

Rule 6-416. Attorney's fees or personal representative's commissions.

(a) *Subject to court approval.*-

(1) *Contents of petition.*- When a petition for the allowance of attorney's fees or personal representative's commissions is required, it shall be verified and shall state: (A) the amount of all fees or commissions previously allowed, (B) the amount of fees or commissions that the petitioner reasonably anticipates will be requested in the future, (C) the amount of fees or commissions currently requested, (D) the basis for the current request in reasonable detail, and (E) that the notice required by subsection (a) (3) of this Rule has been given.

(2) *Filing - Separate or joint petitions.*- Petitions for attorney's fees and personal representative's commissions shall be filed with the court and may be filed as separate or joint petitions.

(3) *Notice.*- The personal representative shall serve on each unpaid creditor who has filed a claim and on each interested person a copy of the petition accompanied by a notice in the following form:

NOTICE OF PETITION FOR ATTORNEY'S FEES OR PERSONAL REPRESENTATIVE'S COMMISSIONS

You are hereby notified that a petition for allowance of attorney's fees or personal representative's commissions has been filed.

You have 20 days after service of the petition within which to file written exceptions and to request a hearing.

(4) *Allowance by court.*- Upon the filing of a petition, the court, by order, shall allow attorney's fees or personal representative's commissions as it considers appropriate, subject to any exceptions.

(5) *Exception.*- An exception shall be filed with the court within 20 days after service of the petition and notice and shall include the grounds therefor in reasonable detail. A copy of the exception shall be served on the personal representative.

(6) *Disposition.*- If timely exceptions are not filed, the order of the court allowing the attorney's fees or personal representative's commissions becomes final. Upon the filing of timely exceptions, the court shall set the matter for hearing and notify the personal representative and other persons that the court deems appropriate of the date, time, place, and purpose of the hearing.

(b) *Consent in lieu of court approval.*-

(1) *Conditions for payment.*- Payment of attorney's fees and personal representative's commissions may be made without court approval if:

(A) the combined sum of all payments of attorney's fees and personal representative's commissions does not exceed the amounts provided in Code, Estates and Trusts Article, § 7-601; and

(B) a written consent stating the amounts of the payments signed by (i) each creditor who has filed a claim that is still open and (ii) all interested persons, is filed with the register in the following form:

BEFORE THE REGISTER OF WILLS FOR, MARYLAND

IN THE ESTATE OF:

Estate No.

CONSENT TO COMPENSATION FOR
PERSONAL REPRESENTATIVE AND/OR ATTORNEY

I understand that the law, Estates and Trusts Article, § 7-601, provides a formula to establish the maximum total compensation to be paid for personal representative's commissions and/or attorney's fees without order of court. If the total compensation being requested falls within the maximum allowable amount, and the request is consented to by all unpaid creditors who have filed claims and all interested persons, this payment need not be subject to review or approval by the Court. A creditor or an interested party may, but is not required to, consent to these fees.

The formula sets total compensation at 9% of the first \$20,000 of the gross estate PLUS 3.6% of the excess over \$20,000.

Based on this formula, the total allowable statutory maximum based on the gross estate known at this time is _____, LESS any personal representative's commissions and/or attorney's fees previously approved as required by law and paid. To date, \$_____ in personal representative's commissions and \$_____ in attorney's fees have been paid.

Cross References.

See 90 Op. Att'y. Gen. 145 (2005).

Total combined fees being requested are \$_____, to be paid as follows:

Amount	To	Name of Personal Representative/Attorney
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I have read this entire form and I hereby consent to the payment of personal representative and/or attorney's fees in the above amount.

Date	Signature	Name (Typed or Printed)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Attorney

Personal Representative

Address

Personal Representative

Address

Telephone Number

Committee Note.

Nothing in this Rule is intended to relax requirements for approval and authorization of previous payments.

(2) *Designation of payment.*- When rendering an account pursuant to Rule 6-417 or a final report under modified administration pursuant to Rule 6-455, the personal representative shall designate any payment made under this section as an expense.

[Amended June 7, 1994, effective Oct. 1, 1994; Feb. 10, 1998, effective July 1, 1998; June 7, 2011, effective July 1, 2011.]

Cross references. Code, Estates and Trusts Article, §§ 7-502, 7-601, 7-602 and 7-604.

Effect of amendments. The 1994 amendment inserted (d), redesignated former (d) as (e), deleted former (e), and added (f).

The 1998 amendment rewrote the Rule.

The 2011 amendment rewrote the "Consent to Compensation for Personal Representative and/or Attorney" form in (b)(1).

Jurisdiction of orphans' court. The orphans' court has exclusive jurisdiction to review and approve requests for payment of attorney's fees related to a personal injury award or settlement received after the death of the plaintiff. This review should occur even if the estate is small and regardless of when legal services are rendered. 90 Op. Att'y Gen. 145 (Nov. 3, 2005).

Failure to Give Notice to Interested Party - Where the personal representative breached her fiduciary duty, inter alia, to give notice to interested parties of her attorney's fees petition, under Md. R. 6-416(a)(4), the circuit court properly granted summary judgment to the legatee and vacated the orphans' court's order approving payment of such fees. *Beyer v. Morgan State Univ.*, 369 Md. 335, 800 A.2d 707 (2002).

Quoted in *Beyer v. Morgan State Univ.*, 139 Md. App. 609, 779 A.2d 388 (Aug. 29, 2001), aff'd sub nom. *Beyer Pers. Representative of Betty Y. Keat v. Morgan State Univ.*, 369 Md. 335, 800 A.2d 707 (2002).

Cited in *Ohio Cas. Ins. Co. v. Hallowell*, 94 Md. App. 444, 617 A.2d 1134 (1993).