

Courts of Justice Act

NOTICE OF APPLICATION TO PASS ACCOUNTS

ONTARIO

SUPERIOR COURT OF JUSTICE

IN THE ESTATE OF *(insert name)*, deceased.

NOTICE OF APPLICATION TO PASS ACCOUNTS

This application to pass accounts will be heard on *(date)*, at *(time)*, at the court house at *(full address of court house)*, if any person with a financial interest in the estate objects to the accounts or to the compensation claimed and doesn't withdraw the objection, or if a request for increased costs is served and filed.

The deceased died on *(date)*.

A certificate of appointment of estate trustee was issued to *(insert name)* by this court on *(date)*.

The accounts are for the period from *(date)* to *(date)*.

The compensation claimed by the estate trustee, payable out of the estate, is *(insert amount)*.

The costs of the application claimed by the estate trustee under Tariff C are *(amount)*.

A person with a financial interest in the estate who retains a lawyer to review the accounts and makes no objection to them (or makes an objection and later withdraws it) but serves on the estate trustee and files with the court, with proof of service, a request for costs (Form 74.49 under the Rules of Civil Procedure) at least 10 days before the hearing date of the application, will be allowed one-half of the costs allowed to the estate trustee. However, where two or more persons are represented by the same lawyer, they are entitled to receive only one person's costs. If the Children's Lawyer or the Public Guardian and Trustee makes no objection to the accounts (or makes an objection and later withdraws it) but serves on the estate trustee and files with the court, with proof of service, a request for costs (Form 74.49.1) at least 10 days before the hearing date of the application, he or she will be allowed three-quarters of the costs allowed to the estate trustee.

Any person with a financial interest in the estate who wishes to object to the accounts shall do so by serving upon the estate trustee, or the lawyer for the estate trustee, a notice of objection to accounts (Form 74.45 under the Rules of Civil Procedure, a copy of which is attached to this notice of application), and by filing a copy of the notice in the court office at least 35 days before the hearing date specified in the notice of application [R.74.18 (7)].

Any person who wishes to withdraw a notice of objection to accounts shall, at least 15 days before the hearing date of the application, serve on the estate trustee, and file with proof of service, a notice of withdrawal of objection (Form 74.48) [R.74.18 (8.4)].

If the estate trustee or any person with a financial interest in the estate seeks costs of the application greater than the amount allowed in Tariff C, the estate trustee or other person shall serve on every other party a request for increased costs (Form 74.49.2 or 74.49.3 under the Rules of Civil Procedure) together with a Costs Outline in Form 57B, at least 15 days before the hearing date of the application [R.74.18 (11)].

Any person with a financial interest in the estate who wishes to object or consent to a request for increased costs shall do so by returning the completed form 74.49.2 or 74.49.3, as the case may be, to the person making the request so that he or she receives it at least 10 days before the hearing date of the application. The person making the request for increased costs shall, at least 5 days before the hearing date of the application, file with the court a supplementary record described in subrule 74.18 (11.3) containing (i) the documents served under subrule 74.18 (11), together with an affidavit of service of those documents, (ii) an affidavit containing a summary of the responses to the request for increased costs and a list of persons who failed to respond, and (iii) the factors that contributed to the increased costs [R.74.18 (11.3)].

Any person with a financial interest in the estate who does not wish to object to the accounts but wishes to receive notice of any further step in the application, including a request for costs or a request for increased costs, shall, at least 35 days before the hearing date specified in the notice of application, serve upon the estate trustee, and file with proof of service, a request for further notice in passing of accounts (Form 74.45.1), a copy of which is attached to this notice of application [R.74.18 (8)].

If one or more notices of objection to accounts are filed and not withdrawn, the estate trustee shall, at least **10** days before the hearing date of the application, serve on the persons referred to in subrule 74.18 (11.6), and file with proof of service, (i) a consolidation of all the remaining notices of objection to accounts and (ii) a reply to notice of objection to accounts (Form 74.49.4) [R.74.18 (11.5)].

If the application to pass accounts proceeds to a hearing, the estate trustee shall, at least 5 days before the hearing date, file with the court a record containing the documents referred to in subrule 74.18 (11.7). If the applicant and every other person referred to under subrule 74.18 (11.6), agree to all of the terms of a draft order, the applicant shall indicate that it is a joint draft order.

If the applicant and other persons fail to agree to all of the terms of a draft order, the applicant shall indicate that it is the applicant's draft order. Any person referred to under clause 74.18 (11.6) (a) may file an alternative draft order at least 3 days before the hearing date of the application or, with leave of the court, at the hearing [R.74.18 (11.8) (11.9)].

At the hearing, the only issues upon which the court adjudicates are those raised in the notices of objection to accounts and requests for increased costs that have been filed, unless the court grants leave to a party to raise other issues [R.74.18 (12)].

If no notice of objection to accounts is served and filed, or all objections have been withdrawn, the estate trustee may, without a hearing, obtain a judgment passing the accounts and allowing the compensation and costs claimed [R.74.18 (8.5)].

On a request for increased costs, the court may, in consideration of the documents in the supplementary record, grant judgment without a hearing. If the court declines to grant a request for increased costs without a hearing, the hearing shall proceed on the date fixed [R.74.18 (11.4)].

Any person may contact the estate trustee or the estate trustee's lawyer to find out whether there will be a hearing. A copy of the accounts may be obtained from the estate trustee or the estate trustee's lawyer, or may be inspected in the court office during regular business hours.

DATE

Registrar

*(Name, address and telephone number of
estate trustee
or lawyer for the estate trustee)*

TO: *(Name and address of each person with a financial interest in the estate)*

(For a person under disability, also indicate name and address of personal representative)

(Attach blank copy of Form 74.45 (notice of objection to accounts).)

(Attach blank copy of Form 74.45.1 (request for further notice in passing of accounts).)