

**Chapter 5**

**Creditor's Claims**

**Rule 605.01 Form of Claims**

A. Notice to Creditors

Notice of Administration must be given to all known or reasonably ascertainable creditors. This notice must be filed with the court prior to or with the filing of a petition for distribution.

B. Form of Claims

Judicial Council Creditor's Claim Form DE-172 must be filed by claimants in all cases commenced on or after July 1, 1988.

Amended claims and revised claims shall be filed in the same manner as the original claims.

Documentary support of all claims must be attached to the claim in accordance with Probate Code sections 9151 and 9152. Where the documentary support is lengthy, claimants should lodge their exhibits with the clerk of the probate department for review by the court, and make arrangements for their return to the claimant when the court has completed its action on the claim. See Rule 601.03.

(Adopted effective July 1, 1992; revised effective July 1, 2008)

**Rule 605.02 Allowance or Rejection of Claims**

Counsel are advised to review the court file for creditors' claims before filing the final accounting.

If Form DE-174 on an allowed creditor's claim is presented for action by the court and the court requires additional or corrective action by the claimant or estate representative, the attorney for the representative will be notified by letter and the Form DE-174 suspended 60 days. If no response is received by the end of the suspension period, the Form DE-174 will be returned without action by the court.

If a personal representative is acting under the Independent Administration of Estates Act, and no action by the Court is being requested on the Form DE-174, the place provided for allowance or rejection by the judge should be endorsed with a statement in substantially the following form: "No Court Action Required."

(Adopted effective July 1, 1992; revised effective July 1, 2008)

## **LOCAL RULES – SUPERIOR COURT of CALIFORNIA, COUNTY of ORANGE**

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### **Rule 605.03 Claims of Representatives and Their Attorneys**

The representative shall not pay any claims of the representative or the attorney for the representative without prior court approval. All such claims must be filed with the court within the period allowed by statute. Form DE-174 for allowance or rejection by the court must be submitted within the period allowed by statute. If the court sets the allowance and rejection for hearing, counsel must give required notice to all entitled to notice. See Probate Code sections 9262 and Rule 605.04.

(Adopted effective July 1, 1992; revised effective July 1, 2008)

### **Rule 605.04 Approval of Funeral and Interment Claims**

In acting upon creditor's claims for decedent's funeral and interment, the court is bound by Estate of Malgor (1947) 77 Cal.App.2d 535 and other decisions to disallow unreasonably large claims.

All creditor's claims for funeral expenses must contain a statement setting forth the estimated value of the estate. Ordinarily funeral creditors' claims approved by the representative which are reasonable on their face will be approved by the court. Claims unusually large on their face will not be approved until the time for the filing of creditors' claims has expired and it appears that the estate is solvent, unless an affidavit is filed by the representative setting forth facts which justify a larger expenditure by reason of the value of the estate and the standard of living of the decedent.

(Adopted effective July 1, 1992; revised effective July 1, 2008)

### **Rule 605.05 Payment of Interest on Funeral and Interment Claims**

When accrued interest has been paid in connection with the delayed payment of claims for the reasonable cost of funeral expenses, a specific allegation must be made in the report accompanying the account in which credit for such payment has been taken setting forth reasons for any delay in making payment. The court will not allow credit for payment of interest where the delay in payment of claims is not justified by the facts set forth.

Interest on funeral and interment creditors' claims will only be allowed as provided by Health and Safety Code section 7101.

(Adopted effective July 1, 1992)

### **Rule 605.06 Claims of Personal Representatives for Reimbursement for Debts of Decedent and Funeral Expenses**

Debts of decedent incurred prior to death and funeral expenses paid by representatives from their own funds for which they seek reimbursement must be submitted as formal creditor's claims, presented and filed in the usual way and supported by a receipt or other sufficient evidence of payment by the representative. Such claim must be presented to the court for allowance or rejection within the statutory period for presentation of claims.

Administration expenses advanced by the representative do not require the submission of a creditor's claim.

(Adopted effective July 1, 1992)

## **LOCAL RULES – SUPERIOR COURT of CALIFORNIA, COUNTY of ORANGE**

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### **Rule 605.07 Claims Acted Upon by Personal Representatives Acting Under Independent Administration of Estates Act**

A schedule of all claims acted upon by the personal representative acting under the Independent Administration of Estates Act prior to Court approval must be listed in any petition for distribution showing the name of the claimant, the amount claimed, the date presented, the date allowed and, if paid, the date and amount of payment. As to any claims rejected, the date of rejection must be set forth and the original notice of rejection with proof of mailing to the creditor must be filed. The petition must also contain an allegation that all debts paid were legally enforceable claims against the estate. See Rule 608.08.

(Adopted effective July 1, 1992)

### **Rule 605.08 Special Creditors' Claims**

Public entities' creditor's claims may be barred only after actual notice is sent to the entity and the applicable claim period has expired.

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

(Adopted effective July 1, 2008)