

FORMAL PROCEEDING EFFECT ON INFORMAL PROCEEDING

MN Stat §524.3-401

If a formal **testacy** proceeding is pending, “. . . the Registrar **shall not act** upon any application for informal probate of any will of the decedent or any application for informal appointment of a personal representative. . .”

A previously appointed informal personal representative when notified that a formal petition has been filed, unless it is for confirmation of his/her own appointment, “. . . shall refrain from exercising power to make any further distribution of the estate during the pendency of the formal proceeding.” (same PR formal and informal)

At this point the personal representative can still get letters and continue administering the estate.

If the petitioner in the formal case is asking for the appointment of **different PR** he/she “. . . may request an order restraining the acting personal representative from exercising any of the powers of the office . . .” MN Stat §524.3-607 hearing within 10 days.

Last sentence of 3-401 says that unless an order restraining is requested or if the request for a restraining order is denied, starting a formal proceeding only affects the powers of the previously appointed personal representative as it pertains to distribution.

MN Stat §524.3-414

If a formal petition is filed regarding the **priority or qualification of an applicant for appointment** as personal representative, or the priority **or** qualification of a previously appointed informal personal representative comes **before** the informal appointment the formal petition **stays the informal application**.

If the formal petition is filed **after** informal appointment, the personal representative upon receiving notice, “. . . shall **refrain from exercising any power** of administration except as necessary to preserve the estate . . .”

MN Stat §524.3-503 Supervised Administration: Effect on other Proceedings

Subsection (a) again reiterates that if a formal petition now further distinguished as one **for supervised administration** is pending it stays the action on any informal pending or later filed. The Registrar cannot act on the application. (In 3-401 that statute does not differentiate between supervised and unsupervised.) Here the statute is very specific on the type of administration.

Subsection (c) says that once the personal representative has **received the notice** that the formal supervised petition has been filed the previously appointed personal representative is prevented from making any distribution of estate assets.

Note: "The filing of the petition does not affect the representative's other powers and duties unless the court restricts the exercise of any of them pending full hearing on the petition."