

**Probate Practice Book Advisory Committee
Subcommittee II**

Meeting Minutes
Wednesday, January 8, 2014

Law Offices of Mahon, Quinn & Mahon
636 Broad Street
Meriden, CT

Judge Brian Mahon, Subcommittee Chair, convened the meeting at 3:15 p.m.

Other members in attendance: Attorney Thomas Gaffey, Attorney Christopher Hug, Attorney Carmine Perri, Judge Claire Twerdy.

Not in attendance: Professor Jeffrey Cooper, Judge John McGrath, Mr. Arthur Teal.

Approval of minutes

The members in attendance unanimously approved the minutes of the meeting of November 25, 2013.

Discussion re §1.19, Tait's Handbook of Connecticut Evidence

The recently released Fifth Edition of Professor Tait's work takes note of the Probate Court Rules of Procedure. As to Rule 62, however, it questions the meaning of the "rules of evidence", indicating that it is unclear whether the rule intends to include the Code of Evidence.

The subcommittee agreed that the intent was to include all rules of evidence that would be applicable in the Superior Court, i.e. the Code, common law and statutory rules of evidence. It was agreed that clarifying language was in order. The members agreed upon the language offered by Judge Knierim: "the rules of evidence applicable to civil matters in the Superior Court shall apply...".

Review of draft rules revisions

Rule 33 – Conservators

Section 33.2 – The subcommittee reviewed and approved the draft language clarifying that while a voluntary petition must be heard before an involuntary, it could be

heard at the time set for hearing of the involuntary petition, if the stated requirements are met.

There was a discussion concerning the provisions of §33.2 (b)(2), requiring waivers from each party entitled to notice who is not present. Some felt that this is not practical, in that there may be individuals who are not readily accessible, or who simply don't wish to cooperate, resulting in the court's inability to act promptly. The opposing view was based upon due process concerns. It was also observed that the notice provisions of §45a-646 leave the court some latitude in determining the parties entitled to notice.

The subcommittee was unable to come to consensus on this issue after considerable discussion. It was noted that this rule did not originate with Subcommittee II, which was not privy to the discussions that gave rise to the original rule. It was agreed to report the discussions to the full committee for their consideration.

Section 33.9. It was noted that subsection (a) refers at various points to "conserved person" and to "person under conservatorship." It was agreed that the term "person under conservatorship" should be used throughout.

It was also noted that subsection (b)(5) continued to refer to joint assets, and should be expanded to include other types of non-probate assets. It was agreed to replace "joint asset or liability" with "asset or liability described in subsection (a)".

Section 33.12. The draft revisions were approved.

Section 33.21. The subcommittee agreed upon minor changes to the title of the section. It was also agreed that the court's notice should include the date upon which the voluntary representation will terminate.

Rule 61 – Discovery

Sections 61.7 and 61.9. The draft language was approved.

Rule 67 – Interpreters

The subcommittee agreed to the new section 67.3, with minor changes. It was also agreed that the word "interpretation" in section 67.2 (b)(2) be replaced by the word "interpreting".

Rule 72 – New Media Coverage

Section 72.2. The addition of the new subsection (b)(18) was approved, with the correction of a typo.

The meeting was adjourned at 4:30 p.m.

Approved April 23, 2014.