

CHAPTER 17 DISTRIBUTION

Rule 4.17.1

Distribution to Minor

When a beneficiary is a minor or a disabled adult, the court requires the following documents to be filed in conjunction with the accounting and petition for final distribution:

A. A certified copy of the Letters of Guardianship or Conservatorship when distribution is to be made to the guardian of the minor **or** to the conservator of a disabled adult.

B. The written assurance of a parent that the minor's estate, including the bequest, does not exceed \$5,000 when distribution is made pursuant to Probate Code section 3401.

C. The consent of the custodian to act if distribution is to be made to a custodian under the California Uniform Transfers to Minors Act (Prob. Code, § 3900 et seq.).

(Adopted 1/1/1990; Rev. & Renum. 7/1/2001; Rev. 7/1/2002; Renum. 1/1/2006; Rev. 1/1/2011)

Rule 4.17.2

Distribution Under Probate Code Section 13101 Affidavit

If distribution is to be made to a person collecting assets under Probate Code section 13100, the required affidavit or declaration pursuant to Probate Code section 13101 must be filed before distribution will be ordered.

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

Rule 4.17.3

Blocked Accounts

In any case in which funds are to be placed in a blocked account, Rule 4.7.11 of these rules must be followed.

(Adopted 1/1/1990; Renum. 7/1/2001; Rev. 7/1/2003; Renum. 1/1/2006)

Rule 4.17.4

Distribution to Deceased Beneficiary

When an heir or beneficiary dies during administration of an estate, the decree must provide for distribution to the personal representative of the estate of the heir or beneficiary, pursuant to Probate Code sections 11801 and 11802, or, if applicable, to the person(s) entitled to the property in a summary proceeding pursuant to a declaration or affidavit under Probate Code section 13101.

(Adopted 1/1/1990; Rev. 7/1/1991; Rev. & Renum. 7/1/2001; Rev. 7/1/2002; Renum. 1/1/2006)

Rule 4.17.5

Assignment of Interest in Estate

When distribution is requested pursuant to an assignment by a distributee, the court will require that the assignment be filed in the proceeding. The court will require additional information, including consideration paid, to assure that the assignor fully comprehends the effect of the assignment, that it was voluntarily made and was not grossly unreasonable. The terms of said assignment will be set forth in the Order for Distribution as set forth in Rule 4.7.2, *infra*.

(Adopted 1/1/1990; Rev. & Renum. 7/1/2001; Rev. 7/1/2002; Renum. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2009; Rev. 1/1/2011)

Rule 4.17.6

Preliminary Distribution Bond

A. If a preliminary distribution is made before the time for filing creditors' claims has expired, a bond must be furnished by the distributees.

B. When a bond is not required by the court, the order must include a finding that the time for filing or presenting claims against the estate has expired and that all uncontested claims have been paid or are sufficiently secured.

C. An allegation and showing will be required concerning notice to any additional known or reasonably ascertainable creditors pursuant to *Tulsa Professional Collection Services, Inc. v. Pope* (1988) 485 U.S. 478. Unless such notices have been given, the time to file claims will not be considered to have expired and the court will impose a bond upon each distributee of the preliminary distribution.

(Adopted 1/1/1990; Rev. 7/1/1991; Rev. & Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 4.17.7

Receipts on Preliminary Distribution

Receipts for property received in Preliminary distributions must be filed with the court before the final account, and follow the requirements of Rule 4.17.8 of these rules.
(Adopted 1/1/1990; Renum. 7/1/2001; Rev. 7/1/2002; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2013)

Rule 4.17.8

Receipts on Final Distribution

A. Receipts for property received on final distribution must be signed by the (1) distributee, unless there is a showing of good cause why the distributee cannot or will not sign the receipt, (2) the attorney-in-fact for the distributee under a valid power of attorney where a true copy of the power of attorney is attached to the receipt and the attorney-in-fact certifies under penalty of perjury that the power of attorney is in full force and effect, or (3) the conservator or guardian of the estate of the distributee, or (4) the personal representative of the estate of the distributee.

B. A receipt must be specifically itemized, giving the valuation of each asset and the total value of all the property received.

(Adopted 1/1/1990; Rev. & Renum. 7/1/2001; Rev. 7/1/2002; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2009; Rev. 1/1/2011)

Rule 4.17.9

Property to be Distributed Must Be Listed

A. The petition for distribution must list and describe in detail all property to be distributed, including cash. The proposed distribution of cash must specify the exact dollar amount to be distributed to each recipient. Proposed distribution of non-cash assets must specify the percentage to be distributed to each recipient..

B. The description of promissory notes must indicate whether they are secured or unsecured; if secured, the security interest must be described.

C. Real property descriptions must include a complete legal description and street address and Assessor's Parcel Number.

D. The description must be set forth either in the body of the petition or in the prayer, or by a schedule in the accounting and incorporated in the petition by reference.

E. Description by reference to the inventory is not acceptable.

F. The value of each individual asset on hand and the total value of the assets must be set forth.

(Adopted 1/1/1990; Renum.7/1/2001; Rev. 7/1/2002; Renum. 1/1/2006; Rev. 1/1/2011; Rev. 1/1/2012; Renum. 1/1/2013)

Rule 4.17.10

Requests to Withhold Funds from Final Distribution

In every case where the Petitioner requests to withhold \$10,000 or more, the Petitioner must specify the items for which the withholding is required, together with an estimate of each item.

(Adopted 1/1/2006; Rev. 1/1/2009)