

**Probate Practice Book Advisory Committee  
Subcommittee I**

Meeting Minutes  
Tuesday August 30, 2011  
3:00 p.m.

Office of the Probate Court Administrator  
186 Newington Road  
West Hartford, CT

Judge Steven Zelman, Chair of Subcommittee I, convened the meeting at 3:10 p.m.

Other members in attendance: Attorney Molly Ackerly, Attorney Bonnie Bennet, Attorney Douglas Brown, Attorney Karen Gano, Attorney Paul Hudon, Attorney Greta Solomon, Judge Beverly Streit-Kefalas, Ms. Sondra Waterman

Also in attendance: Attorney David Biklen, Reporter

**Discussion of concepts for rules**

**Probate Fees**

The committee continued its review and consideration of the list of issues regarding probate fees from the August 2, 2011 meeting. After considering all the issues on the list, the committee reached the following conclusions:

- 1. A rule shall state that, except as provided by statute, the entry fee is required to be submitted with an application/motion by the petitioner.** Rather than repeat every exception provided in 45a-111 and 45a-112, the committee determined that the rule would reference the statutes. One statute, 45a-111(d) provides that the court, in its discretion, may postpone payment of an entry fee or other charge if it would cause undue delay or hardship.
- 2. A fee waiver may be approved by the court when the court finds that a petitioner will be deprived of a right to bring an application by reasons of indigency or that a petitioner is otherwise unable to pay the fees and costs.**
  - a. A fee waiver must be filed with the application, together with supporting documentation required the statute or by the court.**
  - b. A fee waiver may be submitted for any matter within the court's jurisdiction, except decedent's estate matters.** Additional exceptions may be proposed by Committee III.



- a. Pre-printed forms include all statutory requirements to commence a matter.
  - b. Where the preprinted forms are used, no additional forms are required.
    - i. Additional documentation may be required by the court – i.e., death certificates in decedent estates, birth certificates in child matters, etc. Rules regarding additional documentation are within the purview of Subcommittee III.
- 2. Formal pleadings or official probate forms are not required, but all petitions and motions must comply with statutory requirements and these rules.**
- a. Every application and petition should set forth in short and plain terms all of the elements required by statute to obtain the action sought.
  - b. While use of official pre-printed forms is not required they contain all statutory requirements. As such, petitioners must submit all information requested on the forms, unless a court excuses a particular requirement.
- 3. All documents filed in the court must be clearly and legibly printed, handwritten, or typed and presented in a form that is capable of being microfilmed or otherwise permanently recorded.** Although the committee determined that there should not be any required page size or ink color, the filing must be legible as a permanent record.
- 4. The petitioner shall include the names and addresses of all interested parties on applications/petitions commencing a matter.**
- a. If the **name or whereabouts of a party is unknown**, the petitioner should include a statement describing the efforts made to provide the missing names and addresses.
- 5. The petitioner must indicate on the application whether a party is in active military service in certain matters pursuant to the Servicemembers Civil Relief Act, 50 USC App 521.** These matters are:
- i. Decedents' estates
  - ii. Children's matters
  - iii. Matters where an adjudication of an interest of the servicemember is sought
- 6. All applications shall include the date the application was signed.**
- 7. Multiple fiduciaries.** The committee discussed whether all fiduciaries must sign documents filed in court. Since the requirement is different under existing law depending on the type of matter before the court, it was recommended that this issue be referred to Subcommittee III. For

example, co-trustees must both sign trust documents unless otherwise provided in the trust document, but co-executors may act severally.

8. **A party shall sign any application, petition or other document which is required to be signed under oath or penalties of false statement, including but not limited to inventories, accounts, list of claims, tax returns.** It was suggested that Subcommittee III may want to add to the list of documents required to be signed by a party as they consider specific areas of probate jurisdiction.

The committee determined that a party must sign applications and documents which contained statement of facts. This typically includes the originating petition commencing an action.

- a. **Other applications, motions, petitions may be filed by an attorney who has filed an appearance on behalf of a party.**

9. **Documents filed in court shall contain an original signature**
  - a. **Court action will not be taken until the original document is filed, except in cases of emergency, as provided by rule, or in the discretion of the court.**
  - b. The committee discussed the following **exceptions for inclusion in the rule:**
    - i. Written requests for a hearing in a streamline procedure in any form shall be accepted
    - ii. Commitments, including probable cause petitions
    - iii. Documents signed in any manner by state agencies
    - iv. Other documents as determined by other subcommittees

10. **A clerk may require a party to correct any filed paper that is not in compliance with this rule by filing a substituted a paper in proper form.** The paper filed to correct the filing may be a substituted page, document, or other writing.

11. **Duty to provide copies of the petition to all parties.** The committee had a robust discussion regarding whether attorneys and self-represented parties should be required to send copies of any application, petition or motion to all other attorneys and self-represented parties and submit a certification to the court. The committee was in agreement that attorneys should be required to send copies of all petitions to attorneys and interested parties and certify to the court the parties to whom, and the manner in which, the petition was sent. They were unable to reach consensus regarding whether self-represented parties should be required to do the same. **[Scribe's notes:** Should the rule specify different requirements for parties represented by attorneys and those who are self-represented?; A definition of application which would include petition and

motion may be helpful so that the rules do not have to repeat all three each time an application is referenced. It may be necessary to distinguish an application that commences a matter for some rules ]

**12. All documents filed after the initial application is commenced should include the name of the matter.**

**13. Except as specifically requested in an official probate form, or otherwise provided by law or order of the court, persons filing documents with the probate court shall not include social security numbers or employer identification numbers and shall redact such numbers from any document.** The committee was in agreement with proposed Probate Practice Book Rule 9 concerning the filing of a court document where a social security number is required/is not required and the disclosure of social security numbers to state agencies.

### **Minutes for the August 2, 2011 meeting**

The minutes of the August 2, 2011 meeting were approved. The committee will continue to discuss the concepts identified in the minutes at a future meeting.

### **Meeting Schedule**

The next meeting of Subcommittee I will be held on Tuesday, October 4, 2011 at 3:00 p.m. at the Office of the Probate Court Administrator. The full year's schedule was distributed for a second time. The chair requested that the members contact him if they have any scheduling conflicts.

The meeting was adjourned at 6:05 p.m.

Approved October 4, 2011