

# LAST WILL AND TESTAMENT COMMON QUESTIONS

## **Does my Last Will and Testament override all of my other estate planning?**

**Answer:** No. Your Last Will and Testament only controls those assets that are solely in your name (=Probate Assets) at the time of your passing.

## **What is Probate?**

**Answer:** Probate is the legal process of validating a person's Last Will and Testament and the administration of that person's estate.

## **What is an Executor or legal representative of the estate?**

**Answer:** An executor or legal representative of the estate is the person designated in the Will and approved by the Court (part of the probate process). He/she shall have the authority to locate and marshal all of the assets of the decedent's estate, pay off any outstanding debts of the decedent and the estate, and, finally, make distributions from the decedent's estate in accordance with the decedent's wishes expressed in the Will.

## **What happens if I pass away without a Last Will and Testament?**

**Answer:** If you pass away without a Will, a legal proceeding called "Administration" takes place. It is similar to probate. The Court identifies the decedent's heirs and appoints the administrator of the estate, who then marshals and distributes the assets in accordance with the laws of your state...so your wishes may not be met!

## **What gives the executor/legal representative of the estate the authority to act on behalf of the estate?**

**Answer:** The court issues Letters Testamentary (probate proceeding) or Letters of Administration (administration proceeding). This document officially appoints the executor/legal representative and gives him/her the authority to act on behalf of the estate.

## **How/when does the estate get closed out?**

**Answer:** After the estate assets have been marshalled and debts of the estate have been paid, paperwork will be filed requesting the Court to issue an Order directing the steps necessary to close the estate (i.e. paying any final expenses of administration and distributing the assets to the beneficiaries). Once these steps have been accomplished and the Court's Order has been complied with, a Statement of Compliance stating that all required actions have been taken will be filed with the Court.