Oakland County Probate Court Information Sheet

DECEDENT ESTATE PUBLICATION

In certain circumstances, it is the responsibility of the Personal Representative to publish a notice to creditors in a newspaper. Because the court staff cannot give you legal advice, this compilation of the applicable statute and court rule has been prepared for your review. Seek legal counsel if you need advice as to whether publication applies in your situation.

The form Notice to Creditors – Decedent's Estate (PC 574) is used for publication. The personal representative must publish, and a special personal representative may publish, in a newspaper, as defined by MCR 2.106(F), in a county in which a resident decedent was domiciled or in which the proceeding as to a nonresident was initiated, a notice to creditors as provided in MCL 700.3801.

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

700.3801 Notice of creditors.
Sec. 3801.

(1) Unless notice has already been given, upon appointment a personal representative shall publish, and a special personal representative may publish, a notice as provided by supreme court rule notifying estate creditors to present their claims within 4 months after the date of the notice's publication or be forever barred. A personal representative who has published notice shall also send, within the time prescribed in subsection (2), a copy of the notice or a similar notice to each estate creditor whom the personal representative knows at the time of publication or during the 4 months following publication and to the trustee of a trust described in section 7605(1) as to which the decedent is settlor. For purposes of this section, the personal representative knows a creditor of the decedent if the personal representative has actual notice of the creditor or the creditor's existence is reasonably ascertainable by the personal representative based on an investigation of the decedent's available records for the 2 years immediately preceding death and mail following death.

(2) Notice to a known creditor of the estate shall be given within the following time limits:

(a) Within 4 months after the date of the publication of notice to creditors.

(b) If the personal representative first knows of an estate creditor less than 28 days before the expiration of the time limit in subdivision (a), within 28 days after the personal representative first knows of the creditor.

(3) If the personal representative or the attorney for the estate in good faith believes that notice to a creditor of the estate is or may be required by this section, and if the personal representative gives notice based on that belief, neither the personal representative nor the attorney is liable to any person for having given notice.

(4) If the personal representative or the attorney for the estate in good faith believes that notice to a person is not required by this section and if the personal representative fails to give notice to that person based on that belief, neither the personal representative nor the attorney is personally liable to any person for the failure to give notice. Liability, if any, for failure to give notice is on the estate.
History: 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2009, Act 46, Eff. Apr. 1, 2010
Popular Name: EPIC

MICHIGAN RULES COURT (EXCERPT)

MCR 5.208 NOTICE TO CREDITORS, PRESENTMENT OF CLAIMS

(A) Publication of Notice to Creditors; Contents.
Unless the notice has already been given, the personal representative must publish and a special representative may publish, in a newspaper, as defined by MCR 2.106(F), in a county in which a resident decedent was domiciled or in which the proceeding as to a nonresident was initiated, a notice to creditors as provided in MCL 700.3801. The notice must include:
(1) The name, and, if known, the date of death and date of birth of the decedent;
(2) The name and address of the personal representative;
(3) The name and address of the court where proceedings are filed; and
(4) A statement that claims will be forever barred unless presented to the personal representative, or to both the court and the personal representative within 4 months after the publication of the notice.

(B) Notice to Known Creditors and Trustee.
A personal representative who has published notice must cause a copy of the published notice or a similar notice to be served personally or by mail on each known creditor of the estate and to the trustee of a trust of which the decedent is settlor, as defined in MCL 700.7605(1). Notice need not be served on the trustee if the personal representative is the trustee.
(1) Within the time limits prescribed by law, the personal representative must cause a copy of the published notice or a similar notice to be service personally or by mail on each creditor of the estate whose identity at the time of publication or during the 4 months following publication is known to, or can be reasonably ascertained by, the personal representative.
(2) If, at the time of the publication, the address of a creditor is unknown and cannot be ascertained after diligent inquiry, the name of the creditor must be included in the published notice.

(C) Publication of Notice to Creditors and Known Creditors by Trustee.
A notice that must be published under MCL 700.7608 must include:
(1) The name, and, if known, last known address, date of death, and date of birth of the trust's deceased settlor;
(2) The trust's name or other designation;

(3) The date the trust was established;
(4) The name and address of each trustee serving at the time of or as a result of the settlor's death;
(5) The name and address of the trustee's attorney, if any and must be served on known creditors as provided in subrule (B) above.

(D) No Notice to Creditors.
No notice need be given to creditors in the following situations:
(1) The decedent or settlor has been dead for more than 3 years;
(2) Notice need not be given to a creditor whose claim has been presented or paid;
(3) For a personal representative:
(a) The estate has no assets;
(b) The estate qualifies and is administered under MCL 700.3982, MCL 700.3983, or MCL 700.3987;
(c) Notice has previously been given under MCL 700.7608 in the county where the decedent was domiciled in Michigan.
(4) For a trustee, the costs of administration equal or exceed the value of the trust estate.

(E) Presentment of Claims.
A claim shall be presented to the personal representative or trustee by mailing or delivering the claim to the personal representation or trustee, or the attorney for the personal representative or trustee, or, in the case of an estate, by filing the claim with the court and mailing or delivering a copy of the claim to the personal representative.

(F) A claim is considered presented
(1) on mailing, if addressed to the personal representative or trustee, or the attorney for the personal representative or trustee, or
(2) in all other cases, when received by the personal representative, or trustee or the attorney for the personal representative or trustee or in the case of an estate when filed with the court.

There is additional information on our website which may be helpful, including a *General Information Sheet for the Opening of a Decedent's Estate* and *Closing a Decedent's Estate* as well as links to the referenced forms.

Oakland County Probate Court
1200 N. Telegraph Rd.
Pontiac, MI 48341
(248) 858-0260
www.oakgov.com/probate
Office hours: 8:00 a.m. to 4:30 p.m.
Monday through Friday