

**Probate Practice Book Advisory Committee
Subcommittee III**

Meeting Minutes
Thursday, October 10, 2013
3:50 p.m.

ITBD Conference Center
Central Connecticut State University
New Britain, CT

Judge Beverly Streit-Kefalas, Chair of Subcommittee III, was unable to attend the meeting. In her absence, Judge Paul Knierim convened the meeting at 3:50 p.m.

Other members in attendance: Judge Robert Killian, Attorney Gabriella Kiniry, Attorney Andrew Knott, Mr. Stephen Pedneault, CPA.

Members not present: Ms Suzette Farrar, Judge Gerald Fox, Attorney Patricia Kaplan, Judge Beverly Streit-Kefalas.

Also in attendance: Attorney David Biklen, Committee Reporter

The subcommittee began reviewing the list of issues pertaining to Rules for All Case Types from the document entitled "Probate Court Rules of Procedure Feedback as of September 19, 2013." Following discussion, the subcommittee reached the following conclusions:

Rule 30 Decedents' Estates

Section 30.4 Court to inform petitioner of purported will in its custody. Section 30.4 currently requires the court to advise a petitioner seeking administration when the court has a purported will in its custody. The subcommittee recommends that we amend the section to require that the court also notify the nominated executor and beneficiaries under the will. In addition, the rule should be amended to require the court to schedule a hearing on the admission of the will. If neither the executor nor a beneficiary appears at the hearing to support admission of the will, the court shall appoint a temporary administrator for that purpose.

Section 30.6 Notice in proceeding to admit will.

- The subcommittee does not recommend that beneficiaries of specific bequests be excluded from receiving notice of the hearing on admission of the will.
- In subsection (a) (8), delete "testamentary" before "trust" for consistency with subsection (a) (3).

Section 30.7 Petitioner seeking admission of purported will to send copy to parties. The subcommittee does not recommend that beneficiaries of specific bequests be excluded from the requirement that the petitioner send a copy of the purported will to all parties.

Section 30.11 Notice when heir or beneficiary is a foreign citizen. After “If,” add “the court is aware that an heir or beneficiary is a citizen of a foreign country and if”

Section 30.12 Executor or administrator to send copy of inventory, financial report or account to each party and attorney.

- A new subsection should provide an exception to the requirement of providing copies of the inventory and financial report or account for a beneficiary of a specific bequest who has acknowledged, in writing, receipt of the gift. The fiduciary is required to file the receipt with the court.
- Add a new subsection to require that, if the fiduciary submits an affidavit in lieu of administration as a substitute for an inventory and/or account under section 30.23, the fiduciary must send a copy to all parties.
- The subcommittee does not recommend the addition of a requirement that the fiduciary send a copy of the list of claims to heirs, beneficiaries or creditors.

30.13 Conflicting petitions for appointment of commissioner of administrative services as legal representative and settlement using small estates procedure. The rule should specify that the court can act without notice and hearing when dismissing an affidavit in lieu of administration.

30.16 (b) Distribution from estate to minor. The subcommittee recommends adding a provision to refer explicitly to the option of appointing a Connecticut guardian for a non-resident minor under section 45a-632 or 45a-635.

30.18 Distribution that bypasses inoperative trust. Substitute “motion” for “petition” to clarify that a request to bypass an inoperative trust does not initiate a new proceeding.

30.22 When inventory and final financial report or account of temporary administrator excused. Expand this rule to excuse the executor of a full estate from filing an inventory and account when the estate has no assets. Notice and hearing is required.

30.23 Final financial report or account excused when estate eligible to be settled as small estate.

- Revise the section title to clarify that the affidavit in lieu of administration may be allowed as a substitute for an inventory, return of claims and/or final financial report or account.
- Revise the section to require the fiduciary to send a copy of the affidavit in lieu of administration to all parties and attorneys.
- Clarify that notice and hearing is required when approving an affidavit in lieu of administration as a substitute for a final financial report or account.

Possible new provisions under decedents' estates

- Permit a party, court-appointed guardian ad litem or the Office of the Victim Advocate to make a motion to withhold distributions to an heir or beneficiary who has been charged with a crime listed under section 45a-477. The rule should be mandatory.
- The subcommittee concluded that it is not necessary to have a rule specifying when to provide notice of hearings to creditors.

Rule 31 Estate Tax Matters

31.3 Valuation of property for nontaxable estates. The committee recommends that the value reported on a federal estate tax return be added as an additional permitted basis for value for purposes of the CT-706NT.

31.8 Confidentiality of information on filed tax form.

- In subsection (a), add an exception to permit disclosure to PCA and DRS, as permitted under section 12-398 (c).
- In subsection (a), delete "or entity," since the definition of person includes an entity.
- In subsection (b), substitute "disclose" for "permit disclosure of" for consistency with subsections (a) and (c).
- In subsection (b) (1) (C), insert "residuary" before "beneficiary."

Possible new provisions under decedents' estates

- Define the term "property passing to the surviving spouse," for purposes of calculating probate fees in decedents' estates, as property that qualifies for the marital deduction under the Connecticut estate tax.

Rule 32 Trusts

32.3 (a) Virtual representation and appointment of guardian ad litem in trust proceeding. Narrow the statutory reference contained in the text of the rule to refer only to section 45a-487d rather than 45a-487a through 45a-487f. The purpose of the change is to clarify that this rule deals only with the situation in which a minor, incompetent, unborn or undetermined beneficiary will be virtually represented by another beneficiary. It does not address the situation in which a beneficiary already has court-appointed fiduciary to act on his or her behalf, in which case the court-appointed fiduciary would be treated as a party under section 4.2.

Next Meeting

The committee will meet on November 18, 2013 at 3:00 p.m. at the New Haven Regional Children's Probate Court.

The meeting adjourned at 6:00 p.m.

Approved November 18, 2013