

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 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

A. When an heir or beneficiary dies during administration of an estate, the Petition for Distribution must request 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.

B. The Petition for Distribution must include a copy of letters for personal representative of deceased beneficiary/heir's estate and case number.

(Adopted 1/1/1990; Rev. 7/1/1991; Rev. & Renum. 7/1/2001; Rev. 7/1/2002; Renum. 1/1/2006; Rev. 1/1/2015; Rev. 1/1/2016)

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 Distribution

A. Receipts for property received in preliminary distributions must be filed with the court before the petition for final distribution and must follow the requirements of rule 4.17.8.

B. Receipts for property received by a successor personal representative, trustee, guardian, or conservator must be filed with the court before the filing of the first accounting filed by the successor fiduciary. Such receipt shall follow the requirements of rule 4.17.8.

(Adopted 1/1/1990; Renum. 7/1/2001; Rev. 7/1/2002; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2013; Rev. 1/1/2017; Rev. 1/1/2019)

Rule 4.17.8

Receipts on Final Distribution

A. Receipts for property received on final distribution must be signed by (1) the 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 prayer of a 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. A description of stocks must include the number of shares of each stock. A description of mutual funds must include the number of shares in each fund.

E. The description must be set forth in the prayer.

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

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

H. Vehicle and mobile home descriptions must include the make, model, year, and Vehicle Identification Number (VIN).

(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; Rev. 1/1/2016; Rev. 1/1/2017)

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. (See also rule 4.15.8.)

(Adopted 1/1/2006; Rev. 1/1/2009; Rev. 1/1/2016)

Rule 4.17.11

Alteration of Distribution

If distribution is to be other than according to the terms of the will or the laws of intestate succession, a written agreement signed by all parties affected by the distribution must be filed.

(Adopted 1/1/2021)