

Fees and Legalese in San Mateo County Probate

By Janet Brewer

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Of all the topics I cover at this blog, probate seems to involve the most legalese. It's an ongoing challenge to translate legal jargon into examples and tips that make sense to non-lawyers. So I am glad to see that a new TV show called "Trial & Heirs", is in the works. PBS will stream an episode in August, and it starts airing nationally in December. While I don't litigate, I hope the shows highlights how wills, trusts, and other elements of estate planning affect real people... and prompt more families to do sound planning.

Avoiding probate is important because probate adds stress, costs (including court filing fees), and other pressures on loved ones during a period that is already painful. In brief, get a comprehensive will and living trust in place and review them about every three years with an eye to whether your situation (or the tax law) has changed.

If you must deal with probate - an example

Suppose your relative, Roger, passes on at his home in Redwood City, and you learn that you are named in his will. Because he did not have a living trust, you will probably be involved in the probate of Roger's estate.

Probate is a legal procedure that identifies the heirs to an estate and determines how much of that estate the heirs are legally entitled to receive. It is used to sort out how much you owe to your creditors, to pay them, and to officially prove your Will is genuine (or to determine who should receive your property if you die without a Will).

Roger's estate must be probated in the county where he died. So Roger's Will should be filed with the Clerk of the San Mateo County Probate Court -- within 30 days after his death -- in Room B on the first floor of the Hall of Justice at 400 County Center in Redwood City.

Since Robert's will named beneficiaries, the representative filing the form fills out a "Petition to Probate Decedent's Estate". Filing it out requires:

- Name of the personal representative who will oversee the estate
- Estimated value of the decedent's estate
- Names and addresses of the beneficiaries designated in the will
- Names and addresses of all legal heirs

Once the representative files the petition, the court sends a Notice of Petition to all parties named in the petition, publishes a notice in the newspaper, and sets a hearing date.

(If Roger died without a will -- or "intestate" -- the court may "administer" his estate. In such cases, rather than filing a Petition to Probate Decedent's Estate, the petitioner would file a "Petition to Administer Estate".)

After the hearing, the probate judge will enter an order granting or denying the petition. If the petition is granted, and all the required documents have been filed with the court, the court will issue Letters Testamentary (or Letters of Administration in cases involving an intestate estate).

Legalese, hearing dates, and more

As I said earlier, probate involves a ton of legalese. The Court provides some help navigating the process, including a link regarding Initial Petition documents. But on the subject of being your own lawyer it clearly states,

"...before taking any legal action it is highly advisable to consult with a lawyer who can inform you about important legal rights. An experienced attorney may be able to quickly assess your situation and highlight the best course of action to assert or protect your interests. Failure to consult with an attorney may result in unnecessary delays or costly measures in the future to remedy errors."

Getting legal help

Probate is often more complex, more stressful, and more time consuming in cases involving especially large estates (say \$5M or more). If you face such a probate, hire the best San Mateo

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<http://www.calprobate.com/blog/>

County probate attorney you can for legal help! He or she can represent you in all aspects of the probate process, from initial filing of the will and petition to closure.

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