



Probate And Trust Division

Summary vs. Formal Administration: Strategic Considerations

By Emily Crain Evans, Esq., GrayRobinson, P.A., Lakeland, Florida

Summary Administration can be an option for estates when, in a testate estate, the decedent's will does not direct administration as required by chapter 733, and in all estates when the total value of the assets is less than \$75,000, excluding exempt property (as defined in the Florida Probate Code), or if the decedent has been dead for more than two years. Formal Administration is the default court supervised administrative process where a Personal Representative is appointed and there is a clear procedure for clearing creditor claims and estate liability before distributions are made to any beneficiaries. While summary administration can be a more streamlined and cost-efficient process for estate administration, there are pitfalls to avoid.

One of the main considerations if the decedent has not been dead for more than two years is whether there is any creditor liability and the extent of this liability. In summary administration, the petitioner(s) give up the ability to challenge the validity of any claims filed and all claims are considered valid claims if timely filed. This can be harmful to a pending summary administration when the estate assets are less than the creditor debts of the decedent.

Additionally, 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 decedent's estate that was actually received by each recipient, exclusive of the property exempt from claims of creditors under the constitution and statutes of Florida. This can cause issues when claims are timely filed after an order of summary administration has been entered and the beneficiaries have received their share of the assets.

Summary administration also requires cooperation between the beneficiaries. The petition must be signed and verified by the surviving spouse, if any, and any beneficiaries, except that joinder in a petition for summary administration is not required of a beneficiary who will receive a full distributive share under the proposed distribution. However, formal notice of the petition must be served on a beneficiary not joining in the petition. For example, if there are family dynamic issues, creditor liability, an elective share, or potential contests to the administration or other distribution

considerations, summary administration may not be the right option.

Florida Probate Rule 5.530 states that the Petition for Summary administration must have a description of all assets in the estate and the estimated value of each. If the petitioner cannot accurately describe the assets and the estimated value, summary administration will not be a good choice. If summary administration is used and additional assets are later discovered, the administration must be reopened and administered as it relates to the additional assets discovered.

The best practice for utilizing a summary administration is when the assets can be easily identifiable and described, the beneficiaries agree, and there is minimal creditor liability.



E. EVANS

Emily Crain Evans is an attorney with GrayRobinson, P.A. in Lakeland, Florida and focuses her practice on estate planning, probate, and trust administration. She is passionate about helping individuals and families plan for the future and navigate the legal complexities that arise after a loved one's death. Her practice focuses on creating thoughtful estate plans, guiding personal representatives and trustees through administration, and resolving probate matters efficiently and compassionately. A community advocate, she serves on several boards, including the Lakeland Bar Association and is the current Chair of EMERGE Lakeland, a young professional's group of the Lakeland Chamber of Commerce.