

State of Maine

MAINE SUPREME JUDICIAL COURT

Docket No. BAR-18-009

IN RE: )  
 )  
James M. Whittemore, Esq. )  
 )  
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Order for  
Appointment of Receiver  
M. Bar R. 32

This Court Orders the following:

As of this date, Judy A.S. Metcalf, Esq., and the law firm of Eaton Peabody, is appointed as the Receiver of James M. Whittemore's law practice. As such Attorney Metcalf, with any necessary assistance from the Board of Overseers, shall have the sole authority to:

1. Take over the Whittemore law office and secure the professional files, client funds and file property of that law office;
2. Obtain signatory authority over all Whittemore law office bank accounts (IOLTA and operating/office accounts);
3. Obtain access to Mr. Whittemore's computer hardware and software; including any mobile devices (together with required passwords), and any post office boxes to secure all law office or legal mail;
4. Inventory the open and if necessary, the closed client files;
5. Give priority attention to client matters which are open and time sensitive;
6. Notify all courts that Attorney Metcalf is serving as Mr. Whittemore's Receiver until further order of this Court;

7. Notify clients or former clients that Attorney Metcalf is serving as Receiver to the Whittemore law practice and provide opportunity for clients to consult with the Receiver or retrieve their property; and
8. The Receiver shall access and utilize Mr. Whittemore's operating and IOLTA accounts to prudently and appropriately manage the practice. The Receiver may pay expenses, as she deems appropriate given available funds or anticipated receivables to the firm. The Receiver may also hire temporary office staff and take other action as necessary and appropriate to manage the Whittemore law practice.

As a service to the bar, Attorney Judy A.S. Metcalf acknowledges that she shall serve as Receiver on a *pro bono* basis, although if there are sufficient assets (including receivables) at six-month intervals, from Mr. Whittemore's law practice, Attorney Metcalf may be reimbursed from those assets. The Receiver shall submit a quarterly written report to the Court and the Board of Overseers of the Bar containing a record of time worked.

Likewise, the Receiver shall submit an itemized list of any disbursements made to effect the terms of this Order. Mr. Whittemore and his law practice shall be the first choice for source of payment for those disbursements. If insufficient assets are available from Mr. Whittemore, the Board of Overseers of the Bar may be an alternate payment source for those disbursements.

Attorney Metcalf shall act as Receiver until discharged by the Court either by Motion or in accordance with M. Bar R 32.

Attorney Metcalf, so appointed, shall not disclose any information contained in any file listed in the inventory without the consent of the client to

whom such file relates except as may be necessary to carry out an order of court including any order under M. Bar R. 32(a).

Furthermore, Attorney Metcalf may be engaged by any former client of Mr. Whittemore's provided that the Receiver informs such client in writing that the client is free to choose to employ any attorney, and that the Court's appointment order does not mandate or recommend the Receiver's employment by the client.

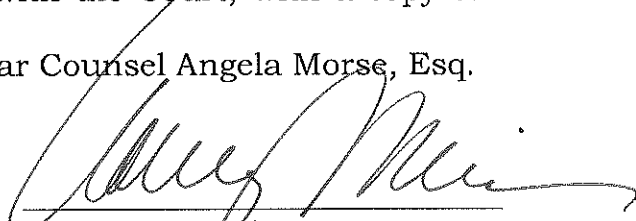
The Receiver is subject to all Maine Rules of Professional Conduct, including M. R. Prof Conduct 1.7; 1.8; and 1.9 regarding conflicts of interest. A client's retention of the Receiver as successor counsel is not a per se conflict of interest solely by reason of appointment by this Order.

Attorney Metcalf shall be protected from liability for professional services rendered in accordance with this Order.

Finally, within one-hundred and twenty (120) days of this Order, the Receiver shall file a status report with the Court, with a copy to the Board of Overseers of the Bar, c/o Special Bar Counsel Angela Morse, Esq.

Dated: July \_\_, 2018

*August 7, 2018*

  
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Associate Justice  
Maine Supreme Judicial Court  
*Superior*