

NOTICE OF MEETING
COMMITTEE ON RULES AND FORMS
TRUST AND ESTATE SECTION OF THE COLORADO BAR ASSOCIATION
To: Members of the Rules and Forms Committee

Paper copies of materials will be made available at the meeting, but they are also available through the CBA link and/or website in advance of the meeting. In addition, Committee members that bring their own computer, tablet, or other device to the meeting will have the option of interacting with the materials in “real-time” using Google Drive. Email Laurence Gendelman if you have not already been given access and want it.

**THE NEXT MEETING WILL BE AUGUST 16, 2018
11:15 A.M. TO 12:15 P.M.**

LUNCH WILL BE PROVIDED TO THOSE WHO ATTEND

Location:
COLORADO BAR ASSOCIATION
9th Floor, Executive Conference Room (please check schedule board on arrival)
1900 Grant Street, Suite 900
Denver, CO 80203-4309
(303) 860-1112

If you are unable to attend the meeting in person but would like to participate by phone, please dial (855) 392-2520; ACCESS CODE: 2627690#

AGENDA FOR AUGUST 16, 2018 MEETING

1) Chair Report (Jarod Balson)

- a. Review of Changes to Rules of Probate Procedure
- b. List of Bradforms that Need to be Reviewed/Updated
 1. Beneficiary Deed
 2. Trustee’s Deed
 3. PF Personal Representative Deed (Sale)
 4. PF Personal Representative Deed (Distribution)
 5. Revocation of Beneficiary Deed
 6. Conservator’s Deed
 7. Conservator’s Deed (Joint Tenancy)
 8. Supplementary Affidavit

2) Review of May 17, 2018, Meeting Minutes

3) Subcommittee and Liaison Reports

- a. Probate Advisory Workgroup (Casey Williams)

- b. Supreme Court Probate Rules and Forms Committee (Casey Williams)
- c. Trial and Procedure Committee (Aaron Evans)
- d. Real Estate Sub Committee (Peggy Gardner)

4) Current Issues

- a. Changes to the determination of heirship statutes—JDF updates (Leia Ursery)
- b. Waiver—JDF 889 (Casey Williams)
- c. Petition to Terminate Conservatorship—JDF 888 (Gordon Williams)
- d. Provisional Letters for Transfer (Gordon Williams)

5) New Forms to Review/Address

- a. Trust Challenge Notice Pursuant to § 15-16-704(1)(a) (Kevin Millard/Barbara VanVliet)
- b. Affidavit of Grantee Acting in Representative Capacity
- c. Bill of Sale
- d. Shares and Allowances
 - 1. Request for Family Allowance and Exempt Property Allowance
 - 2. Petition for Elective Share
 - 3. Order Determining Elective Share
- e. Transfer of Title Upon Death of Designated Beneficiary Auto

MINUTES OF MAY 17, 2018 MEETING
RULES AND FORMS COMMITTEE
TRUST AND ESTATE SECTION
THE COLORADO BAR ASSOCIATION

Susan Hoyt
Frank Hill
John Estes
Heidi Gassmann

Pat Mellen
Peggy Gardner
Jarod Balson

Laurence Gendelman
Mike Holder
Chris Brock

1) Chair Report (Jarod Balson)

- a. Recent Submissions (PFs, JDFs, Rules)
 - i. Discussion on JDF 751- parental designation
 - ii. Discussion on the proposed amendments to the rules
 - iii. Discussion on forms that may need to be revised in light of rule changes
- b. Public Hearing on Proposed Rules- June 27, 2018 at 3:00PM

2) Review of April 19, 2018, Meeting Minutes

- a. No objections to minutes- approved without amendments.

3) Subcommittee and Liaison Reports

- a. Probate Advisory Workgroup (Casey Williams)
Ms. Williams was not present.
- b. Supreme Court Probate Rules and Forms Committee (Casey Williams)
Ms. Williams was not present.
Brief discussion about conferral requirements in probate cases under C.R.C.P. Rule 121.
- c. Trial and Procedure Committee (Aaron Evans)
CLE on basic trial skills
- d. Real Estate Sub Committee (Peggy Gardner)
The subcommittee has been reinvigorated. The real estate section is amenable to the subcommittee reviewing deeds from a trust and estate perspective.
- e. Forms with Calculation (John Estes)
Peggy Gardner and John Estes identified the forms that may require calculations. Form completed for a conservatorship. No other forms
Nothing that requires significant calculations. No outstanding duties for subcommittee. The subcommittee is disbanded.
- f. Determine future of each subcommittee (Jarod Balson)
Will further determine the future of the subcommittees in October.

4) Current Issues

- a. Support Order (JDF 1117)/Separation Agreement (JDF 1115)/ Parenting Plan (JDF 1113)- Domestic Relations JDF and Modification of Child Support After Death (JDF 1403, 1404, 1405) (Pat Mellen)
 - Discussed possibility of Pat doing a Colorado lawyer article on the issue. Need to raise level of interest. Mr. Hill says that there will need to be a statutory change before anything can happen here. The primary issue is that the presumed amount of income of the decedent is not a part of a child support order in a probate court, nor is there is a statute addressing this. The committee is tabled for now and temporarily disbanded pending a change in law.
- b. Notarization and Verification Changes (Aaron Evans and Casey Williams)
 - Ms. Williams is not present.
- c. Trust Challenge Notice Pursuant to § 15-16-704(1)(a) (Kevin Millard/Barbara VanVliet)
 - Will keep on agenda for October meeting.
- d. Changes to the determination of heirship statutes—JDF updates (Leia Ursery)
 - Four forms that will need changes: *Notice of Hearing to Interested Persons and Owners by Descent or Succession*; *Judgement and Decree Determining Heirs*; *Petition for Determination of Heirs*; *Notice of Hearing by Publication*
 - Keep until update from Probate Advisory Committee
- e. Waiver—JDF 889 (Casey Williams)
 - Will keep on agenda for October meeting. This form will need to be amended.
- f. Petition to Terminate Conservatorship—JDF 888 (Gordon Williams)
 - Will keep on agenda for October meeting Provisional Letters for Transfer (Gordon Williams)

5) Discussions

- a. Some forms will need to be revised. Discussed the history of C.R.P.P. 8.8 and due process concerns, rights of interested parties, and balancing judicial economy. C.R.C.P. Rule 121 also addresses many concerns regarding due process, what is routine and not, etc. Sheryl will accept comments if we have any after the comment period.
- b. In the future, will need to maintain lists of all committee and subcommittee members. For October meeting, will need to do a comprehensive review of the rule changes and determine which forms need to be changed, revised, or reviewed. This will include the deeds and supplementary affidavit again. Other forms that will need to be reviewed include designated beneficiary agreements, declaration of disposition of last remains, determination of heirship, etc.

Meeting Adjourned at 12:16pm.

Bradforms to Update Rules & Forms Committee

Form 1112 PF 003	Statement of Authority Statement of Authority
Form 1215	Trustee's Deed
Form 1216	Affidavit for Grantee Acting in a Representative Capacity
Form 1217	Declaration of Disposition of Last Remains
Form 35A	Bill of Sale
Form 39A	Last Will and Testament (Without Children)
Form 39B	Colorado Living Will (Advance Health Care Directive)
Form 39C	Last Will and Testament (Minor Children)
Form 450	Designated Beneficiary Agreement
Form 450R	Revocation of Designated Beneficiary Agreement
Form 46 PF 001	Personal Representative's Deed (Sale) Personal Representative's Deed (Sale)
Form 47 PF 002	Personal Representative Deed of Distribution Personal Representative's Deed (Distribution)
Form 48	Beneficiary Deed
Form 49	Revocation of Beneficiary Deed
Form 53	Conservator's Deed
Form 53JT	Conservator's Deed (Joint Tenancy)
Form 984	Supplementary Affidavit

COLORADO RULES OF PROBATE PROCEDURE

PART 1. GENERAL

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Rule 3. Registry of Court – Payments and Withdrawals

Rule 4. Delegation of Powers to Clerk and Deputy Clerk

Rule 5. Rules of Court

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Rule 7. Reserved

Rule 8. Reserved

Rule 9. Reserved

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Rule 21. Demands and Requests for Notice

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Rule 25. Notice of Formal Proceedings Terminating Estates

Rule 26. Conservatorship – Closing

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PART 4. FIDUCIARIES

Rule 30. Change of Contact Information

Rule 31. Accountings and Reports

Rule 32. Appointment of Nonresident – Power of Attorney

- Rule 33. Bond and Surety
- Rule 34. Reserved
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PART 5. CONTESTED PROCEEDINGS

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- Rule 41. Jury Trial – Demand and Waiver
- Rule 42. Objections to Accounting, Final Settlement, Distribution or Discharge
- Rule 43. Reserved
- Rule 44. Reserved
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PART 6. DECEDENT’S ESTATES

- Rule 50. Wills – Deposit for Safekeeping and Withdrawals
- Rule 51. Transfer of Lodged Wills
- Rule 52. Informal Probate – Separate Writings
- Rule 53. Heirs and Devisees – Unknown, Missing or Nonexistent – Notice to Attorney General
- Rule 54. Supervised Administration – Scope of Supervision – Inventory and Accounting
- Rule 55. Court Order Supporting Deed of Distribution
- Rule 56. Foreign Personal Representatives
- Rule 57. Reserved
- Rule 58. Reserved
- Rule 59. Reserved

PART 7. PROTECTIVE PROCEEDINGS

- Rule 60. Physicians’ Letters or Professional Evaluation
- Rule 61. Financial Plan with Inventory and Motion for Approval – Conservatorships
- Rule 62. Court Approval of Settlement of Claims of Persons Under Disability
- Rule 63. Foreign Conservators
- Rule 64. Reserved
- Rule 65. Reserved
- Rule 66. Reserved
- Rule 67. Reserved
- Rule 68. Reserved
- Rule 69. Reserved

PART 8. TRUSTS

Rule 70. Trust Registration – Amendment, Release and Transfer

Rule 71. Reserved

Rule 72. Reserved

Rule 73. Reserved

Rule 74. Reserved

Rule 75. Reserved

Rule 76. Reserved

Rule 77. Reserved

Rule 78. Reserved

Rule 79. Reserved

PART 1. GENERAL

Rule 1. Scope of Rules - How Known and Cited

(a) Procedure Governed. These rules govern the procedure in the probate court for the city and county of Denver and district courts when sitting in probate. In case of conflict between these rules and the Colorado Rules of Civil Procedure (C.R.C.P.), or between these rules and any local rules of probate procedure, these rules will control.

(b) How Known and Cited. These rules will be known and cited as the Colorado Rules of Probate Procedure, or C.R.P.P.

(c) In General. “Colorado Probate Code” means Articles 10 to 17 of Title 15 of the Colorado Revised Statutes (C.R.S.). Except as otherwise provided, terms used in these rules are defined in the applicable sections of Title 15, C.R.S., as amended.

Rule 2. Definitions [Reserved]

Rule 3. Registry of Court – Payments and Withdrawals

Payments into and withdrawals from the registry of the court must be made only upon order of court.

Rule 4. Delegation of Powers to Clerk and Deputy Clerk

(a) The court by written order may, in addition to duties and powers exercised as registrar in informal proceedings, delegate to the clerk or deputy clerk any one or more of the following duties, powers and authorities to be exercised under the supervision of the court:

- (1) To appoint fiduciaries and to issue letters, if there is no written objection to the appointment or issuance on file;
- (2) To set a date for hearing on any matter and to vacate any such setting;
- (3) To issue dedimus to take testimony of a witness to a will;
- (4) To approve the bond of a fiduciary;
- (5) To appoint a guardian ad litem, subject to the provisions of law;
- (6) To certify copies of documents filed in the court;
- (7) To order a deposited will lodged in the records and to notify the named personal representative;
- (8) To enter an order for service by mailing or by publication where such order is authorized

by law or by the Colorado Rules of Civil Procedure;

(9) To correct any clerical error in documents filed in the court;

(10) To appoint a special administrator in connection with the claim of a fiduciary;

(11) To order a will transferred to another jurisdiction pursuant to Rule 51 herein;

(12) To admit wills to formal probate and to determine heirship, if there is no objection to such admission or determination by any interested person;

(13) To enter estate closing orders in formal proceedings, if there is no objection to entry of such order by any interested person;

(14) To issue a citation to appear to be examined regarding assets alleged to be concealed, etc., pursuant to § 15-12-723, C.R.S.;

(15) To order an estate reopened for subsequent administration pursuant to § 15-12-1008, C.R.S.;

(16) To enter other orders upon the stipulation of all interested persons.

(b) All orders and proceedings by the clerk or deputy clerk under this rule must be made part of the permanent record.

(c) Any person in interest affected by an order entered or action taken under the authority of this rule may have the matter heard by the judge by filing a motion for such hearing within 14 days after the entering of the order or the taking of the action. Upon the filing of such a motion, the order or action in question must be vacated and the motion placed on the calendar of the court for as early a hearing as possible, and the matter must then be heard by the judge. The judge may, within the same 14 day period referred to above, vacate the order or action on the court's own motion. If a motion for hearing by the judge is not filed within the 14 day period, or the order or action is not vacated by the judge on the court's own motion within such period, the order or action of the clerk or deputy clerk will be final as of its date subject to applicable rights of appeal. The acts, records, orders, and judgments of the clerk or deputy clerk not vacated pursuant to the foregoing provision will have the same force, validity, and effect as if made by the judge.

Rule 5. Rules of Court

(a) Repeal of Local rules. All local probate rules are hereby repealed. Local rules may be enacted pursuant to C.R.C.P. 121(b).

(b) Procedure not otherwise specified. If no procedure is specifically prescribed by rule or statute, the court may proceed in any lawful manner not inconsistent with these rules of probate procedure and the Colorado Probate Code and must look to the Colorado Rules of Civil Procedure and to the applicable law if no rule of probate procedure exists.

Rule 6. Reserved
Rule 7. Reserved
Rule 8. Reserved
Rule 9. Reserved

PART 2. PLEADINGS

Rule 10. Judicial Department Forms

The Judicial Department Forms (JDF) approved by the Supreme Court should be used where applicable. Any pleading, document, or form filed in a probate proceeding should, insofar as possible, substantially follow the format and content of the approved JDF, if applicable.

Rule 11. Correction of Clerical Errors

(a) Documents with clerical errors filed with the court may be made the subject of a written request for correction by filing JDF 740 or a document that substantially follows the format and content of the approved JDF, if applicable, and may file a corrected document.

(b) A clerical error may include, but is not limited to:

- (1) Errors in captions;
- (2) Misspellings;
- (3) Errors in dates, other than dates for settings, hearings, and limitations periods; or
- (4) Transposition errors.

(c) A clerical error does not include the addition of an argument, allegation, or fact that has legal significance. If the court is not satisfied that a written request for correction is a clerical error, the request may be denied.

Rule 12. Petitions Must Indicate Persons Under Legal Disability

(a) **Petition Requirements and Notice.** If a person under legal disability has any interest in the subject matter of a petition which requires the issuance of notice, the petition must state:

- (1) That an interested person is under legal disability as defined in subsection (b) below;
- (2) The name, age, and residence of the person under legal disability; and
- (3) The name of the guardian, conservator, or personal representative, if any.

(b) **Legal Disability.** A person under legal disability includes, but is not limited to, a person who is:

- (1) Under 18 years of age; or
- (2) Incompetent or incapacitated to such an extent that the individual is incapable of adequately representing his or her own interest.

Rule 13. Reserved
Rule 14. Reserved
Rule 15. Reserved
Rule 16. Reserved
Rule 17. Reserved
Rule 18. Reserved
Rule 19. Reserved

PART 3. NOTICE

Rule 20. Process and Notice

The issuance, service, and proof of service of any process, notice, or order of court under the Colorado Probate Code will be governed by the provisions of the Colorado Probate Code and these rules. When no provision of the Colorado Probate Code or these rules is applicable, the Colorado Rules of Civil Procedure will govern. Except when otherwise ordered by the court in any specific case or when service is by publication, if notice of a hearing on any petition or other pleading is required, the petition or other pleading, unless previously served, must be served with the notice. When served by publication, the notice must briefly state the nature of the relief requested. The petition or other pleading need not be attached to or filed with the proof of service, waiver of notice, or waiver of service.

Rule 21. Demands and Requests for Notice

(a) Demands for Notice. Demands for notice in decedents' estates are governed by § 15-12-204, C.R.S. After a demand for notice has been filed with the court, the clerk or registrar may thereafter take any authorized action, including, accepting and acting upon an application for informal appointment of a personal representative.

(b) Requests for Notice. Requests for Notice in Protective Proceedings are governed by § 15-14-116, C.R.S.

Rule 22. Constitutional Adequacy of Notice

When statutory notice is deemed by the court to be constitutionally inadequate, the court must provide on a case-by-case basis for such notice as will meet constitutional requirements.

Rule 23. Waiver of Notice

Unless otherwise approved by the court, a waiver of notice where authorized must identify the nature of the hearings or other matters to which the waiver of notice applies.

Rule 24. Determination of Matters by Hearing Without Appearance

(a) A hearing without appearance is a setting before or with the court for a ruling without the appearance of the parties.

(b) Unless otherwise required by statute, these rules, or court order, any appropriate matter may be set for a hearing without appearance.

(c) The procedure governing a hearing without appearance is as follows:

(1) Attendance at the hearing without appearance is not required or expected.

(2) Any interested person wishing to object to the requested action set forth in the court filing

attached to the notice must file a specific written objection with the court at or before the hearing, and must serve a copy of the objection on the person requesting the court order and all persons listed on the notice of hearing without appearance. Form JDF 722, or a form that substantially conforms to JDF 722, may be used and will be sufficient.

(3) If no objection is filed, the court may take action on the matter without further notice or hearing.

(4) If any objection is filed, the objecting party must, within 14 days after filing the objection, contact the court to set the objection for an appearance hearing. If a hearing is scheduled, the objecting party must file a notice of hearing, and serve a copy on all persons listed on the notice of hearing without appearance. Failure to timely set the objection for an appearance hearing as required will result in action by the court as set forth in subsection (d).

(d) Upon the filing of an objection, the court may, in its discretion:

(1) Rule upon the written filings and briefs submitted;

(2) Require oral argument;

(3) Require an evidentiary hearing;

(4) Order the petitioner, movant, objector, and any other interested person who has entered an appearance to participate in alternative dispute resolution; or

(5) Enter any other orders the court deems appropriate.

(e) The Notice of a Hearing Without Appearance, together with copies of the court filing and proposed order must be served on all interested persons no less than 14 days prior to the setting of the hearing and must include a clear statement of this rule governing a hearing without appearance. Form JDF 712 or JDF 963, or a form that substantially conforms to such forms, may be used and will be sufficient.

COMMENTS

2018

[1] Before the 2018 amendments, the rule was titled “Non-Appearance Hearings,” which engendered confusion for practitioners and self-represented parties as it referred to a hearing, which denotes an appearance, and then directed the party not to appear before the court. As a part of the 2018 amendments, the title of the rule changed to “Determination of Matters by Hearing Without Appearance” that more appropriately describes the actual practice; the rule is useful for matters required by statute to have a hearing when a party appearance is not required or mandated.

[2] The pre-2018 rule directed that matters which are “routine and unopposed” may be scheduled for hearing without appearance, however, there was no definition contained within the rule for what matters are considered to be “routine and unopposed.” With the 2018 amendments, language defining a hearing without appearance was added in subsection (a), and language generally describing what may be set on the docket in subsection (b). Motions for summary judgment and motions to dismiss are not appropriate for placement on a docket for hearing without appearance, and these motions should be filed using the procedure set forth in C.R.C.P. 121§ 1-15.

[3] The rule does not contain a requirement that the court rule on a motion on the date scheduled for hearing without an appearance. There is confusion among practitioners and self-represented parties regarding when the court is required to rule on a matter scheduled under this rule; the court may rule on these matters in due course after the date for hearing without appearance has passed. This rule allows for expediting many matters before the probate court while specifying that matters may be determined by the probate court without an appearance hearing, such as accommodating a real estate closing or other deadline such as a move-in date for a party.

[4] Matters denoted as requiring immediate action should not be scheduled for hearing without appearance.

[5] Concerns were raised regarding the shortened time frame in subsection (c)(4) for ruling on motions contained within the rule and whether the failure of a party or counsel to respond within these time frames would unfairly prejudice a party. Practitioners should bear in mind their ethical obligations to opposing parties and counsel when choosing to schedule a motion that may be opposed on the docket for hearing without appearance. Scheduling a motion on the docket for hearing without an appearance for determination on the merits where no responsive pleading has been filed with the court increases judicial economy by placing an opposing party or counsel on notice that a ruling may be entered unless a responsive pleading is filed with the court.

Rule 25. Notice of Formal Proceedings Terminating Estates

The notice of hearing on a petition under § 15-12-1001 or § 15-12-1002, C.R.S., must include statements:

(a) That interested persons have the responsibility to protect their own rights and interests within the time and in the manner provided by the Colorado Probate Code, including the appropriateness of claims paid, the compensation of personal representatives, attorneys, and others, and the distribution of estate assets, because the court will not review or adjudicate these or other matters unless specifically requested to do so by an interested person; and

(b) That if any interested person desires to object to any matter such person must file specific written objections at or before the hearing and must serve the personal representative with a copy pursuant to C.R.C.P. 5.

Rule 26. Conservatorship – Closing

Notice of the hearing on a petition for termination of conservatorship must be served on the protected person, if then living, and all other interested persons, as defined by law or by the court pursuant to § 15-10-201(27), C.R.S., if any. Such hearing may be held pursuant to Rule 24.

Rule 27. Reserved

Rule 28. Reserved

Rule 29. Reserved

PART 4. FIDUCIARIES

Rule 30. Change of Contact Information

(a) Every fiduciary must promptly notify the court of any change to the name, physical or mailing address, e-mail address, or telephone number of:

- (1) The fiduciary; or
- (2) The ward or protected person.

(b) Notice to the court will be accomplished by filing the appropriate JDF or a form that substantially conforms to the JDF.

Rule 31. Accountings and Reports

(a) A fiduciary accounting or report must contain sufficient information to put interested persons on notice as to all significant transactions affecting administration during the accounting period.

(b) An accounting or report prepared by a personal representative, conservator, guardian, trustee, or other fiduciary must show with reasonable detail:

- (1) The receipts and disbursements for the period covered by the accounting or report;
- (2) The assets remaining at the end of the period; and
- (3) All other transactions affecting administration during the accounting or report period.

(c) Accountings and reports that substantially conform to JDF 942 for decedents' estates, JDF 885 for conservatorships, JDF 834 for minor guardianships, and JDF 850 for adult guardianships will be considered acceptable as to both content and format for purposes of this rule. All other fiduciary accountings and reports must comply with the requirements of subsection (b).

(d) The court may require the fiduciary to produce supporting evidence for any and all transactions.

Rule 32. Appointment of Nonresident – Power of Attorney

Any person, resident or nonresident of this state, who is qualified to act under the Colorado Probate Code may be appointed as a fiduciary. When appointment is made of a nonresident, the person appointed must file an irrevocable power of attorney designating the clerk of the court and the clerk's successors in office, as the person upon whom all notices and process issued by a court or tribunal in the state of Colorado may be served, with like effect as personal service on such fiduciary, in relation to any suit, matter, cause, hearing, or thing, affecting or pertaining to the proceeding in regard to which the fiduciary was appointed. The power of attorney required by the provisions of this rule must set forth the address of the nonresident fiduciary. The clerk

must promptly forward, by certified, registered, or ordinary first-class mail any notice or process served upon him or her, to the fiduciary at the address last provided in writing to the clerk. The clerk must file a certificate of service. Such service will be deemed complete 14 days after mailing. The clerk may require the person issuing or serving such notice or process to furnish sufficient copies, and the person desiring service must advance the costs and mailing expenses of the clerk.

Rule 33. Bond and Surety

A fiduciary must file any required bond, or complete other arrangements for security before letters are issued. If there is a substantial deviation in the value of assets under protection or administration the fiduciary must petition the court for a review of the bond.

Rule 34. Reserved

Rule 35. Reserved

Rule 36. Reserved

Rule 37. Reserved

Rule 38. Reserved

Rule 39. Reserved

PART 5. CONTESTED PROCEEDINGS

Rule 40. Discovery

(a) This rule establishes the provisions and structure for discovery in all proceedings seeking relief under Title 15, C.R.S. Nothing in this rule will alter the court's authority and ability to direct proportional limitations on discovery or to impose a case management structure or enter other discovery orders. Upon appropriate motion or *sua sponte*, the court may apply the Colorado Rules of Civil Procedure in whole or in part, may fashion discovery rules applicable to specific proceedings, and may apply different discovery rules to different parts of the proceeding.

(b) Unless otherwise ordered by the court, the parties may engage in the discovery provided by C.R.C.P. 27 through 36. Any discovery conducted in Title 15 proceedings prior to the issuance of a case management or other discovery order will be subject to C.R.C.P. 26(a)(2)(A), 26(a)(2)(B), 26(a)(4) and (5), and 26(b) through (g). However, due to the unique, expedited and often exigent circumstances in which probate proceedings take place, C.R.C.P. 16, 16.1, 16.2, and 26(a)(1) do not apply to probate proceedings unless ordered by the court or stipulated to by the parties.

(c) C.R.C.P. 37, 45, and 121 § 1-12 are applicable to proceedings under Title 15.

(d) Notwithstanding subsections (a) through (c) of this rule, subpoenas and discovery directed to a respondent in proceedings under Title 15, Article 14, Part 3, must not be permitted without leave of court, or until a petition for appointment of a guardian has been granted under § 15-14-311, C.R.S.

Rule 41. Jury Trial – Demand and Waiver

If a jury trial is permitted by law, any jury demand must be filed with the court, and the requisite fee paid, before the matter is first set for trial. The demanding party must pay the requisite jury fee upon the filing of the demand. Failure of a party to file and serve a demand for jury trial and pay the requisite fee as provided in this rule will constitute a waiver of trial by jury as provided in C.R.C.P. 38(e).

Rule 42. Objections to Accounting, Final Settlement, Distribution or Discharge

(a) If any interested person desires to object to any accounting, the final settlement or distribution of an estate, the discharge of a fiduciary, or any other matter, the interested person must file specific written objections at or before the hearing thereon, and shall serve all interested persons with copies of the objections.

(b) If the matter is uncontested and set for a hearing without appearance, any interested person wishing to object must file specific written objections with the court at or before the hearing, and must serve all interested persons with copies of the specific written objections. An objector must set an appearance hearing in accordance with Rule 24.

(c) If the matter is set for an appearance hearing, the objector must file specific written objections 14 or more days before the scheduled hearing. If the objector fails to provide copies of the specific written objections within the required time frame, the petitioner is entitled to a continuance of the hearing.

Rule 43. Reserved

Rule 44. Reserved

Rule 45. Reserved

Rule 46. Reserved

Rule 47. Reserved

Rule 48. Reserved

Rule 49. Reserved

PART 6. DECEDENT'S ESTATES

Rule 50. Wills – Deposit for Safekeeping and Withdrawals

A will of a living person tendered to the court for safekeeping in accordance with § 15-11-515, C.R.S., must be placed in a “Deposited Will File” and a certificate of deposit issued. In the testator's lifetime, the deposited will may be withdrawn only in strict accordance with § 15-11-515, C.R.S. After the testator's death, a deposited will must be transferred to the “Lodged Will File.”

Rule 51. Transfer of Lodged Wills

If a petition under § 15-11-516, C.R.S., to transfer a will is filed and if the requested transfer is to a court within this state, no notice need be given; if the requested transfer is to a court outside this state, notice must be given to the person nominated as personal representative and such other persons as the court may direct. No filing fee will be charged for this petition, but the petitioner must pay any other costs of transferring the original will to the proper court.

Rule 52. Informal Probate – Separate Writings

The existence of one or more separate written statements disposing of tangible personal property under the provisions of § 15-11-513, C.R.S., will not cause informal probate to be declined under the provisions of § 15-12-304, C.R.S.

Rule 53. Heirs and devisees – Unknown, Missing or Nonexistent – Notice to Attorney General

In a decedent's estate, whenever it appears that there is an unknown heir or devisee, or that the address of any heir or devisee is unknown, or that there is no person qualified to receive a devise or distributive share from the estate, the personal representative must promptly notify the attorney general. Thereafter, the attorney general must be given the same information and notice required to be given to persons qualified to receive a devise or distributive share. When making any payment to the state treasurer of any devise or distributive share, the personal representative must include a copy of the court order obtained under § 15-12-914, C.R.S.

Rule 54. Supervised Administration – Scope of Supervision – Inventory and Accounting

(a) In considering the scope of supervised administration under § 15-12-501, C.R.S., the court must order such supervision as deemed necessary, after considering the reasons for the request.

(b) If supervised administration is ordered, the personal representative must file with the court and serve interested persons:

(1) An inventory;

(2) Annual interim accountings;

- (3) A final accounting; and
- (4) Other documentation as ordered by the court.

Rule 55. Court Order Supporting Deed of Distribution

When a court order is requested to vest title in a distributee free from the rights of other persons interested in the estate, such order must not be granted ex parte, but must require either the stipulation of all interested persons or notice and hearing, initiated by the requesting party.

COMMENT

2018

Note that Colorado Bar Association Real Estate Title Standard 11.1.7 discusses certain requirements for the vesting of merchantable title in a distributee. A court order is necessary to vest merchantable title in a distributee, free from the rights of all persons interested in the estate to recover the property in case of an improper distribution. This rule requires a notice and hearing procedure as a condition of issuance of such order. A certified copy of the court's order should be recorded with the deed of distribution. Under the title standard, an order is not required to vest merchantable title in a purchaser for value from or a lender to such distributee. *See* § 38-35-109, C.R.S.

Rule 56. Foreign Personal Representatives

(a) After the death of a nonresident decedent, copies of the documents evidencing appointment of a domiciliary foreign personal representative may be filed as provided in § 15-13-204, C.R.S. Such documents must have been certified, exemplified or authenticated by the appointing foreign court not more than 60 days prior to filing with a Colorado court, and must include copies of all of the following that may have been issued by the foreign court:

- (1) The order appointing the domiciliary foreign personal representative, and
- (2) The letters or other documents evidencing or affecting the domiciliary foreign personal representative's authority to act.

(b) Upon filing such documents and a sworn statement by the domiciliary foreign personal representative stating that no administration, or application or petition for administration, is pending in Colorado, the court must issue a Certificate of Ancillary Filing, attesting that the clerk has in his or her possession the documents referenced in subsection (a) of this rule.

Rule 57. Reserved

Rule 58. Reserved

Rule 59. Reserved

PART 7. PROTECTIVE PROCEEDINGS

Rule 60. Physicians' Letters or Professional Evaluation

Any physician's letter or professional evaluation utilized as the evidentiary basis to support a petition for the appointment of a guardian, conservator or other protective order under Article 14 of the Colorado Probate Code, unless otherwise directed by the court, should contain:

- (a) A description of the nature, type, and extent of the respondent's specific cognitive and functional limitations, if any;
- (b) An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior, and social skills;
- (c) A prognosis for improvement and recommendation as to the appropriate treatment or rehabilitation plan; and
- (d) The date of any assessment or examination upon which the report is based.

Rule 61. Financial Plan with Inventory and Motion for Approval – Conservatorships

A Conservator's Financial Plan with Inventory and Motion for Approval must be filed with the court and served on all interested persons. The request for approval of the plan may be set on the hearing without appearance docket, the appearance docket, or not set for hearing and treated as a motion under C.R.C.P. 121.

Rule 62. Court Approval of Settlement of Claims of Persons Under Disability

(a) This rule sets forth procedures by which a court considers requests for approval of the proposed settlement of claims on behalf of a minor or an adult in need of protection pursuant to § 15-14-401, et seq., C.R.S., ("respondent"). In connection with a proceeding brought under this rule, the court must:

- (1) Consider the reasonableness of the proposed settlement and enter appropriate orders as the court finds will serve the best interest of the respondent;
- (2) Ensure that the adult respondent, a minor respondent's parent, an adult respondent's or minor respondent's legal guardian, conservator, other fiduciary, next friend, guardian ad litem, and other interested persons as the court deems proper, have been advised of the finality of the proposed settlement;
- (3) Adjudicate the allowance or disallowance, in whole or in part, of any outstanding liens and claims against settlement funds, including attorney fees; and
- (4) Make protective arrangements for the conservation and use of the net settlement funds, in the best interest of the respondent, taking into account the nature and scope of the proposed settlement, the anticipated duration and nature of the respondent's disability, the cost of any

future medical treatment and care required to treat respondent's disability, and any other relevant factors, pursuant to § 15-14-101, et seq., C.R.S.

(b) Venue for a petition brought under this rule must be in accordance with § 15-14-108(3), C.R.S.

(c) A petition for approval of a proposed settlement of a claim on behalf of the respondent may be filed by an adult respondent, a fiduciary for a respondent, an interested person as defined in § 15-10-201(27), C.R.S., a next friend, or guardian ad litem. The petition must be presented in accordance with the procedures set forth in this rule.

(d) A petition for approval of settlement must include the following information:

(1) Facts.

- A. The respondent's name and address;
- B. The respondent's date of birth;
- C. If the respondent is a minor, the name and contact information of each legal guardian. If the identity or contact information of any legal guardian is unknown, or if any parental rights have been terminated, the petition must so state;
- D. The name and contact information of the respondent's spouse, partner in a civil union, or if the respondent has none, an adult with whom the respondent has resided for more than six months within one year before the filing of the petition;
- E. The name and contact information of any guardian, conservator, custodian, trustee, agent under a power of attorney, or any other court appointed fiduciary for the respondent; and
- F. The date and a brief description of the event or transaction giving rise to the claim.

(2) Claims and Liabilities.

- A. The contact information of each party against whom the respondent may have a claim;
- B. The basis for each of the respondent's claims;
- C. The defenses and counterclaims if any, to the respondent's claims; and
- D. The name and contact information of each insurance company involved in the claim, the type of policy, the policy limits, and the identity of the insured.

(3) Damages.

- A. A description of the respondent's injuries;

- B. The amount of any time missed by the respondent from school or employment and a summary of any lost income resulting from the respondent's injuries;
- C. A summary of any damage to respondent's property;
- D. A summary of any expenses incurred for medical or other care provider services as a result of the respondent's injuries; and
- E. The identification of any person, organization, institution, or state or federal agency that paid any of the respondent's expenses and a summary of any expenses that have been or will be paid by each particular source.

(4) Medical Status.

- A. A description of the respondent's current condition including but not limited to the nature and extent of any disability, disfigurement, or physical or psychological impairments and any current treatments and therapies; and
- B. An explanation of the respondent's prognosis and any anticipated treatments and therapies.

(5) Status of Claims.

- A. For this claim and any other related claim, the status of the claim and if any civil action has been filed, the court, case number, and parties; and
- B. For this claim and any other related claim, identify the amount of the claim and contact information of any party having a subrogation right including any state or federal agency paying or planning to pay benefits to or for the respondent. A list of all subrogation claims and liens against the settlement proceeds must be included as well as a summary of efforts to negotiate them.

(6) Proposed Settlement and Proposed Disposition of Settlement Proceeds.

- A. The name and contact information of any party or entity making and receiving payment under the proposed settlement;
- B. The proposed settlement amount, payment terms, and proposed disposition, including any restrictions on the accessibility of the funds and whether any proceeds will be deposited into a restricted account;
- C. The details of any structured settlement, annuity, insurance policy or trust instrument, including the terms, present value, discount rate, if applicable, payment structure and the identity of the trustee or entity administering such arrangements;
- D. The legal fees and costs being requested to be paid from the settlement proceeds; and

E. Whether there is a need for continuing court supervision, the appointment of a fiduciary or the continuation of an existing fiduciary appointment. The court may appoint a conservator, trustee, or other fiduciary to manage the settlement proceeds or make other protective arrangements in the best interest of the respondent.

(7) Exhibits.

A. The petition must list each exhibit filed with the petition.

B. The following exhibits must be attached to the petition:

(i) A written statement by the respondent's physician or other health care provider, if any. The statement must set forth the information required by subsection (d)(4) of this rule and comply with Rule 60 unless otherwise ordered by the court;

(ii) Relevant legal fee agreements, statement of costs and billing records and billing summary; and

(iii) Any proposed settlement agreements and proposed releases.

C. The court may continue, vacate, or place conditions on approval of the proposed settlement in response to petitioner's failure to include such exhibits.

(e) Notice of a hearing and a copy of the petition must be given in accordance with § 15-14-404(1) and (2), C.R.S., and Rule 20, unless otherwise ordered by the court.

(f) An appearance hearing is required for petitions brought under this rule.

(g) The petitioner, the respondent, and any nominated fiduciary must attend the hearing, unless excused by the court for good cause.

(h) The court may appoint a guardian ad litem, attorney, or other professional to investigate and report to the court, or represent the respondent. The court may order the payment of fees and costs for such guardian ad litem, attorney, or other professional to be paid from the settlement or other sources as may be deemed appropriate by the court.

Rule 63. Foreign Conservators

(a) After the appointment of a conservator for a person who is not a resident of this state, copies of documents evidencing the appointment of such foreign conservator may be filed as provided in § 15-14-433, C.R.S. Such documents must have been certified, exemplified or authenticated by the appointing foreign court not more than 60 days prior to filing with a Colorado court, and must include copies of all of the following:

(1) The order appointing the foreign conservator;

(2) The letters or other documents evidencing or affecting the foreign conservator's authority to act; and

(3) Any bond of foreign conservator.

(b) Upon filing such documents and a sworn statement by the foreign conservator stating that a conservator has not been appointed in this state and that no petition in a protective proceeding is pending in this state concerning the person for whom the foreign conservator was appointed, the court must issue a Certificate of Ancillary Filing, substantially conforming to JDF 892.

Rule 64. Reserved

Rule 65. Reserved

Rule 66. Reserved

Rule 67. Reserved

Rule 68. Reserved

Rule 69. Reserved

PART 8. TRUSTS

Rule 70. Trust Registration – Amendment, Release and Transfer

(a) A trustee must file with the court of current registration an amended trust registration statement to advise the court of any change in the trusteeship, of any change in the principal place of administration, or of termination of the trust.

(b) If the principal place of administration of a trust has been removed from this state, the court may release a trust from registration in this state upon request and after notice to interested parties.

(c) If the principal place of administration of a trust has changed within this state, the trustee may transfer the registration from one court to another within this state by filing in the court to which the registration is transferred an amended trust registration statement with attached thereto a copy of the original trust registration statement and of any amended trust registration statement prior to the current amendment, and by filing in the court from which the registration is being transferred a copy of the amended trust registration statement. The amended statement must indicate that the trust was registered previously in another court of this state and that the registration is being transferred.

Rule 71. Reserved

Rule 72. Reserved

Rule 73. Reserved

Rule 74. Reserved

Rule 75. Reserved

Rule 76. Reserved

Rule 77. Reserved

Rule 78. Reserved

Rule 79. Reserved

COLORADO RULES OF PROBATE PROCEDURE

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Rule 79. – Reserved

PART 1. GENERAL

Rule 1. Scope of Rules - How Known and Cited

(a) **Procedure Governed.** These rules ~~shall~~ govern the procedure in the probate court for the city and county of Denver and district courts when sitting in probate. In case of conflict between these rules and the Colorado Rules of Civil Procedure (C.R.C.P.) set forth in Chapter 1, or between these rules and any local rules of probate procedure, these rules will ~~shall~~ control.

(b) **How Known and Cited.** These rules will ~~shall~~ be known and cited as the Colorado Rules of Probate Procedure, or C.R.P.P.

(c) In General. “Colorado Probate Code” means Articles 10 to 17 of Title 15 of the Colorado Revised Statutes (C.R.S.). Except as otherwise provided, terms used in these rules are shall be as defined in the applicable sections of Title 15, C.R.S., as amended.

Rule 2. Definitions Reserved

~~(a) As used in these rules, unless the context otherwise requires:~~

~~(1) “Document or Documents” means any petition, or application, inventory, claim, accounting, notice or demand for notice, motion, and any other writing which is filed with the court.~~

~~(2) “Accounting” means any written statement that substantially conforms to JDF 942 for decedents' estates, JDF 885 for conservatorships, and to the 1984 version of the Uniform Fiduciary Accounting Standards as recommended by the Committee on National Fiduciary Accounting Standards.~~

~~(3) “Colorado Probate Code” means Articles 10 to 17 of Title 15 of the Colorado Revised Statutes.~~

~~(b) Except as otherwise provided in this rule, terms used in these rules shall be as defined in the applicable sections of Title 15, C.R.S., as amended.~~

Rule 3. Registry of Court – Payments and Withdrawals

Payments into and withdrawals from the registry of the court must ~~shall~~ be made only upon order of court.

Rule 4. Security of Court Records

For good cause shown, the court may order all or any part of a court record to be placed under security as outlined below:

~~(a) The court may seal a court record. A sealed court record is only accessible to judges and court staff. Parties, attorneys, other people affiliated with the case, and the public shall not obtain a sealed court record without a court order.~~

~~(b) The court may suppress a court record. A suppressed court record is any court record within a suppressed case or a court record that has been assigned a security level of suppressed by the court. Except as otherwise provided in Chief Justice Directive 05-01, only judges, court staff, and parties to the case (and, if represented, their attorneys) may access a suppressed court record without a court order.~~

~~(c) A suppressed register of actions is accessible without a court order only to judges, court staff, parties to the case, (and, if represented, their attorneys) and persons or agencies who have been granted view access to the electronic record.~~

~~(d) A protected court record is only accessible to the public after redaction in accordance with applicable law and Chief Justice Directive 05-01.~~

Rule 45. Delegation of Powers to Clerk and Deputy Clerk

~~(a) In addition to duties and powers exercised as registrar in informal proceedings,~~ the court by written order may, in addition to duties and powers exercised as registrar in informal proceedings, delegate to the clerk or deputy clerk any one or more of the following duties, powers and authorities to be exercised under the supervision of the court:

- (1) To appoint fiduciaries and to issue letters, if there is no written objection to the appointment or issuance on file;
- (2) To set a date for hearing on any matter and to vacate any such setting;
- (3) To issue dedimus to take testimony of a witness to a will;
- (4) To approve the bond of a fiduciary;
- (5) To appoint a guardian ad litem, subject to the provisions of law;
- (6) To certify copies of documents filed in the court;
- (7) To order a deposited will lodged in the records and to notify the named personal

representative;

(8) To enter an order for service by mailing or by publication where such order is authorized by law or by the Colorado Rules of Civil Procedure;

(9) To correct any clerical error in documents filed in the court;

(10) To appoint a special administrator in connection with the claim of a fiduciary;

(11) To order a will transferred to another jurisdiction pursuant to Rule 51 herein;

(12) To admit wills to formal probate and to determine heirship, if there is no objection to such admission or determination by any interested person;

(13) To enter estate closing orders in formal proceedings, if there is no objection to entry of such order by any interested person;

(14) To issue a citation to appear to be examined regarding assets alleged to be concealed, etc., pursuant to § 15-12-723, C.R.S.;

(15) To order an estate reopened for subsequent administration pursuant to § 15-12-1008, C.R.S.;

(16) To enter other ~~similar~~ orders upon the stipulation of all interested persons.

(b) All orders ~~made~~ and proceedings ~~had~~ by the clerk or deputy clerk under this rule ~~shall~~ must be made part of the permanent record ~~as provided for acts of the court done by the judge~~.

(c) Any person in interest affected by an order entered or action taken under the authority of this rule may have the matter heard by the judge by filing a motion for such hearing within 14 days after the entering of the order or the taking of the action. Upon the filing of such a motion, the order or action in question must shall be vacated and the motion placed on the calendar of the court for as early a hearing as possible, and the matter must shall then be heard by the judge. The judge may, within the same 14 day period referred to above, vacate the order or action on the court's own motion. If a motion for hearing by the judge is not filed within the 14 day period, or the order or action is not vacated by the judge on the court's own motion within such period, the order or action of the clerk or deputy clerk will shall be final as of its date subject to applicable ~~normal~~ rights of appeal. The acts, records, orders, and judgments of the clerk or deputy clerk not vacated pursuant to the foregoing provision will shall have the same force, validity, and effect as if made by the judge.

Rule 56. Rules of Court

(a) Repeal of Local rules. All local probate rules are hereby repealed. Local rules may be enacted pursuant to C.R.C.P. 121(b).

~~Courts may make rules for the conduct of probate proceedings consistent with these rules. Copies of all such rules shall be submitted to the Supreme Court for its approval before adoption, and, upon their promulgation, a copy shall be furnished to the office of the state court administrator to the end that all rules made as provided herein may be published promptly and that copies may be available to the public.~~

(b) Procedure not otherwise specified. If no procedure is specifically prescribed by rule or statute, the court may proceed in any lawful manner not inconsistent with these rules of probate procedure and the Colorado Probate Code and ~~must shall~~ look to the Colorado Rules of Civil Procedure and to the applicable law if no rule of probate procedure exists.

Rule 6. Reserved
Rule 7. Reserved
Rule 8. Reserved
Rule 9. Reserved

PART 2. PLEADINGS

Rule 10. Judicial Department Forms

The Judicial Department Forms (JDF) approved by the Supreme Court should be used where applicable. Any pleading, document, or form ~~form~~ filed in a probate proceeding should, insofar as possible, substantially follow the format and content of the approved JDF ~~form, if applicable~~; ~~not include language which otherwise would be stricken, emphasize all alternative clauses or choices which have been selected, emphasize all filled in blanks, and contain a statement that the pleading conforms in substance to the current version of the approved form, citing the JDF number and effective date. Unless the context otherwise requires, terms used in JDFs shall be as defined as provided in Rule 2.~~

~~Rule 11. Identification of Party and Attorney~~

~~All documents presented or filed shall bear the name, address, e-mail address and telephone number of the appearing party, and of the attorney, if any.~~

Rule 11.2. Correction of Clerical Errors

(a) ~~Clerical errors in~~ Documents filed with clerical errors filed with the court may be made the subject of a written request for correction ~~only~~ by filing JDF 740 or a document that ~~is in substantial conformance with the JDF 740~~ substantially follows the format and content of the approved JDF, if applicable, and may file a corrected document. ~~together with corrected documents as necessary.~~

(b) A “clerical errors” may include, but is ~~are~~ not limited to, ~~the following~~:

- (1) Errors in captions ~~(i.e. aka names, etc.)~~;
- (2) Misspellings;
- (3) Errors in dates, other than dates for settings, hearings, and limitations periods; or
- (4) Transposition errors.

~~(c) If the court is not satisfied that a written request for correction is a “clerical error,” the request may be denied.~~ A clerical error does not include the addition of an argument, allegation, or fact that has legal significance. If the court is not satisfied that a written request for correction is a clerical error, the request may be denied.

Rule 12~~3~~. Petitions Must Indicate Persons Under Legal Disability

~~If any person who has any interest in the subject matter of a petition is under the age of eighteen years, or otherwise under legal disability, or incapable of adequately representing his or her own interests, each petition, the hearing of which requires the issuance of notice, shall state such fact and the name, age, and residence of such minor or other person when known and the name of the guardian, conservator, or personal representative, if any has been appointed.~~

(a) Petition Requirements and Notice. If a person under legal disability has any interest in the subject matter of a petition which requires the issuance of notice, the petition must state:

- (1) That ~~the~~ an interested person is under legal disability as defined in subsection (b) below;
- (2) The name, age, and residence of the person under legal disability; and
- (3) The name of the guardian, conservator, or personal representative, if any.

(b) Legal Disability. A person under legal disability ~~may~~ includes, but is not limited to, being a person who is:

- (1) Under 18 years of age; or
- (2) Incompetent or incapacitated to such an extent that the individual is incapable of adequately representing his or her own interest.

Rule 13. Reserved

Rule 14. Reserved

Rule 15. Reserved

Rule 16. Reserved

Rule 17. Reserved

Rule 18. Reserved

Rule 19. Reserved

PART 3. NOTICE

Rule 20. Process and Notice

The issuance, service, and proof of service of any process, notice, or order of court under the Colorado Probate Code ~~will shall~~ be governed by the provisions of the Colorado Probate Code and these rules. When no provision of the Colorado Probate Code or these rules is applicable, the Colorado Rules of Civil Procedure ~~will shall~~ govern. Except when otherwise ordered by the court in any specific case or when service is by publication, if notice of a hearing on any petition or other pleading is required, the petition or other pleading, unless previously served, ~~must shall~~ be served with the notice. When served by publication, the notice ~~must shall~~ briefly state the nature of the relief requested. The petition or other pleading need not be attached to or filed with the proof of service, waiver of notice, or waiver of service.

Rule 21~~X~~. Demands and Requests for Notice

(a) Demands for Notice. Demands for notice in decedents' estates are governed by § 15-12-204, C.R.S. After a demand for notice has been filed with the court, the clerk or registrar may thereafter take any authorized action, including, accepting and acting upon an application for informal appointment of a personal representative.

(b) Requests for Notice. Requests for Notice in Protective Proceedings are governed by § 15-14-116, C.R.S.

Rule 22~~1~~. Constitutional Adequacy of Notice

When statutory notice is deemed by the court to be constitutionally inadequate, the court ~~must shall~~ provide ~~by local rule or~~ on a case-by-case basis for such notice as will meet constitutional requirements.

Rule 23~~2~~. Waiver of Notice

Unless otherwise approved by the court, a waiver of notice ~~where authorized must shall~~ identify the nature of the hearings or other matters ~~to which the waiver of notice applies, notice of which is waived.~~

**Rule 243. Determination of Matters by Hearing Without Appearance ~~Non-Appearance~~
Hearings**

(a) A hearing without appearance is a setting before or with the court for a ruling without the appearance of the parties.

(b) Unless otherwise required by statute, these rules, or court order-of-court, any appropriate matter may be set for a ~~non-appearance~~ hearing without appearance.

(c) The procedure governing ~~a non-appearance~~ hearing without appearances is as follows:

(a1) Attendance at the hearing without ~~non-appearance~~ ~~hearing~~ is not required or expected.

(2b) Any interested person wishing to object to the requested action set forth in the court filing attached to the notice must file a specific written objection with the court at or before the hearing, and ~~must shall~~ ~~serve~~ ~~furnish~~ a copy of the objection ~~onto~~ the person requesting the court order and all persons listed on the notice of hearing without appearance. Form JDF 722, or a form that substantially conforms to JDF 722, may be used and ~~will shall~~ be sufficient.

(3e) If no objection is filed, the court may take action on the matter without further notice or hearing.

(4d) If any objection is filed, the objecting party ~~must~~ ~~shall~~, within 14 days after filing the objection, contact the court to set the objection for an appearance hearing. ~~If a hearing is scheduled, the objecting party must file a notice of hearing, and serve a copy on all persons listed on the notice of hearing without non-appearance hearing.~~ Failure to timely set the objection for an appearance hearing as required ~~by section (4) of this rule will shall~~ result in action by the court as set forth in subsection (d). ~~the dismissal of the objection with prejudice without further hearing.~~

(dee) Upon the filing of ~~If an objection is filed~~, the court may, in its discretion:

(1) Rule upon the written filings and briefs submitted;

(2) Require oral argument;

(3) Require an evidentiary hearing;

(4) Order the petitioner, movant, objector, and any other interested person who has entered an appearance to participate in alternative dispute resolution; or

(5) Enter any other orders the court deems appropriate.

(~~edf~~) The Notice of a ~~Non-Hearing Without Appearance-Hearing~~, together with copies of the court filing and proposed order must be served on all interested persons no less than 14 days prior to the setting of the hearing and ~~must shall~~ include a clear statement of ~~thise~~ rules governing ~~such a non-hearing without appearance hearings~~. Form JDF 712 or JDF 963, or a form that substantially conforms to such ~~JDF~~-forms, may be used and ~~will shall~~ be sufficient.

COMMENTS

2018

[1] Before the 2018 amendments, the rule was titled “Non-Appearance Hearings,” which engendered confusion for practitioners and self-represented parties as it referred to a hearing, which denotes an appearance, and then directed the party not to appear before the court. As a part of the 2018 amendments, the title of the rule changed to “Determination of Matters by Hearing Without Appearance” that more appropriately describes the actual practice; the rule is useful for matters required by statute to have a hearing when a party appearance is not required or mandated.

[2] The pre-2018 rule directed that matters which are “routine and unopposed” may be scheduled for hearing without appearance, however, there was no definition contained within the rule for what matters are considered to be “routine and unopposed.” With the 2018 amendments, language defining a hearing without appearance was added in subsection (a), and language generally describing what may be set on the docket in subsection (b). Motions for summary judgment and ~~motions to dismiss~~ are not appropriate for placement on a docket for hearing without appearance, and these motions should be filed using the procedure set forth in C.R.C.P. 121§ 1-15.

[3] The rule does not contain a requirement that the court rule on a motion on the date scheduled for hearing without an appearance. There is confusion among practitioners and self-represented parties regarding when the court is required to rule on a matter scheduled under this rule; the court may rule on these matters in due course after the date for hearing without appearance has passed. This rule allows for expediting many matters before the probate court while specifying that matters may be determined by the probate court without an appearance hearing, such as accommodating a real estate closing or other deadline such as a move-in date for a party.

[4] Matters denoted as requiring immediate action should not be scheduled for hearing without appearance.

[5] Concerns were raised regarding the shortened time frame in subsection (c)(4) for ruling on motions contained within the rule and whether the failure of a party or counsel to respond within these time frames would unfairly prejudice a party. Practitioners should bear in mind their ethical obligations to opposing parties and counsel when choosing to schedule a motion that may be opposed on the docket for hearing without appearance. Scheduling a motion on the docket for hearing without an appearance for determination on the merits where no responsive pleading has been filed with the court increases judicial economy by placing an opposing party or counsel on notice that a ruling may be entered unless a responsive pleading is filed with the court.

Rule 254. Notice of Formal Proceedings Terminating Estates

The notice of hearing on a petition under § 15-12-1001 or § 15-12-1002, C.R.S., ~~must shall~~ include statements:

(a) That interested persons have the responsibility to protect their own rights and interests within the time and in the manner provided by the Colorado Probate Code, including the appropriateness of claims paid, the compensation of personal representatives, attorneys, and others, and the distribution of estate assets, ~~because since~~ the court will not review or adjudicate these or other matters unless specifically requested to do so by an interested person; and

(b) That if any interested person desires to object to any matter such person ~~must shall~~ file specific written objections at or before the hearing and ~~must shall serve~~ ~~serve~~ furnish the personal representative with a copy pursuant to C.R.C.P. 5.

Rule 265. Conservatorship – Closing

Notice of the hearing on a petition for termination of conservatorship ~~must shall~~ be ~~served on~~ ~~given to~~ the protected person, if then living, and all other interested persons, as defined by law or by the ~~c~~Court pursuant to § 15-10-201(27), C.R.S., if any. Such hearing may be held pursuant to Rule 243.

~~Rule 26. Reserved~~

Rule 27. Reserved

Rule 28. Reserved

Rule 29. Reserved

PART 4. FIDUCIARIES

Rule 30. Change of Contact Information

(a) Every fiduciary ~~must shall~~ promptly notify the court of any change ~~to in~~ the individual's the fiduciary's name, physical or mailing address, e-mail address, or telephone number for:

(1) The fiduciary; or

(2) The ward or protected person.

(b) Notice to the court will shall be accomplished by filing the appropriate JDF or a form that substantially conforms to the JDF. JDF 725 or a form that substantially conforms to JDF 725.

Rule 31. Accountings and Reports

(a) A fiduciary accounting or report must contain sufficient information to put interested persons on notice as to all significant transactions affecting administration during the accounting period.

(~~b~~a) An accounting or report prepared by a personal representative, conservator, guardian, trustee, or other fiduciary must shall show with reasonable detail:

(1) The receipts and disbursements for the period covered by the accounting or report, shall list;

(2) The assets remaining at the end of the period; and ~~shall~~

(3) ~~describe~~ All other transactions affecting administration during the accounting or report period.

~~The court may require the fiduciary to produce supporting evidence for any and all transactions.~~

(~~c~~b) Accountings and reports that substantially conform to JDF 942 for decedents' estates, and, JDF 885 for conservatorships, JDF 834 for minor guardianships, and JDF 850 for adult guardianships and to the 1984 version of the Uniform Fiduciary Accounting Standards as recommended by the Committee on National Fiduciary Accounting Standards will shall be considered acceptable as to both content and format for purposes of this rule. All other fiduciary accountings and reports must comply with the requirements of subsection (b).

(d) The court may require the fiduciary to produce supporting evidence for any and all transactions.

Rule 32. Appointment of Nonresident – Power of Attorney

Any person, resident or nonresident of this state, who is qualified to act under the Colorado Probate Code may be appointed as a fiduciary. When appointment is made of a nonresident, the person appointed ~~must shall~~ file an irrevocable power of attorney designating the clerk of the court and the clerk's successors in office, as the person upon whom all notices and process issued by a court or tribunal in the state of Colorado may be served, with like effect as personal service on such fiduciary, in relation to any suit, matter, cause, hearing, or thing, affecting or pertaining to the proceeding in regard to which the fiduciary was appointed. The power of attorney required by the provisions of this ~~r~~Rule ~~must shall~~ set forth the address of the nonresident fiduciary. The clerk ~~must shall~~ promptly forward, by ~~any method that provides delivery confirmation, certified, registered, or ordinary first-class mail~~ -any notice or process served upon him or her, to the fiduciary at the address last provided in writing to the clerk. The clerk ~~must shall~~ file a certificate of service. Such service ~~will shall~~ be deemed complete 14 days after mailing. The clerk may require the person issuing or serving such notice or process to furnish sufficient copies, and the person desiring service ~~must shall~~ advance the costs and mailing expenses of the clerk.

Rule 33. Bond and Surety

A fiduciary ~~must shall~~ file any required bond, or complete other arrangements for security before letters are issued. If there is a substantial deviation in the value of assets under protection or administration the fiduciary must petition the court for a review of the bond. ~~Thereafter, the fiduciary shall increase the amount of bond or other security when the fiduciary receives property not previously covered by any bond or other security.~~

Rule 34. Reserved

Rule 35. Reserved

Rule 36. Reserved

Rule 37. Reserved

Rule 38. Reserved

Rule 39. Reserved

PART 5: CONTESTED PROCEEDINGS

Rule 40. Discovery

(a) This ~~r~~Rule establishes the provisions and structure for discovery in all proceedings seeking relief under Title 15, C.R.S. Nothing in this ~~r~~Rule ~~will shall~~ alter the court's authority and ability to direct proportional limitations on discovery or to impose a case management structure or enter other discovery orders. Upon appropriate motion or *sua sponte*, the court may apply the [Colorado](#) Rules of Civil Procedure in whole or in part, may fashion discovery rules applicable to specific proceedings, and may apply different discovery rules to different parts of the proceeding.

(b) Unless otherwise ordered by the court, the parties may engage in the discovery provided by C.R.C.P. 27 through 36~~7~~. Any discovery conducted in Title 15 proceedings prior to the issuance of a case management or other discovery order ~~will shall~~ be subject to C.R.C.P. 26(a)(2)(A), 26(a)(2) (B), 26(a)(4) and (5), and 26(b) through (g). However, due to the unique, expedited and often exigent circumstances in which probate proceedings take place, C.R.C.P. 16, 16.1, 16.2, and 26(a)(1) do not apply to probate proceedings unless ordered by the court or stipulated to by the parties.

(c) C.R.C.P. [37](#), [45](#), and 121 § 1-12 are applicable to proceedings under Title 15.

(d) Notwithstanding subsections (a) through (c) of this ~~r~~Rule-40, subpoenas and discovery directed to a respondent in proceedings under [Title 15, Article 14](#), Part 3 ~~of Article 14 of Title 15~~, ~~must shall~~ not be permitted without leave of court, or until a petition for appointment of a guardian has been granted under § 15-14-311, C.R.S.

Rule 41. Jury Trial – Demand and Waiver

If a jury trial is permitted by law, any jury demand ~~therefor must shall~~ be filed with the court, and the requisite fee paid, before the matter is first set for trial. [The demanding party must shall pay the requisite jury fee upon the filing of the demand.](#) Failure of a party to file and serve a demand for jury trial and pay the requisite fee [as provided in this rule will shall](#) constitute a waiver of trial by jury as provided in C.R.C.P. 38~~(ee)~~.

Rule 42. Objections to Accounting, Final Settlement, Distribution or Discharge

(a) If any interested person desires to object to any accounting, the final settlement or distribution of an estate, the discharge of a fiduciary, or any other ~~related~~ matter, the interested person ~~must shall~~ file specific written objections at or before the hearing thereon, and shall ~~serve~~ ~~furnish~~ all interested persons with ~~a~~ ~~copies~~ of the objections.

(ba) If the matter is uncontested and set for a ~~hearing without non-appearance-hearing~~, any interested person wishing to object must file specific written objections with the court at or before the hearing, and ~~must shall~~ ~~serve provide all interested persons with~~ copies of the specific written objections. ~~to all interested persons~~. An objector must set an appearance hearing in accordance with Rule 243.

(cb) If the matter is set for an appearance hearing, the objector must file specific written objections ~~10-14~~ or more days before the scheduled hearing. If the objector fails to provide copies of the specific written objections within the required time frame, the ~~p~~ Petitioner is entitled to a continuance of the hearing.

Rule 43. Reserved

Rule 44. Reserved

Rule 45. Reserved

Rule 46. Reserved

Rule 47. Reserved

Rule 48. Reserved

Rule 49. Reserved

PART 6. DECEDENT'S ESTATES

Rule 50. Wills – Deposit for Safekeeping and Withdrawals

A will of a living person tendered to the court for safekeeping in accordance with § 15-11-515, C.R.S., ~~shall~~ must be placed in a “Deposited Will File” and a certificate of deposit issued. In the testator's lifetime, the deposited will may be withdrawn only in strict accordance with ~~the § 15-11-515, C.R.S. statute.~~ After the testator's death, a deposited will must ~~shall~~ be transferred to the “Lodged Will File.”

Rule 51. Transfer of Lodged Wills

If a petition under § 15-11-516, C.R.S., to transfer a will is filed and if the requested transfer is to a court within this state, no notice need be given; if the requested transfer is to a court outside ~~without~~ this state, notice must ~~shall~~ be given to the person nominated as personal representative and such other persons as the court may direct. No filing fee will ~~shall~~ be charged for this petition, but the petitioner must ~~shall~~ pay any other costs of transferring the original will to the proper court.

Rule 52. Informal Probate – Separate Writings

The existence of one or more separate written statements disposing of tangible personal property under the provisions of § 15-11-513, C.R.S., will ~~shall~~ not cause informal probate to be declined under the provisions of § 15-12-304, C.R.S.

Rule 53. Heirs and devisees – Unknown, Missing or Nonexistent – Notice to Attorney General

In a decedent's estate, whenever it appears that there is an unknown heir or devisee, or that the address of any heir or devisee is unknown, or that there is no person qualified to receive a devise or distributive share from the estate, the personal representative must ~~shall~~ promptly notify the attorney general. Thereafter, the attorney general must ~~shall~~ be given the same information and notice required to be given to persons qualified to receive a devise or distributive share. When making any payment to the state treasurer of any devise or distributive share, the personal representative must ~~shall~~ include a copy of the court order obtained under § 15-12-914, C.R.S.

Rule 54. Supervised Administration – Scope of Supervision – Inventory and Accounting

~~In directing the activities of a supervised personal representative of a decedent's estate, the court shall order only as much supervision as in its judgment is necessary, after considering the reasons for the request for supervised administration, or circumstances thereafter arising.~~

(a) In considering the scope of supervised administration under § 15-12-501, C.R.S., the court must ~~shall~~ order such supervision as deemed necessary, after considering the reasons for the request.

(b) If supervised administration is ordered, the personal representative ~~must shall~~ file with the court and serve interested persons:

(1) An inventory;

(2) Annual interim accountings;

(3) ~~and~~ A final accounting; and

(4) Other documentation as ~~unless otherwise~~ ordered by the court.

Rule 55. Court Order Supporting Deed of Distribution

When a court order is requested to vest title in a distributee free from the rights of other persons interested in the estate, such order ~~shall must~~ not be granted ex parte, but ~~must shall~~ require either the stipulation of all interested persons or notice and hearing, initiated by the requesting party.

COMMENT

2018

Note that Colorado Bar Association Real Estate Title Standard 11.1.7 discusses certain requirements for the vesting of merchantable ~~marketable~~ title in a distributee. A court order is necessary to vest merchantable ~~marketable~~ title in a distributee, free from the rights of all persons interested in the estate to recover the property in case of an improper distribution. This rule requires a notice and hearing procedure as a condition of issuance of such order. A certified copy of the court's order should be recorded with the deed of distribution. Under the title standard, an order is not required to vest merchantable ~~marketable~~ title in a purchaser for value from or a lender to such distributee. *See* § 38-35-109, C.R.S.

Rule 56. Foreign Personal Representatives

(a) After the death of a nonresident decedent, copies of the documents evidencing appointment of a domiciliary foreign personal representative may be filed as provided in § 15-13-204, C.R.S. Such documents must have been certified, exemplified or authenticated by the appointing foreign

court not more than 60 days prior to filing with a Colorado court, and ~~must shall~~ include copies of all of the following that may have been issued by the foreign court:

- (1) The order appointing the domiciliary foreign personal representative, and
- (2) The letters or other documents evidencing or affecting the domiciliary foreign personal representative's authority to act.

(b) Upon filing such documents and a sworn statement by the domiciliary foreign personal representative stating that no administration, or application or petition for administration, is pending in Colorado, the court ~~must shall~~ issue ~~a its~~ Certificate of Ancillary Filing, attesting that the clerk has in his or her possession the documents referenced in subsection (a) of this rule. ~~substantially conforming to JDF-930.~~

Rule 57. Reserved

Rule 58. Reserved

Rule 59. Reserved

PART 7. PROTECTIVE PROCEEDINGS

Rule 60. Physicians' Letters or Professional Evaluation

Any physician's letter or professional evaluation utilized as the evidentiary basis to support a petition for the appointment of a guardian, conservator or other protective order under Article 14 of the Colorado Probate Code, unless otherwise directed by the court, should contain:

- (a) A description of the nature, type, and extent of the respondent's specific cognitive and functional limitations, if any;
- (b) An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior, and social skills;
- (c) A prognosis for improvement and recommendation as to the appropriate treatment or rehabilitation plan; and
- (d) The date of any assessment or examination upon which the report is based.

Rule 61. Financial Plan with Inventory and Motion for Approval – Conservatorships

A Conservator's Financial Plan with Inventory and Motion for Approval ~~must~~ shall be filed with the court and served on all interested persons. The request for approval of the ~~p~~Plan may be set on the hearing without ~~non~~appearance docket, the appearance docket, or not set for hearing and treated as a motion under C.R.C.P. 121.

Rule 62. Court Approval of Settlement of Claims of Persons Under Disability

(a) This rule sets forth procedures by which a court considers requests for approval of the proposed settlement of claims on behalf of a minor or an adult in need of protection pursuant to § 15-14-401, et seq., C.R.S., (“respondent”). In connection with a proceeding brought under this rule, the court ~~must~~ shall:

- (1) Consider the reasonableness of the proposed settlement and enter appropriate orders as the court finds will serve the best interests of the respondent;
- (2) Ensure that the adult respondent, a minor respondent's parent, an adult respondent's or minor respondent's legal guardian, conservator, other fiduciary, next friend, guardian ad litem, and other interested persons as the court deems proper, have been advised of ~~petitioner and respondent and/or his/her legal guardian/fiduciary understands~~ the finality of the proposed settlement;

(3) Adjudicate the allowance or disallowance, in whole or in part, of any outstanding liens and claims against settlement funds, including attorney fees; and

(4) Make protective arrangements for the conservation and use of the net settlement funds, in the best interests of the respondent, taking into account the nature and scope of the proposed settlement, the anticipated duration and nature of the respondent's disability, the cost of any future medical treatment and care required to treat respondent's disability, and any other relevant factors, ~~all~~ pursuant to § 15-14-101, et seq., C.R.S.

(b) Venue for a petition brought under this rule ~~must~~ shall be in accordance with § 15-14-108(3), C.R.S.

(c) A petition for approval of a proposed settlement of a claim on behalf of ~~the~~ a respondent may be filed by an adult respondent, a fiduciary for a respondent, an interested person as defined in § 15-10-201(27), C.R.S., a next friend, conservator, or guardian ad litem., ~~or if there is no conservator or guardian, by an interested person, and~~ The petition must ~~shall~~ be presented in accordance with the procedures set forth in this rule.

(d) A petition for approval of settlement ~~must~~ shall include the following information:

(1) Facts.

A. The respondent's name and address;

B. The respondent's date of birth;

C. If the respondent is a minor, the name and contact information of each legal guardian. If the identity or contact information of any legal guardian is unknown, or if any parental rights have been terminated, the petition ~~must~~ shall so state;

D. The name and contact information of the respondent's spouse, partner in a civil union, or if the respondent has none, an adult with whom the respondent has resided for more than six months within one year before the filing of the petition;

E. The name and contact information of any guardian, conservator, custodian, trustee, agent under a power of attorney, or any other court appointed fiduciary for the respondent. ~~A description of the purpose of any court appointed fiduciary shall be included;~~ and

F. The date and a brief description of the event or transaction giving rise to the claim.

(2) Claims and Liabilities.

A. The contact information of each party against whom the respondent may have a claim;

B. The basis for each of the respondent's claims;

- C. The defenses and/or counterclaims if any, to the respondent's claims; and
- D. The name and contact information of each insurance company involved in the claim, the type of policy, the policy limits, and the identity of the insured.

(3) Damages.

- A. A description of the respondent's injuries;
- B. The amount of any time missed by the respondent from school or employment and a summary of any lost income resulting from the respondent's injuries;
- C. A summary of any damage to respondent's property;
- D. A summary of any expenses incurred for medical or other care provider services as a result of the respondent's injuries; and
- E. The identification of any person, organization, institution, or state or federal agency that paid any of the respondent's expenses and a summary of any expenses that have been or will be paid by each particular source.

(4) Medical Status.

- A. A description of the respondent's current condition including but not limited to the nature and extent of any disability, disfigurement, or physical or psychological impairments and any current treatments and/or therapies; and
- B. An explanation of the respondent's prognosis and any anticipated treatments and/or therapies.

(5) Status of Claims.

- A. For this claim and any other related claim, the status of the claim and if any civil action has been filed, the court, case number, and parties; and
- B. For this claim and any other related claim, identify the amount of the claim and contact information of any party having a subrogation right including any state or federal agency paying or planning to pay benefits to or for the respondent. A list of all subrogation claims and/or liens against the settlement proceeds must shall be included as well as a summary of efforts to negotiate them.

(6) Proposed Settlement and Proposed Disposition of Settlement Proceeds.

- A. The name and contact information of any party or /entity making and receiving payment under the proposed settlement;

- B. The proposed settlement amount, payment terms, and proposed disposition, including any restrictions on the accessibility of the funds and whether any proceeds will be deposited into a restricted account;
- C. The details of any structured settlement, annuity, insurance policy or trust instrument, including the terms, present value, discount rate, if applicable, payment structure and the identity of the trustee or entity administering such arrangements;
- D. ~~The~~ Legal fees and costs being requested to be paid from the settlement proceeds; and
- E. Whether there is a need for continuing court supervision, the appointment of a fiduciary or the continuation of an existing fiduciary appointment. The court may appoint a conservator, trustee, or other fiduciary to manage the settlement proceeds or make other protective arrangements in the best interests of the respondent.

(7) Exhibits.

- A. The petition must shall list each exhibit filed with the petition.
- B. The following exhibits must shall be attached to the petition:
 - (i) A written statement by the respondent's physician or other health care provider, if any. The statement must shall set forth the information required by ~~subparagraph 4, A and B~~ subsection (d)(4) of this rule and comply with Rule 60 unless otherwise ordered by the court;
 - (ii) Relevant legal fee agreements, statement of costs and billing records and ~~or~~ billing summary; and
 - (iii) Any proposed settlement agreements and proposed releases.
- C. The court may continue, vacate, or place conditions on approval of the proposed settlement in response to petitioner's failure to include such exhibits.
- (e) Notice of a hearing and a copy of the petitionn, ~~(except as otherwise ordered by the court in any specific case),~~ must shall be given in accordance with § 15-14-404(1) and (2), C.R.S., and Rule ~~20-8,~~ unless otherwise ordered by the cCourt. .
- (f) An appearance hearing is required for petitions brought under this rule.
- (g) The petitioner, the respondent, and any nominated ~~proposed~~ fiduciary must shall attend the hearing, unless excused by the court ~~prior to the hearing~~ for good cause.
- (h) The court may appoint a guardian ad litem, attorney, or other professional to investigate, and report to the court, or represent the respondent. The court may order the payment of fees and

costs for such guardian ad litem, attorney, or other professional to be paid from the settlement or other sources as may be deemed appropriate by the court.

Rule 63. Foreign Conservators

(a) After the appointment of a conservator for a person who is not a resident of this state, copies of documents evidencing the appointment of such foreign conservator may be filed as provided in § 15-14-433, C.R.S. Such documents must have been certified, exemplified or authenticated by the appointing foreign court not more than 60 days prior to filing with a Colorado court, and must shall include copies of all of the following:

- (1) The order appointing the foreign conservator;;
- (2) The letters or other documents evidencing or affecting the foreign conservator's authority to act~~;~~ and
- (3) Any bond of foreign conservator.

(b) Upon filing such documents and a sworn statement by the foreign conservator stating that a conservator has not been appointed in this state and that no petition in a protective proceeding is pending in this state concerning the person for whom the foreign conservator was appointed, the court must shall issue a its Certificate of Ancillary Filing, substantially conforming to JDF 892.

Rule 64. Reserved
Rule 65. Reserved
Rule 66. Reserved
Rule 67. Reserved
Rule 68. Reserved
Rule 69. Reserved

PART 8. TRUSTS

Rule 70. Trust Registration – Amendment, Release and Transfer

(a) A trustee ~~shall~~ must file with the court of current registration an amended trust registration statement to advise the court of any change in the trusteeship, of any change in the principal place of administration, or of termination of the trust.

(b) If the principal place of administration of a trust has been removed from this state, the court may release a trust from registration in this state upon request and after notice to interested parties.

(c) If the principal place of administration of a trust has changed within this state, the trustee may transfer the registration from one court to another within this state by filing in the court to which the registration is transferred an amended trust registration statement with attached thereto a copy of the original trust registration statement and of any amended trust registration statement prior to the current amendment, and by filing in the court from which the registration is being transferred a copy of the amended trust registration statement. The amended statement ~~shall~~ must indicate that the trust was registered previously in another court of this state and that the registration is being transferred.

Rule 71. Reserved

Rule 72. Reserved

Rule 73. Reserved

Rule 74. Reserved

Rule 75. Reserved

Rule 76. Reserved

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PART 1. GENERAL

Rule 1. Scope of Rules - How Known and Cited

(a) Procedure Governed. These rules govern the procedure in the probate court for the city and county of Denver and district courts when sitting in probate. In case of conflict between these rules and the Colorado Rules of Civil Procedure (C.R.C.P.), or between these rules and any local rules of probate procedure, these rules will control.

(b) How Known and Cited. These rules will be known and cited as the Colorado Rules of Probate Procedure, or C.R.P.P.

(c) In General. “Colorado Probate Code” means Articles 10 to 17 of Title 15 of the Colorado Revised Statutes (C.R.S.). Except as otherwise provided, terms used in these rules are defined in the applicable sections of Title 15, C.R.S., as amended.

Rule 2. Definitions [Reserved]

Rule 3. Registry of Court – Payments and Withdrawals

Payments into and withdrawals from the registry of the court must be made only upon order of court.

Rule 4. Delegation of Powers to Clerk and Deputy Clerk

(a) The court by written order may, in addition to duties and powers exercised as registrar in informal proceedings, delegate to the clerk or deputy clerk any one or more of the following duties, powers and authorities to be exercised under the supervision of the court:

- (1) To appoint fiduciaries and to issue letters, if there is no written objection to the appointment or issuance on file;
- (2) To set a date for hearing on any matter and to vacate any such setting;
- (3) To issue dedimus to take testimony of a witness to a will;
- (4) To approve the bond of a fiduciary;
- (5) To appoint a guardian ad litem, subject to the provisions of law;
- (6) To certify copies of documents filed in the court;
- (7) To order a deposited will lodged in the records and to notify the named personal

representative;

(8) To enter an order for service by mailing or by publication where such order is authorized by law or by the Colorado Rules of Civil Procedure;

(9) To correct any clerical error in documents filed in the court;

(10) To appoint a special administrator in connection with the claim of a fiduciary;

(11) To order a will transferred to another jurisdiction pursuant to Rule 51 herein;

(12) To admit wills to formal probate and to determine heirship, if there is no objection to such admission or determination by any interested person;

(13) To enter estate closing orders in formal proceedings, if there is no objection to entry of such order by any interested person;

(14) To issue a citation to appear to be examined regarding assets alleged to be concealed, etc., pursuant to § 15-12-723, C.R.S.;

(15) To order an estate reopened for subsequent administration pursuant to § 15-12-1008, C.R.S.;

(16) To enter other orders upon the stipulation of all interested persons.

(b) All orders and proceedings by the clerk or deputy clerk under this rule must be made part of the permanent record.

(c) Any person in interest affected by an order entered or action taken under the authority of this rule may have the matter heard by the judge by filing a motion for such hearing within 14 days after the entering of the order or the taking of the action. Upon the filing of such a motion, the order or action in question must be vacated and the motion placed on the calendar of the court for as early a hearing as possible, and the matter must then be heard by the judge. The judge may, within the same 14 day period referred to above, vacate the order or action on the court's own motion. If a motion for hearing by the judge is not filed within the 14 day period, or the order or action is not vacated by the judge on the court's own motion within such period, the order or action of the clerk or deputy clerk will be final as of its date subject to applicable rights of appeal. The acts, records, orders, and judgments of the clerk or deputy clerk not vacated pursuant to the foregoing provision will have the same force, validity, and effect as if made by the judge.

Rule 5. Rules of Court

(a) Repeal of Local rules. All local probate rules are hereby repealed. Local rules may be enacted pursuant to C.R.C.P. 121(b).

(b) Procedure not otherwise specified. If no procedure is specifically prescribed by rule or statute, the court may proceed in any lawful manner not inconsistent with these rules of probate

procedure and the Colorado Probate Code and must look to the Colorado Rules of Civil Procedure and to the applicable law if no rule of probate procedure exists.

Rule 6. Reserved

Rule 7. Reserved

Rule 8. Reserved

Rule 9. Reserved

PART 2. PLEADINGS

Rule 10. Judicial Department Forms

The Judicial Department Forms (JDF) approved by the Supreme Court should be used where applicable. Any pleading, document, or form filed in a probate proceeding should, insofar as possible, substantially follow the format and content of the approved JDF, if applicable.

Rule 11. Correction of Clerical Errors

(a) Documents with clerical errors filed with the court may be made the subject of a written request for correction by filing JDF 740 or a document that substantially follows the format and content of the approved JDF, if applicable, and may file a corrected document.

(b) A clerical error may include, but is not limited to:

- (1) Errors in captions;
- (2) Misspellings;
- (3) Errors in dates, other than dates for settings, hearings, and limitations periods; or
- (4) Transposition errors.

(c) A clerical error does not include the addition of an argument, allegation, or fact that has legal significance. If the court is not satisfied that a written request for correction is a clerical error, the request may be denied.

Rule 12. Petitions Must Indicate Persons Under Legal Disability

(a) **Petition Requirements and Notice.** If a person under legal disability has any interest in the subject matter of a petition which requires the issuance of notice, the petition must state:

- (1) That an interested person is under legal disability as defined in subsection (b) below;
- (2) The name, age, and residence of the person under legal disability; and
- (3) The name of the guardian, conservator, or personal representative, if any.

(b) **Legal Disability.** A person under legal disability includes, but is not limited to, a person who is:

- (1) Under 18 years of age; or
- (2) Incompetent or incapacitated to such an extent that the individual is incapable of adequately representing his or her own interest.

Rule 13. Reserved
Rule 14. Reserved
Rule 15. Reserved
Rule 16. Reserved
Rule 17. Reserved
Rule 18. Reserved
Rule 19. Reserved

PART 3. NOTICE

Rule 20. Process and Notice

The issuance, service, and proof of service of any process, notice, or order of court under the Colorado Probate Code will be governed by the provisions of the Colorado Probate Code and these rules. When no provision of the Colorado Probate Code or these rules is applicable, the Colorado Rules of Civil Procedure will govern. Except when otherwise ordered by the court in any specific case or when service is by publication, if notice of a hearing on any petition or other pleading is required, the petition or other pleading, unless previously served, must be served with the notice. When served by publication, the notice must briefly state the nature of the relief requested. The petition or other pleading need not be attached to or filed with the proof of service, waiver of notice, or waiver of service.

Rule 21. Demands and Requests for Notice

(a) Demands for Notice. Demands for notice in decedents' estates are governed by § 15-12-204, C.R.S. After a demand for notice has been filed with the court, the clerk or registrar may thereafter take any authorized action, including, accepting and acting upon an application for informal appointment of a personal representative.

(b) Requests for Notice. Requests for Notice in Protective Proceedings are governed by § 15-14-116, C.R.S.

Rule 22. Constitutional Adequacy of Notice

When statutory notice is deemed by the court to be constitutionally inadequate, the court must provide on a case-by-case basis for such notice as will meet constitutional requirements.

Rule 23. Waiver of Notice

Unless otherwise approved by the court, a waiver of notice where authorized must identify the nature of the hearings or other matters to which the waiver of notice applies.

Rule 24. Determination of Matters by Hearing Without Appearance

(a) A hearing without appearance is a setting before or with the court for a ruling without the appearance of the parties.

(b) Unless otherwise required by statute, these rules, or court order, any appropriate matter may be set for a hearing without appearance.

(c) The procedure governing a hearing without appearance is as follows:

(1) Attendance at the hearing without appearance is not required or expected.

(2) Any interested person wishing to object to the requested action set forth in the court filing attached to the notice must file a specific written objection with the court at or before the hearing, and must serve a copy of the objection on the person requesting the court order and all persons listed on the notice of hearing without appearance. Form JDF 722, or a form that substantially conforms to JDF 722, may be used and will be sufficient.

(3) If no objection is filed, the court may take action on the matter without further notice or hearing.

(4) If any objection is filed, the objecting party must, within 14 days after filing the objection, contact the court to set the objection for an appearance hearing. If a hearing is scheduled, the objecting party must file a notice of hearing, and serve a copy on all persons listed on the notice of hearing without appearance. Failure to timely set the objection for an appearance hearing as required will result in action by the court as set forth in subsection (d).

(d) Upon the filing of an objection, the court may, in its discretion:

(1) Rule upon the written filings and briefs submitted;

(2) Require oral argument;

(3) Require an evidentiary hearing;

(4) Order the petitioner, movant, objector, and any other interested person who has entered an appearance to participate in alternative dispute resolution; or

(5) Enter any other orders the court deems appropriate.

(e) The Notice of a Hearing Without Appearance, together with copies of the court filing and proposed order must be served on all interested persons no less than 14 days prior to the setting of the hearing and must include a clear statement of this rule governing a hearing without appearance. Form JDF 712 or JDF 963, or a form that substantially conforms to such forms, may be used and will be sufficient.

COMMENTS

2018

[1] Before the 2018 amendments, the rule was titled “Non-Appearance Hearings,” which engendered confusion for practitioners and self-represented parties as it referred to a hearing, which denotes an appearance, and then directed the party not to appear before the court. As a part of the 2018 amendments, the title of the rule changed to “Determination of Matters by Hearing Without Appearance” that more appropriately describes the actual practice; the rule is useful for matters required by statute to have a hearing when a party appearance is not required or mandated.

[2] The pre-2018 rule directed that matters which are “routine and unopposed” may be scheduled for hearing without appearance, however, there was no definition contained within the rule for what matters are considered to be “routine and unopposed.” With the 2018 amendments, language defining a hearing without appearance was added in subsection (a), and language generally describing what may be set on the docket in subsection (b). Motions for summary judgment and motions to dismiss are not appropriate for placement on a docket for hearing without appearance, and these motions should be filed using the procedure set forth in C.R.C.P. 121§ 1-15.

[3] The rule does not contain a requirement that the court rule on a motion on the date scheduled for hearing without an appearance. There is confusion among practitioners and self-represented parties regarding when the court is required to rule on a matter scheduled under this rule; the court may rule on these matters in due course after the date for hearing without appearance has passed. This rule allows for expediting many matters before the probate court while specifying that matters may be determined by the probate court without an appearance hearing, such as accommodating a real estate closing or other deadline such as a move-in date for a party.

[4] Matters denoted as requiring immediate action should not be scheduled for hearing without appearance.

[5] Concerns were raised regarding the shortened time frame in subsection (c)(4) for ruling on motions contained within the rule and whether the failure of a party or counsel to respond within these time frames would unfairly prejudice a party. Practitioners should bear in mind their ethical obligations to opposing parties and counsel when choosing to schedule a motion that may be opposed on the docket for hearing without appearance. Scheduling a motion on the docket for hearing without an appearance for determination on the merits where no responsive pleading has been filed with the court increases judicial economy by placing an opposing party or counsel on notice that a ruling may be entered unless a responsive pleading is filed with the court.

Rule 25. Notice of Formal Proceedings Terminating Estates

The notice of hearing on a petition under § 15-12-1001 or § 15-12-1002, C.R.S., must include statements:

(a) That interested persons have the responsibility to protect their own rights and interests within the time and in the manner provided by the Colorado Probate Code, including the appropriateness of claims paid, the compensation of personal representatives, attorneys, and others, and the distribution of estate assets, because the court will not review or adjudicate these or other matters unless specifically requested to do so by an interested person; and

(b) That if any interested person desires to object to any matter such person must file specific written objections at or before the hearing and must serve the personal representative with a copy pursuant to C.R.C.P. 5.

Rule 26. Conservatorship – Closing

Notice of the hearing on a petition for termination of conservatorship must be served on the protected person, if then living, and all other interested persons, as defined by law or by the court pursuant to § 15-10-201(27), C.R.S., if any. Such hearing may be held pursuant to Rule 24.

Rule 27. Reserved

Rule 28. Reserved

Rule 29. Reserved

PART 4. FIDUCIARIES

Rule 30. Change of Contact Information

(a) Every fiduciary must promptly notify the court of any change to the individual's name, physical or mailing address, e-mail address, or telephone number for:

- (1) The fiduciary; or
- (2) The ward or protected person.

(b) Notice to the court will be accomplished by filing the appropriate JDF or a form that substantially conforms to the JDF.

Rule 31. Accountings and Reports

(a) A fiduciary accounting or report must contain sufficient information to put interested persons on notice as to all significant transactions affecting administration during the accounting period.

(b) An accounting or report prepared by a personal representative, conservator, guardian, trustee, or other fiduciary must show with reasonable detail:

- (1) The receipts and disbursements for the period covered by the accounting or report;
- (2) The assets remaining at the end of the period; and
- (3) All other transactions affecting administration during the accounting or report period.

(c) Accountings and reports that substantially conform to JDF 942 for decedents' estates, JDF 885 for conservatorships, JDF 834 for minor guardianships, and JDF 850 for adult guardianships will be considered acceptable as to both content and format for purposes of this rule. All other fiduciary accountings and reports must comply with the requirements of subsection (b).

(d) The court may require the fiduciary to produce supporting evidence for any and all transactions.

Rule 32. Appointment of Nonresident – Power of Attorney

Any person, resident or nonresident of this state, who is qualified to act under the Colorado Probate Code may be appointed as a fiduciary. When appointment is made of a nonresident, the person appointed must file an irrevocable power of attorney designating the clerk of the court and the clerk's successors in office, as the person upon whom all notices and process issued by a court or tribunal in the state of Colorado may be served, with like effect as personal service on such fiduciary, in relation to any suit, matter, cause, hearing, or thing, affecting or pertaining to the proceeding in regard to which the fiduciary was appointed. The power of attorney required

by the provisions of this rule must set forth the address of the nonresident fiduciary. The clerk must promptly forward, by certified, registered, or ordinary first-class mail any notice or process served upon him or her, to the fiduciary at the address last provided in writing to the clerk. The clerk must file a certificate of service. Such service will be deemed complete 14 days after mailing. The clerk may require the person issuing or serving such notice or process to furnish sufficient copies, and the person desiring service must advance the costs and mailing expenses of the clerk.

Rule 33. Bond and Surety

A fiduciary must file any required bond, or complete other arrangements for security before letters are issued. If there is a substantial deviation in the value of assets under protection or administration the fiduciary must petition the court for a review of the bond.

Rule 34. Reserved

Rule 35. Reserved

Rule 36. Reserved

Rule 37. Reserved

Rule 38. Reserved

Rule 39. Reserved

PART 5. CONTESTED PROCEEDINGS

Rule 40. Discovery

(a) This rule establishes the provisions and structure for discovery in all proceedings seeking relief under Title 15, C.R.S. Nothing in this rule will alter the court's authority and ability to direct proportional limitations on discovery or to impose a case management structure or enter other discovery orders. Upon appropriate motion or *sua sponte*, the court may apply the Colorado Rules of Civil Procedure in whole or in part, may fashion discovery rules applicable to specific proceedings, and may apply different discovery rules to different parts of the proceeding.

(b) Unless otherwise ordered by the court, the parties may engage in the discovery provided by C.R.C.P. 27 through 36. Any discovery conducted in Title 15 proceedings prior to the issuance of a case management or other discovery order will be subject to C.R.C.P. 26(a)(2)(A), 26(a)(2)(B), 26(a)(4) and (5), and 26(b) through (g). However, due to the unique, expedited and often exigent circumstances in which probate proceedings take place, C.R.C.P. 16, 16.1, 16.2, and 26(a)(1) do not apply to probate proceedings unless ordered by the court or stipulated to by the parties.

(c) C.R.C.P. 37, 45, and 121 § 1-12 are applicable to proceedings under Title 15.

(d) Notwithstanding subsections (a) through (c) of this rule, subpoenas and discovery directed to a respondent in proceedings under Title 15, Article 14, Part 3, must not be permitted without leave of court, or until a petition for appointment of a guardian has been granted under § 15-14-311, C.R.S.

Rule 41. Jury Trial – Demand and Waiver

If a jury trial is permitted by law, any jury demand must be filed with the court, and the requisite fee paid, before the matter is first set for trial. The demanding party must pay the requisite jury fee upon the filing of the demand. Failure of a party to file and serve a demand for jury trial and pay the requisite fee as provided in this rule will constitute a waiver of trial by jury as provided in C.R.C.P. 38(e).

Rule 42. Objections to Accounting, Final Settlement, Distribution or Discharge

(a) If any interested person desires to object to any accounting, the final settlement or distribution of an estate, the discharge of a fiduciary, or any other matter, the interested person must file specific written objections at or before the hearing thereon, and shall serve all interested persons with copies of the objections.

(b) If the matter is uncontested and set for a hearing without appearance, any interested person wishing to object must file specific written objections with the court at or before the hearing, and must serve all interested persons with copies of the specific written objections. An objector must set an appearance hearing in accordance with Rule 24.

(c) If the matter is set for an appearance hearing, the objector must file specific written objections 14 or more days before the scheduled hearing. If the objector fails to provide copies of the specific written objections within the required time frame, the petitioner is entitled to a continuance of the hearing.

Rule 43. Reserved

Rule 44. Reserved

Rule 45. Reserved

Rule 46. Reserved

Rule 47. Reserved

Rule 48. Reserved

Rule 49. Reserved

PART 6. DECEDENT'S ESTATES

Rule 50. Wills – Deposit for Safekeeping and Withdrawals

A will of a living person tendered to the court for safekeeping in accordance with § 15-11-515, C.R.S., must be placed in a “Deposited Will File” and a certificate of deposit issued. In the testator's lifetime, the deposited will may be withdrawn only in strict accordance with § 15-11-515, C.R.S. After the testator's death, a deposited will must be transferred to the “Lodged Will File.”

Rule 51. Transfer of Lodged Wills

If a petition under § 15-11-516, C.R.S., to transfer a will is filed and if the requested transfer is to a court within this state, no notice need be given; if the requested transfer is to a court outside this state, notice must be given to the person nominated as personal representative and such other persons as the court may direct. No filing fee will be charged for this petition, but the petitioner must pay any other costs of transferring the original will to the proper court.

Rule 52. Informal Probate – Separate Writings

The existence of one or more separate written statements disposing of tangible personal property under the provisions of § 15-11-513, C.R.S., will not cause informal probate to be declined under the provisions of § 15-12-304, C.R.S.

Rule 53. Heirs and Devisees – Unknown, Missing or Nonexistent – Notice to Attorney General

In a decedent's estate, whenever it appears that there is an unknown heir or devisee, or that the address of any heir or devisee is unknown, or that there is no person qualified to receive a devise or distributive share from the estate, the personal representative must promptly notify the attorney general. Thereafter, the attorney general must be given the same information and notice required to be given to persons qualified to receive a devise or distributive share. When making any payment to the state treasurer of any devise or distributive share, the personal representative must include a copy of the court order obtained under § 15-12-914, C.R.S.

Rule 54. Supervised Administration – Scope of Supervision – Inventory and Accounting

(a) In considering the scope of supervised administration under § 15-12-501, C.R.S., the court must order such supervision as deemed necessary, after considering the reasons for the request.

(b) If supervised administration is ordered, the personal representative must file with the court and serve interested persons:

- (1) An inventory;
- (2) Annual interim accountings;
- (3) A final accounting; and
- (4) Other documentation as ordered by the court.

Rule 55. Court Order Supporting Deed of Distribution

When a court order is requested to vest title in a distributee free from the rights of other persons interested in the estate, such order must not be granted *ex parte*, but must require either the stipulation of all interested persons or notice and hearing, initiated by the requesting party.

COMMENT

2018

Note that Colorado Bar Association Real Estate Title Standard 11.1.7 discusses certain requirements for the vesting of merchantable title in a distributee. A court order is necessary to vest merchantable title in a distributee, free from the rights of all persons interested in the estate to recover the property in case of an improper distribution. This rule requires a notice and hearing procedure as a condition of issuance of such order. A certified copy of the court's order should be recorded with the deed of distribution. Under the title standard, an order is not required to vest merchantable title in a purchaser for value from or a lender to such distributee. *See* § 38-35-109, C.R.S.

Rule 56. Foreign Personal Representatives

(a) After the death of a nonresident decedent, copies of the documents evidencing appointment of a domiciliary foreign personal representative may be filed as provided in § 15-13-204, C.R.S. Such documents must have been certified, exemplified or authenticated by the appointing foreign court not more than 60 days prior to filing with a Colorado court, and must include copies of all of the following that may have been issued by the foreign court:

- (1) The order appointing the domiciliary foreign personal representative, and

(2) The letters or other documents evidencing or affecting the domiciliary foreign personal representative's authority to act.

(b) Upon filing such documents and a sworn statement by the domiciliary foreign personal representative stating that no administration, or application or petition for administration, is pending in Colorado, the court must issue a Certificate of Ancillary Filing, attesting that the clerk has in his or her possession the documents referenced in subsection (a) of this rule.

Rule 57. Reserved

Rule 58. Reserved

Rule 59. Reserved

PART 7. PROTECTIVE PROCEEDINGS

Rule 60. Physicians' Letters or Professional Evaluation

Any physician's letter or professional evaluation utilized as the evidentiary basis to support a petition for the appointment of a guardian, conservator or other protective order under Article 14 of the Colorado Probate Code, unless otherwise directed by the court, should contain:

- (a) A description of the nature, type, and extent of the respondent's specific cognitive and functional limitations, if any;
- (b) An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior, and social skills;
- (c) A prognosis for improvement and recommendation as to the appropriate treatment or rehabilitation plan; and
- (d) The date of any assessment or examination upon which the report is based.

Rule 61. Financial Plan with Inventory and Motion for Approval – Conservatorships

A Conservator's Financial Plan with Inventory and Motion for Approval must be filed with the court and served on all interested persons. The request for approval of the plan may be set on the hearing without appearance docket, the appearance docket, or not set for hearing and treated as a motion under C.R.C.P. 121.

Rule 62. Court Approval of Settlement of Claims of Persons Under Disability

(a) This rule sets forth procedures by which a court considers requests for approval of the proposed settlement of claims on behalf of a minor or an adult in need of protection pursuant to § 15-14-401, et seq., C.R.S., ("respondent"). In connection with a proceeding brought under this rule, the court must:

- (1) Consider the reasonableness of the proposed settlement and enter appropriate orders as the court finds will serve the best interest of the respondent;
- (2) Ensure that the adult respondent, a minor respondent's parent, an adult respondent's or minor respondent's legal guardian, conservator, other fiduciary, next friend, guardian ad litem, and other interested persons as the court deems proper, have been advised of the finality of the proposed settlement;
- (3) Adjudicate the allowance or disallowance, in whole or in part, of any outstanding liens and claims against settlement funds, including attorney fees; and

(4) Make protective arrangements for the conservation and use of the net settlement funds, in the best interest of the respondent, taking into account the nature and scope of the proposed settlement, the anticipated duration and nature of the respondent's disability, the cost of any future medical treatment and care required to treat respondent's disability, and any other relevant factors, pursuant to § 15-14-101, et seq., C.R.S.

(b) Venue for a petition brought under this rule must be in accordance with § 15-14-108(3), C.R.S.

(c) A petition for approval of a proposed settlement of a claim on behalf of the respondent may be filed by an adult respondent, a fiduciary for a respondent, an interested person as defined in § 15-10-201(27), C.R.S., a next friend, or guardian ad litem. The petition must be presented in accordance with the procedures set forth in this rule.

(d) A petition for approval of settlement must include the following information:

(1) Facts.

- A. The respondent's name and address;
- B. The respondent's date of birth;
- C. If the respondent is a minor, the name and contact information of each legal guardian. If the identity or contact information of any legal guardian is unknown, or if any parental rights have been terminated, the petition must so state;
- D. The name and contact information of the respondent's spouse, partner in a civil union, or if the respondent has none, an adult with whom the respondent has resided for more than six months within one year before the filing of the petition;
- E. The name and contact information of any guardian, conservator, custodian, trustee, agent under a power of attorney, or any other court appointed fiduciary for the respondent; and
- F. The date and a brief description of the event or transaction giving rise to the claim.

(2) Claims and Liabilities.

- A. The contact information of each party against whom the respondent may have a claim;
- B. The basis for each of the respondent's claims;
- C. The defenses and counterclaims if any, to the respondent's claims; and
- D. The name and contact information of each insurance company involved in the claim, the type of policy, the policy limits, and the identity of the insured.

(3) Damages.

- A. A description of the respondent's injuries;
- B. The amount of any time missed by the respondent from school or employment and a summary of any lost income resulting from the respondent's injuries;
- C. A summary of any damage to respondent's property;
- D. A summary of any expenses incurred for medical or other care provider services as a result of the respondent's injuries; and
- E. The identification of any person, organization, institution, or state or federal agency that paid any of the respondent's expenses and a summary of any expenses that have been or will be paid by each particular source.

(4) Medical Status.

- A. A description of the respondent's current condition including but not limited to the nature and extent of any disability, disfigurement, or physical or psychological impairments and any current treatments and therapies; and
- B. An explanation of the respondent's prognosis and any anticipated treatments and therapies.

(5) Status of Claims.

- A. For this claim and any other related claim, the status of the claim and if any civil action has been filed, the court, case number, and parties; and
- B. For this claim and any other related claim, identify the amount of the claim and contact information of any party having a subrogation right including any state or federal agency paying or planning to pay benefits to or for the respondent. A list of all subrogation claims and liens against the settlement proceeds must be included as well as a summary of efforts to negotiate them.

(6) Proposed Settlement and Proposed Disposition of Settlement Proceeds.

- A. The name and contact information of any party or entity making and receiving payment under the proposed settlement;
- B. The proposed settlement amount, payment terms, and proposed disposition, including any restrictions on the accessibility of the funds and whether any proceeds will be deposited into a restricted account;

- C. The details of any structured settlement, annuity, insurance policy or trust instrument, including the terms, present value, discount rate, if applicable, payment structure and the identity of the trustee or entity administering such arrangements;
- D. The legal fees and costs being requested to be paid from the settlement proceeds; and
- E. Whether there is a need for continuing court supervision, the appointment of a fiduciary or the continuation of an existing fiduciary appointment. The court may appoint a conservator, trustee, or other fiduciary to manage the settlement proceeds or make other protective arrangements in the best interest of the respondent.

(7) Exhibits.

- A. The petition must list each exhibit filed with the petition.
 - B. The following exhibits must be attached to the petition:
 - (i) A written statement by the respondent's physician or other health care provider, if any. The statement must set forth the information required by subsection (d)(4) of this rule and comply with Rule 60 unless otherwise ordered by the court;
 - (ii) Relevant legal fee agreements, statement of costs and billing records and billing summary; and
 - (iii) Any proposed settlement agreements and proposed releases.
 - C. The court may continue, vacate, or place conditions on approval of the proposed settlement in response to petitioner's failure to include such exhibits.
- (e) Notice of a hearing and a copy of the petition must be given in accordance with § 15-14-404(1) and (2), C.R.S., and Rule 20, unless otherwise ordered by the court.
- (f) An appearance hearing is required for petitions brought under this rule.
- (g) The petitioner, the respondent, and any nominated fiduciary must attend the hearing, unless excused by the court for good cause.
- (h) The court may appoint a guardian ad litem, attorney, or other professional to investigate and report to the court, or represent the respondent. The court may order the payment of fees and costs for such guardian ad litem, attorney, or other professional to be paid from the settlement or other sources as may be deemed appropriate by the court.

Rule 63. Foreign Conservators

(a) After the appointment of a conservator for a person who is not a resident of this state, copies of documents evidencing the appointment of such foreign conservator may be filed as provided in § 15-14-433, C.R.S. Such documents must have been certified, exemplified or authenticated by the appointing foreign court not more than 60 days prior to filing with a Colorado court, and must include copies of all of the following:

- (1) The order appointing the foreign conservator;
- (2) The letters or other documents evidencing or affecting the foreign conservator's authority to act; and
- (3) Any bond of foreign conservator.

(b) Upon filing such documents and a sworn statement by the foreign conservator stating that a conservator has not been appointed in this state and that no petition in a protective proceeding is pending in this state concerning the person for whom the foreign conservator was appointed, the court must issue a Certificate of Ancillary Filing, substantially conforming to JDF 892.

Rule 64. Reserved

Rule 65. Reserved

Rule 66. Reserved

Rule 67. Reserved

Rule 68. Reserved

Rule 69. Reserved

PART 8. TRUSTS

Rule 70. Trust Registration – Amendment, Release and Transfer

(a) A trustee must file with the court of current registration an amended trust registration statement to advise the court of any change in the trusteeship, of any change in the principal place of administration, or of termination of the trust.

(b) If the principal place of administration of a trust has been removed from this state, the court may release a trust from registration in this state upon request and after notice to interested parties.

(c) If the principal place of administration of a trust has changed within this state, the trustee may transfer the registration from one court to another within this state by filing in the court to which the registration is transferred an amended trust registration statement with attached thereto a copy of the original trust registration statement and of any amended trust registration statement prior to the current amendment, and by filing in the court from which the registration is being transferred a copy of the amended trust registration statement. The amended statement must indicate that the trust was registered previously in another court of this state and that the registration is being transferred.

Rule 71. Reserved

Rule 72. Reserved

Rule 73. Reserved

Rule 74. Reserved

Rule 75. Reserved

Rule 76. Reserved

Rule 77. Reserved

Rule 78. Reserved

Rule 79. Reserved

BENEFICIARY DEED

(§1515401, et seq., Colorado Revised Statutes)
CAUTION: THIS DEED MUST BE RECORDED PRIOR TO THE DEATH OF THE GRANTOR IN ORDER TO BE EFFECTIVE.

_____, as grantor, designates _____ as grantee-beneficiary whose address is* _____.

If grantee-beneficiary fails to survive grantor, grantor designates _____, as successor grantee-beneficiary, whose address is _____.

Grantor transfers, sells, and conveys on grantor's death to the grantee-beneficiary, the following described real property located in the County of _____, State of Colorado:

also known and numbered as _____.

THIS BENEFICIARY DEED IS REVOCABLE. IT DOES NOT TRANSFER ANY OWNERSHIP UNTIL THE DEATH OF THE GRANTOR. IT REVOKES ALL PRIOR BENEFICIARY DEEDS BY THIS GRANTOR FOR THIS REAL PROPERTY EVEN IF THIS BENEFICIARY DEED FAILS TO CONVEY ALL OF THE GRANTOR'S INTEREST IN THIS REAL PROPERTY.

WARNING: EXECUTION OF THIS BENEFICIARY DEED MAY DISQUALIFY THE GRANTOR FROM BEING DETERMINED ELIGIBLE FOR, OR FROM RECEIVING MEDICAID UNDER TITLE 26, COLORADO REVISED STATUTES.

WARNING: EXECUTION OF THIS BENEFICIARY DEED MAY NOT AVOID PROBATE.

Executed on _____ (date).

Grantor

STATE OF COLORADO
_____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____
_____, by _____.

Witness my hand and official seal.
My commission expires:

Notary Public

Name and Address of Person Creating Newly Created Legal Description (§ 38-35-106.5, C.R.S.)

**(Note to Assessor and Treasurer: This address is for identification purposes only, all notices and tax statements should continue to be sent to grantor.)*

TRUSTEE'S DEED

THIS DEED is dated _____, and is made between _____, the "Grantor," as Trustee of the _____ Trust dated _____, and _____ (whether one, or more than one), the "Grantee," whose legal address is _____ of the _____ County of _____, State of _____.

WITNESS, that the Grantor, as Trustee and pursuant to the powers conferred upon the Trustee by the Colorado Probate Code, does hereby sell, convey, assign, transfer and set over unto the Grantee (in joint tenancy with right of survivorship)* for and in consideration of the sum of _____ DOLLARS, (\$ _____), (as the person entitled to distribution of the property pursuant to the terms of the Trust)* the real property situate in the _____ County of _____ and State of Colorado, described as follows:

also known by street address as:
and assessor's schedule or parcel number:

with all the appurtenances hereunto belonging.

IN WITNESS WHEREOF, the Grantor has executed this deed the date set forth above.

GRANTOR

Trustee of the _____
Trust, dated _____

STATE OF COLORADO

_____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by _____ as Trustee of _____ Trust dated _____.

Witness my hand and official seal.

Notary Public
My commission expires: _____

Name and Address of Person Creating Newly Created Legal Description (§38-35-106.5, C.R.S.)

*Strike if applicable.

PERSONAL REPRESENTATIVE'S DEED

(Sale)

THIS DEED is made by _____ as Personal Representative of the Estate of _____ deceased, Grantor, to _____ Grantee, whose legal address is _____ of the _____ *County of _____, State of _____.

WHEREAS, the decedent died on the date of _____ and the Grantor was duly appointed Personal Representative of said Estate by the _____ Court in and for the _____ County of _____ and State of Colorado, Probate No. _____, on the date of _____, and is now qualified and acting in said capacity.

NOW THEREFORE, pursuant to the powers conferred upon Grantor by the Colorado Probate Code, Grantor does hereby sell and convey unto Grantee (in joint tenancy),** for and in consideration of _____ Dollars the following described real property situate in the _____ County of _____, State of Colorado;

also known by street and number as:
assessor's schedule or parcel number:

With all appurtenances.

As used herein, the singular includes the plural and the plural the singular.

Executed: _____

_____, Personal Representative of the Estate of
_____ Deceased

STATE OF COLORADO

_____ COUNTY OF _____ ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____ as Personal Representative of the Estate of _____, Deceased.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

*If in Denver, insert "City and".

** Strike as required

Name and Address of Person Creating Newly Created Legal Description (§ 38-35-106.5, C.R.S.)

PERSONAL REPRESENTATIVE'S DEED
(Distribution)

THIS DEED is made by _____ as Personal Representative of the Estate of _____ deceased, Grantor, to _____ Grantee, whose legal address is _____ of the _____ *County of _____, State of _____.

WHEREAS, the decedent died on the date of _____ and the Grantor was duly appointed Personal Representative of said Estate by the _____ Court in and for the _____ County of _____ and State of Colorado, Probate No. _____, on the date of _____, and is now qualified and acting in said capacity.

NOW THEREFORE, pursuant to the powers conferred upon Grantor by the Colorado Probate Code, Grantor does hereby convey, assign, transfer and release unto Grantee (in joint tenancy)** as the person entitled to distribution, the following described real property situate in the _____ County of _____, State of Colorado;

also known by street and number as:
assessor's schedule or parcel number:

With all appurtenances.

As used herein, the singular includes the plural and the plural the singular.

Executed: _____

_____, Personal Representative of the Estate of
_____ Deceased

STATE OF COLORADO
_____ COUNTY OF _____ ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____ as Personal Representative of the Estate of _____, Deceased.

Witness my hand and official seal.
My commission expires: _____.

Notary Public

*If in Denver, insert "City and".
** Strike as required

Name and Address of Person Creating Newly Created Legal Description (§ 38-35-106.5, C.R.S.)

Source: L. 2009: Entire article added, (HB 09-1260), ch. 107, p. 433, § 1, effective July 1. **L. 2010:** Entire section amended, (SB 10-199), ch. 374, p. 1754 § 23, effective July 1. **L. 2017:** (1) amended, (SB 17-223), ch. 158, p. 560, § 15, effective August 9.

Cross references: For provisions relating to the time of taking effect or the provisions for transition of this code, see § 15-17-101.

■ **15-22-107. Recording - duties of the county clerk and recorder - fee.** (1) A signed and acknowledged designated beneficiary agreement shall be recorded with the county clerk and recorder in the county in which one of the parties resides. The designated beneficiary agreement shall be effective as of the date and time as received for recording by the county clerk and recorder. The county clerk and recorder shall assess a recording fee for recording the designated beneficiary agreement in that county, a fee for issuing two certified copies of the designated beneficiary agreement that indicate the date and time of recording with the county, and a fee for taking acknowledgments, if applicable, as provided in section 30-1-103, C.R.S. All fees collected by the county clerk and recorder shall be deposited in the county clerk's fee fund maintained as required in section 30-1-119, C.R.S. The county clerk and recorder may require the person recording the designated beneficiary agreement to indicate the mailing address to which the original document should be returned after recording.

(2) The clerk and recorder of the county is encouraged to make available copies of the statutory forms as prescribed in sections 15-22-106 and 15-22-111.

(3) The clerk and recorder of the county shall have the following duties:

(a) To indicate on the designated beneficiary agreement or a revocation of a designated beneficiary agreement the date and time that it is recorded with the clerk and recorder;

(b) To issue two certified copies of the recorded designated beneficiary agreement that indicate the date and time of the recording;

(c) To issue replacement certified copies of a designated beneficiary agreement or a revocation of a designated beneficiary agreement upon payment of a replacement fee.

(4) Designated beneficiary agreements and revocations of designated beneficiary agreements shall be

considered open records for purposes of part 2 of article 72 of title 24, C.R.S.

Source: L. 2009: Entire article added, (HB 09-1260), ch. 107, p. 436, § 1, effective July 1.

■ **15-22-108. Designated beneficiary agreement - effect on other legal documents.** Execution of a designated beneficiary agreement shall not constitute evidence of an intent to revoke a prior will or codicil nor shall it affect any beneficiary designation, transfer, or bequest contained in any other legal documents.

Source: L. 2009: Entire article added, (HB 09-1260), ch. 107, p. 437, § 1, effective July 1.

■ **15-22-109. Affirmation of validity of designated beneficiary agreement.** A person exercising rights or protections pursuant to a designated beneficiary agreement shall affirm the validity of a designated beneficiary agreement and disclose any knowledge of any superseding legal documents.

Source: L. 2009: Entire article added, (HB 09-1260), ch. 107, p. 437, § 1, effective July 1.

■ **15-22-110. Reliance - immunity.** A third party who acts in good faith reliance on the affirmation of the existence of a valid designated beneficiary agreement shall not be subject to civil liability or administrative discipline for such reliance.

Source: L. 2009: Entire article added, (HB 09-1260), ch. 107, p. 437, § 1, effective July 1.

■ **15-22-111. Revocation of a designated beneficiary agreement.** (1) A designated beneficiary agreement that has been recorded with a county clerk and recorder may be unilaterally revoked by either party to the agreement by recording a revocation with the clerk and recorder of the county in which the agreement was recorded. A revocation shall be dated, signed, and acknowledged. The revocation shall be effective on the date and time the revocation is received for recording by the county clerk and recorder. The clerk and recorder shall issue a certified copy to the party recording the revocation and shall mail a certified copy of the revocation to the last-known address of the other party to the designated beneficiary agreement.

(2) The county clerk and recorder shall assess fees, as provided in section 30-1-103, C.R.S., for recording a revocation agreement and issuing two certified copies of the revocation agreement, plus an additional amount to cover the cost of first class postage for mailing a certified copy of the revoked designated beneficiary agreement to the other party. The fees collected by the clerk and recorder shall be deposited in the county clerk’s fee fund maintained as required in section 30-1-119, C.R.S.

(3) A designated beneficiary agreement shall be deemed revoked upon the marriage or the civil union of either party. In the case of a common law marriage, a designated beneficiary agreement shall be deemed revoked as of the date the court determines that a valid common law marriage exists.

(4) The following statutory form shall be the standard form for a revocation of a designated beneficiary agreement:

REVOCAION OF DESIGNATED BENEFICIARY AGREEMENT

I _____ (insert your full name), reside at _____ (insert your current address) and I entered into a designated beneficiary agreement on _____ (insert the date) with the following person _____ (insert the other person’s name) whose last-known address is _____ in which I designated such person as a designated beneficiary. This designated beneficiary agreement was recorded on _____ (insert the date) in the county of _____. The indexing file number of the designated beneficiary agreement is _____. I hereby revoke that designated beneficiary agreement, effective on the date and time that this revocation is received for recording by the clerk and recorder of _____ county.

Name

Date

STATE OF COLORADO
County of _____

This document was subscribed, sworn to, and acknowledged before me on _____ date by _____

My commission expires _____
[Seal]

Notary Public

This revocation of beneficiary agreement was recorded in my office on ____, ____, at ____ o’clock, and, pursuant to section 15-22-111, Colorado Revised Statutes, I mailed a copy of this revocation of beneficiary agreement to _____ at the address contained in this revocation of beneficiary agreement.

Clerk and Recorder of

County
By: _____

Source: L. 2009: Entire article added, (HB 09-1260), ch. 107, p. 437, § 1, effective July 1. **L. 2013:** (3) amended, (SB 13-011), ch. 49, p. 167, § 25, effective May 1.

■ 15-22-112. Death of a designated beneficiary - effect on designated beneficiary agreement.

(1) A designated beneficiary agreement is terminated upon the death of either of the parties to the designated beneficiary agreement; however, a right or power which a designated beneficiary agreement conferred upon a designated beneficiary survives the death of the other designated beneficiary.

(2) A party to a designated beneficiary agreement who survives a designated beneficiary may enter into a designated beneficiary agreement with a different person so long as it meets the requirements of this article.

Source: L. 2009: Entire article added, (HB 09-1260), ch. 107, p. 438, § 1, effective July 1.

1C. Medical Treatment -
Community Property Rights

SUPPLEMENTARY AFFIDAVIT PURSUANT TO C.R.S. § 38-31-102¹

STATE OF COLORADO

_____ ² County of _____ ³

In the matter of the title to real property, and pursuant to C.R.S. § 38-31-102, the Affiant, _____ [NAME OF AFFIANT], being first duly sworn upon oath or by affirmation, states that Affiant is of legal age and has personal knowledge of the facts stated herein and that the person referred to

- in the certificate or verification of death recorded on _____ at Reception No. _____, in the Clerk and Recorder’s Office of _____ County, Colorado; or
- in the attached certificate or verification of death⁴,

is one and the same person as _____ [NAME OF DECEASED] who is named in the instrument recorded on _____ at Reception No. _____, in the Clerk and Recorder’s Office of _____ County, Colorado, in the following described real property situate in the _____ County of _____ and State of Colorado, to wit:

[LEGAL DESCRIPTION OF PROPERTY]⁵

¹. *Purpose of Affidavit.* This affidavit is designed to comply with the requirements of C.R.S. § 38-31-102, as amended in 2016, which provides that a certificate or verification of death of a joint tenant, life tenant, owner of real property under a beneficiary deed, or any other person whose interest in real property terminates upon their death to the same extent as a joint tenant, may be recorded in the county where the real property is located, together with a supplementary affidavit.

². If this affidavit is being notarized in Denver or Broomfield, this field should read “City and”. If this affidavit is being notarized in any other county, this field should be left blank.

³. The county in which the oath is administered to the affiant or the acknowledgement is taken should be entered in this field.

⁴. *Order of Recordings.* The decedent’s certificate or verification of death may either be recorded as an attachment to this affidavit or as a separate prior recording. If the decedent’s certificate or verification of death is recorded as a separate prior recording, the reception number of the recorded decedent’s certificate or verification of death should be stated in this affidavit.

⁵. The legal description of the property being referenced in this affidavit should be same as the legal description of the property on the deed vesting title in the relevant joint tenancy, life estate, or beneficiary deed. Do not rely on the property description provided by a county assessor’s office. A schedule with the property’s legal description may also be attached to this affidavit. When doing so, this field should read “See attached Schedule [SCHEDULE NUMBER/LETTER].” As an alternative, this field may refer to the property description on the deed vesting title in the relevant joint tenancy, life estate, or beneficiary deed.

also known by street and number as: _____ [ADDRESS OF REAL ESTATE]
[Assessor's Parcel Number: _____]⁶

Affiant

[PRINTED NAME OF AFFIANT]

Subscribed and sworn to or affirmed before me by
Affiant, _____²
on _____, in the _____⁷
County of _____⁸, State of _____,

Witness my hand and official seal.

Notary Public⁹

⁶. Including an assessor's parcel number in this field is optional.

⁷. If this affidavit is being notarized in Denver or Broomfield, this field should read "City and". If this affidavit is being notarized in any other county, this field should be left blank.

⁸. The county in which the oath is administered to the affiant or the acknowledgement is taken should be entered in this field.

⁹. Pursuant to C.R.S. § 12-55-112(1)(b), the notary's commission expiration date must appear on the notary's seal. If the notary's seal does not include the notary's commission expiration date, the notary should write "My Commission Expires [DATE OF NOTARY'S COMMISSION EXPIRATION]".

**AFFIDAVIT FOR GRANTEE ACTING IN A
REPRESENTATIVE CAPACITY
PURSUANT TO C.R.S. § 38-30-108**

STATE OF COLORADO

_____ County of _____

The undersigned, being of lawful age and being first duly sworn, is the grantee in a representative capacity named in an instrument conveying an interest in real estate, and for the purpose of complying with Section 38-30-108, C.R.S., does hereby affirm as follows:

1. The instrument conveying the interest in real estate in such representative capacity was recorded at Book/Page No. _____ Reception/Film No. _____ Document/File No. _____ on _____ (date) in the records of the Clerk and Recorder of the _____ County of _____, Colorado.

2. In such instrument of conveyance, the interest was transferred to the undersigned as:

- | | |
|--|--|
| <input type="checkbox"/> Trustee | <input type="checkbox"/> Attorney-in-Fact |
| <input type="checkbox"/> Agent | <input type="checkbox"/> Personal Representative |
| <input type="checkbox"/> Conservator | <input type="checkbox"/> Nominee |
| <input type="checkbox"/> Executor | <input type="checkbox"/> Custodian |
| <input type="checkbox"/> Administrator | <input type="checkbox"/> Other _____ |

3. For the purpose of complying with § 38-30-108, C.R.S., the undersigned also states (complete one or more of the following):

- (a) The name of the person represented is _____.
- (b) The statute, trust or other agreement, or the court appointment under which the grantee is acting is: _____.
- (c) The description of the representative capacity of the undersigned was recorded with the County Clerk and Recorder of the _____ County of _____ at Book/Page No. _____ Reception/Film No. _____ Document/File No. _____.

Subscribed and sworn to before me this _____ day of _____, 20_____.

Witness my hand and seal.

Notary Public
My commission expires: _____

BILL OF SALE

KNOW ALL BY THESE PRESENTS, That _____
of the _____ County of _____, State of Colorado, (Seller), for and in consideration
of _____ Dollars,
to him in hand paid, at or before the ensembling or delivery of these presents by _____
of the _____ County of _____, in the State of Colorado, (Buyer), the receipt of
which is hereby acknowledged, has bargained and sold, and by these presents does grant and convey unto
the said Buyer, his personal representatives, successors and assigns, the following property, goods and
chattels, to wit:

located at _____

TO HAVE AND TO HOLD the same unto the said Buyer, his personal representatives, successors
and assigns, forever. The said Seller covenants and agrees to and with the Buyer, his personal
representatives, successors and assigns, to WARRANT AND DEFEND the sale of said property, goods
and chattels, against all and every person or persons whomever. When used herein, the singular shall
include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the Seller has executed this Bill of Sale on (date) _____.

STATE OF COLORADO,
_____ County of _____

The foregoing instrument was acknowledged before me this __ day of _____, _____,
by _____.

Witness my hand and official seal.

My Commission expires _____.

Notary Public

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court _____ County, Colorado Court Address:	▲ COURT USE ONLY ▲
In the Matter of the Estate of: Deceased	
Attorney or Party Without Attorney (Name and Address): Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Case Number: Division: _____ Courtroom: _____
REQUEST FOR FAMILY ALLOWANCE AND EXEMPT PROPERTY	

1. I, _____ (name), state that I am the:

- surviving spouse or partner in a civil union;
- legal representative for _____, a minor or dependent child;
- adult dependent child; or
- legal representative for _____, an adult dependent child

of the decedent, who died on _____ (date), a resident of _____ County, Colorado.

2. Additionally I state:

- There are no minor or dependent children of the decedent of whom I am aware; or
- There are minor or dependent children of the decedent and
 - all of the minor or dependent children live with the surviving spouse or partner in a civil union; or
 - one or more of the decedent's minor or dependent children do not live with the surviving spouse or partner in a civil union.

456812408. I request the personal representative of this estate pay the **Family Allowance** under §15-11-404, C.R.S. as follows:

- to _____ (name of surviving spouse or partner in a civil union) as follows:
 - \$ _____ per month for _____ months; or
 - \$ _____ as a lump sum.

- to _____ (name of legal representative) on behalf of _____
(name of minor child): as follows:
 - \$ _____ per month for _____ months; or
 - \$ _____ as a lump sum.
- to _____ (name of adult dependent child) as follows:
 - \$ _____ per month for _____ months; or
 - \$ _____ to as a lump sum.
- to _____ (name of legal representative) on behalf of _____
(name of adult dependent child) as follows:
 - \$ _____ per month for _____ months; or
 - \$ _____ to as a lump sum.

456812409. I request that the personal representative of this estate transfer the following as **Exempt Property** under § 15-11-403, C.R.S.:

- to the surviving spouse or partner in a civil union
 - the amount of \$ _____ as a lump sum; and/or
 - the following items that total \$ _____ in value:
 - _____
 - _____
 - _____

Or, if there is no surviving spouse or partner in a civil union:

- to _____ (name of legal representative) on behalf of _____
(name of minor child) as follows:
 - The amount of \$ _____ as a lump sum; and/or
 - The following items that total \$ _____ in value:
 - _____
 - _____
 - _____
- to _____ (name of adult dependent child) as follows:
 - The amount of \$ _____ as a lump sum; and/or
 - The following items that total \$ _____ in value:
 - _____
 - _____
 - _____
- to _____ (name of legal representative) on behalf of _____
(name of adult dependent child) as follows:
 - The amount of \$ _____ as a lump sum; and/or
 - The following items that total \$ _____ in value:
 - _____
 - _____
 - _____

456812410.

T

his request is made within the earlier of one year after date of death or within six months after the Notice to Creditors by Publication that was first published on _____.

VERIFICATION

I verify the facts set forth in this document are true as far as I know or am informed. I understand that penalties of perjury follow deliberate falsification of the facts stated herein. (§15-10-310, C.R.S.)

Signature

Date

RECEIPT

I acknowledge receipt of the above Request for Allowances on _____ (date).

Signature of
Personal Representative

Date

CERTIFICATE OF SERVICE

I certify that on _____ (date), a copy of this Request for Family Allowance and Exempt Property was served on each of the following:

Name and Address	Relationship to Decedent	Manner of Service*

***Insert one of the following: Hand Delivery, First-Class Mail, Certified Mail, E-Served or Faxed.**

Signature of person certifying service

Notes:

1. The Exempt Property election is only available to a spouse or partner in a civil union, if there is one; otherwise to dependent children.

-
2. The request is not required to be filed with the Court, although it must be made to the Personal Representative. A written request is not required by statute, but to prove the timing of the request, a writing is recommended.

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court _____ County, Colorado Court Address:	▲ COURT USE ONLY ▲
In the Matter of the Estate of: Deceased	
Attorney or Party Without Attorney (Name and Address): Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Case Number: Division: _____ Courtroom: _____
PETITION FOR ELECTIVE SHARE	

I, _____ (name), petitioner, am the surviving spouse or partner in a civil union of the decedent, who died on _____ (date), a resident of _____ County, Colorado, and I exercise my right under § 15-11-201, C.R.S. *et seq.* to take an elective share of the augmented estate.

1. The decedent and I were married or entered into a civil union on _____ (date), which resulted in _____ full years of marriage or civil union, and I am therefore entitled to _____% of the marital property portion of the augmented estate.
2. The decedent's will dated _____ (date) was admitted to probate by this Court on _____ (date). This petition is filed within the later of nine months after the decedent's date of death, or six months after the will was admitted to probate, pursuant to §15-11-211, C.R.S.; or
 The decedent died intestate. This petition is filed within nine months after the decedent's date of death, pursuant to §15-11-211, C.R.S.

459277152. At a later date, Petitioner may request that the Court set the hearing after the parties have had an opportunity to exchange information regarding the augmented estate.

459277153. Petitioner additionally requests that after notice and hearing, if any, the Court determine the amount of the elective share and order payment thereof from the estate, or by contribution, as appears appropriate.

459277154. Petitioner retains his/her right to withdraw this petition at any time prior to a final determination by the Court pursuant to §15-11-211(4), C.R.S.

VERIFICATION

I verify the facts set forth in this document are true as far as I know or am informed. I understand that penalties of perjury follow deliberate falsification of the facts stated herein. (§15-10-310, C.R.S.)

Signature

Date

CERTIFICATE OF SERVICE

I certify that on _____ (date), a copy of this Petition for Elective Share was served on each of the following:

Name and Address	Relationship to Decedent	Manner of Service*

***Insert one of the following: Hand Delivery, First-Class Mail, Certified Mail, E-Served or Faxed.**

Signature of person certifying service

Notes:

1. This Petition must be filed with the Court and a copy mailed to the personal representative, if any, within the due dates stated in paragraph 2 above.
2. When a hearing is scheduled, a copy of the Petition and Notice of Hearing must be served on “persons interested in the estate and distributees and recipients of the augmented estate whose interests may be adversely affected” prior to the hearing date, giving sufficient notice.
3. The percentage in § 15-11-203, C.R.S. based on the length of the marriage, is applied to the “marital-property portion” (one-half) of the augmented estate.
4. A supplemental elective share applies if the marriage or civil union was less than one full year, or insufficient assets have passed to or are owned by the surviving spouse or partner in a civil union.

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court _____ County, Colorado Court Address:	▲ COURT USE ONLY ▲
In the Matter of the Estate of: Deceased	
Case Number: Division: Courtroom:	
ORDER DETERMINING ELECTIVE SHARE	

Upon consideration of the Petition for Elective Share filed by _____, petitioner, on _____ (date),

The Court FINDS that:

1. Venue is proper;
2. Any required notices have been given or waived;
3. Petitioner is entitled to receive the elective share as follows:
 - The parties have reached a Stipulation as to the petitioner’s appropriate elective share, a copy of which is attached; or
 - The parties have not reached a Stipulation and therefore the Court finds that the petitioner’s elective share is as follows:
 - a. Petitioner and decedent were married or partners in a civil union for _____ full years, and therefore petitioner’s elective share percentage is _____% of the marital property portion of the augmented estate;
 - b. The augmented estate is \$_____;
 - c. Petitioner’s elective share is \$_____; and
 - d. Petitioner’s elective share is partly satisfied by the following:
 - \$_____ in the spouse’s own property;
 - \$_____ passing to the spouse under the Will or by intestacy; and
 - \$_____ passing to the spouse under non-probate transfers.

The Court further FINDS:

The Court ORDERS that:

- The Stipulation as to the satisfaction of petitioner's elective share, a copy of which is attached, is approved by the court; or
- The parties did not reach a Stipulation, and after a hearing and the findings stated above, the Court Orders that petitioner's elective share shall be satisfied by contribution of the following assets of the estate:

and/or

By transfer of the following assets from the following persons:

The Court further ORDERS:

BY THE COURT:

 Judge Magistrate

Dated: _____

State of Colorado Transfer of Title Upon Death Designated Beneficiary Form C.R.S. 42-6-110.5

Upon death of the owner(s) of the motor vehicle, the beneficiary must present the death certificate(s) which must be accompanied by the DR 2009 Transfer of Title Upon Death Designated Beneficiary form and the DR 2395 Application for Title and/or Registration.

Name of Owner and Co-Owner			
Transfer on death to			
Year	Make	Model	VIN
Signature of Owner			Date
Signature of Co-Owner			Date
<p>Notary Seal</p> <p style="text-align: center;">Subscribed and affirmed, or sworn to, before me this _____ day of _____, 20____, in the county of _____, State of Colorado.</p> <p style="text-align: center;">Notary Signature _____</p>			