

Rule 72 PROBATE

Rule 72.1 Circuit Clerk Appointing Authority

The Probate Court of St. Louis County is a division of the Circuit Court of St. Louis County. The Circuit Clerk is the Clerk of the Probate Division, as referred to in Chapters 472, 473, 474, and 475 RSMo, and is the appointing authority for all non-statutory employees of the Probate Division.

Rule 72.2 Electronic Filing in the Probate Division

- (A) Except as otherwise provided herein, all probate matters shall be filed in accordance with Supreme Court Rule 103 and Supreme Court Operating Rule 27. Attachments, including exhibits, that are part of any filing shall be filed electronically at the same time. The probate division has designated documents that should be filed as separate documents and documents that should be filed as attachments to a document. The designations are set out in checklists of filing requirements included in the various packets of forms located on the division's website at:
<https://stlcourtscourts.com/forms/probate-forms/>
- (B) **Original Documents to be Filed.** The original of the following documents shall be filed physically with the probate division after it is electronically submitted. Your pleadings cannot be completed until said originals are filed with the court:
1. Original wills and original codicils. Upon electronic filing, the will or codicil will be conditionally accepted. Final acceptance of a will or codicil will not occur until the original has been filed physically in the probate division;
 2. Original commissions.
- (C) **Self-Represented Parties.** 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.

(D) Forms Promulgated by the Probate Division. Forms promulgated by the probate division are preferred and found online at <https://stlcourtscourts.com/forms/probate-forms/>. Attorneys and registered users shall use the forms promulgated by the probate division that are applicable to the matter being filed in the probate division or forms substantially similar to those promulgated.

(E) Size – Type – Font. Any pleading, writing, or document created for the purpose of filing in the probate division shall:

1. All e-filed pleadings must be typewritten;
2. Be on paper of size 8 ½ x 11 inches;
3. Have portrait orientation;
4. Have a left, right, top, and bottom margin of not less than one inch. Page numbers may appear in the bottom margin, but no other text may appear in the margin;
5. Have all pages consecutively numbered;
6. Use characters that are not smaller than 12 point, Times New Roman font;
7. Be double-spaced, except that the certificate of service and signature block may be single spaced.

(F) Exception. A writing or document that has not been created for the purpose of filing in the probate division and is attached to a pleading at the time it is filed shall not be subject to the size-type-font requirements of subsection (E).

(G) Entry of Parties. Attorneys shall be responsible for entering all parties into the e-filing system. Pursuant to Missouri Supreme Court Operating Rule 4.07, if the party is a person and the information is reasonably available, the full Social Security number for each party must be provided to be included on the system generated Filing Information Sheet. Parties shall include:

1. Petitioner(s);
2. Decedent;
3. Minor(s);
4. Respondent(s);

5. Spouse;
6. All Heirs;
7. All Legatees/Devisees;
8. Plaintiff(s); and
9. Defendant(s).

(H) Death and Birth Certificates.

1. In all proceedings filed pursuant to chapters 473 and/or 474 RSMo , a copy of the death certificate shall be electronically filed with the court.
2. In all proceedings regarding a minor child, a copy of the child's birth certificate shall be electronically filed.

(I) Multiple Minors in Common Proceeding. Where more than one minor is involved in a common proceeding, there shall be a separate filing for each such minor. Filings fees for all common cases will be waived after the first filing fee is paid.

(J) MO Healthnet Waivers. No administration of a decedent's estate will conclude without the filing of a waiver of Mo HealthNet claims by the State of Missouri. No waivers shall be required on Affidavits for Collection of Small Estates, Applications for Refusal of Letters or Petitions to Determine Heirs.

(N) Requests for Extension of Time.

1. **Inventory or Bonds.** A request for additional time to file an inventory or bond shall be in writing and must be electronically filed. The request shall identify the reason for the continuance and shall provide a date, no more than thirty days from the division's deadline for filing of the inventory or bond. The division's approval or denial of the request will be available on Case.net.
2. **Settlements or Statements of Account.** Details that address requests for extensions of time in filing

settlements or statements of accounts are found in Local Rule 72.3.

3. **Documents to Open New Estates – Correction of Deficiencies.** The division will review documents filed to open a new estate. A checklist itemizing deficiencies in the filing will be available on Case.net. The checklist will include a due date for submitting corrections. A request for additional time to submit corrections shall be in writing and must be electronically filed. The request shall identify the reason for the continuance and shall provide a date, no more than thirty days from the division’s deadline, for filing the corrections. The division’s approval or denial of the request will be available on Case.net. If corrections are not filed by the due date or on any date as otherwise ordered by the division, the matter will be dismissed for failure to prosecute.

Rule 72.3 Electronic Filing of Settlements in the Probate Division

- (A) **Electronic Filing.** In accordance with Supreme Court Rule 103 and Court Operating Rule 27, all reports in lieu/interim/annual and final type settlements including statement of accounts, along with required verification of accounts shall be filed electronically.
- (B) **Vouchers.** All vouchers shall be filed as an attachment to the settlement and shall be the official record of the court. Such vouchers must be numbered and submitted as one electronic file in consecutive order consistent with the listing of disbursements on the settlement. In the event a settlement shall contain more than seventy-five (75) vouchers, the filing party may file such vouchers in paper form with the auditing department of the probate court. The filing party may retrieve them from the court within 90 days after approval of the settlement, unless the court directs differently. If they are not retrieved within this time frame, the court will give notice to the filing party that they will be destroyed within 10 days from said notice. It shall be the responsibility of the filing party to retain such receipts and vouchers until the case shall have become final for all purposes,

including the final determination of any appeals, in order that said receipts and vouchers may be made available upon order of the court. Verification of Accounts. All verification of accounts shall be e-filed as a separate document and not as an attachment to the settlement.

(C) Documents to be filed as additional documents/not attachments. Petitions to Approve the Settlement, Notices or Waivers from all interested persons, and the Final Settlement/Statement and Proposed Order of Distribution should all be submitted as additional documents and not as attachments to the Final Settlement.

(D) Corrected Settlement. Every amendment to or correction of a settlement shall be accompanied by a Settlement Corrections Submission form and shall specifically identify the correction(s) or amendment(s) requested. When a correction or an amendment is filed, the attorney shall use the Settlement Corrections Submission form and shall attach only those pages of the settlement containing the correction(s) or amendment(s). An entirely new settlement shall not be attached to the Settlement Corrections Submission form when amendment or correction is requested.

(E) Extension requests.

1. **To File a Settlement or Statement of Account:** A written request for additional time to file a settlement or statement of account must be e-filed detailing the reason for the continuance along with a suggested due date of not more than 30 days per request. Approval or denial of said request will be available on Case.net.
2. **To Correct Deficiencies on an Audited Settlement:** After a settlement has been audited, a checklist itemizing the deficiencies will be available on Case.net. The checklist will include a due date for making corrections. If the corrections are not completed by the due date or a request for additional time submitted *as set out in item (1) above*, an order to show cause will be issued.

July 12, 2023

Rule 72.4 Petitions of Expend

The following items shall be deemed approved and shall not require a Petition to Expend Funds in Supervised Decedent's estate or Conservatorships::

- (A) Bond Premiums, taxes, and any other items allowed by statute;
- (B) Accountant fees up to \$750 for annual tax preparation;
- (C) Prepaid funeral for Protectee in Conservatorships up to \$7,500 (must still comply with requirements of § 475.120 RSMo);
- (D) Brokerage fees up to 1.2% of the value of the brokerage account;
- (E) Safe deposit boxes up to \$150 annually;
- (F) Copies of bank statements up to \$10 per statement;
- (G) Appraisals for real and personal property owned by the estate up to \$500; and
- (H) Insurance for real and/or personal property owned by the estate.

Rule 72.5 Application of Rules of Civil Procedure to Adversary Proceedings

- (A) All actions filed with the probate division of this circuit seeking relief under the following provisions of the Revised Statutes of the State of Missouri are declared "adversary probate proceedings" within the meaning of and as that term is defined in Section 472.140.2, RSMo of the probate code:
 1. Durable Power of Attorney Law, Section 404.727 RSMo (action for accounting from and/or breach of fiduciary duty of attorney-in-fact);
 2. Missouri Uniform Trust Code Sections 456.6-604 RSMo (trust contests), 456.7-706, RSMo (removal of trustee), and 456.10-1001 RSMo (breach of trust);
 3. Nonprobate Transfers Law of Missouri, Section 461.054.1 RSMo (disqualification of beneficiary designations for fraud, duress, or undue influence);
 4. Probate Code Sections 472.013, RSMo (fraud under probate code) 473.340 (discovery of assets), 474.150, RSMo (gifts in fraud of marital rights), and 474.155 (breach of contract to make a will).

- (B)** Pursuant to Rule 41.01(b), Mo.R.Civ.Proc., and Section 472.141(2) RSMo, all of Rules 41 through 101 of the Missouri Rules of Civil Procedure shall apply in those “adversary probate proceedings listed in subsection (a) of this Rule.
- (C)** Pursuant to Administrative Order entered March 3, 2014, every adversary probate proceeding filed in the probate division will be opened as a separate case and will be assigned a separate case number. It will have the same case name as the original estate or other related action but will also contain the designation “adversary matter” or ADV. The case number listed on pleadings already filed in a pending adversary matter will be changed to reflect the new case number. Subsequent pleadings filed in the adversary matter should bear the new case number. Orders issued by the court in the adversary matter shall be issued under the new case number. When the adversary matter is concluded, the case file opened as the adversary matter will be closed.

Rule 72.6 Minor Guardianships

Rule 54.12(c), Mo.R.Civ.Proc. shall be applicable in all cases involving a Petition for Guardianship of a Minor. The Court will only consider ordering publication under Rule 54.12(c) if all requirements outlined in the rule are met.

Rule 72.7 Emergency Court Settings in Decedent Estates, Adult Guardianships and Conservatorships, and Minor Guardianships and Conservatorships

- (A)** Any Petition or Motion for Emergency or Expedited Hearing in a Decedent Estate, Adult Guardianship and/or Conservatorship, and Minor Guardianship and/or Conservatorship, including, but not limited to, Petitions filed pursuant to Section 475.075.15 RSMo, shall be verified or contain an affidavit identifying specific facts identifying the nature of the sudden or unforeseen circumstances which give rise to the emergency and said facts must be stated with particularity.

- (B) Petitions filed pursuant to Section 475.075.15 RSMo will only be set for hearing within five business days, if the verified facts of the petition show that “an alleged incapacitated or disabled respondent has no guardian or conservator and an emergency exists that presents a substantial risk that **serious physical harm** will occur to respondent’s person or **irreparable damage** will occur to respondent’s property because of the respondent’s failure or inability to provide for the respondent’s essential human needs or to protect the respondent’s property...” (emphasis added). Due to the substantial resources required to set a petition within five days, serve a respondent and interested parties within five days, and for a court-appointed attorney to be assigned and meet with a Respondent, and conduct a hearing within five days, parties should only file emergency petitions under Section 475.075.15 RSMo when the stringent statutory requirements are specifically pled and met. If the requirements outlined in Section 475.075.15 RSMo are not pled and met, then the Court will issue an order denying the emergency and instead set the matter for hearing at a later date.
- (C) If a party needs an expedited hearing on a guardianship or conservatorship matter, but the facts do not support an emergency setting within five business days under Section 475.075.15, then he or she may file a petition for an expedited hearing. Please note that Section 475.075.15 is not applicable to minor guardianships and/or minor conservatorships.
- (D) All counsel filing an action subject to Local Rule 72.7 shall be responsible for contacting the clerk to obtain a hearing date immediately after the action is filed.

Rule 72.8 Public Access to Probate Case Records

- (A) Public access to probate matters shall be in accordance with Supreme Court Operating Rule 2.
- (B) **Confidential Information to be Redacted.** Pursuant to Court Operating Rule 2, the filer of a document shall redact all confidential information (“Confidential Information”). Court personnel will not review each case document to ensure compliance and will not refuse to accept a document on that basis.

1. Confidential Information contained within public probate case documents shall include:
 - a. social security numbers; driver's license numbers; state identification numbers; taxpayer identification numbers;
 - b. account numbers; credit or debit card numbers; personal identification numbers; passwords;
 - c. case numbers of confidential, expunged, or sealed records; and
 - d. any other information that is required to be redacted pursuant to state statute or court rule.

For purposes of probate matters in which the minor is a proposed ward/protectee, ward/protectee, an heir/devisee, or other interested party, the minor's name and date of birth are not considered confidential information and are not required to be redacted.

2. The filer of a document is not required to redact Confidential Information from confidential case records or confidential documents identified below in Rule 72.3-72.4 because said documents are not available for public access.

(C) Confidential Records. Confidential Records, as set forth in Supreme Court Operating Rule 4.24, shall remain inaccessible to the general public.

(D) Confidential Documents. Confidential Documents, as set forth by the State Judicial Records Committee and designated below in subparagraphs (i)-(vi), shall remain inaccessible to the general public. Confidential Documents in probate cases shall include:

1. Inventories, annual and final settlements, statements of account, account statements, vouchers, verifications, agreements of depositories, birth certificates, death certificates, and case information filing sheets;

2. Any "Exhibit A" document from local court forms containing account numbers that is filed in a conservatorship action, refusal, small estate or petition for determination of heirship action;
3. medical records, medical letters, medical affidavits, medical interrogatories or other correspondence from a physician or healthcare provider that contains a person's medical information; treatment plans; mental status evaluations; and guardianship and conservatorship personal status reports
4. Copies of personal income tax documentation that may have been requested in order to establish a standard of living for the purpose of a spousal refusal or spousal allowance;
5. Motions to Proceed in Forma Pauperis and any accompanying documentation; and
6. Copies of documents from other confidential, expunged, or sealed records.

(E) Court Order. Confidential Records and Confidential Documents, as set forth above, shall not be produced to individuals other than parties or counsel of record without a court order.