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## “Tip of the Month”

### Creditor Claims in New Hampshire Probate

The Notice of Probate that appears in the newspaper is a notice to the world that this estate is now open, so now is the time to make any claims on the estate. The notice kicks off a six-month waiting period within which to make claims, like a short statute of limitations.

The newspaper Notice identifies the probate estate administrator who is obligated to pay the just debts of the estate. Under the probate statute, RSA 556:2, a creditor or claimant must send a demand to the estate administrator or that person’s agent (attorney) by registered mail. The demand would include the nature and amount of the claim.

The claim is not filed with the court in the first instance, though the claimant can send a copy of the demand to the court. The administrator might later send a receipt, release, or discharge to the court after the debt is paid.

A claimant need not be a creditor like a hospital or a credit card. Claimants can include family members or friends who provided valuable services such as caregiver services or incurred expenses on behalf of the decedent (the person who died) before death.

If the debt remains unpaid, the claimant can file suit in the probate court after the six-month waiting period, but within one year of the appointment of the administrator. The deadlines are strict. It is possible to request an extension of time, which may be allowed only if justice and equity require it and the claimant did not neglect the claim.

Sometimes the probate estate is not opened right away. That is, the person owing the debt might have died, but no one came forward to open the probate estate. This might also apply if the estate is in a trust and no probate is necessary.

In that case, a different deadline clock applies: two years from the date of death, another short statute of limitations. (The usual statute of limitations for filing civil lawsuits in NH is three years.)

If a creditor does not bring a claim against the (non-probate) estate within two years from the date of death and take action against the real estate or other assets of the decedent’s estate, the claim will be barred by the statute. As interested parties, creditors can petition to open probate in NH.

If you have any questions regarding a probate or trust administration, creditor claims, or estate planning the attorneys at Mesmer & Deleault have the experience and ability to help you. Give us a call today at 603-668-1971 or send an email to [mailbox@biz-patlaw.com](mailto:mailbox@biz-patlaw.com).

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