

## **RULE 72                      PROBATE**

### **72.1                      CIRCUIT CLERK APPOINTING AUTHORITY**

The Probate Court of St. Louis County is a division of the Circuit Court of St. Louis County. The Circuit Clerk is the Clerk of the Probate Division, as referred to in Chapters 472.473, 474, and 475 R.S.Mo., and is the appointing authority for all non-statutory employees of the Probate Division.

### **72.2                      ELECTRONIC FILING IN THE PROBATE DIVISION**

(A) Except as otherwise provided herein, all probate matters shall be filed in accordance with Supreme Court Rule 103 and Supreme Court Operating Rule 27. Attachments, including exhibits, that are a part of any filing shall be filed electronically at the same time. The probate division has designated documents that should be filed as separate documents and documents that should be filed as attachments to a document. The designations are set out in checklists of filing requirements located on the division's website at:

<http://wp.stlcountycourts.com/probate-court/probate-forms/>

(B)                      **Original Documents to be Filed.** The original of the following documents shall be filed physically with the probate division after it is electronically submitted:

(1) Original wills and original codicils. Upon electronic filing, the will or codicil will be conditionally accepted. Final acceptance of a will or codicil will not occur until the original has been filed physically in the probate division;

(2) Original commissions.

(C)                      **CAN Reports and Suitability Studies.** Child Abuse and Neglect Reports and suitability studies shall not be electronically filed in the probate division. Originals of the CAN

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reports and suitability studies shall be physically filed with Family Court.

(D) **Self-Represented Parties.** Self-represented parties, except those who are attorneys licensed to practice in the State of Missouri and subject to the Missouri Electronic Filing System rules, shall file all original pleadings and documents with the clerk of the probate division.

(E) **Forms Promulgated by the Probate Division.** Forms promulgated by the probate division are preferred and found online at <http://wp.stlcourtscourts.com/probate-court/probate-forms/>. Attorneys and registered users shall use the forms promulgated by the probate division that are applicable to the matter being filed in the probate division or forms substantially similar to those promulgated.

(F) **Size – Type – Font.** Any pleading, writing, or document created for the purpose of filing in the probate division shall:

- (1) Be on paper of size 8-1/2 x 11 inches;
- (2) Have portrait orientation;
- (3) Have a left, right, top, and bottom margin of not less than one inch. Page numbers may appear in the bottom margin, but no other text may appear in the margin;
- (4) Have all pages consecutively numbered;
- (5) Use characters that are not smaller than 12 point, Times New Roman font;
- (6) Be double-spaced, except that the certificate of service and signature block may be single spaced.

(G) **Exception.** A writing or document that has

not been created for the purpose of filing in the probate division and is attached to a pleading at the time it is filed shall not be subject to the size-type-font requirements of subsection (G).

(H) **Entry of Parties.** Attorneys shall be responsible for entering all parties into the e-filing system. Parties shall include:

- (1) Petitioner(s);
- (2) Decedent;
- (3) Minor(s);
- (4) Respondent(s);
- (5) Spouse;
- (6) All Heirs;
- (7) All Legatees/Devisees;
- (8) Plaintiff(s);
- (9) Defendant(s).

Pursuant to Missouri Supreme Court Operating Rule 4.07, if the party is a person and the information is reasonably available, the full Social Security number for each party shall be provided on the Confidential Filing Sheet.

(I) **Payment of Accrued Costs on Existing Cases.** Payment of accrued costs on existing cases, other than annual charges, shall be paid by paper check.

(J) **Verified Documents and Affidavits.** Pursuant to Section 472.080, RSMo. all documents filed in the probate division, unless otherwise provided by law or Supreme Court

Rule, shall contain a statement signed by the declarant “that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration.”

The document may be filed as an electronic document only if the declarant, affiant, or notary public has signed a paper document.

Any document subject to the requirements of Section 472.080, RSMo. shall bear an original signature and be converted to a PDF format in order to be electronically filed. If a document is electronically filed bearing a facsimile electronic signature, i.e., /s/(*typed name of declarant or notary*), the document with the original signature must be presented for examination to the probate division within 48 business hours.

Until the entire case is finally disposed, the registered user shall be the custodian of all original signed paper documents, in case the court requires its production.

**(K) Requests for Extension of Time.**

**(1) Inventory or Bonds.** A request for additional time to file an inventory or bond shall be in writing and must be electronically filed. The request shall identify the reason for the continuance and shall provide a date, no more than thirty days from the division’s deadline for filing of the inventory or bond. The division’s approval or denial of the request will be available on Case.net.

**(2) Settlements or Statements of Account.** Details that address requests for extensions of time in filing settlements or statements of accounts are found in Local Rule 72.3.

**(3) Documents to Open New Estates – Correction of Deficiencies.** The division will review documents filed

to open a new estate. A checklist itemizing deficiencies in the filing will be available on Case.net. The checklist will include a due date for submitting corrections. A request for additional time to submit corrections shall be in writing and must be electronically filed. The request shall identify the reason for the continuance and shall provide a date, no more than thirty days from the division's deadline, for filing the corrections. The division's approval or denial of the request will be available on Case.net. If corrections are not filed by the due date or on any date as otherwise ordered by the division, the matter will be dismissed for failure to prosecute.

## **72.3 ELECTRONIC FILING OF SETTLEMENTS IN THE PROBATE DIVISION**

### **SETTLEMENTS**

(A) **Electronic Filing.** In accordance with Supreme Court Rule 103 and Court Operating Rule 27, all reports in lieu/interim/annual and final type settlements including statement of accounts, along with required verification of accounts shall be filed electronically.

(B) **Vouchers.** All vouchers shall be e-filed as an attachment to the settlement and shall be the official record of the court. They must be numbered and submitted in consecutive order consistent with the listing of disbursements on the settlement. Paper copies of the original voucher(s) shall be provided to the court within 48 business hours as a courtesy copy. Verification of accounts shall be filed in the manner provided in paragraph (c) below.

(C) **Verification of Accounts.** All verification of accounts shall be e-filed as a separate document and not as an attachment to the settlement. The court may request presentment of the original verification of account or any other supporting documentation if deemed necessary.

(D) **Documents to be filed as additional documents/not attachments.** Petitions to Approve the Settlement, Notices or Waivers from all interested persons, and the Final Settlement/Statement and Proposed Order of Distribution should all be submitted as additional documents and not as attachments to the Final.

(E) **Corrected Settlement.** Every amendment to or correction of a settlement shall be accompanied by a Settlement Corrections Submission form and shall specifically identify the correction(s) or amendment(s) requested. When a correction or an amendment is filed, the attorney shall use the Settlement Corrections Submission form and shall attach only those pages of the settlement containing the correction(s) or amendment(s). An entirely new settlement shall not be attached to the Settlement Corrections Submission form when amendment or correction is requested.

(F) **Extension requests.**

(1) **To File a Settlement or Statement of Account.** A written request for additional time to file a settlement or statement of account must be e-filed detailing the reason for the continuance along with a suggested due date of not more than 30 days per request. Approval or denial of said request will be available on Case.net.

(2) **To Correct Deficiencies on an Audited Settlement.** After a settlement has been audited, a checklist itemizing the deficiencies will be available on Case.net. The checklist will include a due date for making corrections. If the corrections are not completed by the due date or a request for additional time

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submitted as set out in item (1) above, an order to show cause will be issued.

## **72.4 APPLICATION OF CIVIL RULES OF PROCEDURE TO ADVERSARY PROCEEDINGS**

(A) All actions filed with the probate division of this circuit seeking relief under the following provisions of the Revised Statutes of the State of Missouri are declared “adversary probate proceedings” within the meaning of and as that term is defined in Section 472.140.2, RSMo of the probate code.

(1) Durable Power of Attorney Law, Section 404.727, RSMo (action for accounting from and/or breach of fiduciary duty of attorney-in-fact);

(2) Missouri Uniform Trust Code Sections 456.6-604, RSMo (trust contests), 456.7-706, RSMo (removal of trustee), and 456.10-1001, RSMo (breach of trust);

(3) Nonprobate Transfers Law of Missouri, Section 461.054.1, RSMo (disqualification of beneficiary designations for fraud, duress, or undue influence);

(4) Probate Code Sections 472.013, RSMo (fraud under probate code), 473.340 (discovery of assets), 474.150, RSMo (gifts in fraud of marital rights), and 474.155 (breach of contract to make a will).

(B) Pursuant to Rule 41.01(b), Mo.R.Civ.Proc., and Section 472.141(2), RSMo, all of Rules 41 through 101 of the Missouri Rules of Civil Procedure shall apply in those “adversary probate proceedings listed in subsection (A) of this Rule.