Rule 1
Definitions

Section 1.1 Definitions

In these rules:

(1) “Account” means a document meeting the requirements of rule ~~36~~38 by which a fiduciary provides detailed information about the management of an estate.

(2) “Beneficiary of a decedent’s estate” means a person or fiduciary that is or may be entitled to a bequest or devise under a will.

(3) “C.G.S.” means the Connecticut General Statutes.

(4) “Clerk” means a chief clerk, deputy clerk, clerk or assistant clerk of the court.

(5) “Contingent remainder beneficiary” means a trust beneficiary who would be a presumptive remainder beneficiary on the date the beneficiary’s interest is determined if the interest of another presumptive remainder beneficiary terminated because a condition specified in the will or other governing instrument is not met.

(6) “Corporate fiduciary” means a bank, trust company or other corporation or business entity authorized to act as a fiduciary in this state.

(7) “Corporate surety” means a corporation or other business entity authorized to enter into contracts of suretyship for probate bonds in this state.

(8) “Court” means a Probate Court.

(9) “Current beneficiary” means a trust beneficiary who, on the date the beneficiary’s interest is determined, is a distributee or permissible distributee of trust income or principal.

(10) “Decree” means a written decision, order, grant, denial, opinion or other ruling of the court.

(11) “DRS” means the Department of Revenue Services.

(12) “Estate” means a decedent’s estate, trust, conservatorship estate, estate of a minor or other legal structure under which a fiduciary has a duty to manage assets held for the benefit of one or more persons.

(13) “Fiduciary” means a person serving as an administrator, executor, conservator of the estate, conservator of the person, guardian of an adult with intellectual disability, guardian of the estate of a minor, guardian of the person of a minor, temporary custodian of the person of a minor, trustee or person serving in any other role that the court determines is fiduciary in nature.

(14) “Financial report” means a simplified form of accounting meeting the requirements of rule 37 by which a fiduciary provides summary information about the management of an estate.

(15) “Heir” means an individual who would take any share of the estate of a decedent who died intestate.

(16) “Intestate” means having died without a valid will.

(17) “Minor” has the meaning provided in C.G.S. section 45a-604 (4).

(18) “Motion” means a written filing seeking court action that is incidental to the matter before the court.

(19) “News media” means an entity, or representative of an entity, that is regularly engaged in the gathering and dissemination of news and is approved by the office of the chief court administrator.

(20) “News media coverage” means broadcasting, televising, recording or photographing a hearing or conference by news media.

(21) “Nontaxable estate” means the estate of a decedent whose Connecticut taxable estate is less than or equal to the amount that is exempt from the Connecticut estate tax under C.G.S. section 12-391.

(22) “Party” means a person having a legal or financial interest in a proceeding before the court, a fiduciary under section 4.2 and any other person whom the court determines to be a party. The term has the same meaning as interested party.

(23) “Person” means an individual or entity.

(24) “Person under conservatorship” means a conserved person as defined under C.G.S. section 45a-644 (h) or a person under voluntary representation under C.G.S. section 45a-646.

(25) “Personal surety” means a surety that does not meet the requirements to be a corporate surety.

(26) “Petition” means a written filing that commences a matter in the court. The term has the same meaning as application.

(27) “Presumptive remainder beneficiary” means a trust beneficiary who would be a distributee or permissible distributee of trust income or principal on the date the beneficiary’s interest is determined if:

(A) the trust terminated on the date; or

(B) the interests of the current beneficiaries terminated on the date without causing the trust to terminate.

(28) “Probate bond” has the meaning provided in C.G.S. section 45a-139.

(29) “Probate court administrator” means the individual holding the office of the probate court administrator of this state.

(30) “Probate Court Rules” means the Connecticut Probate Court Rules of Procedure.

(31) “Public notice” has the meaning provided in C.G.S. section 45a-126.

(32) “Purported will” means an instrument purporting to be a decedent’s last will and testament and any codicil to it that has not been admitted to probate.

(33) “Structured settlement” means an arrangement under which a claimant accepts deferred payment of some or all of the proceeds of the settlement of a disputed or doubtful claim.

(34) “Taxable estate” means the estate of a decedent whose Connecticut taxable estate exceeds the amount that is exempt from the Connecticut estate tax under C.G.S. section 12-391.

(35) “Testate” means having died leaving a valid will.

(36) “Trust beneficiary” means a person that has a present or future beneficial interest in a trust, whether vested or contingent.

(37) “Trust protector” means a person identified in a will or other governing instrument who is charged with protecting the interests of a trust beneficiary and is identified as a trust protector, trust advisor, or beneficiary surrogate, or as a person in an equivalent role.

(38) “Will” means an instrument and any codicil to it admitted to probate as the last will and testament of a decedent.

Rule 5
Self-representation; Representation by Attorney and Appearance

Section 5.1 Representation before court

(a) A party who is an individual may represent himself or herself without an attorney.

(b) Except as provided in section 5.2 or 5.3, only an attorney licensed to practice law in Connecticut may represent a party before the court.

(c) Nothing in this rule shall prevent a fiduciary, except a corporate fiduciary, from representing himself or herself, as fiduciary, without an attorney.

Section 5.2 Out-of-state attorney appearing pro hac vice

(a) An attorney licensed to practice law in Connecticut may move to permit an attorney in good standing in another state, the District of Columbia or Puerto Rico to appear pro hac vice for a party. The moving attorney shall accompany the motion with:

(1) an affidavit of the out-of-state attorney:

(A) certifying whether the out-of-state attorney has any disciplinary matter pending in another jurisdiction, has ever been reprimanded, suspended, placed on inactive status, disbarred or otherwise disciplined, or has ever resigned from the practice of law and, if so, setting forth the circumstances concerning the discipline or resignation;

(B) agreeing to register with the statewide grievance committee in accordance with the provisions of the Connecticut Practice Book while appearing in the matter and for two years after completion of the matter and immediately notify the grievance committee of the expiration of the two-year period; and

(C) identifying the number of matters in which the out-of-state attorney has appeared pro hac vice in the Probate Courts and the Superior Court of this state; and

(2) a certificate, acknowledged before an officer authorized to take acknowledgements of deeds, appointing the judge of probate and the judge's successors in office to be the attorney's agent for service of process.

(b) The court may grant a motion to appear pro hac vice only on special and infrequent occasion. The court may act without notice and hearing. When deciding a motion under subsection (a), the court shall consider the facts or circumstances affecting the personal or financial welfare of the party, not the out-of-state attorney, which may include:

(1) a longstanding attorney-client relationship predating the matter;

(2) specialized skill or knowledge with respect to the party's affairs important to the matter; or

(3) the client's inability to secure the services of a Connecticut attorney.

(c) If the court permits an out-of-state attorney to appear pro hac vice, an attorney licensed to practice law in this state shall:

(1) file an appearance;

(2) attend all proceedings with the attorney appearing pro hac vice;

(3) sign all documents filed with the court; and

(4) assume full responsibility for the conduct of the matter and the attorney appearing pro hac vice.

(d) If the court permits an out-of-state attorney to appear pro hac vice, the court shall immediately notify the statewide grievance committee.

Section 5.3 Legal intern

(a) On motion of an attorney for a party, the court may permit a law student to serve as a legal intern on behalf of the party if the party consents. The petitioner shall accompany the petition with a certification by an authorized representative of the intern's law school that the school is accredited and that the intern is in good standing.

(b) If the court permits the legal intern to appear, the attorney for the party shall:

(1) supervise the intern;

(2) attend all proceedings with the intern;

(3) sign all documents filed with the court; and

(4) assume full responsibility for the conduct of the matter and the intern.

Section 5.4 When appearance required to be filed

(a) A party representing himself or herself is not required to file an appearance.

(b) Unless appointed by the court, an attorney representing a party shall file an appearance under section 5.5. If the requirements of section 5.1 (b) or 5.2 are met, an attorney in the appearing attorney's law firm may appear for the party for whom the appearance is filed without filing a separate appearance.

(c) A fiduciary without an attorney under section 5.1 (c) is not required to file an appearance.

Section 5.5 Form of appearance

(a) An appearance of an attorney shall:

(1) be typed or printed in ink;

(2) list in the heading the name of the matter, the name of the Probate Court and the date of the appearance;

(3) be signed by the attorney making the appearance;

(4) contain the name and juris number of the attorney and the name of the attorney's law firm, mailing address and telephone number; and

(5) indicate whether the appearance is filed in lieu of, or in addition to, an appearance on file.

(b) An attorney shall send a copy of the appearance to each attorney and self-represented party and certify to the court that the copy has been sent.

(c) If the appearance is in lieu of an appearance on file, the attorney filing the new appearance shall, in addition to the requirements of subsection (b), send a copy of the new appearance to the attorney whose appearance is to be replaced and certify to the court that the copy has been sent.

Section 5.6 Effect of appearance on ability to challenge jurisdiction

The filing of an appearance by an attorney, by itself, does not waive the right of the party represented by the attorney to challenge jurisdiction of the court.

Section 5.7 Withdrawal of appearance

(a) If permitted under rule 1.16 of the Rules of Professional Conduct, an attorney who is not a court-appointed attorney may withdraw the attorney's appearance by:

(1) filing a notice of withdrawal at least three business days before a scheduled hearing; and

(2) sending a copy of the withdrawal to each attorney and self-represented party and certifying to the court that the copy has been sent.

(b) The three-day notice requirement under subsection (a) does not apply if:

(1) an attorney has filed an appearance in lieu of another appearance on file under section 5.5; or

(2) the represented party has filed a written statement indicating that the party does not object to the withdrawal.

Section 5.8 Change of law firm name or contact information

An attorney who has entered an appearance shall notify the court of a change of name, mailing address or telephone number of the attorney's law firm.

Rule 8
Notice

Section 8.1 Notice of hearing and decree

Unless otherwise provided by law or these rules, the court shall:

(1) schedule a hearing or conference, as applicable, on each motion or petition, including the court's own motion;

(2) give notice of each hearing or conference in the manner provided in sections 8.2 through 8.9; and

(3) send a copy of each decree in the manner provided in section 8.10.

Section 8.2 To whom notice is given

(a) The court shall give notice under section 8.1 to each:

(1) party;

(2) attorney of record;

(3) fiduciary for a party under section 4.2; and

(4) other person required by law.

(b) If a proceeding may affect a charitable interest or beneficiary, the court shall give notice to the Attorney General under section 8.1.

(c) Unless otherwise prohibited by law, the court may give notice under section 8.1 to any person who:

(1) requests notice in writing under C.G.S. section 45a-127; or

(2) the court determines has a sufficient interest in the proceedings.

(d) On request of a party or on the court's own motion, the court may remove a person from the list of persons to whom the court will give notice of future proceedings if the court determines that the person is not entitled to notice under subsection (a). The court may act without notice and hearing. If the court removes a person from the list, the court shall notify the person, in writing, of the removal and inform the person that a written request for special notice may be

made under C.G.S. section 45a-127.

Section 8.3 Change of address while matter is pending

(a) A party shall inform the court and the fiduciary, if any, of a change in address of the party during the pendency of the matter.

(b) A fiduciary shall use reasonable efforts to keep informed of any change in address of a party to whom the fiduciary owes a fiduciary duty and shall notify the court of the change.

(c) If there is no fiduciary, a petitioner shall use reasonable efforts to keep informed of any change in address of a party during the pendency of the matter and shall notify the court of the change.

Section 8.4 Contents of notice of hearing

A notice of hearing or conference shall include:

(1) a description of the motion or petition to be heard or the subject matter of the conference;

(2) the time and place of the hearing or conference; and

(3) a list of the names and addresses of parties, attorneys and others to whom notice is being sent.

Section 8.5 How notice of hearing given

(a) Unless otherwise required by law, the court shall give notice of hearing or conference by:

(1) regular mail; or

(2) other method that the court determines necessary to notify a party of the hearing.

(b) Notice by mail is complete on mailing.

(c) Unless otherwise required by law or directed by the court, the court shall give notice of hearing or conference at least seven days before the hearing or conference.

(d) The court shall certify on the record the date and manner by which notice was given.

(e) If, before commencing a hearing or conference, the court reschedules the hearing or conference to another date and time, the court shall give notice of the rescheduled hearing or conference in accordance with this section. After commencing a hearing or conference at which parties are in attendance, the court may announce the date and time when the hearing or conference will continue without giving additional written notice.

Section 8.6 Streamline notice procedure

(a) Except as provided in subsection (i), the court may, in lieu of scheduling a hearing, use the streamline notice procedure for the matters set forth in subsections (g) and (h). Use of the streamline notice procedure under this section satisfies a requirement for notice and hearing under statute or these rules.

(b) When using the streamline notice procedure, the court shall give notice of the right to request a hearing to each person that the court determines is entitled to notice under section 8.2.

(c) A notice of the right to request a hearing shall include a statement that:

(1) the court will, on written request of a party, schedule a hearing on the motion or petition;

(2) the court must receive the written request for a hearing on or before the date specified in the notice; and

(3) the court may approve the motion or petition without a hearing if a written request for a hearing is not received on or before the date specified in the notice.

(d) The court shall give notice of the right to request a hearing at least ten days before the deadline to request a hearing.

(e) If the court receives a timely written request for a hearing, the court shall schedule a hearing and give notice of the hearing.

(f) If the court does not receive a timely written request for a hearing, the court may approve the motion or petition. The court may not deny the motion or petition without scheduling a hearing and giving notice of the hearing.

(g) Except as provided in subsection (i), the court shall use the streamline notice procedure under this section in the following matters:

(1) decedents' estates; and

(2) trusts.

(h) Except as provided in subsection (i), the court may use the streamline notice procedure under this section in the following matters:

(1) an account of a guardian of the estate of a minor;

(2) an account of a conservator of the estate;

(3) a motion to modify visitation orders;

(4) a motion to transfer a probate file between Probate Courts under C.G.S. section 45a-599 or 45a-677 (h);

(5) a motion to transfer a contested children's matter to the Superior Court under C.G.S. section 45a-623 or 45a-715 (g); and

(6) a petition to transfer a conservatorship matter to another state or accept a transfer from another state under C.G.S. section 45a-667p or 45a-667q.

(i) The court shall schedule a hearing rather than using the streamline notice procedure for a proceeding specified in subsection (g) or (h) if the court determines that:

(1) the matter is contested or requires testimony or legal argument;

(2) public notice is required to protect the interests of a party;

(3) the circumstances related to the particular petition require the conduct of a hearing with attendance by a party; or

(4) the matter involves the doctrine of cy pres or equitable deviation or the construction of a document that affects a charitable beneficiary or interest.

Section 8.7 Waiver of notice of hearing

(a) A party may waive the party's right to notice of hearing by filing a written waiver of notice.

(b) A fiduciary identified in section 4.2 may waive notice of hearing on behalf of the individual for whom the fiduciary acts by filing a written waiver of notice.

Section 8.8 Address unknown; notice of hearing returned undelivered

(a) Except as otherwise provided by law, if the name or address of a party is unknown, the court may give public notice of a hearing, appoint a guardian ad litem for the person, dispense with notice or take other appropriate action.

(b) If, before a hearing, notice to a person is returned to the court undelivered, the court may order additional mail notice. If additional mail notice would be futile, the court may give public notice, appoint a guardian ad litem for the person, dispense with notice or take other appropriate action.

(c) If, after the hearing but before a decree is issued, the court is notified of a new address for a person who might not have received notice of the hearing, the court may delay issuance of the decree for a reasonable period to allow the person to request another hearing or waive notice of hearing. The court shall give notice of the delay,

including the period and reason for the delay, to each person that the court determines is entitled to notice under section 8.2.

(d) If, after a decree is issued, the court is notified of a new address for a person who might not have received notice of the hearing, the court shall send a copy of the decree to the person and a statement that the person may wish to consult an attorney.

(e) If a person appears at a hearing for which the person did not receive proper notice, the court may proceed with the hearing unless:

(1) the court determines, on objection raised at the hearing, that the person would be prejudiced by the lack of notice; or

(2) the matter is a conservatorship proceeding and the respondent was not personally served as required under C.G.S. section 45a-649 (a) (2).

Section 8.9 Notice of hearing for member of military service

(a) A party to a proceeding identified under section 7.2 (c) who is in the active military service of the United States may file a special appearance indicating the address to which notice can be sent.

(b) If the party does not file a special appearance under subsection (a), the court shall appoint an attorney for the party and send notice of the appointment to each party and attorney of record.

(c) The court shall not issue a final decision in a matter identified in section 7.2 (c) unless the requirements of subsection (a) or (b) have been satisfied.

Section 8.10 Notice of decree

(a) The court shall send, by regular mail, a copy of each decree bearing the seal of the court to each person entitled to notice under section 8.2.

(b) Unless a different time is required by law or directed by the court, the court shall mail the copy of the decree not later than ten days after the date of the decree.

(c) The court shall certify on the decree or on a separate attached page the date the decree was mailed and the persons to whom the decree was sent.

Rule 13
Court-appointed Guardian Ad Litem

Section 13.1 Mandatory appointment of guardian ad litem

(a) The court shall appoint a guardian ad litem for:

(1) a parent who is a minor or is incompetent in a proceeding under C.G.S. sections 45a-603 through 45a-622 or sections 45a-715 through 45a-719;

(2) a minor child in a proceeding under C.G.S. section 46b-172a;

(3) a parent who is a minor or is incompetent in a proceeding under C.G.S. section 46b-172a;

(4) a relative in a proceeding under C.G.S. section 45a-751b or 45a-753 (c) whose identity is sought and whose address is unknown or who appears to be incompetent but has not been adjudicated incompetent by a court; and

(5) a party in a proceeding under any other statute or rule that requires appointment of a guardian ad litem.

(b) The court shall send a copy of the appointment to each party and attorney of record.

Section 13.2 Discretionary appointment of guardian ad litem

(a) Except as prohibited by C.G.S. section 45a-132, the court may appoint a guardian ad litem for a party:

(1) who is a minor;

(2) who is incompetent or who appears to be incompetent but has not been adjudicated incompetent by a court;

(3) who is undetermined or unborn; or

(4) whose name or address is unknown.

(b) The court may consider the appointment of a guardian ad litem for a party on request of a party or person interested in the welfare of a party or on the court's own motion. The court may act without notice and hearing.

(c) The court may appoint a guardian ad litem under this section only if the court, after considering the legal and financial interests at issue, determines that the appointment is necessary.

(d) In a proceeding involving a conserved person under C.G.S. section 17a-543, 17a-543a or 45a-644 through 45a-663, the procedures under C.G.S. section 45a-132 (a) apply.

(e) The court shall send a copy of the appointment to each party and attorney of record.

Section 13.3 Scope of appointment

(a) The court may limit the scope of appointment of a guardian ad litem to a specific purpose or to answer a specific question.

(b) In a proceeding involving a conserved person under C.G.S. section 17a-543, 17a-543a or 45a-644 through 45a-663, the court shall limit the scope of appointment of a guardian ad litem in accordance with C.G.S. section 45a-132 (a).

Section 13.4 Termination of appointment

(a) On request of a party or on the court's own motion, the court may terminate the appointment of a guardian ad litem at any time if the court determines that a guardian ad litem is no longer needed. The court may act without notice and hearing.

(b) In a proceeding involving a conserved person under C.G.S. section 17a-543, 17a-543a or 45a-644 through 45a-663, the court shall terminate the appointment of a guardian ad litem if required under C.G.S. section 45a-132 (a).

Section 13.5 Who may serve as guardian ad litem

(a) The court shall appoint as guardian ad litem an adult whose interests do not conflict with the interests of the person for whom the guardian ad litem will act.

(b) When appointing a guardian ad litem for a person, the court shall:

(1) consider whether the interests of the person require the protection of a guardian ad litem with legal or other professional training;

(2) give preference to a parent, guardian or other family member if the person is a minor, unless the court finds a conflict of interest under subsection (a) or that legal or other professional training is required under subsection (b) (1); and

(3) match the abilities of the guardian ad litem with the needs of the person.

Section 13.6 Duties of guardian ad litem

(a) A guardian ad litem shall:

(1) advocate for the best interests of the person for whom the guardian is acting; and

(2) if the person is a minor, make reasonable efforts to keep each parent or guardian of the minor who is not a party to the matter advised of the actions of the guardian ad litem and the court.

(b) A guardian ad litem may recommend to the court a waiver, election, modification or compromise of the rights or interests of the person for whom the guardian ad litem is acting and may, with approval of the court, effectuate the waiver, election, modification or compromise on behalf of the person.

(c) A guardian ad litem does not have title to, or custody of, property of the person for whom the guardian ad litem is acting.

Section 13.7 Instruction and advice from court

(a) On request of a guardian ad litem or on the court's own motion, the court may give instruction and advice concerning the duties and scope of appointment of the guardian ad litem.

(b) A guardian ad litem and the court shall not engage in ex parte communication. Advice and instruction from the court shall be provided at a hearing or conference or in writing with a copy to each party and attorney of record.

Section 13.8 Guardian ad litem may appeal from court order

A guardian ad litem may appeal from a decree affecting the interests of the person for whom the guardian ad litem is acting. Subject to approval of the court, the guardian ad litem may incur necessary expenses in connection with the appeal.

Rule 16
Public Access to Hearings and Records

Section 16.1 Public access to hearings and records

Unless otherwise provided by law or directed by the court in accordance with this rule, members of the public may observe hearings, status conferences and hearing management conferences and may view and obtain copies from court records.

Section 16.2 Statutorily confidential matters in general

(a) Except as otherwise ordered by the court, a person who is not a party is not entitled to observe a hearing, status conference or hearing management conference or view or obtain copies from the record in a matter that is confidential under statute. If part, but not all, of the hearing, conference or record is confidential, a person who is not a party is not entitled to observe the confidential part of the hearing or conference or have access to the confidential part of the record.

(b) Except as provided in section 16.3 or rule 17, a party or attorney for a party is entitled to participate in the hearing and to view and obtain copies from the record, including an audio recording or transcript. The court may prohibit a party or attorney from disclosing a confidential record to any other person.

(c) C.G.S. sections 45a-743 through 45a-753 govern access to adoption records.

(d) The court may permit a person who is not a party to attend a hearing on a confidential matter if permitted by law or if all parties consent.

Section 16.3 Redaction of name or address of party in statutorily confidential matter

(a) On motion of a party in a matter that is confidential under statute, the court may redact the name or address of a party, and information that would reveal the name or address of a party, if the court determines that redaction is necessary to protect the safety of a party. The court may use a pseudonym in lieu of the redacted name. The court may act on the motion without notice and hearing.

(b) A party seeking redaction under subsection (a) shall file an affidavit of facts in support of the request before filing a document containing the name or address.

(c) On motion of a party or on the court's own motion, the court may vacate a redaction order if:

(1) the grounds for redaction no longer exist; or

(2) the order to redact the information was improvidently issued.

The court may act on the motion without notice and hearing.

Section 16.4 Confidentiality of judge's notes

Except as otherwise required by law or directed by the court, notes taken by the judge in connection with a matter are confidential and may not be viewed by any person other than a clerk of the court.

Section 16.5 Confidentiality of social security numbers

See rule 17.

Section 16.6 Motion to close hearing or seal record in nonconfidential matter

(a) A party seeking to close a hearing to the public shall file a motion at least three business days before the hearing on the matter.

(b) A party seeking to seal all or a part of a record shall file a motion before filing a document that is the subject of the motion. The motion to seal may request use of a pseudonym in lieu of the name of a party or redaction of other information.

(c) A motion to close a hearing or seal a record under subsection (a) or (b) shall set forth the grounds for the proposed action.

(d) The court may initiate a proceeding to close a hearing or seal a record on its own motion.

Section 16.7 Hearing on motion to close hearing or seal record in nonconfidential matter

(a) The court shall give notice of the hearing on a motion to close a hearing to the public or seal a record to each party and attorney of record. The court shall post notice of the time, date and place of the hearing at a location in or adjacent to the court that is accessible to the public. The court may, in addition, give notice by another method if necessary to notify the public of the hearing.

(b) Any person ~~who~~whom the court determines to have an interest in the proceeding may present evidence and argument concerning the public and private interests at issue.

Section 16.8 Order to close hearing or seal record in nonconfidential matter

(a) After conducting a hearing under section 16.7, the court may order that all or a part of a hearing be closed to the public or all or a part of a record be sealed if the court finds that:

(1) closure or sealing is necessary to preserve an interest that overrides the public interest in open court proceedings and access to the record;

(2) there are no reasonable alternatives to closure or sealing, including sequestration of witnesses or redaction or use of pseudonyms; and

(3) the order is no broader than necessary to protect the overriding interest.

(b) An agreement by the parties to close a hearing or seal a record is not a sufficient basis to order closure or sealing.

(c) If the court issues an order to close a hearing or seal a record, the court shall specify:

(1) the interest being protected that overrides the public interest in open court proceedings and access to the record;

(2) the alternatives to closure or sealing that the court considered and the reasons why the alternatives were unavailable or inadequate;

(3) the basis for the determination that the order is no broader than necessary to protect the interest that overrides the public interest; and

(4) the scope and duration of the order.

Section 16.9 Public access to motion, hearing and order to close hearing or seal record in nonconfidential matter

(a) Except as provided in subsection (b), members of the public may view and obtain copies of a motion to close a hearing to the public or seal a record and the order granting or denying the motion. Members of the public may observe the hearing on the motion.

(b) If a motion to close a hearing or seal a record is granted, the court may, in extraordinary circumstances, seal part of the motion and part of the order granting the motion.

Section 16.10 Vacating order to close hearing or seal record

On motion of a party or on the court's own motion, after notice and hearing, the court may vacate an order to close a hearing to the public or seal a record if:

(1) the grounds for closing the hearing or sealing the record no longer exist;

(2) the order was improvidently issued; or

(3) the interest protected by the order no longer outweighs the public interest in open court proceedings and access to the record.

Section 16.11 Power to maintain order during hearings

If a person is disruptive during a hearing, the court may take reasonable steps to maintain order and ensure a fair and expeditious hearing for the parties, including the imposition of limitations on access to the hearing.

Rule 18
Transfer of Matter between Probate Courts

Section 18.1 Hearing on application to transfer guardianship matter

(a) On motion of a person authorized by C.G.S. section 45a-599 or 45a-677, the court may transfer a guardianship matter to another Probate Court if it finds that an adult with intellectual disability or a minor has become a resident of the other probate district and that the transfer is in the best interests of the adult with intellectual disability or the minor. The court may act on the motion without notice and hearing or may use the streamline notice procedure.

(b) If the court has established a trust under C.G.S. section 45a-151 or 45a-655 and the guardianship for the beneficiary of the trust is transferred under

section 18.1 (a), the court, on motion of a party authorized by C.G.S. section 45a-599 or 45a-677 to request a transfer of the guardianship, may transfer the trust to the probate district to which the guardianship has been transferred. The court may act on the motion without notice and hearing.

Section 18.2 Transfer of conservatorship matter

(a) On motion of a person authorized by C.G.S. section 45a-661, the court shall transfer a conservatorship matter to another Probate Court if it finds that:

(1) a person under conservatorship has become a resident of the other probate district, and.

(2) the requested transfer is the preference of the person under conservatorship. The court may act on the motion without notice and hearing.

(b) If a transfer is required under C.G.S. section 45a-661, the court may issue a decision on a pending petition or motion before ordering the transfer.

(c) If the court has established a trust under C.G.S. section 45a-151 or 45a-655 and the conservatorship for the beneficiary of the trust is transferred under section 18.2 (a), the court, on motion of a party authorized by C.G.S. section 45a-661 to request a transfer of the conservatorship, may transfer the trust to the probate district to which the conservatorship has been transferred. The court may act on the motion without notice and hearing.

Rule 30
Decedents' Estates

Section 30.1 When streamline notice procedure may be used in decedent's estate proceeding

See rule 8.6.

Section 30.2 Death certificate or other proof of death

A petitioner seeking admission of a purported will to probate or the grant of administration for the estate of an intestate decedent shall accompany the petition with a certified copy of the decedent's death certificate. If the petitioner is unable to obtain a death certificate for the decedent, the petitioner may present other evidence to prove the decedent's death.

Section 30.3 Court may require petitioner to submit family tree

If necessary to determine the decedent's heirs, the court may require a petitioner seeking admission of a purported will to probate or the grant of administration of the estate of an intestate decedent to submit a family tree that illustrates the decedent's family relationships or other reasonably available information about the identity of the decedent's family members.

Section 30.4 Court to inform petitioner of purported will in its custody

The court shall advise a petitioner seeking admission of a purported will to probate or the grant of administration of the estate of an intestate decedent of the existence of another purported will in the custody of the court. The petitioner shall provide the name and address of each beneficiary under any such will in accordance with section 7.2.

(a) If a petitioner seeks admission of a purported will to probate and the court has another purported will for the same decedent in its custody, the court shall advise the petitioner of the existence of the other purported will. The petitioner shall provide the name and address of each beneficiary under the other purported will in accordance with section 7.2.

(b) If a petitioner seeks the grant of intestate administration of an estate and the court has a purported will for the same decedent in its custody, the court shall notify the petitioner and the executor and beneficiaries under the purported will of the existence of the purported will. The court shall schedule a hearing on the admission of the purported will before acting on the petition for intestate administration. If no executor or beneficiary under the purported will appears at the hearing to advocate for admission of the purported will, the court shall appoint a temporary administrator to advocate for admission.

Section 30.5 Notice in proceeding to grant administration of intestate estate

(a) The court shall send notice of a petition seeking the grant of administration of the estate of an intestate decedent to:

(1) each of the decedent's heirs;

(2) the proposed administrator;

(3) the petitioner;

(4) the executor of each purported will in the custody of the court;

(5) the beneficiaries under any purported will in the custody of the court;

(6) each attorney of record; and

~~(5)~~(7) other persons as the court determines.

(b) The court shall send a copy of the decree to each person listed in subsection (a). If the court grants the petition, the court shall also send notice of the grant of administration, which shall include:

(1) a list of the heirs;

(2) the name and address of the administrator;

(3) a statement indicating whether the administrator is required to submit a probate bond and advising the heirs of their right to request a bond; and

(4) a statement indicating that the heirs may address any questions regarding the estate to the administrator.

Section 30.6 Notice in proceeding to admit will to probate

(a) The court shall send notice of a petition to admit a purported will to probate to:

(1) each of the decedent's heirs;

(2) each beneficiary under the purported will being offered for probate;

(3) each current and presumptive remainder beneficiary of a trust established under the purported will being offered for probate;

(4) the Attorney General, if a beneficiary under a will or any current or presumptive remainder beneficiary of a trust established under the will is a charity or charitable interest;

(5) the proposed executor or administrator;

(6) the petitioner;

(7) each beneficiary under any other purported will of the decedent in the custody of the court;

(8) each current and presumptive remainder beneficiary of a ~~testamentary~~ trust established under any other purported will of the decedent in the custody of the court;

(9) each attorney of record; and

(10) other persons as the court determines.

(b) The court shall send a copy of the decree to each person listed in subsection (a). If the court admits the will to probate, the court shall also send notice of the admission of the will to probate, which notice shall include:

(1) a list of the beneficiaries named in the will and the names of the current and presumptive remainder beneficiaries under any trust established under the will;

(2) the name and address of the executor or administrator;

(3) a statement indicating whether the executor or administrator is required to submit a probate bond and advising the beneficiaries of their right to request a bond; and

(4) a statement indicating that the beneficiaries may address any questions regarding the estate to the executor or administrator.

Section 30.7 Petitioner seeking admission of purported will to send copy to parties

A petitioner seeking admission of a purported will to probate shall send a copy of the petition and the will to each person listed under section 30.6 (a) and shall certify to the court that the copies have been sent.

Section 30.8 Appointment of guardian ad litem in proceeding to admit purported will to probate

(a) In a proceeding for the admission of a purported will to probate, the court may appoint a guardian ad litem for an heir or beneficiary of a decedent's estate as provided in section 13.2 if:

(1) in the case of an heir, the court determines that the heir would likely receive a greater share of the estate if the decedent died intestate than under the purported will that is being offered for probate;

(2) in the case of a beneficiary under a purported will in the custody of the court that is not being offered for probate, the court determines that the beneficiary would receive a greater share of the estate under the will that is not being offered for probate than under the will that is being offered for probate; or

(3) in the case of a beneficiary under a purported will being offered for probate, the court determines that a guardian ad litem is necessary to protect the interests of the beneficiary.

(b) Except as otherwise directed by the court, a guardian ad litem appointed under subsection (a) shall make reasonable efforts to verify that each heir or beneficiary whose name or address is unknown cannot be located but is not required to conduct an exhaustive search for the heir or beneficiary. If the guardian ad litem is unable to locate an heir or beneficiary or if the heir or beneficiary is a minor or is incompetent, undetermined or unborn, the guardian ad litem shall verify that the will was duly executed and make inquiry of appropriate persons to determine whether a reasonable basis exists to challenge the validity of the will. The guardian ad litem shall advise the court in writing whether the guardian ad litem objects to the admission of the will. If the guardian ad litem objects to admission of the will, the guardian ad litem shall request a hearing on the petition and shall present evidence in support of the objection.

(c) The appointment of a guardian ad litem under this section shall terminate on the admission of the will to probate and the disposition of any appeal from the admission of the will unless the court determines that a guardian ad litem is necessary under section 30.9.

Section 30.9 Appointment of guardian ad litem in intestate estate or after admission of will

(a) In any proceeding concerning an intestate estate or concerning a testate estate after the admission of the will, the court may appoint a guardian ad litem for an heir or beneficiary as provided in section 13.2 if the court determines that a guardian ad litem is necessary to protect the interests of the heir or beneficiary.

(b) Except as otherwise directed by the court, a guardian ad litem appointed under this section shall take reasonable steps to locate each heir or beneficiary whose location is unknown. If the guardian ad litem is unable to locate the heir or beneficiary or if the heir or beneficiary is a minor or is incompetent, undetermined or unborn, the guardian ad litem shall review each petition concerning the estate and the overall management of the estate. The guardian ad litem shall advise the court in writing whether the guardian ad litem objects to any petition and may petition the court for review of any action of the executor or administrator to which the guardian ad litem objects. If the guardian ad litem objects to a petition or petitions the court for review of an action by the executor or administrator, the guardian ad litem shall request a hearing and shall present evidence in support of the objection or petition.

Section 30.10 Notice in testate estates after admission of will

After sending a copy of the decree admitting a will to probate and the notice required under section 30.6 (b), the court is not required to give notice of subsequent proceedings to the decedent's heirs or beneficiaries under any purported will not admitted to probate unless requested under C.G.S. section 45a-127.

Section 30.11 Notice when heir or beneficiary is a foreign citizen

If the court is aware that an heir or beneficiary is a citizen of a foreign country and if required by treaty between the United States and the country of which an heir or beneficiary is a citizen, the court shall send a copy of a decree admitting a will to probate or granting administration of the estate of an intestate decedent to the embassy or consulate of the country of the heir or beneficiary.

Section 30.12 Executor or administrator to send copy of inventory, financial report, ~~and~~ account and affidavit of closing to each party and attorney

(a) ~~The~~ Except as provided in subsection (c), the executor or administrator of an estate shall send a copy of the inventory, ~~and~~ each supplemental or substitute inventory, ~~and~~ each financial report or account and the affidavit of closing, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent. An executor or administrator who submits an affidavit in lieu of administration as a substitute for an inventory or account under section 30.23 shall send copies of the affidavit in accordance with this subsection.

(b) If a beneficiary under a will or any current or presumptive remainder beneficiary of a trust established under the will is a charity or charitable interest, the executor shall send a copy of the inventory, ~~and~~ each supplemental or substitute inventory, ~~and~~ each financial report or account and the affidavit of closing, at the time of filing, to the Attorney General and shall certify to the court that the copy has been sent.

(c) The executor or administrator is excused from the requirement of sending copies under subsections (a) and (b) to any beneficiary of a specific bequest who has acknowledged, in writing, receipt of the bequest. The executor or administrator shall file a copy of the acknowledgement with the court.

Section 30.13 Conflicting petitions for appointment of commissioner of administrative services as legal representative and settlement using small estates procedure

If the commissioner of administrative services seeks appointment as legal representative of a decedent's estate under C.G.S. section 4a-16, the court shall dismiss an affidavit in lieu of administration concerning the same estate that was not acted on before the court's receipt of the commissioner's application. The court may act without notice and hearing. The court shall send a copy of the decree dismissing the affidavit to the petitioner and the commissioner.

Section 30.14 Settlement of claims in favor of decedent's estate

(a) An executor or administrator may file a petition seeking authority to settle a claim in favor of the estate. The executor or administrator shall accompany the petition with a settlement statement that includes:

(1) the gross amount of the proposed settlement;

(2) an itemized list of expenses associated with the settlement, including any proposed attorney's fee; and

(3) the anticipated net proceeds that the estate will receive and the terms of any proposed structured settlement.

(b) The executor or administrator shall file an inventory or supplemental or substitute inventory showing the proceeds of the settlement not later than 30 days after receipt.

Section 30.15 Sale of real property from decedent's estate

(a) An executor or administrator may file a petition seeking authority to sell real property by private sale. The executor or administrator shall accompany the petition with a copy of the contract of sale and, if not previously filed, an inventory or supplemental or substitute inventory that lists the property with the legal description.

(b) The executor or administrator shall present evidence regarding the fair market value of the property. The court may require the executor or administrator to submit a comparative market analysis, appraisal, municipal assessment or other information about the value of the property.

(c) The court may require the executor or administrator seeking authority to sell the property to submit a return ~~and list~~ of claims.

(d) Notice of hearing on the petition shall not be required to be made by publication unless the court determines that notification of the public is necessary to protect the interests of the estate.

(e) The court may excuse notice of hearing on the petition if all parties~~, including each creditor that has notified the court of an unpaid or disputed claim,~~ waive notice. If a beneficiary under a will or any current or presumptive remainder beneficiary of a trust established under the will is a charity or charitable interest, the court may excuse notice only if the Attorney General joins the other parties in waiving notice.

(f) The court may approve the sale of the property if the court determines that the sale is in the best interests of the estate.

(g) If a prospective purchaser other than the buyer identified in the petition indicates that the prospective purchaser is willing to pay a price that is higher than the amount specified in the contract of sale, the court may deny the petition and order a public sale or take other action as the court determines to be in the best interests of the estate.

Section 30.16 Distribution from estate to minor or beneficiary who is incapable of managing his or her affairs

(a) Except as provided by will, an executor or administrator shall not make distribution to, or on behalf of, an adult heir or beneficiary who has been adjudicated

incapable of managing his or her affairs unless a conservator of the estate has been appointed or a court has determined that adequate alternative arrangements for the management of the financial affairs of the heir or beneficiary have been established. The court may require proof of the authority of a conservator or other representative to receive property on behalf of the heir or beneficiary.

(b) Except as provided by will, an executor or administrator shall not make distribution to, or on behalf of, an heir or beneficiary who is a minor residing in this state if the total amount of distributions from the estate ~~are~~is anticipated to exceed the amount under C.G.S. section 45a-631 unless a guardian of the estate has been appointed for the minor. If the minor resides outside this state, the executor or administrator shall not make distribution to, or on behalf of, the minor unless a guardian has been appointed for the minor under C.G.S. section 45a-632 or 45a-635 or the court has approved distribution in accordance with the requirements of the jurisdiction of residence concerning the management of estates of minors ~~have been satisfied~~. The court may require proof of the authority of a guardian of the estate or other legal representative to receive property on behalf of the minor.

Section 30.17 Mutual distribution agreement

(a) In an intestate estate, a mutual distribution agreement is valid if all the heirs execute the agreement in accordance with the requirements of C.G.S. section 45a-433 (b). A mutual distribution agreement under this subsection may provide for distribution of property to a person other than an heir.

(b) In a testate estate, a mutual distribution agreement is valid if all the beneficiaries whose interests are affected by the distribution execute the agreement in accordance with the requirements of C.G.S. section 45a-434. If a beneficiary under the will or any current or presumptive remainder beneficiary of a trust established under the will is a charity or charitable interest, a mutual distribution agreement is valid only if the Attorney General is party to the agreement. A mutual distribution agreement under this subsection may provide for distribution of property to a person other than a beneficiary under the will.

Section 30.18 Distribution that bypasses inoperative trust

An executor or administrator who proposes distribution from an estate directly to the beneficiaries of an inoperative trust rather than to the trustee shall ~~petition the court~~ file a motion for authorization to bypass the trust under C.G.S. section 45a-482. The court may hear the ~~petition~~ motion at the same time as the final financial report or account.

Section 30.19 When executor or administrator to submit financial report or account

(a) An executor or administrator shall submit a final financial report or account when the executor or administrator has completed settlement of a decedent's estate or when the executor or administrator seeks to resign or is removed by the court.

(b) The fiduciary of the estate of an executor or administrator who dies while administering a decedent's estate shall file a final financial report or account on behalf of the deceased executor or administrator.

(c) On motion of a party or on the court's own motion, the court may direct the executor or administrator to file an interim financial report or account if necessary to protect the interests of the estate.

Section 30.20 Required contents of financial report or account of executor or administrator

See rules 36 through 38.

Section 30.21 When executor or administrator to submit status update

(a) Not later than three months after the first anniversary of the appointment of an executor or administrator and on each anniversary date thereafter, an executor or administrator who has not submitted an interim or final financial report or account shall submit an update on the status of the estate, which status update shall include:

(1) the approximate amount of distributions already made to the heirs or beneficiaries;

(2) the approximate amount of the estate on hand on the date of the status update; and

(3) the reasons why administration has not been completed.

(b) On motion of a party or on the court's own motion, the court may order the executor or administrator to take specific steps to expedite the administration of the estate.

Section 30.22 When inventory and final financial report or account ~~of temporary administrator~~ excused

(a) The temporary administrator of a decedent's estate may petition the court to excuse the requirement of an inventory and final financial report or account by submitting a statement signed under ~~penalties~~ penalty of false statement that the administrator did not take control of any assets or income of the estate. The administrator shall send a copy of the statement, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent.

(b) The court may excuse the requirement that the administrator submit an inventory and final financial report or account if the court determines that the administrator did not take control of any assets or income of the estate.

(c) The executor or administrator of a decedent's estate may petition the court to excuse the requirement of an inventory and final financial report or account by submitting a statement signed under penalty of false statement that the estate has no assets and, if not previously filed, a return of claims. The executor or administrator shall send a copy of the statement, at the time of filing, to each party, creditor and attorney of record and shall certify to the court that the copy has been sent.

(d) When giving notice of the hearing on the acceptance of the statement under subsection (c), the court shall send notice to each creditor listed on the return of claims, in addition to notice to each party and attorney of record. The court may excuse the requirement that the executor or administrator submit an inventory and final financial report or account if the court determines that the estate has no assets.

Section 30.23 ~~Final financial report or account excused~~Use of affidavit in lieu of administration when full estate eligible to be settled as a small estate

(a) If a decedent's estate is opened as a full estate but is subsequently determined to be eligible for settlement as a small estate under C.G.S. section 45a-273, the ~~court may excuse the requirement of a final financial report or account and approve~~ executor or administrator may submit an affidavit in lieu of administration and request for order of distribution ~~to conclude the settlement of the estate~~as a substitute for the inventory, return of claims and final account. The fiduciary shall send a copy of the affidavit and request for order of distribution, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent.

(b) The court may, after notice and hearing, approve the affidavit and request for order of distribution as a final account if it determines that the affidavit and request for order of distribution are sufficient to review the fiduciary's management of the estate.

Section 30.24 Administrative closure of decedent's estate

(a) The court may, after notice and hearing, close a decedent's estate administratively before receipt of a final financial report or account and before expiration of the period specified in C.G.S. section 45a-331 if the court finds that:

(1) the clerk has made reasonable efforts to remind the executor or administrator, in writing, of the requirements to complete the administration;

(2) the executor or administrator has neglected or refused to complete administration;

(3) appointment of a successor executor or administrator would serve no useful purpose; and

(4) no party objects to the administrative closure.

(b) The administrative closure of an estate shall not relieve the executor or administrator from any liability or obligation. Except as provided in C.G.S. section 45a-331, the court shall not release any existing probate bond or restricted account.

(c) The court may, at any time and without notice and hearing, reopen an estate that has been administratively closed.

Section 30.25 Construction, title and cy pres petition relating to decedent's estate

(a) If the court declines jurisdiction to hear a construction, title or cy pres petition concerning a decedent's estate under C.G.S. section 45a-98a (a), the court shall send written notice of the declination to each party and attorney of record.

(b) If a beneficiary under a will or any current or presumptive remainder beneficiary of a trust established under the will is a charity or charitable interest, the court shall send written notice of the declination to the Attorney General.

Section 30.26 Withholding of distribution when heir or beneficiary charged with certain crimes

On motion of the Victim Advocate, state's attorney or official having an equivalent role in another jurisdiction or on motion of a party or court-appointed guardian ad litem, the court shall direct the executor or administrator to withhold any distribution to an heir or beneficiary if the court finds that the heir or beneficiary has been charged with a crime listed under C.G.S. section 45a-447. On final disposition of the charge, the court shall determine the eligibility of the heir or beneficiary to receive distributions under C.G.S. section 45a-447.

Rule 31
Estate Tax Matters

Section 31.1 Applicability

Sections 31.2 through 31.6 apply only to nontaxable estates. Sections 31.7 ~~and 31.8~~through 31.9 apply both to taxable and nontaxable estates.

Section 31.2 Requirements for estate tax forms for nontaxable estates

Except as modified by this rule, a person filing a DRS Form CT-706 NT and related forms for a nontaxable estate shall comply with the instructions for the form published by DRS.

Section 31.3 Valuation of property for nontaxable estates

(a) ~~A~~Except as provided in subsection (c), a person filing a DRS Form CT-706 NT for a nontaxable estate shall substantiate the fair market value of real property required to be reported on the form by submitting any one of the following:

(1) a comparative market analysis prepared by a real estate broker or agent;

(2) information from the municipal assessment of the property, adjusted to reflect 100 percent of the fair market value as of the date of the assessment;

(3) a written appraisal; or

(4) written proof of the actual sales price if the property is sold in an arm's-length transaction that is completed not later than six months after the death of the decedent.

(b) ~~The~~Except as provided in subsection (c), the court may require a person filing a DRS Form CT-706 NT to substantiate the fair market value of any personal property required to be reported on the form by supplying a written appraisal or other reasonable proof of value.

(c) If an Internal Revenue Service Form 706 is required for the decedent, the person filing a DRS Form CT-706 NT shall report each asset on the DRS Form CT-706 NT at the value shown on the Internal Revenue Service Form 706.

Section 31.4 Amended tax forms for nontaxable estates

(a) ~~If~~Except as provided in subsection (b), if property reported on a DRS Form CT-706 NT for a nontaxable estate is sold in an arm's-length transaction that is completed not later than six months after the death of the decedent, the person filing the original form may amend the form to change the reported value of the property to the amount of the sales price. The form may be amended to change the reported value of any property that is not sold within the six-month period only if the person filing the form submits substantiation that the fair market value of the property at the time of the decedent's death is different from the amount originally reported. A change to the reported value for real property shall be substantiated by one of the methods listed in section 31.3 (a). A change to the reported value for personal property shall be substantiated by a written appraisal or such other reasonable proof of value as the court directs.

(b) If an Internal Revenue Service Form 706 is required for the decedent, the person filing the DRS Form CT-706 NT shall amend the DRS Form CT-706 NT to reflect any amendments, changes or corrections to the Internal Revenue Service Form 706.

Section 31.5 Procedure when court unable to determine if estate is nontaxable

If the court is unable to determine from review of a DRS Form CT-706 NT and accompanying materials whether the Connecticut taxable estate is less than or equal to the amount that is exempt from the Connecticut estate tax under C.G.S. section 12-391, the court shall require the person filing the form to file a DRS Form CT-706/709 with DRS and submit a copy of the form to the court.

Section 31.6 Domicile declaration for nontaxable estates

A person filing a DRS Form CT-706 NT claiming that the decedent was not domiciled in Connecticut shall submit a DRS Form C-3 UGE State of Connecticut Domicile Declaration. If the court is unable to determine the decedent's domicile from the

information contained in the domicile declaration, the court may schedule a hearing to permit the person filing the domicile declaration to present evidence in support of the domicile declaration. The court shall make a written determination regarding the decedent's domicile. The clerk shall calculate the probate fee for the estate in accordance with the court's determination.

Section 31.7 Recording attachments to estate tax forms

The court shall record each DRS Form CT-706 NT or CT-706/709 together with each attachment submitted with the form unless the person filing the form specifies in writing that an attachment need not be recorded. The court may record the attachment even if the person filing the form indicates that the attachment need not be recorded if the court finds that the attachment is needed to understand the return.

Section 31.8 Confidentiality of information on filed tax form

(a) Except as provided in subsections (b) ~~and (c)~~through (d), the court shall not disclose a DRS Form CT-706 NT or CT-706/709 or other estate tax return information to any person ~~or entity~~.

(b) The court may disclose a DRS Form CT-706 NT or CT-706/709 or other estate tax return information to the probate court administrator or the commissioner of revenue services.

(c) On request, the court may ~~permit disclosure of~~ disclose a DRS Form CT-706 NT or CT-706/709 or other estate tax return information without notice and hearing, if:

(1) the person who filed the form consents, in writing, to disclosure; or

(2) the person seeking disclosure is:

(A) a fiduciary of the estate;

(B) in the case of an intestate estate, an heir of the estate; or

(C) in the case of a testate estate, a residuary beneficiary of the estate.

~~(c)~~(d) On motion of a person not listed in subsection ~~(b)~~(c) and after notice and hearing, the court may disclose a DRS Form CT-706 NT or CT-706/709 or other estate tax return information under C.G.S. section 12-398 (c) if the court finds that the requesting person has a material interest that will be affected by the information contained in the return.

Section 31.9 Determination of amount of property passing to surviving spouse for probate fee calculation

To calculate the probate fee for an estate under C.G.S. section 45a-107, property shall be treated as passing to the surviving spouse only if it qualifies for the Connecticut estate tax marital deduction.

Rule 32
Trusts

Section 32.1 When streamline notice procedure may be used in trust proceeding

See rule 8.6.

Section 32.2 Notice in trust proceeding

(a) The court shall send notice of a proceeding concerning a trust to:

(1) the settlor, if living;

(2) each current beneficiary;
(3) each presumptive remainder beneficiary;
(4) the Attorney General, if:
(A) a current beneficiary or presumptive remainder beneficiary is a charity or charitable interest; or
(B) the trust is a special needs trust established under C.G.S. section 45a-151 (b) or 45a-655 (e);
(5) the trustee;
(6) the trust protector, if any; and
(7) other persons as the court determines.

(b) Notice to contingent remainder beneficiaries is not required unless the court determines that the interests of the presumptive remainder beneficiaries conflict with the interests of the contingent remainder beneficiaries.

Section 32.3 Virtual representation and appointment of guardian ad litem in trust proceeding

(a) A petitioner in a trust proceeding shall inform the court if a trust beneficiary entitled to notice under section 32.2 is a minor or is incompetent, undetermined or unborn or if the beneficiary's name or address is unknown. The petitioner shall indicate whether an adult beneficiary who is legally capable of acting can virtually represent the beneficiary under C.G.S. ~~sections 45a-487a through 45a-487f~~section 45a-487d.

(b) On receipt of information under subsection (a) or on the court's own motion, the court shall make a written determination whether a beneficiary or class of beneficiaries will be virtually represented in the proceeding. If the court determines that the interests of the beneficiary or class of beneficiaries are not virtually represented or that the representation might be inadequate, the court shall appoint a guardian ad litem to represent the interests of the beneficiary or class of beneficiaries. The court may act under this subsection without notice and hearing.

Section 32.4 Trustee to send copy of inventory, financial report ~~and~~ or account, and petition to terminate to each party and attorney

(a) A trustee of a testamentary trust or other trust subject to continuing jurisdiction of the court shall send a copy of the inventory and each supplemental or substitute inventory, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent.

(b) ~~The~~A trustee of a testamentary trust, an inter vivos trust subject to the jurisdiction of the court under C.G.S. section 45a-175 or another trust subject to continuing jurisdiction of the court shall send a copy of each financial report or account, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent.

(c) The trustee of a testamentary trust, an inter vivos trust subject to the jurisdiction of the court under C.G.S. section 45a-175 or another trust subject to continuing jurisdiction of the court shall send a copy of a petition to terminate the trust under C.G.S. section 45a-484 or 45a-520, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent.

(d) If a beneficiary of a trust ~~under subsection (a) or (b)~~ is a charity or charitable interest, the trustee shall send a copy of ~~the inventory and each supplemental or substitute inventory and each financial report or account~~each filing under subsection (a), (b) or (c), at the time of filing, to the Attorney General and shall certify to the court that the copy has been sent.

Section 32.5 When trustee to submit financial report or account

(a) A trustee of a testamentary trust or other trust subject to continuing Probate Court jurisdiction shall submit a periodic financial report or account at least once during each three-year period unless the court or the will or other governing instrument directs more frequent accounts. The first accounting period shall commence on the date that the court appoints the trustee.

(b) If the will excuses periodic accounts, the court shall not require the trustee of a testamentary trust to submit periodic financial reports or accounts. On motion of a party or on the court's own motion and after notice and hearing, the court may require a financial report or account for a specified period if necessary to protect the interests of a party. After issuing a decision on the financial report or account under this subsection, the court shall not require additional periodic financial reports or accounts if the will excuses periodic accounts unless the court determines that the reports or accounts are necessary to protect the interests of a party.

(c) Except as provided in section 32.7, the trustee of a testamentary trust shall submit a final financial report or account when the trust terminates or any beneficiary's interest in the trust terminates or when the fiduciary seeks to resign or is removed by the court.

(d) Except as provided in section 32.7, if a trustee dies while administering the trust, the executor or administrator of the estate of the deceased trustee shall file, on behalf of the deceased trustee, a final financial report or account for the trust.

Section 32.6 Required contents of financial report or account of trustee

See rules 36 through 38.

Section 32.7 When final financial report or account of trustee excused

(a) The trustee of a testamentary trust may petition the court to excuse the requirement of a final financial report or account required under section 32.5 (c) or 32.5 (d) if:

(1) the will waives periodic accounts; and

(2) each current beneficiary and presumptive remainder beneficiary of the trust has signed a written instrument that waives the final report or account and acknowledges the amount of the distribution to which the beneficiary is entitled.

(b) A petition under subsection (a) shall include:

(1) the signed waiver under subsection (a) (2);

(2) an itemized list of assets on hand, shown at current fair market value;

(3) an itemized proposed distribution to each beneficiary; and

(4) for the period since the most recent financial report or account approved by the court or, if none, since the trustee accepted the trusteeship, a summary of:

(A) the method used to determine the compensation of the trustee;

(B) the information that has been provided to the beneficiaries; and

(C) the trustee's management of the trust.

(c) The court may excuse the final report or account if the court determines that it would impose an unreasonable burden to require the report or account and that each current beneficiary and presumptive remainder beneficiary has knowingly and voluntarily waived the requirement of a report or account.

(d) The probate fee for a petition under this section shall be calculated in accordance with C.G.S. section 45a-108.

Section 32.8 Reimbursement of probate fees to petitioner in trust proceeding

On motion of a party or on the court's own motion, the court may order the trustee of a trust to reimburse a party for any probate fees incurred in making a petition to the court concerning the trust if the court determines that reimbursement of the fees is equitable. The court may act without notice and hearing. If the court determines that reimbursement of the fees is equitable, but the court previously waived the petitioning party's fees under C.G.S. section 45a-111 (c), the trustee shall remit payment to the probate court administration fund. The reimbursed fees shall be paid from trust assets as an administration expense.

Section 32.9 Construction, title and cy pres petition relating to trust

(a) If the court declines jurisdiction to hear a construction, title or cy pres petition concerning a trust under C.G.S. section 45a-98a (a), the court shall send written notice of the declination to each party and attorney of record.

(b) If a current or presumptive remainder beneficiary of the trust is a charity or charitable interest, the court shall send written notice of the declination to the Attorney General.

Rule 33
Conservators

Section 33.1 When streamline notice procedure may be used in conservatorship proceeding

See rule 8.6.

Section 33.2 Petition for voluntary representation to be heard before petition for involuntary conservatorship

(a) A respondent in an involuntary conservatorship proceeding may file a petition for voluntary representation under C.G.S. section 45a-646 at any time before the court decides the involuntary conservatorship petition.

(b) The court shall hear and decide a petition for voluntary representation made under subsection (a) before acting on a petition for involuntary conservatorship. The court may, however, conduct the hearing on the petition for voluntary representation at the time set for a hearing on an involuntary conservatorship petition without giving notice of hearing on the voluntary petition if:

(1) the respondent is present; and

(2) each party entitled to notice under C.G.S. section 45a-646 is present or has filed a written waiver of notice of the hearing on voluntary representation.

Section 33.3 Appointment of temporary conservator without notice and hearing

(a) The court may act on a petition to appoint a temporary conservator under C.G.S. section 45a-654 (d) without notice and hearing.

(b) If the court determines that it is necessary to meet with the petitioner before deciding a petition to appoint a temporary conservator on an ex parte basis, the court shall make an audio recording of the meeting. The recording shall be available to the parties. If the court appoints a temporary conservator and the temporary conservatorship hearing required by C.G.S. section 45a-654 (d) (1) is contested, the judge who met with the petitioner shall be disqualified from conducting the temporary conservatorship hearing.

Section 33.4 Extension of temporary conservatorship pending decision on conservatorship petition

On written request of a party, the court may extend the appointment of a temporary conservator until disposition of a pending involuntary conservatorship petition, provided that the extension may not exceed 30 days. The court may act on the request without notice and hearing.

Section 33.5 Motion to close conservatorship hearing to public during presentation of medical evidence

See rule 16.

Section 33.6 Criminal background check

At any time during a conservatorship proceeding, the court may obtain a criminal background check of:

(1) the conservator or proposed conservator;

(2) an individual providing care to the person under conservatorship;

(3) an individual living in the household of the person under conservatorship; or

(4) any other person if necessary to protect the interests of the person under conservatorship.

Section 33.7 Court to review qualifications of proposed conservator

If a person under conservatorship has not designated or nominated a conservator, the court shall, before making an appointment, give the parties an opportunity to present evidence and argument regarding the qualifications of a proposed conservator or successor conservator. When deciding whether to appoint the proposed conservator or successor conservator, the court shall consider the factors set forth in C.G.S. section 45a-650 (h) based on evidence in the record of the proceeding.

Section 33.8 Conservator of estate to send copy of inventory, financial report and account to each party and attorney

A conservator of the estate shall send a copy of the inventory and each supplemental or substitute inventory and each financial report or account, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent.

Section 33.9 Jointly-owned assets and joint liabilities

(a) If a person under conservatorship holds an asset jointly with another person or is jointly liable with another person on a debt, or if the person under conservatorship has a present interest in an asset that would, on his or her death, pass outside his or her probate estate, the conservator of the estate may petition for instructions concerning administration of the ~~joint~~ asset or liability.

(b) The court shall give notice of the hearing on a petition under subsection (a) to each party and attorney of record and to each ~~joint owner of the asset or each person jointly liable on the debt that is the subject of the petition and to each person who is a beneficiary of an asset that would pass outside the probate estate~~person having an interest in an asset or liability described in subsection (a). When deciding how the conservator should administer the ~~joint~~ asset or liability, the court shall consider the following factors:

(1) the provisions of any will, trust instrument or other estate planning document executed by the person under conservatorship;

(2) the original source of the asset or liability;

(3) the current and anticipated needs of the person under conservatorship and any individual whom the person is obligated to support;

(4) the availability of other assets to meet the needs of the person under conservatorship and any individual whom the person is obligated to support;

(5) the impact of the manner of administration of the asset or liability described in subsection (a) on the eligibility of the person under conservatorship for public assistance; and

(6) other relevant factors.

Section 33.10 Establishment and funding of trust with conservatorship assets

(a) A conservator of the estate may file a petition seeking authority to establish and fund a trust under C.G.S. section 45a-655 (e). Before filing the petition, the conservator shall make a diligent effort to obtain a copy of each will, trust instrument or other estate planning document executed by the person under conservatorship that may be affected by the establishment and funding of the trust.

(b) The conservator shall accompany the petition with:

(1) the proposed trust instrument;

(2) a written explanation of the benefits of the proposed trust for the person under conservatorship;

(3) a statement indicating whether the conservator has any beneficial interest in the proposed trust;

(4) the name and current address of each heir of the person under conservatorship;

(5) a copy of each will, trust instrument or other estate planning document obtained under subsection (a) together with a statement regarding the location of the original document;

(6) the name and current address of each beneficiary under any will;

(7) the name and current address of each current and presumptive remainder beneficiary of a trust that is required to be disclosed under subsection (b) (5); and

(8) the name and current address of each beneficiary under any other estate planning document that is required to be disclosed under subsection (b) (5).

(c) The court shall give notice of the hearing on the petition to:

(1) each party and attorney of record;

(2) the heirs of the person under conservatorship;

(3) each beneficiary under any will;

(4) each current and presumptive remainder beneficiary under any trust identified under subsection (b) (7);

(5) each beneficiary under any other estate planning document identified under subsection (b) (8);

(6) the commissioner of administrative services;

(7) the commissioner of social services;

(8) the Attorney General; and

(9) other persons as the court determines.

(d) The conservator shall have the burden of proving the findings required under C.G.S. section 45a-655 (e).

(e) If the court approves the establishment and funding of a trust, the conservator shall have a continuing duty to report the discovery of any will, trust instrument or other estate planning document of the person under conservatorship that was not previously submitted to the court.

Section 33.11 Settlement of claims in favor of conservatorship estate

(a) A conservator of the estate may file a petition seeking authority to settle a claim in favor of the estate. The conservator shall accompany the petition with a settlement statement that includes:

(1) the gross amount of the proposed settlement;

(2) an itemized list of the expenses associated with the settlement, including any proposed attorney's fee; and

(3) the anticipated net proceeds that the estate will receive and the terms of any proposed structured settlement.

(b) The conservator shall file an inventory or supplemental or substitute inventory showing the proceeds of the settlement not later than 30 days after receipt.

Section 33.12 Sale of real property from conservatorship estate

(a) A conservator of the estate may file a petition seeking authority to sell real property by private sale. The conservator shall accompany the petition with a copy of the contract of sale and, if not previously filed, an inventory or supplemental or substitute inventory that lists the property with the legal description.

(b) The conservator shall present evidence regarding the fair market value of the property. The court may require the conservator to submit a comparative market analysis, appraisal, municipal assessment or other information about the value of the property.

(c) Notice of hearing on the petition shall not be required to be made by publication unless the court determines that notification of the public is necessary to protect the interests of the estate.

(d) The court may approve the sale of the property if the court determines that the sale is in the best interests of the person under conservatorship, as required by C.G.S. section 45a-164 and that the sale is necessary or the person under conservatorship consents to the sale, as required by C.G.S. section 45a-656b (a).

(e) If a prospective purchaser other than the buyer identified in the petition indicates a willingness to pay a price that is higher than the amount specified in the contract of sale, the court may deny the petition and order a public sale or take other action as the court determines to be in the best interests of the person under conservatorship.

(f) If the property is specifically devised under the will of the person under conservatorship, the conservator shall segregate the sale proceeds from other estate assets.

Section 33.13 Release of funds from restricted account in conservatorship estate

See section 35.7 (f).

Section 33.14 When conservator to submit financial report or account

(a) A conservator of the estate shall submit an annual financial report or account for the first year following the conservator's appointment or, with prior court approval, for the first year following the conservator's first receipt of funds on behalf of the estate.

(b) After submitting the first annual financial report or account under subsection (a), the conservator shall thereafter submit a periodic financial report or account at least once during each three-year period, unless the court directs more frequent accounts.

(c) Except as provided in section 33.17, a conservator shall submit a final financial report or account when the conservatorship is terminated, the person under conservatorship dies or the conservator seeks to resign or is removed by the court.

(d) If a conservator dies while administering an estate, the executor or administrator of the estate of the deceased conservator shall file, on behalf of the deceased conservator, a final financial report or account for the conservatorship estate. If an executor or administrator has not been appointed for the estate of the deceased conservator, a successor conservator may file, on behalf of the deceased conservator, a final financial report or account for the conservatorship estate.

Section 33.15 Required contents of financial report or account of conservator of estate

See rules 36 through 38.

Section 33.16 When conservator of estate to verify restricted account in force

See section 35.7 (e).

Section 33.17 Periodic or final financial report or account excused when person under conservatorship is Title 19 recipient

(a) A conservator of the estate may petition the court to terminate the conservatorship of the estate and waive the requirement of a final financial report or account if the Department of Social Services has determined that the person under conservatorship is eligible for Medicaid under Title 19 of the Social Security Act. The conservator's petition shall include:

(1) a copy of the department's determination letter and approved spend-down plan, if any; and

(2) a report showing the manner in which the conservator has executed the spend-down plan, including the name of the funeral home at which a prepaid funeral has been arranged and the amount of funds transferred to the person under conservatorship or the person's patient account.

(b) The court may excuse the requirement that the conservator submit a final financial report or account if the court determines that:

(1) no assets remain in the estate other than the amount permitted to be retained by a Medicaid recipient;

(2) the conservatorship of the estate should be terminated; and

(3) submission of a final financial report or account would serve no useful purpose.

(c) If the court determines that the conservatorship of the estate should continue after the person under conservatorship becomes eligible for Title 19, the court may permit the conservator to file, in lieu of a periodic financial report or account, a copy of the documentation required by the department to verify the person's continued eligibility for Title 19 and the department's letter confirming that the person under conservatorship continues to be eligible.

(d) The probate fee for a petition under this section shall be calculated in accordance with C.G.S. section 45a-108.

Section 33.18 Sterilization

If a conservator of the person petitions for approval of a sterilization procedure under C.G.S. section 45a-698, each member of the interdisciplinary team appointed under C.G.S. section 45a-695 shall file a report indicating whether the person under conservatorship is able to give informed consent and whether sterilization is in the best interests of the person.

Section 33.19 Reimbursement of probate fees to petitioner in conservatorship of estate proceeding

On motion of a party or on the court's own motion, the court may order a conservator of the estate to reimburse a party for any probate fees incurred in making a petition to the court concerning the conservatorship if the court determines that reimbursement of the fees is equitable. The court may act without notice and hearing. If the court determines that reimbursement of the fees is equitable, but the court previously waived the petitioning party's fees under C.G.S. section 45a-111 (c), the conservator shall remit payment to the probate court administration fund. The reimbursed fees shall be paid from the estate as an administration expense.

Section 33.20 Petition to determine title relating to conservatorship

If the court declines jurisdiction to hear a petition concerning title to property relating to a conservatorship of the estate under C.G.S. section 45a-98a (a), the court shall send written notice of the declination to each party and attorney of record.

Section 33.21 Notice of termination of voluntary conservatorship

On receipt of a notice to terminate a voluntary conservatorship under C.G.S. section 45a-647, the court shall notify each party and attorney of record that the notice has been received and the date on which the conservatorship will terminate.

Rule 34
Guardians of Estates of Minors

Section 34.1 When streamline notice procedure may be used in estate of minor proceeding

See rule 8.6

Section 34.2 Hearing to review duties of guardian of estate

Before authorizing the guardian of the estate of a minor to take control of the assets of the estate, the court shall require the guardian to attend a hearing to review the duties of the guardian. If the guardian has executed a form published by the probate court administrator to acknowledge and agree to perform the duties of a guardian, the court may excuse attendance of the guardian at the hearing.

Section 34.3 Guardian of estate to send copy of inventory, financial report and account to each party and attorney

A guardian of the estate of a minor shall send a copy of the inventory and each supplemental or substitute inventory and each financial report or account, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent.

Section 34.4 Restriction on use of estate of minor for support obligations

(a) A guardian of the estate of a minor shall not use the assets of the estate for support expenses of the minor without prior court approval.

(b) On petition of the guardian, the court may authorize use of the assets of the estate for reasonable and necessary support expenses of the minor if the court determines that:

(1) no person is legally liable for support of the minor; or

(2) the minor has a parent who has a support obligation, but the proposed expenditure is in the best interests of the minor.

Section 34.5 Settlement of claims in favor of estate of minor

(a) A petitioner may file a single petition seeking appointment as guardian of the estate of a minor and authority to settle a disputed or doubtful claim in favor of the estate.

(b) The petitioner shall accompany the petition with a settlement statement that includes:

(1) the gross amount of the proposed settlement;

(2) an itemized list of the expenses associated with the settlement, including any proposed attorney's fee; and

(3) the anticipated net proceeds that the estate will receive and the terms of any proposed structured settlement.

(c) The guardian shall file an inventory or supplemental or substitute inventory showing the proceeds of the settlement not later than 30 days after receipt.

Section 34.6 Sale of real property from estate of minor

(a) A guardian of the estate of a minor may file a petition seeking authority to sell real property by private sale. The guardian shall accompany the petition with a copy of the contract of sale and, if not previously filed, an inventory or supplemental or substitute inventory that lists the property with the legal description.

(b) The guardian shall present evidence regarding the fair market value of the property. The court may require the guardian to submit a comparative market analysis, appraisal, municipal assessment or other information about the value of the property.

(c) Notice of hearing on the petition shall not be required to be made by publication unless the court determines that notification of the public is necessary to protect the interests of the minor.

(d) The court may approve the sale of the property if the court determines that the sale is in the best interests of the minor.

(e) If a prospective purchaser other than the buyer identified in the petition indicates a willingness to pay a price that is higher than the amount specified in the contract of sale, the court may deny the petition and order a public sale or take other action as the court determines to be in the best interests of the minor.

Section 34.7 Release of funds from restricted account in estate of minor

See section 35.7 (f).

Section 34.8 When guardian of estate to submit financial report or account

(a) A guardian of the estate of a minor shall submit an annual financial report or account for the first year following the guardian's appointment or, with prior court approval, for the first year following the guardian's first receipt of funds on behalf of the estate.

(b) After submitting the first annual financial report or account under subsection (a), the guardian shall thereafter submit a periodic financial report or account at least once during each three-year period, unless the court directs more frequent accounts.

(c) The guardian shall submit a final financial report or account when the minor reaches age 18 or when the guardian seeks to resign or is removed by the court.

(d) If the guardian dies while administering the estate, the executor or administrator of the estate of the deceased guardian shall file, on behalf of the deceased guardian, a final financial report or account for the guardianship estate.

Section 34.9 Required contents of financial report or account of guardian of estate

See rules 36 through 38.

Section 34.10 When guardian of estate to verify restricted account in force

See section 35.7 (e).

Section 34.11 When estate assets fall below statutory threshold for guardianship

(a) Except as provided in subsection (b), the court shall retain jurisdiction over the estate of a minor for which a guardian of the estate has been appointed even if the value of the estate falls below the maximum amount that a parent or guardian of the person may hold without a guardianship under C.G.S. section 45a-631.

(b) On petition of the guardian, the court may authorize the guardian to transfer funds from the estate to a custodian under the Connecticut Uniform Transfers to Minors Act if the court finds that the requirements of C.G.S. section 45a-558c are met.

Section 34.12 Reimbursement of probate fees to petitioner in estate of minor proceeding

(a) On motion of a party or on the court's own motion, the court may order a guardian of the estate of a minor to reimburse a party for any probate fees incurred in making a petition to the court concerning the guardianship if the court determines that reimbursement of the fees is equitable. The court may act without notice and hearing. If the court determines that reimbursement of the fees is equitable, but the court previously waived the petitioning party's fees under C.G.S. section 45a-111 (c), the guardian shall remit payment to the probate court administration fund. The reimbursed fees shall be paid from the estate as an administration expense.

(b) If the court determines that expenditures from the estate must be restricted to maintain the minor's eligibility for public assistance, the court may deny a motion under subsection (a).

Section 34.13 Petition to determine title relating to estate of minor

If the court declines jurisdiction to hear a petition concerning title to property relating to the estate of a minor under C.G.S. section 45a-98a (a), the court shall send written notice of the declination to each party and attorney of record.

Rule 35
Probate Bonds

Section 35.1 When probate bond required

(a) Except as otherwise provided in this rule, the court shall require a fiduciary to submit a probate bond whenever required by statute or by the provisions of a will or other governing instrument.

(b) The court may excuse the requirement of a bond if:

(1) the value of the assets of the estate or the amount of the estate that is not held in a restricted account is less than the amount under C.G.S. section 45a-139 (c);

(2) the fiduciary is a corporate fiduciary;

(3) in a decedent's estate:

(A) the will or other governing instrument excuses bond; or

(B) each heir or beneficiary of a decedent's estate waives the requirement of a bond;

(4) in a trust, the will or other governing instrument excuses bond;

(5) in a voluntary conservatorship, the petitioner waives the requirement of a bond; or

(6) in an involuntary conservatorship, the respondent or conserved person excused bond in a written designation of conservator under C.G.S. section 45a-645.

(c) Notwithstanding subsection (b), on motion of a party or on the court's own motion, the court may require a fiduciary to submit a bond if the court determines that a bond is necessary to protect parties or creditors or to assure the payment of taxes or administration expenses.

Section 35.2 Probate bond to be filed before appointment

If the court requires a probate bond from a fiduciary, the court shall not issue a decree appointing the fiduciary or issue a probate certificate evidencing the appointment until the fiduciary has filed the bond. If necessary to obtain the probate bond, the court may issue a decree or fiduciary certificate granting the fiduciary limited interim authority.

Section 35.3 Corporate surety required

(a) A probate bond filed on and after the effective date of this rule shall be secured by a corporate surety.

(b) An individual signing a bond on behalf of a corporate surety shall provide written evidence of the individual's authority to sign on behalf of the surety.

(c) A bond filed before the effective date of this rule that is secured by a personal surety is deemed to meet requirements of this rule, provided that a court may require that a corporate surety be substituted for a personal surety if the court determines that the personal surety does not provide adequate security for the bond.

(d) A personal surety under subsection (c) who is not a resident of this state shall file a certificate, acknowledged before an officer authorized to take acknowledgments of deeds, appointing the judge of probate and the judge's successors in office to be the surety's agent for service of process.

Section 35.4 Form of probate bond

A probate bond shall be on a form published by the probate court administrator or on a substantially similar form.

Section 35.5 Probate bond to secure performance of all cofiduciaries

If an estate has more than one fiduciary, the cofiduciaries shall submit a single bond securing the faithful performance of all cofiduciaries.

Section 35.6 Amount of probate bond

(a) Except as otherwise directed by the terms of a will or other governing instrument or provided by statute or this section, the amount of a probate bond shall be equal to the value of the assets under the control of the fiduciary and anticipated additional receipts of income or assets during the applicable accounting period.

(b) The amount of the bond may be less than provided in subsection (a) as follows:

(1) if the fiduciary does not have the power to sell or mortgage real property, the court may reduce the amount of the bond by the value of the real property;

(2) if the fiduciary deposits assets in a restricted account, the court may reduce the amount of the bond by the value of the assets that are restricted;

(3) if all heirs or all beneficiaries of a decedent's estate request bond in a smaller amount, the court may order bond in an amount equal to the amount requested;

(4) if a fiduciary is an heir or beneficiary of a decedent's estate, the court may reduce the amount of the bond by the fiduciary's share of the estate; or

(5) if the court has approved a structured settlement, the court may order bond in an amount equal to the funds that are anticipated to come under the fiduciary's control during the applicable accounting period.

Section 35.7 Restricted account

(a) The court may authorize a fiduciary to establish a restricted account to hold the assets of an estate. Except as specified in an order of the court, the fiduciary shall deposit all assets and income in the restricted account immediately on receipt.

(b) A restricted account may be established only by execution of an agreement in the exact form published by the probate court administrator under which the fiduciary and a financial institution approved by the court agree that no disbursements may be made except on written approval of the court.

(c) If the court requires the fiduciary to establish a restricted account, the court shall not issue a decree appointing a fiduciary or issue a probate certificate evidencing the appointment until the fiduciary has filed the fully executed agreement establishing the restricted account. If necessary to obtain the restricted account, the court may issue a decree or fiduciary certificate granting the fiduciary limited interim authority.

(d) Not later than ten days after receipt of any income or assets, the fiduciary shall submit proof of deposit into the restricted account.

(e) Whenever the fiduciary is required to submit a financial report or account, the fiduciary shall submit verification that the restricted account remains in force and the most recent statement for the restricted account. The verification shall be on a form published by the probate court administrator or on a substantially similar form.

(f) On request of the fiduciary, the court may authorize disbursement of funds from the restricted account. The court may act on the request without notice and hearing. If the court authorizes funds to be disbursed without a hearing, the disbursement is subject to review in connection with the fiduciary's financial report or account covering the period in which the disbursement is made.

Section 35.8 Fiduciary to report increase in value of estate

A fiduciary from whom a probate bond is required shall file a report listing the receipt of additional assets or income or the recognition of capital gain from the sale of an asset if the aggregate amount of the additional assets, income and capital gain exceeds ten percent of the amount of the bond or $50,000, whichever is greater. The fiduciary shall file the report not later than 30 days after the receipt or sale occurs. The court may require the fiduciary to increase the amount of the bond in accordance with section 35.6 or deposit the additional assets, income and capital gain in a restricted account under section 35.7.

Section 35.9 Adjustments to amount of probate bond

The court may adjust the amount of the probate bond to reflect a change in the value of the estate in connection with the review of an account or financial report, on receipt of a report under section 35.8 or at any other time.

Section 35.10 Surety on additional probate bond

If the court orders a fiduciary to increase the amount of a probate bond, the additional amount shall be secured by the same surety as the original bond, except that

the court may permit a different surety for the additional amount if both the original surety and different surety agree to joint and several liability for the original and additional amounts.

Section 35.11 Release of probate bond

(a) Except as provided under subsection (b) or under C.G.S. sections 45a-245 and 45a-331 (b), the court shall not issue a certificate releasing a probate bond until the court has approved the fiduciary's final financial report~~, statement in lieu of account~~ or account and, if required, the affidavit of closing.

(b) The court may issue a certificate releasing the bond if the court excuses the requirement of a final financial report or account under section 32.7 or 33.17.

Section 35.12 Action on probate bond

The court shall give notice of a hearing on an application to recover on a probate bond to each party and attorney of record. The court shall send notice to the surety by certified mail.

Rule 36
Fiduciary Accounting: General Provisions

Section 36.1 Methods of accounting

Except as provided in section 36.3, a fiduciary required or permitted to account to the court for the management of an estate may satisfy the legal requirements of an account by submitting a financial report meeting the requirements of rule 37. If an account is required instead of a financial report, the fiduciary shall submit an account meeting the requirements of rule 38. Nothing in this rule prevents a fiduciary from submitting an account instead of a financial report.

Section 36.2 Financial reports distinguished from accounts

A financial report is a simplified form of accounting by which a fiduciary provides summary information about the management of an estate. A financial report differs from an account in the following ways:

(1) principal and income need not be reported separately;

(2) assets may be reported at current fair market value rather than fiduciary acquisition value; and

(3) a financial report need not balance in the manner required for an account.

Section 36.3 When account is required instead of financial report

(a) A fiduciary shall submit an account rather than a financial report if the fiduciary is required to account separately for principal and income under section 38.1.

(b) On motion of a party or on the court's own motion made before approval of a financial report, the court may require the fiduciary to submit an account instead of a financial report if the court determines that an account is necessary to review the fiduciary's management of the estate.

Section 36.4 Financial reports and accounts to present information in clear manner and be signed under penalty of false statement

(a) A fiduciary submitting either a financial report or an account to the court shall present all required information in a concise, clear and understandable manner and in

sufficient detail so that the court and the parties can review the fiduciary's management of the estate.

(b) A fiduciary shall sign a financial report or account under penalty of false statement.

(c) A fiduciary may submit a financial report or account on a form published by the probate court administrator or in any format that satisfies the requirements of rules 36 through 38.

Section 36.5 Fiduciary to send copies of financial report or account and affidavit of closing to all parties

(a) A fiduciary submitting a financial report, ~~or~~ account or affidavit of closing shall send, at the time of filing, a copy to each party and attorney of record and shall certify to the court that the copy has been sent.

(b) If a beneficiary is a charity or charitable interest, the fiduciary shall send a copy of each financial report, ~~or~~ account or affidavit of closing, at the time of filing, to the Attorney General and shall certify to the court that the copy has been sent.

Section 36.6 When executor or administrator to submit financial report or account

See section 30.19.

Section 36.7 When trustee to submit financial report or account

See section 32.5.

Section 36.8 When final financial report or account of trustee excused

See section 32.7.

Section 36.9 When conservator to submit financial report or account

See section 33.14.

Section 36.10 Periodic or final financial report or account excused when person under conservatorship is Title 19 recipient

See section 33.17.

Section 36.11 When guardian of estate to submit financial report or account

See section 34.8.

Section 36.12 Affidavit of closing

(a) If the court directs the fiduciary to file an affidavit of closing, the fiduciary shall file the affidavit in accordance with this section not later than 30 days after completing distribution of all assets on hand.

(b) The affidavit of closing shall itemize each transaction since the end of the accounting period of the fiduciary's final financial report or account and shall include:

(1) the reserve shown on the final financial report or account;

(2) income or assets received; and

(3) amounts disbursed from the reserve and additional income and assets.

(c) The affidavit shall include a statement that assets in the fiduciary's control have been distributed in accordance with the final financial report or account and that the estate is fully settled.

(d) Except for amounts shown as reserve on the financial report or account or additional income or assets received after the end of the accounting period, the affidavit

shall not modify any item that would alter a beneficial interest previously adjudicated in the allowance of a financial report or account.

(e) The affidavit shall be signed under penalty of false statement.

(f) The court may accept the affidavit without notice and hearing.

Section 36.13 Records to be maintained by fiduciary

(a) A fiduciary shall maintain complete records of the fiduciary's management of the estate including, but not limited to:

(1) each accounting, report, journal or ledger used in managing the estate and each electronic equivalent thereof, including all data recorded with accounting software;

(2) each statement and passbook for each bank account, including savings, checking, money market, certificates of deposit and other types of accounts;

(3) each canceled check or check image for each bank account;

(4) each statement for each investment account;

(5) a receipt for each deposit made into each bank or investment account and supporting information relating to the deposit;

(6) supporting information relating to each disbursement made from each bank or investment account, including original supporting vendor invoices and receipts;

(7) each statement for each credit card account;

(8) each statement for each store card account;

(9) supporting information relating to each charge made on each credit card, store card or debit card, including supporting vendor invoices and charge slips or receipts;

(10) supporting information relating to each distribution made from the estate or trust to any heir, beneficiary, conserved person or minor, as applicable;

(11) with respect to a conservatorship of the estate, supporting information relating to each gift or other transfer for less than full consideration made from the estate to a party other than the conserved person, provided, however, that a conservator may make gifts and transfers only with prior court approval under C.G.S. section 45a-655 (e);

(12) detailed payroll information for each employee engaged or paid by the estate for each pay period, including time reporting records, original payroll registers, journals, and reports and copies of all Internal Revenue Service Forms 941, 942, W-3 and W-2 and other payroll tax returns;

(13) details of each contracted service provider engaged or paid by the estate for each calendar year, including original invoices from contractors and copies of all Internal Revenue Service Forms 1096 and 1099 and other tax forms;

(14) a detailed journal describing the fiduciary's services and ~~any amounts~~ compensation paid to the fiduciary;

(15) with respect to a decedent's estate or trust, a copy of each state and federal fiduciary income tax return filed by or on behalf of the estate or trust;

(16) with respect to a conservatorship of the estate or guardianship of the estate of a minor, a copy of each state and federal personal income tax return filed by or on behalf of the person under conservatorship or minor, including each form and information received for each tax year used in the completion of each return;

(17) with respect to a conservatorship of the estate, a copy of each state and federal gift tax return filed by or on behalf of the person under conservatorship; and

(18) any other record not specified in this section documenting the fiduciary's actions in the management of the trust or estate.

(b) The fiduciary shall not destroy any estate financial records until the court approves the fiduciary's final financial report or account, the conclusion of any appeal, or the termination of any other applicable record retention requirement, whichever is later.

Sec. 36.14 Definition of fiduciary acquisition value

(a) The fiduciary acquisition value of an asset is:

(1) for a decedent's estate, the fair market value of the asset on the date of death;

(2) for a trust, the fair market value of the asset on the date of death of the testator or settlor or on any other basis for value that the court directs after considering the nature of the trust and the manner in which it was funded; and

(3) for a conservatorship, guardianship or any other estate not specified in this section, the fair market value of the asset on the date of appointment of the first fiduciary.

(b) The fiduciary acquisition value of an asset that a fiduciary purchases during the course of administration is the sum of the purchase price of the asset and expenses directly related to the purchase.

(c) The fiduciary acquisition value of an asset shall not be changed based on unrealized gain or loss owing to fluctuations in market value.

(d) The fiduciary acquisition value of an asset shall be adjusted to reflect transactions in which:

(1) additional investments, such as capital improvements to real property, are made in an asset; and

(2) some of the original investment is returned to the fiduciary, such as the sale of a partial interest in an asset or the receipt of principal payments on a promissory note.

Rule 40
Children's Matters: General Provisions

Section 40.1 When streamline notice procedure may be used in children's matter

See rule 8.

Section 40.2 Appointment of attorney and guardian ad litem for minor

(a) The court may appoint an attorney for a minor under C.G.S. section 45a-620.

(b) If the court determines that the minor is unable to express his or her wishes to the attorney, the court may appoint the attorney to serve as both attorney and guardian ad litem.

(c) If the court determines that the minor's wishes, if followed, could lead to substantial physical, financial or other harm to the minor, the court may appoint an individual as attorney for the minor and another individual as guardian ad litem for the minor.

Section 40.3 Immediate temporary custody of a minor

(a) A petitioner seeking to remove a parent ~~as guardian of a minor~~or other guardian under C.G.S. section 45a-613 or 45a-614 or to terminate parental rights under C.G.S.

section 45a-715 (a) may petition for immediate temporary custody of the minor. A parent may file a petition under this section.

(b) In subsections (c), (d) and (e), the phrase "in the custody of the parent or other guardian," when used in C.G.S. section 45a-607 (b), refers to the current physical care of the minor at the time a petition for immediate temporary custody is filed, not the legal rights of the parent or guardian regarding the custody or guardianship of the minor.

(c) Except as provided in C.G.S. section 45a-607 (b) (2), the court may not grant a petition for immediate temporary custody of the minor on an ex parte basis if the minor is in the custody of the parent or other guardian.

(d) If the minor is not in the custody of a parent or other guardian, the court may grant a petition for immediate temporary custody of the minor on an ex parte basis as provided in C.G.S. sections 45a-607 (b) (1) through 45a-607 (b) (3).

(e) If the minor is in the custody of a parent or guardian who is the petitioner, the court may grant a petition for immediate temporary custody of the minor on an ex parte basis as provided in C.G.S. sections 45a-607 (b) (1) through 45a-607 (b) (3).

Section 40.4 Order for immediate temporary custody without notice and hearing

(a) The court may act on a petition for immediate temporary custody under C.G.S. section 45a-607 (b) without notice and hearing.

(b) If the court determines that it is necessary to meet with the petitioner before deciding a petition for immediate temporary custody on an ex parte basis, the court shall make an audio recording of the meeting. The recording shall be available to the parties. If the court grants immediate temporary custody and the temporary custody hearing required by C.G.S. section 45a-607 (b) (3) is contested, the judge who met with the petitioner shall be disqualified from conducting the temporary custody hearing.

Section 40.5 Appointment of temporary custodian on consent

(a) If a parent or guardian of a minor consents to the grant of temporary custody in connection with a petition that names a proposed temporary custodian, the court shall not appoint another individual as custodian unless:

(1) the parent or guardian consents to the appointment of the other individual;

(2) the original petition alleges grounds for temporary custody other than consent of the parent or guardian, and the court makes the findings required under C.G.S. section 45a-607 (d);

(3) a person authorized under C.G.S. section 45a-614, including the court on its own motion, files a petition for immediate temporary custody, and the court makes the findings required under C.G.S. section 45a-607 (b); or

(4) a person authorized under C.G.S. section 45a-614, including the court on its own motion, files a new or amended petition alleging grounds for temporary custody, and the court, after notice and hearing in accordance with C.G.S. section 45a-607 (c), makes the findings required under C.G.S. section 45a-607 (d).

(b) If the court grants immediate temporary custody under subsection (a) (3), the court shall give notice and conduct a temporary custody hearing in accordance with C.G.S. section 45a-607 (b) (3).

Section 40.6 Removal ~~of parent~~ and appointment of guardian on consent

If a parent or guardian consents to removal as guardian in connection with a petition that names a proposed guardian, the court shall not appoint another individual as guardian unless:

(1) the parent or guardian consents to the appointment of the other individual as guardian;

(2) the original petition alleges grounds for removal other than consent of the parent or guardian, and the court makes the findings required under C.G.S. section 45a-610; or

(3) a person authorized under C.G.S. section 45a-614, including the court on its own motion, files a new or amended petition alleging grounds for removal, and the court, after notice and hearing in accordance with C.G.S. section 45a-609, makes the findings required under C.G.S. section 45a-610.

Section 40.6a Notice of hearing on competing removal petition

If the court has previously given notice of hearing on a petition to remove a parent or other guardian, the court shall give notice of hearing on any subsequent competing removal petition by regular mail to each party and attorney of record and each other person listed in C.G.S. section 45a-609 (b). Delivery of the notice of the competing removal petition by personal service on the respondent is not required.

Section 40.7 Reinstatement as guardian

Except as provided under C.G.S. section 45a-611, a parent or guardian who was removed as guardian of a minor may file a petition seeking reinstatement as guardian. The petitioner shall have the burden of proving that the factors that resulted in removal have been resolved satisfactorily. If the court finds that the parent or former guardian has met the burden of proof, the court shall determine whether reinstatement of the parent or former guardian is in the minor's best interests. The evidentiary standard for the findings in ~~the~~this section and C.G.S. section 45a-611 is preponderance of the evidence.

Section 40.8 Temporary guardianship

A parent or guardian may petition to appoint a temporary guardian for a minor without another parent or guardian joining as copetitioner. The court shall give notice to each party, including a nonpetitioning parent or guardian, and each attorney of record.

Section 40.9 Public notice in termination proceeding when name or location of parent unknown

(a) A petitioner seeking to terminate the parental rights of a parent shall make diligent effort to determine the name and current address of the parent. If the petitioner cannot determine the name or address, the petition shall include a statement signed under penalty of false statement indicating:

(1) that the petitioner cannot determine the name or address of the parent;

(2) the last known address, if any, of the parent;

(3) the search efforts that the petitioner has made; and

(4) other relevant information that might assist in determining the name or address of the parent.

(b) If the name or address of a parent is unknown, the court shall publish notice of the hearing on the petition to terminate parental rights in a newspaper having general circulation where the parent was last known to reside or, if no such address is known, in the probate district in which the petition was filed. The notice shall include the full name of any known parent, the first name and first initial of the last name of the minor, and the minor's date and place of birth.

Section 40.10 Pre-adoption hearing

The court may conduct a pre-adoption hearing to address any issues associated with the proposed adoption. The notice of hearing shall indicate that the adoption will not be finalized at the pre-adoption hearing.

Section 40.11 Appointment of out-of-state child-placing agency as statutory parent to give child in adoption

An out-of-state child-placing agency may petition to be appointed as statutory parent of a minor whom the agency has placed for adoption in this state under the Interstate Compact on the Placement of Children. The court may appoint the agency as statutory parent if the court finds that:

(1) the minor is free for adoption;

(2) no statutory parent has been appointed for the minor in this state; and

(3) the agency is licensed or approved by the Department of Children and Families.

Sec. 40.12 Adoption by same sex married couple

(a) Even if both spouses of a same sex married couple are considered parents of a minor under the law of this state, a spouse may petition under C.G.S. section 45a-724 (a) (2) for a stepparent adoption of the minor by the other spouse.

(b) In a proceeding under subsection (a), the court may waive notice to the commissioner of children and families and shall waive, unless cause is shown, all requirements for an investigation and report by the Department of Children and Families or by a child-placing agency.

Section 40.13 Notice in adult adoption proceeding

In a proceeding to approve an adult adoption, the court shall give notice to each party and attorney of record. The court may give notice to other persons interested in the welfare of the parties, including relatives and friends of the proposed adoptive parent and adopted person. ~~The notice to other persons may be in lieu of or in addition to public notice.~~

Section 40.14 In-court review for possible modification of order

On motion of a party or on the court's own motion, the court may, at any time before ruling on a petition to remove a parent as guardian or terminate parental rights, conduct an in-court review to consider possible modification of an order of the court. The notice of hearing for the in-court review shall specify the order that is the subject of review.

Section 40.15 Criminal background check

(a) Unless an immediate appointment is necessary to ensure the safety of a minor, the court shall obtain a criminal background check of a proposed temporary custodian, guardian of the person, temporary guardian or coguardian of the person before issuing a decree appointing the fiduciary.

(b) If the requirement of a criminal background check is waived at the time of appointment under subsection (a), the court shall obtain a criminal background check as soon as reasonably possible after issuing the decree making the appointment.

Section 40.16 Transfer of contested removal or termination petition to Superior Court

(a) A party may file a motion in the Probate Court to transfer a contested petition to remove a parent ~~as guardian~~or other guardian or terminate parental rights to the

Superior Court for Juvenile Matters. Unless the Probate Court grants an extension of time to file, the party shall file the motion at least three days before the first hearing on the petition for removal or termination.

(b) The party moving for transfer under subsection (a) shall send a copy of the motion to each party and attorney of record and shall certify to the court that the copy has been sent.

(c) If the motion to transfer is filed by a party other than the party who petitioned for removal or termination, the court shall, without notice and hearing, grant the transfer not later than five days after receipt of the motion.

(d) If the motion to transfer is filed by the party who petitioned for removal or termination, the court shall hear and decide the motion before conducting the hearing on removal or termination.

(e) On the court's own motion and without notice and hearing, the court may transfer a petition for removal or termination to the Superior Court.

Section 40.17 Appointment of commissioner of children and families as temporary custodian or guardian

If the court appoints the commissioner of children and families as temporary custodian or guardian of the person of a minor, the court shall make written findings to indicate whether the commissioner made reasonable efforts to maintain the minor in the home and whether continuation in the home is contrary to the best interests of the minor.

Rule 44
Commitment for Treatment of Psychiatric Disability

Section 44.1 Confidentiality of psychiatric commitment proceeding

The court shall exclude a person who is not a party or an attorney for a party from attending or participating in ~~a~~any hearing ~~on probable cause or~~relating to commitment for treatment of psychiatric disability under C.G.S. sections 17a-75 through 17a-83 or sections 17a-495 through 17a-528, except that:

(1) a parent of a respondent who is under the age of 16 may participate in the hearing; and

(2) the court may:

(A) on request of the respondent, permit a person to participate in the hearing;

(B) after considering any objection of the respondent, permit a relative or friend who is interested in the welfare of the respondent to participate in the hearing; and

(C) permit a witness to attend any part of the hearing.

Section 44.2 Audio recording of psychiatric commitment proceeding

The court shall make an audio recording of each ~~probable cause~~ hearing ~~under C.G.S. section 17a-78 (d), 17a-502 (d) or 17a-506 (e) and each hearing on~~ relating to commitment for treatment of psychiatric disability under C.G.S. ~~section 17a-77 or 17a-498~~sections 17a-75 through 17a-83 or sections 17a-495 through 17a-528.

Section 44.3 Notice and procedures in probable cause hearing

(a) The court shall give notice of a probable cause hearing under C.G.S. section 17a-78 (d), 17a-502 (d) or 17a-506 (e) to the facility in which the respondent is confined. The notice may be given by telephone, electronic communication or other reasonable means.

(b) If the respondent wishes to attend the probable cause hearing, the facility at which the respondent is confined shall arrange for the respondent's presence at the hearing.

(c) The facility shall have the burden of proving that there is probable cause to continue the confinement. The facility shall present medical evidence at the hearing concerning the condition of the respondent at the time of the admission and at the time of the hearing, the effects of medication, if any, and the advisability of continuing treatment.

Section 44.4 Notice of hearing on psychiatric commitment

(a) The court shall give notice of a hearing on the commitment of an individual 16 years of age or older under C.G.S. section 17a-498 to the respondent by personal service. The court shall give notice of the hearing to the facility in which the respondent is confined and to other persons as the court directs under section 44.1 by regular mail or other reasonable means. The court shall give notice of a review hearing under C.G.S. section 17a-498 (g) or 17a-510 to the respondent and the facility in which the respondent is confined and to other persons as the court directs under section 44.1 by regular mail or other reasonable means.

(b) The court shall give notice of a hearing on the commitment of a child under the age of 16 under C.G.S. section 17a-77 to the respondent child and to the parents or guardians of the respondent child by personal service. The court shall give notice of the hearing to the facility in which the respondent is confined and to other persons as the court directs under section 44.1 by regular mail or other reasonable means. The court shall give notice of a review hearing under C.G.S. section 17a-80 to the respondent child, the parents or guardians of the respondent child and the facility in which the respondent child is confined and to other persons as the court directs under section 44.1 by regular mail or other reasonable means.

Section 44.5 Warrant for examination of individual 16 years or older at general hospital

(a) If an individual 16 years of age or older in a commitment proceeding under C.G.S. section 17a-498 refuses to be examined by the court-appointed physicians, a party may petition the court to issue a warrant for a police officer to apprehend and transport the respondent to a general hospital for examination. The court may issue the warrant without notice and hearing.

(b) If, after examination, the respondent is hospitalized under an emergency certificate under C.G.S. section 17a-502 (a), the court shall dismiss the commitment petition.

(c) If, after examination, the respondent is released, the examining physicians shall send their reports to the court, and the court shall hear and decide the commitment petition.

Section 44.6 Warrant for examination of child at general hospital

(a) If a child under the age of 16 in a commitment proceeding under C.G.S. section 17a-77 refuses to be examined by the court-appointed physicians, a party may petition the court to issue a warrant for a police officer to apprehend and transport the

respondent child to a general hospital for examination. The court may issue the warrant without notice and hearing.

(b) If, after examination, the respondent child is hospitalized under an emergency or diagnostic certificate under C.G.S. section 17a-78 (a), the court shall dismiss the commitment petition.

(c) If, after examination, the respondent child is released, the examining physicians shall send their reports to the court, and the court shall hear and decide the commitment petition.

Section 44.7 Warrant for court to examine individual 16 years or older

(a) On petition of a person alleging that an individual 16 years of age or older has a psychiatric disability and is dangerous to himself or herself or others or gravely disabled, the court may issue a warrant under C.G.S. section 17a-503 (b) for a police officer to apprehend and bring the respondent before the court to determine whether the respondent should be brought to a general hospital for examination. The court may issue the warrant without notice and hearing.

(b) The court may conduct the hearing under this section at any location suitable to facilitate participation of the respondent.

(c) If the court orders that the respondent be taken to a general hospital for examination, the examining physicians shall determine whether to confine the respondent under an emergency certificate in accordance with C.G.S. section 17a-502 (a).

Section 44.8 Voluntary admission of person under conservatorship

On receipt of the report of a psychiatrist under C.G.S. section 17a-506 (c), the court shall determine whether a person under conservatorship gave informed consent to voluntary admission to a hospital for psychiatric disabilities. The court may issue its decision without notice and hearing. The court shall send a copy of the decree to the facility and to each party and attorney of record in the conservatorship proceeding.

Rule 45
Proceedings for Medication and Treatment of Psychiatric Disability

Section 45.1 Confidentiality of proceeding for shock therapy or medication to treat psychiatric disability ~~or shock therapy~~

The court shall exclude a person who is not a party or attorney for a party from attending or participating in a hearing on a petition for medication for treatment of a psychiatric disability under C.G.S. section 17a-543 (e), 17a-543 (f), 17a-543 (g) or 17a-543a or a hearing on a petition for shock therapy under C.G.S. section 17a-543 (c), except that the court may:

(1) on request of the patient, permit a person to participate in the hearing;

(2) after considering any objection of the patient, permit a relative or friend who is interested in the welfare of the patient to participate in the hearing; and

(3) permit a witness to attend any part of the hearing.

Section 45.2 Audio recording of proceeding for shock therapy or medication ~~or treatment of~~to treat psychiatric disability

The court shall make an audio recording of each hearing on a petition for medication for treatment of a psychiatric disability under C.G.S. sections 17a-543 (e), 17a-543 (f), 17a-543 (g) and 17a-543a and each hearing on a petition for shock therapy under C.G.S. section 17a-543 (c).

Section 45.3 Where to file petition for medication to treat psychiatric disability

(a) A petition under C.G.S. section 17a-543 (e) alleging that a patient in a facility is incapable of giving informed consent to medication for treatment of a psychiatric disability and seeking appointment of a conservator for the patient shall be filed in a court having jurisdiction of an involuntary conservatorship petition for the patient under C.G.S. section 45a-648 (a).

(b) A petition under C.G.S. section 17a-543 (e) alleging that a patient in a facility is incapable of giving informed consent to medication for treatment of a psychiatric disability and requesting that a previously appointed conservator be authorized to consent to medication shall be filed in the court:

(1) having jurisdiction over the conservator; or

(2) for the probate district in which the ~~treating~~ facility is located.

(c) A petition under C.G.S section 17a-543 (f) alleging that a patient in a facility is capable of giving informed consent to medication for treatment of a psychiatric disability but refuses to consent shall be filed in the court for the probate district in which the facility is located.

(d) A patient seeking a hearing under C.G.S. section 17a-543 (g) concerning medication for treatment of a psychiatric disability shall file the petition in the court for the probate district in which the facility is located.

Section 45.4 Notice of hearing on petition for medication to treat psychiatric disability

The court shall give notice of hearing on a petition for medication for treatment of a psychiatric disability under C.G.S. section 17a-543 (e), ~~or~~ 17a-543 (f) or 17a-543 (g) to the patient~~,~~ and the facility in which the patient is being treated and to other persons as the court directs under section 45.1. The court shall give notice by regular mail or other reasonable means, except that, if the petition seeks appointment of a conservator, the court shall give notice in accordance with C.G.S. section 45a-649.

Section 45.5 Petition for shock therapy

(a) A petition for shock therapy under C.G.S. section 17a-543 (c) shall be filed in the court for the probate district in which the ~~treating facility is located~~ patient is hospitalized.

(b) The court shall give notice of hearing on the petition to the patient by personal service. The court shall give notice of the hearing to the ~~treating facility~~petitioner and to other persons as the court directs under section 45.1 by regular mail or other reasonable means.

Rule 47
Change of Name

Section 47.1 Change of name of adult

(a) An individual 18 years of age or older seeking to change his or her name shall file a petition in the court for the probate district in which the individual resides.

(b) The petition shall be accompanied by:

(1) an affidavit on a form published by the probate court administrator;

(2) a certified copy of the petitioner's long-form birth certificate, unless the court accepts other evidence of the birth name of the petitioner; and

(3) other information if required by the court.

(c) The court shall send notice of the hearing on the petition to the petitioner and the petitioner's spouse, except that the court may excuse notice to the spouse if notice to the spouse might jeopardize the safety of the petitioner.

(d) Unless otherwise directed by the court, the petitioner shall appear in court and present two forms of identification, including at least one form of photographic identification. The judge or clerk shall administer an oath or affirmation to the petitioner and each other person who will testify.

Section 47.2 Change of name of minor

(a) A petition to change the name of a minor may be initiated only by a next friend as petitioner. A parent or guardian of the minor or other person permitted by the court may act as next friend.

(b) The petitioner shall file the petition in the court for the probate district in which the minor resides.

(c) The petition shall be accompanied by:

(1) an affidavit on a form published by the probate court administrator;

(2) a certified copy of the minor's long-form birth certificate, unless the court accepts other evidence of the birth name of the minor; and

(3) other information if required by the court.

(d) The court shall send notice of the hearing on the petition to the:

(1) petitioner;

(2) parents of the minor, if not the petitioner;

(3) guardian of the minor, if not the petitioner; and

(4) minor, if 12 years of age or older.

(e) The petitioner shall appear in court. The judge or clerk shall administer an oath or affirmation to the petitioner and each other person who will testify.

Section 47.3 Single petition for change of name for family

(a) If petitions for change of name of spouses, parents or minor children of the same family living at the same residence are filed at the same time, the court may treat the petitions as a single matter subject to one entry fee. The court shall issue a separate decree for each member of the family.

(b) The court may charge a separate entry fee for a petition under subsection (a) if the court determines that it is necessary to hear the petition separately from the other petitions.

Section 47.4 Criminal background and sex offender registry check; notification to Department of Emergency Services and Public Protection

(a) If the court has reason to believe that an individual seeking to change his or her name has a pending charge, conviction or other criminal record, the court shall obtain a criminal background check of the individual. The court may obtain a criminal background check of any individual seeking a change of name.

(b) ~~The court shall obtain a sex offender registry check of an individual 18 years or older seeking to change his or her name~~ If an individual 18 years of age or older seeks

to change his or her name, the court shall search the registries of sexual offenders and of offenders convicted of crimes with a deadly weapon. If the individual is a registered sex offender or registered offender convicted of a crime with a deadly weapon, the court shall proceed in accordance with C.G.S. section 45a-99.

(c) If the court grants a change of name to a registered sex offender, a registered offender convicted of a crime with a deadly weapon, or ~~an~~ any other individual whom the court knows to have a criminal record, the court shall send a copy of the decree to the Department of Emergency Services and Public Protection and the police department for the town where the offense occurred.

Rule 61
Discovery

Section 61.1 When permission of court is required

(a) Except as provided in subsection (b), a party shall obtain permission from the court before seeking discovery of information from another party by the following methods:

(1) interrogatories under section 61.4;

(2) request for production, inspection and examination under section 61.5; and

(3) request for admission under section 61.6.

(b) Without obtaining permission of the court, a party may take the testimony of any person by deposition and may request the person to produce documents and tangible things at the deposition in accordance with section 61.3.

Section 61.2 When interrogatories, request for production and request for admission permitted

(a) A party may request permission to conduct discovery using a method under 61.1(a) by submitting a summary describing the information sought. Unless otherwise directed by the court, the requesting party shall not file individual discovery documents. The court may hear a request for discovery at a hearing management conference.

(b) The court may grant a request for discovery under subsection (a), in whole or in part, if it finds that the requested discovery appears reasonably calculated to lead to admissible evidence and would not be unduly burdensome or expensive.

Section 61.3 Taking deposition

(a) A party may take the testimony of any person by deposition in accordance with C.G.S. sections 52-148a through 52-159.

(b) A party may compel another party to testify at a deposition by giving notice of the deposition in accordance with C.G.S. section 52-148b. The notice may include a request for the other party to produce documents and tangible things at the deposition.

(c) An attorney for a party may compel any person to testify at a deposition by issuing a subpoena under C.G.S. section 52-148e. The subpoena may include a request for the person to produce documents and tangible things at the deposition.

(d) On motion of a self-represented party, the court may compel any person to testify at a deposition by issuing a subpoena. The cost of serving the subpoena shall be paid by the party requesting it.

(e) A party or attorney for the party shall send notice of a deposition to each party and attorney of record.

(f) A person whose deposition is sought under subsection (b), (c) or (d) may move to quash or modify the notice or subpoena.

(g) C.G.S. section 52-148e and section 13-30 of the Connecticut Practice Book shall govern the conduct of a deposition under this rule and the procedure for resolution of a dispute related to the deposition.

(h) A party or attorney for the party may use a deposition in a proceeding in the manner provided under section 13-31 of the Connecticut Practice Book.

Section 61.4 Interrogatories

(a) With permission of the court under section 61.2 and within the scope of the court's order, a party may issue written interrogatories to another party.

(b) Unless otherwise permitted by the court, a party may not issue more than 25 interrogatories, including each discrete subpart. The court may hear a request to issue additional interrogatories at a case management conference.

(c) Answers to interrogatories may be used in a proceeding to the extent permitted by the rules of evidence.

Section 61.5 Request for production, inspection and examination

With permission of the court under section 61.2 and within the scope of the court's order, a party may make a written request to another party to:

(1) inspect, copy, photograph or otherwise reproduce documents, including, but not limited to, writings, drawings, graphs, charts, electronic communications and photographs;

(2) inspect and copy or test a tangible thing in the possession, custody or control of the party to whom the request is made; and

(3) permit entry on property for the purpose of inspecting, measuring, surveying, photographing or testing the property.

Section 61.6 Request for admission

(a) With permission of the court under section 61.2 and within the scope of the court's order, a party may issue to another party a written request for the admission of the truth of a matter. The request shall relate to a statement of fact, opinion or the application of law to fact. If the request relates to a document, the requesting party shall provide a copy of the document unless it is otherwise available to the other party.

(b) Except as provided in subsections (c) and (d), an admission under this section conclusively establishes the matter admitted.

(c) On motion of a party who made an admission, the court may permit the admitting party to withdraw or amend the admission if:

(1) the withdrawal or amendment will facilitate the presentation of the merits of the matter; and

(2) the party who requested the admission fails to establish that the withdrawal or amendment will cause prejudice.

(d) An admission of a party under this section does not waive the right of the party to object to the admission on the grounds of competency or relevancy.

(e) An admission of a party under this section may be used only in the pending proceeding.

Section 61.7 Answer to ~~interrogatories,~~discovery request ~~for production and request for admission~~

(a) Unless otherwise directed by the court, a person responding to a discovery request shall not file the response with the court.

(b) The party to whom ~~interrogatories are directed or~~ a request for ~~production or admission~~ discovery under section 61.1 (a) is made shall respond in writing and under oath. The party shall respond not later than 30 days after issuance of the ~~interrogatories or~~ request unless:

(1) on motion by the party, the court directs a shorter or longer time; or

(2) the party files an objection in accordance with section 61.9.

(c) If a party files an objection under section 61.9, the party shall respond to the ~~interrogatories or the~~ part of the request to which an objection is not made.

Section 61.8 Continuing duty to disclose

Until a matter is concluded, a party to whom a discovery request is made under this rule shall have a continuing duty to disclose:

(1) new or additional information within the scope of the request; and

(2) that information previously disclosed is not true or is no longer true.

Section 61.9 Objection to ~~interrogatory or~~discovery request ~~for production or admission~~

(a) A party who objects to ~~an interrogatory or~~a request for ~~production or admission~~ discovery under section 61.1 (a) shall file a written objection setting forth the grounds for the objection and the proposed remedy and describing the efforts made to resolve the differences between the parties concerning the discovery request.

(b) The party shall file the objection not later than 30 days after issuance of the discovery request.

(c) The party shall send a copy of the objection to each party and attorney of record and certify to the court that the copy has been sent.

(d) The court may issue an order under subsection (e) if it finds that the requested discovery:

(1) seeks information that is privileged or otherwise protected by law from discovery;

(2) does not appear to be reasonably calculated to lead to admissible evidence;

(3) would be unduly burdensome or expensive; or

(4) will cause annoyance, embarrassment or oppression.

(e) If the court finds one or more of the grounds under subsection (d), the court may order such relief as justice requires, including that the requested discovery be:

(1) limited or denied;

(2) conducted on specified terms and conditions; or

(3) conducted by an alternative method.

(f) If the court overrules the objection to the discovery request, the party shall respond to the ~~interrogatory or~~ request not later than 20 days after the court's ruling is mailed. On request of a party, the court may extend the response period.

Section 61.10 Order for compliance

(a) If a person fails to comply with a request for discovery, the requesting party may file a motion seeking an order for compliance. The motion shall set forth the discovery request that is the subject of the motion and the reason why the response, if any, fails to comply.

(b) If the court finds that the person has failed to comply with the request for discovery and that the discovery is permitted under sections 61.3 through 61.6, the court may:

(1) award the discovering party the expenses of the motion under C.G.S. section 45a-109 and a reasonable attorney's fee;

(2) order that the subject matter of the discovery request is established for the purposes of the proceeding;

(3) prohibit a party who failed to comply from introducing designated matters in evidence; and

(4) make any other order that justice requires.

(c) Unless a timely written objection has been filed under section 61.9, the court may not excuse a failure to comply with a discovery request on the ground that the court would have granted relief under section 61.9 (e).

Section 61.11 Summons to testify

(a) An attorney for a party may issue a subpoena under C.G.S. section 52-143 to summon a person to testify before the court.

(b) On motion of a self-represented party, the court may issue a subpoena under C.G.S. sections 45a-129 and 52-143 to summon a person to testify before the court. The cost of serving the subpoena shall be paid by the party requesting it.

Section 61.12 Order to obtain medical records

See C.G.S. section 45a-98b.

Rule 67
Interpreters

Section 67.1 Party or witness with hearing impairment

When necessary to permit a party or witness with hearing impairment to participate in a hearing or conference, the court shall provide an interpreter in accordance with C.G.S. section 46a-33a.

Section 67.2 Interpreter permitted for language translation

(a) The court may allow a person to serve as interpreter for a party or witness who is unable to speak or understand English.

(b) In determining whether to allow the proposed interpreter to assist the party or witness, the court shall consider:

(1) whether the interpreter is impartial;

(2) the competence of the interpreter to provide accurate and reliable interpreting service;

(3) the proposed compensation, if any, of the interpreter; and

(4) other relevant factors.

Section 67.3 Interpreter to act under oath

(a) The court shall administer to an interpreter the oath “for an interpreter in court” provided in C.G.S. section 1-25.

(b) Notwithstanding subsection (a), administration of an oath is not required if the interpreter is a member of court staff or a commercial interpreting service.

Rule 72
News Media Coverage

Section 72.1 News media coverage permitted

Except as provided in sections 72.2 through 72.4, the court shall permit news media coverage.

Section 72.2 News media coverage not permitted

(a) Except as provided in subsection (b), news media coverage is not permitted in the following matters:

(1) involuntary placement of a person with intellectual disability;
(2) commitment for treatment of psychiatric disability;
(3) administration of shock therapy;
(4) medication for treatment of psychiatric disability;
(5) appointment of a special limited conservator;
(6) commitment for treatment of drug and alcohol dependency;
(7) commitment for treatment of tuberculosis;
(8) appointment of a guardian of an adult with intellectual disability;
(9) sterilization;
(10) removal of parent as guardian;
(11) temporary guardianship;
(12) termination of parental rights;
(13) appointment of a statutory parent;
(14) adoption;
(15) emancipation of a minor;
(16) a hearing or conference or part of a hearing or conference that is closed under rule 16; ~~and~~
(17) a request under C.G.S section 45a-100 for relief from federal firearms disability; and
(18) any other hearing or conference that is confidential under statute.

(b) The court may allow media coverage of a hearing or conference in a matter listed in subsection (a) if all parties consent.

(c) News media shall not operate any type of recording or photographic equipment in the court during a recess.

(d) News media coverage of any communication between an attorney and the attorney's client is prohibited.

(e) News media coverage is prohibited in areas immediately adjacent to the courtroom during a hearing or conference or during a recess.

Section 72.3 Conference to establish conditions of news media coverage

On request of a party or member of the news media or on the court's own motion, the court may conduct a conference concerning news media coverage of a hearing. At the conclusion of the conference, the court may issue an order establishing the conditions of news media coverage. The court shall not limit or prohibit news media coverage unless the requirements of section 72.4 have been met.

Section 72.4 Objection to news media coverage

(a) A party who seeks to limit or prohibit news media coverage of a hearing shall file a written objection alleging the reasons for the objection. The court may initiate a proceeding to limit or prohibit news media coverage on its own motion.

(b) The court shall give notice of the hearing to each party and attorney of record and to each person whose rights are at issue, including a member of the news media that has indicated interest in covering the hearing.

(c) Any person whom the court determines has an interest in the proceeding may present evidence and argument as to whether news media coverage should be limited or prohibited.

(d) The court may limit or prohibit news media coverage if it finds that:

(1) there is a compelling reason for the limitation or prohibition, in that news media coverage would undermine the legal rights of a party or compromise significant safety or privacy interests of a person;

(2) there are no reasonable alternatives to limitation or prohibition; and

(3) the limitation or prohibition is no broader than necessary to protect the rights or interests at issue.

(e) When deciding whether to limit or prohibit news media coverage, the court shall give great weight to an objection that seeks to protect the identity of a:

(1) crime victim;

(2) police informant;

(3) undercover agent;

(4) relocated witness; or

(5) minor.

(f) If the court issues an order limiting or prohibiting news media coverage, the court shall specify:

(1) the compelling reason on which the order is based;

(2) the alternatives to limitation or prohibition that the court considered and the reasons why the alternatives were unavailable or inadequate;

(3) the basis for the determination that the order is no broader than necessary to protect the rights or interests at issue; and

(4) the scope and duration of the order.

Section 72.5 Recording and photographic equipment

News media shall not use recording and photographic equipment that produces distracting sound or light. No equipment shall be placed in, or removed from, a courtroom during a hearing or conference. Equipment shall be operated in a manner that is not disruptive to the hearing or conference.

Section 72.6 Pooling arrangement for news media

The court may require a pooling arrangement for news media coverage in the manner provided in Connecticut Practice Book section 1-11B.

Section 72.7 Public comment by attorney

Rule 3.6 of the Rules of Professional Conduct shall govern public comment by an attorney about a pending or impending matter.