

IN THE CIRCUIT COURT OF THE NINETEENTH  
JUDICIAL CIRCUIT, IN AND FOR MARTIN  
COUNTY, FLORIDA

IN RE: ESTATE OF

CLARENCE H. SMYTH, JR.,

Deceased.

\_\_\_\_\_ / CASE No.:

**PETITION FOR APPOINTMENT OF CURATOR**

Petitioner, Patricia Smyth petitions the Court pursuant to Fla. Prob. R. 5.122 for the entry of an order appointing her as Curator for the Estate of Clarence H. Smyth, Jr., and states as follows:

1. Patricia Smyth, whose address is 111 Doll St., Weirton, WV 26062, is Decedent's cousin and an intestate heir of the estate.

2. Decedent, Clarence H. Smyth, Jr. ("Decedent") whose last known address was 811 SE Sand Circle, Hobe Sound, FL 33455, whose age at death was 74 years, and whose last four digits of his social security number is (xxx-xx-1111), died on June 1, 2017 at Hospice of Palm Beach County in Palm Beach County, Florida. On the date of death, Decedent was domiciled in Hobe Sound, Martin County, Florida.

3. Venue of this proceeding is in Martin County because this is the county where Decedent was domiciled.

4. Decedent was not married and had no children. Decedent was, however, survived by approximately 35 intestate heirs, the location of many heirs of which are unknown by Petitioner.

5. No will has been admitted to probate. It is believed that a will may exist in a safe deposit box possibly located in West Virginia.

6. Decedent's estate consists of:

**Homes:**

111 SE Sand Circle, Hobe Sound FL 33445 (Exempt Homestead Property)

238 Bridge Rd., Jupiter, FL 33477 (approx. \$395,000.00)

Home located in West Virginia (address and value unknown at this time)

**Cars**

5 cars – description and values unknown at this time

**Cash, Stocks, other assets**

1,500,000.00 (approximate – however, value unknown at this time)

111 acres of mineral rights in West Virginia (unknown value)

7. It is unknown at this time whether the estate is required to file a federal estate tax return.

8. A Curator should be appointed to marshal the assets and ensure each asset is preserved until such time a personal representative can be appointed. In addition, a curator should be appointed to retrieve the will from the safe deposit box.

9. Petitioner, Patricia Smyth, requests that this Court appoint her to serve as Curator.

10. To avoid potential losses in the probate of this estate, a Curator needs to be appointed to marshal the assets of the estate, and have access to the safe deposit box to retrieve the decedent's will.

11. Fla. Stat. §731.201(8) defines a “curator” as “a person appointed by the court to take charge of the estate of a decedent until letters are issued.”

12. “Curators can be appointed only for a decedent's estate. It is appropriate to seek the appointment of a curator when there is a protracted delay in the appointment of a personal representative and it is necessary to appoint a fiduciary to take charge of the assets of the estate.” Practice Under Florida Probate Code, §16.3 (6th ed. 2010).

13. Furthermore, in a situation where “the probate judge was faced with a decedent with assets and potential claims but no personal representative, the *probate court was required to take*

*certain steps to protect the decedent's assets.* These steps could include the appointment of an administrator ad litem or a curator.” *In re: Voluntary Guardianship of Melba Jensen, Deceased*, 834 So. 2d 376, 377 (Fla. 2d DCA 2003) (*Emphasis added*).

14. There are approximately 35 intestate heirs of the decedent. As such, serving notice to the potential heirs would be impractical, and cause significant delay and expense. Identifying the intestate heirs and locating their residences would need to be conducted causing great delay in administering the estate and at the expense of Petitioner. Petitioner cannot expend such costs with her own funds. FL Probate Rule 5.122 (c) states...“if the appointment of a curator would be delayed by giving notice, the court may appoint a curator without notice.”

15. As noted above, a Curator should be appointed to marshal the decedent's assets and retrieve the will from the safe deposit box.

16. Petitioner requests this court appoint a Curator to serve without bond and with the same powers as a personal representative, until such time as Letters of Administration are granted.

WHEREFORE, Petitioner, Patricia Smyth, respectfully requests that this Honorable Court enter an order appointing her as Curator of the estate in accordance with the laws of the State of Florida and order of this Court until Letters of Administration are granted in the estate.

DATED: August 31, 2017.

/s/ Jeffrey Howard Skatoff, Esq. /s/  
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**VERIFICATION**

Under penalties of perjury, I, Patricia Smyth, declare that I have read the foregoing Petition for Appointment of Curator, and the facts alleged are true to the best of my knowledge and belief.

Signed on \_\_\_\_\_, 2017.

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Patricia Smyth

