

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

In re Estate of Lillian L. Unanue.)
_____))
ROBERT UNANUE and)
GEORGE UNANUE,)
)
Appellants,)
)
v.)
)
SONIA A. JOHNSON and CASPER D.)
JOHNSON, as personal representatives of)
the Estate of Lillian L. Unanue,)
)
Appellees.)
_____)

Case No. 2D17-178

Opinion filed December 27, 2017.

Appeal from the Circuit Court for
Hillsborough County; Herbert J. Baumann,
Jr., Judge.

Robert S. Walton, Tampa, for Appellants.

Edward C. Castagna, Jr., of Castagna Law
Firm, Clearwater, for Appellees.

NORTHCUTT, Judge.

On November 17, 2016, Sonia A. Johnson and Casper D. Johnson, the
co-personal representatives of the estate of Lillian Unanue, filed a final accounting of

the estate and a petition for discharge of personal representatives. The probate court entered an order of discharge on December 5, 2016, finding that the estate had been fully administered and properly distributed.

Two beneficiaries of the estate, Robert and George Unanue, filed an objection to the final accounting and petition for discharge on December 16, 2016. In this appeal, they seek reversal of the order of discharge because the probate court improperly curtailed the time for objecting to the final accounting, in violation of Florida Probate Rule 5.400. The personal representatives have filed a notice stating that they do not oppose the appeal.

Rule 5.400(b)(6) provides that a petition for discharge must contain a statement

that any objections to the accounting, the compensation paid or proposed to be paid, or the proposed distribution of assets must be filed within 30 days from the date of service of the last of the petition for discharge or final accounting; and also that within 90 days after filing of the objection, a notice of hearing thereon must be served or the objection is abandoned.

In the present case, the order of discharge was entered eighteen days after the final accounting and the petition for discharge were filed. There is no date of service on the aforementioned pleadings; however, they would have been served simultaneously with or shortly after their electronic filing. The premature entry of the order of discharge therefore did not allow for consideration of the timely filed objection. Accordingly, we reverse the order of discharge and we remand for further proceedings.

Reversed and remanded.

CASANUEVA and SALARIO, JJ., Concur.