



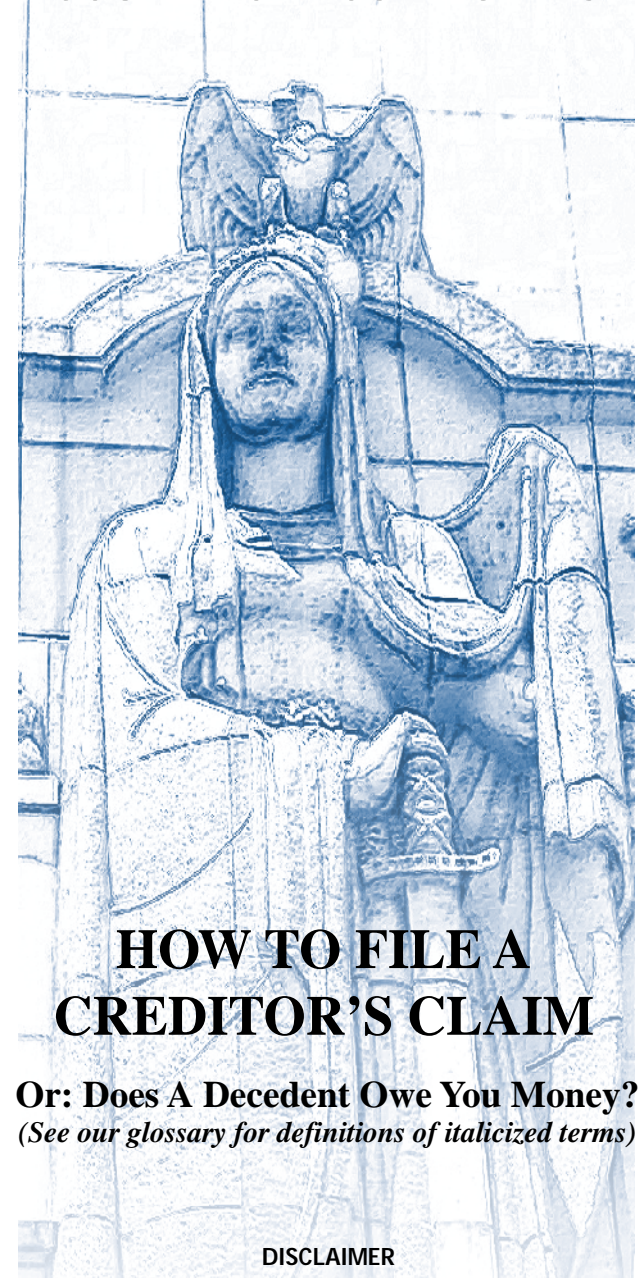
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

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HOW TO FILE A CREDITOR'S CLAIM

Or: Does A Decedent Owe You Money?
(See our glossary for definitions of italicized terms)

DISCLAIMER

The purpose of this brochure is to provide general information on the law, which is subject to change. It is not intended as a substitute for legal advice. If you have legal questions, you should consult an attorney.

Did someone who owes you money for goods or services die before they had the opportunity to pay the debt? If so, you may be able to be paid from the dead person's (decedent's) estate. You are considered a creditor and you may file a claim.

You can get a creditor's claim form at the Forms Window in Room 112 on the first floor of the Los Angeles Superior Court at 111 North Hill Street, or any other Superior Court location. The form is also available at the Judicial Council website: <http://www.courtinfo.ca.gov/forms/>. It is form number DE-172.

The personal representative has a duty to find out about you and your claim and notify you that the decedent's estate is being probated. But you can take action even if you are not notified. You have either 60 days from the date of the notification or four months from the date Letters are issued, whichever is later, to file your claim with the court. You must send a copy of the claim to the person who was appointed as the personal representative. Service must be made within 30 days after the claim is filed or four months from the date Letters are issued, whichever is later. **Failure to send a copy to the personal representative invalidates your claim.**

Under very limited circumstances, you may be able to file a creditor's claim even if you miss the deadlines. You must file a special petition before the court if you want to file a creditor's claim after the deadline and should consider retaining a lawyer to help you.

Read the instructions on the Creditor's Claim Form (DE-172) and fill it out carefully. Your claim should contain enough detail to allow the personal representative and the court to act on it and to let them know the amount you are demanding.

A claim may be amended or revised if the following requirements are met: 1) The original claim was filed on time; 2) the amendment or revision is filed the same way as the original claim and; 3) the amendment or revision is filed before either the order on final distribution or one year after Letters are first issued.

The personal representative may require that you provide proof to support your claim. You should consider attaching to your claim copies of receipts, written agreements or anything else that may support your claim.

Claims for funeral expenses must be filed in the same way as other claims. This is an exception to the general rule that claims are required only for debts of the decedent arising before death. The reasonable cost of internment, family plot, and endowment care proportionate to the value of the estate and in keeping with the standard of living adopted by the decedent are part of the funeral expenses, together with interest beginning 60 days after the date of death. Not all funeral expenses are allowed. Examples of expenses not allowed are the cost of erection of a temple plaque, reciting Kaddish, masses offered for the soul of the decedent, and the cost of re-internment when the first place of internment was improper. Courts may not approve funeral expenses in unreasonable amounts, and you may want to file a declaration with the court setting forth the circumstances justifying the amount if the amount is large.

After your claim has been properly filed, then the personal representative should take action. The personal representative should either allow or reject the claim, file the allowance or rejection with the court and then send you a copy of it. Sometimes a personal representative will neither reject nor approve a claim. When that happens, you

can assume that your claim was rejected if, within 30 days after your claim has been filed, the personal representative or the court has refused or neglected to act on the claim. If your claim has been rejected, you then have three months from the date of rejection, with an outside limit of one year from the date of death, to file a lawsuit in the proper court. You may be able to file your lawsuit in Small Claims Court if the amount is less than \$5,000 and handle the suit yourself or you may consider contacting a lawyer to help you. If you win the lawsuit and a judgment is rendered, the judgment is payable in the due course of administration.

Sometimes, creditor's claims do not have to be filed in order to be considered claims against the estate. For instance, claims secured by real or personal property, adequately insured tort claims pending at date of death, demand for specific property and claims for temporary spousal support are all examples of claims that do not have to be filed. However, if you are unsure as to what type of claim you might have, be on the safe side and file a creditor's claim.

Certain debts of the decedent and the costs of administration of the estate have priority over other debts. Claims of the United States (like taxes) and claims for spousal support or child support against the decedent have priority over other debts. Where the estate does not have enough money to pay all its debts, creditors are divided into classes according to their respective priorities and each class participates in payment in the order of its priority.

Once your claim has been paid, the personal representative may ask you to sign a receipt showing that you have been paid.