

Part 3 Representation

75-7-301 Basic effect.

- (1) Notice to a person who may represent and bind another person under this part has the same effect as if notice were given directly to the other person.
- (2) The consent of a person who may represent and bind another person under this part is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.
- (3) Except as otherwise provided in Sections 75-7-411 and 25-6-14, a person who under this part may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

Repealed and Re-enacted by Chapter 89, 2004 General Session

75-7-302 Representation by holder of general testamentary power of appointment.

To the extent there is no conflict of interest between the holder of a general testamentary power of appointment and the persons represented with respect to the particular question or dispute, the holder may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power.

Repealed and Re-enacted by Chapter 89, 2004 General Session

75-7-303 Representation by fiduciaries and parents.

To the extent there is no conflict of interest between the representative and the person represented or among those being represented with respect to a particular question or dispute:

- (1) a conservator may represent and bind the protected person whose estate the conservator controls;
- (2) a guardian may represent and bind the ward if a conservator of the ward's estate has not been appointed;
- (3) an agent having authority to act with respect to the particular question or dispute may represent and bind the principal;
- (4) a trustee may represent and bind the beneficiaries of the trust;
- (5) a personal representative of a decedent's estate may represent and bind persons interested in the estate; and
- (6) a parent may represent and bind the parent's minor or unborn child if a conservator or guardian for the child has not been appointed.

Repealed and Re-enacted by Chapter 89, 2004 General Session

75-7-304 Representation by person having substantially identical interest.

Unless otherwise represented, a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by another having a substantially identical interest with respect to the particular question or dispute, but only to the extent there is no conflict of interest between the representative and the person represented.

Repealed and Re-enacted by Chapter 89, 2004 General Session

75-7-305 Appointment of guardian ad litem or other representative.

- (1) If the court determines that an interest is not represented under this part, or that the otherwise available representation might be inadequate, the court may appoint a guardian ad litem or other representative to receive notice, give consent, and otherwise represent, bind, and act on behalf of a minor, incapacitated or protected person, or unborn individual, or a person whose identity or location is unknown. A guardian ad litem or other representative may be appointed to represent several persons or interests.
- (2) A guardian ad litem or other representative may act on behalf of the individual represented with respect to any matter arising under this chapter, whether or not a judicial proceeding concerning the trust is pending.
- (3) In making decisions, a guardian ad litem or other representative may consider general benefit accruing to the living members of the individual's family.

Repealed and Re-enacted by Chapter 89, 2004 General Session