

Rule 8. Appeals.

(a) Generally.

Any person who is aggrieved by a final order or judgment of the Probate Division of the Superior Court of the District of Columbia and who participated in the determination of that order or judgment may file an appeal therefrom to the District of Columbia Court of Appeals.

(b) Judgment upon fewer than all claims or interested persons or parties.

Upon application of any interested person or party or in the court's discretion, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or interested persons or parties upon an express determination that there is no just reason for delay and upon an express direction for the entry of such judgment.

(c) When allowed -- Decedents' estates.

Notwithstanding section (b) of this rule, all orders and judgments of the court determining rights of any interested person or party in any proceeding in the administration of the estate of a decedent shall be deemed final with respect to matters provided for in subsections (1) through (6) of this section as follows:

- (1) Order granting or denying probate;
- (2) Order construing the decedent's will;
- (3) Order determining heirs or legatees;
- (4) Order determining title to assets;
- (5) Order determining that property should be sold;
- (6) Order approving a final account.

(d) When allowed -- All other proceedings.

Notwithstanding section (b) of this rule, all orders and judgments of the court determining rights of any interested person or party in any intervention proceeding shall be deemed final with respect to matters provided for in subsections (1) through (8) of this section as follows:

- (1) Order appointing, removing or denying a request to appoint or remove a permanent guardian, permanent conservator, special conservator, trustee or other permanent fiduciary;
- (2) Order granting or limiting the rights, powers or duties of a permanent guardian, permanent conservator, special conservator, trustee or other permanent fiduciary;
- (3) Order approving any account, or granting or denying an exception or objection to any account;
- (4) Order granting or denying compensation;
- (5) Order determining title to assets;
- (6) Order determining that property should be sold;
- (7) Order determining a claim against a protected person or property of a protected person;
- (8) Order granting or denying authority to make gifts.

COMMENT:

This rule recognizes that, in the context of a decedent's estate, an order approving the final account is generally the only order that disposes of all the issues as to all the parties. Examples of probate orders that are not final absent an express determination by the Court include (but are not limited to) orders appointing or removing fiduciaries and orders approving interim accounts, including fees and commissions reflected therein.

If an interested person or party in a decedent's estate has notice of an account or request for compensation and fails to file an exception to such account or request for compensation within the statutory period, such interested person or party lacks standing to appeal. Notwithstanding the foregoing, the District of Columbia Court of Appeals decision in *Johnson v. Martin*, 567 A.2d 1299 (D.C. 1989), provides that even if an interested person or party does not file an exception within the statutory period, such person or party may file an exception

when the person or party "discovers, or by reasonable diligence should discover, the injury, its cause in fact, and some evidence of wrongful conduct." *Id. at 1302.*

The mere filing of an appeal does not suspend the proceedings or stay the ruling, order, judgment or decree that is the subject of the appeal. The Court may enter a separate order pursuant to SCR-PD 9. *Murphy v. McCloud, 605 A.2d 202 (D.C. 1994).*