

**ADMINISTRATIVE RULES AND RULES OF PRACTICE OF THE
PROVIDENCE PROBATE COURT**

In compliance with Rhode Island General Laws **Title 33-22-29**, the Providence Probate Court establishes and adopts the following as Administrative Rules of Practice:

ACCOUNTS OF FIDUCIARIES: All Accounts submitted by a Fiduciary must be certified to by the fiduciary and the attorney representing the fiduciary, or the Certified Public Accountant who prepared the account as required by **R.I.G.L. §33-14-2.2**.

The Court may, in its discretion, require appropriate detail for **any** accounts filed. Notice of hearing for Accounts, **in addition** to advertising, shall be given by regular mail at least ten (10) days before the court hearing of the account to all **interested parties or their counsel**, unless notice is waived by said parties.

Accounts begin on Schedule A with the Inventory or Schedule C balance of the last allowed account.

Accounts showing proceeds from the sale of real estate shall be accompanied by the HUD settlement sheet.

An amended account, if submitted after the original account is advertised, shall not be re-advertised unless the original advertisement was not correct in its description of the account, i.e. failed to indicate the account was a final account or was an account for the proceeds from sale of real estate. Notice to interested parties shall be as stated herein.

ADOPTION OF ADULTS: A petition for adoption of an adult (18 years of age or older) shall be filed with the Probate Court. A hearing shall be scheduled. Adult adoptions will only be permitted for the purpose of establishing a parent and child relationship between the adopter and adoptee. (See **In Re Jones, 122 R.I. 716 (R.I. 1980)** and Uniform Adoption Act § 5-101) A notice of the hearing shall be given by regular mail at least ten (10) days before the hearing to: 1.) the spouse of the prospective adoptive parent and 2.) the adoptee's parent or parents if alive. (If alive, it is recommended that the birth parent(s) sign a waiver or assent to the Petition). The **Petitioner** (Adopter or Adoptee) must be a resident of **Providence**; two (2) forms of identification for Adopter and Adoptee must be presented in addition to the Adoptee's birth certificate (original provided and copied by the court)

ALLOWANCE TO FAMILIES: Petitions for allowance of support to families are heard by the court, with written notice or waiver to all interested parties as defined within these rules or by statute; the inventory for the estate must be filed before any hearing.

BONDS: In any Probate case requiring a bond with corporate surety, **no riders or amendments** shall be accepted by the Court unless the rider or amendment is issued to correct an error in date or other administrative matter in the original bond, or to add an additional fiduciary to the existing bond. Increases in bond amounts shall be evidenced by a new bond in the increased amount, and not by rider. A consolidation of bonds may be allowed at the discretion of the court.

The same bonding company shall be used in all proceedings of a particular estate, unless the prior bond is cancelled, a new fiduciary is appointed, or the original surety company withdraws from Rhode Island, or ceases to be in the bond business. A successor surety company

shall comply with all applicable laws of the state of Rhode Island and rules of the Department of Business Regulation.

CERTIFICATES OF APPOINTMENT, etc.: If there is no activity in a Probate matter for two (2) years from the qualification of a fiduciary, request for certificate of appointments or exemplified copies of records shall be made **ex-parte** to the Court by a miscellaneous petition; after hearing thereon, the Court may authorize said requests.

Certificates will only be issued to named fiduciaries and attorneys for fiduciaries.

CLAIMS OF CREDITORS: Claims shall be filed in accordance with **R.I.G.L.33-11** et al; the court **will not on its own initiative** deem a claim filed out of time or reject claims without a hearing. No final accounts or affidavits of complete administration will be allowed or accepted unless an affidavit is submitted by or on behalf of the fiduciary in compliance with **R.I.G.L. 33-11-5.1**, relative to notice to creditors in a form or similar form attached hereto as **EXIHIBIT I**.

If a creditor agrees to accept less than the amount of the claim filed; an executed release for the compromised amount shall be filed in the proceeding before the estate can be closed.

COMMUNICATIONS WITH THE COURT: **Ex-parte** communications, except for technical, formal and procedural related inquiries **are prohibited** in all contested matters.

Written communications in any pending probate matter shall be mailed or faxed to Providence Probate Court and **not** to the private offices of the Clerk and/or Judge.

Requests for continuances must be agreed to by all the parties in the proceedings whether represented or not; otherwise, the court will conduct a hearing, with notice, as to the granting of said request.

CONSERVATORS: Pursuant to R.I.G.L., the court will, upon petition **filed by the proposed ward**, hear requests for conservatorship without medical evidence. Notice and advertisement shall be as set forth in the General Laws. Petitions for the appointment of a conservator by any other person shall follow the statutory scheme for the appointment of an adult guardianship.

CONTINUANCES OF HEARINGS: Hearings in all cases may be continued by agreement of the interested parties; if **R.I.G.L. Title 33 or Title 8** provides for specific notice and/or service prior to a hearing, then these requirements must be complied with for any continuances (i.e. service on proposed wards in Guardianships; notice to interested parties, etc). In the event the parties cannot agree as to a continuance, the court shall schedule a hearing to determine whether a matter shall be continued, with notice o all interested parties; ex-parte continuances shall not be granted, unless there are extenuating circumstances.

COURT SESSIONS: The Court shall be in session every Tuesday and Thursday, (**except** during the months of July and August when the Court shall adopt and post it's Summer Session Schedule), from 10:00 a.m. to the later of 12:30 p.m. or until that day's docket is complete; special hearings shall be established at the discretion of the Court on any other day. Formal, uncontested matters shall be given a priority over contested matters at all sessions. Interested parties shall sign in on the docket sheet provided by the Clerk at each session before their matter can be heard.

CUSTODIANSHIPS: The Court may, under certain circumstances, appoint a custodian(s) for a deceased person's estate pursuant to **R.I.G.L. § 8-9-10**. It is necessary that a petition for the allowance of a Will or for the appointment of Administrator be filed prior to any appointment for custodian. Notice and/or advertisement for appointment of custodians are discretionary with the Court.

The Court may, in its discretion, and dependent on the terms and conditions under which the appointment is made, allow the Custodian to close the estate by affidavit in a form or similar form to that attached hereto as **Exhibit II**.

DISCOVERY: R.I.G.L. § 33-22-19.2. Hearings in probate courts - Evidence and discovery shall be applicable for all hearings in the probate court.

Rule 26 through Rule 37 of Superior Court ("Rules for Discovery") are hereby adopted as the Providence Probate Court rules, in those cases where any interested party has requested discovery pursuant to **R.I.G.L. § 8-9-17**.

Discovery rules may be expanded upon leave of the court with appropriate notice to the other party(s).

Original discovery materials (depositions, interrogations and answers thereto, records, etc.) **shall not** be submitted to the Court except when they are being offered as evidence during a trial of the matter **or** as exhibits to a brief. The time for compliance with discovery orders, etc. shall be as the **Superior Court Rules**, unless a different schedule is agreed to by the parties or established with leave of court for just cause and after hearing thereon.

Proceedings under **RIGL §8-9-18** shall, upon request for and approval of Citation, and after service on the party to testify, be conducted under oath and shall be limited in scope as set forth in the Statute. No other witnesses shall be allowed to testify at said hearing other than the party so served, unless agreed upon by all the parties thereto. Written interrogatories may be submitted by the inquiring party, in lieu of live testimony.

FEES FOR ATTORNEYS AND ACCOUNTANTS: A Court hearing, with notice as set forth in these rules, is required for all petitions for attorney and accountant fees in any estate for which **any Account is submitted**. Petitions for fees shall be accompanied by, but not limited to, documents indicating hours spent, the nature of the work provided, results obtained and any other documents, including retainer agreements, and the summary sheet as set out in **Exhibit III** attached hereto, which may assist the Court in making its decision regarding fees. Assents by all interested parties, if obtained, shall also be submitted.

FEES FOR FIDUCIARIES: In ruling on a petition for approval of fiduciary fees, the Court shall consider, but not require, approval by the beneficiaries/heirs at law or persons entitled to notice in the filing of a petition for guardianship; the same procedures relative to notice, detail, etc. as established for attorney and accountant fees shall apply for fiduciaries.

FOREIGN ORIGINAL PROBATE: Petition(s) for the allowance of a Foreign Will of an out of state decedent filed as an original Probate for a non-resident of Rhode Island, in addition to **R.I.G.L.** requirements, must be accompanied by an **Affidavit** from the proposed fiduciary and a certification from the Clerk of the official entity having jurisdiction on the decedent's estate in the state or country of his domicile that no original probate is pending or has been opened in that jurisdiction

FORMS: The Providence Probate Court shall only accept forms approved and established on the official web page of the **RHODE ISLAND SECRETARY OF STATE** or as may be promulgated by this court;

GUARDIANSHIPS: The Court shall, from its revolving list of interested and qualified individuals, appoint a Guardian ad litem each time a petition for guardianship is filed; the attorney for the petitioner shall notify said individual of their appointment and provide to that person all relative information concerning the matter.

The Decision Making Assessment Tool and Guardian ad litem report shall be submitted to the Court at least three (3) business days before the matter is to be heard.

The proposed guardian shall, subsequent to their appointment, submit an affidavit in form or similar to that set out on **EXHIBIT IV** herein attesting to their knowledge of their duties and other statutory requirements.

In all cases in which a guardian of the estate is appointed, except in those cases when a disinterested third party is appointed guardian of the ward's estate or the expense of the independent appraiser would, in the court's discretion, outweigh the benefit so obtained, an independent appraiser may be appointed by the Court from its rotating list. The guardian or his/her attorney shall notify the individual so appointed, and provide all pertinent information relative to said appointment.

Replacement guardians in an existing guardianship shall re-file the legislative mandated guardianship petitions and comply with the statutory requirements for service and notice; advertisement of the petition for replacement guardian is not required. The requirement for an updated decision making assessment tool and/or report from a guardian ad litem shall be at the discretion of the court, depending on the facts and circumstances of each case whenever a replacement guardian is requested.

Foreign guardians of the estate of a nonresident ward owning real estate or other property in Providence shall follow the mandates of **R.I.G.L. 33-19-27**; a Miscellaneous Petition shall be filed, with appropriate notice and advertising and after hearing and approval thereon, the **R.I.G.L.** procedures and Administrative Rules set forth herein for the sale or mortgage of real estate or property shall be followed. Thereafter, an Account of the transaction shall be filed with the court, and upon allowance thereof, the net proceeds from the sale of the real estate shall be delivered to the foreign guardian of the estate, as evidenced by his / her receipt, and an order shall enter from this court terminating the local probate matter.

Commencing on **January 1, 2016**, the **Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act R.I.G.L. §33-15.2-101- 504** shall be effective, replacing in whole or in part as is applicable, this section of the Rules and establishes the procedure for the appointment of a **Guardian for Health Care, Residence, Relationships and Finance** when there are issues regarding residency and the like.

Affidavit of "poverty" in order to be qualified for a Good Samaritan guardian: A person petitioning under **R.I.G.L. § 33-15-4.1** for a Good Samaritan guardian must file an affidavit to the probate court. The affidavit must state that the proposed ward has insufficient funds to pay for the services of a guardian and that such an appointment would be in the best interests of the individual or whom the guardianship is proposed. It may be in any form that includes the reasons for the waiver of filing fees.

Affidavit for appointment as a Good Samaritan guardian: Pursuant to **R.I.G.L. § 33-15-4.1**, a person filing for appointment as a Good Samaritan guardian shall file a

guardianship petition with the probate court. He or she must also file an affidavit of his or her qualifications to serve as a Good Samaritan guardian. Example of a form for such affidavit is attached hereto as **EXHIBIT V**.

MINOR GUARDIANSHIPS: Provisions for **service on the proposed ward with a citation and copy of the petition** and notice to parents, children or next of kin shall be according to **R.I.G.L. § 33-15.1-10, 11**. Appropriate affidavits and evidence of service on the proposed ward in compliance with the statutes shall be submitted at or prior to the hearing.

In those cases where one parent is deceased and credible evidence supporting the death is submitted and the surviving parent is petitioning for the appointment of a guardian or waives notice, no additional next of kin of the ward need be notified.

Service on **wards twelve (12) and under** shall be as ordered by the court upon **ex parte** miscellaneous petition, heard on the day the matter is initially scheduled, showing facts and information sufficient to assist the court in determining who, if anyone, shall be served, in lieu of personal service on the proposed ward.

MISCELLANEOUS PETITIONS: In matters wherein no **State form** is suggested or prescribed by statute, for motions, fee petitions, tax minimization, etc.; parties shall use Miscellaneous Petitions for the filing(s)

NAME CHANGES: For all persons over 18 years old, upon the filing of a petition to change the name and submission of a birth certificate, Providence Police shall be notified and requested to provide a criminal background check before the Court will act on the petition. If a criminal record is reported, the Court may approve, deny or allow the petition be withdrawn without action as the circumstances dictate.

For Petitions to change the name of a minor, the matter shall be referred to the **Rhode Island Family Court** which has exclusive jurisdiction to so act.

NOTICE: Notice of proceedings in Probate Court shall be as required by **R.I. General Laws**.

1-In matters where the statutes are **not specific or silent, ten (10) days written notice by regular mail** to the last known address shall be given to all **interested parties or their counsel**. Notice may be waived by the parties by submission of waiver.

Interested parties (or their counsel) are:

- heirs at law for administrations
- beneficiaries for testate proceedings
- statutory required entities in guardianships
creditors of decedent and administrative
creditors who have filed claims.

2-Notice of the commencement of a decedent estate, with a copy of the death certificate, shall be provided to the **State of Rhode Island Department of Health and Human Services** for all decedent estates pursuant to **RHODE ISLAND GENERAL LAWS**, with evidence of same provided the court **at the hearing** for allowance of a will or appointment of an Administrator;

Appropriate **certification** shall be provided to the court and counsel indicating compliance of the **notice requirements**.

ORDERS: All orders in contested matters, or as may be requested by the court, shall be reviewed by opposing counsel pursuant to **R.I.G.L. § 33-22-31** before entry. If no objection is filed within the statutory period, the order shall thereafter enter; objections to orders shall be set for hearing by means of a miscellaneous petition for instructions within the statutory time frame.

PETITION FOR SALE OR MORTGAGE OF REAL ESTATE: Before a petition for sale is granted, a copy of the purchase and sales agreement shall be provided to the court; for either a sale or mortgage, an appraisal from an independent source shall also be provided to the court (the appraisal shall not be from the listing or buyer's Realtor in the case of a sale).

REAL ESTATE OWNED BY DECEDENT: The duly appointed fiduciary is **requested** to file along with the inventory of the personalty owned by the decedent, a listing of any real estate owned by the decedents individually or as a Tenant in Common in the State of Rhode Island. This listing shall include the property address, Assessors Plat and Lot number or a copy of the deed into the decedent and shall be kept in the probate file. **No appraisal or statement of value is required but may be submitted by the fiduciary.**

RECORD OF PROCEEDINGS: At the request of the Court, or the parties, a record of the proceedings will be made as follows: a stenographer provided, scheduled and paid by the attorneys; an electronic recording of the proceedings, provided by the Court; or both.

Space for a stenographer to reproduce the electronic records is available as designated by the court clerks.

RELEASES: The Court, except for **extraordinary circumstances shown**, shall require a release from any individuals or entities entitled to all or a portion of any estate, whether the estate is closed through a **Final Account** or by an **Affidavit of Complete Administration**.

Paid funeral bills and Notice of Tax clearance from the **State Division of Taxation (originals preferred)** as well as releases from any creditors shall be produced for decedent estates.

Final accounts for guardianships shall include a release from the ward if living or any successor guardian as may be duly appointed. If the ward is deceased, a release shall be executed by the fiduciary for his/her decedent estate, provided one is required to be opened.

If a decedent estate or small estate proceeding for a deceased ward under guardianship is not required by law because there are no assets remaining in the estate, the Guardian shall provide evidence that the funeral bill is paid along with his Final Account and an original death certificate.

In order to release an adult from guardianship proceedings, a Decision Making Assessment Tool shall be submitted by the ward's treating physician evidencing the fact(s) that a guardian is no longer required; in addition, if the guardianship was for the estate of the ward, a Final Account from the Guardian and/or a release of the guardian from the former ward must be filed with the court.

REMOVAL OR REPLACEMENT OF FIDUCIARY FOR CAUSE:

(a) Commencement of Action And Hearing

Pursuant to **R.I.G.L § 33-18-3**, a complaint shall be made by any interested party for the removal of a fiduciary. A citation, embodying the substance of the complaint, or a copy of the complaint annexed, shall be served to the fiduciary.

(b) Hearing, Advertisement, and Notice

A hearing shall be scheduled for the removal of the fiduciary. The petitioner shall give notice by advertisement pursuant to **R.I.G.L § 33-22-11** for least fourteen (14) days, once a week after the hearing is scheduled. In addition, the petitioner shall give notice to those interested persons by mailing to them by regular mail a notice of the hearing and a copy of the petition at least ten (10) days before the scheduled hearing. **R.I.G.L. § 33-22-3**.

(c) Failure to file Inventory and Final Accounting

Any fiduciary removed or replaced for cause is required to file an inventory and a Final Account of his tenure in said fiduciary capacity. Failure to do so may result in contempt proceedings with appropriated sanctions imposed (fine, court filing, disorderly conduct charges) report to the **Office of the RI Attorney General, Department of Elderly Affairs or RI Supreme Court Disciplinary Counsel**.

If an executor or administrator (not guardians) neglect or fail to file an inventory and a Final Account, without reasonable cause, the probate court may, after hearing and notice to the fiduciary, decree that he or she is guilty of unfaithful administration of estate under **R.I.G.L. §33-17-17**. An action may be brought upon the bond of the executor or administrator in the name of the probate court by any interested party in the matter.

In the event that the said fiduciary above fails to file, the successor fiduciary may be required, as best as possible, to file an inventory and a Final Account for the replaced fiduciary. This **does not** relieve replaced fiduciary of any liability or duty to the estate or to the court.

(d) Responsibilities

Any successor fiduciary **shall not be responsible** to or liable to the estate as a result of the actions of a prior fiduciary or for the replaced fiduciary's account.

REPLACEMENT OF FIDUCIARY DUE TO DEATH:

(a) Commencement of Action

If a petition for replacement of a fiduciary is due to the death of the fiduciary, the petition shall include a copy of the fiduciary's death certificate.

(b) Final Accounting

The successor fiduciary shall, as best as possible, file an inventory and a Final Account for the previous fiduciary. If no expenditures were made by the previous fiduciary and an inventory indicates no personal estate, an affidavit attesting to these facts shall be submitted with the Final Account.

(c) Notice and hearing

A hearing shall be scheduled for the replacement of the fiduciary. The petitioner shall give notice by advertisement pursuant to **R.I.G.L §33-22-11** for least fourteen (14) days, once a week after the hearing is scheduled. In addition, the petitioner shall give notice to those interested persons by mailing to them by regular mail a notice of the hearing and a copy of the petition at least ten (10) days before the scheduled hearing. **R.I.G.L. §33-22-3**.

(d) Responsibilities

Any successor fiduciary shall not be responsible to or liable to the estate as a result of the actions of a prior fiduciary or for the replaced fiduciary's account.

REOPENING OF CLOSED ESTATES:

A-Procedures to reopen an estate (wills or administrations) **without court approval** when the newly discovered assets total five thousand dollars (\$5000.00) or less
RIGL § 33-14-13

- 1- The fiduciary(s) or survivor of them who filed the final account of the estate or affidavit of complete administration shall file with the probate court where the estate was originally filed an affidavit listing the newly discovered asset(s) and its fair market value, **together with** a statement of the proposed distribution of the asset(s) or funds received as a result of the sale of said asset(s). The affidavit shall be accompanied with a filing fee in the amount of \$ 39.00. **Exhibit VI for Affidavit form.**
- 2- Upon making said filings, the fiduciary(s) **shall forthwith send notice** of the filing of the affidavit and statement of proposed distribution of asset(s) with a **copy of each**, by regular mail to the heirs at law for administrations and to the beneficiaries under the provisions of a will. The notice shall also **contain the date the request for reopening was filed with the probate court and the right that the recipient of the notice has to file an objection** to the proposed distribution with the probate court **within thirty (30) days of its filing** with the probate court and that if no objection(s) is filed, the fiduciary shall dispose the asset(s) as proposed.
- 3- Objection(s) to the distribution by heirs at law/ beneficiaries **must be filed** with the court pursuant to the statute, with a copy mailed to the fiduciary; (failure to send a copy to the fiduciary **is not statutorily mandated**, so that the fiduciary must verify that no objection(s) has been timely filed, per the statute, with the court clerk.
- 4- Hearings on objections will be scheduled by the court **or** as agreed to by the parties. ***All Notice(s) herein may be waived by the beneficiaries or heirs at law pursuant to RIGL** regarding waiver of notice by interested parties.
- 5- The probate court shall, after the expiration of 30 days from the filing date, if no objections be filed to the fiduciary(s) affidavit **or** if all beneficiaries/heirs at law, as the case may be, waive the 30 day notice in writing, issue a Certificate of Re-opening of Estate without a court hearing **or** if an objection is filed a certificate of distribution based on its order after hearing, to the fiduciary(s) consistent with the fiduciary(s) first affidavit **or** its order after hearing of objections to the affidavit;
- 6- The fiduciary, after completion of the distribution per its statement or per any order of the probate court, **shall file a second affidavit with the court**, providing the names and addresses of the persons receiving the asset(s) and the value or amount received and attesting that the estate has now been finalized. **Exhibit VII for affidavit form.**

B-Procedures for the **reopening of closed estates over Five Thousand (\$5000.00) Dollars** shall follow the procedures for an original probate, including the statutory filing fee; **except** that in the case of a Testate decedent estate, the beneficiaries under the provisions of the will rather than the heirs at law shall be provided notice of the hearing. Notice shall be pursuant to **RIGL §33-22-3**, except for parties who statutorily waive notice. No advertisement is required unless ordered by the court.

At the hearing on the petition, evidence shall be provided to justify the reopening of the estate, including, but not limited to affidavits, testimony, documents, etc. A supplemental inventory listing the newly discovered assets shall be filed.

If there was **no finding of insolvency of the original estate** and all known or ascertainable creditors were notified and/or paid originally, there is no **requirement** for an advertised creditors notice if the petition is granted; the estate may close via **final account** or **affidavit of complete administration** after qualification and action by the fiduciary appointed herein (**without waiting six months**) and with appropriate releases; otherwise, the court, upon petition for instructions, shall determine the means and method of finalization of the estate pursuant to the applicable statutes which may include advertisement and creditor's notice and a six (6) month waiting period from the issuance of the qualification of the fiduciary for the new probate.

RESIGNATION OF FIDUCIARIES:

(a) Commencement of Action

A fiduciary may file a petition to resign. The petition shall state the reasons for the resignation and may request the appointment of a substituted or successor fiduciary. When a fiduciary resigns, and there is no substituted or successor fiduciary already named, the court may, on its own initiative or on petition filed by any interested person, appoint a substituted or successor fiduciary. (**R.I.G.L § 33-18-4, and R.I.G.L § 33-18-5.**)

(b) Final Accounting

A petition for resignation of a fiduciary must be accompanied by an inventory and a final account. In the event there were never any assets in the estate, the fiduciary shall also include an affidavit attesting to this fact.

Pursuant to **R.I.G.L § 33-18-4**, no resignation shall be accepted until the fiduciary settled his or her accounts with the court.

(c) Hearing, Advertisement, and Notice.

A hearing shall be scheduled. The petitioner shall give notice by advertisement pursuant to **R.I.G.L §33-22-11** for least fourteen (14) days, once a week after the hearing is scheduled. In addition, the petitioner shall give notice to those interested persons by mailing to them by regular mail a notice of the hearing and a copy of the petition at least ten (10) days before the scheduled hearing. **R.I.G.L. §33-22-3.**

(d) Termination

Resignation of a fiduciary does not terminate the appointment of the fiduciary until the court enters an order accepting the resignation.

SEALING OF RECORDS: The Court may, upon request, seal the medical and related records as well as settlement details of any parties to Probate Proceedings.

SMALL ESTATES: Decedent estates whose total assets are fifteen thousand dollars (\$15000.00) or less as defined in **RI General Laws § 33-24** may file a petition for Voluntary Informal Executor, pursuant to **R. I. General Laws §33-24.2** or a petition for Voluntary Administration, pursuant to **RI General Law § 33-24.1** and utilize the forms suggested on **Exhibit VIII and IX** herein or facsimiles thereto.

TAX MINIMIZATION: Petitions regarding tax minimization, pursuant to **Rhode Island General Laws §33-15-37.1** require notice to all interested parties or their counsel by regular mail at least ten (10) days before the hearing, unless waived by all interested parties or at the direction of the court.

TRUSTEE REPLACEMENT: Petitions for the replacement, resignation of Trustee in testamentary trusts shall be heard with **notice** sent pursuant to these Administrative rules.

NB: The underlying probate estate must be open.

WAIVED MATTERS: All matters to be heard on waiver, except for emergency matters, are requested to be filed at least two (2) days prior to their hearing.

WILL FILING: In cases where there are no assets upon which the Will of a decedent may act upon, the designated fiduciary or person in possession of the Will shall file the Will with an appropriate affidavit and filing fee as may be applicable with the court in order that the **R I GENERAL LAWS** be complied with using an affidavit comparable to **Exhibit X** herein.

WITHDRAWAL FROM CASES AND EXCUSES OF ATTORNEYS:

(a) Withdrawal of Attorney

No attorney appearing in any case will be allowed to withdraw without consent of the court, except when another attorney enters an appearance at the time of such withdrawal or the person previously represented by the withdrawing attorney formally enters his/her appearance pro-se with his/her address.

All withdrawals shall be upon motion with reasonable notice to the party represented. No such motion shall be granted unless the attorney who seeks to withdraw shall file with the probate clerk the last known address of his or her client. The address on file for the client shall be the official address to which notices shall be sent.

(b) Excuse from attendance

An attorney's request to be excused from Probate Court shall be made by motion. The motion shall be served upon the attorney of record of any interested parties or pro-se parties for all matters the moving attorney is scheduled to attend during the time that the request is made for; the motion shall contain the following:

- (1) Period of time for which the excuse is requested.
- (2) The reason upon which the request is based.
(only confidential personal matters may be made privately)
- (3) The estate name and number and the name of each attorney of record for each of the interested parties or pro-se individuals in the cases down for hearing.
- (4) A certification that the movant has served a copy of the petition on each attorney of record or pro-se for those cases assigned during the period for which the excused is sought.

- (5) Where the movant has active probate cases, but nothing assigned for hearing during the period for which the excuse is sought, a representation of that fact shall be made.
- (6) No excuses for attendance shall be granted unless the movant does not have assigned probate cases pending within 14 days of the proposed order.
- (c) Illness or absence of attorney

In case of sudden illness of an attorney, or the attorney's absence from court as a result of other imperative and unforeseen cause, the court shall take such action, without notice, as shall appear reasonable under the circumstances.

The Probate Court reserves the right to **supplement, add to or amend** these Rules.

NB: Suggestions for modifications or additions to these rules by attorneys or parties to the proceedings of the court are encouraged.

BY ORDER: Paul W. Johnson Clerk 9/24/15

ENTER: J. Martinielli
Probate Judge 9/24/2015