

#### § 4.212

decedent's death and notice of the pendency of the probate proceedings.

##### § 4.212 Contents of notice.

(a) In the notice of hearing, the OHA deciding official must specify that at the stated time and place the OHA deciding official will take testimony to determine the heirs of the deceased person (naming him or her) and, if a will is offered for probate, testimony as to the validity of the will describing it by date. The notice must name all known presumptive heirs of the decedent, and, if a will is offered for probate, the beneficiaries under such will and the attesting witnesses to the will. The notice must cite this subpart as the authority and jurisdiction for holding the hearing, and must inform all persons having an interest in the estate of the decedent, including persons having claims or accounts against the estate, to be present at the hearing or their rights may be lost by default.

(b) The notice must state further that the hearing may be continued to another time and place. A continuance may be announced either at the original hearing by the OHA deciding official or by an appropriate notice posted at the announced place of hearing on or prior to the announced hearing date and hour.

#### DEPOSITIONS, DISCOVERY, AND PREHEARING CONFERENCE

SOURCE: 66 FR 67656, Dec. 31, 2001, unless otherwise noted.

##### § 4.220 Production of documents for inspection and copying.

(a) At any stage of the proceeding prior to the conclusion of the hearing, a party in interest may make a written demand, a copy to be filed with the OHA deciding official, upon any other party to the proceeding or upon a custodian of records on Indians or their trust property, to produce for inspection and copying or photographing, any documents, papers, records, letters, photographs, or other tangible things not privileged, relevant to the issues which are in the other party's or custodian's possession, custody, or control. Upon failure of prompt compliance, the OHA deciding official may

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issue an appropriate order upon a petition filed by the requesting party. At any time prior to closing the record, the OHA deciding official upon his or her own motion, after notice to all parties, may issue an order to any party in interest or custodian of records for the production of material or information not privileged, and relevant to the issues.

(b) Custodians of official records will furnish and reproduce documents, or permit their reproduction, in accordance with the rules governing the custody and control thereof.

##### § 4.221 Depositions.

(a) *Stipulation.* Depositions may be taken upon stipulation of the parties. Failing an agreement therefor, depositions may be ordered under paragraphs (b) and (c) of this section.

(b) *Application for taking deposition.* When a party in interest files a written application, the OHA deciding official may at any time thereafter order the taking of the sworn testimony of any person by deposition upon oral examination for the purpose of discovery or for use as evidence at a hearing. The application must be in writing and must set forth:

(1) The name and address of the proposed deponent;

(2) The name and address of that person, qualified under paragraph (d) of this section to take depositions, before whom the proposed examination is to be made;

(3) The proposed time and place of the examination, which must be at least 20 days after the date of the filing of the application; and

(4) The reasons why such deposition should be taken.

(c) *Order for taking deposition.* If after examination of the application the OHA deciding official determines that the deposition should be taken, he or she will order its taking. The order must be served upon all parties in interest and must state:

(1) The name of the deponent;

(2) The time and place of the examination which must not be less than 15 days after the date of the order except as stipulated otherwise; and

(3) The name and address of the officer before whom the examination is to