

Probate Administration FAQ's – Elisabeth J. Rubel PLLC

Navigating through a probate administration can be a stressful and confusing process; all occurring at a time when you are still grieving the loss of a loved one. Here are a few answers to commonly asked questions regarding probate administration.

My loved one had a will, but the bank is telling me I need to open a probate estate to access the bank account.

Unfortunately there is a common misconception that if you have a will, your estate will not have to go through the probate process upon your death. A will simply directs who will receive your assets upon your death. Even with a will, if you own any assets in your own name upon your death, your family will have to open an estate with the probate court in order to gain access to those assets and distribute them according to the provisions of your will. Depending on the value of the estate, there are circumstances where the estate could qualify for a small estate procedure and a full probate can be avoided.

What happens if someone dies without a will?

When an individual dies without a will, their estate is known as an intestate estate. Michigan has a set of laws that determines who receives the assets of an intestate estate. If the decedent leaves a surviving spouse, the spouse is given preference in the distribution of the estate. One of the primary reasons it is important to have a will is that it allows you to determine who will receive your estate and does not leave the distribution determination to a state statute.

How much does it cost to go through probate?

There are two types of probate proceedings: formal and informal. Informal proceedings are the most common and generally simpler and quicker. Formal proceedings will likely be much more costly as a court hearing (or more) will be required. For an informal proceeding you can expect an initial filing fee \$175 plus \$12.00 per each Letter of Authority requested. Additionally, there is an inventory fee due to the court which is calculated based on the inventory value of the estate. For a reference point, in an estate valued at \$100,000, the inventory fee will be \$362.50. You can expect average attorney fees in an uncontested probate matter to range between \$1,500-\$3,000 depending on the time and complexity of work involved.

How long does it take to probate an estate?

From beginning to end, probating an estate takes approximately 6-9 months. In situations where assets are difficult to locate or there are contested issues, it can take much more time. If probate litigation

occurs, it could potentially take a year or possibly many more to resolve an estate. I always strive to administer and close an estate as expeditiously as possible.

What can I do to avoid probate?

The best way to avoid probate after your death is to create a living trust during your lifetime. Assets you transfer to a trust during your lifetime avoid probate upon your death. Additionally, certain assets, such as life insurance policies and retirement assets, have a beneficiary designation which will allow you to appoint beneficiaries during your lifetime so that those individuals inherit those proceeds upon your death without the necessity of probate.