

Fla. Prob. R. 5.110 Address designation for personal representative or guardian; designation of resident agent and acceptance.

Fla. Prob. R. 5.122 Curators.

Fla. Prob. R. 5.320 Oath of personal representative.

RULE 5.240. NOTICE OF ADMINISTRATION

(a) Service. The personal representative shall promptly serve a copy of the notice of administration on the following persons who are known to the personal representative and who were not previously served under section 733.2123, Florida Statutes:

(1) the decedent's surviving spouse;

(2) all beneficiaries;

(3) a trustee of any trust described in section 733.707(3), Florida Statutes and each qualified beneficiary of the trust as defined in section 736.0103(16), Florida Statutes, if each trustee is also a personal representative of the estate; and

(4) persons who may be entitled to exempt property

in the manner provided for service of formal notice. The personal representative may similarly serve a copy of the notice on any devisee under another will or heirs or others who claim or may claim an interest in the estate.

(b) Contents. The notice shall state:

(1) the name of the decedent, the file number of the estate, the designation and address of the court in which the proceedings are pending, whether the estate is testate or intestate, and, if testate, the date of the will and any codicils;

(2) the name and address of the personal representative and of the personal representative's attorney, and that the fiduciary lawyer-client privilege in

section 90.5021, Florida Statutes, applies with respect to the personal representative and any attorney employed by the personal representative;

(3) that any interested person on whom the notice of administration is served must file, on or before the date which is 3 months after the date of service of the notice of administration on that interested person, any objection that challenges the validity of the will, the venue, or the jurisdiction of the court or those objections are forever barred. The 3-month time period may only be extended for estoppel based upon a misstatement by the personal representative regarding the time period within which an objection must be filed. The time period may not be extended for any other reason, including affirmative representation, failure to disclose information, or misconduct by the personal representative or any other person. Unless sooner barred by section 733.212(3), Florida Statutes, all objections to the validity of a will, venue, or the jurisdiction of the court must be filed no later than the earlier of the entry of an order of final discharge of the personal representative, or 1 year after service of the notice of administration;

(4) that any person entitled to exempt property must file a petition for determination of exempt property within the time provided by law or the right to exempt property is deemed waived; and

(5) that an election to take an elective share must be filed within the time provided by law.

(c) Copy of Will. Unless the court directs otherwise, the personal representative of a testate estate must, upon written request, furnish a copy of the will and all codicils admitted to probate to any person on whom the notice of administration was served.

(d) Objections. Objections to the validity of the will shall follow the form and procedure set forth in these rules pertaining to revocation of probate. Objections to the venue or jurisdiction of the court shall follow the form and procedure set forth in the Florida Rules of Civil Procedure.

(e) Waiver of Service. For the purpose of determining deadlines established by reference to the date of service of a copy of the notice of

administration in cases in which service has been waived, service on a person who has waived notice is deemed to occur on the date the waiver is filed.

Committee Notes

Rule History

1977 Revision: Former subdivision (c) is deleted as being substantive rather than procedural.

1984 Revision: Editorial changes; new requirement to file proof of publication; new requirements as to form of objections to will and qualifications of personal representative. Committee notes revised.

1988 Revision: The obligation to mail notice of administration to all known or reasonably ascertainable creditors has been added to comply with the dictates of *Tulsa Professional Collection Services, Inc. v. Pope*, 485 U.S. 478, 108 S. Ct. 1340, 99 L. Ed. 2d 565 (1988).

This rule does not require sending notice of administration to creditors in estates where the time for filing claims has expired before the effective date of this rule. However, no opinion is offered whether such claims are barred by the provisions of section 733.702, Florida Statutes.

Committee notes revised. Citation form changes in committee notes.

1991 Revision: Subdivision (a) modified to make it consistent with recent changes to sections 733.212 and 733.702, Florida Statutes. Those statutes were amended to comply with the dictates of *Tulsa Professional Collection Services, Inc. v. Pope*, 485 U.S. 478, 108 S. Ct. 1340, 99 L. Ed. 2d 565 (1988). For the same reason, subdivision (e) was eliminated.

1992 Revision: Former subdivision (e) revised and reinstated to emphasize need for personal representative to determine all known or reasonably ascertainable creditors. Editorial changes; committee notes revised; citation form changes in committee notes.

1996 Revision: Subdivision (a) amended to require service of notice of administration on trustees of certain revocable trusts as defined by Florida statute. Editorial changes.

2002 Revision: Procedures for notifying creditors are now governed by new rule 5.241. Committee notes revised.

2003 Revision: Change in title of (a) to reflect elimination of publication of notice. Committee notes revised.

2005 Revision: Subdivision (a)(3) amended to make it consistent with 2003 change to section 733.212(1)(c), Florida Statutes, regarding when service on trust beneficiaries is required, and clarifying editorial change made in (a). New subdivision (b)(5) added regarding notice to file election to take elective share. Committee notes revised.

2007 Revision: Subdivision (a)(3) amended to replace reference to “beneficiary” with “qualified beneficiary” and to change reference from former section 737.303(4)(b) to new section 736.0103(14), which defines that term. Subdivision (b)(5) amended to delete the reference to the surviving spouse filing the election as another person can file the election on behalf of the surviving spouse. New subdivision (e) added to provide a deadline for objection by a person who waives service. Committee notes revised.

2011 Revision: Subdivision (b)(2) amended to conform to amendment to section 732.212, Florida Statutes, relating to attorney-client privilege for fiduciary and their attorneys. Editorial changes to conform to the court’s guidelines for rules submissions as set forth in Administrative Order AOSC06-14. Statutory references to section 732.402, Florida Statutes, added. Committee Notes revised.

2013 Revision: Updated statutory reference in subdivision (a)(3). Committee notes revised.

2015 Revision: Subdivisions (b)(3) and (d) amended to conform to amendments to section 733.212, Florida Statutes, relating to the removal of the requirement to object to the qualifications of a personal representative within this statutory framework due to other statutory amendments. The 2011 Revision contains a scrivener’s error and it should reference section 733.212, Florida Statutes, as opposed to section 732.212, Florida Statutes.

Statutory References

§ 731.201(23), Fla. Stat. General definitions.

§ 731.301, Fla. Stat. Notice.

§ 731.302, Fla. Stat. Waiver and consent by interested person.

§ 732.2135, Fla. Stat. Time of election; extensions; withdrawal.

§ 732.402, Fla. Stat. Exempt property.

§ 732.5165, Fla. Stat. Effect of fraud, duress, mistake, and undue influence.

§ 733.101, Fla. Stat. Venue of probate proceedings.

§ 733.109, Fla. Stat. Revocation of probate.

§ 733.212, Fla. Stat. Notice of administration; filing of objections.

§ 733.2123, Fla. Stat. Adjudication before issuance of letters.

§ 733.302, Fla. Stat. Who may be appointed personal representative.

§ 733.303, Fla. Stat. Persons not qualified.

§ 733.305, Fla. Stat. Trust companies and other corporations and associations.

§ 733.504, Fla. Stat. Removal of personal representative; causes for removal.

§ 733.506, Fla. Stat. Proceedings for removal.

Rule References

Fla. Prob. R. 5.025 Adversary proceedings.

Fla. Prob. R. 5.040 Notice.

Fla. Prob. R. 5.050 Transfer of proceedings.

Fla. Prob. R. 5.180 Waiver and consent.

Fla. Prob. R. 5.270 Revocation of probate.

Fla. Prob. R. 5.440 Proceedings for removal.

Fla. R. Civ. P. 1.060 Transfers of actions.

RULE 5.2405. SERVICE OF NOTICE OF ADMINISTRATION ON PERSONAL REPRESENTATIVE

(a) Date Notice of Administration is Considered Served on Person who is Personal Representative. Unless service of the notice of administration is waived pursuant to Rule 5.240(e), when a person who is entitled to service of the notice of administration pursuant to Rule 5.240(a) is also a personal representative, the notice of administration shall be deemed served upon the person on the earliest of the following dates: