

NEW HAMPSHIRE CIRCUIT COURT – PROBATE DIVISION
TRUST DOCKET
FREQUENTLY ASKED QUESTIONS

1.) *What is the Trust Docket?*

The Trust Docket is, in essence, an administrative reassignment of complex trust, estate, and probate cases pursuant to RSA 490-F:2 and Supreme Court Rule 54(4)(h) to a judge specially assigned to manage this docket of cases.

2.) *What is the Goal of the Trust Docket?*

The primary goal of the Trust Docket is to foster speedy resolution of complex trust cases or other complex probate litigation. By assignment of complex cases to one docket and one presiding judge, the Circuit Court seeks to increase efficiency in managing complex Probate Division cases for the benefit of the parties and others whose cases are impacted by the resource demands of such complex matters.

3.) *Which Cases Are Appropriate for Reassignment to the Trust Docket?*

There is no mathematical formula or precise benchmark for determination whether a case belongs on the Trust Docket. "Complex" cases appropriate for reassignment may involve one or more of the following factors:

- a. Multi-Faceted Issues – Do the issues raised involve multiple layers of complexity? Does the instrument at issue include novel, ambiguous, or complicated provisions? Is the law unclear, complicated, or is there a choice of law controversy?
- b. Multitude of Instruments at Issue – Does the case involve interpretation of multiple types of probate documents?
- c. Number of Parties – Does the case involve multiple parties or parties with competing or differing interests? Are there a number of creditors with competing preferences for estate assets?
- d. Potential Tax Implications – Does the case involve complicated tax questions or does the outcome implicate various tax consequences?
- e. Projected Length of Trial – Do the parties project a multi-day trial as opposed to only a few hours?
- f. Multiple Forums – Are the parties involved in related litigation in other Circuit Court divisions that are best consolidated into one matter? Does resolution of the case affect, or is itself affected by, litigation in another division of the Circuit Court, the Superior Court, or Federal Court?
- g. Urgency of Adjudication – Is there a critical need for fast resolution?
- h. Efficiency – Can the case be more efficiently resolved in a specialized docket?

4.) *What is the Process for Reassignment to the Trust Docket?*

There are three possible paths to the Trust Docket. See Circuit Court Administrative Order 2014-04. Cases may be reassigned by the Administrative Judge of the Circuit Court upon referral by any Circuit Court Probate Division judge. Parties may request reassignment by filing a request with the court. Finally, the Circuit Court Administrative Judge, in his sole discretion, may initiate reassignment of a case to the Trust Docket.

A party requesting reassignment must file its request in the court where the matter is pending, and forward copies of the request to both the Administrative Judge and all parties and counsel of record. The Circuit Court will have a request form available on its website next week for use by parties requesting reassignment. The request form will mirror that presently used for Rule 7 discretionary appeals to the Supreme Court. Until the form is available, parties should file a separate written request with the forum judge setting forth reasons for reassignment based on one or more of the criteria listed above.

5.) *How Selective is the Process?*

The Administrative Judge will carefully consider each request in consultation with the Deputy Administrative Judge, the Presiding Judge of the Circuit Court Trust Docket, and the forum judge. The process will be very selective and only those cases that clearly belong in the Trust Docket will be reassigned.

Reassignment of any case shall be in the sole discretion of the Administrative Judge. See RSA 490-F:2; Super. Ct. R. 54. **There is no appeal from the decision on a request for reassignment.**

6.) *What is the Venue for the Trust Docket?*

The Honorable Gary R. Cassavechia is the Presiding Judge of the Trust Docket. Hearings will normally be held in the 7th Circuit-Probate Division location in Dover. The Dover Probate Division facilities are well-equipped to accommodate multi-party litigation.

In very unusual circumstances, however, proceedings may be held in other circuit court locations. Very brief hearings may be scheduled by videoconference or teleconference, however, advance notice to the court will be required.

7.) *How Does the Trust Docket Differ from the Usual Probate Docket?*

The goal of the Trust Docket is to foster efficient resolution of complex cases. The Presiding Judge will be the only judge hearing Trust Docket cases except where exigent circumstances require the case to be transferred to another probate judge. Consequently, each case will be managed very closely. Parties will be firmly held to filing, discovery, and other scheduling deadlines. Open discovery will be expected by the court. The Circuit Court will be publishing a series of standing orders to facilitate completion of discovery in a reasonable time and manner.

8.) *What if My Client Objects to a Request for Reassignment?*

Parties may file a response to the request for reassignment setting forth reasons that transfer is inappropriate. Copies of the response must be filed in the Circuit Court where the matter is pending within **five business days** of receipt of the request for reassignment. Additional copies of the request must be sent contemporaneously to both the Administrative Judge and all parties and counsel of record.

9.) *How Long Does the Case Stay on the Trust Docket?*

Cases will remain on the Trust Docket until resolution of all complex legal issues in the case. The case may be referred back to the court of origin at the discretion of the Administrative Judge if a determination is made that the court of origin is best suited for disposition of remaining or routine matters.

10.) *Will Other Circuit Court Cases Automatically Be Consolidated in the Trust Docket?*

If the Administrative Judge, in his sole discretion, determines that reassignment to the Trust Docket of any related matters pending before any Circuit Court will further the goal of efficient resolution then, pursuant to RSA 490-F:2, those cases will be reassigned and consolidated in the Trust Docket for global review and disposition.

11.) *Is Mediation Available?*

Mediation is available and will be encouraged.

12.) *What About E-Court? Will the Trust Docket Have Electronic Filing?*

Filing will continue to be paper-based for the near term. All Trust Docket case files will eventually be electronic, however, that is not expected to occur for at least three to five years.

Parties are encouraged to file particularly lengthy exhibits via CD or other easily accessible electronic media.

13.) *What About Cases with Confidentiality Concerns?*

Transfer of case files is completed internally and as such confidentiality will be respected. The Court expects that parties will be aware of, and closely follow, any outstanding protective orders in the case.

