

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS

In the Matter of the Appointment of an
Attorney to Assist Responsibilities for
the Law Practice of Joseph L. Dioszeghy

Administrative Order 16-04

PETITION TO CLOSE THE PRACTICE OF JOSEPH L. DIOSZEGHY,
DECEASED, AND FOR ORDER AWARDING FEES

COMES NOW, John P. Gerstle, an attorney in Johnson County, Kansas, duly authorized to practice law in the State of Kansas, and moves the Court for an Order terminating John P. Gerstle's appointment pursuant to Kansas Supreme Court Rule 221, and for fees associated with said appointment.

THEREUPON, John P. Gerstle presents his report in support of his Petition regarding the work performed administering and closing down the decedents law practice.

1. Joseph L. Dioszeghy became disabled in March 2016 and passed away shortly thereafter in June 2016.

2. John P. Gerstle was appointed in the instant case on the 18th day of April 2016, and has worked continually since that time to close the practice of the decedent.

3. On the 17th day of May 2016, counsel received an Order for the Court authorizing him to pay out from the decedent's trust account located at Enterprise Bank and Trust in Olathe, Kansas, account number xxxx8949, to pay out lawful claims and fees therefrom.

4. All known clients having current cases with the decedent were contacted to advise them of the decedent's death. John P. Gerstle contacted numerous attorneys to assist him in handing open cases that he was unable to personally manage and bring to a conclusion. Many cases were transferred and completed for no fee as all such cases had been pre-paid and there were no available funds in the trust account to compensate successor counsel. Some clients opted to pick up their files and engage new counsel. All remaining cases were handled by John P. Gerstle until all remaining cases were resolved and terminated.

5. Prior to obtaining appointment pursuant to Supreme Court Rule 221, a trust fund audit was conducted to determine the status of fees accepted for work yet to be done at the time of John P. Gerstle's appointment and it was determined that the amount was Fifty-Two Thousand Seventeen Dollars and

Twenty-Four Cents (\$52,017.24). Two additional claimants were owed Five Thousand Dollars (\$5,000.00) and One Thousand Five Hundred Two Dollars and Fifty Cents (\$1,502.50) respectively. The claimant owed Five Thousand Dollars (\$5,000.00) was then represented by John P. Gerstle at no expense to the claimant. The second client was offered his services for a fee to file and complete the work after first being credited for the first One Thousand Five Hundred Two Dollars and Fifty Cents (\$1,502.50). Said claimant has not re-contacted John P. Gerstle regarding representation.

6. All claimants were given claim forms to the Victim Compensation Fund for reimbursement. All such claims except one have been compensated fully by said fund. All claimants were advised that they had ONE YEAR from the date of loss to process their claims. Only the client owed a credit of One Thousand Five Hundred Two Dollars and Fifty Cents (\$1,502.50) failed to perfect her claim.

7. In April 2017, counsel was advised that a referral fee of approximately One Hundred Five Thousand Dollars (\$105,000.00) was being paid to Joseph L. Dioszeghy, Chartered. Said funds were paid temporarily into the trust account. The settlement was structured and the initial payment was Sixty-Eight Thousand, Eight Hundred Ninety-One Dollars and Forty-Two Cents (\$68,891.42). Additional funds will be received in 2018 and 2019 for Twenty-Five Thousand Dollars (\$25,000.00) and for Twenty Thousand Dollars (\$20,000.00).

8. When counsel was informed of the "windfall" to be paid to Joseph L. Dioszeghy, Chartered, (hereinafter referred to as JLD Chartered) he informed the Office of the Disciplinary Administrator to contact the Victim Compensation Fund to determine if they had any statutory rights to be reimbursed, or whether it intended to make claim. After consulting with the committee as well as the Office of the Attorney General, it was decided that no claim would be made and counsel was free to transfer all available funds from the trust account to the business account. During that period of time, the compensation fund sent a claim to counsel for verification. The claim was verified as part of the original audit, but by then, counsel was holding sufficient funds to pay directly from the trust account and the Compensation Fund terminated the claim. Claimant has been paid in full by Joseph Dioszeghy decedent's son, also an attorney, who became President and sole shareholder of JLD Chartered. (see attached letter). All known

cases of JLD Chartered are now closed and in the possession of Joseph Dioszeghy, who was appointed Co-Guardian and Co-Conservator on the 2nd day May 2016. See 16GC00051, a copy of said order is attached hereto. Joseph B. Dioszeghy was appointed strictly to care for and manage the law practice of JLD, Chartered, to prevent a conflict of interest as well as a breach of confidentiality as his widow, Michele Dioszeghy, is not an attorney.

9. All future calls or contacts from prior clients of Joseph L. Dioszeghy will be informed of his death and their rights of engagement of new counsel, and that will be handled on a “no fee” basis by either John P. Gerstle, or Joseph B. Dioszeghy, or their successors in interest, solely for the purpose of ensuring that all past or “new” clients will have the opportunity to be represented by counsel, at their option. Should engagement of counsel occur as a result of such inquiry or contact, said representation shall be fee-based agreed upon by client and selected counsel.

10. Counsel has never kept daily time records for the closure of the practice of Joseph L. Dioszeghy as he was aware that there were no assets in the trust account or business account. The referral fee paid, and to be paid, to JLD, Chartered, is a windfall, unknown at the time of counsel’s appointment. Subsequently, counsel met with and discussed the time and effort expended over a period of approximately fourteen (14) months, was given the opportunity to review all files and all other records of efforts to close the practice of Joseph L. Dioszeghy, deceased. Joseph B. Dioszeghy agrees and consents, with the Courts approval to award him the sum of Forty Thousand Dollars (\$40,000.00) for services rendered. As President, Joseph B. Dioszeghy knows and believes that John P. Gerstle has rendered valuable services well in excess of 200 hours on behalf of Joseph L. Dioseghy pursuant to his appointment, and has agreed to reduce his hourly fee from \$300/hr to \$200/hr resulting in the agreement and recommendation that the requested fee will be rewarded.

11. Counsel does not know of any open cases that have not been concluded and requests that counsel’s appointment, pursuant to Supreme Court Rule 221, be terminated, and permission be given to close the trust account and transfer remaining proceeds to the business account held by and operated by

Joseph B. Dioszeghy, and that a fee be awarded to John P. Gerstle and for such other relief as the Court deems just and equitable.

Respectfully Submitted by:

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/s/ John P. Gerstle

John P. Gerstle, KS 07793
Counsel Pursuant to Supreme Court Rule 221

/s/ Joseph B. Dioszeghy

Joseph B. Dioszeghy
President

R|D|M
TRIAL COUNSEL

JOSEPH DIOSZEGHY
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May 31, 2017

AMY CAMNITZ
13443 BALLENTINE ST.
OVERLAND PARK, KS 66214

Dear Ms. Camnitz,

Please find enclosed a check in the amount of \$7,575.45 in return of funds paid to Joseph L. Dioszeghy, Chtd. You are now in possession of your file and all funds owed to you.

Thanks,



Joseph Dioszeghy

cc: John P. Gerstle

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
PROBATE DEPARTMENT

In the Matter of the Guardianship and:
Conservatorship of:

JOSEPH L. DIOSZEGHY,
an adult with an impairment.

Case No. 16GC00051
Div. 15
Chapter 59

ORDER APPOINTING CO-GUARDIANS AND CO-CONSERVATORS

On May 2, 2016, comes on for trial the Petition for the Appointment of a Guardian and Conservator for Joseph Dioszeghy, an adult with an impairment. Petitioner Michele Dioszeghy appears in person and by attorney, Michael P. Dreiling, Jr. The Ward/Conservatee appeared by and through his court-appointed attorney, Brant McCoy. Joseph B. Dioszeghy appeared in person and by Charles J. Andres. Tobi M. Biter, GAL for Minor Child, appears in person. There are no other appearances.

After examining the files, hearing the evidence, statements and arguments of counsel, the Court finds that:

1. Notice of this hearing has been given as required by law and the order of this Court and proof has been duly filed herein and is approved.
2. A jury trial is not requested.
3. The allegations of the Petition are true.
4. Upon oral motion, Joseph B. Dioszeghy requested that the Court appoint him as a co-guardian with respect to the ward and conservatee's law license and to appoint him as co-conservator for the purposes of managing the ward and conservatee's law practice only, pursuant to K.S.A. 59-3078(b)(6).
5. By clear and convincing evidence, Joseph L. Dioszeghy is an adult with an impairment in need of a guardian and conservator, as defined in K.S.A. 59-3051.
6. By clear and convincing evidence, Joseph L. Dioszeghy is a Kansas licensed attorney with an ongoing legal practice that requires a co-conservator for purposes of managing his law practice.

CERTIFICATE OF CLERK OF THE DISTRICT COURT. The above is a true and correct copy of the original instrument filed on the 10 day of May, 2016, and recorded in this Court, Tenth Judicial District, Johnson County, Kansas.
Dated this 16 Day of May, 2016.
BY Nancy Buckley Deputy.
Chief Clerk of the District Court.

Clerk of the District Court, Johnson County Kansas
05/10/16 12:23pm NH

SCAN DATE 2017/06/28 10:10

7. Despite the existence of a potential conflict of interest as the spouse of the ward and conservatee, Michele Dioszeghy is a fit and proper person to be appointed co-guardian and co-conservator.

8. Michele Dioszeghy, as co-guardian, shall have the powers and duties as set out in K.S.A. 59-3075(b)(2) through (b)(8).

9. Michele Dioszeghy, as co-guardian, shall have the powers and authority to execute consent on behalf of the ward to adopt minor child in 12JC791.

10. Michele Dioszeghy, as co-conservator, shall have the powers and duties as set out in K.S.A. 59-3078(b)(1), (b)(2), (b)(3), (b)(4), (b)(5) and (b)(7). Michele Dioszeghy shall have no authority as a conservator with respect to the ward's law practice/business.

11. Joseph B. Dioszeghy, as co-guardian, shall have powers and authorities only with respect to the ward's law license.

12. Joseph B. Dioszeghy, as co-conservator, shall have the powers and duties for the purposes of the financial aspects of the conservatee's law practice/business as set out in K.S.A. 59-3078(b)(6), including managing, voting and exercising all rights of the corporate stock of Joseph L. Dioszeghy, Chartered, a Kansas Professional Association, and acting as its Resident Agent.

13. Michele Dioszeghy has filed evidence of completion of the instructional program required by K.S.A. 59-3069(j).

14. Each of the co-guardians shall both file independent annual guardianship reports and each of the co-conservators shall file independent annual accountings.

15. The annual accounting period of the co-conservators shall be the 12 month period ending April 30th of each year, beginning with the period ending April 30, 2017.

16. The annual reporting period for the co-guardians shall be the 12 month period ending April 30th of each year, beginning with the period ending April 30, 2017.

17. Joseph Dioszeghy's estate is of the following character and value:

<u>Type</u>	<u>Estimated Value</u>	<u>Probable Annual Income</u>
Residential Property	\$250,000	NONE
Rental Property	\$160,000	\$16,200
2013 Honda Pilot	\$20,000	NONE
Life Insurance Policies	\$178,000	NONE
Personal Items in Residence	\$15,000	NONE
Personal Items in Office	Unkown	NONE
Household Furniture, Appliances	\$150,000	NONE
2,452sh Joseph L. Dioszeghy, Chtd.	\$0.00	\$20,000
Social Security Benefit Payments		\$50,000
Personal Bank Accounts	\$795.22	NONE
Business Bank Accounts	UNKNOWN	NONE

Reasonably expected monthly expenses for housing, utilities, food, clothing of \$6,000.00.

IT IS THEREFORE ORDERED BY THE COURT that:

- A. The above findings be made a part of the order and decree of the court.
- B. Michele Dioszeghy is hereby appointed co-guardian and co-conservator for Joseph L. Dioszeghy for all personal matters and upon filing her oath, letters of co-guardianship and co-conservatorship shall issue.
- C. Joseph B. Dioszeghy is hereby appointed co-guardian for Joseph L. Dioszeghy with respect to the ward's law license and co-conservator for Joseph L. Dioszeghy with respect to the financial aspects of his law practice/business and upon filing his oath and affidavit evidencing completion of the instructional program required by K.S.A. 59-3069(j), letters of co-guardianship and co-conservatorship shall issue.

Clerk of the District Court, Johnson County Kansas
05/10/16 12:23pm NH

D. The co-guardians and co-conservators appointed herein shall annually report and account to the Court as provided in K.S.A. 59-3083 and in accordance with Supreme Court Rule 109, and at such other times as appropriate.

E. The co-guardians shall file independent reports and the co-conservators shall file independent inventories and valuations as required by law and the annual reporting period for the co-guardians and the annual accounting period of the co-conservators shall be the 12-month period ending April 30th pursuant to Local Probate Rule – No. 2.G., and each year thereafter until discharge by the court.

F. The co-guardians and co-conservators shall attend the Guardian and Conservator Workshop within six (6) months from the date of this Order.

/s/ MICHAEL JOYCE
Dated: 05/10/16

Hon. Michael P. Joyce
District Court Judge

Submitted and approved:

/s/ Michael P. Dreiling, Jr.

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