

## **FORM SUMMARY**

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**Name of Form:**                   **Application and Order Concerning Circuit Court Commissioner Duties In Probate Matters**

**Form Number:**                   **GF-163**

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**Statutory Reference:**           SCR 75.02(4); §757.72(5), Wisconsin Statutes

**Benchbook Reference:**

**Purpose of Form:**                To apply to the chief judge to authorize a register in probate to exercise the powers of a probate court commissioner and to give that authorization.

**Who Completes It:**            Circuit court judge making the application and chief judge making the authorization.

**Distribution of Form:**        Original to clerk of court, copies to circuit court judge, chief judge, and register in probate.

**Accompanying Forms:**

**New Form/Modification:**     Modification; last update 1/99.

**Modifications:**                Added a file/date stamp area to upper left corner. Added a statement on the bottom indicating that the form shall not be modified.

**Comments:**                    The Supreme Court by order 97-10 created SCR 75 effective January 1, 1999. Prior to the creation of SCR 75, the only reference to the ability of a register in probate to perform probate court commissioner duties was found in §757.72(5), Wisconsin Statutes. Although SCR 75 does not technically eliminate §757.72(5), Wisconsin Statutes, it does provide that:

"Upon application of a judge within the judicial administrative district exercising probate jurisdiction, the chief judge may, by order, authorize a register in probate to perform the duties of a circuit court commissioner in probate matters." SCR 75.02(4).

This form provides a method by which a circuit court judge can "apply" to the chief judge for an order "authorizing" the register in probate to perform the duties of a circuit court commissioner in probate matters. It also provides the order itself to be signed by the chief judge.

RMC believes this authorization does not transform the register in probate into either a circuit court commissioner or supplemental court commissioner. It "merely" allows a register in probate to exercise the powers of a circuit court commissioner in probate matters. This

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distinction is significant for several reasons. First, under §757.69(1), Wisconsin Statutes, a court commissioner appointed under various statutes (including a probate court commissioner) may exercise powers in areas outside of the "terminology" of the appointment. For example, a juvenile court commissioner appointed under §§48.065 or 938.065, Wisconsin Statutes, could be authorized to perform the duties more generally associated under the old designations of a family court commissioner under §767.13, Wisconsin Statutes. Because the authorization contemplated by SCR 75.02(4) and this form does not make the register in probate a probate court commissioner, there can be no potential cross referencing of duties. The register in probate when authorized under this order can only engage in probate-related probate court commissioner duties. However, if the register in probate is also an attorney and it is desired that this person be able to handle duties outside probate, that person should be appointed either a circuit court commissioner or supplemental court commissioner with additional authorizations by using GF-146.

Second, this authorization procedure does not require the register in probate to comply with the:

- reporting requirements of a circuit court commissioner found in SCR 70.36(5)(b) or (c); or,
- performance evaluation requirements of SCR 75.04(1) or (2); or,
- continuing education requirements of SCR 75.05; or,
- complaint/discipline procedure of SCR 75.06.

**About this form:**

This form is the product of the Wisconsin Records Management Committee, a committee of the Director of State Court's Office and a mandate of the Wisconsin Judicial Conference.

**If you have additional information that does not change the meaning of the form, attach it on a separate page. The form itself shall not be altered.**