

**PRESS RELEASE**

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***For immediate release***

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**New Law Creates Uniformity in Discovery for Accounting Proceedings**

Farrell Fritz, P.C. trusts and estates attorneys, Ilene S. Cooper and Joseph T. La Ferlita, were instrumental in initiating and spearheading an amendment to Surrogate's Court Procedure Act (SCPA) § 2211. It became law as Chapter 470 of the Laws of 2007 on August 1, 2007. The amendment creates uniformity among the various Surrogate Courts ensuring that potential objectants will be able to make informed decisions as to whether objections should be filed.

SCPA § 2211 relates, in part, to pre-objection discovery in accounting proceedings. Prior to the amendment, the statute explicitly allowed potential objectants to depose accounting fiduciaries before or after filing objections to the account. Unlike SCPA § 1404, which deals with probate proceedings and explicitly allows pre-objection document discovery, SCPA § 2211 did not. Moreover, some Surrogates allowed such pre-objection document discovery while others did not, thus resulting in uncertainty among trusts and estates practitioners.

This amendment is in keeping with the legislative history of SCPA 2211, which had policy underpinnings similar to those of SCPA § 1404. One such policy facilitated liberal disclosure before objections are filed so that the potential objectant can make a more informed decision about filing objections. While SCPA § 1404 was amended relatively recently to allow pre-objection document discovery in probate proceedings, SCPA § 2211 was not. The amendment conforms SCPA § 2211 to its original policy of liberal disclosure by facilitating an informed decision regarding the filing of objections to an account and reducing the uncertainty surrounding the law as it previously existed.

Ilene S. Cooper is a partner who concentrates her practice in trusts and estates. She is a Fellow of the American College of Trusts and Estates Council, an Adjunct Professor of Law at Touro Law School, and a Delegate-at-Large of the Trusts and Estates Law Section of the New York State Bar Association.

Joseph T. La Ferlita is an associate who concentrates his practice in trusts and estates. He is Vice Chair of the Surrogate's Court Committee and a Member of the Estate Administration Committee of the Trusts and Estates Law Section of the New York State Bar Association.

**About Farrell Fritz**

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