DISTRICT OF COLUMBIA COURT RULES
SUPERIOR COURT RULES OF THE PROBATE DIVISION[1]

Table of Contents

All Proceedings.

Rule Page

1. Purpose and scope. 1
2. Matters presented to the Register of Wills. 2
3. Verification of pleadings. 3
4. Notice requirements. 4
5. Investments by a fiduciary. 5
5.1 Privacy requirements. 7
6. Life estate; dower. 8
6.1 Disclaimers required to be filed with the court. 9
7. Closing a case despite irregularity. 11
7.1 Solely owned safe deposit box. 12
8. Appeals. 14
9. Stay pending reconsideration or appeal. 16

Decedents' Estates Before January 1, 1981.

10. Petition for probate and administration. 17
11. Notice of petition for probate.
12. Notice of petition for administration.
13. Collectors.
14. Nonresident fiduciaries.
15. Proceedings in contested estate cases.
16. Registration and appraisal of securities.
17. Sale of personal property.
18. Proceedings for the sale of real property.
19. Accounts of administrators, executors and collectors.
20. Exhibition of assets.
21. Assignments.
22. Compensation to attorneys and fiduciaries.
23. Delinquent fiduciaries.
24. Fees.
25. Definitions.
26. Bias or prejudice of a judge.

Decedents' Estates After January 1, 1981.

101. Matters presented to the Register of Wills. 18
102. Petition for probate.
103. Notice.
104. Bonds.
105. Special administrators.
106. Nonresident special administrators and personal representatives.
107. Proceedings in contested estate cases.
108. Distributions to minors.
109. Inventory and appraisals.

[1] This version of the Superior Court Rules of the Probate Division is current through May 1, 2009. For subsequent amendments issued after this date, please review the Rule Promulgation Orders available at http://www.dccourts.gov/dccourts/superior/admin_orders/rules.jsp.

110. Claims against estate.
111. Action on claims.
112. Sale of estate assets.
113. Rule to show cause for recovery of possession of property of the estate.
114. Accounts of personal representative.
115. Waiver of filing inventories and accounts by all personal representatives.
116. Notice of filing of account.
117. Waiver of formal audit of account.
118. Audit of accounts.
119. Accounts of special administrator.
120. Assignment of rights.
121. Delinquent personal representatives, special administrators or guardians.
122. Qualification and compensation of guardians ad litem.
123. Termination of appointment.
124. Request for compensation.
125. Court costs.
126. Bias or prejudice of a judge.
127. Notice of appointment of foreign personal representative and notice to creditors.
128. Service or notice by publication.
129. [Reserved]
130. Motions for reconsideration and other relief from judgment in decedents' estates.

Conservators, Trustees, Guardians of Minors.

PART I

Rules Applicable to All Proceedings Under the 200 Series.

201. Bonds and undertakings. 19
202. Trustees, conservators, guardians, guardians ad litem, and other fiduciaries. 20
203. Court sales of real and personal property. 21
204. Appraisals, inventories and accounts. 23
205. Fiduciaries who may file consents and waivers. 26
206. Register of Wills costs for accounts. 27
207. Irregularity or default; sanctions. 28
208. Proceedings in contested cases. 29
209. Guardian ad litem. 30
210. Joinder and representation of persons interested in estates. 31
211. Rule to show cause for recovery of possession of property of the estate. 32
212. Notice of existence of revocable trust. 34
213. The assertion of claims against a revocable trust. 36

PART II

Conservators (Pre 1989 Act) and Guardians of Minors.

221. Appointment of guardian. 38
222. Expenditures and sales by a guardian of a minor. 39
223. Expenditures and sales. 40
224. Duties and compensation of a guardian *ad litem* in conservatorship proceedings. 41
225. Compensation of conservators and guardians of minors. 43

PART III

Custodianship (UTMA).

231. Custodian of minors. 47
232. Petition to remove custodian of minor for cause and to designate a successor custodian or to require the custodian to give appropriate bond. 48

Intervention Proceedings.

PART I

Rules Applicable to All Proceedings Under the 300 Series.

301. Scope, purpose and effective date....49
302. Pleadings and petitions....50
303. Parties and petition for permission to participate....51
304. Request by interested person for notice....52
305. Counsel for the subject of an intervention proceeding....53
306. Guardian ad litem; duties and appointment....55
307. Creditor's claims....56
308. Compensation of guardians, conservators, attorneys, guardians ad litem, examiners and visitors....57
309. Irregularities, delinquencies, insufficiencies, defaults and orders to show cause....60
310. Court costs....61
311. Notice of hearing on petition....63
312. Discovery....64
313. Rule to Show Cause for recovery of possession of property....65

PART II

General Intervention Proceedings.

321. Initial procedures in general intervention proceedings....68
322. Procedures in general intervention proceedings subsequent to the appointment of a guardian or conservator and for resolution of disputes....70
323. Procedures in proceedings for appointment of 6-month temporary guardian....71
324. Procedures for appointment of a successor conservator....72
325. Notice of initial hearing on petition....73
326. Examiner, duties and appointment....74
327. Visitor, duties and appointment....75
328. Guardianship reports....76
329. Individual conservatorship plan and inventory....77
330. Accounts and reports of conservators....78
331. Audit of accounts....80
332. Bonds....81
333. Appraisal....82
334. Termination of conservatorship....83

PART III

Fifteen-Day Temporary Guardianship Proceedings.

341. Procedures in proceedings for appointment of 15-day temporary guardians....85
350. Procedures in proceedings for appointment of conservator for a missing, disappeared or detained person....86
351. Conservatorship of estate of missing person....87
361. Foreign conservators....88

Estates of Decedents Dying on or After July 1, 1995.

401. Probate forms....89
402. Consent to appointment of personal representative....90
403. Notice....91
404. Bonds....95
405. Special administrators....99
406. Nonresident special administrators and personal representatives....100
407. Proceedings in contested estate cases....101
408. Distribution to minors....102

409. Inventory and appraisals. 103
410. Claims against estate. 106
411. Action on claims. 107
412. Court order for authority to act. 108
413. Rule to show cause for recovery of possession of the property of the estate. 109
414. Accounts of personal representative in supervised administration. 111
415. Waiver of filing inventories and accounts in supervised administration. 112
416. Notice accompanying final account of unsupervised probate. 114
417. Waiver of formal audit of account in supervised administration. 115
418. Audit of accounts in supervised estates. 116
419. Accounts of special administrator. 117
420. Assignment of rights. 118
421. Delinquent personal representatives or special administrators. 119
422. Qualification and compensation of guardians ad litem. 120
423. Termination of appointment of supervised personal representative. 121
424. Review of compensation. 123
425. Court costs. 124
426. Certificate of completion. 127
427. Notice of appointment of foreign personal representative and notice to creditors. ... 129
428. Service or notice by publication. 131
429. Requests for extension of unsupervised personal representative's appointment. 132
430. Motions for reconsideration and other relief from judgment in decedent's estates. .. 134

Appendix of Forms.

Form Page
1. [Petition for authority to expend funds (SCR-PD 222).] 136
2. [Petition for authority to invest (SCR-PD 222).]
3. [Petition for approval of investment plan or program (SCR-PD 222).]

Appendix – General Information for Heirs and Legatees (For estates of decedents dying on or after July 1, 1995).

I. Typical duties of a personal representative.
II. Determination of fees.
III. Rights of heirs and legatees.
IV. Role of the Register of Wills.

Probate Forms for Estates of Decedents Dying on or after July 1, 1995.

1. Court costs.
2. Petition for Probate.
3. Abbreviated Probate Order.
4. Consent to Appointment of Personal Representative.
5. Bond of Personal Representative Pursuant to D.C. Code § 20-502(a).
6. Bond of Personal Representative Pursuant to D.C. Code § 20-502(a-1).
7. Petition for Personal Representative's Bond Pursuant to D.C. Code § 20-502(a-1).
8. Waiver of Personal Representative's Bond.
9. Notice of Standard Probate.
10. Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs.
11. Verification and Certificate of Notice by Personal Representative Pursuant to SCR-PD 403(b)(4).
12. Inventory.
13. Inventory Schedule.
14. Petition for Order Directing Payment of Claim Pursuant to D.C. Code § 20-909(a).
15. Notice of Action Taken on Claim.

16. Request for Extension of Personal Representative's Appointment.
17. Order Extending Appointment of Personal Representative(s).
18. Waiver of Filing Inventories and Accounts.
19. Notice Accompanying Final Account.
20. Waiver of Formal Audit of Account and Consent to Account as Stated.
21. Petition for Termination of Appointment of Supervised Personal Representative.
22. Order Terminating Appointment of Supervised Personal Representative(s).
23. Certificate of Completion.
24. Notice of Appointment of Foreign Personal Representative and Notice to Creditors.
25. Appointment of Agent to Accept Service of Process.
27. Financial account Information (SCR-PD 5.1).

All Proceedings.

D.C. SCR-PD Rule 1

Rule 1. Purpose and scope.

(a) Scope and purpose.

These rules apply to proceedings in the Probate Division of this Court and are intended to provide for the just and expeditious disposition of all such proceedings. These rules shall be known as Superior Court Rules of the Probate Division and may be cited as "SCR-PD".

(b) All proceedings.

SCR-PD 1 through 9 shall govern all proceedings in the Probate Division.

(c) Decedent's estates.

SCR-PD 10 through 26 shall govern all proceedings instituted in the Probate Division of the Court involving estates of decedents dying before January 1, 1981. SCR-PD 101 through 130 shall govern all estates of decedents dying on or after January 1, 1981 and prior to July 1, 1995. SCR-PD 401 through 430 shall govern all estates of decedents dying on or after July 1, 1995.

(d) Guardians of minors, conservators, trustees.

SCR-PD 201 through 213 shall govern all proceedings instituted in the Probate Division of the Court involving guardians of minors' estates or custodians of minors, conservators appointed in proceedings filed before September 30, 1989, committees, and trustees.

(e) Intervention proceedings.

SCR-PD 301 through 361 shall govern all proceedings instituted under the District of Columbia Guardianship Protective Proceedings and Durable Power of Attorney Act.

(f) Applicability of Civil Rules.

Except where inconsistent with the provisions of the Probate Division Rules or the traditionally uncontested and administrative proceedings therein the Superior Court Rules of Civil Procedure are applicable to proceedings in the Probate Division.

REGISTER OF WILLS COMMENT

The Superior Court Rules of Civil Procedure are available at http://www.dccourts.gov/dccourts/superior/civil/civil_actions.jsp.

Technical revision made to correct error in reference to D.C. Code or D.C. Court Rules.

D.C. SCR-PD Rule 2

Rule 2. Matters presented to the Register of Wills.

(a) All ex parte matters and all orders on consent or waiver of notice prepared for the signature of the judge assigned to fiduciary matters shall be presented to the Register of Wills who shall review such matters and make such recommendations to the Court as may be appropriate.

(b) All matters other than a complaint or motion that seek an order of the Court shall be presented in the form of a verified petition, except as otherwise specifically provided.

(c) All accounts shall be typewritten or machine printed. The accounts shall be on forms prescribed by the Court or formats consistent with those forms. The Uniform Fiduciary Accounting Principles and accompanying commentaries and illustrations recommended by the Committee on National Fiduciary Accounting Standards in collaboration with the National Center for State Courts are approved as an elaboration of the requirements of this rule. Reference may be made to them for determination of the adequacy of a particular account. The model account forms attached thereto are the approved forms for purposes of this rule.

D.C. SCR-PD Rule 3

Rule 3. Verification of pleadings.

All pleadings filed by a fiduciary in the Probate Division except as otherwise provided by statute shall be verified by the fiduciary before the Register of Wills or an official authorized to administer oaths, substantially in accordance with the following form, unless otherwise specifically prescribed by the Register of Wills.

I ....., being first duly sworn on oath [OR: I ....., affirm], depose and say that I have read the foregoing pleadings by me subscribed and that the facts therein stated are true to the best of my knowledge, information and belief.

The verification of a corporate fiduciary may be made by an authorized officer of said corporation.

D.C. SCR-PD Rule 4

Rule 4. Notice requirements.

(a) Recipients of notice.

Except as otherwise expressly provided by statute or these rules, persons to whom notice must be given in a particular matter include all the parties in a case, interested persons in decedent's estate cases, as prescribed in *D.C. Code § 20-101(d)* and affected persons in all other cases as the Court shall direct. Notice may be effectuated by sending the petition by first class mail postage prepaid to the prescribed person or persons.

(b) Court may modify notice.

The Court may modify the requirements of notice under these rules when the parties and affected persons are very numerous and it appears that the time, labor, and expense of complying will be disproportionate to the distributive shares of those having an interest in the matter.

D.C. SCR-PD Rule 5

Rule 5. Investments by a fiduciary.

(a) Investment standards.

(1) When investing, reinvesting, purchasing, acquiring, exchanging, selling and managing property for the benefit of another, a fiduciary shall act with the care, skill, prudence, and diligence under the circumstances then prevailing, specifically including, but not by way of limitation, the general economic conditions and the anticipated needs of the trust and its beneficiaries, or the ward or the probate estate and its creditors and interested persons, that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, to attain the goals of the settlor as determined from the trust instrument or will, or the objectives of the ward as determined by the Court.

(2) Within the limitations of the foregoing and considering individual investments as part of an overall investment strategy, a fiduciary is authorized to acquire every kind of property, real, personal, or mixed, and every kind of investment. In the absence of express provisions to the contrary in any will or trust instrument, a fiduciary may without liability continue to hold property received into a trust or an estate at its inception or subsequently added to it or acquired pursuant to proper authority or previously held by the ward if and as long as the fiduciary, in the exercise of good faith and of reasonable prudence, discretion and intelligence, may consider that retention is in the best interests of the trust or the ward or probate estate or in furtherance of the goals of the settlor or testator as determined from any trust instrument or will or the objectives of the ward as determined by the Court.

(3) In the absence of express provisions to the contrary in any trust instrument or will, a deposit of funds at interest in any bank or other depository (including the trustee) shall be a permissible investment to the extent that such deposit is insured under any present or future law of the United States, is collateralized pursuant to any present or future law of the District of Columbia or the United States, or to such greater extent as the Court may authorize. Nothing in this rule shall be construed as limiting the right of fiduciaries in proper cases to make deposits of moneys in banks, subject, in the case of interest-bearing deposits, to such notice or other conditions respecting withdrawal as may be prescribed by law or governmental regulation affecting such deposits.

(4) Nothing in this rule shall abrogate or restrict the power of the Court in proper cases to direct or permit the fiduciary to deviate from the terms of the trust or will regarding the making or retention of investments.

(5) The provisions of this rule shall apply to all fiduciaries under the supervision of the Court. Terms such as "investments permissible by law for investment of trust funds," "legal investments," "authorized investments," "investments acquired using the judgment and care which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital," and other words of similar import used in defining the powers of a fiduciary relative to investments, in the absence of other controlling or modifying provisions of a trust instrument or will shall be construed as authorizing any investment permitted, and imposing the standard of prudence required, by the terms of paragraph (1) of this rule.

(6) The term "property" as used in this rule includes life insurance, endowment, and annuity contracts issued by legal reserve companies.

(b) In all cases where a fiduciary is required to obtain Court authority prior to making investments, an order of Court so authorizing investments under this rule shall not constitute Court approval of the particular investments nor shall the fiduciary be relieved of any fiduciary responsibility for having made the investments.

(c) No fiduciary, without prior Court approval, shall purchase for the fiduciary's personal account or for any account in which the fiduciary is personally interested any asset held by the fiduciary, nor shall the fiduciary sell to himself or herself, as fiduciary, any asset in which the fiduciary has any personal or financial interest. Upon a petition by the fiduciary disclosing all pertinent facts and showing that either the trust instrument or will authorizes such a transaction, or that the beneficiary or ward has knowingly consented or that the transaction is in the best interest of the estate, trust, ward or beneficiary and after notice of the petition to all parties and affected persons and a hearing, the Court may approve the transaction.

COMMENT:

Subsection (a) of this rule maintains "the prudent investor" standard as expressed in *Johns v. Herbert, 2 App. D.C. 485 (1894)* but makes clear that a prudent investor uses a total asset management approach in light of the investment objectives for the beneficiary and allows the Court to permit generally accepted practices of risk allocation embodied in modern portfolio management theory. For further explication of current fiduciary investment practices with respect to trusts, see *D.C. Code §§ 28-4701 to 4712*.

The District of Columbia Code recognizes that the Court may allow the sale of estate property to a fiduciary by providing under *§ 21-2068* (Guardianship, Protective Proceedings and Durable Power of Attorney Act of 1986) that such transactions otherwise voidable may be approved by the Court after a hearing with notice to enumerated individuals.

D.C. SCR-PD Rule 5.1

Rule 5.1. Privacy requirements.

(1) All parties shall exclude the following personal identification from all filed documents except as provided below.

(A) Social Security numbers and drivers license numbers:. Except in the case of a testamentary writing, Social Security and driver's license numbers are to be excluded from public filings. If a person intends to file any document that includes an individual's social security number, the person shall file the document with the acronym "SSN" placed where the individual's social security number would have been included.

(B) Dates of birth:. Except in the case of a testamentary writing, Social Security and driver's license numbers are to be excluded from public filings. If a person intends to file any document that includes an individual's social security number, the person shall file the document with the acronym "SSN" placed where the individual's social security number would have been included.

(C) Financial account numbers:. Except in the case of a testamentary writing and as provided in Probate Rules 20(a), 109(e), 114(b), 204(a), 329(a), 330(b), 409(f) and 414(b), financial account numbers are to be excluded from public filings. Probate Form 27, as provided for in the foregoing rules, shall be maintained under seal. Upon motion and for good cause shown, the court may order the form unsealed. Except for Probate Form 27, any document filed that contains a financial account number shall include only the lasts four digits of that number.

(2) A person wishing to file a document containing the unredacted personal identification listed in subparagraphs (A) through (C) of paragraph (1) of this rule may file a motion for leave to file an unredacted document under seal.

(3) The responsibility for redacting this personal identification rests solely with counsel and the interested persons.

COMMENT:

This Rule expresses the Court's concern about access to, and dissemination of, private information in the Court's public records to the detriment of individuals whose privacy is compromised simply because their otherwise private information is contained in court filings. The risk of invasion of privacy is heightened where the Court's public records are made available through the internet. Although the Rule does not expressly prohibit all use of personal identifiers and other private information, such as home addresses, it is the policy of the Court that parties not include home addresses and other private information in any court filings unless it is necessary to the matter being litigated or is otherwise expressly required by statute or other Rules of the Court, such as, for example, Civil Rules 16(a)(2), 10-I(b), and 4(l)(2), made applicable to Probate proceedings by Probate Rule 1(f).

D.C. SCR-PD Rule 6

Rule 6. Life estate; dower.

(a) Allowance for life estate.

Allowance to a healthy tenant for life, unless otherwise adjudged, shall be computed as follows:

(1) For the month in which the valuation date falls, find the applicable federal rate under *section 7520 of the Internal Revenue Code of 1986* by consulting Table 5 of the monthly revenue rulings listing applicable federal rates published in the Internal Revenue Bulletin.

(2) Using the applicable federal rate obtained in subparagraph (a)(1) and the age of the tenant for life, select the correct factor from Table R(1) in *IRS Notice 89-60.*

(3) Subtract the factor obtained in subparagraph (a)(2) from the number 1 (the resulting factor is the allowance to a tenant for life).

(b) Commutation of dower.

The dower of a healthy person in land sold by judgment of the Court, unless otherwise agreed by the parties or adjudged for good cause shown, shall be equal to one-third (1/3) of the value of that person's life estate in the land, computed in accordance with subsection (a) of this rule. (This subsection is not applicable to estates of persons dying on or after April 26, 2001, the effective date of the Omnibus Trusts and Estates Amendment Act of 2000, abolishing dower.)

(c) For purposes of this rule, the valuation date shall be the first day of the month next preceding the month in which the initial pleading seeking an allowance or commutation is filed.

D.C. SCR-PD Rule 6.1

Rule 6.1. Disclaimers required to be filed with the court.

(a) Any disclaimer required to be filed with the Court pursuant to *D.C. Code § 19-1512* must be filed with the Register of Wills and shall:

(1) declare the disclaimer;

(2) describe the specific interest or the power disclaimed;

(3) be signed by the person making the disclaimer; and

(4) include the telephone number and street address of the disclaimant.

(b) The following information, though not required, may be included within or along with the disclaimer:

(1) for an interest created under the law of intestate succession or an interest created by will, the name of the decedent whose death created the interest, the date and place of the decedent's death, and the court having jurisdiction to appoint the personal representative of the decedent's estate;

(2) for an interest in a testamentary trust, the name of the decedent whose will created the trust, the date and place of the decedent's death, the date the trust was created, and the court having jurisdiction to enforce the trust;

(3) for an interest in an inter vivos trust, the name of the trust, the name of the settlor of the trust, the date the trust was created, and the court having jurisdiction to enforce the trust;

(4) for an object of a power of appointment or by a taker in default of exercise of a power of appointment, the name of the person who created the power of appointment, the current holder of the power, and the name and date of the governing instrument under which the power was created;

(5) for an appointee of a nonfiduciary power of appointment, the name of the person who created the power of appointment, the name and date of the governing instrument which created the power, the current holder of the power or the personal representative of the holder's estate, and the court having jurisdiction to appoint the fiduciary;

(6) for a fiduciary of a power over a trust or estate, the name of the governing instrument which created the power and if the governing instrument is:

(A) a will, the name of the decent whose will created the power, the date and place of the decedent's death, and the court having jurisdiction to appoint the personal representative of the decedent's estate;

(B) a testamentary trust, the name of the decedent whose will created the trust, the date and place of the decedent's death, the date the trust was created and the court having jurisdiction to enforce the trust;

(C) an inter vivos trust, the name of the settlor of the trust, the date the trust was created, and the court having jurisdiction to enforce the trust.

COMMENT:

The requirements of this rule are not intended to address the jurisdictional basis for filing a disclaimer in the District of Columbia Superior Court. Any person filing a disclaimer should assure himself or herself of the jurisdictional basis for filing the disclaimer in the District of

Columbia Superior Court. Paragraph (b) is intended to encourage those filing disclaimers to include information that will assist the Register of Wills in processing disclaimers.

D.C. SCR-PD Rule 7

Rule 7. Closing a case despite irregularity.

Whenever an irregularity or default in the administration of an intervention proceeding, decedent's estate, fiduciary case, or the estate of a minor exists, but no party appears to be materially adversely affected, the Register of Wills, after notice to all interested persons, may request the Court to close the case unless a party shows cause why the Court should take further action.

D.C. SCR-PD Rule 7.1

Rule 7.1. Solely owned safe deposit box.

(a) If a decedent owned a safe deposit box titled in the decedent's sole name, and there is reason to believe that the box contains the decedent's will, a petition may be filed by an interested person for the appointment of a special administrator pursuant to *D.C. Code § 20-531* to access the box to obtain the will and deliver it to the Court in accordance with this Rule.

(b) A special administrator appointed hereunder shall have only the authority to enter the safe deposit box(es) enumerated in the petition and deliver any testamentary instruments therein found to the Court and shall have no other authority whatsoever.

(c) No bond shall be required.

(d) The petitioner may seek the petitioner's appointment or that of a member of the bar.

(e) The Court may require a representative of the Register of Wills to accompany the special administrator to the opening of the safe deposit box.

(f) No prior Notice to interested persons need be given before the Petition For Appointment of a Special Administrator to Open a Safe Deposit Box may be granted.

(g) The Petition shall not contain a Certificate of Service.

(h) The Order, along with a copy of the Petition, shall be mailed to the interested persons.

(i) If a Will is not found, the Special Administrator shall file a Report of the actions taken to seek the Will.

(j) The appointment of the Special Administrator shall expire at the earlier of the filing of the Will or a Report of the actions taken to seek the Will or thirty days from the entry of the order of appointment.

(k) The Petition for the Appointment of a Special Administrator to Open A Safe Deposit Box shall be in the following format.

PETITION FOR APPOINTMENT OF A SPECIAL ADMINISTRATOR TO OPEN A SAFE DEPOSIT BOX

Name of Decedent .....

Address of Decedent .....

Date of Death .....

Name of Petitioner .....

Address of Petitioner .....

Does the Petitioner have a copy of the Will, the original of which is sought?

Is the Petitioner named in this copy of the Will? ... and in what capacity?

Relationship of Petitioner to Decedent .....

Location of safe deposit box(es) in the District of Columbia sought to be opened

Does the Petitioner know of anyone holding a higher priority for appointment pursuant to *D.C. Code § 20-303*? ... If so, what actions has Petitioner taken to contact such person(s)?

Has or have any such person or persons declined to seek entry into the safe deposit box(es)?

Does the Petitioner seek to have a representative from the Register of Wills accompany the special administrator to the opening of the safe deposit box(es)?

Does the Petitioner seek to have anyone else accompany the Petitioner to the opening of the safe deposit box(es)?

List of Interested Persons

Name Address Relationship

WHEREFORE, Petitioner prays that the Court appoint ..... Special Administrator to open the safe deposit box(es)

.....

Petitioner

I do solemnly declare and affirm under penalty of law that the contents of the foregoing document are true and correct to the best of my knowledge, information and belief.

.....

Petitioner

ORDER

Upon consideration of the Petition For Appointment of a Special Administrator To Open A Safe Deposit Box, filed by ..... that seeks the appointment of ..... as Special Administrator, and it appearing to the Court that

[] no one holds a higher priority for appointment than the Petitioner, or

[] while other person(s) hold(s) a higher priority for appointment than Petitioner, such persons have not come forward to seek appointment and that good cause exists to vary the priority for appointment, it is by the Court this ... day of .....

ORDERED, That ..... be appointment Special Administrator To Open a Safe Deposit Box located at ..... and

[] not to be accompanied by a representative from the Office of the Register of Wills, or

[] the Special Administrator shall be accompanied by a representative from the Office of the Register of Wills when opening the safe deposit box.

[] the Special Administrator shall be accompanied by ..... when opening the safe deposit box.

and be it further

ORDERED, That the Special Administrator shall have no other authority than that granted herein and shall have no authority to receive any assets of the decedent and hence shall not be required to post bond, and be it further

[] ORDERED, That the Special Administrator shall forthwith deliver any testamentary documents(s) found in the safe deposit box to the Office of the Register of Wills, or

[] ORDERED, That the representative from the Office of the Register of Wills shall deliver any testamentary document(s) found in the safe deposit box to the Office of the Register of Wills,

and be it further

ORDERED, That upon completion of the opening of the safe deposit box(es) and delivery of any testamentary documents to the Office of the Register of Wills, the appointment of the Special Administrator shall thereupon terminate.

.....

Judge

Copies to: Petitioner and Interested Persons

COMMENT:

The Court has the discretion to appoint the Petitioner or a member of the bar as Special Administrator. If the Petitioner is not the named Personal Representative or a residuary legatee in a copy of the Will exhibited with the Petition, the Court may appoint a member of the bar.

D.C. SCR-PD Rule 8

Rule 8. Appeals.

(a) Generally.

Any person who is aggrieved by a final order or judgment of the Probate Division of the Superior Court of the District of Columbia and who participated in the determination of that order or judgment may file an appeal therefrom to the District of Columbia Court of Appeals.

(b) Judgment upon fewer than all claims or interested persons or parties.

Upon application of any interested person or party or in the court's discretion, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or interested persons or parties upon an express determination that there is no just reason for delay and upon an express direction for the entry of such judgment.

(c) When allowed -- Decedents' estates.

Notwithstanding section (b) of this rule, all orders and judgments of the court determining rights of any interested person or party in any proceeding in the administration of the estate of a decedent shall be deemed final with respect to matters provided for in subsections (1) through (6) of this section as follows:

(1) Order granting or denying probate;

(2) Order construing the decedent's will;

(3) Order determining heirs or legatees;

(4) Order determining title to assets;

(5) Order determining that property should be sold;

(6) Order approving a final account.

(d) When allowed -- All other proceedings.

Notwithstanding section (b) of this rule, all orders and judgments of the court determining rights of any interested person or party in any intervention proceeding shall be deemed final with respect to matters provided for in subsections (1) through (8) of this section as follows:

(1) Order appointing, removing or denying a request to appoint or remove a permanent guardian, permanent conservator, special conservator, trustee or other permanent fiduciary;

(2) Order granting or limiting the rights, powers or duties of a permanent guardian, permanent conservator, special conservator, trustee or other permanent fiduciary;

(3) Order approving any account, or granting or denying an exception or objection to any account;

(4) Order granting or denying compensation;

(5) Order determining title to assets;

(6) Order determining that property should be sold;

(7) Order determining a claim against a protected person or property of a protected person;

(8) Order granting or denying authority to make gifts.

COMMENT:

This rule recognizes that, in the context of a decedent's estate, an order approving the final account is generally the only order that disposes of all the issues as to all the parties. Examples of probate orders that are not final absent an express determination by the Court include (but are not limited to) orders appointing or removing fiduciaries and orders approving interim accounts, including fees and commissions reflected therein.

If an interested person or party in a decedent's estate has notice of an account or request for compensation and fails to file an exception to such account or request for compensation within the statutory period, such interested person or party lacks standing to appeal. Notwithstanding the foregoing, the District of Columbia Court of Appeals decision in *Johnson v. Martin, 567 A.2d 1299 (D.C. 1989),* provides that even if an interested person or party does not file an exception within the statutory period, such person or party may file an exception

when the person or party "discovers, or by reasonable diligence should discover, the injury, its cause in fact, and some evidence of wrongful conduct." *Id. at 1302.*

The mere filing of an appeal does not suspend the proceedings or stay the ruling, order, judgment or decree that is the subject of the appeal. The Court may enter a separate order pursuant to SCR-PD 9. *Murphy v. McCloud, 605 A.2d 202 (D.C. 1994).*

D.C. SCR-PD Rule 9

Rule 9. Stay pending reconsideration or appeal.

(a) Stay upon Motion for Reconsideration or appeal.

The court may stay the execution or enforcement of a judgment or order pending the disposition of a motion made pursuant to a Motion for Reconsideration or an appeal brought pursuant to SCR-PD 8 and may prescribe such conditions as are deemed by the court to be necessary to secure the benefit of the judgment or order to the party in whose favor such judgment or order is entered or otherwise as the court may determine.

(b) Power of appellate court not limited.

The provisions of this Rule do not limit any power of an appellate court or of a judge or justice thereof to stay proceedings during the pendency of an appeal or to make any order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered.

Decedents' Estates Before January 1, 1981.

Please select this link to view Probate Rules related to estates before January 1, 1981.

Decedents' Estates After January 1, 1981.

Please select this link to view Probate Rules related to estates after January 1, 1981.

D.C. SCR-PD Rule 201

Rule 201. Bonds and undertakings.

(a) Fiduciaries must give undertaking; how amount determined.

In trust estates under the supervision of the Court, where there is not specific statutory provision for the giving of an undertaking, all committees, trustees, guardians and other fiduciaries appointed by the Court, except trust companies as provided in D.C. Code § *26-1333* and national banks as provided in *12 U.S.C. § 92a*(f), before entering upon the discharge of the duties as such fiduciary shall execute an undertaking with surety approved by the Court in a penalty equal to the amount of the personal property, the annual income therefrom and the yearly rents to be derived from the real estate of such trust estate, conditioned for the faithful performance of such trust. Should it become necessary to sell real estate of the estate, the fiduciary shall execute such additional undertaking as may be required by the Court before accepting in such fiduciary capacity the proceeds from the sale of real estate.

(b) Persons not acceptable as surety.

No members of the bar in active practice or other officer of the Court will be accepted as surety.

REGISTER OF WILLS COMMENT

Technical revision made to correct error in reference to D.C. Code or D.C. Court Rules.

D.C. SCR-PD Rule 202

Rule 202. Trustees, conservators, guardians, guardians ad litem, and other fiduciaries.

(a) To report conflicting interest.

Whenever a trustee, conservator, guardian, guardian ad litem, or other fiduciary has occasion to sue or defend in behalf of an infant or incompetent person concerning a matter in which he has a possible conflicting interest, he shall report the facts in writing to the Court so that it may take appropriate action.

(b) Guardians ad litem: Members of bar to be appointed.

Except for special cause shown no person other than a member of the bar of this Court shall be appointed guardian ad litem.

(c) Application for the appointment of a successor, substitute or additional trustee shall be by petition with notice to parties, if any, and affected persons, who shall include only all then serving trustees, present income beneficiaries and then living remaindermen who would receive trust assets if all income beneficiaries had died on the date of filing of the petition raising the matter at issue. The Court may modify the foregoing in accordance with Probate Rule 4(b). A guardian ad litem shall not be required for such an appointment.

(d) Except for good cause shown, only a person residing within the area of the subpoena power of the Court or any bank or trust institution authorized to serve in a fiduciary capacity, or a member of the bar authorized to practice law before this Court, shall be appointed by the Court as conservator, committee, or trustee of another.

(e) No fiduciary appointed by this Court shall, without prior Court approval, remove or maintain outside the District of Columbia any personal assets held in a fiduciary capacity, except securities held in book entry form or in the custody of an institution mentioned in Probate Rule 204(d)(4).

(f) A fiduciary appointed by this Court who is or becomes a nonresident of the District of Columbia or is continuously absent therefrom for more than sixty days, shall within ten days after qualifying as fiduciary or becoming such nonresident or absentee, file with the Register of Wills a like power of attorney to that provided by *D.C. Code § 20-303(b)(7)*. Failure to file the power of attorney within the time provided shall be cause for removal of the fiduciary from office.

Rule 203. Court sales of real and personal property.

(a) Sale of real property.

Unless otherwise herein provided, a sale of real estate or any interest in land under an order of this Court shall be governed by the provisions of Title 28, Section 2001, U.S. Code in the same manner as if such provisions were, by the terms thereof, applicable to proceedings in this Court.

(b) Public sale: Procedure.

Except when the order of Court otherwise provides, the officer making a public sale shall proceed in the manner following:

(1) Publication.

The officer shall give previous notice of the sale by publication once a week for 4 weeks in a daily newspaper of general circulation in the District of Columbia. The notice shall describe the property substantially as in the order and shall state the time, place, manner and terms of sale and the deposit required.

(2) Terms of sale.

The terms shall be one-third of the purchase money in cash and the balance in two equal installments, payable on or before one and 2 years from date of settlement of sale, represented by the promissory notes of the purchaser with interest at 6 percent per annum, payable semi-annually, secured by deed of trust on the property, or all cash at the option of the purchaser.

(3) Place; presence of officer.

The sale shall be held upon the premises, and the officer making the sale shall be present and personally receive the deposit. If there be more than one officer, the presence of one will be sufficient.

(4) Report; ratification.

A verified report of the sale shall be promptly made to the Court. Thereupon on motion and notice the Court may, in its discretion, ratify the same with or without further notice. If the sale be ratified, settlement shall be made and the real estate conveyed by proper deed.

(5) Form of order of sale.

The order of sale shall not contain detailed directions as to the manner of proceeding, but shall do so only by reference to this rule.

(6) Compensation of auctioneer.

The compensation of the auctioneer shall be one and one-half percent of the first $ 10,000.00, plus three-eighths of one percent of any amount over $ 10,000.00 of the value of the equity in the property being sold. In the event that the property is unencumbered by indebtedness, the auctioneer's compensation shall be computed and paid at the same rate upon the entire sales price. In no case shall the auctioneer's compensation be less than thirty-five ($ 35.00) dollars unless the property is withdrawn after being offered for sale, in which event the auctioneer's compensation shall be twenty-five ($ 25.00) dollars.

(c) Private sale: Procedure.

(1) Order for sale.

A private sale may be ordered after hearing of which notice to all parties and affected persons is given by publication or otherwise as the Court may direct, if the Court finds the best interests of the estate will be conserved thereby.

(2) Appraisers.

Before confirmation of a private sale the Court shall appoint 3 disinterested persons to appraise the property, or different groups of 3 appraisers each to appraise properties of different classes or situated in different locations. Such appraisers are to be appointed from the list maintained by the Register of Wills pursuant to Probate Rule 113.

(3) Minimum sale price.

A private sale shall not be confirmed at less than two-thirds of the appraised value.

(4) Order nisi increased offer; confirmation.

At least 10 days before confirmation of a private sale the terms thereof shall be published in such newspaper or newspapers of general circulation in the District of Columbia as the Court may direct, and the sale shall not then be confirmed if a bona fide offer has been made, under such conditions as the Court may prescribe, which guarantees at least a ten percent net increase over the price specified in such published offer.

(d) Account; distribution of proceeds.

Except in an old conservatorship proceeding (one not governed by *D.C. Code § 21-2001* et seq.), promptly after the settlement of a private or public sale made under this rule a full and detailed account shall be filed and presented to the Court and the proceeds distributed as the Court has directed or may direct.

(e) Compensation to officer making sale.

The compensation of the trustee or officer making a sale hereunder shall be five (5) percent on the first $ 3,000.00, plus two and one-half percent on the next $ 10,000.00, plus 1 percent on any amount in excess of $ 13,000.00 of the value of the equity in the property being sold. In the event that the property is unencumbered by indebtedness, the compensation of the trustee or officer making the sale shall be computed and paid at the same rate upon the entire sales price. The compensation may be increased or reduced by the Court for special cause shown in writing.

(f) Sale of personal property.

Unless otherwise herein provided, a sale of personal property under an order of this Court shall be governed by Title 28, Section 2004, U.S. Code, in the same manner as if such provisions were, by the terms thereof, applicable to proceedings in this Court. The officer making sale shall account and distribute as provided by subsection (d) hereof. The officer shall be allowed such compensation and expenses as the Court may fix.

Rule 204. Appraisals, inventories and accounts.

(a) Appraisals, inventory, and accounts.

The fiduciary shall file an appraisal, inventory and accounts. If financial accounts are reported in any of the foregoing documents, a separate Probate Form 27 must be filed with the document including complete account numbers.

(1) Promptly upon qualification, a fiduciary shall engage the services of a qualified appraiser to appraise all tangible personal property in the ward's estate provided the value of said property, in the judgment of the fiduciary, exceeds the value of $ 1,000.00. Without the payment of additional court fees and subject to their availability, the standing court appraisers may be engaged for this purpose. If said property, in the judgment of the fiduciary, is valued at $ 1,000.00 or less, the fiduciary shall submit with the inventory an affidavit setting forth the description and the value of the tangible personal property.

(2) An inventory and appraisal shall be filed by the fiduciary within ninety days after qualification or within ninety days after the order bringing the fiduciary under its authority, supervision or direction. If the fiduciary has no assets to collect, the fiduciary shall file an affidavit to that effect in lieu of the inventory.

(3) A fiduciary appointed by the Court or required to file bond with it for faithful discharge of the fiduciary's trust, or otherwise acting under the authority, supervision or direction of the Court, shall account and report as herein provided.

(4) An account, verified by the fiduciary's oath, shall be filed annually with the Register of Wills within thirty days after the anniversary date of the fiduciary's qualification or order bringing the fiduciary under the authority, supervision or direction of the Court. The account shall contain an itemized statement of all receipts and disbursements for the accounting period. The account, to be made on a form substantially in the format approved by the Register of Wills, shall list with detailed particularity (i) all real and personal assets of the estate and the value of each, (ii) a statement of all receipts and disbursements, (iii) any sale, transfer or other disposition of assets, (iv) any investment, or change in form of assets, (v) the amount of the fiduciary's undertaking, and (vi) the name of the surety.

(5) Upon the death of the person for whom the fiduciary is appointed, the fiduciary shall file a suggestion of death forthwith. Upon termination by reason of the ward's restoration of capacity, or attainment of the age of majority, or in the event of the fiduciary's death or incapacity, the fiduciary or his personal representative shall file a final account within sixty (60) days from the date of such event, except that the account shall not be due earlier than the date specified for the filing of the inventory in paragraph (a)(2) of this rule.

(b) Audit and examination.

Upon filing of an annual account the Register of Wills shall promptly audit the account, examine all securities (except as provided in paragraph (d) (4) hereof), check them with the account, and ascertain the correctness of all reported deposits. After determining that the account is complete and accurate in all respects, the Register of Wills shall submit the account to the Court for approval.

(c) Notice.

Within five (5) days before or after filing of an account, the fiduciary shall give notice by first class mail of that filing to all parties and affected persons as determined by the Court. However, in guardianships, only notice of the filing of the final account shall be given to the ward. Persons to whom notice is given shall have thirty (30) days within which to file any objections with the Register of Wills and the fiduciary.

(1) The notice shall be substantially in the following form:

In re:)
)
.....) ..... No. .....

NOTICE OF FILING AN ACCOUNT

..... Account of

(First & Final, Second, etc.) Name of Fiduciary

for the period beginning ....., 20...., and ending ....., 20....

To: .....

.....

Notice is hereby given that an account has been or will be filed on or before .....

You have the right to file objections to the account within thirty (30) days of the stated filing date.

.....

Signature of Fiduciary

Name, address and telephone no. of fiduciary:

Date: .....

(2) The fiduciary shall attach to the account a certification that a notice of its filing has been provided in accordance with this rule.

(d) Audit of accounts.

Except as provided in subsection (e), the Court shall conduct an audit of the account. Upon the filing of an account, the fiduciary shall:

(1) Exhibit all checking account bank statements and canceled 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, mutual fund, or similar institution, or the U.S. Treasury reflecting the assets of the estate on deposit or on account therein, evidencing the transactions in such assets during the accounting period.

(3) Where not otherwise ascertained in accordance with paragraphs (1) and (2) above, and (4) below, file a written statement by each depository of cash balances on deposit therein and of all other assets (except tangibles) carried in the account as of closing date of the accounting period.

(4) Exhibit certificates or other statement of account of custodian other than the fiduciary (e.g., bank, broker, mutual fund, U.S. Treasury) evidencing ownership of all securities held for future accounting. In those fiduciary cases in which a corporation is acting as fiduciary or the services of a depository have been authorized, in lieu of exhibiting certificates, the corporation or other depository may submit an affidavit executed by an officer of the corporation or depository, other than the officer signing the account, verifying the correctness of the securities and cash accounts held for future accounting and the corporation's or depository's custody thereof.

(e) Account.

Approval without audit. An account of the fiduciary may, in the Court's discretion, be approved without audit upon the filing of a petition with the Court setting forth that parties and affected persons (including remaindermen referenced in Probate Rule 202(c) in a trust case, if applicable) have consented thereto, and attaching to said petition their written waiver of audit in the form prescribed in paragraph (e)(2). A fiduciary may file a waiver as authorized in Probate Rule 205. At the time of filing the petition, the fiduciary shall submit a proposed order. In a conservatorship or guardianship proceeding this rule shall apply only to a final account.

(2) Form of consent to account. A consent to an account shall permit approval of an account without audit by the Register of Wills. Such consent shall be substantially in the following form and, once filed, constitute a waiver of the right to object thereto.

In re:)
)
.....) ..... No. .....

CONSENT TO ACCOUNT

I, ..., have received a copy of the
..... Account in the above captioned matter.
(First & Final, Second, etc.)

I waive the right to file objections to that account as provided in SCR-PD 204(c) and I waive my right to an audit. I consent to approval by the Court of the account as presented by the fiduciary.

(Signature)

Date: .....

(f) Statement of distribution and settlement.

Promptly after full distribution and settlement of an estate, the fiduciary shall file with the Register of Wills receipts or canceled checks evidencing final distribution.

(g) Exclusion from accounting requirement.

Unless otherwise ordered by the Court for good cause shown, this rule shall not apply to any proceeding, the purpose of which is (i) the appointment of a trustee, substituted trustee or successor trustee under an instrument in which the fiduciary was not otherwise under the authority, supervision or direction of the Court, (ii) the judicial passing and approving of an accounting tendered to the Court by a resigning trustee, (iii) an acting trustee seeking instructions or construction of the governing instrument, or (iv) the appointment of a custodian or successor custodian under the Uniform Transfers to Minors Act.

D.C. SCR-PD Rule 205

Rule 205. Fiduciaries who may file consents and waivers.

A guardian, conservator or committee, attorney-in-fact, or any other person acting in a fiduciary capacity may execute a consent or waiver as provided in Probate Rule 225(f) or 204(e) for and on behalf of such person's principal except when he or she is the accounting fiduciary. A waiver signed by one acting in such capacity must be accompanied by a certified copy of a Court appointment, if any, or, if none, by a certified statement (i) indicating such person's status, (ii) setting forth the nature and the date of the instrument creating such fiduciary relationship and the relevant portions thereof, and (iii) representing that the instrument is still in full force and effect.

D.C. SCR-PD Rule 206

Rule 206. Register of Wills costs for accounts.

The Register of Wills shall be paid a fee for all audits and examinations made pursuant to this rule according to the fee schedules hereinafter set forth, and in every such case the fee prescribed herein shall be deemed a reasonable fee for the services rendered by the Register of Wills.

(a) Audits and examinations under Probate Rule 204.

The fee to be collected by the Register of Wills for audit and examination of an account pursuant to subsection (d) of Probate Rule 204 shall be assessed on the basis of the value of the assets at the following rates:

Value of Assets	Costs		
Less than $ 2,500	None		
$ 2,500 but less than $ 10,000	$ 50		
$ 10,000 but less than $ 25,000	$ 100		
$ 25,000 but less than $ 50,000	$ 150		
$ 50,000 but less than $ 75,000	$ 250		
$ 75,000 but less than $ 100,000	$ 350		
$ 100,000 but less than $ 500,000	$ 575		
$ 500,000 but less than $ 700,000	$ 825		
$ 700,000 but less than $ 1,000,000	$ 1,275		
$ 1,000,000 but less than $ 2,500,000	$ 1,800		
$ 2,500,000 but less than $ 5,000,000	$ 2,300		
$ 5,000,000 and over	$ 2,300	plus	0.02% of excess over $ 5,000,000

(b) Court costs attributable to real estate in the District of Columbia.

Additional court costs in the amount of $ 25 shall be assessed in all accounts wherein real property or properties in the District of Columbia, of whatever value, are carried as an asset for the entire period of the account.

(c) Computation of court costs.

For the purposes of determining costs under subsection (a) of this rule, the value of the assets shall include:

(1) The initial gross principal value of the assets; and

(2) The gross value of any increase in the principal value of any asset realized upon disposition of that asset (other than upon final distribution to a ward who has been restored to competency, or distribution to a successor fiduciary).

(d) Time of payment.

The costs shall be collected by the Register of Wills at the filing of the first account by the first appointed fiduciary. The fee for costs shall be a one-time charge based on the assets, excluding real estate, but if there are subsequently acquired assets that increase the value of the estate into a higher bracket, at that time there will be an additional charge on the difference between the fee previously paid and the fee at the higher bracket, and providing that if there is a real estate that is excluded, there will be an additional charge as provided in subsection (b) of this rule.

Rule 207. Irregularity or default; sanctions.

(a) Irregularity.

Failure of a fiduciary to obtain prior Court authority for expenditures, other than those provided by statute and court costs, shall constitute an irregularity in the administration of the estate and such expenditures shall be disallowed as a charge to the estate upon any accounting except for good cause shown.

(b) Failure to account.

If an appraisal, inventory or account is not filed within the prescribed time or authorized extension of time, such failure shall constitute a default by the fiduciary.

(c) Action by Court.

Whenever the Register of Wills finds an irregularity or default in the administration of a proceeding under these rules, including but not limited to the matters specified in subsections (a) and (b) above, or that there is an insufficiency in the amount or security of an undertaking, the Register of Wills shall promptly notify the fiduciary responsible that unless the irregularity or default is corrected forthwith, the fiduciary so notified may be removed from office. If the irregularity or default is not remedied, the Register of Wills shall report it to the Court which, after notice to the person and a hearing, shall either remove the fiduciary and appoint a successor or excuse the irregularity or default or take other appropriate action.

(1) In extraordinary cases, the Court, either sua sponte or at the request of the Register of Wills, may order a summary hearing without giving the fiduciary prior notice to correct an irregularity or default. After such a hearing, the Court may take any appropriate action including excusing the irregularity or default.

(2) Whenever an irregularity or default in the administration of an estate exists, but no party or affected person appears to be materially and adversely affected, the Register of Wills may request the Court to close the case unless a party or affected person shows cause why the Court should take further action.

(3) Notice of any hearing held hereunder shall be sent by first class mail to the address of record of the fiduciary, the surety, counsel of record, each party and affected person and each creditor with a docketed claim.

Rule 208. Proceedings in contested cases.

(a) Commencement of action.

An action to contest a petition for the appointment of a guardian of a minor's estate, custodian of a minor, conservator, committee or trustee or to remove a guardian of a minor's estate, conservator, committee or trustee who has been appointed, to ratify and confirm a contract for the sale of a minor's interest in real estate (pursuant to *D.C. Code § 21-146*), to construe a will after approval of the personal representative's final account, for instructions, to construe, modify, reform or terminate a trust, for instruction or to construe the Uniform Principal and Income Act, to reform an instrument to comply with the statutory rule against perpetuities under *D.C. Code § 19-903* or to declare one dead based on a presumption of death (*D.C. Code § 14-701*), or any other complaint, regarding the guardian of a minor's estate, custodian of a minor, conservator, committee or trustee may be commenced by any party in interest by filing a verified complaint with the Register of Wills. Except as otherwise provided, the procedure in such actions, including service of process, shall be governed by the Superior Court Rules of Civil Procedure, as amended.

(b) Summons.

The Register of Wills shall issue a summons upon the request of the plaintiff in the action. In an action brought pursuant to this Rule to contest a petition for the appointment of, or to remove, a guardian of a minor's estate, custodian of a minor, conservator, committee or trustee, to construe a will after approval of the personal representative's final account, for instructions, or to construe or reform a trust, or to declare one dead based on a presumption of death, the summons shall be directed to all interested persons and all indispensable parties under Civil Rule 19. In any other action against the estate, the summons shall be directed only to the fiduciary thereof and may be directed to others. In such actions against an estate wherein the interested persons are not named parties, the fiduciary thereof shall notify the interested persons of the pendency of the actions and of the right to intervene. The notice shall be provided by first class mail within 20 days of the service of the action; and the fiduciary shall file a certificate reflecting service of the notice at the time of filing a response.

(c) Discovery.

When a complaint is filed pursuant to this Rule, the parties may proceed with discovery pursuant to Civil Rules 26 through 37.

(d) Scheduling and settlement conference.

Within 60 days after a complaint has been filed, the Court shall conduct an initial scheduling and settlement conference pursuant to Civil Rule 16(b).

(e) Other contested matters.

All other contested matters which are not initiated by complaint, including objection to reports or petitions filed with the Court shall be treated as motions pursuant to Civil Rule 12-I (d) through (n). The Court may permit discovery under this paragraph upon a showing of good cause.

D.C. SCR-PD Rule 209

Rule 209. Guardian ad litem.

(a) Appointment.

The Court may, on its own motion or on request of a guardian of a minor's estate, custodian of a minor, conservator, committee or trustee, or other interested person, appoint a guardian ad litem at any stage of a proceeding to represent the interest of any of the following persons, if the Court determines that representation of the interest otherwise would be inadequate:

(1) A minor.

(2) An incapacitated person.

(3) An unborn person.

(4) An unascertained person.

(5) A person whose identity or address is unknown.

(6) A designated class of persons who are not ascertained or are not in being.

(b) Representation of several persons or interests.

If not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several persons or interests.

(c) Expenses.

The reasonable expenses of the guardian ad litem, including compensation determined pursuant to SCR-Probate 224 shall be determined by the Court and paid as the Court orders, either out of the property of the estate involved or by the petitioner or from such other source as the Court orders.

COMMENT:

SCR-Civil 17(c) provides that a representative, next friend, or guardian ad litem appointed by the Court, may sue or defend on behalf of an infant or incompetent person. This Rule supplements 17(c) and recognizes the inherent power of the Court, as an incident of its jurisdiction, to appoint guardians ad litem to represent the interests of all those whose representation would otherwise be inadequate, including the interests of unascertained and unborn beneficiaries and unknown persons. See *Hatch v. Riggs National Bank, 124 U.S. App. D.C. 105, 111-112, 361 F. 2d 559 (1966).* Note that SCR-Probate 202(c) provides that a guardian ad litem shall not be required for the appointment of a successor, substitute or additional trustee.

D.C. SCR-PD Rule 210

Rule 210. Joinder and representation of persons interested in estates.

(a) Applicability.

The provisions of this Rule shall apply in any proceeding in which all persons interested in the estate are required to be served with process. For the purposes of this Rule, the term "an interest in the estate" includes both interests in income and interests in principal.

(b) Representation of class interests.

(1) Where an interest in the estate has been limited as follows, it shall not be necessary to serve process on any other person than as herein provided:

(A) In any contingency to the persons who shall compose a certain class upon the happening of a future event, the persons in being who would constitute the class if such event had happened immediately before the commencement of the proceeding.

(B) To a person who is a party to the proceeding and the same interest has been further limited upon the happening of a future event to a class of persons described in terms of their relationship to such party, the party to the proceeding.

(C) To unborn or unascertained persons, none of such persons, but if it appears that there is no person in being or ascertained, having the same interest, the Court shall appoint a guardian ad litem to represent or protect the persons who eventually may become entitled to the interest.

(2) Where a party to the proceeding has a power of appointment, it shall not be necessary to serve the potential appointees and if it is a general power of appointment it shall not be necessary to serve the takers in default of the exercise thereof.

(c) Representation of contingent interest.

Where an interest in the estate has been limited to a person who is a party to the proceeding and the same interest has been further limited upon the happening of a future event to any other person, it shall not be necessary to serve such other person.

(d) Representation of persons under a disability.

If the instrument expressly so provides, where a party to the proceeding has the same interest as a person under a disability, it shall not be necessary to serve the person under a disability.

(e) The decree or order entered in any such proceeding shall be binding and conclusive on all persons upon whom service of process is not required.

(f) In any proceeding in which service of process upon persons interested in the estate may be dispensed with, the complaint shall set forth the nature of the interests of such persons and the basis upon which service of process may be dispensed with, and state whether the fiduciary or any other person has discretion to affect the present or future beneficial enjoyment of the estate and, if so, set forth the discretion possessed and, if exercised, the manner in which it has been exercised. Notwithstanding the provisions of this Rule and any provision of the instrument to the contrary, if the Court finds that the representation of a person's interest is or may be inadequate, it may require that that person be served or that a guardian ad litem be appointed pursuant to SCR-Probate 210.

D.C. SCR-PD Rule 211

Rule 211. Rule to show cause for recovery of possession of property of the estate.

(a) Petition For Rule To Show Cause.

When it is believed that any person is in possession of assets, papers, data or information of or about an estate subject to the 200 Series of the Probate Rules and is wrongfully withholding the same, a Petition may be filed for a Rule to Show Cause, directing such person to appear and show cause why such person should not disclose all of the assets, papers, data and information in such person's possession belonging to the estate and the location of the same and why such person should not be required by the Court to turn over all of the said assets, papers, data and other information to the representative of the estate, provide access to property or take such other action as ordered by the Court.

(b) Content of the Petition.

In addition to any other information required to be submitted to the Court under this Rule, the Petition shall set forth with particularity the following facts, points, and authorities: (1) a concise description of the assets, papers, data, or other information concerning the estate that is alleged to be wrongfully withheld by the person named in the petition; (2) the name, address, telephone number and any other pertinent identifying information about the individual whose actions are to be subject to the order to show cause; (3) a statement of the jurisdiction of the Superior Court over the subject matter and such person; (4) the facts and law that would establish the right of the estate to demand production of the subject asset, paper, data or other information (including but not limited to its alleged connection to the assets of the estate or its relevance to the administration of the estate); (5) a concise demand for relief, such as production of a particular asset or data, reimbursement of monies to the estate, or other specific relief; and (6) any other information that the petitioner determines to be relevant to the Court's decision to issue the order to show cause or reason(s) if any why any of the foregoing information is not supplied.

(c) Good faith effort -- Certification of petitioner.

The Petition for Rule to Show Cause shall contain the petitioner's certificate that despite a good faith effort the petitioner has been unable to obtain the assets, papers, data and information sought. The certification shall set forth specific facts describing the good faith effort.

(d) Who may petition the Court.

The representative of the estate (e.g., guardian of a minor's estate, custodian of a minor, conservator or trustee) may file a petition hereunder. Any interested person may also file a petition hereunder against the representative and such petition shall suffice as an "application" for relief, as permitted in *D.C. Code § 20-107*.

(e) Form of Order.

The Court may grant the Petition For Rule To Show Cause without waiting for any response to the Petition by executing an Order For Rule To Show Cause substantially in the following form:

In Re: ..... No. .....

ORDER FOR RULE TO SHOW CAUSE

Upon consideration of the Petition of ..... [representative herein], filed the ... day of ....., 19 ....,

ORDERED, that ..... appear in this Court at ..... A.M./P.M. in Courtroom No. ....., on the ..... day of ....., 19 .., and show cause, if any there be, why he/she or it should not disclose all the assets, papers, data and information he/she or it has in his/her or its possession belonging to the above estate and the location of the same, and why he/she or it should not be required by this Court to turn over all of the said assets, papers, data and other information to the representative of this estate, provide access to property or take such other action as ordered by the Court,

PROVIDED, however, that a copy of said Petition and this Order be served upon him/her or it by petitioner on or before the ..... day of ....., 19 .. in accordance with SCR-Civil 4(c), and it is further

ORDERED that if ..... fails to appear on the date set in this order, the Court may grant the relief requested in the petition without further notice.

.....

JUDGE

Copies to:

Petitioner (address)

Interested Persons (address)

(f) Service of the petition and order.

Upon the issuance of an order to show cause, service of a copy of that order and a copy of the petition shall be made as follows: A copy of the petition and order shall be served upon the person allegedly in possession of the sought material in the manner prescribed by SCR-Civil 4(c). All interested persons shall be served by first class mail.

Neither the fiduciary nor any of the interested persons shall effect service upon the person allegedly in possession of the sought material.

(g) Proof of service.

Proof of service of the Petition and Order For Rule To Show Cause shall be by affidavit filed no later than the time set by the Order for cause to be shown.

(h) Response To Order For Rule To Show Cause.

The person on whom the Petition and Order For Rule To Show Cause is served may file a responsive pleading to the Petition at any time, up to the date therein specified for cause to be shown. If the responsive pleading asserts a plea of title, the Court may treat the Petition For Rule to Show Cause as a complaint, provided the petitioner pays the complaint filing fee within ten (10) days, and may hold a status conference on the date set for cause to be shown and enter such other orders therein pertaining to interested persons and indispensable parties as are just in accordance with SCR-PD 107(b).

COMMENT:

If the Petition is treated as a complaint, a jury demand must be made seasonably pursuant to SCR-Civil 38(b) and 39(b).

D.C. SCR-PD Rule 212

Rule 212. Notice of existence of revocable trust.

(a) Publication of Notice.

The Notice which may be published by the trustee of a trust of which a decedent was the settlor, pursuant to *D.C. Code §§ 19-1305.05(d)* and *19-1306.04(a)(3)*, shall be in the following form. The word trustee includes trustees, and where there are more than two trustees, includes the majority of trustees, pursuant to *D.C. Code § 19-1307.03(a)*:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

Trust No....

.....

Name of Deceased Settlor

NOTICE OF EXISTENCE OF REVOCABLE TRUST

..... (name and address of deceased settlor) created a revocable trust on ..... which remained in existence on the date of his/her death on ..... and whose address(es) is/are ..... all the currently acting trustee(s), hereinafter the Trustee. Communications to the Trust should be mailed or directed to the following name ..... and address: .....

The Trust is subject to claims of the deceased settlor's creditors, costs of administration of the settlor's estate, the expenses of the deceased settlor's funeral and disposal of remains, and statutory allowances to a surviving spouse and children to the extent the deceased settlor's residuary probate estate is inadequate to satisfy those claims, costs, expenses, and allowances.

Claims of the deceased settlor's creditors are barred as against the Trustee and the trust property unless presented to the Trustee at the address provided herein on or before .....

(6 months after the date of the first publication of this notice.)

An action to contest the validity of this trust must be commenced by the earliest of

(1) .....,

(One year from date of death of deceased settlor)

(2) ....., or

(6 months from the date of first publication of this notice)

(3) ninety days after the Trustee sends the person a copy of the trust instrument and a notice informing the person of the trust's existence, of the Trustee's name and address, and of the time allowed for commencing a proceeding.

The Trustee may proceed to distribute the trust property in accordance with the terms of the trust before the expiration of the time within which an action must be commenced unless the Trustee knows of a pending judicial proceeding contesting the validity of the trust or the Trustee has received notice from a potential contestant who thereafter commences a judicial proceeding within sixty days after notification.

This Notice must be mailed postmarked within 15 days of its first publication to each heir and qualified beneficiary of the trust and any other person who would be an interested person within the meaning of *D.C. Code § 20-101(d)*.

Date of First Publication: Signature of Trustee

....

Name of newspapers TRUE TEST COPY

....

(b) Submission of Notice to Register of Wills.

The Notice which may be published pursuant to *D.C. Code §§ 19-1305.05(d)* and *19-1306.04(a)(3)* as set forth in paragraph (a) of this Rule, shall be submitted, with the original and three copies, to the Register of Wills completed in all respects except as to the date of

first publication. The Register of Wills shall fix the date of first publication and provide copies of the Notice to the designated newspapers or periodicals.

(c) Contemporaneous with the filing of the notice prescribed in paragraph (a) of this Rule, the trustee shall file a Certification of Trust, as prescribed by *D.C. Code § 19-1310.13*.

(d) Within 15 days of the date of first publication of the Notice of Existence of Revocable Trust the trustee shall cause to be mailed, by first class mail, a copy of the Notice to each qualified beneficiary of the trust, heir of the decedent and to all creditors whose identities are known or whose identities are ascertainable by reasonably diligent effort.

(e) Within 90 days of the date of first publication of the Notice the trustee may file with the Register of Wills proofs of publication and a certification specifying the date of mailing of the Notice and the names and addresses of the persons to whom the Notice was mailed. The trustee shall include a statement including the names or description of each qualified beneficiary of the trust, heir of the decedent and all creditors to whom no Notice has been sent. The certification of Notice shall be in the following form:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
PROBATE DIVISION

Trust No....

.....
Name of Deceased Settlor

VERIFICATION AND CERTIFICATE OF NOTICE OF
EXISTENCE OF REVOCABLE TRUST

I do solemnly declare and affirm that I have mailed or caused to be mailed a copy of the Notice of Existence of Revocable Trust as permitted by *D.C. Code §§ 19-1305.05(d)* and *19-1306.04(a)(3)* on the ... day of ....., 20 .., to the following persons:

Name Address Qualified Beneficiary of the Trust
Heir/Creditor

(Attach list of names and addresses of all qualified beneficiaries of the trust, heirs of the decedent and creditors.)

Statement of Non-mailing

I do further solemnly declare and affirm that no Notice has been sent to the following qualified beneficiaries of the trust, heirs of the deceased settlor and to creditors whose identities or locations are not known or ascertainable by reasonably diligent effort:

I do further solemnly declare and affirm that I have previously filed or file herewith proofs of publication of the Notice of Existence of Revocable Trust as permitted by *D.C. Code §§ 19-1305.05(d)* and *19-1306.04(a)(3)*.

Date:..... .....
Trustee or Attorney for Trustee

D.C. SCR-PD Rule 213

Rule 213. The assertion of claims against a revocable trust.

(a) The assertion of the claim may be made on the following form:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

Estate of Adm. No.

Trust of TR. No.

CLAIM AGAINST DECEDENT'S ESTATE and/or REVOCABLE TRUST

The claimant named below certifies that (check the applicable box[es])

( ) The claimant makes claim for .....

( ) The claimant makes claim for costs of administration of the settlor decedent's estate in the amount of ..... for .....

( ) The claimant makes claim for the expenses of the settlor decedent's funeral and disposal of remains in the amount of .....

( ) The claimant makes claim for the homestead allowance, or a portion thereof in the amount of ....., as provided by *D.C. Code § 19-101.02*.

( ) The claimant makes claim for the exempt property allowance, or a portion thereof in the amount of ....., as provided by *D.C. Code § 19-101.03*.

( ) The claimant makes claim for the family allowance, or a portion thereof in the amount of ....., as provided by *D. C. Code § 19-101.04*.

On behalf of the claimant named below, I do solemnly declare and affirm under penalty of law that the contents of the foregoing document are true and correct to the best of my knowledge and belief.

Decedent died on ..... and was a resident of .....

.....

Name of Claimant Signature of claimant or person authorized to make verification on behalf of Claimant

Address

.....

.....

All claims presented to the Register of Wills must be accompanied by check or money order in the amount of $ 5.00.

I hereby certify that I have delivered or mailed, return receipt requested, a copy hereof to the personal representative of the estate of ..... and/or ..... trustee of the revocable trust of ..... this ... day of ....., 200...

..... For Register of Wills Use Only

Claimant Date Filed:

By .....

Deputy Register of Wills

(b) The Notice of Action on Claim may be in the following form which should be delivered to the claimant and a copy filed with the Register of Wills:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

Trust of

..... Tr. No....

Settlor decedent

Notice of Action Taken on Claim

To: .....

Claimant

You are hereby notified that your claim in the amount of $ ..... for ..... against the above-entitled trust is: (check appropriate box)

( ) Allowed in the stated amount.

( ) Allowed in the amount of $ .... and disallowed as to the balance.

( ) Disallowed.

( ) The Trustee does not know whether the residuary probate estate is insufficient to pay the claim and therefore the claim is disallowed without prejudice.

.....

Trustee

Date mailed or delivered .....

NOTICE

If your claim has been disallowed in whole or in part, with or without prejudice, the claim will be barred to the extent of its disallowance unless you file a Petition For Payment From Trust not later than 60 days after the mailing of this notice or such shorter period as might be allowed by the applicable statute of limitations.

(c) If the trustee takes no action on the claim, or having allowed the claim fails to pay it within a reasonable time after allowing it, the claimant may file a Petition For Payment From Trust. The failure of the trustee to respond shall in no way suspend the operation of any statute of limitations.

(d) Unless otherwise provided by the terms of the trust, the property of the trust may not be subjected to the reach of the personal representative, or if none by claimants, unless it is required for the purpose of paying the charges set forth in *D.C. Code § 19-1305.05(a)(3)* and, except where consents have been filed with the court as hereinafter provided, until the personal representative, or if none, the claimant demonstrates the deficiency of the probate residuary estate to pay them.

(e) Upon a proper showing by the personal representative of the settlor's estate, or if none the claimant, that the residuary probate estate is insufficient to meet all or a part of the charges set forth in *D.C. Code § 19-1305.05(a)(3)* and, that the property of the trust must be acquired to pay all or a part of said charges, the court may order the trustee to pay from the trust to the personal representative, or if none to the claimant, so much as may be necessary to pay all or a part of said charges, provided all persons whose interest in the trust would be affected by the sought payment shall have filed with the court their consents or their representative's consents to the payment.

(f) In the absence of consents the personal representative or claimant may file a Petition For Payment From Trust and for a determination of the insufficiency of the probate residuary estate to honor the claim. If the trustee disputes the validity of the claim, as distinguished from the issue of the adequacy of the residuary estate to pay it, the petitioner may convert the Petition For Payment From Trust into a complaint, provided the petitioner pays the complaint filing fee. The Court then may set a status conference and enter such other orders therein pertaining to interested persons and indispensable parties as are just in accordance with SCR-PD 208.

PART II
Conservators (Pre 1989 Act) and Guardians of Minors.

D.C. SCR-PD Rule 221

Rule 221. Appointment of guardian.

(a) Petition.

A petition for the appointment of a guardian for an infant or infants shall be typewritten, double spaced, and verified by the petitioner. The petition shall set forth:

(1) The residence, citizenship and freedom from legal disability of the proposed guardian;

(2) The relationship of the proposed guardian to each infant;

(3) By what right the petitioner makes application, and, if the application is not for petitioner's appointment, by what right the proposed guardian may be appointed;

(4) The name, residence and date of birth of each infant;

(5) The names and residence(s) of the parents of each infant and the date of death of any deceased parent;

(6) The nature, location and estimated value of the real and personal property to which the infant is entitled, and the annual rental value of any such real property.

(b) Presence and selection.

Unless the infant's presence is excused for sufficient cause, the infant shall be present at Court when the guardian is appointed, and, if over 14 years of age, shall be entitled to select the proposed guardian.

(c) Written consents of parents, if non-petitioning party, shall be filed with petition for the appointment of a guardian. If unavailable, a summons and copy of the petition shall be served personally on the parent if whereabouts known, in accordance with Civil Rule 4. Otherwise notice by publication may be substituted for personal service in the manner authorized by applicable statute upon the filing of an affidavit evidencing diligent effort to ascertain the parent's whereabouts. The Court, for good cause shown upon the filing of a petition and affidavit, may provide for a different method of giving of notice or waive notice.

(d) The guardian shall file a bond pursuant to *D.C. Code § 21-115* with the Court at the time of the filing of the petition for the appointment of guardian.

(e) Order appointing guardian.

The order of appointment shall state the date of birth of the infant, and, if the infant is over 14 years of age, shall state that the infant was present and selected the guardian, or that such presence was excused.

(f) Accounts.

A guardian shall not dispose of the infant's property or encumber it without prior order of the Court. Vouchers shall be obtained for all disbursements, when practicable, and accurate records of all receipts and disbursements shall be maintained for each infant.

D.C. SCR-PD Rule 222

Rule 222. Expenditures and sales by a guardian of a minor.

(a) Expenditures and sales.

All expenditures by a guardian from a minor's estate shall be made only upon prior authorization of the Court, pursuant to a petition on SCR-PD Form 1 or a format substantially consistent with that form.

(b) Sale of property.

A guardian shall not sell or otherwise dispose of estate property or encumber it without prior order of Court.

(c) Expenditures and sales for investment.

(1) All expenditures or sales for investment, except those pursuant to a plan or program approved pursuant to paragraph (2) of this rule, shall be made with prior Court order obtained upon a petition on SCR-PD Form 2, or a format substantially consistent with that form.

(2) A guardian may apply for approval by the Court of an investment plan or program in accordance with Probate Rule 5 which, if approved by the Court, may be carried out without the necessity of Court approval of specific transactions, provided the transaction complies with the approved plan or program; Probate Rule 203 shall not apply. The petition shall be on SCR-PD Form 3, or a format substantially consistent with that form.

(d) Failure to comply.

Failure to comply with the provisions of this rule constitutes an irregularity or default. Such failure may result in personal liability and/or removal from office.

D.C. SCR-PD Rule 223

Rule 223. Expenditures and sales.

(a) Expenditures.

All expenditures from an estate by a conservator, committee or guardian, except court costs and those provided by statute, shall be made only upon prior authorization of the Court.

(b) Sale of property.

A conservator, committee or guardian shall not sell or otherwise dispose of estate property or encumber it without prior order of Court.

(c) Expenditures and sales for investment.

A fiduciary who is subject to the supervision of this Court shall obtain a Court order for all expenditures and sales for investment; however, such a fiduciary may apply for approval by the Court of an investment plan or program in accordance with Probate Rule 5 which, if approved by the Court, may be carried out without the necessity of Court approval of specific transactions; provided the same comply with the approved plan or program, and Probate Rule 203(f) shall not apply.

(d) Failure to comply.

Failure to comply with the provisions of this rule constitutes an irregularity or default. Such failure may result in personal liability and/or removal from office.

COMMENT:

A petition for approval of proposed expenditures or for approval of a proposed sale or other disposition of estate property may be submitted to the Court at any time and may request authority continuing beyond a specific accounting or annual period.

Reference should be made to Probate Rule 5 for guidance on the reinvestment of the proceeds of sale of property. Excluding investment in federally insured bank accounts and United States Treasury obligations, a Court order should be obtained to authorize such reinvestment if the proceeds are subject to Court supervision and such investment is not authorized by the terms of the governing instrument or by statute.

Reference should be made to Probate Rule 207 for the consequences of any failure to secure prior Court authorization for any expenditures of funds, sale of property or the reinvestment of funds, sale of property or the reinvestment of property.

D.C. SCR-PD Rule 224

Rule 224. Duties and compensation of a guardian ad litem in conservatorship proceedings.

(a) Appointment.

When the Court in its discretion appoints a guardian ad litem in a conservatorship proceeding, no person, other than an active member of the District of Columbia Bar, shall be so appointed except for good cause shown.

(b) Duties.

A guardian ad litem shall appear and represent the best interests of the proposed ward and shall answer allegations set forth in the petition by filing a written report with recommendations not less than seventy-two (72) hours prior to the hearing date and shall serve a copy on the petitioner. The guardian ad litem should compile information sufficient to support the conclusions reached in the written report. The guardian ad litem shall:

(1) Investigate the allegations of the petition.

(2) Interview the proposed ward on at least one occasion, if feasible and appropriate. During the course of the interview the guardian shall ascertain, if possible, the views of the proposed ward toward a conservatorship over the ward's person and estate.

(3) Interview such other person or persons including health care providers as may be necessary in the formulation of the report with respect to the necessity for a conservatorship and who should be appointed.

(4) Prepare a written report which shall make recommendations as to whether the petition should be granted, including when applicable, who should be appointed to serve as a conservator and the amount of bond required, if relevant.

(5) Attend the hearing for the appointment of a conservator.

(c) Expansion or limitation of duties.

Nothing in this rule shall preclude the Court from expanding or limiting the duties of the guardian ad litem in any proceeding as may be appropriate.

(d) Termination of appointment.

The guardian ad litem shall serve until disposition by the Court of the petition for appointment of a conservator at which time the guardian shall automatically be discharged, unless discharged by prior Court order. Nothing in this rule, however, shall preclude the Court from considering at an appropriate time an application for fees and expenses of the guardian for services rendered upon proper application to the Court pursuant to subsection (f) of this rule.

(e) Reappointment of guardian ad litem.

As circumstances warrant, the Court may reappoint the guardian ad litem or appoint another member of the Bar to serve as guardian ad litem for a specified purpose at any time during the administration of the conservatorship.

(f) Compensation.

(1) Petition.

Allowance by the Court of compensation to a guardian ad litem shall be made only upon petition supported by a detailed statement of services describing the work undertaken in performing the duties prescribed under subsection (b) of this rule and containing a certification that the written report was filed not less than seventy-two (72) hours prior to the hearing or if not so filed, an explanation for late filing.

(2) Notice.

When a claim is made by a guardian ad litem against any estate, notice need be given only to the conservator unless the Court directs that notice be given to others. When a claim is against a particular party to the suit, notice shall be given to the conservator and to that party and that party's attorney and to such affected persons as the Court may determine. Persons entitled to notice shall have twenty (20) days from the date of mailing of said notice in which to file objections with the Court.

COMMENT:

The appointment of a guardian ad litem under this rule is not intended to preclude the retention by the proposed ward of independent counsel to oppose the petition for conservatorship.

Performance of excessive service is not looked upon with favor. However, if special circumstances exist, such as inadequate records or apparent conflict of interest, the guardian ad litem may consider ascertaining the following:

(a) Verification of names and addresses of heirs at law and next of kin;

(b) Names, addresses, and telephone numbers of physicians involved in the care and treatment of the proposed ward, including references to substantive medical and psychological reports and tests, including dates of examination;

(c) Description of the information obtained from interviews with persons having knowledge of the proposed ward and any other person of importance to the proposed ward, including name, address and telephone number of persons interviewed, the date of the interview, and a summary of the information obtained.

The petition for compensation should ordinarily be filed within sixty (60) days after entry of the order granting or denying appointment of a conservator or disposing of the matter at issue.

Rule 225. Compensation of conservators and guardians of minors.

(a) Compensation to a conservator or guardian for ordinary services.

Compensation to a conservator or guardian for ordinary services shall be by commission which shall not exceed 5% of amounts disbursed from the estate. Ordinary services shall be those normally performed by a fiduciary in administering such an estate and shall include, but not be limited to, the following:

(1) Qualification as the fiduciary;

(2) Collection of the ward's assets and income;

(3) Payment of the ward's debts and costs of maintenance, as authorized or ratified by the Court;

(4) General supervision of the ward's investments and policy relating thereto, including safekeeping; and

(5) Preparation and filing of all inventories, accounts, and reports to the Court.

(b) Time and method for claiming compensation for ordinary services.

A claim for commission for ordinary services may only be made in an annual account and, except as otherwise provided in these rules, no statement of services is required. The amount or percentage of commission claimed need only be reflected in the account itself.

(c) Compensation to fiduciary for extraordinary services.

At the time of filing an annual account or at any other time upon the showing of good cause, a conservator or guardian may petition the Court for compensation for extraordinary services rendered. Extraordinary services shall be in addition to those services set forth in subsection (a). The petition shall include the following:

(1) Statement of jurisdiction and controlling Court rule;

(2) Statement of services rendered sufficiently complete on its face to establish that the requested payment is reasonable and, as appropriate, that the services are in fact extraordinary;

(3) The time devoted thereto, and the normal hourly rate of the fiduciary, if any;

(4) Evidence of the necessity or purpose of the services;

(5) Results achieved, including the benefit to the estate or ward, if any;

(6) Statement of all prior allowances from the estate to the claimant or other fiduciary or counsel, to the extent known;

(7) The ability of the estate to meet future needs of the ward and to compensate fairly the fiduciary, and;

(8) Statement that notice in accordance with Probate Rule 225(f) has been given and to whom given.

(d) Turnover commission.

A turnover commission may be claimed in a fiduciary's final account not exceeding five percent of the net assets to be turned over to the successor fiduciary or to the former ward, as the case may be. A turnover commission is in addition to the commission for ordinary services based on disbursements actually made during the accounting period. As a general rule, no statement of services is required in support of a claim for a turnover commission. The amount and percentage claimed need only be reflected in the final account. The exceptions to this general rule are as follows:

(1) The fiduciary's death, resignation or incapacity.

If services by the fiduciary are terminated by the fiduciary's death, resignation, or incapacity, a statement of services shall be filed in support of the turnover commission claimed. That statement shall indicate what has been done by the fiduciary, what remains to be done by the successor fiduciary and such other information as would justify the commission claimed.

(2) The ward's death, restoration to competency or attainment of majority.

If within three (3) years of the fiduciary's appointment, a conservatorship or guardianship terminates because of the ward's death, restoration to competency or attainment of majority, and if the net assets to be turned over exceed $ 100,000.00, the fiduciary shall either file a statement of services in support of the turnover commission claimed or apply for a waiver of the requirement for a statement of services by filing a written request with the Court.

(e) Compensation to attorneys.

(1) Attorney fees.

At the time of the filing of an annual account or at any other time upon the showing of good cause, an attorney may petition for allowance of reasonable attorney's fees for preparing pleadings filed with the Court and for other necessary legal services rendered to the fiduciary in the administration of the estate, including, but not limited to, instructing and advising the fiduciary in regard to applicable laws so that the fiduciary may properly administer the estate for which he or she is responsible and reviewing and advising with respect to inventories, accounts and other reports to the Court to assure that they comply with the requirements of the law. A petition for fees for legal services in connection with the qualification of the fiduciary may be submitted at any time, however. The petition for fees shall be accompanied by a statement of services which shall include those matters set forth in subsection (c) above with respect to a petition for compensation for extraordinary services.

(2) Performance of fiduciary's ordinary services; assignment of commission. If an attorney performs on behalf of a conservator or guardian any of the above ordinary services in administering the estate, the Court may authorize the attorney to be compensated from the estate in the conservatorship or guardianship proceeding only by the conservator's or guardian's written assignment of the fiduciary's commission in whole or in part, which assignment shall be filed with the Court.

Assignment of Commission as used in this rule shall refer to those instances in which an attorney has, pursuant to an agreement with the fiduciary, performed some or all of the services normally expected of the fiduciary in administering the estate and has obtained an assignment from or written consent of the fiduciary to receive part or all of the fiduciary's commission as compensation for the attorney's services.

(f) Notice of and consents to petitions for compensation for extraordinary services or for attorney fees.

Notice of the filing of a petition for compensation for extraordinary services by the fiduciary or for attorney's fees (other than for ordinary commissions) and a copy of the petition shall be given to the fiduciary (if appropriate) and to all other parties and affected persons as determined by the Court by first class mail within five (5) days before or after the filing. The petition shall have attached to it a certification that copies and a notice of its filing have been provided in accordance with this rule.

(1) Form of notice.

The notice required shall be substantially in the following form and appended to the petition:

In re:)
)
.....) ..... No.

NOTICE TO PARTIES AND AFFECTED PERSONS

To: .....
.....

Notice is hereby given that a Petition for Compensation for Extraordinary Services and/or for Attorney's Fees has been or will be filed with the Court on or before ....., 20..... You have the right to file objections to that Petition within twenty (20) days of the stated filing date.

.....

Signature of Fiduciary

Name, address and telephone no. of fiduciary:

.....
.....
.....
.....
Date: .....

(2) Form of consent. Consents to the petition shall be in the following form and, once filed, constitute a waiver of the right to object thereto:

In re:)
)
.....) ..... No. .....

CONSENT TO COMPENSATION AND/OR FEES

I, ..., have received a copy of the petition for compensation in the amount of $ ..... for ..... and $ ..... for ..... I consent to the payment of the amounts requested.

I waive the right to file objections to the above stated amounts and I consent to the approval by the Court of payment of such amounts.

.....
Signature
Date: .....

(g) Reference to Register of Wills of petition for compensation for extraordinary services or for attorney fees.

All petitions for compensation to a fiduciary for extraordinary services and attorney's fees shall be referred to the Register of Wills for appropriate recommendations.

(h) Discretion reserved to Court.

The Court may, at any time, require a statement of services or any additional verified documentation in determining an appropriate commission in any particular case.

(i) Objections to petition for compensation.

Within twenty (20) days of mailing of notice, parties and affected persons may file with the Register a written objection to the petition for compensation for extraordinary services by the fiduciary or for attorney's fees. The written objection shall include specific statements of the grounds for contesting the petition and shall be mailed to the fiduciary and the fiduciary's attorney. If a written objection is not filed within the prescribed time, the Court may treat the petition as conceded. A party or affected person may specifically request an oral hearing by endorsing at the bottom of the objection, above the signature, "Oral Hearing Requested"; but the Court, in its discretion, may decide the matter without a hearing.

COMMENT:

No compensation shall be awarded for supervision of a ward's person.

Generally, the preparation and filing of routine tax returns and accountings are considered to be ordinary services. If the services involved were in whole or in part extraordinary, compensation for such services may be claimed by petition pursuant to subsection (c) of this rule. If the fiduciary retains the services of a tax preparer, payment of the tax preparer's fee may be made subject to the Probate Rule 223 requirement that expenditures be made only upon prior authorization of the Court. (Amended, Oct. 22, 1996, eff. Feb. 1, 1997.)

The Court will be cautious in awarding turnover commissions claimed under subsection (d)(1) of this rule, by reason of the death, resignation or incapacity of a fiduciary. The Court will take into account the fact that the ward's funds will be disbursed again and will reserve a sufficient portion of the commission as is likely, under the facts and circumstances of the particular case, to compensate the successor fiduciary fairly.

With respect to compensation for extraordinary services under subsection (c) of this rule, the amount of commission for ordinary services will be taken into account, but not be the sole determining factor.

Conservators and guardians serve as officers of the Court. There can be no assurance in any given case that a fiduciary will receive compensation or commissions which the fiduciary considers adequate.

Payments for attorney fees under subsection (e) of this Rule are independent of the fiduciary's commission for ordinary and extraordinary services and are designed to compensate the attorney for legal services consistent with the value of the services rendered and ability of the estate to pay. The fact that the fiduciary is an attorney will not preclude the fiduciary from petitioning for attorney fees for legal services rendered.

PART III
Custodianship (UTMA).

D.C. SCR-PD Rule 231

Rule 231. Custodian of minors.

(a) Petition for successor custodian.

A petition for the appointment of a successor custodian pursuant to *D.C. Code § 21-318(d)* shall be typewritten, double-spaced, and verified by the petitioners. The petition shall set forth:

(1) The residence, citizenship and freedom from legal disability of the proposed successor custodian;

(2) The relationship of the proposed successor custodian to the minor;

(3) By what right the petitioner makes application, and, if the application is not for petitioners appointment, by what right the proposed successor custodian may be appointed;

(4) The name, residence and date of birth of the minor;

(5) The names and residence(s) of the parents of the minor and the date of death of any deceased parent;

(6) The nature, location and estimated value of the custodial property;

(7) Whether to require the successor custodian to give appropriate bond pursuant to SCR-PD 201(a) or 204(g);

(8) Whether an accounting of the predecessor custodian should be required pursuant to *D.C. Code § 21-319(b)*.

(b) Other transfers by a fiduciary.

A petition by a trustee for an irrevocable transfer in excess of $ 10,000 in value to a minor pursuant to *D.C. Code § 21-306* shall be typewritten, double-spaced, and verified by the petitioner. The Petition shall set forth:

(1) The name, residence and date of birth of the minor for whom authority to distribute is sought, as well as the basis for the minor's entitlement to share in the trust;

(2) The nature, location and estimated value of the trust assets to be distributed to the minor;

(3) Facts to show that the transfer is in the best interests of the minor;

(4) Facts to show that the transfer is not prohibited by or inconsistent with the trust agreement, or other governing instrument;

(5) Facts to show that the trustee will effect the transfer in accordance with *D.C. Code § 21-309* (and, in particular, where the custodial property is money, by payment or delivery to the broker or the financial institution for credit in the custodial account).

REGISTER OF WILLS COMMENT

Technical revision made to correct error in reference to D.C. Code or D.C. Court Rules.

D.C. SCR-PD Rule 232

Rule 232. Petition to remove custodian of minor for cause and to designate a successor custodian or to require the custodian to give appropriate bond.

(a) Petition for Order to Show Cause.

When it is believed that a custodian under the District of Columbia Uniform Transfers to Minors Act should be removed for cause and a successor custodian other than the transferor under *D.C. Code § 21-304* should be designated or that the custodian should be required to give appropriate bond, a Petition may be filed for a Rule to Show Cause, directing such custodian to appear and show cause why such custodian should not be removed and a successor appointed or why such custodian should not be required to give appropriate bond.

(b) Content of the Petition.

In addition to any other information required to be submitted to the Court under this Rule, the Petition shall set forth with particularity the following facts, points and authorities: (1) the name, address, telephone number and any other pertinent identifying information about the custodian subject to the order to show cause; (2) a statement of the jurisdiction of the Superior Court over the subject matter and such custodian; (3) the facts and law that would establish cause for removal of the custodian or require the custodian to give appropriate bond; (4) a concise demand for relief, viz., removal of the custodian and designation of a successor or requiring the custodian to give bond; and (5) any other information that the petitioner determines to be relevant to the Court's decision to issue the order to show cause or reason(s) if any why any of the foregoing information is not supplied.

(c) Who may Petition the Court.

The transferor of custodial property under the Uniform Transfers to Minors Act, an adult member of the minor's family, a guardian of the person of the minor, the conservator of the property of the minor, or the minor, if the minor has reached the age of 14 years, may file a petition hereunder.

(d) Form of order.

The Court may grant the Petition For Rule To Show Cause without waiting for any response to the Petition by executing an Order For Rule To Show Cause substantially in the following form:

In Re: ..... No. .....

ORDER FOR RULE TO SHOW CAUSE

Upon the submission of the Petition of ..... filed the ..... day of ....., 20 ..

ORDERED that ..... shall appear in this Court at ..... A.M. in Courtroom No. ....., on the day ..... day of ....., 20 .., and show cause, if any there be, why he/she should not be removed for cause as custodian of ..... under the District of Columbia Uniform Transfers to Minors Act and a successor custodian be appointed, or required to give appropriate bond, PROVIDED, however, that a copy of said Petition and this Order be served upon him/her by petitioner on or before the ..... day of ....., 20 .. in accordance with SCR-Civil 4(c), and it is further

ORDERED that if ..... fails to appear on the date set in this order, the Court may grant the relief requested in the petition without further notice.

.....

JUDGE

Copies to:

Petitioner (address)

Interested Persons (address)

Intervention Proceedings.

PART I

Rules Applicable to All Proceedings Under the 300 Series.

D.C. SCR-PD Rule 301

Rule 301. Scope, purpose and effective date.

(a) Scope.

These rules apply to intervention proceedings filed under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, hereinafter the Guardianship Act of 1986. (*D.C. Code §§ 21-2001 to 2085*). All intervention proceedings shall be filed in the Probate Division of the Superior Court of the District of Columbia.

(b) Effective date.

These Rules apply to intervention proceedings filed on or after September 30, 1989.

(c) Continuation of existing conservatorship proceedings.

Nothing herein shall affect any conservator appointed by the Court upon an initial petition filed before September 30, 1989. Conservators in proceedings under *D.C. Code § 21-1501* et seq. shall continue to be governed by SCR-PD 201 through 232.

REGISTER OF WILLS COMMENT

D.C. Code §§ 21-1501 to 21-1507 [Repealed]

D.C. SCR-PD Rule 302

Rule 302. Pleadings and petitions.

(a) Forms of pleadings and petitions.

All proceedings (except foreign conservatorships) shall be initiated by the filing of a petition. Application to the Court for an order in any pending proceeding shall be by verified petition served on the parties and those entitled to notice in accordance with the statute and these Rules. All petitions shall set forth the relief requested and contain a brief statement of the petitioner's entitlement to that relief. A proposed order shall accompany all petitions except the petition that initiated the proceeding. Motions in accordance with SCR-Civil 12 shall not be required except as specifically required by these Rules or as the Court may direct.

(b) Service.

Every pleading required by statute or rules to be served on parties, those entitled to participate and those who filed an effective request for notice shall contain a certificate of service listing the names of those persons served and the date of service.

Rule 303. Parties and petition for permission to participate.

(a) Parties.

Parties to the proceeding shall include the subject of the proceeding, any guardian or conservator, the person filing a petition to initiate an intervention proceeding and a creditor filing a petition to determine a claim.

(b) Petition for permission to participate.

Any person other than a party who wishes to participate in a proceeding pursuant to *D.C. Code §§ 21-2041(i)* or *21-2054(f)*, shall file and serve on all parties a petition (Form I-A) and a proposed order (Form I-B) for permission to participate no later than 5 days prior to any hearing. For good cause shown the Court may consider a petition for permission to participate filed after the foregoing deadline. A petition for permission to participate shall contain a statement as to how the best interests of the subject of the proceeding will be served by the person's participation.

(c) Designation of party status.

At the initial hearing or any time thereafter the Court may confer the status of party on any participant it deems appropriate.

(d) Rights of parties.

A party shall have the rights conferred by *D.C. Code § 21-2031(e)* and the rules of the Civil Division of this Court to the extent applicable in the Probate Division.

(e) Termination of party status.

A person, other than the subject of the proceeding, who files a petition to initiate an intervention proceeding, shall cease to be a party upon the appointment of a conservator or guardian or upon entry of a protective order or the dismissal of the petition, except for fee petitions related to the hearing, unless the petitioner requests the Court for continuation of party status. A creditor shall cease to be a party upon final disposition of the claim.

(f) Continuation of party status.

The Court, in the Findings of Fact, Conclusions of Law and Order entered pursuant to *D.C. Code §§ 21-2044*, *2055* or *2056*, shall specify those persons who shall thereafter continue as parties and those persons who shall thereafter continue as participants.

Rule 304. Request by interested person for notice.

(a) Request for notice.

Any interested person who desires to be notified of any petition, motion, pleading, order or other paper filed in any proceeding under the Guardianship Act of 1986 may, upon payment of the required fee, file with the clerk and serve on all parties a request for notice (Form I-C). Upon the filing of a request pursuant to this Rule, the clerk shall mail a copy of the request to any appointed guardian and conservator.

(b) Request effective upon filing.

A request filed and served pursuant to this Rule shall be deemed effective upon filing unless, upon motion made by a party within 10 days of the service of the request, or sua sponte, the Court orders the request stricken for lack of sufficient interest.

(c) Notice of orders and other papers filed.

After the filing of a request for notice, the clerk shall cause copies of all orders thereafter entered by the Court in an intervention proceeding to be served upon the person requesting notice. Once served with a copy of the request for notice, each party to an intervention proceeding shall serve copies of all subsequently filed petitions, motions, pleadings, and proposed orders upon the requestor.

(d) Duration of request.

An effective request will remain in effect for three years or the duration of the proceeding, whichever is shorter, unless revoked by the requestor. A request for notice may be renewed by refiling in accordance with this Rule.

Rule 305. Counsel for the subject of an intervention proceeding.

(a) Duties of counsel.

Upon being retained by or appointed to represent the subject of an intervention proceeding, counsel shall:

(1) Ascertain whether the subject of the proceeding has received notice in accordance with *D.C. Code §§ 21-2031*, *21-2042* or *21-2053*, as appropriate. An individual alleged to be incapacitated shall be present at the hearing unless good cause is shown for the absence.

(2) File a notice of appearance (Form I-D) in accordance with the provisions of SCR-PD 321(d) or 341(c), as appropriate.

(3) Conduct personal interviews with the subject of the proceeding or supervise the conduct of such interviews by another attorney. Unless by virtue of a language barrier or physical incapacity, the services of a translator or communicator are required, all interviews shall be conducted in private.

(4) Determine whether appointment of a guardian ad litem should be sought. If counsel determines that the subject of the proceeding cannot determine his or her own legitimate interests and has no guardian, counsel may apply for appointment of a guardian ad litem.

(5) Explain fully the nature of the proceeding for which the petition was filed and provide all information required pursuant to *D.C. Code § 21-2033(b)(2)*.

(6) Represent the subject at any hearing pursuant to *D.C. Code §§ 21-2041(h)* or *21-2054(e)*. To the maximum extent possible the subject of the proceeding shall remain responsible for determining his or her legitimate interest. In cases where a guardian ad litem has been appointed because the subject is unconscious or otherwise wholly incapable of determining his or her interests, even with assistance, counsel shall follow the guardian ad litem's determination of the subject's interests. In all other cases, counsel shall to the maximum extent possible ascertain directly the subject's determination of his or her legitimate interest.

(7) No later than five days prior to the initial hearing/status conference, file on behalf of the subject responsive pleadings to the petition. Responsive pleadings shall include with specificity facts upon which they are based. Responsive pleadings shall be served on petitioner, petitioner's counsel, all parties, those entitled to participate, those who filed an effective request for notice and other interested persons entitled to notice under *D.C. Code §§ 21-2042* and *21-2053* by regular mail and shall have a certificate of service.

(8) Communicate with parties or their counsel to determine if a joint stipulation can be reached, or, absent stipulation, file with a responsive pleading the statements required by SCRPD 321(f)(2).

(9) For any hearing other than the initial status conference, secure and present evidence to the Court concerning whether the petition should be granted and the terms, if any, on which orders should be entered; the nature of powers to be granted, modified or curtailed; and possible conflicts that may arise.

(10) File, as needed to represent the legitimate interests of the subject, petitions or motions pursuant to *D.C. Code §§ 21-2044(c)*, *21-2046*, *21-2047(c)*, *21-2049*, *21-2055* and *21-2062*. Notice shall be provided to the parties supported by the protected individual's estate in the manner prescribed by *D.C. Code §§ 21-2042* and *21-2053*.

(b) Counsel retained by the subject.

(1) An attorney retained for representation in the intervention proceeding by the subject of the petition subsequent to the appointment of counsel by the Court shall file a notice of appearance (Form I-D) as soon as practicable after being retained. The notice of appearance shall include a statement whether counsel was retained subsequent to appointment of counsel by the court. A copy of the notice of appearance shall be served on all persons entitled to notice, appointed counsel and any appointed guardian ad litem, visitor and/or examiner.

(2) The appearance of retained counsel shall become effective ten days after the date of the filing of the notice of appearance, or at the time of the next-scheduled hearing if held within ten days after the filing of the notice of appearance, unless objection to the notice of appearance is filed by any person entitled to notice, appointed counsel or any appointed guardian ad litem, visitor and/or examiner.

(3) If objection to the notice of appearance of retained counsel is filed, the Court shall as soon as practicable hold an ex parte hearing, attended only by the subject, appointed counsel, retained counsel, the person filing the objection and counsel representing such person, and any guardian ad litem, visitor and/or examiner appointed in the case.

(4) The Court may strike the appearance of counsel retained by the subject if, after the hearing provided for in this Rule, the Court finds that retained counsel has a conflict of interest which will prevent counsel from zealously representing the subject or if the Court finds that the entry of appearance of retained counsel would unduly delay trial of the case.

(5) The appearance of counsel for the subject appointed by the Court shall terminate when the notice of appearance of retained counsel becomes effective.

(c) Termination of appearance.

The appearance of counsel for the subject of an intervention proceeding shall terminate upon the disposition of the petition for which counsel's appearance was entered, unless otherwise ordered by the Court.

COMMENT:

D.C. Code § 21-2031 and this Rule require counsel to act as a zealous advocate for the subject and not as a guardian, independent investigator or objective finder of fact. Counsel should file a responsive pleading consistent with the requirements of this Rule, such memoranda as is needed to address unique issues or special circumstances, or any pleading requested by the Court, but should not file a "report" or a pleading consisting of a general discussion of the case. In representing the subject, counsel should remain free from the influence of persons whose interests conflict with the subject's physical, mental or financial well-being. Counsel for the subject is free to make decisions with respect to the conduct of the intervention proceeding or other litigation.

Rule 306. Guardian ad litem; duties and appointment.

(a) Guardian ad litem; members of the bar to be appointed.

Except for special cause shown no person other than a member of the District of Columbia Bar shall be appointed guardian ad litem.

(b) Guardian ad litem for subject of proceeding; petition.

(1) Upon petition of a party, or sua sponte, the Court may appoint a guardian ad litem for the subject of the proceeding.

(2) A notice (Form I-J) prescribed by SCR-PD 311 shall be served with the petition. The petition shall set forth the name, address, and telephone number of any limited guardian, guardian, limited conservator or conservator for the subject of the proceeding, the individuals most closely related to the subject by blood or marriage, and the individual or facility, if any, having custody of the subject. The petition shall set forth the facts and reasons supporting the request and the proposed specific duties of a guardian ad litem. If the appointment of a specific individual is sought, the name, address, telephone number and qualifications of that individual shall be given. The petitioner shall set forth facts to show that because of impaired ability to receive and evaluate information regarding the proceeding, or because of impaired ability to communicate decisions regarding the proceeding, the subject of the proceeding cannot determine the subject's own interests without assistance, and:

(A) No limited guardian or guardian for the individual has been appointed;

(B) The subject's interests and those of the subject's limited guardian or guardian conflict; or

(C) The appointment is otherwise required in the interests of justice.

(c) Proposed order.

Petitioner shall file with the petition a proposed order substantially in the format of PD Form I-F.

(d) Duties of guardian ad litem.

A guardian ad litem shall assist the individual for whom the guardian ad litem has been appointed to determine the individual's interests in regard to the legal proceedings in which the individual is involved. If the individual is wholly incapable of determining his or her own interests, the guardian ad litem shall make that determination and advise the individual's counsel accordingly. In so doing, a guardian ad litem shall:

(1) Inquire thoroughly into all the circumstances that a prudent individual in the position of the person for whom the guardian ad litem has been appointed would consider in determining his or her interests in the proceedings; and

(2) Encourage the individual whom the guardian ad litem is serving to participate, to the maximum extent of that individual's ability, in all decisions and to act on his or her own behalf on all matters in which he or she is able.

(e) Guardians ad litem for other persons.

Parties to an intervention proceeding or their counsel may apply, in the manner prescribed above, for the appointment of a guardian ad litem to prosecute or defend the interests of an individual other than the subject of a proceeding. If the Court determines that representation of those interests would otherwise be inadequate, it may appoint a guardian ad litem to represent those interests.

(f) Termination of appointment of guardian ad litem.

The Court, as a part of the record of the proceeding, shall set out its reasons for appointing a guardian ad litem, his or her specific duties and when the appointment shall terminate. The appointment of the guardian ad litem shall terminate upon the disposition of the petition for which the guardian ad litem was appointed unless otherwise directed by the Court.

D.C. SCR-PD Rule 307

Rule 307. Creditor's claims.

A claimant whose presented claim has not been paid or whose claim has been denied in whole or in part may petition the Court for determination of the claim at any time before it is barred by the applicable statute of limitations by filing and serving on the conservator a petition for determination of claim (Form I-I). The conservator may file and serve on claimant a response to the petition within ten days.

D.C. SCR-PD Rule 308 (2008)

Rule 308. Compensation of guardians, conservators, attorneys, guardians ad litem, examiners and visitors.

(a) Compensation by order of the Court. Any visitor, attorney, examiner, conservator, special conservator, guardian ad litem, or guardian is entitled to reasonable compensation for services rendered in an intervention proceeding. Compensation paid from the assets of the subject of the proceeding, protected individual or ward, or from the Guardianship Fund (*D.C. Code § 21-2060(b)*), must be approved by Order of the Court before being paid.

(b) Petition for compensation.

(1) A guardian, conservator, guardian ad litem or attorney shall file a verified petition for compensation which shall set forth the following in reasonable detail:

(A) the character and summary of the service rendered;

(B) the amount of time spent;

(C) the basis of any hourly rate(s) of compensation;

(D) the size of the estate administered;

(E) the benefits that accrued to the estate or the subject of the proceeding as a result of the services;

(F) the nature, extent and cost of services performed by others that are fiduciary obligations, such as accounting and tax preparation services;

(G) the amount and source of compensation previously allowed to all persons;

(H) a certificate of service, attesting that the petition and the Notice required by subsection (f) of this Rule were served at least twenty (20) calendar days prior to the filing of the petition; and

(I) whether the petitioner has been or has an agreement to be compensated from a source other than the estate or the Guardianship Fund. A conservator may include in a petition for compensation filed after the death of the ward an estimate of the number of hours that will be required to complete the administration of the ward's estate.

(2) Requests for payment from the Guardianship Fund. In addition to the requirements set forth in subsection (b)(1) above, when payment is sought from the Guardianship Fund, a guardian, conservator, guardian ad litem or attorney shall set forth the following information in the petition:

(A) the nature and extent of the subject's assets, including contingent assets and noting which assets are liquid;

(B) the nature and extent of the subject's income;

(C) the character and extent of the subject's debts;

(D) whether the subject owns a residence, and if so, whether the subject or the subject's dependent(s) reside therein, but if not, whether the subject or the subject's dependent(s) expect to return to the residence;

(E) whether the subject has a burial fund or has prepaid funeral or burial expenses, and if so, the value of such fund or amount of prepayment; and

(F) a description of the subject's expenditures. Where any information called for herein is not supplied, the petitioner shall state what efforts have been made to obtain the same.

(3) An examiner or visitor shall file a verified petition for compensation which shall set for the following in reasonable detail:

(A) the character and summary of the services rendered;

(B) the amount of time spent;

(C) the basis of any hourly rate(s) of compensation.

(4) A Petition which does not conform to the requirements of this subparagraph 2 or 3 shall be deemed incomplete (as defined in the D.C. Court Standards for Submission of Petitions for Compensation Under the Guardianship Fund) and, within seven calendar days from the submission of the petition, shall be returned to the petitioner without being filed.

(c) Petitions: when filed.

(1) Guardian's Petition for Compensation. A guardian's petition for compensation shall be filed no later than 30 days from the anniversary date of the guardian's appointment, except that a guardian's final petition for compensation shall be filed no later than 60 days after termination of the guardianship.

(2) Conservator's Petition for Compensation. A conservator's petition for compensation shall be filed either with the annual accounting or at any time prior to the approval of the annual accounting, except that a conservator's final petition for compensation shall be filed no later than 30 days after the filing of the final account.

(3) Interim Petition for Compensation. An interim petition for compensation for establishing a guardianship, conservatorship or entry of a protective order shall be filed promptly upon conclusion of the hearing establishing the guardianship, conservatorship, or protective arrangement but not later than 90 days after conclusion of the hearing.

(4) Service and Filing of the Petition. A petition for compensation may not be filed unless it has been served at least twenty (20) calendar days prior to the filing of the petition. The certificate of service shall include a provision showing compliance with this requirement.

(d) Service of petition. The petition for compensation, accompanied by the Notice of Petition for Compensation set forth in subsection (f) of this Rule, shall be served on:

(1) the subject, ward or protected individual;

(2) the parties to the proceedings and persons granted permission to participate in the proceeding, as provided in Probate Rule 303;

(3) any person who has filed an effective request for notice; and

(4) any other person as directed by the Court or the Register of Wills.

(e) Exceptions or Objections. Within twenty calendar days from the mailing of the Petition and Notice of Petition for Compensation, those individuals entitled to service of the petition and notice may file exceptions or objections to the petition. The Court may rule on exceptions or objections with or without a hearing.

(f) Form of Notice of Petition for Compensation. The Notice shall be in the following form: NOTICE OF PETITION FOR COMPENSATION You are hereby notified that you may file written exceptions or objections to the Petition for Compensation with the Register of Wills and serve a copy thereof on the petitioner, all parties, and on anyone who has filed an effective request for notice within 20 calendar days of the mailing to you of this Notice of Petition for Compensation. Reasons for your exceptions or objections should be stated.

(g) Consents. Persons required to be served notice of a petition may file consents to the petition for compensation. If all persons required to be served with notice file consents, the

notice and the 20-day period referred to in the notice required above shall be waived and the petition for compensation shall be immediately reviewed for approval. Consents to the petition shall be in the following form and, once filed, constitute a waiver of the right to object thereto: In re:)) .....) ..... No. ..... CONSENT TO COMPENSATION AND/OR FEES I, ..., have received a copy of the petition for compensation in the amount of $..... for ..... and $..... for ..... I waive the right to file objections to the above stated amounts and I consent to the approval by the Court of payment of such amounts. ..... Signature Date: .....

(h) Reconsideration. The person filing a petition for compensation or any person who timely filed an objection or exception to such petition may seek reconsideration of any order disposing of that petition for compensation. A motion for reconsideration shall be filed not later than ten days from the date of the order disposing of the petition for compensation and may seek reconsideration only on the grounds set forth in SCR-PD 430(a). A motion for reconsideration shall be served on those persons who were served with the petition for compensation. A response to a motion for reconsideration must be filed within ten days of service of the motion. The Court may rule on a motion for reconsideration with or without a hearing.

(i) Payment from the Guardianship Fund.

(1) The Court shall enter an order disposing of any request for payment from the Guardianship fund, including a petition to which exceptions or objections are filed or a motion for reconsideration of an order for payment from the Guardianship Fund, within 30 days of the filing of such request.

(2) The acceptance of a payment from the Guardianship Fund made under any order for payment entered pursuant to this Rule shall not prejudice the petitioner's right to reconsideration or appeal of such order and shall not be deemed to have res judicata or estoppel effect on such reconsideration or appeal.

COMMENT:

This rule is intended to implement the public policy of protecting incapacitated adults, and therefore no compensation may be paid from the assets of the subject without first being approved by the Court. Counsel retained pursuant to Rule 305(b) is subject to this requirement. For purposes of the Prompt Payment Act, a motion for reconsideration filed pursuant to Paragraph (h) of this Rule shall be deemed a new "request" for payment.

Rule 309. Irregularities, delinquencies, insufficiencies, defaults and orders to show cause.

(a) Removal after warning.

Whenever the Register of Wills finds an irregularity or default in the administration of an intervention proceeding, the Register of Wills shall promptly notify the fiduciary responsible that unless the irregularity or default is corrected forthwith, the fiduciary may be removed from office. If the irregularity or default is not remedied, the Register of Wills shall report it to the Court which, after notice to the fiduciary and a hearing, may either remove the fiduciary and appoint a successor pursuant to *D.C. Code § 21-2049(c)* and/or *§ 21-2061* or excuse the irregularity or default or take other appropriate action.

(b) Removal without warning.

In extraordinary cases, the Court, either sua sponte or at the request of the Register of Wills, may order a summary hearing without giving the fiduciary prior notice or opportunity to correct an irregularity or default. After such hearing, the Court may take any appropriate action including excusing the irregularity or default.

(c) Show cause.

The Court, sua sponte or upon motion of the Register of Wills, may issue an order to show cause why any action should not be taken in proceedings subsequent to the appointment of a guardian or conservator, including proceedings to limit powers or remove or modify limitations on the powers of a guardian or conservator; to accept resignation of or remove a guardian or conservator; to object to or modify a guardianship report or conservatorship plan; and proceedings with respect to the administration of a conservatorship or guardianship.

(d) Notice.

Notice of any hearing held pursuant to this Rule shall be sent by first class mail to the address of record of the fiduciary, counsel of record, all parties, those entitled to participate and those who filed an effective request for notice.

D.C. SCR-PD Rule 310

Rule 310. Court costs.

(a) Costs.

The costs to be collected by the Register of Wills shall be assessed on the basis of the value of the conservatorship estate at the following rates:

Value of Conservatorship	Costs		
Less than $ 2,500	None		
$ 2,500 but less than $ 10,000	$ 50		
$ 10,000 but less than $ 25,000	$ 100		
$ 25,000 but less than $ 50,000	$ 150		
$ 50,000 but less than $ 75,000	$ 250		
$ 75,000 but less than $ 100,000	$ 350		
$ 100,000 but less than $ 500,000	$ 575		
$ 500,000 but less than $ 700,000	$ 825		
$ 700,000 but less than $ 1,000,000	$ 1,275		
$ 1,000,000 but less than $ 2,500,000	$ 1,800		
$ 2,500,000 but less than $ 5,000,000	$ 2,300		
$ 5,000,000 and over	$ 2,300	plus	0.02% of excess over $ 5,000,000

(b) Time of payment.

The costs shall be collected by the Register of Wills at the filing of the first account by the first appointed fiduciary. The fee for costs shall be a one time charge based on the assets, excluding real estate, but if there are subsequently acquired assets that increase the value of the estate into a higher bracket, at that time there will be an additional charge on the difference between the fee previously paid and the fee at the higher bracket, and providing that if there is real estate that is excluded, there will be an additional $ 25.00 fee.

(c) Computation of court costs.

For the purposes of determining costs under paragraph (a) of this Rule, the value of the conservatorship shall include:

(1) The initial gross principal value of the assets of the conservatorship; and

(2) The gross value of any increase in the principal value of any asset realized upon disposition (other than upon final distribution to a ward who has been restored to competency, or distribution to a successor conservator).

(d) Miscellaneous charges.

Item	Costs	
(A) Additional letters of appointment	$ 1.00	
(B) Copies of documents	$ 0.50 per page plus $ 0.50 for certification	
(C) Objections, notice of appeal	$ 25.00	
(D) Request for notice D.C. Code § 21-2034	$ 25.00	
(E) Filing fee	no fee	Guardianship Conservatorship or Protective Proceeding
	$ 45.00	
(F) Certificate of no pending protective		

proceeding	$ 25.00
(G) D.C. Code § 20-2077	[21-2077] Certificate (Registration of Foreign Conservator)
	$ 5.00

(e) Assessment and collection.

All court costs shall be tendered to and collected by the Register of Wills at such time as the Register of Wills shall direct, except as otherwise specified in this Rule, unless a motion and affidavit are filed to proceed in forma pauperis as prescribed by SCR Civil 54-II.

Rule 311. Notice of hearing on petition.

(a) Applicability of Rule.

Notice of a hearing on any petition for which a specific procedure is not otherwise prescribed shall be given in accordance with this Rule.

(b) Form of notice.

The petitioner shall prepare a notice of hearing substantially as set forth in Form I-J. The Court shall set the date of the hearing.

(c) Service of notice and petition.

(1) The notice together with the petition shall be served on the parties defined by SCR-PD 303(a) as well as on any person who has filed an effective request for notice and any other person as ordered by the Court.

(2) The notice shall be served personally by the petitioner's counsel or other adult agent, other than the petitioner, on the subject of the proceeding and any person required to be served who is a resident of the District of Columbia. The notice may be served on all other persons by certified or ordinary first class mail addressed to the person being notified at the person's place of residence or office.

(3) The notice shall be personally delivered no less than 14 days before the hearing or mailed, as appropriate, no less than 17 days before the hearing.

(4) In a missing, disappeared or detained person proceeding, notice shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation in the District of Columbia and a legal newspaper or periodical of daily circulation, the first publication of which shall be 40 days before the date set for the hearing. For purposes of this Rule, a legal newspaper or periodical of daily circulation shall mean a publication designated by the Court that is (1) devoted primarily to publication of opinions, notices and other information from the courts of the District of Columbia, (2) circulated generally to the legal community, and (3) published at least on each weekday that the Superior Court is in session.

(5) The Court, for good cause shown upon the filing of a petition therefor, may provide for a different method or time of giving of notice.

(6) Proof of service of notice shall be by affidavit (Form I-K and, if appropriate, Form I-K-2) and proof of mailing of the petition shall be by certificate of service. Each shall be filed no later than the time set for the hearing.

(d) Waiver of notice.

The subject of the proceeding may not waive notice. All other persons may waive notice in writing (Form I-L).

(e) Notice to attorney.

Notice shall be given to the attorney of record for any person required to be notified, or to the attorney to whom the person has requested that notice be sent.

COMMENT:

The procedures for temporary guardianships are contained in SCR-Probate 341.

D.C. SCR-PD Rule 312

Rule 312. Discovery.

In any proceeding filed under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986 (*D.C. Code § 21-2001*, et seq.), discovery, conducted in accordance with Superior Court Civil Rules 26 through 37, may be had only upon order of the Court entered pursuant to either a petition in the form provided in SCR-PD 302(a) or a request made in open court, with such limitations on the manner and scope of discovery as in its discretion the Court deems appropriate.

Rule 313. Rule to Show Cause for recovery of possession of property.

(a) Petition for Rule to Show Cause.

When it is believed that any person is in possession of assets, papers, data or information of or about the subject's or ward's income, property, or estate, and is wrongly withholding the same, a petition may be filed for a Rule to Show Cause, directing such person to appear and show cause why such person should not (i) disclose all of the assets, papers, data and information of or about the subject or ward in such person's possession, (ii) disclose the location of the same and/or (iii) be required by the Court to turn over all of the same to the conservator or guardian of the subject or ward, or to provide access to same or take such other action as ordered by the Court.

(b) Content of the petition.

In addition to any other information required to be submitted to the Court under this Rule, the petition shall set forth with particularity the following facts, points and authorities:

(1) a concise description of the assets, papers, data, or other information concerning the subject's or ward's income, property, or estate that is alleged to be wrongfully withheld by the individual named in the petition;

(2) the name, address, telephone number and any other pertinent identifying information about the individual whose actions are to be subject to the order to show cause;

(3) a statement of the jurisdiction of the Superior Court over the subject matter and such person;

(4) the facts and law that would establish the right of the estate to demand production of the asset, paper, data or other information (including but not limited to its alleged connection to the assets of the estate or its relevance to the administration of the estate);

(5) a concise demand for relief, such as production of a particular asset or data, reimbursement of monies to the estate, or other specific relief;

(6) if the petitioner is not the conservator, guardian, ward or subject, the factual basis for the petitioner's standing to seek this relief; and

(7) any other information that the petitioner determines to be relevant to the Court's decision to issue the order to show cause or reason(s), if any, why any of the foregoing information is not supplied.

The Petition shall also contain a Certificate of Service certifying that a copy has been served upon the Respondent and all parties by regular first-class mail.

(c) Certificate of Good Faith Effort of Petitioner.

The Petition for Rule to Show Cause shall contain a Certificate of Good Faith Effort of Petitioner certifying that despite a good faith effort, the petitioner has been unable to obtain the assets, papers, data and information sought. The certification shall set forth specific facts describing the good faith effort.

(d) Who may petition the Court.

The conservator, guardian or the subject or ward may file a petition hereunder. Any party or person who has been granted permission to participate under SCR PD 303(b) may also file a petition hereunder.

(e) Form of Order.

The hearing date shall be set not less than twenty-eight (28) days after the date of the Order. The Court may grant the Petition by executing an Order for Rule to Show Cause substantially in the following form:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

In Re: Intervention No.....

ORDER FOR RULE TO SHOW CAUSE

Upon consideration of the Petition of..... herein, filed the..... day of.....,...., it is on this..... day of.....,....,

ORDERED, that....., appear in this Court at.... A.M. in Courtroom No....., on the..... day of.....,...., and show cause, if any there be, why he/she/it should not provide access to the following described property..... or should not disclose or reveal the location of the following described assets, papers, data and information he/she/it has in his/her/its possession belonging to (the subject or ward) and why he/she/it should not be required by this Court to turn over the following assets, papers, data and other information to the petitioner, to wit: (concise description of specific assets, papers, data and other information) or take such other action as ordered by the Court, PROVIDED, however, that a copy of said Petition and this Order be served upon him/her/it by petitioner on or before the..... day of.....,...., in accordance with SCR-Civil 4(c) and an affidavit proving said service be filed herein no later than the time set for hearing, and it is further

ORDERED that if..... fails to appear on the date set in this Order, the Court may grant the relief requested in the petition without further notice.

.....

JUDGE

Copies to:

Petitioner

(Address)

Respondent

(Address)

Subject or Ward

(Address)

Parties and Interested Persons (Address)

(f) Service of the Order to Show Cause.

Upon the issuance of an order to show cause, service of a copy of that order and a copy of the petition shall be made as follows:

(1) Service upon the person allegedly in possession of the sought material shall be made in the manner prescribed by SCR-Civil 4(c).

(2) All other parties, interested persons and the subject or ward shall be served as provided in Superior Court Probate Rule 311.

(g) Proof of service.

Proof of service of the Order for Rule to Show Cause and a copy of the petition shall be by affidavit filed no later than the time set for its filing by the Order for cause to be shown.

(h) Response to Petition to Show Cause.

The person on whom the Petition to Show Cause is served shall file a responsive pleading to the Petition within ten (10) days.

(i) Plea of title.

If the responsive pleading asserts a plea of title, the Court shall treat the Petition for Rule to Show Cause as a complaint, provided the petitioner pays the complaint filing fee within ten (10) days of the Court order directing that the petition be treated as a complaint. The petition shall be dismissed if the fee is not paid.

(j) Expedited procedures; waiver of notice to Respondent.

Upon a request by the Petitioner for waiver of notice to the Respondent, and upon a finding by the Court that good cause exists for the waiver of notice, the Court may issue the Order to Show Cause without waiting for a response to the Petition. Upon the issuance of the Order to Show Cause, a respondent who has not already responded to the Petition, may file a responsive pleading at any time, up to the date therein specified for cause to be shown. The hearing date may be set less than twenty-eight (28) days after the date of the Order if the petitioner, for good cause shown, requests.

(k) Status hearing.

If a complaint filing fee has been paid, the Court may hold a status conference on the date set for cause to be shown, or such later date as the Court may direct, and enter such other orders as are just therein pertaining to the petitioner, respondent and such other parties and interested persons as deemed necessary by the Court. Superior Court Civil Rule 16 shall be applicable to actions covered by this Rule in which a complaint filing fee has been paid.

COMMENT:

This rule is based upon *D.C. Code § 21-2055* and *§ 21-2062*. This rule, like its counterparts, Rules 113 and 413, encompasses real property.

PART II
General Intervention Proceedings.

D.C. SCR-PD Rule 321

Rule 321. Initial procedures in general intervention proceedings.

(a) Petition.

A general proceeding is initiated by filing a petition on Form II-A. The acceptance of the duties of the office of guardian and/or conservator shall be indicated on Form II-A (paragraph 14) or on Form II-A-1 as appropriate. A notice of hearing (Form II-J or II-J1) and proposed orders appointing counsel (Form I-E), and if sought, an examiner (Form II-D), a visitor (Form II-E) and/or, a guardian ad litem (Form I-F), shall also be filed, together with any filing fee. If petitioner seeks to have the Court waive appointment of a visitor or an examiner, petitioner shall specify the reasons in the petition. Each proposed order shall list the names and addresses of all parties and their counsel.

(b) Notice of hearing.

Subsequent to the filing of a petition, the Court shall schedule a hearing. Notice of the hearing shall be given pursuant to SCR-PD 325.

(c) Service of the petition.

Unless the petitioner is the subject of the petition, the petition shall be served by first class mail upon the subject of the petition and his or her counsel if known; and on all other persons entitled to notice under *D.C. Code §§ 21-2042* and *21-2053*, within 3 days of the filing of the petition. Proof of service is to be by certificate of service pursuant to SCR-Probate 311(c)(6) or affidavit (Form I-K-2).

(d) Counsel.

Concurrently with scheduling a hearing, the Court shall enter an order appointing an attorney to represent the subject of the petition. If the petition discloses that the subject is represented by counsel, the Court shall appoint such person unless good cause to the contrary exist. The Register of Wills shall immediately serve a copy of the petition, order of appointment and notice of hearing on the appointed counsel, and appointed counsel shall forthwith file a notice of appearance (Form I-D).

(e) Examiner and visitor.

(1) The Register of Wills shall maintain a list of persons qualified to serve as examiners and visitors in general intervention proceedings. In making the appointments special consideration where appropriate may be given to any personal examiner or visitor whether or not on such a list whom the petition states is willing to serve as examiner or visitor and who is qualified and has had prior contact with the subject of the proceeding.

(2) Upon the entry of an order appointing an examiner or visitor, the Register of Wills shall send copies of the order to all parties and counsel and copies of the petition and notice of hearing to the examiner or visitor by first class mail.

(3) The examiner and the visitor so appointed shall file and serve on all parties written reports substantially in the format set forth in Forms II-F and II-G no later than 10 days before the date set for the initial hearing and shall perform the duties set forth in Rules SCR-PD 326 and 327 respectively.

(f) Pleadings prior to hearing.

No later than 5 days prior to the hearing, all parties and persons entitled to participate at the hearing shall file and serve, if appropriate:

(1) A responsive pleading which shall contain any admissions or denials of allegations in the petition, a statement of position and any prayers for relief;

(2) A statement as to whether the presence of the subject of the proceeding should be excused from the hearing, the reasons therefor and a statement as to whether the subject wishes the hearing to be closed;

(3) A petition for the appointment of additional examiners and/or visitors to evaluate the condition of the subject of the proceedings, with a statement of the reasons for the request;

(4) A petition for the appointment of a guardian ad litem pursuant to SCR-PD 306, with a statement of the reasons for the request and the proposed specific duties of the guardian ad litem

(5) Any current comprehensive evaluation or habilitation plan, current social, psychological, medical or other evaluation used for diagnostic purposes in the development of a current plan of treatment, or current plan of treatment for the subject; and

(6) A statement indicating whether the proceeding may be resolved at the hearing and, if so, the issues which must be determined by the Court at the hearing to effect that resolution and, if not, what issues remain to be determined and the best means for determining them.

(g) Hearing.

(1) Unless the proceeding can be resolved at the hearing, the Court shall set a trial date and a date for a pretrial conference, if necessary. Pretrial statements substantially in the format set forth in PD Form II-I shall be filed and served by all parties no later than 5 days before the pretrial conference.

(2) If the proceeding is not resolved at the initial hearing, the Court may enter an order to preserve and apply the property of the individual to be protected as may be required for the support of that individual or his or her dependents.

D.C. SCR-PD Rule 322

Rule 322. Procedures in general intervention proceedings subsequent to the appointment of a guardian or conservator and for resolution of disputes.

(a) Applicability.

This Rule applies to proceedings subsequent to the appointment of a guardian or conservator, including proceedings to limit powers, or remove or modify limitations on the powers of a guardian or conservator; to accept resignation of or remove a guardian or conservator; to object to or modify a guardianship report or conservatorship plan; and proceedings with respect to the administration of a conservatorship or guardianship.

(b) Initiation of proceeding.

Except as provided in SCR-PD 309, a proceeding subsequent to the appointment of a guardian or conservator shall be initiated by filing a petition for the proceeding on the Form II-Q or a format substantially consistent with that form together with a notice (Form I-J) in accordance with SCR-PD 311. The petition shall state with specificity the grounds for the request.

(c) Hearing date.

Upon the filing of a petition in a proceeding subsequent to the appointment of a guardian or conservator, the Court shall schedule a hearing.

(d) Service.

In accordance with *D.C. Code § 21-2031* and SCR-PD 311, the petitioner shall serve a copy of the petition and the notice of a hearing on the petition upon each of the following and any other person upon whom service is required by statute or order of the Court:

(1) The incapacitated individual;

(2) The attorney of record for each party, or the party if not represented by an attorney;

(3) Any person who has filed an effective request for notice pursuant to SCR-PD 304.

(e) Objections.

Any party who objects to the relief requested shall file and serve a statement in opposition within 10 days of the service of the petition and notice or 13 days if this notice has been mailed.

D.C. SCR-PD Rule 323

Rule 323. Procedures in proceedings for appointment of 6-month temporary guardian.

Upon the filing of a petition (Form II-C) pursuant to *D.C. Code § 21-2046(b)*, the Court may appoint a temporary guardian who shall have the powers set forth in the previous order of appointment for a specified period not to exceed 6 months, if it is satisfied that an appointed guardian is not effectively performing duties and that the welfare of the incapacitated individual requires immediate action. Upon the entry of such an order, the authority of any permanent guardian previously appointed by the Court is suspended until the expiration of the period specified in the order. Upon the entry of such an order, the petitioner shall give notice (Form II-P) pursuant to *D.C. Code § 21-2031* within 14 days after the appointment. Within 60 days after the termination of the appointment the temporary guardian shall file a report (Form II-M) with the Court and shall file such other report as the Court may direct.

COMMENT:

This proceeding is intended to be limited to the replacement of an existing guardian who is proven not to be effectively performing duties. The allegations with respect to ineffective performance of duties should be made with specificity. If additional relief is desirable (e.g., the expansion of the existing guardian's powers), a petition should also be filed pursuant to SCR-PD 322.

D.C. SCR-PD Rule 324

Rule 324. Procedures for appointment of a successor conservator.

A successor conservator shall be appointed in accordance with the procedures set forth in SCR-PD 321, except that the Court need not appoint counsel. Form II-A may be used as modified by this Rule.

D.C. SCR-PD Rule 325

Rule 325. Notice of initial hearing on petition.

(a) Notice of hearing on initial petition.

In proceedings for appointment of permanent, limited or general guardian, or successor to either, conservator, general, limited or special, entry of protective order, or termination of appointment of any of the above, a notice in accordance with the procedures of SCR-PD 311 shall be served upon:

(1) The subject of the proceeding.

(2) The spouse and the adult children of the subject, or, if none, the parents.

(3) Any guardian, conservator, or custodian of the subject.

(4) The agent/attorney in fact of the subject nominated in a durable power of attorney, if known.

(5) If no one in (2) exists, to at least one of the nearest adult relatives of the subject, if any can be found.

(6) Any person entitled to support by the subject.

(7) Each person with a higher priority pursuant to *D.C. Code § 21-2043* or *§ 21-2057*, as applicable.

(8) Any other person as the Court directs.

(9) Any person who has filed an effective request for notice pursuant to SCR-PD 304 (Form I-C).

(10) Any counsel retained by the subject and counsel for the subject in any other proceedings, if known to the petitioner.

(b) Form of notice.

The notice shall be as prescribed by Form II-J except that, in the discretion of the petitioner, Form II-J-1 may be used in lieu of Form II-J.

COMMENT:

Note that while *D.C. Code § 21-2042(a)(3)*, and paragraph (5) of this Rule require notice to at least one of the nearest adult relatives if no one closer exists, notice may be given to others within the same class. Where the subject of the proceeding is a party to any other civil action, counsel should consider the applicability of SCR Civil 17(c) or SCR Domestic Relations 17(c) and the advisability of notifying opposing counsel in any pending action.

Rule 326. Examiner, duties and appointment.

(a) Duties.

Any examiner appointed by the Court shall submit a written report to the Court in accordance with Form II-F and mail copies to all persons listed on the order appointing the examiner no later than 10 days before the hearing. The examiner shall attend the hearing unless excused by the Court.

(b) Contents of report.

In the report, the examiner shall make findings indicating whether the individual's ability to receive and evaluate information is impaired to such an extent that he or she lacks the capacity:

(1) To take those actions necessary to obtain, administer, and dispose of real and personal property, intangible property, business property, benefits, and income.

(2) To take those actions necessary to provide health care, food, shelter, clothing, personal hygiene and other care for him or herself so that serious physical illness is more likely than not to occur.

(3) To meet all or some essential requirements for his or her habilitation or therapeutic needs.

(c) Termination of appointment.

The appointment of an examiner shall terminate upon disposition of the matter unless otherwise directed by the Court.

Rule 327. Visitor, duties and appointment.

(a) Appointment.

The Court may appoint an individual or an organization as visitor; however, when an organization is appointed the organization shall designate an individual to perform the duties of the office of visitor.

(b) Duties.

Any visitor appointed shall:

(1) Interview the subject of the proceeding; the petitioner; any person nominated by the petitioner to serve as guardian or conservator; and such other persons as the visitor deems appropriate;

(2) Visit the present place of abode of the subject of the proceeding and the place it is proposed that the individual will reside if the appointment is made;

(3) Investigate whether a conflict or potential conflict should preclude the appointment of a person who has been nominated as a guardian or conservator;

(4) Submit a written report in accordance with Form II-G to the Court and mail copies to all persons listed on the order appointing the visitor no later than 10 days before the hearing. The visitor shall nominate a person for appointment as guardian or conservator in the report if no person has been nominated; and

(5) Attend the hearing unless excused by the Court.

(c) Termination of appointment.

The appointment of a visitor shall terminate upon disposition of the matter unless otherwise directed by the Court.

Rule 328. Guardianship reports.

(a) Filing.

A limited or general guardian shall submit a written report to the Court at least semi-annually on the condition of the ward and the ward's estate that has been subject to the guardian's possession or control. The first report shall be due six months from the date of appointment of the guardian with each succeeding report due at six month intervals thereafter. The guardian shall also submit a report upon order of the Court on petition of any person interested in the ward's welfare and at such times as the Court may direct. Within 60 days of the termination of the guardianship, the guardian shall file a final report if assets were administered. If no assets were administered by the guardian, an affidavit in lieu of final report shall be filed. Guardianship reports shall be prepared on Form II-M and signed under oath.

(b) Service.

Guardianship reports shall be served upon all parties; upon any person who has filed an effective request for notice as provided in SCR-PD 304, and upon such other persons as the Court may direct.

The reports shall be served by first class mail within five days before or after the filing of the report. Proof of service shall be by certificate of service.

(c) Exceptions or objections to guardianship report; petition to modify.

Any exceptions, objections, or petitions to modify a guardianship report shall be filed pursuant to SCR-PD 322. In the event no response to the report is filed by any interested person the report will be placed in the file without Court review or other action.

(d) Suggestion of death.

Upon the death of an individual for whom a guardian is appointed, the guardian shall file a suggestion of death forthwith, and shall file report when required by subsection (a) of this rule.

Rule 329. Individual conservatorship plan and inventory.

(a) Filing. Within 60 days from date of appointment the limited conservator or conservator shall file with the Court, pursuant to *D.C. Code § 21-2065 (b)* and (c), an individual conservatorship plan, together with a complete inventory of the estate designated by the order of the Court, unless the person appointed as temporary conservator pursuant to *D.C. Code § 21-2055(c)* is appointed as permanent conservator, in which case the filing of a second inventory shall not be required. The plan and inventory shall be substantially in the format prescribed by Form II-N. The inventory shall be verified by oath or affirmation of the limited conservator or conservator. If financial accounts are reported therein, a separate Probate Form 27 must be filed with the inventory including complete account numbers.

(b) Service. The limited conservator or conservator shall serve a copy of the plan and inventory upon the following individuals by first class mail within five days before or after the filing of the plan and inventory:

(1) The protected individual;

(2) All parties and their attorneys of record;

(3) The individual most closely related to the subject of the intervention proceeding by blood or marriage unless that individual's whereabouts is unknown and cannot be reasonably ascertained;

(4) The individual or facility, if any, having custody of the subject of the intervention proceeding;

(5) The individual, if any, proposed for appointment by a will as a guardian;

(6) The individual, if any, appointed or proposed for appointment as a guardian ad litem;

(7) The duly appointed guardian, if any;

(8) If no persons listed above exist, notice should be sent to any previously appointed visitor;

(9) Any person who has filed an effective request for notice pursuant to SCR-PD 304; and

(10) The Veterans Administration, if veterans benefits are being received by the protected individual. Proof of service shall be by certificate of service.

(c) Response to conservatorship plan. Any interested person may file a petition for modification of the conservatorship plan or request other appropriate relief in accordance with SCR-PD 322. If no petition to modify the conservatorship plan is filed, the plan will be placed in the file without court review or other action.

COMMENT:

If tangible personal property worth in excess of $1,000 is reportable on the inventory, the conservator shall comply with SCR-Probate 333.

As to Form II-N, which is referred to in (a), see the Appendix of Forms and Probate Forms for Estates of Decedents Dying on or after July 1, 1995, following Rule 430.

Rule 330. Accounts and reports of conservators.

(a) Filing.

(1) A temporary conservator shall submit an account and a report to the Court for administration of the estate within 60 days of termination of the appointment of the temporary conservator, except that if the temporary conservator is appointed permanent conservator, an account of the temporary conservator shall not be required.

(2) A limited or general permanent conservator shall submit an account and a report to the Court for administration of the estate:

(A) annually, within 30 days of the anniversary date of appointment as permanent conservator; and

(B)

(i) within 60 days of the resignation or removal of the conservator;

(ii) as provided in SCR-PD 334; and

(iii) at such other times as the Court may direct.

(3) A report shall also be filed when there is a significant change in the capacity of the ward to manage his or her financial resources.

(b) Form of account.

(1) The first accounting period shall begin on the date of appointment of the conservator.

(2) A final account shall contain a certification that there remain no unsettled liabilities.

(3) Accounts shall be typewritten or machine printed on a form prescribed by the Register of Wills or in a format substantially similar to the prescribed form.

(c) Report. Each account shall have attached a conservator's report (Form II-R), that outlines the following:

(1) Significant changes in the capacity of the protected individual to manage his or her financial resources;

(2) The services being provided to the protected individual and the relationship of those services to the individual conservatorship plan;

(3) Significant problems relating to the conservatorship which have arisen during the reporting period; and

(4) The reasons, if any, why the conservatorship should not be terminated, or why no less restrictive alternative would permit the protected individual to manage his or her financial resources.

(d) Service.

(1) A conservator shall serve a copy of an account and report within five days before or after filing the account, along with a notice of filing, on the ward or the ward's known successor(s) in interest, the guardian of the ward (if any), any party, any person who has filed an effective request for notice pursuant to SCR-PD 304, and any other person as directed by the Court. Service shall be personal service or by first class mail.

(2) A certificate of service, as provided in this rule, shall be attached to the account.

(e) Form of notice. Notice shall be in substantially the following format: "Notice is hereby given that my account as Conservator together with the Conservator's report has been or will be filed on or before ..... You have the right to file exceptions or objections to the account or report within 10 days of the receipt of notice from the Register of Wills of a hearing on the account."

(f) Special conservator or person granted authority under a protective arrangement.

(1) A special conservator or a person granted authority under a protective arrangement ordered pursuant to *D.C. Code § 21-2056* shall file a report setting forth all matters done pursuant to the order of appointment:

(A) within 30 days after completion of the task(s) for which the special conservator was appointed or the action provided for in the order for a protective arrangement; and

(B)

(i) not later than 6 months after order of appointment or for a protective arrangement; and

(ii) at such other times as may be ordered by the Court.

(2) If a special conservator was required to furnish a bond, the conservator shall file an account with the report.

(3) If appropriate, the report should include a request for termination of the special conservator's appointment.

(4) The report, and account if required, shall be served as provided in subsection (d), above.

(5) The special conservator's appointment shall terminate upon an order of the court.

COMMENT:

The Uniform Fiduciary Accounting Principles and accompanying commentaries and illustrations recommended by the Committee on National Fiduciary Accounting Standards in collaboration with the National Center for State Courts are approved as an elaboration of the requirements of this Rule. Reference may be made to them for determination of the adequacy of a particular account. The Model Account Forms attached thereto are deemed consistent with the prescribed forms.

D.C. SCR-PD Rule 331

Rule 331. Audit of accounts.

(a) Audit. The Register of Wills shall audit all accounts. At the time of filing an account a fiduciary shall:

(1) Exhibit all checking account bank statements, cancelled checks, vouchers and any other documents evidencing cash transactions during the accounting period.

(2) Exhibit all passbooks, ledger sheets, statements of 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 any transactions in such assets during the accounting period; and reconciliation of all cash balances.

(3) Where otherwise not ascertained in accordance with subparagraph (a)(1) above, file a written statement by each depository of cash balances on deposit therein and of all other assets (except tangibles) carried in the account as of the closing date of the accounting period.

(4) Exhibit certification or other statements of account of a custodian other than the conservator evidencing ownership of all securities carried in the account as of the closing date of the accounting period. In those cases in which a bank is acting as conservator, 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 as of the closing date of the accounting period.

(b) Retention of documentation. A conservator shall retain all documentation of financial transactions until approval of the final account and disposition of any timely appeal from the approval of the final account.

(c) Hearing; objections to account. Upon the completion of the audit of an account the Register of Wills shall schedule a hearing on said account and mail a notice of hearing to all parties and persons entitled to receive a copy of the account. Objections to the account, if any, shall be filed and served on all persons entitled to a copy of notice of hearing on the account within 10 days after receipt of notice of the hearing.

(d) Liability of conservator to third parties. Matters pertaining to the personal liability of a conservator, pursuant to *D.C. Code § 21-2074*, shall be determined in a separate proceeding for accounting, surcharge, or indemnification or other appropriate proceeding or action. All such proceedings may be commenced by any party in interest by filing a complaint. Except as otherwise provided in these Rules, the procedure in such action shall be governed by the Superior Court Rules of Civil Procedure.

D.C. SCR-PD Rule 332

Rule 332. Bonds.

(a) Condition of bond.

Any bond required by the Court pursuant to *D.C. Code § 21-2058* shall be filed on a form prescribed by the Register of Wills. The condition of the bond shall be that the conservator shall faithfully discharge all duties of the trust according to law as such conservator and in all things obey such order as the Court shall make in the premises.

(b) Exemptions.

No bond shall be required of a bank or trust company authorized under District of Columbia law to act as conservator. If a person appointed as temporary conservator pursuant to *D.C. Code § 21-2055(a)* is subsequently appointed permanent conservator a new bond shall not be required and the original bond shall be increased as necessary.

(c) Penalty.

Unless otherwise ordered by the Court, the penalty of the bond shall be in the amount of the value of the assets (real and personal) of the estate committed to the conservator's control plus one year's estimated income, minus the value of any securities deposited under arrangements that require an order of the Court for their removal and the value of any real estate that the conservator, by express limitation, lacks the power to sell or convey without prior Court authorization (obtained pursuant to SCR-PD 322).

D.C. SCR-PD Rule 333

Rule 333. Appraisal.

(a) Appraisal required.

In matters in which tangible personal property is subject to the continuing supervision of the Court, a limited conservator or conservator shall promptly engage upon qualification the services of a qualified appraiser to appraise all such property in the protected person's estate provided the value of said property, in the judgment of the fiduciary, exceeds the value of $ 1,000.00. If said property, in the judgment of the fiduciary, is valued at $ 1,000.00 or less, the fiduciary shall submit an affidavit setting forth the description and value of the tangible personal property. Without payment of additional court fees and subject to their availability the standing court appraisers may be engaged for this purpose.

(b) Filing.

An appraisal shall be filed by the limited conservator or conservator within sixty days after qualification.

Rule 334. Termination of conservatorship.

(a) Termination by order. A conservatorship is terminated pursuant to an order of termination, entered in accordance with this rule.

(b) Termination upon death.

(1) Upon the death of the ward, the conservator shall file a notice of death forthwith. The conservator shall file a petition for termination, accompanied by a final account and report, within 60 days of the date of death.

(2) Cessation of expenditures. Upon the death of the ward, the conservator shall make no expenditures, except for expenses of administration and any expenditures authorized by the court. Any petition for authorization to make expenditures, other than for administration expenses, shall be filed no later than 30 days from the date of death. The petition need not be accompanied by a notice of hearing, and the court may act on the petition without a hearing.

(3) The hearing on the final account shall be held with the hearing on the petition for termination.

(4) Upon approval of the final account, the court shall enter an order of termination. The order of termination shall provide for expenses of administration and direct the conservator to file a verified statement evidencing transfer of the assets within 60 days of the order of termination, unless the court finds good cause for extending or shortening the time for filing the verified statement. The verified statement shall be filed together with a receipt evidencing final distribution and vouchers or cancelled checks evidencing any expenditures. If, despite diligent efforts, a receipt evidencing final distribution cannot be filed, the court may accept other evidence of distribution.

(5) In the event that the conservator is unable to make distribution of assets within the time required by the order of termination, the conservator shall, prior to the date on which the verified statement is due, file a petition for an order requiring that the estate assets be deposited in the Register of Wills Estates Deposit Account.

(6) If the estate of the ward consists of assets that are in need of protection, and no other fiduciary has been appointed, the conservator may, in the petition, advise the court of the need for protection and file with the petition a proposed order for the appointment of a Special Administrator. The court may thereupon appoint a Special Administrator pursuant to *D.C. Code § 20-531*.

(c) Termination in cases other than upon death.

(1) The ward, conservator, or any other interested person may file a petition to terminate the conservatorship.

(2) Upon the filing of the petition, the court shall schedule a hearing.

(3) In accordance with *D.C. Code § 21-2031* and SCR-PD 311, the petitioner shall serve a copy of the petition and the notice of the hearing on the petition upon each of the following persons:

(A) the ward (if the ward is not the petitioner);

(B) the attorney of record for each party, or the party if not represented by an attorney;

(C) any person who has filed an effective request for notice pursuant to SCR-PD 304; and

(D) any other person upon whom service is required by statute or order of the court.

(4) If, after notice and hearing, the court determines that the petition should be granted, the court shall issue a preliminary order of termination and shall direct that the final account and report shall be filed within 60 days, unless the court finds good cause for extending or shortening the time for filing.

(5) Upon approval of the final account, the court shall enter a final order of termination. The final order of termination shall provide for expenses of administration and direct the conservator to file a verified statement evidencing transfer of the assets to the former ward or to such other person as the court determines is entitled to distribution. The verified statement shall be filed within 30 days of the order of termination, unless the court finds good cause for extending or shortening the time for filing the verified statement. The verified statement shall be filed together with a receipt evidencing final distribution and vouchers or cancelled checks evidencing any expenditures. If, despite diligent efforts, a receipt evidencing final distribution cannot be filed, the court may accept other evidence of distribution.

COMMENT:

This rule implements *D.C. Code § 21-2075*, which provides for termination of conservatorship proceedings. Although that section does not explicitly provide for an order of termination upon death of the protected individual, it appears to include an order of termination upon that event. See *Treadway v. Montague-Elliston, 673 P.2d 331, 333 (Ariz. App. 1983)* (construing a similar provision of the Uniform Probate Code).

Expenses of administration include court costs; bond premiums; approved fees of a conservator, guardian, attorney for the conservator, guardian or protected individual, examiner, visitor, or guardian ad litem; and bank service fees. See *In re Estate of Dickson, 736 A.2d 1007* (D.C., 1999). It is the opinion of the committee, however, that expenses of administration do not include the debts of the protected individual. Whether there are allowable expenses other than administration expenses is an issue on which the committee takes no position, but it was thought useful to allow for that possibility in subparagraph (b)(2) of this rule.

The termination of a special conservatorship or other protective arrangement is governed by SCR-PD 330(f).

PART III
Fifteen-Day Temporary Guardianship Proceedings.

D.C. SCR-PD Rule 341

Rule 341. Procedures in proceedings for appointment of 15-day temporary guardians.

(a) Petition.

A proceeding for the appointment of a temporary (15-day) guardian is initiated by filing a petition on Form III-A together with proposed orders appointing counsel (Form III-A-3), and a temporary guardian (Form III-D).

(b) Counsel.

Immediately upon receipt of the petition, the Court shall enter an order appointing an attorney to represent the individual alleged to be incapacitated. If the petition discloses that the subject of the petition is represented by counsel, the Court shall appoint such person unless good cause to the contrary exists. The Register of Wills shall immediately serve a copy of the petition, order of appointment and any notice of hearing on the appointed counsel, and appointed counsel, shall forthwith file a notice of appearance (Form I-D).

(c) Service.

The petitioner, promptly after appointment, shall serve a copy of the petition, orders of appointment and notice of appointment (Form III-B) on those entitled to notice under SCR-PD 325(a).

Proof of service shall be by affidavit filed within fifteen days of appointment or if a hearing is requested in accordance with paragraph (d), no later than the time of the hearing.

(d) Request for hearing.

The subject of the proceeding, counsel for the subject or any other person to whom notice is required to have been given may request a hearing within the time period of the appointment by filing a request for hearing (Form III-C). Upon receipt of such request, the Clerk shall schedule a hearing to be held within 48 hours before the Judge in Chambers.

(e) Request for extraordinary powers.

Upon the filing of a petition pursuant to *D.C. Code § 21-2046(a)* which requests the grant of any extraordinary powers listed in *D.C. Code § 21-2047(c)*, the Clerk shall schedule a hearing before the Judge in Chambers to be held within 48 hours.

The Clerk shall notify all parties or their counsel, if any, by telephone of the hearing. Upon notification by the Clerk of the hearing, the petitioner shall immediately cause notice (Form III-E) to be personally served upon the subject of the petition and all persons to whom *D.C. Code § 21-2042(a)* and SCR-PD 325 (a) require notice if they can be found within the District of Columbia or, if they cannot be found within the District of Columbia, the petitioner may cause the substance of such notice to be communicated to them by any method of telecommunications reasonably calculated to result in immediate notification to them.

COMMENT:

There are two types of proceedings for the appointment of a temporary guardian. The first is for the appointment pursuant to *D.C. Code § 21-2046(a)* of a temporary guardian, whose authority may not extend beyond 15 days, when a life threatening emergency exists. Procedures in *D.C. Code § 21-2046(a)* proceedings are governed by SCR-PD 341. The second is for the appointment pursuant to *D.C. Code § 21-2046(b)* of a temporary guardian whose authority may not exceed six months when an appointed guardian is not effectively performing duties. Procedures in *D.C. Code § 21-2046(b)* proceedings are governed by SCR-PD 323.

Appointment of a *D.C. Code § 21-2046(a)* temporary guardian may not be necessary while a general proceeding is pending in light of the authority granted the Court by *D.C. Code §§ 21-2044(d)* and *21-2055(b)(1)*.

Rule 350. Procedures in proceedings for appointment of conservator for a missing, disappeared or detained person.

(a) Applicability of Rule.

This Rule applies to proceedings for appointment of a conservator or for a protective order for a missing person. The term missing person shall include, but is not limited to: a person detained by a foreign power or by someone other than a foreign power; and a person who has disappeared.

(b) Petition.

A petition for the appointment of a conservator (general, limited, or special) or for a protective order for a missing person may be based on the need of an individual other than the missing person. The proceeding shall be initiated by any person who is interested in the estate, affairs, or welfare of the missing person by filing a petition using the format of Form IV-A, together with a notice of hearing (Form IV-B), a proposed order appointing counsel (Form I-E), and the filing fee, if required.

(c) Notice of hearing.

Upon the filing of a petition, the Clerk shall schedule a hearing. Notice of the hearing shall be given pursuant to SCR-PD 325 on Form IV-B.

(d) Counsel.

Subsequent to the filing of a petition, the Court shall promptly enter an order appointing an attorney to represent the subject of the petition. If the petition discloses that the subject of the petition is represented by counsel, the Court shall appoint such person unless good cause to the contrary exists. The Register of Wills shall serve a copy of the petition, order of appointment and notice of hearing on the appointed counsel, and appointed counsel shall forthwith file a notice of appearance (Form I-D). Counsel shall file and serve on all persons entitled to notice a written report no later than ten days before the scheduled hearing.

(e) Examiner or visitor.

No examiner or visitor shall be appointed in a proceeding for a missing person.

(f) Pleadings prior to hearing.

No later than 5 days prior to the hearing, all parties and persons entitled to participate at the hearing shall file and serve, if appropriate:

(1) A responsive pleading which shall contain any admissions or denials of allegations in the petition, a statement of position and any prayers for relief; and

(2) A statement indicating whether or not the proceeding may be resolved at the hearing and, if so, the issues which must be determined by the Court at the hearing in order to effect that resolution and, if not, what issues remain to be determined and the best means for determining them.

(g) Hearing.

(1) Unless the proceeding can be resolved at the hearing, the Court shall set a trial date and a date for a pretrial conference, if necessary. Pretrial statements substantially in the format set forth in PD Form II-I shall be filed and served by all parties not later than five days before the pretrial conference.

(2) After a petition is filed and is pending, the Court may conduct a preliminary hearing without notice and enter an order preserving and applying the property of the missing individual for the support of the individual or his or her dependents.

Rule 351. Conservatorship of estate of missing person.

(a) Individual conservatorship plan and inventory.

The individual conservatorship plan and inventory shall be governed by SCR-PD 329, with the following exceptions:

(1) Service shall be made in accordance with SCR-PD 329, but service need not be made on: the protected individual; the institution having custody of the protected individual; the individual, if any, proposed for appointment by a will as a guardian; the individual, if any, appointed or proposed for appointment as a guardian ad litem; or the duly appointed guardian, if any. Service shall also be made on any individual dependent upon the support of the protected individual. Proof of service shall be by certificate of service or, in the case of a missing person, by proof of publication pursuant to SCR-Civil 4-I.

(2) The notice of hearing on a petition to modify the conservatorship plan shall also be served on any individual dependent upon the support of the protected individual in accordance with *D.C. Code § 21-2031* and SCR-PD 311.

(b) Account of conservator.

The account and report of the conservator shall be governed by SCR-PD 330, except that the report shall indicate the services being provided to any person formerly dependent upon the support of the protected individual, and the relationship of those services to the individual conservatorship plan.

(c) Audit of accounts.

Audit of accounts submitted with respect to a missing person shall be governed by the provisions of SCR-PD 331.

(d) Bonds.

Bond required with respect to the estate of a missing person shall be governed by the provisions of SCR-PD 332.

Rule 361. Foreign conservators.

(a) Duties and powers.

A conservator, or if so denominated by the domiciliary jurisdiction a guardian or committee, appointed by a court in the state of domicile of a protected person (foreign conservator) may exercise as to the protected person's assets in the District of Columbia all powers of a conservator appointed in the District of Columbia and may maintain actions and proceedings in the District of Columbia subject to conditions imposed upon non-resident parties generally provided:

(1) A conservator has not been appointed by the Superior Court of the District of Columbia and no protective proceeding petition in an intervention proceeding is pending in the District of Columbia, and

(2) The foreign conservator first files copies of the foreign conservator's letters of appointment and copies of any bond, each authenticated as provided in *28 U.S.C. § 1738,* with the Register of Wills, and

(3) The foreign conservator files a power of attorney with the Register of Wills appointing an agent in the District of Columbia to accept service of process (Form V-A).

(b) Certificate of absence of pending proceeding.

Upon application and payment of a $ 25.00 fee by any person, the Register of Wills shall issue a certificate that no protective proceeding in an intervention proceeding relating to a protected person is pending in the Probate Division of the Superior Court of the District of Columbia.

(c) Certificate of compliance.

Upon application and payment of a fee of $ 5.00, the Register of Wills shall issue a certificate that the foreign conservator has complied with the requirements of paragraph (a) of this rule.

(d) Suspension of powers.

The powers of a foreign conservator with respect to the property of the protected person in the District of Columbia shall be suspended by the appointment of a conservator by this Court with authority over the same property.

Estates of Decedents Dying on or After July 1, 1995.

D.C. SCR-PD Rule 401

Rule 401. Probate forms.

The petition for probate shall be typed and filed in compliance with *D.C. Code §§ 20-304* and *20-352*. Unless otherwise provided by the statute or by these Rules, only those forms prescribed by these Rules or by the Register of Wills, including computer generated forms which are substantially similar to such prescribed forms, shall be accepted for filing.

Rule 402. Consent to appointment of personal representative.

The consent to the appointment of the personal representative shall be in substantially the following format and may be accompanied by a waiver of the personal representative's bond as set forth in SCR-PD 404(f).

Estate of

..... Administration No. .....

Deceased.

CONSENT TO APPOINTMENT

OF PERSONAL REPRESENTATIVE

I ....., being a competent adult heir and/or legatee of ....., deceased, and being familiar with the petition of ....., for Letters of Administration, do hereby consent to the appointment of ..... as personal representative(s) of said decedent's estate.

....

Witness

D.C. SCR-PD Rule 403

Rule 403. Notice.

(a) Standard probate.

(1) Form of Notice. The notice required for standard probate pursuant to *D.C. Code § 20-323(b)* shall be in the following form:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA,
PROBATE DIVISION

In re: Estate of
..... Administration No. .....
Deceased.
Last Known Address of Decedent: .....
Date of Death of Decedent: .....

Notice is hereby given that a petition has been filed in this Court by ..... for standard probate, including the appointment of one or more personal representatives. Unless a responsive pleading in the form of a complaint or an objection in accordance with Probate Division Rule 407 is filed in this Court within 30 days from the date of first publication of this notice, the Court may take the action hereinafter set forth.

(Delete all which do not apply.)

( ) admit to probate the will dated ..... exhibited with the petition upon proof satisfactory to the Court of due execution by affidavit of witnesses or otherwise;

( ) order witnesses to the alleged will dated ..... to appear and give testimony regarding its execution;

( ) order ..... who is alleged to have custody of the will dated ..... to deliver it to the Court;

( ) order any interested person to show cause why the provisions of the lost or destroyed will dated ..... should not be admitted to probate as expressed in the petition;

( ) in the absence of a will or proof satisfactory to the Court of due execution, enter an order determining that the decedent died intestate;

( ) appoint an unsupervised personal representative.

( ) appoint a supervised personal representative.

( ) (other) .....

Date of first publication: .....

Name of newspapers: .....

.....

.....

Register of Wills
Clerk of the Probate Division

(2) Filing of Notice. Any person entitled to request standard probate pursuant to *D.C. Code §§ 20-321*, *322* and *331* shall present to the Register of Wills three copies of the form described in subparagraph (a)(1) above. The Register of Wills shall forthwith forward copies thereof to the designated newspapers in accordance with *D.C. Code § 20-323*.

(3) Securing the Witnesses. A Petition for Probate which seeks an order directing witnesses to an alleged will to appear and give testimony regarding its execution shall include, or be accompanied by, a memorandum providing the names and addresses of the witnesses and a statement regarding the efforts made to secure affidavits from the witnesses. A copy of the Petition for Probate, the memorandum and Notice of Standard Probate shall be served on the witnesses in accordance with paragraph (a)(7) of this rule.

(4) Securing Custody of the Will. A Petition for Probate which seeks an order requiring any person alleged to have custody of a purported will to deliver it to the court, shall include, or be accompanied by, a memorandum providing the name and address of the person alleged to have custody of the purported will and the efforts made to induce the person to file it with

the Register of Wills or to deliver it to the nominated personal representative. A copy of the Petition for Probate, the memorandum and Notice of Standard Probate shall be served on the person alleged to be in possession of the purported will in accordance with paragraph (a)(7) of this rule.

(5) Admission of Lost or Destroyed Will. A Petition for Probate which seeks an order directing any interested person to show cause why the provisions of a copy of any lost or destroyed will should not be admitted to probate shall include, or be accompanied by, a memorandum containing a concise statement of facts, supported by witness affidavits, that establishes:

(A) That the will was duly executed;

(B) The chain of custody of the original will and whether and why it should or should not be presumed to be revoked;

(C) If the will contains unwitnessed cross outs or interlineations, why the will should not be presumed revoked by physical destruction;

(D) If the will is incomplete or there appear to be missing pages, why the will should not be presumed revoked; and

(E) Any other facts that would show why the will should not be presumed revoked.

The memorandum shall establish the facts sufficient to support the admission of the will to probate. The Petition for Probate, memorandum, accompanying documents and Notice of Standard Probate shall be served on the interested persons in accordance with paragraph (a)(7) of this rule.

(6) Finding Intestacy after a Will has been Filed. A Petition for Probate which seeks a finding of intestacy when there is on file a document purporting to be a will of the decedent shall be accompanied by a memorandum containing a concise statement of facts, supported by appropriate witness affidavits, that establishes:

(A) That the will was not duly executed;

(B) That no original will can be found and only a copy was found in the possession of the decedent;

(C) That the markings on the will establish that the will was revoked by destruction; or

(D) Any other facts which establish that the will has been revoked.

The memorandum shall also establish that the facts support the denial of the will to probate and a finding of intestacy. A copy of the Petition for Probate, memorandum, accompanying documents, and Notice of Standard Probate shall be served in accordance with paragraph (a)(7) of this rule.

(7) Mailing of Notice. Within 10 days from the date of first publication, the person seeking standard probate shall mail a copy of the notice and any other documents required by this rule to all interested persons, the witnesses, if applicable, or the person alleged to be in possession of the purported will, if applicable, by certified or registered mail, return receipt requested, with delivery restricted to the addressee only.

(8) Proof of Publication and Service. The person seeking standard probate or such person's representative shall file proofs of publication and a verified statement evidencing that a copy of the notice was timely mailed to all interested persons, the witnesses, if applicable, or the person alleged to be in possession of the purported will, if applicable. If, after diligent effort, the person seeking standard probate has been unable to ascertain the address of any interested person, that fact shall be made known in the verified statement filed. If unknown heirs at law are interested persons, the current status of their identity and/or whereabouts must be alleged in the verified statement. The Court may schedule a hearing on the petition upon a verified statement by the petitioner that the persons required to have been served by this rule have been served in accordance with this rule.

(9) Actual Notice. In lieu of the notice prescribed by this Rule, proof of actual notice or personal service will suffice.

(10) Responsive Pleading. Any interested person, witness or custodian of a will may file a response to the Petition for Probate in the form of a complaint or objection in accordance with

Probate Division Rule 407, within the time specified in the Notice of Standard Probate, and serve a copy on the petitioner, other interested persons, the witnesses, if applicable, or the person alleged to be in possession of the purported will, if applicable. The Court may then set the matter for a hearing at which time the Court may treat the petition and a non-complaint response as a complaint and answer subject to the Civil Rules, provided the petitioner pays the complaint filing fee within ten (10) days, or if the response to the Petition for Probate is in the form of a complaint, schedule a status conference after receipt of a responsive pleading from the petitioner, enter an order granting or denying the relief sought, or enter any other order which to the Court may appear appropriate. If no response to the Petition for Probate is filed, the Court may act on the Petition for Probate with or without a hearing.

(b) Notice of appointment (abbreviated and standard probate).

(1) At the time of filing the petition for probate, there shall be filed four copies of the notice prescribed by *D.C. Code § 20-704(a)*, completed to the extent possible. Immediately upon appointment of a personal representative, the Register of Wills shall complete the publication form and forward copies to the designated publishers.

(2) The notice of appointment and notice to creditors prescribed by *D.C. Code, § 20-704(a)* 1981 and referred to in paragraph (b) of this Rule shall be in the following form:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

ADMINISTRATION NO. .....

.....

(Name of decedent)

.....

(Name and Address of Attorney)

NOTICE OF APPOINTMENT, NOTICE TO CREDITORS

AND NOTICE TO UNKNOWN HEIRS

....., whose address(es) (is/are) ....., (was/were) appointed personal representative(s) of the estate of ....., who died on ....., (with/without) a will, and will serve (with/without) Court supervision. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment (or to the probate of decedent's will) shall be filed with the Register of Wills, D.C., 500 Indiana Avenue, N.W., Washington, D.C. 20001, on or before ..... Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or filed with the Register of Wills with a copy to the undersigned, on or before ....., or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its first publication shall so inform the Register of Wills, including name, address and relationship.

First published:

.....

.....

.....

(To be signed by personal representative)

Name of newspaper: TRUE TEST COPY

.....

.....

.....

REGISTER OF WILLS

(3) No later than 20 days after appointment, the personal representative shall send by certified or registered mail to all heirs and legatees, and to all creditors whose identities are known or whose identities are ascertainable by reasonably diligent effort, copies of the text of the first notice prescribed by *D.C. Code § 20-704(a)*, and the general information statement prescribed by *D.C. Code § 20-704(b)*, unless notice under this subsection has already been given.

(4) Within 90 days after the appointment of the personal representative, the personal representative (whether supervised or unsupervised) shall file with the Register of Wills proofs of publication and a certification specifying the date of mailing of the notices required under subsection (b) of this Rule and the persons to whom the notices were mailed.

(B) The certification of notice referred to in subsection (4)(a) shall be in the following form:

VERIFICATION AND CERTIFICATE OF NOTICE BY
PERSONAL REPRESENTATIVE PURSUANT
TO SCR-PD 403(b)(4)

I do solemnly declare and affirm that I have mailed or caused to be mailed a copy of the notice of appointment and general information statement as required in *D.C. Code § 20-704 (a)* and (b) on the .... day of ....., 19.., to the following persons:

(Attach list of names and addresses of all heirs, legatees, and creditors referred to in *D.C. Code § 20-704(b)*.)

I do further solemnly declare and affirm that I have previously filed or file herewith proofs of publication as required by SCR-PD 403(b)(4).

.....
.....

PERSONAL REPRESENTATIVE

Dated: .....

Attorney: .....

The foregoing certification shall be included with any inventory filed with the Court pursuant to *D.C. Code § 20-711(b)* or § 20-713.1(b) [*§ 20-713.01(b)*, 2001 Ed.] and if the personal representative is unsupervised the certification may be filed independent of the inventory.

(5) When discovery of a new or later will necessitates republication under *D.C. Code § 20-704(c)*, the following text shall be utilized in the body of the notice:

....., whose address(es) (is/are) ..... (was/were) appointed personal representative(s) of the estate of ..... who died on .... with a will and is serving (with/without) Court supervision. Objections to such appointment or to the probate of decedent's will shall be filed with the Register of Wills, District of Columbia, 500 Indiana Avenue, N.W., Washington, D.C. 20001 on or before .....

Rule 404. Bonds.

(a) Bond pursuant to *D.C. Code § 20-502(a)*.

Unless the personal representative is excused from giving bond either by the will or, in either supervised or unsupervised administration, by the written waiver of all of the interested persons, the personal representative shall, at the time of filing the petition for probate, give bond for the benefit of interested persons who did not waive bond and creditors who are not interested persons. If the will does not waive bond, and at any time subsequent to the filing of a petition for probate a creditor becomes an interested person and does not waive bond, the personal representative shall petition to give or increase such a bond within 20 days of presentation of a claim to the personal representative as prescribed in *D.C. Code § 20-909*. The form of any bond required pursuant to *D.C. Code § 20-502(a)* shall be in substantially the following format:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

In re: Estate of

..... Administration No. .....

Deceased

BOND OF PERSONAL REPRESENTATIVE

PURSUANT TO *D.C. CODE § 20-502(a)*

KNOW ALL BY THESE PRESENTS: That I/we ..... as principal and ..... as surety, are held and firmly bound to the District of Columbia in the sum of ..... dollars.

The condition of the above obligation is such that if the said ..... shall well and truly perform the office of the personal representative(s) of the estate of ....., deceased, late of ....., according to law, and shall in all respects discharge the duties required of the personal representative(s) by law without any injury or damage to any interested person or creditor (other than those excluded below, if any) the above obligation shall be void; otherwise it shall be in full force and effect.

The foregoing notwithstanding, this bond shall not cover the following:

.....

( ) the interest of the following interested persons who have filed written waivers:

( ) the cash on deposit in an account expressly subject to withdrawal only in a manner that is approved by the Court:

.....

( ) the value of the following real or personal property which cannot be sold or distributed without Court authorization:

.....

SIGNED, SEALED AND DELIVERED

IN THE PRESENCE OF:

.... (Seal)

.... (Seal)

.....

Dated this ... day of

....., 20.. ..... (Seal)

.....

Surety .....

By: ..... (Seal)

(b) Bonds pursuant to *D.C. Code § 20-502(a-1)*.

If, at any time subsequent to the filing of the petition for probate, any person with an interest in the estate worth in excess of $ 1,000 or any creditor having a claim in excess of $ 1,000 files a demand for bond pursuant to *D.C. Code § 20-502(a-1)* as described in para-

graph (d) below, and the Court orders that the personal representative file a bond or increase an existing bond, said bond shall be filed within 15 days after the later of the date of the order appointing the personal representative or the order requiring such bond, or as otherwise ordered by the Court. The form of any bond required pursuant to *D.C. Code § 20-502(a-1)* shall be substantially in the following format:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

In re: Estate of Administration No. .....

.....

Deceased

BOND OF PERSONAL REPRESENTATIVE

PURSUANT TO *D.C. CODE § 20-502(a-1)*

KNOW ALL BY THESE PRESENTS: That I/we ..... as principal and ..... as surety, are held and firmly bound to the District of Columbia for the use of (person(s) and/or creditor(s) demanding bond) ..... in the sum of ..... dollars.

The condition of the above obligation is such that if the said ..... shall well and truly perform the office of the personal representative(s), of the estate of ....., deceased, late of ....., according to law, and shall in all respects discharge the duties required of the personal representative(s) by law without any injury or damage to the interest of the person(s) or creditor(s) listed above, said obligation shall be void; otherwise it shall be in full force and effect for the use of said above-named person(s) or creditor(s), and none other.

SIGNED, SEALED AND DELIVERED

IN THE PRESENCE OF:

.... (Seal)

.....

.... (Seal)

.....

Dated this ... day of

....., 20.. ..... (Seal)

.....

.....

Surety .....

By ..... (Seal)

(c) Value of interest.

For the purpose of setting a bond pursuant to *D.C. Code § 20-502(a)*, the amount of the bond shall be equal to the estimated value of the estate less the estimated net distributable share of each person waiving bond, calculated as if estate assets were applied to debts, funeral expenses, family allowance, administration expenses and distributions to heirs, legatees and other claimants in order of priority and according to law. For the purpose of setting a bond pursuant to *D.C. Code § 20-502(a-1)*, the value of the interest in the estate of the person or creditor demanding bond shall be the estimated amount of the net distribution or disbursement due to that person or creditor, calculated as if estate assets were applied to debts, funeral expenses, family allowance, administration expenses and distributions to heirs, legatees and other claimants in order of priority and according to law.

(d) Demand for bond.

A demand for bond pursuant to *D.C. Code § 20-502(a-1)* shall be by petition filed with the Register of Wills in substantially the form set forth below. A copy of said petition must be mailed or delivered to the personal representative (or, if appointment has not occurred, to the person(s) whose appointment as personal representative is requested in the petition). The personal representative (or the person(s) requesting appointment as such) may oppose the petition or the amount of the bond requested by filing a timely opposition with the Register of Wills.

PETITION FOR PERSONAL REPRESENTATIVE'S BOND

PURSUANT TO *D.C. CODE § 20-502(a-1)*

I, ..., certify that I am

( ) a person having an interest in the above estate worth in excess of $ 1,000.00, which consists of (specify nature of interest) ..... or

( ) a creditor having a claim in excess of $ 1,000.00, and demand that ....., Personal Representative(s) of the estate, give bond for my use and benefit in the amount of $ .....

.....

Signature of person or creditor, or person authorized to make demand on behalf of creditor

NAME: .....

ADDRESS: .....

.....

INSTRUCTIONS

This form must be filed with the Register of Wills and a copy mailed to the Personal Representative(s) (or if none has been appointed, the person(s) whose appointment as Personal Representative(s) was requested on the Petition for Probate). Upon request for a bond, the Court may set a hearing to determine if a bond is required.

(e) Failure to file bond.

In its order requiring the filing or the increasing of a bond described above, the Court may direct that, if the bond is not so filed or increased within the time specified by this rule or the Court's order, the powers of the personal representative will, upon the expiration of that time period, automatically and without further order of the Court, be suspended until the filing or increase of the required bond. Upon such filing or increase, the original powers of the personal representative shall automatically be reinstated unless otherwise ordered by the Court. The failure to file or increase the required bond may subject the personal representative to removal proceedings in accordance with *D.C. Code § 20-526* and SCR-PD 421.

(f) Waiver of bond.

The waiver of the personal representative's bond shall be in substantially the following format and may be accompanied by a consent to appointment of a personal representative as set forth in SCR-PD 402.

Estate of

..... Administration No. .....

Deceased

WAIVER OF PERSONAL REPRESENTATIVE'S BOND

I ....., being a competent

( ) adult heir and/or legatee of ....., deceased, or

( ) a creditor of the decedent whose claim in excess of $ 500.00 has not been barred or discharged,

and being familiar with the petition of ..... for Letters of Administration, do hereby waive protection of any bond so far as my interest in said estate is concerned.

....

Witness

COMMENT:

Creditors who can become interested persons are only those creditors of the decedent, including those whose rights accrue at the time of death, who have timely presented a claim in excess of $ 500 that has not been barred or discharged, *D.C. Code § 20-101(d)(1)(e)*. Claims are presented pursuant to *D.C. Code § 20-903(a)(1)*, but claims that arise after the death of the decedent, such as expenses incurred in the administration of the estate, need not initially be presented to the personal representative, *Poe v. Noble, 525 A.2d 190, 196 (D.C. 1987),* and in fact become barred if no action is commenced on them within six months of when they arise, *D.C. Code § 20-903(a)(2)*. See *Grimberg v. Marth, 659 A.2d 1287 (Md. 1995)* cf. *John-*

son v. Martin, 567 A.2d 1299, 1305 (D.C. 1989) ("... on remand, therefore, the Court must first decide whether any claim against the estate [as opposed to a claim against Mr. Abrams himself] for an alleged breach of fiduciary duty is time-barred.") Accordingly, administrative creditors as distinguished from creditors of the decedent cannot become interested persons, because they cannot perfect their claims by presentation to the personal representative pursuant to *D.C. Code § 20-903(a)(1)*.

D.C. SCR-PD Rule 405

Rule 405. Special administrators.

All the powers and duties applicable to supervised personal representatives shall be applicable to special administrators, except as otherwise provided by statute or Court Rule.

D.C. SCR-PD Rule 406

Rule 406. Nonresident special administrators and personal representatives.

A personal representative or special administrator who is or becomes a non-resident of the District of Columbia, or who is continuously absent therefrom for more than 60 days, shall file with the Register of Wills a power of attorney as required by *D.C. Code § 20-303(b)(7)*.

Rule 407. Proceedings in contested estate cases.

(a) Commencement of action.

An action to contest the validity of a will in accordance with *D.C. Code § 20-305*, or to contest a petition for the appointment of a personal representative or to remove a personal representative who has been appointed, or to institute a plenary proceeding in accordance with *D.C. Code, § 16-3105*, or to construe a will prior to approval of a supervised personal representative's final account or the filing of a certificate of completion by an unsupervised personal representative or the expiration of the unsupervised personal representative's appointment pursuant to *D.C. Code § 20-1301(c)*, or any other complaint filed in the Probate Division, may be commenced by any party in interest by filing a verified complaint with the Register of Wills. Except as hereinafter provided the procedure in such actions, including service of process, shall be governed by the Superior Court Rules of Civil Procedure.

(b) Summons.

The Register of Wills shall issue a summons upon the request of the plaintiff in the action. The form of the summons shall be as prescribed by the Register of Wills. In an action brought pursuant to this rule, to contest the validity of a will, to contest a petition for the appointment of a personal representative, to remove a personal representative, to institute a plenary proceeding pursuant to *D.C. Code § 16-3105*, or for the construction of a will, the summons shall be directed to all interested persons and all indispensable parties under Civil Rule 19. In any other action against the estate, the summons shall be directed to the personal representative and may be directed to others. In such actions against the estate wherein the interested persons are not named parties, the personal representative shall notify the interested persons of the pendency of the action and of the right to intervene. The notice shall be provided by first class mail within 20 days of the service of the action, and the personal representative shall file a certificate reflecting service of the notice at the time of filing a response.

(c) When a complaint is filed pursuant to this rule, the parties may proceed with discovery pursuant to Civil Rules 26 through 37.

(d) Within 60 days after a complaint has been filed, the Court shall conduct an initial scheduling and settlement conference pursuant to Civil Rule 16(b).

(e) All other contested matters which are not initiated by complaint, including exception and objection to reports or petitions filed with the Court, shall be treated as motions pursuant to Civil Rule 12-I(d) through (n). The Court may permit discovery under this subsection upon a showing of good cause.

(f) A proceeding pursuant to *D.C. Code § 19-507(b)* shall be brought in accordance with SCR-Civil 22.

D.C. SCR-PD Rule 408

Rule 408. Distribution to minors.

(a) Distributions to minors by a personal representative shall be made in accordance with *D.C. Code § 20-1106*.

(b) If Court approval is required or is otherwise requested by the personal representative for a distribution to a minor pursuant to *D.C. Code § 20-1106*, the personal representative shall file a verified petition which sets forth the following information:

(1) The name, residence and date of birth of each minor for whom distribution authority is sought, as well as the basis for the minor's entitlement to share in the estate;

(2) The total value of the estate assets to be distributed to each minor;

(3) The method of distribution proposed;

(4) The reason why distribution under *D.C. Code § 20-1106(a)* or (b)(1) is not permissible or desired;

(5) If authority is requested to establish a restricted account, also the name and location of the financial institution; and

(6) If authority is requested to distribute assets exceeding $ 10,000.00 in value under *D.C. Code § 21-306*:

(A) The reason why the transfer is in the best interest of the minor (*D.C. Code § 21-306(c)(1)*);

(B) Facts to show the transfer is not prohibited by or inconsistent with the provisions of the will (*D.C. Code § 21-306(c)(2)*); and

(C) A representation that the personal representative will effect the transfer in accordance with *D.C. Code § 21-309*.

Rule 409. Inventory and appraisals.

(a) In all estates the personal representative must prepare an Inventory of property owned by the decedent at the time of death reflecting the fair market value of the property as of the decedent's death and the type and amount of encumbrances on any item. Said Inventory must be delivered or mailed to each interested person within three months after appointment of the personal representative. While the supervised personal representative must file the Inventory with the Court unless excused from filing an inventory pursuant to *D.C. Code § 20-731*, such filing is discretionary for the unsupervised personal representative, unless otherwise directed by Court.

(b) Use of appraisers.

The supervised personal representative shall either make an appointment with the standing appraisers through the Register of Wills Office, or arrange for the use of special appraisers (as defined below), in preparation for the filing of an inventory in accordance with *D.C. Code §§ 20-711*, and/or 712. The unsupervised personal representative also may use the Court's standing appraisers or any qualified special appraisers in determining fair market value as of the decedent's death.

(c) Valuation of real estate.

For purposes of the requirements of *D.C. Code §§ 20-711* and *712*, both supervised and unsupervised personal representatives may inventory real property at the value placed thereon by the District of Columbia Department of Finance and Revenue for purposes of assessment and taxation for the fiscal year in which the decedent died. If the personal representative determines that any real property should be independently appraised, the fair market value shall be determined by an appraiser selected by the personal representative. Such appraiser shall be licensed or certified and approved by the District of Columbia Board of Appraisers pursuant to D.C. Code § 45-3201 et seq. [*§ 42-3901* et seq., 2001 Ed.].

(d) Valuation of securities.

Valuation of securities shall be made as of the date of decedent's death and, other than as provided in *D.C. Code § 20-712(a)(2)*, shall be made in accordance with principles set forth in federal estate tax regulations governing the valuation of securities for federal estate tax purposes.

(e) Special appraisers.

Special appraisers are defined as appraisers qualified to determine the fair market value of D.C. real and personal property who are not employed by the Court as standing appraisers. Qualified special appraisers shall be used by the supervised personal representative to appraise a decedent's interest in joint ventures, partnerships, business enterprises, cooperative apartments, coins and stamps and any other assets which the Register of Wills has determined that the standing appraisers do not ordinarily appraise.

(f) Inventory form.

In supervised administration, the Inventory shall be filed in substantially the following format, and accompanied by a separate Probate Form 27 with complete account numbers, if financial accounts are reported therein. In unsupervised administration the same form may be used:

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
PROBATE DIVISION

ESTATE OF	Administration No. .....
.....	Date of death .....
	Date of appointment of
	personal representative .....
	( ) Supervised estate
	( ) Unsupervised estate

NOTICE is hereby given that the supervised personal representative of the above estate will file the enclosed Inventory with the Court on or before .....

(Fill in date within 3 months from date of appointment.)

INVENTORY

Summary

A	Real property in the District of Columbia	$	
B	Tangible personal	.....	
C	Corporate Stocks	.....	
D	Bonds, notes, mortgages, debts due to the decedent	.....	
E	Bank accounts, building association shares, savings and loan accounts, cash	.....	
F	Debts owed to the decedent by the personal representative	.....	
G	All other interests	.....	TOTAL $ .....

Instructions: Complete all pertinent schedules and summary. See *D.C. Code §§ 20-711* and *712*.

VERIFICATION

I do solemnly declare and affirm under penalty of law that the contents of this inventory are true and correct to the best of my knowledge, information, and belief, that it has been prepared by me or under my direction, and is to the best of my knowledge a complete inventory of all of the estate of the above named decedent, made in good faith pursuant to District of Columbia law.

.....

.....

Personal Representative(s)

CERTIFICATE

There has been mailed or delivered to all interested persons, within the 15 days previous to the filing of this inventory, a copy of the inventory and the appended notice that it would be filed on or before the date stated in said notice.

Date: .....

.....

.....

Personal Representative(s) or

Attorney(s)

VERIFICATION AND CERTIFICATE OF NOTICE PURSUANT TO SCR-PD 403(b)(4)

I do solemnly declare and affirm that I have mailed or caused to be mailed a copy of the notice of appointment and general information statement as required in *D.C. Code § 20-704(a)* and (b) on the ..... day of ..... 19.., to the following persons:

[Attach list of names and addresses of all heirs, legatees, and creditors referred to in *D.C. Code § 20-704(b)*.]

I do further solemnly declare and affirm that I have previously filed or file herewith proofs of publication as required by SCR-PD 403(b)(4).

.....

.....

Personal Representative

Dated: .....

Attorney: .....

Sample Schedule

(A separate page should be used for each schedule)

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

Estate of ..... Administration No. .....

INVENTORY SCHEDULE .....

Item No. Description Value

.....

(Include a description of the type and amount of any encumbrance but do not deduct it from value column.)

TOTAL $ .....

Appraiser's Verification

The property described above has been impartially appraised by me to the best of my skill and judgment and constitutes all of the property of the named decedent of the type encompassed by this schedule of which I have knowledge and with the appraisal of which I have been charged.

..... Appraiser
(Print name)

..... Appraiser
(Signature)

.....
(Address)

Rule 410. Claims against estate.

(a) Petition.

Petitions for order directing payment of claims prescribed by *D.C. Code § 20-909(a)* shall be in substantially the following format:

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

Estate of Administration No. .....

.....

Deceased.

PETITION FOR ORDER DIRECTING PAYMENT OF CLAIM

PURSUANT TO *D.C. CODE § 20-909(a)*

The undersigned claimant hereby petitions the Court for an order directing payment of a claim against the above-entitled estate.

1. Name of claimant:
2. Address of claimant:
3. Date of mailing or delivery of claim to Register of Wills or personal representative:
4. Amount of claim:
5. Basis of claim (check appropriate lien)

... Funeral expenses, not exceeding $ 1,500.

... Fiduciary and attorney's fees, not exceeding $ 1,000.

... Homestead allowance, not exceeding $ 15,000.

... Family allowance, not exceeding $ 15,000

... Exempt property, not exceeding $ 10,000.

... Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent.

... Rent in arrears for which an attachment might be levied by law.

... Judgments and decrees of courts in the District of Columbia.

... Other just claims.

6. The petition is being filed because the claim has not been rejected but has not been paid within 8 months from the date of first publication of the Notice of Appointment, Notice to Creditors, and Notice to Unknown Heirs.
7. The time for presentation of claims has expired.

I do solemnly declare and affirm under penalty of law that the contents of the foregoing petition are true and correct to the best of my knowledge, information and belief.

.....

Claimant

Dated: .....

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition for Order Directing Payment of Claim Against Estate Pursuant to *D.C. Code § 20-909(a)* was this .... day of ....., 20.., mailed, by first class mail, postage prepaid, (or delivered) to

(personal representative or attorney for the personal representative)

.....

(Signature of Claimant or Claimant's Attorney)

(b) Response to petition.

The personal representative or the attorney for the personal representative shall have 10 days from the date of mailing or delivery of the Petition for Order Directing Payment of Claim as shown on the Certificate of Service, to file a response and to mail or deliver a copy thereof to the Claimant or the Claimant's Attorney. See also, SCR-PD 407(e).

D.C. SCR-PD Rule 411

Rule 411. Action on claims.

(a) Notice of action.

Notice of action taken by the personal representative, pursuant to *D.C. Code § 20-908(a)*, shall be in substantially the following format:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

Estate of: Administration No. .....

.....

Deceased.

NOTICE OF ACTION TAKEN ON CLAIM

To: .....

(Claimant)

You are hereby notified that your claim in the amount of $ .... against the above-entitled estate is:

(a) .... Allowed in the stated amount.

(b) .... Allowed in the amount of $ .....

(c) .... Disallowed.

(d) .... Undetermined, and will be presented to the Court for determination.

.....

Personal Representative

Date mailed or delivered: .....

NOTICE

If your claim has been disallowed in whole or in part, it will be barred to the extent of its disallowance unless you file a verified complaint with the appropriate Division of this Court or other court of competent jurisdiction within 60 days after the date of mailing or delivery of this notice or such shorter period as might be allowed by the regular statute of limitations.

(b) Service of notice of action.

Notice given pursuant to *D.C. Code § 20-908(a)* and this Rule, shall be signed by the personal representative, and will be deemed to have been mailed or delivered by the personal representative if mailed or delivered either by the personal representative or an agent of the personal representative.

Rule 412. Court order for authority to act.

(a) Petition.

Any petition filed by a personal representative pursuant to *D.C. Code § 20-742* or, by a person pursuant to D.C. Code *§ 19-101.05* or *D.C. Code § 20-107* (except as provided in *D.C. Code § 20-107(c)*) shall specifically identify the relief requested, the legal basis therefor (if any), and the reasons why such relief is believed to be appropriate. The petition shall be accompanied by a Certificate of Service.

(b) Hearings and notice of hearings.

If the Court determines that a hearing is necessary or advisable with regard to a petition filed:

(i) pursuant to *D.C. Code § 20-107(b)*, the Court shall set a hearing and so advise the unsupervised personal representative; at least ten days prior to the hearing, the unsupervised personal representative shall give written notice of the hearing to the interested persons by certified mail or personal delivery; the unsupervised personal representative shall thereafter certify to the Court in writing that such notice has been given; or

(ii) pursuant to *D.C. Code § 20-742* or otherwise under *§ 20-107*, the Court shall set a hearing and give notice as provided in SCR-PD 4.

(c) Exercise of powers limited or restricted by Court order.

If the power granted to a personal representative in *D.C. Code § 20-741* is limited or restricted pursuant to Court order, and it becomes necessary or advisable to exercise that power, the personal representative shall file a petition with the Court as provided in paragraph (a) above. In granting the relief requested in such a petition, the Court may impose whatever reasonable requirements it deems advisable under the circumstances of the particular matter to the extent necessary to address the reasons for the imposition of the limitation or restriction.

(d) Limited use of appraisals.

For the purpose of granting the relief requested in petitions filed under this Rule, the filing of an appraisal shall not be required unless the Court is being asked to resolve a dispute concerning, or to approve valuation in, a particular transaction. In addition, for the purpose of fixing or increasing the amount of a bond, if any, the inventoried value of property shall generally be used; if appropriate, an additional requirement may be imposed to require an increase in the amount of the personal representative's bond, equal to the excess of any proceeds over the inventoried values prior to the receipt of such excess proceeds.

COMMENT:

One example of the application of paragraph (c) would be as follows. If the restriction on a power to sell real or personal property was imposed at the request of the personal representative in order to avoid the cost of bonding the full value of that property, the Court shall require only that the bond be increased to the amount of the bond which would have been imposed if the restriction had never been requested.

Unless otherwise specified by either the statute or the Rules, any relief sought should be in the form of a petition under this Rule.

REGISTER OF WILLS COMMENT

Technical revision made to correct error in reference to D.C. Code or D.C. Court Rules.

Rule 413. Rule to show cause for recovery of possession of property of the estate.

(a) Petition for Rule to Show Cause.

When it is believed that any person is in possession of assets, papers, data or information of or about the decedent's estate and is wrongly withholding the same, a Petition may be filed for a Rule to Show Cause, directing such person to appear and show cause why such person should not disclose all of the assets, papers, data and information in such person's possession belonging to the estate and the location of the same and why such person should not be required by the Court to turn over all of the said assets, papers, data and other information to the personal representative, provide access to property or take such other action as ordered by the Court.

(b) Content of the Petition.

In addition to any other information required to be submitted to the Court under this Rule, the petition shall set forth with particularity the following facts, points, and authorities: (1) a concise description of the asset, papers, data, or other information concerning the decedent's estate that is alleged to be wrongfully withheld by the individual named in the petition; (2) the name, address, telephone number and any other pertinent identifying information about the individual whose actions are to be subject to the order to show cause; (3) a statement of the jurisdiction of the Superior Court over the subject matter and such person; (4) the facts and law that would establish the right of the estate to demand production of the subject asset, paper, data or other information (including but not limited to its alleged connection to the assets of the estate or its relevance to the administration of the estate); (5) a concise demand for relief, such as production of a particular asset or data, reimbursement of monies to the estate, or other specific relief; and (6) any other information that the petitioner determines to be relevant to the Court's decision to issue the order to show cause or reason(s), if any, why any of the foregoing information is not supplied.

(c) Good faith effort -- Certification of petitioner.

The Petition for Rule to Show Cause shall contain the petitioner's certificate that despite a good faith effort the petitioner has been unable to obtain the assets, papers, data and information sought. The certification shall set forth specific facts describing the good faith effort.

(d) Who may petition the Court.

The personal representative may file a petition hereunder. Any interested person may also file a petition hereunder against the personal representative and such petitioner shall suffice as an "application" for relief, as permitted in *D.C. Code § 20-107*.

(e) Form of Order.

The Court may grant the Petition for Rule to Show Cause without waiting for any response to the Petition by executing an Order for Rule to Show Cause substantially in the following form:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

In Re: Administration No. .....

ORDER FOR RULE TO SHOW CAUSE

Upon consideration of the Petition of ..... (personal representative) herein, filed the ..... day of ....., 20..,

ORDERED, that ..... appear in this Court at .... A.M. in Courtroom No. ....., on the day of ....., 20.., and show cause, if any there be, why he/she/it should not disclose all the assets, papers, data and information he/she/or it has in his/her/or its possession belonging to the above estate and the location of the same, and why he/she/or it should not be required by this Court to turn over all of the said assets, papers, data and other information to the personal representative of this estate, provide access to property or take such other action as ordered by the Court, PROVIDED, however, that a copy of said Petition and this Order be

served upon him/her/or it by petitioner on or before the ....., 20.. in accordance with SCR-Civil 4(c) and it is further

ORDERED that if ..... fails to appear on the date set in this Order, the Court may grant the relief requested in the petition without further notice.

.....

JUDGE

Copies to:

Petitioner (address)

Interested Persons (address)

(f) Service of the Petition and Order.

Upon the issuance of an order to show cause, service of copy of that order and a copy of the petition shall be made as follows: A copy of the petition and order shall be served upon the person allegedly in possession of the sought material in the manner prescribed by SCR-Civil 4(c). All interested persons shall be served by first class mail. Neither the personal representative nor any of the interested persons shall effect service upon the person allegedly in possession of the sought material.

(g) Proof of service.

Proof of service of the Petition and Order for Rule to Show Cause shall be by affidavit filed no later than the time set by the Order for cause to be shown.

(h) Response to Order for Rule to Show Cause.

The person on whom the Petition and Order for Rule to Show Cause is served may file a responsive pleading to the Petition at any time, up to the date therein specified for cause to be shown. If the responsive pleading asserts a plea of title, the Court may treat the Petition for Rule to Show Cause as a complaint, provided the petitioner pays the complaint filing fee within ten (10) days, and may hold a status conference on the date set for cause to be shown and enter such other orders therein pertaining to interested persons and indispensable parties as are just in accordance with SCR-PD 107(b).

COMMENT:

If the Petition is treated as a complaint, a jury demand must be made seasonably pursuant to SCR-Civil 38(b) and 39(b).

Rule 414. Accounts of personal representative in supervised administration.

(a) Requirement to account in supervised administration.

(1) Preparation. *D.C. Code § 20-721* requires a supervised personal representative to prepare verified written accounts of the administration of the estate.

(2) Filing. Unless excused pursuant to *D.C. Code § 20-731*, all supervised personal representatives shall file accounts in accordance with the provisions of *D.C. Code §§ 20-721 through 20-724*.

(b) Form of account. The first accounting period of the estate shall begin at the date of death of the decedent. All accounts shall be typewritten on forms prescribed by the Register of Wills or as provided in SCR-PD 401. If financial accounts are reported therein, a separate Probate Form 27 must be filed with the account including complete account numbers.

(c) Tax certification. All final accounts in supervised estates shall contain a certification in a form prescribed by the Court that the supervised personal representative is or is not required to file a federal estate tax return and, if a federal estate tax return is required, a further certification that the District of Columbia estate transfer tax, including applicable interest, has been paid in full or that no such tax is due.

(d) *D.C. Code § 47-3716* finding. The Court may make the District of Columbia estate transfer tax finding required by *D.C. Code § 47-3716* with respect to the estates of decedents dying after March 31, 1987, as follows:

(i) upon the filing of a certificate of the District of Columbia Department of Finance and Revenue that the District of Columbia estate transfer tax has been fully discharged or provided for, or that no such tax is due, or

(ii) upon certification by the supervised personal representative that the supervised personal representative is not required to file a federal estate tax return.

Rule 415. Waiver of filing inventories and accounts in supervised administration.

(a) Effective waiver.

The filing of the waiver of the inventories and accounts, pursuant to the District of Columbia Code, converts supervised administration to unsupervised administration.

(b) Form of waiver.

A waiver of filing inventories and accounts pursuant to *D.C. Code § 20-731* shall be in substantially the following format:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

Estate of: Administration No. .....

.....

Deceased.

WAIVER OF FILING INVENTORIES AND ACCOUNTS

( ) I ....., am an heir/legatee of the above-captioned estate. I am aware of my right to require the filing of inventories and accounts with the Court, but I waive this right, knowing that I may revoke this waiver and require the filing of an inventory and accounts by filing a written demand with the Register of Wills within 7 days of sending the final account to the interested persons. I further understand that if all heirs or legatees file Waivers of Filing Inventories and Accounts, this estate will be converted to unsupervised administration.

( ) I am the personal representative and the decedent's will waives the filing of Inventories and Accounts.

Date: ....

(Signature)

( ) The Verification and Certificate Pursuant to Rule 403(b)(4) was filed (insert date) ....., or

( ) The Verification and Certificate Pursuant to Rule 403(b)(4) is filed below.

VERIFICATION AND CERTIFICATE

BY SUPERVISED PERSONAL REPRESENTATIVE

PURSUANT TO SCR-PD 403(b)(4)

I do solemnly declare and affirm that I have mailed or caused to be mailed a copy of the notice of appointment and general information statement as required in *D.C. Code § 20-704(a)* and (b) on the .... day of ....., 19....., to the following persons:

[Attach list of names and addresses of all heirs, legatees, and creditors referred to in *D.C. Code § 20-704(b)*.]

I do further solemnly declare and affirm that I have previously filed or file herewith proofs of publication as required by SCR-PD 403(b)(4).

.....

Personal Representative

Dated: .....

Attorney: .....

(c) Interpretation of "heir or legatee".

For purposes of *D.C. Code § 20-731(a)*, "an heir or legatee" shall refer to intestate or testate cases, as appropriate, and shall not require the waiver by heirs in a testate case.

(d) Requirements to accompany waivers.

Waivers of filing inventories and accounts will be accepted for filing only if court costs have been paid, the personal representative's verification and certificate pursuant to SCR-PD 403(b)(4), and the proofs of publication have been filed.

(e) Fiduciaries who may waive.

A guardian, guardian ad litem, committee, conservator, parent, attorney in fact, or other legal representative of an interested person referred to in *D.C. Code § 20-101(d)(2)(C)*, a

trustee nominated by will or other document, or any other person acting in a fiduciary capacity, may execute a waiver under *D.C. Code § 20-731* for and on behalf of such person's principal. A waiver signed by one acting in any such capacity must be accompanied by a certified copy of a court appointment, if any, or if none, by a verified statement (i) indicating such person's status, (ii) setting forth the nature and date of the instrument, if any, creating such fiduciary relationship and the relevant portions thereof and, (iii) representing that the instrument, if any, is still in full force and effect.

Rule 416. Notice accompanying final account of unsupervised probate.

The notice which shall accompany the copy of the final account must be sent to each interested person and may be sent to each creditor in an unsupervised administration. The notice shall be in substantially the following format:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
PROBATE DIVISION

Estate of: Administration No. .....
.....
Deceased.

NOTICE ACCOMPANYING FINAL ACCOUNT
OF UNSUPERVISED PROBATE

Enclosed with this notice is a copy of the final account of the unsupervised personal representative(s) of the above captioned decedent's estate.

You should understand that:

1. You have a right to object to this account within sixty days after the date on which this account was sent to you, by mailing or delivering to the personal representative or the Probate Division of the Superior Court of the District of Columbia within that 60-day period a written statement specifying your particular objections to the account as stated; and

2. If you do not make such an objection within the time prescribed, all claims (other than for fraud) which you may have against the personal representative(s) or any distributee shall be barred.

.....
Personal Representative(s) or
Counsel for Personal
Representative(s)

Dated: .....

COMMENT:

The Certificate of Completion (and thus the finality contemplated by *D.C. Code § 20-736*) requires giving the foregoing notice with the copy of the final account.

Rule 417. Waiver of formal audit of account in supervised administration.

(a) Form of waiver.

A waiver of a formal audit of an account by an heir or legatee pursuant to *D.C. Code § 20-732(a)* shall be in substantially the following format:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

Estate of:

..... Administration No. .....

Deceased.

WAIVER OF FORMAL AUDIT OF ACCOUNT

AND CONSENT TO ACCOUNT AS STATED

I, ..., am entitled to receive a share of the above estate. I have received a copy of the (first, second and final, etc.) ..... account of the estate.

I am aware that I am entitled to have a complete audit by the Court of said account whereby all the books and records of the Personal Representative would be examined.

I hereby waive my right to a formal audit and my right to file exceptions to the account within 30 days. I authorize the Court to conduct an informal and cursory review of limited records submitted by the Personal Representative.

I am aware that I may later request a formal and complete Court audit by filing a written demand with the Register of Wills within 20 days of the approval of the final account.

Witness:

(one required)

....

(Signature)

..... Dated: .....

(Address)

.....

This Waiver does not constitute a consent to the commission or fee requested, if any.

(b) Interpretation of "heir or legatee".

For purposes of *D.C. Code § 20-732(a)*, "heir or legatee" shall refer to intestate or testate cases, as appropriate, and shall not require the waiver by heirs for a testate distribution.

(c) Fiduciaries who may waive.

A guardian, guardian ad litem, committee, conservator, parent, attorney in fact, or other legal representative of an interested person referred to in *D.C. Code § 20-101(d)(2)(C)*, a trustee nominated by will or other document, or any other person acting in a fiduciary capacity, may execute a waiver under *D.C. Code § 20-732* for and on behalf of such person's principal. A waiver signed by one acting in any such capacity must be accompanied by a certified copy of a court appointment, if any, or if none, by a verified statement (i) indicating such person's status, (ii) setting forth the nature and date of the instrument, if any, creating such fiduciary relationship and the relevant portions thereof and, (iii) representing that the instrument, if any, is still in full force and effect.

(d) Effect of a receipt.

A receipt signed by an heir or legatee acknowledging payment in full of his or her interest in the estate shall be deemed to be a waiver for purposes of *D.C. Code § 20-732(a)*.

(e) Waiver of right to file exceptions.

An heir or legatee may waive the right to a formal audit under *D.C. Code § 20-732(a)* and the right to file an exception to the account within 30 days of its filing under *D.C. Code § 20-726* as provided in paragraph (a) of this rule. An heir or legatee who waives these rights may nevertheless demand a formal audit within 20 days of approval of the final account under *D.C. [Code] § 20-732(c)*.

Rule 418. Audit of accounts in supervised estates.

(a) Complete court audit.

Unless waivers have been filed with the account pursuant to *D.C. Code § 20-732*, the supervised personal representative, at the time of filing the account, shall:

(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) Where not otherwise ascertained in accordance with subparagraphs (1) and (2) above, and (4) below, file a written statement by each depository of cash balances on deposit therein and of all other assets (except tangibles) carried in the account as of closing date of the accounting period.

(4) Exhibit certificates or other statements 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) Cursory review of account.

If the account is to be reviewed pursuant to *D.C. Code § 20-732*, the supervised personal representative shall at the time of filing the account:

(1) Note on the face of the account a request for cursory review.

(2) File with the account waivers required by *D.C. Code § 20-732* and SCR-PD 417(a) or receipts under SCR-PD 417(d).

(3) File vouchers or cancelled checks for all funeral expenses and each other disbursement in excess of $ 1000 claimed in the account.

(4) If the account is final, file a statement that all claims filed with the Court or otherwise presented to the personal representative have been paid or rejected.

(5) Submit a check in payment of outstanding court costs in accordance with SCR-PD 425.

(c) Recommendation of the Register.

If the Register is satisfied that there has been submitted with a pending account for which cursory review is requested the requirements set forth in subparagraphs (2) through (5) of paragraph (b) of this rule, and all applicable time periods have expired, the Register shall, forthwith, submit such account to the Court for its approval.

D.C. SCR-PD Rule 419

Rule 419. Accounts of special administrator.

Special administrators shall account to the Court in the same manner as supervised personal representatives, and such accounts shall be subject to a formal and complete audit pursuant to SCR-PD 418(a).

D.C. SCR-PD Rule 420

Rule 420. Assignment of rights.

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 in a supervised or unsupervised proceeding, the assignee shall promptly file the assignment in the probate proceeding. Any further proceedings to protect or enforce the assignment, or any claim based thereon, shall be prosecuted or presented in the name of the assignee and not in the name of the assignor. Said assignment shall be verified in accordance with *D.C. Code § 20-102*. Unless approved by order of this Court, counsel for the assignee shall not appear for or represent the assignor.

Rule 421. Delinquent personal representatives or special administrators.

Whenever it comes to the attention of the Register of Wills that there is an apparent irregularity or default in a supervised or unsupervised administration under these Rules, including but not limited to the failure to file, if required, within a prescribed time a proper inventory, account, or the Certificate required by *D.C. Code § 20-704(b-1)*, or that there is an insufficiency in the amount or security of an undertaking, the Register of Wills shall immediately notify the personal representative, or special administrator (hereinafter "person") that unless the irregularity or default is corrected forthwith, the person so notified shall be subject to removal. If the irregularity is not remedied, the Register of Wills shall report said irregularity to the Court. Following such notification, the Court shall set a summary hearing, direct notice of the hearing to the person who has not remedied the irregularity and, at the hearing, remove the person and appoint a successor, unless, for good cause shown, failure to correct the irregularity or default is deemed excusable.

Rule 422. Qualification and compensation of guardians ad litem.

(a) Appointment.

When the Court in the exercise of its statutory or inherent power appoints a guardian ad litem, except for good cause shown, no person other than a member of the Bar of this Court shall be so appointed.

(b) Written report on possible conflict.

Whenever a guardian ad litem has occasion to sue or defend on behalf of a disabled interested person concerning a matter in which such guardian has a possible conflicting interest, such guardian shall report the facts in writing to the Court in order that appropriate action may be taken.

(c) Compensation on petition.

Allowance by the Court of compensation to a guardian ad litem shall be made only on petition supported by a statement detailing with particularity the nature and extent of services rendered, the time devoted, the amount claimed, and any prior allowance made for the claimant's services.

(d) Notice of petition for compensation.

Unless otherwise directed by the Court, notice of such petition need be given only to the personal representative(s) or special administrator(s) of the estate against which the claim is made.

Rule 423. Termination of appointment of supervised personal representative.

A petition for termination of the appointment of the supervised personal representative, the accompanying notice, and the proposed order pursuant to *D.C. Code § 20-1301* shall be in substantially the following format and the petition shall have attached to it all receipts not previously filed evidencing proper distribution of assets of the estate.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

Estate of: Administration No. .....

.....

Deceased

PETITION FOR TERMINATION OF APPOINTMENT

OF SUPERVISED PERSONAL REPRESENTATIVE

Pursuant to *D.C. Code § 20-1301*, ..., the personal representative(s) of the above estate, request(s) termination of appointment as personal representative(s), and in support thereof, represent(s) to the Court as follows:

1. ..... (was) (were) appointed personal representative(s) of the above estate by order of this Court entered ....., and (is) (are) currently so serving in supervised administration.

2. A request for termination of this appointment (has) (has not) previously been made on the final account approved by this Court (with) (without) formal audit.

3. All creditors' claims have been resolved in accordance with applicable law.

4. The Court has approved the final account of the personal representative(s), and all estate assets have been distributed as stated in that account.

5. Unless previously filed, there are attached to this petition, receipts signed by all of the (heirs) (legatees) of this estate, who are listed below, which receipts reflect all distributions reported in accounts previously approved by this Court: [Name of (heirs) (legatees)]

Wherefore, the personal representative(s) pray(s) for termination of appointment in this estate.

The undersigned personal representative(s) of the estate of ....., deceased, solemnly declare(s) and affirm(s) under penalty of law that the contents of the foregoing document are true and correct to the best of the personal representative's knowledge, information and belief.

.....

.....

Personal Representative(s)

Dated: .....

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition for Termination of Appointment of Supervised Personal Representative, as well as the Notice Accompanying said Petition, has been mailed, postage prepaid, to all [heirs/residuary legatees] and to all creditors who have presented their claims but have not been paid in full, and who are listed below, at their last known addresses, this ... day of ....., 20...

[Names of heirs/residuary legatees and unpaid creditors]

.....

Personal Representative

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

Estate of: Administration No. .....

.....

Deceased.

NOTICE ACCOMPANYING PETITION FOR TERMINATION OF APPOINTMENT OF SUPERVISED PERSONAL REPRESENTATIVE

Enclosed with this notice is a copy of the petition for termination of the appointment of the supervised personal representative(s) of the above captioned decedent's estate.

You should understand that:

1. you have a right to object to the termination of this appointment; any such objection should be specified in writing in accordance with SCR-PD 412 and delivered to the personal representative(s) and to the Probate Division within 20 days of the date on which this notice was mailed to you; and

2. you have a right to request that the Court hold a hearing on this petition; to exercise this right, you must include in the objection referred to above a request for such a hearing.

.....

Personal Representative(s) or
Counsel for Personal Representative(s)
Dated: .....

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
PROBATE DIVISION

/U Estate of: Administration No. .....
.....
Deceased.

ORDER TERMINATING APPOINTMENT
OF SUPERVISED PERSONAL REPRESENTATIVE(S)

Upon consideration of the petition for termination of the appointment of ..... as supervised personal representative(s) of the estate of the above-captioned decedent, pursuant to *D.C. Code § 20-1301*, and it appearing to the satisfaction of the Court that all necessary receipts of heirs or legatees have been filed, that due notice of this petition has been given to all residuary legatees or heirs and all creditors who have presented their claims but have not been paid in full and that no objection has been filed, it is by the Court this ..... day of ....., 20...,

ORDERED that the appointment of ..... as the supervised personal representative(s) of the estate of ....., be and the same hereby is terminated.

.....
JUDGE

Copies to:
.....

D.C. SCR-PD Rule 424

Rule 424. Review of compensation.

(a) Whether administration is supervised or unsupervised, reasonable compensation may be paid to personal representatives, attorneys and other providers of services to or contractors with the estate without prior Court approval. The need for any such employment and the reasonableness of the compensation paid therefor will not be reviewed by the Court except on petition of any interested person who has not consented after fair disclosure and after notice to all interested persons and hearing.

(b) The petition for review of employment of agents and payment of compensation by the personal representative filed pursuant to Probate Rule 412 and any response thereto should address the factors set forth in *D.C. Code § 20-753(b)* and any other factors deemed relevant.

Rule 425. Court costs.

(a) Administration of decedents' estates (testate and intestate; supervised and unsupervised administrations).

The Court costs to be assessed and collected by the Register of Wills in the administration of decedents' estates shall be assessed on the basis of the value of the probate estate, excluding real estate, at the following rates:

(1) Court cost in Probate Proceedings:

Less than $ 500	No cost
$ 500 up to $ 2500	$ 15
$ 2500.01 up to $ 15,000	$ 50
$ 15,000.01 up to $ 25,000	$ 100
$ 25,000.01 but less than $ 50,000	$ 150
$ 50,000 but less than $ 75,000	$ 250
$ 75,000 but less than $ 100,000	$ 350
$ 100,000 but less than $ 500,000	$ 575
$ 500,000 but less than $ 750,000	$ 825
$ 750,000 but less than $ 1,000,000	$ 1,275
$ 1,000,000 but less than $ 2,500,000	$ 1,800
$ 2,500,000 but less than $ 5,000,000	$ 2,300
$ 5,000,000 and over	$ 2,300 plus 0.02% of excess over $ 5,000,000

(2) Court costs attributable to real estate in the District of Columbia.

Additional Court costs in the amount of $ 25 shall be assessed in all standard and abbreviated probate proceedings and special administration proceedings wherein real property or properties in the District of Columbia of whatever value, are carried as a probate asset. If proceeds of the sale of real property are included, or real estate is sold during the estate administration either subsequent to the filing of a waiver of inventories and accounts under Rule 415, or subsequent to the filing of the petition for probate in unsupervised estates, Court costs shall be assessed in accordance with subparagraphs (a)(1) and (3) of this Rule.

(3) Computation of Court costs.

For the purposes of determining initial costs under paragraph (a) of this Rule, the value of the probate estate shall include (i) the initial gross principal value of the assets of the probate estate as determined by the Register of Wills, (ii) the gross value of any increase in the principal value of any probate asset realized upon disposition (other than upon distribution to beneficiaries of the estate) by the personal representative, and (iii) the gross value of any income reported by the personal representative in periodic accounts to the Court, but shall exclude the value of real property in the probate estate except as otherwise provided in paragraph (a)(2) of this Rule. In determining the Court costs upon the audit of subsequent accounts, allowance shall be made for costs previously assessed.

(4) Time of payment.

In a supervised administration, any unpaid costs to be collected by the Register of Wills under this paragraph shall be paid at the time of filing the first account except as otherwise provided herein, or at the time of filing any waiver of inventories and accounts pursuant to Rule 415. Subsequent costs, if any, determined under subparagraph (a)(3) of this Rule shall be assessed and paid at the time of filing each subsequent annual account of the personal representative. Personal representatives who have filed waivers of filing inventories and accounts under Rule 415 and who receive any additional assets shall pay any additional costs incident thereto upon the receipt of the additional assets. In an unsupervised administration, the costs to be collected by the Register of Wills shall be paid at the time of the filing of the

petition for probate. Personal representatives who receive any additional assets shall pay any additional costs incident thereto upon the receipt of the additional assets.

(b) Certified copies of wills and letters.

Upon appointment the fiduciary shall be furnished by the Register of Wills with, where applicable, two certified copies of the will (and any codicils thereto) admitted to probate and 12 copies of letters of administration, without charge.

(c) Miscellaneous charges:

For filing cases substituting trustees and complaints under SCR-PD 107	$ 120
Filing counterclaim, crossclaim, or 3rd party claim	$ 20
For issuing each alias summons	$ 10
For appointment of special process server	$ 5
For taking affidavit or affirmation	$ 1
For additional letters of administration or guardianship and nonresident certificates	$ 1 per copy
For copies of documents	$ .50 per page
For docketing claims	$ 5
For searching records	$ 10
For rule or order to show cause, objections to accounts, miscellaneous motions, etc.	$ 20
For attending safe deposit box opening	$ 25
For institution of proceedings by foreign personal representative (D.C. Code § 20-341 and SCR-PD 427)	$ 25
For certified copy or true copy seal	$ 5
For issuing triple seal	$ 20
For Notice of Appeal	$ 5
For petition for revision of value (D.C. Code § 20-714)	$ 20
For petition for review of Employment of Agents and Compensation of Personal Representatives and Employees of Estate (D.C. Code § 20-753)	$ 20
For petitions for supervised administration (D.C. Code § 20-403)	$ 20
For request for extensions	

(D.C. Code § 20-1301(c))	$ 20
For any petition filed under SCR-PD 412 by one other than the personal representative or special administrator	$ 20
For filing a Notice of Existence of Revocable Trust	$ 25
For filing a Petition For Payment From Trust	$ 20
For filing a Claim against a trust	$ 5

(d) Applicability of Civil Rule 202.

The fees specified in Civil Rule 202 shall apply for items listed therein which are filed in the Probate Division but are not specifically referenced in this Rule.

(e) Assessment and collection.

All Court costs shall be collected by and paid to the Register of Wills at such time or times as the Register of Wills shall direct, except as otherwise specified in paragraph (a) of this Rule.

(f) Review of Court costs.

Following the close of each fiscal year, the Court shall review the Court costs collected by the Register of Wills during such year and shall make such changes, alterations or additions to the foregoing cost schedules as it considers appropriate in the circumstances.

COMMENT:

The probate estate administration proceeding to which reference is made in SCRPD 213(b) and 213(d)(1) does not include a Foreign Estate proceeding.

Rule 426. Certificate of completion.

A Certificate of Completion as provided in *D.C. Code § 20-735*, if filed by the personal representative, shall be in substantially the following format and signed by the personal representative(s).

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

Estate of: Administration No. .....

.....

Deceased.

CERTIFICATE OF COMPLETION

(I) (We), ..., personal representative(s) of the estate of the above captioned decedent's estate, do hereby certify that:

1. The time for the presentation of creditors' claims has expired;

2. All interested persons have been sent a copy of the final account and a notice (a copy of which notice is attached hereto) of each one's right to object within 60 days after such account was sent, and that all claims of that interested person against the personal representative shall be barred unless such an objection is made;

3. Either each interested person has consented in writing to the account as stated, or there was no written objection within the 60-day period described above;

4. Distribution has been made in accordance with such account;

5. All known claims of creditors which are not barred have been fully satisfied or otherwise settled; or if any claim remains undischarged, attach a description of each such claim (including the name and address of the creditor, and the nature and amount of the claim), and indicate for each that either:

(a) The personal representative has distributed the estate subject to possible liability on the part of the distributees with the agreement of those distributees; or

(b) Other arrangements have been made to accommodate all such outstanding liabilities, as set forth in the following detailed explanation:

.....

.....

.....

.....

.....;

6. All statutory allowances and exemptions authorized by the probate order entered in this matter, if applicable, have been paid in full:

( ) Homestead Allowance

( ) Family Allowance

( ) Exempt Property

( ) None required

7. The personal representative has satisfied all administration expenses and other obligations of the estate incurred or authorized by the personal representative, and has otherwise fully administered the estate; and

8. Federal estate tax return is:

(a) ( ) Not required to be filed; or

(b) ( ) Required and has been filed, and:

( ) No tax is due; or

( ) the tax shown on that return, including all applicable interest,

( ) has been paid in full;

and the Internal Revenue Service closing letter:

( ) has ( ) has not been received; and

D.C. estate tax return is:

(a) ( ) Not required to be filed; or

(b) ( ) Required and has been filed, and:

( ) No tax is due; or

( ) the tax shown on that return, including all applicable interest, has been paid in full; and a Certificate of Inheritance and Estate Taxes has been issued by the D.C. Office of Tax and Revenue stating that the estate tax assessed has been paid in full:

( ) has ( ) has not been received; and

9. The following persons or entities listed in the Petition for Probate as Interested Persons are not served with this Certificate because they were not required to be served with a copy of the final account:

.....

.....;

(I) (We) (do) (do not) hereby request termination of (my) (our) appointment as personal representative(s) of said decedent's estate pursuant to *D.C. Code § 20-1301(b)*.

(I) (We) do solemnly declare and affirm under penalty of law that the contents of the foregoing Certificate of Completion are true and correct to the best of (my) (our) knowledge, information, and belief.

.....

.....

Personal Representative(s)

Dated: .....

CERTIFICATE OF SERVICE

I, ..., (a) (the) personal representative of the estate of ....., deceased, do hereby certify that I have caused to be mailed, postage prepaid, to each of the persons and entities listed below, on ....., 20.., a copy of the final account and the corresponding notice described above, as well as a copy of this Certificate of Completion on ....., 20...:

..... [list names and addresses]

.....

.....

.....

.....

.....

.....

Personal Representative

Dated: .....

Rule 427. Notice of appointment of foreign personal representative and notice to creditors.

(a) Publication of notice.

The notice required to be published by a foreign personal representative pursuant to *D.C. Code § 20-343(a)* 1981, shall be in the following form:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
PROBATE DIVISION

FOREIGN NO. .....

.....
(Name of decedent)

NOTICE OF APPOINTMENT OF FOREIGN
PERSONAL REPRESENTATIVE AND
NOTICE TO CREDITORS

....., whose address is ..... was appointed personal representative of the estate of ....., deceased, on ....., 20.., by the ..... Court for ..... County, State of ..... Service of process may be made upon

(insert name and address)

whose designation as District of Columbia agent has been filed with the Register of Wills, D.C.

The decedent owned the following District of Columbia real property: (Strike preceding sentence if no real estate.)

.....
.....

The decedent owned District of Columbia personal property. (Strike preceding sentence if no personal property.)

Claims against the decedent may be presented to the undersigned and filed with the Register of Wills for the District of Columbia, 500 Indiana Avenue, N.W., Washington, D.C. 20001 within 6 months from the date of first publication of this notice. (Strike preceding sentence if no real estate.)

Date of first publication:

.....
.....

(To be signed by personal representative)

Name of newspaper and/or periodical:

.....
.....

.....
TRUE TEST COPY
.....
REGISTER OF WILLS

(b) Submission of notice to Register of Wills.

The notice required to be published pursuant to *D.C. Code § 20-343(a)* and set forth in paragraph (a) of this Rule, shall be submitted in triplicate to the Register of Wills, completed in all respects except as to the date of first publication. The Register of Wills shall fix the date of first publication and forward copies of the notice to the designated newspapers or periodicals.

(c) Designation of agent to accept process.

Contemporaneous with the filing of the notice prescribed in paragraph (a) of this Rule, the foreign personal representative shall file with the Register of Wills a document appointing an agent in the District of Columbia to accept service of process and such document shall be in the following form:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
PROBATE DIVISION
In re: Estate of Administration No. .....
.....
Deceased.
APPOINTMENT OF AGENT TO ACCEPT SERVICE OF PROCESS
I, ..., personal representative of the estate of ....., deceased do hereby designate ..... as my agent, in the District of Columbia, with the mailing address shown below, on whom service of process may be made in like manner and with like effect as if it were personally served on me.
AS WITNESS my hand and seal this ..... day of ....., 20 ...
.....
PERSONAL REPRESENTATIVE
Address .....
Signature of agent in the District of Columbia .....
District of Columbia mailing address of agent .....
.....
(d) Certification of non-filing or release of claims.
Upon the expiration of the period for presenting or filing claims and the filing of proofs of publications pursuant to *D.C. Code § 20-343(a)*, the Register of Wills shall, upon request and if appropriate, issue a certificate stating that the book known as the Claims Against Non-Resident Decedents has been examined and that no claim has been filed, or, that all claims filed have been released.

D.C. SCR-PD Rule 428

Rule 428. Service or notice by publication.

Notices relating to proceedings in the Probate Division of which publication is required shall be published for the prescribed time in at least one legal newspaper or periodical of daily circulation and in any other newspaper or periodical of general circulation of the District of Columbia which has been designated by the Court, by statute, or by the personal representative. However, any notice required in the administration of estates having a value of $ 15,000.00 or less shall be published for the prescribed time in only one newspaper or periodical of general circulation of the District of Columbia. Publication shall be proved by affidavit of an officer or agent of the publisher stating the dates of publication with an attached copy of the order or notice as published. For purposes of this Rule, a legal newspaper or periodical of daily circulation shall mean a publication designated by the Court that is (1) devoted primarily to publication of opinions, notices and other information from the courts of the District of Columbia, (2) circulated generally to the legal community, and (3) published at least on each weekday that the Superior Court is in session.

D.C. SCR-PD Rule 429

Rule 429. Requests for extension of unsupervised personal representative's appointment.

(a) Written requests for extensions of the automatic termination of the appointment of an unsupervised personal representative, which occurs on the date which is three years after that unsupervised personal representative's appointment ("the termination date") pursuant to *D.C. Code § 20-1301(c)*, shall be in substantially the following format, and the order granting such extensions will normally be in the form shown below. The request, when filed, shall be accompanied by a proposed order showing a list of the name and current address of each interested person. No notice to or consent of interested persons shall be required for action on the request.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
PROBATE DIVISION
Estate of: Administration No. .....
.....
Deceased.
REQUEST FOR EXTENSION OF
PERSONAL REPRESENTATIVE'S APPOINTMENT

(I) (we), ..., the personal representative(s) of the estate of ....., deceased, hereby represent(s) to the Court as follows:

(a) No Certificate of Completion has been filed herein;

(b) Said unsupervised personal representative(s) (was) (were) so appointed by the Court on ..... and said appointment, as most recently extended (if at all), will expire on ..... unless (further) extended by the Court; and

(c) The administration of said decedent's estate will not have been completed by such termination date because

.....

Accordingly, the personal representative(s) request(s) that (his) (her) (its) (their) appointment be extended for an additional twelve months, beginning on the expiration date as shown in paragraph (b) above.

.....
.....
Personal Representative(s)

Dated: .....

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
PROBATE DIVISION
Estate of: Administration No. .....
.....
Deceased.
ORDER EXTENDING APPOINTMENT OF PERSONAL REPRESENTATIVE(S)

Upon consideration of the written request filed herein by ....., personal representative(s) of the estate of ....., deceased, for an extension of the appointment of the personal representative(s), it is by the Court this ..... day of ....., 20..,

ORDERED, that the appointment of ..... as the unsupervised personal representative(s) of the estate of ....., deceased, be and hereby is

( ) extended, and the estate shall remain open, for a period of twelve months from ..... [former date of termination], unless otherwise terminated hereafter.

or

( ) extended, for a period of twelve months from the date of this order unless otherwise terminated hereafter, nunc pro tunc from ..... [former date of termination], and the estate shall be deemed to have remained open continuously from that date.

.....

JUDGE

Copies to:

[insert list of names and addresses of all interested persons]

.....

.....

.....

(b) Written requests for extensions should be filed on or before the termination date (as most recently extended), but written requests for extensions filed thereafter may be granted by the Court.

(c) The Court shall enclose, with each interested person's copy of a signed order extending the appointment of a personal representative, a copy of a notice in substantially the following form.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

NOTICE OF EXTENSION OF APPOINTMENT OF PERSONAL REPRESENTATIVE(S)

The appointment of the personal representative(s) of the estate of a decedent is automatically terminated by operation of law on the date which is three years after that personal representative's appointment, unless the appointment is extended upon the request of the personal representative(s). As shown on the enclosed copy of this Court's Order, the appointment of the personal representative(s) of the estate in which you are interested has now been extended.

If at any time you have any questions about something being done during the administration of the estate, you should ask the personal representative(s) or the attorney for the estate. If you do not receive a satisfactory answer, you may consult your own attorney, or you may file a petition for appropriate relief with the Court.

COMMENT:

If the request is filed after the expiration of the personal representative's powers, the Court may apply greater scrutiny to the request.

Rule 430. Motions for reconsideration and other relief from judgment in decedent's estates.

(a) Generally.

Any person who participated in the determination of a trial court ruling, order, judgment or decree, in any matter not initiated by complaint and summons in a decedent's estate proceeding, may seek reconsideration thereof only on the following grounds: (1) the Court failed to consider a material fact or law upon which such matter was based; (2) the emergence of new material facts that could not have been discovered with due diligence or a change of law not previously brought to the Court's attention; (3) there was no discernible basis or reason given for the Court's order; (4) fraud (whether denominated intrinsic or extrinsic), misrepresentation, or other misconduct of another person or entity interested in the proceeding; (5) mistake, inadvertence, surprise or excusable neglect; (6) the order pertains to a matter or matters on which no other interested person or party entered an exception, objection or otherwise contested the issues disposed of therein; or (7) any other reason justifying relief from the operation of the order. The motion shall be filed not later than 30 days after entry of the ruling, order, judgment or decree and prior to the entry of the order approving the final account.

(b) Exceptions to final probate account.

If the Court disposes of an exception to a final probate account through an order approving the final account or contemporaneously therewith, a motion for reconsideration may be made not later than 20 days after the entry of the order approving the final account.

(c) Effect on distribution of estate assets.

If a motion for reconsideration is made in connection with a ruling pertaining to an exception to a final probate account, actions or obligations of the personal representative may be suspended by Court order pursuant to SCR-PD 9 until the motion for reconsideration is disposed of.

(d) Hearing.

The Court may rule on a motion for reconsideration with or without a hearing.

(e) Time.

Notwithstanding any other provision of the Superior Court Rules, the Court may not extend the time for bringing a motion for reconsideration. This Rule does not limit the power of a Court to entertain a motion to relieve a party from a ruling, order, judgment or decree, or to set aside a judgment, for fraud upon the Court.

(f) Clerical mistakes.

Clerical mistakes in a ruling, order, judgment or decree or other parts of the record and errors therein arising from oversight or omission may be corrected by the Court at any time on its own initiative or on the motion of any party and after such notice, if any, as the Court orders. During the pendency of an appeal, mistakes may be corrected before the appeal is docketed in the appellate court, and thereafter while the appeal is pending may be corrected only upon leave of the appellate court.

(g) Relationship to Superior Court Civil Rules.

If this Rule applies, SCR-Civil 59 and SCR-Civil 60 shall not apply.

COMMENT:

Pursuant to District of Columbia Court of Appeals Rule 4, the timely filing of a motion for reconsideration pursuant to this rule suspends the running of the time for filing a notice of appeal.

The mere filing of a motion for reconsideration does not suspend the proceedings or stay the ruling, order, judgment or decree that is the subject of the motion. The Court may enter a separate order pursuant to SCR-PD 9.

If an interested person or party has notice of an account or request for compensation and fails to file an exception to such account or request for compensation within the statutory period, such interested person or party lacks standing to bring a motion for reconsideration of the order approving the account.

This rule is similar to SCR-Civil 59(e) and SCR-Civil 60(b). Modifications have been made to accommodate practice in the Probate Division. It is expected that where provisions of this rule are substantially similar to the civil rules, case law interpreting the civil rules will be applicable to this rule.

"Judgment" as used in this rule includes a decree and any order from which an appeal lies.

Appendix of Forms.

Please select this link to view Probate Rules Appendix of Forms.