

# **16th CIRCUIT PROBATE E-FILING TIPS**

**KCMBA/UMKC CONTINUING LEGAL EDUCATION**

**September 5, 2013**

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16th Judicial Circuit, Probate Division  
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# **Comprehensive Jackson County New Estate E-Filing Checklists**

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI - PROBATE DIVISION  
AT KANSAS CITY/INDEPENDENCE

IN THE MATTER OF  
XXXXXXXXXXXXXXXXXXXXXXXXXXXX,  
Deceased.

ESTATE NUMBER  
XXXXXXXXXXXX

TO: XXXXXXXXXXXXXXXXXXXXXXXXXXXX

**YOUR FILING HAS BEEN CONDITIONALLY ACCEPTED**  
**BUT IT IS INCOMPLETE**

**In order to complete the processing of your matter, the following information is required, and if it is not received within 30 days of the date of this notice, the case will be dismissed for failure to prosecute without prejudice and at your client's cost pursuant to Rule 72.5.**

Creditor's/ Minor's/ Spousal Refusal

- ☐ Filing fee in the amount of \$ XX must be paid.
- ☐ Insufficient filing fee has been received. Please pay additional fees in the amount of \$ \_\_\_\_.
- ☐ Corporate Surety Bond in the amount of \$ XXXXXX must be filed.
- ☐ A letter from a Realtor or person having knowledge of the value of the real estate is required.
- ☐ Paid funeral bill was not submitted.
- ☐ A copy of the decedent's death certificate was not submitted.
- ☐ Other - May include:

\*Application does not list the full name and residential address of the decedent.

\*Application does not list the decedent's date of death.

\*Application/Affidavit does not list the full name, date of birth and address of each surviving unmarried minor child together with the name and address of the child's surviving parent, his legal guardian and conservator, if any, and the name and address of the person(s) with whom he/she resides.

\*Application does not list the full name and address of the surviving spouse, if any.

\*Application fails to provide sufficient description of the assets.

Small Estate

- ☐ Filing fee in the amount of \$ XX must be paid.
- ☐ Insufficient filing fee has been received. Please pay additional fees in the amount of \$ \_\_\_\_.
- ☐ Paid funeral bill was not submitted.
- ☐ A copy of the decedent's death certificate was not submitted.
- ☐ A letter from a Realtor or person having knowledge of the value of the real estate is required.
- ☐ Distribution under the Affidavit is to the persons named in the Last Will and Testament, however, the Will has not been presented for probate.
- ☐ Corporate Surety Bond of Distributee in the amount of \$ XX must be filed. If all distributees sign to waive bond and funeral expenses are paid, the court will waive the filing of a bond.
- ☐ The signature of the Affiant has not been acknowledged by a notary

- ☐ The signatures of the Distributees, to waive bond, have not been acknowledged.
- ☐ Other - See "Other" above.

Date: \_\_\_\_\_

\_\_\_\_\_  
Division Clerk

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI - PROBATE DIVISION  
AT KANSAS CITY/INDEPENDENCE

IN THE MATTER OF  
XXXXXXXXXXXXXX,  
RESPONDENT.

ESTATE NUMBER  
XXXXXXX

TO: XXXXXXXXXXXXXXXXX

**YOUR FILING HAS BEEN CONDITIONALLY ACCEPTED**  
**BUT IT IS INCOMPLETE**

**In order to complete the processing of your matter, the following information is required, and if it is not received within 30 days of the date of this notice, the case will be dismissed for failure to prosecute without prejudice and at your client's cost pursuant to Rule 72.5.**

NEW ESTATE (ADULT GUARDIANSHIP/CONSERVATORSHIP) CHECKLIST

- ☐ Filing fee in the amount of \$ XX has not been paid.
- ☐ Petition for Appointment of Guardian and Conservator (Form 10193) is missing.
- ☐ Exhibit C (Form 10194) by proposed guardian/conservator is missing.
- ☐ Information regarding proposed ward (Form 10320a) is missing.
- ☐ Information for guardians and conservators (Form 10194a) is missing.
- ☐ Exhibit A 10193a is missing.
- ☐ Exhibit B 10193b is missing.
- ☐ Exhibit E 10193e is missing.
- ☐ Proposed guardian is a non-resident, a designation and acceptance of resident agent (Form 10193d) must be filed. Please utilize residential addresses.
- ☐ A medical letter explaining the need of Guardianship/Conservatorship is missing.
- ☐ Corporate Surety Bond in the amount of \$ XX must be filed.
- ☐ Other - May Include:

\*The Petition asks for Appointment of Co-Guardians and Co-Conservators. Only one may serve. Please amend.

\*Currently there is already a guardian in place. Consent of current guardian is required. If the current guardian does not consent a Petition for Removal of Guardian would be required.

\*Respondent is currently under the age of 18 and cannot be served with process until his/her 18th birthday.

\*The petition indicates a power of attorney exists. Please take the necessary steps to serve the attorney-in-fact.

\*Form 10194/Form 10194a is incomplete. Please provide a completed Form 10194/10194a.

Date: XXXXXXXXXX

XXXXXXXXXX  
Division Clerk

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI - PROBATE DIVISION  
AT KANSAS CITY/INDEPENDENCE

IN THE MATTER OF  
XXXXXXXXXXXXXX  
MINOR.

ESTATE NUMBER  
XXXXXXX

TO: XXXXXXXXXXXXXXXXXXXX

**YOUR FILING HAS BEEN CONDITIONALLY ACCEPTED**  
**BUT IT IS INCOMPLETE**

**In order to complete the processing of your matter, the following information is required, and if it is not received within 30 days of the date of this notice, the case will be dismissed for failure to prosecute without prejudice and at your client's cost pursuant to Rule 72.5.**

NEW ESTATE (MINOR GUARDIANSHIP/CONSERVATORSHIP) CHECKLIST

Guardianship

- ☐ Filing fee in the amount of \$ XX has not been paid.
- ☐ Affidavit (Form 10320b) was not provided.
- ☐ Exhibit C (Form 10194) by proposed guardian was not provided.
- ☐ Information regarding proposed ward (Form 10320a) was not provided.
- ☐ Information for guardians and conservators (Form 10194a) was not provided.
- ☐ Proposed guardian is a non-resident, a designation and acceptance of resident agent (Form 10193d) must be filed. Please utilize residential addresses.
- ☐ Exhibit B of Petition reflects that the whereabouts of the natural father/mother is unknown, please file an appropriate pleading which fully complies with Civil Rule 54.12(c).
- ☐ Your pleadings indicate a juvenile case involving the minor is pending. Please file a consent from a juvenile judicial officer regarding this action.
- ☐ Your pleadings improperly combine multiple minors. A separate petition must be filed for each individual minor. Please resolve.
- ☐ Other - May include:

\*Either notarized Consents of the natural parents or service by summons are required.

\*The Petition asks for Appointment of Co-Guardians. Only one may serve. Please amend.

\*Currently there is already a guardian in place. Consent of current guardian is required. If the current guardian does not consent a Petition for Removal of Guardian would be required.

\*Form 10194/Form 10194a is incomplete. Please provide a completed Form 10194/10194a.

Conservatorship

- ☐ Filing fee in the amount of \$ XX has not been paid.
- ☐ Proposed conservatory is a non-resident, a designation and acceptance of resident agent (Form 10193d) must be filed.

- ☐ Corporate Surety Bond in the amount of \$ XX must be filed.
- ☐ Exhibit B of Petition reflects that the whereabouts of the natural father/mother is unknown, please file an appropriate pleading which fully complies with Civil Rule 54.12(c).
- ☐ Exhibit C (Form 10194) by proposed guardian was not provided.
- ☐ Information for guardians and conservators (Form 10194a) was not provided.
- ☐ Information regarding proposed ward (Form 10320a) was not provided.
- ☐ Your pleadings improperly combine multiple minors. A separate petition must be filed for each individual minor. Please resolve.
- ☐ Other - May include:
  - \*Either notarized Consents of the natural parents or service by summons are required.
  - \*The Petition asks for Appointment of Co-Conservators. Only one may serve. Please amend.
  - \*Currently there is already a guardian in place. Consent of current guardian is required. If the current guardian does not consent a Petition for Removal of Conservator would be required.
  - \*Form 10194/Form 10194a is incomplete. Please provide a completed Form 10194/10194a.

Date: XXXXXXXXXXXX

\_\_\_\_\_  
Clerk

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI - PROBATE DIVISION  
AT KANSASCITY/INDEPENDENCE

IN THE MATTER OF

ESTATE NUMBER

\_\_\_\_\_,  
Deceased.

To: \_\_\_\_\_

**YOUR FILING HAS BEEN CONDITIONALLY ACCEPTED**  
**BUT IT IS INCOMPLETE**

**In order to complete the processing of your matter, the following information is required, and if it is not received within 30 days of the date of this notice, the case will be dismissed for failure to prosecute without prejudice and at your client's cost pursuant to Rule 72.5.**

NEW ESTATE APPLICATION FOR LETTERS TESTAMENTARY CHECKLIST

- ☐ Filing fee in the amount of \$\_\_\_\_\_ must be paid.
- ☐ Application for Letters has not been signed by the applicant/attorney.
- ☐ Application for Letters does not indicate if you are requesting independent or supervised administration.
- ☐ Will does not authorize independent administration, file written consents.
- ☐ Non-resident P.R. - file Designation and/or Acceptance of Resident Agent.
- ☐ Applicant is not named to act as P.R. - file refusal to qualify of named P.R.
- ☐ File renunciations of persons entitled to act as P.R. or request a hearing.
- ☐ File \$\_\_\_\_\_ Corporate Surety Bond
- ☐ Appendix A does not appear to correctly list the devisees/legatees and/or heirs-at-law. Please refer to R.S.MO. §473.017 AND §474.010 and PPM Sections 10 (if supervised) or 11 (if independent).
- ☐ MO Healthnet Disclosure (Form 10022)
- ☐ Other: May include - filed more than one year after the date of death of the decedent. Please resolve.

Will

- ☐ Will of decedent has not been presented for probate.
- ☐ The date of death listed on the Statement as to Death and Presentment differs from the date of death listed on the Death Certificate.
- ☐ Will is not self-proving pursuant to R.S.Mo. §474.337. Please take the necessary steps to have the will admitted.
- ☐ Provide testimony of \_\_\_\_\_ witnesses.
- ☐ Provide the court with a check for \$\_\_\_\_\_ for two complete copies of the Will to send out with Commissions.
- ☐ Commission(s) to prove Will issued \_\_\_\_\_, have not been returned.



☐ Other: May include - filed more than one year after the date of death of the decedent. Please resolve.

Date: \_\_\_\_\_

\_\_\_\_\_  
Division Clerk

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI - PROBATE DIVISION  
AT KANSAS CITY/INDEPENDENCE

IN THE MATTER OF

ESTATE NUMBER

\_\_\_\_\_,  
Deceased.

To:

**YOUR FILING HAS BEEN CONDITIONALLY ACCEPTED**  
**BUT IT IS INCOMPLETE**

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**NEW ESTATE APPLICATION FOR LETTERS (INTESTATE) CHECKLIST**

- ☐ Filing fee in the amount of \$ \_\_\_\_\_ must be paid
- ☐ Application for Letters has not been signed by the applicant/attorney.
- ☐ Application for Letters does not indicate if you are requesting independent or supervised administration.
- ☐ Written Consents from the heirs for Independent Administration must be filed. (Form 10021)
- ☐ Non-resident P.R. - file Designation and/or Acceptance of Resident Agent.
- ☐ Provide renunciations of persons entitled to act as P.R. or request a hearing.
- ☐ Corporate Surety Bond in the amount of \$ \_\_\_\_\_ must be filed.
- ☐ MO HealthNet Disclosure (Form 10022)
- ☐ Appendix A does not appear to correctly list the heirs-at-law. Please refer to R.S.MO. 473.017 and 474.010 and PPM Sections 10 (if supervised) or 11 (if independent).
- ☐ Other - May include - filed more than one year after the date of death of the decedent. Please resolve.

Date: \_\_\_\_\_

\_\_\_\_\_  
Division Clerk

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI - PROBATE DIVISION  
AT KANSAS CITY/INDEPENDENCE

IN THE MATTER OF

ESTATE NUMBER

XXXXXXXXXXXXXX,  
Deceased.

XXXXXXXXXXXXXX

To: XXXXXXXXXXXXXXXX

**YOUR FILING HAS BEEN CONDITIONALLY ACCEPTED**  
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**In order to complete the processing of your matter, the following information is required, and if it is not received within 30 days of the date of this notice, the case will be dismissed for failure to prosecute without prejudice and at your client's cost pursuant to Rule 72.5.**

NEW ESTATE DETERMINATION OF HEIRSHIP CHECKLIST

Determination of Heirship:

- ☐ Filing fee in the amount of \$\_\_\_\_\_ must be paid.
- ☐ Provide the court with check, payable to a legal paper, for publication.
- ☐ Petition does not include signature of \_\_\_\_\_. Please file an Amended Petition with signatures from both the Petitioner and the Attorney.
- ☐ Petition is missing date of death and/or property description. Note: A legal description is required for all real property.
- ☐ Petition is missing place of domicile and/or last residence.
- ☐ Other - \_\_\_\_\_

Date: XXXXXXXXXXXX

\_\_\_\_\_  
Division Clerk

## PROBATE SUMMONS/NOTICE OF HEARING/GARNISHMENT SERVICE PACKETS - ATTORNEY INFORMATION

Under the Missouri e-filing system now utilized by the 16th Judicial Circuit Court-Probate Division, once a cause of action has been accepted for filing, a clerk prepares the necessary documents for service. In most instances, this will either be a summons or a notice of hearing. The summons or notice of hearing is sent to the attorney by an e-mail containing the link so that the filer may print and assemble the service packet containing the requisite documents to be served.

A summons<sup>1</sup> is to be used in matters requiring personal service on an Opposing Person by the Jackson County Unit of Service and Judgment Enforcement (formerly Civil Process), an Out of County Sheriff or a Private Process Server. In those instances, the attorney must deliver the summons, pleadings and any other necessary documents to one of the following:

- The Unit of Service and Judgment Enforcement (formerly Civil Process), located in Kansas City at 1305 Locust, 2nd Floor, Kansas City, MO 64106 or in the drop box in Civil Records, 415 E. 12th Street, 3rd Floor, Kansas City, MO 64106 or in Independence at 308 W. Kansas, 2nd Floor, Room 224, Independence, MO 64050<sup>2</sup>; or
- The Out of County Sheriff or other appropriate process server in the County where the summons is to be served; or
- A Private Process Server<sup>3</sup>.

If notice is permitted by certified mail or ordinary mail, the attorney must prepare the appropriate mailer and send the notice of hearing, pleadings and any other necessary documents to the Opposing Person and/or Interested Persons. The attorney must also submit to the Probate Department either the signed Certified Mail Return Receipt (if notice is by certified mail) or a Certificate of Mailing (if notice is by ordinary mail) no later than **SEVEN (7)** days prior to the date of the hearing. If the Certified Mail Return Receipt or the attorney's Certificate of Mailing is not filed within that time, the matter will remain on the docket but may be continued to allow for timely service. In addition, the matter may be continued if the unserved Opposing Person and/or Interested Person appears and requests additional time. The attorney for the petitioning person or the *pro se* petitioning person **MUST** appear at the scheduled hearing time or the matter may be dismissed for want of prosecution.

**DOCUMENTS** - Pursuant to State Statutes, Supreme Court Rules, Local Court Rules and the Probate Procedures Manual, attorneys are required to print, attach and serve specific documents with certain types of Petitions, Applications, and other filings. Below are the documents that must be served in particular types of service packets. The documents have been listed in the

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<sup>1</sup> This Attorney Information does not address service pursuant to Mo.R.Civ.P. 54.16.

<sup>2</sup> Any service packet to be served by the Unit of Service and Judgment Enforcement or Out of County Sheriff shall have all the required service fees paid at the time of filing the pleading requiring service.

<sup>3</sup> You must obtain the Court's approval of the Order allowing the designated Private Process Server to serve process. Note that Private Process Servers are not allowed to serve an order, writ or other process that requires any levy, seizure, sequestration, garnishment, eviction or other taking of property.

order in which they should be assembled for service. The documents fall in one of the following three categories distinguished by type style:

- **ALL CAPS** - Digital documents you must print from the 16th Judicial Circuit Court's website;
- Upper/Lower Case - Digital documents that will be provided to you in a case-specific link from the Probate Division;
- *Italics* - Documents created by you or otherwise in your possession and/or available on case.net.

**PUBLICATION** - Should you seek personal service on an individual by publication (as opposed to notice of the specific action as required by the Probate Code), you will need to submit to the Court:

- A motion, affidavit in support thereof and a proposed order pursuant to Rule 54.12(c).

The person requesting publication must contact the newspaper to obtain the first date of publication to be included on the notice and must complete the notice reflecting that date. In addition, the person requesting publication must deliver payment to the legal publication chosen to be utilized so that actual publication may occur. The Court will deliver the notice to the newspaper but it is the responsibility of the person seeking service by publication to ensure that the affidavit of publication is filed with the Court by the designated newspaper.

Finally, for all causes of action in which service is by summons, once the matter is set for hearing, it is the attorney's responsibility to obtain the Notice of Hearing from the Court, send it to all interested persons and counsel by ordinary mail and file a Certificate of Mailing with the Court no later than **SEVEN (7)** days before the date of the hearing.

### SERVICE PACKET INSTRUCTIONS

**Below is a listing of common causes of action filed in the Probate Division with basic service requirements which may require a hearing. If your cause of action is not listed and/or if your matter necessitates alternative service considerations please see a Probate Judicial Officer.**

**Please note the general rule is that if the Court enters a full adversary order in a cause of action, service is by summons. If the Court enters an abbreviated adversary order, service is by certified mail. If no adversary order is entered, ordinary mailed notice is sufficient unless otherwise noted.**

<p><b><u>ADULT</u></b> <b><u>GUARDIANSHIPS/CONSERVATORSHIPS</u></b> Upon the Respondent (Note - Requires Personal Service on the Respondent and ONLY upon the Respondent - cannot be constructively served): 2 - Notice of Hearing/Notice of Rights (One for return and one stapled to the service packet) Order for Attorney <i>Application for Appointment of Guardian and Conservator and all attached required Exhibits (but not the medical report); and</i> <i>Order Appointing Special Process Server (if using)</i></p> <p>Upon all interested persons by ordinary mail: Notice of Hearing <i>Certificate of Mailing</i></p> <p>Note #1: A Petition for Electroconvulsive Therapy will also follow this format.</p> <p>Note #2: Personal service is required on the attorney-in-fact if Application is also seeking termination of any existing durable power of attorney</p>	<p><b><u>MINOR</u></b> <b><u>GUARDIANSHIPS/CONSERVATORSHIPS</u></b> Upon the Natural Parents: 2 - Summons (One for return and one stapled to the service packet)* Adversary Order <i>Application for Appointment of Guardian and Conservator and all attached required Exhibits; and</i> <i>Order Appointing Special Process Server (if using)</i></p> <p>Once matter is set for hearing, serve upon all interested persons by ordinary mail: Notice of Hearing <i>Certificate of Mailing</i></p> <p>*If whereabouts of parent is unknown or identity of parent is unknown, service is by publication pursuant to Rule 54.12(c)</p> <p>Note: If both parents consent, no summons is required. Instead, service will be by ordinary mail: Notice of Hearing <i>Certificate of Mailing</i></p>
<p><b><u>APPLICATION FOR LETTERS OF ADMINISTRATION</u></b> Upon all interested persons by certified mail: Adversary Order Notice of Hearing <i>Application for Letters of Administration and all attached required Exhibits</i></p>	<p><b><u>PETITION TO REQUIRE ADMINISTRATION</u></b> Upon all interested persons by certified mail: Adversary Order Notice of Hearing <i>Petition to Require Administration and all attached required Exhibits</i> <i>Claim if filed with Petition</i></p>

<p><b><u>PETITION TO DETERMINE HEIRSHIP</u></b>  <b><u>(Filed after 1 year from the date of death not as part of an existing estate)</u></b>  Upon all interested persons by certified mail:  Notice of Hearing  Adversary Order</p> <p><i>Petition to Determine Heirship</i>  Note: A Notice of Hearing is sent by you to the newspaper publishing said Notice.</p>	<p><b><u>PETITION TO DETERMINE HEIRSHIP</u></b>  <b><u>(Filed within an existing estate)</u></b>  Upon all interested persons by summons:  2 - Summons (One for return and one stapled to the service packet)*  Adversary Order  <i>Petition to Determine Heirship</i>  <i>Order Appointing Special Process Server (if using)</i></p> <p>*For service on known and unknown interested persons and for those interested person whose whereabouts are unknown, service is by publication pursuant to Rule 54.12(c)</p> <p>Once matter is set for hearing, serve upon all interested persons by ordinary mail:  Notice of Hearing  <i>Certificate of Mailing</i></p>
<p><b><u>CLAIMS</u></b>  To be served by certified mail upon the opposing person and ordinary mail upon the attorney for the opposing person:  Adversary Order  Notice of Hearing</p>	<p><b><u>PETITION TO SELL REAL PROPERTY IN A DECEDENT'S ESTATE</u></b>  Upon all interested persons by ordinary mail:  Notice of Hearing  <i>Petition to Sell Real Property</i>  <i>Certificate of Mailing</i></p>
<p><b><u>PETITION FOR DISCOVERY OF ASSETS</u></b>  To be served by summons upon opposing person:  2 - Summons (One for return and one stapled to the service packet)  Adversary Order  <i>Petition for Discovery of Assets</i>  <i>Order Appointing Special Process Server (if using)</i></p> <p>Once matter is set for hearing, serve upon all interested persons by ordinary mail:  Notice of Hearing  <i>Certificate of Mailing</i></p>	<p><b><u>OBJECTIONS TO FINAL SETTLEMENT</u></b>  To be served by certified mail upon fiduciary and ordinary mail upon counsel for fiduciary:  Adversary Order  Notice of Hearing  <i>Objections</i>  <i>Certificate of Mailing</i></p>

<p><b><u>APPLICATION FOR COMPENSATION</u></b>          To be served upon fiduciary by certified mail and ordinary mail upon counsel for fiduciary:          Notice of Hearing  <i>Application for Compensation and attached Exhibits</i>  <i>Certificate of Mailing</i></p>	<p><b><u>APPLICATION FOR EXEMPT PROPERTY, FAMILY OR HOMESTEAD ALLOWANCE</u></b>          To be served upon opposing person by certified mail and ordinary mail upon counsel for fiduciary:          Adversary Order          Notice of Hearing  <i>Application for Exempt Property, Family or Homestead Allowance</i>  <i>Certificate of Mailing</i></p>
<p><b><u>PETITION TO ADMIT LOST WILL/PROVE WILL IN SOLEMN FORM</u></b>          To be served upon interested persons by certified mail:          Adversary Order  <i>Petition to Admit Will and any attached Exhibits</i></p>	<p><b><u>PETITION TO DETERMINE LIABILITY</u></b>          To be served by summons upon opposing person:          2 - Summons (One for return and one stapled to the service packet)          Adversary Order  <i>Petition To Determine Liability</i>  <i>Order Appointing Special Process Server (if using)</i>           Once matter is set for hearing, serve upon all interested persons by ordinary mail:          Notice of Hearing  <i>Certificate of Mailing</i></p>
<p><b><u>PETITION TO INVADE JOINT/MULTIPLE PARTY ACCOUNTS IN CONSERVATORSHIP</u></b>          To be served upon interested persons by certified mail:          Adversary Order  <i>Petition to Invade Joint/Multiple Party Account</i></p>	<p><b><u>PETITION TO REMOVE FIDUCIARY</u></b>          Upon personal representative by summons:          2 - Summons (One for return and one stapled to the service packet)          Adversary Order  <i>Petition to Remove Fiduciary and any attached Exhibits</i>  <i>Order Appointing Special Process Server (if using)</i>           Once matter is set for hearing, serve upon all interested persons by ordinary mail:          Notice of Hearing  <i>Certificate of Mailing</i>           Upon guardian and/or conservator by certified mail unless otherwise directed by the Court:          Notice of Hearing          Adversary Order  <i>Petition to Remove Fiduciary and any attached Exhibits</i></p>



<p><b><u>PETITION TO TERMINATE MINOR GUARDIANSHIP (without consent of fiduciary)</u></b>  Upon fiduciary and natural parents (if not petitioning person to action) by summons:  2 - Summons (One for return and one stapled to the service packet)  Adversary Order  <i>Petition to Terminate Minor Guardianship Order Appointing Special Process Server (if using)</i>  Once matter is set for hearing, serve upon all interested persons by ordinary mail:  Notice of Hearing  <i>Certificate of Mailing</i></p>	<p><b><u>PETITION TO TERMINATE ADULT GUARDIANSHIP/CONSERVATORSHIP (with consent)</u></b>  Upon guardian and/or conservator and protectee by certified mail:  Notice of Hearing  Adversary Order  <i>Petition to Terminate Adult Guardianship/Conservatorship and any attached Exhibits</i></p>
<p><b><u>PETITION TO COMPROMISE CONTROVERSY</u></b>  Upon interested persons by certified mail:  Notice of Hearing  Adversary Order  <i>Petition to Compromise Controversy</i></p>	<p><b><u>PETITION TO SET ASIDE REFUSAL/CLERK'S CERTIFICATE (without consent)</u></b>  Upon interested persons by certified mail and counsel by ordinary mail:  Notice of Hearing  Adversary Order  <i>Petition to Set Aside Refusal/Clerk's Certificate</i></p>
<p><b><u>PETITION FOR INSTRUCTIONS REGARDING INSOLVENT ESTATE AND PRO RATA PAYMENT OF CLAIMS</u></b>  Upon interested persons by certified mail:  Notice of Hearing  Adversary Order  <i>Petition for Instructions Regarding Insolvent Estate and Pro Rata Payment of Claims</i></p>	<p><b><u>PETITION FOR AUTHORITY TO CONTINUE DECEDENT'S BUSINESS</u></b>  Upon interested persons by certified mail:  Notice of Hearing  Adversary Order  <i>Petition for Authority to Continue Business</i></p>
<p><b><u>PETITION TO BAR STATUTORY ALLOWANCE OF SPOUSE</u></b>  Upon spouse by summons:  2 - Summons (One for return and one stapled to the service packet)  Adversary Order  <i>Petition to Bar Statutory Allowance of Spouse Order Appointing Special Process Server (if using)</i>   Once matter is set for hearing, serve upon all interested persons by ordinary mail:  Notice of Hearing  <i>Certificate of Mailing</i></p>	<p><b><u>MOTION BY ATTORNEY TO WITHDRAW</u></b>  To be served upon fiduciary by certified mail and ordinary mail upon counsel for fiduciary:  Notice of Hearing  <i>Motion to Withdraw</i></p>

<p><b><u>PETITION TO ABANDON PROPERTY</u></b></p> <p>To be served upon interested persons by certified mail:  Adversary Order  Notice of Hearing  <i>Petition to Abandon Property</i></p>	<p><b><u>GARNISHMENT</u></b></p> <p>To be personally served upon Garnishee:  Writ  JACKSON COUNTY RETURN SHEET (from Website) OR OUT-OF-COUNTY RETURN SHEET and 1 stapled to the service packet  NOTICE TO GARNISEE (from website)  <i>Interrogatories to Garnishee</i></p> <p>Note: Garnishments served upon federal agencies must be served by certified mail. The Court is required to send Notice to Debtor of Exemptions with 3 days of service of the Garnishment. The Court will send the Notice at the time the service documents are sent to the attorney to ensure compliance with statute.</p>
<p><b><u>TRUST ACTIONS</u></b></p> <p>To be served by summons upon opposing person:  2 - Summons (One for return and one stapled to the service packet)  <i>Trust Action</i></p> <p>Once matter is set for hearing, serve upon all interested persons by ordinary mail:  Notice of Hearing  <i>Certificate of Mailing</i></p>	<p><b><u>PETITION FOR RESTORATION WITH CONSENT OF FIDICIARY AND PROTECTEE</u></b></p> <p>Upon both persons by certified mail:  Notice of Hearing  <i>Petition for Restoration</i></p>

# Court Rules

## **Rule 72 - Probate**

### **Rule 72.1 - Revised - 9/6/13 - Docket Numbering**

1. Any matter filed in the probate division to which a number was assigned prior to January 2, 1979, shall carry that number. Any file opened on or after January 2, 1979, shall be numbered under the numbering system in effect in the probate division on January 2, 1979, as such numbering system may be changed from time to time.
2. All pleadings pertaining to probate shall be filed in the probate division in either Independence or Kansas City pursuant to R.S.Mo. §478.473. All cases filed in the Independence probate division shall bear the prefix of the last two digits of the year the matter was filed and "P9". All matters filed in the Kansas City probate division shall likewise bear a prefix of the last two digits of the year the matter was filed and "P8". Any adversary proceeding, as defined by the Probate Code, for which a separate case file is established by the probate division shall bear the prefix as indicated for the Independence or Kansas City probate division and the letters "PR" and a five digit number referencing the case file to the source estate and a two digit suffix distinguishing one case file from another relating to the same estate. Such case file number shall appear thus: "00P9-PR00000-00" or "00P8-PR00000-00."
3. Any case file transferred from the probate division to another division shall retain the case file number assigned to it by the probate division. Any case file transferred to the probate division shall retain the case file number assigned to it by the Office of Court Administrator.

Adopted 8/23/13  
Effective 9/6/13

# Court Rules

## **Rule 72 - Probate**

### **Rule 72.2 - Revised - 9/6/13 - Manual of Procedures**

1. The judge of the probate division may adopt a manual of procedures and other instructions for attorneys and litigants governing the administration of probate matters in the probate division, and shall disseminate the same in such manner as that judge determines. Such manual and other instructions will be available on this court's website [www.16thcircuit.org](http://www.16thcircuit.org). and other instructions shall not become "local circuit court rules" within the meaning of Section 478.245.3.

Adopted 8/23/13  
Effective 9/6/13

# Court Rules

## **Rule 72 - Probate**

### **Rule 72.3 - Revised - 9/6/13 - Filing of Pleadings**

1. All probate matters are to be filed in accordance with Supreme Court Rule 103 and Supreme Court Operating Rule 27. In addition, the original of the following documents shall be filed physically with the probate division within 48 hours after it is electronically submitted:

- a. Original Wills;
- b. Original Corporate Surety Bonds;
- c. Vouchers;
- d. Receipts.

2. Self-represented parties, except those who are attorneys licensed to practice in the State of Missouri and subject to the Missouri Electronic Filing System rules, shall file all original pleadings and documents with the clerk of the probate division.

3. Applications for temporary emergency detention of mentally ill persons and persons who abuse substances, submitted by an approved Mental Health designee pursuant to Chapters 631 and 632, RSM0, may be filed by facsimile transmission.

Adopted 8/23/13  
Effective 9/6/13

# Court Rules

## **Rule 72 - Probate**

### **Rule 72.4 - Revised - 9/6/13 - Judgments Confirming Judgments, Orders and Decrees of Commissioner**

1. Pursuant to the provisions of Section 478.266 RSMo, the judge of the probate division shall by judgment of record reject or confirm all orders, judgments and decrees of the commissioner and the deputy commissioner within the time the judge could set aside such orders, judgments or decrees had the same been made by him. If so confirmed, the orders, judgments and decrees shall have the same effect as if made by the judge on the date of their confirmation.
2. The judgments of confirmation of the orders, judgments and decrees of the Probate Commissioner are recorded in probate file number 16PRK169067 and the judgments of confirmation of the orders, judgments and decrees of the Deputy Probate Commissioner are recorded in probate file number 16PRK146132.
3. Any party to an adversary probate proceeding may file a motion for rehearing before the judge of the probate division within fifteen (15) days of the date of entry of the order, judgment or decree by the commissioner or deputy commissioner. The motion shall be in writing and shall state all specific evidentiary grounds and legal authority for a rehearing. The motion must specifically allege facts to indicate how the findings of the commissioner were not supported by competent and substantial evidence or how they were based upon an error of law. The motion shall contain specific references to the relevant portions of the transcript from the hearing before the commissioner. If the transcript cannot be obtained by the filing deadline, the Motion shall be accompanied by a sworn statement that the transcript has been ordered and the required deposit paid. Confirmation of the order for which rehearing is sought shall be suspended pending the grant or denial of the rehearing motion. The probate judge shall review the motion on the pleadings, transcript and any other attachments and determine if further argument or proceedings are required or if the motion shall be granted or denied in full or in part on the record, in the discretion of the judge.

4. Each order, judgment or decree entered by the commissioner or deputy commissioner shall contain the following statement:

**“NOTICE TO PARTIES”**

“The foregoing order, judgment or decree entered by the commissioner or deputy commissioner is subject to confirmation by the judge of the probate division. Any party to this proceeding may file a motion for rehearing before the judge of the probate division within fifteen (15) days of the date of entry of the order, judgment or decree by the commissioner or deputy commissioner and pursuant to Jackson County Circuit Court Rule 72.4”

Adopted 8/23/13  
Effective 9/6/13

# Court Rules

## **Rule 72 - Probate**

### **Rule 72.5 - Case Dismissal for Failure to Prosecute**

#### Rule 37.4 applies to Probate Actions

Adopted 8/23/13  
Effective 9/6/13

Note Rule 37.4 states:

1. If a party shall fail to prosecute an action with reasonable diligence, the court may on its own motion enter a judgment dismissing the action for want of prosecution with or without prejudice.
2. Failure of a party to appear for trial after a cause has been regularly calendared for trial shall be grounds for dismissal either with or without prejudice without further notice.

Adopted 11/18/05  
Effective 12/18/05



# Court Rules

## **Rule 72 - Probate**

### **Rule 72.6 - Continuances for Trial Settings and Hearings Scheduled**

1. Applications for continuances for trial settings and hearings scheduled shall be filed in accordance with Rule 72.3 and as permitted by the judicial officers of probate division. Said applications, suggestions in support and opposition, and supporting affidavits shall comply with the following requirements:

a. Such pleading shall be in writing and shall not exceed three (3) pages collectively;

b. The application shall contain the date the matter under consideration was initially filed, the nature of the proceeding, and the number of prior continuances requested and on whose behalf the request(s) were made.

2. All applications shall be accompanied by an affidavit of the applicant setting forth the facts upon which the application is based and, unless all other parties consent to the granting of the continuance, the facts of each party's consent or opposition to the continuance.

3. Applications must be filed no later than the Wednesday before the date the trial or the hearing is set. Any such pleading received after 5:00 p.m. will be deemed received and filed on the following business day.

## **JACKSON COUNTY PROBATE eFILING TIPS**

### **GENERAL**

- Any payments, court costs or filing fees that you would normally pay by a check from your office, can be by credit card, eCheck or court debit account. Specific instructions and eFiling payment options are set out on the 16<sup>th</sup> Circuit Website under Electronic Filing, as well as other important information links.
- Please do not use cover letters when eFiling documents nor communicate via e-mail with the Court unless otherwise instructed. Any important information you want in the record will need to be made part of the Court's file by appropriate eFiled pleadings.
- It is not necessary to use the "Note to the Clerk" unless you have important information to send to the Clerk regarding your eFiling, such as service information, info regarding filing fees, etc. This is not viewable by anyone but the Clerk and takes up valuable "cyber space" if it contains no useful information.
- It is not necessary to prepare the old "Filing Information Sheet" or scan it with your eFiling. The system automatically generates a filing sheet from the party information that you submit. Make sure the names and addresses of the parties (which includes interested persons as defined in the Probate Code) are current and complete and that they are the same as those used in your pleadings. If the information is incomplete, you will be asked to file an amended pleading so that all necessary persons/entities are added into the system.
- Make sure the correct name and case number are included on all documents, including correspondence. When filing in existing cases, pay special attention to case numbers that have -01, -02, at the end of the case number or your filings may be entered on the wrong case.
- Be sure your scanner is set to scan your documents as 8.5 x 11 and that the documents are not scanned in sideways or upside down or contain blank pages. Documents may be rejected if not scanned at the proper setting

- It is not necessary to leave extra room at the top of your documents except on documents initiating new cases.
- Please do not file extra documentation or information when it is not required, such as real estate contracts with Report of Sale, bank statements or detailed lists of personal property with Inventories. When trust documents are required in a Decedent's estate to show the name of the appointed trustee or successor trustee, limit your documents to the title page, the page that appoints the trustee or successor trustee, and the signature page. There is usually no need for the entire trust to be a part of the deceased estate file.
- Full Social Security Numbers should be entered in the party information section as these will not be viewable by the public. However, be sure there are no Social Security Numbers or other confidential information contained in your pleadings. Use only the last 4 digits of the Social Security Number if required by a court form. Refer to COR 2.02 – clerks are not required to review the case documents to confirm that personal information has been omitted. The responsibility for redacting personal information rests solely with counsel, the parties or any other person filing the document. The clerks will not review each document for compliance with this policy.
- Notice of Required Filings, Notice of Hearing, Notice of Entry, Checklists and Memos from the Court will be sent by email notification to attorneys of record and viewed on Case.net. Paper notices will be mailed to pro se parties and fiduciaries who are not attorneys, when required.
- When a claim against the estate is filed, the Attorney for the estate will receive only email notification. The claim can then be viewed on Case.net.
- Please file “proposed” orders/judgments as the document type for "Proposed Order." In certain instances, it may be acceptable to e-mail a proposed order/judgment in WORD format to the judge or one of the commissioners or their respective Judicial Administrative Assistant when directed by one of the judicial officers.

- Bring original trial exhibits to the trial/hearing unless you are notified otherwise to scan them in advance. Trial briefs should be eFiled prior to the court hearing.
- It would be helpful in processing your interim pleadings in an existing case, (such as fees, requests to sell real and personal property, requests to expend funds, etc) if they are submitted separately and not combined in the same submission, as different clerks are responsible for processing different types of pleadings. If information is needed with one filing and it needs to be returned, everything in the submission must be returned.
- As we are beginning to use digital signatures and date stamps on orders, you will need to leave extra space above the signature line to apply the digital signature. A date line should be added next to the signature line for the date stamp to be applied when the order is signed. Please leave off any date line in the body of the order, with blank lines for a date to be inserted.
- Rule 103.04 provides that eFile documents may be signed by “original signature, stamped signature or an electronic graphic representation of a signature, or in the following manner: /s/ John or Jane Person.” However, Rule 103.07 provides that: “A document required by law to be verified, to be signed under penalty of perjury, or to be signed by a notary public may be filed as an electronic document **if the affiant, declarant, or notary public has signed a paper document.** Until the entire case is finally disposed, the registered user shall be the custodian of the paper document.”

## SETTLEMENTS

- Paper vouchers sent to the Court for use in verifying information on a Settlement should be filed within 48 hours of e-Filing. The vouchers may then be returned after the Settlement is approved. The vouchers should be picked up within two weeks and retained in your file for future use, if needed. If they are not picked up after two weeks from approval of the Final Settlement and discharge of the fiduciary and surety, they will be shredded.
- If bank statements are eFiled for a Settlement, these must be filed separately. Please scan them oldest to newest, the same as the Settlement entries. Also, remember, if scanned, they are part of the file but are only viewable by attorneys of record on the case.

- All Final Settlements and Statements of Account – Petitions to Approve, Notices or Waivers from all persons on Application, and Final Settlement/Statement and Proposed Order of Distribution should all be submitted as additional documents and not as attachments to the Final.
- Extension requests (including exception letters) must be in writing by proper eFiled Application. A 15-Day letter will no longer be sent so if the exceptions are not cleared, an order to show cause will issue.

## **TIPS FOR GUARDIAN/CONSERVATOR eFILINGS**

- When eFiling a new Adult Guardian/Conservator petition, the party types should be Petitioner and Respondent, not Guardian/Conservator and Incapacitated/Disabled or Ward/Protectee.
- All parties must be entered into the system by the eFiling attorney – petitioner, respondent, relatives, trustees, attorneys-in-fact, public administrator, etc.
- Adult Petitions for Appointment of Guardian and/or Conservator –
  1. Petition and Exhibits should be submitted as one document.
  2. Medical letter/doctor interrogatories should be submitted as a separate document.
  3. Although the medical evidence has been submitted with the Petition, you will need to bring the original (or a copy if agreed to by all parties) to the hearing to be admitted as an Exhibit, as it will not be a part of the record until it is offered and admitted in Court.
- Minor Petitions for Appointment of Guardian and/or Conservator –
  1. Petition and Exhibits should be submitted as one document.
  2. Do not put Juvenile Case numbers in the petition or exhibits.
  3. All related minor cases must be filed separately.

- When entering a filing party that is an organization, use the name of the organization (government agencies, hospital, care facilities), and not the name of the social worker or employee.

## **TIPS FOR DECEASED ESTATE eFILINGS**

- Original Wills should be filed in person or by mail only AFTER the initiating pleadings or documents have been eFiled. An eFiled copy of the will is also required with your pleadings. The case will not be processed further until the original Will is received.
- Deceased Estate with a Will – Application for Letters Testamentary, Application for Probate of Will, eFiled copy of Will, and Death Certificate should all be submitted as additional documents and not as attachments to the Application for Letters.
- Deceased Estate with no Will – Application for Letters of Administration, Renunciations, Waiver of Bond or Corporate Surety Bond, and Death Certificate, should all be submitted as additional documents and not as attachments to the Application for Letters.
- A Death Certificate should always be filed as a separate document and not as an attachment to any other pleadings, as it is a secure document.
- Please make sure to file MO HealthNet Disclosure/Release, Resident Agent Designation/Acceptance as separate filings.
- Please provide complete filing information on all parties listed in the Application for Letters, Small Estate, etc, including the Decedent. Names should match those listed in a Will or include an explanation in the Application for Letters, if they are not the same. Please use Applicant for the filing party and Attorney for Applicant for the filing attorney. If information not submitted properly with the initial pleading, an amended pleading will be required.
- Selection of the proper document codes is very important and some filing fees are charged based on the codes selected and will result in filings being returned if they are not correct. Following are some of the most common:

1. Admit Will – found under “Petition to/for”
2. Refusal of Letters – found under “Application for Letters of”
3. Small Estate (Establish Title of Distributee, with or without Will) – found under “Affidavit for/in/of.” Do not use “Affidavit – other.” All parties in a Small Estate will usually be Heirs, Devisees or Trustee. Please use Affiant for the person filing and Attorney for Affiant for the filing attorney.
4. Petition to Require Administration and Determination of Heirship – found under “Petition to/for”