



Probate Court Establishes New Fiduciary Litigation Session for Complex Probate Litigation Cases

After years of discussion and efforts by the probate bar and the Probate and Family Court, the Court recently announced a one year pilot project for the formation of a new Fiduciary Litigation Session (“FLS”). The purpose of the FLS is to handle complex and contested trust and estate cases separate from the ordinary trial sessions in the Probate Court. Justice Elaine Moriarty, an experienced trial judge well-versed in fiduciary law matters, will preside. The FLS will be housed at the Norfolk Division of the Probate Court, and will accept cases from Suffolk, Middlesex and Norfolk counties.

The overriding goal of the FLS is to “provide a specialized forum for the speedy resolution of contested and complex probate litigation cases and to provide individualized and collaborative case management to reduce the costs associated with fiduciary litigation.”

The procedural rules for processing cases through the FLS are set forth in a new Standing Order. Some highlights of the rules are as follows:

- Requests for reassignment must first be made to the judge assigned the matter. The requests can be opposed, and the assigned judge will thereafter decide whether reassignment is appropriate.
- If the assigned judge approves reassignment, the FLS judge will review the reassignment and make a final determination whether to accept the case into the session.
- Matters may also be reassigned *sua sponte* by the assigned judge.
- For new cases, a request for reassignment can only be made once the deadline for filing an answer or the return date has passed.
- In keeping with the purpose of the FLS, once a matter is reassigned, the FLS judge will hold a scheduling conference within thirty days to set an individualized scheduling order, establish controls on pre-trial discovery, and facilitate potential settlement.

The establishment of the FLS is welcome news for experienced probate litigators. These matters are often complex and technical in nature, and can overwhelm judges sitting in the ordinary trial sessions of the Probate Court who need to preside over a range of divorce and family law matters, often dealing with pro se litigants. The





presence of the FLS should provide an avenue for the fair and expeditious resolution of complex fiduciary matters.

Contact Us

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