

STATE OF MAINE
SUPREME JUDICIAL COURT
AMENDMENT TO
MAINE RULES OF PROBATE PROCEDURE

2018 Me. Rules 13

Effective: January 1, 2019

All of the Justices concurring therein, the following amendments to the Maine Rules of Probate Procedure are adopted to be effective on the date indicated above. The specific amendments are stated below. To aid in the understanding of the amendments, an Advisory Note appears after the text of each Rule amendment. The Advisory Note states the reason for the amendment, but the Advisory Note is not part of the amendment adopted by the Court.

1. Rule 12(a)(2) of the Maine Rules of Probate Procedure is amended to read as follows:

(2) *Formal Testacy, Appointment Proceedings and Change of Name Proceedings.* In formal probate proceedings for the determination of testacy, the appointment of a personal representative, guardian or conservator, or a change of name, the notice of hearing shall set a date for hearing ~~which that~~ shall be at least 14 days after the first publication of notice under Rule 4(e)(1) or at least 14 days after the completion of service upon all persons to be served by other means, whichever is later. Any interested person ~~may at or before the hearing file a written reply stating objections to the action or order sought in the petition or stating any other matter which the person wishes to raise, or the person may state such objections or other matter in an oral reply at the hearing~~ to a formal proceeding who opposes the probate of a will for any reason shall state in that person's pleadings that person's objections to the probate of the will. If a party who opposes the probate of a will for any reason makes an oral reply stating the party's objections thereto, the party shall file a written reply setting forth those objections within such time after the hearing as the court ~~may~~ shall order. If a party states any other objections or matter in an oral reply, the court may order the party to file a written reply specifically stating such objections or matter within such time after the hearing as may be just. If a written reply is filed at any time, the hearing may be continued as to all issues involved in the objections or other matter there stated for a period sufficient to allow all parties fairly to be heard on those issues.

Advisory Note – January 2019

This Amendment makes a minor grammatical correction and seeks to provide additional clarity with respect to 18-A M.R.S. § 3-404 and the opposition to the probate of a will. Any “interested person” (as defined in 18-A M.R.S. § 1-201) who opposes the probate of a will must do so in writing in that party’s pleadings either before the hearing or after the hearing pursuant to a court order.

2. Rule 92.2 of the Maine Rules of Probate Procedure is amended to read as follows:

RULE 92.2. DEFINITIONS

....

(j) Registered Filer. A “Registered Filer” is any person who is permitted or required under Rule 92.3 to file documents electronically, ~~or a self-represented party who elects or is ordered under Rule 92.3(c)(3) to file electronically~~ and has registered through the electronic filing system website as provided in Rule 92.4. ~~The term includes any other person authorized to file documents electronically under Rule 92.4.~~

....

(l) Unrepresented Party. An “Unrepresented Party” is an interested person as defined under 18-A M.R.S. § 1-201(20), who has entered an appearance with the Court.

(m) Testamentary Document. A “Testamentary Document” shall include only the last will and testament of the decedent and any codicils thereto.

Advisory Note – January 2019

E-filing permits filing of legal papers by electronic means. Rule 92.2 recognizes that the terminology used in e-filing is not presently used in the Probate Courts and contains the definitions for the terms used in e-filing. This Amendment seeks to provide additional clarity between “Registered Filers”

and “Unrepresented Parties” and limit the definition of “Testamentary Document” to wills and codicils.

3. Rule 92.3(b) of the Maine Rules of Probate Procedure is amended to read as follows:

(b) Exceptions to electronic filing. Nonelectronic filing may occur as follows:

(1) ~~A self-represented party~~ An Unrepresented Party who is not a Registered Filer may file nonelectronically.

....

~~(5) Nonelectronic filing is permitted in a case commenced prior to the mandatory filing date in the applicable county unless the court orders that documents filed on or after the mandatory electronic filing date in that case be filed electronically.~~

~~(65)~~ Nonelectronic filing is permitted when a document cannot reasonably be scanned and filed electronically because of its dimensions, shape, or condition.

Advisory Note – January 2019

The term “Unrepresented Party” replaces the term “self-represented party” in Rule 92.2(b)(1).

The elimination of subparagraph (b)(5) from Rule 92.2 is intended to ensure that all attorneys are required to file electronically regardless of when the matter commenced or by whom.

4. Rule 92.4(b) of the Maine Rules of Probate Procedure is amended to read as follows:

(b) Method of registration by attorneys and self-represented parties Unrepresented Parties. An attorney in good standing in the State of Maine, any other person who is permitted to file documents electronically, or a ~~self-represented party~~ an Unrepresented Party who elects to do so, may

register on the electronic filing system website by submitting all information required by the Probate Court on the registration screens displayed on the website, including: (1) his or her mailing address; (2) his or her Bar number; (3) his or her billing information; and (4) up to three e-mail addresses, one of which is an e-mail account currently maintained by the attorney. The addresses provided shall be listed on the probate website and are the addresses to which all service, notice, or other communication submitted must be sent. Once an attorney has become a Registered Filer pursuant to this subdivision in any matter, he or she shall remain a Registered Filer for all matters in the Probate Court until he or she terminates his or her registration pursuant to Rule 92.4(h).

Advisory Note – January 2019

The term “Unrepresented Party” replaces the term “self-represented party” in Rule 92.4(b).

5. Rule 92.9(b) of the Maine Rules of Probate Procedure is amended to read as follows:

(b) Method of payment; waiver of fees. Fees and costs for electronically filed documents ~~may~~ shall be paid electronically by Registered Filers when filed, but they ~~or~~ may be paid directly over the counter at the office of the clerk by cash, check, or money order by Unrepresented Parties. A person who wishes to proceed in forma pauperis must comply with the provisions of the applicable rules of procedure.

Advisory Note – January 2019

Rule 92.9 deals generally with the payment of fees and costs for electronically and nonelectronically filed documents. Payment for electronic filing by Registered Filers must be accomplished in any of several ways as may be selected by the filer at the time of filing including: PayPal, electronic funds transfer (EFT), automated clearing house (ACH), and approved credit card. Only Unrepresented Parties may pay for their filings by cash, check, or money order at the courthouse.

6. Every reference to “M.R.S.A.” in the Maine Rules of Probate Procedure is removed and replaced with “M.R.S.”

Dated July 18, 2018

FOR THE COURT,*

_____/s/_____
LEIGH I. SAUFLEY
Chief Justice

DONALD G. ALEXANDER
ANDREW M. MEAD
ELLEN A. GORMAN
JOSEPH M. JABAR
JEFFREY L. HJELM
THOMAS E. HUMPHREY
Associate Justices

* This Rule Amendment Order was approved after conference of the Court, all Justices concurring therein.