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**PROBATE DIVISION RULES**  
**(Revised 2004)**

**Rule 57. Probate; trusts; and the administration of estates.**

**57.1 Scope of rules.**

This rule governs the practice and procedure of all proceedings under Title 12 and chapters 162 through 167 of Title 13 of NRS.

**57.2 Calendars.**

Subject to change by order of the chief judge, the probate calendar will be heard every Thursday at 8:00 a.m. If a legal holiday falls on a Thursday the probate calendar for that week will be heard at such time as set by the probate judge or probate commissioner, as approved by the probate judge. All papers filed in a proceeding governed by Rule 57 shall indicate directly below the department designation, the hearing date noticed, e.g. "Hearing date: mm/dd/yy."

**57.3 Probate Commissioner.**

1. The Second Judicial District Court has approved automatic referral of all probate and trust proceedings under Title 12 and chapters 162 through 167 of Title 13 of the NRS to a master, designated in Rule 57 as the "probate commissioner."

2. A district judge may refer any other matter to the probate commissioner for recommendation unless prohibited by law. Such referral may be by application of a party to the action or on the judge's own initiative.

3. The probate commissioner shall hear and make recommendations on all matters assigned to the probate commissioner, except those matters that require disqualification. The probate commissioner may disclose on the record the basis of the

1 probate commissioner's disqualification and may ask the parties and their lawyers to  
2 consider, out of the presence of the probate commissioner, whether to waive  
3 disqualification. If following disclosure of any basis for disqualification other than  
4 personal bias or prejudice concerning a party, the parties and lawyers all agree that the  
5 probate commissioner should not be disqualified, and the probate commissioner is  
6 willing to participate, the probate commissioner may participate in the proceeding. The  
7 agreement shall be incorporated in the record of the proceeding.  
8

9           4.     The probate commissioner:

10                   (a)    Shall receive oral, documentary and tangible evidence and  
11 establish a record;  
12

13                   (b)    Shall make findings of fact, conclusions of law and  
14 recommendations for the provisions and enforcement of any order.  
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16                   (c)    Shall have any other power or duty contained in an order of  
17 reference issued by the court.

18           5.     The probate commissioner may request a district judge to make an  
19 immediate determination of appropriate sanctions for contemptuous behavior, issue a  
20 bench warrant, quash a warrant, or release persons arrested thereon.  
21

22           6.     Within a reasonable time after the evidence presented in a contested  
23 matter is closed, the probate commissioner shall file written findings of fact and  
24 recommendations, which shall also be served on parties entitled to notice.  
25

26           7.     Within ten days after the probate commissioner serves and files findings of  
27 fact, conclusions of law and recommendations in any contested probate matter, any  
28 party adversely affected by the recommendation may file with the clerk of the court and

1 serve on the other parties and the probate commissioner, a written request for judicial  
2 review of the matter by the probate judge. Failure to file a written request for review  
3 within the ten day period will result in adoption of the probate commissioner's  
4 recommendation by the probate judge and preclusion of limited judicial review by the  
5 probate judge.  
6

7 8. Upon filing of a timely request for judicial review, the matter will be  
8 transferred to the probate judge. Such judicial review will be subject to limited review by  
9 the probate judge. Judicial review of a final recommendation of the probate  
10 commissioner will be confined to the record, except as provided below.  
11

12 9. In cases concerning alleged irregularities in procedure before the probate  
13 commissioner that are not shown in the record, the probate judge may receive evidence  
14 concerning the irregularities.  
15

16 10. The final recommendation of the probate commissioner shall be deemed  
17 reasonable and lawful until reversed or set aside in whole or in part by the probate  
18 judge. The burden of proof is on the party attacking or resisting the recommendation to  
19 show that the final decision is invalid pursuant to section 11. below.  
20

21 11. Except as to matters of law, the findings of fact and recommendation of  
22 the probate commissioner will not be disturbed, unless they are clearly erroneous.  
23

24 12. The parties may stipulate to immediate entry of order on the probate  
25 commissioner's recommendation.  
26

27 13. For good cause, the probate judge may enforce the probate  
28 commissioner's recommendation pending appeal.

14. The probate commissioner may direct counsel for a party to prepare

1 findings of fact, conclusions of law and recommendation, which shall be delivered to the  
2 probate commissioner no later than 10 judicial days after the probate commissioner so  
3 directs.

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5 15. The probate commissioner may perform the duties of any other duly  
6 appointed master or commissioner as the administration of justice may require.

7 16. All proceedings before the probate commissioner shall be conducted with  
8 appropriate decorum and procedure to insure respect and obedience to the court and its  
9 rules.

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11 17. The probate commissioner may make appropriate sanctions for failure to  
12 comply with the appropriate statutes or rules of the court.

13 **57.4 Approved matters.**

14 1. The probate commissioner must prepare an approved list each week of  
15 probate matters that may be heard without further testimony or appearance.

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17 2. In order to be on the approved list, the following must be strictly observed:

18 (a) All petitions must be verified.

19 (b) Death certificates must be filed at the same time as the initial  
20 petition, or as soon as available from vital statistics.

21 (c) Where a bond is required, the petition must set forth with  
22 particularity the personal property of the estate together with the estimated amount of  
23 annual income from all sources.

24 (d) The original order, together with any copies to be conformed, must  
25 be delivered to the probate commissioner no later than 12:00 noon on Friday of the prior  
26 week the matter is to be heard. Without a showing to the court of good cause proposed  
27 orders not submitted within the time provided for in this rule will, on the noticed hearing  
28

1 date, be continued for one week or longer at the request of counsel to enable  
2 compliance.

3 (e) An affidavit of mailing must be filed immediately after the actual  
4 mailing has taken place. The affidavit of mailing and any required proof of publication  
5 must be filed by 12:00 noon, Friday of the prior week the matter is set for hearing. A  
6 courtesy copy must be delivered to the probate commissioner's office at the time of  
7 filing.  
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9 (f) A copy of the notice of hearing must be provided to the probate  
10 commissioner at the time of filing.  
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13 **57.5 Contested matters.**

14 The probate commissioner shall hear all approved/uncontested matters on the  
15 weekly probate court calendar. The probate commissioner may schedule all contested  
16 matters at the convenience of the probate commissioner or probate judge's calendar.  
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19 **57.6 Continuances.**

20 1. For good cause, the probate commissioner may vacate or continue  
21 matters.

22 2. If objection or exception is taken to any matter on the approved list, and  
23 the petitioner or petitioner's counsel is not present, the probate commissioner may  
24 continue the matter to allow the filing of written objections or exceptions and giving  
25 notice thereof to petitioner.  
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28 **57.7 Petitions for probate of wills and/or codicils.**

1           1.     When a petition for probate of will and/or codicil is filed and the original of  
2 the document being offered for probate is not already filed with the filing office, it must  
3 be filed concurrently with the petition. If the will is holographic, a typewritten copy of the  
4 document must also accompany the petition. The caption must clearly indicate the  
5 nature of the petition filed, e.g., Petition for Probate of Will and for Issuance of Letters  
6 Testamentary; Petition for Probate of Will and for Issuance of Letters of Administration  
7 with the Will Annexed; Petition for Letters of Administration.  
8

9           2.     In addition to filing the original document with the filing office, copies of  
10 any documents offered for probate must be attached to the petition for examination by  
11 the probate commissioner.  
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13                   **57.8 Contents of probate orders.**

14           All orders or decrees in probate or trust matters shall set forth completely all  
15 matters actually passed on by the court and shall not merely refer to corresponding  
16 provisions of the petition. Probate or trust orders should be so drawn that their general  
17 effect may be determined without reference to the petition on which they are based.  
18 Orders must contain a line for the probate commissioner's signature in addition to a  
19 signature line for the judge. Orders must not be drawn so that only the signature of the  
20 court, or the date and signature, appear on a page, nor may any matter appear after the  
21 signature of the court. The name, address and signature of the submitting attorney  
22 must appear on all orders. If the order distributes or otherwise affects real property, the  
23 legal description and the assessor's parcel number of the property shall be included in  
24 the order or an exhibit to the order. If the order distributes or otherwise affects a  
25 vehicle, the vehicle identification number shall be included in the order.  
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