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RONALD A. LONGTIN, JR., CLERK

By: CR Seymour
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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

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IN AND FOR THE COUNTY OF WASHOE

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In the Matter of all Probate and
Trust Estates in the Second Judicial
District Court,

Case No.

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Dept. No. PR

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**ORDER REFERRING ALL PROBATE AND TRUST MATTERS
TO PROBATE COMMISSIONER**

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The judges of the Second Judicial District Court of the State of Nevada are currently considering proposed amendments to Washoe District Court Rule 57, relating to probate and trust matters. Pending the approval of the proposed amendments by the Nevada Supreme Court, the Court finds that an interim order regarding the reference of all probate and trust matters to the Probate Commissioner is appropriate. Good cause appearing therefor,

IT IS HEREBY ORDERED:

A. Application. This Order is applicable to the practice and procedure of all proceedings under Title 12 and sections 162 through 167 of Title 13 of NRS.

B. Calendars. Subject to change by order of the chief judge, the probate calendar will be heard every Thursday at 8:00 a.m. If a legal holiday falls on a Thursday the probate calendar for that week will be heard at such time as set by the probate

1 judge or probate commissioner, as approved by the probate judge. All papers filed in a
2 proceeding governed by Rule 57 shall indicate directly below the department
3 designation, the hearing date noticed, e.g. "Hearing date: mm/dd/yy."

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5 **C. Probate Commissioner.**

6 1. All probate and trust proceedings under Title 12 and sections 162 through
7 167 of Title 13 of the NRS are referred to a master, designated as the "probate
8 commissioner."

9 2. A district judge may refer any other matter to the probate commissioner for
10 determination unless prohibited by law. Such referral may be by application of a party
11 to the action or on the judge's own initiative.

12 3. The probate commissioner shall hear and make recommendations on all
13 matters assigned to the probate commissioner, except those matters that require
14 disqualification. The probate commissioner may disclose on the record the basis of the
15 probate commissioner's disqualification and may ask the parties and their lawyers to
16 consider, out of the presence of the probate commissioner, whether to waive
17 disqualification. If following disclosure of any basis for disqualification other than
18 personal bias or prejudice concerning a party, the parties and lawyers all agree that the
19 probate commissioner should not be disqualified, and the probate commissioner is
20 willing to participate, the probate commissioner may participate in the proceeding. The
21 agreement shall be incorporated in the record of the proceeding.

22 4. The probate commissioner:

23 (a) Shall receive oral, documentary and tangible evidence and
24 establish a record;
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1 (b) Shall make findings of fact, conclusions of law and
2 recommendations for the establishment and enforcement of any order.

3 (c) Shall have any other power or duty contained in an order of
4 reference issued by the court.
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6 5. The probate commissioner may make an immediate determination of
7 appropriate sanctions for contemptuous behavior, issue a bench warrant, quash a
8 warrant, or release persons arrested thereon, subject to immediate appeal.
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10 6. Within a reasonable time after the evidence presented in a matter is
11 closed, the probate commissioner shall file with the probate judge written findings of fact
12 and recommendations, which shall also be served upon each party, including interested
13 parties and those parties requesting special notice.

14 7. A party shall have 10 days from service of written findings of fact and
15 recommendations within which to file a written objection. If no written objection is filed,
16 the court shall accept the findings of fact and recommendations, unless clearly
17 erroneous. If an objection is filed within the 10 day period, the probate judge shall have
18 discretion to determine the manner in which the probate commissioner's
19 recommendation will be reviewed.
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21 8. The parties may stipulate to immediate entry of order on the probate
22 commissioner's recommendation.
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24 9. Upon the request of a party or upon the probate judge's initiative, the
25 judge may enforce the provisions of the probate commissioner's recommendation
26 pending determination on appeal.
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28 10. The probate commissioner may direct counsel for a party to prepare the

1 probate commissioner's report, including findings and recommendation. If counsel is so
2 directed, the report must be delivered to the probate commissioner no later than 10
3 judicial days after the hearing or notice of decision.

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5 11. The probate commissioner may perform the duties of any other duly
6 appointed master or commissioner as the administration of justice may require.

7 12. All proceedings before the probate commissioner shall be conducted with
8 appropriate decorum and procedure to insure respect and obedience to the court and its
9 rules.

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11 **D. Approved matters.**

12 1. The probate commissioner must prepare an approved list each week of
13 probate matters which can be heard without further testimony or appearance.

14 2. In order to be on the approved list, the following must be strictly observed:

15 (a) All petitions must be verified.

16 (b) Death certificates, if available, must be attached to the initial
17 petition as an exhibit.

18 (c) Where a bond is required, the petition must set forth with
19 particularity the personal property of the estate together with the estimated amount of
20 annual income from all sources.

21 (d) The original order, together with any copies to be conformed, must
22 be delivered to the probate commissioner no later than 4:00 p.m. on Monday of the
23 week the matter is to be heard. Without a showing to the court of good cause proposed
24 orders not submitted within the time provided for in this rule will, on the noticed hearing
25 date, be continued for one week or longer at the request of counsel to enable
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1 compliance.

2 (e) An affidavit of mailing must be filed immediately after the actual
3 mailing has taken place. The affidavit of mailing and any required proof of publication
4 must be in the court file by 12:00 noon, Monday of the week the matter is set for
5 hearing.
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7 (f) A copy of the notice of hearing must be provided to the probate
8 commissioner at the time of filing.

9 **E. Contested matters.**

10 The probate commissioner shall hear all approved/uncontested matters on the
11 weekly probate court calendar. The probate commissioner may schedule all contested
12 matters at the convenience of the probate commissioner or probate judge's calendar.
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14 **F. Continuances.**

15 1. At the call of the calendar, if a matter is not ready for hearing or approved,
16 it may be continued from week to week for not more than three weeks. After the third
17 continuance, it will be ordered off calendar unless a motion for further continuance is
18 granted by the court. If a continuance is requested, the probate commissioner must be
19 notified not later than 4:00 p.m. on Tuesday of the week the matter is to be heard. A
20 later request will be considered only by the court upon a showing of good cause.
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22 2. When a petition for probate of a will is called for hearing, and any person
23 appears and orally objects by declaring a desire to file a written contest, the probate
24 commissioner will continue the hearing with the understanding that if a contest is not
25 actually on file at the new hearing date, the hearing will proceed.
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27 3. At the call of the calendar, if objection or exception is taken to any matter
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1 on the approved list, the petitioner or petitioner's counsel is not present, the probate
2 commissioner may continue the matter to allow the filing of written objections or
3 exceptions and giving notice thereof to petitioner. Such continuance must be made,
4 and petitioner or petitioner's counsel notified, in any case wherein the probate
5 commissioner proposes to effect a substantial change in the relief prayed for.
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7 **G. Petitions for probate of wills and/or codicils.**

8 1. When a petition for probate of will and/or codicil is filed and the original of
9 the document being offered for probate is not already filed with the filing office, it must
10 be filed concurrently with the petition. If the will is holographic, a typewritten copy of the
11 document must also accompany the petition. The caption must clearly indicate the
12 nature of the petition filed, e.g., Petition for Probate of Will and for Issuance of Letters
13 Testamentary; Petition for Probate of Will and for Issuance of Letters of Administration
14 with the Will Annexed; Petition for Letters of Administration.
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17 2. In addition to filing the original document with the filing office, copies of
18 any documents offered for probate must be attached to the petition for examination by
19 the probate commissioner.
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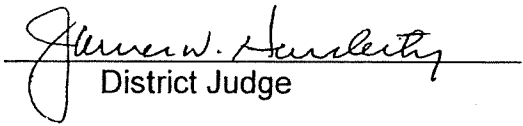
21 **H. Contents of probate orders.**

22 All orders or decrees in probate or trust matters shall set forth completely all
23 matters actually passed on by the court and shall not merely refer to corresponding
24 provisions of the petition. Probate or trust orders should be so drawn that their general
25 effect may be determined without reference to the petition on which they are based.
26 Orders must contain a line for the probate commissioner's signature in addition to a
27 signature line for the judge. Orders must not be drawn so that only the signature of the
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1 court, or the date and signature, appear on a page, nor may any matter appear after the
2 signature of the court. The name, address and signature of the submitting attorney
3 must appear on all orders.
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5 The purpose of this order pending submission and approval of the proposed
6 amendment is to provide a uniform, orderly, efficient and expeditious process for the
7 administration of probate and trust matters.

8 Dated this 3 day of June, 2004.

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11 District Judge
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