

Court Rule Changes

*by Lisa Symula
Family Division Administrator -
Probate/Juvenile Register*



There were numerous court rule amendments effective January 2002. In fact, there were 62 pages of them! However, below please find the highlights of court rule changes effective January 2002 which most affect Probate Court operations. These highlights were prepared by Jill Koney Daly, Chief of Estates and Mental Health.

1. 5.105(D) Service

In a guardianship or conservatorship, a petition asking for an order that affects the ward must be served on the ward.

2. 5.114(A)(3) Signing of Papers

An attorney cannot sign the acceptance of appointment (along with the inventory, account and sworn closing statement).

3. 5.125(C)(22) Interested Persons

The interested persons on a petition for appointment of a guardian of an adult are the alleged incapacitated individual, the attorney in fact, the spouse, and the children. If no ADULT children, then the parents as well. ("Adult" was added).

4. 5.144 Administratively Closed File

The court may administratively close a file for:

- failure to file Notice of Continued Administration OR
- any other reason under 5.203(D)

5. 5.206 Duty to Complete Administration (replaced former 5.206)

The fiduciary/attorney must take all actions reasonably necessary to regularly close administration of an estate. If they fail to do so, the court may act to regularly close the estate and assess costs against the fiduciary or attorney personally.

6. 5.306 Notice to Creditors, Presentment of Claims

Removes decedent's social security number from claims notice; adds date of birth instead.

7. 5.307(B) Requirements Applicable to all Decedent Estates

Letters will have to be changed to reflect new 5.206 wording (above).

8. 5.313 Compensation of Attorneys

The personal representative, rather than the attorney, must now serve the notice regarding attorney fees.

9. 5.40(C)(6) Report of Guardian; Inventories and Accounts of Conservators

"Periodic Review. Unless accounts have been allowed, the court shall review the account no less often than once every 3 years."

Until next month, stay tuned!