

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

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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. 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

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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 of 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

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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

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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.