Personal Representative s Handbook



Notice - The Probate Division of the Seventeenth Judicial Circuit for Broward County, Florida, gratefully acknowledges the Council of Probate Judges of Georgia for allowing modification of their work to reflect Florida law and local procedures. (Revised February 2007)

Preface: This handbook is to acquaint persons who may be called upon to serve as personal representatives of a decedent's estate with the duties and responsibilities of such a position in Florida.

This handbook presents only a basic outline; no attempt has been made to address the many legal issues which may arise during the administration of an estate in Florida. Due to the substantial liability exposure in this area, persons entrusted with the responsibility of administering an estate should work closely with the estate's legal counsel. A number of probate court proceedings, such as summary administration and disposition of personal property without administration have not been included in this booklet.

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1. DECEDENT'S ESTATE

The deceased person is referred to as the "decedent."

Under the law, a legal proceeding known as "probate" usually is required to settle and dispose of a decedent's estate.

The court proceedings are carried out in the probate court of the county of decedent's domicile at the time of death.

It is necessary for the estate to be administered so that debts can be paid and valid title to assets can be transferred to those persons who are entitled to share in the estate.

Upon a person's death, family members or others interested in the estate usually

locate the will, if there is one, and contact an attorney to represent the estate. The estate's attorney will arrange for the probate of the will or for qualifying an appropriate person to assume responsibility for administering the estate if there is no will. The attorney will prepare the necessary court papers for filing with the probate court and will represent the personal representative throughout the court proceeding and thereafter in the administration of the estate.
The probate estate consists of personal property (tangible or intangible) owned by the decedent wherever located, and real property owned by the decedent in Florida, except homestead. Bear in mind, however, that real property owned by the decedent in Florida is not homestead until the court enters an order determining that the property is indeed homestead.

Non probate assets pass outside of the decedent's probate estate and are not subject to court supervision of distribution.

Property not included in the probate estate includes life insurance proceeds that are not made payable to the decedent's estate, jointly owned property which automatically passes to the surviving joint owner by right of survivorship, and property held by a husband and wife as estates by the entireties. Also, non probate property can consist of an intervivos trust that the decedent had the power to revoke (either alone or in conjunction with another) at the time of his/her death. See, §689.075, Fla. Stat. However, the trust assets may be used to satisfy the expenses of estate administration and the claims of creditors if the probate property is insufficient. See, §733.707(3), Fla. Stat.

If a person dies leaving a will, he or she is said to have died "testate." If a person dies without a will, he or she is said to have died "intestate."

In the case of a person who dies having executed a will, a court proceeding is started and the execution of the decedent's will is proved and an appropriate person (who usually is named/designated in the will) is appointed by the Court to serve as the "personal representative" to administer the estate.

When a person dies intestate (without a will), a petition for administration of the estate is filed, and the probate court appoints a qualified person to serve as the "personal representative" to administer the estate. Preferences in appointment of the personal representative are governed by §733.301(1)(b), Fla. Stat. §§732.101 - 732.111, Fla. Stat., sets forth those who are entitled to inherit in an intestate

proceeding.

The personal representative is responsible for assuming control over all of the property owned by the decedent for the purpose of administering the estate. See, §733.608, Fla. Stat.

2. QUALIFICATION OF PERSONAL REPRESENTATIVE

Any individual who is at least 18 years old who is a resident of Florida at the time of the decedent's death, is qualified to act as the personal representative. See, §733.302, Fla. Stat.

A person who is not domiciled/resident in the state of Florida cannot qualify as a personal representative of a Florida estate unless he/she meets one of the criteria set forth in §733.304, Fla. Stat.

Trust companies incorporated under Florida law are eligible to serve as personal representative. Other institutions such as state banking corporations, savings associations, national banking associations, and federal savings and loan associations authorized and qualified to exercise fiduciary powers in Florida are qualified to serve as personal representative. See, §733.305(1), Fla. Stat.

Every personal representative must be represented by an attorney unless the personal representative is the "sole interested person" or is an attorney. See, Fla. Prob. R. 5.030(a). Courts have construed the word "interested person" to include not only other beneficiaries, but also creditors (if the decedent has been dead for less than two years).

3. DUTIES AND RESPONSIBILITIES OF PERSONAL REPRESENTATIVE

a. General

Once a personal representative is appointed by the probate court, takes the oath of office, and posts bond (if required), the personal representative is authorized to administer the decedent's estate. The probate court will issue documents called "Letters of Administration" which are the evidence that the person named therein has the authority to deal with and manage the decedent's property. If the decedent

owned property located outside of Florida, then an ancillary probate proceeding may have to be instituted in the foreign jurisdiction in order to properly administer the assets located there.

A duly appointed personal representative is a fiduciary standing in a position of trust to the estate and its beneficiaries, and is personally responsible to the creditors (including the taxing authorities) and beneficiaries of the decedent's estate for a proper administration. If the estate is administered properly, the personal representative is not, however, personally responsible for the payment of the debts of the estate. The personal representative must not commingle any of his or her own funds with the assets of the estate and must act in a prudent manner in every aspect of the administration of the estate. Thus, the duties of the personal representative must be discharged in strict accordance with the law, and the personal representative must be able to fully account for all of the decedent's property and the management of it during the period of administration. See, §733.609, Fla. Stat.

The personal representative must take action to gain custody and control of all of the decedent's assets since he or she will be personally accountable for the management and disposition of all of the property of the estate. The basic duties of the personal representative will be to collect and preserve the assets of the estate; to pay all debts of the decedent and expenses of administration including taxes; and finally to distribute the remainder of the estate to those persons entitled to it. A personal representative will be held liable for a failure to act in addition to being liable for wrongful actions.

In order to raise cash to pay debts and expenses, the personal representative may be required to sell some of the assets of the estate. In selling assets, the personal representative will act under the authority set forth in the will or will act under the supervision of the court.

Securing custody and control of a decedent's property and determining the decedent's liabilities will involve, in most estates, some of the following actions (not necessarily in this order) See, §733.608, Fla. Stat.:

- Taking possession of and protecting the real (including protected homestead) and personal property of the decedent including making immediate and adequate provision for insurance against loss where appropriate. Note that Fla. Pro. R. 5.404 requires a personal representative, who takes possession of

what appears reasonably to be protected homestead pending a determination of its homestead status, to file a notice of such act and to formally serve a copy of such notice upon interested persons and any person in actual possession of the property. The required contents of the notice are set forth in the Rule.

- Contacting the Social Security Administration and the Veteran's Administration to apply for any death benefits or survivor benefits for which the decedent's estate may be eligible.
- Locating insurance policies and applying for benefits if the proceeds are payable to the estate. If payable to an individual, the personal representative should deliver the policy to the beneficiary. Generally, when applying for insurance or other benefits, the personal representative must present the insurance policy or other benefit certificate, a certified copy of the death certificate, and letters of authority to act on behalf of the estate.
- Contacting the decedent's employer and any club or fraternal organization to which the decedent may have belonged to determine if the estate or surviving family members are entitled to any benefits.
- Examining the circumstances surrounding the decedent's death to determine if there are any claims against third parties which need to be asserted or preserved, such as claims for wrongful death or worker's compensation.
- Giving notice to creditors of the estate to file their claims against the estate, by publishing a notice in the county legal newspaper. Actual notice (for example, by regular or certified mail) must be given to known or reasonably ascertainable creditors. See, § 733.2121, 733.701, Fla. Stat.
- Collecting rents, accounts receivable, interest, dividends and other income due to the decedent prior to death and that becomes due to the estate thereafter.
- Assuming responsibility for any litigation or settlement of any pending lawsuit in which the decedent had an interest.
- Keeping the property of the estate in good repair.
- Keeping the estate property invested properly until the administration is complete. See, §§733.612,518.10-518.14, Fla. Stat.
- Reviewing the decedent's personal records.
- Having the estate's attorney conduct an estate search of appropriate county court records.
- Opening appropriate estate bank accounts for payment of debts and expenses.
- Locating and accessing any safe deposit boxes in the decedent's name, §§733.6065, 655.936, Fla. Stat.

- Sell real property or continue to make mortgage payments, §733.613,

Fla. Stat. The personal representative cannot be required to pay debts of the decedent during a five-month period after first publication of the notice to creditors. See, §733.705(1), Fla. Stat. The personal representative should consult with his/her attorney to determine which debts or timely filed claims to pay. Expenses of administration, debts of the decedent, and family allowances are divided by statute into eight classes. See, §733.707, Fla. Stat. Items in each class have a priority for payment over those of subsequent classes.

b. Bond

The purpose of requiring a personal representative to post a bond is to secure creditors and beneficiaries against loss caused by the improper administration of the estate. According to §733.403, Fla. Stat., the Court has the discretion to waive the requirement of filing a bond, require a personal representative or curator to give bond, increase or decrease the bond, or require additional surety. The Court may take into consideration several factors when determining a bond is required or when waiving the requirement of bond. The Court has the discretion to allow for a designated depository in lieu of posting a bond. The Court can decide to require bond based on the residency of the personal representative, size, nature and liquidity of estate assets.

c. Accounting - Records

Since the personal representative is personally accountable for all of the assets of the estate, one of the most important functions of administration is to maintain accurate and detailed books of account. The size and complexity of the estate will dictate the degree of sophistication needed, and the personal representative may find it necessary to employ an accountant to assist in preparing and maintaining the estate's financial records. Of course, any bank or trust company serving as a personal representative will have the expertise and facilities necessary to prepare and maintain detailed financial records for an estate. In most estates the accounting records will consist at a minimum of a checkbook, a journal, and appropriate ledgers to complement entries made in the journal. The accounting records set forth all assets received and disposed of by the personal representative during the course of administration, all disbursements to pay debts and expenses, and the balance available for distribution to the beneficiaries. In many estates it is imperative for the personal representative to distinguish between income and principal assets so that proper distributions of income and principal can be made. In smaller estates, it may

be sufficient to handle all receipts and disbursements through a checking account, as the canceled checks and deposit slips will provide clear and sufficient records for the purposes of substantiating the final accounting, required by Fla. Prob. R. 5.400, or any other accountings.

The basic purpose of maintaining the books and records of the estate is to set forth the financial history of the estate which serves to protect the personal representative from liability. Also, properly maintained books of account are an invaluable aid to the personal representative in making investment decisions, tax planning, and planning for the payment of debts and distributions to beneficiaries. The starting point in establishing books of account is the preparation of an accurate beginning inventory of the assets owned and debts owed by the decedent at the date of death. According to Fla. Prob. R. 5.340, within sixty (60) days after issuance of letters, a personal representative shall file an inventory of property of the estate, listing it with reasonable detail and including for each listed item its estimated fair market value at the date of the decedent's death.

Fla. Prob. R. 5.340(d), requires the personal representative to serve a copy of the inventory on the Department of Revenue, the surviving spouse, each heir at law in an intestate estate, each residuary beneficiary in a testate estate, and any other interested person who may request it; and the personal representative shall file proof of such service.

The personal representative may receive assistance from an attorney, accountant or trust officer in the preparation of the inventory, but it is the personal representative's responsibility to make sure that the inventory is accurate and complete. Normally, the person preparing the inventory must be informed by the decedent's family, business associates and accountants as to precisely what property the decedent owned at the time of death. Also, the personal representative needs to examine the decedent's checkbooks, tax returns, and other business records, and to explore thoroughly all leads, in order to ascertain all of the decedent's property and liabilities.
Generally, the following categories of property will be in a typical estate and included in the inventory:

- Real Property: All real estate in which the decedent had any interest (other than that which passes to another by right of survivorship or estates by the entireties), in fee simple or as a life estate or remainder interest. The following specific information should be included in regard to each parcel of real

property:

- the street address or box number, city and state
- the legal description
- the amount of land and the decedent's interest
- improvements, if any
- if rental property, the amount of rent, names of tenants, and description of leases, if any
- if mortgaged, the mortgagee, the amount of the mortgage, rate of interest and the date payments are due
- taxes on such property and when such taxes were last paid or when such taxes are presently due
- if available, the abstract of title insurance and whether the abstract is up-to-date
- the insurance on the property including each kind, such as fire or liability insurance, and the amount, company, policy number, local agent and date of expiration
- a history of the use of the property to assess whether there is any exposure to liability under laws protecting the environment
- any crops or timber on the property and contracts held by third parties for the removal of crops or timber.

- *P*ersonal Property: The personal property inventory will include all property, other than real estate, owned by the decedent at the time of his or her death. Since this covers such a wide variety of items, the following list may be used as a guide in making the inventory. In each case, the value, location and nature of ownership of the property should be indicated.
    - Automobiles and trucks -Include make, model, year, serial or motor number, license number, insurance information, liens, cost and date of purchase.
    - Household furniture -Major pieces are usually described room by room with pieces of greater value, such as a refrigerator, a stove, laundry equipment and antiques listed separately. Mortgages or other liens against the property must be listed.
    - Personal effects -This includes personal jewelry, clothing, furs, and other valuable items of personal adornment. Generally, paintings, objects of art, silver, etc., are not considered personal effects but fall under the general category of tangible personal property and are listed under the heading of household furniture, or if of substantial value, a separate category is established.
    - Farm machinery -List each major item separately with make, year

and model number, mortgages and other liens, cost and date of purchase.

- Farm livestock -List each animal or group of animals or fowl separately, giving the kind, age and any other identifying characteristics and mortgages or other liens, cost, date of purchase, and if the property was born on the premises, the date of birth, if at all possible.
- Business inventory - If the decedent owned an interest in a business operated as a proprietorship, a separate list should be made for any stock in trade, fixtures, tools and equipment of the business, stating the cost and date of purchase for each item in each list. In making these lists, assistance from an experienced employee may prove invaluable. It is also necessary to list the inventory value of the property at the time of the decedent's death.
- Personal insurance -List each insurance policy, such as life, accident and health, and hospitalization, regardless of whether they are made payable to a named beneficiary or are on the life of another person, listing separately for each the company, serial number, amount, beneficiary, and when the most recent premium was paid and for what period, and any annuities or retirement benefits. Life insurance that is not payable to the estate is not included in the value of the estate.

- Cash assets -List all bank accounts, including checking or savings accounts, naming the bank, its address and the amount of funds on deposit. List the exact amount of cash in possession of the decedent or in his or her safe deposit box or billfold. Joint accounts should include the name and address of each joint owner and his or her relationship to the decedent.
    - Promissory notes - Include the exact name of the payee on the note, the name and address of the maker and endorser, the principal amount, the interest rate, the present balance due, and dates payments are due. Also list whether the note is secured by a mortgage or other property and describe the mortgage, if any.
    - Other amounts due the decedent -List all other accounts, debts and obligations owing to the decedent such as employment related death benefits and retirement plan benefits.
- Stocks and bonds, mutual funds, partnership interests, or limited liability company interests - Include the name of the issuing company or association, serial or account number, type of issue, registered owner, interest rate, date on a bond, date last dividend was declared, principal amount or par value of

each bond or share of stock or unit in any other business entity. If any of the decedent's stock was in a closely-held corporation, the following information should be recorded:

- the number of shares outstanding of all classes of stock on the date of the decedent's death
- the number and classes of the decedent's shares
- a balance sheet as near to the date of death as possible, plus balance sheets for the five-year period prior to the date of death
- a profit and loss statement as near to the date of death as possible, plus profit and loss statements for the five-year period prior to the date of death
- any other information concerning the company or industry in general that may have some bearing on the value of the stock, such as the value of stock in similar enterprises, prospective net earnings, nature of the business and history of the enterprise, economic outlook for the industry, goodwill, majority or minority holdings and the value of stock as used in previous gifts or sales.

- Income due the decedent - A listing should be made of all salary or other income accrued and owing, but not paid to the decedent at the time of his or his death, including any tax refunds, accrued interest, rents and dividends. The employer should be reminded to record separately the accrued compensation items so that they will not be included in the decedent's final W-2 Form.
- Collections - All valuable collections such as stamps, coins, books, etc. should be listed separately.
- Inherited property - A listing should be made of any other property to be received by the decedent from an estate or trust. Moreover, it should be ascertained whether the decedent had any powers of appointment, and (for estate tax purposes) whether any of the property of the decedent's estate was received from the estate of another person within ten (10) years prior to the decedent's death.
- Miscellaneous property - Any other valuable items including, but not limited to, boats, boating equipment, camping equipment, snowmobiles, hunting and fishing equipment.

It should be remembered that the above listing is not intended to be exhaustive, and should be used only as a guide.

If the decedent is survived by a spouse, some of the items in the inventory

actually may belong to the surviving spouse and are part of his/her family allowance or exempt property. Such items would not be subject to the administration proceedings, except to be set aside and delivered to the spouse and to be recorded properly for tax purposes. This is a matter that should be given full consideration prior to the preparation of the inventory.

For the most part, items are entered in the inventory at date of death values, and written appraisals need to be secured with respect to those assets that do not have a readily ascertainable market value.

d. Taxes

A personal representative faces five separate sets of taxes: (1) the decedent's final income taxes (for income paid or accrued prior to death); (2) the estate's income tax return (for income accrued during the term of the estate); (3) an estate tax which is imposed on the transfer of wealth; (4) gift tax returns; and (5) state estate or intangible taxes. The personal representative is responsible for preparing and filing all applicable state and federal tax returns on behalf of the decedent for the period of time the decedent was alive and on behalf of the estate. It is important for the personal representative to understand that death terminates the decedent's tax year and thereafter the decedent's estate is a separate taxpayer. Therefore, the personal representative is responsible for reporting and paying taxes incurred by the decedent prior to death and taxes incurred by the estate as a separate taxpayer.

The personal representative should consult with the estate's attorney or accountant to determine which returns are required and the appropriate filing deadlines for each return.

For small estates only, the Florida Department of Revenue authorized an affidavit attesting that the estate is not taxable. The form of the affidavit will be prescribed by the Department of Revenue. In the case of a nontaxable estate, the court may consider the affidavit prepared pursuant to §198.32(2), Fla. Stat., as evidence of the non-liability for tax. Contact the Department for further information.

SETTLEMENT AND DISTRIBUTION

a. Claims.

The Florida Probate Code provides that claims and demands must be filed in the "probate proceeding" within the later of three (3) months after the first publication of

the notice to creditors or, as to any creditor required to be served with a copy of the notice to creditors, 30 days after the date of service of the copy on the creditor. If a claim is not filed within the three (3) month/30 day period, it is barred. See, §§ 733.710, 733.2121, 733.701, 733.702, Fla. Stat.

§733.2121, Fla. Stat., creates a new form for Notice to Creditors, which is the form that will be published. The Notice to Creditors is published once a week for two consecutive weeks. A copy of the Notice to Creditors must be furnished to known or reasonably ascertainable creditors. A personal representative is personally liable for wrongfully furnishing, or failing to furnish in good faith, a Notice to Creditors. Additionally, known contingent creditors must be furnished a copy of the notice to creditors. See, Fla. Prob. R. 5.241.

After the issuance of the Letters of Administration, a personal representative shall serve a Notice of Administration on the beneficiaries. Notice of Administration is to additionally be served on persons who may be entitled to exempt property and on any other person who may claim an interest in the estate. § 733.212, Fla. Stat., deleted the publication requirement regarding the Notice of Administration and that it be served on creditors.

No personal representative shall be compelled to pay the debts of the decedent until after the expiration of five (5) months from the first publication of notice to creditors. See, §733.705(1), Fla. Stat.

The personal representative is obligated to make payment of expenses of administration and creditors' claims against the estate in accordance with the priorities set forth in §733.707, Fla. Stat.

As a general rule, the personal representative should not pay any debts or claims until his or her attorney approves payment. §733.708, Fla. Stat., sets forth the procedure for compromising claims against an estate. The court may enter an order authorizing the compromise if satisfied that the compromise will be for the best interest of the beneficiaries. The order shall relieve the personal representative of liability or responsibility for the compromise.

b. Debts and Expenses

All debts and expenses, such as funeral expenses, taxes, fees, commissions, debts of the decedent, bond premiums, and court costs, must be paid before the assets

of the estate are distributed to the beneficiaries.

c. Distribution

Following the settlement and payment of all claims, expenses and taxes, the estate's attorney should advise the personal representative concerning the appropriate manner in which to distribute the remainder of the estate to the beneficiaries. Normally, a final accounting is prepared and presented to the beneficiaries for approval prior to distribution. As stated above in the section on taxes, in most estates important tax considerations are involved in making distributions from an estate.

According to §733.801, Fla. Stat., a personal representative is not required to deliver any property devised to any beneficiary until the expiration of 5 (five) months from the granting of letters of administration. Partial distributions are authorized under §§733.612(26), 733.802, Fla. Stat., and Fla. Prob. R. 5.380. Partial distributions should only be made when the remaining assets of the estate will be sufficient to pay all taxes, claims, and costs determined or estimated to be due. The personal representative will be potentially liable for an improper partial distribution. Each estate should be viewed on a case by case basis to determine whether it is prudent for a personal representative to make a partial distribution.

d. Safe Deposit Box Entry

If the decedent leased or co-leased a safe deposit box, it should be opened and an inventory of its contents must be taken. The initial opening of a safe deposit box has to be done by two of the following people: an employee of the institution where the box is located, the personal representative, or the personal representative s attorney of record.

Each of the two that are present must verify the contents of the box by signing a copy of the inventory under penalties of perjury. The personal representative may remove the contents of the box. Within 10 days after the box is opened, the personal representative must file the following papers with the court:

- The safe deposit box inventory, signed by each person present; and
- A copy of the box entry record (must be from 6 months prior to the date of decedent s death, to the date the inventory was taken)

e. Discharge

When all debts and taxes have been paid, and administration has been completed except for final distribution, the personal representative must file a final accounting unless waived (See, Fla. Prob. R. 5.400(f)) and petition for discharge. The petition for discharge must be filed and served on all interested persons within 12 months after issuance of letters for estates not required to file a federal estate tax return, otherwise 12 months from the date the return is due, unless the time is extended by the court for cause shown after notice to interested persons. See, Fla. Prob. R 5.400).

For estates required to file an estate tax return, evidence of payment in the form of the federal estate tax closing letter should be filed with the court.

A report of distribution is not necessarily required. Pursuant to Fla. Prob. R. 5.401(f), the presentation of "evidence" that the estate has been properly distributed and that claims of creditors have been paid or disposed of is sufficient for the court to enter an order discharging the personal representative and releasing the surety.

FEES

The law recognizes that a personal representative is entitled to compensation for carrying out the responsibilities of administering an estate. The compensation is payable from the estate assets. In Florida, these fees are determined by statute unless the decedent during his or her lifetime or the heirs or beneficiaries contracted with the personal representative for a different fee arrangement. See, §733.617, Fla. Stat.

ADVISORS

Although the personal representative is primarily responsible for the administration of the estate, the law recognizes that the personal representative is required to retain the services of an attorney and may be required to obtain the services of other professionals such as accountants, trust officers, appraisers, and in some instances, investment advisors.

The personal representative should be prompt in obtaining all information or reports that are needed, and should work closely with the advisors in the preparation of all reports and returns. Keeping the estate's advisors fully advised of the affairs of the estate will save a great deal of time and expense, avoid

misunderstandings, and enable them to plan properly for and advise the personal representative regarding the administration of the estate.

ATTORNEY'S FEES

Attorneys for personal representatives shall be entitled to reasonable compensation for their services payable from the assets of the estate without court order. See, §733.6171, Fla. Stat.

Many factors determine the attorney's fee in the representation of an estate. The attorney's fee may be determined by private agreement or based on §733.6171, Fla. Stat. Normally, in setting a fee the attorney will consider the size of the estate; the time involved in the representation; the novelty or difficulty of the legal issues involved; results achieved in contested matters; and any unusual situations involving the estate.

FREQUENTLY ASKED QUESTIONS

Why is the Judge requiring the personal representative to post bond?

According to §733.403, Fla. Stat., the Court may determine to require bond based on the residency of the personal representative, size, nature and liquidity of estate assets. Even when the personal representative is the only beneficiary, the Court may still require the posting of bond because it views creditors as other interested persons. The Court has the discretion to require bond even when the will waives the requirement of bond, or the other beneficiaries have signed waivers and consents.

What are the filing fees for the various estate administration proceedings?

Disposition of Personal Property Without Administration: $102 Summary Administration (assets less than $1,000): $106 Summary Administration (assets greater than $1,000): $206 Formal Administration, Ancillary, Curatorship or Conservatorship: $ 256

What is required to be filed when all the assets are in a Trust?

§737.308, Fla. Stat., requires the trustee to file with the Probate Court a Notice of Trust for a trust described in Section 733.707(3). The filing fee is $36.

My client is pursuing a lawsuit against the decedent for personal injuries, do I need to open an estate? and who can be appointed the personal representative? Unless a

Formal Administration proceeding has already been commenced and a personal representative already appointed, you will need to open a Formal Administration and seek the appointment of a personal representative. The personal representative will stand in the decedent's shoes for purposes of the civil lawsuit including serving the complaint on the personal representative.

If a party pursuing the lawsuit is opening a Formal Administration proceeding, the Court typically prefers to appoint an independent personal representative to represent the decedent's estate if the decedent's relatives are unwilling. Generally, the Court would prefer not to appoint the person recommended by the Plaintiff's attorney due to the potential for a conflict of interest.

CONCLUSION

The administration of a decedent's estate can be a complex and time consuming undertaking. No one should be named as or assume the responsibility of a personal representative unless that person has the capability and commitment to fully discharge the many tasks involved in carrying out the responsibilities of his or her appointment.

The Probate Court Judges of Broward County, Florida and their staff are pleased to present this handbook to give insight into what is involved in estate administration. The handbook is a basic outline to personal representatives; however, it is not a "do-it-yourself" guide and cannot be used as a substitute for attorneys, accountants, trust officers and other professional advisors necessary for proper estate administration.

Nothing contained in this handbook constitutes legal advice. Legal advice should be obtained from your own attorney. This is not an official record of any court. Portions of the material on this Web site may be incorrect or not current. Any person or entity who relies on any information obtained on the Web site does so at his or her own risk.