



DATE DOWNLOADED: Mon Sep 26 11:19:51 2022

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Citations:

Bluebook 21st ed.

David L. J. M. Skimore, Compensation of Fiduciaries and Their Attorneys in Florida Estates and Trusts, 40 MICHIGAN PROB & Est PLAN J 46 (2021).

ALWD 7th ed.

David L. J. M. Skimore, Compensation of Fiduciaries and Their Attorneys in Florida Estates and Trusts, 40 Michigan Prob & Est Plan J 46 (2021).

APA 7th ed.

Skimore, D. L. (2021). Compensation of fiduciaries and their attorneys in florida estates and trusts. Michigan Probate & Estate Planning Journal, 40(3), 46-54.

Chicago 17th ed.

David L. J. M. Skimore, "Compensation of Fiduciaries and Their Attorneys in Florida Estates and Trusts," Michigan Probate & Estate Planning Journal 40, no. 3 (Summer 2021): 46-54

McGill Guide 9th ed.

David L. J. M. Skimore, "Compensation of Fiduciaries and Their Attorneys in Florida Estates and Trusts" (2021) 40:3 Michigan Prob & Est Plan J 46.

AGLC 4th ed.

David L. J. M. Skimore, 'Compensation of Fiduciaries and Their Attorneys in Florida Estates and Trusts' (2021) 40(3) Michigan Probate & Estate Planning Journal 46

MLA 9th ed.

Skimore, David L. J. M. "Compensation of Fiduciaries and Their Attorneys in Florida Estates and Trusts." Michigan Probate & Estate Planning Journal, vol. 40, no. 3, Summer 2021, pp. 46-54. HeinOnline.

OSCOLA 4th ed.

David L. J. M. Skimore, 'Compensation of Fiduciaries and Their Attorneys in Florida Estates and Trusts' (2021) 40 Michigan Prob & Est Plan J 46

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## Probate Litigation Report

By David L. J. Skimore

### Compensation of Fiduciaries and Their Attorneys in Florida Estates and Trusts

Snowbirds are common in Michigan; heck, our state bird, the robin, doesn't even live here year-round. Michigan estate planners may have clients who spend part of each year in Florida or are full-time residents of the sunshine state. Consequently, Florida law may apply to such clients' estates or trusts, either by express direction in the documents or because administration in fact occurs there. Michigan estate planning attorneys who represent clients with Florida ties should therefore be aware of Florida statutory provisions governing the fees charged by personal representatives, attorneys for personal representatives, trustees, and attorneys for trustees.

#### Statutory Provisions Regarding Personal Representative's Fee

FS 733.617 governs compensation of a personal representative. The first subsection addresses the personal representative's fee for "ordinary services." "A personal representative shall be entitled to a commission payable from the estate assets without court order as compensation for ordinary services. The commission shall be based on the compensable value of the estate, which is the inventory value of the probate estate assets and the income earned by the estate during administration."<sup>1</sup>

The statute goes on to provide percentage based fees, based on the size of the estate, which are "presumed to be reasonable compensation for a personal representative in formal administration[.]"<sup>2</sup> For the first \$1 million, the commission rate is 3 percent; for values above \$1 million and up to \$5 million, the commission rate is 2.5 percent; for values above \$5 million and up to \$10 million, the commission rate is 2 percent; and for

values above \$10 million, the commission rate if 1.5 percent.<sup>3</sup> Hence, a fee of \$1500 would be presumed to be reasonable compensation for a \$500,000 estate, while a fee of \$260,000 would be presumed to be reasonable compensation for a \$12 million estate. Again, these fees relate to ordinary services by the personal representative.

A personal representative is also entitled to reasonable additional compensation for "extraordinary services," which are defined to include (without limitation) "the sale of real or personal property," "the conduct of litigation on behalf of or against the estate," "involvement in proceedings for the adjustment or payment of any taxes," "the carrying on of the decedent's business," "dealing with protected homestead," or "any other special services which may be necessary for the personal representative to perform."<sup>4</sup>

The statutory compensation framework may be overridden by the terms of the decedent's will "[i]f the will provides that a personal representative's compensation shall be based upon specific criteria," such as rates, amounts, or commissions.<sup>5</sup> The personal representative may elect to follow either the will's compensation provisions or the statute, unless there is a contract between the personal representative and the decedent regarding compensation, or unless the will refers to "the personal representative's regularly published schedule of fees in effect at the decedent's date of death."<sup>6</sup>

The statute addresses apportionment of the fee between co-personal representatives.<sup>7</sup> The statute permits additional compensation for a personal representative who is an attorney and who renders legal services to the estate.<sup>8</sup> However, an attorney who prepared a will nominating the attorney as personal representative is not entitled to compensation unless certain safeguards (addressed in the statute) are followed.<sup>9</sup>

Any interested person may petition the court to "increase or decrease the compensation for ordinary services of the personal representative or award compensation for extraordinary services if the facts and circumstances of the particular

administration warrant.” The court must consider the following factors in determining reasonable compensation: “The promptness, efficiency, and skill with which the administration was handled by the personal representative; [t]he responsibilities assumed by and the potential liabilities of the personal representative; [t]he nature and value of the assets that are affected by the decedent’s death; [t]he benefits or detriments resulting to the estate or interested persons from the personal representative’s services; [t]he complexity or simplicity of the administration and the novelty of the issues presented; [t]he personal representative’s participation in tax planning for the estate and the estate’s beneficiaries and in tax return preparation, review, or approval; [t]he nature of the probate, nonprobate, and exempt assets, the expenses of administration, the liabilities of the decedent, and the compensation paid to other professionals and fiduciaries; any delay in payment of the compensation after the services were furnished; and [a]ny other relevant factors.”<sup>10</sup>

The remainder of the statute is addressed to preventing compensation to a personal representative who is the attorney, or related to the attorney, who drafted the will appointing such personal representative, unless certain disclosures were made to the testator. “An attorney serving as a personal representative, or a person related to the attorney, is not entitled to compensation for serving as a personal representative if the attorney prepared or supervised the execution of the will that nominated the attorney or person related to the attorney as personal representative, unless the attorney or person nominated is related to the testator, or the attorney makes the following disclosures to the testator before the will is executed: [s]ubject to certain statutory limitations, most family members, regardless of their residence, and any other persons who are residents of Florida, including friends and corporate fiduciaries, are eligible to serve as a personal representative; [a]ny person, including an attorney, who serves as a personal representative

is entitled to receive reasonable compensation for serving as a personal representative; and [c]ompensation payable to the personal representative is in addition to any attorney fees payable to the attorney or the attorney’s firm for legal services rendered to the personal representative.”<sup>11</sup>

While the disclosures themselves need not be in writing, the testator is supposed to execute a writing confirming that the disclosures were made. “The testator must execute a written statement acknowledging that the disclosures required under paragraph (a) were made prior to the execution of the will. The written statement must be in a separate writing from the will but may be annexed to the will. The written statement may be executed before or after the execution of the will in which the attorney or related person is nominated as the personal representative.”<sup>12</sup> The statute provides a template for the written statement.<sup>13</sup> However, a personal representative is not disqualified from serving if the scrivener failed to obtain such acknowledgment from the testator.”<sup>14</sup>

An attorney is deemed to have drafted the will if anyone at his or her firm prepared it. “An attorney is deemed to have prepared or supervised the execution of a will if the preparation or supervision of the execution of the will was performed by an employee or attorney employed by the same firm as the attorney at the time the will was executed.”<sup>15</sup>

The statute defines who is considered to be “related” to the attorney-scrivener. “A person is ‘related’ to an individual if, at the time the attorney prepared or supervised the execution of the will, the person is: [a] spouse of the individual; [a] lineal ascendant or descendant of the individual; [a] sibling of the individual; [a] relative of the individual or of the individual’s spouse with whom the attorney maintains a close, familial relationship; [a] spouse of a person described in [the preceding categories]; [a] person who cohabitates with the individual; or [a]n employee or attorney employed by the same firm as the attorney at the time the will is executed.” FS 733.617(8)(c)2.

These restrictions on the attorney-scrivener also apply where the attorney-scrivener is named as the successor personal representative, or where the attorney-scrivener exercises a power granted under the trust agreement to appoint himself, herself, or a related person as trustee.<sup>16</sup>

These restrictions on the attorney-scrivener serving as personal representative have a relatively recent effective date of October 1, 2020. “This subsection applies to all nominations made pursuant to a will: [e]xecuted by a resident of [Florida] on or after October 1, 2020; or [r]epublished by a resident of [Florida] on or after October 1, 2020, if the republished will nominates the attorney who prepared or supervised the execution of the instrument that republished the will, or a person related to such attorney, as personal representative.”<sup>17</sup>

### **Statutory Provisions Regarding Fee of Personal Representative’s Attorney**

FS 733.6171 governs compensation for the attorney representing the personal representative. Provided that such an attorney makes certain disclosures required by this statute (discussed below), then such an attorney is “entitled to reasonable compensation payable from the estate assets without court order.”<sup>18</sup> Again, “reasonable compensation” is presumptively defined by the statute (as discussed below).

The statutory fee provisions may be superseded by alternate fee arrangements if “[t]he attorney, the personal representative, and persons bearing the impact of the compensation ... agree to compensation determined in a different manner than provided in this section;” or if the alternate compensation structure “is disclosed to the parties bearing the impact of the compensation and if no objection is made[.]”<sup>19</sup>

An attorney who intends to follow the statutory fee provisions must disclose in writing to the personal representative that “[t]here is not a mandatory statutory attorney fee for estate administration;” “[t]he attorney fee is not required to

be based on the size of the estate, and the presumed reasonable fee provided in [the statute] may not be appropriate in all estate administrations;” “[t]he fee is subject to negotiation between the personal representative and the attorney;” “[t]he selection of the attorney is made at the discretion of the personal representative, who is not required to select the attorney who prepared the will;” and “[t]he personal representative shall be entitled to a summary of ordinary and extraordinary services rendered for the fees agreed upon at the conclusion of the representation.”<sup>20</sup> The attorney is required to “obtain the personal representative’s timely signature acknowledging the disclosures.”<sup>21</sup> If the attorney fails to make the necessary disclosures, then “the attorney may not be paid for legal services without prior court approval of the fees or the written consent of all interested parties.”<sup>22</sup>

The statute provides a schedule of fees “for ordinary services of attorneys in a formal estate administration” based on “the compensable value of the estate, which is the inventory value of the probate estate assets and the income earned by the estate during the administration[.]”<sup>23</sup> Fees complying with the statutory schedule are “presumed to be reasonable[.]”<sup>24</sup> The schedule is as follows:

- \$1,500 for an estate of \$40,000 or less;
- An additional \$750 for an estate having a value greater than \$40,000 and up to \$70,000;
- An additional \$750 for an estate having a value greater than \$70,000 and up to \$100,000;
- An additional 3 percent of the estate value greater than \$100,000 and up to \$1 million;
- An additional 2.5 percent of the estate value greater than \$1 million and up to \$3 million;
- An additional 2 percent of the estate value greater than \$3 million and up to \$5 million;

- An additional 1.5 percent of the estate value greater than \$5 million and up to \$10 million; and
- An additional 1 percent of the estate value greater than \$10 million.<sup>25</sup>

Again, these are fees for ordinary services.

In addition to the fee for ordinary services, “the attorney for the personal representative shall be allowed further reasonable compensation for any extraordinary service.”<sup>26</sup> “What is an extraordinary service may vary depending on many factors, including the size and complexity of the estate.”<sup>27</sup> The following is a non-exhaustive list of potential extraordinary services: “[i]nvolvement in a will contest, will construction, a proceeding for determination of beneficiaries, a contested claim, elective share proceeding, apportionment of estate taxes, or any adversarial proceeding or litigation by or against the estate;” “[r]epresentation of the personal representative in audit or any proceeding for adjustment, determination, or collection of any taxes;” “[t]ax advice on postmortem tax planning;” “[r]eview of estate tax return and preparation or review of other tax returns required to be filed by the personal representative;” “[p]reparation of the estate’s federal estate tax return;”<sup>28</sup> “[p]urchase, sale, lease, or encumbrance of real property by the personal representative or involvement in zoning, land use, environmental, or other similar matters;” “[l]egal advice regarding carrying on of the decedent’s business or conducting other commercial activity by the personal representative;” “[l]egal advice regarding claims for damage to the environment or related procedures;” “[l]egal advice regarding homestead status of real property or proceedings involving that status and services related to protected homestead;” “[i]nvolvement in fiduciary, employee, or attorney compensation disputes;” or “[p]roceedings involving ancillary administration of assets not subject to administration in this state.”<sup>29</sup>

Any interested person may petition the court to “increase or decrease the compensation for ordinary services of the attorney or award com-

penensation for extraordinary services if the facts and circumstances of the particular administration warrant.”<sup>30</sup> The court must consider the following factors in determining reasonable compensation: “[t]he promptness, efficiency, and skill with which the administration was handled by the attorney;” “[t]he responsibilities assumed by and the potential liabilities of the attorney;” “[t]he nature and value of the assets that are affected by the decedent’s death;” “[t]he benefits or detriments resulting to the estate or interested persons from the attorney’s services;” “[t]he complexity or simplicity of the administration and the novelty of issues presented;” “[t]he attorney’s participation in tax planning for the estate and the estate’s beneficiaries and tax return preparation, review, or approval;” “[t]he nature of the probate, nonprobate, and exempt assets, the expenses of administration, the liabilities of the decedent, and the compensation paid to other professionals and fiduciaries;” “[a]ny delay in payment of the compensation after the services were furnished;” “[a]ny agreement relating to the attorney’s compensation and whether written disclosures [required by the statute] were made to the personal representative in a timely manner under the circumstances;” and “[a]ny other relevant factors.”<sup>31</sup>

The statute requires the attorney to publicize any agreement regarding compensation between the attorney and the decedent: “If a separate written agreement regarding compensation exists between the attorney and the decedent, the attorney shall furnish a copy to the personal representative prior to commencement of employment, and, if employed, shall promptly file and serve a copy on all interested persons.”<sup>32</sup>

A personal representative is not bound by a compensation agreement between the decedent and the attorney, or by a will provision directing the personal representative to retain a specific attorney.<sup>33</sup> However, if the personal representative opts to hire such attorney, then “the compensation paid shall not exceed the compensation provided in the agreement or in the will.”<sup>34</sup>

## Statutory Provisions Regarding Trustee's Fee

FS 736.0708 governs compensation of a trustee, but it does not set forth a fee schedule, unlike the statute governing a personal representative's fee (FS 733.617).

"If the terms of a trust do not specify the trustee's compensation, a trustee is entitled to compensation that is reasonable under the circumstances."<sup>35</sup> "If the terms of a trust specify the trustee's compensation, the trustee is entitled to be compensated as specified, but the court may allow more or less compensation if: (a) The duties of the trustee are substantially different from those contemplated when the trust was created; or (b) The compensation specified by the terms of the trust would be unreasonably low or high."<sup>36</sup> "If the trustee has rendered other services in connection with the administration of the trust, the trustee shall also be allowed reasonable compensation for the other services rendered in addition to reasonable compensation as trustee."<sup>37</sup>

The remainder of the statute is addressed to preventing compensation to a trustee who is the attorney, or related to the attorney, who drafted the trust agreement appointing such trustee, unless certain disclosures were made to the settlor. "An attorney serving as a trustee, or a person related to such attorney, is not entitled to compensation for serving as a trustee if the attorney prepared or supervised the execution of the trust instrument that appointed the attorney or person related to the attorney as trustee, unless the attorney or person appointed is related to the settlor or the attorney makes the following disclosures to the settlor before the trust instrument is executed: [u]nless specifically disqualified by the terms of the trust instrument, any person, regardless of state of residence and including a family member, friend, or corporate fiduciary, is eligible to serve as a trustee; [a]ny person, including an attorney, who serves as a trustee is entitled to receive reasonable compensation for serving as trustee; and [c]ompensation payable

to the trustee is in addition to any attorney fees payable to the attorney or the attorney's firm for legal services rendered to the trustee."<sup>38</sup>

While the disclosures themselves need not be in writing, the settlor is supposed to execute a writing confirming that the disclosures were made. "The settlor must execute a written statement acknowledging that the disclosures required under paragraph (a) were made prior to the execution of the trust instrument. The written statement must be in a separate writing from the trust instrument but may be annexed to the trust instrument. The written statement may be executed before or after the execution of the trust in which the attorney or related person is appointed as the trustee."<sup>39</sup> The statute provides a template for the written statement.<sup>40</sup> However, a trustee is not disqualified from serving if the scrivener failed to obtain such acknowledgment from the settlor.<sup>41</sup>

An attorney is deemed to have drafted the trust agreement if anyone at his or her firm prepared it. "An attorney is deemed to have prepared, or supervised the execution of, a trust instrument if the preparation, or supervision of the execution, of the trust instrument was performed by an employee or attorney employed by the same firm as the attorney at the time the trust instrument was executed."<sup>42</sup>

The statute defines who is considered to be "related" to the attorney-scrivener. "A person is 'related' to an individual if, at the time the attorney prepared or supervised the execution of the trust instrument, the person is: [a] spouse of the individual; [a] lineal ascendant or descendant of the individual; [a] sibling of the individual; [a] relative of the individual or of the individual's spouse with whom the attorney maintains a close, familial relationship; [a] spouse of a person described in [the preceding categories]; [a] person who cohabitates with the individual; or [a]n employee or attorney employed by the same firm as the attorney at the time the trust instrument is executed."<sup>43</sup>

These restrictions on the attorney-scrivener

also apply where the attorney-scrivener is named as the successor trustee, or where the attorney-scrivener exercises a power granted under the trust agreement to appoint himself, herself, or a related person as trustee.<sup>44</sup>

These restrictions on the attorney-scrivener serving as trustee have a relatively recent effective date of October 1, 2020. “This subsection applies to all appointments made pursuant to a trust agreement: [e]xecuted by a resident of this state on or after October 1, 2020; or [a]mended by a resident of this state on or after October 1, 2020, if the trust agreement nominates the attorney who prepared or supervised the execution of the amendment or a person related to such attorney as trustee.”<sup>45</sup>

### **Statutory Provisions Regarding Fee of Trustee’s Attorney**

FS 736.1007 governs compensation for the attorney representing a trustee. Provided that the attorney makes disclosures required by the statute (discussed below), then such attorney is “entitled to reasonable compensation for those legal services, payable from the assets of the trust, [w]ithout court order.”<sup>46</sup> The statutory fee provisions may be superseded by an alternate agreement between the trustee and the attorney. Such an agreement “is not binding on a person who bears the impact of the compensation unless that person is a party to or otherwise consents to be bound by the agreement.”<sup>47</sup> And such an agreement “may provide that the trustee is not individually liable for the attorney fees and costs.”<sup>48</sup>

An attorney who intends to follow the statutory fee provisions must disclose in writing to the trustee that “[t]here is not a mandatory statutory attorney fee for trust administration;” “[t]he attorney fee is not required to be based on the size of the trust, and the presumed reasonable fee provided in subsection (2) may not be appropriate in all trust administrations;” “[t]he fee is subject to negotiation between the trustee and the attorney;” “[t]he selection of the attorney is made at

the discretion of the trustee, who is not required to select the attorney who prepared the trust;” and “[t]he trustee shall be entitled to a summary of ordinary and extraordinary services rendered for the fees agreed upon at the conclusion of the representation.”<sup>49</sup> The attorney must “obtain the trustee’s timely signature acknowledging the disclosures.”<sup>50</sup> Failure to make the required disclosures means that “the attorney may not be paid for legal services without prior court approval of the fees or the written consent of the trustee and all qualified beneficiaries.”<sup>51</sup>

The attorney for the trustee may charge fees for “ordinary services” during “initial administration at the rate of 75 percent of the schedule provided in s. 733.6171(3)(a)-(h)”<sup>52</sup> (which is the statute governing fees of the attorney for the personal representative). In other words, it is presumptively reasonable for a trustee’s attorney to charge a fee in the amount of 75 percent of fee schedule the personal representative’s attorney. The fee is calculated “based on the value of the trust assets immediately following the settlor’s death and the income earned by the trust during initial administration[.]”<sup>53</sup>

“Initial trust administration” is defined to mean “administration of a revocable trust during the period that begins with the death of the settlor and ends on the final distribution of trust assets outright or to continuing trusts created under the trust agreement but, if an estate tax return is required, not until after issuance of an estate tax closing letter or other evidence of termination of the estate tax proceeding.”<sup>54</sup> “Initial trust administration” does not include “continued regular administration of the trust.”<sup>55</sup>

Where the trustee has retained an attorney “to render only limited and specifically defined legal services,” then such attorney “shall be compensated as provided in the retaining agreement” or otherwise in a reasonable amount, considering the factors set forth in the statute.<sup>56</sup>

The statute defines “[o]rdinary services of the attorney in an initial trust administration” as “legal advice and representation concerning the

trustee's duties relating to" the following subjects: "[r]eview of the trust instrument and each amendment for legal sufficiency and interpretation;" "[i]mplementation of substitution of the successor trustee;" "[p]ersons who must or should be served with required notices and the method and timing of such service;" "[t]he obligation of a successor to require a former trustee to provide an accounting;" "[t]he trustee's duty to protect, insure, and manage trust assets and the trustee's liability relating to these duties;" "[t]he trustee's duty regarding investments imposed by the prudent investor rule;" "[t]he trustee's obligation to inform and account to beneficiaries and the method of satisfaction of such obligations, the liability of the trust and trustee to the settlor's creditors, and the advisability or necessity for probate proceedings to bar creditors;" "[c]ontributions due to the personal representative of the settlor's estate for payment of expenses of administration and obligations of the settlor's estate;" "[i]dentifying tax returns required to be filed by the trustee, the trustee's liability for payment of taxes, and the due date of returns;" "[f]iling a nontaxable affidavit, if not filed by a personal representative;" "[o]rder of payment of expenses of administration of the trust and order and priority of abatement of trust distributions;" "[d]istribution of income or principal to beneficiaries or funding of further trusts provided in the governing instrument;" "[p]reparation of any legal documents required to effect distribution;" "[f]iduciary duties, avoidance of self-dealing, conflicts of interest, duty of impartiality, and obligations to beneficiaries;" "[i]f there is a conflict of interest between a trustee who is a beneficiary and other beneficiaries of the trust, advice to the trustee on limitations of certain authority of the trustee regarding discretionary distributions or exercise of certain powers and alternatives for appointment of an independent trustee and appropriate procedures;" and "[p]rocedures for the trustee's discharge from liability for administration of the trust on termination or resignation."<sup>57</sup>

In addition to the fee for ordinary services, "the

attorney for the trustee shall be allowed further reasonable compensation for any extraordinary service."<sup>58</sup> "What constitutes an extraordinary service may vary depending on many factors, including the size and complexity of the trust."<sup>59</sup> The following is a non-exhaustive list of potential extraordinary services: "[i]nvolvement in a trust contest, trust construction, a proceeding for determination of beneficiaries, a contested claim, elective share proceedings, apportionment of estate taxes, or other adversary proceedings or litigation by or against the trust;" "[r]epresentation of the trustee in an audit or any proceeding for adjustment, determination, or collection of any taxes;" "[t]ax advice on postmortem tax planning;" "[r]eview of an estate tax return and preparation or review of other tax returns required to be filed by the trustee;" "[p]reparation of decedent's federal estate tax return;"<sup>60</sup> "[p]urchase, sale, lease, or encumbrance of real property by the trustee or involvement in zoning, land use, environmental, or other similar matters;" "[l]egal advice regarding carrying on of decedent's business or conducting other commercial activity by the trustee;" "[l]egal advice regarding claims for damage to the environment or related procedures;" "[l]egal advice regarding homestead status of trust real property or proceedings involving the status;" "[i]nvolvement in fiduciary, employee, or attorney compensation disputes;" or "[c]onsiderations of special valuation of trust assets, including discounts for blockage, minority interests, lack of marketability, and environmental liability."<sup>61</sup>

Any interested person may petition the court to "increase or decrease the compensation for ordinary services of the attorney for the trustee or award compensation for extraordinary services if the facts and circumstances of the particular administration warrant."<sup>62</sup> The court must consider the following factors in determining reasonable compensation: "[t]he promptness, efficiency, and skill with which the initial administration was handled by the attorney;" "[t]he responsibilities assumed by, and potential liabilities of, the

attorney;” “[t]he nature and value of the assets that are affected by the decedent’s death;” “[t]he benefits or detriments resulting to the trust or the trust’s beneficiaries from the attorney’s services;” “[t]he complexity or simplicity of the administration and the novelty of issues presented;” “[t]he attorney’s participation in tax planning for the estate, the trust, and the trust’s beneficiaries and tax return preparation or review and approval;” “[t]he nature of the trust assets, the expenses of administration, and the claims payable by the trust and the compensation paid to other professionals and fiduciaries;” “[a]ny delay in payment of the compensation after the services were furnished;” “[a]ny agreement relating to the attorney’s compensation and whether written disclosures [required by the statute] were made to the trustee in a timely manner under the circumstances;” and “[a]ny other relevant factors.”<sup>63</sup>

The statute requires the attorney to publicize any agreement regarding compensation between the attorney and the decedent: “If a separate written agreement regarding compensation exists between the attorney and the settlor, the attorney shall furnish a copy to the trustee prior to commencement of employment and, if employed, shall promptly file and serve a copy on all interested persons.”<sup>64</sup>

A trustee is not bound by a compensation agreement between the decedent and the attorney, or by a trust provision directing the trustee to retain a specific attorney.<sup>65</sup> However, if the trustee opts to hire such attorney, then “the compensation paid shall not exceed the compensation provided in the agreement” or in the trust.<sup>66</sup>

**Conclusion**

You should be familiar with the foregoing provisions if you represent a client regarding administration of an estate or trust which is subject to Florida law. If you have further questions about Florida law, consult one of Michigan’s dual licensed estate planners, such as my partner, Jennifer Remondino.

**Notes**

1. FS 733.617(1).
2. FS 733.617(2).
3. *Id.*
4. FS 733.617(3).
5. FS 733.617(4).
6. *Id.*
7. FS 733.617(5).
8. FS 733.617(6).
9. FS 733.617(8).
10. FS 733.617(7).
11. FS 733.617(8)(a).
12. FS 733.617(8)(b).
13. *Id.*
14. FS 733.617(8)(e).
15. FS 733.617(8)(c)1.
16. FS 733.617(8)(c)3.
17. FS 733.617(8)(f).
18. FS 733.6171(1).
19. FS 733.6171(2)(a).
20. FS 733.6171(2)(b).
21. FS 733.6171(2)(c).
22. FS 733.6171(2)(d).
23. FS 733.6171(3).
24. *Id.*
25. *Id.*
26. FS 733.6171(4).
27. *Id.*
28. “If this return is prepared by the attorney, a fee of one-half of 1 percent up to a value of \$10 million and one-fourth of 1 percent on the value in excess of \$10 million of the gross estate as finally determined for federal estate tax purposes, is presumed to be reasonable compensation for the attorney for this service. These fees shall include services for routine audit of the return, not beyond the examining agent level, if required.” FS 733.6171(4)(e).
29. *Id.*
30. FS 733.6171(5).
31. *Id.*
32. FS 733.6171(6).
33. *Id.*
34. *Id.*
35. FS 736.0708(1).
36. FS 736.0708(2).
37. FS 736.0708(3).
38. FS 736.0708(4)(a).
39. FS 736.0708(4)(b).
40. *Id.*
41. FS 736.0708(4)(e).
42. FS 736.0708(4)(c)1.
43. FS 736.0708(4)(c)2.
44. FS 736.0708(4)(c)3.
45. FS 736.0708(4)(f).

46. FS 736.1007(1)(a). Payment of an attorney for the trustee from trust assets must also comply with FS 736.0802, which governs the trustee's duty of loyalty to the beneficiaries.

47. *Id.*

48. *Id.*

49. FS 736.1007(1)(b).

50. FS 736.1007(1)(c).

51. FS 736.1007(1)(d).

52. FS 736.1007(2).

53. *Id.*

54. FS 736.1007(8).

55. *Id.*

56. FS 736.1007(3).

57. FS 736.1007(4).

58. FS 736.1007(5).

59. *Id.*

60. "If this return is prepared by the attorney, a fee of one-half of 1 percent up to a value of \$10 million and one-fourth of 1 percent on the value in excess of \$10 million, of the gross estate as finally determined for federal estate tax purposes, is presumed to be reasonable compensation for the attorney for this service. These fees shall include services for routine audit of the return, not beyond the examining agent level, if required." FS 736.1007(5)(e).

61. FS 736.1007(5).

62. FS 736.1007(6).

63. *Id.*

64. FS 736.1007(7).

65. *Id.*

66. *Id.*



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