

**TOWN OF WEST GREENWICH  
PROBATE COURT  
RULES OF PRACTICE AND PROCEDURE**

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

1. COURT SESSIONS – Sessions will normally convene at 6:30 p.m. on the second Wednesday of each month, unless that day is a legal holiday. Court sessions are held in the Town Hall, Council Chambers, 280 Victory Highway, West Greenwich, Rhode Island. The Court reserves the right to meet on a different day as necessary.

2. COURT CALENDAR- Counsel are requested to sign the docket in the Town Clerk’s Office on the day of the court session. Cases are heard in the sign- in order except that contested matters are heard at the end of the session.

3. CONTESTED MATTERS – Special sessions of the Probate Court will be scheduled as reasonable necessary to hear contested matters which cannot be completed during regular court session by the Probate Judge. There will be no additional fees or charges for special sessions. (33-22-30)

4. FILING FEES/ DEADLINE – No matter will be heard unless and until all fees currently due have been paid. Check should be made payable to the “Town of West Greenwich.” Matters which must be advertised should be filed and the requisite fee paid not later than Wednesday of the week prior to the week that publication is to occur. Publication will be in the Kent County Daily times, three times prior to the hearing. All matters on waiver shall be filed at least 48 hours prior to the hearing date.

5. ELECTRONIC RECORDINGS

a. Electronic recordings of any court proceeding will be made by the Court at the request of the Probate Judge or any party thereto by electronic tape recording (33-22-19.1). Parties, may, however, have court proceedings transcribed by authorized court stenographers at their own expense.

b. The Probate Court shall, upon written request, permit parties to produce written transcriptions from electronic tape recordings. Copies of tapes will be made available at \$5.00 per tape.

c. Electronic tape recordings of hearing will be kept in accordance with the records retention schedule.

6. COURT DECISIONS – Every decision of the Probate Court shall be reduced to a written order or decree presented at the time of the hearing, or by the prevailing party within a reasonable time thereafter. (33-22-31)

7. NOTICE TO CREDITORS – No First and Final Accountings and no Affidavits of Complete 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)

8. CERTIFICATION OF CHARGES – No Accounting will be accepted by the Probate Court Clerk unless accompanied by a certification from the attorney for the estate substantially in the form set forth in Section 33-14-2.2 or copies of all cancelled checks or other documents evidencing charges, losses, or payment set forth in said account. There will be no exceptions. The Probate Judge may request additional evidence. (33-14-2)

9. GUARDIANSHIPS – No petition for limited guardian, guardian or temporary guardian will be heard by the Probate Court unless notice has been given to the prospective ward at least 14 days prior to the hearing in the case of limited guardians and guardians or five days in case of temporary guardians, unless a shorter period is approved by the court upon motion by the petitioning party.

10. 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, initial assessment signed by a licensed physician, has been presented to the Court at least three days before the hearing.

11. GUARDIANS AD LITEM – Guardians ad litem shall be appointed from a list of qualified attorneys kept in the office of the Probate Clerk and approved by the Probate Judge. Attorneys filing a Guardianship petition can select a Guardian ad litem from the court list or the Probate Court will make the selection. All Guardian ad litem reports must be submitted on the standard form provided in RIGL 33-15-47. Fees for Guardians ad litem shall be limited to a maximum of \$350.00 unless additional fees are authorized by the Probate Judge for cause shown. Guardian ad litem must supply an itemized bill. In order to be added to the Guardian ad litem list, requesting attorneys must submit a sample Guardian ad litem report and a copy of the face sheet of their malpractice insurance in effect at the time.

12. COMMISSIONS – Commissioners appointed by the Court to hear disallowed claims pursuant RIGL 33-11-66 shall be selected by agreement of the attorneys for the claimant and the estate with the approval of the Probate Judge. In the event that attorneys cannot agree on a Commissioner, selection will be made by the Probate Judge.

13. RULES OF EVIDENCE- In all contested matters, the Rhode Island Rules of Evidence shall be applied; however, 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 RIGL 33-9-1. Every guardian shall do so within 30 days of his or her appointment. (RIGL 33-15-19) Requirements for inventories will be strictly enforced. Parties unable to submit inventory with 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 legatees (including fiduciary if a legatee) copies of paid funeral bill and inheritance tax discharge, claim released, certification that notice has been given to all known or easily located creditors, and payment of current fees. Affidavits of Complete Administration and Small Estate Affidavits will not appear on the court docket, but will be handled administratively within the Probate Clerk's Office.

16. ATTORNEY'S/ FIDUCIARIES FEES- Affidavit of time spent, work done and hourly rate for attorneys and fiduciaries are required as part of accountings. Forms shall be kept on file in Probate Clerk's office. Attorneys functioning as fiduciaries are not entitled to bill their professional rate on work done as a fiduciary, for matters which are merely administrative or clerical. Fees for services as Guardian shall not exceed \$25.00 or hour absent compelling circumstances.

17. FORMS- Use of State forms is mandatory.

18. CHANGE OF NAME – A criminal record check through the West Greenwich Police Department will be condition of all persons petitioning for a name change. If there is a criminal record the Probate Judge will exercise his or her discretion regarding approval of the name change on a case by case basis.

19. PROBATE JUDGE – Pursuant to ARTICLE VI, section 608 of the Charter of the Town of West Greenwich, in the absence, disability, or disqualification of the judge of probate so that he is unable to fulfill his duties, or there is a vacancy in such office, the Council may make a provision for a deputy or alternate to serve as judge in the absence or inability of the Probate Judge; and when so serving, the acting judge of probate shall have and exercise all the power and duties of the judge of probate.