served pursuant to an order of the court is subject to the same implied undertaking as to confidentiality as applies to a document produced upon discovery.
13. No person may use any part of the contents of a witness outline for the purposes of cross-examination of the person providing the witness outline or any other person without leave of the trial judge.

### **E-Court books**

14. By 4 pm on [12 weeks prior to trial], the plaintiff serve on the defendant a draft e-court book, being a PDF document containing all documents, in chronological order, on which they intends to rely.

15. By 4 pm on [9 weeks prior to trial], the defendant serve on the plaintiff a supplementary draft e-court book, being a PDF document containing any additional documents, in chronological order, on which they intends to rely.
16. Each separate document must be bookmarked in the PDF with the short-form name of the document and the PDF must have stamped page numbers that will correspond with the display page numbers of the final trial e-court book, so in the case of supplementary e-court books, page numbers commence by immediately following on after the ending number of the previous PDF.
17. By 4 pm on [8 weeks prior to trial], the plaintiff file via email to [subpoenas@supcourt.vic.gov.au](mailto:subpoenas@supcourt.vic.gov.au) and serve the e-Court book, which should:
  - (a) be a single fully searchable PDF document merging the PDF documents prepared by the plaintiff and the defendant;
  - (b) alternatively, be a single fully text searchable PDF document the content of which is agreed by the parties as a joint e-court book prior to its creation with all documents bookmarked and in chronological order and sequentially page numbered.
18. The court book should be produced in sequentially numbered volumes of not more than 10,000 pages.

#### **Statement of agreed facts**

19. By 4 pm on [6 weeks prior to trial], the plaintiff is to file and serve a statement of agreed facts, comprising those facts which are agreed between the parties.

#### **Trial plan**

20. By 4 pm on [4 weeks prior to trial], the plaintiff is to file a joint estimated trial timetable settled by counsel for the parties, setting out approximate times for opening and closing submissions and examination of each witness. Any differing positions or timetabling issues that cannot be resolved between the parties are to be noted in the timetable.

#### **Submissions**

21. By 4 pm on [3 weeks prior to trial], the parties file and exchange written outlines of submissions, limited to 20 pages, 1.5 spaced text in a common font style, size 12 (the **formatting requirements**).
22. By 4 pm on [1 week prior to trial], the parties file and exchange any written outlines of reply submissions, limited to 5 pages and adhering to the formatting requirements.

#### **General**

23. 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].

24. Liberty to apply.

25. Costs reserved.

DATE AUTHENTICATED:

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**Lawyers for the plaintiff**

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**Lawyers for the defendant**