



Transfer of Title Upon Death of an Owner Probate and Lack of Probate

Stephanie A. Earhart, Esq.
Washington Land Title Association
Education Seminar
Kennewick, WA, September 14, 2019
Lynnwood, WA, October 19, 2019



The Three "Ds" of Title Examination

Divorce



Debt



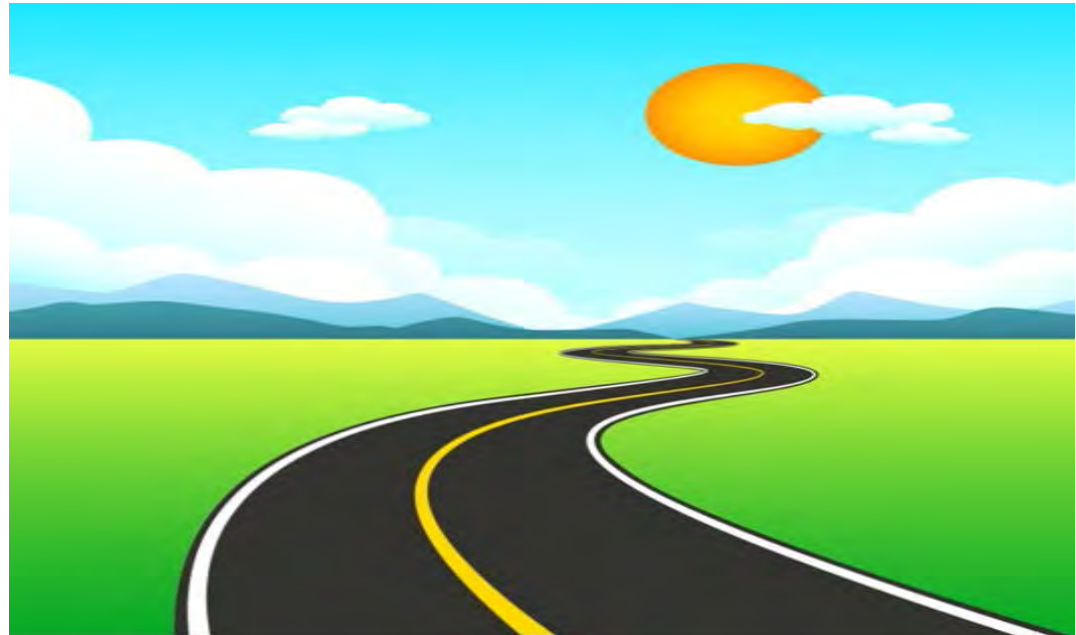
Death





Roadmap

- Basic definition
- Examples:
 - Probate with a will
 - Probate without a will
 - Lack of probate
 - Operation of law





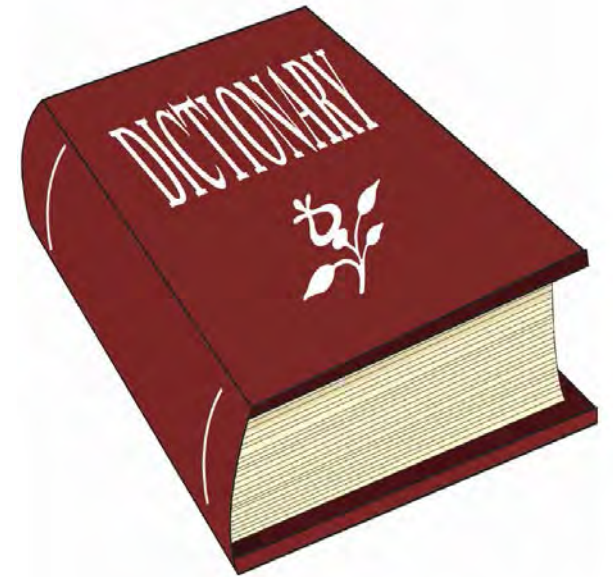
Basic Definitions

Probate: Estate fully administered in Superior Court

Lack of probate: Estate has not been fully administered
in Superior Court

Deceased: Dead

Decedent: The dead person in question





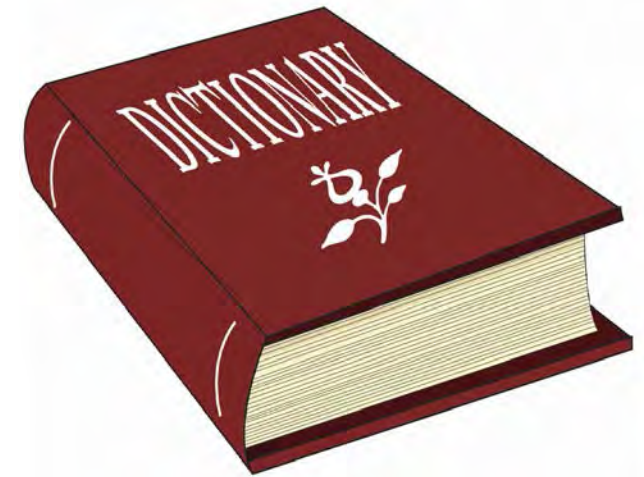
Basic Definitions

- If there is a will, the decedent died ***testate***.

If the will is probated, the people who take under the terms of the will are called ***devisees***.

- If there is no will, the decedent died ***intestate***.

People who inherit outside of the probate process are called ***heirs at law***.





Example #1

William Jones took title as a single man and never married. He dies. There is a will giving his friend, Sally, his home. His sister, Joy, was named personal representative in the will and there is currently an active probate case.





Probate with a will

- Order
 - Admission of the will
 - Appointment of Personal Representative
 - With or without non-intervention powers
 - With or without bond
 - Solvency
- Letters Testamentary





Order and Letters

**SUPERIOR COURT OF WASHINGTON
FOR Kitsap COUNTY**

Estate of

NO.

**ORDER ADMITTING WILL
TO PROBATE & GRANTING
LETTERS TESTAMENTARY &
NONINTERVENTION POWERS
(RCW 11.20.20 & 11.68.011)**

Deceased.



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

FILED
SEP - 3 2019
KITSAP COUNTY CLERK
ALISON H. SONNTAG

IN THE MATTER OF THE ESTATE OF

No.

Deceased.

LETTERS OF TESTAMENTARY
(LTRTS)

STATE OF WASHINGTON)

COUNTY OF KITSAP)

WHEREAS, the last will of _____, deceased, was, on the _____
_____ duly exhibited, proven, and recorded in our said superior court; and whereas, it
appears in and by said will that _____ is appointed executor thereon, and, whereas,
said _____ has/have duly qualified, now, therefore, know all men by these presents,
that we do hereby authorize the said _____ to execute said will according to law.



When Probate is Completed

SUPERIOR COURT OF WASHINGTON
FOR KITSAP COUNTY

Estate of

[REDACTED]

Deceased.

NO. [REDACTED]

DECLARATION OF
COMPLETION OF PROBATE
(Without Will; With Future Distrib.)
(RCW 11.68.110(1) & 11.68.112)

In accordance with RCW 9A.72.085, I declare under penalty of perjury under the laws of the State of Washington that the following is true and correct to the best of my knowledge:

1. **Personal Representative.** I am the Personal Representative of Decedent's estate.
2. **Decedent.** Decedent died intestate on April 24 2014, was then a resident of Kitsap County, Washington, and left property in this state subject to probate.
3. **No Will.** No valid *Will* of Decedent has been found.
4. **Creditor's Claims.** Each *Creditor's Claim* that was justly due and properly



Example #2

William Jones took title as a single man and never married. He dies. There is no will. He is survived by a sister and his parents. His family decides to probate his estate.





Probate without a will

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

MASON COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR KITSAP COUNTY

In Re the Estate of: _____ Case No.: _____
_____ **ORDER GRANTING LETTERS
OF ADMINISTRATION**
Deceased.

An application for Letters of Administration of the estate of the above named Decedent has been presented on behalf of _____. The court finds:

1. Decedent died on June 6, 2015, leaving property subject to probate administration in Kitsap County, Washington.
2. Decedent died intestate, without leaving a Last Will and Testament.
3. The Decedent's heirs according to the intestacy statutes include Decedent's brothers, _____ and _____. The Decedent did not have any children and was divorced at the time of his death.
4. _____ is qualified and willing to act as administrator, and it is in the best interests of the estate for his appointment as administrator with non-intervention powers.

FILED
JUL - 6 2015
KITSAP COUNTY CLERK
DAVID W. PETERSON

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

IN THE MATTER OF THE ESTATE OF

Deceased.

STATE OF WASHINGTON)
COUNTY OF KITSAP)

NO. _____
OATH
LETTERS OF ADMINISTRATION
(OAL/TRAD)

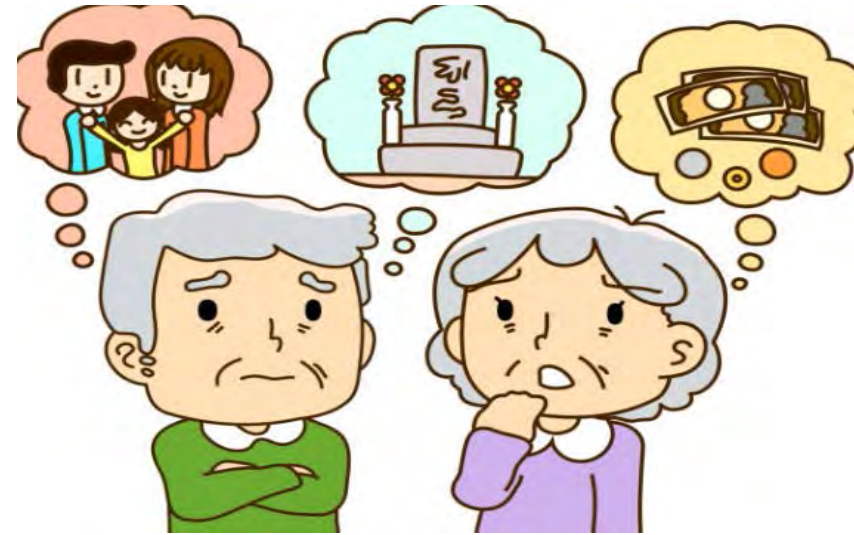
WHEREAS, _____, late of Kitsap County _____, on or about the _____, A.D., _____ died intestate, leaving at the time of his death, property in this state subject to administration;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that

we do hereby appoint _____ administrator upon said estate, and whereas said administrator has duly qualified, hereby authorize him/her to administer the same according to law.

Example #3

William Jones took title as a single man and never married. He dies. There is no will. He is survived by a sister and his parents. His family will not be probating his estate.





Lack of Probate

- Proof of death
- Lack of Probate Affidavit



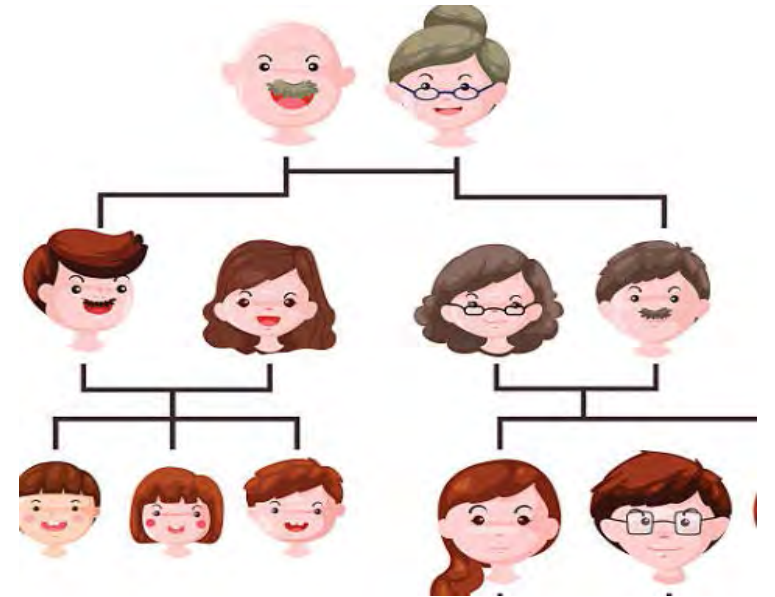
Lack of Probate Affidavit

- Is there a will?
- Who are the heirs?
- Is there a community property agreement?
- Evidence of payment of debts?
- Is the estate solvent?

Laws of descent-RCW 11.04.015

General order of distribution:

1. Spouse/domestic partner
2. Children
3. Children of children
4. Parents
5. Brothers and sisters
6. Grandparents





Example #4

Amy and Robert Jones took title as a married couple. Robert dies. There is a recorded Community Property Agreement. The estate has not been probated.





Statutory Transfers by Operation of Law

Examples (non-exhaustive list):

- *Community property*
- *Joint tenancy*
- *Transfer on death deed (TODD)*



Example #5

Amy and Robert Jones took title as a married couple. Robert dies. The estate has not been probated.





Contact Information

Stephanie Earhart, Title Officer

Attorney's Title of Kitsap County

10356 Silverdale Way, Silverdale, WA 98383

(360) 337-2000

stephanie@atkitsap.com