

1 **Rule 4-1001. Informal trial of probate disputes.**

2 **Intent:**

3 To allow interested persons and the judge to agree to a trial of select probate disputes in an informal
4 manner. Rule 26.4 of the Utah Rules of Civil Procedure defines “interested persons” and “probate
5 dispute.”

6 **Applicability:**

7 This rule applies to the district court.

8 **Statement of the Rule:**

9 (a) Upon waiver and stipulated motion of all interested persons and approval by the court, the court
10 will conduct an informal trial of a probate dispute(s) during which the Utah Rules of Evidence will not
11 apply. The waiver and motion must be made verbally on the record or in a signed writing. To qualify for an
12 informal trial, the court must find that the interested parties have made a valid waiver of their right to a
13 regular trial.

14 (b) If the court grants the motion, the informal trial will proceed as follows:

15 (b)(1) The party who bears the burden of proof on an issue speaks to the court under oath about the
16 probate dispute, including his or her preferred resolution of the dispute. The party is not questioned by
17 counsel or the other parties but may be questioned by the court.

18 (b)(2) That party may present any document or other evidence. The court will determine what weight
19 to give any documents or other evidence. The court may order the record to be supplemented.

20 (b)(3) Counsel for that party may identify any other areas of inquiry, and the court may make the
21 inquiry.

22 (b)(4) The process is repeated for the other interested parties.

23 (b)(5) If there is an expert, the expert’s report is entered into evidence as the court’s exhibit. The
24 expert may be questioned by counsel, parties or the court upon request.

25 (b)(6) Each interested party is offered:

26 (b)(6)(i) the opportunity to respond to the statements, documents or other evidence of the other
27 parties; and

28 (b)(6)(ii) the opportunity to make legal arguments.

29 (b)(7) The court will enter an order which has the same force and effect as if entered after a traditional
30 trial. If the order is a final order, it may be appealed on any grounds that do not rely upon the Utah Rules
31 of Evidence in accordance with Rules 4 and 5 of the Utah Rules of Appellate Procedure as applicable.

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