

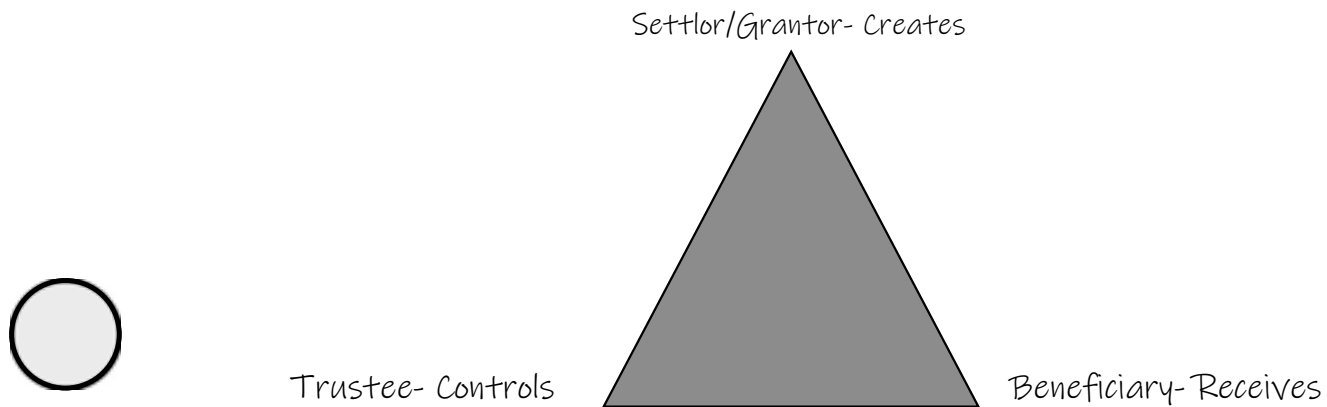
# TRUST FILES

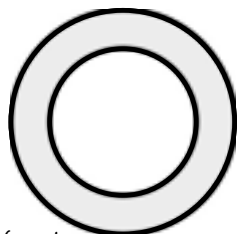
MARA W. TRUDELL  
PROBATE DIVISION  
ADMINISTRATOR/REGISTER  
PB6606

KALAMAZOO COUNTY PROBATE  
COURT

Trusts: A fiduciary relationship where one party, known as the **settlor** gives another party, the **trustee** the right to hold title, property or assets for the **benefit** of a third party, the **beneficiary**.

Trusts are established to provide legal protection for and of the settlor's assets. Trusts also require that the assets of the settlor are being distributed **according to the wishes of the settlor**.





TT = Testamentary Trust (take effect upon death of the Settlor and is irrevocable)

TV = Trust Inter-Vivos (created during lifetime of Settlor can be revocable or irrevocable)

TR = Registration of Trust or Will Filing

SNT = Special Needs Trusts  
(generally created to allow disabled individuals to retain governmental benefits)

## Trust Types

- Filing fee in Probate Court is \$175.00 (for a Trust) (\$150.00 + \$25.00 EFF)
- In Kalamazoo, if we receive waivers and consents from all interested parties, Judge will typically sign the Order that day- bypassing the need for a hearing.

\*\* As a general rule of thumb- I like to explain to the public that trust files fall outside of Probate proceedings UNLESS the trust is registered with our County.



## Petition Requirements

- 1) List of Interested Parties
- 2) Copy of the Trust Agreement
- 3) Verification Clause \* Per MCR 1.109
- 4) Venue must be proper
- 5) All attachments/exhibits
- 6) Relevant legal authority

## Common Reasons Why is a Petition Filed?

- 1) To modify, replace or appoint a new Trustee;
- 2) Requesting a distribution;
- 3) Or a Request for an Accounting or Supervision;

\*MCR 5.502- Discusses "supervision of a trust": essentially the Court can require an inventory and annual accounting to be filed (like Conservatorship accounts)

\* MCR 5.501: Outlines what "unsupervised administration" looks like (this is the most common process), qualifications of a trustee ect.

## Venue: MCL 700.7204

1) Except as otherwise provided in subsection (2), venue for a proceeding involving a trust is as follows:

(a) For a proceeding under section 7203 involving a registered trust, in the place of registration.

(b) For a proceeding under section 7203 involving a trust not registered in this state, in any place where the trust properly could be registered and, if the trust is created by will and the estate is not yet closed, in the county in which the decedent's estate is being administered.

(c) As otherwise specified by court rule.

(2) If a trust has no trustee and has not been registered, venue for a judicial proceeding for the appointment of a trustee is as follows:

(a) In a county in this state in which a trust beneficiary resides.

(b) In a county in which any trust property is located.

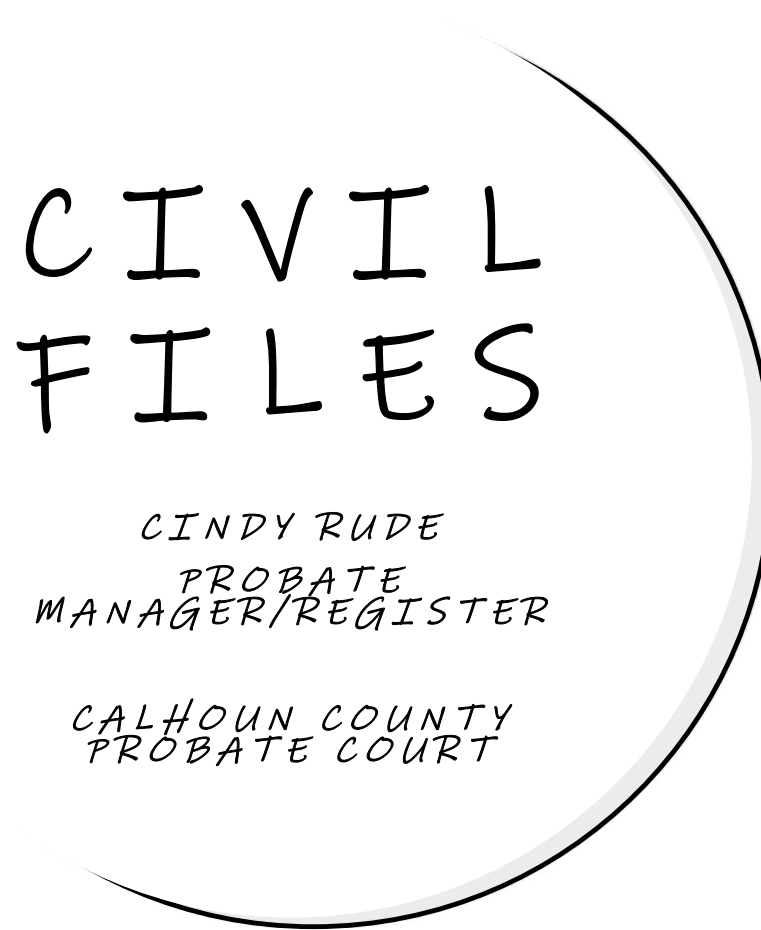
(c) If the trust is created by will, in the county in which the decedent's estate was or is being administered.

(d) As otherwise provided by court rule.

# DUTIES AND OBLIGATIONS OF A TRUSTEE

Trustees have *fiduciary duties* to the Settlor when administering the Trust.

- **Duty of Loyalty:** Disclosing/avoiding conflicts of interest.
- **Duty of Care:** Practicing due diligence before acting.
  
- Duty to Inform and Account to Beneficiaries (Keeping beneficiaries reasonably informed of the trust and the administration associated)
  
- Upon request from a beneficiary the trustee shall provide a copy of the trust document to the beneficiary
  
- Obligation of an Annual Accounting AND on termination of the Trust



CIVIL  
FILES

CINDY RUDE  
PROBATE  
MANAGER/REGISTER

CALHOUN COUNTY  
PROBATE COURT

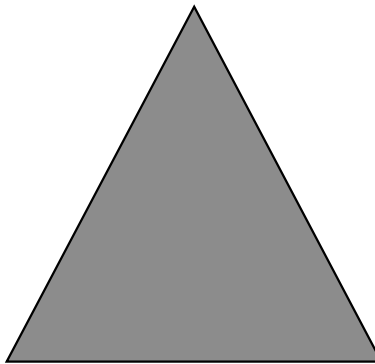
RULE 5.101 FORM AND COMMENCEMENT OF ACTION

(A) Form of Action. There are two forms of action, a “proceeding” and a “civil action.”

(B) Commencement of Proceeding. A proceeding is commenced by filing an application or a petition with the court.

(C) Civil Actions, Commencement, Governing Rules. The following actions must be titled civil actions and commenced by filing a complaint and are governed by the rules applicable to civil actions in circuit court:

*Filed in Probate Court*



(1) Filed by Fiduciary

(2) Filed by claimant after claim disallowed.



## MCR 2.102 Summons & Complaint (\$175 filing fee)

- (A) Issuance. On the filing of a complaint, the court clerk shall issue a summons to be served as provided in MCR 2.103 and 2.105. A separate summons may issue against a particular defendant or group of defendants. A duplicate summons may be issued from time to time and is as valid as the original summons.
- (B) Form. A summons must be issued “In the name of the people of the State of Michigan,” under the seal of the court that issued it. It must be directed to the defendant, and include
  - (1) the name and address of the court,
  - (2) the names of the parties,
  - (3) the case number,
  - (4) the name and address of the plaintiff’s attorney or the address of a plaintiff appearing without an attorney,
  - (5) the defendant’s address, if known,
  - .....
- (D) Expiration. A summons expires 91 days after the date the summons is issued. ...

What does  
that mean?  
What do WE  
do?

- SCAO forms are great!

Summons section completed by court clerk.

**SUMMONS**

**NOTICE TO THE DEFENDANT:** In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons and a copy of the complaint to **file a written answer with the court** and serve a copy on the other party or **take other lawful action with the court** (28 days if you were served by mail or you were served outside of Michigan).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

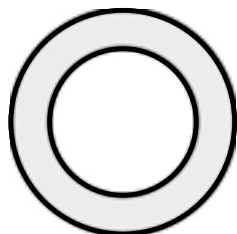
Issue date	Expiration date*	Court clerk
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\*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

MC 01 (3/23) **SUMMONS**

MCR 1.109(D), MCR 2.102(B), MCR 2.103, MCR 2.104, MCR 2.105

- Date/Sign bottom of the form
- Expires in 91 days
- Return to Plaintiff for service



Return of Service: Must be served before expiration of Summons

If Served: Answer must be filed by defendant(s) within 21 days of personal service or within 28 days of certified mail service.

If not served: Prepare Dismissal for Non-Service/No Progress (MC 9a). Dispo as Dismissed for any defendant not served.

## What's Next?

- If Answer Filed:
- Set for Pretrial
- Case is bench/attorney driven
- Motions/discovery/etc.
- Each defendant must have disposition
- Enter appropriate disposition code:
  - By Civil Judgement
  - Trial Non-Jury
  - Trial Jury
  - Settled
  - Dismissed



# If Served, but no Answer Filed

- Plaintiff may request Default Request and Entry.
- Clerk signs Default Entry
- Return to Plaintiff for Service on Defendant
- Defendant has 7 days after served with Default to file Motion to Set Aside Default
- If Plaintiff serves Default and Defendant does not file Motion to Set Aside, Judge or Clerk can sign Civil Judgment (MC 10)

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT	DEFAULT REQUEST AND ENTRY	CASE NO. and JUDGE
Court address		Court telephone no.
Address: 3000 Form MC 10 - Rev. 8/22 MCL 50.317, MCL 600.2441, MCL 600.2756, 50-USC 3601, MCR 2.102 Page 1 of 2		Describe term to Court Appellate All other parties

Default Request and Entry (MC 10)  
Page 2 of 2

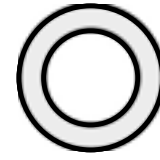
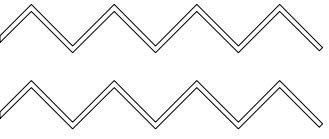
Case No. \_\_\_\_\_

NOTE: Default can be entered by a district court clerk without the request of a party.

**DEFAULT ENTRY**

The default of the party named above for failure to plead or otherwise defend is entered.

Clerk clerk signature and date



**Q U E S T I O N S ?**

