§ 809. Action or proceeding on bond; disposition of proceeds; summary determination in certain cases

1. When permitted. An action or proceeding on a fiduciary's bond may be brought in either of the following cases if leave of the court by motion on notice to the surety is granted:

(a) by a person having a judgment or decree against the fiduciary which remains unsatisfied after the expiration of 10 days from date of entry;

(b) by the fiduciary's successor or if the fiduciary has died, been removed, or his letters have been revoked and if no successor has been appointed, by any aggrieved person, for the recovery of any money or property received by the fiduciary and not duly administered by him or for an injury to the estate caused by his act or omission.

2. Disposition of proceeds. The decree or judgment in the action or proceeding on the bond shall provide for the disposition of any proceeds that may be recovered in the action or proceeding.

3. Summary determination in certain cases. Where a decree has been made directing payment by a fiduciary and payment has not been made within 10 days after date of entry, any person in whose favor the decree was rendered may as an alternative to an action or proceeding on the bond as provided in subdivision 1 seek a summary determination of the surety's liability in the court making the decree. Process shall issue to the surety and such other persons as the court may direct. Upon the return of process the court may conduct such proceedings and make such decree or order as justice shall require.