

§1-403. Pleadings; when parties bound by others; notice

In formal proceedings involving trusts or estates of decedents, minors, protected persons or incapacitated persons, and in judicially supervised settlements, the following provisions apply. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

1. Pleadings. Interests to be affected must be described in pleadings that give reasonable information to owners by name or class, by reference to the instrument creating the interests or in some other appropriate manner.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Orders binding another person. A person is bound by an order binding another person in the following cases.

A. An order binding the sole holder or all coholders of a power of revocation or a presently exercisable general power of appointment, including one in the form of a power of amendment, binds other persons to the extent their interests, as objects or takers in default or otherwise, are subject to the power. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. To the extent there is no conflict of interest between them or among persons represented:

(1) An order binding a conservator binds the person whose estate the conservator controls;

(2) An order binding a guardian binds the ward if no conservator of the ward's estate has been appointed;

(3) An order binding a trustee binds beneficiaries of the trust in proceedings to probate a will establishing or adding to a trust, in proceedings to review the acts or accounts of a prior fiduciary and in proceedings involving creditors or other 3rd parties;

(4) An order binding a personal representative binds persons interested in the undistributed assets of a decedent's estate in actions or proceedings by or against the estate; and

(5) An order binding a sole holder or all coholders of a general testamentary power of appointment binds other persons to the extent their interests, as objects or takers in default or otherwise, are subject to the power. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Unless otherwise represented, a minor, an incapacitated person or an unborn or unascertained person is bound by an order to the extent the person's interest is adequately represented by another party having a substantially identical interest in the proceeding. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

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3. Representation of minors. If a conservator or guardian has not been appointed, a parent may represent a minor.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Notice. Notice is required as follows:

A. Notice as prescribed by section 1-401 must be given to every interested person or to a person who may bind an interested person as described in subsection 2, paragraph A or B. Notice may be given both to a person and to another person who may bind the person; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Notice must be given to unborn or unascertained persons who are not represented under subsection 2, paragraph A or B by giving notice to all known persons whose interests in the proceedings are substantially identical to those of the unborn or unascertained persons. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Appointment of guardian ad litem. At any point in a proceeding, a court may appoint a guardian ad litem to represent the interest of a minor, an incapacitated person or an unborn or unascertained person if the court determines that representation of the interest otherwise would be inadequate. If not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several persons or interests. The court shall set out its reasons for appointing a guardian ad litem as a part of the record or the proceeding.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

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