

APPENDIX A. ESTATES OF DECEDENTS DYING PRIOR TO JANUARY 1, 1981

Estates of decedents dying prior to January 1, 1981 are governed by D.C. Code §§ 18-501 to -514 (1973) and not current law governing administration of decedents' estates. Statutory references in the rules in this appendix are to statutory provisions of the 1973 edition of the D.C. Code. The rules in Chapter 1 govern to the extent that they are not inconsistent with the relevant statutory provisions and the rules in this appendix.

Rule A-1. Petition for Probate and Administration

(a) CONTENTS. A petition for probate of a will and for letters testamentary or for letters of administration must be in typewriting, double spaced, and must be verified by the petitioner. The petitioner must set forth:

- (1) the residence, citizenship and freedom from legal disability of the proposed executor or administrator;
- (2) by what right the petitioner makes application; and, if the application is not for the petitioner's appointment, by what right the proposed executor or administrator may be appointed;
- (3) the date of death of the decedent;
- (4) the decedent's last domicile;
- (5) whether the decedent died testate or intestate;
- (6) the name, address and relationship to the decedent of each heir at law and next of kin and whether any of them is under any legal disability, the name and address of the guardian, conservator, committee or custodian of any such person who is under a legal disability, and, if any such heir at law and next of kin is an infant, the date of birth, and the name of the custodian of any who is under 16 years of age;
- (7) the character, location and estimated value of the decedent's real and personal estate (including any real estate situation in the District of Columbia and owned jointly by the decedent with another);
- (8) the debts of the decedent;
- (9) the estimated amount of the cost of the decedent's funeral and related expenses; and
- (10) the estimated amount, if any, of District of Columbia inheritance and estate taxes.

(b) SPECIAL UNDERTAKING. No special undertaking may be granted unless prayed for in the petition.

(c) NOTICE TO LEGATEES. No order granting probate may be entered, in the absence of consent or waiver of notice, until proof, as provided herein, has been filed with the court to the effect that there has been mailed postpaid to each legatee and devisee, at the last known address of each legatee and devisee a notice showing the title of the court, the name of the testator, the amount or nature of the legacy or devise and the name and address of the petitioner or the petitioner's attorney. The proof of service of said notice must be by affidavit of the petitioner or the petitioner's attorney containing the substance of said notice or attaching a copy thereof. If any legatee or devisee is known by the affiant to be under any legal disability, the notice must be directed to said person in care of the guardian, conservator, committee or custodian of said person. If any legatee or devisee is unknown or if the address of said person is unknown, the aforesaid affidavit must recite that fact and the efforts made to ascertain same and the mailing of said notice to said person will not be required.

Rule A-2. Notice of Petition for Probate

In the absence of consent or waivers of notice, notice of the filing of a petition for probate must, in accordance with D.C. Code §§ 18-501 to -503, be directed to the heirs at law and next of kin of the decedent in the following manner:

(a) NOTICE BY CITATION.

(1) When any heir at law and next of kin is a resident of the District of Columbia, the Register of Wills, on request of the petitioner or the petitioner's attorney must issue a citation directed to such heir at law and next of kin in accordance with D.C. Code § 18-501(b).

(2) When any heir at law and next of kin is a nonresident of the District of Columbia or is a resident of the District of Columbia as to whom citation has been returned "not to be found," notice may be given to such person in accordance with D.C. Code § 18-502(a) or in accordance with Rule A-2(b).

(b) NOTICE BY PUBLICATION. When it is alleged in the petition for probate or other affidavit that any heir at law and next of kin is unknown, is a non-resident of the District of Columbia, or is a resident of the District of Columbia as to whom citation has been returned "not to be found," notice may be effected with respect to such person, on written request of petitioner or the petitioner's attorney, by publication in accordance with D.C. Code §§ 18-502(b) and -503(a).

(c) MAILING AND PROOF. No order granting probate may be entered unless petitioner or the petitioner's attorney has filed an affidavit showing:

(1) that at least 20 days before the expiration of the period stated in the publication affiant mailed, postpaid, a copy of said notice directed to each person named therein, at

such person's last known address; or that if said mailing was less than 20 days before the expiration of the period stated in the publication, the person named therein was notified that any objections to the granting of said order must be filed within 20 days from the date of said mailing; or that affiant has been unable to ascertain the address of any person named therein after diligent effort; and

(2) that, if unknown heirs at law and next of kin are mentioned in said notice, the affiant has not learned of the existence of any heirs at law and next of kin who were unknown at the time of such publication.

Rule A-3. Notice of Petition for Administration

Upon the filing of a petition for letters of administration, the court may direct the issuance of a citation to any heir at law and next of kin, if within the District of Columbia, to appear on a day named and show cause why such letters should not be granted, and if it appears that any heir at law and next of kin cannot be found within the District of Columbia, or is unknown, the court may direct notice to said person by publication as provided in these rules, or otherwise.

Rule A-4. Collectors: Certain Persons Not to Be Appointed

Neither the party filing a complaint to contest the validity of a will nor said party's attorney may be appointed collector of an estate pending the trial of the proceedings, except:

(a) with the approval of the court and the written consent of all the defendants named in the complaint; or

(b) whereby reason of peculiar circumstances, it is deemed appropriate by the court.

Rule A-5. Proceedings in Contested Estate Cases

(a) COMMENCEMENT OF ACTION. An action to (i) contest the validity of a will in accordance with D.C. Code § 18-513, (ii) contest a petition for the appointment of an administrator or executor or to remove an administrator or executor who has been appointed, (iii) institute a plenary proceeding in accordance with D.C. Code § 18-512, or (iv) construe a will prior to approval of the personal representative's final account, may be commenced by any party in interest by filing a verified complaint with the Register of Wills. Except as hereinafter provided the proceedings are governed by the Superior Court Rules of Civil Procedure.

(b) SUMMONS. The Register of Wills must issue a summons upon the request of the plaintiff in the action. In an action brought in accordance with this rule, the summons must be directed to each heir at law and next of kin of the deceased, to the proponents of the will and to all legatees and devisees named in wills of the decedent filed in the Office of the Register of Wills.

(c) **SUBSTITUTED PERSONAL SERVICE; PUBLICATION.** If any party summoned is a nonresident of the District of Columbia, or is a resident of the District of Columbia as to whom the summons has been returned “not to be found,” or is an unknown heir at law and next of kin of the decedent, service may be made upon said party by publication once a week for 3 successive weeks in accordance with D.C. Code §§ 13-339 and -340. Substituted personal service may be made on a nonresident party out of the District of Columbia in accordance with D.C. Code § 13-337.

(d) **SCHEDULING AND SETTLEMENT CONFERENCE.** Within 120 days after a complaint has been filed, the court must conduct an initial scheduling and settlement conference.

Rule A-6. Registration and Appraisal of Securities

(a) **REGISTRATION.** Unless the will of a decedent provides otherwise, the personal representative of a decedent’s estate must, as soon as practicable after qualification, register all securities owned by the decedent (except, in the discretion of the personal representative, securities registered in the name of the decedent) in the name of the personal representative, as such, and must bring all securities under the control of the personal representative. If the personal representative or the custodial agent of the personal representative is a bank chartered under the laws of the United States or the District of Columbia, the securities may be registered in the name of its nominee or kept in bearer form, but such registration does not relieve the personal representative of responsibility for the safekeeping of the securities. This rule is applicable to the administrations of all decedents’ estates commenced in this court on or after August 1, 1973, except those proceedings instituted in accordance with D.C. Code § 20-304.

(b) **EXCEPTION.** For good cause, and upon such terms and conditions as it may direct, the court may permit a personal representative to hold securities otherwise than as required by Rule A-6(a).

(c) **APPRAISAL.** Within 2 months after qualification, or such longer time as the court allows, the personal representative of a decedent’s estate must furnish to the court-appointed appraisers a written listing of all securities owned by the decedent, together with a statement that the personal representative has complied with Rule A-6(a) or has obtained or applied for an order in accordance with Rule A-6(b). The appraisers must thereafter value said securities as of the date of the decedent’s death in accordance with principles set forth in the Federal Estate Tax Regulations governing the valuation of securities for federal estate tax purposes.

Rule A-7. Sale of Personal Property

Sales of personal property under order of the Probate Division must be upon such terms and conditions as may be prescribed in the order of sale.

Rule A-8. Proceedings for the Sale of Real Property

(a) PETITION. A proceeding for the sale of real property of a decedent for the payment of charges or legacies, as set forth in D.C. Code § 20-1106, is commenced by the filing of a petition which must set forth (i) the real property sought to be sold; (ii) the estimated value of the personal property; (iii) the amount of the charges and legacies, if any; (iv) the insufficiency of the personal property to satisfy said charges and legacies; and, (v) where applicable, the name and address of each heir at law and next of kin, legatee, and devisee.

(b) PROCESS. Except as to parties who have filed consents therein, process must issue in proceedings under this rule in accordance with D.C. Code §§ 13-337 to -340.

(c) REFERENCE TO AUDITOR-MASTER. After service of process has been completed and the time for answer has expired, the proceedings must be referred to the Auditor-Master for a report in accordance with D.C. Code § 20-1106. The procedure prescribed by Civil Rule 53(f) for the filing of objections to the report of the Auditor-Master may be waived in writing if such waiver is signed by all persons who have received notice of the filing of the report.

(d) SALE WITHOUT REFERENCE TO AUDITOR-MASTER. When all parties described in Rule A-8(a) have filed with the court their consents to the sale, the court may order the sale of all or part of said real property without reference to the Auditor-Master if it is satisfied that the personal property of the decedent is insufficient to meet all charges or legacies and that all or part of the decedent's real property must be sold to pay charges or legacies. If a person having an interest in said real property is under a legal disability, the court may accept the consent of a fiduciary duly appointed for said person's estate or may appoint a guardian ad litem having the right to file a consent on behalf of that person.

(e) MANNER OF SALE. A sale authorized pursuant to this rule must be made in accordance with Rule B-10.

Rule A-9. Accounts of Administrators, Executors and Collectors

(a) NOTICE OF FILING. No account may be approved by the court, in the absence of a consent or waiver of notice, until the personal representative or the personal representative's attorney has furnished notice to each person whose interest may be affected by the attorneys' fees and personal representatives' commissions claimed in said account. Such notice must state the amounts of such fees and commissions so claimed and the date said account will be presented for approval to the court. Said notice must be given after the filing of said account. It must be served upon each such person or sent by certified mail to each such person's last known address. Said notice must be served upon residents of the District of Columbia at least 5 days prior to the

date said account is to be presented to the court for approval and upon nonresidents at least 20 days prior to such date; 3 additional days is required in the event of mailing said notice.

(b) PROOF OF NOTICE. Proof of service must be by an affidavit or declaration which sets forth the name and address of each person to whom notice was given, and, if mailed, the date of mailing. The affidavit or declaration must be supported by a specimen copy of the notice prescribed by Rule A-9(a) and, in the case of mailing, the certified letter receipt.

(c) TAX CERTIFICATE. Except in cases in which a return is not required to be filed by the personal representative, no final account may be approved by the court until the personal representative has filed with the Register of Wills a certificate of the District of Columbia Department of Tax and Revenue certifying that the District of Columbia inheritance and estate tax liability of the estate has been satisfied or fully provided for.

(d) ACCOUNT; APPROVAL WITHOUT FORMAL AUDIT. An account of a personal representative may be approved without formal audit if all persons whose interests will be diminished by the disbursements shown (distributees, legatees or creditors) are under no legal disability, acknowledge receipt of a copy of the account, and consent to and approve such account in all respects, as stated, and further consent to and approve the attorneys' fees and commissions of the personal representative as claimed in such account. The form of such consent may be as follows:

CONSENT

I, the undersigned distributee, legatee or creditor affected by the disbursements shown in the personal representative's account, hereby:

- (1) acknowledge receipt of a copy of the account;
- (2) consent to and approve the account in all respects as stated;
- (3) consent to and approve the personal representative's commission claimed in the account;
- (4) consent to and approve the attorneys' fees claimed in the account; and
- (5) request approval of the account at the earliest possible date.

IN TESTIMONY WHEREOF, I have signed my name and affixed my seal this day of, 20.....

.....(SEAL)

WITNESS:

.....

In addition, the attorney for the estate must submit a certificate to the court showing that the funeral bill has been paid, and that all approved claims and all known debts of decedent have been paid. There must also be filed the usual certificate of payment of taxes from the District of Columbia Department of Finance and Revenue and vouchers evidencing payment of all disbursements claimed in the account.

Upon compliance with the foregoing requirements, the Register of Wills may, in the exercise of the Register of Wills's discretion, submit the account to the court for approval without formal audit. After approval by the court, receipts acknowledging final distribution must be filed promptly.

(e) **ANCILLARY ACCOUNTS.** The provisions of Rule A-9(d) also apply to approval of accounts in ancillary proceedings, without formal audit, except that the consent therein required may be executed only by the domiciliary personal representative, if the domiciliary personal representative is not one and the same as the ancillary personal representative. In absence of such consent, or if the 2 personal representatives are one and the same, notice of presentation of the ancillary personal representative's account and commission and attorney's fees must be given in accordance with Rule A-9(b).

(f) **FEES AND COMMISSIONS.** Prior to the court approval of a 1st or subsequent account, wherein a total attorney's fee or commission of the personal representative exceeds the sum of \$7,500 in the 1st account or combined accounts, the party or parties whose fee or commission exceeds the sum of \$7,500 must file a complete statement of services rendered to the estate. In cases where fees or commissions of less than \$7,500 are requested, a statement of services may be required in the discretion of the court.

(g) **REOPENING.** If an account is approved by the court without notice to interested parties required by Rule A-9(a), such account may be reopened upon objections thereto filed by any interested party within 3 months after it is so approved.

Rule A-10. Exhibition of Assets

(a) **VERIFICATION OF ASSETS.** If financial accounts are reported in an account, a separate form maintained by the Register of Wills must be filed with the account including complete account numbers. At the time of audit of an account the fiduciary must:

(1) exhibit all checking account bank statements and cancelled checks or vouchers evidencing cash transactions during the accounting period;

(2) exhibit all passbooks, ledger sheets, statements or similar documents issued by a bank, trust company, savings and loan association, brokerage firm, or similar institution,

reflecting the assets of the estate on deposit or on account therein, and evidencing the transactions in such assets during the accounting period;

(3) file written verification by the depository of cash balances on deposit therein and of all other assets carried in the account as of closing date of the accounting period where otherwise not verified in accordance with Rule A-10(a)(1)-(2); and

(4) exhibit certificates or other statement of account of a custodian other than the personal representative evidencing ownership of all securities held for future accounting. In those fiduciary cases in which a bank is acting as fiduciary, in lieu of exhibiting certificates, the bank may submit an affidavit executed by an officer of the bank, other than the officer signing the account, verifying the correctness of the securities and cash accounts held for future accounting and the bank's custody thereof.

(b) REPORT. When an interim account indicates that the fiduciary holds any undistributed assets, there must be appended thereto a report, stating with detailed particularity each such asset and its inventoried value.

Rule A-11. Assignments

When a party who claims to have a right to share as an heir or legatee of a deceased person assigns all or part of such right, the assignee must promptly file the assignment in the administration proceeding. Any further proceedings to protect or enforce the assignment, or any claim based thereon, must be prosecuted or presented in the name of the assignee and not in the name of the assignor. Said assignment must be sworn to or acknowledged before an official authorized to administer oaths. Unless approved by order of this court, counsel for the assignee must not appear for or represent the assignor.

Rule A-12. Compensation to Attorneys and Fiduciaries

Claims for attorneys' fees and fiduciary commissions in proceedings governed by these rules must be made and allowed in accordance with D.C. Code § 20-1705 and in accordance with such of the provisions of Rule A-9(f) as may be applicable.

Rule A-13. Definitions

Unless otherwise specifically stated in these rules or unless the context otherwise requires, the following definitions govern Rules A-1 through A-12:

(a) The term "Register of Wills" means and includes the Register of Wills or any deputy designated by the Register of Wills.

(b) Any word may be read in the singular or plural and as masculine, feminine or neuter gender as may be applicable or permissible in the particular context.

(c) The word “person” means and includes an individual, partnership, association, company or corporation.

(d) The term “personal representative” means and includes “executor,” “administrator” or “collector.”

(e) The present tense includes the future as well as the present.