

# STATE OF VERMONT

## SUPERIOR COURT

## PROBATE DIVISION

### **Instructions for Notifying Interested Persons of a Hearing on the Allowance of a Decedent's Last Will and Testament**

A Petition filed in Probate Court that includes the Last Will and Testament of a person who has passed away - the "decedent" – is known as a "testate estate" Petition. When a decedent's Will is presented to the Probate Court as part of a "testate" estate Petition, there are times when Consents to the allowance of the decedent's Will for probate from all the heirs-at-law cannot be obtained. See 14 Vermont Statutes Annotated Section 107(a), explaining that a Last Will may be admitted for probate without a hearing when the Consents from all the heirs-at-law are also filed with the Probate Court.

The heirs-at-law are described in Vermont law at 14 V.S.A. Section 314. Please also refer to the form "List of Interested Persons" for an explanation of and the details on how to "define" who the heirs-at-laws are in each case. The inability to obtain Consents from all the heirs-at-law may be due to an inability of the Petitioner, the person(s) preparing and filing the testate estate Petition, to successfully locate and obtain a Consent from each heir-at-law. The inability to obtain Consents from each heir-at-law can also result from an active challenge to the allowance of the decedent's Last Will into probate by one or more of the heirs-at-law.

Whenever the Probate Court is required to set a hearing on the allowance of a Last Will for probate administration, anyone who is an heir-at-law **and** any person or entity who is remembered in the Last Will as a beneficiary **must** be notified of the hearing pursuant to the Rules of Probate Procedure. It is the Petitioner's responsibility to serve the Hearing Notice on the heirs-at-law and beneficiaries pursuant to V.R.P.P. 4 and also to file a Certificate of Service with the Probate Court.

Each heir-at-law is a party to this hearing. Whether a beneficiary who is not an heir-at-law has standing to participate in the hearing as a party may depend upon a legal interpretation by the Probate Judge who is presiding over the matter. Regardless of ultimate "party standing," any beneficiary named in the Last Will presented for allowance into probate, but who is not an heir-at-law, must also be given notice of any hearing where the Probate Court will consider the allowance of the decedent's Last Will.