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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

Estate of ANDREW RORK GETTY,
Deceased.

B282966
(Los Angeles County
Super. Ct. No. BP161771)

ERIC L. BERLINER, as Personal
Representative, etc., et al.,

Petitioner and Respondent,

GORDON P. GETTY,

Claimant and Respondent,

v.

ALISA LYNN HOLMES,

Objector and Appellant.

APPEAL from an order of the Superior Court of Los
Angeles County, Clifford L. Klein, Judge. Affirmed.

Scherer & Bradford, Christopher T. Bradford; Law Offices of David Glubok and David Glubok for Objector and Appellant.

Freeman, Freeman & Smiley, Geraldine A. Wyle and Jeryll S. Cohen for Claimant and Respondent.

Gordon P. Getty (Getty) is the father of Andrew Rork Getty (Andrew). Andrew died on March 31, 2015, and his estate is being probated in the Los Angeles Superior Court. During Andrew's lifetime, Getty loaned Andrew more than \$12 million dollars. On December 16, 2015, Getty filed a creditor's claim in Andrew's estate—less than 60 days after Getty had been served with a notice of administration pursuant to Probate Code¹ sections 9050 and 9052, and less than a year after Andrew's death. Getty also served the claim on the estate's personal representative along with a large binder documenting the existence and amount of the loans. On October 4, 2016, the personal representative filed a petition for approval of the claim. The probate court granted the approval petition over the objections of the estate's sole beneficiary, Alisa Holmes (Holmes). In appealing the probate court's order granting the approval petition, Holmes contends that Getty did not meet the technical requirements of the creditor claim statutes. We affirm.

BACKGROUND

Andrew Rork Getty (Andrew) died on March 31, 2015, at the age of 47. Andrew's father is Getty. Holmes is Andrew's former fiancée. Although Holmes had little contact with Andrew for more than a decade before his death, she is the sole

¹ All further statutory references are to the Probate Code unless otherwise indicated.

beneficiary of his estate. Eric Berliner (Berliner) served as Andrew's attorney as well as a liaison with Getty regarding Andrew's financial affairs. Over the years, Getty loaned Andrew approximately \$12 million dollars. The parties do not dispute that Andrew received this amount and that he agreed to repay these loans. After Andrew's death, Getty loaned Andrew's estate additional funds in order to maintain the estate's assets and to pay for Andrew's memorial service.

On or about April 10, 2015, Berliner served a notice of petition to administer the estate of Andrew Rork Getty pursuant to section 8100. On June 18, 2015, the probate court issued letters testamentary to Berliner, as executor of Andrew's will. On November 4, 2015, Berliner served Getty with a notice of administration pursuant to section 9100, thus triggering a 60-day deadline to file a claim against Andrew's estate.

On December 16, 2015, Getty filed a creditor's claim for \$14,114,651 and served the claim on Berliner. Getty also provided Berliner with a binder containing 232 pages of supporting documents, which detailed each of the loans listed in the creditor's claim. Getty provided Berliner with this binder both before and concurrently with the filing of the creditor's claim. The supporting documents included various promissory notes and pledge agreements for four of the loans, master loan and amortization schedules, cash flow data, electronic transfer forms, schedules of accrued interest, related correspondence, notes receivable reconciliations, as well as two versions of a loan and credit agreement and their amendments.

Berliner's counsel confirmed he received the information and told Getty's representative: "If we need more, [Berliner] or I will let you know." Berliner accepted the creditor's claim as valid

and did not request additional information or documents from Getty. Nor did Berliner ever indicate he was considering rejecting the claim on any basis. On March 10, 2016, Berliner provided Holmes with a copy of Getty's claim along with all the supporting documents.

On October 4, 2016, Berliner filed a petition for court approval of Getty's claim. According to the petition, a notice of administration had been sent to Getty on November 4, 2015, which thus triggered a 60-day deadline in which to file a creditor's claim. Getty timely filed his claim on December 16, 2015. Berliner then reviewed the claim and its exhibits, which included loan agreements, promissory notes, as well as other documentation, and determined it was valid. According to the petition, because Berliner had served as Andrew's personal representative for a period of years, he also had contemporaneous knowledge of the loans. Therefore, Berliner requested that the probate court approve Getty's claim.

On November 22, 2016, Holmes filed objections to the petition for court approval of Getty's claim, arguing that the claim was untimely. Specifically, Holmes contended that the time for filing a creditor's claim expired on October 18, 2015, four months after the probate court issued letters testamentary to Berliner on June 18, 2015.

On December 12, 2016, Berliner filed a reply to Holmes's objections, noting that Getty had presented Berliner with numerous promissory notes and loan agreements in April 2015, which "substantially, and overwhelmingly, evidenced a valid creditor's claim by [Getty] against Andrew's Estate." Berliner emphasized that the filing of the creditor's claim on December 16, 2015, did not blindside him or hinder the administration of the

estate in any way given that Berliner already knew about the loans. Lastly, Berliner noted, he had been granted full IAEA powers when appointed personal representative of the estate and therefore, under section 10552, subdivision (d), he had the power to allow a claim to be filed after the expiration of the time for filing a claim.²

On April 12, 2017, the probate court held a hearing addressing Holmes's objections. According to the probate court, section 9100 controlled when the limitations period began to run in this case. Under section 9100, the period of time in which to file a creditor's claim begins to run either when testamentary letters are issued or when notice of administration is provided to the creditor.³ Given the clarity of section 9100, the court rejected the argument that Getty's claim was untimely. The probate court also rejected the argument that Getty's claim was defective. According to Holmes, the claim was insufficient because its supporting documents were not "attached" as required by statute, and only copies of the supporting documents were submitted. However, the probate court noted, with this claim, over 200 pages were served in support. "It is not practical to 'attach' 200 pages with a staple, and the court finds that providing the supporting documents in a binder complies with the applicable statutes." The probate court also rejected Holmes's argument that Getty

² IAEA stands for the Independent Administration of Estates Act (§ 10400 et seq.).

³ As noted above, Berliner served Getty with the notice of administration on November 4, 2015. Thus, according to the probate court, the limitations period began on that date rather than the June 18, 2015, date urged by Holmes. Getty filed his creditor's claim on December 16, 2015.

could not provide additional documents, noting that “[t]he statutes do not require that every possible item of evidence to prove a claim must be filed.” Finally, the court noted, although “‘mere notice’” is insufficient for the presentation or filing of a claim, in this case, sufficient facts to support Getty’s claim were submitted that greatly exceeded “‘mere notice.’”

In sum, the probate court found that Getty’s claim to be valid and approved. Holmes now appeals the probate court’s order.

RELEVANT PROBATE CODE STATUTES

Under section 8100, the notice of petition for administration of a decedent’s estate informs all heirs, beneficiaries, creditors, and contingent creditors, and persons who may be otherwise interested in the will or estate, that a petition has been filed in the superior court requesting that a named individual be appointed as personal representative to administer the estate. The section 8100 notice further states that if anyone “objects to the granting of the petition, [they] should appear at the hearing and state [their] objections or file written objections with the court before the hearing.” The notice also informs creditors that they “must file [their] claim with the court and mail a copy to the personal representative appointed by the court within the later of either (1) four months from the date of first issuance of letters to a general personal representative . . . , or (2) 60 days from the date of delivery of the notice” to the creditor. (§ 8100.)

Under section 9050, the personal representative must give notice of administration of the estate to the decedent’s known or reasonably ascertainable creditors. “For the purpose of this subdivision, a personal representative has knowledge of a

creditor of the decedent if the personal representative is aware that the creditor has demanded payment from the decedent or the estate.” (§ 9050, subd. (a).)

Under section 9051, the personal representative must give notice to creditors “within the later of: [¶] (a) Four months after the date letters are first issued[] [or] [¶] (b) Thirty days after the personal representative first has knowledge of the creditor.” (§ 9051, subd. (a)–(b).) According to the Law Revision Commission Comments accompanying section 9051’s enactment, failure of the personal representative to give notice within the time required by section 9051 does not preclude a creditor from filing a claim within the time provided in section 9100. (19 Cal. Law Revision Com. Rep. (Dec. 1988) p. 317.)

Under section 9100, subdivision (a), a creditor must file a claim against an estate “before expiration of the later of the following times: [¶] (1) Four months after the date letters are first issued to a general personal representative[] [or] [¶] (2) Sixty days after the date notice of administration is mailed or personally delivered to the creditor.”⁴ (§ 9100, subd. (a)(1)–(2).) Further, “[a] reference in another statute to the time for filing a claim means the time provided in paragraph (1) of subdivision (a).” (§ 9100, subd. (b).) To that end, a notice of administration will warn creditors that their claims must be filed “within the last to occur of four months after . . . (the date letters were first issued to a general personal representative . . .), or 60 days after the date this notice was mailed to [the creditor] or,

⁴ However, nothing in this paragraph extends the one-year statute of limitations provided in Code of Civil Procedure section 366.2. (Prob. Code, § 9100, subd. (a)(2).)

in the case of personal delivery, 60 days after the date this notice was delivered to [the creditor].” (§ 9052.)

Under section 9104, if a claim is timely filed, “the creditor may later amend or revise the claim.” (§ 9104, subd. (a).) However, an “amendment or revision may not be made for any purpose after the earlier of the following times: [¶] (1) The time the court makes an order for final distribution of the estate[] [or] [¶] (2) One year after letters are first issued to a general personal representative.” (§ 9104, subd. (c)(1)–(2).)

Under section 9152, “[i]f a claim is based on a written instrument, . . . the original or a copy of the original with all endorsements [must] be attached to the claim.” (§ 9152, subd. (a).) “If the claim or a part of the claim is secured by a mortgage, deed of trust, or other [recorded lien], it is sufficient to describe the mortgage, deed of trust, or lien and the recording reference for the instrument that created the mortgage, deed of trust, or other lien.” (§ 9152, subd. (b).)

STANDARD OF REVIEW

The applicability of a statutory standard to undisputed facts and questions of statutory interpretation are questions of law that are reviewed de novo. (*International Engine Parts, Inc. v. Feddersen & Co.* (1995) 9 Cal.4th 606, 611.) Although Getty agrees that the standard of review in this matter is largely de novo, he maintains that two of the probate court’s specific findings are entitled to abuse of discretion review.⁵ We agree. Under this deferential standard, discretion is abused only when

⁵ The two findings are the probate court’s determination that Getty filed his claim within 60 days after being served with the notice of administration and the court’s determination that Getty provided more than “‘mere notice’” of his claim.

in its exercise, the trial court “ ‘exceeds the bounds of reason, all of the circumstances before it being considered.’ ” (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 566.) There must be a showing of a clear case of abuse and miscarriage of justice in order to warrant a reversal. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 331.) A trial court will abuse its discretion by action that is arbitrary or “ ‘that transgresses the confines of the applicable principles of law.’ ” (*Horsford v. Board of Trustees of California State University* (2005) 132 Cal.App.4th 359, 393.) In appeals challenging discretionary trial court rulings, it is the appellant’s burden to establish an abuse of discretion. (*Blank*, at p. 331.)

DISCUSSION

I. Getty’s claim was timely filed

A. HOLMES RELIES ON FORMER SECTION 9100

The probate court issued letters testamentary to Berliner on June 18, 2015. Pursuant to section 9051, Berliner had four months after this date in which to serve Getty with the notice of administration. Consequently, Berliner should have served Getty with notice by October 18, 2015. However, Berliner did not serve Getty with the notice until November 4, 2015, which was four months and 17 days after letters were first issued. While it is undisputed that Berliner failed to meet his statutory deadline, Getty quite plainly met his own. Under section 9100, subdivision (a), Getty was required to file his creditor’s claim within: (1) four months after letters were first issued to Berliner or (2) 60 days after notice of administration was mailed or personally delivered to Getty, whichever came *later*. (See § 9100, subd. (a)(1)–(2).) Although, under section 9100, subdivision (a)(2), Getty had until January 4, 2016, in which to file a creditor’s claim, he ultimately filed his claim on December 16, 2015—only 42 days after notice of

administration had been mailed or personally delivered to him and well before the applicable 60-day statutory deadline.⁶

Holmes's argument to the contrary relies upon a much older version of section 9100, which was linked to section 9051 at that time. Holmes further cites to the Law Revision Commission Comment to the 1990 Amendment to Section 9100, which provides: "Section 9100 . . . was amended . . . to make clear that notice to a creditor given after expiration of the claim filing period under Sections 9050 (notice required) and 9051 (time of notice) does not extend the creditor's time to file a claim." (Cal. Law Revision Com. com., Deering's Ann. Prob. Code (2004 ed.) foll. § 9100, p. 542.) However, this commentary discusses statutory language that has long since been eliminated. Indeed, the section 9051 compliance requirement was deleted from section 9100 by the California legislature more than two decades ago.

A simple recitation of section 9100's legislative amendments demonstrates the error in Holmes's argument. Section 9100 was first enacted in 1990, amended later that same year, and amended again in 1996, 1999 and 2007. The initial version of section 9100 provided in relevant part that: "A creditor shall file a claim before expiration of the later of the following

⁶ By submitting his claim 42 days after receiving notice, Getty effectively rendered Berliner's 17-day lapse immaterial. Had Berliner served Getty with the notice of administration on October 18, 2015, as required by section 9051, Getty would have had until December 17, 2015, in which to file his creditor's claim. Getty filed his claim on December 16, 2015. Thus, even taking into account Berliner's statutory noncompliance, Getty's claim was *still* timely filed.

times: [¶] (1) Four months after the date letters are first issued to a general personal representative[] [or] [¶] (2) Thirty days after the date notice of administration is given to the creditor, if notice is given within the time provided in Section 9051.” (Stats. 1987, ch. 923, § 93, p. 3017.) The second version of section 9100, which was enacted later in 1990, also linked section 9100 to section 9051 and provided in relevant part that: “A creditor shall file a claim before expiration of the later of the following times: [¶] (1) Four months after the date letters are first issued to a general personal representative[] [or] [¶] (2) Thirty days after the date notice of administration is given to the creditor, if notice is given within the time provided in subdivision (a) or (b) of Section 9051.” (Deering’s Ann. Prob. Code (1991 ed.) § 9100, p. 584.)

Under the 1990 versions of section 9100, a personal representative had to serve a notice of administration in compliance with section 9051 in order for the creditor to have 30 days in which to file his or her claim. This set a potential trap for innocent creditors, effectively punishing them for a personal representative’s failure to timely serve the creditor with notice. The legislature thus re-addressed the link between section 9051 and 9100 and, in 1996, *removed* section 9100’s reference to section 9051. The legislature also increased the claims period from 30 days to 60 days. Thus, by 1996, section 9100 provided in relevant part that: “A creditor shall file a claim before expiration of the later of the following times: [¶] (1) Four months after the date letters are first issued to a general personal representative[] [or] [¶] (2) Sixty days after the date notice of administration is given to the creditor, if notice is at least 60 days prior to expiration of the time provided in Section 366.2 of the Code of

Civil Procedure. Nothing in this paragraph extends the time provided in Section 366.2 of the Code of Civil Procedure.”⁷ (West’s Cal. Legis. Serv. (1996) ch. 862, § 22 (Assem. Bill No. 2751) p. 3771.)

In 1999, the legislature deleted the requirement that notice to the creditor be given at least 60 days prior to the expiration of the time provided in Code of Civil Procedure section 366.2. (Stats. 2007, ch. 159, § 2.) In 2007, the legislature added language clarifying the method by which a personal representative must serve the notice of administration on a creditor.

In sum, the legislature has long since removed from section 9100 the requirement that the notice of administration be served in compliance with section 9051. Therefore, creditors may safely rely on section 9100’s 60-day deadline for filing a claim if served with a notice of administration, regardless of whether the personal representative served the notice in compliance with

⁷ We note that Judicial Council creditor’s claim form used by Getty is outdated. The form, last revised on January 1, 1998, informs creditors: “You must file this claim with the court clerk . . . before the LATER of (a) four months after the date letters (authority to act for the estate) were first issued to the personal representative, or (b) sixty days after the date the Notice of Administration was given to the creditor, if notice was given as provided in Probate Code section 9051.” Although the form correctly incorporated the 1996 amendment to section 9100, which gave creditors 60 days, rather than 30, to file their claims, it also incorrectly retained the statute’s reference to section 9051. The Los Angeles Superior Court still uses this outdated form. (See www.courts.ca.gov/documents/de172.pdf.)

section 9051.⁸ Consequently, Getty properly relied upon, and complied with, the current and applicable version of section 9100. As noted by Getty, Holmes seeks to reinstate a technical trap that was expressly removed by the legislature in 2006 and her argument, based upon a long-repealed version of section 9100, must fail as a matter of law.

B. HOLMES MISCONSTRUES CURRENT SECTION 9100

As noted above, the current and applicable version of section 9100 provides the deadlines within which a creditor must file a claim against an estate. (§ 9100, subd. (a)(1)–(2).) Holmes contends that because letters were issued to Berliner on June 18, 2015, the limitations period began to run on that date, and thus expired four months later, on October 18, 2015. In so arguing, Holmes ignores section 9100, subdivision (a)(2), as well as the express language of the notice of administration served on Getty. Berliner served Getty with the notice of administration on November 4, 2015. Pursuant to section 9100, subdivision (a)(2), the notice informed Getty that he had 60 days in which to file his claim—a deadline Getty plainly met.

In support of her argument, Holmes contends that Berliner served Getty with notice pursuant to section 9050 on April 10, 2015. This is incorrect. Berliner only served Getty with notice pursuant to section 8100 on that date. Indeed, it would have been impossible for Berliner to provide serve Getty with notice pursuant to section 9050 in April 2015 given that a personal representative who could have accepted claims on behalf of the

⁸ Although creditors are still bound by Code of Civil Procedure section 366.2's one-year statute of limitations, this caveat is not at issue here.

estate had not yet been appointed.⁹ As correctly noted by Getty, Holmes is attempting to insert a new condition on the application of section 9100; namely, that if a creditor has been served with a section 8100 notice of petition, the creditor can no longer rely on the section 9100 notice of administration or the plain language of that statute. No authority supports grafting this new condition onto section 9100.

Indeed, Holmes's argument that notice under section 8100 triggers a creditor's obligation to file a claim runs afoul of basic due process tenets. In *Tulsa Professional Collection Services, Inc. v. Pope* (1988) 485 U.S. 478 (*Tulsa Collection*), the United States Supreme Court held that creditors of estates, when they were known or reasonably ascertainable, were entitled to personal notice of estate proceedings, that is, by mail or personal service. (*Id.* at p. 491.) Mere notice by publication in a newspaper would not comport with due process. In the wake of *Tulsa Collection*, California's Probate Code was revised, most notably section 9050, which incorporated *Tulsa Collection's* "reasonably ascertainable" standard for creditors. Not just known, but reasonably ascertainable creditors, were entitled to notice by mail or personal service as distinct from the back pages of the classifieds of local newspapers. (See *Clark v. Kerby* (1992) 4 Cal.App.4th 1505.) Thus, a personal representative must give constitutionally sufficient notice to all known or reasonably ascertainable creditors when the estate is administered by the probate court.

⁹ It is the personal representative who has the statutory authority to allow or reject claims on behalf of the estate. (§ 10552, subd. (a).) Thus, until the probate court appointed Berliner as the personal representative of Andrew's estate, there was no one to whom Getty could submit a claim.

(§ 9050; *Gertner v. Superior Court* (1993) 20 Cal.App.4th 927, 932.) Only when creditors receive such notice are they required to file a claim in probate court. (§ 9100.) Getty received such notice on November 4, 2015, and filed his claim 42 days later.

Section 8100 only informs creditors that an individual has asked to be appointed as an estate's personal representative. It also provides the date, time and location of the hearing regarding the petition and informs creditors: "IF YOU OBJECT to the granting of the petition, you should appear at the hearing and state your objections or file written objections with the court before the hearing. Your appearance may be in person or by your attorney." (§ 8100.) In an abundance of caution, section 8100 goes on to warn creditors: "IF YOU ARE A CREDITOR or a contingent creditor of the deceased, you must file your claim with the court and mail a copy to the personal representative appointed by the court within the later of either (1) four months from the date of first issuance of letters to a general personal representative, as defined in subdivision (b) of Section 58 of the California Probate Code, or (2) 60 days from the date of delivery of the notice to you under Section 9052 of the California Probate Code." (§ 8100.) However, this language is merely advisory and cannot suffice as actual notice of an estate's administration given that, until a personal representative is appointed, there is no one to whom a creditor can submit a claim. Although, under *Tulsa Collection*, creditors must receive constitutionally sufficient notice when an estate is administered, section 8100 only notifies creditors that an estate will be administered at some unknown *future* date, while section 9100 notifies creditors that the estate is being administered *now*. Thus, it is section 9100 which triggers a creditor's obligation to file a claim within the statutory time

period, not section 8100. Indeed, Holmes cites no authority to the contrary.

C. Holmes relies on inapposite cases

Holmes relies upon *Venturi v. Taylor* (1995) 35 Cal.App.4th 16 (*Venturi*) in support of her argument. *Venturi* held that a potential creditor with actual notice of the pendency of estate proceedings cannot excuse the untimely filing of a creditor's claim on the ground that the administrator failed to send a formal notice of administration of the estate. (*Id.* at p. 18.)

Venturi is inapposite for several reasons. First, in 1996, the year after *Venturi*'s publication, section 9100 was amended to omit any reference to section 9051. Thus, as discussed above, creditors like Getty may now safely rely on section 9100's deadlines even if an estate's personal representative fails to meet his or her own statutory deadlines. Second, the personal representative in *Venturi* never served a formal notice of administration on the creditor. (*Venturi, supra*, 35 Cal.App.4th at p. 22.) Here, however, Berliner did serve a notice of administration on Getty, thereby establishing the 60-day deadline within which Getty had to file his claim pursuant to section 9100, subdivision (a)(2). Third, in *Venturi*, the personal representative challenged the creditor's claim as untimely (*id.* at p. 19), while here, Berliner concluded that Getty's claim was both timely and valid.¹⁰ Lastly, in *Venturi*, the creditor had actual notice of the estate's administration by other means, which thus triggered the claim filing deadline. (*Id.* at pp. 18, 23.) Here, however, Getty did not receive notice of the estate's

¹⁰ To that end, Berliner protectively invoked his authority under the IAEA to allow the claim to be filed after the applicable deadline expired.

administration until November 4, 2015, thus triggering his 60-day deadline, which was plainly met. There is no evidence in the record that Getty received notice by any other means and, as discussed above, notice provided under section 8100 cannot suffice.

Holmes also relies on *Nathanson v. Superior Court* (1974) 12 Cal.3d 355 (*Nathanson*) to argue that an executor cannot waive the statutory time in which to file a creditor's claim. *Nathanson* is also inapposite. In *Nathanson*, the executor served a notice of administration on all creditors, advising them to file their claims within four months of the notice. (*Id.* at p. 358.) The creditor in *Nathanson* filed her claim two weeks after the four-month deadline expired and the executor thus rejected the creditor's claim. *Nathanson* held that the probate court lacked any authority to permit a claim to be filed after the statutory time period had run. (*Id.* at p. 369.) In *Nathanson*, the creditor conceded that her claim was not filed within the period provided by law for the presentation or filing of claims and made no contention that filing was permissible under any statutory exception. (*Id.* at p. 362.) Here, however, Getty made no such concession. Nor did Getty need to make a concession given that he plainly complied with the deadline set forth in notice of administration. Thus, it is unsurprising that Berliner accepted the claim. The remaining cases cited by Holmes are similarly unavailing. In short, Holmes fails to cite a single case supporting her contention that Getty's claim should be barred as untimely.

II. Getty's claim was properly supported

On December 16, 2015, Getty filed a creditor's claim for \$14,114,651 and served the claim on Berliner. Getty also provided Berliner with a binder containing 232 pages of

supporting documents, which detailed each of the loans listed in the claim.¹¹ Getty provided Berliner with this binder both before and concurrently with the filing of the creditor's claim and Holmes received these supporting documents before the one-year statute of limitations in Code of Civil Procedure section 366.2 expired.¹² The supporting documents included various promissory notes and pledge agreements for four of the loans, master loan and amortization schedules, cash flow data, electronic transfer forms, schedules of accrued interest, related correspondence, notes receivable reconciliations, as well as two versions of a loan and credit agreement, and their amendments.

Holmes nevertheless contends that Getty failed to timely attach the promissory notes and other written instruments documenting his claim. In so arguing, Holmes cites section 9152, which provides that "[i]f a claim is based on a written instrument, either the original or a copy of the original with all endorsements [must] be attached to the claim." (§ 9152, subd. (a).) Holmes argues that Getty's claim should be rejected because the supporting documents were not physically attached to the claim filed with the probate court. The probate court rejected Holmes' contention that the supporting documents had to be physically attached to the claim and found that Getty's claim complied with the relevant statutory requirements. "With this claim, over 200 pages were served in support," the probate

¹¹ Berliner also had contemporaneous knowledge of the loans given that he had served as Andrew's representative for a number of years before Andrew's death.

¹² After Holmes objected to Berliner's petition for approval of the claim, Getty filed the supporting documents conditionally under seal for the probate court's review on March 17, 2017.

court noted. “It is not practical to ‘attach’ 200 pages with a staple, and . . . providing the supporting documents in a binder complies with the applicable statutes.”

The probate court did not abuse its discretion in so holding. Section 9152, subdivision (a), does not mandate that all written instruments must be attached to the claim filed with the probate court as well as the claim served on the court-appointed personal representative, especially when that representative has statutory authority to allow or reject claims. Furthermore, the Judicial Council creditor’s claim form informs creditors that only secured claims require attachments. Getty’s claim is largely unsecured.

In support of her interpretation of section 9152, Holmes again relies on *Nathanson*. Once again, however, the case is distinguishable. In *Nathanson, supra*, 12 Cal.3d at pages 358 to 359, the decedent’s former wife filed a petition for a family allowance in the estate proceedings. In her petition, which was filed within the period for filing a creditor’s claim, she stated that she “anticipated” filing a creditor’s claim seeking delinquent child support and life insurance proceeds due under a marital settlement agreement. She did not file a creditor’s claim within the statutory period. After her petition for a family allowance was granted and the statutory period for filing a creditor’s claim had expired, the decedent’s former wife filed a creditor’s claim and a petition seeking to have the lateness of the claim excused. (*Id.* at pp. 359–360.) The California Supreme Court rejected her argument. The mere fact that the executor had notice of the underlying bases for her claim, because she had mentioned those bases in her petition for a family allowance, did not excuse her failure to present a timely claim. (*Id.* at p. 364.) Although a timely creditor’s claim could be amended after the expiration of

the statutory period, this was only true where the timely filed claim itself stated a “demand against the estate in some form sufficient to apprise the representative of the underlying debt or injury.” (*Id.* at p. 366.) As the decedent’s former wife’s petition for a family allowance was not itself a demand against the estate for anything other than the family allowance, it was not in a form sufficient to constitute a claim and therefore could not be transformed into a claim by amendment. (*Id.* at pp. 368–369.)

Nathanson is readily distinguishable. Getty’s claim, unlike the petition at issue in *Nathanson*, was indisputably a “demand against the estate in [a] form sufficient to apprise the representative of the underlying debt or injury.” (*Nathanson*, *supra*, 12 Cal.3d at p. 366.) Although “mere notice to the estate, in the sense of imparting knowledge of the underlying debt to the representative, does not constitute a sufficient claim or demand which can be the basis of an amendment,” (*id.* at pp. 369–370), the 232 pages of material provided by Getty obviously clears this hurdle. Furthermore, as discussed above, Getty’s claim was timely filed, so there was no need to excuse any lateness. In fact, Getty’s claim did not fail to comply with any of the procedural requirements set forth in the Probate Code.¹³

¹³ Holmes also contends that the supporting documents filed with the probate court were an improper attempt to amend or revise the claim, in violation of section 9104, subdivision (c)(2). Section 9104 does not limit supplements, however. The supporting documents here simply supplement the claim and do not allege facts or request relief materially different from the facts alleged or relief requested in the claim. (See Cal. Rules of Court, rule 7.3(5).)

III. Remaining issues

Getty also sought the recovery of tangible personal property as well as the postmortem loans to the estate for expenses other than funeral expenses. However, Getty's tangible personal property claim has been resolved by the probate court. The postmortem loans will be resolved by the probate court in the future. The \$735.75 in funeral expenses sought by Getty is a valid debt of the estate and was properly included in Getty's claim pursuant to section 9000, subdivision (a)(3).

DISPOSITION

The order is affirmed. The parties are to bear their own costs on appeal.

NOT TO BE PUBLISHED.

JOHNSON, J.

We concur:

ROTHSCHILD, P. J.

CHANEY, J.