

Judge Kelli Wolk Gives Our Section an Update on the Georgia Probate Form Revisions

By Jacquelyn H. Saylor, *The Saylor Law Firm LLP*



The Honorable Kelli Wolk, *Probate Judge of Cobb County*, who is also the current Chair of the Probate Rules & Forms Committee, spoke to the Estate Planning & Probate Section of the Atlanta Bar Association at our breakfast on April 13, 2016. At that time, she was unable to inform us whether the new Georgia Probate Court Standard Forms (GPCSF) would be approved by the Supreme Court of Georgia, even though she is a member of the Probate Rules & Forms Committee, because the Supreme Court had only received the proposed forms the day before.

The Probate forms have now been approved and were effective July 1, 2016. If the Probate judges and the Supreme Court judges had not worked so quickly, the effective date could have been July 1, 2017. The forms have the legal effect of court rules and are of high procedural importance.

We owe Judge Wolk a special thank you for all the work she did as a leader of the Rules & Forms Committee. The Honorable Jeryl Rosh, *Probate Judge of DeKalb County*, who attended the breakfast, commented that the Rules & Forms Committee is the most labor intensive committee there is. The committee, which consists of thirteen Probate Court judges, is responsible for sixty forms.

The process of revising the forms is laborious. The Forms Committee reviews all existing forms, decides which to revise, and notifies the Executive Committee of the Probate Court Judges Council which forms the committee thinks should be changed. The Forms Committee then makes suggested revisions and presents them to the Executive Committee. If the Executive Committee thinks the Rules & Forms Committee should revise the forms as suggested, the Executive Committee and the entire council authorizes the Rules & Forms committee to make the revisions. The Forms Committee then revises the forms. The revised forms are then sent to the Georgia Supreme Court for review and revision. The Supreme Court sends its suggested revisions back to the Forms Committee, which makes those revisions suggested by the Supreme Court. At that point, the revised forms are sent back to the Supreme Court for approval and publishing in the advance sheets. Assuming the forms are published in the advance sheets in time, the revised forms become effective on July 1 of that calendar year and will be available on the Supreme Court website as well as GAProbate.gov.

As part of their review of the existing forms, the Forms Committee voted on the intended primary function of the Probate forms. Judge Wolk told us that the Committee wanted to assist pro se petitioners in a typical situation with providing notice or getting into court. However, she

stated that pro se petitioners may still need to hire an attorney because the Committee was unable to fix everything they wanted. As an example, she mentioned that the forms were developed over the last fifteen to twenty years; they were originally designed with the assumption that most families would fit the traditional mold of a nuclear family consisting of a husband, wife, and children. Increasingly, however, the court sees petitioners from blended families, or other families that may not fit the traditional mold. Judge Wolk noted later on in her presentation that the forms are substantially the same as they were before in their contemplation of a traditional family situation, and still don't reflect modern variations. As a result, we may expect to see more changes to these forms in the future to reflect these shifting demographics.

Judge Wolk did describe some changes that have been made to the forms. The Solemn Form order will read more like a Common Form order. The phrase "and hereby adjudged" was deleted. "A preponderance of the evidence" and a fee were updated. There will be yes and no check boxes. All the "seek and replace" features were deleted because they did not work. An Estate Planning & Probate Section member informed us that The Fiduciary Law Section of the State Bar of Georgia has a list serve with red line changes to the forms. If Section members find that a new form has a misstatement or other error, they are asked to send that information to the Cobb County Probate Court at Probatecourt@cobbcounty.org so the forms can be more easily fixed.

In the new *General Instructions Applicable to All Georgia Probate Court Standard Forms*, effective July 1, 2016, there will be a cumulative list of changes at the end of the included list of Uniform Probate Court Rules, like there was in 2014. Then there will be twenty-two Supplements and Forms listed. Check for the effective date on the bottom right hand side of the *General Instructions* where it usually is; this year the new effective date reads "Eff. July 2016." The Supplements are never filed by themselves; for example, Testamentary Guardianships need to be filed with Probate Forms.

Judge Wolk not only presented information about changes to the forms, she reminded us about the important information that will continue to be relevant when forms are prepared. Since at least July 2014, "[a]dditional paragraphs or interlineations may be added [to the approved forms] if they are necessary, but they should be clearly identified."¹ Pages may also be added as long as necessary identifying information is included on each additional page. Both Judge Rosh and Judge Wolk noted that the supplemental information added by practitioners or pro se petitioners, whether paragraphs or pages, must be CAPITALIZED or in **BOLD** letters. Information may be deleted with a single strikethrough (interlineations) rather than removing it from the

¹ GPCSF 1, *General Instructions Applicable to all Georgia Probate Court Standard Forms*, Effective July 2014. Page 2, Paragraph 7.

document without notation. *The General Instructions* provide additional examples of how changes can be made to the forms.

It is still true that an attorney or a pro se petitioner who has made changes to a particular approved form needs to sign a Probate Form statement that what he or she has written substantially conforms to the form except for the indicated additions or deletions.² The Probate Court has the discretion not to process the form in a proceeding if there is not such a statement and signature. Judge Wolk reminded us that clerks and judges review many filed forms each day and rely on attorneys to be honest about changes they make.

Judge Wolk suggested that we call the probate judge's office in the county in question and ask how they like the forms filled out and whether they want the back half, or the "Court's portion" of the packet of forms, filled out or not. "The Court's portion includes the Court's signatures and dates, name and answer of any guardian ad litem, evaluator, or other person appointed by the Court, and other information which is not reasonably within the petitioner's knowledge."³

The Rules & Forms Committee revised the forms in Word, but they will officially be offered and maintained only in a fillable pdf format. [*Editor's Note:* in early July 2016, due to problems with the published pdf forms, the Committee disseminated Word versions. These may currently be obtained on the fairly new MyGABar.com web forum: <https://community.mygalaw.com/> The specific page where the forms are located is <https://community.mygalaw.com/t/georgia-probate-court-standard-forms/1204> If a reader doesn't yet have a MyGABar account, he or she should set one up.] Additionally, the Committee is trying to set up forms for e-filing. However, not all of Georgia's one hundred and fifty-nine counties have computers and websites so this may take some time.

To verify the costs for filing fees, consult the particular forms. There are also charges for copying costs. In Cobb County you can email one of the seven processing clerks for the amount of the filing fees and then you can file the documents and the amount cited by the clerk will be binding.

There are new uniform Guardianship Rules. The Committee could not make new forms for those rules because they were not effective when they updated the other forms. The Committee will need to revise Forms 11 and 12 next year.

The Estate Planning & Probate Section is fortunate to have such a hardworking, high caliber judge keeping us up to date about the new forms and how all forms should be filed. Thank you, Judge Wolk.

² *Id.*, Page 2, Paragraph 9.

³ *Id.*, Page 1, Paragraph 2.



Jackie Saylor, a founding partner of *The Saylor Law Firm* with her attorney-CPA partner, Murray Saylor, wrote this article. She is now the Treasurer of the Estate Planning & Probate Section, having previously served as Secretary of the Section and as President of the Atlanta Bar Association. www.saylorlaw.com