

**PETITION TO DETERMINE PRETERMITTED SPOUSE**

Estate of: \_\_\_\_\_

Case No.: \_\_\_\_\_

Date: \_\_\_\_\_

Attorney: \_\_\_\_\_

§732.301 Fla. Stat. - Pretermitted spouse shall receive a share equal to that of a surviving spouse through intestate succession

*Estate of Duggan*, 639 So. 2d 1071 (Fla. 4th DCA 1994), postnuptial valid in spite of reconciliation

*Putnam v. Via*, 638 So. 2d 981 (Fla. 2nd DCA 1994)(*app.* 646 So.2d 460 (Fla. 1995), mutual will does not affect pretermitted spouse's rights

*Spangenberg v. Spangenberg*, 561 So. 2d 315 (Fla. 2d DCA 1990), Prenuptial agreement

*Estate of Norem*, 561 So. 2d 434 (Fla. 4th DCA 1990), provision in will for spouse made in contemplation of marriage, prevents pretermitted spouse status

**CHECKLIST**

|                          |  |
|--------------------------|--|
| <input type="checkbox"/> | Decedent married after making will   |
| <input type="checkbox"/> | No provision was made for or waived by the spouse by prenuptial or postnuptial agreement |
| <input type="checkbox"/> | The spouse is not provided for in the will   |
| <input type="checkbox"/> | The will does not disclose an intention to not make a provision for the spouse           |
| <input type="checkbox"/> | Notice to all benes [5.041(a)]   |
| <input type="checkbox"/> | Order correctly assigns proper intestate share to spouse                                 |

| Beneficiaries | Creditors |
|---------------|-----------|
|               |           |
|               |           |
|               |           |

COMMENTS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

RECOMMENDATION: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_