

## PROBATE CODE

### SECTION 9350-9354

9350. This article applies to any claim other than a claim on an action or proceeding pending against the decedent at the time of death.

9351. An action may not be commenced against a decedent's personal representative on a cause of action against the decedent unless a claim is first filed as provided in this part and the claim is rejected in whole or in part.

9352. (a) The filing of a claim or a petition under Section 9103 to file a claim tolls the statute of limitations otherwise applicable to the claim until allowance, approval, or rejection.

(b) The allowance or approval of a claim in whole or in part further tolls the statute of limitations during the administration of the estate as to the part allowed or approved.

9353. (a) Regardless of whether the statute of limitations otherwise applicable to a claim will expire before or after the following times, a claim rejected in whole or in part is barred as to the part rejected unless, within the following times, the creditor commences an action on the claim or the matter is referred to a referee or to arbitration:

(1) If the claim is due at the time the notice of rejection is given, 90 days after the notice is given.

(2) If the claim is not due at the time the notice of rejection is given, 90 days after the claim becomes due.

(b) The time during which there is a vacancy in the office of the personal representative shall be excluded from the period determined under subdivision (a).

9354. (a) In addition to any other county in which an action may be commenced, an action on the claim may be commenced in the county in which the proceeding for administration of the decedent's estate is pending.

(b) The plaintiff shall file a notice of the pendency of the action with the court clerk in the estate proceeding, together with proof of giving a copy of the notice to the personal representative as provided in Section 1215. Personal service of a copy of the

summons and complaint on the personal representative is equivalent to the filing and giving of the notice. Any property distributed under court order, or any payment properly made, before the notice is filed and given is not subject to the claim. The personal representative, distributee, or payee is not liable on account of the prior distribution or payment.

(c) The prevailing party in the action shall be awarded court costs and, if the court determines that the prosecution or defense of the action against the prevailing party was unreasonable, the prevailing party shall be awarded reasonable litigation expenses, including attorney's fees.

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