

**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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**SUCCESSOR PERSONAL
REPRESENTATIVE**

Termination of PR's Appointment

Termination of a PR's appointment occurs
without court action upon:

- Death of PR
- Appointment of a guardian or
conservator of the PR
- Subsequent appointment of a PR
accompanying a change of testacy
status.

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**SUCCESSOR PERSONAL
REPRESENTATIVE**

Termination of PR's Appointment

Termination of a PR's appointment occurs with court action upon:

- Acceptance of resignation (reserved)
- Removal for cause

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**SUCCESSOR PERSONAL
REPRESENTATIVE**

Appointment

INFORMAL

In Informal proceedings for appointment of a Successor PR, the Rules of Priority apply to the **PETITIONER** as well as to the person who will be appointed.

FORMAL

In Formal proceedings, any interested person may be Petitioner. The Rules of Priority apply **ONLY** to the person who will be appointed.

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**SUCCESSOR PERSONAL
REPRESENTATIVE**

Appointment

The guardian/conservator of an IP or PP PR who HAS his or her own individual priority may seek the appointment of a successor PR by filing a Petition for Informal Appointment of Successor PR.

The guardian/conservator of an IP or PP PR who DOES NOT HAVE his or her own individual priority may seek appointment of a successor PR only by filing a Petition for Formal Appointment of Successor PR.

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SUCCESSOR PR

Fact Pattern 1

Donna dies, survived by her spouse, Harry, and their two children, Andy and Debra. Donna's will nominates Harry, and if not, Debra, as PR. Donna's will leaves half of her estate to Harry, and half to Debra and Andy equally. The will is probated and Harry is appointed PR. Six months after Harry is appointed as PR, Andy is appointed as Harry's guardian.

What are Andy's and Debra's options?

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SUCCESSOR PR

Answer to Fact Pattern 1

Debra may petition for INFORMAL appointment as Successor PR because she has priority as the named alternate PR. Andy may represent Harry's interests as guardian because Andy is not the petitioner. Andy may consent for Harry, and for himself, to Debra's appointment.

If Andy objects to Debra's informal appointment, he must file a FORMAL proceeding for the appointment of a successor PR.

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**SUCCESSOR PR
FACT PATTERN 2**

CHANGE FACT PATTERN 1:
Donna's will named Attorney as PR, and no alternate. Attorney is appointed PR and then is placed under guardianship.

What are the Guardian's options?

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SUCCESSOR PR
Answer to Fact Pattern 2

Attorney's Guardian has the obligation to maintain and protect Donna's estate, and to turn it over to a Successor or Special PR. Except as the named PR in Donna's will, Attorney had no priority, and had no right to nominate. Attorney's Guardian therefore also has no priority or right to nominate.

The next person on the priority ladder may file his or her own petition seeking to be appointed Successor PR but if they do not, Attorney's Guardian may file a Formal petition asking the court to appoint a Successor PR (with or without priority) and may request the appointment of a Special PR until the PR is appointed.

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