

RULE 4:92. Proceedings To Apply Toward Decedent's Debts Moneys Received On Foreclosure And Partition Sales

4:92-1. Motion

A notice of motion supported by affidavit of an executor or administrator made for leave to apply to the payment of the decedent's debts the surplus moneys on a foreclosure sale or the moneys received on the sale of real estate sold in an action for partition shall be captioned in the action in which the moneys arose. The motion and supporting affidavit shall state:

- **(a)** the date of the decedent's death;
- **(b)** the date of the sale under which the moneys were or will be received;
- **(c)** whether any of the heirs or devisees have alienated or encumbered their estate in the lands sold, in whole or in part, or their interest in the proceeds of the sale thereof; and when, and what part and to whom; and
- **(d)** whether any spouse has a right or estate of dower or curtesy in the money, or any part thereof.

Note: Source-R.R. 4:104-1; caption and text of former R. 4:85-1 amended and rule redesignated June 29, 1990 to be effective September 4, 1990.

4:92-2. Statement of Assets and Liabilities

Except as otherwise provided by R. 4:26-3 (virtual representation), the notice of motion shall be directed to all persons who may be entitled to the money, or any part thereof, if the money is not required for the payment of debts. With the motion and supporting affidavit there shall be served an account of the personal estate that has come into the hands or the knowledge of the personal representative; the debts, expenses and other items paid or for which allowance is claimed; the amount on hand; the debts claimed to be due from the decedent; and the debts disputed.

Note: Source-R.R. 4:104-2; caption and text of former R. 4:85-2 amended and rule redesignated June 29, 1990 to be effective September 4, 1990.

4:92-3. Bond

No money shall be paid over pursuant to the order of the court until the party instituting the action shall have filed a bond as prescribed by the court.

Note: Source-R.R. 4:104-3 former R. 4:85-3 amended and rule redesignated June 29, 1990 to be effective September 4, 1990.