



CIRCUIT COURT OF OREGON
THIRD JUDICIAL DISTRICT
MARION COUNTY COURTHOUSE
P.O. BOX 12869
SALEM, OREGON 97309-0869

January 25, 2019

**Policy Requiring Probate if the Debtor in a Foreclosure is Deceased,
Requiring a bond for PRs Nominated by Creditors in Foreclosure Cases,
and Setting Restrictions and Duties of PRs Nominated by Creditors**

In the past, different Marion County judges took different positions as to whether a probate was required in a foreclosure case where the debtor was deceased. The Marion County bench has now agreed on a ***court-wide policy requiring a probate if the debtor in a foreclosure case is deceased.***

Additionally, ***the court will no longer waive bond for PRs nominated by a creditor in a foreclosure case.*** A \$50,000 bond will be required. In addition, ***the PR will be restricted from selling or conveying the property, or defaulting in a foreclosure action, without prior court approval.***

The PR shall exercise due diligence to locate any will. This would include, at a minimum, accessing any safe deposit held by the decedent; reviewing any personal papers of the decedent left in the residence, including anything containing the name of any attorney; and contacting any friends or relatives located through social media or through decedent's obituary to inquire whether anyone has knowledge of a will.

The PR must also exercise due diligence to determine the identity and location of any heirs. This is required even if there is a will as heirs are required to receive notice. This would include, at a minimum, reviewing any personal papers of the decedent left in the residence, which appear to contain information regarding relatives; searching social media (e.g. Google, Facebook, Peoplefinder); reviewing decedent's obituary; reviewing the death certificate; contacting the mortuary to inquire who was involved with the funeral arrangements. The court may, in its discretion, require a formal heir search.

The PR must exercise due diligence to determine, protect, and maximize the value of, any assets of the estate. The court expects the PR to:

1. Have a market analysis done on the real property;
2. Personally, or through an assistant, visit the property, assess the condition of the property, and look for personal property as well as any documents that might indicate other non-tangible personal property like bank accounts;

3. Check social media to look for heirs/relatives and to find any profiles of decedent that might demonstrate that there should be personal property;
4. Fill out a mail forwarding request with the post office so that account statements, tax documents etc. will be sent to PR;
5. Access DMV records and should search for titles to any vehicles or mobile homes
6. Obtain an income transcript from the IRS;
7. Search for unclaimed assets. See Oregon State Bar, *Administering Oregon Estates* (2012 with 2018 revisions), section 7.4-1.