

Rule 4.1. Cases

Probate matters include those matters set forth in Rule 1 of the Arizona Rules of Probate Procedure, Adult Adoptions, and Title 36 mental health cases. Sections 3-301, *et seq.* of the Arizona Code of Judicial Administration are also applicable in probate matters. The Code of Judicial Administration is available at <https://www.azcourts.gov/AZ-Supreme-Court/Code-of-Judicial-Administration>.

Rule 4.2. Presiding Probate Judge

The Presiding Judge of the Probate Division is charged with all cases specified in Pima County Local Rule 4.1. All such matters are active cases until an order is entered closing the file or the Probate Registrar issues a closing certificate.

Rule 4.3. Administrative Directives; Approval of Forms; Informational Guides

(A) Administrative Directives. The Presiding Judge of the Probate Division may adopt administrative directives for the probate division not in conflict with rules or policies adopted by the Arizona Supreme Court, Court Administrator, and Clerk of the Court, which provide for the orderly processing of probate cases. A copy of the administrative directives shall be available to the public at the clerk's office of the Pima County Superior Court, and the Pima County Law Library.

(B) Forms; Guides. Forms approved by the Arizona Supreme Court and informational guides are available at <http://www.azcourts.gov>. Additional forms from the Arizona Superior Court in Pima County website are available at <http://www.sc.pima.gov> under the Self-Service Forms tab for Probate Court/Guardianship.

Rule 4.4. Caption of Pleadings; Consolidation

(A) Caption of Pleadings. In addition to the requirements of Rule ~~5~~ 7, Arizona Rules of Probate Procedure, the caption of pleadings must contain the date of birth of the decedent, minor, protected person, or incapacitated person.

(B) Consolidation. When there are two or more petitions relating to the estate of the same decedent or the guardianship or conservatorship of the same ward, all the petitions must, except for good cause shown, be consolidated in the file bearing the lowest file number.

Rule 4.5. Fiduciary Information; Change of Address

(A) Fiduciary Information. Form for Notice of Change of Address can be found at the Arizona Superior Court in Pima County website at <http://www.sc.pima.gov/> under the Self-Service Forms tab for Probate Court/Miscellaneous Guardianship.

(B) Change of Address. During the term of the appointment, every fiduciary must immediately notify the Court in writing of a change of mailing address. An attorney representing a fiduciary must inform the client of this requirement. The Notice of Change of Address notice must be either:

- (1) Delivered personally to the Probate Division of the Clerk of the Court; or
- (2) Sent by first class mail, postage prepaid, to the following address: Clerk of the Superior Court, Probate Division, Pima County Court, 110 W. Congress, Tucson, Arizona 85701.

A separate notice shall be filed for each case in which the fiduciary holds appointment.

(C) Sanctions for Failure to Notify of Change of Address. Failure to notify the Court of the fiduciary's change of address may result in sanctions which may include any of the following:

- (1) An order requiring payment of all costs to the Court or the estate which result from the failure to notify the Court;
- (2) Removal of a fiduciary; or
- (3) Issuance of an arrest warrant for the fiduciary if the fiduciary cannot be readily located.

Rule 4.6. Assignment of Cases

All probate matters will be assigned by the Clerk of the Court, Probate Division, to the Probate Court Commissioners, except the following which are to be assigned to the Probate Presiding Judge:

- (A) Emergency or temporary guardianship/conservatorship petitions relating to adults;
- (B) Contested matters unless otherwise ordered by the Presiding Probate Judge;
- (C) Request for injunctive relief; and
- (D) Any matter referred by the Probate Commissioners or the Presiding Probate Judge for reassignment.

Rule 4.7. Uncontested Matters and Matters Becoming Contested

~~Unless a different time is set by the Court, Uncontested probate matters will be heard by probate court commissioners. Mondays, Tuesdays, Wednesday, and Thursdays at 9:00 a.m., 9:30 a.m., 10:00 a.m., and 10:30 a.m. Order to Show Cause hearings will be heard at 11:00 a.m.~~ Upon the matter becoming contested, as defined in Pima County Local Rule 4.8, the Court Commissioner will assign the matter to the Presiding Probate Judge for all further proceedings.

Rule 4.8. Contested Matters

In addition to those matters in Rule 27, Arizona Rules of Probate Procedure, a contested probate matter includes any of the following:

- (A) A request for injunction;
- (B) An Order to Show Cause arising under Title 14, Arizona Revised Statutes;
or
- (C) A civil complaint filed in a probate proceeding.

Rule 4.9. Reference and Assignment of Contested Matters

All contested matters referred to in Pima County Local Rule 4.8 will be assigned for trial before the Presiding Probate Judge. In the Presiding Probate Judge's discretion, such matters may be reassigned to a probate commissioner or judge pro tempore.

Rule 4.10. Form, Content and Captions

All pleadings and motions in contested probate matters, including but not limited to petitions, objections, oppositions, complaints and answers, must conform to the Arizona Rules of Probate Procedure and the Arizona Rules of Civil Procedure. In a contested probate matter, a separate caption showing the parties to the dispute must be set forth beneath the original caption and must be filed under the assigned probate case number.

Rule 4.11. Hearings and Oral Argument

(A) Notice of Hearing; Oral Argument; Evidentiary Hearing; M Book or Submitted Motions. The requirements for a Notice of Hearing are set forth in Rule 16 ~~9~~, Arizona Rules of Probate Procedure. The following requirements are in addition to those set forth in Rule 16 ~~9~~:

- (1) If oral argument or an evidentiary hearing is desired, the parties are required to follow the dictates of Pima County Local Rule 2.5~~9~~ entitled "Oral Argument, Notice of Hearing, Submitted Motions";
- (2) If the party submitting the Notice of Hearing is requesting oral argument and/or an evidentiary hearing, the Notice of Hearing must so state;
- (3) Any Notice of Hearing for an appearance hearing must provide the Court with an estimated amount of time necessary for the hearing. Otherwise, the Court will set the hearing for as few as 5 minutes; and
- (4) Failure to submit a Notice of Hearing to the assigned Division at the time of filing a Petition or moving paper or any document in opposition thereto or failure to request oral argument and/or an evidentiary hearing within the Notice of Hearing will result in the matter being placed on the Court's "M

Book” Calendar and will be decided by the Court ~~had~~ as proscribed in (B) below without oral argument/evidentiary hearing unless the Court orders otherwise.

(B) M Book Calendar; Submitted Motions. Matters placed on the Court's M Book Calendar will be decided on the papers submitted unless otherwise ordered by the Court.

(C) Non-Appearence Calendar.

(1) Each Probate Court Commissioner and Probate Judge will maintain a non-appearance calendar. Any uncontested matter except the appointment of a guardian or conservator may be heard on the non-appearance calendar unless the Court notifies the filing party that an appearance is required.

(2) A proposed form of order or judgment must be submitted with the documents relating to the non-appearance hearing.

(3) Non-appearance hearings are set for 8:55 a.m. on the appointed date unless otherwise ordered by the Court.

(D) Setting Dates. Each Probate Court Commissioner and Probate Judge will set the date and time for hearings on matters assigned to their Division. Except for emergencies, requests for injunctive relief, or as otherwise provided for under the Arizona Rules of Civil Procedure, the hearing date shall not be fewer than 21 days from the filing date of the applicable pleading, absent good cause.

(E) Continuances. Requests for continuances may be made as follows:

(1) Filing a motion to continue, a proposed order, notice of hearing, and proof of notice to all interested persons entitled to notice by statute, rule, or court order;

(2) Filing a written stipulation of all necessary parties and persons requesting notice, and a proposed order; or

(3) Making an oral request at the hearing.

(F) Form and Proof of Notice.

(1) Proof of Notice of any document or item filed with or provided to the Court is required.

(2) If the form of Proof of Notice is set forth by statute or court rule, that form must be followed. The rules applicable to captions and other matters of form of pleadings apply to all proofs of notice provided by this rule.

(3) If the form of proof of notice is not set forth by statute or court rule then proof of notice must be made by one of the following methods and must be signed by the person effectuating service:

(a) By filing a separate document in the matter entitled “Proof of Notice” which contains a description of the documents or things filed and served, the time and manner of service, and the name and service address of every noticed person; or

(b) By certification of service/notice as set forth in Rule 5, Arizona Rules of Civil Procedure, which includes the time and manner of service, and the name and address of every noticed person.

The proof of notice or certification must identify any noticed person who is known by the party to be a minor or a person under disability and, as to such person, state whether notice was given to the guardian, conservator, or court-appointed attorney of the person.

(G) Waivers of Notice. In addition to the requirements of Rule ~~14~~ 10, Arizona Rules of Probate Procedure, matters in which notice has been waived may be presented for approval to the Presiding Probate Judge or a Probate Court Commissioner who will set the matter for hearing without the requirement of notice. Such matters will be set and considered as time permits. If a matter is time sensitive, the petition or motion must identify the time constraint. If all required waivers of notice, stipulations, and consents are filed with the petition or motion, the Court may grant the requested relief without further delay. In such cases, the party seeking relief must mail or deliver a copy of the order to all interested persons upon receipt and file proof of notice thereof, within a reasonable time not to exceed 14 days.

(H) Compensation of Attorneys and Fiduciaries. In all matters filed in court related to compensation of fiduciaries, attorneys, and court-appointed investigators, the party requesting compensation or approval of compensation must file a verified, detailed statement of the services rendered and the time involved as required by statute, rule and applicable case law. This Rule does

not apply to claims against Pima County for a Pay Order; such claims must adhere to Pima County's billing requirements.

Rule 4.12. Motions to Withdraw as Counsel

In addition to Rule 5.3, Arizona Rules of Civil Procedure, and Rule 31(b) ~~10(D)(2)~~, Arizona Rules of Probate Procedure, regarding withdrawal of counsel, no attorney will be permitted to withdraw as attorney of record after an action has been set for trial, an evidentiary hearing or oral argument, unless either of the following is satisfied:

(A) There is endorsed upon the application therefore either the signature of a substituting attorney stating that such attorney is advised of the date of the hearing or trial and will be prepared for same or the signature of the client stating that the client is advised of the date of the hearing or trial and has made suitable arrangements to be prepared for same; or

(B) The Court is satisfied for good cause shown that the attorney should be permitted to withdraw.

Rule ~~4.17~~ 4.13 Settlement Conferences

(A) Settlement conferences are not mandatory in probate matters and are governed by Rule ~~229~~, Arizona Rules of Probate Procedure.

(B) The Probate Presiding Judge will compile a list of attorneys qualified and willing to serve as judges pro tempore for purposes of presiding over and facilitating settlement conferences.

(C) Any attorney included on the list of judges pro tempore for the probate settlement conferences may, upon the attorney's request, be deleted from the Court's list of persons subject to appointment as arbitrators pursuant to Rule 73, Arizona Rules of Civil Procedure.

Rule ~~4.13~~. 4.14 Guardian of Minor, Fingerprints

Where the proposed guardian of a minor is required to be fingerprinted pursuant to Arizona Revised Statutes § 14-5206, the proposed guardian must be fingerprinted promptly after filing the petition for appointment of guardian of a minor. Information about the fees and the procedure for fingerprinting may be obtained by contacting the Clerk of the Court or on Arizona Superior Court in Pima County website at <http://www.sc.pima.gov> under the Self-Service Forms tab for Probate Court/Minor Guardianship. ~~Rule 21, Arizona Rules of Probate Procedure, contains further requirements.~~

Rule 4.15 ~~4.14~~.—Court Order Appointing Attorney, Medical Examiner, and Investigator

In addition to the requirements of Rule 41 ~~19~~, Arizona Rules of Probate Procedure, in any proceeding in which a court-appointed attorney, medical examiner, or investigator is requested:

(A) The petitioner must submit a form of order with the name and address for the attorney and investigator left blank for completion by the Court or Probate Registrar.

(B) The petitioner must include in the form of order the name and address of the medical examiner.

(C) The party seeking the order of appointment must:

(1) Immediately inform the court-appointed attorney, medical examiner and investigator of their appointment; and

(2) Also mail or deliver a copy of the order of appointment to the court-appointed attorneys, medical examiner and investigator within 2 days after the order is signed.

(D) The Presiding Probate Judge will maintain a rotating list of court-appointed attorneys and court-appointed investigators for Title 14 and Title 36 matters. For good cause shown, the Court may appoint an attorney or investigator other than those on the rotating list.

Rule ~~4.15~~ 4.16 Temporary Appointment of Guardian or Conservator

When petitioning for an emergency appointment of temporary guardian of an adult or conservator of a minor or adult, the petitioner must submit conformed copies of the petition and all required pleadings to the Presiding Probate Judge, or in the absence of the Presiding Probate Judge, to the Probate Registrar, unless otherwise ordered or directed.

Rule 4.17. ~~4.16~~ Appointment of Attorney

If the rights of an unrepresented minor may be compromised because the minor is unrepresented, the Court may appoint an attorney to represent the minor.

Rule 4.18. Review of Pending Decedents' Estates; Status Report

(A) Completion; Verification. At the time a personal representative or special administrator is appointed, the Court will order the fiduciary to file a status report between 60 and 30 days before the second anniversary of the appointment and set a review hearing on the non-appearance calendar to review any status report filed by the fiduciary or the fiduciary's counsel.

(B) Status Report. The status report must include the following:

- (1) Reasons why the estate has not been closed;
- (2) Tasks remaining to be completed;
- (3) Distributions to beneficiaries;
- (4) Inventory of assets remaining;
- (5) Status of insurance and taxes on assets, if applicable;
- (6) Name and address of unpaid creditors including amounts owed; and
- (7) Estimated time for completion of the estate administration.

The personal representative must mail a copy of the status report to all interested persons no later than 30 days before the review hearing and must file proof of notice with the Court.

(C) Early Completion. The procedure described in Pima County Local Rule 4.18~~9~~ must be followed on each subsequent anniversary of the appointment until the estate is closed unless otherwise ordered by the Court. If the estate is closed before any status date, the status and compliance hearing dates shall be vacated.

(D) Noncompliance. For failure of the fiduciary or the fiduciary's counsel to comply with this rule, a judge or commissioner of the probate division may make such order as permitted by law, including, but not limited to, the following: (1) removal of the fiduciary (2) taxation of costs and/or attorneys' fees then or subsequently incurred; or (3) imposition upon either counsel or the fiduciary of further sanction or penalty provided by statute, rule or authority of the Court, including contempt of court.

~~Rule 4.19. Mental Health Hearing Calendar~~

~~Hearings pursuant to Chapter 5, of Title 36, Arizona Revised Statutes, entitled "Mental Health Services," will be conducted at such times and places as may be designated by the Presiding Judge of the Probate Division. Such hearings will be conducted by Probate Court Commissioners unless otherwise directed by the Presiding Probate Court Judge.~~

~~Rule 4.20. Hearings~~

~~(A) Length of Hearing. Hearings on petitions for court ordered treatment or continued court ordered treatment will not exceed one hour unless otherwise ordered by the Court on its own motion or for good cause upon a party's request. Any request by a party for an extended hearing must be submitted not later than 2 days before the hearing.~~

~~(B) Hearings Open to Public. Hearings on petitions for court ordered treatment will be open to the public, unless otherwise ordered by the judicial officer presiding over the hearing, and must conclude by 5:00 p.m., except as otherwise ordered.~~

~~(C) Stipulations to Continue or Expedite Hearing. Any stipulation of the parties to continue a hearing on a petition for court ordered treatment, or any~~

~~request to expedite the hearing, must be filed not later than noon on the day before the hearing.~~

~~(D) Motions. Any motion hearings related to mental health cases must be scheduled at the earliest available hearing date. If the hearing on the motion cannot be set by the Court within 2 business days after filing of the motion, the Court may conduct a **virtual or** telephonic hearing with counsel to expedite scheduling the hearing on the motion or, alternatively, to hear the arguments on the motion telephonically **or virtually**. Unless otherwise ordered by the Court, no motion hearing may exceed 30 minutes.~~

~~(E) Changes Affecting Court Calendar. All matters, including stipulations, which affect the court calendar must be approved by the division to which the case is assigned and must be submitted not later than noon on the day before the hearing, unless the Court approves otherwise.~~

~~(F) Written Testimony. By stipulation of the parties, witness testimony at hearings may be presented by written testimony in lieu of oral testimony.~~

~~(G) **Virtual or** Telephonic Testimony. The judicial officer assigned to the hearing, for good cause, may allow telephonic **or virtual** testimony of a witness at a hearing on a petition for court ordered treatment. Any such request by either party must be promptly presented to the judicial officer presiding over the hearing and opposing counsel.~~

~~Rule 4.21. Disclosure of Witnesses and Exhibits~~

~~Each party must comply with the following disclosure requirements:~~

- ~~(A) Each party must promptly exchange a list of all witnesses, including their names and telephone numbers;~~
- ~~(B) Each party must promptly exchange a list of all exhibits;~~
- ~~(C) Such disclosure must be made not later than 2 days prior to the time of the hearing; and~~
- ~~(D) Each party shall promptly supplement the witness and exhibit list whenever a new witness or exhibit is discovered.~~

~~Rule 4.22. Confidentiality of Files~~

~~(A) Pursuant to A.R.S. § 36-509, the Clerk of the Court or court staff must limit access to mental health files and must disclose only the following information:~~

- ~~(1) That a mental health file exists for any named individual;~~
- ~~(2) The number of that file;~~
- ~~(3) Any scheduled hearing date; and~~
- ~~(4) The time and place of the hearing and the name of the judicial officer assigned to preside at that hearing.~~
- ~~(B) The court docket shall list the docket number only, which must remain public.~~
- ~~(C) Access to the contents of a mental health file must not be allowed except in compliance with A.R.S. § 36-509.~~
- ~~(D) If the Clerk of the Court or court staff is uncertain whether a person requesting information or access is entitled to the same under A.R.S. § 36-509, the person must be referred to the Presiding Judge of the Probate Division.~~
- ~~(E) Transfer to the State Hospital. If the Department of Health Services does not admit a person court ordered to the Arizona State Hospital within 20 days after the entry of the court order for transfer, the county attorney's office must~~

~~file written notice thereof with the Court with a copy to the judicial officer who presided over the hearing. The judicial officer may set a hearing to determine the status of the patient's admission to the Arizona State Hospital and whether alternatives to admission to the Arizona State Hospital exist at that time. The Court may designate the hearing as either evidentiary or non-evidentiary.~~