
Where can I get more information?

- If you are in need of an attorney, Lawyers Referral Service may be able to assist you in finding an attorney. Their telephone number is (209) 571-5727.
- There are books available on this subject at the public library. The County Library is located at, 1500 I Street, Modesto, California
- Stanislaus County Law Library, 1300 K Street, Modesto, California.
- Additional information can be accessed through the California Courts online self-help center at <http://www.courtinfo.ca.gov/selfhelp/lowcost/libraries.htm>
- EZlegalfile -- free downloads and assistance is available on the internet to assist you with filing out forms for a variety of legal issues. You can access this site from any computer with internet access, including the computers located in the Superior Court's lobby located at the following address:

1100 I Street, Modesto, CA

Glossary

ADMINISTRATOR: A person (sometimes a family member) appointed by the court to administer the estate of a person who died without a will (i.e., a personal representative).

BENEFICIARY: A person who inherits when there is a Will.

BLOCKED ACCOUNTS: Cash or securities that are placed in a bank, trust company, insured savings & loan or insured brokerage account, subject to withdrawal only upon court order or statute.

CUSTODIAN OF THE WILL: The person who has the original Will at the time of a person's death.

DECEDENT: The person who died.

DECEDENT'S ESTATE: All real or personal property that a person owned at the time of death.

EXECUTOR: A person named in a Will and appointed by the court to carry out the dead person's wishes.

HEIR: A person who inherits when there is no Will.

INTESTATE: When someone dies without leaving a Will.

INTESTATE SUCCESSION: The order of who inherits the property when someone dies without a Will.

Glossary Continued

LETTERS: The court document that evidences the authority to act as a guardian, conservator, or personal representative (executor or administrator). In decedent's estates, an executor's letters are designated "letters testamentary," and an administrator's letters are "letters of administration."

PERSONAL PROPERTY: Things like cash, stocks, jewelry, clothing, furniture, or cars.

PETITION: A written, formal request, properly filed with the Court, for a specific action or order. The petition is a pre-printed court form in some cases, e.g. petition for probate, petition for conservatorship, etc., or in other cases is written in proper format on pleading paper.

PROBATE: The legal process of administering a Will or estate. Also, the judicially supervised process for marshaling a decedent's assets, paying proper debts, and distributing the remaining assets to the persons or entities entitled to them.

REAL PROPERTY: Buildings and land.

SMALL ESTATES: A decedent's estate may avoid probate and have personal property only transferred directly to an heir if the decedent's estate meets the requirements of California Probate Code §13100 et. seq.

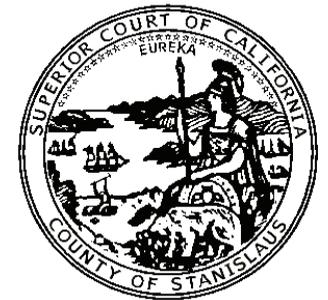
TESTATE: When someone dies leaving a Will.

WILL: A legal paper that lists a person's wishes about what will happen to his or her property after death.

SUPERIOR COURT OF CALIFORNIA COUNTY OF STANISLAUS

Probate Frequently Asked Questions

1100 "I" Street
P.O. Box 1098
Modesto, CA 95353
www.stanct.org
209-530-3100



Probate is the court supervised process of identifying and gathering a person's assets after their death, paying all of their debts, and distributing the balance to the rightful heirs or beneficiaries.

What is "Probate"?

Probate deals with: 1) Deciding if a Will is valid. 2) Gathering the assets of the person who died. 3) Taking care of the financial responsibilities of the person who died. 4) Transferring the property/assets of someone who has died to the heirs or beneficiaries.

If you resided and died in one county can the probate be filed in and handled through another county?

The probate must be filed where the decedent resided or owned real property. If the person lived or owned real property in Stanislaus County then the probate could be filed here.

Do you have any recommendations for a probate attorney in Stanislaus County?

The Superior Court cannot make recommendations with regard to probate attorneys. We can refer you to the Stanislaus County Bar Association's Lawyer Reference Service at (209) 571-5727 that can assist you with obtaining a probate attorney.

Does every estate have to go through probate?

There are many situations where an estate does not require probate, including estates under \$150,000.00, estates in trust, and those cases where all of the estate passes to a surviving spouse. Even when probate is not required, however, some sort of legal process is often necessary. This is especially true when an estate owns an interest in real property. Legal counsel is recommended if you have questions regarding estate matters.

What if the person left *less* than \$150,000?

If the dead person's property is worth less than \$150,000, and you have the legal right to inherit from the dead person, depending on the circumstances you may not have to go to court to get the property.

To transfer personal property, you may need to write an *Affidavit to Collect Personal Property*. This is a special form you can obtain from the Superior Court Clerk's office or the court's website at www.stanct.org under forms. To transfer real property (like buildings and land), you may be able to use a form called *Petition to Determine Succession to Real Property*.

What if the person left more than \$150,000?

If the dead person's property is worth more than \$150,000, you may need to go to court and start a probate case.

To do this, you must file one of these forms: 1) *Petition for Letters Testamentary*, 2) *Petition for Letters of Administration with Will Annexed*; 3) *Petition for Letters of Administration*. If you choose to represent yourself, you may purchase a probate packet from the Superior Court Clerks' office that contains information and forms needed to begin a probate case.

What if I was married to the person who died?

You may be able to file a summary proceeding called a *Spousal Property Petition* to obtain an order of the court that says: 1) What your share of the community property is, and 2) What part of your deceased spouse's share of the community and separate property belongs to you.

What does the "Custodian of the Will" do?

According to California Probate Code §8200, the person who has the Will at the time of the person's death is the custodian of the Will. The custodian has 30 days to take the original Will to the Probate Clerk's office. There is a \$50 fee to do this. Superior Court Clerk's Office is located in the City Towers Building at 801 Tenth Street, Fourth Floor, Modesto, CA 95354.

The custodian must also send a copy of the Will to the person named in the Will to serve as Executor. If the custodian does not do these things, he or she can be sued for damages caused.

What happens if there is no Will?

If there is no Will and a court case is needed, the court will appoint an Administrator to manage the estate during the probate process.

The person who wants to be the administrator must file a *Petition for Letters of Administration*. The Administrator might be the spouse, domestic partner, or close relative of the dead person.

What happens after a probate case is filed?

- The probate clerk sets a hearing date.
- The petitioner must give notice of the hearing to anyone who may be an heir of the dead person or who is named in the dead person's Will. The petitioner cannot mail the notice. It must be mailed by an adult who is not a party to the case and is over 18 years of age.
- A court probate examiner reviews the case before the hearing. Any notes or deficiencies are posted on the courts website at www.stanct.org under "probate notes".

My case was taken off calendar; do I have to file a new petition?

If the matter is taken off calendar, you can request that the petition be reset. If applicable, re-notice, including re-publication, may be necessary.

Where is the list for probate properties that are for sale?

There is no list. However, posting for upcoming petitions to confirm probate sales can be found on the bulletin board located in the lobby of the clerk's office on the fourth floor of the City Towers Building, 801—10th Street, Modesto, CA.

Does the Court provide a list of probated property?

The court does not provide such a list.

How many days do I have to file a creditor's claim? Is there a fee to file a creditor's claim?

According to California Probate Code §9100, a creditor shall file a claim no later than four months after the date letters are first issued to a general personal representative. There is no fee to file a creditor's claim.

What happens when I go to court?

At the time of your hearing several things may take place. The judge will review the case, question all appropriate parties, and make a decision to either grant a petition or order, or make an order of court to continue the matter over to another hearing date. You do not necessarily need to be accompanied by an attorney; it is your choice whether or not you feel you need legal representation.

Where do I go for my Probate case?

Probate matters are generally heard in Dept. 23 of the City Towers Building, 801 10th Street, Fourth Floor, Modesto, CA 95354.
