

IN THE COURT OF COMMON PLEAS, PROBATE DIVISION, GEauga COUNTY, OHIO
Judge Timothy J. Grendell

Information Sheet
Creditor Rights

WARNING

This Information Sheet is intended to provide you with a brief overview of the subject matter. It may not provide you with all information that you require to be fully informed of the law that is applicable to your case. Additionally, the information may not accurately describe the pertinent sections of the Ohio Revised Code that are referenced in the footnotes. You should read those sections that are referenced. The Ohio Revised Code has a link on the Court's website. Additionally, you should consider reading those sections that are footnoted using "Page's Ohio Revised Code Annotated," which can be found at the Geauga County Law Library in the basement of the Courthouse at 100 Short Ct. Street, Chardon, Ohio 44024. Page's Ohio Revised Code Annotated also will provide you a summary of applicable court decisions (known as "case law"). While the Help Center can provide you with a limited amount of information, the Help Center staff cannot provide you with legal advice, and this Information Sheet is not intended to provide you with legal advice that is applicable to your case. You must decide how to best use the information provided. In the footnotes you will see a reference such as "R.C. 2105.06." That refers to Ohio Revised Code Section 2105.06, which is found in R.C. Title 21, and in R.C. Chapter 2105.

Background

The probate process is like a business liquidation process. When a business is liquidated, the liquidator will gather the assets, pay the creditors of the business (including taxes), and pay the remaining assets to the business owners. The business owners only receive assets after the creditors have been paid in full. Likewise, when a person dies owning Probate Property,¹ upon receipt of an application, the probate court will appoint an executor or administrator, in a Full Administration, (or direct the applicant in the event of a Release from Administration or a Summary Release from Administration). The Estate Representative² will identify and gather the Decedent's Probate Property, satisfy the rights of a surviving spouse or minor children, pay the Decedent's creditors and then pay the remaining balance of the Probate Property to those

¹ See generally Information Sheet "Probate Process Overview" for a description of Probate Property.

² "Estate Representative" is the person appointed by the probate court to handle the probate estate, whether the probate process is a Full Administration (in which case the name of that person is the Executor, Administrator, or Administrator with Will Annexed), the Commissioner of a Release from Administration, or the applicant of a Summary Release from Administration. Sometimes that person is called a "fiduciary."

persons or entities entitled to receive the balance of the Probate Property in accordance with the Decedent's Will admitted to probate or the Statute of descent and distribution.³

Duty to Pay a Creditor of a Decedent

The general rule is that the Estate Representative has a duty to pay only those Decedent's creditors who "properly present" their claims to the Executor or Administrator in accordance with law. The presentation of creditor claims is governed by R.C. 2117.06. If a creditor claim is not properly presented, then no matter how valid the claim is, the Estate Representative must not pay the claim. In effect, R.C. 2117.06 operates as a "statute of limitations." There are a couple of requirements that a creditor must satisfy to "properly present" its claim.

- **First** – Only after the probate court appoints either an Executor or Administrator, then after such appointment the creditor must present its claim, in writing, by:
 - delivery of the written claim to the Executor or Administrator, or⁴
 - delivery of the written claim to the Executor or Administrator and filing a copy with the probate court,⁵ or
 - by delivery of the written claim by ordinary mail to the Decedent's last known address and the Executor or Administrator actually receives that ordinary mail notice within the six months following the Decedent's death.⁶
- **Second** – In all events, the creditor must properly present its claim not later than six months after the Decedent's death.⁷ This requirement is applicable even if the estate is released from administration and whether or not an Executor or Administrator has been appointed.

Note: If you are a creditor and desire to "present your claim" to the Executor or Administrator," then consider using the form titled "Presentation of Claim" (HCPF 070A).

If those requirements are not satisfied, then the creditor's claim is barred, and the Estate Representative must not pay the claim.⁸ For example, if the Judge does not appoint an Executor or Administrator within six months after the Decedent's death, then, with a few exceptions, all creditor claims will be barred because the creditors cannot present their claims to an Executor or Administrator in a timely manner.

³ R.C. 2105.06.

⁴ See *Wilson v. Lawrence*, 150 Ohio St.3d 368, 2017-Ohio-1410 (2017) for a good explanation as to how to effect delivery of the written claim in accordance with R.C. 2117.06.

⁵ Note the merely filing the written claim with the Court is not sufficient under R.C. 2117.06.

⁶ R.C. 2117.06(A).

⁷ R.C. 2117.06(B).

⁸ R.C. 2117.06(C). However, any claim for the Administrator of the Medicaid Estate Recovery Program (discussed below) or a claim by a surviving spouse for Allowance for Support is not barred.

Additionally, if a creditor claim is based upon supplying “necessaries” (e.g. a nursing home) to the Decedent, and if that creditor does not timely present the claim as provided in R.C. 2117.06, then any claim that creditor would have against the surviving spouse under R.C. 3103.03 is null and void.⁹

Warning: If the Decedent has significant creditors, or if the applicant is owed money from the probate estate, then the applicant should consider obtaining legal advice before filing any applications with the Court. For example, if the applicant is owed money from the probate estate, then the applicant should consider filing an application to be appointed executor or administrator, under a full administration within six months after the decedent’s death, even if a release from administration or summary release from administration is available.

Allowance or Rejection of Creditor Claims

Regarding those creditor claims that are “properly presented” the Estate Representative should decide whether to “allow” or “reject” each such creditor claim. The mere fact that a creditor claim is properly presented to the Executor or Administrator does not mean that the claim must be paid. The Estate Representative still has a duty to the beneficiaries and next-of-kin to determine whether a creditor claim, that is properly presented, is a valid claim or whether the claims should not be paid, in whole or in part.

The Estate Representative may require the creditor to “authenticate” the claim.¹⁰ Upon receipt of a demand by the Estate Representative, the creditor must prepare and deliver to the Estate Representative an affidavit stating (1) the claim is justly due, (2) no payments have been made, and (3) there are no counterclaims.

Note: The Estate Representative should consider using the form titled “Demand for Authentication” (HCPF 071).

The Estate Representative may not “allow” and thus may not pay a claim where there is a mere moral obligation and not a legal obligation.¹¹ Generally, the Estate Representative should take action to either “allow” or “reject” a valid creditor claim within 30 days after a creditor claim is properly presented.¹² However, the failure to timely allow or reject a claim does not prevent the Estate Representative from doing so at a later date. Regarding valid creditor claims that are properly presented by filing a notice with the Court, in addition to the delivery of written notice to Executor or Administrator, the Court will not permit the Estate Representative to file a final and distributive account without either allowing or rejecting that creditor claim.¹³

Note: An Estate Representative should consider making a list of all known creditor claims, including (1) the name and contact information of the creditor; (2) the amount of the claim; (3) the nature of the claims; (5) the date the claim was “properly presented;”

⁹ *Embassy Healthcare v. Bell*, 155 Ohio St.3d 430, 2018-Ohio-4912.

¹⁰ R.C. 2117.08

¹¹ *Drouillard v. Wilson*, 1 Ohio Dec. Reprint 555 (1853).

¹² R.C. 2117.06(D)

¹³ R.C. 2117.06(I)

and (6) whether the claim should be allowed or rejected. The Help Center has a Worksheet that will assist the Estate Representative.

Ohio law does not provide a specific method for “allowing” a valid creditor claim. A mere oral statement by the Estate Representative to the creditor that the Estate Representative will pay the claim in due course could be deemed an “allowance” of that claim.¹⁴ Of course, if the Estate Representative pays a claim, the Estate Representative is deemed to have allowed that claim and partial payment, without a rejection of the claim, is deemed to be allowance of the entire claim. Even if the Estate Representative “allows” a valid creditor claim, the Estate Representative may subsequently “reject” that claim.¹⁵ A creditor, who has properly presented its claim, may make a written demand upon the Estate Representative to “allow” that claim. If the Estate Representative fails to give that creditor a written allowance with five days after receipt of the written demand, the creditor’s claim is deemed to be rejected.

If the Estate Representative decides to reject a valid creditor claim, in whole or in part, then the Estate Representative must deliver a written rejection notice to that creditor in the manner provided in R.C. 2117.11.

Note: The Estate Representative should consider using the form titled “Rejection of Claim” (HCPF 070).

If that creditor properly presented a notice of claim to the Court, then the Estate Representative must also file a copy of the rejection notice with the Court.¹⁶ The Estate Representative may reject a valid creditor claim even after the Estate Representative allowed that claim.¹⁷ When the Estate Representative rejects a creditor claim, the only course of action by that creditor is to commence a legal action on the claim within two month after the rejection of the claim.¹⁸ If the creditor fails to timely commence a legal action on that claim within two months, then that valid creditor claim is barred forever.¹⁹

Warning: If the Estate Representative decides to reject or not pay creditor claims, the Estate Representative should consider obtaining legal advice and assistance from an attorney.

Note: In all events, the Estate Representative should consider delivering the written rejection by certified mail, return receipt required, in order to have evidence of the date of delivery.

If the Estate Representative is unclear as to whether to allow or reject certain creditor claims, and if all of the interested parties to the estate, identified in the form titled “Surviving Spouse, Children, Next Of Kin, Legatees And Devisees” (Probate Form 1.0), agree with the Estate Representative’s decision, then the Estate Representative should consider having each such

¹⁴ *Miller v. Ewing*, 68 Ohio St. 176 1903); *Smock v. Bouse*, 12 Ohio C.C. 46 (1986).

¹⁵ R.C. 2117.11

¹⁶ Sup.R. 62(A) (Ohio Rules of Superintendence).

¹⁷ R.C. 2117.11

¹⁸ R.C. 2117.12

¹⁹ R.C. 2117.12

interested person sign the form titled “Consent to Allowance and Payment of Claims” (HCPF 077). Otherwise, under R.C. 2117.17, the Estate Representative may file a motion with the Court for a hearing to have the Court determine what creditor claims to allow or reject.²⁰

Note: The Estate Representative should consider preparing and filing the form titled “Motion for Confirmation of Allowance of Claims” (HCPF 072). The Estate Representative should have those interested persons who are willing to consent sign the form titled “Waiver and Consent” (HCPF 073) and file with the Court that Waiver and Consent together with the Motion for Confirmation of Allowance of Claims.

- Promptly after receiving the date and time of the Hearing, the Estate Representative must notify all those interested parties who did not sign the Waiver and Consent, using the form titled “Notice Of Hearing On Motion For Confirmation Of Allowance Of Claims” (HCPF 074), which must be delivered at least 10 days before the hearing date. See probate information sheet titled “Service of Notice” for more details on the service of the notice and proof of service to the Court.
- If interested persons have an unknown address, or if their names are unknown, then the Estate Representative must provide notice by publication. See the probate information sheet titled “Service of Notice for more details on service of notice by publication.
- As soon as possible after receipt of the “green cards” showing delivery of the Notice of Hearing, the Estate Representative must prepare and file with the Court the form titled “Certificate of Service of Notice of Hearing for Motion for Confirmation of Allowed Claims” (HCPF 076).
- Finally, the Estate Representative should prepared and file with the Court, before the hearing date, a proposed judgment entry using the form titled “Judgment Entry” (HCPF 075).

Additionally, if the Probate Property is insufficient to pay all valid creditor claims (including certain rights of a surviving spouse or minor children), then R.C. 2117.25 sets forth the order of payment of creditor claims. If the Court requires a hearing on claims or the Estate Representative requests a hearing on claims or insolvency, the Estate Representative shall file a schedule of all creditor claims with the Court. The Estate Representative shall file the schedule of claims with the Estate Representative’s application for hearing or within 10 days after the Court notifies the Estate Representative of a court-initiated hearing.²¹

Duty to Notify Creditors. Generally, an Estate Representative has no duty to notify the Decedent’s creditors of the Decedent’s death or the probate proceedings. However, in two instances, a creditor may be notified by reason of a publication in a local newspaper.

²⁰ See Sup.R. 62(B)

²¹ Sup.R. 62(B) (Ohio Rules of Superintendence).

- Release from Administration. Unless the Court orders that notice by publication is dispensed with as unnecessary in its judgment entry on the Application to Relieve Estate from Administration, the Estate Representative must cause a notice of publication to be issued in a local newspaper and then file a “proof of publication” with the probate clerk of courts. See the probate information sheets titled “Release from Administration” and “Service of Notice” for details on issuing the notice by publication.
- Payment of Debt to Estate Representative. As noted below, if the Estate Representative is a creditor and is owed more than \$500, the Court will order an evidentiary hearing and may order the Estate Representative to cause a notice of hearing to be published in the local newspaper.

Right to Accelerate Bar Against Claim.²² An Estate Representative may accelerate the six-month bar against creditor claims against the estate by giving written notice to a potential creditor that identifies the Decedent by name, states the date of the Decedent’s death, identifies the Estate Representative by name and mailing address, and informs the potential creditor that any claims the creditor may have against the probate estate are required to be presented to the Estate Representative in a writing within the earlier of 30 days after receipt of the notice by the creditor or six months after the date of the Decedent’s death. A creditor claim that is not timely presented in the manner provided by R.C. 2117.06 is barred as if it was not presented within six months after the Decedent’s death.

Executor or Administrator as a Creditor.²³ If the person appointed as the Executor or Administrator has a claim against the probate estate, then that person may have a duty to present that claim, as a creditor, to himself or herself, after being appointed as the Executor or Administrator, in accordance with R.C. 2117.06, as discuss above and within six months after the date of death. It may be that if the person appointed as Executor or Administrator does not properly and timely present his or her creditor claim in accordance with R.C. 2117.06, nevertheless that person, after being appointed as Executor or Administrator, may present the claim to the Court under R.C. 2117.02, as discussed below.²⁴ Note that if a Release from Administration is filed, and thus there is no Executor or Administrator appointed, then if the creditor is appointed the Commissioner of the estate, that person, as Commissioner may be unable to present his or her creditor claim and thus may not pay that claim from the Probate Property.

If even properly presented under R.C. 2117.06, the Estate Representative may not pay that claim from Probate Property without first obtaining a court order that allows the payment. The Estate Representative must present the claim to the Court within three months following the Court’s appointment of the Executor or Administrator in accordance with R.C. 2117.02. If the claim is \$500 or more, then the Judge will hold an evidentiary hearing before allowing the payment and will order the Estate Representative to provide all interested parties with a notice, which may include notice by publication. Notice must be given at least 20 days before that hearing to all the heirs, legatees, or devisees of the decedent interested in the estate, and to the creditors named in the order. To notify those parent(s), the Estate Representative must use

²² R.C. 2117.07

²³ R.C. 2117.01 and 2117.02

²⁴ See *In re Estate of Curc*, 2019-Ohio-416 [11th App. Dist.]

the form titled "Notice of Hearing" (Form GC PF 4.18), and (ii) provide the Court with proof of service by preparing and filing the form titled "Affidavit Evidencing Service of Notice" (GC PF 41.6). See probate information sheet titled "Service of Notice" for more details on service of notice and proof of service to the Court. If the address of a person to be served is unknown, or the name is unknown, and service of publication is required, then review Geauga Probate Local Rule 78.14 and probate information sheet titled "Service of Notice" for more details.

Note (claim less than \$500): If the claim is less than \$500, then the Estate Representative should consider preparing and filing the probate form titled "Application for Allowance of Fiduciary Claim" (HCPF 079).

Note (claim \$500 or more): If the claim is \$500 or more, then the Estate Representative should consider preparing and filing the probate form titled "Application for Allowance of Fiduciary Claim" (HCPF 079), and consider the following:

- **Waiver and Consent.** The Estate Representative should consider preparing and filing the probate form titled "Waiver and Consent" (HCPF 080), and to the extent possible have all interested persons sign that form, and file it together with the Application for Allowance of Fiduciary Claim.
- **Notice of Hearing.** To the extent that all interested persons do not sign the Waiver and Consent (HCPF 080), the Court will require the Estate Representative to notify all such interested persons by preparing the probate form titled "Notice of Hearing on Application Claim for Allowance Of Fiduciary Claim" (HCPF 081). That notice must be delivered and proof of service given to the Court as provided for in the probate information sheet titled "Service of Notice."

Special Creditor Situations

Secured Lenders

If a creditor has a valid lien against any Probate Property, then that secured creditor may proceed to exercise its rights against that Probate Property to collect its debt even if that secured creditor did not properly present its claim to an Executor or Administrator in the manner explained above. An example of a secured creditor is a bank that has a valid mortgage against real property owned by the Decedent. Another example is a lending company that has a lien against a vehicle, or a judgment creditor that has obtained a judgment lien against Probate Property. However, if that secured creditor has failed to properly present its claim, then the Estate Representative has no duty to pay the claim, and if that secured creditor is not fully paid after exercising its rights against the encumbered Probate Property, then the remaining balance of that creditor's claim is forever barred and must not be paid by the Estate Representative.

Medicaid Estate Recovery Program²⁵

Ohio has a cost recovery program known as the “Medicaid Estate Recovery Program,” which permits Ohio to recover from a Decedent’s Probate Property the costs related to Medicaid services (medical assistance paid for by Medicaid) that were rendered for the benefit of the Decedent who either:

- (a) regardless of age was “permanently institutionalized,” or
- (b) was 55 years or older, even if not “permanently institutionalized.”

The cost of the Medicaid services is recoverable from both the Probate Assets and certain Non-probate Assets (for example, joint and survivor property, life insurance, payable on death assets, living trusts, etc.) of a Decedent who meets either of the qualifications set forth above (“Qualifying Decedent”).

Note: if the Decedent was 55 years or older and was living in a nursing home, the Estate Representative should contact the nursing home to determine whether the nursing home was receiving any Medicaid services on behalf of the Decedent.

If the Estate Representative of the Decedent’s probate estate, or if the Estate Representative of the surviving spouse’s probate estate, determined that the Decedent received any Medicaid services and thus is a Qualifying Decedent, then the Estate Representative must prepare and deliver or file two documents:

- (1) The Estate Representative must prepare and deliver, by certified mail, return receipt requested, to the Office of the Attorney General, a “Notice to Administration of Medicaid Estate Recovery Program” (Probate Form 7.0(A)), within 30 days after the appointment of the Estate Representative. This requirement applies to any person who is appointed to proceed under a Full Administration, Release from Administration, or Summary Release from Administration.²⁶
- (2) Promptly after the delivery of the “Notice to Administration of Medicaid Estate Recovery Program,” the Estate Representative must prepare and file with the Court a “Certification of Notice to Administrator of Medicaid Estate Recovery Program” (Probate Form 7.0).

An Estate Representative should consider two provisions in the law. First, the Estate Recovery Program allows for an “undue hardship waiver” in certain circumstances, typically if there is a surviving spouse.²⁷ Second, if the Decedent has a surviving spouse or children under the age of 21, the Administrator of Medicaid Estate Recovery Program

²⁵ R.C. 5111.11

²⁶ R.C. 2117.061(B)

²⁷ R.C. 5111.11(E), R.C. 5111.11(G)(2), and Ohio Admin. Code §5101:1-38-10(C)(3)

cannot proceed to recover the cost of Medicaid Service until the death of the surviving spouse or until all children have attained age 21, which is applicable.

Note: If either of these two provisions set forth above are applicable or if the Estate Representative has any questions about whether the Decedent received Medicaid services or is a Qualified Decedent, the Estate Representative should seek legal advice and assistance from an attorney.

Upon receipt of the Notice to Administrator of Medicaid Estate Recovery Program, that program Administrator must present its claim for Medicaid services recovery within the later of: (1) 90 days after receipt of the Notice, or (2) one year after the date of death.²⁸ If the Estate Representative fails to deliver the Notice to Administrator of Medicaid Estate Recovery Program, then the time period for the program Administrator to assert and collect upon its claim does not expire. The program Administrator may recover its claim from beneficiaries of the Probate Property, from the Trustee of a living trust, or from any person who benefits from the Non-Probate Property.

Tax Creditors

Warning: The Help Center provides limited tax information and no tax advice. All Estate Representatives should consider obtaining professional tax advice to review any questions involving taxation arising from the Decedent's death, including state and federal income or estate taxes. The information provided below is a summary of relevant information, but it is not complete and should not be relied upon in making any decision pertaining to taxation. The following concerns are more complicated if the Decedent is not a U.S. citizen.

Federal Estate Tax

For a Decedent, who is a U.S. citizen, if the death occurred in 2017, and if the value of "gross estate" and "taxable gifts" exceeds \$5,490,000, then the Estate Representative must file a federal estate tax return (Form 706). If the death occurred after 2017, the exemption amount is \$10,000,00 plus the inflation adjustment). The "gross estate" includes not only the value of Probate Property, but also Non-Probate Property (for example, life insurance, joint and survivor assets, or retirement benefits). Even if a federal estate tax return need not be filed, if the Decedent is survived by a spouse, the Estate Representative should consider, with the advice of a qualified tax advisor, whether to file a Form 706 and make an election for the benefit of the surviving spouse known as the "Deceased Spousal Unused Exclusion."²⁹

²⁸ R.C. 2117.061(D).

²⁹ Regarding the duties of an Estate Representative as to both federal estate and income taxes, see generally IRS Publication < <https://www.irs.gov/pub/irs-pdf/p559.pdf>>.

Ohio Estate Tax

For a Decedent who died on or after January 1, 2013, Ohio does not impose an estate tax, and thus the Estate Representative has no duty to file an Ohio Estate Tax Return.³⁰

Federal Income Tax

An Estate Representative has two concerns regarding federal income taxes:

- The first concern is the filing of the Decedent's final income tax return for the year of death.³¹ Please read Internal Revenue Service Publication 559. We recommend that you obtain tax advice as to your responsibility regarding the filing of federal and Ohio income tax returns. If the Decedent was married, then the Estate Representative must decide whether to file separately or jointly with the surviving spouse. If the Decedent was not married, then the Estate Representative has a duty to file a final federal income tax return (IRS Form 1040) for the year of death and pay from Probate Property any taxes owed (or receive and account for any tax refund as Probate Property). The Estate Representative must also file any unfiled federal income tax returns due for any prior years. In some cases, the Estate Representative has personal responsibility for any unpaid federal income taxes. The payment of federal income taxes generally has priority over the claims of other unsecured creditors.
- The second concern is the filing of an estate federal income tax return (IRS Form 1041) for the period starting with the date of the Decedent's death and ending on the date of final distribution of the estate assets. Generally, the Estate Representative must file an estate federal income tax return if the gross income earned by the probate estate during the period exceeds \$600 during a 12-month tax period.

Ohio Income Tax

The Estate Representative must file a final Ohio income tax return (Form IT 1040) for the year of the Decedent's death. Moreover, if the Estate Representative files a federal Form 1041 (federal estate income tax return), then the Estate Representative must prepare and file an Ohio estate income tax return (Form IT-1041).³²

³⁰ See generally the guidance issued by the Ohio Department of Taxation at: <<http://www.tax.ohio.gov/estate/prior2013.aspx>>, and House Bill 153.

³¹ See generally IRS Publication 559, titled "Survivors, Executors, and Administrators." <<https://www.irs.gov/pub/irs-pdf/p559.pdf>>

³² See generally the guidance issued by the Ohio Department of Taxation at: <http://www.tax.ohio.gov/ohio_individual/individual/faqs/individual.aspx>

Spouse/Minor Children Claims

If the Decedent is survived by a spouse or any minor children, and regardless of whether they are beneficiaries of the estate, the surviving spouse or minor children may have a claim to receive a portion of the Probate Property before any payment is made to creditors. In effect, the surviving spouse or minor children are treated as a senior creditor. For more information concerning spousal rights, please read Information Sheet "Rights of Surviving Spouse."³³

LEGAL PRACTICE IN THE PROBATE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO AND INDIVIDUALS WHO ARE HANDLING THEIR OWN LEGAL MATTERS. IF AN INDIVIDUAL WISHES TO HANDLE HIS OR HER OWN CASE, THAT PERSON MAY ATTEMPT TO DO SO, HOWEVER DUE TO THE COMPLEXITY OF THE LAW AND THE DESIRE TO AVOID COSTLY ERRORS, MANY PERSONS WHO HAVE MATTERS BEFORE THE COURT ARE REPRESENTED BY AN ATTORNEY.

IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT'S FORMS, BE AWARE THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE, AND EMPLOYEES OF THE GEAUGA COUNTY PROBATE COURT, INCLUDING THE HELP CENTER STAFF, FROM PROVIDING YOU WITH LEGAL ADVICE. IF YOU NEED LEGAL ADVICE, THEN YOU SHOULD CONTACT AN ATTORNEY OF YOUR CHOOSING.

³³ See generally R.C. 2106.13 regarding the Allowance for Support rights for the benefit of a surviving spouse or minor children of the decedent. See generally R.C. 2117.25 regarding the order of priority for payments to creditors