

FILED
IN COMMON PLEAS COURT
2017 FEB 15 PM 3:28

RESPONSE TO "NOTICE OF EX PARTE COMMUNICATION AND ADVISEMENT TO THE CLERK AND LITIGANTS", FILED ON CASE NO. 84 PC 000139 BY JUDGE JOHN. J. LOHN

Affidavit of Kimberly Laurie

PROBATE-JUVENILE
DIVISION
GEAUGA COUNTY, OHIO

STATE OF OHIO
COUNTY OF GEAUGA

The undersigned, Kimberly Laurie, being duly sworn, hereby deposes and says:

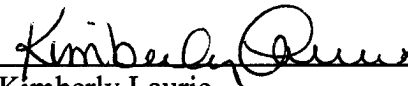
1. I am over the age of 18 and am a resident of the State of Ohio. I have personal knowledge of the facts herein, and, if called as a witness, could testify completely thereto.
2. I suffer no legal disabilities and have personal knowledge of the facts set forth below.
3. On or before February 7, 2017, I, as Fiscal Director of the Geauga County Probate/Juvenile Court, received an invoice for Master Commissioner fees being charged to the Court by Thrasher, Dinsmore & Dolan in the amount of \$7,025.00, which includes a carryover balance of \$150.00 and new charges for services provided between December 26, 2016 and January 6, 2017, for case number 84 PC 000139. As is standard administrative procedure for any invoice for attorney's fees, and per ORC 2101.07 specific to Master Commissioner fees, I brought the invoice to Judge Grendell to review the appropriateness of the fees charged, in order to ensure that they are "allowed to other officers for similar services", and approve the invoice prior to submitting them for payment by the Geauga County Auditor. Judge Grendell informed me that, as having recused himself from the case, he is not authorized to review the Master Commissioner's fee invoice and therefore I would need to contact Judge Lohn, the Visiting Judge assigned to the case by the Ohio Supreme Court.
4. On February 7, 2017, I called Judge Lohn to notify him that we received the Master Commissioner's fee invoice. We had a very pleasant conversation which lasted approximately 12 minutes. I did not ask Judge Lohn to set a hearing on the invoice – having no knowledge of Court procedures leading to the approval of an invoice, a requirement of a hearing never would have crossed my mind. Instead, I had asked if I could email the invoice to him for review, then he could let me know if the fees charged were appropriate and thus authorize payment, or if the fees would need to be adjusted, in which case I would then rely on him to advise how to proceed. Judge Lohn kindly explained that he had understood the statement in Judge Grendell's order assigning a Master Commissioner to the case on September 16, 2016 ("*Master Commissioner fees shall be allowed and taxed as costs pursuant to R.C. 2101.07*"), to mean that Judge Grendell had "*approved the fees prospectively and without limitation; before they were earned, before they were submitted and before the parties could review and challenge them,*" as stated in Judge Lohn's February 2, 2017 journal entry.

5. I told Judge Lohn that I would need to confirm if it truly was the intent of the judgment entry that the invoice was pre-approved, and indicated that if he did not hear back from me, that would mean that it was pre-approved and therefore I would submit it for payment. However, if it was not pre-approved, I would email it to him for review and further advisement. I asked him for his email address for this purpose, and he provided it.
6. Judge Lohn asked me to send him a copy of the timestamped February 2, 2017 judgment entry, which I emailed to him shortly thereafter.
7. On February 9, 2017, I sent Judge Lohn an email, with the Master Commissioner's fee invoice attached, updating him that the September 16, 2016 did not pre-approve the fee amounts, therefore I still needed the invoice reviewed for appropriateness of the fees charged. I sent him a second email to further clarify the situation as there was a misunderstanding about the verbiage in Judge Grendell's September 16, 2016 judgement entry. These emails are appended to this affidavit in their original format.
8. Judge Lohn did not advise me that following up via email, as we discussed in our phone conversation, would be considered "ex parte" communication.
9. I did not request that Judge Lohn schedule a hearing concerning the invoice during any of our communications.
10. As of today, the invoice has not been approved for payment.

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I declare that, to the best of my knowledge and belief, the information herein is true, correct and complete.

Further affiant sayeth naught.



 Kimberly Laurie

Sworn to and subscribed before me by Kimberly Laurie on the 15th day of February, 2017.

STATE OF OHIO, COUNTY OF GEAUGA, ss:



 Notary Public



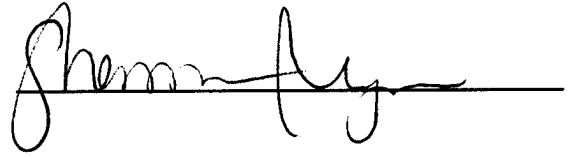
SHAWNA MYERS
 Notary Public, State of Ohio
 My Commission Expires
 January 25, 2021
 Recorded in Geauga County

 Title (and Rank)

My commission expires on

CERTIFICATE OF SERVICE

I certify that an accurate copy of the attached affidavit was served by regular US mail on the following persons, this 15th day of February, 2017: Hon. Timothy J. Grendell, Judge and ex officio Clerk; Master Commissioner Mary Jane Trapp; Chester Township Board of Trustees; Geauga County Prosecuting Attorney; Atty. Raskin / Atty. Scialdone; Chester Township Board of Park Commissioners; Atty. Gillette.



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CLERK OF COURT
JUVENILE
DIVISION
GEAUGA COUNTY, OHIO

ATTACHMENTS

Laurie, Kimberly D.

From: Laurie, Kimberly D.
Sent: Thursday, February 09, 2017 8:56 AM
To: 'jjlohn@zoominternet.net'
Subject: Master Commissioner Invoice
Attachments: 201702090858.pdf

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PROBATE-JUVENILE
DIVISION
GEAUGA COUNTY, OHIO

Good morning Judge Lohn,

I spoke with Judge Grendell regarding the invoice and he said that his September judgment entry indicated that the fees would be expensed to the Court, however he did not pre-approve the amount of the fees. We need you to please review the attached invoice and let me know if the fees charged are appropriate or if they require an adjustment.

Thank you,

Kimberly Laurie
Budget/Fiscal Director & County Liaison
Geauga County Probate Juvenile Court
Courthouse Annex, 2nd Floor
231 Main Street, Suite 200
Chardon, OH 44024
440-279-1868
klaurie@geaugacourts.org
www.geaugacourts.org

THRASHER, DINSMORE & DOLAN
 100 Seventh Avenue, Suite 150
 Chardon, Ohio 44024-1079
 (440) 285-2242 or (216) 255-5431
 Fed.Tax ID 34-1264449

FILED
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2017 FEB -3 AM 9:43

January 25, 2017

GEAUGA COUNTY PROBATE COURT

231 Main Street, Suite 200
 Chardon, OH 44024

MASTER COMMISSIONER APPOINTMENT
 IN RE: CHESTER TOWNSHIP PARK DISTRICT
 GEAUGA COUNTY PROBATE COURT CASE NO. 84P000139

PROBATE-JUVENILE
 DIVISION
 GEAUGA COUNTY, OHIO
 Invoice# 77726 MJT
 Our file# 17051 00000
 Billing through 01/25/2017
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84PC000139

Balance forward as of invoice dated December 25, 2016	\$150.00
Payments received since last invoice	0.00
Accounts receivable balance carried forward	\$150.00

PROFESSIONAL SERVICES

12/26/2016	MJT	Review of trustees minutes and Radtke emails.	2.50 hrs.	625.00
12/26/2016	MJT	Review emails re: status of negotiations on agreement and 8/9/16 hearing tape.	0.50 hrs.	125.00
12/26/2016	MJT	Research interference issues vis-a-vis agreements and 6/22/16 judgment entry.	3.00 hrs.	750.00
12/26/2016	MJT	Research fraud on court case law.	0.50 hrs.	125.00
12/26/2016	MJT	Research general questions re: dissolution, affect of initial application to probate court and agreement.	1.00 hrs.	250.00
12/27/2016	MJT	Call to Joe Weiss to arrange interview of Park Commissioners - not in, left detailed message with secretary. (N/C)	0.10 hrs.	N/C
12/27/2016	MJT	Call from Joe Weiss with contact numbers for Commissioners. (N/C)	0.10 hrs.	N/C
12/27/2016	MJT	Call to Phillbrick, not in - left detailed message on voicemail. (N/C)	0.10 hrs.	N/C
12/27/2016	MJT	Call to Laurence, not in - left detailed message on voicemail. (N/C)	0.00 hrs.	N/C
12/27/2016	MJT	Call to Parker, not in - left detailed message on voicemail. (N/C)	0.10 hrs.	N/C
12/27/2016	MJT	Call to Yandell - spoke with him re: contact.	0.20 hrs.	50.00
12/27/2016	MJT	Call from Laurence - spoke with him re: contact.	0.10 hrs.	25.00

12/27/2016	MJT	Call from Philbrick - spoke with her re: contact.	0.20 hrs.	50.00
12/27/2016	MJT	Letter to Attorney Raskin re: document production.	0.30 hrs.	75.00
12/27/2016	MJT	Review original formation judgment entry.	0.10 hrs.	25.00
12/29/2016	MJT	Review twp 2017 budget.	0.10 hrs.	25.00
12/29/2016	MJT	Email from Weiss with letter from Gillette to auditor and CTPD 2017 budget reviewed.	0.10 hrs.	25.00
12/30/2016	MJT	Email from Richter with 12/8/16 minutes and CD with additional meeting tapes will be available today. Review minutes.	0.10 hrs.	25.00
12/30/2016	MJT	Pick up additional documents at Chester.	0.20 hrs.	50.00
12/30/2016	MJT	Continue research and drafting; review court of appeals briefs.	5.00 hrs.	1,250.00
12/31/2016	MJT	Continue drafting; Review new tapes and Kinney emails.	4.00 hrs.	1,000.00
01/01/2017	MJT	Continue drafting; listen to tapes of 8/18/2016 and 9/3/2016 trustee meeting.	4.00 hrs.	1,000.00
01/02/2017	MJT	Revised draft 1.	2.00 hrs.	500.00
01/02/2017	MJT	Call from Al Parker.	0.10 hrs.	25.00
01/02/2017	MJT	Edit and finalize interim report.	1.50 hrs.	375.00
01/06/2017	MJT	Hearing.	2.00 hrs.	500.00
				\$6,875.00

Billing Summary

Total professional services	\$6,875.00
Total of new charges for this invoice	\$6,875.00
Plus net balance forward	\$150.00
Total balance now due	\$7,025.00

IN ORDER TO ENSURE PROPER ALLOCATION OF YOUR PAYMENT, PLEASE INCLUDE YOUR INVOICE NUMBER ON YOUR CHECK. THANK YOU.

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Laurie, Kimberly D.

From: Laurie, Kimberly D.
Sent: Thursday, February 09, 2017 11:09 AM
To: 'jjlohn@zoominternet.net'
Subject: Master Commissioner Invoice
Attachments: Lawriter - ORC - 2101.07 Master commissioners - powers - fees.pdf

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GEAUGA COUNTY, OHIO

Hi again,

To clarify what we need, ORC 2101.07 states *"The court shall allow the commissioner those fees that are allowed to other officers for similar services, and the court shall tax those fees with the costs."* Please see attached.

In Judge Grendell's September judgment entry, he merely taxed the Master Commissioner fees with the costs to the court as statutorily mandated. He did not do so without limitation. Rather, under 2101.07, the Court must review the fees as submitted to determine if those fees are reasonable and "fees that are allowed to other officers for similar services." That determination remains for your adjudication.

Thanks,

Kimberly Laurie
Budget/Fiscal Director & County Liaison
Geauga County Probate Juvenile Court
Courthouse Annex, 2nd Floor
231 Main Street, Suite 200
Chardon, OH 44024
440-279-1868
klaurie@geaugacourts.org
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2101.07 Master commissioners - powers - fees.

A special master commissioner of the probate court may administer all oaths required in the discharge of the commissioner's duties, may summon and enforce the attendance of witnesses, may compel the production of books and papers, and may grant adjournments the same as the court, and, when the court directs, the commissioner shall require the witnesses severally to subscribe the witnesses' testimony.

All process and orders issued by the commissioner shall be directed to the sheriff , shall be served, and return of the process and orders shall be made as if issued by the probate judge.

The court shall allow the commissioner those fees that are allowed to other officers for similar services, and the court shall tax those fees with the costs.

Amended by 129th General Assembly File No.52, SB 124, §1, eff. 1/13/2012.

Effective Date: 10-01-1953 .

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