

Claims By and Against Estates

This seminar will present a guide to prosecuting and defending claims by and against an estate and explore specific areas of advanced estate issues including:

- The personal representative's duties regarding the evaluation of claims and conduct of litigation
- The proper and necessary parties to assert a claim against an estate
- Probate aspects of wrongful death claims

Friday, March 12, 2004

Oregon Convention Center
777 NE Martin Luther King Jr., Blvd.
Portland, Oregon

3.75 MCLE Credits

SCHEDULE

8:00 a.m. LATE REGISTRATION AND DISTRIBUTION OF MATERIALS

8:25 WELCOME AND INTRODUCTION

8:30 - 9:00 **Role of the Personal Representative and Administration of Claims**

- The personal representative's duty to marshal assets and to search for and notify claimants (and personal liability for breach thereof)
- Duty to preserve an estate for the benefit of creditors but to defend against their claims
- General duties, as a fiduciary, regarding the conduct of litigation
- Reporting unadjudicated claims on inventory
- Handling secured obligations
- Claims against and by estate beneficiaries
- Claims by personal representative
- Timing, priority, and apportionment issues relating to payment of allowed claims
- When is interest owed on allowed claims
- Closing estate when there are contingent claims or debts not yet due
– *Emily V. Karr*

9:00 - 9:15

Statutes of Limitations

- Statutes of limitation and tolling rules applicable to claims by an estate
- Statutes of limitation, tolling rules, and nonclaim statutes affecting the presentation, allowance/disallowance, and prosecution by separate action or summary determination of claims against an estate
- Due Process Clause issues relating to such limitations
– *Margaret Fiorino*

9:15 - 9:45

Real Party in Interest

- Proper and real parties in interest to enforce a decedent's rights arising from premortem events (*Hendrickson v. Warburton*)
- Proper and necessary parties to assert a claim against an estate
– *James R. Cartwright*
– *Stephen L. Griffith*

9:45 - 10:00

Unique Evidentiary Issues

- Admissibility of statements by the decedent
- The statutory requirement that testimony of a claimant be corroborated
- Undecided issues raised by the language and legislative history of ORS 115.195
– *Stephen L. Griffith*

10:00 - 10:15

BREAK

SCHEDULE *(cont.)*

- 10:15 - 10:45 **Claims Against Revocable Inter-vivos Trusts**
- In general
 - New non-claim statute
– *Bernard F. Vail*
- 10:45 - 11:45 **Probate Aspects of Wrongful Death Claims**
- Ethical issues for personal representative's counsel
 - Operation of the apportionment statute
 - Common problems in wrongful death claims
 - Tips to simplify probates without other assets
– *Brooks F. Cooper*
- 11:45 - 12:15 **Federal Tax Considerations**
- Calculation of estate tax owing when estate claims are pending
 - Inclusion in an estate of the value of claims asserted by estate beneficiaries
 - Income and estate tax aspects of settling estate claims
– *Christopher D. Wright*
- 12:15 ADJOURN

Program Faculty

James R. Cartwright

*Program Co-Planner
Cartwright & Associates*

Brooks F. Cooper

Cartwright & Associates

Maragret Fiorino

Attorney at Law

Stephen L. Griffith

*Program Co-Planner
Stoel Rives LLP*

Emily V. Karr

Stoel Rives LLP

Bernard F. Vail

Lewis & Clark Law School

Christopher D. Wright, CPA

Christopher D. Wright, P.C.

LIVE PRESENTATION

Portland – 3/12/04

Oregon Convention Center
777 NE MLK Jr. Blvd.

MCLE CREDIT

Claims By and Against Estates will receive **3.75** General MCLE credits.

PROGRAM TAPES

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VIDEO REPLAYS

Please register at least one week prior to the replay date.

Bend – 3/26/03

Replay 8:30 a.m.
Bryant Lovlien & Jarvis
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Eugene – 3/19/03

Replay 8:30 a.m.
Harrang Long Gary & Rudnick, P.C.
360 East 10th Avenue, Ste. 300

Medford – 3/19/03

Replay 8:30 a.m.
Offices of Claudette Yost
916 W. 10th Street

Pendleton – 3/25/03

Replay 9:00 a.m.
Corey, Byler & Rew
222 S.E. Dorion

Portland – 3/30/03

Replay 9:00 a.m.
Oregon Law Institute
Gus J. Solomon Courthouse,
620 S.W. Main St., Suite 706

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Friday, March 12, 2004

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Firm/Organization _____

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Please "✓" appropriate box below:

 Live presentation Video replay. Location: _____ Date: _____

TUITION

(Prices apply to live and video replays.)

- \$129 "Early Bird" tuition (received by March 8, 2004).
- \$109 "Early Bird" tuition for new attorneys (admitted 2002–2003), paralegals, or secretaries (received by March 8, 2004).
- \$ 15 OLI Annual Pass holder (Annual Pass No. _____).
- \$ 20 Add to above tuition if registration received *after* March 8, 2004.

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I am unable to attend. Please send me:

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CONFIRMATION: Confirmation will be sent via e-mail or fax.**CANCELLATION POLICY:** Tuition minus a \$20 handling charge will be refunded if the cancellation request is *written and received* by March 9, 2004.**NEED ASSISTANCE:** If you are a person with a disability, please let OLI know in time to make any necessary accommodations for you.**TUITION ASSISTANCE:** A limited number of scholarships are available based on financial need. Contact OLI.