



HULL & HULL LLP
Barristers and Solicitors

Keeping Beneficiaries Informed

When assisting a client in dealing with a non-contentious estate or accounting proceeding, it is important that one is aware of options available to a client who wishes to remain updated on the status of the matter without becoming actively involved in any litigation.

While most solicitors will already be well aware of the option of filing a Notice of Objection to the Issuance of a Certificate of Appointment of Estate Trustee, which will prevent a successful probate application, fewer may be familiar with the option of filing a Request for Notice of Commencement of Proceeding.

Rule 74.03 of the [Rules of Civil Procedure](#) describes a Request for Notice of Commencement of Proceeding. Such a document, in Form 74.3, may be filed by any "person who appears to have a financial interest in the estate and who desires to be informed of the commencement of a proceeding in the estate..." An individual who files a Request for Notice of Commencement of Proceeding will receive notice by regular lettermail of any proceeding that is made in respect of the estate, including the filing of a Notice of Objection or a probate application. The Request can only be filed, however, before probate has been granted and will expire after a period of three years.

Filing a Request for Notice of Commencement of Proceeding may be a suitable alternative to the filing of a Notice of Objection for beneficiaries who wish to be apprised of any developments in the early stages of the administration of an estate (at least in situations where probate or other court proceedings are required), without preventing or delaying the issuance of a Certificate of Appointment.

Following amendments to the *Rules of Civil Procedure* effective January 2016, a similar option for those who wish to remain apprised of developments in the passing of accounts without objecting to the accounting has been made available through the introduction of a Request for Further Notice in Passing of Accounts.

Rule 74.18(8) requires that the Request for Further Notice in Passing of Accounts be served and filed at least 35 days prior to the date of the hearing appearing on the notice of application. Unless the court orders otherwise, the person who files such a form will be entitled (under Rule 74.18(8.1)) to:

- (a) receive notice of any further step in the application;
- (b) receive any further document in the application;
- (c) file material relating to costs; and
- (d) in the event of a hearing, be heard at the hearing, examine a witness and cross-examine on an affidavit, but with respect only to a request for increased costs.