

## **CHAPTER 12 CREDITOR'S CLAIMS**

### **Rule 4.12.1**

#### **Notice to Creditors**

**A.** Notice of Administration must also be given to all known or reasonably ascertainable creditors pursuant to *Tulsa Professional Collection Services, Inc. v. Pope* (1988) 485 U.S. 478 and Probate Code section 9050. This notice must be filed with the court prior to or with the filing of a petition for distribution.

**B.** In an interim or final accounting, the personal representative must describe the compliance with Probate Code section 9050 and *Tulsa*. (See Rule 4.15.3.)

(Adopted 1/1/1990; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Rev. & Renum. 1/1/2006; Rev. 1/1/2018)

### **Rule 4.12.2**

#### **Filing Creditors' Claims**

Counsel are advised to review the court file for creditors' claims prior to filing the final accounting. (See Prob. Code, § 9250.)

(Adopted 1/1/1990; Rev. & Renum. 7/1/2001; Rev. 7/1/2002; Renum. 1/1/2006)

### **Rule 4.12.3**

#### **Creditors' Claims of Personal Representatives or Counsel**

**A.** The creditor's claim of a personal representative or counsel for the personal representative must be timely filed with the court. A separate notation must be attached to the face of the claim indicating that the claim requires specific court action.

**B.** A proposed allowance or rejection form must be attached for the court's action, with copies to be returned to counsel.

**C.** The court on its own motion may set the creditor's claim for hearing which will require 15 days' written notice be given by the creditor to all heirs and devisees.

(Adopted 1/1/1990; Rev. & Renum. 7/1/2001; Rev. 7/1/2002; Renum. 1/1/2006; Rev. 1/1/2010; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2016)

### **Rule 4.12.4**

#### **Payment of Claims and Debts**

**A.** Other than those creditors' claims ordered paid by the court, the personal representative may defer payment of claims until settlement of an account. If the personal representative elects to defer payment of claims until settlement of an account, such claims shall be addressed in and included as a distribution in the settled account.

**B.** The personal representative may timely pay any debts that are just and reasonable subject to later approval by the court under Probate Code section 11005, which approval must be supported by appropriate evidence required by that section.

**C.** Payment pursuant to Probate Code section 11005 assumes that the debt is undisputed and the estate is solvent. Prudence may dictate caution before paying such claims.

(Adopted 1/1/1990; Rev. 7/1/1996; Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2018)

### **Rule 4.12.5**

#### **Special Creditors' Claims**

**A.** Funeral expenses must be reasonable and interest is allowed on such claims commencing 60 days after the date of death (H&S Code 7101).

**B.** Public entities' creditor's claims are governed by Probate Code section 9200 et seq., and may be barred only after actual notice is sent to the entity and the applicable claim period has expired.

**C.** Notice to the Director of Health Services for Medi-Cal claims must comply with Probate Code section 9202 and Welfare and Institutions Code section 14009.5.

(Adopted 1/1/1990; Rev. 7/1/1996; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2015)