

Honorable Dean M. Fink
Presiding Judge, Probate and Mental Health Department
Superior Court of Arizona in Maricopa County
125 W. Washington Street, Suite 201
Phoenix, AZ 85003

**IN THE SUPREME COURT
STATE OF ARIZONA**

PETITION TO AMEND RULE 18(a)
OF THE RULES OF PROBATE
PROCEDURE

}
}
}
} Supreme Court No. R-_____

Pursuant to Rule 28 of the Rules of the Supreme Court, the Probate Department of the Superior Court of Arizona in Maricopa County respectfully petitions the Court to modify Rule 18(a) of the Arizona Rules of Probate Procedure.

BACKGROUND

After filing a probate petition, the petitioner “must obtain from the court a date, time, and location for an initial hearing on the petition.” Ariz.R.Prob.P. 15(c). In most cases, a hearing date is obtained at the same time the petition is filed. Rule 18 of the Rules indicates that if no hearing has been obtained within 60 days of the filing date, the court may notify the petitioner (and certain others) that the case will be administratively dismissed if a hearing date has not

1 been obtained in 30 days. Through this process, petitions that are filed and then
2 abandoned can be administratively dismissed, but only after at least 90 days
3 passes. This petition seeks to change the initial period in the rule in which to
4 obtain an initial hearing from 60 days to 30 days.
5

6 **IMPACTED RULE AND PROPOSAL**

7
8 The only rule impacted by this petition is Rule of Probate Procedure 18(a).
9 The requested change is simply to replace “60” days in the current rule with “30”
10 days. After this modification the rule would read as follows:
11

12 **If the petitioner has not, within 30 days after filing a petition, obtained**
13 **an initial hearing date, the court must notify petitioner, and anyone**
14 **filing a demand for notice, that the petition may be administratively**
15 **dismissed 30 days from the date of the court’s notice, unless within that**
16 **30 days the petitioner has obtained a hearing date or an extension of**
17 **the dismissal date. This provision does not apply to a petition subject to**
18 **court accountant review.**

19 **NEED FOR RULE CHANGE**

20 Under Arizona Case Processing Time Standards, as set forth in Arizona
21 Supreme Court Administrative Order 2015-60, Arizona probate courts are
22 expected to resolve 80% of guardianship and conservatorship petitions within 90
23 days of filing. As currently worded, Rule 18(a) frequently prevents courts from
24 meeting the time standard in two ways. First, as the rule is currently structured,
25 petitions that are filed and abandoned cannot be administratively dismissed within
26 the 90 day time standard. Second, if petitioners wait 60 (or 90) days to obtain a
27
28

1 hearing date, as the rule currently allows, the initial hearing will most likely be set
2 after the time standards have run. On the other hand, if a hearing date is set within
3 the first 30 days of filing, there is a much higher likelihood that an initial hearing
4 date will be set within the first 90 days of filing.
5

6 In most cases, there is no reason not to obtain a hearing date at the time of
7 filing a probate petition. There may be times when a petitioner needs to
8 investigate addresses or whereabouts of individuals entitled to notice of the initial
9 hearing and may delay obtaining a date for that reason. Under the proposed rule,
10 people in that position would still have 60 days to obtain a hearing date before a
11 case is dismissed. Petitioners who have not concluded their investigation in 60
12 days would have two options: (1) set the hearing but ask for a hearing date farther
13 into the future to accommodate additional research, or (2) move for an extension
14 of the dismissal date.
15
16
17
18

19 Therefore, as set forth in Attachment "A" to this petition, the undersigned
20 petitioner respectfully requests that Rule 18(a) of the Rules of Probate Procedure
21 be amended to require a petitioner to obtain an initial hearing within 30 days of
22 filing a petition.
23
24
25
26
27
28

1 RESPECTFULLY SUBMITTED this 10th day of January, 2025.

2
3
4 

5 Hon. Dean M. Fink
6 Presiding Judge
7 Probate and Mental Health Department
8

9 Electronic copy filed with
10 the Clerk of the Arizona Supreme Court
11 this 10th day of January, 2025.
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTACHMENT “A”
(removed language is ~~struck through~~, new language is underlined)

Rules of Probate Procedure

Rule 18. Dismissal for Failure to Obtain a Hearing Date

(a) Administrative Dismissal of Petition. If the petitioner has not, within ~~60~~ 30 days after filing a petition, obtained an initial hearing date, the court must notify petitioner, and anyone filing a demand for notice, that the petition may be administratively dismissed 30 days from the date of the court’s notice, unless within that 30 days the petitioner has obtained a hearing date or an extension of the dismissal date. This provision does not apply to a petition subject to court accountant review.

(b) through (c) [no changes]