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PROBATE COURT GUIDELINES
Updated Draft
January, 2015

Starting March 5, 2015 Until Further Notice

Uncontested Probate and Trust matters will be heard by the Probate Department. Hearings for the Stacked Calendar will take place in the Courthouse at 75 Court Street, Reno, Nevada, on **Thursdays at 8:30 a.m.** The Probate calendar may be heard at such other times as set by the Probate Judge, as well as additional calendars being scheduled if approved by the Probate Judge.

Guardianships are not heard by the Probate Court. These matters are presided over by the Family Court Division of the Second Judicial District Court and set according to the guidelines established by the Guardianship Judge.

You should review the court-approved "Instructions for Personal Representatives" on our website at www.washocourts.com. Personal Representatives should be given a copy of the Instructions and, if s/he executes it, it should be filed after the Letters are issued by the Clerk of the Court.

Please also refer to Rule 10 and Rule 57 of the Rules of Practice for the Second Judicial District Court (WDCR) for further guidelines and illustrations, although parts of Rule 57 are suspended during the Pilot Program and you should follow the guidelines, if there is a conflict with Rule 57.

All uncontested Probate and Trust matters will be placed on either the stacked "approved" or "heard", or "deficient-heard" calendar or vacated. Attorneys and parties for matters on the "approved" calendar need not be present for the scheduled hearing. All matters placed on the "heard" calendar will require your appearance on the date of the noticed hearing. Sales or other title transfers of real property and Petitions for Instructions in Trust cases will always be on the "heard" calendar. Notification of cases that are "vacated" will be posted on the online Probate calendar and usually an Order issued.

1. Filing Probate pleadings. All pleadings must use the "PR" designation for Probate Court as the Department Number. All newly-filed cases will be given a new case number and assigned to Probate Court.

2. Verification of pleadings. All Petitions must be verified and have the appropriate code for the type of document filed. Example: Petition for Probate of Will and for Issuance of Letters Testamentary: code \$3575 (a \$ in front of a code indicates that a filing fee is required). See, document code list located at www.washocourts.com, under general forms tab.

3. Choosing a hearing date. The weekly Probate calendar is posted on the Second Judicial District Court's website: www.washocourts.com, under Probate Dept. tab. All uncontested hearing requests must be submitted through the website.

To schedule an uncontested hearing, follow these steps:

- a. Select the DEPARTMENTS link and click on PROBATE.
- b. At the bottom of the page, select Click to Schedule a Probate Hearing. The available hearing dates will be listed. Select the desired hearing date. Fill in ALL fields regarding your request.

c. A notification is automatically sent to the Probate Department with your request. An email confirming or denying your request will be sent to you from the Probate Department. Do not file and serve your Notice of Hearing until you have received confirmation of your hearing date.

d. It is no longer necessary to deliver a courtesy copy of your Notice of Hearing to the Probate Office. It is suggested that you check the website, immediately after receiving the confirmation email from the Court, to insure that your matter is set on the Probate Calendar.

4. Contested Probate matters are set in the same way as all other civil hearings/trials in General Jurisdiction before the Probate Judge or as directed by the Court. See WDCR 4.

5. All Petitions should be filed prior to selecting a hearing date. **All Petitions and other supporting documents must be filed and all proposed orders must be emailed (email only to this address: probatedept@washoecourts.us) or hand delivered in paper form NO LATER THAN THURSDAY at 5:00 p.m. 3 WEEKS before your hearing date.**

If the Petition and supporting documents are not filed or the proposed Order is not received by the above deadline, the matter scheduled for hearing will be vacated.

6. Orders. **Emailed Proposed Orders must be in Microsoft Word format.** Proposed Orders must contain a signature line for the Probate Commissioner followed by a signature line for the Probate Judge. The Signature lines cannot stand alone on one page; Orders must have text continuing onto the signature page.

Example:

[continuing text]

DATED this ____ day of _____, 2013.

IT IS SO RECOMMENDED.

PROBATE COMMISSIONER

IT IS SO ORDERED.

DISTRICT JUDGE

7. Deficiencies. The Probate Department will conduct a review of the cases and all deficiencies will be posted on the Probate page of the website (www.washoecourts.com) by Friday, two weeks prior to your hearing date.

a. Once posted, the deficiency that does not cause your hearing to be vacated can only be cured by filing the curing documents no later than Noon on the day before your hearing date and personally appearing at the hearing with a courtesy copy of the filings which you believe have cured your deficiency.

b. If deficiencies are not cured by the day before your hearing date at 12:00 Noon, the matter scheduled for hearing will not be approved.

c. The Court will not accept filings to cure your deficiency on the day of the hearing.

Example:

Hearing date:

Thursday, October 17 (8:15 a.m.)

Your Filing Deadline:

Thursday, September 26

Deficiency posted:

Friday, October 4

Deficiency filings:

Wednesday, October 16 (Noon)

MUST APPEAR WITH COURTESY COPIES: Thursday, October 17 (8:15 a.m.)

d. Exception to the requirement to appear once deficiency is posted:

- (1) If you file an "Interim Publication Report" (IPR) using docket code "3835," including extra text identifying the document as the Interim Publication Report, no later than Thursday, three (3) weeks before your hearing date, and**
- (2) Your "IPR" provides the Court with a copy of at least one publication email from the newspaper that shows the content of the publication and the dates it will be published, and**
- (3) You file a complete "proof of publication" no later than Monday at Noon before your hearing date, and**
- (4) The only deficiency in your filing is that the proof of publication was not filed by the petition deadline, and**
- (5) The Probate Department has time to review and change your 4 (deficient must appear) to a 1 on the website by Wednesday at Noon. A 1 notation by your hearing will allow for the hearing to proceed as all other 1 designated hearings. If nothing changes on your hearing posting, you must appear at the hearing.**

8. Probate Calendar. The Court will call the list of scheduled cases without deficiency posted on the Thursday Probate Stacked Calendar and will inquire if anyone is present to be heard or to object. The Court will briefly address those matters.

Those who are aware of Objections already on file, and those who have filed Objections, should appear at the hearing, prepared to schedule the next event in the case on the contested calendar.

The Court will next call those cases on the Deficiency list and accept courtesy copies of curing documents and inquire if anyone is present to object or be heard. A short recess will be taken to review the deficiency cases. The Court will then open Court to announce approval or denial with leave to renew.

9. Filing of Orders. Once the Orders from the Stacked Calendar are signed by both the Probate Commissioner and the Probate Judge, the Orders will be e-filed by the Probate Department. If you are not an e-filer, you may pick up your Order in person at the Probate Office, Room #125, after 3:00 p.m., or a copy will be mailed to your office the next day.

10. Contested matters. If a party appears in Court to object to any matter on the "approved" calendar, the matter will be continued, depending on the nature of the objection, to allow the objector to file and serve a written objection. The Probate Department will notify counsel for the Petitioner of the objection and continuance if s/he was not present. If nothing is on file by the continued hearing date or other deadline set by the Court, the original Petition is subject to being granted at the continued hearing.

a. In contested matters, a Status Conference will be set with the Court within two (2) weeks. At that time it will be determined (1) whether a Settlement Conference should be scheduled; (2) whether a contested hearing date should be set instead, and (3) whether discovery or other matters should be addressed in a pre-trial Order.

b. Confidential Settlement Statements must be delivered to the Probate Department by noon three (3) working days before a Settlement Conference, regardless of where the Conference is to be heard. Statements shall be a maximum five (5) pages, exclusive of exhibits.

11. Sales of Real Property. When filing a Return of Sale and Petition for Confirmation, the following must be included in the Petition or attached as an Exhibit, as the case may be:

- a. A copy of the Offer & Acceptance attached as an Exhibit;
- b. A narrative rendition of the applicable sales commissions, payable by and to whom, and any other allocations of closing costs and other monetary details, included in your Petition and your proposed Order;
- c. If real property is being transferred, the legal description, assessor's parcel number (APN) and street address must be included in the proposed Order. Likewise, if a motor home or vehicle is being transferred, the Order must contain the serial number or vehicle identification number (VIN);
- d. Proofs of Publication of Notice of Intent to Sell, where applicable, shall be handled in the same manner as in "**7(d)**", above.

12. The Inventory or Record of Value is due 60 days after appointment of the Personal Representative (NRS 144.010).

- a. The Inventory must contain all Nevada assets of the Decedent and their values as of the date of death.
- b. The Inventory must also identify the property as to its character, i.e. community or separate. NRS 144.040(3)(a).
- c. Known encumbrances should also be listed.
- d. Subtotal each section (real property, personal property, cash assets, vehicles, etc.) and show a final recapitulation of all assets (i.e. a total at the end).

13. Accountings must be detailed and itemized: i.e. show each receipt with the date, payor, description and amount. Show each disbursement with the date, payee, description and amount. Subtotal all columns in each section. A recapitulation must be included showing the assets remaining on hand for distribution.

14. All Creditor Claims must be listed in the Petition for approval of an accounting, even if untimely, including the name of the creditor, the date filed, the amount, and the disposition of the claim (approved, paid, compromised and paid, or rejected).

15. Attorney's fees. Fee requests must be supported by a detailed and itemized billing: i.e. the date of service, a description of the service, the time charged, and the hourly rate. Costs must be itemized and all categories (fees and costs) individually totaled. Any cost retainers received must be shown and accounted for in your final request for approval. If you are relying on a statutory percentage retainer agreement, the agreement must be produced to the Court for examination. This paragraph is applicable to any type of request, including a set-aside proceeding.

16. Special hearing requests. If your case requires an earlier calendar date after a calendar has already been closed, contact the Probate Department **by e-mail** to request being added to a closed calendar. If we can grant your request, you will be instructed how to proceed. Please follow the Clerk's instructions carefully to insure that your case is added to the calendar.

17. Courtesy copies. On occasion, we may request courtesy copies of particularly lengthy pleadings, especially accountings, or where legibility is a concern. **In addition, please review "Deficiencies" above.**

18. Petitions for Discharge under NRS 151.230 may be filed *ex parte*, but must be filed as a separate pleading, along with a Request for Submission and a proposed Order.

a. Receipts must be filed for all persons receiving money or property, including the attorney(s) and the Personal Representatives.

b. It is not sufficient for the Receipt to state that the devisee/distributee has received, for example, "1/2 of the residue of the Estate". Each Receipt must indicate the dollar amount so as to ensure that the entire Estate has been distributed in accordance with the final Order.

c. When an attorney receives permission from the Court to be paid an additional amount for closing the Estate, the Receipt should so indicate the amount actually paid.

d. When an attorney seeks additional fees from the Court for closing the Estate, the proposed Order should be phrased "...is awarded an additional amount **not to exceed** \$_____".

19. Special Administrations. Pursuant to NRS Chapter 140, the Court may appoint a Special Administrator under certain circumstances. The Probate Department requests that you refer to the Chapter for details, and that the following procedure be followed:

a. Your Petition may be filed *ex parte*, along with a Request for Submission and a proposed Order.

b. The Petition must contain some evidence of death.

c. The Petition must contain allegations which comply with all other statutes pertaining to appointment of Personal Representatives, such as:

- Jurisdiction: residence of Decedent (exception applies for wrongful death occurring in Washoe County)
- Address of Petitioner
- Qualifications of Petitioner
- Names and physical addresses of heirs and devisees; relationship; age if minor
- Character and estimated value of estate; bond

d. The Proposed Order Appointing Special Administrator must contain, in addition to the recitals and the appointment language, the following paragraphs:

The Special Administrator is further ordered to deposit any assets received into a bank account with a Nevada banking institution for preservation for a future administration or other order from this Court.

The Special Administrator is further ordered to comply with the provisions of NRS 140.080.

The Special Administrator is further ordered to comply with the provisions of NRS 144.010 within sixty (60) days from the date of this Order.

The Special Administrator shall petition the Court for administration, set-aside, or discharge of the estate, as appropriate, within one hundred eighty (180) days of the date of this Order.

e. In addition to the above, the Proposed Order Appointing Special Administrator must contain, in cases where the purpose of the appointment is, to pursue a wrongful death or other type of civil action, the following language:

IT IS FURTHER ORDERED that the settlement of any claims or lawsuits on behalf of the Estate of the Decedent is subject to the Probate Court's approval.

IT IS FURTHER ORDERED that any money received by the Estate of the Decedent shall be placed in the attorney's Trust account until further Order by the Probate Court approving disposition of the funds.