

VENUE – WHERE IS VENUE APPROPRIATE AND REASONS FOR CHANGE

October 12, 2023

Kalie Gascho, Probate Register, Kent County

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LII GUARDIANSHIPS (GA/GL)

**Guardianship Proceedings, Venue:
MCL 700.5302:**

"The venue for a guardianship proceeding for an incapacitated individual is in the place where the incapacitated individual resides or is present. If the incapacitated individual is admitted to an institution by order of a court of competent jurisdiction, venue is also in the county in which that court is located."

CONSERVATORSHIPS (CA); PROTECTIVE ORDERS (PO)

Venue: MCL
700.5403(a):

“In the court at the place in this state where the individual to be protected resides whether or not a guardian has been appointed in another place.”

DEVELOPMENTALLY DISABLED GUARDIANSHIP (DD)

Venue: MCL 330.1600(b):

"... the probate court or the court with responsibility with regard to mental health services for the county of residence of an individual with developmental disability, or for the county in which the individual was found if a county of residence cannot be determined."

MENTAL HEALTH PROCEEDINGS (MI)

**Venue: MCL
330.1400(c):**

“ ... the probate court or the court with responsibility with regard to mental health services for the county of residence of the subject of a petition, or for the county in which the subject of a petition was found.”

DECEDENT ESTATES (DE, DA)

**First Proceeding Venue: MCL
700.3201(1):**

“(a) The county where the decedent was domiciled at the time of death.

(b) If the decedent was not domiciled in this state, in a county where property of the decedent was located at the time of death.”

**Subsequent Proceeding
Venue: MCL 700.3201(2):**

“. . . in the place where the initial proceeding occurred, unless the initial proceeding has been transferred”

TRUST MATTERS (TV)

Venue: MCL 700.7204:

- (a) “. . . in the place of registration;
- (b) “. . . in any place where the trust could be registered and, if created by will . . . the county in which the decedent’s estate is being administered.”

Trust Registration Venue; MCL 700.7209:

- (1) “. . . at the place designated in the terms of the trust or, if none is designated, then at the principal place of administration. . . . The principal place of the trust’s administration is the trustee’s usual place of business where the records pertaining to the trust are kept or the trustee’s residence if the trustee does not have such a place of business.”

REASONS FOR VENUE CHANGES:



VENUE IS NOT PROPER OR HAS
BECOME IMPROPER

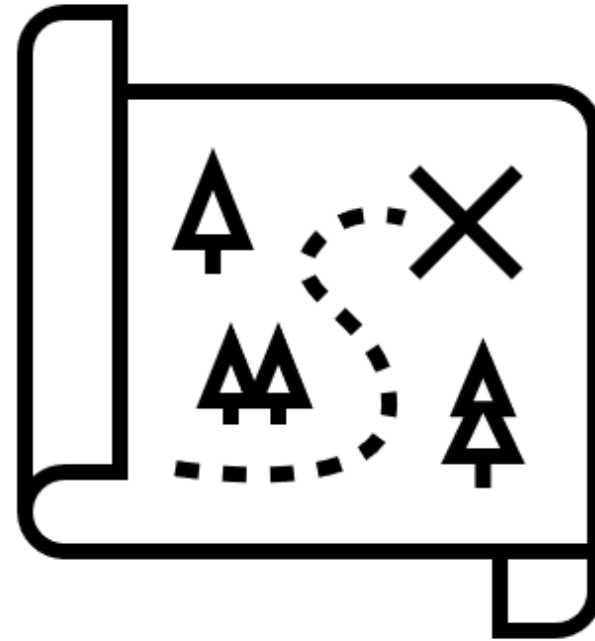


MOTION OF INTERESTED PARTY
OR ATTORNEY FOR CONVENIENCE



IMPARTIAL TRIAL CANNOT BE
HAD WHERE ACTION IS PENDING

VENUE IS
CHANGED
DIFFERENTLY,
DEPENDING ON
WHETHER VENUE
IS PROPER OR
IMPROPER



IF VENUE IS PROPER IN THE COUNTY WHERE THE FILE IS LOCATED . . .

- Pursuant to MCR 2.222(B):
 - Motion by interested party is required.
 - Court may not change venue on its own initiative.

IF VENUE IS IMPROPER IN THE COUNTY WHERE THE FILE IS LOCATED . . .

- Pursuant to MCR 2.223(A), the court:
 - “**shall** order a change of venue on timely motion of a defendant,” MCR 2.223(A)(1) (*emphasis added*)
 - “**may** order a change of venue on its own initiative, **with notice to the parties and an opportunity for them to be heard . . .**” MCR 2.223(A)(2) (*emphasis added*)

PROBATE COURT VENUE GENERAL PRACTICE

Once venue has been determined to be appropriate and a case has been accepted and initiated by the Court, venue is rarely transferred before completion of the initial proceeding unless there is a motion by an interested party or extenuating circumstances.

For Kent County, the majority of venue transfers sent or received involve guardianships and conservatorships, largely because these cases can remain active for years and venue may no longer be proper due to a residence change of the ward.

RATIONALE FOR CHANGING GUARDIAN/CONSERVATORSHIP VENUE

Venue under the statute is appropriate where the ward resides.

In most case, the ward has been deemed incapacitated, and requiring them to travel to an out-of-county court for services creates barriers.

Guardianship in-person reviews are required after the first year of appointment and every three years thereafter. MCR 5.408(A)(2); MCL 700.5309

If a subsequent termination or modification petition is filed, it is difficult to manage the case from a distance.

Counsel may be appointed and will need meet with their client in person.

Guardian ad litem appointment is required with in-person meeting. MCL 700.5305(a)

Ward has a right to be present in-person for any hearing and may even request that the hearing be conducted offsite. MCL 700.5304(4)

WHEN VENUE IS
GENERALLY
BROUGHT TO
COURT'S
ATTENTION

On motion of interested party

When an address change is
received by the Court either from:

- Annual Report of Guardian
- Notification of address change by guardian

KENT COUNTY PROCESS
TO INITIATE CHANGE
VENUE ON COURT'S OWN
MOTION



Notice of Intent
to Change Venue
letter sent to
interested
parties



PCS CODE: NOTCV

DAVID M. MURKOWSKI
CHIEF JUDGE
AVERY D. ROSE
PROBATE REGISTER
AIMEE J. CORY
DEPUTY REGISTER



SUITE 2500
180 OTTAWA AVENUE NW
GRAND RAPIDS, MI 49503-2751

STATE OF MICHIGAN
KENT COUNTY PROBATE COURT

NOTICE REGARDING CHANGE OF VENUE

September 3, 2023

RE:

After review of the file in the above captioned matter, it appears that venue in Kent County is no longer proper. As such, the Court, on its own initiative, has elected to transfer venue, pursuant to MCR 2.223(A)(2).

PLEASE TAKE NOTICE that an Order to Change Venue shall be entered 14 days after the date of this Notice unless an objection is filed by an interested person prior to that date. Any objection should clearly state the name of the case, file number, and reason for the objection. An objection must also include the name, address, and phone number of the objecting party, as well as the objecting party's relationship to the ward, or the entity named in the case caption.

Any objections filed in response to this Notice will be reviewed by the Court to determine whether a hearing is necessary.

If you have any questions, you may contact the Court at probatecourt@kentcountymi.gov or by calling (616) 632-5440.

Probate Register / Deputy Register

September 3, 2023
Date

cc: Interested Persons



Objection Form



STATE OF MICHIGAN
PROBATE COURT
COUNTY OF KENT

OBJECTION TO CHANGE OF VENUE
AND ORDER

FILE NO.

In the matter of _____

1. I am interested in this matter and object as _____
State interest/relationship
2. The interested persons, addresses, and their representatives are identical to those appearing on the initial application/petition, except as follows: (for each person whose address changed, list the name and new address; attach separate sheet if necessary)

3. I OBJECT TO CHANGING VENUE for the following reasons:

4. I request that:

I declare under the penalties of perjury that this petition has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

_____ Attorney signature		_____ Date	
_____ Name (type or print)		_____ Objectant signature	
_____ Address	_____ Bar no.	_____ Objectant name (type or print)	_____
_____ City, state, zip	_____ Telephone no.	_____ Address	_____
_____ City, state, zip	_____ Telephone no.	_____ City, state, zip	_____ Telephone no.

ORDER

IT IS ORDERED that the above objection is granted. denied. dismissed. set for a hearing.

Date

Judge

Bar no.

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

OBJECTION TO CHANGE OF VENUE AND ORDER



If an Objection is filed . . .

the file and
Objection are sent
to the Judge for
review

Judge uses
Objection form to
grant, deny or set
for hearing

If No Objection is filed . . .

- Order to Change Venue (PC608o) is prepared and submitted to judge for signature
 - Check appropriate reason for change
 - If venue is changed on Court's own initiative, Kent County includes current address of ward in box d "other" to make it clear to the receiving court that the ward is now residing in their county.

Once Order is entered . . .

Copies of the Order are sent to interested parties as required by MCR 2.223

File is copied

Register of Actions is printed

Exemplification of Records form (MC202) is prepared

File is transferred to receiving court with letter requesting confirmation of receipt

HON. DAVID M. MURKOWSKI
CHIEF PROBATE JUDGE

HON. AVERY D. ROSE
PROBATE JUDGE



KALIE GASCHO
PROBATE REGISTER

AIMEE J. CORY
DEPUTY REGISTER

STATE OF MICHIGAN
KENT COUNTY PROBATE COURT
180 OTTAWA AVENUE NW, STE 2500
GRAND RAPIDS, MI 49503-2751

September 4, 2023

XXXX County Probate Court
1234 First Street
Hometown, MI 49000

In the Matter of:
File #:

To Whom It May Concern,

Enclosed please find an Order to Change Venue that was recently entered in the matter listed above. We are enclosing a copy of our file and have sent a copy of the Order to Change Venue to the fiduciary. *Please sign and date at the bottom of this letter as proof of receipt and return it to the Kent County Probate Court.*

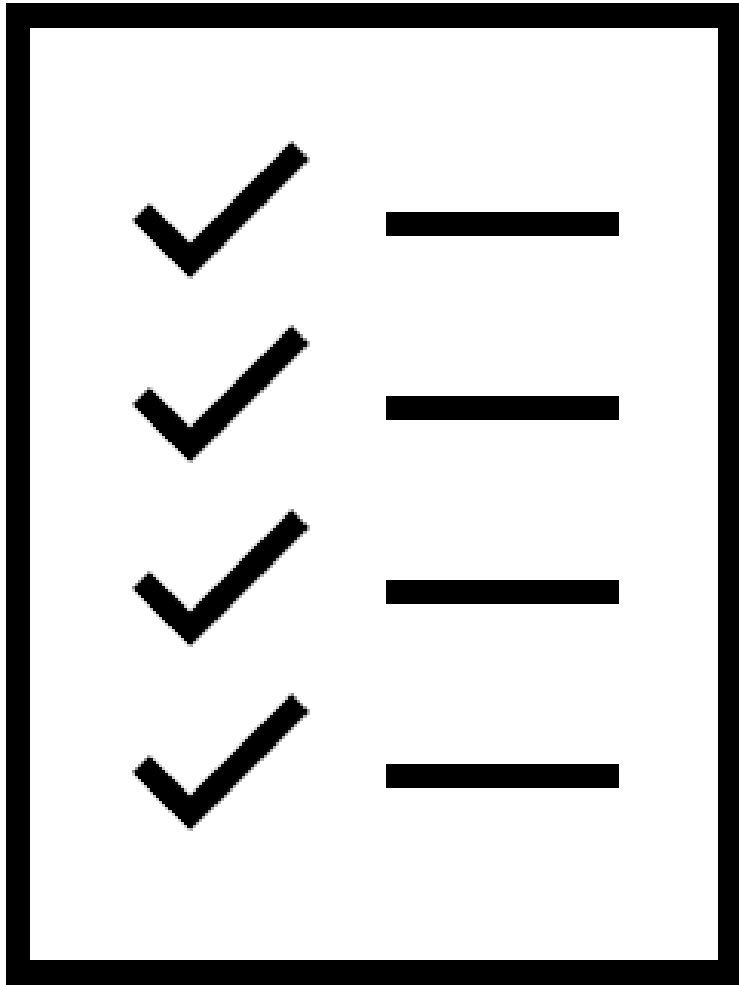
Should you have any questions or concerns regarding this matter, feel free to contact me at the number below. Thank you.

Respectfully,

xxxx
Kent County Probate Court Clerk II
(616) 632-5423

Date

Signature and Title



KENT COUNTY
PROCESS WHEN
RECEIVING
CHANGE OF
VENUE

REVIEW FILE

Is file current?

Any deficiencies? Are Annual Reports/Accounts and any required account allowance hearings up to date and complete?

Any pending matters or unresolved hearings?

For LII guardianship files, is there a guardianship review completed within the last three years?

Have all documents listed on the Register of Actions been received?

If everything is current and venue is proper, the file is accepted.

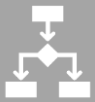
PROCESSING RECEIVED CHANGE OF VENUE FILE - KENT COUNTY

- The case is initiated.
 - Kent County does not re-enter each document received by the previous court. Docket entry indicates: “ALL PLEADINGS RECEIVED & REVIEWED PER DOCKET SHEET RECEIVED FROM ----- COUNTY FOR PERIOD OF 00/00/0000 TO 00/00/0000.”
 - Ticklers are set based on date of original appointment by the previous county, if applicable.
 - New Letters are issued, if applicable.

REJECTING CHANGE OF VENUE



Rejection by the receiving clerk can be done if ". . . the order lacks the information necessary for the receiving court to determine under which rule the transfer was ordered, MCR 2.226(B)



If the Clerk is rejecting, the Clerk completes the Notice of Refusal of Transfer on page 2 of the Order to Change Venue, (PC608o)



File is returned to the transfer court within 7 business days



Transfer court prepares a corrected Order to Change Venue and retransfers the file within 7 business days, MCR 2.226(C)

AVOIDING LEGAL LIMBO

- It's important to avoid leaving families or litigants in legal limbo with little recourse.
- Files should be processed expeditiously.
- If a file is refused and returned, a clear reason and/or authority should be provided.
- If disputes do occur, courts should work together to resolve them as quickly as possible.



QUESTIONS?
COMMENTS?
DISCUSSION?

