

ESTATE CASE INFORMATION

No two estates are exactly the same; however, there are certain procedures that generally occur. This information sheet is provided only to give you a general overview of the process involved in the probate or administration of an estate.

Attorney Fees:

My firm charges a minimum retainer fee to become involved in an estate case. The minimum retainer amount will be given to you during your consultation; however, additional fees may be charged if the estate is disputed and requires multiple court appearances, etc. You will be billed for any additional charges.

Other Costs:

There are other costs associated with estate cases, which are NOT included in your attorney fees; you will be required to make a minimum deposit toward these costs. The deposit will be put into my trust account, and the funds only will be used toward costs associated with your case. These fees may include Court filing and/or recording fees, Sheriff's Service fees, Court Reporter fees, legal ads, etc. Although we cannot provide an exact estimate for these costs, we generally collect between \$260 - \$500. You will be charged for any additional fees not covered by the initial deposit, and any unused funds will be returned to you at the completion of your case.

General Information about Estate Cases:

An estate is Probated, when the decedent leaves a will; An estate is Administered when the decedent does not leave a will.

Filing the Petition:

An estate case begins when a *Petition* is filed with the Probate Court. The Petitioner either files a *Petition to Probate the Will* or a *Petition to Administer* the estate. A *Petition to Probate* is usually filed by the Executor/Executrix named in the will; A *Petition to Administer* the estate can be filed by any heir or interested party. A Petition may also be filed by joint petitioners (or more than one person).

Service of the Petition:

All heirs or interested parties must properly be served with a copy of the Petition and Will (if applicable), and this can be done in a variety of ways. My office generally will mail copies of the Petition and Will to all heirs and/or interested parties and ask that they sign an *Acknowledgment of Service* and agree to the Probate or Administration of the estate. If the heirs comply with the request, their signed *Acknowledgments of Service* will be filed with the Probate Court. If the heirs refuse to comply, then they will have to be served by the Court. The Court may perfect service by certified mail, by Sheriff's service or by publication; it depends on the situation; however, you will be charged for any service fees.

Once all heirs and interested parties have been served, the Probate Court will set a hearing. If any objections have been filed, then the Court will schedule a hearing so that the objection(s) may be resolved. If no objections are filed, the Court will schedule a time for the Petitioner to go to the Court, take an Oath, and be appointed as Executor/Executrix or Administrator/Administratrix of the estate.

Assets of an Estate:

It is a common misconception that the Executor or Administrator of the estate will get the assets of the estate. This is absolutely not true.

It is important to understand that the creditors of an estate must be paid. Once the Petitioner is granted the power to settle the estate, a legal ad (*Notice to Debtors and Creditors*) immediately is placed in the local newspaper. The ad notifies estate debtors/creditors of the death and instructs them to file any claims they have with the estate. All estate claims must be settled in accordance with the laws of the State of Georgia.

Persons who owe money to the estate will be requested to pay the estate representative. If they do not voluntarily pay, an Executor or Administrator may have to file suit(s) to collect the debt. Any money recovered will be

considered an asset of the estate.

If an estate is insolvent, meaning there are no assets, the creditors will be notified and the estate will be closed. No assets will be distributed.

If an estate has assets, the assets will be distributed in accordance with the laws of the State of Georgia. All creditors must be paid first. Once this is done, the remaining assets will be distributed in accordance with the decedent's will. If there is no will, the remaining assets will be divided among the heirs. This process may differ from estate to estate, depending on the particulars of that estate; however, no one will receive any assets that they are not entitled to receive.

Bond, Inventory and Tax Return:

Some estates require a bond to be posted or inventories and tax returns be filed; however, this generally is determined on a case by case basis and in accordance with the laws of the State of Georgia. You will be advised if it is necessary for you to do any or all of these things.

It is important to understand that it takes time to settle an estate, especially if anyone objects to your Petition. Sometimes it is easy to become frustrated by the duration of an estate case; however, the procedures, which have been established to protect the rights of all involved parties, must be followed until the conclusion of the case.