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Case No.: ADM-2024
Judy Aldan

IN THE
SUPREME COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN RE ADOPTION OF THE NMI RULES OF PROBATE PROCEDURE

SUPREME COURT NO. 2024-ADM-0020-RUL

ORDER ADOPTING RULES OF PROBATE PROCEDURE

¶ 1 On September 13, 2024, the proposed NMI Rules of Probate Procedure were submitted to the Twenty-Third Northern Marianas Commonwealth Legislature for approval. Sixty days have passed since the rules were submitted, and the Legislature has not disapproved of the rules.

¶ 2 IT IS HEREBY ORDERED that the NMI Rules of Probate Procedure are adopted pursuant to Article IV, Section 9 of the NMI Constitution. These rules supersede any previous conflicting court rules and became effective today.

SO ORDERED this 13th day of November, 2024.

/s/

ALEXANDRO C. CASTRO
Chief Justice

/s/

JOHN A. MANGLOÑA
Associate Justice

/s/

PERRY B. INOS
Associate Justice



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NORTHERN MARIANA ISLANDS

RULES OF PROBATE PROCEDURE

Effective November 13, 2024

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Rule 1. Title, Scope, and Authority

- (a) **Title.** These rules shall be known as the Northern Mariana Islands Rules of Probate Procedure and shall be cited as “NMI R. PROB. P.”
- (b) **Scope.** These rules govern the procedure in all probate proceedings in the Superior Court of the Commonwealth of the Northern Mariana Islands. They shall be construed and administered to secure the just, speedy, and inexpensive determination of every proceeding. These rules apply to every proceeding to which the Commonwealth’s Probate Law applies. Unless elsewhere explicitly made applicable, these rules do not apply to any other proceedings.
- (c) **Authority.** These rules are promulgated pursuant to Article IV, Section 9 of the NMI Constitution.
- (d) **Effective Date.** The rules apply to probate proceedings commenced after the effective date of these rules.

Rule 2. Definitions

- (a) Unless expressly stated otherwise, the definitions in 8 CMC § 2107 apply to these rules.
- (b) “Administrator” means a person appointed to administer an intestate decedent’s estate. Administrator also refers to Administratrix.
- (c) “Commonwealth” means the Commonwealth of the Northern Mariana Islands.
- (d) “Days” means calendar days, unless the specified period is 10 days or less, in which case intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.
- (e) “Executor” means a person named by a testator to carry out the provisions in the testator’s will. Executor also refers to Executrix.
- (f) “Known creditors” means any creditors of the decedent of whom the petitioner or personal representative has notice, including creditors who have already filed a proceeding to recover money or property from the decedent on the day that a petition is filed.
- (g) “Known heirs” means any of the decedent’s heirs of whom a petitioner or personal representative has notice, or who would become known to the petitioner or personal representative after reasonable investigation of the decedent’s affairs.

Rule 3. Pleading Format and Timing

Unless expressly stated otherwise, the NMI Rules of Civil Procedure govern the format and time for filing of all papers or pleadings in probate proceedings.

Rule 4. Proceedings to Determine Death and Status

- (a) Any interested person may seek an order determining presumed death by filing a petition with the court.
- (b) The petition must include a statement of facts sufficient to sustain a finding that a person should be presumed dead and must list all known creditors, known heirs, and, if applicable, any devisees of the person for whom the order is sought.
- (c) No later than five days after the petition is filed, the Clerk of Court shall schedule a petition hearing. The clerk shall schedule the hearing so that it occurs no later than 90 days after the petition was filed.
- (d) The petitioner shall provide a notice of the hearing and serve the notice in accordance with Rules 6 and 7.
- (e) At the hearing, the court shall consider the petition and any evidence presented. If the court finds, by a preponderance of evidence, facts sufficient to sustain a finding of presumed death, as provided by 8 CMC § 2106, the court shall grant the petition.
- (f) The court shall enter an order with findings of fact and conclusions of law based on the evidence provided to the court.

Rule 5. Form and Content of Petition¹

- (a) **Who May File.** Any interested person, regardless of whether that person is a resident of the Commonwealth, may petition the court to probate a decedent's will or, if the decedent did not leave a will, for letters of administration.
- (b) **Testate Proceedings.** In proceedings in which the decedent left a will, the petition to probate the will must include a copy of the will and must contain:
 - (1) The decedent's full name; date of birth, if it can be readily ascertained; residency at death; and date and place of death;
 - (2) The name of the petitioner;

¹ Rule 5(a) was previously Rules 4 and 14 in the 1996 version of these rules.

- (3) Whether the person named as executor consents to act or renounces their right to letters testamentary;
 - (4) A caption for the matter, which must take the form “In re Estate of [decedent’s full name]”;
 - (5) A declaration that the decedent left a will;
 - (6) A statement that the decedent owned real or personal property in the Commonwealth;
 - (7) A statement of the petitioner’s interest in the proceeding;
 - (8) If the petitioner is a corporation, proof that the agent petitioning on the corporation’s behalf has authority to do so;
 - (9) The mailing address, email address, and phone number of the petitioner, or, if the petitioner is a corporation, the mailing address of the corporation and an email address and phone number of an agent of the corporation who will serve as a person of contact;
 - (10) A statement of whether the petitioner will seek reasonable compensation for services rendered on behalf of the estate;
 - (11) The names and addresses of all devisees named in the decedent’s will who are reasonably ascertainable on the date the petition is filed;
 - (12) The names and addresses of the known creditors of the decedent;
 - (13) A statement verifying that the petitioner has read the petition and certifying that all statements in the petition are true and correct; and
 - (14) A draft notice of hearing, which must:
 - (A) State that creditors and devisees have 60 days from the date of first publication in an online newspaper or other medium of general circulation in the Commonwealth to file a claim against the decedent’s estate; and
 - (B) State that failure to file a timely claim by a creditor or devisee will bar that claim.
- (c) **Intestate Proceedings.** In proceedings in which the decedent died without a will, the petition for letters of administration must contain:
- (1) The decedent’s full name; date of birth, if it can be readily ascertained; residency at death; and date and place of death;
 - (2) The name of the petitioner;

- (3) A caption for the matter, which must take the form “In re Estate of [decedent’s full name]”;
- (4) A statement that the decedent owned real or personal property in the Commonwealth;
- (5) A statement of the petitioner’s interest in the proceeding;
- (6) If the petitioner is a corporation, proof that the agent petitioning on the corporation’s behalf has authority to do so, and a nomination of a natural person to serve as the administrator;
- (7) The mailing address, email address, and phone number of the petitioner, or, if the petitioner is a corporation, the mailing address of the corporation and a phone number and email address of an agent of the corporation who will serve as a person of contact;
- (8) A statement of whether the petitioner will seek compensation for services rendered on behalf of the estate;
- (9) A certified copy of the decedent’s death certificate, or, if no death certificate is available, a court order declaring that the decedent is presumed to be dead;
- (10) The names, mailing addresses, and, if available, email addresses, of the known heirs and known creditors of the decedent;
- (11) A statement verifying that the petitioner has read the petition and certifying that all statements in the petition are true and correct; and
- (12) A draft notice of hearing, which must:
 - (A) State that creditors have 60 days from the date of first publication in an online newspaper or other medium of general circulation in the Commonwealth to file a claim against the decedent’s estate; and
 - (B) State that failure to file a timely claim by a creditor will bar that claim.

Rule 6. Notice of Hearing and Petition; Objections to Petition²

- (a) **Scheduling of Hearing.** No later than five days after the petition is filed, the Clerk of Court shall schedule a hearing for the petition. The clerk shall schedule the hearing so that the hearing occurs no later than 90 days after the petition was filed.

² Rule 6 was previously Rules 6 and 16 and portions of Rules 11 and 21 in the 1996 version of these rules.

- (b) Notice of Hearing; Publication.** No later than 14 days after the petition has been scheduled for hearing, the petitioner shall cause the notice of hearing to:

 - (1) be published in an online or print newspaper or other medium of general circulation in the Commonwealth at least once per week for two consecutive weeks; and
 - (2) be served, along with the petition, in accordance with Rule 7, upon all known creditors and all devisees and known heirs.
- (c) Proof of Publication.** After publication is made under Rule 6(b), the petitioner shall file a copy of the notice, with proof of publication, and a declaration certifying that publication of the notice was made.
- (d) Objections to Petition.** Any interested person who wishes to object to any statement of fact in the petition shall file a written objection no later than 30 days after service of the notice and petition upon that person or appear at the hearing and state the objection.

Rule 7. Service; Proof of Service

- (a) Service on Minors.** Service on a minor person must be made upon the minor's parent, guardian, conservator, or similar fiduciary, or if no such person can be found with reasonable diligence, upon any adult person having care or control of the minor or with whom the minor resides.
- (b) Service on Incompetent Persons.** Service on a person who lacks the legal capacity to be served must be made upon the parent, guardian, conservator, or similar fiduciary of that person, or if no such person can be found with reasonable diligence, upon an adult member of that person's family with whom that person resides, or if the incompetent person is living in an institution, then upon the director or chief executive officer of that institution.
- (c) Electronic Service.** Service on a person who is a registered filer, as defined by the NMI Rules for Electronic Filing, or is represented in the proceeding by an attorney, must be made in accordance with the NMI Rules for Electronic Filing.
- (d) Conventional Service.** Service on a person who is a nonregistered filer, as defined by the NMI Rules for Electronic Filing, must be made:

 - (1) Electronically, if the person to be served waives other forms of service and a reliable electronic means of contacting that person is established;

- (2) Personally, as provided under Rule 4 of the NMI Rules of Civil Procedure; or
 - (3) By certified mail, with return receipt requested, addressed to the recipient's last known mailing address. Service by certified mail will be complete when the recipient signs a document acknowledging receipt. If the recipient rejects or otherwise refuses to sign a document acknowledging receipt, or if the notice and petition cannot be delivered, service will be deemed complete when the petitioner files with the court either a copy of:
 - (A) The return receipt document establishing rejection, refusal, or inability to deliver; or
 - (B) A declaration, under penalty of perjury, stating that rejection, refusal, or inability to deliver.
 - (4) If the whereabouts or mailing address of the person to be served are unknown and cannot be ascertained by reasonable diligence, service may be made by publication in a print or online newspaper or other medium of general circulation in the Commonwealth, pursuant to court order.
 - (5) The parties may agree to alternative forms of service, including service by messages sent through digital instant messaging platforms.
- (e) **Proof of Service.** After serving the notice of hearing and petition under Rule 6(b) and this rule, or after serving a petition for partial or final distribution, the petitioner shall file a declaration certifying that service of the petition and the notice was made and the means by which service was made upon each person served. If the notice and petition were served personally, proof of service must be made as provided under Rule 4(l) of the NMI Rules of Civil Procedure.
- (f) **Service on Personal Representatives and their Attorneys.** Any document filed with the court in any proceeding must be served on the personal representative, if one has been appointed by the court, or if the personal representative is represented by an attorney, on that attorney. Service of any such document must be made in accordance with the NMI Rules for Electronic Filing and the NMI Rules of Civil Procedure.

Rule 8. Procedure at Hearing

- (a) **Testate Proceedings; Proof of Will.** At the first hearing on a petition to probate a decedent's will, the petitioner shall submit to the court evidence sufficient to prove the will, which may include a self-proving affidavit, a sworn statement from a

witness attesting to the validity of the will, or witness testimony.

- (b) **Testate Proceedings; Will Contest.** Any interested person may, before a hearing to prove a will, file a written objection. The objection must state the nature of the person's interest in the will and all objections to the validity of the document or documents offered as the decedent's will.³
- (c) **Intestate Proceedings.** At the first hearing on a petition to probate the estate of a person who died without a will, the court may receive evidence from the petitioner and any heirs or other interested persons in order to facilitate appointment of an administrator and to determine the heirs of the decedent.⁴
- (d) **Continuation of Hearing.** If any interested person raises an oral objection or another issue during any hearing, the court shall determine whether the objection or issue raised should be scheduled for another hearing to allow the objector to file a written objection and to give any other interested person an opportunity to respond to the objection. Notice of the continuation of the hearing need not be given to any person not present when the objections or issues were raised, unless the court orders otherwise.
- (e) **Orders.** The court may make any orders that it deems appropriate under the circumstances and as justice may require.

Rule 9. Appointment of Personal Representative

- (a) **Testate Proceedings.** If a will is proven to the satisfaction of the court and in accordance with all applicable laws, the court shall appoint the executor and shall issue letters testamentary.
- (b) **Intestate Proceedings.** Prior to appointment, a prospective administrator shall appear before the court, including by videoconferencing. The court shall appoint an administrator who it finds will best be able to administer the decedent's estate and shall issue letters of administration.
- (c) **Posting of bond.** In all probate proceedings, the court may require the personal representative to post a bond.

³ Rules 8(a) and 8(b) were previously Rule 7 in the 1996 version of these rules.

⁴ Rule 8(c) was previously Rule 17 in the 1996 version of these rules.

Rule 10. Duties of the Personal Representative

- (a) **Inventory of Estate.** The personal representative shall, no later than 60 days after being appointed, unless the court orders otherwise, file an inventory of the estate. For each item of property other than real property, the inventory must include a brief description, the location, and known or estimated value. For all real property, the inventory must include a legal description, the village where the property is located, the approximate size, and an estimated value.
- (b) **Possession.** The personal representative, or an agent of the personal representative, shall take possession of the decedent's estate and shall, pursuant to court order, collect all money or property owed to the decedent.
- (c) **Disposition of the Estate.** The personal representative shall safeguard the estate and shall deposit all cash and cash-equivalent instruments in an interest-bearing account at an FDIC-insured bank, if feasible. No person may pay the decedent's debts or sell or otherwise dispose of the estate without a court order authorizing the payment, sale, or disposition.
- (d) **Review of Records.** No later than 60 days after being appointed, the personal representative shall review the records of the Commonwealth Recorder's Office and the files of the Clerk of Court of the Superior Court to ascertain whether there are any prior or pending real property, probate, or civil matters that conflict with or are contrary to any proposed decree of distribution. At the earliest possible time following completion of this review, the personal representative shall submit to the court a declaration stating the matters found or that no such matters were found.
- (e) **Service on Creditors, Heirs, and Devisees.** The personal representative shall, in accordance with Rule 6 and Rule 7, serve all documents filed with the court on all known creditors, known heirs, and devisees who are not otherwise entitled to service of such documents under these rules.⁵
- (f) **Other Acts.** The personal representative and any agents of the personal representative shall do everything reasonably necessary to carry out their fiduciary duties.

⁵ Rule 10(e) was previously Rules 11 and 21 in the 1996 version of these rules.

Rule 11. Disposition of Claims

- (a) **Response by Personal Representative.** The personal representative shall admit, in whole or in part, or shall deny, each timely claim filed against the estate within 60 days after service of the claim upon the personal representative.
- (b) **Request for Hearing on Claim.** If a timely claim is denied or not addressed, in whole or in part, the claimant shall be entitled to a hearing on the claim if the request is made within 30 days after service of notice of denial or 60 days have passed since the claim was served upon the personal representative and they have filed no response.
- (c) **Status of Claims.** In any motion for distribution of any assets of the estate, the personal representative shall advise the court of the status of all claims.

Rule 12. Request for and Waiver of Notice

- (a) **Request for Notice.** Any person may file a written request for notice of filings in a proceeding. The request shall state the name of the decedent and the nature of the person's interest in the estate.
- (b) **Service of Request.** If the court grants the request, the Clerk of Court shall serve a copy of the request on the petitioner, or, if a personal representative has been appointed, on the personal representative and on any other persons then entitled to receive filings in the proceeding.
- (c) **Service on Interested Party.** Any person entitled to receive filings in a proceeding shall be served notice of all future filings in accordance with Rule 7.
- (d) **Waiver.** Any person entitled to receive filings in a proceeding may, at any time, waive all notice of further filings by filing a written waiver with the court signed by the person granting the waiver or that person's attorney.

Rule 13. Case Management; Time for Distribution

- (a) **Conference.** After the personal representative has filed an inventory pursuant to Rule 9, the court shall promptly schedule a case management conference and order the personal representative and any other interested parties to appear and be prepared to discuss the following:
 - (1) Resolution of motions pending at the time of the conference;

- (2) Filing of objections or further motions and the date by which such filings must be accomplished;
 - (3) Amendments to the petition;
 - (4) The likelihood that the case will require evidentiary hearings;
 - (5) A listing of any expert witnesses to be called by the parties and any limitations imposed by the court on the number of expert witnesses to testify;
 - (6) Whether discovery will be necessary;
 - (7) Whether the proceedings should be referred to alternative dispute resolution;
 - (8) Whether the decedent has any claims that may require the personal representative to institute a separate legal proceeding in order to collect money or property owed to the decedent; and
 - (9) An estimate of the date by which the personal representative will be ready for final distribution of the estate.
- (b) **Case Management Order.** After the case management hearing, the court shall issue a case management order establishing a schedule for filings and hearings that the court deems necessary. The court may amend the case management order at the request of one or more interested parties or at the court's discretion and serve notice of such amended orders pursuant to Rule 7.
- (c) **Time for Disposition of Probate Cases.** Final distribution of probate cases must occur, if feasible, no later than one year, or if a federal estate tax return is required, no later than 18 months after the petition is filed under Rule 4.
- (d) **Continuances.** The court may grant requests for continuance of a hearing date or any deadline established by the court for good cause only. The court has no obligation to grant any continuance solely based on a written stipulation.
- (e) **Sanctions for Noncompliance.** The court may impose sanctions, including fines and removal of the personal representative, for failure to appear at a scheduled hearing or failure to comply with any filing schedule established by the court.

Rule 14. Appointment of Guardian ⁶

After a petition for probate of a will or for letters of administration has been filed with the court, the court may, pursuant to the NMI Rules of Guardianship Procedure, appoint a guardian for any heir or devisee who is a minor or who requires the appointment of a guardian due to insanity or incompetence.

Rule 15. Consolidation

The court may consolidate probate actions pursuant to the NMI Rules of Civil Procedure.

Rule 16. Distribution

(a) **Partial Distribution.** The personal representative may, no later than 70 days after the inventory of the estate has been filed, move the court for a decree of partial distribution regarding uncontested parts of the estate. The motion must include:

- (1) A list of property to be distributed;
- (2) The proposed distribution;
- (3) A statement under penalty of perjury verifying that the proposed distribution is uncontested and that there are no outstanding claims regarding the property to be distributed; and
- (4) Other information that will assist the court in determining whether distribution should be made.

(b) **Final Distribution.** No sooner than 70 days from the appointment of the personal representative, and if the estate is ready to be closed, the personal representative shall move the court for a decree of final distribution. The motion must include:

- (1) A summary as to the condition and status of the estate;
- (2) A list of heirs and devisees and, if any heir or devisee is to be the recipient of interest in real property in the NMI, a statement of whether each heir or devisee to receive such interest is a person of Northern Marianas Descent;
- (3) An accounting of property received, expenditures made, and receipts received during administration;
- (4) A list of real and personal property to be distributed;

⁶ Rule 14 was previously Rules 25–27 in the 1996 version of these rules.

- (5) A proposed distribution;
 - (6) Any requests for fees of the personal representative or for attorneys' fees or costs; and
 - (7) Any other information that will assist the court in determining whether the proposed distribution should be made.
- (c) **Final Distribution Hearing.** The court shall promptly schedule a hearing for the motion for final distribution. At the hearing, the court may make any orders necessary to distribute the estate and to conclude matters pertaining to the estate.

Rule 17. Discharge of Personal Representative

- (a) A probate proceeding concludes once the court has entered a separate order discharging the personal representative.
- (b) After the personal representative has complied with the provisions of the decree of final distribution, the personal representative shall move the court to be discharged as personal representative. The personal representative shall file, together with the motion for discharge, a receipt signed by each heir, devisee, or creditor who received property in connection with the final distribution.
- (c) Any bond paid may be exonerated after the personal representative is discharged.

Rule 18. Costs and Attorneys' Fees

- (a) In all probate proceedings, the personal representative may recover reasonable costs from the estate for services rendered.
- (b) If the court finds in favor of an interested person who objects to or files a claim in the proceedings, the court may allow the objector or claimant to recover costs, including reasonable attorneys' fees, from the estate. If the court concludes that an objector or claimant made an objection or claim that was frivolous, made for an improper purpose, or resulted in an unreasonable expenditure of the estate, the court may order that objector or claimant to pay the personal representative's costs, including reasonable attorneys' fees.
- (c) Any attorney representing the personal representative shall submit to the court, at least every six months, a report summarizing work begun or completed on behalf of the personal representative, unless that attorney states in a filing to the court made under penalty of perjury that the attorney will not request any fees in connection with the estate. The court

may disallow or discount the fees of any attorney who unreasonably fails to file reports with the court as required under this rule.

- (d) A request to approve payment of attorney's fees and costs out of the estate must contain the following:
 - (1) A statement from the attorney or personal representative of any retainer paid to the attorney by the personal representative;
 - (2) A statement of costs paid by the attorney;
 - (3) A statement of the amount of any prior payment made to the attorney by the personal representative, any heir, or any devisee;
 - (4) An itemized contemporaneous billing showing the amount of time that the attorney spent on the matter, the hourly billing rate, and a computation showing the total amount due from the estate; and
 - (5) A statement by the attorney that the attorney's hourly rate is within the normal rates charged by the attorney for other civil cases in the Commonwealth.
- (e) Any person claiming costs from the estate shall submit a written claim to the court together with an itemized statement, made under penalty of perjury, stating the amount expended and an explanation for each expenditure. The person claiming costs shall cause the claim to be served on every person who is entitled to notice in the proceeding.
- (f) The court may conduct a hearing prior to granting any claim for attorney's fees and costs.

Rule 19. Summary Administration

- (a) **Petition.** When a decedent's estate consists solely of exempt property, as described in 8 CMC § 2601, or personal property subject to 8 CMC § 2501, any devisee or any person entitled to inherit such property may file a petition for summary administration.
- (b) **Contents.** The petition for summary administration shall describe the decedent's property and the nature of the petitioner's interest, include all information required in 8 CMC § 2502, if applicable, and shall include a copy of the will, if one exists.
- (c) **Hearing.** No later than five days after the petition is filed, the Clerk of Court shall schedule a petition hearing. The clerk shall

schedule the hearing so that it occurs no later than 90 days after the petition was filed.

- (1) **Notice of Hearing; Publication.** The petitioner shall cause notice of the hearing to be published and served in accordance with Rules 6 and 7.
- (d) **Distribution.** If no objection by any interested party is made pursuant to Rule 6(d) or at the hearing, the court shall, within 30 days after the hearing, enter a decree of final distribution or order of transfer.

Rule 20. Forms

- (a) The Supreme Court may maintain the Appendix of Forms and modify those forms at any time, without notice.
- (b) Use of the forms in the Appendix is recommended but not required. If another document is used in place of a form, that document must clearly indicate what it purports to be and must state the information required by the corresponding form.