

Probate Practice Book Advisory Committee
Subcommittee I
Meeting Minutes

Tuesday, March 22, 2016
3:00 p.m.

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

The meeting was convened at 3:12 p.m. by Judge Steven Zelman, Chair.

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

Members Not Present: Judge Michael Darby, Attorney Karen Gano

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

Minutes of the February 23, 2016 meeting

The minutes of the February 23, 2016 meeting were unanimously approved.

Review of Draft Rules

Section 5.2 (admission pro hac vice)

The committee approved the draft revision of Section 5.2 requiring attorneys appearing pro hac vice to pay the client security fund fee. The revisions are consistent with Section 2-16 of the Connecticut Practice Book.

Section 3.6 (electronic signatures of judge or clerk)

The committee removed the words "is valid" from the draft of section 3.6 concerning the validity of electronic signatures of a judge or clerk, since these words were superfluous.

Rule 17 (confidentiality of social security numbers) re: financial account information

The committee agreed that a new provision regarding financial account information should not be incorporated into section 17 of the rules concerning the confidentiality of social security numbers. The members discussed, as an alternative, a new section in Rule 7, Filing Requirements, which would limit the identifying account information. The new provision would state that when providing bank or financial account information, the fiduciary may list the name of the financial institution and the last four digits of the account number in lieu of the full account number. The court may require that the fiduciary provide the full account number if the court determines that disclosure is necessary for a proper purpose related to the proceeding. The concept is to provide the court with the information necessary to review and approve a fiduciary's management of an estate

while protecting the privacy of the account information. Attorney Hudon questioned whether there was a need for a rule that suggested that account information is required in all cases. The committee agreed that a new section 7.5 would be drafted for the committee's consideration at the next meeting.

Section 36.13 (records to be maintained by fiduciary)

The committee recommended that the draft of section 36.13 (a) (3) be revised to require the fiduciary to maintain each canceled check or check image for each bank account *if provided by* the financial institution.

Section 8.10 (Notice of mailing of decree)

The committee approved the change to section 8.10 (a) to make it clear that court is to send the decree and the certification of the date the decree was mailed to each person entitled to notice.

Multiple sections regarding probate fees

The committee approved drafts of the various rules regarding probate fees, with the following revisions:

- Section 40.18. The rule will refer to a petition for special immigrant juvenile findings.
- Section 39.3. The rule will provide that if the court treats a petition to approve a fee arrangement and a petition to approve an account filed at the same time as a single petition, the fee would be the greater of the filing fee or the fee for the account.
- Sections 32.9. The draft identified as Section 32.9 will be renumbered to 32.10. There were no other changes to the drafts of the various sections, 32.10, 33.22 and 34.14, concerning a single petition to sell multiple piece of real property.
- Section 32.10. The draft identified as Section 32.10 will be renumbered to 32.11. There were no other changes to the drafts of the various section, 32.11, 33.23 and 34.15 concerning a single petition to compromise multiple claims associated with the same injury.
- Section 40.19. The committee approved the draft rule without further revision.
- Section 33.22. The draft identified as Section 33.22 will be renumbered to 33.24. There were no other changes to the draft rule concerning fees for petitions to change residence, sell real property, terminate tenancy and sell household contents of a person under conservatorship.

Additional Topics/Concepts

In reviewing the draft rules on probate fees, it was noted that section 47.3 concerning a single petition for change of name needed to be revised to refer to a filing fee instead of an entry fee.

Proposed Meeting Schedule

The next meeting will be held on Tuesday, May 3, 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 4:45 p.m.

Approved: May 3, 2016

Subcommittee I

Draft rules as approved at 3-22-16 meeting

1. Client security fund fee for out-of-state attorney appearing pro hac vice.

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) certifying that the out-of-state attorney has paid the client security fund fee due for the calendar year in which the motion has been made in accordance with provisions of the Connecticut Practice Book; 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.

(e) Any out-of-state attorney granted permission to appear pro hac vice in a matter shall pay the client security fund fee due for each calendar year in which the attorney appears in the matter in accordance with provisions of the Connecticut Practice Book, section 2-70.

(f) If the clerk is notified that an out-of-state attorney permitted to appear pro hac vice has failed to pay the client security fund fee under subsections (a) (1) (C) or (e), the court, after a hearing, shall determine the appropriate sanction, which may include termination of the privilege of appearing in the matter.

(C.G.S. section 52-60.)

2. Electronic signature of court or clerk.

Section 3.6 Validity of court document signed electronically by court or clerk

A document signed with an electronic signature of a judge or clerk has the same force and effect as a document with the hand-written signature of the judge or clerk.

(C.G.S. sections 1-266 through 1-286)

3. Certification of mailing.

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 and of the certification under subsection (c) to each person entitled to notice under section 8.

(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.

(Probate Court Rules, sections 3.1 (b) and 6.5.)

4. Multiple sections re probate fees

Section 40.18 Single petition for special immigrant juvenile findings and related petition.

(a) If a petition for special immigrant juvenile findings is filed before the court enters a decree on a petition to remove a parent as a guardian, to appoint a guardian or coguardian, to terminate parental rights, or to approve an adoption, the court may treat the petitions as a single matter subject to one filing fee.

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

Section 32.10 Petition to sell multiple pieces of real property

Section 33.22 Petition to sell multiple pieces of real property

Section 34.14 Petition to sell multiple pieces of real property

a) If petitions to sell multiple pieces of real property are filed at the same time in the same estate, the court may treat the petitions as a single matter subject to one filing fee.

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

Section 32.11 Petition to compromise multiple claims associated with same injury

Section 33.23 Petition to compromise multiple claims associated with same injury

Section 34.15 Petition to compromise multiple claims associated with same injury

(a) If petitions to compromise more than one claim associated with the same injury are filled at the same time, the court may treat the petitions as a single matter subject to one filing fee.

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

Section 40.19 Single petition to terminate parental rights and approve adoption

(a) If a petition to terminate parental rights and a petition to approve an adoption of the child are filed at the same time, the court may treat the petitions as a single matter subject to one filing fee.

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

Section 33.24 Single petition to change residence, sell real property, terminate tenancy and sell household contents of person under conservatorship.

(a) If petitions to change the residence, sell real property, or terminate a tenancy and sell household goods of a conserved person are filed at the same time, the court may treat the petitions as a single matter subject to one filing fee.

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