



LINCOLN PROBATE COURT

ADMINISTRATIVE RULES

Pursuant to RIGL 33-22-29, the Probate Court of the Town of Lincoln hereby establishes the following local administrative rules:

1. **COURT SESSIONS-** Sessions of the Probate Court are held on the fourth Monday of each month at 9:00 a.m. in the Town Hall, Town Council Chambers, 100 Old River Road, Lincoln Rhode Island. Please call the Court for date if the fourth Monday is a holiday.
2. **COURT CALENDAR-** Counselors are requested to sign the docket in the Town Clerk's office on the morning of the court session; the Clerk's office is open at 8:30 A.M. Cases are heard in the sign-in order (first come, first served) with the exception of contested matters; contested matters are heard at the end of the session.
3. **FORMS-** All petitioners must use the new probate forms as provided by the Rhode Island Office of the Secretary of State (website download) effective June 2017.
4. **COMMUNICATIONS WITH THE COURT-** Communications, except for technical, formal and procedural related inquiries are prohibited in all contested matters. Written communications in any pending probate matter shall be mailed to the Clerk of the Lincoln Probate Court. Please do not contact the private office of the Judge. Request for continuances must be agreed to by all parties in the proceeding whether represented or not; in the absence of an agreement, the party seeking a continuance must request the same at a hearing, with notice, as to the granting of said request.
5. **CONTESTED MATTERS-** Special sessions of the Probate Court will be scheduled at the discretion of the Probate Judge as reasonable necessary to hear contested matters which cannot be completed during regular court sessions. No additional fees or charges will be made for special sessions. (33-22-19.1).
6. **RECORD OF PROCEEDINGS-** At the request of the Court or the parties, a record of the proceedings will be made as follows: by a stenographer provided, scheduled and paid by the attorneys; an electronic recording of the proceedings, provided by the Court; or both.
7. **DISCOVERY-** R.I.G.L. § 33-22-19.2. Hearings in Probate Court – Evidence and discovery shall be applicable for all hearings in the Probate Court. Rule 26 through Rule 37 of Superior Court ("Rules for Discovery") are hereby adopted as the Lincoln Probate Court rules, in those cases where any interested party has requested discovery pursuant to R.I.G.L. § 8-9-17. Discovery rules may be expanded upon leave of the court at a hearing with appropriate notice to the other party(s). Original discovery material (depositions, interrogations and answers thereto, records, etc.) shall not be submitted to the Court except when they are being offered as evidence during a trial of the matter *or* as exhibits to a brief. The time for compliance with discovery orders, etc.

shall be as the Superior Court Rules, unless a different schedule is agreed to by the parties or established with leave of court for just cause and after hearing thereon.

8. **ORDERS-** All orders in contested matters shall first be reviewed and approved by opposing counsel pursuant to R.I.G.L. § 33-22-31 before entry. If no objection is filed within the statutory period, the order shall thereafter enter; objections to orders shall be set for hearing by means of a miscellaneous petition for instructions.
9. **NOTICE TO CREDITORS-** No First and Final Accountings, and no Affidavit of Completed Administration will be accepted by the Probate Court without an affidavit by the fiduciary certifying that notice has been given to all known and easily ascertainable creditors. (33-11-5.1). If the decedent is older than 55 years old, notice of the commencement of a decedent estate, with a copy of the death certificate shall be provided to the **State of Rhode Island Department of Health and Human Services** for all decedent estates. (R.I.G.L.40-08-15(a)).
10. **CLAIMS OF CREDITORS-** Claims shall be filed in accordance with R.I.G.L.33-11 et al. A claim cannot be filed out of time without prior Court approval. No final accounts or affidavits of complete administration will be allowed or accepted unless an affidavit is submitted by or on behalf of the fiduciary in compliance with R.I.G.L. 33-11-5.1, relative to notice to creditors. If a creditor agrees to accept less than the amount of the claim filed; an executed release for the compromised amount shall be filed in the proceeding before the estate can be closed.
11. **ACCOUNTS OF FIDUCIARIES-** All Accounts submitted by a Fiduciary must be certified to by the fiduciary and the attorney representing the fiduciary, or the Certified Public Accountant who prepared the account as required by R.I.G.L. § 33-14-2.2. The Court may, in its discretion, require appropriate detail for any accounts filed. Notice of hearing for Accounts, in addition to advertising, shall be given by regular mail at least ten (10) days before the court hearing of the account to all interested parties or their counsel, unless notice is waived by said parties. Accounts begin on Schedule A with the Inventory or Schedule C balance of the last allowed account. Accounts showing proceeds from the sale of real estate shall be accompanied by a real estate closing settlement sheet. An amended account, if submitted after the original account is advertised, shall not be re-advertised unless the original advertisement was not correct in its description of the account.
12. **ATTORNEY OF RECORD-** All attorneys must file an entry of appearance (PC-9.2) when filing original petitions before the Probate Court.
13. **RULES OF EVIDENCE-** In all contested matters, the Rhode Island Rules of Evidence shall be applied; provided, however, that this section shall not prohibit parties from stipulating or waiving the requirements of the Rules of Evidence as to any particular matter. (33-22-19.2)
14. **INVENTORIES-** Every Administrator and Executor shall within 90 days after his or her appointment return to the Probate Court, under oath, a true inventory of all of the personal property of the deceased in accordance with R.I.G.L. § 33-9-1. Every guardian shall do so within 30 days of his or her appointment. Parties unable to submit inventories within the required times must petition the Court for an extension of time.
15. **AFFIDAVITS OF COMPLETE ADMINISTRATION-** No Affidavit of Complete Administration will be accepted without original releases of beneficiary (including fiduciary of a beneficiary), copies of paid funeral bill and inheritance tax discharge, claim releases, certification that notice has been given to all known or easily located creditors, and current filing fee.
16. **FEES FOR FIDUCIARIES-** In ruling on a petition for approval of fiduciary fees, the Court shall consider, but not require, approval by the beneficiaries/heirs at law or persons entitled to

notice in the filing of a petition for guardianship; the same procedures relative to notice, detail, etc. as established for attorney and accountant fees shall apply for fiduciaries.

17. **DECISION MAKING ASSESSMENT TOOLS-** No petition for the appointment of a limited guardian, temporary guardian, or guardian will be considered by the Probate Court unless a Decision Making Assessment Tool, signed by a licensed physician, has been presented to the Court at the time of the filing of the petition.
18. **GUARDIANS AD LITEM-** Pursuant to R.I.G.L. § 33-15-7 Guardians as litem shall be appointed from a list of qualified attorneys kept in the office of the Probate Clerk, and approved by the Probate Judge. All Guardian ad Litem reports must be submitted on the standard form provided in R.I.G.L. § 33-15-47. Fees for Guardians as Litem will be limited to the State of Rhode Island Maximum unless additional fees are authorized by the Probate Judge for cause shown. The Guardian Ad Litem must supply itemized bill and report 1 week prior to court hearing date. If you would like to be placed on the Guardian ad litem list, you should forward your resume and/or credentials to the Probate Clerk for the Judge's review, consideration, and approval.
19. **CHANGE OF NAME-** A (BCI) Bureau of Criminal Investigation check is required for all persons petitioning for a name change. If there is a criminal record, the Probate Judge will exercise his discretion as to the name change on a case-by-case basis. A petition for change of name other than a minor requires notice by publication unless otherwise ordered by the court.
20. **PROBATE JUDGE-**Pursuant to Section 15-1-2 Acting Judge of Probate, of the Charter of the Town of Lincoln, whenever the Judge of Probate Court is a party or interested in any proceeding about to be heard in Court, or is absent or unable to perform the duties, or there is a vacancy in such office, duties shall be temporarily performed by the Town Solicitor, or any assistant Town Solicitor. The fact of any such interest, absence, inability or vacancy shall be recorded in the records of the Probate Court.



Karen Allen

Clerk of the Probate Court

Town of Lincoln, Rhode Island



Stephen M. Miller

Judge of the Probate Court

Town of Lincoln, Rhode Island

Effective July 25, 2017