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14.01 GENERAL

- A. The definitions in the [Probate Act of 1975 \(Probate Act\)](#), as amended, shall apply to these rules:
1. "Court" refers to Probate Court.
 2. "Judge" means a Circuit Judge or Associate Judge assigned to the Probate Court.
 3. "Representative" includes executor, administrator, administrator to collect, an administrator with will annexed, standby guardian, guardian, and temporary guardian but does not include an independent administrator or executor.
 4. "Independent administrator" means an executor or administrator as defined in [Article XXVIII of the Probate Act](#).
 5. "Ward" includes a minor and disabled person.
 6. Section references are to sections of the Probate Act.
- B. An action to contest admission or denial of a will, to enforce a contract to make a will, to construe a will, or to appoint a testamentary trustee during the period of administration of an estate shall be assigned a Chancery case number in accordance with the Supreme Court Manual on Record Keeping. The parties shall be designated as in other civil actions. Unless otherwise ordered by the Presiding Judge of the Civil Division, the action shall be heard by the Probate Judge to whom the estate has been assigned.

14.02 BONDS: PERSONAL SURETIES

- A. If a bond with personal sureties is proffered, it must be accompanied by:
1. A petition, verified by the representative, stating:
 - a. the gross value of the personal estate, excluding real estate, but including the income derived therefrom, if any,
 - b. the estimated monthly maintenance expenses for the ward,
 - c. the estimated amount of claims and taxes, and
 - d. whether the adult heirs or legatees or the nearest relatives of a ward approve the bond, with their approvals attached, and

2. A schedule of the property and net worth of each proposed surety, executed under oath by the proposed surety, unless the filing of a schedule is excused by the court upon the consent of all heirs and/or legatees in a decedent's estate or upon good cause shown in a ward's estate.

B. If the proffered bond is approved by the court, the petition and the schedules shall be filed with and become a part of the bond. The personal representative or his attorney, within seven (7) days, shall mail copies of the petition, bond, and schedules to each heir, legatee or nearest relative, as the case may be, except to those whose approval is on file. Proof of mailing shall be filed with the clerk.

14.03 EXCUSE OF SURETY ON GUARDIAN'S BOUND IN CASH DEPOSITS

A. When the funds of a ward's estate, derived from any source, are to be deposited pursuant to Section 24-21 of the Probate Act, the court may waive the filing of a bond by the entry of an order which authorizes the deposit and which requires:

1. that a distribution to the ward's estate be made payable jointly to the guardian, if any, and the depository, and
2. that a certified receipt of the depository be filed with the Clerk of the Court. The receipt shall be executed by an authorized agent of the depository and shall certify that no withdrawals may be made without Court approval.

B. If a representative of the ward's estate has been appointed, the filing of the receipt of the depository, as prescribed herein, may be considered a final account, whereupon the court may release the representative and the sureties on the bond. The case shall thereafter be designated closed by the Clerk of the Court.

14.04 SURETY COMPANIES

A bond with a corporation or association licensed to transact surety business in the State of Illinois as surety will be approved only if a current copy of the surety's authority to transact business in this State, as issued by the Director of Insurance, and a verified power of attorney or a certificate of authority for all persons authorized to execute bonds for the surety are attached to the bond.

14.05 OPENING A SAFE DEPOSIT BOX

A. The petition for appointment of a representative of a decedent or a ward shall disclose whether or not there exists a safe deposit box belonging to the estate or ward and the location thereof.

B. The initial inventory shall list the existence of any safe deposit box and the location thereof.

- C. The representative shall prepare an itemized statement of the contents of the safe deposit box, which shall be certified as true and correct by the representative. An itemized statement of the contents shall be included in the inventory filed with the Clerk of the Court.
- D. Any after-discovered safe deposit box shall be inventoried forthwith in accordance with this rule, and a supplemental inventory listing the box and its contents shall be filed with the Clerk of the Court no later than thirty (30) days from the date of discovery.

14.06 PERIODIC ACCOUNTING

- A. Unless excused by the court pursuant to [Section 24-1\(b\) of the Probate Act](#), every representative of a decedent's estate shall present to the court, for approval, a verified account of the administration of the estate as required by [Section 24-1\(a\) of the Probate Act](#) within 60 days after the expiration of one (1) year after the issuance of letters of office. Thereafter, a verified account shall be filed annually within 60 days after the anniversary date of the issuance of letters of the office until the administration is completed.
- B. Whenever an order is entered granting independent administration pursuant to [Section 28-2 of the Probate Act](#), the independent representative shall file in open court a verified report on the status of the estate each year within 30 days after the anniversary date of the entry of the initial order granting independent administration until the estate is closed.
- C. Unless excused by the court, every guardian shall present to the court for approval the verified account and evidence required by [Section 24-11\(a\) of the Probate Act](#) within 60 days after the expiration of one (1) year after the issuance of letters and annually thereafter within 60 days after the anniversary date of the first verified account until the estate is closed.
- D. Each current report shall disclose to the court the pendency of any claim, suit or proceeding by or against the estate or the representative of the estate and, in estates of deceased persons, any other reason which prevents final distribution and termination of the estate.
- E. Each account shall include, to the satisfaction of the court, the following categories:
 - 1. The assets on hand at the beginning of the period of time are covered by the account.
 - 2. The income received during the period of time is covered by the account.
 - 3. The disbursements made during the period of time are covered by the account.

4. The assets on hand at the close of the period of time are covered by the account.
- F. No representative shall be discharged until a final account has been filed and approved by the court.
- G. Except as hereinafter provided, in an estate in which an account and/or report has not been filed and approved as required by paragraphs a, b, and c above, the clerk shall issue and mail a notice to both the representative and attorney of record in the estate, advising them that an account and/or report must be filed in accordance with these rules, and notifying them that in the event an account and/or report is not so filed they must appear on a date certain fixed by the court to explain why they have not done so and further notifying them that failure to appear on the date so fixed may subject them to contempt proceedings and the imposition of sanctions.

14.07 NOTICE OF HEARING ON ACCOUNTS

- A. Notice of the hearing on a final account of an executor or administrator or on a current account that is intended to be binding pursuant to [Section 24-2 of the Probate Act](#) shall be given to the persons described in [Section 24-2 of the Probate Act](#), as follows:
 1. Such notice shall be in writing accompanied by a copy of the account, except where notice is to be given by publication.
 2. The notice shall contain the time, place, and nature of the hearing and substantially the following sentence: "If the account is approved by the court upon the hearing, in the absence of fraud, accident or mistake, the account as approved may be binding upon all persons to whom this notice is given."
 3. The notice shall be given at least seven (7) days prior to the hearing in the manner provided by [Supreme Court Rule 11](#) except when notice is by publication as herein provided, and except that whenever the person resides outside the continental limits of the United States, the notice shall be by airmail at least 21 days prior to the date of hearing.
 4. Whenever the name or place of residence of any such person is unknown and upon due diligence cannot be ascertained. An affidavit to that effect is filed with the Clerk of the Court by the executor or administrator; then notice shall be given to such person by mailing the same to the last known address and by publication at least once in some newspaper of general circulation published in the County at least 21 days prior to the date of the hearing.
 5. Proof of such notice shall be filed with the Clerk of the Court on or before the date of the hearing.

6. No notice need be given to any person from whom a receipt in full is filed with the court or who entered his appearance in writing and waives notice.

B. Notice of the hearing on a current or final account of a guardian shall be given to the ward, if living, to each claimant whose claim has been filed and remains undetermined or unpaid, to the heirs at law or legal representative of a deceased ward, and were entitled, to the Chief Attorney of the Administrator of Veteran Affairs. Such notice shall be given in the manner provided for in Section (A) of this rule.

14.08 PROOF OF SERVICE IN GUARDIANSHIP ESTATES

When service of notice is required pursuant to [Section 1110.1 or Section 11a-10\(f\) of the Probate Act](#), proof of service shall be filed with the clerk in the manner provided for in [Supreme Court Rule 12](#).

14.09 NOTICE OF CLAIM CALL

When a claim against the estate of a decedent or a ward is filed with the court pursuant to Section [18-1 of the Probate Act](#), the Clerk of the Court, within seven (7) days of the filing of the claim, shall send to the representative of the estate and to the claimant, or to their attorneys, if they are represented by counsel, a notice setting a call of the claim pursuant to [Section 18-7 of the Probate Act](#). The notice shall set the call of the claim no less than 60 days from the date of the filing of the claim and shall inform the parties that if the claimant fails to appear for the call of the claim, the claim may be dismissed for want of prosecution, and that if the representative fails to appear, and no other person, whose interests may be affected by the allowance of the claim objects, the claim may be allowed against the estate. No less than 30 days prior to the date of the call of the claim, the representative shall notify all other parties of record of the call of the claim by forwarding to them a copy of the claim and of the notice from the clerk. The representative shall file proof of such notice with the clerk on or before the date of the call of the claim.

14.10 VOUCHERS

Upon presentation of an account, the representative shall furnish receipts for any distributions set forth in the account and a certificate of the representative stating that vouchers evidencing disbursements are in the possession of the representative. The court may require the presentation of vouchers for examination.

14.11 FINAL ACCOUNT AND SETTLEMENT OF GUARDIANSHIP ESTATES

On the final account and settlement of a ward's estate, when the person entitled to the estate is the ward, the guardian will not be discharged unless the ward appears before the Court and acknowledges the settlement and approves the final account in open court. The personal attendance of the ward may be waived by the court whenever the court is

satisfied, by affidavit of the ward filed with the clerk or by other evidence, that the final settlement is just and equitable, that the ward is in possession of all of his estate, and that the personal attendance of the ward is impracticable.

14.12 DISTRIBUTION TO A MINOR, DISABLED PERSON, DECEASED HEIR, DEVISEE, OR LEGATEE

- A. If an heir-at-law of an intestate estate or a devisee or legatee of a testate estate is a minor or dies or is adjudicated incompetent, such fact shall be set forth in any petition requesting authority to make a distribution.
- B. Except where the distributive share qualifies for distribution under [Article XXV of the Probate Act](#), or under [20 ILCS 1705/22](#), distribution will be authorized only to the legal representative of such person.

14.13 CLOSING OF AN ESTATE

Closing of an estate will not be authorized unless:

- A. Receipts on distribution or other evidence of distribution satisfactory to the court are on file with the court from all distributees; and
- B. The legal representative has filed a verified final report, in addition to the final account. The final report shall verify that all procedures and administrative duties have been completed and that proper notice has been given to all heirs and/or legatees who have not previously appeared and consented, and shall include a statement that:
 - 1. all court costs have been paid;
 - 2. all claims filed have been satisfied or dismissed and;
 - 3. all applicable state and federal taxes, if any, have been paid.

14.14 CHANGE IN HEIRSHIP OR DISTRIBUTIVE RIGHTS

- A. If any interested person has cause to believe that the order declaring heirship is erroneous or incomplete, he/she shall bring it promptly to the attention of the court upon proper notice and motion.
- B. If there is a change in distributive rights during the administration of an estate, including a change resulting from death, renunciation, disclaimer, or other election provided by law, upon motion of any person or the court's own motion, an order shall be entered determining the appropriate distribution.

14.15 ALTERNATIVE DISTRIBUTION TO RESIDENTS OF FOREIGN COUNTRY

The distributive share of a citizen and resident of a foreign country may be paid to the attorney-in-fact for such distributees or to the official representative of such foreign country ("ORFC") who is entitled thereto pursuant to treaty or convention between that country and the United States, in the following manner:

- A. Such ORFC or such attorney-in-fact shall present satisfactory evidence to the court that his principal is, in fact, the person entitled to receive such distributive share and that such ORFC has been duly authorized by treaty or convention or that such attorney-in-fact has been duly authorized by a power of attorney, to receive such distributive share.
- B. Each power of attorney shall be signed by the distributees and properly authenticated and acknowledged before the American Consul of the jurisdiction in which the foreign distributee resides unless the court shall be satisfied with other evidence of the genuineness or validity of the power of attorney.
- C. The ORFC or attorney-in-fact shall acknowledge receipt in writing of the distributive share received from the representative of the estate. The representative of the estate shall file the receipt with the court.

14.16 ASSIGNMENT OF INTEREST – POWER OF ATTORNEY

(a) No distribution shall be made pursuant to an assignment or a power of attorney signed by a distributee of an estate unless the assignment or power of attorney has been approved by the Court upon the filing of a verified petition with appropriate notice stating that the power of attorney or assignment has not been revoked and setting forth the following:

1. The consideration paid or to be paid and fees and expenses charged or to be charged to the grantor of the power of attorney or the assignor of the assignment;
2. The name and address of the grantor and grantee of the power of attorney or the assignor and assignee of the assignment; and

(b) Each power of attorney or assignment shall be signed and acknowledged by the grantor of the power of attorney or by the assignor of the assignment in accordance with the Illinois Uniform Recognition of Acknowledgment Act. 765 ILCS 30/1 *et seq.*

(c) The representative, on making any distribution to an assignee or person acting under authority of a power of attorney, shall not make any distribution without first receiving a certification from the assignee or holder of power of attorney that the assignment or grant of power of attorney has not been revoked.

14.17 NOTICE TO BENEFICIARIES OF TESTAMENTARY TRUST

- A. Prior to, or at the time of the closing of an estate, in which a testamentary trust has been established, the trustees shall file with their receipt for the trust assets, proof that the beneficiaries of said trust have been given notice of their right to petition the court for the purpose of construing the trust or to take over supervision of the trust should the trustees fail to abide by the terms of the trust or to make annual accountings thereof to the beneficiaries.
- B. Such notice shall also be given to a properly appointed personal fiduciary or *the guardian ad litem* and to the guardian of any minor or disabled beneficiary.
- C. The proof of service of the notice to beneficiaries shall be filed with the Clerk of the Court prior to the closing of the estate.

14.18 TERMINATION OF SMALL ESTATES OF WARDS

- A. If money has been deposited as provided in Section 24-21 and the balance drops below the amount which may be transferred pursuant to Section 25-2 and no part of the estate consists of real estate or a pending cause of action for personal injuries, a petition may be filed requesting distribution of the balance of the funds without further administration.
- B. When a guardian is acting, and the estate under administration is or becomes less than the amount which may be transferred pursuant to Section 25-2 and no part of the estate consists of real estate or a pending cause of action for personal injuries, a petition may be filed requesting distribution of the estate without further administration. If it appears that there is no unpaid creditor and that it is for the best interest of the estate and the ward, the court may order the guardian to file his final account and make the distribution as the court directs. Upon the filing of a receipt on distribution, the guardian may be discharged, and the estate closed.

14.19 PETITION FOR EXPENDITURES ON BEHALF OF A WARD

- A. Any petition to withdraw funds pursuant to Section 2421 as well as any petition by a guardian for the expenditure of funds on behalf of a ward shall state the following:
 - 1. the value of the estate at the time of presenting the petition; and
 - 2. the annual income of the ward and the source of the income.
- B. The petitioner shall present the petition in person unless the personal presentation is excused by the court. The petitioner shall furnish evidence that the sums to be used are necessary for the ward's support, comfort, education, or other benefit to the ward or his dependents.

14.20 ALLOWANCE OF FEES

- A. All fees payable to a representative or to an attorney for a representative must be approved by the court pursuant to a verified petition with notice to all interested parties unless the fees in a specific dollar amount have been consented to in writing by all interested parties as defined in [Section 1-2.11 of the Probate Act](#).
- B. A petition for fees shall state the following:
 - 1. the gross value of the estate;
 - 2. the hours expended and details of work done;
 - 3. a detailed itemization of any expense for which reimbursement is sought; and
 - 4. with respect to attorney's fees, any other pertinent factor described in the [Illinois Rules of Professional Conduct of 2010](#).
- C. In a ward's estate, fees will be considered only when a petition for fees is presented for the court's approval except as otherwise provided in Local Rule 14.24.

14.21 WITHDRAWAL OF DEPOSIT WITH COUNTY TREASURER

Any claimant applying to the court to obtain funds deposited with the County Treasurer shall give notice of his application to obtain funds to the State's Attorney and to such other persons as the court directs.

14.22 JURY DEMANDS

- A. A petitioner or claimant desirous of a trial by jury, where permitted, except in cases involving disabled adults, must file a jury demand with the clerk and pay the fee at the time he files his petition or claim. A representative, citation respondent, or other party in interest opposing the petition, citation, or claim and desirous of a trial by jury must file a jury demand and pay the fee at the time he files his answer or other responsive pleading. If the petitioner or claimant files a jury demand and thereafter waives a jury, the representative, citation respondent, or other interested party opposing the claim will be granted a jury trial upon demand promptly made after being advised of the waiver and upon payment of the fee.
- B. Jury demands in cases involving disabled adults shall be governed by the requirements of [Section 11a-11 of the Probate Act](#).

14.23 PROCEDURE FOR SETTLEMENT OF PERSONAL INJURY AND WRONGFUL DEATH CLAIMS IN PROBATE COURT

- A. Each petition for leave to settle a cause of action for personal injuries sustained by a minor or disabled person, or a cause of action for the wrongful death of a person whose estate is in the course of administration, when no separate lawsuit is

pending, shall be executed by the representative. The attorney for the representative, if any, shall certify in writing as a part of the petition that, in his opinion, based upon the law and the facts and law applicable thereto, the proposed settlement is just and proper.

- B. The Court may, on its own motion, appoint a *guardian ad litem* to investigate the merits of the proposed settlement.
- C. Any order in the Probate Court approving a settlement of a wrongful death action shall also establish the distributive rights of the persons entitled to the proceeds.
- D. A petition to settle an action on behalf of a minor or disabled person shall have attached thereto a report of the attending physician stating the nature and extent of the injury, unless waived by the court.
- E. If the petition proposes a "structured settlement," future payments must be guaranteed by an entity rated A2 or higher by Best's Insurance Guide or other rating service found acceptable to the court.
- F. The order entered approving settlement shall provide for the distribution of the settlement funds and the filing of vouchers, which evidence receipt of any portion of the fund, with the court within a time prescribed by the court.
- G. When any settlement funds are to be received by a parent or legal representative on behalf of a minor child, such funds shall be required to be deposited in an account in a financial institution approved by the court for the benefit of the minor, and shall not be withdrawn without approval by court order. The financial institution so approved by the court shall be insured either by the Federal Deposit Insurance Corporation (F.D.I.C.) or by the Federal Savings and Loan Insurance Corporation (F.S.L.I.C.)

The court shall continue the case to a specific date for the purpose of having a voucher from the financial institution filed. The voucher from the depository shall acknowledge receipt of the funds and a copy of the order of the court approving settlement and shall include the express language that "No withdrawals shall be made from this account, unless authorized by order of the court, at any time prior to (the date upon which the minor will reach the age of majority)."

- H. A petition for withdrawal from the said account prior to the minor reaching the age of majority shall be in writing and shall state the amount in the account at the time of presenting the petition, the annual income available to the minor, the amount and purpose for the withdrawal, and the amount of the last authorization for withdrawal from the account for the same purpose.
- I. Unless a statute provides for a lesser fee amount, any allowance for fees out of a settlement of a cause of action for personal injuries to a minor or disabled person

or out of a distribution to a ward as a result of the settlement of a wrongful death cause of action shall not exceed twenty-five (25%) percent of the settlement. However, if it shall appear to the court upon the filing of a verified petition by the attorney prosecuting the cause of action that the twenty-five (25%) percent fee would not fairly compensate the attorney for the work performed, the court shall fix the fee at whatever amount it determines to be fair and reasonable.

14.24 PROCEDURE FOR DISPOSITION OF PENDING LAW CASES IN PERSONAL INJURY ACTIONS INVOLVING CLAIMS OF MINOR OR DISABLED PERSON, BY TRIAL COURT

- A. The settlement without trial of a pending lawsuit for personal injuries sustained by a minor or disabled person shall be presented for approval to the judge hearing the case. Approval shall be subject to the provisions of Local Rule 14.23, except that the judge hearing the case may waive the filing of a written petition under Local Rule 14.23 for the approval of attorney's fees in excess of twenty-five (25%) percent of the settlement. If the judge hearing the case approves the settlement, the order approving the settlement shall set forth the attorney's compensation, the cost, the expenses, and the net amount distributable to the minor or disabled person.
- B. For distribution to be made as a result of a lawsuit for personal injuries sustained by a minor or disabled person where a judgment has been entered after trial, the judge hearing the case shall enter an order for distribution setting forth the amount of the judgment, the attorney's fees, the costs, the expenses, and the net amount distributable to the minor or disabled person. Distribution shall be subject to the provisions of Local Rule 14.23, except that the judge hearing the case may waive the filing of a written petition under Local Rule 14.23 for approval of attorney's fees in excess of twenty-five (25%) percent of the award.
- C. The Order setting forth the distribution shall provide that the amount distributable to the minor or disabled person shall be paid only to the representative of the minor or disabled person appointed by the Probate Court in the estate filed on behalf of the minor or disabled person and that vouchers evidencing receipt of the funds be filed with the court within a time prescribed by the court. In the event that an estate has not yet been opened, a petition for guardianship shall be filed with and heard by the Probate Court within 30 days of the Trial Judge's order. A copy of the Trial Judge's order shall be attached to the petition for guardianship.
- D. If the petition proposes a "structured settlement," future payments must be guaranteed by an entity rated "All or higher by Best's Insurance Guide or other rating service found acceptable to the court.
- E. When any settlement funds are to be received by a parent or legal representative on behalf of a minor child, such funds shall be required to be deposited in an account in a financial institution approved by the court for the benefit of the minor. They shall not be withdrawn without approval by court order. The financial

institution so approved by the court shall be insured either by the Federal Deposit Insurance Corporation (F.D.I.C.) or by the Federal Savings and Loan Insurance Corporation (F.S.L.I.C.)

- F. The court shall continue the case to a specific date for the purpose of having a voucher from the financial institution filed. The voucher from the depository shall acknowledge receipt of the funds and a copy of the order of the court approving settlement. It shall include the express language that "No withdrawals shall be made from this account, unless authorized by order of the court, at any time prior to [date upon which the minor will reach the age of majority]."
- G. A petition for withdrawal from the said account prior to the minor reaching the age of majority shall be in writing. It shall state the amount in the account at the time of presenting the petition, the annual income available to the minor, the amount and purpose for the withdrawal, and the amount of the last authorization for withdrawal from the account for the same purpose.
- H. If the amount distributable to the minor or disabled person is less than the amount provided in [Section 25-2 of the Probate Act](#), the judge hearing the case may, by order, provide for distribution in accordance with the provisions of [Section 25-2 of the Probate Act](#).

14.25 PROCEDURE FOR DISPOSITION OF PENDING LAW CASES IN WRONGFUL DEATH ACTIONS, BY TRIAL COURT

The procedure to be followed in law cases involving actions for wrongful death brought on behalf of a decedent by the representative appointed in the decedent's estate by the Probate Court, when pending in a court other than the Probate Court, shall be as follows:

- A. The settlement of a pending lawsuit for wrongful death without trial shall be presented for approval to the judge hearing the case. Unless waived by the judge hearing the case, the provisions of Local Rule 14.23 shall apply. If the judge hearing the case approves the settlement, the order approving the settlement shall set forth the attorney's compensation, the costs, the expenses, and the net amount distributable to the legal representative or to each person entitled thereto pursuant to the provisions of the [Wrongful Death Act](#).
- B. For distribution to be made under a pending lawsuit in a wrongful death case where a judgment has been entered after trial, the judge hearing the case shall enter an order for distribution setting forth the amount of the judgment, the attorney's fees, the costs, the expenses, and the net amount distributable to the legal representative or to each person entitled thereto pursuant to the provisions of the Wrongful Death Act.
- C. When the distributable amount received by a representative pursuant to the provisions of this section is an asset of the decedent's estate and is further subject

to the provisions of the Probate Act, it shall be accounted for and administered in the decedent's estate. It shall be the responsibility of the representative to furnish a bond insufficient amount to cover any increase in the value of the personal estate occasioned by the distribution.

14.26 APPOINTMENT OF SPECIAL ADMINISTRATOR WHERE NO PROBATE ESTATE HAS BEEN OPENED

In cases involving actions for wrongful death brought pursuant to [740 ILCS 180/2.1](#), where no probate proceedings have been opened on behalf of the decedent's estate, the judge to whom the wrongful death action is assigned may appoint a special administrator for the deceased party without the necessity of opening a decedent's estate upon the filing of a verified petition with notice to the heirs and legatees of the decedent as the court directs.

14.27 INACTIVE DOCKET

Whenever the court determines that there has been no activity in any estate for a period of time not less than one (1) year or whenever the court determines that a representative has failed to comply with the provisions of Local Rule 14.06, the court may order a transfer of the estate to an inactive docket. The case shall thereafter be designated closed by the Clerk of the Court. The estate may be reopened and removed from the inactive docket on motion and order of the court.