

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

Hard 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 Docs.

**THE NEXT MEETING WILL BE MAY 17, 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 MAY 17, 2018 MEETING

- 1) **Chair Report (Jarod Balson)**
 - a. Recent Submissions (PFs, JDFs, Rules)
 - b. Public Hearing on Proposed Rules- June 27, 2018 at 3:00PM
- 2) **Review of April 19, 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)
 - e. Forms with Calculation (John Estes)
 - f. Determine future of each subcommittee (Jarod Balson)
- 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)

- b. Notarization and Verification Changes (Aaron Evans and Casey Williams)
- c. Trust Challenge Notice Pursuant to § 15-16-704(1)(a) (Kevin Millard/Barbara VanVliet)
- d. Changes to the determination of heirship statutes—JDF updates (Leia Ursery)
 - 1. Notice of Hearing to Interested Persons and Owners by Descent or Succession
 - 2. Judgement and Decree Determining Heirs
 - 3. Petition for Determination of Heirs
 - 4. Notice of Hearing by Publication
- e. Waiver—JDF 889 (Casey Williams)
- f. Petition to Terminate Conservatorship—JDF 888 (Gordon Williams)
- g. Provisional Letters for Transfer (Gordon Williams)
- h. Application for Informal Appointment of Personal Representative JDF 916 (Gene Zuspahn)

MINUTES OF APRIL 19, 2018 MEETING
RULES AND FORMS COMMITTEE
TRUST AND ESTATE SECTION
THE COLORADO BAR ASSOCIATION

Present

Laurence Gendelman
Chris Brock
Barbara Van Vliet
Jarod Balson
Jamie Schuler
Mike Holder

Aaron Evans
Frank Hill
Susan Hoyt
Tom Lynn
Theresa Moore
Peggy Gardner

Jacqueline Bester
William L. Carew
David Taunton
Julie Papa
Pete Bullard

1) Review of March 15, 2018 Meeting Minutes

- a) Amend minutes to reflect that Susan Hoyt was present
- b) Minutes Approved

2) Chair's Report (Laurence Gendelman for Jarod Balson)

- a) No new recent submissions
- b) No update regarding committee formalities
- c) Public hearing will be on June 27, 2018 at 3:30PM for the proposed rules as well as new/revised JDF forms

3) Subcommittee and Liaison Reports

- a) Trial and Procedure Committee (Aaron Evans)- Form for conservator reports- some courts find that if there is a substantial change in the ward's assets/spending/debts, that the courts may require that original financial plan be amended. Form and statute may need to be changed to clarify purpose of annual financial plan.

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)
 - i) Susan will talk to SRC about approach from here/collaboration with Family Law
 - ii) Notarization and Verification Changes (Aaron Evans and Casey Williams)
- b) Trust Challenge Notice Pursuant to § 15-16-704(1)(a) (Kevin Millard/Barbara VanVliet)
 - i) To be considered at next meeting.
- c) Changes to the determination of heirship statutes—JDF updates (Leia Ursery)
 - i) Nobody present to discuss proposed form.
- d) Waiver—JDF 889 (Casey Williams)
 - i) Nobody present to discuss proposed form.
- e) Petition to Terminate Conservatorship—JDF 888 (Gordon Williams)
 - i) Nobody present to discuss proposed form.
- f) Provisional Letters for Transfer (Gordon Williams)
 - i) Nobody present to discuss proposed form.

g) Application for Informal Appointment of Personal Representative JDF 916 (Gene Zuspann)

i) Nobody present to discuss proposed form.

5) Miscellaneous Discussion

a) There are several items that have been on our agenda for several months, without making any progress. We need to look at removing the agenda item and or disbanding the subcommittee.

b) Purpose and Future of Rules and Forms Committee

6) Meeting adjourned at 12:15 PM

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court _____ County, Colorado Court Address:	▲ COURT USE ONLY ▲
In the Matter of the Determination of Heirs or Devisees or Both and of Interests in Property of: Deceased	Case Number: Division: Courtroom:
JUDGMENT AND DECREE DETERMINING HEIRS OR DEVISEES OR BOTH, AND OF INTERESTS IN PROPERTY	

Upon consideration of the Petition for the Determination of Heirs or Devisees or Both, and of Interests in Property:

The Court finds that:

1. The statements in the Petition are true and correct;
2. Notice has been properly given or waived;
3. The Petitioner has standing to bring this action in accordance with §15-12-1302(1), C.R.S.;
4. The property that is the subject of the Petition is (including legal description if real property):

	Description of Property (ONLY IF KNOWN, petitioner may include fractional or percentage ownership)	Location of Property
Property 1		
Property 2		
Property 3		
Property 4		

Name of Original Decedent: _____

- 5a. The Original Decedent died without a Will.
 The Original Decedent died with a Will. The date of the Original Decedent's last Will is _____.
 _____. The dates of all codicils are _____. The Will and any codicils are referred to as the Will.

- 6a. The heirs or devisees of the Original Decedent are:

Name	Relationship (e.g. spouse, partner in a civil union, child, brother, guardian for spouse, etc.)

- 7a. The Original Decedent held an interest in the property identified in Paragraph 4 above.

8a. The owners by descent or succession of the Original Decedent's interest in the property identified in Paragraph 4 above:

Owner(s) by Descent or Succession	Share of Original Decedent's Interest in Property (Fraction or Percentage)

Paragraphs 5 through 8 will be addressed for each Additional Decedent addressed in the Petition.

- 5b. The First Additional Decedent died without a Will.
 The First Additional Decedent died with a Will. The date of the First Additional Decedent's last Will is _____. The dates of all codicils are _____. The Will and any codicils are referred to as the Will.

6b. The heirs or devisees of the First Additional Decedent are:

Name	Relationship (e.g. spouse, partner in a civil union, child, brother, guardian for spouse, etc.)

7b. The First Additional Decedent held a fractional or percentage interest in the Original Decedent's interest in the property identified in Paragraph 4 above.

8b. The owners by descent or succession of the First Additional Decedent's fractional or percentage interest in the Original Decedent's interest in the property identified in Paragraph 4 above:

Owner(s) by Descent or Succession	Share of First Additional Decedent's Interest in Property (Fraction or Percentage)

9. Based on the foregoing, the Court determines the Original Decedent's interest in the property identified in Paragraph 4 to be held as follows:

Owner(s) by Descent or Succession (including address)	Share of Original Decedent's Interest in Property (Fraction or Percentage)

The Court further finds:

This judgment and decree shall be conclusive as to the rights of heirs or devisees in the subject property from the date of entry. If the judgment and decree affects title to real property, a certified copy of the judgment and decree must be recorded and indexed in the office of the county clerk and recorder of each county in which real property is located in manner and in like effect as a deed of conveyance from the decedent(s) to the heirs or devisees and the owners by descent or succession.

Date: _____

 Judge Magistrate Registrar

This petition also covers any other property owned by the Original Decedent at the time of his or her death or that the Original Decedent was entitled to at the time of his or her death.

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This petition does not cover any other property owned by the Original Decedent.

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4. This petition concerns the following decedent(s), who are related by successive interests in the property described in Paragraph 3 above if there is more than one decedent:

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_____ (name of each

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decedent). The decedent with the originating property interest will be referred to herein as the Original Decedent; each other decedent will be referred to as an Additional Decedent. The information in Paragraph 5 through 13 is provided for the Original Decedent and each Additional Decedent.

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Original Decedent - _____ [name];

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5a. The Original Decedent _____ (name), at the age of _____ years, died on _____ (date), at _____ (place of death).

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6a. One year or more has passed since the date of the Original Decedent's death.

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7a. Administration of the Original Decedent's estate has not been granted or commenced in any jurisdiction.

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Administration of the Original Decedent's estate has been granted or commenced, but the estate has been settled without a determination of the descent or succession of all or a portion of the Original Decedent's property.

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8a. The Original Decedent was last domiciled or resided in the City of _____ County of _____, State of _____.

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9a. The Original Decedent died without a Will.

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The Original Decedent died with a Will. The date of the Original Decedent's last Will is _____. The dates of all codicils are _____. The Will and any codicils are referred to as the Will.

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The Will was admitted to probate in _____ (county and Court), State of _____, in Case No. _____ on _____ (date). Certified copies of the Will and the order admitting the Will to probate are filed with this Petition. (§15-12-1302(4)(a), C.R.S.)

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The Will has not been probated. The Will has been lodged in _____ (Court). The Petitioner believes that is the Original Decedent's last Will and that it was validly executed. Except as may be disclosed in an attached explanation and after the exercise of reasonable diligence, the Petitioner is unaware of any instrument revoking the Will and is unaware of any prior Wills relating to property in Colorado that have not been expressly revoked by a later instrument. A certified copy of the Will is attached or, if certification is not possible, a copy of such Will is attached, along with an explanation as to why certification was not possible. (§15-12-1302(4)(b), C.R.S.)

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The Will has not been probated and the original Will has not been lodged with any Court. The Will is lost, destroyed, or otherwise unavailable. The Petitioner believes that is the Original Decedent's last Will and that it was validly executed. Except as may be disclosed in an attached explanation and after the exercise of reasonable diligence, the Petitioner is unaware of any instrument revoking the Will and is unaware of any prior Wills relating to property in Colorado that have not been expressly revoked by a later instrument. A copy of the Will is attached or, if a copy if not available, the contents of the Will are set forth in an attachment to this petition.

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10a. List names, addresses, and relationship of all interested persons as defined in §15-12-1301(1), C.R.S., including owner(s) by descent or succession, an alleged heir or devisee of a decedent, any other person claiming an ownership interest derived from an owner by descent or succession, or an alleged heir or devisee in any property the descent or succession of which is to be determined by this petition for the Original Decedent.

- ◆ If a Guardian or Conservator has been appointed for one of the persons listed below, also provide the name and address of the Guardian or Conservator.
- ◆ If a minor child is listed, list the child's parent(s), Guardian or Conservator.
- ◆ If a spouse, partner in a civil union, or child has predeceased the Original Decedent, include the date of death.
- ◆ See additional instructions below.

Name	Address (or date of death)	Age, only if Minor	Relationship (e.g. spouse, partner in a civil union, child, brother, guardian for spouse, etc.)

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11a. This Petition concerns the descent or succession of the Original Decedent's interest in the property identified in Paragraph 3 above.

12a. The owners by descent or succession of the Original Decedent's interest in the property identified in Paragraph 3 above:

Owner(s) by Descent or Succession	Share of Original Decedent's Interest in Property (Fraction or Percentage)

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13a. The relief sought by this petition is not inconsistent with any previous administration of the Original Decedent's property.

First Additional Decedent - _____ [name]:

5b. The First Additional Decedent, _____ (name), at the age of _____ years, died on _____ (date), at _____ (place of death).

6b. One year or more has passed since the date of the First Additional Decedent's death.

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7b. Administration of the First Additional Decedent's estate has not been granted or commenced in any jurisdiction.

Administration of the First Additional Decedent's estate has been granted or commenced, but the estate has been settled without a determination of the descent or succession of all or a portion of the First Additional Decedent's property.

8b. The First Additional Decedent was last domiciled or resided in the City of _____ County of _____, State of _____.

9b. The First Additional Decedent died without a Will.

The First Additional Decedent died with a Will. The date of the First Additional Decedent's last Will is _____ . The dates of all codicils are _____ . The Will and any codicils are referred to as the Will.

The Will was admitted to probate in _____ (county and Court), State of _____ in Case No. _____, on _____ (date). Certified copies of the Will and the order admitting the Will to probate are filed with this Petition. (§15-12-1302(4)(a), C.R.S.)

The Will has not been probated. The Will has been lodged in _____ (Court). The Petitioner believes that is the First Additional Decedent's last Will and that it was validly executed. Except as may be disclosed in an attached explanation and after the exercise of reasonable diligence, the Petitioner is unaware of any instrument revoking the Will and is unaware of any prior Wills relating to property in Colorado that have not been expressly revoked by a later instrument. A certified copy of the Will is attached or, if certification is not possible, a copy of such Will is attached, along with an explanation as to why certification was not possible. (§15-12-1302(4)(b), C.R.S.)

The Will has not been probated and the original Will has not been lodged with any Court. The Will is lost, destroyed, or otherwise unavailable. The Petitioner believes that is the First Additional Decedent's last Will and that it was validly executed. Except as may be disclosed in an attached explanation and after the exercise of reasonable diligence, the Petitioner is unaware of any instrument revoking the Will and is unaware of any prior Wills relating to property in Colorado that have not been expressly revoked by a later instrument. A copy of the Will is attached or, if a copy is not available, the contents of the Will are set forth in an attachment to this petition.

10b. **List names, addresses, and relationship of all interested persons as defined in §15-12-1301(1), C.R.S., including owner(s) by descent or succession, an alleged heir or devisee of a decedent, any other person claiming an ownership interest derived from an owner by descent or succession, or an alleged heir or devisee in any property the descent or succession of which is to be determined by this petition for First Additional Decedent.**

◆ If a Guardian or Conservator has been appointed for one of the persons listed below, also provide the name and address of the Guardian or Conservator.

◆ If a minor child is listed, list the child's parent(s), Guardian or Conservator.

◆ If a spouse, partner in a civil union, or child has predeceased the First Additional Decedent, include the date of death.

◆ See additional instructions below.

Name	Address (or date of death)	Age, only if Minor	Relationship (e.g. spouse, partner in a civil union, child, brother, guardian for spouse, etc.)

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11b. This Petition concerns the descent or succession of the First Additional Decedent's fractional or percentage interest in the Original Decedent's interest in the property identified in Paragraph 3 above.

12b. The owners by descent or succession (including fractional or percentage interest) of the First Additional Decedent's fractional or percentage interest in the Original Decedent's interest in the property identified in Paragraph 3 above:

<u>Owner(s) by Descent or Succession</u>	<u>Share of First Additional Decedent's Interest in Property (Fraction or Percentage)</u>

13b. The relief sought by this petition is not inconsistent with any previous administration of the First Additional Decedent's property.

Provide the information in Paragraphs 5 through 13 for each decedent identified in Paragraph 4 above. (Note: Use additional pages if necessary.)

14. Jurisdiction is proper because the Original Decedent and each Additional Decedent died leaving an interest in real property in Colorado or died domiciled in Colorado leaving an interest in personal property, wherever located.

15. Venue for this proceeding is proper in this county because the Original Decedent (and each Additional Decedent) was (were) domiciled or resided in this county on the date of death or left property situated in this county.

16. Based on the foregoing, the Petitioner requests that the Court determine the Original Decedent's interest in the property identified in Paragraph 3 to be held as follows:

<u>Owner(s) by Descent or Succession (including address)</u>	<u>Share of Original Decedent's Interest in Property (Fraction or Percentage)</u>

Petitioner requests that after notice and any required hearing, the Court enter judgment and decree determining that the Petitioner has standing to bring this action and determining the heirs or devisees of the Original Decedent and each Additional Decedent, or both, the owners by descent or succession of the property, a description of the property and any other pertinent facts.

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<#>One year or more has passed since the date of the Decedent's death.¶

<#>¶Administration of the Decedent's estate has not been granted in Colorado.¶

¶Administration of the Decedent's estate has been granted in Colorado, but the estate has been settled without a determination of the descent or succession of all or a portion of the Decedent's property.¶ ... [14]

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VERIFICATION AND ACKNOWLEDGMENT

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

Signature of Petitioner Date

The foregoing instrument was acknowledged before me in the County of _____, State of Colorado, this ____ day of _____, 20____, by the Petitioner.

My Commission Expires: _____

Notary Public/Deputy Clerk

Signature of Attorney Date

Instructions for paragraph 10:

Include any statements regarding legal disability or other incapacity required by Rule 10, C.R.P.P. and §15-12-1302(3)(d)(IX) C.R.S. List the names and dates of death of any deceased heirs or devisees. (See applicable antilapse statute, §§15-11-601 and 603, C.R.S.) Where a listed person is an heir, detail the relationship with the decedent that creates heirship. Examples: son, daughter of pre-deceased son. (§§15-11-101 to 114, C.R.S.) If the name or address of any interested person is unknown, include a statement detailing the reasonable, diligent efforts made to determine the name and/or address of such interested person. (§§15-12-1302(3)(e), C.R.S.) Attach additional pages if necessary.

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The Will and any codicils are referred to as the Will.

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The Will was admitted to probate in _____ (county and Court) in Case No. _____ on _____ (date). A certified Copy of the Will and the order admitting the Will to probate are attached.

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(Note: Use additional pages if this Petition concerns more than one Decedent related by successive interests in the property.)

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One year or more has passed since the date of the Decedent's death.

- Administration of the Decedent's estate has not been granted in Colorado.
- Administration of the Decedent's estate has been granted in Colorado, but the estate has been settled without a determination of the descent or succession of all or a portion of the Decedent's property.

- The Decedent died without a Will.
- The Decedent's died with a Will. Information regarding the Will is as follows:
The date of the Decedent's last Will is _____.
The dates of all codicils are _____.
The Will and any codicils are referred to as the Will. The Will was admitted to probate in _____ (county and Court) in Case No. _____ on _____ (date). A certified Copy of the Will and the order admitting the Will to probate are attached.

This Petition concerns the descent or succession of the Decedent's interest in the following property:

Description of Property	Location of Property	Decedent's Interest

List names, addresses, and relationship of all interested persons, including Decedent's spouse, partner in a civil union, children, owners by inheritance, heirs and devisees.

If a Guardian or Conservator has been appointed for one of the persons listed below, also provide the name and address of the Guardian or Conservator.

If a minor child is listed, list the child's parent(s), Guardian or Conservator.

If a spouse, partner in a civil union, or child has predeceased the Decedent, include the date of death.

See additional instructions below.

Name	Address (or date of death)	Age, only if Minor	Relationship (e.g. spouse, partner in a civil union, child, brother, guardian for spouse, etc.)

CERTIFICATE OF SERVICE

I certify that on _____ (date) a copy of this Notice along with the pleading identified above was served on each of the following: (All interested persons must be served)

Name of Person to Whom you are Sending this Document	Relationship	Address	Manner of Service*

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

Signature of Person Giving Notice

Note:

- ◆ You must answer the Petition on or before the hearing date and time specified above.
- ◆ Within the time required for answering the Petition, all objections to the Petition must be in writing, filed with the Court and served on the Petitioner and any required filing fee must be paid.
- ◆ The hearing shall be limited to the Petition, the objections timely filed and the parties answering the Petition in a timely manner. If the Petition is not answered and no objections are filed, the Court may enter a decree without a hearing.

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Publish only this portion of form.

Type or Print name of Person Giving Notice

Address

City, State, Zip Code

Instructions to Newspaper: _____

Name of Newspaper

Signature of Person Giving Notice or Attorney for Person Giving Notice

Publish the above Notice once a week for three consecutive calendar weeks.

Type or Print name of Attorney for Person Giving Notice

Note:

- ◆ This Notice must be published in a newspaper having general circulation in the county where the hearing is to be held once during each week of three consecutive weeks with the last date of the publication being at least 35 days before the date of the hearing pursuant to § 15-10-401(1)(c), C.R.S.
- ◆ The contents of the Petition or other pleading which is the subject of the hearing need not be published as a part of this Notice, but this Notice must briefly state the nature of the relief requested pursuant to Colorado Rules of Probate Procedure, Rule 8.

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