TOWN OF NARRAGANSETT
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Town Clerk's Office
Probate Court
401-782-0622

NARRAGANSETT PROBATE COURT

LOCAL RULES OF PRACTICE AND PROCEDURE

Pursuant to Rhode Island General Laws Section 33-22-29, the Probate Court of the Town of Narragansett (hereinafter the "Court") hereby establishes the following rules of practice and procedure:

1. LEGAL ADVICE:

This is a court of law. Decrees and judgments are legally binding. Fiduciary duties are defined and regulated by statute. Petitioners, respondents and parties of interest are strongly advised to seek legal representation. Those appearing before the court without representation do so at their own risk and responsibility. No legal advice will be dispensed by the Probate Judge or the various clerks of the court, including how to fill out probate forms. This Court directs all parties to Rhode Island General Laws Section 33 et seq for further information concerning practice and procedure in the probate courts of Rhode Island.

2. COURT SESSIONS:

The Court will normally convene at 10:00 AM in the Town Council Chambers of Narragansett Town Hall on the fourth Thursday of each month unless such day is a legal holiday or the eve of a legal holiday, in which case the Court reserves the right to schedule such month's session on the day closest to its regularly scheduled session as it deems appropriate (usually the preceding Tuesday). Verification with the Clerk is suggested.

3. COURT DOCKET:

Prior to each Court session the Probate Clerk will prepare a docket of the cases and matters scheduled to be heard on such session and the Court will generally follow the order of such docket in calling cases, with uncontested matters being heard first.

4. **SIGN-IN PROCEDURE AND ORDER OF DOCKET**:

Upon arrival, all parties wishing to address the Court should sign the docket sign-in sheet located on the table in front of the dais. The docket sign-in sheet will be put out at 9:45 AM. The sign-in sheet does not determine the order in which cases will be called. Petitions regarding uncontested matters on waiver will be heard first. Contested or time-consuming matters will be heard after matters on waiver, or scheduled for a special session. Please contact the Clerk to make arrangements for special sessions.

5. **FILING DEADLINES:**

A. Advertised Matters. Matters requiring advertisement should be filed and the requisite fees paid not later than the Thursday before the week the first publication is to occur. Publication will be in The Narragansett Times, three times prior to the hearing.

B. Matters on Waiver or Non-Advertised Matters. Matters on waiver or which do not require advertising must be filed no later than two (2) days prior to a scheduled Court session.

C. Filings. Pleadings, memoranda and other filings must be filed with the Court at least three (3) working days prior to the scheduled hearing.

6. **PETITIONS GENERALLY**:

A. Required fees must accompany all petitions.

B. All petitions must be typewritten.

C. The address and telephone number of the fiduciary must be listed on each petition for Probate of a Will or Appointment of an Administrator. The attorney's information, including Bar Number, must be provided as well.

7. **SPECIAL SESSIONS:**

The Court will grant special sessions at its discretion in two circumstances: contested matters which require lengthy testimony and/or evidentiary hearings and exigent matters which cannot wait until the Court's regularly scheduled hearing date. The Court does not consider the inability to pay current bills an exigent circumstance, unless such inability would result in a foreclosure or substantial loss or damage to property.

8. **RECORDING OF SESSIONS:**

Sessions of the Court are not usually recorded but, at the request of any interested party or of the Probate Judge, a matter may be recorded. Such audio recording will be kept on file for one year and will be made available for transcription at the request and expense of the requesting party. Requests for audio recordings of any proceedings must be received three (3) working days in advance of the hearing date.

9. **ACCESSIBILITY**:

The Courtroom is accessible to individuals who are physically challenged. Interpreters for the hearing impaired can be provided if a request is received three (3) working days in advance of the hearing date.

10. **COURT DECISIONS:**

All decisions, orders and decrees of the Court shall be reduced to a written order or decree presented at the time of the hearing or by the prevailing party within a reasonable time thereafter, following notice to all parties who have entered an appearance in such matter.

11. **INVENTORIES:**

A. Estates. Every executor or fiduciary shall, within ninety (90) days of his or her appointment, file with the Court a true inventory of all of the personal property of the deceased in accordance with R.I.G.L. Section 33-9-1.

B. Guardianships. Every guardian shall, within thirty (30) days of his or her appointment, file with the Court a true inventory of all of the property, real and personal, of the ward in accordance with R.I.G.L. Section 33-15-19.

Requirements for inventories will be strictly enforced. Parties unable to comply with the requisite filing times specified above must petition the Court for an extension of time or face the possibility of removal by the Court *sua sponte*.

12. **AFFIDAVITS OF COMPLETED ADMINISTRATION:**

Affidavits of Completed Administration will not appear on the Court docket but will be handled administratively within the Clerk's office.

13. **ATTORNEY AND FIDUCIARY FEES:**

The Court shall approve or disapprove all fees for attorneys or fiduciaries in any probate matter and will require time records for all attorneys and fiduciaries indicating dates, time spent and subject matter of such time, as well as the hourly rate charged. Summaries of actions taken and time expended are acceptable only in rare circumstances and at the Probate Judge's discretion.

14. **PETITIONS FOR SALE OF REAL ESTATE:**

Petitioners for the sale of real estate of a ward or decedent must file an appraisal of such real estate and a purchase and sale agreement or signed offer to purchase along with the petition to sell real estate. Letters from brokers or appraisers as to the fair market value of real estate are not acceptable. An appraisal with comparable sales is required.

15. **GUARDIANSHIPS; DMATS:**

In any guardianship requiring the filing of a Decision Making Assessment Tool ("DMAT") the Court may, upon motion of any interested party or on its own accord, order that such DMAT and other filings in connection with the guardianship be sealed. Any party wishing access to such sealed documents must file a written petition with the Court explaining such party's reason for requesting access thereto and requesting that such documents be unsealed for such party. Notice of such request should also be sent to any party who has entered an appearance in such matter.

16. **RECUSAL OF JUDGE:**

If the sitting Probate Judge cannot hear a matter because of a conflict of interest, the Town Solicitor shall sit as the Probate Judge.

17. **RULES OF EVIDENCE:**

In all contested matters, the Rhode Island Rules of Evidence shall be applied; provided, however, that the parties may stipulate or waive the requirements of the Rules of Evidence as to any particular matter.

These rules shall be adopted and take effect for all matters filed on or after January 1, 2010.

Anne M. Irons

Anne M. Irons
Probate Clerk
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James L. Sheridan
Probate Judge