

## **Probate Court Rules Advisory Committee**

### **Meeting Minutes**

Thursday, October 10, 2013

3:00 p.m.

Central Connecticut State University  
ITBD Conference Center  
185 Main Street  
New Britain, Connecticut

The meeting was convened at 3:07 p.m. by Judge Paul Knierim, Probate Court Administrator and Chair.

Other members in attendance: Attorney Molly Ackerly, Attorney Bonnie Bennet, Attorney Douglas Brown, Professor Jeffery Cooper, Judge Michael Darby, Attorney Thomas Gaffey, Attorney Karen Gano, Attorney Paul Hudon, Attorney Christopher Hug, Judge Robert Killian, Jr., Attorney Gabriella Kiniry, Attorney Andrew Knott, Judge Brian Mahon, Judge John McGrath, Mr. Stephen Pednault, CPA, Attorney Carmine Perri, Attorney Greta Solomon, Judge Claire Twerdy, Ms. Sondra Waterman, and Judge Steven Zelman.

Also in attendance: Attorney David Biklen, Committee Reporter

Members not in attendance: Ms. Suzette Farrar, Judge Gerald Fox, Jr., Attorney Patricia Kaplan, Judge Beverly Streit-Kefalas and Mr. Arthur Teal.

#### **Remarks of the Chair**

Judge Knierim welcomed and updated the committee on actions concerning the new Probate Court Rules of Procedure since the committee's last meeting in September of 2012. The Probate Court Rules were published on July 1, 2013 and over one hundred forms were revised or developed to ensure compliance with the rules. Given the sheer number of the changes to the rules and forms, practitioners and probate judges and staff have had a lot to assimilate in the last three months.

The purpose of meeting is to share the feedback on the rules received by Probate Court Administration and members of the committee. While the committee worked hard to draft rules to reflect best practice and promote uniformity, it was anticipated that the committee would need to update and improve the rules once we had a chance to put them into practice.

Judge Knierim urged patience, however, suggesting that the new procedures need to be tested before determining what works and what doesn't. Inasmuch as the next edition of the Probate Court Rules is scheduled for July, 2015, there is time over the coming months for the committee to fully consider suggested revisions.

### **Approval of the minutes of September 13, 2012**

The minutes of September 13, 2012 were unanimously approved.

### **Discussion of feedback regarding rules**

A compilation of suggested rule revisions based on present feedback was disseminated to the committee prior to the meeting. In addition, committee members offered the following observations and comments:

- Attorneys have challenged the requirement that they send inventories and accounts to all parties, including those represented by counsel. Concerns have been raised that some attorneys are not complying with this rule because of a belief that this requirement may violate the rules of professional conduct.
- Concerns have been voiced over the requirement that inventories and accounts must be sent to specific legatees, even if they have gotten the bequest and signed a receipt and release, which is filed in court.
- The committee discussed the circumstance of an attorney who files an appearance on the day of a hearing and therefore has not provided advance copies of the appearance to the attorneys and parties. The consensus was that the hearing typically should proceed unless a party demonstrates actual prejudice.
- The committee was asked to review the rule that requires court permission to conduct discovery.
- It was reported that some clerks are returning documents that do not fully comply with the rules. Committee members, including judges, expressed the opinion that courts be as flexible as possible as everyone is becoming familiar with the new rules.
- The idea of a commentary section for the rules was suggested to provide more guidance regarding the rules and new forms.
- The new rule on bonds was discussed in light of the increasing difficulty in obtaining surety bonds.

### **Reallocation of responsibility for rules among subcommittees**

The vast majority of the feedback received to date involved rules for specific case types. Judge Knierim proposed that subcommittee I and II review suggested revisions for the following rules in addition to the rules pertaining to their respective subcommittee:

Subcommittee I: Rule 35: Bonds, Rule 36: Fiduciary Accounting, and Rule 47: Change of Name  
Subcommittee II: Rule 33: Conservators

### **Adjournment**

The meeting was adjourned at 3:55 p.m.

Approved January 16, 2014