Checklist for:

Petition to Determine Pretermitted Spouse

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

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

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

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

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

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

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

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| Comments: |
| Recommendation: |