

## Limited Objection Period Upheld For Nonqualified Personal Representatives [Florida]

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Individuals who were not domiciled in Florida are not eligible to serve as a Personal Representative of a Florida decedent, except under limited circumstances (e.g., if they are related within certain stated family relationships to the decedent). Fla. Stats. Section 733.304. Florida law also provides that persons who are served a copy of the Notice of Administration must file an objection to the appointment of a Personal Representative within three months of service. Fla.Stats. Section 733.212(3).

A recent Florida Supreme Court case took on the question whether the three-month objection period applies to a challenge of an individual to serve as Personal Representative when that person is not within the class of persons authorized to serve as a Personal Representative (in this case, because he was not domiciled within Florida and was not within the requisite family relationship). The Supreme Court took on the case due to a split between appellate courts on this question.

The Court determined that the three-month objection period does apply.

This is an important case because many times estate beneficiaries do not engage counsel to assist them until a dispute or problem arises, and that often occurs beyond the three-month objection. At that time, their counsel may note that the Personal Representative is not qualified to serve. Per this decision, in most cases it will now be too late to seek the removal of the Personal Representative as a disqualified person under the statute.

The door to objections is not completely closed, however. The opinion is clear that if there was fraud or misrepresentation relating to the petition for administration, a later action for removal should not be time-barred.

*Hill v. Davis*, Fla. Supreme Court case No. SC 10-823, September 2, 2011

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