

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
AMENDING ARIZONA CODE OF)	Administrative Order
JUDICIAL ADMINISTRATION)	No. 2023 - <u>161</u>
§ 3-302: FORMS)	(Affecting Administrative
)	Order No. 2012-65)
)	
)	
)	

Pursuant to the Arizona Code of Judicial Administration (ACJA) § 1-201(E), the Chief Justice may adopt technical changes in existing administrative code sections by administrative order without prior distribution for comment and action by the Arizona Judicial Council.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that effective October 30, 2023, the amendments to ACJA § 3-302 as indicated on the attached document are adopted. All other provisions of § 3-302 remain unchanged and in effect.

Dated this 4th day of October, 2023.

ROBERT BRUTINEL
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION

**Part 3: Superior Court
Chapter 3: Probate Court
Section 3-302: Forms**

A. Definitions. In this section and in the associated forms, schedules, worksheets and instructions, the following definitions apply:

“Absolute value” means the numerical value of a number without regard to whether it is a positive or negative number.

“Account” means the detailed record of conservatorship’s financial activity.

“Annuity” means a series of fixed-amount payments paid at regular intervals over a period of time.

“Asset” means any item of economic value owned by an individual or corporation, especially that which could be converted to cash.

“Bearer bond” means an unregistered negotiable bond on which interest and principal are payable to the holder, regardless of to whom it was originally issued.

“Budget” means a projected list of all anticipated expenses and income.

“Conservator” means “a person who is appointed by a court to manage the estate of a protected person” as provided in A.R.S. § 14-1201~~(8)~~(10).

“Conservatorship” is the legal responsibility over a protected person’s estate.

“Court” means the superior court of each county.

“Debt” means a financial obligation requiring repayment.

“Deplete” means to use up, reduce or exhaust.

“Discretionary expense” means a cost which is not essential. Discretionary expenses are most often expenses defined as things that are "wants" rather than "needs."

“Dividend” means the amount paid to shareholders for each share they own, usually based on the number of shares of stock in a corporation and the rate of payout approved by the board of directors or management.

“Earned income” means income an individual receives for their efforts, including all the taxable income, wages, salaries, tips, and net earnings a person receives from working, either through one’s own business or by working for another entity (business, government, non-profit organization, etc.).

“Estate” means the net worth of a person at any point in time, including the person’s property, entitlements, and obligations or, if the protected person has a spouse, “estate” means only the separate property and the share of the community property belonging to the protected person whose affairs are subject to oversight.

“Expense” means money paid to another person, business, or organization to pay for an item or service.

“Fair market value” means the amount for which property would sell on the open market if offered for sale in the ordinary course of business.

“Fiduciary” means, for the purposes of this section, a person who serves as a court-appointed guardian or conservator.

“Gross value” means the value of an asset before applying any deductions such as interest, taxes, etc.

“Guardian” means “a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment but excludes a person who is merely a guardian ad litem” as provided in A.R.S. § 14-1201(~~23~~)(29).

“Guardianship” is the legal responsibility over a ward.

“Interest” means the money paid by someone else for the use of a person's money, as on a loan or debt, on a checking account in a bank, on a certificate of deposit, promissory note, or the amount due on a judgment.

“Interested parties” means any person who has appeared before the court in the conservatorship case including, but not limited to, court appointed counsel.

“Inventory” means a detailed, itemized list, report, or record of items and the value of such items in one’s possession.

“Letters” means “. . . letters testamentary, letters of guardianship, letters of administration and letters of conservatorship” as provided in A.R.S. § 14-1201(~~32~~)(38).

“Liabilities” means an obligation that legally binds an individual or company to repay a debt.

“Liquidating” means converting assets into cash or equivalents by selling them on the open market.

“Marketable securities” means securities that can be converted into cash quickly at a reasonable price, including commercial paper (unsecured, short-term debt instruments issued by a corporation), bankers’ acceptances (short-term debt instruments issued by a firm as part of a commercial transaction and is guaranteed by a commercial bank), and treasury bills (government debt obligation).

“Notes” means unsecured, secured, payment in installments (payments paid at regular intervals) or on demand, as well as made with or without interest.

“Payables” means the unpaid bills of a business or the money owed to suppliers and other creditors.

“Personal representative” means “. . . an executor, an administrator, a successor personal representative, a special administrator and persons who perform substantially the same function under the law governing their status. A general personal representative excludes a special administrator” as provided in A.R.S. § 14-1201(~~40~~)(48).

“Protected person” means “a minor or any other person for whom a conservator has been appointed or any other protective order has been made” as provided in A.R.S. § 14-5101(~~4~~)(10).

“Rent” means an agreed sum paid at fixed intervals by a tenant to the landlord for possession and use of property.

“Royalty income” means a payment received for the use and exploitation of artistic or literary works, patents, and mineral rights.

“Schedules” means the summary document which captures financial information required in the conservator’s account.

“Secured” means to grant a seller or lender a security interest in personal or real property. A security interest allows a creditor to repossess and sell the collateral if a debtor fails to pay a secured debt.

“Structured settlement” means an agreement in a lawsuit by which specific payments are made over a period of time.

“Successor conservator” means a conservator who is appointed to a conservatorship in which a different conservator was previously appointed.

“Tax deferred” means income, assets, or investments in which taxes are not paid until a future date.

“Transaction log” means a detailed record of financial transactions in much the same manner as one maintains a check register to record money received and money spent.

“Trust” means “~~includes~~. . . an express trust, private or charitable, with any additions, wherever and however created. Trust also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust.” as provided in A.R.S. § 14-1201(~~58~~)(68).

“Ward” means “a person for whom a guardian has been appointed” as provided in A.R.S. § 14-5101(16).

“Worksheet” means a list or table which serves as supporting detail to a specific schedule.

~~“Ward” means “. . . a person for whom a guardian has been appointed . . .” as provided in A.R.S. § 14-5101(8).~~

B. Applicability. Pursuant to Rule ~~38-55~~, ~~Arizona Rules of Probate Procedure~~ Arizona Rules of Probate Procedure, and the administrative authority provided by Article VI, Section 3 of the Arizona Constitution, this section shall govern the forms, schedules, worksheets, and instructions for use statewide in probate matters in the superior court. Any use of the word “forms” includes, where applicable, the associated schedules, worksheets, and instructions. Pursuant to Rule ~~38-55(B)~~, ~~Arizona Rules of Probate Procedure~~, ~~the instructions included with Forms 5 through 9 supplement the rules and have the same statewide force and effect as the rules.~~

C. Purpose. The forms, schedules, and worksheets listed in this section are intended to bring uniformity and consistency to probate proceedings statewide, providing simplicity and brevity where appropriate, and in conformity with the ~~Arizona Rules of Probate Procedure~~ Arizona Rules of Probate Procedure. Adoption of statewide uniform forms will also increase and provide comparability to judicial oversight of guardianship, conservatorship, and personal representative cases across the state for protection of incapacitated and vulnerable persons and their estates.

D. Forms, Schedules, Worksheets and Instructions.

1. [No change]

2. Adoption and Use of Forms, Schedules, Worksheets, and Instructions.

a. ~~Preferred~~ Adopted Forms.

~~(1)~~ The following forms and any associated schedules, worksheets, and instructions are adopted as the preferred forms for presenting such matters in the superior court:

~~(a-1)~~ Form 1: Order to Personal Representative and Acknowledgement and Information to Heirs/Devisees;

~~(b-2)~~ Form 2: Order to Guardian of an Adult and Acknowledgement;

~~(c-3)~~ Form 2-S: Supplemental Order to Guardian with Inpatient Psychiatric Treatment Authority;

~~(d-4)~~ Form 3: Order to Conservator of an Adult and Acknowledgement;

~~(d-5)~~ Form 3M: Order to Conservator and Acknowledgement for of a Minors;

~~(e-6)~~ Form 4: Order to Guardian and Conservator of an Adult and Acknowledgement; and

- (7) Form 5: Conservatorship Estate Budget;
- (8) Form 6: First Conservator's Account;
- (9) Form 7: Conservator's Account;
- (10) Form 8: Final Conservator's Account;
- (11) Form 9: Simplified Conservator's Account. This form may only be used upon a court order authorizing the conservator to use this simplified method.
- (12) Form 10: Proof of Restricted Account from Financial Institution;
- (13) Form 11: Probate Information Form for Decedent's Estate;
- (14) Form 12: Probate Information Form for Guardianship/Conservatorship;
- (15) Form 13: Notice of Change of Fiduciary's Contact Information;
- (16) Form 14: Notice of Change of Ward's Contact Information; and
- (17) Form 15: Authorization to Obtain Certified Copy of a Sealed Document.

(2) b. Variation from Preferred-Adopted Forms.

~~(a-1)~~ Forms 1 through 4 and 11 through 15. Pursuant to Rule 38-55, Arizona Rules of Probate Procedure, ~~wherever the rules require the use of a "substantially similar" form,~~ Forms 1 through 4 and Forms 11 through 15 may be adapted to delete information that does not apply to a particular ~~ease proceeding~~ or to add other relevant information under the following conditions:

- ~~(i-a)~~ All information ~~in the preferred form and that is~~ applicable to the ~~ease proceeding~~ is included ~~in the adapted form,~~ and
- ~~(ii-b)~~ The deletion of information in the ~~preferred-adopted~~ form, or failure to complete a portion of the ~~preferred-adopted~~ form, constitutes a representation to the court and adverse parties the omitted or unanswered questions or items are not applicable.

~~(b-2)~~ Forms 5 through 10. ~~The superior court may allow variations of this format.~~

~~b. Exclusive Forms, Schedules, Worksheets, and Instructions.~~

~~(1) The following forms and the associated schedules, worksheets, and instructions are adopted as the exclusive method for presenting such matters in the superior court:~~

- ~~(a) Form 5: Conservatorship Estate Budget;~~
- ~~(b) Form 6: First Conservator's Account;~~
- ~~(c) Form 7: Conservator's Account;~~
- ~~(d) Form 8: Final Conservator's Account, and~~
- ~~(e) Form 9: Simplified Conservator's Account. This form may only be used upon a court order authorizing the conservator to use this simplified method.~~

~~(2) Variation from Exclusive Forms.~~ Upon a showing of good cause, the superior court may, in a particular case, issue an order permitting variation of a form,

schedule, or worksheet if the court finds that such variation is consistent with prudent management and oversight of the case.

3. and 4. [No change]

5. Modifications.

a. Except as provided in subsection ~~D(2)(a)(2) and D(2)(b)(2)~~ pertaining to variations in a particular case, a court may not allow any substantial variation from Forms 1 through ~~10~~ 15 and the applicable worksheets, schedules, and instructions without prior approval by the supreme court.

b. Forms 1 through ~~10~~ 15 and the associated schedules, worksheets, and instructions may be substantively modified by the supreme court, upon the review and recommendation of the Arizona Judicial Council, pursuant to the process specified in ACJA § 1-201 for modifications to the ACJA sections. The Administrative Director may approve technical changes to the forms, schedules, worksheets, and instructions, without prior Council approval, to increase ease of use and understandability, to correct errors, and to address other technical issues.

c. [No change]