

**Probate Practice Book Advisory Committee
Subcommittee I**

Meeting Minutes

Tuesday, February 23, 2016

3:00 p.m.

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

The meeting was convened at 3:07 p.m. by Judge Steven Zelman, Chair.

Other members in attendance: Attorney Molly Ackerly (by telephone), Attorney Bonnie Bennet, Attorney Douglas Brown, Attorney Karen Gano, Attorney Paul Hudon, Mr. Stephen Pedneault, CPA, Attorney Greta Solomon, and Ms. Sondra Waterman

Members Not Present: Judge Michael Darby

Also in Attendance: Attorney David Biklen, Reporter (by telephone)

Remarks of the Chair

Judge Zelman welcomed the members of the subcommittee and reviewed the timeline for the committee's work. He announced that the purpose of the meeting was to review the list of issues for the members' consideration and develop concepts for rules for the 2017 edition of the Probate Court Rules of Procedure.

Refinement of List of Topics Assigned to Subcommittee I

Section 5.2 (admission pro hac vice)

The committee was in favor of including a provision in Section 5.2, consistent with the Section 2-16 of the Connecticut Practice book, which would require attorneys wishing to appear pro hac vice to pay the client security fund fee required for the current calendar year in which the petition is made and, if the petition is granted, to pay the required fee under Sections 2-68 and 2-70 of the Connecticut Practice Book for each year that such attorney appears in the matter. The rule would also provide that if the clerk of the court is notified that the out-of-state attorney has failed to pay the fee as required, the court shall determine after hearing the appropriate sanction, which may include termination of the privilege of appearing in the matter.

Section 7.1 (d) (procedure re: certification of documents sent to all parties)

The committee decided not to revise the rule to specify procedures when the list of recipients on a party's certification that copies of a filing have been sent omits one or more parties or attorneys on the court's notice list.

Attorney Ackerly requested that the court consider expanding the list of documents that must be sent to all

parties and attorneys. This suggestion is on the list of issues to be considered by Subcommittee III.

Rule 3 (electronic signatures of judge or clerk)

Given the advances in technology and the increasing acceptance of electronic signatures and, more importantly, state statute permitting state agencies to use electronic signatures, the committee agreed that there should be a new section of Rule 3 to confirm the validity of a court document with an electronic signature of the judge or clerk.

Section 12.4 (court appointed attorneys)

There was support for including a reference to the new CBA guidelines for court-appointed attorneys in the annotation for section 12.4, if the guidelines are available in time for publication of the 2017 edition of the Probate Court Rules.

Section 17 (confidentiality of social security numbers)

In light of increasing concerns regarding identity theft, the committee agreed that numbers that specifically identify financial accounts of all types should not be required. After a robust discussion, it was recommended that a rule be drafted that would state that: 1) Fiduciaries are not required to include identifying account numbers on court documents unless required by the court; 2) If a party does place an account number on a court document, the party should redact the number except for the last four digits; 3) If the court does require an identifying account number on a court document, the party may redact all but the last four digits of the account, unless the court orders disclosure of the full account number; 4) If the full account number is ordered to be disclosed, the identifying number would be confidential except as to the parties and as ordered by the court.

The committee recommended that the rule regarding the confidentiality of identifying account numbers should not be in Section 17 but would be a new rule in the section for all case types.

Rule 18 (transfers between Probate Courts)

There is currently a proposal before the legislature that would allow a Probate Court that is without jurisdiction to hear and decide a petition to initiate a matter to transfer the file to a Probate Court that has jurisdiction. If the legislation passes, the committee will consider a revision to Rule 18.

Rules 36-38 (fiduciary accounting)

The committee was unanimously opposed to including a rule that would require a fiduciary to submit copies of bank or financial institution statements with financial reports and accounts. They were also opposed to requiring fiduciaries to obtain verification of the amounts in accounts from banks or financial institutions. While the members understand the importance of verifying the accuracy of financial information contained in documents filed in court, they found the suggested rule overly burdensome and costly. They were also not convinced that the additional requirement would solve the underlying issue.

The committee did recommend a change to section 36.13 of the rules which list the records to be maintained by the fiduciary. Inasmuch as canceled checks or check images are not available for some accounts or from some financial institutions, it is recommended that section 36.13 (a) (3) be amended to read: "each canceled check or

check image for each bank account, *if available from the financial institution*".

Multiple sections regarding probate fees

The committee was in full support of adding provisions that would permit the court to treat certain petitions filed at the same time as a single petition eligible for a single filing fee. These include:

- Petition for special immigrant juvenile status in connection with petition to remove parent as guardian, appoint guardian or co-guardian, terminate parental rights or approve adoption
- Petition to approve fee arrangement together with petition to approve account
- Petition to sell multiple pieces of real property
- Petition to compromise multiple claims associated with the same injury
- Petition to terminate parental rights on consent with petition to approve adoption
- Petitions to change residence, sell real estate, terminate a tenancy and sell household contents of a conserved person

There is currently a provision under section 47.3 that permits the court to treat multiple petitions to change the name of family members as a single petition subject to one filing fee. This section could provide a model for the new sections to be added to the rules.

Additional Topics/Concepts

Rule 8.10 (certification of date decree is sent by court)

The committee was in support of the suggestion made by Attorney Ackerly to add language to Section 8.10 to make clear that the court should send the certification of the date the decree was sent to the persons entitled to notice with the copy of the decree.

Proposed Meeting Schedule

The next meeting will be held on Tuesday, March 22, 2016 from 3:00 p.m. to 6:00 p.m. at the Office of the Probate Court Administrator, 186 Newington Road, West Hartford, CT.

Adjournment

The meeting was adjourned at 5:20 p.m.

Approved: March 22, 2016