

Rule 5.430. Resignation of Personal Representative

(a) Resignation. A personal representative may resign with court approval.

(b) Petition for Resignation. The personal representative seeking to resign shall file a petition for resignation. The petition shall be verified and shall state:

(1) The personal representative desires to resign and be relieved of all powers, duties, and obligations as personal representative;

(2) The status of the estate administration and that the interests of the estate will not be jeopardized if the resignation is accepted;

(3) Whether a proceeding for accounting, surcharge, or indemnification or other proceeding against the resigning personal representative is pending; and

(4) Whether the appointment of a successor fiduciary is necessary. If the petition nominates a successor fiduciary, it shall state the nominee's priority under the Florida Probate Code, if any, and that the nominee is qualified to serve under the laws of Florida.

(c) Service. The petition shall be served by formal notice on all interested persons and the personal representative's surety, if any.

(d) Appointment of Successor. Before accepting the resignation, the court shall determine the necessity for appointment of a successor fiduciary. If there is no joint personal representative serving, the court shall appoint a successor fiduciary.

(e) Acceptance of Resignation. The court may accept the resignation and revoke the letters of the resigning personal representative if the interests of the estate are not jeopardized. Acceptance of the resignation shall not exonerate the resigning personal representative or the resigning personal representative's surety from liability.

(f) Delivery of Records and Property. The resigning personal representative shall immediately upon acceptance of the resignation by the court deliver to the remaining personal representative or the successor fiduciary all of the records of the estate and all property of the estate, unless otherwise directed by the court.

(g) Petition for Discharge; Accounting. The resigning personal representative shall file an accounting and a petition for discharge within 30 days after the date that the letters of the

resigning personal representative are revoked by the court. The petition for discharge shall be verified and shall state:

(1) That the letters of the resigning personal representative have been revoked;

(2) That the resigning personal representative has surrendered all undistributed estate assets, records, documents, papers, and other property of or concerning the estate to the remaining personal representative or the successor fiduciary; and

(3) The amount of compensation paid or to be paid the resigning personal representative and the attorney and other persons employed by the resigning personal representative.

(h) Notice, Filing, and Objections to Accounting. Notice of, filing of, and objections to the accounting of the resigning personal representative shall be as provided in rule 5.345.

(i) Notice of Filing and Objections to Petition for Discharge.

(1) Notice of filing and a copy of the petition for discharge shall be served on all interested persons. The notice shall state that objections to the petition for discharge must be filed within 30 days after the later of service of the petition or service of the accounting on that interested person.

(2) Any interested person may file an objection to the petition for discharge within 30 days after the later of service of the petition or service of the accounting on that interested person. Any objection not filed within such time shall be deemed abandoned. An objection 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.

(3) The objecting party shall serve a copy of the objection on the resigning personal representative and other interested persons.

(4) Any interested person may set a hearing on the objections. Notice of the hearing shall be given to the resigning personal representative and other interested persons.

(j) Failure to File Accounting or Deliver Records or Property. The resigning personal representative shall be subject to contempt proceedings if the resigning personal representative fails to file an accounting or fails to deliver all property of the estate and all estate records under the control of the resigning personal representative to the remaining personal representative or the successor fiduciary within the time prescribed by this rule or by court order.

(k) Discharge. The court shall enter an order discharging the resigning personal

representative and releasing the surety on any bond after the court is satisfied that the resigning personal representative has delivered all records and property of the estate to the remaining personal representative or the successor fiduciary; that all objections, if any, to the accounting of the resigning personal representative have been withdrawn, abandoned, or judicially resolved; and that the liability of the resigning personal representative has been determined and satisfied.