

## SPECIAL ADMINISTRATOR – REQUIRED DOCUMENTS

Petitions to appoint a special administrator pursuant to the Wrongful Death Act 740 ILCS 180/1 may be emailed to Judge Flannery’s law clerk at [law.cal2005cc@cookcountyl.gov](mailto:law.cal2005cc@cookcountyl.gov) or brought to Room 2003 Monday-Friday.

In order for an individual to be appointed a special administrator, the movant must provide the Court with:

- The Petition to Appoint Special Administrator
- The Complaint the Petitioner seeks to file
- A proposed Order granting the Petition emailed in a Microsoft Word document

**Note:** Each document must contain certain information for it to be approved by Judge Flannery.

- Petition:

- The following language **MUST** be in the petition, pursuant to 740 ILCS 180/2.1:

*\*See note at the bottom of this page for guidance if not filing under 740 ILCS 180/2.1 Wrongful Death Act\**

- “Due notice has been provided to all heirs and legatees.”
  - List the heirs and legatees, their relation to the deceased, and whether each is an adult or minor.
  - Notice of petition to appoint special administrator **MUST** be provided to the heirs and legatees prior to presentment.
- “No petition for letters of office have been filed.”
- “This cause of action is the sole asset of the deceased’s estate.”
- The petition must be brought by the next-of-kin of the decedent. However, the individual to be appointed as special administrator does not have to be a next-of kin.
  - For example, if the decedent was married, his/her spouse must be the party who brings the petition, but they can appoint another individual.

- Complaint:

- The complaint can only allege causes of action arising under the Wrongful Death Act. 740 ILCS 180/1.
  - A special administrator possesses the authority to prosecute **ONLY** Wrongful Death causes of action and no other causes of action, including survival actions. See *Baez v. Rosenberg*, 409 Ill. App. 3d 525,532 (1st Dist. 2011).
  - If there are non-wrongful death counts (ex. **Survival Action**), those complaints must be filed with Judge Malone in Probate in Courtroom 1803.
  - The only exception is a cause of action arising under the Dram Shop Act. 235 ILCS 5/6-21; See *Knierim v. Izzo*, 22 Ill. 2d 73 (1961).

- Order:

- The order must state: “Due notice has been provided to all heirs and legatees.”
- The order must appoint the individual as special administrator to prosecute actions under the Wrongful Death Act, 740 ILCS 180/1.

**NOTE:** If the movant is seeking to appoint a **special representative** under **735 ILCS 5/2-1008** (a party to a lawsuit passes away during the pendency of a case) or **735 ILCS 5/13-209** (a potential plaintiff or defendant has passed away before a lawsuit has been commenced), please refer to Special Representative – Required Documents.