

ADMINISTRATIVE RULES OF THE LINCOLN PROBATE COURT

Pursuant to RIGL 33-22-29, the Probate Court of the Town of Lincoln hereby establishes the following local administrative rules:

1. **COURT SESSIONS** - Sessions of the Probate Court are held on the fourth Monday of each month at 8:45 a.m. in the Town Hall, Town Council Chambers, 100 Old River Road, Lincoln, Rhode Island. Please call the Court for date if the fourth Monday is a holiday.
2. **COURT CALENDAR** - Those representing estates sign the probate docket in the Town Clerk's office on the day of the court session. Cases are heard in the sign-in order except that contested matters are heard at the end of the session.
3. **CONTESTED MATTERS** - Special sessions of the Probate Court will be scheduled as reasonably necessary to hear contested matters which cannot be completed during regular court sessions. No additional fees or charges will be made for special sessions. (33-22-30)
4. **ELECTRONIC RECORDINGS**
 - a. Electronic recordings of any court proceedings will be made by the Court at the request of the Probate Judge or any party thereto by electronic tape recording (33-22-19.1). Parties may, however, have court proceedings transcribed by authorized court stenographers at their own expense.
 - b. The Probate Court Clerk shall, upon written request, permit parties to produce written transcriptions from electronic tape recordings. Copies of tapes will be made available for \$35.00 per tape.
 - c. Electronic tape recordings of hearings will be kept in accordance with the records retention schedule.
5. **COURT DECISIONS** - All decisions, orders, and decrees of the Probate 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. (33-22-31)
6. **NOTICE TO CREDITORS** - No First and Final Accountings, and no Affidavit of Completed Administration will be accepted by the Probate Court without an affidavit by the fiduciary certifying that notice has been given to all known and easily ascertainable creditors. (33-11-5.1)
7. **CERTIFICATION OF CHARGES** - No Accountings will be accepted by the Probate Court Clerk unless accompanied by a certification from the attorney for the estate substantially in the form set forth in Section 33-14-2.2 or copies of the front sides of all checks or other documents evidencing charges, losses, or payments set forth in said account. The Probate Judge may request additional evidence. (33-14-2)
8. **GUARDIANSHIPS** - No petition for limited guardian, guardian, or temporary guardian will be heard by the Probate Court unless notice has been given to the prospective ward at least 14 days prior to the hearing in the case of limited guardians and guardians or five days in case of temporary guardians, unless a shorter period is ordered by the Court upon motion by the petitioning party.
9. **DECISION MAKING ASSESSMENT TOOLS** - No petition for the appointment of a limited guardian, temporary guardian, or guardian will be considered by the Probate Court unless a Decision Making Assessment Tool, signed by a licensed physician, has been presented to the Court at least three days before the hearing date.
10. **GUARDIANS AD LITEM** - Guardians ad litem shall be appointed from a list of qualified attorneys kept in the office of the Probate Clerk, and approved by the Probate Judge. All Guardian ad Litem reports must be submitted on the standard form provided in RIGL 33-15-47. Fees for Guardians ad Litem will be

limited to the State of RI maximum of \$800.00 unless additional fees are authorized by the Probate Judge for cause shown. Guardian Ad Litem must supply itemized bill.

11. ATTORNEY OF RECORD - All attorneys must file an entry of appearance (PC-9.2) when filing original petitions before the Probate Court.

12. RULES OF EVIDENCE - In all contested matters, the Rhode Island Rules of Evidence shall be applied; provided, however, that this section shall not prohibit parties from stipulating or waiving the requirements of the Rules of Evidence as to any particular matter. All discovery must be approved by the Court in a Court Order. (33-22-19.2)

13. INVENTORIES - Every Administrator and Executor shall within 90 days after his or her appointment return to the Probate Court, under oath, a true inventory of all of the personal property of the deceased in accordance with RIGL 33-9-1. Every guardian shall do so within 30 days of his or her appointment. Requirements for inventories will be strictly enforced. Parties unable to submit inventories within the required times must petition the Court for an extension of time.

14. AFFIDAVITS OF COMPLETE ADMINISTRATION - No Affidavit of Complete Administration will be accepted without original releases of legatees (including fiduciary if a legatee), copies of paid funeral bill and inheritance tax discharge, claim releases, certification that notice has been given to all known or easily located creditors, and current filing fee.

15. FORMS - All petitioners must use the new probate forms as provided by the Probate Clerk, Rhode Island Bar Association, or Secretary of State's Office (website download).

16. NOTARIES - All notarized signatures must contain the written and printed name of the notary. Notaries should be sure to complete notarizations correctly.

17. FEES - All petitions for attorney fees must provide hours expended and hourly rate charges. All fee petitions must identify the title of the person seeking fees, i.e., paralegal, secretary, etc.

Stephen M. Miller
Probate Judge

Dated 8-23-2017
Amended 2-26-2018