Summary, Ancillary and Intestate Administrations

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For purposes of this outline, these materials assume that the esteemed Fellows of the Florida ACTEC Institute know the basics of probating an ordinary probate estate. The purpose of this outline is to identify the traps and nuances of probating small estates, ancillary estates and intestate estates.

A. Summary Administration.

For many estates, a summary administration provides a fast and efficient way to settle the affairs of a decedent without the expense of a formal administration. Summary administration's shortened probate procedure can provide some much needed relief to already clogged dockets and an overstretched judiciary. For example, summary administration is often opened and closed with the filing of just a few documents (the petition, death certificate and a proposed order), and orders of summary administration are often entered without need for a court hearing or any extensive judicial labor. However, the statutes and rules governing summary administration of estates also leave a lot of unanswered questions for practitioners and the courts, and a general uncertainty regarding the law.

1. Overview of Summary Administration.

The current Florida statutes and probate rules governing probate administrations allows for summary administration when certain criteria are satisfied. Chapter 735 Part I of the Florida Statutes sets forth the requirements for summary administration. An estate may be administered in a summary fashion provided that the will does not require formal administration, and:

A. more than 2 years since the date of death have passed; or

B. the assets of an estate are worth less than $75,000, excluding exempt property.

See, Sec. §735.201, Fla. Stat.

In other words, technically no estate is ever opened in a summary administration nor is a personal representative appointed. For these reasons, there are only limited circumstances for which summary administration makes sense.

2. Pleading Requirements for Summary Administration.

The pleading requirements for a petition for summary administration are set forth in Florida Statutes §735.203 and Florida Probate Rule 5.530

A. Who may file? Any beneficiary or person nominated as personal representative in the decedent's will.

B. When is joinder by another party required?

i. Surviving spouse? Yes, the surviving spouse must join in the petition for summary administration.

ii. Beneficiaries? No beneficiary is required to join the petition, provided that the beneficiary is to receive his/her full share under the proposed order of summary administration.

iii. Creditors? No. Creditors are not required to join in the petition.

C. Who is required to be served with the petition?

i. Beneficiaries? Yes. Notwithstanding that joinder of a beneficiary is not always required, if a beneficiary does not join, such person(s) must be served with formal notice of the petition before the order of summary administration can be entered.

ii. Creditors? Yes. "Any known or reasonably ascertainable creditor" must be served with a copy of the petition for summary administration. *See,* Florida Statute §735.206(2)

3. Effect of Order of Summary Administration.

Armed with an order of summary administration, a beneficiary can use such order to collect his or her share of the decedent's property. Notwithstanding, beneficiaries generally remain liable for their pro rata share of any claims that are later presented against the estate, provided that:

A. Such claims are filed within two years after the decedent's date of death; and

B. The property distributed by the Order of summary administration is not property exempt from creditor's claims. *See,* Florida Statute §735.206.

Notwithstanding this looming liability, recipients rarely set such funds aside to provide for a creditor who might come forward. Thus, summary administration provides little protection for a creditor who is not served with a copy of the Petition for Administration in advance of the Order being entered.

735.206 Summary administration distribution.—

* * *

(e) The recipients of the decedent's property under the order of summary administration shall be personally liable for a pro rata share of all lawful claims against the estate of the decedent, but only to the extent of the value of the estate of the decedent actually received by each recipient, exclusive of the property exempt from claims of creditors under the constitution and statutes of Florida.

(f) After 2 years from the death of the decedent, neither the decedent's estate nor those to whom it may be assigned shall be liable for any claim against the decedent, unless proceedings have been taken for the enforcement of the claim.

(g) Any heir or devisee of the decedent who was lawfully entitled to share in the estate but who was not included in the order of summary administration and distribution may enforce all rights in appropriate proceedings against those who procured the order and, if successful, shall be awarded reasonable attorney's fees as an element of costs.

4. Notice to Creditors.

A. Is a search for creditors required? Yes.

735.206 Summary administration distribution.—

(1) Upon the filing of the petition for summary administration, the will, if any, shall be proved in accordance with chapter 733 and be admitted to probate.

(2) Prior to entry of the order of summary administration, the petitioner shall make a diligent search and reasonable inquiry for any known or reasonably ascertainable creditors, serve a copy of the petition on those creditors, and make provision for payment for those creditors to the extent that assets are available…

* * *

As with a formal administration, a diligent search for known or reasonably ascertainable creditors is required. But note:

- No personal representative is appointed to administer a summary administration estate, so the burden lies on the petitioner to conduct the search for creditors.
- The petitioner may not have access to as much information as a personal representative would.
- The petitioner may be proceeding without the advice of counsel in conducting the search for creditors.

For these reasons, too often creditors are either intentionally ignored or accidently overlooked when the petitioner is sending notice regarding the petition for a summary administration.

B. Is publication of a notice to creditors required? No**.**

735.2063 Notice to creditors.—
(1) Any person who has obtained an order of summary administration may publish a notice to creditors according to the relevant requirements of s. 733.2121, notifying all persons having claims or demands against the estate of the decedent that an order of summary administration has been entered by the court. The notice shall specify the total value of the estate and the names and addresses of those to whom it has been assigned by the order.
(2) If proof of publication of the notice is filed with the court, all claims and demands of creditors against the estate of the decedent who are not known or are not reasonably ascertainable shall be forever barred unless the claims and demands are filed with the court within 3 months after the first publication of the notice.

In summary, anyone (petitioner or beneficiary) has the option to publish a notice to creditors at his or her own expense. But publication is not required by law and is often costly depending on the jurisdiction (ranging from $200-450 in some publications). So while publication is sometimes done in order to shorten the time period for creditors' claims, more often than not, publication rarely happens unless the Court in the jurisdiction where the petition is pending requires publication before it will issue an order of summary administration.

C. What about ACHA? One common creditor that is often ignored in summary administrations is ACHA. In formal administrations, ACHA is clearly required to be served in all estates of decedents who were 55 or older at the time of death. *See*, Florida Statute §733.2121(3)(d). But for summary administrations, ACHA is not explicitly required to be served under Chapter 735. Notwithstanding the ambiguity in the statutes, is there ever any argument as to whether ACHA is a reasonably ascertainable creditor? Probably not.

D. How does a creditor file a claim and get paid after an order is entered? In summary, who knows? Chapter 735 doesn't offer any clear guidance on how a creditor can file a claim after an order of summary administration has been entered. Florida Statute §735.206(d) makes clear that any creditor who did not receive notice and for whom provision for payment was not made may enforce its claim and receive attorney's fees. But, the statute stops there with respect to the procedure for enforcing this statutory right.

i. <u>Where does a creditor file a claim</u>? Technically, the clerk's summary probate case file is closed upon the entry of the summary administration order. As such, clerks arguably should not be accepting creditor's claims after the file has been closed, and instead should require the creditor to open a formal probate and seek redress from the probate court.

ii. Who does the clerk serve the claim upon? However, some clerks do accept claims after a summary administration has concluded, leaving open the question of who the clerk is required to serve that claim upon or whether they are required to serve it at all. Under Florida Statute §735.206(d), the creditor can seek attorney fees against anyone who joined in the petition for summary administration, but under Florida Statute §735.206(e), responsibility for payment of the claim falls on all recipients of funds. So notice of the claim probably should be made to all persons affected by the claim and request for fees.

iii. How does a beneficiary object to a claim? Further, if a beneficiary disputes the validity of that claim, there is not a clear process in a summary administration for handling contested creditor's claims.

5. No Requirement for Counsel.

No party is required to be represented by counsel in order to petition the Court for summary administration. So, while an attorney is required to commence a formal probate administration, any beneficiary or nominated personal representative may petition for a summary administration without the need for hiring counsel, making it cheaper to obtain an order for a summary administration. *See*, Florida Statute §735.203. Cheaper, however, is not always better.

Often times, petitions are filed with erroneous or even false information. And while requiring counsel in a summary administration might not remedy the problems created by petitioners who intentionally provide false information, it would eliminate most filings that include erroneous information.

6. Notice to Heirs At Law.

As stated above, joinder of beneficiaries is not required, but notice of the petition must be given to all interested persons. Notwithstanding, courts too often discover that a petitioner has intentionally or accidentally misstated the identity of the decedent's heirs at law in an intestate estate. Application of Florida's intestate code can be confusing to a pro se petitioner, and often times lay persons confuse the terms "heirs at law" with those who would be considered "next of kin." But again, the Florida Probate Code and the Florida Probate Rules do not provide a clear procedure for preventing or correcting such errors.

7. Inconsistency in the Courts.

As a result, many judicial circuits are implementing their own safe guards and provisions to prevent abuses in the summary administration process, including:

A. Require publication: Although the code and rules do not require publication of a notice to creditors in summary administrations, many circuits now require proof of publication before the order of summary administration will be entered. *See*, Florida Statute §735.2063.

B. Delay the entry of an order of summary administration: Similarly, many circuits will not enter an order of summary administration until a sufficient time period has elapsed from the date of death in order to allow creditors and beneficiaries time to make themselves known to the court.

C. Be sure the beneficiary understand his/her liability: Before issuing an order of summary administration for a *pro se* filing, some courts have required a hearing to allow the Court to advise the petitioner and beneficiaries regarding the effect of the order should a creditor's claim be subsequently filed.

D. Require joinder by all beneficiaries. In some circuits, although the law requires that all persons benefitting from an order of summary administration consent to the entry of the order of summary administration or receive formal notice, courts are implementing additional joinder requirements to ensure that all recipients have reviewed and agree with the facts stated in the petition.

E. Require an affidavit regarding heirs. Some courts require the petitioner to fill out an affidavit attesting to the decedent's family tree, rather than accepting a bald statement that A, B and C are the heirs at law. And where the affidavit illustrates that all of the heirs at law entitled to a share of the estate are not included in the order of summary administration, no order will be issued until the petition is corrected and the heir notified. *See,* Attached sample Affidavit of Heirs from Leon County, Florida.

8. Remedies for Creditors or Beneficiaries.

So what options are available for a beneficiary or a creditor who was not served with notice? In some courts, creditors have successfully petitioned to set aside the order of summary administration due to the petitioner's failure to notify a known creditor. In such cases, it is difficult for the court to procedurally handle the dispute in what should be a summary proceeding, not a litigated probate matter.

A. Order directing payment. Court can enter an order directing the recipients of Estate funds to pay the creditor. *See*, Florida Statute §735.206.

B. Set aside the Order of summary administration. Some courts have set aside the order of administration based upon Florida Rule of Civil Procedure 1.540, which provides relief from judgments or orders obtained by fraud. But it is not clear that Rule 1.540 even applies in probate proceedings, under Florida Probate Rule 5.080. And even if it does, what does the Court do next after it has set aside the order of summary administration? Require a formal administration be opened so the creditor issue can be litigated?

Fla. R. Civ. Pro. 1.540, Relief from Judgment, Decrees, or Orders

* * *

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc. On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, decree, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial or rehearing; *(3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party*; (4) that the judgment or decree is void; or (5) that the judgment or decree has been satisfied, released, or discharged, or a prior judgment or decree upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment or decree should have prospective application. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than 1 year after the judgment, decree, order, or proceeding as entered or taken. A motion under this subdivision does not affect the finality of a judgment or decree or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, decree, order, or proceeding or to set aside a judgment or decree for fraud upon the court.

* * *

9. Conclusion/Solutions.

Given these concerns and the variety of ways that the Courts are dealing with them, perhaps it is time to revisit the Probate Code and Probate Rules in order to address these concerns. If Florida is going to permit summary administration and expect petitioners to be able to administer these estates *pro se*, then our rules and statues should be clear and concise. Further, there is much to be gained in terms of efficiency and consistency in ensuring that our laws and procedure is clear so that our circuit courts are handling summary administrations in a similar, consistent manner. After all, if a summary administration cannot be obtained without excessive judicial labor caused by unclear rules and statutes, then a summary process is hardly more efficient than a formal administration.

Potential statutory fixes to clarify Chapter 735 and assist the courts and practitioners with summary administrations include:

A. Require publication of Notice to Creditors in all summary administrations where 2 years from the date of death has not yet run.

B. Require joinder by all recipients of estate assets.

C. Require that all petitions for summary administration be served upon ACHA if the decedent was over age 55 at the date of death.

D. Require an affidavit of heirs for all intestate summary administrations.

E. Clarify the process for filing and objecting to claims that are filed after an order of summary administration has been entered.

F. Clarify the process for setting aside orders that were mistaken or inappropriately obtained.

These proposals are currently being studied by the Probate Law Committee of the Real Property Probate and Trust Law Section of the Florida Bar. Stay tuned for a statutory fix soon!

B. Ancillary Administration

An ancillary administration is the probate of an estate of a non-Florida resident. Typically, the only asset of an ancillary administration is real property (a vacation home or investment property owned by a non-resident). "All proceedings for appointment and administration of the estate shall be as similar to those in original administrations as possible." *See*, Florida Statute §734.102(4). Thus, ancillary administrations are probated nearly identical to that of a domiciliary administration, with limited exceptions that are outlined herein.

1. Authenticated or exemplified copies of domiciliary proceeding:

To begin any testate administration, you must deposit an original will. In an ancillary probate, however, the original will is typically on deposit with the clerk in the domiciliary proceeding and therefore not available to deposit in Florida. Thus, the probate code requires that the petitioner in an ancillary probate proceeding produce an authenticated (or sometimes called exemplified) copy of a will. An "authenticated" document is defined as "a certified copy or a copy authenticated according to the Federal Rules of Civil Procedure." *See*, Florida Statute §731.201(1). From a practical perspective, that means that the Clerk or presiding judge in the domiciliary proceeding must certify that the copies are authentic. This can take some time. You will need to order copies from the Clerk in the domiciliary proceeding, and often times the Clerk

will have to submit the copies to the probate judge for him or her to attach their seal or certification. In some jurisdictions, this can cost as much as $10.00 per page and take weeks to receive.

Once received, the authenticated will should be deposited along with the Petition for Ancillary Administration and the probate should proceed in the same manner as a domiciliary probate, but for some specific differences discussed herein.

2. Appointment of an Ancillary Personal Representative:

Florida has a specific statute governing the appointment of a personal representative in an ancillary administration. The statute is intricate and detailed, and thus is worthy of review each time an ancillary probate is commenced.

734.102 Ancillary administration.—

(1) If a nonresident of this state dies leaving assets in this state, credits due from residents in this state, or liens on property in this state, a personal representative specifically designated in the decedent's will to administer the Florida property shall be entitled to have ancillary letters issued, if qualified to act in Florida. Otherwise, the foreign personal representative of the decedent's estate shall be entitled to have letters issued, if qualified to act in Florida. If the foreign personal representative is not qualified to act in Florida and the will names an alternate or successor who is qualified to act in Florida, the alternate or successor shall be entitled to have letters issued. Otherwise, those entitled to a majority interest of the Florida property may have letters issued to a personal representative selected by them who is qualified to act in Florida. If the decedent dies intestate and the foreign personal representative is not qualified to act in Florida, the order of preference for appointment of a personal representative as prescribed in this code shall apply. If ancillary letters are applied for by other than the domiciliary personal representative, prior notice shall be given to any domiciliary personal representative.

* * *

In an ancillary proceeding, the personal representative named in the will is normally entitled to serve as the personal representative in the ancillary proceeding, assuming that the personal representative is qualified to serve under Florida's laws. If not, then the personal representative serving in the domiciliary proceeding would be the next entitled to preference. *See*, Florida Statute §734.102(1). Florida's rules prohibiting a non-resident from serving as a personal representative are particularly relevant here, and often times result in the domiciliary personal representative being disqualified to serve as the ancillary personal representative. By way of reminder, the statute prohibiting non-residents from serving as a Florida personal representative (and the exceptions thereto) is as follows:

733.304 Nonresidents.—A person who is not domiciled in the state cannot qualify as personal representative unless the person is:

(1) A legally adopted child or adoptive parent of the decedent;
(2) Related by lineal consanguinity to the decedent;
(3) A spouse or a brother, sister, uncle, aunt, nephew, or niece of the decedent, or someone related by lineal consanguinity to any such person; or
(4) The spouse of a person otherwise qualified under this section.

3. Distribution of Ancillary Estate:

One unusual provision that distinguishes an ancillary probate from a domiciliary probate is the distribution of the ancillary estate. Under Florida Statute §734.102(6), an ancillary personal representative has the option of requesting that the Court permit distribution of the ancillary estate to either the beneficiaries under the will or intestate code, or in the alternative, permit distribution to the domiciliary personal representative for further distribution in the domiciliary proceeding.

> (6) After the payment of all expenses of administration and claims against the estate, the court may order the remaining property held by the ancillary personal representative transferred to the foreign personal representative or distributed to the beneficiaries.

The reason for this rule seems obvious – that there may be significant creditor, beneficiary or tax disputes that need to be resolved before the domiciliary estate can be closed and the estate distributed. Such issues may hang up the administration of an estate for years to come, but because those issues are not pending in Florida, the ancillary estate should be closed and assets transferred to the domiciliary proceeding for further distribution by that estate.

4. Summary Administration of Small, Ancillary Estates.

Florida law permits a truncated, summary estate where the assets of an ancillary administration are less than $50,000. By way of reminder, that statute is as follows:

734.1025 Nonresident decedent's testate estate with property not exceeding $50,000 in this state; determination of claims.—

(1) When a nonresident decedent dies testate and leaves property subject to administration in this state the gross value of which does not exceed $50,000 at the date of death, the foreign personal representative of the estate before the expiration of 2 years after the decedent's death may file in the circuit court of the county where any property is located an authenticated transcript of so much of the foreign proceedings as will show the will and beneficiaries of the estate, as provided in the Florida Probate Rules. The court shall admit the will and any codicils to probate if they comply with s. 732.502(1), (2), or (3).
(2) The foreign personal representative may cause a notice to creditors to be served and published according to the relevant requirements of chapter 733. Claims not filed in accordance with chapter 733 shall be barred as provided in s. 733.702. If any claim is filed, a personal representative shall be appointed as provided in the Florida Probate Rules.

5. Truncated Ancillary Administrations 2 Years from DOD.

In addition to a truncated, ancillary administration where the assets of an ancillary estate do not exceed $50,000, Florida law also permits a summary, ancillary administration regardless of the size of the Florida estate where the Decedent died more than 2 years ago, and the only asset subject to Florida probate jurisdiction is real property. In such circumstances, Florida law permits the recording of a foreign will in the State of Florida, and the recording of such will automatically vests title to the real property in the State of Florida in the name of the person(s) named in the record foreign will.

734.104 Foreign wills; admission to record; effect on title.—

(1) An authenticated copy of the will of a nonresident that devises real property in this state, or any right, title, or interest in the property, may be admitted to record in any county of this state where the property is located at any time after 2 years from the death of the decedent or at any time after the domiciliary personal representative has been discharged if there has been no proceeding to administer the estate of the decedent in this state, provided:
(a) The will was executed as required by chapter 732; and
(b) The will has been admitted to probate in the proper court of any other state, territory, or country.
(2) A petition to admit a foreign will to record may be filed by any person and shall be accompanied by authenticated copies of the foreign will, the petition for probate, and the order admitting the will to probate. If no petition is required as a prerequisite to the probate of a will in the jurisdiction where the will of the nonresident was probated, upon proof by affidavit or certificate that no petition is required, an authenticated copy of the will may be admitted to record without an authenticated copy of a petition for probate, and the order admitting the will to record in this state shall recite that no petition was required in the jurisdiction of original probate.
(3) If the court finds that the requirements of this section have been met, it shall enter an order admitting the foreign will to record.
(4) When admitted to record, the foreign will shall be as valid and effectual to pass title to real property and any right, title, or interest therein as if the will had been admitted to probate in this state.

Under this proceeding, no probate needs to occur in order to vest the property in the names of the heirs. Instead, the Court merely needs to make a finding that the statutory requirements have been met, and admit the foreign will to probate. By statute, the admission of the will to probate automatically vests title to the real property in the names of the beneficiaries without further judicial proceedings.

C. Intestate Administration

Similar to ancillary administrations, intestate administrations are conducted in the same manner as a domiciliary, testate administration with a few, notable exceptions. The most obvious exception is the determination of beneficiaries, which under a testate administration are defined by the last will and testament, but under an intestate administration is governed by Florida's intestate code, found at Florida Statute §§732.101-732.111. For purposes of this outline, there are some specific distinctions present in intestate administrations that are worthy of note.

1. Appointment of Personal Representative.

In an intestate estate, the testator has (obviously) not stated a preference for appointed of a personal representative. Thus, Florida law has made assumption and created a hierarchy for who is entitled to preference in appointment as the personal representative in an intestate estate. The priority in preference basically defers to the surviving spouse, or is not, wishes of the majority of the intestate heirs.

733.301 Preference in appointment of personal representative.—

(1) In granting letters of administration, the following order of preference shall be observed:

(a) In testate estates:

1. The personal representative, or his or her successor, nominated by the will or pursuant to a power conferred in the will.
2. The person selected by a majority in interest of the persons entitled to the estate.
3. A devisee under the will. If more than one devisee applies, the court may select the one best qualified.

(b) In intestate estates:

1. The surviving spouse.
2. The person selected by a majority in interest of the heirs.
3. The heir nearest in degree. If more than one applies, the court may select the one best qualified.

* * *

2. Identification of Interested Parties.

Perhaps one of the most difficult aspects of an intestate administration is the identification of beneficiaries and interested parties. In many jurisdictions, an Affidavit of Heirs is required to commence the administration of an intestate estate, so that the Court has a verified record of the intestate heirs of an estate. Sometimes it is also necessary to file a petition to determine beneficiaries where it is not clear who the intestate heirs of an estate might be. There are all kinds

hazards in an intestate administration that might lead to the need for a judicial determination of beneficiaries, including:

i. Questions regarding paternity;

ii. Questions regarding the rights of adopted children;

iii. Questions regarding the rights of ART children; and

iv. Questions regarding spousal rights.

Petitions to determine beneficiaries are per se adversarial proceedings under Florida Probate Rule 5.025. Thus, it is necessary to serve all interested parties with formal notice in order to commence that proceeding.

3. Requirement for Posting a Bond.

In intestate estates, there is no will that waives the requirement of a fiduciary bond. Accordingly, fiduciary bonds in intestate estates are typically required unless waived by all of the beneficiaries of the intestate estate (and may even be required notwithstanding the beneficiaries' waiver if significant creditors exist).

733.402 Bond of fiduciary; when required; form.—

(1) Unless the bond requirement has been waived by the will or by the court, every fiduciary to whom letters are granted shall execute and file a bond with surety, as defined in s. 45.011, to be approved by the clerk without a service fee.

Obtaining a waiver of bond by all intestate heirs in advance of the personal representative's appointment may be difficult. Thus, more often than not, a bond will be required in an intestate estate.

4. Right to sell real property

As a final distinguishing factor of intestate estates, it is important to note that some fiduciary powers are created by a last will and testament, while others exist by default state law. In the case of selling real property, unless the last will and testament explicitly waives the right to sell real property, Florida law requires explicit Court ordered approval of the sale of any real property owned by an estate. Thus, in intestate estates, the personal representative is always required to obtain court approval before the sale of real property can occur.

733.613 Personal representative's right to sell real property.—

(1) When a personal representative of an intestate estate, or whose testator has not conferred a power of sale or whose testator has granted a power of sale but the power is so limited

by the will or by operation of law that it cannot be conveniently exercised, shall consider that it is for the best interest of the estate and of those interested in it that real property be sold, the personal representative may sell it at public or private sale. No title shall pass until the court authorizes or confirms the sale. No bona fide purchaser shall be required to examine any proceedings before the order of sale.

(2) When a decedent's will confers specific power to sell or mortgage real property or a general power to sell any asset of the estate, the personal representative may sell, mortgage, or lease, without authorization or confirmation of court, any real property of the estate or any interest therein for cash or credit, or for part cash and part credit, and with or without security for unpaid balances. The sale, mortgage, or lease need not be justified by a showing of necessity, and the sale pursuant to power of sale shall be valid.

(3) In a sale or mortgage which occurs under a specific power to sell or mortgage real property, or under a court order authorizing or confirming that act, the purchaser or lender takes title free of claims of creditors of the estate and entitlements of estate beneficiaries, except existing mortgages or other liens against real property are not affected.

(emphasis supplied).

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA

IN RE: THE ESTATE OF: PROBATE DIVISION

CASE NO:

Deceased.
_____/

AFFIDAVIT OF HEIRS

State of _____

County of _____

For purposes of this document, you must list ALL RELATIVES (as indicated below) of the decedent, including yourself, if applicable. If the relative was deceased at the time of the decedent's death, please provide the deceased relative's name, indicate deceased, and approximate date of death. When appropriate you must indicate if the relationship is that of a half-relative (i.e. half-brother or half-sister).

WHO ARE YOU?

_____ 1. Name _____
Address and telephone number
_____
_____
_____

I am _____ am not _____ related to the decedent as follows _____.

I have known the decedent for _____ years.

Decedent _____ died on _____.

WHO IS THE DECEDENT'S SPOUSE AT THE TIME OF DEATH?

_____ 2. Spouse of the Decedent. Provide name and address; or if deceased, provide name, indicate deceased, and approximate date of death.

Spouse Name:_____
Address: _____
_____
_____

Is Spouse Deceased? _____ Yes or _____ No.
Date of Death: _____.

WHO ARE THE DECEDENT'S CHILDREN AND GRANDCHILDREN?

_____ 3.a. Children of the Decedent (Provide name and address; or if deceased, provide name, indicate deceased, and approximate date of death). If any of the children are NOT biologically related to BOTH the decedent and the spouse at the time of death, provide the name of that particular child's other biological parent.

Children Names and Addresses:

_____
_____
_____
_____
_____
_____
_____

_____ 3.b. List the full name of grandchildren of the Decedent, making sure to provide the name of such grandchild's parents, and include the address for each grandchild.

Grandchildren Names and Addresses:

_____
_____
_____

4._____ **WHO ARE THE DECEDENT'S PARENTS?**

Parents of the Decedent. (Provide name and address; or if deceased, provide name, indicate deceased, and approximate date of death).

_____
_____
_____
_____

WHO ARE THE DECEDENT'S SIBLINGS?

Siblings and descendants of deceased siblings. You must indicate whether the relationship is that of a full sibling or a half-relative (i.e. half-brother or half-sister). (Provide name and address; or if deceased, provide name, indicate deceased, and approximate date of death).

_____
_____
_____
_____

Under penalties of perjury, I declare that I have read the foregoing Affidavit of Heirs and the facts stated therein are true.

_____
Affiant

_____
Print Name of Affiant

_____

_____
Address of Affiant

State of Florida

County of Leon

Subscribed and sworn before me on _____ (date).

_____ Personally known

_____ Produces identification

Type of identification:
commissioned
_____

_____
Notary Public or Deputy Clerk

_____
Print, type or stamp

name of Notary or deputy clerk