

Minnesota General Rules of Practice for the District Courts

Provided by the Minnesota Supreme Court Commissioner's Office

TITLE V. PROBATE RULES

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Rule 401. Applicability of Rules

Rules 401 through 416 apply to all Probate proceedings.

Task Force Comment--1991 Adoption

Rules 401 through 416 are the Minnesota Probate Rules recodified, but not otherwise significantly changed. [Rule 401](#) is a new rule intended to make it clear what actions are governed by these rules.

Rule 402. Definitions

(a) **Formal Proceedings.** A formal proceeding is a hearing conducted before the court with notice to interested persons. Formal proceedings seek a judicial determination.

(b) **Informal Proceedings.** An informal proceeding is conducted by the judge, the registrar, or the person or persons designated by the judge for probate of a will or appointment of a personal representative. Informal proceedings seek an administrative determination and not a judicial determination and are granted without prior notice and hearing.

(c) **Supervised Administration.** Supervised administration is a single, continuous, in rem proceeding commenced by a formal proceeding.

(d) **Code.** The code is the Uniform Probate Code as adopted by the State of Minnesota.

Rule 403. Documents

(a) **Preparation of Original Documents.** It shall be the responsibility of lawyers and others appearing before the court or registrar to prepare for review and execution appropriate orders, decrees, statements, applications, petitions, notices and related documents, complete and properly drafted, to address the subject matter and relief requested.

(b) **Official Forms.** The official forms adopted by the Minnesota District Judges' Association or promulgated by the Commissioner of Commerce shall be used.

(c) **Documents and Files.** The court shall make its files and records available for inspection and copying. No file, or any part thereof, shall be taken from the custody of the court, except the original court order required to be displayed to an individual or entity when the order is served. A document or exhibit which has been filed or submitted in any proceeding can thereafter be withdrawn only with the permission of the court. Any document which is written in a language other than English shall be accompanied by a verified translation into the English language.

(d) **Verification of Filed Documents.** Every document filed with the court must be verified as required by the code, except a written statement of claim filed with the court administrator by a creditor or a pleading signed by the lawyer for a party in accordance with the Minnesota Rules of Civil Procedure.

Probate Committee Comment*

The court will accept photocopies of forms if the copies are made by a process that is permanent, on hard stock paper, are free of smudges and otherwise clearly legible and have been reproduced in the same length as the original form and prescribed type size. In using photocopies of forms in courts that are not utilizing a flat file system, the case heading and nomenclature must appear on the outside of the form when folded appropriately for permanent filing.

****Original Advisory Committee Comment--Not kept current.***

Task Force Comment--1991 Adoption

The change in this rule is made to reflect the new title of the office formerly known as Commissioner of Securities. See Minnesota Statutes, section 80A.14, subdivision 5 (1990).

Rule 404. Notice in Formal Proceedings

(a) General Notice Requirements. In all formal proceedings notice of a hearing on any petition shall be given as provided in the code after the court issues the order for hearing. Where mailed notice is required, proof of mailing the notice of hearing shall be filed with the court administrator before any formal order will issue. Mailed notice shall be given to any interested person as defined by the code or to the person's lawyer. Where notice by personal service or publication is required by the code, proof of personal service or publication shall be filed with the court administrator before the formal order will issue.

(b) Notice of Proceedings for Determination of Testacy and Appointment of Personal Representative. In proceedings which adjudicate testacy, notice of the hearing on the petition shall be given after the court administrator issues the order for hearing. Proof of publication of the order for hearing, in accordance with the code, shall be filed with the court administrator before the order will issue. In proceedings for the formal appointment of a personal representative, the same notice requirements shall pertain except notice by publication shall not be required if testacy has been previously determined. Where creditors claims are to be barred, the published notice shall include notice to creditors.

Mailed notice shall be given to all known heirs-at-law, all devisees under any will submitted for formal probate and all interested persons as defined by the code or ordered by the court and shall include in appropriate cases the attorney general, foreign counsel and lawyers representing the interested persons.

Mailed notice shall be given to the surviving spouse of the following rights:

(1) The right to receive the decedent's wearing apparel, furniture and household goods and other personal property as provided in the code or by law.

(2) The right to receive maintenance payments during administration of the estate as provided in the code or by law.

(3) The right to take an elective share of one-third of the augmented estate as provided in the code and the homestead as provided in the code or by law.

(c) **Waiver of Notice in Formal Proceedings.** Except in proceedings governed by subdivision (b) of this rule, an interested person may waive notice of any formal proceeding in accordance with the code. The written waiver shall evidence the person's consent to the order sought in the proceeding.

Probate Committee Comment*

Publication required by this notice must be completed prior to the hearing date.

****Original Advisory Committee Comment--Not kept current.***

Rule 405. Interim Orders

(a) **Interim Orders Available From Court Only.** The court has no power to intervene in any unsupervised administration unless a formal petition invoking the court's authority is filed by an interested person.

The court or registrar does not have authority to issue ex parte interim orders in unsupervised proceedings except that the registrar may issue the certificate of discharge provided for in the code.

In supervised administration, the court may issue ex parte orders only for strong and compelling reasons.

Probate Committee Comment*

Determinations by the registrar are informal and do not bring the estate or interested persons under the supervisory authority of the court. A personal representative appointed in informal proceedings may petition the court for a formal determination as to any matter within the jurisdiction of the court. It may also be necessary to seek the formal determination of the court as to the admissibility of a will, determination of heirship, or other matters as a condition precedent to obtaining the requested relief.

****Original Advisory Committee Comment--Not kept current.***

Rule 406. Uncontested Formal Proceedings

(a) **Uncontested Formal Proceedings; Hearings and Proof.** The court shall call the calendar in open court for all hearings set for a designated time. If a petition in a formal proceeding is unopposed, the court will enter in the record the fact that there was no appearance in opposition to the petition and that no objection has been filed with the court. Thereupon, the court shall:

(1) Make its determination after conducting a hearing in open court, requiring appearance of petitioner and testimony or other proof of the matters necessary to support the order sought; or

(2) Make its determination on the strength of the pleadings without requiring the appearance of petitioner or of petitioner's lawyer and without requiring testimony or proof other than the verified pleadings; or

(3) Make its determination based on such combination of (1) and (2) above as the court in its discretion deems proper.

In any uncontested formal proceeding, the court shall determine that (i) the time required for any notice has expired; (ii) any required notice has been given; (iii) the court has jurisdiction of the subject matter; (iv) venue is proper; and (v) the proceeding was commenced within the time limitations prescribed by the code as a prerequisite to determining other issues presented to the court for determination in the proceeding. The court shall be satisfied that the pleadings and any other proof presented support the order sought in any uncontested formal proceeding.

Rule 407. Appointment

(a) **Nomination and Renunciation.** When two or more persons have equal or higher priority to appointment as personal representative, those who do not renounce must concur in writing in nominating another to act for them, or in applying for appointment. In formal appointment proceedings, concurrence by persons who have equal or higher priority is presumed after notice has been given unless a written objection is filed.

(b) **Nonresident Personal Representatives.** The court or registrar may appoint a nonresident personal representative.

Rule 408. Informal Proceedings

(a) **Contents of the Application.** Application for informal probate or appointment proceedings shall contain information required by the code and the approximate value of the following categories of assets:

Probate Assets

Homestead \$ _____

Other Real Estate \$ _____

Cash \$ _____

Securities \$ _____

Other \$ _____

Non-Probate Assets

Joint Tenancy \$ _____

Insurance \$ _____

Other \$ _____

Approximate Indebtedness \$ _____

In all estate proceedings, whether testate or intestate, the application must contain a statement that specifically eliminates all heirs or devisees other than those listed in the application.

Probate Committee Comment*

Examples

(These are not intended to be exhaustive)

The statements will necessarily vary, depending upon who survives the decedent, and must close out any class affected:

(1) *Where only the spouse survives, the application should state "That decedent left no surviving issue, natural or adopted, legitimate or illegitimate."*

(2) *Where only children survive, the application should state "That the decedent left surviving no spouse; no children, natural or adopted, legitimate or illegitimate, other than herein named; and no issue of any deceased children."*

(3) *Where the spouse and children survive, the application should state “That the decedent left surviving no children, natural or adopted, legitimate or illegitimate, other than herein named and no issue of any deceased children.”*

(4) *Where only brothers or sisters of decedent survive, the application should state “That the decedent left surviving no spouse; issue; parents; brothers or sisters other than herein named; and no issue of deceased brothers or sisters.”*

(5) *Where only first cousins survive, the application should state “That the decedent left surviving no spouse; issue; parents; brothers or sisters or issue thereof; grandparents; aunts or uncles; and no first cousins other than herein named.”*

(6) *In all cases, the application should state either:*

(a) That all the heirs-at-law survived the decedent for 120 hours or more; or

(b) That all the heirs-at-law survived the decedent for 120 hours or more except the following: (name or names).

(7) *In all cases where a spouse and children survive, the application should state either:*

(a) That all of the issue of the decedent are also issue of the surviving spouse;
or

(b) That one or more of the issue of the decedent are not also issue of the surviving spouse.

****Original Advisory Committee Comment--Not kept current.***

(b) Will Testimony. The registrar shall not require any affidavit or testimony with respect to execution of a will prior to informal probate if it is a self-proved will or appears to have been validly executed.

Probate Committee Comment*

Applicants for informal probate of a will which is not self-proved are encouraged to preserve evidence concerning the execution of the will if a formal testacy proceeding may later be required or desired.

****Original Advisory Committee Comment--Not kept current.***

(c) **Appearances.** The applicant is required to appear before the registrar unless represented by counsel. The registrar may also waive appearance by counsel.

(d) **Informal Proceedings: Notice of Informal Probate of Will and Informal Appointment of Personal Representative.** In informal proceedings, notice of appointment of a personal representative shall be given after the registrar issues the order appointing the personal representative. Proof of placement for publication shall be filed with the court administrator before letters will issue. Where mailed notice is required, an affidavit of mailing of the order appointing the personal representative shall be filed with the court administrator before letters will issue. If the informal proceedings include the informal probate of a will, the notice shall include notice of the issuance of the statement of informal probate of the will. Where creditors claims are to be barred, the published notice shall include notice to creditors.

Mailed notice shall be given to all known heirs-at-law, all devisees under any will submitted for informal probate and all interested persons as defined by the code and shall include in appropriate cases the attorney general, foreign consul and lawyers representing interested persons.

Mailed notice shall be given to the surviving spouse of the following rights:

(1) The right to receive the decedent's wearing apparel, furniture and household goods and other personal property as provided in the code or by law.

(2) The right to receive maintenance payments during administration of the estate as provided in the code or by law.

(3) The right to take an elective share of one-third of the augmented estate as provided in the code and the homestead as provided in the code or by law.

Rule 409. Formal Testacy and Appointment Proceedings

(a) **Contents of Petition.** A petition in formal testacy and appointment proceedings shall contain the information required by the code and the information concerning the approximate value of assets required by Minn. Gen. R. Prac. 408(a). In all estate proceedings, whether testate or intestate, the petition must contain an allegation that specifically eliminates all heirs or devisees other than as listed in the petition.

(b) **Conversion to Supervised Administration.** Any estate which has been commenced as an informal proceeding or as an unsupervised formal proceeding may be converted at any time to a supervised administration upon petition. The court shall enter an order for hearing on said petition. Notice of hearing shall be given in accordance with Minn. Gen. R. Prac. 404(a). If testacy has not been adjudicated in a prior formal proceeding, notice of hearing must meet the specific notice requirements for formal testacy proceedings provided by Minn. Gen. R. Prac. 404(b) including notice by publication.

Rule 410. Transfer of Real Estate

(a) **Transfers of Real Estate in Supervised and Unsupervised Administration; Transfer by Personal Representative of Real Property for Value; Documents Required.** A personal representative shall provide a transferee of real property for value with the following documents:

(1) A certified copy of unrestricted letters (30 days must have elapsed since date of issuance of letters to an informally appointed personal representative);

(2) A certified copy of the will; and

(3) A personal representative's deed or other instrument transferring any interest in real property which shall contain the marital status of the decedent and the consent of spouse, if any.

(b) **Distribution of Real Property; Documents Required.** A personal representative shall provide a distributee of real property with the following documents:

(1) When distribution is made by decree, a certified copy of the decree of distribution assigning any interest in real property to the distributee.

(2) When distribution is made by deed from a personal representative in unsupervised administration:

(i) A certified copy of unrestricted letters (30 days must have elapsed since date of issuance of letters to an informally appointed personal representative);

(ii) A certified copy of the will; and

(iii) A personal representative's deed of distribution of any interest in real property to the distributee which shall contain the marital status of the decedent and consent of spouse, if any.

(3) When distribution is made by deed from the personal representative in supervised administration:

(i) A certified copy of unrestricted letters;

(ii) A certified copy of an order of distribution which authorizes the distribution of any interest in real property to the distributee;

(iii) A certified copy of the will; and

(iv) A personal representative's deed of distribution of any interest in real property to the distributee.

Rule 411. Closing Estates

(a) Notice of Formal Proceedings for Complete Settlement Under Minnesota Statutes, section 524.3-1001. If testacy has been adjudicated in a prior formal proceeding, notice of hearing on a petition for complete settlement under Minnesota Statutes, section 524.3-1001 must meet the requirements of Minn. Gen. R. Prac. 404(a), but notice by publication specifically provided for in Minnesota Statutes, section 524.3-403 is not required. If testacy has not been adjudicated in a prior formal proceeding, notice of hearing on a petition for complete settlement under Minnesota Statutes, section 524.3-1001, must meet the specific notice requirements for formal testacy proceedings provided in Minnesota Statutes, section 524.3-403, including notice by publication.

(b) Notice of Formal Proceedings for Settlement of Estate Under Minnesota Statutes, section 524.3-1002. If an estate is administered under an informally probated will and there has been no adjudication of testacy in a prior formal proceeding, the court may make a final determination of rights between the devisees under the will and against the personal representative under Minnesota Statutes, section 524.3-1002, if no part of the estate is intestate. The court will not adjudicate the testacy status of the decedent. Notice of hearing on a petition must meet the requirements of Minnesota Statutes, section 524.1-401. Notice by publication specifically provided for in Minnesota Statutes, section 524.3-403 is not required.

Rule 412. Fees, Vouchers, and Tax Returns

(a) Fees. The court may require documentation or it may appoint counsel to determine the reasonableness of the fees charged by the lawyer and the

personal representative. The court may order the fees of the appointed counsel to be paid out of the estate.

(b) **Vouchers.** Unless otherwise ordered by the court, vouchers for final and interim accounts need not be filed.

(c) **Tax Returns.** Unless ordered by the court, copies of the United States Estate Tax closing letter and the Minnesota notification of audit results need not be filed.

Rule 413. Subsequent Proceedings

(a) **Authority of Personal Representative During One Year Period After Filing Closing Statement.** For one year from the date of filing the closing statement authorized by the code, the personal representative shall have full and complete authority to execute further transfers of property; to complete transactions; to complete distributions; to correct misdescriptions or improper identification of assets; or to transfer or distribute omitted property. During this period, the personal representative shall ascertain any matters of unfinished administration which must be completed prior to the termination of the representative's authority.

(b) **Authority of Personal Representative to Transfer or Distribute Omitted Property During One Year Period After Filing Closing Statement.** In the case of omitted property discovered after the filing of the closing statement authorized by the code, but before termination of the personal representative's authority, the personal representative must, as required by the code, file a supplementary inventory with the court and mail a copy to any surviving spouse, other distributees, and other interested persons, including creditors whose claims are unpaid and not barred. Proof of service by mail must be filed with the court prior to any transfer of the omitted property by the personal representative.

(c) **Notice of Proceedings for Subsequent Administration After Termination of Personal Representative's Authority.** Appointment of a personal representative in subsequent administration may only be secured in formal proceeding. If testacy has been adjudicated in a formal proceeding, notice of hearing must meet the requirements of Minn. Gen. R. Prac. 404(a), but the notice by publication specifically provided for in Minnesota Statutes, section 524.3-403 is not required. If testacy has not been adjudicated previously and only appointment of a personal representative is sought, notice of hearing must meet the specific notice requirements for formal testacy proceedings provided in Minnesota Statutes, section 524.3-403, but notice by publication is not required.

In the case of subsequent administration involving omitted property, the personal representative must comply with the inventory, mailing and filing requirements of Minn. Gen. R. Prac. 413(b).

(d) Proof Required for Formal Settlement or Distribution in Subsequent Administration. During a subsequent administration, when an order of settlement of the estate and decree or order of distribution is sought, the court must be satisfied with the pleadings and any other proof (including accounting for all assets, disbursements, and distributions made during the prior administration) before issuing its order.

Rule 414. Fiduciaries

If the lawyer for the estate, a partner, associate or employee is the personal representative of the estate, except where one of them is a family member of the decedent, the administration shall be supervised. In such a case, both the lawyer for the estate and the personal representative must keep separate time records and differentiate the charges for their duties in each capacity. The lawyer should only serve as fiduciary at the unsolicited suggestion of the client and the lawyer must realize that there are legal, ethical and practical problems that must be overcome in order to perform the duties of a fiduciary and lawyer.

Task Force Comment--1991 Adoption

This recommended change is made to permit family members, who happen to be lawyers, to serve as fiduciaries without automatically subjecting the estate to the burdens of supervised administration. Although supervised administration may be appropriate in individual cases, the Task Force believes that it should not be uniformly imposed on the families of lawyers.

Rule 415. Registrar

(a) Authority. The functions of the registrar may be performed either by a judge of the court or by a person designated by the court in a written order filed and recorded in the office of the court, subject to the following:

(1) Each judge of the court may at any time perform the functions of registrar regardless of whether the court has designated other persons to perform those functions.

(2) The functions and powers of the registrar are limited to the acts and orders specified by the code and these rules.

(3) Any person designated registrar by the court shall be subject to the authority granted by and the continuing direction of the court.

(4) The registrar is not empowered to intervene or issue orders resolving conflicts related to the administration of the estate.

(b) Registrar Has No Continuing Authority. The registrar does not have any continuing authority over an estate after the informal probate is granted or denied and shall not require the filing of any additional documents other than are required by the code (law) and these rules.

Rule 416. Guardianships and Conservatorships

(a) Responsibility of Lawyer. Upon the appointment of a conservator or guardian of the estate, the appointee shall nominate a lawyer of record for that conservatorship or guardianship, or shall advise the court that he or she shall act pro se. The named lawyer shall be the lawyer of record until terminated by the conservator or guardian, or, with the consent of the court, by withdrawal of the lawyer. If the lawyer is terminated by the conservator or guardian, written notice of substitution or pro se representation shall be given to the court (by the conservator or guardian, or by the lawyer who has received oral or written notice of termination), and until such notice, the former lawyer shall be recognized.

(b) Visitors in Guardianship and Conservatorship Proceedings. A visitor, as defined by law, may be appointed in every general guardianship or conservatorship proceeding.

Every visitor shall have training and experience in law, health care or social work, as the case may be, depending upon the circumstances of the proposed ward or conservatee.

The visitor shall be an officer of the court and shall be disinterested in the guardianship or conservatorship proceedings. If the court at any time determines that the visitor, or the firm or agency by which he or she is employed, has or had, at the time of the hearing, a conflict of interest, the court shall immediately appoint a new visitor and may, if necessary, require a hearing de novo.

The visitor shall, (a) without outside interferences, meet with the proposed ward or conservatee, either once or more than once as the visitor deems necessary, (b) observe his or her appearance, lucidity and surroundings, (c) serve, read aloud, if requested, and explain the petition and notice of hearing, (d) assist, if

requested, in obtaining a private or court appointed lawyer, (e) advise the proposed ward or conservatee that a report will be filed at least five (5) days before the hearing and that the report is available to the proposed ward or conservatee or the ward's or conservatee's lawyer, (f) prepare a written report to the court setting forth all matters the visitor deems relevant in determining the need for a guardian or conservator, including recommendations concerning appointment and limitation of powers, (g) file the original report with the court and, (h) serve a copy upon the petitioner or petitioner's lawyer at least five (5) days prior to the hearing, (i) appear, testify and submit to cross examination at the hearing concerning his or her observations and recommendations, unless such appearance is excused by the court.

(c) **Voluntary Petition.** If an adult voluntarily petitions or consents to the appointment of a guardian or conservator of the estate as set forth in the law, then it is not necessary for such adult to be an "incapacitated person" as defined by the law.

(d) **Amount of Bond.** The court may, at any time, require the filing of a bond in such amount as the court deems necessary and the court, either on request of an interested party, or on its own motion, may increase or decrease the amount of the bond. The court, in requiring a bond, if any, or in determining the amount thereof, shall take into account not only the nature and value of the assets, but also the qualifications of the guardian or conservator.

(e) **Effect of Allowance of Accounts.** The filing, examination and acceptance of an annual account, without notice of hearing, shall not constitute a determination or adjudication on the merits of the account, nor does it constitute the court's approval of the account.

(f) **Required Periodic Settlement of Accounts.** No order settling and allowing an annual or final account shall be issued by the court except on a hearing with notice to interested parties. A hearing for the settlement and allowance of an annual or final account may be ordered upon the request of the court or any interested party. A hearing shall be held for such purpose in each guardianship or conservatorship of the estate at least once every five years upon notice as set forth in the law, and the rules pursuant thereto. However, in estates of the value of \$20,000 or less, the five-year hearing requirement may be waived by the court in its discretion. Such five-year hearings shall be held within 150 days after the end of the accounting period of each fifth annual unallowed account and the court administrator shall notify such guardian or conservator, the guardian's or conservator's lawyer and the court if the hearing is not held within the 150-day period.

(g) **Notice of Hearing on Account.** Notice of time and place for hearing on the petition for final settlement and allowance of any account shall be given to the ward or conservatee, to the guardian or conservator if such person was not the petitioner for settlement of the accounts, to the spouse, adult children and such other interested persons as the court may direct. Whenever any funds have been received by the estate from the Veterans Administration during the period of accounting, notice by mail shall be given to the regional office. The notice may be served in person or by depositing a copy in the U.S. mail to the last known address of the person or entity being served. When a ward or conservatee is restored to capacity, that person is the only interested person. When a ward or conservatee dies, the personal representative of the estate is the only interested person.

(h) **Appearance on Petition for Adjudication of Accounts.** When a verified annual or final account is filed in accord with the law and an adjudication is sought, and notice given as required by the law or waived as provided below, and the court determines that the account should be allowed, the account may be allowed upon the pleadings without appearance of the guardian or conservator. If the ward, conservatee or any interested person shall object to the account, or demand the appearance of the guardian or conservator for hearing on the account, at any time up to and including the date set for the hearing, the court will continue the hearing, if necessary, to a later date and require the appearance of the guardian/conservator for examination. Notice of hearing may be waived with the consent of all interested persons.

(i) **Successor Guardian; Notice to Ward or Conservatee.** The notice required by law shall include the right of the ward or conservatee to nominate and instruct the successor.

Rule 417. Trustees-Accounting-Petition For Appointment

Rule 417.01 Petition for Confirmation of Trustee.

Except in those cases in which a trust company or national banking association having trust powers is the trustee or one of the trustees, the petition for confirmation of the appointment of the trustee or trustees shall include an inventory, including a description of the assets of the trust known to the petitioners and an estimate by them of the market value of such assets at the date of the petition. The petition shall also set forth the relationship, if any, of the trustee or trustees to the beneficiaries of the trust.

Rule 417.02 Annual Account.

Every trustee subject to the continuing supervision of the district court shall file an annual account, duly verified, of the trusteeship with the court administrator within 60 days after the end of each accounting year. Such accounts may be submitted on form 417.02 appended to these rules, and shall contain the following:

(a) Statements of the total inventory or carrying value and of the total fair market value of the assets of the trust principal as of the beginning of the accounting period. In cases where a previous account has been rendered, the totals used in these statements shall be the same as those used for the end of the last preceding accounting period.

(b) A complete itemized inventory of the assets of the trust principal as of the end of the accounting period, showing both the inventory or carrying value of each asset and also the fair market value thereof as of such end of the accounting period, unless, because such value is not readily ascertainable or for other sufficient reason, this provision cannot reasonably be complied with. Where the fair market value of any item at the end of the accounting period is not used, a notation of such fact and the reason therefor shall be indicated on the account.

(c) An itemized statement of all income transactions during the period of such account.

(d) A summary statement of all income transactions during the period of such account, including the totals of distributions of income to beneficiaries and the totals of trustees' fees and attorneys' fees charged to income.

(e) An itemized statement of all principal transactions during the period of such account.

(f) A reconciliation of all principal transactions during the period of such account, including the totals of distributions of principal to beneficiaries and the totals of trustees' fees and attorneys' fees charged to principal as well as the totals of liquidations and reinvestments of principal cash.

(g) A list of all assets that realized a net income less than one per cent of the inventory value or acquisition cost, and an explanation of the amount of net income realized and the reasons for retaining the assets. (Amended effective January 1, 1996.)

Rule 417.03 Taxes.

Final accounts shall also disclose the state of the property of the trust estate as to unpaid or delinquent taxes and such taxes shall be paid by the trustee to the extent that the funds in the trust permit, over and beyond the cost and expenses of the trust administration, except where a special showing is made by the trustee that it is in the best interests of the trust and is lawful for the unpaid or delinquent taxes not to be paid.

Rule 417.04 Service on Beneficiaries.

There shall also be filed with the court administrator proof of mailing of such account to the last addresses known to the trustee of, or of the service of such account upon, such of the following beneficiaries or their natural or legal guardians as are known to, or reasonably ascertainable by, the trustee:

(a) Beneficiaries entitled to receive income or principal at the date of the accounting; and

(b) Beneficiaries who, were the trust terminated at the date of the accounting, would be entitled to share in distributions of income or principal.

Rule 417.05 Court Administrator Records; Notice.

The court administrator shall keep a list of trusteeships and notify each trustee and the court when any such annual account has not been filed within 120 days from the end of the accounting year.

Rule 417.06 Hearing.

Hearings upon annual accounts may be ordered upon the request of any interested party. A hearing shall be held on such annual accounts at least once every five years by mailing, at least 15 days before the date of the hearing, a copy of the order for hearing to those beneficiaries of the trust who are known to or reasonably ascertainable by the petitioner, to any other person requesting notice, or as ordered by the court. In trusts of the value of \$20,000 or less, the five year hearing requirement may be waived by the court in its discretion. Any hearing on an account may be ex parte if each party in interest then in being shall execute waiver of notice in writing which shall be filed with the court administrator, but no account shall be finally allowed except upon a hearing on the record in open court. Such five year hearings shall be held within 150 days after the end of the accounting period of each fifth annual unallowed account, and the court administrator shall notify each trustee and the Court if the hearing is not held within such 150 day period.

(Amended effective January 1, 1993.)

Advisory Committee Comment--1992 Amendments

This rule was derived from Rule 28 of the Code of Rules for the District Courts. The rule is recodified with the probate court rules because it relates to actions brought in the now-unified district court.

[Rule 417.06](#) is amended to provide a specific method of notice rather than incorporating a specific statutory requirement. The former statute, Minnesota Statutes, section 501.35 was replaced by section 501B.18. The new statute, however, provides a general mechanism for order of hearing with published notice twenty days before the date of the hearing. This requirement is not necessary for hearings on accounts, as the interested parties will have been identified and known to the trustee at the time a hearing is scheduled. The rule does require notice to any party requesting notice of the hearing, and allows the court to specify another method of giving notice in a particular case. Although that might conceivably include published notice, published notice would be unusual.

Advisory Committee Comments--1995 Amendments

[Rule 417.02](#), as amended, refers to trustees subject to the continuing supervision of the district courts. The rule is intended to apply to all trusts subject to the continuing supervision of the district courts pursuant to Minnesota Statutes, section 501B.23 (1994), and the earlier reference to jurisdiction is deleted to avoid confusion, since all Minnesota trusts are subject to the district court's jurisdiction.

Rule 418. Deposit of Wills

(a) Deposit by Testator. Any testator may deposit his or her will with the court administrator in any county subject to the following rules. Wills shall be placed in a sealed envelope with the name, address, and birth date of the testator placed on the outside. The administrator shall give a receipt to the person depositing the will. (b) Withdrawal by Testator or Agent. Any will may be withdrawn by the testator in person upon presentation of identification and signing an appropriate receipt. A testator's attorney or other agent may withdraw the will by presenting a written authorization signed by the testator and two witnesses with the testator's signature notarized.

(c) Examination by Guardian or Conservator. A guardian or conservator of the testator may review the will upon presentation of identification

bearing the photograph of the person seeking review and a copy of valid letters of guardianship or conservatorship. If the guardianship or conservatorship proceedings are venued in a county other than that where the will is filed, the required copy of the letters shall be certified by the issuing court within 30 days of the request to review the will. The will may only be examined by the guardian or conservator in the presence of the court administrator or deputy administrator, who shall reseal it after the review is completed and shall endorse on the resealed envelope the date it was opened, by whom it was opened and that the original was placed back in the envelope.

(d) Copies. No copies of the original will shall be made during the testator's lifetime.

(Added effective January 1, 1997.)

Advisory Committee Comment--1996 Amendment

This rule is new and is intended to provide a standard mechanism for handling wills deposited with the court for safekeeping. Minnesota Statutes, section 524.2-515, became effective in 1996 to permit deposit of any will by the testator. This rule is intended to provide uniform and orderly rules for deposit and withdrawal of wills that are deposited pursuant to this statute.