

# SHEEHAN PHINNEY

## Probate & Trust Administration

### Probate Administration

Probate Administration refers to the process that occurs when an individual's property must be transferred and distributed after his or her death with the assistance of a Probate Court. Many assets pass to other people upon death without court oversight, such as jointly held bank accounts, or life insurance and 401K's that have beneficiary designations. However, if an individual dies owning property in his or her own name, Probate Administration will be necessary whether the individual died without a will ("intestate") or having had a will ("testate"). Our attorneys are able to assist executors, administrators and families in navigating the complex rules of the Probate process.

### Ways we can assist in understanding and administering a probate:

- Review the probate process, and its alternatives, with clients during life, so they can determine their preferred course of action.
- Work with clients to ensure assets that can pass outside of probate are appropriately identified and beneficiary designations are up to date.
- Assist in identifying executors and trustees, based on the clients' preferences.
- Consult with and outline the various steps of the probate process for an executor who wishes to handle all the details independently.
- Work with executors and administrators to prepare the estate for probate and to comply with court-mandated milestones and directives.

### Trust Administration

Many of our clients establish living trusts as components of their estate plan. While the individual creating a revocable trust typically retains control of the trust assets, circumstances become more complicated when the trust creator dies or is unable to act as trustee. At this time, the successor trustee's duties may be significantly more complex than those of the original creator, and potential liability may occur if the successor fails to follow the necessary procedures and directions of the creator. We regularly assist trustees through the transitional process of trust administration by advising clients as to the legal responsibilities of trustees and educating them about state-specific laws relating to trust administration.

### Ways we can assist in understanding and administering a trust:

#### Members

- Alisha E.A. Cahall
- Bradford E. Cook
- Ann N. Butenhof
- Judith L. Bomster
- Madeline Christie Hutchings

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- Assist clients in identifying and naming an appropriate trustee and successor trustee at the outset, and helping clients fill a vacancy in the trusteeship if no one is able to serve.
- Review specific provisions of the trust which may need to be analyzed in order to accomplish the grantor's wishes concerning asset management.
- Work with trustees in understanding their role and responsibilities.
- Assist trustees and families during times of transition by educating them on applicable laws regarding trust administration and disposition of assets (preparing and sending Trustee notices and annual accountings to beneficiaries, advising on making distributions, obtaining receipts, etc.).
- In the case of a special needs trust, assist trustees in understanding eligibility rules for public benefits to ensure assets are administered to enhance the life options of a person with disabilities without impairing financial eligibility for benefits like Supplemental Security Income (SSI) and Medicaid.