Task Force on the Arizona Rules of Probate Procedure

Meeting Agenda

Friday, July 27, 2018
10:00 a.m. to 4:00 p.m.
State Courts Building * 1501 West Washington * Conference Room 345 * Phoenix, AZ

Item no. 1	**Call to Order**	*Hon. Rebecca Berch, Chair*
Item no. 2	**Approval of the June 15, 2018 meeting minutes**	*Justice Berch*
Item no. 3	**Consent agenda: Rule 6 ("Probate Information Form and Notice of Change of Contact Information Form") and Rule 16 ("Applications")**	*Justice Berch*
Item no. 4	**Workgroup reports and discussion of rules** **Workgroup 1: Rules 11 and 12** **Workgroup 2: Rules 17, 18, 28 (for general discussion with Civil Rules 16 and 26.2), 29, and 38** **Workgroup 3: Rules 22, 25, 26, 35, and 37**	 *Judge Polk* *Judge Olson* *Judge Mackey*
Item no. 5	**Roadmap** • **Next meeting: Friday, August 24, 2018 [Room 230]** • **Proposed meeting schedule:** o **Friday, September 28 [Room 230]** o **Friday, October 26 [Room 119]** o **Friday, November 16 [Room 230]** o **Friday, December 14 [Room 119]**	*Justice Berch*
Item no. 6	**Call to the Public** **Adjourn**	*Justice Berch*

The Chair may call items on this Agenda, including the Call to the Public, out of the indicated order.

Please contact Mark Meltzer at (602) 452-3242 with any questions concerning this Agenda. Persons with a disability may request reasonable accommodations by contacting Angela Pennington at (602) 452-3547. Please make requests as early as possible to allow time to arrange accommodations.

Probate Rules Task Force

State Courts Building, Phoenix

Meeting Minutes: June 15, 2018

Members attending: Hon. Rebecca Berch (Chair), Marlene Appel, John Barron III, Colleen Cacy, Hon. Julia Connors, Robert Fleming, Hon. David Mackey, Aaron Nash, Hon. Patricia Norris, Hon. Robert Carter Olson, Hon. John Paul Plante, Hon. Jay Polk, Lisa Price (by telephone), Catherine Robbins, T.J. Ryan, Denice Shepherd, Hon. Wayne Yehling (by telephone)

Absent: Hon. Andrew Klein

Guests: None

AOC Staff: Jodi Jerich, Mark Meltzer, Angela Pennington

1. Call to order; preliminary remarks; approval of meeting minutes. The Chair called the third Task Force meeting to order at 10:00 a.m. She advised that each workgroup met twice after the second Task Force meeting, and she commended the thought and effort the workgroups put into their drafts. She then asked members to review draft minutes of the second Task Force meeting. Judge Olson requested that those minutes reflect a presumption to delete current comments absent a reason to keep a comment. This revision, with one member opposing it, will appear at the end of section 3 of those minutes. There were no other corrections to the draft.

Motion: A member moved to approve the May 8, 2018 meeting minutes as revised, the motion received a second, and it passed unanimously. **PRTF: 002**

2. Workgroup 1. Workgroup 1 presented Rules 6 and 11 at the May 8 Task Force meeting. Members had returned those two rules to the workgroup with additional directions. After the workgroup's reconsideration, Judge Polk presented these rules again.

Rule 6 (currently "Probate Information Form," and as proposed, "Probate Information Form and Notice of Change of Contact Information Form"): Judge Polk recalled that at the previous Task Force meeting, members were generally supportive of a new statewide probate information form, which would allow removal from Rule 6 of the form's required content. Workgroup 1 also considered certain provisions in Rule 10 (currently, "Duties Owed by Counsel, Fiduciaries, Unrepresented Parties, and Investigators") that require updates of contact information. The workgroup's revised Rule 6 begins with two definitions, one for "contact information" and the other for "fiduciary." The workgroup removed Rule 6's enumerated contact information details and relocated those details into three forms: Form 11, for decedent's estates; Form 12, for a guardianship/conservatorship; and Form 13, for a trust. The workgroup also proposed

new Forms 14 and 15, one for a changes of the fiduciary's contact information, and the other for a change of the ward's contact information.

Members had mixed comments. A judge member noted that considerable court resources and time are spent locating fiduciaries. He would adopt New Mexico's requirement that a fiduciary provide the names and addresses of two individuals who would always be able to contact the fiduciary. Another member observed that asking proposed fiduciaries for such personal details as hair color and weight might be considered invasive and might not even be helpful when serving a warrant. One member noted a provision in the rule that states the clerk may not reject a petition because a party failed to provide all the required information and suggested that certain categories of information should be optional. An attorney member observed that the number of probate forms is already burdensome, and these new forms would add to that burden.

In this regard, members confirmed that it was appropriate to strike proposed Rule 6(b)(2), which would exempt fiduciaries who are operating as a bank, title insurance company, or trust company from the requirement to complete the form. Accordingly, these fiduciaries would still be required to complete the form. For licensed fiduciaries, contact information is already on file with the Administrative Office of the Courts. But Judge Polk responded that superior court clerks don't contact the A.O.C. to obtain a fiduciary's contact information, and it is necessary that licensed fiduciaries complete the form. Judge Polk also observed that Form 13 for trustees was optional. However, unlike guardians, conservators, or personal representatives, trustees typically are not under the court's continuing supervision. Moreover, one member believed that requiring birth dates and email addresses for each trust beneficiary was worrisome. Members agreed to delete proposed Rule 6(b)(3) ("probate information form: trust proceedings"), and corresponding Form 13. After further discussion that emphasized the distinctions between Forms 11 and 12, members on a straw vote overwhelmingly supported having two separate probate information forms rather than a single consolidated form.

Members recommended utilizing annual reports as a mechanism for requesting updated information. The bottom of the annual report could include text such as, "to help us keep in contact with you, please provide [updated information]." But they questioned whether Rule 6 should include the need to update contact information. Rule 6 requirements arise at the inception of a case, whereas Rule 10 requirements to update information occur with subsequent changes in circumstances during a case. Rather than putting the update requirements in a sequential rule, however, they agreed to retain those requirements in proposed Rule 6(c)(1)(A) ("change in contact information for fiduciary" and (B) ("change in contact information for ward"), and to delete (C) ("other information") and (D) ("trusts") from the workgroup's draft. They also agreed to add in subpart (c)(3) ("service) the word "current" ("must mail or deliver a copy of the form to…all current parties…") and to delete in subpart (b)(5) ("no service") the words "including an updated Probate Information form." In response to an inquiry from a

member, they confirmed that subpart (c)(2) permits the court to maintain contact information as confidential in certain circumstances. Finally, members agreed that there is a duty to correct erroneous information in a probate information form. Members agreed to effect this change by moving the substance of subpart (c)(1)(C), which they previously struck, to section (b). The Task Force sent the rule back to Workgroup 1 to make these changes and to further discuss today's comments.

Rule 11 ("Telephonic Attendance and Testimony"): Judge Polk summarized issues raised at the May 8 meeting and noted the workgroup's proposed responses to those issues. In section (b) ("when permitted"), the workgroup inserted a new introductory sentence that provides, "Parties and their attorneys are expected to appear in open court for court proceedings unless the court, in its discretion, permits telephonic attendance under this rule." Judge Polk explained that this new sentence is intended to balance the efficiency of telephonic attendance with the drawbacks of random attendance by telephone without prior notice.

Judge Polk further explained that the crux of the Rule 11 issue is in section (d) ("time for making request"). The workgroup had two views on the issue. One view, labeled #1, was subjective, and would permit the court to allow telephonic attendance "in a timely manner considering the attendant circumstances at the time the request was made, and the court has discretion to grant or deny the motion." The other view, #2, was objective, and would require a motion to allow telephonic attendance "no later than 30 days before the proceeding at which the telephonic attendance or testimony is requested. However, if the notice setting the proceeding provides less than 30 days' notice, the motion must be made no later than 5 days after receipt of the notice of the proceeding. The court may modify or waive these time limits."

Task Force members were also split between these two views. One workgroup member favored the objective standard with a default time limit, whereas another member noted that requests are often late but still should be decided promptly and, if necessary, on the spot. One member questioned whether the 30 and 15-day time limits were feasible, particularly when a hearing might be set with only 15-days' notice. Another member thought there should be different approaches for routine hearings and evidentiary hearings. A responsive comment, however, observed that many hearings, such as conservatorship hearings, may be both evidentiary and routine. Still another member opined that the real distinction under Rule 11 should be hearings that are uncontested, where telephonic attendance should be readily allowed, from hearings that are contested, where a request for telephonic attendance should be more closely scrutinized. Judge Polk observed that if an individual makes the request on the day of, or a day before, the hearing, and he denies the request, he might be required to reset the hearing, which is an inefficient use of court time. But another judge member thought that requiring a request by a fixed time in advance of a hearing was too inflexible and contravened principles of prudent cost management. This judge noted that a routine 5-

minute hearing should not require two hours of driving, particularly in rural counties, and the court should proactively encourage telephonic attendance. One member asked whether the rule should completely shift the paradigm by requiring requests to attend hearings in-person.

While revising Rule 11, and at the bottom of their draft, the workgroup noted 6 factors a court might consider in determining the timeliness of a request. A member suggested adopting the subjective view (option #1 above) but adding two or more of these factors. On a straw vote, three-fourths of the members supported that suggestion, and the Task Force returned the rule to the workgroup to integrate those factors it deemed appropriate. One member proposed changing the word "telephonic" in this rule to "electronic" to encompass attendance by video, but video is already incorporated within the definition of "telephonic" in subpart (a)(2). Moreover, making the proposed change could incorrectly suggest attendance by email or text messaging. Another member asked to change the word "proceeding" to another term because "proceeding" has a carefully constructed meaning under Rule 2. The word "proceeding," however, has a definition in subpart (a)(1) that applies "when used in this rule," and members declined to make the requested change.

Judge Polk also noted that Workgroup 1 had prepared another rule to present at a future meeting provisionally titled Rule XX, which will describe, and eliminate confusion between, various court events, such as an appearance hearing and a non-appearance hearing. When that rule is approved, it might be practical to change the word "proceeding" in Rule 11 to "court event."

3. **Workgroup 2.** Judge Olson presented Rules 16, 17, and 18 on behalf of the workgroup. He noted that these three rules were complementary, particularly Rules 16 and 17, which have similarly sequenced sections. He also noted the workgroup's expectation that dabblers and self-represented litigants would use the probate rules, and the workgroup wanted to clarify the concepts of the application and the petition.

Rule 16 (currently, "Applications," and as proposed, "Applications in Probate Proceedings"): Judge Olson observed that section (a) ("meaning of 'application'") clarifies that an application requests the registrar to take specific actions authorized by statute. The action is usually requested without prior notice, except in instances when someone has filed a demand for notice, but notice follows the registrar's action. Section (b) ("form of application") includes references to civil rules. Judge Olson then reviewed section (c) ("probate registrar's action upon application.") The proposed rule would require the clerk to "immediately file" the application. Filing would help ensure there is a record of the application. Otherwise, if the application is rejected, there would be no record. Section (c) would require the registrar to act "promptly, but within two business hours," to approve or deny the application, or refer it to a judicial officer. Section (d) is titled "notice," although the action required under this section is service of the

application. Section (e) ("objection to application") is the bridge to Rule 17, because a person who opposes an application would be required to file a petition under Rule 17, which brings the matter before a judicial officer. This proposed section differs from section (e) of the current rule, which requires that opposition to an application be in the form of an "objection." The Chair invited members' comments on the proposed rule.

Most of the comments concerned section (c) and the time requirement for the registrar's action on an application. One judge member did not believe that two hours was realistic, especially if the registrar had a question concerning the application that required guidance from a judicial officer. A judicial officer may be unavailable during certain two-hour windows. Another judge thought that registrars had neither sufficient personnel nor resources to act on every application within two hours. A clerk member, Mr. Nash, noted a fundamental objective that clerks process applications correctly, and observed that a two-hour window creates undesirable pressure and puts speed ahead of doing it right. He suggested using the general adverb "promptly," but he also suggested that he obtain input from other clerks before the next Task Force meeting, and the Chair agreed with his suggestion. On the other hand, one member believed that two-hours was consistent with the statute's use of the term "expeditious." This member noted there are good reasons to process applications promptly, particularly for families who may need immediate access to a decedent's accounts in routine cases. Another member observed that family members may travel to Phoenix after a death and have little time available for a second trip to the registrar's office to retrieve subsequently issued letters. If the clerks cannot act timely, judges may serve as registrars (*see* A.R.S. § 14-1307) and review walk-in applications. Members noted that counties throughout Arizona may take several days to issue letters, whereas years ago the letters were processed after a very short wait in the clerk's office. Judge Olson believed that the statute intended a short turnaround, and although the workgroup is not tied to two hours, the public as well as the clerks would benefit from designating a specific time limit for processing an application. Another member noted, however, that even if the rule included a specific time, it would be aspirational, and there would be no penalty—for example, refunding the filing fee or deeming the application approved—when that time is exceeded.

The registrar may reject an application for administrative reasons, i.e., the paperwork is incomplete, or for substantive reasons, that is, something is amiss with the application. Judge Polk observed that under the afore-referenced statute, registrars are appointed by the presiding judge, and this contemplates that the presiding judge has authority to remove a registrar who repeatedly fails to act promptly. However, members would like input from the clerks, and Mr. Nash agreed to inquire about why it is taking longer to process applications now than previously.

Members supported the filing of applications, even if the application is subsequently rejected. Court processes involve creating and preserving a file. It is the clerks' duty to file documents that are presented to the clerk and filing applications would

regularize the process. One member explained a nuanced distinction between a rejection, which could be followed by an amended application, and a declination, which would be followed by a petition. However, a member noted the registrar uses the same form in both instances. Another member asked about the consequence of rejection on the filing fee. Members agreed that once the fee is paid, there should be no additional fee for a subsequent filing under the assigned case number. In circumstances where an application has been filed in an improper venue, one judge noted that he may order a refund of the fee. A member asked what the clerk should do with an original will filed with an application if the application is rejected. Members concurred that the clerk, as a precaution against loss, should photocopy or scan the original will before returning it to the applicant. A complete record also should include the registrar's documentation of the basis for rejecting an application. If the basis of the rejection is curable, the registrar should inform the applicant of how it could be cured, and a time limit for doing so. Members agreed that a provision to this effect should be added to section (c).

One member requested removal of a phrase in section (c) that would authorize the registrar to "refer it [the application] to a judicial officer." The members concern was two-fold. First, it might place the judge in a conflict that precludes the judge from subsequently hearing the matter, and second, it could require the judge to give legal advice to the registrar. Another member believed the concerns were misplaced because the judge has a registrar's authority under A.R.S. § 14-1307. A member also questioned use of the phrase in proposed section (a) that an application is a request to a registrar "for an order," because registrars do not enter orders. Members agreed and deleted that phrase. In concluding the discussion concerning Rule 16, the Chair noted the members' agreement that the clerk must file applications, and that the registrar must act promptly on applications. A decision on whether to specify a time limit for acting promptly, within the rule or in a comment to the rule, is pending Mr. Nash's inquiry with the clerks.

Rule 17 (currently, "Petitions," and as proposed, "Petitions in Probate Proceedings"): Rule 17 follows the structure of Rule 16. However, section (a) ("meaning of 'petition',") is briefer because it does not include a list of statutory references. Section (b) ("form of petition") is like the corresponding section in Rule 16. Section (c) ("hearing date") clarifies that the obligation to obtain a hearing date rests with the petitioner, even though the clerk sometimes provides a date before petitioner requests one. Section (d) ("notice of hearing on the petition") is similar, but not identical, to Rule 16(d).

Section (e) ("response to a petition") recognizes that there might not be time before the hearing for filing a written response, but a response may be made orally at the hearing provided a written response is filed within 10 days thereafter. The time for filing a written response without the necessity of an oral objection is currently no fewer than 3 days before the hearing date, but Workgroup 2 believed that was impractical and changed that time to no later than 7 days before the hearing. The workgroup was concerned that if the objection was filed only a few days before the hearing, the judge might not be aware of

the filing and could be required after-the-fact to modify or vacate a ruling made at the hearing. Members agreed to insert in the provision on an oral response a reference to Civil Rule 12, so it has symmetry with the provision on a written response. They also agreed that it was unnecessary to include a proof of notice requirement in the provisions regarding a response. Members noted that the last sentence of subpart (e)(3), which refers readers to Rule 18 for details concerning a response, should be stricken because of significant modifications to Rule 18.

Judge Olson also reviewed sections (f) ("joinder") and (g) ("reply"). In section (g), and to accommodate the multiple types of petitions, members agreed to change "the petitioner may not file a reply" to "a party may not file a reply."

Rule 18 (currently, "Motions," and as proposed, "Motions in Probate Proceedings"): The workgroup eviscerated most of the content of current Rule 18, but Judge Olson noted that the proposed rule, although brief, was still significant because it distinguished motions from applications and petitions. The proposed rule states simply that a motion is "a request to a judicial officer made by a party seeking procedural rather than substantive relief." A judge member noted that it is not always easy to distinguish what is a substantive motion from what is a procedural one, but members declined to clarify this further in the rule. In response to a member's suggestion that Rule 18 explain various types of motions, Judge Olson said that a rule on what subjects a motion could address might not be helpful.

One member suggested that Rule 18 include a reference to Civil Rule 7.1 on motions, but Judge Olson responded that this was unnecessary because there is a general reference to the Civil Rules in Probate Rule 3. However, a member suggested, and the Task Force agreed, that Rule 18 should clarify, as Civil Rule 7.1 does, that the court can rule on a motion without a hearing. Workgroup 2 referred current Rule 18(c) concerning repetitive filings to Workgroup 1 for its consideration with Rule 10.5's provisions regarding vexatious conduct.

Judge Olson concluded by inquiring about Rule 38 ("forms"), which has been assigned to Workgroup 2. He asked whether the assignment is limited to the text of Rule 38, or whether it also encompassed the forms themselves. He believes the forms may contain errors. The Chair responded that the Court probably would appreciate the Task Force noting errors in the current forms, as well as ways to improve the forms.

4. **<u>Workgroup 3.</u>** Judge Mackey presented on behalf of Workgroup 3.

Rule 19 (currently, "Appointment of Attorney, Medical Professional, and Investigator," and as proposed, "Appointment of an Attorney, Medical Professional, or Investigator"): Judge Mackey began by noting that Workgroup 3's member Lisa Price recently passed the Arizona Bar Examination, and Task Force members joined in congratulating her. Regarding the rule, Judge Mackey began by distinguishing situations where an attorney already represents the ward from those requiring court-appointment

of counsel. A workgroup member believed that if the court appoints counsel, the appointment should be made before any emergency hearing. The workgroup member indicated that in an emergency petition, counsel can be appointed with no notice or with minimal notice, but the rule should clarify a preference that appointments be made before the hearing.

Judge Mackey also said the workgroup was concerned with situations where the court was unaware before a hearing that the ward had counsel of the ward's choosing. The workgroup would like counsel to become aware of the necessity for prompt action on the probate matter, and the entry of an appearance, to avoid the need for the court to appoint an attorney. The rule should specify, as it does already, that the petitioner should not be able to select the ward's counsel, but rather, the court should appoint an independent counsel, unless the ward already has counsel. Members discussed whether section (b) ("appointment of a specific attorney"), which used the phrase "should appoint an attorney," should be "must appoint an attorney." One member thought the provision should be broken down into more than a single sentence for better clarity. The member also believed the 5-day reference in subpart (b)(2) was unclear because it did not specify the starting point for the 5-day period. Another member questioned whether a proposed ward has the competence to choose counsel and indicated that a better alternative in that situation might be to request court appointment as the ward's attorney. One member noted concern about whether counsel of choice was involved in a matter that related to probate, and if it was unrelated, e.g., a divorce or a DUI, whether that would rise to being counsel of choice. A judge member also observed that counsel of choice might have a conflicting relationship with the petitioner, which could compromise the independence of the counsel of choice. But another member was protective of the right to choose counsel, even when the ward has limited capacity.

Another judge member expressed concern with Rule 19(b)'s attempt to restate statutory provisions (i.e., §§ 14-5303(C), 14-5401.01, and 14-5407(B)), but doing so incompletely or inaccurately. He gave as an example the issue regarding attorneys in guardianships of minors, a subject that is covered by statute but which the proposed rule omits. Judge Mackey added that the workgroup's attention was on adult guardianships rather than minor guardianships because that is the focus of the current rule, although the workgroup can revisit the latter issue. A workgroup member explained that the workgroup's intent was to fortify and implement the concept that an adult ward must have independent counsel. Judge Mackey indicated that the workgroup would consider the members' comments at today's meeting, including the issues on minors and emergency appointments, and revise the proposed rule. On the other hand, if the Task Force believes that the statutes do not require clarifying rules, then Rule 19(b) possibly should be abrogated.

In section (c) ("prohibited representation"), a member noted that no mechanism currently exists in Maricopa County for the court to enforce disclosure of the specified conflict. Such conflict issues typically arise after the fact rather than before. But a

workgroup member noted that the rule says the attorney should not accept—it does not say the court may not appoint—and this places the onus on the attorney to avoid accepting appointments under the specified conflict circumstances at the outset of a case.

Section (d) ("requesting appointment of a medical professional") includes language also provided by statute that permits the appointment of a psychologist or psychiatrist in specified cases requesting inpatient treatment authority. Members also agree that the rule encompasses situations when the ward has not previously seen a doctor because in those situations the order can name a doctor. In most cases, the petitioner names the doctor because the court may not have a list of physicians from which it can make appointments. A member suggested that because the petitioner has such flexibility in naming a physician, the language "if the medical professional has previously treated or recently evaluated the subject person" may be unnecessary. A.R.S. § 14-5303(C) states a preference for a physician with whom the proposed ward has an established relationship, and members discussed whether it might be appropriate to remove similar language from Rule 22. Judge Mackey said the workgroup would consider these remarks and return its revisions to the Task Force. He also noted that for Rules 19 and 22, the workgroup recommended abrogation of the current comments.

Rule 22 (currently, "Orders Appointing Conservators, Guardians, and Personal Representatives; Bonds and Bond Companies; Restricted Assets," and as proposed, "Order Appointing Guardian, Conservator, Personal Representative, or Special Administrator"): The workgroup reorganized the rule but retained its substance. The three sections of the rule are now titled (a) orders, (b) bonds, and (c) restrictions on authority and accounts. The guardianship finding in subpart (a)(2) concerns the ward's right to possess a firearm.

The text of restrictions under the current rule is mandatory. The workgroup revised this to allow text that is "similar to" the designated language, which permits the court to modify restrictions as circumstances warrant. Subpart (c)(6) includes the words, "unless otherwise ordered," and a member suggested that those words should modify the entirety of section (c). The member also noted that although temporary letters contain a date when the fiduciary's authority expires, permanent letters do not, and he suggested that they should. Other members disagreed. Another member noted the inclusion in section (a) of the terms "personal representative or special administrator," but a special administrator is a personal representative and the term is unnecessary. After discussion, however, it was retained in both the rule and the body of section (a) because special administrators commonly have restrictions. Subpart (a)(3) says "letters will not issue until the bond has been filed." The member proposed changing "will" to "must," and Judge Mackey agreed to make this change.

Subpart (c)(2) contains language of a restriction beginning with the words, "no realty." A member suggested that restrictions should identify specific property because all the decedent's realty might not warrant identical restrictions. Another member added

that recorded letters are indexed by owner rather than by property address. One member raised an issue concerning the restriction that realty may not be leased for more than one year without court approval. The member noted that the statute does not require such approval for a leasehold, although it is in the current rule. The member added that it is burdensome to request annual approval for a lease term greater than a year. A member observed that adding the "unless otherwise ordered" language at the beginning of section (c) would address this issue, and members agreed with this solution.

Members also discussed subparts (c)(4-6), and who under each of these subparts has the responsibility to file proof of a restricted account. A judge member requested that subpart (4) include a reference to a financial institution, which often files the proof directly with the court, but the fiduciary must have ultimate responsibility for assuring the proof is filed. Members agreed with this approach. Members also discussed whether the purchase of an annuity as part of a personal injury settlement constitutes a restriction that must be included in the letters. Members did not agree on this question. One member suggested that the court's order could address this definitively, but another requested that Rule 22 codify guidance (e.g., "an order requiring the purchase of an annuity is/is not a restriction.") But after discussion, members concluded that the fiduciary does not handle the money, or directly purchase the annuity, and they declined to add this provision.

A member noted that the rule covers guardianships but does not have provisions for restrictions concerning non-financial items (e.g., not leaving the state.) Judge Mackey suggested that the workgroup could draft a new rule dealing with limited guardianships and meaningful restrictions in guardianships. One member favored a new rule because these restrictions commonly deal with the individuals rather than their assets. A new rule would require removal of the word "guardian" from the title of Rule 22. But Judge Mackey also left open the alternative of adding new provisions to Rule 22 on this subject, and the workgroup will consider both alternatives.

Members turned to the issue of expiration dates on letters. One judge member characterized letters as "high-powered powers of attorney," yet the court is not always aware of how the letters are used, or whether other restrictions might be appropriate because of changes in circumstances. The member suggested that letters be more specific. The member also suggested the because letters are utilized for years after their issuance, or even after the matter has concluded, letters should have an expiration date. The Chair observed that this is a significant issue and the members should consider it further.

The workgroup had insufficient time today to present Rules 35 and 37, which respectively deal with civil arrest warrants and investing settlement proceeds, and the Task Force will consider these rules at the next meeting.

5. **Roadmap.** The Chair observed that although the last rule in the current set is Rule 38, several rules have numbers to the right of the decimal point and there actually are 47 rules. In addition, the Task Force has, or will, propose several new rules, so there

will probably be about 50 rules by the time a rule petition is filed. Based on the experience of the second and third Task Force meetings, the goal of completing a draft of the rules by September is no longer feasible. At the rate of eight rules per meeting, it will probably require a half-dozen more meetings to have a complete draft of the probate rules that is suitable for stakeholder vetting. The Chair encouraged members to continue to present their diverse views notwithstanding the time necessary for discussion, but also, if there is no controversy concerning a rule, to put the rule on a consent agenda for expedited approval. She asked members to notify staff when and if there are rules suitable for a consent agenda, and staff will forward that information to the Chair.

The Chair confirmed as the next Task Force meeting date Friday, July 27, 2018, from 10 a.m. to 4 p.m. in Room 345. She directed staff to poll members concerning other future meeting dates.

6. **Call to the public.** There was no response to a call to the public.

7. **Adjourn.** The meeting adjourned at 4:08 p.m.

Rule 6. Probate Information Form and Notice of Change of Contact Information Form.

(a) Definitions. For purposes of this rule,

(1) "Contact information" means that information designated on the Probate Information Form as contact information.

(2) "Fiduciary" means personal representative, guardian, or conservator, whether temporary or permanent.

(b) Probate Information Form.

(1) Generally. A party who requests the appointment of a personal representative must file a Probate Information Form that is substantially similar to Form 11 in Rule 38. A party who requests the appointment of a guardian or conservator, whether temporary or permanent, must file a Probate Information Form that is substantially similar to Form 12 in Rule 38.

(2) Confidentiality. The court must maintain a Probate Information Form filed under this rule as a confidential document under Rule 7.

(3) No Service. Except as required by the court, a party who files a Probate Information Form, including an updated Probate Information form, is not required to provide other parties or interested persons with a copy of the Probate Information Form.

(4) Non-Compliance. The clerk may not reject a petition or application because the filing party failed to provide all the information required in the Probate Information Form.

(c) Notice of Change of Contact Information.

(1) Generally.

(A) Change in Contact Information for Fiduciary. If a fiduciary's contact information changes during the fiduciary's appointment in probate case, that fiduciary must file a Notice of Change of Contact Information Form that is substantially similar to Form 14 in Rule 38 within 10 days after such change occurs.

(B) Change in Contact Information for Ward. If a ward's contact information changes, the ward's guardian must file a Notice of Change of Contact Information Form that is substantially similar to Form 15 in Rule 38 within 3 days of learning of such change.

(2) No Confidentiality. Unless the court orders otherwise, a Notice of Change of Contact Information filed under this rule must be maintained as part of the public record.

(3) Service. Unless the court orders otherwise, a person who files the form must mail or deliver a copy of the form to the subject person's court-appointed attorney, the subject person's guardian ad litem, and all parties to the probate case in which the Notice of Change of Contact Information Form has been filed.

(4) Non-Compliance. Absent good cause, the fiduciary must pay all costs of the court or the estate that result from a failure to timely provide a notice of change of contact information.

PROBATE FORM 11:

PROBATE INFORMATION FORM FOR DECEDENT'S ESTATE

Name of Person Filing Document: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Attorney Bar No. (if applicable): _____

Licensed Fiduciary No. (if applicable): _____

Representing [ ] Self or [ ] Attorney for: _____

IN THE SUPERIOR COURT OF ARIZONA

IN AND FOR THE COUNTY OF _____

IN THE MATTER OF THE ESTATE OF:	Case Number: _____
_____,	**PROBATE INFORMATION FORM**
Deceased.	**[ ] Updated** *(check this box if this is an updated form)*

INSTRUCTIONS:

1. **Complete this form to the best of your knowledge and ability and then file it with your application or petition.**
2. **If you later learn of additional information that you omitted or if you later learn that any information in this form is incorrect, you must file an updated probate information form.**
3. **For purposes of this form, "Financial Institution" means a national banking association, a holder of a banking permit under Arizona law, a savings and loan association authorized to conduct trust business in Arizona, a title insurance company qualified to do business in Arizona, or a trust company**

holding a certificate to engage in trust business from the superintendent of financial institutions.

4. **Items designated with an asterisk (*) constitute "contact information" under Rule 6, Arizona Rules of Probate Procedure. If contact information changes, you must file a notice of change of contact information.**

5. **This form is filed as a confidential document, so it is *not* available to the general public. In addition, you are *not* required to provide anyone with this form, other than the court.**

Section 1:

Information About the Nominated Personal Representative/Special Administrator:

A. Name: _____

B. Is this person or entity an Arizona Licensed Fiduciary? [ ] Yes [ ] No

a. If Yes, write that person or entity's Licensed Fiduciary Number on the line below:

_____

C. Mailing Address:* _____

D. Physical Address:* _____

E. Work Telephone Number:* _____

F. Email Address:* _____

(If the nominated personal representative/special administrator is an Arizona Licensed Fiduciary or a Financial Institution, proceed to Section 2 below. Otherwise, complete the remainder of Section 1.)

G. Home Telephone Number:* _____

H. Cellular Phone Number:* _____

I. Date of Birth: _____

J. Social Security Number: _____

K. Race: _____

L. Height: _____

M. Weight: _____

N. Eye Color: _____

O. Hair Color: _____

P. Sex: _____

Section 2:

Information About the Decedent:

A. Name: _____

B. Date of Birth: _____

C. Date of Death: _____

D. Social Security Number: _____

I, _____ (write your name in this space), under the penalty of perjury, do hereby swear that the foregoing information is true and correct to the best of my knowledge and belief.

DATED this ____ day of _____, 20__.

_____

(Signature)

PROBATE FORM 12:

PROBATE INFORMATION FORM FOR GUARDIANSHIP/CONSERVATORSHIP

Name of Person Filing Document:_____

Address:_____

City, State, Zip Code:_____

Telephone Number:_____

Attorney Bar No. (if applicable):_____

Licensed Fiduciary No. (if applicable):_____

Representing [ ] Self or [ ] Attorney for:_____

IN THE SUPERIOR COURT OF ARIZONA

IN AND FOR THE COUNTY OF _____

IN THE MATTER OF: _____.	Case Number: _____ **PROBATE INFORMATION FORM** **[ ] Updated** *(check this box if this is an updated form)*

INSTRUCTIONS:

1. **Complete this form to the best of your knowledge and ability and then file it with your application or petition.**
2. **If you later learn of additional information that you omitted or if you later learn that any information in this form is incorrect, you must file an updated probate information form.**
3. **For purposes of this form, "Financial Institution" means a national banking association, a holder of a banking permit under Arizona law, a savings and loan association authorized to conduct trust business in Arizona, a title insurance company qualified to do business in Arizona, or a trust company**

holding a certificate to engage in trust business from the superintendent of financial institutions.

4. **Items designated with an asterisk (*) constitute "contact information" under Rule 6, Arizona Rules of Probate Procedure. If contact information changes, you must file a notice of change of contact information.**

5. **This form is filed as a confidential document, so it is *not* available to the general public. In addition, you are *not* required to provide anyone with this form other than the court.**

Section 1:

Information About the Nominated Guardian (if applicable):

A. Name: _____

B. Is this person or entity an Arizona Licensed Fiduciary? [ ] Yes [ ] No

a. If Yes, write that person or entity's Licensed Fiduciary Number on the line below:

_____

C. Mailing Address:* _____

D. Physical Address:* _____

E. Work Telephone Number:* _____

F. Email Address:* _____

(If the nominated guardian is an Arizona Licensed Fiduciary or a Financial Institution, proceed to Section 2 below. Otherwise, complete the remainder of Section 1.)

G. Home Telephone Number:* _____

H. Cellular Phone Number:* _____

I. Date of Birth: _____

J. Social Security Number: _____

K. Race: _____

L. Height: _____

M. Weight: _____

N. Eye Color: _____

O. Hair Color: _____

P. Sex: _____

Section 2:

Information About the Nominated Conservator (if applicable or if different from Section 1):

A. Name: _____

B. Is this person or entity an Arizona Licensed Fiduciary? [ ] Yes [ ] No

a. If Yes, write that person or entity's Licensed Fiduciary Number on the line below:

_____

C. Mailing Address:* _____

D. Physical Address:* _____

E. Work Telephone Number:* _____

F. Email Address:* _____

(If the nominated conservator is an Arizona Licensed Fiduciary or a Financial Institution, proceed to Section 2 below. Otherwise, complete the remainder of Section 2.)

G. Home Telephone Number:* _____

H. Cellular Phone Number:* _____

I. Date of Birth: _____

J. Social Security Number: _____

K. Race: _____

L. Height: _____

M. Weight: _____

N. Eye Color: _____

O. Hair Color: _____

P. Sex: _____

Section 3:

Information About the Person Who Needs a Guardian or Conservator:

A. Name: _____

B. Mailing Address:* _____

C. Physical Address:* _____

D. Home Telephone Number:* _____

E. Work Telephone Number:* _____

F. Cellular Phone Number:* _____

G. Email Address:* _____

H. Date of Birth: _____

I. Social Security Number: _____

J. Race: _____

K. Height: _____

L. Weight: _____

M. Eye Color: _____

N. Hair Color: _____

O. Sex: _____

I, _____ (write your name in this space), under the penalty of perjury, do hereby swear that the foregoing information is true and correct to the best of my knowledge and belief.

DATED this ____ day of _____, 20__.

_____

PROBATE FORM 13

NOTICE OF CHANGE OF FIDUCIARY'S CONTACT INFORMATION

Name of Person Filing Document: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Attorney Bar No. (if applicable): _____

Licensed Fiduciary No. (if applicable): _____

Representing [ ] Self or [ ] Attorney for: _____

IN THE SUPERIOR COURT OF ARIZONA

IN AND FOR THE COUNTY OF _____

IN THE MATTER OF THE ESTATE OF: _____, Deceased.	Case Number: _____ **NOTICE OF CHANGE OF FIDUCIARY'S CONTACT INFORMATION**

INSTRUCTIONS:

1. **Complete this form to the best of your knowledge and ability.**
2. **If any of the information in this form later changes, file a new "notice of change of fiduciary's contact information" form.**
3. **For purposes of this form, "Financial Institution" means a national banking association, a holder of a banking permit under Arizona law, a savings and loan association authorized to conduct trust business in Arizona, a title insurance company qualified to do business in Arizona, or a trust company**

holding a certificate to engage in trust business from the superintendent of financial institutions.

4. **Unless the court orders otherwise, you must mail or a deliver a copy of this form to all the parties and interested persons in this case.**

NOTICE IS HEREBY GIVEN that, effective _____ (insert date), the undersigned fiduciary's contact information is as follows:

A. Name: _____

B. Is this person or entity an Arizona Licensed Fiduciary? [ ] Yes [ ] No

a. If Yes, write that person or entity's Licensed Fiduciary Number on the line below:

_____

C. Mailing Address: _____

D. Physical Address: _____

E. Work Telephone Number: _____

F. Email Address: _____

(*If the fiduciary is an Arizona Licensed Fiduciary or a Financial Institution, skip items G and H and proceed to the date and signature lines.)*

G. Home Telephone Number: _____

H. Cellular Phone Number: _____

I, _____ (write your name in this space), under the penalty of perjury, do hereby swear that the foregoing information is true and correct to the best of my knowledge and belief.

DATED this ____ day of _____, 20__.

_____

(Signature)

PROBATE FORM 14:

NOTICE OF CHANGE OF WARD'S CONTACT INFORMATION

Name of Person Filing Document: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Attorney Bar No. (if applicable): _____

Licensed Fiduciary No. (if applicable): _____

Representing [ ] Self or [ ] Attorney for: _____

IN THE SUPERIOR COURT OF ARIZONA

IN AND FOR THE COUNTY OF _____

IN THE MATTER OF THE ESTATE OF: _____, Deceased.	Case Number: _____ **NOTICE OF CHANGE OF WARD'S CONTACT INFORMATION**

INSTRUCTIONS:

1. **Complete this form to the best of your knowledge and ability.**
2. **If any of the information in this form later changes, file a new "notice of change of ward's contact information" form.**
3. **Unless the court orders otherwise, you must mail or a deliver a copy of this form to all the parties and interested persons in this case.**

NOTICE IS HEREBY GIVEN that, effective _____ (insert date), the ward's contact information is as follows:

A. Name: _____

B. Mailing Address: _____

C. Physical Address: _____

D. Work Telephone Number: _____

E. Home Telephone Number: _____

F. Cellular Phone Number: _____

G. Email Address: _____

I, _____ (write your name in this space), under the penalty of perjury, do hereby swear that the foregoing information is true and correct to the best of my knowledge and belief.

DATED this ____ day of _____, 20__.

_____

(Signature)

Rule 6. Probate Information Form~~-~~ and Notice of Change of Contact Information Form.

(a) Definitions. For purposes of this rule,

(1) "Contact information" means that information designated on the Probate Information Form as contact information.

(2) "Fiduciary" means personal representative, guardian, or conservator, whether temporary or permanent.

(~~a~~b) Probate Information Form.

(1) Generally. A party who requests the appointment of a personal representative ~~fiduciary~~ must file a ~~court approved "Probate Information Form."~~ Probate Information Form that is substantially similar to Form 11 in ~~the Arizona Code of Judicial Administration~~Rule 38. ~~For purposes of this rule, "fiduciary" is limited to a personal representative, special administrator, guardian, or conservator.~~A party who requests the appointment of a guardian or conservator, whether temporary or permanent, must file a Probate Information Form that is substantially similar to Form 12 in ~~the Arizona Code of Judicial Administration~~Rule 38.

~~(3) The court may require~~Rule 38 ~~the information in the "Probate Information Form" or other information relating to a trust, including information regarding trust beneficiaries, trustees, and trustors.~~

(2) ~~(4)~~ ~~Confidentiality.~~ Confidentiality. The court must maintain ~~an information form~~a Probate Information Form filed under this rule as a confidential document under Rule 7.

(3) No Service. Except as required by the court, a party who files a Probate Information Form, including an updated Probate Information form, is not required to provide other parties or interested persons with a copy of the Probate Information Form.

Non-Compliance. The clerk may not reject a petition or application because the filing party failed to provide all the information required in the Probate Information Form.

(4) ~~Unless otherwise ordered by the court, a Notice of Change of Contact filed under this rule must be maintained as part of the public record.~~

Formatted: Font: (Default) Times New Roman Bold, Bold
Formatted: Font: (Default) Times New Roman Bold, Bold
Formatted: Normal, Space Before: 12 pt, After: 3 pt
Formatted: Font: (Default) Times New Roman Bold, Bold
Formatted: Font: (Default) Times New Roman Bold, Bold
Formatted: Indent: Left: 0.5"
Formatted: Indent: Left: 0.5", First line: 0"
Formatted: Font:
Formatted: Normal, Space Before: 12 pt, After: 3 pt
Formatted: Font: Bold
Formatted: Normal
Formatted: Font: Bold
Formatted: Font: Bold
Formatted: List Paragraph,List Level 1, Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"
Formatted: Font:
Formatted: Font:
Commented [JP1]: This language parallels the language used in existing Rule 25, which mandates use of the various orders to fiduciary.
Formatted: Font:
Formatted: Font:
Formatted: Normal, Indent: Left: 0.5", Hanging: 0.25"
Formatted: Font:
Formatted ... [1]
Formatted: Font: Bold
Formatted: Font:
Formatted: Font: Bold
Formatted: Font:
Formatted: Font: Bold
Formatted: Font:
Formatted: Font:
Formatted: Font:
Formatted: Font:

~~**(b) Exception.** A party does not need to provide the information required in (c)(1) if the proposed fiduciary is a licensed fiduciary, a national banking association, a holder of a banking permit under Arizona law, a savings and loan association authorized to conduct trust business in Arizona, a title insurance company qualified to do business in Arizona, or a trust company holding a certificate to engage in trust business from the superintendent of financial institutions. However, if the proposed personal fiduciary is a licensed fiduciary, the fiduciary's license number must be included on the probate information form.~~

(~~d~~c) ~~Duty to Provide Updated Information~~Notice of Change of Contact Information.

(~~i~~1) ~~Change~~) Generally.

(A) Change in Contact Information for Fiduciary. If a fiduciary's contact information changes during the fiduciary's appointment in probate case, that fiduciary must file a Notice of Change of Contact Information Form that is substantially similar to Form 14 in ~~the Arizona Code of Judicial Administration~~Rule 38 within ~~ten~~10 days after such change occurs.

(B)~~(ii) Change~~Change in Contact Information for Ward. If a ward's contact information changes, the ward's guardian must file a Notice of Change of Contact Information Form that is substantially similar to Form 15 in ~~the Arizona Code of Judicial Administration~~Rule 38 within ~~t~~3 ~~hree~~ days of learning of such change.

~~**Other****D****Trusts.**~~

~~**(ec) Confidentiality. The court must maintain an information forma Probate Information Form filed under this rule as a confidential document under Rule 7. Unless otherwise ordered by the court, a Notice of Change of Contact filed under this rule must be maintained as part of the public record.**~~

Formatted: Normal, Indent: Left: 0.5", Hanging: 0.25", Keep with next

Formatted: Font: Bold

Formatted: Font:

Formatted: Normal, Keep with next

Formatted: Indent: Left: 0.5"

Formatted: List Paragraph,List Level 1, Numbered + Level: 1 + Numbering Style: A, B, C, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.76"

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Indent: Left: 0.5", Hanging: 0.25"

Formatted: Font: Not Bold

Formatted: Font: Bold

Formatted: Indent: First line: 0.5"

Formatted: List Paragraph,List Level 1, Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: Bold

Formatted: Normal

~~Confidentiality. The court must maintain an information form filed under this rule as a confidential document under Rule 7.~~

~~(d~~f) ~~Service of Initial Probate Information Form. Except as required by Rule 10(C)(1)(d) or by the court, a party who files a form~~Probate Information Form, ~~including an updated Probate Information form, under this rule is not required to provide other parties or interested persons with a copy of the Probate Information Form. form.~~

~~(g) Service of Notice of Change of Contact Information.~~ (2) ~~–~~No Confidentiality. Unless the court orders otherwise, a Notice of Change of Contact Information filed under this rule must be maintained as part of the public record. ~~Unless otherwise ordered by the court.~~

(3) Service. ~~a~~Unless the court orders otherwise, a person who files ~~Notice of Change of Contact Information~~the ~~F~~form must mail or deliver a copy of the ~~Notice of Change of Contact Information F~~form to the subject person's court-appointed attorney, the subject person's guardian ad litem, and all parties to the probate case in which the Notice of Change of Contact Information Form has been filed.

(4) Non-Compliance. Absent good cause, the fiduciary must pay all costs of the court or the estate that result from a failure to timely provide a notice of change of contact information.

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Normal, Indent: Left: 0.5"

Formatted: Font: Bold

Formatted: Normal, Indent: Left: 0.5"

(h) Non-Compliance. The clerk may not reject a petition or application because the filing party failed to provide all the information required by this rulein the Probate Information Form.

(i) Definitions. For purposes of this rule.

(i) "Contact information" means that information designated on the Probate Information Form as contact information.

(ii) "Fiduciary" means personal representative, guardian, or conservator.

Rule 6. Probate Information Form.

(a) Generally. If a petition or application requests the appointment of a personal representative, a guardian, or a conservator, the person filing the petition must also file a form that contains the information specified in (c) must accompany the petition or application.

(b) Exception. None of the information required in (c)(1) needs to be provided if the proposed personal representative, guardian, or conservator is a licensed fiduciary, a national banking association, a holder of a banking permit under Arizona law, a savings and loan association authorized to conduct trust business in Arizona, a title insurance company qualified to do business in Arizona, or a trust company holding a certificate to engage in trust business from the superintendent of financial institutions. However, if the proposed personal representative, guardian, or conservator is a licensed fiduciary, the fiduciary's license number must be included on the probate information form.

(c) Required Information.

(1) *About the Proposed Personal Representative, Guardian, or Conservator.* The form must include the proposed personal representative's, guardian's, or conservator's:

(A) mailing address;

(B) physical address;

(C) home telephone number; [**Staff Note:** Include a cell phone number? An email address?]

Formatted: Font: Bold
Formatted: Font:
Formatted: Font:
Formatted: Font: Bold
Formatted: Font: Bold
Formatted: Normal, Indent: Left: 0.5", First line: 0.5"
Formatted: Normal, Indent: Left: 0.5"
Formatted: Normal, Justified, Indent: Left: 0.5"
Formatted: Normal, Justified, Indent: Left: 0.5", Right: 0.28"
Formatted: Normal, Indent: Left: 0.5"

(D) work telephone number;

(E) date of birth;

(F) social security number;

(G) race, height, weight, eye color, hair color; and [**Staff Note:** Would it be feasible to require a photograph of the person's face? Include the person's gender/sex?]

(H) relationship to the decedent, or to the person alleged to be incapacitated or in need of protection; and.

(I) if a licensed fiduciary, the entity's or individual's license number.

(2) ***About the Person Alleged to Be Incapacitated or Needing Protection.*** The form must include the following information for a person alleged to be incapacitated or needing in need of protection:

(A) mailing address;

(B) physical address;

(C) home telephone number;

(D) date of birth; and

(E) social security number.

(3) ***About a Decedent.*** For appointment of a personal representative of a decedent's estate, the form must include the decedent's date of birth.

(d) **Confidentiality.** The court will must maintain an information form filed under this rule as a confidential document, as provided in Rule 7.

(e) **Service.** Unless the court orders otherwise, and except as provided in Rule 10(C)(1)(d), a party who files a form under this rule is not required to provide other parties or interested persons with a copy of the form.

(f) **Non-Compliance.** The petitioner's or applicant'sA party's failure to provide all the information required by this rule does not preclude the filing of a petition or application.

COMMENT

For various administrative functions, the court needs certain basic identifying information regarding fiduciaries and their wards and protected persons. The sole purpose of the probate information form is to provide the court with the information it needs to identify accurately the fiduciary and the ward or protected person. In some counties, the data contained in the probate

Formatted: Indent: Left: 0.5", Space After: 0 pt, Line spacing: single

Formatted: Font: Bold

Formatted: Indent: Left: 0.5"

~~information form will be entered into the court's electronic database and maintained by the clerk of the court or court administration. Each document filed with the court under Title 14 is deemed to include an oath, affirmation, or statement to the effect that the representations in it are true to the best of the knowledge of the person signing the document, and thus each document may subject the person signing or filing it to penalties relating to perjury. A.R.S. § 14-1310.~~

~~Generally, proceedings relating to the administration of a trust are not subject to the requirements of Rule 6. However, nothing in this rule limits the court's authority to request the information listed in Rule 6 or other information relating to a trust, including information regarding trust beneficiaries, trustees, and trustors.~~

~~As to the requirement in Rule 6(C~~B~~), if the nominated licensed fiduciary is an entity, only the entity's fiduciary license number need be provided. The fiduciary license number of an individual is required only if the nominated licensed fiduciary is an individual rather than an entity.~~

~~Pursuant to Rule 10(C) of these rules, court-appointed fiduciaries have a duty to update the information contained in the information form filed pursuant to this rule. Although Rule 6(E) typically does not require the person filing the probate information form to send a copy of the probate information form to other parties or interested persons, Rule 10(C)(1)(d) requires that, if a person is filing an updated information form reflecting a change to the address or telephone number of a ward, a protected person, or a fiduciary, the person must send a copy of the updated probate information form to the attorney for the ward or protected person, the ward or protected person's guardian ad litem, and all other parties.~~

PROBATE FORM 11:

PROBATE INFORMATION FORM FOR DECEDENT'S ESTATE

Name of Person Filing Document: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Attorney Bar No. (if applicable): _____

Licensed Fiduciary No. (if applicable): _____

Representing [ ] Self -or [ ] Attorney for: _____

IN THE SUPERIOR COURT OF ARIZONA

IN AND FOR THE COUNTY OF _____

IN THE MATTER OF THE ESTATE OF:	Case Number: _____
_____,	**PROBATE INFORMATION FORM**
Deceased.	**[ ] Updated** *(check this box if this is an updated form)*

INSTRUCTIONS:

1. **Complete this form to the best of your knowledge and ability and then file it with your application or petition.**
2. **If you later learn of additional information that you omitted or if you later learn that any information in this form is incorrect, you must file an updated probate information form.**
3. **For purposes of this form, "Financial Institution" means a national banking association, a holder of a banking permit under Arizona law, a savings and loan association authorized to conduct trust business in Arizona, a title insurance company qualified to do business in Arizona, or a trust company**

Formatted: Font: Bold
Formatted: Centered
Formatted: Font: Bold, Underline
Formatted: Centered, Indent: Left: 0"
Formatted: Justified, Indent: Left: 0"
Formatted Table
Formatted: Font: Bold
Formatted: Justified, Indent: Left: 0"
Formatted: Underline
Formatted: List Paragraph,List Level 1, Justified, Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"
Formatted: Font: Not Bold
Formatted: Font: Not Bold
Formatted: Font: Bold

holding a certificate to engage in trust business from the superintendent of financial institutions.

4. Items designated with an asterisk (*) constitutes "contact information" under rRule 6, arizonaArizona rRules of pProbate pProcedure. If contact information changes, you must file a notice of change of contact information.

5. This form is filed as a confidential documentdocument, so it is *not* available to the general public. In addition, you are *not* required to provide anyone with this form, other than the court with this form.

Section 1:

Information About the Nominated Personal Representative/Special Administrator:

A. Name: _____

B. Is this person or entity an Arizona Licensed Fiduciary? [ ] Yes [ ] No

a. If Yes, write that person or entity's Licensed Fiduciary Number on the line below:

_____

C. Mailing Address:* _____

D. Physical Address:* _____

E. Work Telephone Number:* _____

F. Email Address:* _____

(If the nominated personal representative/special administrator is an Arizona Licensed Fiduciary, or a Financial Institution, proceed to Section 2 below. Otherwise, continue with question Gcomplete the remainder of Section 1.)

G. Home Telephone Number:* _____

H. Cellular Phone Number:* _____

I. Date of Birth: _____

J. Social Security Number: _____

K. Race: _____

L. Height: _____

M. Weight: _____

N. Eye Color: _____

Formatted: Font: Bold
Formatted: Font: Bold
Formatted: Font: Not Bold
Formatted: Centered, Indent: Left: 0", Keep with next
Formatted: Font: Bold, Underline
Formatted: List Paragraph,List Level 1, Justified, Indent: Left: 0", Outline numbered + Level: 7 + Numbering Style: A, B, C, … + Start at: 1 + Alignment: Left + Aligned at: 3" + Indent at: 3.25"
Formatted: Underline
Formatted: Underline
Formatted: Underline
Formatted: No underline
Formatted: Justified, Indent: Left: 0", First line: 0.25"
Formatted: No underline
Formatted: Justified, Indent: Left: 0.5"
Formatted: List Paragraph,List Level 1, Justified, Indent: Left: 0", Outline numbered + Level: 7 + Numbering Style: A, B, C, … + Start at: 1 + Alignment: Left + Aligned at: 3" + Indent at: 3.25"
Formatted: Underline
Formatted: Font: Italic
Formatted: Normal
Formatted: Font: Italic
Formatted: Font: Italic
Formatted: List Paragraph,List Level 1, Justified, Indent: Left: 0", Outline numbered + Level: 7 + Numbering Style: A, B, C, … + Start at: 1 + Alignment: Left + Aligned at: 3" + Indent at: 3.25"
Formatted: Underline

O. Hair Color: _____

P. Sex: _____

Section 2:

Information About the Decedent:

A. Name: _____

B. Date of Birth: _____

C. Date of Death: _____

D. Social Security Number: _____

I, _____ (write your name in this space), under the penalty of perjury, do hereby swear that the foregoing information is true and correct to the best of my knowledge and belief.

DATED this ____ day of _____, 20__.

_____

(Signature)

Formatted: Underline

Formatted: Normal, Centered, Keep with next

Formatted: Font: Bold, Underline

Formatted: Font: Bold, Underline

Formatted: Indent: Left: 0", Outline numbered + Level: 7 + Numbering Style: A, B, C, … + Start at: 1 + Alignment: Left + Aligned at: 3" + Indent at: 3.25"

Formatted: Underline

Formatted: Indent: Left: 0"

Formatted: Justified

Formatted: Font: 9 pt

Formatted: Justified, Space After: 0 pt

Formatted: Justified

PROBATE FORM 12:

PROBATE INFORMATION FORM FOR GUARDIANSHIP/CONSERVATORSHIP

Name of Person Filing Document: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Attorney Bar No. (if applicable): _____

Licensed Fiduciary No. (if applicable): _____

Representing [ ] Self or [ ] Attorney for: _____

IN THE SUPERIOR COURT OF ARIZONA

IN AND FOR THE COUNTY OF _____

IN THE MATTER OF:	Case Number: _____
_____.	**PROBATE INFORMATION FORM**
	[ ] Updated *(check this box if this is an updated form)*

INSTRUCTIONS:

1. **Complete this form to the best of your knowledge and ability and then file it with your application or petition.**
2. **If you later learn of additional information that you omitted or if you later learn that any information in this form is incorrect, you must file an updated probate information form.**
3. **For purposes of this form, "Financial Institution" means a national banking association, a holder of a banking permit under Arizona law, a savings and loan association authorized to conduct trust business in Arizona, a title insurance company qualified to do business in Arizona, or a trust company**

holding a certificate to engage in trust business from the superintendent of financial institutions.

4. Items designated with an asterisk (*) constitutes "contact information" under rRule 6, arizonaArizona rRules of pProbate pProcedure. If contact information changes, you must file a notice of change of contact information.

5. This form is filed as a confidential documentdocument, so it is *not* available to the general public. In addition, you are *not* required to provide anyone with this form other than the court with this form.

Section 1:

Information About the Nominated Guardian (if applicable):

A. Name: _____

B. Is this person or entity an Arizona Licensed Fiduciary? [ ] Yes [ ] No

a. If Yes, write that person or entity's Licensed Fiduciary Number on the line below:

_____

C. Mailing Address:* _____

D. Physical Address:* _____

E. Work Telephone Number:* _____

F. Email Address:* _____

(If the nominated guardian is an Arizona Licensed Fiduciary or a Financial Institution, proceed to Section 2 below. Otherwise, complete the remainder of Section 1.)

~~*(If the nominated guardian is an Arizona Licensed Fiduciary, proceed to Section 2 below. Otherwise, continue with question G of Section 1.)*~~

G. Home Telephone Number:* _____

H. Cellular Phone Number:* _____

I. Date of Birth: _____

J. Social Security Number: _____

K. Race: _____

L. Height: _____

Formatted: Indent: Left: 0", Outline numbered + Level: 7 + Numbering Style: A, B, C, … + Start at: 1 + Alignment: Left + Aligned at: 3" + Indent at: 3.25"

Formatted: Font: Italic

Formatted: Normal

Formatted: Strikethrough

Formatted: Normal, Left, No bullets or numbering

Formatted: Font: Italic, Strikethrough

Formatted: Strikethrough

Formatted: Font: Italic, Strikethrough

Formatted: Indent: Left: 0"

Formatted: Underline

Formatted: Underline

M. Weight: _____

N. Eye Color: _____

O. Hair Color: _____

P. Sex: _____

Section 2:

Information About the Nominated Conservator (if applicable or if different from Section 1):

A. Name: _____

B. Is this person or entity an Arizona Licensed Fiduciary? [ ] Yes [ ] No

a. If Yes, write that person or entity's Licensed Fiduciary Number on the line below:

_____

C. Mailing Address:* _____

D. Physical Address:* _____

E. Work Telephone Number:* _____

F. Email Address:* _____

(If the nominated conservator is an Arizona Licensed Fiduciary or a Financial Institution, proceed to Section 2 below. Otherwise, complete the remainder of Section 2.)

~~*(If the nominated conservator is an Arizona Licensed Fiduciary, proceed to Section 2 below. Otherwise, continue with question G of Section 2.)*~~

G. Home Telephone Number:* _____

H. Cellular Phone Number:* _____

I. Date of Birth: _____

J. Social Security Number: _____

K. Race: _____

L. Height: _____

M. Weight: _____

N. Eye Color: _____

O. Hair Color: _____

Formatted: Indent: Left: 0", Outline numbered + Level: 7 + Numbering Style: A, B, C, … + Start at: 1 + Alignment: Left + Aligned at: 3" + Indent at: 3.25"

Formatted: Font: Italic

Formatted: Normal

Formatted: Strikethrough

P. Sex: _____

_____

Section 3:

Information About the Person Who Needs a Guardian or Conservator:

A. Name: _____

B. Mailing Address:* _____

C. Physical Address:* _____

D. Home Telephone Number:* _____

E. Work Telephone Number:* _____

F. Cellular Phone Number:* _____

G. Email Address:* _____

H. Date of Birth: _____

I. Social Security Number: _____

J. Race: _____

K. Height: _____

L. Weight: _____

M. Eye Color: _____

N. Hair Color: _____

O. Sex: _____

I, _____ (write your name in this space), under the penalty of perjury, do hereby swear that the foregoing information is true and correct to the best of my knowledge and belief.

DATED this ____ day of _____, 20__.

_____

Formatted: Underline

Formatted: Normal, Indent: Left: 0", Hanging: 0.25", No bullets or numbering

Formatted: Indent: Left: 0", Outline numbered + Level: 7 + Numbering Style: A, B, C, … + Start at: 1 + Alignment: Left + Aligned at: 3" + Indent at: 3.25"

Formatted: Indent: Left: 0"

Formatted: Underline

Formatted: List Paragraph,List Level 1, Indent: Left: 0", Outline numbered + Level: 7 + Numbering Style: A, B, C, … + Start at: 1 + Alignment: Left + Aligned at: 3" + Indent at: 3.25"

Formatted: Underline

Formatted: Justified, Space After: 0 pt

RARPPdocument, *(If the nominated trustee is an Arizona Licensed Fiduciary or a Financial Institution, proceed to Section 2 below. Otherwise, complete the remainder of Section 1.)*

PROBATE FORM 13

NOTICE OF CHANGE OF FIDUCIARY'S CONTACT INFORMATION

Name of Person Filing Document: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Attorney Bar No. (if applicable): _____

Licensed Fiduciary No. (if applicable): _____

Representing [ ] Self or [ ] Attorney for: _____

IN THE SUPERIOR COURT OF ARIZONA

IN AND FOR THE COUNTY OF _____

IN THE MATTER OF THE ESTATE OF: _____, Deceased.	Case Number: _____ **NOTICE OF CHANGE OF FIDUCIARY'S CONTACT INFORMATION**

INSTRUCTIONS:

1. **Complete this form to the best of your knowledge and ability.**
2. **If any of the information in this form later changes, file a new "notice of change of fiduciary's contact information" form.**

Formatted: Left

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

3. **For purposes of this form, "Financial Institution" means a national banking association, a holder of a banking permit under Arizona law, a savings and loan association authorized to conduct trust business in Arizona, a title insurance company qualified to do business in Arizona, or a trust company holding a certificate to engage in trust business from the superintendent of financial institutions.**

4. **Unless the court orders otherwise, you must mail or a deliver a copy of this form to all the parties and interested persons in this case.**

NOTICE IS HEREBY GIVEN that, effective _____ (insert date), the undersigned fiduciary's contact information is as follows:

A. Name: _____

B. Is this person or entity an Arizona Licensed Fiduciary? [ ] Yes [ ] No

a. If Yes, write that person or entity's Licensed Fiduciary Number on the line below:

_____

C. Mailing Address: _____

D. Physical Address: _____

E. Work Telephone Number: _____

F. Email Address: _____

(If the fiduciary is an Arizona Licensed Fiduciary or a Financial Institution, skip items G and H and proceed to the date and signature lines.)

G. Home Telephone Number: _____

H. Cellular Phone Number: _____

I, _____ (write your name in this space), under the penalty of perjury, do hereby swear that the foregoing information is true and correct to the best of my knowledge and belief.

DATED this ____ day of _____, 20__.

_____

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Normal, No bullets or numbering

Formatted: Font: 9 pt

Formatted: Indent: Left: 0", Outline numbered + Level: 7 + Numbering Style: A, B, C, … + Start at: 1 + Alignment: Left + Aligned at: 3" + Indent at: 3.25"

(Signature)

PROBATE FORM 154:

NOTICE OF CHANGE OF WARD'S CONTACT INFORMATION

Name of Person Filing Document: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Attorney Bar No. (if applicable): _____

Licensed Fiduciary No. (if applicable): _____

Representing [ ] Self or [ ] Attorney for: _____

IN THE SUPERIOR COURT OF ARIZONA

IN AND FOR THE COUNTY OF _____

IN THE MATTER OF THE ESTATE OF: _____, Deceased.	Case Number: _____ **NOTICE OF CHANGE OF WARD'S CONTACT INFORMATION**

INSTRUCTIONS:

1. **Complete this form to the best of your knowledge and ability.**
2. **If any of the information in this form later changes, file a new "notice of change of ward's contact information" form.**
3. **Unless the court orders otherwise, you must mail or a deliver a copy of this form to all the parties and interested persons in this case.**

NOTICE IS HEREBY GIVEN that, effective _____ (insert date), the ward's contact information is as follows:

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

A. Name: _____

B. Mailing Address: _____

C. Physical Address: _____

D. Work Telephone Number: _____

E. Home Telephone Number: _____

F. Cellular Phone Number: _____

G. Email Address: _____

I, _____ (write your name in this space), under the penalty of perjury, do hereby swear that the foregoing information is true and correct to the best of my knowledge and belief.

DATED this ____ day of _____, 20__.

_____

(Signature)

Formatted: List Paragraph,List Level 1, Indent: Left: 0", Outline numbered + Level: 7 + Numbering Style: A, B, C, … + Start at: 1 + Alignment: Left + Aligned at: 3" + Indent at: 3.25"

Formatted: List Paragraph,List Level 1, Justified, Indent: Left: 0", Outline numbered + Level: 7 + Numbering Style: A, B, C, … + Start at: 1 + Alignment: Left + Aligned at: 3" + Indent at: 3.25"

Formatted: Underline

Formatted: Justified

Page 1: [1] Formatted	Jay Polk	7/17/2018 6:30:00 PM

List Paragraph,List Level 1, Numbered + Level: 1 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Rule 11. Telephonic and Video Attendance and Testimony.

(a) Definitions.

(1) "Proceeding." When used in this rule, "proceeding" means a court event at which interested persons or their attorneys have an opportunity to attend. These events include, but are not limited to, a trial, hearing, non-appearance hearing, oral argument, status conference, and scheduling conference.

(2) "Telephonic." When used in this rule, "telephonic" means by telephone, video conferencing, or other available audio or audiovisual technology.

(b) When Permitted. Parties and their attorneys are expected to appear in open court for court proceedings unless the court, in its discretion, permits telephonic attendance under this rule. The court may allow a person to telephonically attend, or testify at, a proceeding if both of the following are true:

(1) that person can be heard by every other person participating in the proceeding, including the judicial officer and, if applicable, the court reporter or an electronic recording system; and

(2) no party will be unfairly prejudiced by the telephonic attendance or testimony.

(c) How Requested. Unless otherwise ordered by the court, a person who wishes to telephonically attend, or testify at, a proceeding must either file a written motion or make an oral motion in open court. The request may be for a particular proceeding or for multiple proceedings. A written motion made under this rule must be served on all parties and any person who has filed a demand for written notice, and must be accompanied by a proposed order.

(d) Time for Making Request.

Option 1: A written or oral motion to allow telephonic attendance or testimony must be made in a timely manner considering the circumstances at the time the request was made, and the court has the discretion to grant or deny the motion. Circumstances may include but are not limited to: (1) the promptness of the party in making the request; (2) the nature of the proceeding, including whether it is contested or evidentiary; (3) whether all other parties agree to the telephonic attendance or testimony; (4) the reason why telephonic attendance or testimony is being requested; and (5) logistical factors.

Option 2: A written or oral motion to allow telephonic attendance must be made no later than 30 days before the proceeding at which the telephonic attendance or testimony is requested. However, if the notice setting that proceeding provides less than 30 days'

Commented [JP1]: I am suggesting we define "proceeding" for purposes of this rule only because the rest of the Probate Rules use "proceeding" to refer to the claim or cause of action initiated by the filing of a petition or complaint. Thus, we need to distinguish that, for purposes of this rule only, "proceeding" means a court appearance.

Commented [JP2]: My intent here is to allow a person to make a single, blanket request so as to avoid multiple motions for each proceeding in the case.

notice, the motion must be made no later than 5 days after receipt of the notice of the proceeding. The court may modify or waive these time limits.

(e) Objection to Request. A party opposing a written motion made under this rule must file a response no later than 5 days after the motion is served. The court may modify or waive this time limit or may rule on the written motion prior to the filing of a response.

(f) Reply and Oral Argument. The court may rule on a written motion made under this rule without a reply or oral argument.

(g) Use of Exhibits During Telephonic Testimony. Unless otherwise ordered by the court, before a party may question a person testifying telephonically about an exhibit, that party must:

(1) have provided that person and all parties, in advance, with a copy of that exhibit, marked so that it can be easily identified by that person, all parties, and the court; and

(2) confirm to the court that the exhibit provided to the court is identical to the exhibit provided to the person who is testifying telephonically.

(h) Costs of Telephonic Attendance or Testimony. The person requesting telephonic attendance or testimony must arrange it, and, unless the court orders otherwise, pay the related costs.

COMMENT

A party should carefully consider a request to present telephonic testimony or arguments in a contested matter. A witness's demeanor while testifying is an important factor used by the court to assess a witness's credibility. A party who offers a witness by telephone may be at a disadvantage if the testimony is contradicted by a witness who testifies in person. Judicial officers may deny an untimely request if it detracts from the court's ability to address other matters on the court's calendar or if it affects the court's ability to judge the demeanor of the witnesses in a contested matter.

~~**Rule 11. Telephonic or Electronic Appearances and Testimony.**~~

~~**(a) Generally.** On timely motion or on its own, a judicial officer may allow a telephonic appearance or an appearance by any approved electronic means during any proceeding. If more than one participant has requested a telephonic or electronic appearance, the first party requesting a telephonic appearance must arrange for the conference call at that party's expense, unless the court orders otherwise.~~

~~**(b) Time.** Unless a judicial officer authorizes a shorter time, a motion to allow telephonic testimony or argument via telephonic or other approved electronic means must be filed no later than 30 days before the hearing. However, if the notice setting the hearing provides less than 30 days' notice, the motion must be filed no later than 5 days after receiving the hearing notice. The motion must be served on all parties and on any person who has filed a demand for notice, and must be accompanied by a proposed order.~~

~~**(c) Objection.** A party opposing a motion for telephonic or electronic appearance, or for telephonic or electronic testimony, must file a response no later than 5 days after the motion is served.~~

~~**(d) Transmission Quality.** Telephonic or electronic appearances and testimony must be of such quality that the voices of all parties and counsel are audible to each participant, the judicial officer, and, if applicable, the certified reporter or electronic recording device.~~

~~[**Staff Note:** Consider adopting language substantially like recently restyled Family Law Rule 8, which provides as follows. Among other things, the Family Law rule makes useful distinctions between appearances at non-evidentiary and evidentiary proceedings, and includes provisions for introducing documents.]~~

Rule 8<u>11</u>. Telephonic <u>and Video</u> ~~Appearances~~ <u>Attendance</u> and Testimony.

<u>(a)</u> ~~Meaning of~~<u>Definitions.</u>

<u>(1)</u> <u>"**Proceeding.**" When used in this rule, "proceeding" means a~~~~ny~~ court event at which ~~the parties or~~ interested persons or their attorneys ~~are expected~~have an opportunity to attend. ~~such as~~ These events include, but are not limited to, a trial, hearing, ~~return~~ non-appearance hearing, oral argument, status conference, ~~or~~and scheduling conference.

Formatted: Font: Not Bold

Commented [JP1]: I am suggesting we define "proceeding" for purposes of this rule only because the rest of the Probate Rules use "proceeding" to refer to the claim or cause of action initiated by the filing of a petition or complaint. Thus, we need to distinguish that, for purposes of this rule only, "proceeding" means a court appearance.

Formatted: Font: Not Bold

(2) **"Telephonic ~~or Video Conferencing~~."** When used in this rule, "telephonic" ~~includes an appearance or testimony~~means by telephone, ~~by~~ video conferencing, or ~~by~~ other available audio or audiovisual ~~and video~~ technology.~~.~~

~~(a)~~

(b) When ~~Appearance of a Party at a Non-Evidentiary Proceeding Telephonic Attendance and Testimony~~Permitted. Parties and their attorneys are expected to appear in open court for court proceedings unless the court, in its discretion, permits telephonic attendance under this rule. The court may allow a person to telephonically attend, or testify at, a proceeding if ~~the court finds~~ both of the following are true:

(1) t~~T~~hat person can be heard by every other person participating in the proceeding, including the judicial officer and, if applicable, the court reporter or an electronic recording system; and

(2) n~~N~~o party will be unfairly prejudiced by the telephonic attendance or testimony.

(c) How Requested. Unless otherwise ordered by the court, a person who wishes to telephonically attend, or testify at, a proceeding must either file ~~make~~ a written ~~or oral~~ motion or make an oral motion in open court.~~.~~ The request may be for a particular proceeding or for multiple proceedings. A written motion made under this rule must be served on all parties and any person who has filed a demand for written notice, and must be accompanied by a proposed order.

(d) Time for Making Request.

Option 1: A written or oral motion to allow ~~a~~ telephonic attendance or testimony must be made in a timely manner considering ~~the~~ ~~attendant~~ circumstances at the time the request was made, and the court has the discretion to grant or deny the motion. ~~Such~~ eCircumstances may include but are not limited to: (~~i~~1) ~~when the party first knew the party would make a request for telephonic attendance or testimony~~the promptness of the party in making the request; (~~ii~~2) the nature of the proceeding, including whether it is contested or evidentiary; (~~iii~~3) whether all other parties agree to the telephonic attendance or testimony; (~~iv~~4) the reason why telephonic attendance or testimony is being requested; and (~~v~~5) logistical factors.

Option 2: A written or oral motion to allow telephonic attendance must be made no later than 30 days before the proceeding at which the telephonic attendance or testimony is requested. However, if the notice setting that proceeding provides less than 30 days' notice, the motion must be made no later than 5 days after receipt of the notice of the proceeding. The court may modify or waive these time limits.

Formatted

Commented [JP2]: The phrase "includes an appearance or testimony" is unnecessary and redundant because the rest of the rule refers to "telephonic attendance" or "telephonic testimony." In this paragraph, we only need to convey that "telephonic" includes videoconferencing and other electronic means of communication.

Formatted: Outline numbered + Level: 1 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.25"

Formatted: Underline

Formatted: Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.6" + Indent at: 0.6"

Formatted: Outline numbered + Level: 1 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.25"

Commented [JP3]: My intent here is to allow a person to make a single, blanket request so as to avoid multiple motions for each proceeding in the case.

Formatted: Outline numbered + Level: 1 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.25"

Formatted: Font: Not Bold

Formatted: Font: Bold, Italic

Formatted: Normal, No bullets or numbering

Formatted: Font: Bold, Italic

Formatted: Font: Not Bold, Not Italic

(e) ~~[#1: in a timely manner considering the attendant circumstances at the time the request was made, and the court has discretion to grant or deny the motion] [#2: Tits.]~~ **Objection to Request.** A party opposing a written motion made under this rule must file a response no later than 5 days after the motion is served. ~~For good cause, t~~The court may modify or waive this time limit or may rule on the written motion prior to the filing of a response.

(f) Reply and Oral Argument. The court may rule on a written motion made under this rule without a reply or oral argument.

~~**(b)** Upon written or verbal motion, Tthe court may allow, in the discretion of the judicial officer, a party person to attend or testify appear telephonically at a non-evidentiary proceeding if each the person will be audible to can be heard by every other person participating in the proceeding, including the judge the judicial officer, and, if applicable, to the court reporter or an electronic recording system.. Time limits for the motion may be waived by the judicial officer in his discretion.~~

~~**Testimony of a Party or Witness at an Evidentiary Proceeding.** On request of a party or a witness or on its own, and subject to A.R.S. § 25-1256(F), the court may allow a party or witness to testify telephonically The order permitting or denying a telephonic appearance or telephonic testimony may be may made, in the discretion of the judicial officer, prior to a response being filed.~~

~~**(c)** if the court finds it would not substantially prejudice any party and the testifying party or witness:~~

~~**(1)** is not reasonably able to attend the hearing or trial;~~

~~**(2)** would be unduly inconvenienced by attending the hearing or trial in-person; or~~

~~**(3)** would incur a burdensome expense to attend the hearing or trial in person.~~

~~**(d) Request Motion to Testify by a Allow Telephonic Appearance Attendance or Testimony.**~~

~~***Time.*** A party must file a request to have a party or witness give telephonic testimony within a time that allows the opposing party a reasonable opportunity to respond. Unless a judicial officer authorizes a shorter time, a motion to allow telephonic attendance or testimony must be filed no later than 30 days before the hearing. However, if the notice setting the hearing provides less than 30 days' notice, the motion must be filed no later than 5 days after receiving the hearing notice. The motion must be served on all parties and on any person who has filed a demand for notice, and must be accompanied by a proposed order.~~

Formatted: Outline numbered + Level: 1 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.25"

Formatted: Font: Not Bold

Formatted: Outline numbered + Level: 1 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.25"

Formatted: Outline numbered + Level: 1 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.25"

Formatted: Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.6" + Indent at: 0.6"

Formatted: Strikethrough

Formatted: Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.6" + Indent at: 0.6"

~~***Objection.*** A party opposing the motion must file a response no later than 5 days after the motion is served.~~

~~(1)~~

~~(2) ***Reply and Oral Argument****Hearing*~~. The court may rule on the requestmotion ~~without a reply or~~ with or without a hearingoral argument.~~.~~

~~(e)~~(g) Use of Exhibits ~~Introducing Documents~~ **During Telephonic Testimony.**

Unless otherwise ordered by the court, b~~B~~efore a party may question a person ~~introduce exhibits~~question a person ~~through a party or witness~~ ~~who~~ testif~~ying~~ies telephonically about an exhibit, that party must:~~:~~

(1) have ~~the party calling~~every party questioning ~~the witness~~ person about an exhibit ~~must make a good faith effort to contact the opposing~~all ~~p~~parties~~arty~~ ~~to identify and~~ provided that person and all parties, in advance, with a copy of that exhibit~~s that will be used during the witness's person's testimony~~, marked so that it can be easily identified by that person, ~~any~~all parties, and the court; and~~, party and the person testifying;~~

~~**(2) the exhibits must be provided in advance to the party or witness;**~~

(2) ~~the party who introduces the exhibits must affirm~~confirm to the court that ~~the they~~ exhibit provided to the court is ~~are accurate copies o~~identical to~~f~~ the exhibit~~s~~ provided to the ~~party or witness~~person who is ~~appearing~~ testifying telephonically.

~~**(3) This subsection may be waived by the judicial officer in the interest of fairness and justice.**~~

(h) Costs of Telephonic Attendance or Testimony~~Responsible Party~~. The ~~party~~ person ~~requesting a~~~~seeking~~requesting telephonic attendance or testimony ~~appearance, or who presents a witness's testimony telephonically,~~ must arrange it, and ~~pay the related cost~~, unless the court orders otherwise, pay the related costs.~~]~~

COMMENT

A party should carefully consider a request to present telephonic testimony or arguments in a contested matter. A witness's demeanor while testifying is an important factor used by the court to assess a witness's credibility. A party who offers a witness by telephone may be at a disadvantage if the testimony is contradicted by a witness who testifies in person. Judicial officers may deny an untimely request if it detracts from the court's ability

Formatted: Indent: Left: 0.6", No bullets or numbering

Formatted: Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.6" + Indent at: 0.6"

Formatted: Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.6" + Indent at: 0.6"

Formatted: Font: Not Bold

Formatted: Normal

Formatted: Normal, Justified, Space Before: 10 pt, No widow/orphan control, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers

to address other matters on the court's calendar or if it affects the court's ability to judge the demeanor of the witnesses in a contested matter.

~~**Note:** In determining timeliness, the court may consider the following factors:~~

~~wWhen the party or counsel first knew they would make a telephonic request;~~

~~tThe nature of the hearing or proceeding, including whether it is contested or evidentiary;~~

~~wWhether all other parties agree to the telephonic attendance or testimony;~~

~~tThe reason why telephonic attendance or testimony is requested; or~~

~~lLogistical factors.~~

~~**COMMENT**~~

~~*[WKGRP CMT: Workgroup suggests removing the first two paragraphs.]*~~

~~While telephonic appearance and testimony or argument are couraged as time and cost-saving methods of addressing probate matters, a number of issues bear consideration. First, courts throughout the state have different telephone technology, some of which is better suited than others for telephonic appearances. For that reason, the judicial officer assigned to the case must approve the request in advance of the hearing.~~

~~Second, last-minute requests are discouraged. Judicial officers may not have an opportunity to consider a last-minute request because of the pressure of other court business.~~

~~Finally, a party should carefully consider a request to present telephonic testimony or arguments in a contested matter. A witness's demeanor while testifying is an important factor used by the court to assess a witness's credibility. A party who offers a witness by telephone may be at a disadvantage if the testimony is contradicted by a witness who personally appears. Judicial officers may reject an untimely request if it detracts from the court's ability to address other matters on the court's calendar or if it affects the court's ability to judge the demeanor of the witnesses in a contested matter.~~

~~(f)~~

Formatted: Font: Bold, Underline

Formatted: Normal, Indent: Left: 0", Hanging: 0.25", No bullets or numbering

Formatted: Indent: Left: 0.5"

Formatted: Left, Space Before: 0 pt, After: 8 pt, Line spacing: Multiple 1.08 li, Widow/Orphan control, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers

Formatted: Space Before: 10 pt

Formatted: Font: Italic

Formatted: Indent: Left: 0", Right: 0", Space Before: 10 pt

Formatted: Space Before: 10 pt

Formatted: Indent: Left: 0", Right: 0", Space Before: 10 pt

Formatted: Space Before: 10 pt

Formatted: Indent: Left: 0", Right: 0", Space Before: 10 pt

Formatted: Normal, Justified, Space Before: 10 pt, No widow/orphan control, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers

Rule 12. Non-Appearance Hearing.

[**JWR Note:** Is there a need to define what a "non-appearance" hearing is? Or will a pro per be able to intuit what it is from its name?]

(a) Generally. The court may set a petition for a non-appearance hearing if supporting testimony is not required by law. A non-appearance hearing must be set for a specific time on a specific day, but no one is required to appear at a non-appearance hearing.

(b) Objection to Requested Relief.

(1) ***Appearance.*** An interested person may appear at a non-appearance hearing and object to the relief requested in the petition. Any interested person appearing at such a hearing must:

(A) notify the court of the person's presence and objection, and

(B) promptly pay an appearance fee, if the person has not already done so.

(2) ***Proceeding After Objection.*** The court must note their objection in the minutes and proceed as these rules specify for contested matters.

COMMENT

Non-appearance hearings serve the interests of judicial economy and efficiency, may minimize attorney and fiduciary fees, and may save time and expense to all involved. Thus, these rules encourage the use of non-appearance hearings. Situations for which non-appearance hearings might be appropriate include hearings on petitions to approve accountings, petitions to appoint a personal representative of an estate, petitions to increase or decrease bond, petitions to release restricted assets, and petitions for formal probate of a will when the original will has been filed with the court and has been properly executed.

Non-appearance hearings are not appropriate for certain matters. For example, due process concerns militate against the use of non-appearance hearings in connection with a petition to appoint a guardian or a conservator. Similarly, petitions to confirm the sale of real property necessarily require an appearance hearing to allow upset bids, and petitions to probate a will when the original of the will cannot be located require an appearance hearing. *See* A.R.S. § 14-3415. In addition, a non-appearance hearing generally is not appropriate if the petitioner expects or knows that a matter will be contested.

Generally, evidence is not presented at a non-appearance hearing. In extraordinary circumstances, however, the court may allow the presentation of evidence at a non-appearance hearing.

PART XX: TYPES OF COURT EVENTS

Rule 12. Initial Hearing on a Petition

(a) Setting of Initial Hearing. When a petition is filed, the court must set a specific date, time, and place for an initial hearing on the petition. The hearing may be an appearance hearing or a non-appearance hearing.

(b) Notice of Initial Hearing. The petitioner must give notice of the date, time, and location of the hearing as required by A.R.S. Title 14 and Rules 9 and 17(d).

(c) Procedure at an Appearance Hearing. An "appearance hearing" is a hearing at which all parties must appear unless the court orders otherwise. Unless the court specifically states that a hearing is set as a non-appearance hearing, the hearing is an appearance hearing.

(1) Opposition. If the initial hearing is set as an appearance hearing and a person has opposed the requested relief as provided in Rule 17, the court must note the opposition in the minutes and follow the procedures set forth in Rules 27-29 relating to contested matters.

(2) No Opposition. If no person opposes the relief requested in the petition, the court may receive evidence at the appearance hearing and decide the issues raised in the petition.

(d) Procedure at a Non-Appearance Hearing. A "non-appearance hearing" is a hearing at which supporting testimony is not required by law and at which no person, including the petitioner, needs to appear except to make an oral objection.

(1) Opposition. If the initial hearing is set as a non-appearance hearing and a person opposes the requested relief, that person either must file a written response at least 7 days before the hearing or must appear in person at the non-appearance hearing and notify the court of such person's presence and opposition. If a person orally opposes the petition at the non-appearance hearing or has filed a timely written objection before the non-appearance hearing, the court must note the objection in the minutes, and follow the procedures in Rules 27-29 regarding contested matters. If a person orally responds at the non-appearance hearing, the court must order the person to file a written opposition as provided by Rule 17.

(2) No Opposition. If the initial hearing is set as a non-appearance hearing, no person has appeared, and no timely written objection has been filed, the court may grant the relief requested in the petition set for that hearing without setting any further court events.

Commented [JMP1]: Much of this paragraph is taken from existing Rule 12(D), except that I added the language about a written objection being filed. As a result of what I have done with this Rule XX, existing Rule 12 can be eliminated in its entirety because all the concepts embodied in Rule 12 are covered by this Rule XX.

Commented [JMP2]: Much of this paragraph is taken from existing Rule 12(D), except that I added the language about a written objection being filed. As a result of what I have done with this Rule XX, existing Rule 12 can be eliminated in its entirety because all the concepts embodied in Rule 12 are covered by this Rule XX.

OTHER COURT EVENTS:

Rule 12.1. Conference

Rule 12.2. Oral Argument

Rule 12.3. Settlement Conference

Rule 12.4. Final Hearing on a Petition

Rule 12.5. Compliance and Order to Show Cause Hearings

Rule 12.6. Other Hearings

Rule 12.7. Division Review

~~Rule 12. Non-Appearance Hearing.~~

Formatted: Strikethrough

~~[**JWR Note:** Is there a need to define what a "non-appearance" hearing is? Or will a pro per be able to intuit what it is from its name?]~~

(a) ~~Generally.~~ ~~The court may set a petition for a non-appearance hearing if supporting testimony is not required by law. A non-appearance hearing must be set for a specific time on a specific day, but no one is required to appear at a non-appearance hearing.~~

(b) ~~Objection to Requested Relief.~~

~~(1) *Appearance.*~~ ~~An interested person may appear at a non-appearance hearing and object to the relief requested in the petition. Any interested person appearing at such a hearing must:~~

~~(A)~~ ~~notify the court of the person's presence and objection, and~~

~~(B)~~ ~~promptly pay an appearance fee, if the person has not already done so.~~

~~(2) *Proceeding After Objection.*~~ ~~The court must note their objection in the minutes and proceed as these rules specify for contested matters.~~

~~COMMENT~~

~~Non-appearance hearings serve the interests of judicial economy and efficiency, may minimize attorney and fiduciary fees, and may save time and expense to all involved. Thus, these rules encourage the use of non-appearance hearings. Situations for which non-appearance hearings might be appropriate include hearings on petitions to approve accountings, petitions to appoint a personal representative of an estate, petitions to increase or decrease bond, petitions to release restricted assets, and petitions for formal probate of a will when the original will has been filed with the court and has been properly executed.~~

~~Non-appearance hearings are not appropriate for certain matters. For example, due process concerns militate against the use of non-appearance hearings in connection with a petition to appoint a guardian or a conservator. Similarly, petitions to confirm the sale of real property necessarily require an appearance hearing to allow upset bids, and petitions to probate a will when the original of the will cannot be located require an appearance hearing. *See* A.R.S. § 14-3415. In addition, a non-appearance hearing generally is not appropriate if the petitioner expects or knows that a matter will be contested.~~

~~Generally, evidence is not presented at a non-appearance hearing. In extraordinary circumstances, however, the court may allow the presentation of evidence at a non-appearance hearing.~~

PART XX: TYPES OF COURT EVENTS

Rule 12. Initial Hearing on a Petition

(a) Setting of Initial Hearing. When a petition is filed, the court must set a specific date, time, and place for an initial hearing on the petition. The hearing may be an appearance hearing or a non-appearance hearing.

(b) Notice of Initial Hearing. The petitioner must give notice of the date, time, and location of the hearing as required by A.R.S. Title 14 and Rules 9 and 17(d).

(c) Procedure at an Appearance Hearing. An "appearance hearing" is a hearing at which all parties must appear unless the court orders otherwise. Unless the court specifically states that a hearing is set as a non-appearance hearing, the hearing is an appearance hearing.

(1) Opposition. If the initial hearing is set as an appearance hearing and a person has opposed the requested relief as provided in Rule 17, the court must note the opposition in the minutes and follow the procedures set forth in Rules 27-29 relating to contested matters.

(2) No Opposition. If no person opposes the relief requested in the petition, the court may receive evidence at the appearance hearing and decide the issues raised in the petition.

(d) Procedure at a Non-Appearance Hearing. A "non-appearance hearing" is a hearing at which supporting testimony is not required by law and at which no person, including the petitioner, needs to appear except to make an oral objection.

(1) Opposition. If the initial hearing is set as a non-appearance hearing and a person opposes the requested relief, that person either must file a written response at least 7 days before the hearing or must appear in person at the non-appearance hearing and notify the court of such person's presence and opposition. If a person orally opposes the petition at the non-appearance hearing or has filed a timely written objection before the non-appearance hearing, the court must note the objection in the minutes, and follow the procedures in Rules 27-29 regarding contested matters. If a person orally responds at the non-appearance hearing, the court must order the person to file a written opposition as provided by Rule 17.

(2) No Opposition. If the initial hearing is set as a non-appearance hearing, no person has appeared, and no timely written objection has been filed, the court may grant the relief requested in the petition set for that hearing without setting any further court events.

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Left, Add space between paragraphs of the same style

Commented [JMP1]: Much of this paragraph is taken from existing Rule 12(D), except that I added the language about a written objection being filed. As a result of what I have done with this Rule XX, existing Rule 12 can be eliminated in its entirety because all the concepts embodied in Rule 12 are covered by this Rule XX.

Formatted: Not Highlight

Commented [JMP2]: Much of this paragraph is taken from existing Rule 12(D), except that I added the language about a written objection being filed. As a result of what I have done with this Rule XX, existing Rule 12 can be eliminated in its entirety because all the concepts embodied in Rule 12 are covered by this Rule XX.

OTHER COURT EVENTS:

Rule 12.1. Conference

Rule 12.2. Oral Argument

Rule 12.3. Settlement Conference

Rule 12.4. Final Hearing on a Petition

Rule 12.5. Compliance and Order to Show Cause Hearings

Rule 12.6. Other Hearings

Rule 12.7. Division Review

Rule 16. Applications in Probate Proceedings.

(a) Meaning of "Application." "Application" is a written request authorized by statute made to a registrar in a probate proceeding, usually conducted without advance notice to interested persons, to:

(1) Informally admit a will to probate or informally appoint a personal representative under A.R.S. §§ 14-3301 to -3311;

(2) Informally appoint a special administrator under A.R.S. § 14-3614(1);

(3) Issue a certificate of discharge under A.R.S. § 14-3937;

(4) Informally appoint a personal representative to administer a later discovered asset under A.R.S. § 14-3938;

(5) Grant a conservator the authority to exercise the powers and duties of a personal representative and endorse the conservator's letters under A.R.S. § 14-5425(D); or

(6) Enter any other order that the registrar is authorized by statute to issue.

(b) Form of Application. An application must contain statements required by statute and comply with Rule 5.2 and Rules 8 through 11 of the Arizona Rules of Civil Procedure applicable to pleadings and claims for relief.

(c) ~~Probate Registrar's~~ Action upon an Application.

(1) *By the Clerk.* The clerk must immediately file and retain the application, including any original will. Any amended application or subsequent petition must be filed under the same case number as that assigned to the application.

(2) *By the Registrar.* The probate registrar must promptly, but within two business hours, approve or deny the application. When the registrar denies an application, the registrar must file a statement with reasons for the denial and provide a copy to the applicant. [Note: WG-2 will consider drafting a statewide form.]

(d) Notice. The applicant must provide timely notice as required by statute and must file proof of notice with the court.

(e) Objection to Application. Any interested person who opposes the relief requested or granted in an application must file a petition.

CURRENT COMMENT

~~Regarding Rule 16(A). The word "application" is a term of art in probate matters~~

that means a written request to the registrar to issue a statement of informal probate or informal appointment of personal representative under A.R.S. §§ 14-3301 to -3311. *See* A.R.S. § 14-1201(2); *see also* Rule 4(A) of these rules. A.R.S § 14-3614(1) provides that the registrar may appoint a special administrator on the application of any interested person. In addition, A.R.S. § 14-3937 authorizes the filing of an application to obtain a certificate from the registrar that the personal representative appears to have fully administered the estate. A.R.S. § 14-3938 authorizes the filing of an application to appoint a personal representative to administer an asset that is discovered after an estate has been closed. A.R.S. § 14-5425(D) authorizes a conservator to apply to the probate registrar to exercise the powers and duties of personal representative so that the conservator may administer and distribute the protected person's estate without additional or further appointment. Requests to the registrar should be made by application. In some cases, however, the request must be made to a judicial officer and should therefore be made by petition. Thus, a document should be titled "application" only for one of the limited purposes set forth in this rule.

Although applications usually are presented to the registrar without prior notice to other interested persons, in certain circumstances advance notice of the filing of the application must be given before the registrar acts upon the application. *See, e.g.*, A.R.S. §§ 14-3306, -3310. For example, notice must be provided when an interested person has filed a demand for notice or when a personal representative already has been appointed.

A challenge to an application for informal probate of will or appointment of personal representative may be made only by filing a petition to do any of the following: (i) set aside an informal probate of a will; (ii) probate a will; (iii) prevent the informal probate of a will that is the subject of a pending application; or (iv) determine whether the decedent died intestate. A.R.S. § 14-3401(A); *see also* A.R.S. § 14-3302 ("Informal probate is conclusive as to all persons until superseded by an order in a formal testacy proceeding."); *In re Estate of Torstenson*, 125 Ariz. 373, 375-76, 609 P.2d 1073, 1075-76 (App. 1980) (holding that the exclusive way to contest an informally probated will is to initiate a formal testacy proceeding). A.R.S. § 14-3414(A) addresses a proceeding to contest the qualification or priority of a person who has been informally appointed as personal representative or whose appointment as personal representative has been requested in an informal proceeding.

Rule 16. Applications in Probate Proceedings.

Meaning of "Application." "Application" is a written request authorized by statute made to a registrar ~~for an order~~ in a probate proceeding, usually conducted ~~"Application" is a written request to a registrar for an order in an informal probate proceeding, which is usually conducted~~ without advance notice to interested persons,

(a) ~~Filing.~~ ~~An interested party may file an application only when requesting the probate registrar to do the following~~~~such as~~ to:

(1) Informally admit a will to ~~informal~~ probate or informally appoint a personal representative under A.R.S. §§ 14-3301 to -3311;

(2) Informally appoint a special administrator under A.R.S. § 14-3614(1);

(3) Iissue a certificate of discharge under A.R.S. § 14-3937;

(4) ~~appoint~~ Informally appoint a personal representative to administer a later discovered asset under A.R.S. § 14-3938; ~~or~~

(5) ~~grant~~ Grant a conservator the authority to exercise the powers and duties of a personal representative and endorse the conservator's letters under A.R.S. § 14-5425(D); or ~~. [STOP HERE]~~

~~(5)~~**(6)** Enter any other order that the registrar is authorized by statute to issue.~~;~~

~~(b)~~ **Form of Application.** An application must contain statements required by statute~~,~~ and ~~and~~ ~~other statements supporting the requested relief. The statements must be in simple, concise, and direct paragraphs, each of which must be separately numbered. The application also:~~

~~**(1)** must contain a short statement of the requested relief;~~

~~**(2)** may request alternative or different types of relief; and~~

(b) ~~**(3)** must~~ comply with Rules~~s~~ 5.2~~(b)~~ and Rules 8 through 11 of the Arizona Rules of Civil Procedure~~,~~ applicable to ~~complaints~~ pleadings and claims for relief.

(c) ~~Probate Registrar's~~ Action upon an Application.

(1) *By the Clerk.* The clerk must immediately file and retain the application, including any original will. ~~.~~ Any amended application or subsequent petition must be filed under the same case number as that assigned to the application.

Formatted: Normal

Formatted: List Paragraph,List Level 1

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Highlight

Formatted: Strikethrough

Formatted: Outline numbered + Level: 1 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.25"

Formatted: Strikethrough, Highlight

Formatted: Font: Italic, Highlight

Formatted

Formatted: Highlight

Formatted: Highlight

(2) *By the Registrar*. The probate registrar must ~~act~~ promptly, but within two business hours, approve or ~~deny~~ deny the application~~, or refer it to a judicial officer~~. ~~upon a filed application.~~ When the registrar denies an application, the registrar must file a statement with reasons for the denial and provide a copy to the applicant. [Note: WG-2 will consider drafting a statewide form.]

~~(c)~~(d) ~~Service~~**Notice.** The ~~person filing the application~~applicant must provide timely~~serve a copy of the application~~ notice as required by ~~law~~ statute and must file proof of ~~service~~ notice with the ~~probate registrar~~court.

~~(d)~~(a) ~~**Probate Registrar's Action upon Application.** The probate registrar must act promptly upon a filed application.~~

(e) Objection to Application. Any interested person who opposes the relief requested or granted in an application ~~for informal probate of a will or the appointment of a personal representative~~ must file a petition ~~in accordance with A.R.S. § 14-3401(A) or § 14-3414(A)~~.

CURRENT COMMENT

~~Regarding Rule 16(A). The word "application" is a term of art in probate matters that means a written request to the registrar to issue a statement of informal probate or informal appointment of personal representative under A.R.S. §§ 14-3301 to 3311. *See* A.R.S. § 14-1201(2); *see also* Rule 4(A) of these rules. A.R.S § 14-3614(1) provides that the registrar may appoint a special administrator on the application of any interested person. In addition, A.R.S. § 14-3937 authorizes the filing of an application to obtain a certificate from the registrar that the personal representative appears to have fully administered the estate. A.R.S. § 14-3938 authorizes the filing of an application to appoint a personal representative to administer an asset that is discovered after an estate has been closed. A.R.S. § 14-5425(D) authorizes a conservator to apply to the probate registrar to exercise the powers and duties of personal representative so that the conservator may administer and distribute the protected person's estate without additional or further appointment. Requests to the registrar should be made by application. In some cases, however, the request must be made to a judicial officer and should therefore be made by petition. Thus, a document should be titled "application" only for one of the limited purposes set forth in this rule.~~

~~Although applications usually are presented to the registrar without prior notice to other interested persons, in certain circumstances advance notice of the filing of the application must be given before the registrar acts upon the application. *See,*~~

Formatted: Font: Italic, Highlight
Formatted: Font: Italic
Formatted: No underline
Formatted: No underline
Formatted: Not Highlight
Formatted: Strikethrough
Formatted: Highlight
Formatted: Highlight
Formatted: Underline
Formatted: Strikethrough

e.g., A.R.S. §§ 14-3306, -3310. For example, notice must be provided when an interested person has filed a demand for notice or when a personal representative already has been appointed.

A challenge to an application for informal probate of will or appointment of personal representative may be made only by filing a petition to do any of the following: (i) set aside an informal probate of a will; (ii) probate a will; (iii) prevent the informal probate of a will that is the subject of a pending application; or (iv) determine whether the decedent died intestate. A.R.S. § 14-3401(A); *see also* A.R.S. § 14-3302 ("Informal probate is conclusive as to all persons until superseded by an order in a formal testacy proceeding."); *In re Estate of Torstenson*, 125 Ariz. 373, 375-76, 609 P.2d 1073, 1075-76 (App. 1980) (holding that the exclusive way to contest an informally probated will is to initiate a formal testacy proceeding). A.R.S. § 14-3414(A) addresses a proceeding to contest the qualification or priority of a person who has been informally appointed as personal representative or whose appointment as personal representative has been requested in an informal proceeding.

Rule 17. Petitions in Probate Proceedings.

(a) Meaning of "Petition." "Petition" is a written request to a judicial officer seeking substantive relief in a probate proceeding, usually requiring advance notice to interested persons and a hearing.

(b) Form of Petition. A petition must contain any statements required by statute and comply with Rule 5.2 and Rules 8 through 11 of the Arizona Rules of Civil Procedure applicable to pleadings and claims for relief.

(c) Hearing Date. The petitioner must obtain a date and time for a hearing on the petition.

(d) Notice of Hearing on the Petition. The petitioner must timely provide notice as required by statute, which must include a notice of hearing and a copy of the petition, and must file proof of notice with the court.

(e) Response to a Petition. [Note: WG's possible addition from Rule 27] A proceeding becomes contested when a party opposes a petition as follows:]

(1) ***Written Response.*** Any party who opposes the relief requested in a petition should file with the court no later than 7 days before the hearing an objection to the petition or a motion under Rule 12 of the Arizona Rules of Civil Procedure.

(2) ***Oral Response.*** If a party does not file a written response 7 or more days before the hearing, the person must orally respond to the petition at the hearing and file a written objection or motion under Rule 12 within 10 days after the hearing or as the court directs.

(3) ***Form of Written Response.*** A written objection must comply with Rule 5.2, and Rules 8 through 11 of the Arizona Rules of Civil Procedure.

(4) ***Notice of Response.*** Unless the court orders otherwise, a party who files a written response to a petition must notify all parties by providing a copy of the response.

(f) Joinder. Any party who agrees that the court should enter the relief requested in the petition may file a notice of joinder.

(g) Reply. Unless the court directs otherwise, a party may not file a reply.

CURRENT COMMENT

~~Regarding Rule 17(A). A petition in a probate proceeding is the equivalent of a complaint in a civil action, and an objection is the equivalent of an answer in a civil action. Therefore, interested persons and the court should treat a petition as a~~

~~complaint and an objection as an answer, except as otherwise provided by statute or these rules.~~

~~Examples of relief that should be requested by a petition include, but are not limited to, the following:~~

1. ~~formal probate of a will or appointment of a personal representative of an estate, or both, pursuant to A.R.S. §§ 14-3401 and -3402;~~
2. ~~formal appointment of a special administrator pursuant to A.R.S. § 14-3614(2);~~
3. ~~appointment of a guardian or conservator, or both, or entry of any protective order authorized by A.R.S. §§ 14-5101 to -5704;~~
4. ~~appointment a trustee;~~
5. ~~termination of the appointment of or removal of a personal representative, guardian, conservator, or trustee;~~
6. ~~surcharging a personal representative, guardian, conservator, or trustee;~~
7. ~~compelling a personal representative, guardian, conservator, or trustee to perform a certain action, except with regard to any discovery;~~
8. ~~approval of the sale of any property;~~
9. ~~providing instructions or issuing a declaratory judgment;~~
10. ~~approval of an accounting;~~
11. ~~approval of or review of fiduciary fees or the fees of any person employed by a personal representative, guardian, conservator, or trustee;~~
12. ~~ratification, confirmation, or approval of any transaction entered into by a personal representative, guardian, conservator, or trustee, or any settlement agreement relating to a decedent's estate, trust, guardianship, or conservatorship;~~
13. ~~termination of a guardianship (except in the case of the death of the ward), termination of a conservatorship (regardless of the reason for termination), or closing an estate formally in accordance with A.R.S. §§ 14-3931 to -3938;~~
14. ~~requiring the posting of a bond, changing the amount of a bond, or exonerating a bond by a personal representative, guardian, conservator, or trustee; or~~
15. ~~holding someone in contempt of court.~~

~~Regarding Rule 17(D). The judicial officer should be informed at the hearing on a petition whether a party objects to the petition. Thus, to ensure that the judicial officer is timely informed of any objection, a written objection to a petition must be filed at least three days before the hearing on the petition. If a written objection has not been filed at least three days before the hearing, the objecting party should appear at the hearing and make his or her presence and objection known to ensure that the judicial officer is aware of the objection. Rule 28 sets forth the procedure to be followed once an objection to a petition has been made and the proceeding has become contested.~~

Rule 17. Petitions in Probate Proceedings.

(a) Meaning of "Petition." "Petition" is a written request to a judgedicial officer seeking substantive relief in ~~a formal~~ a probate proceeding, ~~which~~ usually requiresing advance notice to interested persons and a hearing. ~~[STOP HERE]~~

~~**(a) Filing.** An interested party may file a petition if:~~

~~**(1)** a statute or court rule requires the party to seek the requested relief by filing a petition or in a formal proceeding;~~

~~**(2)** an evidentiary hearing is required before the court may grant the requested relief, or the party seeking relief requests an evidentiary hearing; or~~

~~**(3)** substantive relief, other than relief under Rule 16(a), is requested. [**Staff Note:** Staff added the underlined words to the draft.]~~

(b) Form of Petition. A petition must contain any statements required by statute and comply with Rule 5.2 and Rules 8 through 11 of the Arizona Rules of Civil Procedure applicable to pleadings and claims for relief.

~~**(b)** other statements supporting the requested relief. The statements must be in simple, concise, and direct paragraphs, each of which must be separately numbered. The petition also:~~

~~**(c)** must contain a short statement of the requested relief;~~

~~**(d)** may request alternative or different types of relief; and~~

~~**(e)** must comply with Rules 5.2(b) and Rules 8 through 11 of the Arizona Rules of Civil Procedure, applicable to complaints and claims for relief.~~

~~**(f)**(c) **Hearing Date.** When filing a petition, t~~ The petitioner must obtain ~~from the court~~ a date and time for a hearing on the petition.

(d) Service. ~~The petitioner~~ **Notice of Hearing on the Petition.** The petitioner must timely provide notice as required by statute, which must include ~~a copy of the petition and~~ a notice of ~~hearing, and~~hearing and a copy of the petition, and must file proof of notice with the court.

~~**(g) must serve a copy of the petition and a notice of the hearing as required by law, and must promptly file proof of service with the probate registrar.**~~

~~**(h)**~~(e) ~~**Objection**~~ **Response to a Petition.** ~~[~~**Note: WG's possible addition from Rule 27**~~]:~~ A proceeding becomes contested when a party opposes a petition as follows:

Formatted: Font: Bold
Formatted: List Paragraph,List Level 1
Formatted: Highlight
Formatted: Strikethrough
Formatted: Font: Bold
Formatted: Indent: Left: 0.25", No bullets or numbering
Formatted: Font: Bold
Formatted: Font: Not Bold
Formatted: Underline
Formatted: Font: Not Bold
Formatted: Font: Not Bold
Formatted: Font: Not Bold
Formatted: Font: Not Bold
Formatted: Font: Bold

(1) ***~~Generally~~Written Response.*** Any ~~interested person~~party who opposes the relief requested in a petition ~~must~~ ~~may~~should file with the court no later than ~~3~~ 7 days before the hearing an objection to the petition or ~~or~~ a motion ~~authorized by~~under Rule 12 of the Arizona Rules of Civil Procedure. ~~Alternatively, a n interested person may appear at the hearing and orally object to the petition, but must later file a written objection or motion, as the court directs or as the parties agree, setting forth the grounds for the objection.~~

~~***Late-Filed Objections.*** If a person files an objection to the petition or a motion under Rule 12 of the Arizona Rules of Civil Procedure less than 3 days before the hearing date, the objecting party must attend the hearing and inform the court that a written objection or Rule 12 motion was filed.~~

(2) ***~~Oral~~ Oral Response~~objections~~.*** ~~A~~If a~~n~~ ~~interested person~~party does not file a written response 7 or more days before the hearing, the person ~~may~~must orally ~~object~~respond to the petition at the ~~hearing, but~~hearing and ~~must~~ file a written ~~objection or motion~~~~response~~objection or motion under Rule 12 within 10 days after the hearing~~,~~ or as the court directs~~, stating the reasons for the objection~~. ~~END HERE 5/24 but still working on cl. 3~~ ~~[**Staff Note:** Is this provision necessary?]~~

(3) ***Form of ~~Objection~~Written Response.*** A written objection must comply with Rule~~s~~ 5.2~~(b)~~, and Rules 8 through 11 of the Arizona Rules of Civil Procedure. ~~A written motion must comply with Rule 18 of the Arizona Rules of Probate Procedure~~.

(4) ***~~Servic~~Notice of Response.*** Unless the court orders otherwise, a ~~person~~ party who files a written ~~objection~~ response to a petition must ~~serve~~ notify all ~~interested person~~parties ~~with~~ by providing a copy of the ~~objection~~ response. ~~and must file proof of such service. Service of the objection may be made in any manner A.R.S. § 14-1401(A) allows for serving a notice of hearing.~~

~~(i)~~(f) **Joinder.** Any ~~interested person~~party who agrees that the court should enter the relief requested in the petition may file ~~a statement of such agreement by filing~~ a ~~motion for~~ notice of joinder.

~~(j)~~(g) **Reply.** Unless the court directs otherwise, ~~the petitioner no~~may not file a reply ~~in support of the petition~~~~may be filed~~a party may not file a reply.

~~**(k) Other Pleadings.** Rules 13 through 15 of the Arizona Rules of Civil Procedure apply to any counter-petition, cross-petition, or third-party petition; to the amendment of any petition, counter-petition, cross-petition, or third-party petition; and to objections to any of these pleadings.~~

Formatted: Highlight

Formatted: Highlight

CURRENT COMMENT

~~Regarding Rule 17(A). A petition in a probate proceeding is the equivalent of a complaint in a civil action, and an objection is the equivalent of an answer in a civil action. Therefore, interested persons and the court should treat a petition as a complaint and an objection as an answer, except as otherwise provided by statute or these rules.~~

~~Examples of relief that should be requested by a petition include, but are not limited to, the following:~~

1. ~~formal probate of a will or appointment of a personal representative of an estate, or both, pursuant to A.R.S. §§ 14-3401 and -3402;~~
2. ~~formal appointment of a special administrator pursuant to A.R.S. § 14-3614(2);~~
3. ~~appointment of a guardian or conservator, or both, or entry of any protective order authorized by A.R.S. §§ 14-5101 to -5704;~~
4. ~~appointment a trustee;~~
5. ~~termination of the appointment of or removal of a personal representative, guardian, conservator, or trustee;~~
6. ~~surcharging a personal representative, guardian, conservator, or trustee;~~
7. ~~compelling a personal representative, guardian, conservator, or trustee to perform a certain action, except with regard to any discovery;~~
8. ~~approval of the sale of any property;~~
9. ~~providing instructions or issuing a declaratory judgment;~~
10. ~~approval of an accounting;~~
11. ~~approval of or review of fiduciary fees or the fees of any person employed by a personal representative, guardian, conservator, or trustee;~~
12. ~~ratification, confirmation, or approval of any transaction entered into by a personal representative, guardian, conservator, or trustee, or any settlement agreement relating to a decedent's estate, trust, guardianship, or conservatorship;~~
13. ~~termination of a guardianship (except in the case of the death of the ward), termination of a conservatorship (regardless of the reason for termination), or closing an estate formally in accordance with A.R.S. §§ 14-3931 to -3938;~~
14. ~~requiring the posting of a bond, changing the amount of a bond, or exonerating a bond by a personal representative, guardian, conservator, or trustee; or~~
15. ~~holding someone in contempt of court.~~

~~Regarding Rule 17(D). The judicial officer should be informed at the hearing on a petition whether a party objects to the petition. Thus, to ensure that the judicial officer is timely informed of any objection, a written objection to a petition must be filed at least three days before the hearing on the petition. If a written objection has not been filed at least three days before the hearing, the objecting party should~~

Formatted: Strikethrough

~~appear at the hearing and make his or her presence and objection known to ensure that the judicial officer is aware of the objection. Rule 28 sets forth the procedure to be followed once an objection to a petition has been made and the proceeding has become contested.~~

Rule 18. Motions in Probate Proceedings.

A "motion" is a request to a judicial officer made by a party seeking procedural rather than substantive relief. Unless required by the Civil Rules, a judicial officer may rule on a motion without a hearing or oral argument. [WG-note: WG-2 recommends deletion of the second sentence, notwithstanding the discussion at the June 15 Task Force meeting.]

[**WG NOTE June 4:** WG agrees that the substance of section (c) belongs in Rule 10.5. Strike section (c) in Rule 18]

CURRENT COMMENT

~~Once a petition or application is pending, a party may seek procedural relief by filing a motion. Examples of procedural motions include motions relating to discovery, motions to allow or exclude evidence, motions to continue or accelerate hearings, motions for the appointment of a guardian ad litem, motions for sanctions, and motions specifically authorized by the Rules of Civil Procedure, such as motions to dismiss and motions for summary judgment.~~

~~In some cases, relief may be sought by motion even if no petition is pending before the court. Examples of appropriate motions include motions for additional time to file an inventory, accounting, or annual report of guardian, and motions to extend the appointment of temporary fiduciaries.~~

~~The Arizona Rules of Civil Procedure govern the procedure relating to motions including (i) the time for filing response and reply memoranda; (ii) the manner of service of motions and response and reply memoranda; and (iii) requests for and setting of oral argument. In this regard, motions generally should meet the requirements of Rules 7.1(a) and 10(d), Arizona Rules of Civil Procedure. Certain types of motions, however, may have different requirements or time frames. For example, motions for summary judgment are subject to the requirements of Rule 56, Arizona Rules of Civil Procedure.~~

~~Regarding Rule 18(B). A.R.S. § 14-1408 and Rule 17(g), Arizona Rules of Civil Procedure, govern when a guardian ad litem may be appointed for a minor, an incapacitated person, an unknown person, or an unascertainable person. This rule is intended to clarify the information that must be provided to the court if the appointment of a guardian ad litem is requested.~~

Rule 18. Motions in Probate Proceedings.

~~(a) Generally.~~ A "motion" is a request to a judicial officer made by a party ~~party requesting~~ seeking procedural rather than substantive relief ~~must do so by motion.~~. Unless required by the Civil Rules, a judicial officer may rule on a motion without a hearing or oral argument. [WG-note: WG-2 recommends deletion of the second sentence, notwithstanding the discussion at the June 15 Task Force meeting.]

~~(b) Motion for Appointment of Counsel. A party requesting the appointment of counsel must make the request by motion, which must state why the appointment is necessary or advisable and what, if any, special expertise that counsel must have.~~

~~(c) Notice of Repetitive Filing. [Staff Note: Would a repetitive filing constitute vexatious conduct under Rule 10.5?]~~[**WG NOTE June 4:** WG agrees that the substance of section (c) belongs in Rule 10.5. Strike section (c) in Rule 18]

~~(1) *Grounds.* A party may file a notice of repetitive filing if:~~

~~(A) the party has a good faith belief that an interested person has filed a motion or petition that requests the same or substantially similar relief to the relief requested in an earlier motion or petition filed within the preceding 12 months by the same interested person; and~~

~~(B) the later-filed motion or petition does not describe in detail a change in fact or circumstance that supports the requested relief.~~

~~(2) *Timing and Identification of the Earlier Filing.* A party must file a notice of repetitive filing no later than the response or objection deadline for the allegedly repetitive filing. A notice of repetitive filing must include the title and date of the alleged repetitive filing, the title and date of the earlier filing, and the date of the court's ruling on the earlier filing.~~

~~(3) *Effect of Notice.* A notice of repetitive filing stays the deadline to respond or object to the alleged repetitive filing until further court order.~~

~~(4) *Court's Authority.* The court may summarily strike a repetitive motion on its own or after receiving a notice of repetitive filing.~~

CURRENT COMMENT

~~Once a petition or application is pending, a party may seek procedural relief by filing a motion. Examples of procedural motions include motions relating to discovery, motions to allow or exclude evidence, motions to continue or accelerate hearings, motions for the appointment of a guardian ad litem, motions for sanctions, and motions specifically authorized by the Rules of Civil Procedure, such as~~

Formatted: Normal

Formatted: Highlight

Formatted: Underline

Formatted: Font: Bold

Formatted: Strikethrough

Formatted: Strikethrough

~~motions to dismiss and motions for summary judgment.~~

~~In some cases, relief may be sought by motion even if no petition is pending before the court. Examples of appropriate motions include motions for additional time to file an inventory, accounting, or annual report of guardian, and motions to extend the appointment of temporary fiduciaries.~~

~~The Arizona Rules of Civil Procedure govern the procedure relating to motions including (i) the time for filing response and reply memoranda; (ii) the manner of service of motions and response and reply memoranda; and (iii) requests for and setting of oral argument. In this regard, motions generally should meet the requirements of Rules 7.1(a) and 10(d), Arizona Rules of Civil Procedure. Certain types of motions, however, may have different requirements or time frames. For example, motions for summary judgment are subject to the requirements of Rule 56, Arizona Rules of Civil Procedure.~~

~~Regarding Rule 18(B). A.R.S. § 14-1408 and Rule 17(g), Arizona Rules of Civil Procedure, govern when a guardian ad litem may be appointed for a minor, an incapacitated person, an unknown person, or an unascertainable person. This rule is intended to clarify the information that must be provided to the court if the appointment of a guardian ad litem is requested.~~

Rule 22. Order Appointing Guardian, Conservator, Personal Representative, or Special Administrator.

(a) Orders.

(1) ***Required Warning.*** Every order appointing a guardian, conservator, personal representative, or special administrator must include the following language: "Warning: This appointment is not effective until the clerk of the superior court issues the letters of appointment."

(2) ***Guardianship Finding.*** Every order appointing a guardian must include a specific finding as to whether the guardian's appointment is due solely to the ward's physical incapacity.

(3) ***Bond Amount.*** If the court orders a bond [or a bond is required by law], the order must state the bond amount, and letters must not issue until the bond has been filed.

(b) Restrictions on Authority.

(1) ***Generally.*** Every order appointing a guardian, conservator, personal representative, or special administrator, or that authorizes a single transaction or other protective arrangement, must state any restrictions on the fiduciary's authority to manage the estate's assets. Any such restriction must be included, in the same language, in the letters. Examples of restrictions include the following.

(A) *Regarding real property:* "No real property may be leased for more than one year, sold, encumbered, or conveyed without a prior court order authorizing it."

(B) *Regarding monetary assets:* "No withdrawals of principal or interest may be made without a certified order of the superior court. Unless the court orders otherwise, reinvestment may be made without further court order so long as funds remain restricted in this institution at this branch."

(C) *Regarding guardians:* "No authority over placement or movement of the ward's residence, absent an emergency, without prior court approval." Or, "The guardian's authority is limited to the power to make medical decisions."

(2) ***Proof of Restricted Account.*** The fiduciary is responsible for ensuring that proof of any restricted account is filed not later than 30 days after the court enters an order restricting the account.

(3) ***Attorney Responsibilities.*** Unless the court orders otherwise, an attorney representing a fiduciary who receives any proceeds to be restricted for the

benefit of a minor, incapacitated person, or protected person, must ensure that the restricted account is established and properly titled, and that the restricted funds are safely deposited into the account. The court may also order that other parties or counsel ensure that the restrictions are properly implemented and proof is filed.

COMMENT

~~Generally, a person appointed as a conservator or as a personal representative shall obtain and file a fiduciary bond before letters of appointment are issued. Certain exceptions, however, exist. These exceptions, as well as how the amount of bond is to be calculated, are set by statute. *See* A.R.S. §§ 14-3603 to -3606 (bonds for personal representatives); A.R.S. §§ 14-5411 and -5412 (bonds for conservators).~~

~~Because A.R.S. § 14-1201 defines "personal representative" as including a special administrator, this rule also applies to the appointment of a special administrator.~~

~~Rule 22.1. Bonds.~~

(a) ~~Statutory Agent.~~ ~~A bond filed with the court clerk must state on the bond or on an attachment the name and address of the bonding company's statutory agent or other person authorized to accept service of process for the bonding company in Arizona.~~

(b) ~~Change in Statutory Agent or Agent's Address.~~ ~~The bonding company must promptly notify the court clerk of any change in the company's statutory agent or in the statutory agent's address.~~ [This tentative rule derived from Rule 22(b). The workgroup recommends removing the provision.]

~~Workgroup 3 Aaron Nash assigned~~

Rule 22. Order Appointing ~~Conservator,~~ Guardian, Conservator, ~~or~~ Personal Representative, or Special Administrator.

(a) Orders.

(1) ***Required Warning.*** Every order appointing a ~~conservator,~~ guardian, conservator, ~~or~~ personal representative, or special administrator must include the following language: "Warning: This appointment is not effective until the clerk of the superior court issues the letters of appointment."

(2) ***Guardianship Finding.*** Every order appointing a guardian must include a specific finding as to whether the guardian's appointment is due solely to the ward's physical incapacity.

(3) ***Bond Amount.*** If the court orders a bond [or a bond is required by law], the order must state the bond amount, and ~~Every order appointing a conservator or a personal representative must plainly [**Staff Note:** This rule mentions "plainly state" more than once, but is that any more instructive that simply saying "state?"] state the amount of bond, if any, required. The court will not issue~~ letters must not issue ~~of conservator or letters of personal representative~~ until ~~the~~ the ~~required~~ bond has been filed.

~~**(b) Bonds.**~~

~~**(1)** ***Statutory Agent.*** A fiduciary bond filed with the clerk of court must state on the bond or on an attachment the name and address of the bonding company's statutory agent or other person authorized to accept service of process for the bonding company in Arizona.~~

~~**(2)** ***Change in Statutory Agent or Agent's Address.*** The bonding company must promptly notify the clerk of court of any change in the company's statutory agent or in the statutory agent's address.~~

~~**(c) Restrictions on Authority and Restricted Accounts.**~~

~~**(1)** ***Restrictions on Management Authority.*** **Every order appointing a guardian, conservator or, personal representative, or special administrator, or that authorizes a single transaction or other protective arrangement under A.R.S. § 14-5409, must plainly state any restrictions on the fiduciary's authority to manage the estate's assets.**~~

~~**(2)** ***Restrictions on Financial Authority.*** **If the restriction affects the fiduciary's authority to manage the estate's monetary assets, and, unless the court**~~

Formatted: Font: Bold

Commented [li1]: I think by adding this language, we can remove the entire second comment below. The way the rule is currently written suggests the court must always set bond.

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

orders otherwise, any letters the court issues must describe the restriction, contain such as the following language: "Funds must be deposited into an interest-bearing, federally insured restricted account at a financial institution engaged in business in Arizona. No withdrawals of principal or interest may be made without a certified order of the superior court. Unless the court orders otherwise, reinvestment may be made without further court order so long as funds remain insured and restricted in this institution at this branch."

(3) *Proof of Restricted Account.* Unless the court orders otherwise, the fiduciary must file proof of any restricted account no later than 30 days after the court first issues enters an temporary or permanent order or letters restricting the account.

[Staff Note: Should the following provision be relocated to Rule 37?]

(4) *Attorney Responsibilities.* Unless the court orders otherwise, an attorney who represents the fiduciary, ward, protected person, or insurance company and who is the recipient of any proceeds to be restricted for the benefit of a minor, incapacitated person, or protected person, must ensure that the restricted account is established and properly titled, and that the restricted funds are safely deposited into the account. The attorney must file a properly executed proof of restricted account form executed by an authorized representative of the financial institution no later than 30 days after letters are issued or a single transaction order is entered.

(d) Restricted Real Property.

(1) *Restrictions on Transactional Authority.* Every order appointing a conservator or a personal representative, or that authorizes a single transaction or other protective arrangement under A.R.S. § 14-5409, must plainly state any restrictions on the authority to sell, lease, encumber, or convey the estate's real property. The court will not issue any letters of conservator or personal representative to any person unless the letters contain the language restricting the fiduciary's authority.

(b) *Restrictions on Management Authority.* If the restriction limits the fiduciary's authority to manage real property, the order appointing the conservator or personal representative, or that authorizes or ratifies the transaction, must contain the following language unless the court orders otherwise: "No realty may be leased for more than one year, sold, encumbered, or conveyed without a prior court order authorizing itRestrictions on Authority and Restricted Accounts.

Formatted: Font: Bold

Commented [li2]: Which is it – the order or the LOA as the filing dates may be different.

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: List Paragraph,List Level 1

Formatted: Font: Bold

(1) ***~~Restrictions on Authority~~Generally.*** Every order appointing a guardian, conservator, personal representative, or special administrator, or that authorizes a single transaction or other protective arrangement, must state any restrictions on the fiduciary's authority to manage the estate's assets. Any such restriction ~~shall~~must be included, in the same language, in the ~~L~~letters. Examples of restrictions include the following.

(A) *Regarding real property:* ~~***Restrictions on Management Authority.*** If the restriction limits the fiduciary's authority to manage real property, the order appointing the conservator or personal representative, or that authorizes or ratifies the transaction, may contain the following language: "No realty property may be leased for more than one year, sold, encumbered, or conveyed without a prior court order authorizing it."~~

(B) ~~*Restrictions on Financial Authority*~~*Regarding monetary assets:* ~~*If the restriction affects the fiduciary's authority to manage the estate's monetary assets, the order may be in the following language:*~~ "No withdrawals of principal or interest may be made without a certified order of the superior court. Unless the court orders otherwise, reinvestment may be made without further court order so long as funds remain restricted in this institution at this branch."

(C) *Regarding guardians:* "No authority over placement or movement of the ward's residence, absent an emergency, without prior court approval." Or, "The guardian's authority is limited to the power to make medical decisions."

(2) ***Proof of Restricted Account.*** ~~If a restriction on financial authority has been ordered, t~~The fiduciary is responsible ~~to~~ for ensureing that ~~the must file~~ing proof of any restricted account is filed not later than 30 days after the court enters an order restricting the account.

~~(2)~~(3) ***Attorney Responsibilities.*** Unless the court orders otherwise, an attorney representing a fiduciary who receives any proceeds to be restricted for the benefit of a minor, incapacitated person, or protected person, must ensure that the restricted account is established and properly titled, and that the restricted funds are safely deposited into the account. ~~asen~~ T~~T~~he court may~~,~~ also ~~at the time of entry of the order restricting authority, direct~~order that other parties or counsel ensure that the restrictions are properly ~~effected~~implemented and proof ~~appropriately~~is filed.

~~(3)~~ ~~del.~~

Formatted: Font: 7 pt
Formatted: Font: Bold, Italic
Formatted: Normal, Indent: Left: 0.28"
Formatted: Font: Bold, Italic
Formatted: Font: 13 pt, Italic
Formatted
Formatted: Font: 13 pt, Italic
Formatted: Font: 12 pt
Formatted: Font: 12 pt, Bold, Italic
Formatted: Font: 12 pt
Formatted: Highlight
Formatted: Font: 7 pt, Italic
Formatted: Font: Italic
Formatted: Font: Not Bold
Formatted: Font: Italic
Formatted: Font: 7 pt
Formatted: Normal, Indent: Left: 0.31", Hanging: 0.44"
Formatted: Font: Bold, Italic
Formatted: Highlight
Formatted: Highlight
Formatted: Highlight
Formatted: Font: 7 pt
Formatted: Normal, Indent: Left: 0.31", Hanging: 0.5"
Formatted: Font: Bold, Italic
Formatted: Font: Bold, Italic
Formatted: Indent: Left: 0.25"

COMMENT

~~Generally, a person appointed as a conservator or as a personal representative shall obtain and file a fiduciary bond before letters of appointment are issued. Certain exceptions, however, exist. These exceptions, as well as how the amount of bond is to be calculated, are set by statute. *See* A.R.S. §§ 14-3603 to -3606 (bonds for personal representatives); A.R.S. §§ 14-5411 and -5412 (bonds for conservators).~~

~~This rule is not intended to expand or narrow the circumstances in which a bond is required of a conservator or personal representative. Instead, its purpose is to require that the form of order clearly state whether a bond is required and, if so, the amount of the bond and to clarify that letters should not be issued until any required bond has been filed with the clerk of court.~~

~~Because A.R.S. § 14-1201 defines "personal representative" as including a special administrator, this rule also applies to the appointment of a special administrator.~~

~~Rule 22.1. Bonds.~~

~~(a) Statutory Agent.~~ ~~A bond filed with the court clerk must state on the bond or on an attachment the name and address of the bonding company's statutory agent or other person authorized to accept service of process for the bonding company in Arizona.~~

~~(b) Change in Statutory Agent or Agent's Address.~~ ~~The bonding company must promptly notify the court clerk of any change in the company's statutory agent or in the statutory agent's address.~~ [This tentative rule derived from Rule 22(b). The workgroup recommends removing the provision.]

Formatted: Space Before: 10 pt, After: 0 pt, Line spacing: single
Formatted: Font: Bold
Formatted: Strikethrough
Formatted: Strikethrough
Formatted: Strikethrough
Formatted: Strikethrough
Formatted: Indent: Left: 0.28", Right: 0.28", Space After: 0 pt, Line spacing: single
Formatted: Strikethrough
Formatted: Font: Bold, Strikethrough
Formatted: Indent: Left: 0"
Formatted: Strikethrough
Formatted: Font: Not Italic, Strikethrough
Formatted: Outline numbered + Level: 1 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.25"
Formatted: Strikethrough
Formatted: Font: Not Italic, Strikethrough
Formatted: Outline numbered + Level: 1 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.25"
Formatted: Strikethrough
Formatted: Strikethrough

Workgroup 3 Catherine Robbins assigned

Rule 25. Order to Fiduciary

(a) Generally. The court will not issue letters to a personal representative, a guardian, or a conservator until the appointed fiduciary has signed an acknowledgment and the court has filed an order as set forth below.

(b) Order to a Personal Representative. The order must be substantially similar to Form 1, Order to Personal Representative. This requirement does not apply to the appointment of a special administrator.

(c) Order to a Guardian. The order must be substantially similar to Form 2, Order to Guardian.

(d) Order to a Conservator. The order to a conservator for an adult must be substantially similar to Form 3, Order to Conservator. The order to a conservator for a minor must be substantially similar to Form 3M, Order to Conservator of a Minor.

(e) Order to a Guardian and Conservator. If the same person is being appointed as both guardian and conservator, the requirements of (c) and (d) may be satisfied by an order that is substantially similar to Form 4, Order to Guardian and Conservator.

Workgroup 3 Catherine Robbins assigned

Rule 25. Order **to** Fiduciary.

Generally. The court will not issue

(a) Generally. LETTERS a personal representative, a guardian, or a conservatorTHE APPOINTEE a personal representative, a guardian, or a conservator until the appointed fiduciary has signed and the court has

(b) filed an order as set forth below. **The order must be substantially similar to Form 1 in the Arizona Code of Judicial Administration. This requirement does not apply to the appointment of a special administrator.**

(c) Order to a Personal Representative. The order must be substantially similar to Form 1 in the Arizona Code of Judicial Administration. This requirement

(d) Order to a Guardian. The order must be substantially similar to Form 2 in the Arizona Code of Judicial Administration.

(e) Order to a Conservator. The order must be substantially similar to Form 3 in the Arizona Code of Judicial Administration.an order that is substantially similar to Form 4 in the Arizona Code of Judicial Administration.

Commented [ro1]: First Option: Combine Rules 25, 26 and 27.1.

Second Option: Place an abbreviated version of Rule 25 in Rule 22 Orders Appointing . . .

Note: Temporary, special administrator, and guardianship of Minor(s) appointments do not require the order to fiduciary and acknowledgement (ACJA exempted or not present).

I attempted to consult with Aaron N. regarding option 1 proposal and we have not conversed yet.

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: List Paragraph,List Level 1, Numbered + Level: 1 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: List Paragraph,List Level 1

Formatted: Numbered + Level: 1 + Numbering Style: a, b, c, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font: Bold

Formatted: Strikethrough

Formatted: Font: Not Bold

Formatted: Heading 3

~~**Rule 25. Appointment Order to Fiduciary.**~~

- ~~Pre-Hearing Court Filings: A non-licensed fiduciary must complete the prescribed training approved by the Arizona Supreme Court within 30 days after the temporary appointment and file a Declaration of Completion of Training for Non-Licensed Fiduciaries.~~
- ~~If applicable, the fiduciary must file the disclosure affidavit required under A.R.S. § 14-5106;~~
- ~~If required by law, the fiduciary must submit a fingerprint card to the court.~~
- ~~Order of Appointment. The court issues an initial written order appointing the fiduciary to serve as the guardian and/or conservator of a Minor or an Adult, or as personal representative for a decedent's estate.~~
  - ~~The probate registrar may issue a statement of appointment in non-formal probate appointments.~~
  - ~~Testamentary Appointments. The fiduciary must sign and file an application specifying that the letters of appointment are for a testamentary guardianship.~~
    - ~~If the application is in the same court where the Will was probated, the registrar must verify the probated Will's terms.~~
    - ~~If the Will was probated in a different court, the fiduciary must provide the registrar with a certified copy of the probated Will to verify its terms.~~
- ~~Order to Fiduciary and Acknowledgement. During the appointment hearing a second order is entered by the court to the fiduciary with an acknowledgement from the fiduciary detailing some of the duties specific to the type of authority granted.~~
  - ~~ACJA § 3-302(2)(a) provides the preferred forms, 1, 2, 3, 3M, and 4, for preparing the Order to Fiduciary and Acknowledgement specific to the authority granted in the initial order of appointment.~~

Formatted: Font: (Default) Calibri, Bold
Formatted: Font: Bold
Formatted: Font: Bold, Strikethrough
Formatted: Font: Bold
Formatted: Font: Bold, Strikethrough
Formatted: Font: Bold
Formatted: Font: (Default) Calibri, Bold
Formatted: Font: (Default) Calibri, Font color: Text 1
Formatted: Font: (Default) Calibri, Font color: Text 1
Formatted: Font: (Default) Calibri, Font color: Text 1
Formatted: Font: (Default) Calibri, Font color: Text 1
Formatted: Font: (Default) Calibri, Font color: Text 1
Formatted: Font: (Default) Calibri, Font color: Text 1
Formatted: Font: (Default) Calibri, Font color: Text 1
Formatted: Font: (Default) Calibri, Font color: Text 1
Formatted: Font: (Default) Calibri, Font color: Text 1

- ~~Temporary, special administrator, and guardianship of Minor(s) appointments do not require the order to fiduciary and acknowledgement.~~

- ~~If the same person is being appointed as both guardian and conservator, the requirements of (b) and (c) may be satisfied by one order, preferred form 4 in the ACJA.~~

~~Appointment Acceptance. The fiduciary must sign and file a document with the court accepting the appointment.~~

~~If required by the court, the fiduciary must file with the court any bond or post other security;~~

~~Letters of Appointment. The clerk of the court will issue Letters of appointment authorizing the fiduciary to act for protected person, incapacitated person, Minor, or the estate if all of the required filings are in order.~~

- ~~Duration of Appointment. If the duration of a fiduciary's appointment is limited by statute or court order, the letters of appointment must state the appointment's termination date.~~

- ~~Limitation of Authority. If the court restricts the authority of a personal representative, guardian, or conservator, the letters of appointment must include the language of the court's order restricting the fiduciary's authority.~~

- ~~Certified Copies. Before issuing certified copies of letters of appointment, the clerk must verify that the fiduciary's appointment is still in effect.~~

- ~~Recording. A conservator must record a certified copy of the letters with the county recorder in every county of any state where the estate owns real property. The conservator must file a copy of the recorded letters with the court that appointed the conservator no later than 30 days after a county recorder has recorded them.~~

Formatted: Font: (Default) Calibri, Font color: Text 1

Formatted: Font: (Default) +Body (Calibri), Font color: Text 1

Formatted: Font: (Default) +Body (Calibri), Font color: Text 1

Formatted: Font: (Default) +Body (Calibri), Font color: Text 1

Formatted: Font: (Default) +Body (Calibri), Font color: Text 1

Formatted: Font: (Default) Calibri, Font color: Text 1

Formatted: Font: (Default) Calibri, Font color: Text 1

Formatted: Font: (Default) Calibri, Font color: Text 1

Rule 25. Order to Fiduciary

(a) Generally. The court will not issue letters to a personal representative, a guardian, or a conservator until the appointed fiduciary has signed an acknowledgment and the court has filed an order as set forth below.

(b) Order to a Personal Representative. The order must be substantially similar to Form 1, Order to Personal Representative. This requirement does not apply to the appointment of a special administrator.

(c) Order to a Guardian. The order must be substantially similar to Form 2, Order to Guardian.

(d) Order to a Conservator. The order to a conservator for an adult must be substantially similar to Form 3, Order to Conservator. The order to a conservator for a minor must be substantially similar to Form 3M, Order to Conservator of a Minor.

(e) Order to a Guardian and Conservator. If the same person is being appointed as both guardian and conservator, the requirements of (c) and (d) may be satisfied by an order that is substantially similar to Form 4, Order to Guardian and Conservator.

Formatted: Font: (Default) Times New Roman

Formatted: Indent: Left: 0", Hanging: 0.5"

Workgroup 3 Aaron Nash assigned

Rule 26. Issuing and Recording Letters of Appointment.

(a) Scope. The court must authorize a personal representative, guardian, or conservator to act as a fiduciary before the fiduciary may act for the estate or for an incapacitated or protected person.

(b) Definition. "Letters of appointment" authorize the fiduciary to act for the estate or for an incapacitated or protected person.

(c) Duration of Appointment. If the duration of a fiduciary's appointment is limited by statute or court order, the letters of appointment must state the appointment's termination date.

(d) Limitation of Authority. If the court restricts the authority of a personal representative, guardian, or conservator, the letters of appointment must include the language of the court's order restricting the fiduciary's authority.

(e) Certified Copies. Before issuing certified copies of letters of appointment, the clerk must verify that the fiduciary's appointment is ~~still~~ in effect.

(f) Recording. A conservator must record a certified copy of the letters with the county recorder in every county of any state where the estate owns real property. The conservator must file a copy of the recorded letters with the court that appointed the conservator no later than 30 days after a county recorder has recorded them.

~~**COMMENT**~~

~~"Letters" is a term of art used to refer to the document that reflects the grant of authority to the fiduciary. Before letters are issued, (a) the court must enter a written order appointing the fiduciary, or the registrar must issue a statement, (b) the fiduciary must sign and file with the court a document in which the fiduciary accepts the appointment, and (c) the fiduciary must file with the court any bond or post other security required by the court. In addition, some fiduciaries may be required to sign an order acknowledging the fiduciary's duties. *See* Rule 25 of these rules.~~

~~Administration of a decedent's estate or power to act for an incapacitated or protected person begins after the clerk of the court issues such fiduciary "letters." Thus, a personal representative, guardian, or conservator has no authority to act until letters have been issued.~~

~~The words "temporary" and "permanent" are also terms of art associated with~~

~~administration of guardianships, conservatorships, and decedents' estates. To assist appointed fiduciaries in carrying out their duties, rather than inserting the words "temporary" or "permanent" in the caption for letters, the time frame of appointment or restrictions should be stated in the text.~~

ROBERT RAISED CONCERNS ABOUT INCLUDING A LIST (IN (C) OF ITEMS THE CLERK (NORMALLY – MIGHT BE THE REGISTRAR) MUST HAVE BEFORE ISSUING LETTERS – NOT BECAUSE IT IS INCORRECT BUT BECAUSE IT IS HARD TO PULL TOGETHER ALL THE STATUTORY AND RULE REQUIREMENTS, MAINTAIN THEIR CURRENCY AS LANGUAGE AND REFERENCES CHANGE, AND ACCOUNT FOR EXCEPTIONS AND QUALIFICATIONS FOR EACH.ADD A 5106 AFFIDAVIT/TRAINING TO SECTION C? ROBERT'S CONCERN IS ABOUT INCLUDING A LIST (IN (C)L OF ITEMS. THE CLERK (NORMALLY – MIGHT BE THE RHAS ADDITIONAL REQUIREMENTS IN MIND.ROBERT HAS ADDITIONAL REQUIREMENTS IN MIND.

CONSIDER ADDING A NEW FORM OF ORDER TO A GUARDIAN OF A MINOR, X-REF 14-5209

WWorkgroup 3 Aaron Nash assigned

Rule 26. Issuing and Recording Letters of Appointment.

(a) **Scope.** The court must authorize a personal representative, guardian, or conservator to act as a fiduciary before the fiduciary may act for the estate or for an incapacitated or protected person.

(b) **Definition.** "Letters of appointment" authorize the fiduciary to act for the estate or for an incapacitated or protected person. ~~means the document that gives the fiduciary authority to act.~~

~~**Appointment.** The following must occur before letters of appointment are issued:~~

- ~~The court must enter a written order appointing the fiduciary or the registrar must issue a statement of appointment;~~
- ~~The fiduciary must sign and file a document with the court accepting the appointment;~~
- ~~The fiduciary must file [proof of training] [proof of licensure] through the Arizona Supreme Court, Administrative Office of the Courts;~~
- ~~If applicable, the fiduciary must file the disclosure affidavit required under A.R.S. 14-5106;~~
- ~~If required by the court, the fiduciary must file with the court any bond or post other security; and~~

~~If applicable under Rule 25, the fiduciary must sign an order acknowledging the fiduciary's duties. The following must occur before letters of appointment issue unless the court orders otherwise:~~

- ~~The fiduciary must sign and file an application specifying that the letters of appointment are for a testamentary guardianship;~~
- ~~If the application is in the same court where the Will was probated, the registrar must verify the probated Will's terms. If the Will was probated in a different court, the fiduciary must provide the registrar with a certified copy of the probated Will to verify its terms;~~
- ~~The fiduciary must sign and file a document accepting the appointment;~~
- ~~A non-licensed fiduciary must file a certificate of completion of training [required by Rule 27.1? ARS 14-5202? ARS 14-5301?];~~

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

Formatted

Formatted

Formatted: Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.6" + Indent at: 0.6"

Formatted

Formatted

~~If applicable, the fiduciary must file the disclosure affidavit required under A.R.S. 14-5106;~~

~~If applicable, the fiduciary must file a Proof of Notice [required by ARS 14-5202 or 14-5301?];~~

~~The fiduciary must provide an Order to Guardian signed by the guardian; (Maricopa County does this to ensure guardians know their duties, since there is no court hearing)~~

~~If required by the registrar, the fiduciary must provide letters of testamentary guardianship. After verification, the registrar must sign an acceptance authorizing the clerk to issue the letters of appointment. (Maricopa County process – might not be used statewide)~~

~~(a)~~(c) **Duration of Appointment.** If the duration of a fiduciary's appointment is limited by statute or court order, the letters of appointment must state the appointment's termination date.

~~(b)~~(d) **Limitation of Authority.** If the court restricts the authority of a personal representative, guardian, or conservator, the letters of appointment must include the language of the court's order restricting the fiduciary's authority.

~~(c) **Bond.** The clerk may not issue letters of a personal representative, guardian, conservator, or special administrator until the fiduciary has filed any court-ordered bond or other security. [**Staff Note:** This appears to overlap a similar provision in current Rule 22.]~~

~~(d)~~(e) **Certified Copies.** Before issuing certified copies of letters of appointment, the clerk must verify that the fiduciary's appointment is ~~still~~ in effect.

~~(e)~~(f) **Recording.** A conservator must record a certified copy of the letters with the county recorder in every county of any state where the estate owns real property. The conservator must file a copy of the recorded letters with the court that appointed the conservator no later than 30 days after a county recorder has recorded them.

~~**COMMENT**~~

~~"Letters" is a term of art used to refer to the document that reflects the grant of authority to the fiduciary. Before letters are issued, (a) the court must enter a written order appointing the fiduciary, or the registrar must issue a statement, (b) the fiduciary must sign and file with the court a document in which the fiduciary accepts the appointment, and (c) the fiduciary must file with the court any bond or post other security required by the court. In addition, some fiduciaries may be required to sign an order acknowledging the fiduciary's duties. *See* Rule 25 of~~

Formatted: Font: Not Bold

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: Space Before: 10 pt, After: 0 pt, Line spacing: single

Formatted: Font: Bold, Strikethrough

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: Strikethrough

~~these rules.~~

~~Administration of a decedent's estate or power to act for an incapacitated or protected person begins after the court enters an order appointing a personal representative, guardian, or conservator and after the clerk of the court issues such fiduciary "letters." Thus, a personal representative, guardian, or conservator has no authority to act until letters have been issued.~~

~~The words "temporary" and "permanent" are also terms of art associated with administration of guardianships, conservatorships, and decedents' estates. To assist appointed fiduciaries in carrying out their duties, rather than inserting the words "temporary" or "permanent" in the caption for letters, the time frame of appointment or restrictions should be stated in the text.~~

~~ADD A 5106 AFFIDAVIT/TRAINING TO SECTION C?~~ ROBERT RAISED CONCERNS ABOUT INCLUDING A LIST (IN (C) OF ITEMS THE CLERK (NORMALLY – MIGHT BE THE REGISTRAR) MUST HAVE BEFORE ISSUING LETTERS – NOT BECAUSE IT IS INCORRECT BUT BECAUSE IT IS HARD TO PULL TOGETHER ALL THE STATUTORY AND RULE REQUIREMENTS, MAINTAIN THEIR CURRENCY AS LANGUAGE AND REFERENCES CHANGE, AND ACCOUNT FOR EXCEPTIONS AND QUALIFICATIONS FOR EACH ~~HAS ADDITIONAL REQUIREMENTS IN MIND~~.ADD A 5106 AFFIDAVIT/TRAINING TO SECTION C? ROBERT'S CONCERN IS ABOUT INCLUDING A LIST (IN (C)L OF ITEMS. THE CLERK (NORMALLY – MIGHT BE THE RHAS ADDITIONAL REQUIREMENTS IN MIND.ROBERT HAS ADDITIONAL REQUIREMENTS IN MIND.

CONSIDER ADDING A NEW FORM OF ORDER TO A GUARDIAN OF A MINOR, X-REF 14-5209

Formatted: Left, Indent: Left: 0", Right: 0", Space After: 8 pt, Line spacing: Multiple 1.08 li, Widow/Orphan control, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers

Formatted: Indent: Left: 0"

Formatted: Indent: Left: 0"

Formatted: Strikethrough

Rule 28. Pretrial Procedures.

(a) Initial Procedures in Contested Proceedings.

(1) ***Setting a Scheduling Conference.*** In a contested proceeding and unless the parties agree otherwise, the court will set a scheduling conference under Rule 16(d) of the Arizona Rules of Civil Procedure. Unless inconsistent with these rules, Rule 16(d) of the Arizona Rules of Civil Procedure applies to the conduct of the conference. [**JWR Note:** Is this necessary? Rule 16(d) merely lists the issues that may be considered at a Scheduling Conference. That seems to be already covered in (a)(3).]

(2) ***Timing.*** The scheduling conference must be set promptly after the date of the initial hearing on the petition, but it also may be held at the time set for the initial hearing on the petition. [**Staff Note:** Is there a provision that governs the setting of an initial hearing on the petition?]

(3) ***Issues.*** The scheduling conference should address the following issues:

(A) the deadline for filing a written objection if one has not already been filed;

(B) the deadline for filing a joint alternative dispute resolution statement under Rule 29; and

any other issues the court or the parties deem relevant.

(4) ***Scheduling Order.*** The court will enter an order after the scheduling conference that contains deadlines that were determined at the scheduling conference.

(b) Discovery and Disclosure. Unless inconsistent with these rules, Rules 26 through 37 [**Staff Note:** Note that the current rule says 26 through 37(f). Not clear whether this is intended to exclude Rule 37(g), but the proposed restyling deletes the section reference after Rule 37] of the Arizona Rules of Civil Procedure apply to discovery and disclosure in contested probate proceedings. [JWR Note: How does the rule square with tiering under Rule 26.2? If the intention is to include them, somewhere Rules 16(b) and (c) need to be referenced and incorporated in whole or in part.]

(c) Procedure for Evidentiary Hearings. Except to the extent A.R.S. Title 14 or these rules provide otherwise, Rule 38 and Rules 39 through 53 of the Arizona Rules of Civil Procedure apply to evidentiary hearings [add, "and trials?"] in probate proceedings. Rule 38.1 of the Arizona Rules of Civil Procedure does not apply to contested probate proceedings unless the court orders otherwise.

COMMENT

Parties and their attorneys are encouraged to confer before the initial hearing on the petition or the scheduling conference to agree on various pretrial deadlines. If the parties and their attorneys cannot agree, the parties and attorneys shall follow the Arizona Rules of Civil Procedure, specifically Rule 16(b). Any agreement may be submitted to the court in writing, thereby eliminating the need for the scheduling conference or reducing the scope of the conference, unless the court orders otherwise. The judicial officer may schedule a telephonic conference call in lieu of a conference and request that the parties submit a proposed schedule of deadlines.

Arizona Rule of Civil Procedure 38.1 deals with motions to set and certificates of readiness, which generally are not used in probate proceedings. Rule 38.1 is therefore inconsistent with these rules and is intentionally excluded.

Rules of Civil Procedure, Rule 16

Rule 16. Scheduling and Management of Actions

<Text of Rule 16 effective July 1, 2018. See, also, Rule 16 effective until July 1, 2018.>

(a) Objectives. In accordance with Rule 1, the court must manage a civil action with the following objectives:
(1) expediting a just disposition of the action;
(2) establishing early and continuing control so that the action will not be protracted because of lack of management;
(3) ensuring that discovery is proportional to the needs of the action, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of proposed discovery outweighs its likely benefit;
(4) discouraging wasteful, expensive, and duplicative pretrial activities;
(5) improving the quality of case resolution through more thorough and timely preparation;
(6) facilitating the appropriate use of alternative dispute resolution;
(7) conserving parties' resources;
(8) managing the court's calendar to eliminate unnecessary trial settings and continuances; and
(9) adhering to applicable standards for timely resolution of civil actions.
(b) Required Early Meeting About Expected Course of Case, Tiering.
(1) *Timing; Purpose*. At the earliest practicable time, but no later than 30 days after a party files an answer or files a motion directed at the complaint, or 120 days after the action commences--whichever occurs first--that party and the plaintiff must meet and confer about the anticipated course of their case, including the tier to which it should be assigned under Rule 26.2 and the subjects set forth in Rule 16(b)(2) and (c). The parties must discuss whether and how they can agree to streamline and limit claims and affirmative defenses to be asserted, discovery to be taken, and motions to be brought. The purpose of the conference is to plan cooperatively for the case, and to facilitate the case's placement in one of three tiers discovery. The attorneys of record and all unrepresented parties who have appeared in the action are jointly responsible for arranging and participating in the Early Meeting.
(2) *Topics for Early Meeting*. The parties should discuss at least:
(A) their anticipated disclosures concerning witnesses, including the number of fact witnesses, whether they will seek to use expert witnesses, and how much deposition testimony they expect will be necessary;
(B) their anticipated disclosures of documents, including any issues already known to them concerning electronically stored information;

(C) motions they expect to file, so that the parties can determine whether any of the motions can be avoided by stipulations, amendments, or other cooperative activity;
(D) any agreements that could aid in the just, speedy, and inexpensive resolution of the case;
(E) the discovery tier to which the case should be assigned under Rule 26.2, and whether the parties wish to stipulate--or any party wishes to move for--assignment to a tier other than that to which the case would be assigned given the amount in controversy; and
(F) the subjects set forth in Rule 16(c).

(c) Filing of Joint Report and Proposed Scheduling Order.

(1) *Timing*. No later than 14 days after the Early Meeting, the parties must file a Joint Report and a Proposed Scheduling Order. The attorneys of record and all unrepresented parties who have appeared in the action are jointly responsible for attempting in good faith to agree on a Proposed Scheduling Order, and for filing the Joint Report and the Proposed Scheduling Order with the court. The court must issue a Scheduling Order as soon as practicable either after receiving the parties' Joint Report and Proposed Scheduling Order or after holding a Scheduling Conference.
(2) *Content of Joint Report*. The Joint Report must state--to the extent practicable--the parties' positions on the subjects set forth in Rule 16(b)(2) and (c)(3) and must attach a proposed Scheduling Order. The parties are not required to describe their Early Meeting in the Joint Report but may do so. Any summary must describe the case with respect to the characteristics in Rule 26.2(b) and (c) to be used in assigning cases to a discovery tier and must set forth any agreements the parties have reached to streamline the case. In the Joint Report, the parties are not permitted to discuss or criticize the rejection of proposed agreements or to argue that the other party has taken unreasonable positions. Unless ordered by the court, a summary must not exceed 4 pages of text, which length must be split evenly between separate statements of the parties if they do not agree on the summary's contents. The Joint Report must attach a good faith consultation certificate under Rule 7.1(h) and certify that the parties conferred regarding the subjects set forth in Rule 16(b)(2) and (c)(3).
(3) *Content of Proposed Scheduling Order*. The proposed Scheduling Order must state the discovery tier to which the case is assigned, and must specify deadlines for the following by calendar date, month, and year:
(A) serving initial disclosures under Rule 26.1 if they have not already been served;
(B) identifying areas of expert testimony;
(C) identifying and disclosing expert witnesses and their opinions under Rule 26.1(d);
(D) propounding written discovery;
(E) disclosing nonexpert witnesses;
(F) completing depositions;
(G) completing all discovery other than depositions;
(H) final supplementation of Rule 26.1 disclosures;
(I) unless the court orders otherwise for good cause, a deadline for holding a Rule 16.1 settlement conference or private mediation to occur no more than 15 months after the action commenced, but in no event later than 60 days after the date discovery is set to

complete consistent with the discovery tier to which the case is assigned under Rule 26.2(f);
(J) filing dispositive motions;
(K) a proposed trial date; and
(L) the anticipated number of days for trial.
(4) *Dates Certain*. The Scheduling Order must include calendar deadlines specifying the month, date, and year for each of the items included in the Proposed Scheduling Order, consistent with the discovery tier to which the case is assigned under Rule 26.2(f). The Scheduling Order must also set either: (A) a trial date; or (B) a date for a Trial-Setting Conference under Rule 16(e) at which a trial date may be set. Absent leave of court, no trial may be set unless the parties certify that they engaged in a settlement conference or private mediation, or that they will do so by a date certain approved by the court. The Scheduling Order also may address other appropriate matters.
(5) *Modification of Dates Established by Scheduling Order*. The parties may modify the dates established in a Scheduling Order that govern court filings or hearings only by court order for good cause. Once a trial date is set, the parties may modify that date only under Rule 38.1.
(6) *Request for Discovery Tier*.
(A) Stipulations. The parties may include in the Joint Report a proposed stipulation to a discovery tier, setting forth good cause for the requested tiering in compliance with Rule 26.2(c)(1).
(B) Motions; Timing. Any motion to vary the tier to which a case is deemed to be assigned under Rule 26.2(c)(3) must be made by the date on which the parties must file their Joint Report. Any such motion must be filed separately from the Joint Report and may not exceed three pages in length. Any responsive memorandum may not exceed three pages in length and must be filed within 5 days after service of the motion. No reply memorandum is permitted.
(7) *Forms*. The parties must file the Joint Report and the Proposed Scheduling Order using the forms approved by the Supreme Court and set forth in Rule 84, Forms 11 through 13. They must use Forms 11(a) and (b) for Tier 1 cases, Forms 12(a) and (b) for Tier 2 cases, and Forms 13(a) and (b) for Tier 3 cases.
(8) *Applicability*. The requirements of Rule 16(b) and (c) apply to all civil actions except:
(A) the requirements of Rule 16(b) apply to actions subject to compulsory arbitration under Rule 72(b), but the requirements of Rule 16(c) do not. In actions subject to compulsory arbitration, no later than 14 days after the Early Meeting, the parties must file a Report of Early Meeting stating the date(s) on which the Early Meeting occurred and containing either a proposed stipulation to a discovery tier, or the parties' positions regarding the appropriate discovery tier. The Report of Early Meeting must attach a good faith consultation certificate under Rule 7.1(h); and
(B) the requirements of Rule 16(b) and (c) do not apply to actions seeking the following relief:
(i) change of name;
(ii) forcible entry and detainer;

(iii) enforcement, domestication, transcript, or renewal of a judgment;
(iv) an order pertaining to a subpoena sought under Rule 45.1(e)(2);
(v) restoration of civil rights;
(vi) injunction against harassment or workplace harassment;
(vii) delayed birth certificate;
(viii) amendment of birth certificate or marriage license;
(ix) civil forfeiture;
(x) distribution of excess proceeds;
(xi) review of a decision of an agency or a court of limited jurisdiction;
(xii) declarations of factual innocence under Rule 57.1 or factual improper party status under Rule 57.2; and
(xiii) petitions under Rule 45.2(e).

(d) Scheduling Conferences. On a party's written request, the court must--or on its own the court may--set a Scheduling Conference. At any Scheduling Conference under this Rule 16(d), the court may:
(1) determine what additional disclosures, discovery and related activities will be undertaken and establish a schedule for those activities, including whether and when any examinations will take place under Rule 35;
(2) discuss which form of Joint Report and Scheduling Order is appropriate under Rule 16(c)(7);
(3) determine whether the court should enter orders addressing one or more of the following:
(A) setting forth any requirements or limits for the disclosure or discovery of electronically stored information, including the form or forms in which the electronically stored information should be produced and, if appropriate, the sharing or shifting of costs incurred by the parties in producing the information;
(B) setting forth any measures the parties must take to preserve discoverable documents or electronically stored information; and
(C) adopting any agreements the parties reach for asserting claims of privilege or of protection for work-product materials after production;
(4) determine a schedule for disclosing expert witnesses and whether the parties should be required to provide signed reports from retained or specially employed experts in compliance with Rule 26.1(d)(4);
(5) determine the number of expert witnesses or designate expert witnesses as set forth in Rule 26(b)(4)(D);
(6) determine a date for disclosing nonexpert witnesses and the order of their disclosure;
(7) determine a deadline for filing dispositive motions;
(8) resolve any discovery disputes;
(9) eliminate nonmeritorious claims or defenses;
(10) permit amendment of the pleadings;
(11) assist in identifying those issues of fact that are still contested;
(12) obtain stipulations for the foundation or admissibility of evidence;
(13) determine the desirability of special procedures for managing the action;

(14) consider alternative dispute resolution and determine a deadline for the parties to participate in a settlement conference or private mediation;
(15) determine whether any time limits or procedures set forth in these rules or local rules should be modified or suspended;
(16) determine whether the parties have complied with Rule 26.1;
(17) determine a date for filing the Joint Pretrial Statement required by Rule 16(f);
(18) set a trial date and determine the anticipated number of days needed for trial;
(19) discuss any time limits on trial proceedings, juror notebooks, brief pre-voir dire opening statements, and preliminary jury instructions, and the effective management of documents and exhibits;
(20) determine how a verbatim record of future proceedings in the action will be made; and
(21) discuss other matters and enter other orders that the court deems appropriate.

(e) Trial-Setting Conference.

(1) *Generally*. If the court has not already set a trial date in a Scheduling Order or otherwise, the court must hold a Trial-Setting Conference--as set by the Scheduling Order--for the purpose of setting a trial date. The Conference must be attended in person--or telephonically, as permitted by the court--by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties. If a trial date is not set at the Trial-Setting Conference, the court must schedule another Trial-Setting Conference as soon as practicable for the setting of a trial date.
(2) *Subject Matter*. In addition to setting a trial date, the court may discuss at the Trial-Setting Conference:
(A) the status of discovery and any dispositive motions that have been or will be filed;
(B) a date for holding a Trial Management Conference under Rule 16(f);
(C) imposing time limits on trial proceedings;
(D) using juror questionnaires;
(E) using juror notebooks;
(F) giving brief pre-voir dire opening statements and preliminary jury instructions;
(G) effective management of documents and exhibits; and
(H) other matters that the court deems appropriate.

(f) Joint Pretrial Statement; Trial Management Conference.

(1) *Preparation of Joint Pretrial Statement*. Counsel or the unrepresented parties who will try the action and who are authorized to make binding stipulations must confer and prepare a written Joint Pretrial Statement, signed by each counsel or unrepresented party. The parties must file the Joint Pretrial Statement no later than 10 days before the date of the Trial Management Conference, or if no conference is scheduled, no later than 10 days before trial. A plaintiff must deliver its part of the Joint Pretrial Statement to all other parties no later than 20 days before the date the Statement must be filed. All other parties must deliver their part of the Joint Pretrial Statement to all other parties no later than 15 days before the date the Statement must be filed.
(2) *Contents of Joint Pretrial Statement*. The parties must prepare the Joint Pretrial Statement as a single document containing the following:

(A) stipulations of material fact and applicable law;
(B) contested issues of fact and law that the parties agree are material or applicable;
(C) a separate statement by each party of other issues of fact and law that the party believes are material;
(D) a list of witnesses each party intends to call to testify at trial, identifying those witnesses whose testimony will be presented solely by deposition. Each party must list any objection to a witness and the basis for that objection. Unless the court orders otherwise for good cause, no witness may testify at trial other than those listed;
(E) each party's final list of exhibits to be used at trial for any purpose, including impeachment. Each party must list any objection to an exhibit and the basis for that objection. Unless the court orders otherwise for good cause, no exhibit may be used at trial other than those listed. The parties should identify any exhibits that they stipulate can be admitted into evidence, with such stipulations being subject to court approval;
(F) a statement by each party identifying any proposed deposition summaries or designating parts of any deposition testimony to be offered by that party at trial, other than for impeachment purposes. The parties must designate deposition testimony by transcript page and line numbers. The parties must file with the Joint Pretrial Statement a copy of any proposed deposition summary and the written transcript of designated deposition testimony. Each party must list any objection to the proposed deposition summaries and designated deposition testimony and the basis for that objection. Unless the court orders otherwise for good cause, no deposition testimony may be used at trial other than that designated or counter-designated in the Joint Pretrial Statement or that used solely for impeachment purposes;
(G) a brief statement of the case to be read to the jury during voir dire. If the parties cannot agree on this statement, then each party must submit a separate statement for the court's consideration;
(H) requested technical equipment;
(I) requested interpreters;
(J) if the trial is to a jury, the number of jurors and alternates, whether the alternates may deliberate, and the number of jurors required to reach a verdict;
(K) whether any party is invoking Arizona Rule of Evidence 615 regarding the exclusion of witnesses from the courtroom;
(L) a brief description of settlement efforts; and
(M) how a verbatim record of the trial will be made.
(3) *Delivery of Exhibits*. A plaintiff must deliver copies of all its exhibits to all other parties no later than 10 days before the date the Joint Pretrial Statement must be filed. All other parties must deliver copies of all their exhibits to all other parties no later than 5 days before the date the Joint Pretrial Statement must be filed. Any exhibit that cannot be reproduced must be made available for inspection to all other parties on or before these deadlines.
(4) *Additional Documents to File if Trial Is to a Jury*. If the trial is to a jury, the parties must--on the same day they file the Joint Pretrial Statement--file: (A) an agreed-on set of

jury instructions, verdict forms, and voir dire questions; and (B) any additional jury instructions, verdict forms, and voir dire questions requested, but not agreed on.
(5) *Juror Notebooks*. A party intending to submit a notebook to the jurors must serve a copy of the notebook on all other parties no later than 5 days before the Trial Management Conference, or, if no Conference is scheduled, no later than 5 days before the trial.
(6) *Trial Memoranda*. A party must file any trial memorandum no later than 5 days before the Trial Management Conference, or, if no Conference is scheduled, no later than 5 days before the trial.
(7) *Trial Management Conference*. Any Trial Management Conference scheduled by the court should be held as close to the time of trial as is reasonable under the circumstances. The Conference must be attended by at least one of the attorneys who will conduct the trial for each of the parties and by all unrepresented parties.
(8) *Modifications*. Rule 16(f)'s provisions may be modified by court order.
(g) Pretrial Orders. After any conference held under this rule, the court must enter an order reciting the action taken. This order controls the later course of the action unless modified by a later court order. The order entered after a Trial Management Conference under Rule 16(f) may be modified only to prevent manifest injustice.
(h) Sanctions.
(1) *Generally*. Except on a showing of good cause, the court--on motion or on its own--must enter such orders as are just, including, among others, any of the orders in Rule 37(b)(2)(A)(ii) through (vii), if a party or attorney:
(A) fails to obey a scheduling or pretrial order or fails to meet the deadlines set in the order;
(B) fails to appear at a Scheduling Conference, Comprehensive Pretrial Conference, Trial-Setting Conference, or Trial Management Conference;
(C) is substantially unprepared to participate in a Scheduling Conference, Comprehensive Pretrial Conference, Trial-Setting Conference, or Trial Management Conference;
(D) fails to participate in good faith in a Scheduling Conference, Comprehensive Pretrial Conference, Trial-Setting Conference, or Trial Management Conference; or
(E) fails to participate in good faith in the preparation of a Joint Report and Proposed Scheduling Order or a Joint Pretrial Statement.
(2) *Award of Expenses*. Unless the court finds the conduct substantially justified or that other circumstances make an award of expenses unjust, the court must--in addition to or in place of any other sanction--require the party, the attorney representing the party, or both, to pay:
(A) another party's reasonable expenses, including attorney's fees, incurred as a result of the conduct;
(B) an assessment to the clerk; or
(C) both.
(3) *Trial Date*. The fact that a trial date has not been set does not preclude sanctions under this rule, including the sanction of excluding from evidence untimely disclosed information.

(i) Alternative Dispute Resolution. On motion--or on its own after consulting with the parties--the court may direct the parties to submit the dispute that is the subject matter of the action to an alternative dispute resolution program created or authorized by appropriate local court rules.
(j) Time Limits. The court may impose reasonable time limits on trial proceedings.

Rule 26.2. Tiered Limits to Discovery Based on Attributes of Cases

<Text of Rule 26.2 effective July 1, 2018. See, also, Rule 26.2 effective until July 1, 2018.>

(a) Generally. This rule explains how much discovery a party may take in their case. The amount of discovery a party may take is limited by the tier to which their case is assigned. This rule explains how and when cases are assigned to one of three tiers, each of which has different limits.

(b) Criteria for Assigning Cases to Tiers. Cases should be considered for assignment to a tier by case characteristics, consistent with the factors that define proportional discovery in Rule 26(b)(1). The following sets of characteristics are not exhaustive:

(1) *Tier 1: Case Characteristics*. These are simple cases that can be tried in one or two days. Automobile tort, intentional tort, premises liability, and insurance coverage claims arising from those types of claims are generally Tier 1 cases, absent unusual circumstances. Cases with minimal documentary evidence and few witnesses are likely Tier 1 cases.

(2) *Tier 2: Case Characteristics*. These are cases of intermediate complexity. They are likely to have more than minimal documentary evidence and more than a few witnesses. They are likely to include, but may not include, expert witnesses. They are likely to involve multiple theories of liability and may involve counterclaims or cross-claims. Cases that do not easily fit within Tiers 1 and 3 belong here.

(3) *Tier 3: Case Characteristics*. These are cases that are logistically or legally complex. Class actions, antitrust, multi-party commercial or construction cases, securities cases, environmental torts, construction defect cases, medical malpractice cases, products liability cases, and mass torts are among those cases that generally belong in Tier 3, absent unusual circumstances. Cases with voluminous documentary evidence, or with numerous pretrial motions raising difficult or novel legal issues, are likely Tier 3 cases. Cases

requiring management of a large number of witnesses or separately represented parties, or which require coordination with related actions pending in other courts, are likely Tier 3 cases.

(c) How Courts Assign Cases to Tiers. The tier to which a case is assigned is determined by either: (1) stipulation or motion, for good cause shown; (2) placement by the court based on the characteristics of the case; or (3) the sum of the relief sought in the complaint, and any counterclaims or crossclaims.

(1) *By Stipulation of Parties or on Motion*. As provided in Rule 16(c)(6), all parties by stipulation or any party by motion may request that the court assign the case to a tier other than the one to which it would be assigned under Rule 26.2(c)(3), for good cause. A court must determine good cause to vary a tier with reference to the factors that define proportional discovery in Rule 26(b)(1). The court may reject any stipulation or joint motion requesting assignment under this rule.

(2) *Placement by Court*. The court may evaluate a case for assignment to a tier. The court has the discretion to assign a case to any tier, based on the totality of the circumstances of that case, consistent with the case characteristics set forth in Rule 26.2(b) and the factors that define proportional discovery in Rule 26(b)(1).

(3) *Monetary or Nonmonetary Relief Requested*. All cases not assigned a tier by the procedures in Rule 26.2(c)(1) or (2) are deemed to be assigned a tier based on the damages claimed in the action, as defined in Rule 26.2(e).

(A) Tier 1. Actions claiming $50,000 or less in damages are permitted standard discovery as described for Tier 1.

(B) Tier 2. Actions claiming more than $50,000 and less than $300,000 in damages are permitted standard discovery as described for Tier 2.

(C) Tier 3. Actions claiming $300,000 or more in damages are permitted standard discovery as described for Tier 3.

(D) Certain Actions Claiming Nonmonetary Relief. Actions claiming nonmonetary relief alone or in conjunction with claims for damages under $300,000 are permitted standard discovery as described for Tier 2.

(d) When Courts Assign Cases to Tiers.

(1) *By Monetary or Nonmonetary Relief Requested*. From the filing of the complaint until a court assigns a case to a different tier, the case is deemed to be assigned to the tier to which it would be assigned based on its monetary or nonmonetary relief requested under Rule 26.2(c)(3).

(2) *By the Court's Own Evaluation*. If a court evaluates a case for tiering under Rule 26.2(c)(2), it must assign the case to a tier no later than 20 days after the parties file their Joint Report under Rule 16(c)(1).

(3) *By Stipulation of Parties or Motion*. If a court assigns a case a tier based on a stipulation or motion under Rule 26.2(c)(1), it should do so at the earliest practicable time. That notwithstanding, a later joined or later served party may promptly move the court to change the assigned tier.

(e) Definition of Damages in Tiering. For purposes of determining the tier for standard discovery, the amount of damages claimed in an action includes all monetary damages sought (without duplication for alternative theories) by all parties in all claims for relief in the original pleadings, but excludes claims for punitive damages, interest, attorney's fees in the case to be tiered, and costs.

(f) Limits on Discovery. Discovery per side (plaintiffs collectively, defendants collectively, and third-party defendants collectively) in each tier is limited as stated below. The time to complete discovery runs from the date of the Early Meeting, subject to the court's power to extend the time for completion of discovery for good cause shown.

(1) *Tier 1*. Each side in a Tier 1 case is permitted 5 total hours of fact witness depositions, 5 Rule 33 interrogatories, 5 Rule 34 requests for production, 10 Rule 36 requests for admission, and 120 days in which to complete discovery.

(2) *Tier 2*. Each side in a Tier 2 case is permitted 15 total hours of fact witness depositions, 10 Rule 33 interrogatories, 10 Rule 34 requests for production, 10 Rule 36 requests for admission, and 180 days in which to complete discovery.

(3) *Tier 3*. Each side in a Tier 3 case is permitted 30 total hours of fact witness depositions, 20 Rule 33 interrogatories, 10 Rule 34 requests for production, 20 Rule 36 requests for admission, and 240 days in which to complete discovery.

(g) Obtaining Discovery Beyond Tier Limits.

(1) *Generally*. To obtain discovery beyond the limits on discovery established in Rule 26.2(f), a party must file either:

(A) a motion for discovery beyond tier limits setting forth why that discovery is necessary and proportional under Rule 26(b)(1), attaching that discovery, or in the case of a request for deposition, describing the anticipated discovery, and attaching a good faith consultation certificate complying with Rule 7.1(h); or

(B) a stipulation that, for each category of discovery for which the limit of discovery has been requested, that discovery beyond tier limits is necessary and proportional under Rule 26(b)(1).

(2) *Timing*. A motion or stipulation under (1) must be filed before the close of standard discovery and before serving a discovery request that reaches or exceeds the limit imposed by Rule 26.2(f) on any category of discovery.

(3) *Effect of Stipulation*. A filed "Stipulation for Overlimit Discovery" complying with this rule authorizes the taking of the agreed additional discovery without the necessity for a court order. The court retains the power to disapprove any such stipulation.

(h) Circumstances Requiring Additional Deposition Time or Written Discovery. Despite the total limits on deposition hours set out in Rule 26.2(f)(1)-(3):

(1) in a case with more than one party on a side, the court may for good cause increase a side's allowed hours for fact witness depositions, allocate the allowed deposition hours among the parties on a side, or take any other action necessary to provide each party on a side with a reasonable opportunity to conduct deposition discovery;

(2) additional examination time ordered for the reasons set forth in Rule 30(d) does not count against the tier limits; and

(3) if the configuration of sides as defined in Rule 26.2(f) provides more deposition time or written discovery to one group of parties with common interests than another group of parties with common interests, the court may for good cause adjust how Rule 26.2(f) allocates the totality of deposition time or written discovery it allows between those sides.

(i) Variations in Expert Discovery by Tier. Unless the parties agree or the court orders otherwise, expert disclosures in Tier 1 or Tier 2 cases are governed by Rule 26.1(d)(3), while expert disclosures in Tier 3 cases are governed by Rule 26.1(d)(4).

2018 COMMENT ON RULE 26.2

Rule 26.2 establishes a three-tiered system of case management to make discovery occur in a manner that is proportional under Rule 26(b)(1). If neither the parties nor the court seek to actively direct a case toward a tier, the case will receive a tier based upon the amount at issue in the case or requests for nonmonetary relief. However, parties can ask for a different tier, based on the proportionality factors in Rule 26(b)(1). And courts can actively manage cases and to assign a case to a tier at the start of the matter, on their own initiative or based upon their own review of the Rule 16(c) Joint Report, under Rule 26.2(c)(2). Rule 26.2(b) provides many factors for courts to use in determining the tier to which a case is best suited.

However, making discovery proportional is not an end in itself. Rules 8, 26, 26.1, 26.2, and 37, as now revised, work together to strengthen mandatory initial disclosure of relevant material as the bedrock of Arizona civil litigation. Rule 26.2 now emphasizes keeping discovery proportional based on the understanding that proportional discovery follows up on robust initial disclosure under Rule 26.1. The 2018 amendments seek to make initial disclosure robust through a clearer mandate to impose sanctions under Rule 37 for failures to disclose relevant material and for abuses of discovery.

Rule 29. Alternative Dispute Resolution.

(a) Generally. On a party's motion or on its own, the court may order the parties to participate in one or more alternative dispute resolution processes, such as mediation, a settlement conference, or, if the parties agree, private dispute resolution.

(b) Duty to Confer and Participate. The parties have a duty to make a good faith effort to agree on, and to participate in, an alternative dispute resolution process.

(c) Arbitration. Unless ordered by the court, the parties to a contested matter are not subject to compulsory arbitration under Rules 72 through 77 of the Arizona Rules of Civil Procedure.

~~**COMMENT**~~

~~This rule is not intended to discourage parties or their attorneys from exploring the use of alternative dispute resolution.~~

Rule 29. Alternative Dispute Resolution.

(a) Generally. On a party's motion or on its own, the court may order the parties to participate in one or more alternative dispute resolution processes, such as ~~arbitration,~~ mediation, a settlement conference, ~~or open negotiation,~~ or, if the parties agree, ~~a~~ private dispute resolution ~~process~~.

~~(b)~~ **Duty to Confer and Participate.** The parties have a duty to make a good faith effort to agree on, and to participate in, an alternative dispute resolution process. ~~No later than 30 days after a probate proceeding becomes contested under Rule 27, the parties must confer, either in person or by telephone, about:~~

~~(1) the possibilities for a prompt settlement or resolution of the case; and~~

Formatted

~~(2)~~(b) ~~whether the parties might benefit from participating in alternative dispute resolution and, if so, the type of process that would be most appropriate in their case, the selection of an alternative dispute resolution service provider, and the scheduling of proceedings.~~

~~**(c) Report to the Court.** No later than 15 days after their conference under (b), the parties must inform the court:~~

~~**(1)** if the parties agreed to alternative dispute resolution and, if so, the type of alternative dispute resolution process, the name and address of their alternative dispute resolution service provider, and the date by which they anticipate the alternative dispute resolution proceedings will be completed;~~

~~**(2)** if the parties have not agreed to use alternative dispute resolution, the position of each party concerning the type of alternative dispute resolution appropriate for the case or, in the alternative, why alternative dispute resolution is not appropriate; and~~

~~**(3)** whether any party requests the court to conduct a conference for considering alternative dispute resolution options.~~

~~**(d) Other Duties.** If the parties agree to participate in alternative dispute resolution, they have a duty to participate in the process in good faith. [Staff Note: Section (a) also contains a good faith requirement. Should there be a global good faith requirement in one of the initial rules?] The parties also have a duty to report the outcome to the court.~~

~~(e)~~(c) **Arbitration.** ~~The~~ Unless ordered by the court, the parties to a contested matter are not subject to compulsory arbitration under Rules 72 through 77 of the Arizona Rules of Civil Procedure. ~~However, A.R.S. § 14-1108 authorizes the court to order~~

~~alternative dispute resolution, including arbitration, and, if the court orders arbitration, Rules 73 through 77 of the Arizona Rules of Civil Procedure will govern the process.~~

~~**COMMENT**~~

~~This rule is not intended to discourage parties or their attorneys from exploring the use of alternative dispute resolution.~~

Formatted: Strikethrough

Workgroup 3 Judge David Mackey assigned

Rule 35. Enforcement of Court Orders in Probate Cases

(a) Generally. The court has the power to enforce compliance with court orders. In addition to that power, the sanctions provided in statute, and the sanctions in Rule 37, Arizona Rules of Civil Procedure, the court may issue arrest warrants and orders to show cause as set forth below. This rule does not govern criminal contempt sanctions imposed to punish an offender or to vindicate the authority of the court.

(b) Civil Arrest Warrants. Pursuant to Rule 64.1, Arizona Rules of Civil Procedure, the court may issue a civil arrest warrant to obtain the appearance of a person before the court when that person has failed to appear in court after receiving actual notice of an order or subpoena to appear at a specific time and location that included a warning that the failure to appear might result in the issuance of a civil arrest warrant.

(c) Fiduciary Arrest Warrants. Pursuant to A.R.S. §§14-5701 through 5704, the court may issue a fiduciary arrest warrant to obtain the appearance of a fiduciary before the court when that fiduciary has failed to appear in court after receiving actual notice of an order to appear at a specific time and location that included a warning that the failure to appear might result in the issuance of a fiduciary arrest warrant.

(d) Orders to Show Cause. Pursuant to Rule 7.3, Arizona Rules of Civil Procedure, the court may issue an order to show cause to address problems arising from a party's failure to discharge duties or obligations required by court order, court rule, or statute.

Commented [MDH1]: Adding the comment from below into the rule with a couple of modifications.

Commented [li2]: The fiduciary is a party

Workgroup 3 Judge David Mackey assigned

Rule 35. ~~Arrest Warrants and Orders to Show Cause.~~ Enforcement of Court Orders in Probate Cases

(a) **Generally**. The court has the power to enforce compliance with court orders. In addition to that power, the sanctions provided in statute, and the sanctions in Rule 37, Arizona Rules of Civil Procedure, the court may issue arrest warrants and orders to show cause as set forth below. This rule does not govern criminal contempt sanctions imposed to punish an offender or to vindicate the authority of the court.

~~**Civil Arrest Warrants.** Rule 64.1 of the Arizona Rules of Civil Procedure governs civil arrest warrants. The court may issue a civil arrest warrant to obtain the appearance of a person before the court when that person has failed to appear in court after receiving actual notice of an order or subpoena to appear at a specific time and location that included a warning that the failure to appear might result in the issuance of a civil arrest warrant.~~

~~(a)~~(b) ~~**Alternate a:**~~ Pursuant to Rule 64.1, Arizona Rules of Civil Procedure, the court may issue a civil arrest warrant to obtain the appearance of a person before the court when that person has failed to appear in court after receiving actual notice of an order or subpoena to appear at a specific time and location that included a warning that the failure to appear might result in the issuance of a civil arrest warrant.

~~**Fiduciary Arrest Warrants.** A.R.S. §§ 14-5701 through -5704 govern fiduciary arrest warrants. The court may issue a fiduciary arrest warrant to obtain the appearance of a fiduciary before the court when that fiduciary has failed to appear in court after receiving actual notice of an order to appear at a specific time and location that included a warning that the failure to appear might result in the issuance of a fiduciary arrest warrant. address the failure of a fiduciary to appear for a probate proceeding after being ordered to appear.~~

~~(b)~~(c) ~~**Alternate b:**~~ Pursuant to A.R.S. §§14-5701 through 5704, the court may issue a fiduciary arrest warrant to obtain the appearance of a fiduciary before the court when that fiduciary has failed to appear in court after receiving actual notice of an order to appear at a specific time and location that included a warning that the failure to appear might result in the issuance of a fiduciary arrest warrant.

~~**Orders to Show Cause.** Rule 7.3 of the Arizona Rules of Civil Procedure governs orders to show cause. The court may issue use an order to show cause to address problems arising from a party's failure to discharge duties or obligations required by court order, court rule, or statute.~~

Formatted: Font: Bold

Formatted: List Paragraph,List Level 1

Commented [MDH1]: Adding the comment from below into the rule with a couple of modifications.

Commented [MDH2]: Attempted to be consistent with the language in the fiduciary arrest warrants section. Both Rule 64.1 and ARS 14-5701 – 5704 require actual notice of the prior order to appear, refer to the place and time of appearance and require a warning that the failure to appear might result in the issuance of an arrest warrant.

Formatted: Strikethrough

Formatted: Not Strikethrough

Formatted: Strikethrough

Commented [li3]: The fiduciary is a party

~~(c)~~(d) ~~**Alternate c:**~~ Pursuant to Rule 7.3, Arizona Rules of Civil Procedure, the court may issue an order to show cause to address problems arising from a party's failure to discharge duties or obligations required by court order, court rule, or statute.

Commented [li4]: The fiduciary is a party

~~**COMMENT**~~

~~The court has the power to ensure compliance with court orders. This rule sets forth tools in addition to the sanctions provided in statute and in Rule 37, Arizona Rules of Civil Procedure. The rule does not govern criminal contempt sanctions imposed to punish an offender or vindicate the authority of the court.~~

Commented [MDH5]: Moving this into the rule.

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: Indent: Left: 0", Right: 0"

~~The superior court must notify the supreme court if it appears a licensed fiduciary has violated any rule adopted by the supreme court. *See* A.R.S. § 14-5651(D).~~
~~A.R.S. §14-5651(D) governs the required notification by the superior court of any fiduciary who has violated any rule adopted by the supreme court and the required investigation by the supreme court.~~

Commented [MDH6]: I suggest this be a part of a rule regarding fiduciaries. I am just not sure it belongs in this section. The following is the rule language I suggest.

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: Strikethrough

Rule 37. Settlements Involving Minors or Adults in Need of Protection.

(a) Generally. Any settlement of a personal injury or wrongful death claim brought on behalf of a minor or an adult person in need of protection must be submitted for approval by a judicial officer assigned to hear matters arising under A.R.S. Title 14, regardless of whether a court has previously appointed a conservator for the minor or person in need of protection.

(b) Petitioner. A petition for approval may be brought by a court-appointed guardian, a guardian *ad litem*, or other interested party.

(c) Procedure on hearing. If it is appropriate or necessary to assure fairness and justice for a minor, an adult in need of protection or other litigants, the court may appoint a representative pursuant to ARS §14-1408 or a master pursuant to Rule 53, Arizona Rules of Civil Procedure, with specific instructions to address (as may be applicable):

(1) The reasonableness of the settlement proposal,

(2) The attorney fees to be paid from the minor's or adult's settlement proceeds,

(3) The costs of litigation and apportionment of those costs, and

(4) The proper apportionment of settlement proceeds among the various litigants.

(d) Orders. The court hearing the petition may enter any appropriate order under the authority of A.R.S.§§14-5408 and 14-5409, including an order authorizing a single transaction to approve such settlement and establishment of a protective arrangement other than a conservatorship. After considering the size and nature of the proceeds from such settlement, the age and sophistication of the minor or person in need of protection, the living arrangements and ongoing needs, the court may:

(1) order establishment of an appropriate trust with or without continuing court supervision, as authorized by ARS §14-5409(B),

(2) authorize all or a portion of the proceeds to be placed in an account pursuant to

(A) 26 U.S.C. 529 ("qualified tuition programs"),

(B) 26 U.S.C. 529A ("qualified ABLE programs"), or

(C) 42 U.S.C. 1396p(d)(4)(C) (a pooled special needs trust),

(3) in the case of a minor claimant, distribute the proceeds to a custodian under A.R.S. §14-7656(B) (the Uniform Transfers to Minors Act); or

(4) distribute the proceeds to an appropriate person under A.R.S. § 14-5103 ("Facility of payment or delivery").

~~Workgroup 3 Robert Fleming assigned~~

Rule 37. Settlements Involving Minors or ~~Incapacitated~~ Adults in Need of Protection.

(a) Generally. Any settlement of a personal injury or wrongful death claim brought on behalf of a minor or an adult person in need of protection must be submitted for approval by a judicial officer assigned to hear matters arising under A.R.S. Title 14, regardless of whether a court has previously appointed a conservator for the minor or person in need of protection.

(b) Petitioner. ~~Any~~ petition for ~~such~~ approval may be brought by a court-appointed guardian, a guardian *ad litem*, ~~a next friend~~ or other interested party.

(c) Procedure on hearing. If it is appropriate or necessary to assure fairness and justice for a minor, an adult in need of protection or other litigants, the court may appoint a representative pursuant to ARS §14-1408 or a master pursuant to Rule 53, Arizona Rules of Civil Procedure, with specific instructions to address (as may be applicable):

(1) The reasonableness of the settlement proposal,

(2) The attorney fees to be paid from the minor's or adult's settlement proceeds,

(3) The costs of litigation and apportionment of those costs, and

(4) The proper apportionment of settlement proceeds among the various litigants.

(d) Orders. The court hearing ~~such~~ the petition may enter any appropriate order under the authority of A.R.S. ~~secs.~~ §§14-5408 and 14-5409, including an order authorizing a single transaction to approve such settlement and establishment of a protective arrangement other than a conservatorship. After considering the size and nature of the proceeds from such settlement, the age and sophistication of the minor or person in need of protection, the living arrangements and ongoing needs, the court may:

(1) ~~-~~order establishment of an appropriate trust with or without continuing court supervision, as authorized by ARS §14-5409(B),

(2) authorize all or a portion of the proceeds to be placed in an account pursuant to

(A) 26 U.S.C. 529 ("qualified tuition programs") ~~or~~,

(B) 26 U.S.C. 529A ("qualified ABLE programs"), or

(C) 42 U.S.C. 1396p(d)(4)(C) (a pooled special needs trust), ~~or~~

Formatted: Font: Bold
Formatted: List Paragraph,List Level 1
Formatted: Font: Bold
Formatted: Font: Italic
Formatted: List Paragraph,List Level 1, Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.6" + Indent at: 0.6"
Formatted: Font: Bold
Formatted: List Paragraph,List Level 1
Formatted: List Paragraph,List Level 1, Indent: Hanging: 0.1", Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, … + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.6" + Indent at: 0.6"
Formatted: Font: Bold
Formatted: List Paragraph,List Level 1, Indent: Left: 0.5"
Formatted: Font: Bold
Formatted: List Paragraph,List Level 1, Indent: Left: 0.75"
Formatted: Font: Bold
Formatted: Font: Bold

(3) in the case of a minor claimant,) distributed the proceeds to a custodian ~~pursuant to~~under A.R.S. §~~sec.~~ 14-7656(B) (the Uniform Transfers to Minors Act); or

(4) distribute the proceeds to an appropriate person ~~pursuant to~~under A.R.S. § ~~sec.~~ 14-5103 ("Facility of payment or delivery").

~~Note: Robert will add language to accommodate 5103 transactions; and possibly provisions regarding a GAL or special master.~~

~~**(a) Settlement of Claims on Behalf of Minors.** Except as provided in A.R.S. § 14-5103(A), any settlement of a personal injury or wrongful death claim brought on behalf of or against a minor must be submitted for approval by a judicial officer assigned to hear matters arising under A.R.S. Title 14, regardless of whether a court has appointed a conservator for the minor. [**Staff Note:** Why is it necessary for the court to approve a personal injury claim brought against a minor? An insurance company will indemnify the minor in most of those claims, and the minor will have no personal responsibility to pay. Or at least the minor will be released from any further responsibility to pay. And claims against a minor are not mentioned in the statute.]~~

~~**(b) Settlement of Claims on Behalf of Incapacitated Adults or Protected Person.** Any settlement of a personal injury or wrongful death claim brought on behalf of an incapacitated adult or protected person must be submitted for approval by a judicial officer assigned to hear matters arising under A.R.S. Title 14, regardless of whether a court has appointed a conservator for the incapacitated adult.~~

~~**COMMENT**~~

~~This rule is intended to clarify the requirement that whenever a settlement is reached in a civil proceeding brought on behalf of or against a minor or incapacitated adult to recover damages for personal injury or wrongful death, the proposed settlement must be submitted for review and approval to a judicial officer assigned to hear probate matters. In most instances, either a conservatorship or trust will need to be established for the minor or incapacitated adult to receive and manage the funds distributed from the settlement. Because of the minority or incapacity of the recipient of the funds, the court should review the terms of the settlement to ensure that its terms and conditions appear to be in the minor's or incapacitated person's best interests. An exception is recognized pursuant to A.R.S. § 14-5103, which provides that payment or delivery of money or personal property to minors in amounts not exceeding $10,000 per annum may be facilitated without the establishment of a conservatorship estate or other protective proceeding.~~

Formatted: Font: Bold

Formatted: List Paragraph,List Level 1, Indent: Left: 0.5"

Formatted: Font: Bold

Formatted: List Paragraph,List Level 1

Formatted: Normal

Formatted: List Paragraph,List Level 1, Left, Indent: Left: 0.5", Widow/Orphan control, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers

Rule 38. Forms.

(a) Appendix. The Appendix contains Forms 1 through 9.

(b) Forms 1 through 4. Forms 1 through 4 are preferred forms and meet the requirements of these rules. A party may adapt these forms by deleting content that does not apply to a particular proceeding or by adding other relevant content, provided the adapted form includes all the information that applies to that proceeding. Deleting information contained in a form, or failing to complete a portion of the form, constitutes the party's representation that any omitted or unanswered questions or items are not applicable to the proceeding.

(c) Forms 5 through 9. Forms 5 through 8 are required for presenting conservator reports to the court, unless the court orders otherwise. The court may direct a conservator to use Form 9 or another reporting method.

(d) Modification. The Supreme Court may modify these forms by administrative order.

WG Note: This rule will require revisions if additional forms are added.

(e)

COMMENT

Forms 1 through 4 contained in the Arizona Code of Judicial Administration are sufficient under the rules and are intended to indicate the simplicity and brevity of statement that these rules contemplate. Although use of these forms is encouraged, the forms are not the exclusive means for addressing the court in writing.

Forms 5 through 8, however, must be used in their exact form as they are the exclusive means for addressing the court in writing. Form 9 is a simplified form that may only be used by the conservator if the court so authorizes. The requirement of using these forms is imposed in an effort to increase judicial oversight of conservatorships. These forms will bring uniformity and comparability to judicial oversight of conservatorships.

APPENDIX A

GENERAL NOTES

The forms contained in this Appendix were transferred to the Arizona Code of Judicial Administration, and this Appendix was abrogated by Arizona Supreme Court Order No. R-11-0023, effective September 1, 2012.

Rule 38. Forms.

(a) Appendix. The Appendix contains Forms 1 through 9.

~~**(a) Meaning of "Substantially Similar."** Whenever these rules require the use of a form that is "substantially similar" to a form referenced in this rule, it means that the filer may adapt a form by deleting content that does not apply to a particular case or by adding other relevant content, provided the adapted form includes all the information that applies to that case. Deleting information contained in a form, or failing to complete a portion of the form, constitutes the filer's representation to the court and other parties that any omitted or unanswered questions or items are not applicable to the case.~~

(b) Forms 1 through 4. ~~Forms 1 through 4 are included in the Arizona Code of Judicial Administration.~~ Forms 1 through 4 are preferred forms and meet the requirements of these rules. ~~However, using Forms 1 through 4 is not the only method for presenting such matters to the court.~~A party may adapt these forms by deleting content that does not apply to a particular proceeding or by adding other relevant content, provided the adapted form includes all the information that applies to that proceeding. Deleting information contained in a form, or failing to complete a portion of the form, constitutes the party's representation that any omitted or unanswered questions or items are not applicable to the proceeding.

~~**(b)**~~

(c) Forms 5 through 9. Forms 5 through ~~9~~8 ~~also are included in the Arizona Code of Judicial Administration~~are required for presenting conservator reports to the court, ~~and meet the requirements of these rules. But u~~unless the court orders otherwise.~~, using Forms 5 through 8 is the only method for presenting such matters to the court. A conservator may~~ The court may direct a conservator to use Form 9 or another reporting method~~only if the court authorizes it~~. ~~The instructions included with Forms 5 through 9 supplement these rules and have the same force and effect as the rules.~~

(d) Modification. ~~A form may be modified by a Supreme Court Administrative Order.~~ The Supreme Court may modify these forms by administrative order.

WG Note: This rule will require revisions if additional forms are added.

Formatted: Font: Bold

Formatted: List Paragraph,List Level 1

Formatted: Indent: Left: 0.25", No bullets or numbering

Formatted: Underline

~~(d)~~(e)

COMMENT

Forms 1 through 4 contained in the Arizona Code of Judicial Administration are sufficient under the rules and are intended to indicate the simplicity and brevity of statement that these rules contemplate. Although use of these forms is encouraged, the forms are not the exclusive means for addressing the court in writing.

Forms 5 through 8, however, must be used in their exact form as they are the exclusive means for addressing the court in writing. Form 9 is a simplified form that may only be used by the conservator if the court so authorizes. The requirement of using these forms is imposed in an effort to increase judicial oversight of conservatorships. These forms will bring uniformity and comparability to judicial oversight of conservatorships.

APPENDIX A

GENERAL NOTES

The forms contained in this Appendix were transferred to the Arizona Code of Judicial Administration, and this Appendix was abrogated by Arizona Supreme Court Order No. R-11-0023, effective September 1, 2012.