



N O W A K O W S K I
L E G A L P L L C

A GUIDED OVERVIEW OF THE PROBATE PROCESS

Understanding the Administration of an Estate

By: Austin J. Nowakowski, Esq. of Nowakowski Legal PLLC

version 1.2

A GUIDED OVERVIEW OF THE PROBATE PROCESS

Understanding the Administration of an Estate

OVERVIEW AND DISCLAIMER

Nowakowski Legal PLLC is pleased to provide you with A Guided Overview of the Probate Process: Understanding the Administration of an Estate.

After a person passes away, his or her assets need to be gathered, business affairs settled, debts paid, necessary tax returns filed, and finally distributed to heirs and/or beneficiaries. The primary mechanism through which this is normally achieved is through a probate action filed with the Court. Upon commencement of a probate action, the Court will designate an individual to act as the Personal Representative of the Estate.

The purpose of this guide is to provide you with a detailed, helpful, but most importantly easy to read point of reference for many of the things you will need to consider when dealing with the probate process. While we hope that this guide helps you to better understand the process, our ulterior purpose is the hope that you will utilize Nowakowski Legal PLLC's services in handling any probate action(s) that may arise.

It should be noted that while this guide does provide an overview of the probate process and the duties of a personal representative, it should not be considered a substitute for the legal advice or services of an attorney. You are highly advised to seek the assistance of experienced legal counsel in handling the probate process.

Please be aware that this guide does not provide you with legal advice and it does not create an attorney client relationship between you and Nowakowski Legal PLLC. If you are interested in becoming a client of Nowakowski Legal PLLC, please feel free to contact us and schedule a consultation at any time.

In addition, this guide does not include, nor should it be considered, a comprehensive description of all items that must be taken into account during the probate process or when acting as a Personal Representative. We provide no representations, guarantees or warranties about the accuracy, reliability, completeness, correctness or timeliness of any and all information contained herein; this is due to complexity of the law, and the fact that different jurisdictions, areas, opinions, interpretations and practices exist which may or may not conflict with the opinions discussed herein.

Guide by Section

Please be aware that this guide only provides a general overview of the probate process and the standard duties of an appointed Personal Representative. That being said, our goal is to at least provide you with enough information to understand the basics of the probate process and help you to determine if you qualify to act as the Personal Representative.

Additionally, we include in this guide a checklist of items and information that an attorney would generally need from you in order to commence the probate action. As always, Nowakowski Legal PLLC is available to assist as your legal counsel should you wish to commence a probate action.

SECTIONS

- **What is Probate?** 3
 - **Is Probate Always Necessary?** 3
 - **How Does Probate “Administer” an Estate?** 4
- **What is a Personal Representative?** 5
 - **How to Decide Who Should Act as the Personal Representative?** .. 6
 - **Is There Any Benefit to Being a Personal Representative?** 7
 - **Ok, I’ll Do It; So How Do I Become the Personal Representative?** .. 8
- **Overview of the Probate Process?** 10
 - **Things to Do Prior to Probate** 10
 - **Initial Probate Proceedings** 11
 - **Inventory** 11
 - **Settling Debts and Paying Expenses** 12
 - **Accounting of the Probate** 14
 - **Distribution and Closing of Probate** 14
 - **Is That Everything and How Long Does This All Take?** 15
- **Checklist of Information an Attorney Will Need to Begin Probate** 16
- **Conclusion** 32

WHAT IS PROBATE?

Probate is a legal action filed with the Court to commence the administration of a deceased person's estate. During this process, a person seeking to act as the Personal Representative (through their attorney) will file a probate petition with the Court, request appointment as the Personal Representative, gather (or marshal) all of the estate's probate assets, pay off all of the estate's valid debts, and distribute the remaining assets to the appropriate heirs and/or beneficiaries of the deceased.

In distributing the assets of the deceased, a probate action will generally follow one of two paths. If the deceased individual had a valid Last Will and Testament, then the probate portions of the Estate will be distributed in accordance with said document. If the deceased individual passed away without a Last Will and Testament, then they are said to have died "intestate" and distribution would be subject to State distribution laws.

Lastly, the probate action should be filed in the Court of the county in which the deceased resided, or in a Court that otherwise has jurisdiction. For example, in Washington, all Superior Courts in the State have jurisdiction to hear the probate of deceased person that resided in the State.

Is Probate Always Necessary?

In most instances, when a person passes away, a probate action will be necessary to administer the estate. Most states require that if a deceased person's estate is "solvent," then it must go through the probate process. The definition of what is considered as a "solvent" estate is different in each state. For example, in Washington, a "solvent" estate is generally one that is valued at more than \$100,000.00, or which contains at least one piece of real property (i.e. a home).

It should be noted that while a probate action can seem to be a frustrating process, it does also help to provide the heirs and/or beneficiaries with several benefits that are worth noting. Primarily, it finalizes the estate's debts with known creditors and shortens the time period for which unknown creditors of the deceased can seek payment for outstanding debts. Additionally, it provides all of the interested family members, heirs, beneficiaries, and creditors a transparent process through which they can be made aware of the full value of the estate, and also be informed as to how the estate is split up for purposes of paying off the creditors, and distributing to the heirs and/or beneficiaries.

Regardless of the above, some instances do exist in which probate may not be necessary. The following contains several examples:

- **Small Estate** – If the estate is not considered to be "solvent," it could be considered to be a small estate in which case a probate might not be necessary. Instead, a special legal method exists which small estates might utilize in furtherance of administering an estate. However, opting not to use the probate process in these instances can lead to issues with creditors and can prove difficult in



obtaining transfer of title, access to accounts, and other problems that a normal probate process would resolve.

- **Extensive Estate Planning with Trusts** – Some individuals prepare an extensive estate plan utilizing trusts and other similar methods for purposes of avoiding the probate process. Instead of probate, the trust will have designated a trustee who will insure that the trust is administered in accordance with the terms of the trust.
- **Designated Beneficiary Accounts** – Certain bank accounts, retirement plans, and insurance policies request that you name a “pay on death beneficiary” who will obtain access to the account upon the death of the owner. These type of beneficiary payments generally do not need to go through probate as the assets are already being directed to the intended beneficiary.
- **Joint Bank Accounts** – Joint bank accounts will generally allow the surviving bank account holder immediate access to the full amount of funds available in the account. As such, the probate process may be able to be avoided in this instance as the assets are already transferred to the surviving account holder.
- **Joint Ownership with Right of Survivorship** – The deed to a property can maintain that all the owners named on the deed are joint owners of the property, and that upon the passing of one owner, the other surviving partner obtains the property in its entirety.

Regardless of whether the estate of the deceased seems to fall in to one of the above exceptions to probate, it is still highly advised that you speak with an attorney in determining if probate is or is not necessary. In addition, even if one of the above exception does apply, you will likely still need legal assistance in administering the estate through whatever “non-probate” method is available.

How Does Probate Provide for the “Administration” of an Estate?

When a probate action is filed, the Court will appoint an individual as the estate’s Personal Representative; depending on your state, this person might be called a Personal Representative, executor, or administrator. Regardless, it all means the same thing; this person is appointed with the duty of administering the estate of the deceased, with the Court overseeing and regulating their actions.

Letters of Testamentary - Upon the Personal Representative being appointed, that individual will be provided a document from the Court generally referred to as the “Letters of Testamentary.” The Letters of Testamentary provide the Personal Representative with physical proof of their authority to administer the estate. The following are some of the actions that the Letters of Testamentary grants the Personal Representative with the authority to perform on behalf of the estate.

- **Authority to Gather and Manage Estate** – The Letters of Testamentary can be used by the Personal Representative to open a Trust Bank Account for the Estate, access all of the deceased’s



personal bank accounts, manage all the properties and businesses of the deceased, and sign legal documents on behalf of the deceased in order to finalize the deceased's pending affairs.

- **Authority to Handle Creditors and Debts** - In addition to providing the Personal Representative with the authority to gather and manage the assets of the deceased, it also allows for the Personal Representative to finalize any and all outstanding debts of the deceased. The Court requires the Personal Representative to contact and resolve all debts with known creditors of the deceased, if funds are available in the estate to do so. However, as not all debts might be known to the personal representative, the Court also provides a method to greatly shorten the amount of time that unknown creditors may attempt to collect from the estate; if the unknown creditor fails to provide notice of an intent to collect by the timeframe specified through probate, they will be barred from ever being able to collect from the estate.
- **Authority to Handle Federal and State Requirements** - In administering the estate, the personal representative will also be provided the ability to notify any and all appropriate government agencies of the deceased's death, and settle all the outstanding tax requirements of the deceased.
- **Authority to Inventory and Provide an Accounting** – The probate process allows for the transparent provision of the accounting, creditor payments, and intended distributions to each and every interested party to the estate. The personal representative is required to make available an inventory and accounting to the heirs and beneficiaries of the estate. Each of the interested individuals to the estate is thereby given an opportunity to either question the accounting, contest the accounting, or accept the accounting.
- **Authority to Distribute Estate** – The Letters of Testamentary allow for the Personal Representative to make distributions to the heirs and beneficiaries in accordance with the Last Will and Testament of the deceased, or if that is not possible, in accordance with state law.
- **Authority to Handle Disputes** - An important aspect of the probate process is that it provides all interested individuals with an opportunity and venue to contest items that they may have had against the deceased individual while he was alive, and/or to contest items that an individual may have against the handling of the estate. The Personal Representative is granted the authority to act on behalf of the Estate in regard to if it will contest any such claims, or acquiesce to them.

The bottom line of what the probate's "administration" provides is that it insures that all the legal rights to each person with an interest in the estate is protected. A failure to utilize the probate process would ultimately leave the estate, the heirs, beneficiaries and other individuals potentially open to litigation and or claims that may otherwise have been avoided. As such, the probate process ultimately provides finality to the deceased person's estate through its administration.

WHAT IS A PERSONAL REPRESENTATIVE?

A Personal Representative is a fiduciary appointed by a Court to administer the estate of a deceased person. Simply put, when someone dies, they need to have all of their assets gathered, creditors paid off, and inheritance distributed to their heirs/beneficiaries; the Personal Representative is the person who is charged with that duty. Depending on your state, the Personal Representative might additionally be described as an executor or administrator.

A Personal Representative is appointed by the Court, but it is still a voluntary position. As such, if you are asked to act as a Personal Representative, you may always decline to do so. However, if you wish to act as a Personal Representative, you will need to petition the appropriate Court for appointment.

While the Personal Representative is saddled with many duties, burdens and headaches, it should be noted that some benefits do come with the job. Namely, most states allow for the Personal Representative to pay themselves a “reasonable” hourly payment for the time put in to administering the estate. Additionally, the Personal Representative is not generally responsible for any and all valid expenses associated with the administration of the estate; assuming the estate is solvent, all administration costs such as attorney’s fees, accountant fees, etc. are paid by the estate and not by the Personal Representative.

Whomever volunteers to act as the Personal Representative should be aware that it is a relatively complex process. The probate process generally takes at least six to eight months if it is a simple matter, and longer if the estate is complex. As such, please be sure that you are capable and willing to put in the time involved in acting as a Personal Representative before you decide to do so.

Lastly, it must be noted that whomever is appointed as the Personal Representative will be said to owe a fiduciary duty to the estate, and toward the heirs and beneficiaries to whom the estate will be distributed. As such, the Personal Representative has an obligation to act in the best interests of all those involved, and should he/she fail to do so, he/she may be personally held accountable for any wrongful actions.

How to Decide Who Should Act as the Personal Representative?

The best method to determine who should act as the Personal Representative is to first review the wishes of the deceased in his Last Will and Testament. If that is not an option, then the immediate heirs and beneficiaries should discuss amongst themselves who they would be comfortable in taking the position.

In making such a decision, the heirs and beneficiaries should take several items in to consideration. This is because the Court still has ultimate authority on who is appointed and they tend to prioritize certain people to act as the Personal Representative; the following are some of the primary factors the Court will take in to account in determining a person’s qualification to act as a Personal Representative:

- **Person Named as Personal Representative in Deceased’s Will** – If the deceased left a valid will behind, and if the will named someone as the Personal Representative, the Court will grant great



credence to the last wishes of the deceased. Generally, good cause would need to be shown as to why an individual designated in a will should not act as the Personal Representative.

- **Spousal Relationship** – If the deceased had a spouse, then the spouse would have the ability to apply as the Personal Representative. The Court will generally grant this request if a Personal Representative was not otherwise appointed in a valid will.
- **Relationship to the Deceased** – The closer your relationship to the deceased, especially for family members, the greater the weight this provides in the Court’s decision as to whether you may act as the Personal Representative.
- **Approval of Interested Parties** – The Court will also take in to account noted declarations of approval from parties that have an interest in the estate.
- **Residency** – The Court generally prefers to appoint someone whose residency is that of the same state as the deceased.
- **Ability to Acquire Probate Bond** – Unless waived, a probate bond is generally required by the Court for anybody acting as a Personal Representative. In order to acquire a probate bond, you will generally need to have a strong credit report.
- **Criminal Record and/or History of Fraud** – The Court generally will not permit an individual with a Criminal Record and/or History of Fraud to act as a Personal Representative.

It is highly advised that once a family has had the opportunity to determine who will act as the Personal Representative, that he/she contact an attorney to commence the probate proceedings. In addition, the Personal Representative should work with the family, heirs, and beneficiaries to find and collect all the information and documentation listed in the “**Checklist of Items an Attorney Will Need to Begin Probate**” included within this guide; this will allow the attorney to quickly understand the specific needs of your particular probate action, and should help them in quickly and efficiently begin the probate process.

Is There Any Benefit to Being a Personal Representative?

Being the Personal Representative is a lot of work; so why would anybody volunteer for this? Well, there are a multitude of good reasons to be a Personal Representative, several of which are as follows:

- **Fulfill Last Wishes of Deceased** – If the deceased asked that you administer their estate, or if you were close with the deceased, you may take solace in knowing that you are fulfilling their final wishes.
- **Control Over Assets**– The Personal Representative is given certain leeway in the determination of asset acquisition, liquidation and distribution. While you are still required to adhere to the terms of the Will and/or State Law, you will have a certain amount of control that will potentially help to smooth the transition of assets.



- **Personal Representative is a Paid Position** – if you are appointed a Personal Representative, you are allowed to be paid a “reasonable fee” from the estate;
- **All Costs are Covered** – Any and all reasonable costs of acting as the Personal Representative are covered by the Estate (assuming it is solvent). This would include accounting fees, attorney’s fees, and any other expenses that arise.

Ultimately, it comes down to the question of whether or not you are comfortable with the responsibility of acting as the Personal Representative. For many people, it is a daunting task that requires many hours and puts them in a tenuous position between the heirs, beneficiaries and creditors of the decedent. However, it is a job that needs to be done in order for the heirs, beneficiaries, and creditors of the deceased to find some closure, and it does provide its own rewards.

If you find yourself in this position, we again highly suggest that you retain an attorney to assist you with your legal probate needs.

Ok, I’ll Do It; So How Do I Become the Personal Representative?

Once you determine who will act as the Personal Representative, he/she will need to gather all of the documents and information listed in the below “**Checklist of Items an Attorney Will Need to Begin Probate**”. After everything has been collected, it is highly advised that they seek the counsel of an attorney experienced in handling probate matters.

Assuming everything has been collected and is in order, your attorney will prepare a Petition for the Court to commence probate proceedings, request that you be appointed as the Personal Representative, and will prepare all the other appropriate documents necessary to commence the probate action. Assuming the Court accepts the petition and grants your appointment as the Personal Representative, you will be provided with “Letters of Testamentary” that will allow you to begin administering the estate.

In the most general terms, the acquisition of the Letters of Testamentary allow the Personal Representative to:

- a. assume control of all of the decedent's property;
- b. ascertain the parties entitled to receive the decedent's property;
- c. compile a complete listing of all of the property in which the decedent had an interest;
- d. establish values for all of the decedent's property;
- e. pay the debts of the decedent, funeral expenses and administration expenses;
- f. file all required tax returns and pay taxes due; and
- g. distribute the property to the persons entitled to it.

A more detailed explanation of the stages of probate, and everything that needs to occur throughout, is included in the following section, “**Overview of the Probate Process.**”

OVERVIEW OF THE PROBATE PROCESS

The probate process generally has several different stages that it will go through. Additionally, there are multiple other tasks that are accomplished throughout the probate process, but that are performed in no particular order.

The below overview provides a brief synopsis of the general items that occur during most probates. However, each probate matter is unique and the below may not include every item that may occur in a probate action in which you are involved. Again, for a more detailed opinion on the particulars of a probate action, it is highly advised that you meet an experienced attorney.

Please note that the following assumes we are discussing a standard probate action with a solvent estate.

Things to Do Prior to Probate

There are several things that should be accomplished prior to probate. Upon the death of an individual, the deceased person's family, friends, or elected Personal Representative should strive to ensure that the following items are handled.

- If the person has just passed away, contact your local emergency responders. Generally, they can be reached through dialing 911.
- If the person lived alone, secure his home and his valuables. Have a trusted individual periodically stop by the home to make sure it is still secure and to tend to the needs of the home. Additionally, you can notify the police that the home is vacant due to a death and ask that they periodically check it.
- If the deceased had any pets, make arrangements for their care and protection.
- Attempt to locate the will and/or testamentary documents of the deceased.
- Make arrangements for a funeral/burial/cremation of the deceased individual. If you have been able to locate a will, review the will to determine if (s)he had certain last requests regarding his/her remains.
- Arrange to have the mail of the deceased forwarded to a trusted individual. If already determined, it would be suggested that the mail be forwarded to the person who will act as the Personal Representative.
- Attempt to gather as much information as you are able as described in the **“Checklist of Items an Attorney Will Need to Begin Probate”** provided below.



- Discuss amongst the family, heirs and beneficiaries who will act as the Personal Representative. If a will was located, contact any listed Personal Representative's and inquire if they are willing to act as such.
- Contact an Attorney to assist in commencing the Probate action.
- Make other arrangements as they become necessary.

Initial Probate Proceedings

Once a Personal Representative has been determined and (s)he has retained an attorney, the attorney will commence the probate proceedings. The following items will generally occur during the beginning phase of the probate:

- **The Will (if any) will be Admitted to Probate** - If the deceased had a valid Will, it will be filed with the Court, proven to be valid and admitted by the court as the last Will of the decedent.
- **Petition to Commence Probate** – The prospective Personal Representative, through his/her attorney will file a petition with the Court requesting that the probate action commence.
- **Petition for Appointment of Personal Representative** – Upon application to the Court, and assuming it accepts the applicant, the Court will issue Letters Testamentary or Letters of Administration that name the Personal Representative as the individual authorized to administer the estate.
- **Notice of Appointment to Heirs and Beneficiaries** – Notice of appointment of the Personal Representative and of the pendency of probate proceedings must be mailed to each heir and beneficiary of the estate within 20 days after the appointment of the Personal Representative. The attorney for the Personal Representative sends the required notice.
- **Notice to Creditors** – All the known creditors of the decedent should be contacted and provided a notice of the probate proceedings. In addition, a publication needs to be made publishing a Notice to Creditor's and providing notice to all "unknown creditors" of the probate proceedings. Because of the creditors' procedure the estate cannot be closed until after a four-month creditors' period has expired and all creditors' issues have been resolved. These are matters are generally handled by the attorney assisting the Personal Representative in the probate.

Inventory

Once the Personal Representative has acquired the Letters of Testamentary, (s)he should begin focusing on the inventory of all known estate assets. Upon gathering the information, (s)he will need to provide to the attorney the inventory so that it can be made available upon request by any heirs and/or beneficiaries to the estate.



- **Inventory** - The Personal Representative is required to prepare an Inventory of all probate property within three months after appointment. The attorney and the accountant will work with the Personal Representative to gather information needed to prepare the Inventory.
- **Appraisal of Property** – If certain property is difficult to determine in its value, it is recommended that an appraisal or valuation be done on the property. This will help when formulating an accounting of the estate assets. Generally, property that may require an appraisal would include businesses, homes, cars, or other such items.
- **Examples of Property** – The following are multiple examples of property that should be considered when forming an inventory:
 - **Real Estate**
 - **Stocks and Bonds**
 - **Mortgages, Notes and Cash**
 - **Insurance**
 - **Vehicles**
 - **Jewelry**
 - **Valuables**
 - **Tools**
 - **Miscellaneous Property Exceeding \$1000.00 in Value**

Settling Debts and Paying Expenses

The Personal Representative will need to work with the attorney in order to provide him with any information regarding outstanding debts of the deceased. Additionally, certain bills, expenses and other needs may initially arise that will need to be satisfied during the pendency of the probate.

- **Paying Bills** – As discussed previously, the Personal Representative should have had the deceased's mail forwarded to the Personal Representative. It is important to separate out all of the bills and payments that are due when receiving said mail in order to learn of any known creditors of the deceased.

The majority of these creditors should be contacted by the Personal Representative to inform of the deceased's passing; most creditors will then place a hold on the account to stop them from accumulating. However, the Personal Representative should not immediately make payments to these creditors; instead, the information for the creditor should be passed along to the attorney for purposes of going through the creditor payment process.

- **Time Sensitive Bills** - In some cases, bills such as utility charges must be paid on time to assure continued service. A family member or friend might provide money to meet such needs if cash is not immediately available in the estate. If so, persons paying the bills or loaning money would be reimbursed from the estate. Therefore, careful records of such payments or loans should be kept.



- **Creditors' Claims** – Once notice has been provided by the attorney to all potential creditors, they are given a short period of time to file with the probate a creditors' claim. Once collected, the creditors' claims are presented to the Personal Representative to approve for payment (which they generally are unless they are suspicious). After creditors' claims have been approved by the Personal Representative, payment of the claims can be made from the estate checking account.
- **Administration Expenses** - Administration Expenses include court costs and reasonable fees for the personal representative, attorneys, accountants, and appraisers, and for the trustee of any property of the estate held in trust. They are limited, however, to those items that are actually and necessarily incurred in the administration of the estate. So long as they are reasonable, they may be paid from the estate.
 - **Attorneys** – The fees for the attorney's service in furtherance of the probate action, so long as reasonable, are a valid expense that may be paid from the estate. Generally, invoices will be sent monthly for a portion of the total fee and any costs incurred.
 - **Accountants** - Fees paid to accountants for services to the estate also are an administration expense.
 - **Appraisers** – It may be necessary to obtain a professional appraisal of real estate property, businesses, or other property in order to establish a current fair market value. The fees charged by appraisers are payable from the estate as an administration.
 - **Personal Representative** -The Personal Representative is entitled to a reasonable fee for services to the estate. In order to avoid the appearance of impropriety, it is suggested that the Personal Representative's fees not be collected until the completion of the probate. If the Personal Representative does not intend to claim a fee, a Waiver of Personal Representative's Fee should be signed.
- **Taxes** - The personal representative of the estate is responsible for filing certain tax returns on behalf of the decedent and the decedent's estate. It is highly suggested that you obtain an accountant to assist with the tax requirements of the estate. The primary tax issues dealt with by the Personal Representative during probate are as follows:
 - **Final Income Tax Return**
 - **Income Tax Returns of the Estate**
 - **United States Estate Tax Return**
 - **State Estate Tax Returns**
 - **Other**

Accounting of the Probate

It is required that the Personal Representative prepare and have available a proper accounting of the estate. In addition, it is required that an estate bank account be created and handled by the Personal Representative in order to properly manage the monetary assets of the estate.

- **Estate Bank Account** - It will be necessary to establish an estate bank account soon after the Personal Representative is appointed. In order to open an estate account, the bank will require a certified copy of The Letters of Testamentary from the Personal Representative, which must be dated within 60 days. In addition, the bank will also need a tax identification number for the estate (sometimes called an employer identification number or "EIN"). This can be acquired by your attorney and/or accountant.

All estate bank account statements or copies of the statements should be copied to the attorney and your accountant so that the estate records can be maintained. All estate money that is received should be deposited to the estate account and all creditors' claims and expenses of administration should be paid by checks drawn on the account.

- **Maintain Records and Accounting** - It is very important that accurate records be kept of all estate transactions. Copies of all items deposited to the account should be made and adequate descriptions of all deposits and checks written should be maintained. It is highly suggested that you obtain an accountant to assist you in keeping the accounting records for the estate as accurate as possible.

Distribution and Closing of Probate

Ultimately, once everything else in the estate has been handled, paid, and accounted for, the estate will be distributed to the appropriate heirs and beneficiaries.

- **Distribution of Estate** – Occasionally, distribution of estate property may be made during the administration of the estate. However, more often than not, distributions are not made until the estate is ready to be closed. A number of considerations are involved in the decisions regarding distributions and, for this reason, distributions should not be made without first discussing the matter with the attorney.
- **Closing of Probate and Discharge of Personal Representative** – The probate matter can be closed generally in two different ways: (a) by the filing of a Declaration of Completion by the Personal Representative or (b) by a formal Court hearing that is set for the purposes of approving a Final Report.
 - **Declaration of Completion** – In order to close through a Declaration of Completion, the Declaration will be prepared by your attorney and then filed with the Court. All of the heirs



and beneficiaries are then noticed (unless waived) that the declaration has been filed, and that they have thirty (30) days to object, request an accountant, or require Court approval prior to closing. If no objection is timely made, then the declaration will be final.

- **Court Hearing on Final Report** – In order to close the probate through a Court Hearing on Final Report, your attorney would prepare the Final Report, and file it with the Court. The Final Report is generally more detailed and contains an accounting of the estate and all transactions made during the probate. Within twenty (20) days of the filing of the Final Report with the court, a notice will be sent to all heirs and beneficiaries advising them of a hearing on the Final Report. Additionally, the notice of the hearing must be published one time, at least twenty (20) days prior to the hearing, in a legal newspaper published in the county.

If the hearing results in the Court approving the Final Report, all unpaid fees and expenses can be paid and the property distributed to the appropriate persons and an Order of Discharge will be entered that legally completes the matter.

Is That Everything and How Long Does This All Take?

The above is a very general overview of what all transpires during a probate matter. Depending on the specific circumstances of your probate matter additional steps or alternative methods might be required. In addition, the above is not designed to provide you with any instructions or advice on how to proceed through the probate process; instead, it is designed to help you understand what the probate process is, and what all it may entail. As such, there is generally much more to a probate matter than is described in this document.

In regards to the general amount of time that a probate matter takes, it very much depends on the size of the estate, complexity of the estate, and the cooperation of all involved. In a standard estate with very little difficulty, it would not be unusual for it to take somewhere between six (6) to eight (8) months to complete. However, depending on the circumstances, it could take much longer.

It should be noted that the above is essentially just the “tip of the iceberg” when it comes to describing everything that needs to be taken in to consideration during a probate matter. Again, we highly suggest that you retain an attorney to assist you through the probate process.

CHECKLIST OF INFORMATION AN ATTORNEY WILL NEED TO BEGIN PROBATE

After having read through the above sections, you should somewhat have an idea as to what the probate process entails, and as to who best would act as the Personal Representative of the estate. Throughout this document, we mention several times that you will need to gather multiple documents for purposes of commencing a probate and being appointed as the Personal Representative. The following is the non-comprehensive checklist of information and documents to gather before you meet with your attorney.

Before gathering any and all documents for review, please note that all sensitive documentation and/or legal paperwork should remain in a safe, locked and fireproof location when not in your direct possession. Please only bring copies of such documentation for review by your attorney. The originals or main versions should remain in your safe location.

If you would like to schedule a free consultation with Nowakowski Legal PLLC to discuss how we may assist with your probate matter, please contact our office to schedule a consultation.

PROBATE QUESTIONNAIRE

The information that you provide on the following questionnaire is an important starting point for us to understand the probate estate, beneficiaries, and potential issues to be addressed. The more completely you prepare this information, the further ahead we will be in the process so please try to provide as much information that you can.

The completed questionnaire should be returned to our office at your earliest convenience via e-mail (austin@nowakowski-legal.com).

In addition to the questionnaire, you will need to provide the following:

- The Original copy of Decedent's Will (if available)
- At Least Two (2) Certified copy of Decedent's Death Certificate
- Copy of Decedent's last driver's license (if available)
- Anything else you think we should review or be aware of

PART 1: INFORMATION ABOUT THE PERSONAL REPRESENTATIVE

FULL LEGAL NAME _____

COUNTRY OF CITIZENSHIP _____

SOCIAL SECURITY #: _____

HOME PHONE _____

WORK PHONE _____

FAX _____

CELL PHONE _____

E-MAIL _____

MARITAL STATUS _____

FULL NAME OF SPOUSE _____

RESIDENCE (MAILING) ADDRESS _____

CITY _____

STATE _____

ZIP _____

COUNTY _____ (i.e. King, Pierce, etc.)

HAVE YOU EVER BEEN CONVICTED OF A FELONY? _____

HAVE YOU EVER BEEN CONVICTED OF A CRIME INVOLVING FRAUD OR DECEIPT? _____

WHAT IS YOUR MOST RECENT CREDIT SCORE? _____

ALTERNATIVE CONTACTS

NAME

PHONE



PART 2: INFORMATION ABOUT THE DECEDENT

DECEDENT'S FULL LEGAL NAME _____

COUNTRY OF CITIZENSHIP _____

SOCIAL SECURITY #: _____

DATE OF DEATH _____ LOCATION OF DEATH _____

BIRTHDATE _____ GENDER _____

FINAL RESIDENCE ADDRESS _____

CITY _____ STATE _____ ZIP _____

COUNTY _____ (i.e. King, Pierce, etc.)

CAUSE OF DEATH _____

MARITAL STATUS: Married* Divorced Widowed Single

*FULL NAME OF SPOUSE _____

*DATE OF MARRIAGE _____ *STATE WHERE MARRIED _____

PREVIOUS MARRIAGE(S)

NAME OF SPOUSE

DATE MARRIAGE ENDED



PART 3: LAST WILL AND TESTAMENT (IF IT EXISTED)

DID THE DECEDENT HAVE A WILL?

WILL NO WILL I Think a Will Exists, but I Can't Find It

NAME OF THE WILL AS WRITTEN _____

PERSONAL REPRESENTATIVE NAMED IN WILL _____

DATE OF LAST WILL AND TESTAMENT _____

NAME OF WITNESSES _____ & _____

INFORMATION ON HEIRS THAT ARE LISTED IN WILL

NAME	ADDRESS	RELATIONSHIP TO DECEDENT
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		

PLEASE LIST ANY ADDITIONAL HEIRS ON A SEPARATE SHEET AND ATTACH IT TO THIS QUESTIONAIRE



PART 4: FAMILY OF DECEASED

DECEDENT'S SPOUSE (Please Write "dec" after name is spouse is deceased)

Spouse Full Legal Name _____ AKA _____

Social Security Number _____ DOB _____

Gender _____

Address _____

Phone _____ Other Phone _____

E-mail _____

DECEDENT'S CHILDREN (Please Write "dec" after name is spouse is deceased)

(1)

Oldest Child Full Name _____ AKA _____

Social Security Number _____ DOB _____

Related to: Decedent Decedent & Spouse Spouse

Address _____

Phone _____ Other Phone _____

E-mail _____

Child's Spouses Name _____ AKA _____

(2)

Next Child Full Name _____ AKA _____

Social Security Number _____ DOB _____

Related to: Decedent Decedent & Spouse Spouse

Address _____

Phone _____ Other Phone _____

E-mail _____

Child's Spouses Name _____ AKA _____

(3)

Next Child Full Name _____ AKA _____

Social Security Number _____ DOB _____

Related to: Decedent Decedent & Spouse Spouse

Address _____

Phone _____ Other Phone _____

E-mail _____

Child's Spouses Name _____ AKA _____

(4)

Next Child Full Name _____ AKA _____

Social Security Number _____ DOB _____

Related to: Decedent Decedent & Spouse Spouse

Address _____

Phone _____ Other Phone _____

E-mail _____

Child's Spouses Name _____ AKA _____

PLEASE LIST ANY ADDITIONAL CHILDREN ON A SEPARATE SHEET AND ATTACH IT TO THIS QUESTIONNAIRE

DECEDENT'S Parents (Please Provide if Living) otherwise [] Father Deceased [] Mother Deceased

Father's Full Name _____ AKA _____

Social Security Number _____ DOB _____

Address _____

Phone _____ Other Phone _____

E-mail _____

Mother's Full Name _____ AKA _____

Social Security Number _____ DOB _____

Address _____

Phone _____ Other Phone _____

E-mail _____

DECEDENT'S SIBLINGS (Please Write "dec" after name is spouse is deceased)

(1)

Full Name _____ AKA _____

Social Security Number _____ DOB _____

Address _____

Phone _____ Other Phone _____

E-mail _____

Spouses Name _____ AKA _____

(2)

Full Name _____ AKA _____

Social Security Number _____ DOB _____

Address _____

Phone _____ Other Phone _____

E-mail _____

Spouses Name _____ AKA _____

(3)

Full Name _____ AKA _____

Social Security Number _____ DOB _____

Address _____

Phone _____ Other Phone _____

E-mail _____

Spouses Name _____ AKA _____

(4)

Full Name _____ AKA _____

Social Security Number _____ DOB _____

Address _____

Phone _____ Other Phone _____

E-mail _____

Spouses Name _____ AKA _____

PLEASE LIST ANY ADDITIONAL SIBLINGS ON A SEPARATE SHEET AND ATTACH IT TO THIS QUESTIONNAIRE

DECEDENT'S OTHER BENEFICIARIES (Please Write "dec" after name is spouse is deceased)

(1)

Beneficiary Full Name _____ AKA _____

Social Security Number _____ DOB _____

Relation: Grandchild Nephew/Niece Friend Other: _____

Address _____

Phone _____ Other Phone _____

E-mail _____

Beneficiary's Spouses Name _____ AKA _____

(2)

Beneficiary Full Name _____ AKA _____

Social Security Number _____ DOB _____

Relation: Grandchild Nephew/Niece Friend Other: _____

Address _____

Phone _____ Other Phone _____

E-mail _____

Beneficiary's Spouses Name _____ AKA _____

(3)

Beneficiary Full Name _____ AKA _____

Social Security Number _____ DOB _____

Relation: Grandchild Nephew/Niece Friend Other: _____

Address _____



Phone _____ Other Phone _____

E-mail _____

Beneficiary's Spouses Name _____ AKA _____

(4)

Beneficiary Full Name _____ AKA _____

Social Security Number _____ DOB _____

Relation: Grandchild Nephew/Niece Friend Other: _____

Address _____

Phone _____ Other Phone _____

E-mail _____

Beneficiary's Spouses Name _____ AKA _____

PLEASE LIST ANY ADDITIONAL BENEFICIARIES ON A SEPARATE SHEET AND ATTACH IT TO THIS QUESTIONNAIRE

OTHER IMPORTANT CONTACTS TO THIS CASE

(1)

Name _____ AKA _____

Social Security Number _____ DOB _____

Relation to Case: _____

Address _____

Phone _____ Other Phone _____

E-mail _____

(2)



Name _____ AKA _____

Social Security Number _____ DOB _____

Relation to Case: _____

Address _____

Phone _____ Other Phone _____

E-mail _____

(3)

Name _____ AKA _____

Social Security Number _____ DOB _____

Relation to Case: _____

Address _____

Phone _____ Other Phone _____

E-mail _____

(4)

Name _____ AKA _____

Social Security Number _____ DOB _____

Relation to Case: _____

Address _____

Phone _____ Other Phone _____

E-mail _____

PLEASE LIST ANY ADDITIONAL CONTACTS ON A SEPARATE SHEET AND ATTACH IT TO THIS QUESTIONNAIRE

PART 5: ASSET SCHEDULE (Assets Owned by Decedent as of Date of Death)

Please Estimate the Fair Market Value as of the Date of Decedent's Death

LIQUID ASSETS	Address of Holder	Account Number(s)	How Titled	Balance
1. Cash and Checking Account(s)				
2. Savings Account(s)				
3. Money-Market Fund(s)				
4. Brokerage Account(s)				
5. Stocks not in Brokerage Account				
6. Bonds not in Brokerage Account				
7. Mutual Funds				
8. Certificates of Deposit				
9. Life Insurance				
10. Other:				
11. Total Liquid Assets (add lines 1 – 10)	-----	-----	----- >	

RETIREMENT ASSETS	Name and Address of Custodian	Primary Beneficiary	Secondary Beneficiary	Balance
12. IRAs				
13. Profit Sharing / Pension / 401(k)s				
14. Other:				
15. Total Retirement (add 12 – 14)	-----	-----	----- >	

NON-LIQUID ASSETS	Address or Description	Parcel # of Description	How Titled (i.e. Joint Tenancy, Comm Prop., Etc)	FMV (Value)
16. Residence				
17. Rental				
18. Loans made to others				
19. Business(es)				
20. Recreational Property(ies)				
21. Other:				
22. Total Non-Liquid (16-21)	-----	-----	----- >	

PERSONAL ASSETS	Lender or Description	State Licensed In	Co-Owner Name(s)	Value
23. Car				
24. Additional Car(s)				
25. Boats / Recreational Vehicles				
26. Furniture				
27. Household Goods / Misc. Items				
28. Jewelry				
29. Collectibles				
30. Total Personal (23-29)	-----	-----	----- >	

TOTAL ASSET VALUE	BALANCE
31. TOTAL ASSET VALUE (Add Lines 11, 15, 22 & 30)	

DEBTS/LIABILITIES	NAME AND ADDRESS OF CREDITOR (include Account No. if Applicable)	AMOUNT
32. Credit Card Debt		
33. Consumer Debt		
34. Business Debt		

35. Home Mortgage		
36. Rental Property Mortgage		
37. Medical Bills		
38. Funeral / Burial / Memorial Bills (please state if family loaned money or insurance paid the costs)		
39. Other Debt		
40. Total Debt (Add lines 32 – 40)	----->	

NET ESTATE	TOTAL
NET ESTATE (Subtract Line 40 from line 31)	

Is any Real Estate Outside the State of Washington? Yes No

If Yes, then Where? _____

Did Decedent Ever Make a Gift to an Individual Person in One Year in Excess of \$14,000.00?

If Yes, to Whom and for How Much? _____

Is There Any Further Information You Believe to be Relevant to Administering the Estate of the Decedent?

CONCLUSION

We at Nowakowski Legal PLLC hope that this Guided Overview of the Probate Process: For Those Appointed to Administer an Estate was helpful in your journey toward understanding the probate process. Should you have any questions or concerns regarding any legal matters surrounding this issue, please do not hesitate to contact Nowakowski Legal PLLC.

Again, thank you for taking the time to read our Guided Overview of the Probate Process: For Those Appointed to Administer an Estate!