§ 2104. Inquiry; trial and decree

1. Upon the return of the order, whether or not the respondent answers, the petitioner may examine him with respect to the allegations of the petition. If it appears thereon that an issue of title to any property as defined in 103 or the proceeds or value thereof is raised, if he has not theretofore done so, the respondent shall be directed to serve and file an answer accordingly, but the examination, if directed by the court, shall continue. When an issue of title is raised that issue shall be tried as a litigated issue.

2. Any claim of title to or the right to the possession of any property of the decedent or the estate must be made by verified answer.

3. If the possession of the property be denied, proof of that issue may be presented by any party. The court may in an appropriate case make an interim decree directing the delivery of property not claimed by verified answer and continue the proceeding for determination of any litigated issue.

4. If it appears that the petitioner is entitled to the possession of any property the decree shall direct delivery thereof to him or if the property shall have been disposed of or diverted the decree may direct the payment of the proceeds or the value of the property or may impress a trust upon the proceeds or make any determination which the supreme court might decree in following trust property or funds.

5. If it be determined that the petitioner is not entitled to the property or the proceeds or value thereof the court may determine the respective interests of the other claimants thereto.

6. If during the proceeding, other than a trial of issues raised by answer, a respondent is examined concerning any personal communication or transaction between himself and the decedent such examination shall not be deemed to be a waiver of the provisions of CPLR 4519.