CUMMINGS & LOCKWOOD LLC

CONNECTICUT SUPREME COURT STREAMLINES AND CLARIFIES PROCEDURES IN PROBATE COURT APPEALS

June 24, 2025

In an important decision for trust and estate litigators, as well as for fiduciaries and beneficiaries, the Connecticut Supreme Court recently confirmed that summary judgment is available in appeals from Probate Court decisions, resolving a longstanding split of authority and paving the way for expedited resolution of those appeals. The Court also explored the unique, oft-misunderstood rules governing Connecticut's *de novo* probate appeal process, providing some guidance while raising intriguing questions to be litigated another day.

Rutherford v. Slagle arose from a dispute between co-trustees over how to distribute trust property to remainder beneficiaries. Co-trustee Rutherford appealed to the Superior Court from the Probate Court's decision in co-trustee Slagle's favor. Rutherford's complaint attacked the decision "in toto," and his statutorily-required reasons for appeal broadly asserted that the Probate Court erred. After Slagle successfully argued those reasons were too vague, Rutherford amended them to specifically challenge the Probate Court's discovery rulings, while maintaining his complaint appealing the decree "in toto."

Slagle then moved for summary judgment, arguing that Rutherford wasn't aggrieved by the discovery rulings, which Slagle maintained were now the sole basis for the appeal. Rutherford disputed that the reasons for appeal narrowly limited the court's review which, as in most probate appeals, was *de novo* -- that is, without giving any weight to the Probate Court's decision. Rutherford also argued that summary judgment wasn't available in probate appeals. The Superior Court rejected both arguments and granted summary judgment to Slagle.

The Supreme Court affirmed in part and reversed in part. Although the Court agreed with the Superior Court that summary judgment is available in probate appeals, it saw ambiguities in the relevant statutes and rules. The Court thus looked to summary judgment's "genealogy" and its underlying nature and purpose, finding no good reason why parties in probate appeals should be denied these "straightforward and efficient" procedures.

But the Supreme Court reversed the Superior Court's decision on the merits, finding that its narrow focus on Rutherford's discovery-related reasons for appeal fell short of a true *de novo* review. The Court began its analysis with a refresher on just what *de novo* means: a review "ignoring," "unfettered by," and "without regard to" any aspect of the Probate Court's decision. While the Court acknowledged that reasons for appeal serve to define the issues and that Rutherford's reasons were expressly limited to discovery rulings, it still found the trial court was required to evaluate the merits of the issues before the Probate Court. It cited three principal reasons. First, Rutherford had appealed the decree "in toto." Second, Slagle carried the burden of proof as the petitioner in Probate Court to establish the trust construction he advanced, and maintained that burden on appeal -- even though he was the appellee. Third, Rutherford's right to new discovery in the probate appeal made his discovery-related reasons for appeal irrelevant. The Court thus remanded the case to the Superior Court with instructions to conduct a *de novo* merits review.

The big takeaways: *Rutherford* should help expedite probate appeals by allowing parties to use summary judgment to avoid expensive and time-consuming trials, where appropriate. *Rutherford* also reiterates that the party who bore the burden in Probate Court bears the ultimate burden on a *de novo* probate appeal, regardless of

their status as appellant or appellee.

Rutherford also raises some more nuanced questions. Post-*Rutherford*, it's unclear whether reasons for appeal will meaningfully narrow the issues, casting doubt on the utility of this procedural requirement and potentially mitigating some efficiencies promised by summary judgment. Intriguingly, *Rutherford* suggests that summary judgment may be available in probate courts -- even though there is no probate rule allowing the procedure or a widespread practice of using it. *Rutherford* also appears to assume that the petitioner seeking a construction of a trust's terms would bear the burden of proof to establish their preferred construction. It's not clear how that would affect petitions for construction that are filed neutrally, often by fiduciaries who do not want to take a position on the merits. *Rutherford*'s impact on these issues will likely be determined through future litigation.

If you have any questions regarding this alert, please contact your Cummings & Lockwood fiduciary litigation or private clients attorney.