



## BOCA RATON PROBATE ATTORNEY

### A BOCA RATON PROBATE ATTORNEY IS HERE TO HELP YOU WITH ALL ESTATE PLANNING AND ADMINISTRATION CHALLENGES

Well-crafted [wills](#), [trusts](#), and other [estate planning](#) tools can do a great job of clearly setting forth what happens to your assets after you pass away, but the transfer and distribution of assets after your passing doesn't occur automatically. The clarity you provided in your estate planning documents must be followed by clarity in the process of following through on your directions. For these reasons, it is in every family's best interest to consult an experienced Boca Raton probate attorney.

#### WHAT IS PROBATE?

Probate is a court-supervised process used primarily for the distribution of a decedent's assets in accordance with their will, or in accordance with the Florida Statutes in the event the decedent died without a will, and to notify and pay creditors of the estate. At Ellis Law Group, our Boca Raton probate attorneys have decades of collective experience providing sound guidance and comprehensive representation in probate administration and litigation matters. Probate can be a lengthy and complicated process even when things go smoothly. The person appointed to administer the estate through the probate process in Florida is called a personal representative. In other states, this person may be known as an executor.

Personal representatives and families who have recently lost a loved one can count on the probate attorneys of Ellis Law Group to guide them through these proceedings with efficiency, empathy, thoroughness, and finality. We will prepare and file all necessary petitions, pleadings and any other required documents with the court, attend all hearings, and advise the personal representative on the administration process and on implications of certain decisions or actions.

Our comprehensive and efficient probate representation includes:

- ▶ Ascertaining and marshaling the assets of the estate
- ▶ Identifying and locating beneficiaries
- ▶ Determining debts and other claims against the estate and assisting in negotiating and paying legitimate claims
- ▶ Distributing the estate to beneficiaries pursuant to established directions
- ▶ Calculating and paying all taxes and preparing estate tax returns
- ▶ Managing the estate's assets
- ▶ Overseeing payment of funeral and related expenses
- ▶ Attending court hearings
- ▶ Locating next of kin and more remote beneficiaries
- ▶ Working with retirement benefits administrators
- ▶ Litigating contested wills and other disputes





## **HOW DOES PROBATE WORK IN FLORIDA?**

Probate is a court proceeding designed to identify, gather, and distribute your assets and address any of your outstanding liabilities after you die. Even with a valid will, the probate process is still required to pass ownership of probate assets to your heirs and beneficiaries. For those who pass away without a will, probate is necessary to legally convey assets under Florida's laws of intestate succession. If conflicts or competing claims arise during this process, they are resolved through probate court litigation.

The personal representative is the individual nominated in the decedent's will, and appointed by the probate court, to guide his or her estate through the probate process. Probate administration in the State of Florida requires the personal representative to retain an experienced probate attorney to assist them with this often-complicated endeavor.

## **HOW LONG DOES THE FLORIDA PROBATE PROCESS TAKE?**

Typically, courts require estates to be closed within 12 months of the issuance of the letters of administration; however, many factors play a role in determining whether an estate can be closed within that time frame. The complexity of the portfolio of assets in the estate, claims by creditors which need to be paid, selling assets to satisfy those claims, distributing assets to heirs, and disputes between those heirs about who will get what can lead to lengthy delays in the process.

Final accounting needs to be made, tax returns need to be prepared and submitted and taxes must be paid, and the court must officially close the estate for the process to conclude. Crowded court dockets can also delay the conclusion of proceedings, especially if there are disputed matters that require active court intervention to resolve. At a minimum, a probate estate must remain open for at least 3 months to give creditors an opportunity to assert claims against the estate.

## **DO I NEED A BOCA RATON PROBATE ATTORNEY FOR FORMAL PROBATE?**

When an individual passes away in Florida having estate assets worth over \$75,000, their estate will have to go through a court process called "formal administration."

Formal administration involves, among other things, notifying the decedent's creditors of the individual's passing to ensure that the assets are marshaled, inventoried and that creditors are paid from those assets so that distributions can then be made to the beneficiaries under the decedent's will (or in accordance with Florida's intestacy statutes).

In Florida, the decedent's personal representative must promptly publish, usually in a local newspaper, a notice to creditors that contains the name of the decedent, the estate's file number, the court where the proceedings are pending, the name and address of the personal representative and their attorney, and the date of first publication. The notice also needs to advise creditors that they must file claims against the estate with the court during those first 3 months or be forever barred. If a creditor does not file a claim with the probate court within 3 months after the notice to creditors is issued, they may lose their rights to seek payment from the estate for any outstanding debts.

Additionally, the personal representative must promptly conduct a diligent search to determine the names and addresses of known creditors of the decedent or creditors who are reasonably ascertainable, even if the claims are unmatured, contingent, or unliquidated, and must promptly serve a copy of the notice on those creditors.

Diligently satisfying the creditor notice requirements of Florida law is critical. The formal probate administration process is not complete and distributions to heirs cannot be made until any outstanding debts have been paid to creditors or those creditors lose their right to pursue any such claims because they failed to submit their claims with the probate court promptly.

## **FLORIDA PROBATE ISSUES FOR OUT OF STATE PROPERTY OWNERS**

It is not uncommon for individuals who are residents of other states to own real estate here in South Florida. Conversely, these individuals, many of whom are "snowbirds" who spend significant time here enjoying that real estate, may continue to own property in their home state or elsewhere. Each state has its own laws and conducts its own probate proceedings. Florida probate courts do not have jurisdiction over property or assets located in another state, and the courts of other states cannot distribute real or personal property located in Florida. Distribution of such property will need to be addressed in the state where it is located. This is called ancillary probate.

Ancillary probate is when a decedent passes away in Florida while owning property in another state, or vice-versa. If that property has not been put into a trust or disposed of by deed, then counsel will need to be retained in that state to open an ancillary probate case to address the disposition of that property.

At Ellis Law Group, we work with personal representatives (executors) and families outside of Florida who must open an ancillary probate proceeding in Florida to deal with property located here. When ancillary probate needs to be commenced in another state, we can help find, retain, and collaborate with qualified counsel in that jurisdiction to ensure that the transfer of title and all related matters proceeds expeditiously and without unnecessary complications.

As noted, the probate process can be slow and costly even in the best of circumstances. An ancillary probate proceeding means those frustrations are essentially doubled as there are now two pending court cases that need to be handled by two separate attorneys. With comprehensive estate planning, the need for probate can be avoided.

For example, real property in another state can usually be placed into a properly established living trust or irrevocable trust and, as such, can be distributed outside of the probate process. This is just one of many reasons to meet with one

of Ellis Law Group's experienced estate planning attorneys. Establishing a comprehensive estate plan can spare your loved ones the headaches and expense of probate and allow them to move forward with less hassle more quickly.

## **PROBATE LITIGATION**

Sadly, those left behind after a loved one passes away may not be on the same page as to how the probate process should proceed. There may be disagreements as to the distribution of assets, the true intentions of the decedent, or the validity of the will or other estate planning documents they prepared setting forth their wishes. Other individuals or entities may make claims relating to the decedent's assets as well. All of these disputes can take a financial and emotional toll, and often need to be resolved through [litigation in the probate court](#).

## **HOW SHOULD I PREPARE FOR A MEETING WITH A BOCA RATON PROBATE ATTORNEY?**

Now that you have been introduced to the basics of the probate process, you might want to start thinking about how you can prepare for your first meeting with a Boca Raton probate attorney, especially if you have been named personal representative of the decedent's estate.

The first thing we want you to know is that we are here to help you through this. We know that after experiencing loss it can be hard to have the presence of mind to know what documents and financial records to look for, let alone what your attorney will need to review.

The most important thing you can do is make the appointment with a probate lawyer as soon as possible. The list below is intended to help you organize your thoughts around what could be needed during the process and it is absolutely not mandatory that you bring everything with you at the first meeting. There is no need to wait until you can put your hands on all the documents your probate lawyer will request. If you need help finding any of the documents or information listed below or any additional information that your attorney may ask for, please rest assured that the professionals at Ellis Law Group have the experience and resources to help find many of the documents or records that you are not able to readily locate.

This list is not exhaustive but, as mentioned above, will prove useful in getting you started.

- ▶ Copies of the death certificate
- ▶ Copies of any life insurance policies
- ▶ The decedent's Last Will and Testament
- ▶ A list of where the decedent banked and their bank account types and numbers, as well as copies of bank statements, if readily available
- ▶ Information about individual or employer-provided retirement accounts
- ▶ Information about any real estate, whether in Florida or out-of-state, the decedent owned
- ▶ If the decedent owned a business, information about the type of business and contact information for relevant partners or co-owners
- ▶ A list of the motor vehicles the decedent owned
- ▶ Information about any financial instruments, such as stocks, bonds, and mutual funds he or she owned
- ▶ If the decedent used the services of a financial planner or stockbroker, the contact information for that individual
- ▶ A list of personal property, such as furniture, jewelry, art, etc. that the decedent owned
- ▶ The names and contact information of any of the people you are aware of that were named in the will

You may also want to make a list of any questions that you want to ask your attorney at your first meeting. If you anticipate that the probate matter at issue could be the subject of a probate dispute such as a [contested will or trust](#) that could end up in probate litigation, be sure to bring all of the information with you that will help your lawyer determine how best to proceed.

## **CONTACT A BOCA RATON PROBATE ATTORNEY TODAY**

The goal of every attorney and staff member at Ellis Law Group is to relieve as much burden as possible from your shoulders during the difficult time following a loved one's death. Our legal team sees it as one of our core responsibilities to assist families living in the aftermath of a loved one's passing. During such a difficult time, our goal is to provide clarity, comfort, and peace of mind to those left behind. We invite you to contact Ellis Law Group to learn more about how an experienced Boca Raton probate attorney can help you with your probate issues and concerns. Please call us today at 561-475-1183 or [contact us online](#). We look forward to serving you.