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(4) The original and copies of all wills in the Superintendent's custody, if any; the original and copies of codicils to and revocations of wills, if any; and any paper, instrument, or document that purports to be a will;

(5) The Superintendent shall transmit to the administrative law judge all creditors' and other claims which have been filed and, thereafter, he shall transmit all additional claims immediately upon the filing thereof.

(c) Where a tribe has the statutory option to purchase interests of a decedent, the Superintendent shall include in the data specified in paragraph (b) of this section with respect to each probable heir or devisee a showing of the enrollment status in all cases and, where required by statute, the blood quantum in the tribe concerned, and such information as listed shall constitute prima facie evidence of the facts there shown. The inventory shall be verified by the title plant designated under §4.236(b) that it is complete and accurate.

[36 FR 7186, Apr. 15, 1971, as amended at 36 FR 24813, Dec. 23, 1971; 45 FR 50331, July 29, 1980; 54 FR 8329, Feb. 28, 1989; 55 FR 43132, Oct. 26, 1990]

§4.211 Notice.

(a) An administrative law judge may receive and hear proofs at a hearing to determine the heirs of a deceased Indian or probate his will only after he has caused notice of the time and place of the hearing to be posted at least 20 days in five or more conspicuous places in the vicinity of the designated place of hearing, and he may cause postings in such other places and reservations as he deems appropriate. A certificate showing the date and place of posting shall be signed by the person or official who performs the act.

(b) The administrative law judge shall serve or cause to be served a copy of the notice on each party in interest reported to the administrative law judge and on each attesting witness if a will is offered:

(1) By personal service in sufficient time in advance of the date of the hearing to enable the person served to attend the hearing; or

(2) By mail, addressed to the person at his last known address, in sufficient time in advance of the date of the hearing to enable the addressee served to attend the hearing. The administrative law judge shall cause a certificate, as to the date and manner of such mailing, to be made on the record copy of the notice.

(c) All parties in interest, known and unknown, including creditors, shall be bound by the decision based on such hearing if they lived within the vicinity of any place of posting during the posting period, whether they had actual notice of the hearing or not. As to those not within the vicinity of the place of posting, a rebuttable presumption of actual notice shall arise upon the mailing of such notice at a reasonable time prior to the hearing, unless the said notice is returned by the postal service to the administrative law judge's office unclaimed by the addressee.

(d) *Tribes to be charged with notice of death and probate.* When a record reveals that a Tribe has a statutory option to purchase interests of a decedent, such Tribe shall be notified of the pendency of a proceeding by the judge having probate jurisdiction in such proceeding, and the judge's certificate of mailing of notice of probate hearing or of a final decision in probate to the Tribe at its record address shall be conclusive evidence for all purposes that the Tribe had notice of decedent's death and notice of the pendency of the probate proceedings.

[36 FR 7186, Apr. 15, 1971, as amended at 39 FR 31636, Aug. 30, 1974]

§4.212 Contents of notice.

(a) In the notice of hearing, the administrative law judge shall specify that at the stated time and place he will take testimony to determine the heirs of the deceased person (naming him) and, if a will is offered for probate, testimony as to the validity of the will describing it by date. The notice shall name all known presumptive heirs of the decedent, and, if a will is offered for probate, the beneficiaries under such will and the attesting witnesses to the will. The notice shall cite this subpart as the authority and jurisdiction for holding the hearing, and

shall inform all persons having an interest in the estate of the decedent, including persons having claims or accounts against the estate, to be present at the hearing or their rights may be lost by default.

(b) The notice shall state further that the hearing may be continued to another time and place. A continuance may be announced either at the original hearing by the administrative law judge or by an appropriate notice posted at the announced place of hearing on or prior to the announced hearing date and hour.

DEPOSITIONS, DISCOVERY, AND PREHEARING CONFERENCE

§ 4.220 Production of documents for inspection and copying.

(a) At any stage of the proceeding prior to the conclusion of the hearing, a party in interest may make a written demand, a copy to be filed with the administrative law judge, upon any other party to the proceeding or upon a custodian of records on Indians or their trust property, to produce for inspection and copying or photographing, any documents, papers, records, letters, photographs, or other tangible things not privileged, relevant to the issues which are in the other party's or custodian's possession, custody, or control. Upon failure of prompt compliance the administrative law judge may issue an appropriate order upon a petition filed by the requesting party. At any time prior to closing the record, the administrative law judge upon his own motion, after notice to all parties, may issue an order to any party in interest or custodian of records for the production of material or information not privileged, and relevant to the issues.

(b) Custodians of official records shall furnish and reproduce documents, or permit their reproduction, in accordance with the rules governing the custody and control thereof.

§ 4.221 Depositions.

(a) *Stipulation.* Depositions may be taken upon stipulation of the parties. Failing an agreement therefor, depositions may be ordered under paragraphs (b) and (c) of this section.

(b) *Application for taking deposition.* When a party in interest files a written application, the administrative law judge may at any time thereafter order the taking of the sworn testimony of any person by deposition upon oral examination for the purpose of discovery or for use as evidence at a hearing. The application shall be in writing and shall set forth:

(1) The name and address of the proposed deponent;

(2) The name and address of that person, qualified under paragraph (d) of this section to take depositions, before whom the proposed examination is to be made;

(3) The proposed time and place of the examination, which shall be at least 20 days after the date of the filing of the application; and

(4) The reasons why such deposition should be taken.

(c) *Order for taking deposition.* If after examination of the application the administrative law judge determines that the deposition should be taken, he shall order its taking. The order shall be served upon all parties in interest and shall state:

(1) The name of the deponent;

(2) The time and place of the examination which shall not be less than 15 days after the date of the order except as stipulated otherwise; and

(3) The name and address of the officer before whom the examination is to be made. The officer and the time and place need not be the same as those requested in the application.

(d) *Qualifications of officer.* The deponent shall appear before the administrative law judge or before an officer authorized to administer oaths by the law of the United States or by the law of the place of the examination.

(e) *Procedure on examination.* The deponent shall be examined under oath or affirmation and shall be subject to cross-examination. The testimony of the deponent shall be recorded by the officer or someone in his presence. An applicant who requests the taking of a person's deposition shall make his own arrangements for payment of any costs incurred.