probate checklists

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# **PETITION FOR APPOINTMENT OF SUCCESSOR PERSONAL REPRESENTATIVE**

ESTATE OF:

CASE NO.:

DATE:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CHECKLIST**

**Reason for Successor Personal Representative:**

|  |  |
| --- | --- |
| \_\_\_\_ | Resignation of Current Personal Representative   1. Verified Petition for Resignation (Fla. Prob. R. 5.430(b)) 2. Service of Verified Petition on All Interested Persons and Surety, if any and shall state that objections must be filed within 30 days of service (Fla. Prob. R. 5.430(c); 3. If resigning Personal Representative is sole fiduciary, they must file an interim accounting and deliver all property to successor fiduciary; F.S. §§ 733.502-733.5036; Fla. Prob. R. 5.345, 5.430(f),(g) 4. Court Order for Discharge only after court is satisfied that property has been delivered and there are no objections to the accounting (Fla. Prob. R. 5.430(k)) |
| \_\_\_\_ | Death of Personal Representative  (copy of death certificate: F.S. §731.103(1), Fla. Prob. R. 5.171(a) |
| \_\_\_\_ | Other (Explain): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**Qualifications of Replacement Personal Representative:**

[*Suggest we insert the petition for administration (testate/intestate)*

*part about qualifications of the Personal Representative*]

# **PETITION FOR ATTORNEY FEES**

ESTATE OF:

CASE NO.:

DATE:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**LEGAL STANDARD:** F.S. §§ 733.106 (reasonable attorney fee); 733.707 (priority of attorney fee); 733.617(6) (attorney fee when attorney is also a Personal Representative); 731.6171 (factors to be considered in determining fee and extraordinary services)

**CHECKLIST**

**Attorney Fee Claimed: $**

**Inventory Value of Estate: $**

**Homestead Property: Yes / No**

**Presumed Reasonable Ordinary Fee of Estate Value** (Sec. 733.6171(3), *Fla. Stat.*)

|  |  |  |
| --- | --- | --- |
| \_\_\_\_ | up to $40,000 ($1,500) | [$1,500 total] |
| \_\_\_\_ | $40,001 - $70,000 (+ $750) | [$2,250 total] |
| \_\_\_\_ | $70,001 - $100,000 (+ $750) | [$3,000 total] |
| \_\_\_\_ | $100,001 - $1,000,000 (+ 3% on value over $100,000) |  |
|  | (see statute for estates above $1,000,000) |  |

**Extraordinary Services Claimed: Yes / No**  (Sec. 733.6171(4)*, Fla. Stat.*)

|  |  |
| --- | --- |
| \_\_\_\_ | 1. Will Contest, Apportionment of Estate Taxes, or Other adversarial proceedings |
| \_\_\_\_ | 1. Representation of PR in Decedent’s Tax Proceedings |
| \_\_\_\_ | 1. Advising PR in Postmortem Tax Planning |
| \_\_\_\_ | 1. Review/File Additional Tax Return Documents |
| \_\_\_\_ | 1. Preparation of Federal Estate Tax Return |
| \_\_\_\_ | 1. Real Estate Purchase, Sale, Land Use/Zoning, or Environmental Matters |
| \_\_\_\_ | 1. Advising PR on Carrying a Decedent’s Business |
| \_\_\_\_ | 1. Legal Advice re: Environmental Claims Against Estate |
| \_\_\_\_ | 1. Legal Advise re: Homestead Status of Real Property or Protected Homestead |
| \_\_\_\_ | 1. Fiduciary, Employee or Attorney Compensation Dispute |
| \_\_\_\_ | 1. Ancillary Administration Unrelated to this Estate |

**COMMENTS:**

The attorney, the personal representative, and persons bearing the impact of the compensation may agree to compensation determined in a different manner than provided in this section. Compensation may also be determined in a different manner than provided in this section if the manner is disclosed to the parties bearing the impact of the compensation and if no objection is made as provided for in the Florida Probate Rules. See F.S. § 733.6171(2)

The court may determine reasonable attorney's compensation without receiving expert testimony only if no objection is raised by the parties. *Brake v. Swan*, 767 So. 2d 500 (Fla. 3d DCA 2000).

Upon petition of any interested person, the court may increase or decrease the compensation for ordinary services of the attorney or award compensation for extraordinary services if the facts and circumstances of the particular administration warrant. See F.S. § 733.6171(5) (factors to be considered by the court)

Checklist for:

# Petition for Determination of Beneficiaries and Shares

| **Estate of:** |
| --- |
| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

§733.105 Fla. Stat. Determination of beneficiaries. Fla. Probate Rule 5.385 Determination of Beneficiaries and Shares

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Is petitioner the Personal Representative or another interested person? [5.385(a)] |
|  |  |  | Does Petition include: names, residences, and mailing addresses of ALL persons who may have an interest, except creditors, known to petitioner? [5.385(b)(1)] |
|  |  |  | Does Petition include statement of the nature of the interest of each individual? [5.385(b)(2)] |
|  |  |  | Does Petition include designation of any person who is a minor or incapacitated and whether there is a legal guardianship thereto in Florida? [5.385(b)(3)] |
|  |  |  | Does Petition include statement by petitioner whether there are persons whose names are not known to petitioner who have claims against, or interest in, the estate as beneficiaries.[5.385(b)(4)] |
|  |  |  | Is it a verified Petition? |
|  |  |  | Waiver [5.385(c), 5.180, 731.302] |
|  |  |  | If not Waiver by all interested persons, Formal notice [731.301] and Hearing [5.385(c)] |
|  |  |  | Does the Order include statement identifying the beneficiaries, shares and amount they are entitled to receive or both? [5.385(c)] |
|  |  |  |  |

|  |
| --- |
| Comments: |
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Checklist for:

# Petition for Discharge

| **Estate of:** |
| --- |
| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Inventory [733.604, 5.340] |
|  |  |  | Proof of Publication of Notice to Creditors\* [733.2121, 5.241] |
|  |  |  | Tax Closing Letters or Non-Tax Affidavit [198.26, 198.32] |
|  |  |  | Statement Regarding Creditors\* [5.241(d)] |
|  |  |  | Notice to creditors sent to ACHA \*\*\* [733.2121(3)(d), 5.241(a)] |
|  |  |  | All debts and claims paid or settled or notice sent to creditors or no claims filed or barred [733.705, see 733.901(2), 5.400(b)(2)] |
|  |  |  | Petition signed by Personal Representative [5.330(g)] |
|  |  |  | Atg & Notice of Pet/Dis Waived [W] or Not Waived [NW] [731.302, 5.346, 5.400(a), 5.180] If no, then no Final Accounting): |
|  |  |  | Income (receipts), Disbursements listed [5.346] |
|  |  |  | Served on beneficiaries and unsatisfied creditors [5.400(c)] |
|  |  |  | 30 days passed without objection [5.400(b)(6), 5.401(a)] |
|  |  |  | Atty Fees listed or waived, incl. manner of determining fee [5.400(b)(4), 5.180(b)] |
|  |  |  | Plan of distribution listed or waived, incl. actual & proposed dist. (L/W [731.302, 5.400(b)(5)] |
|  |  |  | Proof of asset distribution (receipt or copy of cashed check, etc.) [5.400(e)] |

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| --- |
| Beneficiaries: |
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| Unsatisfied Creditors (if none, so state): |
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| --- |
| Comments: |
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|  |

\* Not required if claims are barred, i.e., decedent deceased for more than 2 years

\*\* Not required if decedent was under 55 years of age at time of death

Checklist for:

# Election to Take Elective Share By Attorney-In-Fact or Guardian

§732.201 Fla. Stat. Right to elective share; §732.2125 Right of election; by whom exercisable, §732.2135 Time of election; extensions; withdrawal; §732.702(1) Waiver of spousal rights; Fla. Probate Rule 5.360 Elective Share

| **Estate of:** |
| --- |
| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Was the decedent domiciled in the State of Florida? [732.201] |
|  |  |  | There was NO valid waiver of spousal rights? [732.702(1)] |
|  |  |  | Did attorney-in-fact or guardian file a Petition for Approval? [732.2125, 5.360(a)(2)(A)]? |
|  |  |  | Does the Petition for Approval allege authority to act on behalf surviving spouse? [5.360(a)(2)(A)] |
|  |  |  | Does the Petition for Approval allege that the Election is in the best interests of the surviving spouse during his or her probable lifetime? [732.2125(2), 5.360(a)(2)(A)] |
|  |  |  | Was a copy of the Petition for Approval formally served upon the Personal Representative? [5.360(a)(2)(B)] |
|  |  |  | Did the Personal Representative formally serve a copy of the Petition for Approval upon all interested parties? [5.360(a)(2)(B)] |
|  |  |  | Does the Order for Approval include a finding that the election is in the best interests of the surviving spouse during the spouse’s probable lifetime? [5.360(a)(2)(C)] |
|  |  |  | Did the attorney-in-fact or guardian file the Election within the 30 days from service of the Order or the earlier of date that is 6 months after date of service of copy of NOA on surviving spouse OR date that is 2 years after date of death of decedent? [732.2135(1), 5.360(a)(2)(D) |
|  |  |  | Was the Election verified? |
|  |  |  | Did the attorney-in-fact or guardian promptly service a copy of the Election upon the Personal Representative via formal notice? [5.360(a)(2)(D)] |
|  |  |  | Did Personal Representative formally serve notice of Election within 20 days of receipt of Notice upon all interested persons? [5.360(b)(3), 5.360(a)(2)(B)] |
|  |  |  | Any Objections filed? If so, notice and hearing required. If not, Order may be entered. [5.360(c)] |

|  |
| --- |
| Comments: |
|  |

Checklist for:

# Election to Take Elective Share By Surviving Spouse

§732.201 Fla. Stat. Right to elective share, §732.2125 Right of election; by whom exercisable, §732.2135 Time of election; extensions; withdrawal, §732.702 Waiver of spousal rights

Fla. Probate Rule 5.360 Elective Share

| **Estate of:** |
| --- |
| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Was the decedent domiciled in the State of Florida? [732.201] |
|  |  |  | Election filed by surviving spouse? [732.201, 732.2125, 5.360(a)] |
|  |  |  | There was NO valid waiver of spousal rights? [732.702(1)] |
|  |  |  | Was Election filed on or before the earlier of date that is 6 months after date of service of copy of NOA on surviving spouse OR 2 years after date of death of decedent? [732.2135] |
|  |  |  | Was copy of Election formally served upon the Personal Representative? [5.360(1)] |
|  |  |  | Was the Election verified? |
|  |  |  | Did Personal Representative formally serve notice of Election within 20 days of receipt of notice upon all interested persons who may reasonably be expected to be affected by the outcome of the Election? [5.360(b)(3), 5.360(a)(2)(B)] |
|  |  |  | Does the Notice of Election indicate the names and addresses for the attorneys of surviving spouse and Personal Representative? [5.360(b)(3)] |
|  |  |  | Does the Notice of Election state that the individuals may be required to contribute toward satisfaction of the elective share? [5.360(b)(3)(A)] |
|  |  |  | Does the Notice of Election state that objections must be served within 20 days after service of copy of Notice and Election? [5.360(b)(3)(B)] |
|  |  |  | Does the Notice of Election state that if no objection is timely served, then an Order may be granted without further notice? [5.360(b)(3)(C)] |
|  |  |  | Any Objections filed? If so, notice and hearing required. If not, Order may be entered. [5.360(c)] |

|  |
| --- |
| Comments: |
|  |

Checklist for:

# Petition for Extension of Time to Close Estate

| **Estate of:** |
| --- |
| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | initial inventory |
|  |  |  | proof of publication |
|  |  |  | statement regarding creditors |
|  |  |  | tax closing letters |
|  |  |  | proposed distribution |
|  |  |  | proof of distribution |
|  |  |  | proof that all claims settled |
|  |  |  | petition served on all interested persons |
|  |  |  | petition states status of estate and the reason for the extension |
|  |  |  | petition for discharge |
|  |  |  | final accounting or waivers |
|  |  |  | order of discharge |
|  |  |  | order extending time to close estate (final accounting and petition for discharge) |
|  |  |  | other: |

|  |
| --- |
| Beneficiaries: |
|  |
|  |
|  |
| Creditors (in none, so state): |
|  |
|  |
|  |
| Comments: |
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|  |

Checklist for:

# Petition For Family Allowance

§732.403 Fla. Stat. Family Allowance Fla. Probate Rule 5.407

| **Estate of:** |
| --- |
| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Was the decedent domiciled in the State of Florida? [732.403] |
|  |  |  | Was the decedent survived by a spouse or lineal heirs (heirs = ascendants and descendants) decedent was supporting or obligated to support? [732.403] |
|  |  |  | Does the Petition include name & address of surviving spouse, dependent minor lineal heirs and adult lineal heirs, and year of birth of minor lineal heirs? [5.407(b)(1)] |
|  |  |  | Does the Petition state for each the name, minor child’s initials, relationship to decedent, basis of support claim and amount sought? [5.407(b)(2)] |
|  |  |  | Have 3 months passed since publication? [733.2121, 5.241] |
|  |  |  | Statement Regarding Creditors filed? [5.241(d)] |
|  |  |  | Was the Petition served upon all interested persons (beneficiaries and creditors) or waiver obtained by all interested persons? [5.041] |
|  |  |  | Are the estate assets sufficient to satisfy expenses of administration and obligations of the decedent’s estate of higher priority? [733.707(1)] Family allowance = class 5 |
|  |  |  | Does will provide family allowance is chargeable against benefit or share otherwise passing to surviving spouse or depend lineal heirs? [732.403] |
|  |  |  | Is the Petition verified? [5.407(b)] |
|  |  |  | Does the Order identify the persons entitled to allowance, amount each is entitled, method of payment (lump sum or periodic not to exceed $18,000), and to whom payment should be made? [5.407(c)] |

|  |
| --- |
| Comments: |
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# **PETITION FOR PERSONAL REPRESENTATIVE FEES**

ESTATE OF:

CASE NO.:

DATE:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Applicable Law:** F.S. §§ 733.106 (reasonable attorney fee); 733.707 (priority of attorney fee); 733.617(6) (attorney fee when attorney is also a Personal Representative); 731.6171 (factors to be considered in determining fee and extraordinary services)

**CHECKLIST**

**Inventory Value of Estate: $**

**Homestead Property: Yes / No**

**Presumed Reasonable Ordinary Fee of Estate Value** (Sec. 733.6171(3), *Fla. Stat.*)

|  |  |  |
| --- | --- | --- |
| \_\_\_\_ | up to $40,000 ($1,500) | [$1,500 Total] |
| \_\_\_\_ | $40,001 - $70,000 (+ $750) | [$2,250 Total] |
| \_\_\_\_ | $70,001 - $100,000 (+ $750) | [$3,000 Total] |
| \_\_\_\_ | $100,001 - $1,000,000 (+ 3% on value over $100,000) |  |
|  | (see statute for estates above $1,000,000) |  |

**Extraordinary Services Claimed: Yes / No**  (Sec. 733.6171(4)*, Fla. Stat.*)

|  |  |
| --- | --- |
| \_\_\_\_ | 1. Will Contest, Apportionment of Estate Taxes, or Other adversarial proceedings |
| \_\_\_\_ | 1. Representation of PR in Decedent’s Tax Proceedings |
| \_\_\_\_ | 1. Advising PR in Postmortem Tax Planning |
| \_\_\_\_ | 1. Review/File Additional Tax Return Documents |
| \_\_\_\_ | 1. Preparation of Federal Estate Tax Return |
| \_\_\_\_ | 1. Real Estate Purchase, Sale, Land Use/Zoning, or Environmental Matters |
| \_\_\_\_ | 1. Advising PR on Carrying a Decedent’s Business |
| \_\_\_\_ | 1. Legal Advice re: Environmental Claims Against Estate |
| \_\_\_\_ | 1. Legal Advise re: Homestead Status of Real Property or Protected Homestead |
| \_\_\_\_ | 1. Fiduciary, Employee or Attorney Compensation Dispute |
| \_\_\_\_ | 1. Ancillary Administration Unrelated to this Estate |

**COMMENTS:**

The attorney, the personal representative, and persons bearing the impact of the compensation may agree to compensation determined in a different manner than provided in this section. Compensation may also be determined in a different manner than provided in this section if the manner is disclosed to the parties bearing the impact of the compensation and if no objection is made as provided for in the Florida Probate Rules. See F.S. § 733.6171(2)

The court may determine reasonable attorney's compensation without receiving expert testimony only if no objection is raised by the parties. *Brake v. Swan*, 767 So. 2d 500 (Fla. 3d DCA 2000).

Upon petition of any interested person, the court may increase or decrease the compensation for ordinary services of the attorney or award compensation for extraordinary services if the facts and circumstances of the particular administration warrant. See F.S. § 733.6171(5) (factors to be considered by the court)

Checklist for:

# Petition for Subsequent Administration

| **Estate of:** |
| --- |
| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Verified Petition [Summary Administration—5.530(a); Formal Administration—5.200] |
|  |  |  | Name, address and interest of Petitioner in estate [5.460(b)(1)] |
|  |  |  | Reason for further Administration [5.460(b)(2)] |
|  |  |  | Description of asset not included among the assets of the prior Administration [5.460(b)(3)] |
|  |  |  | Value of asset [5.460(b)(3) |
|  |  |  | Location of asset [5.460(b)(3)] |
|  |  |  | Statement of relief sought [5.460(b)(4)] |
|  |  |  | Summary Administration ONLY: If assets are to be distributed, proposed distribution is listed on petition [5.530(a)(12)] |
|  |  |  | Summary Administration ONLY: If assets are to be distributed, beneficiaries have either received notice or joined in petition [735.203(1), 5.040] |
|  |  |  | If there are creditors, they have received notice or their claims are satisfied [Summary Administration—735.206(2), 5.530(a)(9); Formal Administration—5.241] |
|  |  |  | Is it necessary to revoke order of discharge or issue new letters of administration? If so, then a new oath of Personal Representative needs to be filed [5.320] |
|  |  |  |  |
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| --- |
| Comments: |
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# **PETITION TO APPOINT SUCCESSOR TRUSTEE**

IN RE (Name of Trust):

TRUSTEE (if any):

CASE NO.:

DATE:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Applicable Law:**  F.S. §§ 736.0201-736.0207 (Judicial Proceedings in Florida Trust Code); F.S. §736.0201(4)(b) (judicial proceedings to appoint or remove a trustee permitted)

**CHECKLIST**

**Name of Trust:**

**Settlor(s):**

(if deceased, provide copy(ies) of death certificate(s). See F.S. §731.103(1), Fla. Prob. R. 5.171(a))

**Petition for Construction of a Testamentary Trust within a Probate Estate: Yes / No**

(If yes, the proceeding shall be governed by the Florida Probate Rules. See F.S. § 736.0201(5))

**Governing Law / Place of Administration of Trust: Florida / Foreign Trust (Other)**

(If other, see F.S. § 736.0205 (“Over the objection of a party, the court shall not entertain proceedings under s. 736.0201 of a trust registered, or having its principal place of administration, in another state unless all interested parties could not be bound by litigation in the courts of the state where the trust is registered or has it’s principal place of administration.”))

**Location of Trust Provision(s) Regarding Successor Trustee(s):**

**Jurisdiction and Venue**

|  |  |  |
| --- | --- | --- |
| \_\_\_\_ | Jurisdiction over Trustee and Beneficiary (F.S. § 736.0202) | |
| \_\_\_\_ | Subject Matter Jurisdiction of Circuit Court (F.S. § 736.0203) | |
| \_\_\_\_ | Venue (F.S. § 736.0204) | |
|  | \_\_\_\_ | County where venue is proper under Ch. 47, *Fla. Stat.* |
|  | \_\_\_\_ | County where beneficiary suing/being sued resides or has place of business |
|  | \_\_\_\_ | County of trust’s principal place of administration |

**Reason For Petition**

|  |  |
| --- | --- |
| \_\_\_\_ | Death or Resignation of All Nominated Trustees  (attach death certificates and resignations, as required to support petition) |
| \_\_\_\_ | Other Explain: |

**COMMENTS:**

Under F.S. § 736.0111(4)(d), (5) (“Nonjudicial settlement agreements”) all “interested persons” may resolve a trust administration by means of a nonjudicial settlement agreement regarding the “resignation or appointment of a trustee…” and any interested person may request the court to approve or disprove a nonjudicial settlement agreement.

**Checklist for:**

# **Petition to Admit Transcript to Record**

|  |  |  |
| --- | --- | --- |
| **Estate of:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | |
| **File #: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |
| **Attorney: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | | |

**F.S. 734.1025**, Nonresident decedent’s estate with property not exceeding $50,000 in this state; determination of claims.

Certified copy of death certificate [731.103(1), 5.205(c), 5.171]

Non-resident with property in state [734.1025(1)]

Venue is in county where property is located [734.1025(1)]

2-year claims period has not expired [734.1025(1)]

Value of property does not exceed $50,000 OR **deceased > 2 years** [734.1025(1)]

Does not say this in statute

*Authenticated* copies of:

**TESTATE** [734.1025(1), 5.475(a)(1)]:

|  |  |  |  |
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| **Docket #** | **Item #** | **Date** |  |
|  |  |  | Probated Will |
|  |  |  | Order admitting them to record |
|  |  |  | Letters or equivalent |
|  |  |  | Part of the record showing the names of devisees and heirs or an affidavit reciting that the names are not shown on the domiciliary record and specifying the names. |

**INTESTATE** [734.1025(1), 5.475(a)(3)]:

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| **Docket #** | **Item #** | **Date** |  |
|  |  |  | Letters |
|  |  |  | Part of the record showing the names of devises and heirs or an affidavit reciting that the names are not shown on the domiciliary record and specifying the names. |

***Testate: Court can admit will to probate [734.1025(1), 5.475(1)] OR***

***Intestate: cause the letters and relevant part of record to be recorded [5.475(a)(2)]***

Notice to Creditors [5.241, 5.475(b)]

Notice to spouse & beneficiaries

If no claims filed, enter order that no claims have been filed or all claim have been satisfied [5.475(d)]

If claim is filed, ancillary PR must be appointed [734.1025(2), 5.475(e)]

Attorney:

Comments:

RECOMMENDATION:

Checklist for:

# Petition to Determine Amount of Elective Share & Contribution

Fla. Stat. §732.2035, §732.2045, §732.2055, §732.2065, §732.2075, §732.2085, §732.2095, §732.2145,

Fla. Probate Rule 5.360 (d) (1) – (6)

| **Estate of:** |
| --- |
| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Petition filed and formally served by Personal Representative within 60 days after entry of Order Determining Entitlement? [5.360(d)(1) & 5.360(d)(2)] |
|  |  |  | Petition filed by surviving spouse or attorney-in-fact or guardian of spouse within 90 days from entry of Order of Entitlement? [5.360(d)(3)] |
|  |  |  | Does Petition include name & address of each direct recipient? [5.360(d)(1)(A)] |
|  |  |  | Does Petition describe proposed distribution of assets to satisfy elective share, time & manner of distribution and if specified contribution is necessary, identify direct recipients and amount sought from each? [5.360(d)(1)(B) and (C)] |
|  |  |  | Was the Inventory of Elective Estate filed & formally served within 60 days after entry of the Order Determining Entitlement? [5.360(d)(2)] |
|  |  |  | Any Objections timely filed? If so, notice and hearing required. If not, Order may be entered. [5.360(d)(5)] |
|  |  |  | Does the Order set forth the amount of elective share? [5.360(d)(6)] |
|  |  |  | Does the Order identify assets to be distributed to surviving spouse in satisfaction? [5.360(d)(6)] |
|  |  |  | Does the Order specify the amount of contribution from direct recipients if contribution is necessary? [5.360(d)(6)] |
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| Comments: |
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Checklist for:

# Petition to Determine Exempt Property

| **Estate of:** |
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| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

Fla. Stat. §732.402 Exempt Property, Fla. Probate Rule 5.406

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Was the decedent domiciled in the State of Florida? [732.402(1)] |
|  |  |  | Decedent survived by surviving spouse or if NO surviving spouse, then children? [732.402(1)] |
|  |  |  | Petition state name and address of surviving spouse or if NO surviving spouse, decedent’s children and year of birth for minors? [732.402(1), 5.406(b)(2)] |
|  |  |  | Petition describes the property and basis on which it is claimed as exempt? [5.406(b)(1)] |
|  |  |  | Property limited to household furniture, furnishings, and appliances in decedent’s usual place of abode up to net value of $20,000 as of date of death, two motor vehicles held in decedent’s name and regularly used by decedent of immediate family as their personal motor vehicle, all 529 qualified tuition programs, and/or all death benefits for teachers and school administrators under s. 112.1915? [732.403(2)(a)-(d)] |
|  |  |  | Was the property specifically devised in Will to anyone other than spouse/children? [732.403(5)] |
|  |  |  | Petition verified? [5.406(b)] |
|  |  |  | Petition filed on or before the later of 4 months after date of service of NOA or date waiver of NOA filed – or-- 40 days after termination of any proceeding affecting any part of the exempt property? [732.403(6)] |
|  |  |  | Was the Petition served upon all interested persons (beneficiaries and creditors) or waiver obtained by all interested persons? [5.041] |
|  |  |  | Statement Regarding Creditors filed? [5.241(d)] |
|  |  |  | Does the Order identify each item of exempt property and its value AND direct the PR to surrender exempt property to person(s) entitled to it? [5.406(c)] |

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| Comments: |
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Checklist for:

# Petition to Determine Pretermitted Child

| **Estate of:** |
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| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

§732.302 Fla. Sat. Pretermitted children (pretermitted child shall receive a share of the estate equal in value to that which the child would have received if testator died intestate), §732.507(1) Effect of subsequent birth or adoption, §733.805(1) Order in which assets abate

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Was the decedent’s Will admitted to probate? [732.302, 733.103] |
|  |  |  | Does the decedent’s Will fail to provide for child born or adopted after date of execution of Will? [732.302] |
|  |  |  | Did the omitted child receive a part of the testator’s property equivalent to child’s share by way of advancement? [732.302] |
|  |  |  | Was the failure to provide for the after born or adopted child in the testator’s Will intentional? [732.302(1)] |
|  |  |  | Did the Will devise all or substantially all of the estate to the omitted child’s surviving parent who is entitled to take under the Will? [732.302(2)]? |
|  |  |  | Was the Petition served upon or waived by all beneficiaries? [5.041] |
|  |  |  | Does the Order correctly assign the proper share to the pretermitted child? [732.302, 732.103] |
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| Comments: |
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Checklist for:

# Petition to Determine Pretermitted Spouse

| **Estate of:** |
| --- |
| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

§732.301 Fla. Stat. Pretermitted spouse (pretermitted spouse shall receive a share in the estate equal in value to that which the surviving spouse would have received if testator died intestate), §732.507(1) Effect of subsequent marriage, §732.702(1) Waiver of spousal rights, §733.805(1) Order in which assets abate

*Putnam v. Via,* 638 So. 2d 981, (Fla. 2nd DCA 1994) (app. 648 So. 2d 725 Fla. 1995), pretermitted spouse’s right had priority over mutual will covenant with first spouse

*Spangenberg v. Spangenberg*, 561 So. 2d 315 (Fla. 2d DCA 1990) Valid waiver of spousal rights via prenuptial agreement

*Estate of Norem*, 561 So. 2d 434 (Fla. 4th DCA 1990) Will provision for spouse made in contemplation of marriage, prevents pretermitted spouse status

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Was the decedent’s Will admitted to probate? [732.301, 733.103] |
|  |  |  | Did the decedent marry the surviving spouse after the date of execution of the Will? [732.301] |
|  |  |  | There was NO valid waiver of spousal share? [732.301(1)] |
|  |  |  | Does the Will fail to provide for after-married spouse? [732.301(2)] |
|  |  |  | Is the spouse provided for in a prenuptial or postnuptial agreement? [732.301(1)] |
|  |  |  | Does the will disclose an intention to not make provision for the spouse? [732.301(3)] |
|  |  |  | Does the Petition indicate all lineal descendants of decedent and surviving spouse? [732.102] |
|  |  |  | Was the Petition served upon or waived by all beneficiaries? [5.041] |
|  |  |  | Does the Order correctly assign the proper share to the pretermitted spouse? [732.301, 732.102] |

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| Comments: |
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Checklist for:

# Petition to Sell Real Property

**LEGAL STANDARD**: F.S. 733.613(1), Probate Rule 5.370, see also, 732.101(2) decedent’s death is event that vests the heirs right to intestate property and 732.514 death of testator is event that vest right to devisees, unless will provides that some other event must happen before a devisee shall vest.

| **Estate of:** |
| --- |
| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | PR given authority to sell property in Will [733.613(2)] If so, then no reason for sale need be given. |
|  |  |  | Petition verified by PR [5.020(e), 5.370(a)] |
|  |  |  | Petition:  Reason for the sale: [5.370(a)]  For Fed/Fla estate taxes [733.608(1)(a)]  Payment of Devises, debts, claims, admin exp [733.608(1)(a)]  Enforce contribution & equalize advancement [733.608(1)(b)]  For distribution [733.608(1)(c)]  OR PR has specific authority to sell in will [733.613(2)] |
|  |  |  | Legal Description of the property [5.370(a)] |
|  |  |  | Price and terms of the sale [5.370(a)]  Copy of proposed contract [5.370(a) *for price and terms of sale]* |
|  |  |  | All interested persons not joining in the Petition must be noticed in the petition [See 733.613(1)] |
|  |  |  | Appraisal, Value $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*if interested persons cannot be noticed]* |
|  |  |  | Time has run on publication [733.2121(1), 733.702(1); See 733.613(3) (to determine interested persons)] |
|  |  |  | Statement Regarding Creditors has been filed [733.613(3), 5.241(d)] |
|  |  |  | Notice to Creditors [733.613(3), 5.041] |
|  |  |  | Order has legal description & price and terms of sale [5.370(b)] |
|  |  |  | Order includes reason for sale [*See* 733.613(1)] |
|  |  |  | Property is not homestead [733.607(1), 733.608(2), (11), (12), homestead is not in hands of PR] |

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| Beneficiaries: |
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| Unsatisfied Creditors (if none, so state): |
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| Comments: |
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Checklist for:

# Petition to Strike Untimely Filed Claim

*See Tulsa Professional v. Pope,* 485 U.S. 478 (1988); FS 733.2121 (notice to creditors), FS 733.702 (limitation on presentation of claims), 733.701; 733.212; 733.710

| **Estate of:** |
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| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Claim filed after the later of either 30 days of notice to creditor or 3 months after 1st date of publication of notice of creditors [733.702(1)] |
|  |  |  | Proof of actual notice to creditor (only informal notice is required) [733.2121(1), 733.701, *Tulsa vs. Pope*] |
|  |  |  | If no actual notice, proof that PR had no knowledge of creditor or that creditor was not reasonably ascertainable. [733.2121(3)(a)] |
|  |  |  | Claim is not shown on PR’s proof of claim [733.703(2)] |
|  |  |  | No extension to file claim was granted [733.702(3)] |
|  |  |  | Statement Regarding Creditor is filed [5.241(d)] |
|  |  |  | Date of 1st publication: |
|  |  |  | Date of actual notice sent to creditor: |
|  |  |  | Date claim filed: |
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| Comments: |
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Checklist for:

# Summary Administration – NON-Resident

| **Estate of:** |
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| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** | **PETITION** |
| --- | --- | --- | --- |
|  |  |  | Venue is Proper [733.101 ; 735.201] |
|  |  |  | Qualifier [735.201(2)]: \_\_\_\_\_ Dead more than 2 years \_\_\_\_\_ Value less than $75,000 |
|  |  |  | Correct beneficiaries listed w/DOB for minors [735.203 ; 735.206(3) ; 5.530(a)(3)] |
|  |  |  | Assets listed with values [5.530(a)(8)] |
|  |  |  | Assets - \_\_\_\_\_ Include homestead property OR  \_\_\_\_\_ Do NOT include homestead property |
|  |  |  | Proposed Distribution of Assets [735.203(3) ; 735.206(3) ; 5.530(a)(12)] |
|  |  |  | Consent [735.203(1), (3) ; 5.530(b)]: \_\_\_\_\_ Petition signed by spouse and beneficiaries  \_\_\_\_\_ Separate consent documents  \_\_\_\_\_ Formal Notice of petition given  \_\_\_\_\_ |
|  |  |  | Verified Petition [731.104 ; 735.203(1) ; 5.020(e) ; 5.530(a)] |
| **Docket#** | **Item#** | **Date** | **CREDITORS / DEBTS** |
|  |  |  | Claims are barred [733.710] |
|  |  |  | Not indebted [735.206(2) ; 5.530(a)(3)] |
|  |  |  | Diligent search made and penalty for failure included [735.206(2), (4)(d) ; 5.530(a)(9)] |
|  |  |  | Creditors listed (names and addresses) [5.530(a)(9)(B)] |
|  |  |  | Notice given to creditors [735.206(2) ; 5.530(b)] |
|  |  |  | Provision made for payment (including responsible party) [5.530(a)(9)(B)] |

Summary / Non-Resident

| **Docket#** | **Item#** | **Date** | **ADDITIONAL INFORMATION / DOCUMENTATION** |
| --- | --- | --- | --- |
|  |  |  | Death Certificate [ \_\_\_\_ Cert. Copy per 731.103 **OR** \_\_\_\_ COPY per 5.205(a)(3)] |
|  |  |  | \_\_\_\_\_ Intestate OR \_\_\_\_\_ Testate |
| **Docket#** | **Item#** | **Date** | **IF WILL EXISTS** |
|  |  |  | Authenticated copies of Will, Petition, Order Admitting Will and Authority of PR [5.470(a)(1)] |
|  |  |  | Will is executed in conformity with law of state or country where will was executed. [732.502, 734.102(3), 734.104, 5.470(c)]; Estate of Swanson v. Larson, 397 So.2d 465 (Fla. 2d DCA 1981) |
| **Docket#** | **Item#** | **Date** | **IF NO WILL EXISTS** |
|  |  |  | Authenticated copies of Petition and Authority of PR [5.470(a)(2)] |
|  |  |  |  |
|  |  |  | |  | | --- | | \_\_\_\_\_ Proposed Order Admitting Will of non-resident provided | | \_\_\_\_\_ Proposed Order of Summary Administration (w/specific distribution outlined)  provided [735.206(3) ; 5.530(d)] | |

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| Comments: |
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Checklist for:

# Summary Administration

| **Estate of:** |
| --- |
| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** | **PETITION** |
| --- | --- | --- | --- |
|  |  |  | Venue is Proper [733.101 ; 735.201] |
|  |  |  | Qualifier [735.201(2)]: \_\_\_\_\_ Dead more than 2 years \_\_\_\_\_ Value less than $75,000 |
|  |  |  | Correct beneficiaries listed w/DOB for minors [735.203 ; 735.206(3) ; 5.530(a)(3)] |
|  |  |  | Assets listed with values [5.530(a)(8)] |
|  |  |  | Assets - \_\_\_\_\_ Include homestead property OR  \_\_\_\_\_ Do NOT include homestead property |
|  |  |  | Proposed Distribution of Assets [735.203(3) ; 735.206(3) ; 5.530(a)(12)] |
|  |  |  | Consent [735.203(1), (3) ; 5.530(b)]: \_\_\_\_\_ Petition signed by spouse and beneficiaries  \_\_\_\_\_ Separate consent documents  \_\_\_\_\_ Formal Notice of petition given  \_\_\_\_\_ |
|  |  |  | Verified Petition [731.104 ; 735.203(1) ; 5.020(e) ; 5.530(a)] |
| **Docket#** | **Item#** | **Date** | **CREDITORS / DEBTS** |
|  |  |  | Claims are barred [733.710] |
|  |  |  | Not indebted [735.206(2) ; 5.530(a)(3)] |
|  |  |  | Diligent search made and penalty for failure included [735.206(2), (4)(d) ; 5.530(a)(9)] |
|  |  |  | Creditors listed (names and addresses) [5.530(a)(9)(B)] |
|  |  |  | Notice given to creditors [735.206(2) ; 5.530(b)] |
|  |  |  | Provision made for payment (including responsible party) [5.530(a)(9)(B)] |

Summary / Resident

| **Docket#** | **Item#** | **Date** | **ADDITIONAL INFORMATION / DOCUMENTATION** |
| --- | --- | --- | --- |
|  |  |  | Death Certificate [ \_\_\_\_ Cert. Copy per 731.103 **OR** \_\_\_\_ COPY per 5.205(a)(3)] |
|  |  |  | \_\_\_\_\_ Intestate OR \_\_\_\_\_ Testate |
| **Docket#** | **Item#** | **Date** | **IF WILL IS AN ORIGINAL** |
|  |  |  | \_\_\_\_\_ Self-Proved [732.503; 733.201(1)] (OR) \_\_\_\_\_ Oath of Witness Filed  \_\_\_\_\_ Petition for Appointment of Commissioner filed [733.201(2)] |
| **Docket#** | **Item#** | **Date** | **IF WILL IS A COPY** |
|  |  |  | \_\_\_\_\_ Oath of Witness Filed [733.201(2)] |
|  |  |  | \_\_\_\_\_ Petition for Appointment of Commissioner filed [733.201(2)] |
|  |  |  | \_\_\_\_\_ Formal notice given to all intestate heirs [See Chapter 732] |
|  |  |  |  |
|  |  |  | |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | | |  |  | | --- | --- | | \_\_\_\_\_ Will previously admitted to probate |  | | \_\_\_\_\_ Proposed Order Admitting Will to Probate provided |  | | \_\_\_\_\_ Proposed Order of Summary Administration (w/specific distribution outlined) | | | provided [735.206(3) ; 5.530(d)] |  | | |  | |

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| Comments: |
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Checklist for:

# **Summary Administration & Homestead Petition**

| **Estate of:** |
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| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Certified copy of death certificate [731.103(1), 5.205(a)(3), 5.171(a)] |
|  |  |  | Petition verified [735.203(1)(a), 731.104, 5.530(a), 5.020] |
|  |  |  | Statement of interest of petitioner, petitioner’s name and address and name/address of  petitioner’s attorney. [5.530(a)(1), 735.203] |
|  |  |  | Petition signed and verified by surviving spouse, if any, AND all beneficiaries OR formal notice given to beneficiaries. [735.203, 5.530(a)] |
|  |  |  | Name and last known address of decedent, last 4 digits of decedent’s social security number, date and place of death of decedent and state and county of decedent’s domicile  [5.530(a)(2)] |
|  |  |  | List of surviving spouse and beneficiaries (describe beneficiary’s relationship to decedent and dob if minors), and addresses of each, [5.530(a)(3)] |
|  |  |  | Statement showing venue [5.530(a)(4)] |
|  |  |  | Statement whether domiciliary or principal proceedings are pending and, if known, the name and address of foreign personal representative and court issuing letters [5.530(a)(5)] |
|  |  |  | Statement that decedent’s Will, if any, does not direct administration [5.530(a)(6)] |
|  |  |  | Statement that value of estate (less value of exempt property) does not exceed $75K OR that decedent has been dead for more than 2 years. [5.530(a)(7)] |
|  |  |  | Legal description of all assets and estimated values of each with separate description of any protected homestead and exempt property [5.530(a)(8), 5.405(b)(4)] |
|  |  |  | Statement: Property inside or outside of a municipality [Fla. Const. Art. X, §4(a)(1)] AND Acreage is within constitutional requirements [Fla. Const. Art. X §4(a)(1)] |
|  |  |  | Statement that either: \_\_\_ All claims are barred OR \_\_\_ A diligent search for known or reasonably ascertainable creditors has been made and either the estate is not indebted or the claims will be paid or assumed by beneficiaries [5.530(a)(9), 735.206(2)]  assumed by beneficiaries [5.530(a)(9), 735.206(2)] |
|  |  |  | If creditors, have creditors consented to summary administration or received formal notice of homestead? [5.040, 731.302, 735.206(2)] |
|  |  |  | Petition alleges diligent search for creditors and penalties for failure to notify. [735.206(4)(d), 735.206(4)(e), 5.530(a)(9)] (if dead for less than 2 years) |
|  |  |  | If intestate, a statement that after diligent search petitioner is unaware of any unrevoked Will [5.530(a)(10)] |
|  |  |  | If testate, a statement identifying all unrevoked Wills and codicils being presented for probate and a statement each petitioner is unaware of any other unrevoked Will or codicil [5.530(a)11)] |
|  |  |  | Is there a Will? ( yes or no) If so, the Will is: \_\_ Self-proved [732.503, 733.201(1)],  \_\_\_ proved by Oath of Witness [733.201(2),(3)] OR \_\_\_ admitted to probate [5.210] |
|  |  |  | If testate, homestead devised as authorized by law [Fla. Const. Art. X §4(a)(1)]  If homestead not devised as authorized by law, descent determined under intestacy [732.401] |
|  |  |  | Court has jurisdiction over parties [“Homestead Made Easy – Part 3a, Rohan Kelly, Fla. Bar Journal, Jul/Aug 1995, pp 56, 57, either consents filed or formal notice given] [733.212(1)(d), 5.040]  5.040] |
|  |  |  | A schedule of proposed distribution of all assets and the person to whom each asset is to be distributed [5.530(a)(12)] |
|  |  |  | Order correctly describes the real property and determines whether any of the real property constituted protected homestead [5.405(c)] |
|  |  |  | Order correctly identifies benies’s name(s) and each respective benie’s interest in each asset [5.405(c), 5.530(d)] |

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**Checklist for:**

# **Ancillary Administration**

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| **Estate of:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | |
| **File #: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |
| **Attorney: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | | |

FS 734.102; PR 5.470; PR qualifications: FS 733.304; Short Form Ancillary see FPR 5.475 – separate checklist;

*Authenticated* copies of the following are to be filed (see def. below):

**TESTATE**

|  |  |  |  |
| --- | --- | --- | --- |
| **Docket #** | **Item #** | **Date** |  |
|  |  |  | Will |
|  |  |  | Petition for Probate |
|  |  |  | Order admitting Will to Probate  (and authority letters of PR per Fla. Probate Rule (5.470) |

**INTESTATE**

|  |  |  |  |
| --- | --- | --- | --- |
| **Docket #** | **Item #** | **Date** |  |
|  |  |  | The Petition for Letters |
|  |  |  | Letters |

**ALL**

|  |  |  |  |
| --- | --- | --- | --- |
| **Docket #** | **Item #** | **Date** |  |
|  |  |  | Certified Copy of Death Certificate |
|  |  |  | Verified Petition |
|  |  |  | Petitioner’s relation to decedent and place of residence |
|  |  |  | Beneficiaries and birth dates of minors listed |

**PERSONAL REPRESENTATIVE**

Reason for preference:

Appointed in Will/or appointed as Successor

Foreign PR (if qualified)

Person entitled to majority of Florida property

Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Will is executed in conformity with law of state or country where will was executed. FS 732.502; *Estate of Swanson*

*v. Larson*, 397 So. 2d 465 (Fla. 2d DCA 1981)

Bond considerations -

Cash assets: $

Other assets: $

Petition to waive bond filed and served on interested

Bond waived by interested parties/waived by Will

\_\_\_\_\_Oath

Attorney: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ FPR 5.030; *Dimitroff v. Taylor*, 651 So. 2d 131 (2d 1995).

Comments: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

RECOMMENDATION: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\*\* 5.470b(1) – Before ancillary letters can be issued, formal notice to all known persons qualified to act as an ancillary personal representative and whose entitlement to preference of appointment is equal to or greater than petitioner’s and who have not waived notice or joined in the petition.

Checklist for:

# **CASE MANAGEMENT**

|  |
| --- |
| **Estate of:** |
| |  |  |  |  |  | | --- | --- | --- | --- | --- | | **File #:** |  | **Date:** | |  | | **Attorney:** |  | |  |  | |

**THIS FILE CONTAINS THE FOLLOWING ITEMS**

|  |  |  |  |
| --- | --- | --- | --- |
| **Docket#** | **Item#** | **Date** |  |
|  |  |  | Inventory [733.604 (a)(a) |
|  |  |  | Proof of publication of Notice to Creditors (not required if decedent deceased for more than 2 years) [733.2121, 5.241 (c)] |
|  |  |  | Statement Regarding Creditors (not required if decedent deceased for more than 2 years) [5.241 (d) |
|  |  |  | Creditor’s notice sent to AHCA, if decedent is age 55 or older (not required if decedent deceased for more than 2 years) [733.2121 (3)(d), 5.241 (a)] |
|  |  |  | Creditor’s notice or inventory sent to FL Dept of Revenue (not required if decedent deceased for more than 2 years) [733.2121 (3)(e)] |
|  |  |  | Formal notice of admin. to or waivers from all benes [731.302, 733.212, 5.180] |
|  |  |  | Non-tax affidavit ; or  FL tax closing letters AND Fed estate tax closing letters [FS 198.26, 198.32] |
|  |  |  | Proof of all claims settled (or ntc if no assets) [733.705, 5.400 (b)(2)] |
|  |  |  | Petition for Discharge (w/ waivers or final accounting) [5.400] |
|  |  |  | Proposed distribution (listed or waived) [5.400 (b)(5)] |
|  |  |  | Final accounting or waivers [5.180, 5.346, 5.400 (a)] |
|  |  |  | Notice of discharge, final accounting to benes and creditors (or waivers) [731.301, 731.302, 5.180, 5.400 (c)] |
|  |  |  | Proof of distribution (receipts or cashed checks) [5.400 (e)] |
|  |  |  | If applicable:   1. Notice of adversary proceeding [5.025] 2. Notice of civil action or ancillary [5.065] 3. Notice of federal estate tax return due [5.395] |

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| **Beneficiaries** |  | **Creditors** |
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| Comments: |
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Checklist for:

# **Disposition of Personal Property w/o Administration**

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| **Estate of:** |
| |  |  |  |  |  | | --- | --- | --- | --- | --- | | **File #:** |  | **Date:** | |  | | **Attorney:** |  | |  |  | |

**Personal property (<= $1000) exempt under Art. X, Sec. 4, Fla. Const. (to heirs)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Docket#** | **Item#** | **Date** |  |
|  |  |  | Venue is proper (FL resident domiciled in county OR Non-res w/prop in county) [733.101] |
|  |  |  | Certified copy of Death Certificate [731.103(1), 5.171(a), 5.205(a)(4) |
|  |  |  | Verified Statement, Affidavit or Letter [731.104, 5.020e] |
|  |  |  | Value of all property [735.301(1), 5.420(a)(1)(2)] |
|  |  |  | Personal Property exempt under 732.402(1), Fla. Stat. (spouse or children only) |
|  |  |  | Preferred Funeral Expenses [733.707(b), 5.420(3)] |
|  |  |  | Preferred Medical Expenses of last 60 days of last illness [733.707(d), 5.420(3)] |
|  |  |  | Funeral and medical expenses equal or exceed the property to be distributed [735.301(1)] |
|  |  |  | Is there a will? (Yes / No) |
|  |  |  | If there is a will, has the original been filed? [732.901(1)] |
|  |  |  | Did the person applying pay the bill and file proof, i.e. a receipt? [5.420(3)] |
|  |  |  | Is the applicant a person who applies for exempt property? [732.402(1)] |
|  |  |  | If there is a surviving spouse, has the spouse consented or been given notice? [731.201(22)] |
|  |  |  | Anyone else who may need to receive notice or may be entitled to a distribution or may need to sign the petition? [731.201(2), (18), (22), 5.420(b)] |

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| **Person Applying** | **Relationship** |
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| Comments: |
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Checklist for:

# **Petition to Admit Foreign Will to Record**

| **Estate of:** |
| --- |
| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Certified copy of death certificate [731.103(1), 5.171(a)] |
|  |  |  | Will devises real property or an interest in real property in this state [734.104(1)] |
|  |  |  | Decedent deceased 2 years OR  the domiciliary personal representative has been discharged  [734.104(1)] |
|  |  |  | Will complies with s. 732.502 as to form and manner of execution [734.101(1)] |
|  |  |  | Authenticated copies of the foreign will and petition for probate and the order admitting  the will to probate [734.104(2)] |
|  |  |  |  |

(If petition is not required as prerequisite to probate of a will in jurisdiction where the will was probated, upon proof by affidavit or certificate that no petition is required, an authenticated copy of the will may be admitted without authenticated petition and the order admitting the will shall recite that no petition was required in that jurisdiction of original probate.) FS 734.104(2)

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| Comments: |
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**RECOMMENDATION**:

\*This proceeding is only for a petition to admit foreign will to record. It is not to be used with a summary administration or other petition.

Checklist for:

# **PETITION TO ESTABLISH LOST OR DESTROYED WILL**

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| **Estate of:** |
| |  |  |  |  |  | | --- | --- | --- | --- | --- | | **File #:** |  | **Date:** | |  | | **Attorney:** |  | |  |  | |

**See, F.S §733.207 & PR 5.510; *Stewart v. Johnson,* 601 So. 2d 1266 (Fla. 3d DCA 1992) (presumption of revocation if original cannot be found*).***

|  |  |  |  |
| --- | --- | --- | --- |
| **Docket#** | **Item#** | **Date** |  |
|  |  |  | Statement of facts constituting grounds for relief [5.510(b)] |
|  |  |  | Petition includes copy of will or its substance [5.510(b)] |
|  |  |  | Testimony of each witness reduced to writing and filed [733.207, 5.510©] |
|  |  |  | Formal notice to those who, but for the will, would be entitled to the property thereby devised [5.510(d)] |
|  |  |  | Contents proved by two disinterested witnesses [733.207] OR |
|  |  |  | If a correct copy is provided, proved by one disinterested witness [733.207] |
|  |  |  | Order admitting will recites full terms of will, or attaches copy [5.510(e)] |
|  |  |  | Allegations or petition are sufficient to overcome presumption that if the “lost” will was not in possession of testator prior to death and if the “lost” will cannot be located subsequent to death, the “lost” will is presumed destroyed by testator with intention of revoking it. Requires competent and substantial evidence to overcome this presumption. *Stewart v. Johnson,* 194 So. 869 (Fla. 1940), *Walton v. Walton,* 601 So. 2d 1266 (Fla. 3d DCA 1992), *Daul v. Goff,* 754 So. 2d 847 (Fla. 2d DCA 2000), *In Re Estate of Washington* 56 So. 2d 545 (Fla. 1952). |

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| **Testate Beneficiaries** | **Intestate Beneficiaries** |
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| Comments: |
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Checklist for:

# **STATUS REPORT**

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| **Estate of:** |
| |  |  |  |  |  | | --- | --- | --- | --- | --- | | **File #:** |  | **Date:** | |  | | **Attorney:** |  | |  |  | |

**THE PERSONAL REPRESENTATIVE HAS OR WILL SUBMIT THE FOLLOWING**

|  |  |  |  |
| --- | --- | --- | --- |
| **Docket#** | **Item#** | **Date** |  |
|  |  |  | Inventory |
|  |  |  | Proof of publication |
|  |  |  | Service of the Notice to Creditors or Inventory on the Florida Department of Revenue |
|  |  |  | Service of the Notice to Creditors on AHCA, if required |
|  |  |  | Statement Regarding Creditors |
|  |  |  | Florida nontaxable affidavit (DR-312) |
|  |  |  | Federal estate tax return (706), if required, and the notice of federal estate tax return due date |
|  |  |  | Notice of civil action or ancillary administration |
|  |  |  | Notice of Trust, if applicable |
|  |  |  | If a civil action is being contemplated, the anticipated date a decision will be made as to whether an action will be filed |
|  |  |  | If a civil action has been filed, or ancillary administration commenced, the estimated date of conclusion and case number |
|  |  |  | Final accounting and petition for discharge |
|  |  |  | Any matter that prevents the estate from being closed |
|  |  |  | Estimated time when the estate will be ready for closure |

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| Comments: |
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Checklist for:

# **PETITION TO OPEN (search) SAFE DEPOSIT BOX**

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| **Estate of:** |
| |  |  |  |  |  | | --- | --- | --- | --- | --- | | **File #:** |  | **Date:** | |  | | **Attorney:** |  | |  |  | |

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| --- | --- | --- | --- |
| **Docket#** | **Item#** | **Date** |  |
|  |  |  | Petitioner’s name, address, and interest in estate [5.3425 (a)(1)] |
|  |  |  | Decedent’s name, address, social security number, date and place of death, and state and county of domicile (attach certified copy of death certificate) [5.3425 (a)(2)] |
|  |  |  | A description of the safe deposit box (box number) leased by the decedent and, if known, the name of any co-lessee [5.3425 (a)(3)] |
|  |  |  | The name and address of the institution where the safe deposit box is located [5.3425 (a)(4)] |
|  |  |  | A statement that the petitioner believes that the decedent may have left in the safe deposit box one or more of the following:   1. A will or codicil of the decedent, or a writing described in section 732.515 of the Code[5.3425 (a)(5)(A)]; 2. A deed to a burial plot [5.3425 (a)(5)(B)]; 3. A writing giving burial instructions [5.3425 (a)(5)(C)]; or 4. Insurance policies on the life of the decedent [5.3425(5)(D)]. |
|  |  |  | The petitioner requests to examine the box in the presence of an officer of the lessor and, if requested by the petitioner, to remove and deliver:   1. To the court having probate jurisdiction in the county where the lessor is located any writing purporting to be a will or codicil of the decedent and any writing purporting to identify devises of tangible property [5.3425(b)(1)(A)]; 2. To the petitioner, any writing purporting to be a deed to a burial plot to give burial instructions ; [5.3425 (b)(1)(B)]; and 3. To the beneficiary named therein, any document purporting to be an insurance policy on the life of the decedent [5.3425 (b)(1)(C)]. |
|  |  |  | Petition is verified [5.020 (e)] |
|  |  |  | The order includes the following:   1. Lessor’s name 2. Directs the lessor to deliver, if requested by petitioner, ONLY: 3. To the court having probate jurisdiction in the county where the lessor is located any writing purporting to be a will or codicil of the decedent and any writing purporting to identify devises of tangible property [5.3425(b)(1)(A)]; 4. To the petitioner, any writing purporting to be a deed to a burial plot to give burial instructions ; [5.3425 (b)(1)(B)]; and 5. To the beneficiary named therein, any document purporting to be an insurance policy on the life of the decedent [5.3425 (b)(1)(C)]. |
|  |  |  | Instructions to the officer of the lessor directing them to make a complete copy of any document removed and delivered pursuant to the court order, together with a memorandum of delivery identifying the name of the officer, the person to whom the document was delivered, and the date of delivery, to be placed in the safe deposit box leased or co-leased by the decedent [5.345 (b)(2)]. |

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| Comments: |
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Checklist for:

# Guardianship – Petition to Approve Settlement of Minor’s Claim

**Legal Standard: \*\*\*See 8th Judicial Circuit Admin. Order 6.100.\*\*\*** See also FS 744.387 (settlement of claims), FPR 5.636 (settlement of minors claims), FS 744.301 (natural guardians), FS768.23 (Protection of minors and incompetents), FS 768.25 (court approval of settlements.), FS 744.391 (actions by and against guardian or ward), FS 744.441 (powers of guardian upon court approval), FS 744.446 (Conflicts of interest; prohibited activities; court approval), FS 744.447 (Petition for authorization to act), FPR 5.610 (Execution by guardian), FPR 5.630 (Petition for approval of acts), *Maugeri v. Plourde*, 396 So. 2d 1215 (Fla. 3d DCA 1981), only court having jurisdiction to approve settlement of a minor's claim in a pending action is the court in which the action is pending. FS 744.3025 claims of minors

Nature of claim: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Type of injuries: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Liens/Unpaid Medical: $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Policy limits: $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Proposed Settlement: $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attorney fees and costs: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Guardian Ad Litem fees, if any $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Payment to parents/others: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Net to Minor: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

| **Guardianship of:** |
| --- |
| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Name, address and DOB of minor [5.636(b)(1)] |
|  |  |  | Name & address of Guardian [5.636(b)(2)] |
|  |  |  | Name & address of natural guardians or legal custodians [5.636(b)(3)] |
|  |  |  | Traffic Report, dec sheet, doctor’s reports filed |
|  |  |  | Statement disclosing conflicts of interest of guardian [5.636(b)(4)] |
|  |  |  | Description of cause of action of minor's claim [5.636(b)(5)] |
|  |  |  | Summary of terms of proposed settlement [5.636(b)(6)] |
|  |  |  | Copy of agreement, release to be executed for minor 5.636(b)(7)] |
|  |  |  | Copy of attorney fee contract (to substantiate fee) [Admin order] |
|  |  |  | Break down of attorney costs (to establish reasonable costs) [Admin order] |
|  |  |  | Order provides specific distributions [Admin Order] |
|  |  |  | Notice to guardians, parents, custodians & minor (if <=14) or kin. [5.636(c)] |
|  |  |  | If gross settlement exceeds $50,000, appoint Guardian Ad Litem [744.3025(1)(b)] |
|  |  |  | Report filed by GAL [5.636(f)] |
|  |  |  | 1. Statement of facts, terms of settlement, incl. benefits to others [5.636(f)(1)] |
|  |  |  | 1. List of persons interviewed, documents reviewed [5.636(f)(2)] |
|  |  |  | 1. Analysis of whether the settlement is in best interest of minor [5.636(f)(3)] |
|  |  |  | Copy of GAL Report to same persons noticed of petition [5.636(f) flush] |
|  |  |  | If investment in an annuity is proposed:  (1) a copy of the proposed annuity is provided |
|  |  |  | (2) the beneficiary of the annuity is the estate of the ward |
|  |  |  | (3) the annuity is protected from being cashed in at a discount. |
|  |  |  | (4) the rate of return should be addressed. |
|  |  |  | ORDER STATES:  (1) name of beneficiary on annuity; |
|  |  |  | (2) purpose of the structure - to protect the minor and that a transfer would be detrimental |
|  |  |  | (3) Court retains jurisdiction to enforce settlement; and |
|  |  |  | (4) copy of annuity must be filed w/in 60 days of order's date. (admin order 6.100) |

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| Comments: |
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Checklist for:

# Guardianship – Petition to Refinance Mortgage

Statutory Requirements: §744.441(12), FS, sale of property requires court approval, §744.447, FS, petition for authorization to act; §744.451, FS, - order requirements for sale or mortgage of property; FlaProbR 5.630 petition for approval of acts

| **Guardianship of:** |
| --- |
| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Petition verified by guardian [5.610(e), 5.630(a)] |
|  |  |  | States whether the ward has been adjudicated incapacitated to act with respect to the rights to be exercised [744.447(1), 5.630(a)(4)] |
|  |  |  | States whether the action requested conforms to the guardianship plan [744.447(1), 5.630(a)(5)] |
|  |  |  | Facts showing necessity [744.447(1), 5.630(a)(1)] |
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|  |  |  | a copy of the instrument is attached [744.447(1), 5.630(a)(2)] |
|  |  |  | Price and terms of sale [744.447(1), 5.630(a)(3)] |
|  |  |  | Copy of proposed contract |
|  |  |  | Notice to Ward unless ward is under 14 or totally incap. [744.447(2), 5.630(b)] |
|  |  |  | Next of Kin and other interested parties that have requested that they get notice of proceedings [744.447(2), 5.630(b)] |
|  |  |  | Names and addresses of next of kin: |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  | Appraisal; Value $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  |  | Order describes the permitted act |
|  |  |  | and authorizes the guardian to perform the act [744.451(2), 5.630(c)(1)] |

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| Comments: |
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Checklist for:

# **Homestead Determination in Formal Administration**

| **Estate of:** |
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| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Date of the decedent’s death [5.405(b)(1)] and County of decedent’s domicile at the time of death [5.405(b)(2)] |
|  |  |  | List of surviving spouse & lineal heirs and addresses, incl dob if minors [5.405(b)(3)] |
|  |  |  | Legal description of property [5.405(b)(4)] |
|  |  |  | Statement: Property inside or outside of a municipality [Fla. Const. Art. X, §4(a)(1)] AND Acreage is within constitutional requirements [Fla. Const. Art. X §4(a)(1)] |
|  |  |  | Verified petition by interested person – look to see if the nature of the petitioner’s interest is obvious or not [731.104, 5.020(e), 5.405(b)] |
|  |  |  | If testate, homestead devised as authorized by law [Fla. Const. Art. X §4(a)(1)] If not devised as authorized by law, descent determined under intestacy [732.401] |
|  |  |  | Court has jurisdiction over parties [“Homestead Made Easy – Part 3a, Rohan Kelly, Fla. Bar Journal, Jul/Aug 1995, pp 56, 57, either consents filed or formal notice given] [733.212(1)(d), 5.040] |
|  |  |  | Three months have passed after publication of notice to creditors [733.2121(1), 733.702(1)] OR claims are barred [733.710] |
|  |  |  | Statement regarding creditors filed [5.241(e)] |
|  |  |  | Notice to benies and creditors [5.041, 731.202(2), 731.201(20)], including Notice to AHCA if applicable (dec > 55 years old) [733.2121(3)(d), 5.241(a)] |
|  |  |  | Notice to Creditors OR Inventory to DOR [733.2121(3)(e)] |
|  |  |  | Inventory [733.604, 5.340(a)] |
|  |  |  | Non-tax Affidavit OR FL and Federal Tax Closing Letters filed [198.26, 198.32] |
|  |  |  | If testate, Will does not direct sale – becomes non-exempt [*Price* 513 So.2d 767; *Knadle* 686 So. 2d 631] |
|  |  |  | Order correctly describes the real property and determines whether any of the real property constituted protected homestead [5.405(c)] |
|  |  |  | Order correctly identifies benies’ name(s) and each respective benie’s interest in homestead property [5.405(c)] |

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| Comments: |
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Checklist for:

**Homestead Stand Alone Petition\***

*(\*There is no other petition in file, i.e., no petition for administration or summary administration.)*

| **Estate of:** |
| --- |
| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Date of the decedent’s death [5.405(b)(1)] and County of decedent’s domicile at the time of death [5.405(b)(2)] |
|  |  |  | List of surviving spouse & lineal heirs and addresses, incl dob if minors [5.405(b)(3)] |
|  |  |  | Legal description of property [5.405(b)(4)] |
|  |  |  | Statement: Property inside or outside of a municipality [Fla. Const. Art. X, §4(a)(1)] AND Acreage is within constitutional requirements [Fla. Const. Art. X §4(a)(1)] |
|  |  |  | Verified petition by interested person – look to see if the nature of the petitioner’s interest is obvious or not [731.104, 5.020(e), 5.405(b)] |
|  |  |  | If testate, homestead devised as authorized by law [Fla. Const. Art. X §4(a)(1)]  If homestead not devised as authorized by law, descent determined under intestacy [732.401] |
|  |  |  | Court has jurisdiction over parties [“Homestead Made Easy – Part 3a, Rohan Kelly, Fla. Bar Journal, Jul/Aug 1995, pp 56, 57, either consents filed OR formal notice given] [733.212(1)(d), 5.040] |
|  |  |  | Verified diligent search for creditors and status of creditors, unless claims are barred, i.e., the date of death is over 2 years [5.040, 5.405(b)(5)] |
|  |  |  | Notice to creditors, if any, unless claims are barred [5.040] |
|  |  |  | Statement that there are no other assets – and no assets anticipated [5.405(b)(5)] |
|  |  |  | Order correctly describes the real property and determines whether any of the real property constituted protected homestead [5.405(c)] |
|  |  |  | Order correctly identifies benies’s name(s) and each respective benie’s interest in homestead property [5.405(c)] |
|  |  |  | Certified copy of death certificate [731.103(1), 5.205, 5.171(a)] |
|  |  |  | If original Will filed, Will is self-proved & admitted to Probate [5.330(c)] |
|  |  |  | If no Will, petition alleges diligent search to locate Will with none found [5.530(a)(10)] |
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| Comments: |
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Checklist for:

# Motion to Withdraw

| **Estate of:** |
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| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
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|  |  |  | One of the following conditions is met (Fla. Prob.R. 5.030 (a)]: |
|  |  |  | The Personal Representative is the sole interested person in the estate |
|  |  |  | The Personal Representative is a member of the Florida bar |
|  |  |  | Petition/ Motion gives the reason for withdrawal (Fla. Prob.R 5.030(c)] |
|  |  |  | Notice is given to Personal Representative/client and all interested persons [Fla.Prob.R. 5.030(c)] |
|  |  |  | The Court has jurisdiction over all parties entitled to notice Loewenthal v. Mandell, 170 So. 169] |
|  |  |  | Order gives the address of the Personal Representative for the purpose of serving future pleadings |
|  |  |  | Order requires that Personal Representative get substitute counsel within 30 days and that failure to do so will result in letters of administration being revoked, unless the personal representative is an attorney or the Personal Representative is the sole interested party in the estate. |
|  |  |  | Order is served on all beneficiaries and creditors of the estate. |

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| Beneficiaries: |
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| Creditors: |
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| Comments: |
| Comments: |
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Checklist for:

# **Petition for Administration (Intestate)**

| **Estate of:** |
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| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
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|  |  |  | Certified copy of death certificate [731.103(1), 5.171(a), 5.205(a)(1), 5.205(c)] |
|  |  |  | Petitioner’s name, interest in estate and address [731.201(20), 733.202, 5.200(a)] |
|  |  |  | Name, last known address and last four digits of social security number of decedent [5.200(b)] |
|  |  |  | Date and place of death of decedent and state and county of decedent’s domicile [5.200(b)] |
|  |  |  | Surviving spouse (if any) and correct beneficiaries with respective relationships and addresses listed and birthdates for minor beneficiares included [731.201(2), 5.200(c)]  [ ] **Minors?\_\_\_\_** |
|  |  |  | Venue is proper [733.101, 5.050, 5.200(d) |
|  |  |  | Petitioner must be either \_\_\_\_a FL resident OR  **\_\_\_\_**related to decedent w/in  certain degree and otherwise qualify as a Personal Representative under FL law. [733.302, 733.303, 733.304] |
|  |  |  | Priority to serve as Personal Representative: [733.301(1)(b), 5.200(e), 733.2123, 5.201(b)]  \_\_\_\_Surviving Spouse \_\_\_Other preference \_\_\_No preference but proper notice given |
|  |  |  | Domiciliary or principal proceedings pending in another state or country? [5.200(f)]  If so, name and address of foreign representative and court issuing letters [5.200(f)] |
|  |  |  | Assets AND approximate values listed [5.200(g)] |
|  |  |  | Verified petition [5.200, 5.020(e)] |
|  |  |  | Either \_\_\_Statement that after exercise of reasonable diligence petitioner is unaware of  any unrevoked Wills or Codicils OR \_\_\_Statement why any unrevoked Wills or Codicils are not being probated. [5.200(h)]  not being probated. [5.200(h) |
|  |  |  | Bond Considerations [733.402, 733.403]  Cash Assets: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Other Assets: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  |  | \_\_\_Petition to waive bond filed OR \_\_\_bond waived by all interested parties  [733.402(4), 5.180, 5.235(c)] |
|  |  |  | Wrongful death case? |
|  |  |  | Oath and designation of resident agent [5.110, 5.235(a)(3), 5.320] |
|  |  |  | Proposed correct Order Appointing Personal Representative |
|  |  |  | Proposed correct Letters of Administration |
|  |  |  | Attorney Required? [5.030] |

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| Comments: |
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Checklist for:

# **Petition for Administration (Testate)**

| **Estate of:** |
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| | **File #:** |  | **Date:** | |  | | --- | --- | --- | --- | --- | | **Attorney:** |  | |  |  | |

| **Docket#** | **Item#** | **Date** |  |
| --- | --- | --- | --- |
|  |  |  | Certified copy of death certificate [731.103(1), 5.171(a), 5.205(a)(1), 5.205(c)] |
|  |  |  | Petitioner’s name, interest in estate and address [731.201(20), 733.202, 5.200(a)] |
|  |  |  | Name, last known address and last four digits of social security number of decedent [5.200(b)] |
|  |  |  | Date and place of death of decedent and state and county of decedent’s domicile [5.200(b)] |
|  |  |  | Surviving spouse (if any) and correct beneficiaries with respective relationships and addresses listed and birthdates for minor beneficiares included [731.201(2), 5.200(c)]  [ ] Minors?\_\_\_\_ |
|  |  |  | Venue is proper [733.101, 5.050, 5.200(d) |
|  |  |  | Petitioner (*individual*) must be either \_\_\_a FL resident OR **\_\_\_**related to decedent w/in certain degree and otherwise qualify as a Personal Representative under FL law. Petitioner *(corporate)* must be qualified under FL law. [733.302, 733.303, 733.304,733.305 733.733.305]  (corporate) must be qualified to serve under FL law [733.302, 733.303, 733.304, 733.305] |
|  |  |  | Priority to serve as Personal Representative: [733.301(1)(a), 5.200(e), 733.2123, 5.201(b)]  \_\_\_PR named in Will \_\_\_Other preference \_\_\_No preference but proper notice given |
|  |  |  | Domiciliary or principal proceedings pending in another state or country?  If so, name and address of foreign representative and court issuing letters [5.200(f)] |
|  |  |  | Assets AND approximate values listed [5.200(g)] |
|  |  |  | Verified petition [5.200, 5.020(e)] |
|  |  |  | Will is an original Will (not a copy) \_\_\_ ORPetition to Establish Lost Will is filed **\_\_\_** OR \_\_\_authenticated copy of Will filed[733.207, 5.510, 733.206, 5.200(j)] |
|  |  |  | \_\_\_Will is self-proved [732.503, 733.201(1)] OR **\_\_\_**Will is not self-proved AND Oath of Witness filed [733.201(2)] |
|  |  |  | Either \_\_\_a statement petitioner is unaware of any unrevoked Wills or Codicils other than the Will and Codicil(s) being presented for probate OR **\_\_\_**statement why other unrevoked Wills or Codicils are not being probated. [5.200(h)]  Wills or Codicils are not being probated. [5.200(h)] |
|  |  |  | Bond Considerations [733.402, 733.403]  Cash Assets: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Other Assets: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  |  | Bond either \_\_\_waived in Will OR **\_**\_\_ waived by interested parties OR \_\_\_ Petition to Waive Bond filed [733.402(1), 733.402(4), 5.180, 5.235] |
|  |  |  | Wrongful death case? |
|  |  |  | Oath and designation of resident agent [5.110, 5.235(a)(3), 5.320] |
|  |  |  | Proposed correct Order Admitting Will and Appointing Personal Representative |
|  |  |  | Proposed correct Letters of Administration |
|  |  |  | Attorney Required? [5.030] |

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| Comments: |
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