



KIECKER
LAW OFFICE

Probate

These are some common legal instruments that I employ to accomplish your estate planning goals:

PROBATE OR TRUST?

As I mentioned, you may avoid probate by placing your assets in a trust. Doing so avoids both the expense and the process of probate, which averages one year, and may run longer. If you have a potential trustee, a relative or friend, in whom you have absolute confidence, a trust may be best for you. If we determine that a trust is not in your best interests, then your estate will go through probate.

There are benefits to probate. The entire court system ensures that your last will and testament is carried out. It protects the beneficiaries. It provides a system for paying the debts of the decedent

THE PROBATE PROCESS

Probate is the legal proceeding wherein the court oversees the marshaling of a decedent's assets, the payment of estate taxes and creditors' claims, and the distribution of the remaining assets. If there is a will, the assets will pass to those named therein. If there is not a will, the assets will pass to one's legal heirs as determined by state law.

Almost every step in the probate process may end up in litigation, such as, the appointment of the administrator, the admission of the will to probate and the allowance or disallowance of claims. Any time the rights of two or more persons may come into conflict can be the point at which litigation starts.

In fact, while trusts are employed to avoid probate, trusts may also end up in litigation. Persons and creditors who might have rights under, or a claims against, an estate, may file suit against the trustee to have their rights enforced, or their claims paid.

CLOSING THE ESTATE

Once the estate's obligations have been met, the administrator may distribute the balance of the estate to the persons entitled under the will or under law.