

Real Probate Stories

Submitted By Heritage Independent Agents

STORY #1.

My grandfather left my 4 siblings and myself 5 parcels of land in California. To pay their legal fees, the estate lawyer sold one of the properties. They told the realtor to sell it for \$65,000 which is the amount they were owed.

They selected the parcel which was disconnected from the other 4 which probably seemed like a good idea to them. Unfortunately they sold the only parcel which was possible to subdivide. Subdivided into 3, that parcel was worth about \$ 330,000. The realtor sold the whole thing for \$110,000 which was better than \$65,000 but much less than the \$ 330,000 that the parcel was actually worth.

So we lost about \$ 220,000 in probate there, not to mention the \$ 65,000 in legal fees.

STORY #2.

I lost my mother at a young age, one year after my father had passed away. My mom had told me just a couple months before she passed away that she wanted to set up a Living Trust. She never completed that task and also did not have a simple will prepared. After my mom passed away, an approximately two and a half year nightmare began for a college-age guy that knew nothing about probate.

Her estate was very small and I had no legal access to any of her assets. I had to hire an attorney and start the probate process. I was appointed independent administrator for her estate and had to set up a checking account in the name of the estate. While I was able to transfer her checking account funds to the new checking account, I was only allowed to use it for paying legal fees, which added up to an amount I could have never imagined.

Because she passed away without a will, the state of Texas would be the institution that ultimately decided the fate of her estate, not my mother. I had to go through the painful process of dealing with creditors while they filed claims against the estate. I was told by my attorney that I could not pay them directly. Most of the creditors filed claims, as was required by the probate court, except for one. That creditor, a large department store chain, made the choice to sue me directly, as independent administrator, instead of filing a proper claim through the probate court. Again, I was told by the attorney that I could not pay them directly so as to not set a precedent for the other creditors. The credit card bill was originally \$900. I ended up settling out of court for \$250 and my bill from the attorney was over \$5,000.

I had to hire a second attorney to represent the interest of any unknown heirs and had to go through a long process to prove that there were no other heirs. I also had to put my mom's home up for sale even though it was her desire for me to be able to keep it. There was no money available to me to be able to keep the house because of all the legal bills.

Throughout the process, I ended up having to pay the estate attorney over \$17,000 in legal fees, which took most of my mom's small estate and legacy. I was not able to do anything to keep her dreams alive, a situation that would have been very different if she had purchased a Living Trust. Probate was the

most painful thing I have ever gone through in my life and I would not wish that pain on my worst enemy.

STORY #3.

My mother in-law's health began to go the wrong direction probably a year and half ago. She was looking at having a stint inserted. So she decided to write a will, just in case. So, with the help of my wife they cobbled together a will. It got signed and witnessed. This do-it-yourself project would come back to haunt us later.

Fast forward to October 2013. Mom in-law goes into the hospital with breathing difficulties. The family has the expectation she will recover. From one day to the next her prognosis turns bad, real bad: as in life in a long term care facility on a ventilator for life. Thankfully, mother-in-law had both healthcare and financial powers of attorney in place. My wife served in both capacities. On October 21, 2013 my mother-in-law passed. Salt in the wound: money had to be borrowed to cremate the decedent!

The prospect of an estate and the possibility of inheriting assets does funny things to people. You find what your family members are really like at a time like this. In some it brings out the "vulture", greedy side of them. One family member even demanded to see the Will before his mother had passed! He continues to be a pain and promises to contest and tie up the will in court as long as possible.

After visiting with two different attorneys on the matter, we settled on the second one. We were informed by both that the Will was incorrectly written. So, my mother-in-law's home goes to probate. Her other accounts were settled by virtue of joint accounts and beneficiary designations. My mother-in-law tried to divide the proceeds of those in the will. Cannot be done! Those accounts will create tax consequences for the recipient!

Probate paperwork costs \$2000 for openers. The attorney then gets paid out of the proceeds of the estate according to this schedule:

- ☐ 4% of the first \$100,000
- ☐ 3% of the next \$100,000
- ☐ 2% of the next \$800,000
- ☐ 1% on the next \$9,000,000
- ☐ 0.5% on the next \$15,000,000
- ☐ A reasonable fee thereafter

Assuming the estate is liquid. In our case it may require selling the home! All of this assumes no one contests or the price goes up, way up. Try \$350/hr. in attorney fees!! We have probably a year of probate pain to endure at this point, maybe more.

One more thing: When mom in-law died we had to figure out what she was "on the hook" financially for things like ID theft protection, Medicare supplement, dental insurance, auto and homeowner insurance, retirement plan and so forth. My mother-in-law's strong suit was a heart for people NOT organization. So it took a lot of digging and phone calls to get things straightened out.

Bottom line: A Will is NOT a do-it-yourself project. Walking over dollars to pick up pennies by cobbling your own will may have saved the decedent money, but will cost the remaining family members dearly, financially and emotionally.

I am a Heritage agent. I tried to convince mom in-law to buy an HLT. She said yes, but never came through. She made excuses, put it off, and gave me *"I'll get around to it"*. Too late now! ALL of this pain and expense could have been avoided with a Heritage trust!

As an agent I now have a mission. I am determined to help as many people as possible have that conversation about their estate plan. When clients buy a Heritage trust think of it as an act of love that will spare their loved ones miseries like the ones described above.

STORY #4.

My Dad is dealing with probate currently. His brother died at age 87 with a Will. In the Will all tangible assets go to a niece, but all the money (intangibles) have no beneficiary, so according to the succession of family, my Dad is the only living survivor of my uncle's family, he gets all the money. So his niece has acquired a lawyer and when he didn't give her the results she was looking for she acquired a new lawyer and has held up the Probate process for 3 months now. There is nothing she can do to stop the money coming to my Dad, because of the succession laws, but this has held up my Dad receiving the money.

STORY #5.

My mother died of cancer at 46 years old without a living trust. Probate went on for over ten years and was never terminated. Because of the Probate, we were forced to use estate monies to hire a Probate attorney in San Diego (where my mother died) and then later in Los Angeles (where I lived).

A living trust is a must for everyone. It saves the aggravation of probating the estate which takes time and costs money, it saves money for some taxes charged to the beneficiaries, and it streamlines and efficiently carries out the wishes of the decedent. I can think of no reason not to have a living trust.