

## **RULE 5.400. DISTRIBUTION AND DISCHARGE**

**(a) Petition for Discharge; Final Accounting.** A personal representative who has completed administration except for distribution shall file a final accounting and a petition for discharge including a plan of distribution.

**(b) Contents.**

The petition for discharge shall contain a statement:

- (1) that the personal representative has fully administered the estate;
- (2) that all claims which were presented have been paid, settled, or otherwise disposed of;
- (3) that the personal representative has paid or made provision for taxes and expenses of administration;
- (4) showing the amount of compensation paid or to be paid to the personal representative, attorneys, accountants, appraisers, or other agents employed by the personal representative and the manner of determining that compensation;
- (5) showing a plan of distribution which shall include:
  - (A) a schedule of all prior distributions;
  - (B) the property remaining in the hands of the personal representative for distribution;
  - (C) a schedule describing the proposed distribution of the remaining assets; and
  - (D) the amount of funds retained by the personal representative to pay expenses that are incurred in the distribution of the remaining assets and termination of the estate administration;
- (6) that any objections to the accounting, the compensation paid or proposed to be paid, or the proposed distribution of assets must be filed within 30 days from the date of service of the last of the petition for

discharge or final accounting; and also that within 90 days after filing of the objection, a notice of hearing thereon must be served or the objection is abandoned; and

(7)that objections, if any, shall be in writing and shall state with particularity the item or items to which the objection is directed and the grounds on which the objection is based.

**(c)Closing Estate; Extension.** The final accounting and petition for discharge shall be filed and served on interested persons within 12 months after issuance of letters for estates not required to file a federal estate tax return, otherwise within 12 months from the date the return is due, unless the time is extended by the court for cause shown after notice to interested persons. The petition to extend time shall state the status of the estate and the reason for the extension.

**(d) Distribution.** The personal representative shall promptly distribute the estate property in accordance with the plan of distribution, unless objections are filed as provided in these rules.

**(e)Discharge.** On receipt of evidence that the estate has been fully administered and properly distributed, the court shall enter an order discharging the personal representative and releasing the surety on any bond.

### **Committee Notes**

The rule establishes a procedure for giving notice and serving the final accounting, petition for discharge, and plan of distribution to all interested persons prior to distribution and discharge. No distinction is made in plans of distribution which distribute estate property in kind among multiple residual beneficiaries proportionate to their respective interests and those which include equalizing adjustments in cash or property and which do not make prorated distribution. If disclosure of the compensation or disclosure of the manner of determining the compensation in the petition for discharge is to be waived, the form of waiver must conform to rule 5.180(b).

### **Rule History**

1980 Revision: Change in prior (a)(6) to require that an objection set forth the basis on which it is being made.

1984 Revision: This rule has been substantially revised. Portions of the prior rule are now incorporated in rules 5.400 and 5.401. The committee has included the procedure for filing and serving of objections to the final accounting, petition for discharge, plan of distribution, or compensation in rule 5.401.

1988 Revision: Subdivision (b)(1) is deleted to avoid duplication with rule 5.346. Subdivision (c) is amended to add the 12-month time specification of section 733.901(1), Florida Statutes. Committee notes revised. Citation form changes in committee notes.

1992 Revision: Subdivision (b)(5)(D) is added. Editorial changes. Committee notes revised. Citation form changes in committee notes.

1996 Revision: Addition in (a)(4) of specific attorney fee compensation disclosure requirements found in § 733.6171(9), Florida Statutes, and expanded to cover all compensation. Committee notes revised.

2003 Revision: Committee notes revised.

2005 Revision: Subdivision (f) deleted to avoid duplication with rule 5.180.

2006 Revision: Committee notes revised.

### **Statutory References**

§ 731.201(10), (21), Fla. Stat. General definitions.  
§ 731.302, Fla. Stat. Waiver and consent by interested person.  
§ 733.809, Fla. Stat. Right of retainer.  
§ 733.810, Fla. Stat. Distribution in kind; valuation.  
§ 733.811, Fla. Stat. Distribution; right or title of distributee.  
§ 733.812, Fla. Stat. Improper distribution or payment; liability of distributee or payee.  
§ 733.901, Fla. Stat. Final discharge.

### **Rule References**

Fla. Prob. R. 5.020 Pleadings; verification; motions.

Fla. Prob. R. 5.040 Notice.  
Fla. Prob. R. 5.041 Service of pleadings and papers.  
Fla. Prob. R. 5.042 Time.  
Fla. Prob. R. 5.180 Waiver and consent.  
Fla. Prob. R. 5.330 Execution by personal representative.  
Fla. Prob. R. 5.346 Fiduciary accounting.  
Fla. Prob. R. 5.401 Objections to petition for discharge or final accounting.  
Fla. R. Jud. Admin. 2.085250(e)(1)(D) Time standards for trial and  
appellate courts and reporting requirements.