

## 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.”