

**FILING FOR A  
FOREIGN ESTATE PROCEEDING  
(FEP)  
IN THE DISTRICT OF COLUMBIA**



**Office of the Register of Wills, Probate Division  
515 5<sup>th</sup> Street, NW, Third Floor  
Washington, DC 20001**

All attached forms and documents are available through the division's website:  
<http://www.dccourts.gov/dccourts/superior/probate/index.jsp>

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# Probate Division – FOREIGN ESTATES (FEP)

## **GENERAL INFORMATION**

For people who died after December 31, 1980, domiciled outside the District of Columbia but owning assets in the District of Columbia at the time of death, the person appointed personal representative in the other jurisdiction must file the documents required to open a foreign estate proceeding in the District of Columbia before that person will have authority to collect and distribute any of the assets located in the District of Columbia. Because the primary estate is not being opened in the District of Columbia, no personal representative is appointed in D.C., and no letters of administration are issued. The filing of a foreign estate proceeding is governed by D.C. Code, secs. 20-341 through 20-344 (2001 ed.) and Superior Court, Probate Division Rule 427.

## **ITEMS NEEDED TO OPEN A FOREIGN ESTATE**

1. Authenticated copies of the documents filed in the other jurisdiction, including the petition, the will (if any), the order of appointment, and letters of administration. Certified copies are not acceptable. The documents must be authenticated pursuant to 28 U.S. Code, sec. 1738. Such authentication is commonly referred to as “triple-sealed” or “exemplified” copies of the documents. If the documents are from another country, they must be authenticated in accordance with the provisions of Superior Court, Civil Division Rule 44(a)(2), which requires that a certificate known as an apostille be affixed or attached to the document. For countries belonging to the *Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents*, foreign documents certified by an apostille are entitled to recognition without further authentication. The documents submitted must show that the personal representative is currently appointed in another jurisdiction before a foreign estate can be opened in the District of Columbia.
2. One *Appointment of Agent to Accept Service of Process* form with the personal representative’s original signature and an original signature of the agent located in the District of Columbia.

3. Two *Notice of Appointment of Foreign Personal Representative and Notice to Creditors* forms with the personal representative's original signature. The information on this form must match the information on the triple-sealed copies exactly. For example, if the decedent's name in the other jurisdiction did not include a middle initial, the middle initial should not be included on this form. Note that the filer must choose the two publications in which the notice will be published. One must be a daily legal publication (currently, the *Daily Washington Law Reporter* is the only such publication in the District of Columbia), and one must be a newspaper of general circulation in the District of Columbia.
4. A check or money order payable to "Register of Wills" or cash in the amount of \$25.00.
5. If there is more than one personal representative, each personal representative must execute the documents described above.

### **FILING THE DOCUMENTS**

The items listed above will be reviewed by a member of the Probate Division's Legal Branch. If the documents are accepted for filing and the filing fee is paid, the filer can also request a Preliminary Certificate, which costs \$1.00 each. The Preliminary Certificate verifies that the authenticated papers have been filed and a foreign estate has been opened. When the documents are accepted for filing, the Probate Division will send the *Notice of Appointment of Foreign Personal Representative* to the two publications chosen by the filer. The publications will bill the filer directly. The notice is published once a week for three consecutive weeks concurrently in the two publications. The filer is responsible for checking the proofs of publication before they are filed with the Probate Division to ensure that the publication occurred as directed.

The Probate Division will issue a Final Certificate (also known as a "Certificate of No Claims"), after the six-month period set forth in the notice, the filing of the original proofs of publication with the Probate Division, and the payment of a \$10.00 fee, if no claims have in fact been filed. D.C. assets ordinarily cannot be removed or transferred until after the six-month notice period has expired, the proofs of publication have been filed, and a Final Certificate has been obtained. D.C. Code, sec. 20-343 sets forth special requirements for transferring assets before the six-month period has expired.

## **FORMS**

This packet includes the following forms, which are generally needed to open a foreign estate case:

- Appointment of Agent to Accept Service of Process
- Notice of Appointment of Foreign Personal Representative and Notice to Creditors

Other forms that may be filed in a foreign estate case are available on the Probate Division website at [www.dccourts.gov](http://www.dccourts.gov).

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**  
**PROBATE DIVISION**

\_\_\_\_\_ FEP \_\_\_\_\_

Estate of

\_\_\_\_\_  
Deceased

**APPOINTMENT OF AGENT TO ACCEPT SERVICE OF PROCESS**

I \_\_\_\_\_, personal representative of the estate of \_\_\_\_\_, deceased do hereby designate \_\_\_\_\_ as my agent, in the District of Columbia, with the mailing address shown below, on whom service of process may be made in like manner and with like effect as if it were personally served on me.

AS WITNESS my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Signature of Personal Representative

\_\_\_\_\_  
Typed Name of Attorney

\_\_\_\_\_  
Typed Name of Personal Representative

\_\_\_\_\_  
Address (Actual address/not Post Office Box)

\_\_\_\_\_  
Address (Actual address/not Post Office Box)

\_\_\_\_\_  
Telephone number

\_\_\_\_\_  
Telephone number

\_\_\_\_\_  
Unified Bar number

\_\_\_\_\_  
E-mail address (optional)

\_\_\_\_\_  
E-mail address (optional)

Signature of Agent in the District of Columbia
District of Columbia mailing address of Agent (Actual address/not Post Office Box)
Telephone number

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**  
**PROBATE DIVISION**

\_\_\_\_\_ FEP \_\_\_\_\_

\_\_\_\_\_ Date of Death \_\_\_\_\_

\_\_\_\_\_  
Name of Decedent

**NOTICE OF APPOINTMENT OF FOREIGN  
PERSONAL REPRESENTATIVE AND NOTICE TO CREDITORS**

\_\_\_\_\_ whose address(es) is/are \_\_\_\_\_  
\_\_\_\_\_ was/were appointed personal  
representative of the estate of \_\_\_\_\_, deceased, by  
the \_\_\_\_\_ Court for \_\_\_\_\_ County,  
State of \_\_\_\_\_, on \_\_\_\_\_.

Service of process may be made upon \_\_\_\_\_

\_\_\_\_\_  
(insert name and address of agent)

whose designation as District of Columbia agent has been filed with the Register of Wills, D.C.

The decedent owned the following District of Columbia real property: (Strike preceding sentence if no real estate) \_\_\_\_\_

The decedent owned District of Columbia personal property. (Strike preceding sentence if no personal property). Claims against the decedent may be presented to the undersigned and filed with the Register of Wills for the District of Columbia, 515 5<sup>th</sup> Street, N.W., 3<sup>rd</sup> Floor, Washington, D.C. 20001 within 6 months from the date of first publication of this notice.

Date of first publication: \_\_\_\_\_

\_\_\_\_\_  
Personal Representative(s)

Name of newspaper and/or periodical: \_\_\_\_\_  
Telephone number(s)

\_\_\_\_\_  
TRUE TEST COPY

\_\_\_\_\_  
REGISTER OF WILLS

## ***Frequently Asked Questions***

### **How much does it cost to open a foreign estate?**

The cost to open a foreign estate is \$25.00. The cost of a *Preliminary Certificate* is \$1.00, and the cost of a *Final Certificate* is \$10.00. Payment may be made in cash or by check or money order payable to "Register of Wills."

### **When is a foreign estate needed?**

When a person's estate is opened somewhere else than the District of Columbia, but the decedent owned real estate or had personal property, such as a bank account, in the District of Columbia.

### **How soon after the decedent's death must a foreign estate be opened?**

There is no set time.

### **Is bond required?**

Bond is required if the personal representative for the foreign estate wishes to remove, lease, or transfer personal, leasehold or real property located in the District of Columbia within the six-month claim period.

### **Who can serve as agent for the foreign personal representative?**

A person who lives or maintains an office in the District of Columbia can agree to serve as agent by filing the [Appointment of Agent to Accept Service of Process](#) form. A corporation with a D.C. business address may also be used as an agent, as long as the [Appointment of Agent to Accept Service of Process](#) form is executed by an authorized officer of the corporation. The Register of Wills cannot serve as agent.

### **Are notarized documents good enough? What is a triple-sealed document?**

Notarized or certified copies are not acceptable. The documents from the other state must be authenticated by that court in accordance with 28 U.S. Code, sec. 1738. Such authentication is commonly referred to as "triple-sealed" or "exemplified." An authenticated or triple-sealed document is one

that is signed and sealed by an appropriate Clerk of the Court, a Judge/Magistrate Judge, and an appropriate Clerk of the Court.

**What is a foreign will?**

A foreign will is a term used to describe a will that has been filed and accepted in a state or jurisdiction other than the District of Columbia.

**Can foreign estate proceeding be opened when the Court in the other jurisdiction has not appointed a personal representative?**

No; a foreign estate can only be opened in the District of Columbia if and when a personal representative has been appointed in the other jurisdiction.

**Is a personal representative appointed by Court in a foreign estate?  
Are letters of administration issued in a foreign estate?**

The Superior Court does not appoint a personal representative in a foreign estate and does not issue letters of administration. Rather, it recognizes the appointment made in the other state.

**How can I find out what the last day that claims may be filed is?**

The last day that claims can be filed is six months from the first date of publication of the [Notice of Appointment of Foreign Personal Representative and Notice to Creditors](#). The first date of publication of the notice is on the bottom left side of the notice, a copy of which is given to the filer at the time that the foreign estate is opened, is kept in the Court file, often called the jacket, and is visible as an image on the Court's Courtview computer system available at public access terminals in the Probate Division.

**How can I find out if any claims have been filed?**

It is possible to determine whether any claims have been filed by reviewing the contents of the case file (also called jacket), or by reviewing the docket in the Court's Courtview system or from your home computer via the [Court's Remote Access to Superior Court Dockets \(RASCD\)](#).

**What do I do as a foreign personal representative if a claim is filed?**

You should file the [Notice of Action Taken on Claim](#) form indicating whether



you are going to pay the claim in full, deny the claim, or pay the claim in part. Please be advised that in its decision on *Estate of Francisco Coll Monge*, 2000 FEP 108, the D.C. Court of Appeals determined that all creditors known to a personal representative have the same rights established under D.C. Code, sec. 20-343(d), whether the claim has been filed in the foreign estate proceeding in the District of Columbia or whether the claim has been filed in the original probate estate established for the decedent in the other state or jurisdiction. Accordingly, please consult with your attorney regarding any questions as to payment of a claim filed in a foreign estate proceeding.

### **Can I get a final certificate even if a claim has been filed?**

Pursuant to Superior Court Probate Division Rule 427(d), the Register of Wills may only issue a final certificate if all claims have been released.

### **Can I sue a personal representative appointed in a foreign estate in Washington, D.C.?**

In general, a foreign personal representative may sue and may be sued in D.C. pursuant to D.C. Code, sec. 20-342. You may file suit in D.C. against a foreign personal representative if the foreign personal representative has actual knowledge of a claim barred in another jurisdiction that does not rise to the level of a "final judgment" under the Full Faith and Credit Clause of the United States Constitution. See *Richard v. McGreary*, 136 DWLR 170 at pp. 1917-1919 (D.C. 9/2/08.) However, please consult with your counsel regarding issues of appropriate jurisdiction prior to filing suit against a foreign personal representative.

### **What is an "apostille"?**

An apostille is a certificate recognized under the *Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents*. It is used to authenticate legal documents from another country and is required under Superior Court Civil Division Rule 44(a)(2).

### **How do I get an apostille?**

Apostille copies of documents from a foreign country must be obtained from that country. You should consult with that country's embassy in the District

of Columbia to obtain a proper apostille. However, if the foreign country is not a party to the Hague Convention, an apostille must be obtained from the United States Embassy located in that foreign country, with a proper English translation when necessary, certified by an appropriately authorized translator as designated by the United States Department of State or the United States Department of Justice.

### **What documents need to be verified to be filed in the Probate Division?**

The following pleadings must be verified to be filed in the Probate Division:

1. All Petitions - SCR-PD 2(b) and 3
2. Complaints filed in Probate Matters - SCR-PD 107(a), and 208(a)
3. Accounts - D.C. Code 20-721
4. Inventories - D.C. Code 20-711
5. Guardian Reports - SCR-PD 328
6. Assignments - SCR-PD 120 and 420
7. Claims - D.C. Code 20-905(a)
8. Affidavits of Mailing and Non-Mailing in Standard Probate - SCR-PD 403(a)(8)
9. Any Affidavit - SCR-CIV 9
10. Verification and Certificate of Notice - SCR-PD 403(b)(3)
11. Certificate of Completion - SCR-PD 426

According to SCR-CIV 11, no other pleadings need be verified. Accordingly, motions, answers, responses and oppositions do not need to be verified.

### **What is the procedure for obtaining a foreign subpoena from the Probate Division?**

Submit a copy of the foreign subpoena, a completed Probate Division PBM subpoena form

[http://www.dccourts.gov/dccourts/superior/probate/case\\_type\\_fep.jsp#forms](http://www.dccourts.gov/dccourts/superior/probate/case_type_fep.jsp#forms), and a \$10.00 fee for each subpoena requested to the Probate Clerk's Office in the Probate Division on the third floor at 515 5th Street, NW,

Washington, DC. Make sure that the names, addresses, and telephone numbers of all counsel of record and of all parties not represented by counsel are included either in the foreign subpoena or on the second page of the PBM subpoena form. If medical records are being requested, the copy of the foreign subpoena must be certified, and the filer will be referred to Judge-in-Chambers for issuance of the subpoena.