

## **RULE 4:88. Commissions And Attorney's Fee**

### **4:88-1. Affidavit of Accountant's Services**

If the allowance of such commissions is within the discretion of the court, the applicant therefor shall, upon every application for commissions on corpus, at least 20 days prior to the day on which the account is settled, file an affidavit stating in detail the nature of the services rendered in administering the estate and specifying the amount of the commissions requested.

**Note:** Source-R.R. 4:107-1; amended June 29, 1990 to be effective September 4, 1990; amended July 10, 1998 to be effective September 1, 1998.

### **4:88-2. Commission Payments Before Settlement**

Whether or not annual commissions are taken pursuant to N.J.S.A. 3B:18-17, a fiduciary may apply to the court to which he or she is accountable for an ex parte order supported by appropriate affidavits for payment to the fiduciary on account of commissions on corpus for services to date. Such order shall not be binding on the beneficiaries, and the payment so ordered shall be subject to approval and allowance or to disallowance by the court upon the settlement of the fiduciary's account.

**Note:** Amended June 29, 1973 to be effective September 10, 1973; amended July 22, 1983 to be effective September 12, 1983; amended June 29, 1990 to be effective September 4, 1990.

### **4:88-3. Notice as to Apportionment of Commissions**

The court shall not apportion commissions among cofiduciaries unless proof is made that five days' notice of the application for apportionment has been given to those of them who do not appear.

**Note:** Source-R.R. 4:107-2.

### **4:88-4. Affidavit of Attorney's Services**

On every application for attorney's fees, the attorney shall file with the court at least 20 days prior to the day on which the account is settled an affidavit stating, in addition to the information required by R. 4:42-9(b), whether any part of the requested fee is to be paid to or shared with an attorney or firm of attorneys of another state or jurisdiction and if so, the amount to be paid or the manner in which the fee is to be shared shall be set forth and shall be supported by an accompanying affidavit of the foreign attorney or attorneys stating in detail the nature of the services rendered. The allowance shall be payable to the New Jersey attorney, and shall state what part, if any, of said allowance is to be paid to or shared with the foreign attorney or attorneys.

**Note:** Source-R.R. 4:107-3; amended June 29, 1990 to be effective September 4, 1990.