

**Fact Pattern-
Primary Players**

- Decedent **DONNA**
- Husband/Ex of Decedent **HARRY**
- Adult Son **ANDY**
- Adult Daughter **DEBRA**
- Minor Daughter **MARY**
- Second Spouse of Decedent **SUE**

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**Fact Pattern-
Secondary Players**

- Child of Decedent but not Spouse
(spouse's step child) **SANDRA-DEE**
- Child of Spouse but not Decedent
(decedent's step child) **SHANE-SCOTT**
- Brother of Decedent **BOB**

General Assumption

Donna died domiciled in Massachusetts on
January 2, 2012 and it is now March 1, 2012.

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SUPERVISED ADMINISTRATION

Supervised administration is a
single proceeding for supervision of
the administration of the estate by
the PR under the continuing
authority of the court.

Supervised administration is most
like our current probate process.

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SUPERVISED ADMINISTRATION

Why would it be used?

- If required in the will
- In complex or large estates
- In hotly contested estates
- In estates where the PR will want Court approval on decisions during administration

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SUPERVISED ADMINISTRATION

Supervision may be ordered:

In the Formal Order of appointment;
OR

On a Petition brought thereafter.

It is a formal proceeding.

It requires a PR.

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SUPERVISED ADMINISTRATION

FILING REQUIREMENTS

Who can file:

Any interested person or the PR
already appointed

When can it be filed:

At any time, subject to the Statute of
Limitations on testacy proceedings
(generally 3 years from d/o/d), if no
PR has already been appointed.

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SUPERVISED ADMINISTRATION HOW IS IT FILED

Before Appointment of PR:

By Petition for Formal Appointment of a PR - with or without a will - which includes a prayer for Supervised Administration.

After Appointment of PR on Order of Informal Probate (with or without a will):

By Petition for Formal Appointment of a PR - with or without a will - which includes a prayer for Supervised Administration

After Appointment of PR on a Formal Order (with or without a will):

By Petition for Supervised Administration

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SUPERVISED ADMINISTRATION EFFECT ON DISTRIBUTIONS

In a Supervised administration there is a court appointed PR who has the same duties and powers as an unsupervised PR except for the power to make distributions.

A Supervised PR may not make distributions without a Court order.

The Court may order additional limitations on the Supervised PR's power.

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SUPERVISED ADMINISTRATION OTHER EFFECTS

Additional limitations or requirements can be imposed:

On the Formal Order of Appointment;
and/or

By subsequent Orders sought by **motion**.

Additional limitations or requirements on the supervised PR may include:

The filing of the Inventory

The filing of Interim Accounts

Restrictions on the PR's powers

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**SUPERVISED ADMINISTRATION
EFFECT ON FAMILY
PROTECTIONS**

The designation of exempt property is considered a claim, not a distribution, and does not require specific court approval.

Payment of the discretionary family allowance is a distribution which requires specific court approval.

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**SUPERVISED ADMINISTRATION
TERMINATION**

The supervision extends until entry of an order of complete settlement of the estate and discharge of the PR or other order terminating the proceeding.

BUT it may be terminated early upon a General Petition requesting the termination which may be allowed if all interested persons assent.

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**SUPERVISED PR
Fact Pattern 1**

Donna dies with a will leaving an estate worth about \$120,000 in personal property only. She is survived by her second spouse Sue and her two children from her first marriage: Andy and Debra. The will divides Donna's estate among Sue, Andy and Debra equally and names Sue as the PR, exempting her from providing sureties on the Bond. Andy and Debra do not trust their step-mother Sue and have concerns over her ability to manage their mother's estate. Sue has not yet been appointed PR but has filed a Petition for Informal Probate and Appointment.

Can Andy and Debra request a Magistrate to supervise the administration on the Informal Petition?

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SUPERVISED PR
Answer to Fact Pattern 1

No.
Since no PR has been appointed, Andy and/or Debra may only request a supervised administration by filing their own Petition for Formal Probate and Appointment with a prayer for supervised administration.

The Magistrate may not act on Sue's pending Petition for Informal Probate and Appointment as this Petition is stayed while Andy and/or Debra Petition for Formal Probate and Appointment is pending.

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SUPERVISED PR
Fact Pattern 2

CHANGE FACT PATTERN 1:
Sue was appointed as a PR on an Order of Informal Probate.

Can Andy and Debra now request the Court supervise the administration?

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SUPERVISED PR
Answer to Fact Pattern 2

Yes.
Although a PR (Sue) has been appointed, the appointment was made in an informal proceeding so Andy and/or Debra can still only request a supervised administration by filing their own Petition for Formal Appointment of PR with a prayer for supervised administration.

If Sue had been appointed by a Formal Order, Andy and/or Debra could only file a Petition for Supervised Administration.

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SUPERVISED PR

Fact Pattern 3

CHANGE FACT PATTERN 2:

Donna owned and operated an unincorporated bakery prior to her death. The Court has now issued a Formal Order Admitting the Will to Probate and Appointing Sue as PR in a supervised administration. Andy believes Sue is mismanaging the bakery. What are his options?

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SUPERVISED PR

Answer to Fact Pattern 3

Because the Formal Order of Appointment with supervision has already issued, Andy need only file a **motion** to ask the Court to further limit Sue's powers as PR. The Court could then issue a separate Order to modify Sue's powers (the modification must also be reflected on the Formal Order of Appointment).

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SUPERVISED PR

Fact Pattern 4

CHANGE FACT PATTERN 2:

The Court has not yet issued the Formal Order Admitting the Will to Probate and Appointing Sue as PR in a supervised administration. Andy believes Sue is mismanaging the bakery. What are his options?

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SUPERVISED PR
Answer to Fact Pattern 4

If the Formal Order of Appointment has not yet issued, the Court could consider Andy's requested limitations at the time of Sue's appointment. If Andy's Petition only prayed for a supervised administration, Sue would only be prohibited from making distributions, not from continuing the bakery business (since continuing the business is one of the powers given to a PR). To request this, or any other additional limitations after the Petition is filed, Andy would need to amend his petition by motion.

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