

COMMONWEALTH OF MASSACHUSETTS

At the Supreme Judicial Court holden at Boston within and for said Commonwealth on the twenty-fourth day of June , in the year two thousand and nine:
present,

HON. MARGARET H. MARSHALL)	
)	
HON. RODERICK L. IRELAND)	
)	
HON. FRANCIS X. SPINA)	Justices
)	
HON. JUDITH A. COWIN)	
)	
HON. ROBERT J. CORDY)	
)	
HON. MARGOT BOTSFORD)	
)	
HON. RALPH D. GANTS)	

ORDERED: That the Massachusetts Rules of Civil Procedure adopted by order dated July 13, 1973, as amended, to take effect on July 1, 1974, are hereby amended as follows:

Rule 17: By inserting in the second sentence of Rule 17(a) after the word "guardian," the following: -
conservator,

Rule 17: By striking out Rule 17(b) and inserting in lieu thereof Rule 17(b) attached hereto;

Rule 25: By striking out Rule 25(b) and inserting in lieu

thereof Rule 25(b) attached hereto;

Rule 27: By inserting in the last sentence of Rule 27(a)(2) after the word "incompetent" the following: - , or an incapacitated person as defined in G .L. c. 190B

Rule 55: By inserting in Rule 55(b)(1) and in the first sentence of Rule 55(b)(2) after the words "incompetent person," the following: - or an incapacitated person as defined in G. L. c. 190B

Rule 55: By striking out the word "general" from the first sentence of Rule 55(b)(2);

Rule 66: By striking out the word "guardian" in the first sentence of Rule 66(c) and inserting in lieu thereof the following: - conservator

Rule 72: By striking out Rule 72(a) and inserting in lieu thereof the new Rule 72(a) attached hereto;

Rule 72: By striking out the words "G. L. c. 206, § 24" in the

first sentence of Rule 72(b)(1) and inserting in lieu thereof the following: - G. L. c. 190B, §§ 1-401 and 5-418

Rule 72: By inserting in the first sentence of Rule 72(b)(2) after the second and third appearance of the word "guardian" the following: - ad litem

Rule 72: By inserting in the second sentence of Rule 72(b)(2) after both appearances of the word "guardian" the following: - ad litem

Rule 72: By striking out the words ", the guardian" in the parenthetical in Rule 72(b)(3);

Rule 72: By striking out the last sentence of Rule 72(b)(5)(A) and inserting in lieu thereof the following sentence: - The conservator or guardian of an interested person shall sign for the ward, incapacitated or protected person.

The amendments accomplished by this order shall take effect on July 1, 2009.

<u>MARGARET H. MARSHALL</u>)	
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<u>RODERICK L. IRELAND</u>)	
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<u>FRANCIS X. SPINA</u>)	Justices
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<u>JUDITH A. COWIN</u>)	
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<u>ROBERT J. CORDY</u>)	
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<u>MARGOT BOTSFORD</u>)	
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<u>RALPH D. GANTS</u>)	

RULES OF CIVIL PROCEDURE

RULE 17. PARTIES PLAINTIFF AND DEFENDANT: CAPACITY

(b) Infants or Incompetent Persons or Incapacitated Persons. Whenever an infant or incompetent person, or an incapacitated person as defined in G.L. c.190B has a representative, such as a guardian, conservator, or other like fiduciary, the representative may sue or defend on behalf of the infant or incompetent person, or incapacitated person as defined in G.L. c.190B. If an infant or incompetent person, or an incapacitated person as defined in G.L. c.190B does not have a duly appointed representative, he may sue by his next friend or by a guardian ad litem. The court shall appoint a guardian ad litem for an infant or incompetent person, or an incapacitated person as defined in G.L. c.190B not otherwise represented in an action or shall make such other order as it deems proper for the protection of the infant or incompetent person, or an incapacitated person as defined in G.L. c.190B.

RULE 25. SUBSTITUTION OF PARTIES

(b) Incompetency or Incapacity. If a party becomes incompetent or incapacitated as defined in G.L. c.190B, the court upon motion served as provided in subdivision (a) of this rule may allow the action to be continued by or against his representative.

RULE 72. PROBATE ACCOUNTS

(a) Accounts With Written Assent. If a fiduciary files with his account: (1) the proper filing fee; (2) the written assent or waiver of every person interested in the account, including every person entitled to notice pursuant to G.L. c.190B, §§1-401 and 5-418; and (3) all tax receipts or tax waivers required by law, the court may forthwith allow the account. If any interested person is incompetent or under lawful age, or as defined in G.L. c.190B a protected person or an incapacitated person, the conservator or guardian, as the case may be, shall sign the assent, unless the account is his own account.