

**Probate Practice Book Advisory Committee
Subcommittee III**

Meeting Minutes
Monday, March 5, 2018
1:30 p.m.

New Haven Regional Children's Probate Court
873 State Street
New Haven, CT

Attorney Heather Dostaler convened the meeting at 1:32 p.m.

Other members in attendance: Attorney Andrew Knott, Ms. Suzette Farrar, Attorney Patricia Kaplan and Attorney Gabriella Kiniry

Members not present: Judge Beverly Streit-Kefalas, Judge Robert Killian and Judge Gerald Fox, Jr.

Approval of minutes of November 27, 2017 meeting

The subcommittee unanimously approved the minutes of the November 27, 2017 meeting.

Attorney Dostaler provided copies of draft rules concerning all of the concepts addressed by Subcommittee III to date. The subcommittee reviewed the draft rules distributed on February 9, 2018, a copy of which is attached.

Additional topics

- The subcommittee recommends that Section 30.12 be amended to eliminate the requirement that the court send notice of hearings and decrees to a legatee when the court has received an acknowledgement of receipt of bequest.
- The subcommittee recommends that Rule 34 be amended to provide guidance relating to liquidating a structured settlement.
- The subcommittee discussed the In re: Henry P. B.-P. case, but does not recommend any changes at this time.
- The subcommittee recommends that Section 41.1 be moved to Rule 18 and Sections 41.2 and 41.3 be moved to Rule 40. The subcommittee further recommends that the protocol for matters where the Probate Court and Family Court have overlapping jurisdiction become Rule 41.

Next Meeting

The subcommittee will meet at a later date to be agreed upon at 1:30 p.m. at the New Haven Regional Children's Probate Court.

The meeting adjourned at 3:30 p.m.

Approved:

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Probate Court Rules Advisory Committee Subcommittee III

Draft Rules – For Discussion Purposes Only

Section 30.6 Notice in proceeding to admit will to probate

- (a) The court shall send notice of a petition to admit a purported will to probate to:
- (1) each of the decedent's heirs;
 - (2) each beneficiary, including the trustee of any inter vivos trust, under the purported will being offered for probate;
 - (3) each current and presumptive remainder beneficiary of a trust established under the purported will being offered for probate;
 - (4) the Attorney General, if a beneficiary under a will or any current or presumptive remainder beneficiary of a trust established under the will is a charity or charitable interest;
 - (5) the proposed executor or administrator;
 - (6) the petitioner;
 - (7) each beneficiary, including the trustee of any inter vivos trust, under any other purported will of the decedent in the custody of the court;
 - (8) each current and presumptive remainder beneficiary of a trust established under any other purported will of the decedent in the custody of the court;
 - (9) each attorney of record; and
 - (10) other persons as the court determines.
- (b) The court shall send a copy of the decree to each person listed in subsection (a). If the court admits the will to probate, the court shall also send notice of the admission of the will to probate, which notice shall include:
- (1) a list of the beneficiaries, including the trustee of any inter vivos trust, named in the will and the names of the current and presumptive remainder beneficiaries under any trust established under the will;
 - (2) the name and address of the executor or administrator;
 - (3) a statement indicating whether the executor or administrator is required to submit a probate bond and advising the beneficiaries of their right to request a bond; and
 - (4) a statement indicating that the beneficiaries may address any questions regarding the estate to the executor or administrator.

Section 31.2 Requirements for estate tax forms for nontaxable estates

- (a) Except as modified by this rule, a person filing a DRS Form CT-706 NT and related forms for a nontaxable estate shall comply with the instructions for the form published by DRS.
- (b) If the court grants an extension of time to file a DRS Form CT-706 NT, the court shall send notice of the extension to each party and attorney of record.

Section 31.7 ~~Recording attachments to estate tax forms~~ Permanent official record

- (a) Except as provided in subsection (b), the court shall include each of the following documents in the permanent official record for a matter:
- (1) ~~The court shall record each~~ DRS Form CT-706 NT or CT-706/709 and any schedules submitted with the form;
 - (2) Internal Revenue Service Form 706, if applicable, and any schedules thereto;
and
 - (3) ~~together with~~ Each attachment submitted with ~~the form~~ DRS Form CT-706 NT or CT-706/709 and Internal Revenue Service Form 706.

~~(b) unless~~ The person filing the form ~~specifies may specify~~ in writing that an attachment need not be ~~recorded~~ included in the permanent official record, provided that the court may ~~include record~~ the attachment in the permanent official record even if the person filing the form indicates that the attachment need not be recorded if the court finds that the attachment is needed to understand the return.

Section 34.14 Criminal background check

At any time during a proceeding relating to guardianship of the estate of a minor, the court may obtain a criminal background check of a guardian or coguardian.

Section 40.19a Single petition for children of same parent

(a) If a petitioner simultaneously files petitions seeking the same relief for two or more minors having the same parents in any of the following types of matters, the court may treat the petitions as a single petition subject to one filing fee:

- (1) temporary custody;
- (2) removal of guardian;
- (3) termination of parental rights;
- (4) appointment of guardian or coguardian;
- (5) appointment of statutory parent;
- (6) adoption;
- (7) temporary guardianship;
- (8) emancipation; or
- (9) paternity.

(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 40.21 Notice of termination of temporary guardianship

If the court receives a notice to terminate a temporary guardianship under C.G.S. section 45a-622 before the temporary guardianship expires, the court shall notify each party and attorney of record that the notice has been received.

Section 41.2 Duties of ~~probate court officer~~ family specialist

In a proceeding in A Regional Children's Probate Court, ~~the~~ or Probate Court may assign a ~~probate court officer~~ family specialist to perform any of the following duties:

- (1) conduct conferences with the parties and their attorneys, representatives of the Department of Children and Families and social service providers;
- (2) facilitate development of the family's plan for the care of the minor;
- (3) facilitate development of a visitation plan;
- (4) coordinate with the Department of Children and Families to facilitate a thorough review of the matter;
- (5) assess whether the family's plan for the care of the minor is in the minor's best interests;
- (6) assist the family in engaging community services;
- (7) testify at hearings; and
- (8) conduct follow-up regarding orders of the court.

Section 41.3 Files and reports of ~~probate court officer~~ family specialist

(a) A ~~probate court officer~~ family specialist shall maintain all notes, correspondence, reports and other materials gathered or created in the scope of the ~~officer's~~ specialist's duties in a file separate from the court file. Except as provided in subsection (c), the court shall not review materials in the ~~officer's~~ file unless admitted into evidence.

(b) Except as provided in C.G.S. section 45a-754, all materials in the ~~officer's~~ specialist's file in a proceeding for removal of parent as guardian, termination of parental rights, appointment of statutory parent, adoption, temporary guardianship or emancipation of a minor are confidential and not open to public inspection and shall not be disclosed to any person.

(c) Before any scheduled hearing on a matter, the ~~officer~~ specialist shall file with the court a copy of each report prepared by the ~~officer~~ specialist in the matter under C.G.S. 45a-8d.

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