Document(1)

1. 1-11 LN Practice Guide: FL Estate & Probate Practice § 11.54

Client/matter: -None-
Codicil Re-Publishing Defective Will

FIRST CODICIL TO THE LAST WILL AND TESTAMENT OF ____________________ [name of testator]

WHEREAS, I, ____________________ [name of testator], a citizen of the United States of America and a resident of and domiciled in the State of Florida, on the ____________________ [date of execution of existing will], executed my Last Will and Testament in the presence of ____________________ witnesses; and

WHEREAS, I intend by this instrument to republish my Last Will and Testament;

NOW, THEREFORE, I make this First Codicil to my Last Will and Testament to republish all the terms of that Will dated ____________________ [date of execution of existing will]:

There exists the possibility that my original will was not executed in accordance with the formalities required under Florida Statutes Section 732.502 for a valid will ____________________ [state reasons that original last will and testament may have not been executed in accordance with statutory formalities]. Therefore, I now republish each existing provision of my original Will, which is incorporated herein by reference.

[CONTINUE WITH:]

IN WITNESS WHEREOF, I, ____________________ [name of testator], execute this instrument, consisting of ____________________ [number] pages, as a First Codicil to my Last Will and Testament dated ____________________ [date of execution of existing will], and on the ____________________ [page number, e.g., second] page I sign my name, this ____________________ [date].

____________________ [signature of testator]  
____________________ [name of testator]

Note:

This form is used to effectively republish the provisions of the testator’s original will if the formalities of execution were not met. The testator’s desire to republish must appear on the face of the codicil. If the codicil is executed following requisite formalities the will is treated as republished on the date the codicil is executed and is admissible to probate without challenge to its validity on the issue of execution. The codicil should be permanently attached to the defective will so that proof of republication is readily ascertainable by a probate court. Counsel should also consider having the testator execute a new copy of the will to revoke and replace the improperly executed one.

This form can be adapted for a codicil to republish a will that was executed when the testator may have lacked testamentary capacity.