

## What Do I Need to Bring to an Attorney to Probate an Estate?

*First and foremost, our condolences to you and your family on the loss of your loved one. We understand that this is not an easy time and we hope that this checklist is of help to you as you prepare to meet with your attorney.*

*Sincerely,*

*Patricia Nagle and Lauren Caisse*

### *Legal Matters*

**A frequently asked question is, “Do we really have to go through probate?”** Probate is the process through which a court determines how to distribute your property after you die. Some assets are distributed to heirs by the court (probate assets) and some assets bypass the court process and go directly to the beneficiaries (non-probate assets).

Generally speaking, Probate will be necessary in the following circumstances:

- Obtain marketable title to real estate held in the name of the decedent alone or as a tenant in common;
- Transfer title of decedent’s individually-held assets such as stocks, bonds, bank accounts, etc.;
- Collect all estate assets (including life insurance or retirement funds payable to the decedent’s estate and debts due to the deceased);
- Obtain the legal authority (Probate Court) to distribute personal property and real property to devisees;
- Satisfy creditors of the deceased; and
- **In certain cases, to determine the decedent’s heirs at law.**

### *Nonlegal Matters*

- If there is a surviving spouse, minor children, or both, apply for Social Security death **benefits, veteran’s** benefits, or both, as appropriate.
- If decedent was receiving Social Security benefits, notify the Social Security Administration.
- Check on the sufficiency of fire, liability and casualty insurance of the home owned by decedent. If the home is now vacant, notify the insurer immediately so that proper coverage can be placed on the home so as to avoid coverage disputes later.
- File life insurance claims on behalf of beneficiaries and obtain several copies of IRS Form 712 for each claim paid.
- Secure any valuable personal property or real estate from fire or theft.

*Below is a list of items that you should bring to your meeting with your attorney in order to determine if your loved one's estate needs to be probated:*

- The original Will, if any, and any original codicils (amendments) that were made to that Will.
- Certified death certificate of decedent.
- Last bank statement for each account held by decedent, and ask – or otherwise obtain from - **the bank(s) how the decedent's account was titled (i.e., joint with another person? Decedent's sole name?)**
- Copies of Life Insurance policies which name the beneficiary(ies).
- Retirement (IRAs, 401(k)s, 403(b)s) and investment (stocks, bonds, mutual funds) accounts – last statement of each account, how accounts are held (i.e., Decedent's sole name or joint with another), and a copy of the beneficiary designation for each account.
- List of addresses for real estate owned by the decedent.

*In addition to the above, your attorney will need to know the following:*

- Decedent's Domicile** – Where decedent had a true fixed, permanent home and principal establishment and to which, whenever absent, he or she has the intention of returning.
  - Where did the decedent live when he/she passed?  
\_\_\_\_\_
  - Was he/she in a nursing home but still owned his/her own home? \_\_\_\_\_
- Decedent's Personal History**
  - Date and place of birth \_\_\_\_\_
  - Social Security Number \_\_\_\_\_
  - Occupation \_\_\_\_\_
  - Marital status \_\_\_\_\_  
(if decedent was divorced, a copy of the divorce agreement will be needed)
  - Citizenship of surviving spouse? \_\_\_\_\_
  - Child support being paid by decedent? \_\_\_\_\_  
(if decedent was paying child support, a copy of the custody agreement will be needed)
  - Recent medical history \_\_\_\_\_
  - Did decedent ever receive Medicaid benefits? \_\_\_\_\_
  - Veteran number \_\_\_\_\_
  - Copies of recent personal income tax returns and/or contact information for **decedent's accountant**
  - Information about any gifts the decedent may have made during life and copies of any gift tax returns
  - Information about any trusts of which the decedent was either a beneficiary or a trustee
- Decedent's Assets & Liabilities**
  - Preliminary list of decedent's assets and liabilities, including any passwords, online accounts, and digital property.**
  - Did decedent have a safe deposit box at a banking institution? \_\_\_\_\_  
If yes, was the safe deposit box in his/her sole name? \_\_\_\_\_

**Decedent's Family**

Spouse

Name: \_\_\_\_\_ Living? \_\_\_ Yes \_\_\_ No

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Children

Name: \_\_\_\_\_ Living? \_\_\_ Yes \_\_\_ No

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Name: \_\_\_\_\_ Living? \_\_\_ Yes \_\_\_ No

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Name: \_\_\_\_\_ Living? \_\_\_ Yes \_\_\_ No

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Name: \_\_\_\_\_ Living? \_\_\_ Yes \_\_\_ No

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

\* Identify any adopted children and any children that may have been born outside of marriage.

Children of Deceased Children

Name: \_\_\_\_\_ Living? \_\_\_ Yes \_\_\_ No

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Parent(s) (only list if decedent had NO Spouse and NO Children)

Name: \_\_\_\_\_ Living? \_\_\_ Yes \_\_\_ No

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

- Sibling(s) (only list if decedent had NO Spouse, NO Children, and NO surviving Parents)

Name: \_\_\_\_\_ Living? \_\_\_ Yes \_\_\_ No

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

- If decedent had no one surviving in the above five categories, list any known next of kin of decedent.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\* If any of the above heirs at law are incapacitated or otherwise under the guardianship of another person, please let your attorney know.

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Note: Please do not send personal information (such as social security numbers, account numbers, and loan numbers) via unsecure e-mail as this may lead to fraud. Please either send via secure e-mail or facsimile transmission. Our office is happy to send a secure e-mail that you can respond to with personal information.