

Probate Section Report

by

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The probate section continues to meet on a monthly basis on the second Wednesday of each month starting at 4:30 p.m. in the fourth floor meeting room in the civil courthouse in Gainesville. Following are issues of interest discussed at recent meetings.

Shannon Miller has provided the leadership in creating a new task force to deal with cases of financial exploitation of the elderly. The initial meeting was held on July 11, 2012 at Bill Cervone's office. Jeanne Singer indicated her willingness to act as the initial point person at the state attorney's office for practitioners to contact when a financial case is discovered. Michael Becker will also be providing assistance. Efforts are underway to establish a law enforcement point person at GPD and ASO. Particular emphasis was placed during the meeting on Section 709.2114, Florida Statutes, which imposes a fiduciary duty upon the holder of a power of attorney to act solely in the best interest of the principal; together with Section 825.103(1)(c), Florida Statutes, which makes it a felony for the holder of a power of attorney to breach the foregoing fiduciary duty. It is the goal of the task force to provide a mechanism to facilitate increased criminal prosecution of perpetrators of financial abuse of the elderly, as these cases have historically enjoyed a very low profile with local law enforcement. Shannon has compiled an email list for the group and anyone interest in participating should send their email address to me or to Shannon.

Service by email is on the way. According to the Supreme Court of Florida's second corrected opinion issued 06/21/12*, the new e-service rules become effective on 09/01/12. In summary, new Rule 2.516, Florida Rules of Judicial Administration, provides tat all documents, with

limited exception, must now be served by email. Immediately upon appearing in a case, a lawyer must file a notice designating his or her primary email address. Documents must be emailed in accord with the following procedure. The document to be served is attached to the email in PDF format. The email must contain the subject like "SERVICE OF COURT DOCUMENT", in all capital letters, followed by the case number, The body of the email must identify the court; the case number; the name of the first party on each side; the title of the document being served; and the sender's name and phone number. Emails may not exceed 5 megabytes in size. The Rule also gives the court the authority to serve copies of orders by email.

*www.floridasupremecourt.org/decisions/2012/sc10-2101.pdf

During the May meeting, a little-known provision contained in Section 222.25(4), provides that a \$4,000.00 personal property exemption may be claimed by an individual not claiming a real property homestead under Section 4, Article X of the State Constitution. The May meeting also covered new judicial assignments: Judge Roundtree is now chief judge and will be handling Union County cases; Judge Lott has moved to the criminal division; and Judge McDonald has moved to Levy/Gilchrist duty. Richard White discussed a comprehensive power of attorney form created by a highly regarded practitioner. The document is of interest owing to its comprehensive nature. Tidbits from it could be usefully incorporated into practitioners' current power of attorney forms. If you would like to review a copy, please contact my office. It was pointed out that a CD-ROM entitled Annual Survey of Florida Law, which is good for 10 CLE credits, can be checked out from the mediation office in the civil courthouse and kept for up to four weeks. Virginia Griffis pointed out that the original language of the recently revised Section 732.102, Florida Statutes, Spouse's share of intestate estate, provided that it applies to all cases pending or commenced on or after 10/01/11. A 2012 glitch

bill changed this to read it applies to all decedents dying
on or after 10/01/11.