

New Jersey Law on Payment of Attorneys Fees for Services Rendered on Behalf of the Estate and/or the Executor:

The duty of an Administrator and/or Executor is to do what is necessary for the administration of the Estate with the degree of care, prudence, circumspection, and foresight that an ordinary prudent person would employ in matters of his own. *See, In the Matter of the Estate of Risica*, 432 A.2d. 549 (N.J. Super. 1981). For example, pursuant to N.J.S.A. 3B:14-23(q), every Fiduciary shall in the exercise of good faith “execute and deliver agreements, . . . , deeds, notes, receipts and any other instrument necessary or appropriate for the administration of the Estate. *See*, N.J.S.A. 3B:14-23(q). Pursuant to N.J.S.A. 3B:14-23(s), every Fiduciary shall in the exercise of good faith “distribute in kind any property of the estate . . . as provided in Article I of Chapter 23. *See*, N.J.S.A. 3B:14-23(s). However, work which is beyond the ordinary or reasonably expected skill and ability of a Fiduciary (i.e., Administrator/ Executor) may be supplied by an expert retained by the Fiduciary where necessary or advisable and the expert will be paid from the estate. *Id.* Where a Will authorizes the Executor to retain professionals to prepare taxes, an accounting, or provide legal services, said expenses should be paid by or charged to the Estate. *See, In Re Estate of Summerlyn*, 743 A.2d. 321 (N.J. Super. 2000), *citing, In Re Risica’s Estate*, 432 A. 2d. 549 (N.J. Super. 1981).

In particular, pursuant to N.J.S.A. 3B:14-23(l), every Fiduciary shall in the exercise of good faith “employ and compensate attorneys for services rendered to the Estate . . . or the Fiduciary in the performance of the Fiduciaries’ duties.” *See, In Re Estate of Risica*, 179 N.J. Super. 452, 455-56 (N.J. Super, App. Div., 1981), *citing*, N.J.S.A. 3B:14-23(l). Thus, an Executor has the power to employ and compensate an attorney for services rendered to the Estate or the Executor in the performance of his/her duties. *See*, N.J.S.A. 3B:18-14. However, work or services which do not require expert attention or professional skill cannot be delegated but must be performed by the Fiduciary and compensated only by way of his commissions. *See, In the Matter of the Estate of Risica*, 432 A.2d. 549 (N.J. Super. 1981). The burden of proof is on the Fiduciary to establish to the satisfaction of the Court that the services of the expert qualify for payment from the Estate. *Id.*