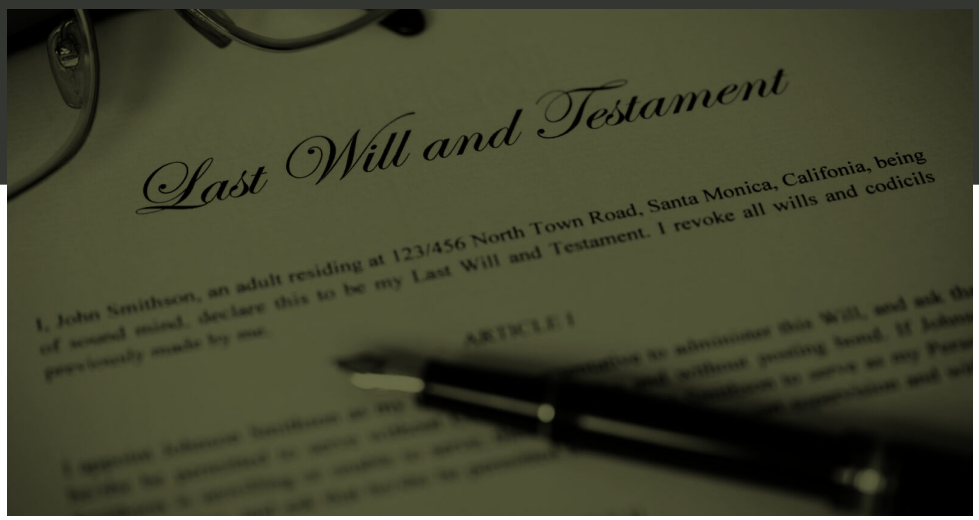
FPLG
FOR PURPOSE
LAW GROUP

GENERAL

California Probate Explained

12.13.18 | Linda J. Rosenthal, JD



After a person passes away, their assets must go through a legal process called probate. This can be time-consuming and costly, depending on the size of the person's estate and the types of estate planning documents they prepared during their life. To simplify things, let's go through some common questions about the California probate process.

What is probate?

The probate process involves dividing up a deceased person's money and property, and then distributing it to the appropriate heirs.

What are the basic steps?

The basic steps of probate are as follows:

- Someone comes forward to initiate the process by filing a petition. This could be an executor named in a Will or a court-appointed administrator.
- Notices are published in the local newspaper and sent to everyone named in the Will.
- The courts verify the Will's validity.
- The executor takes possession of any of the decedent's assets that are subject to probate, then takes inventory and appraises property if necessary.
- The executor pays off debts, estate taxes, and funeral expenses using the probate assets.
- Once the executor's actions are approved by the courts, the estate is closed.

How long does it take?

If you're acting as an executor, your job could last six months to a year. Remember that you'll have to file forms, take inventory of assets, manage accounts, pay bills, and more while waiting for the California courts to approve your actions.

What assets go through probate?

Not all assets go through the probate process. The property could include money, real estate, cars,

furniture, or any number of items — what matters is who owns that property. Typically, any property the deceased person owned solely in their own name will go through probate. That includes separate property (acquired outside of marriage or inherited during marriage).

Assets owned in joint tenancy with others do not go through probate, nor does survivorship community property owned with a person's spouse.

Is probate always necessary?

No. Some types of documents, like trusts and insurance policies where a beneficiary is named, are technically not owned in the person's name. A trust holds property on the person's behalf, for example. If your estate is small enough, you may not need probate at all. To avoid probate, the total value of the estate at the time of death must not exceed $150,000 (not including certain assets). For larger estates, many people strategically use trusts and similar documents to save on probate fees. In other words, you can avoid the probate process by using legal estate planning strategies.

Do you need a lawyer?

An attorney can greatly simplify the probate process by helping you file forms, gather necessary documents, handle conflicts with family and creditors, and much more. A capable attorney can also help you create an estate plan that minimizes the time and expense of probate.

If you're still uncertain about probate and what it means for your family, don't hesitate to call For Purpose Law Group. Our friendly attorneys will use their extensive legal knowledge to guide you through every step of the process.