

GLOSSARY

A

Administrator: A court appointed person or corporation in charge of managing the estate of a person who dies without leaving a will. Administrators have the same duties as Executors. In Minnesota, the administrator or executor is called the Personal Representative.

Affiant: A person who makes an oath or affirmation and acknowledges the same in writing. In Minnesota this is usually done before a notary public.

Affidavit: A voluntary written statement of facts confirmed by the oath or affirmation of the affiant.

Affidavit of Collection of Personal Property: A sworn, notarized statement, used to collect assets of a small estate without going through the probate process. (aka Affidavit of a Small Estate).

Agent: A person authorized by another to act for him.

AKA: Also Known As (also lower case: aka).

Amendment: A change or modification. See **Codicil**.

Ancestor (an Ascendant): A deceased relative such as a parent or grandparent from whom one is descended.

Ancillary Administration: A secondary administration in a state where the decedent owned property and which is not the state where the decedent was domiciled.

Annuity: The right to receive fixed sums of money at regular intervals.

Appoint: To designate and empower particular person(s) with authority to perform specified duties.

Appraisal: An evaluation by disinterested and qualified persons as to the value of assets.

Assets: All property of a person, corporation or estate of a decedent; real or personal, tangible or intangible.

Attorney-in-fact: A person with the power granted under a power of attorney.

B

Beneficiary: An entity who benefits from the act of another.

Beneficiary Designation: The act whereby the decedent, prior to death, identifies the recipient(s) of his/her assets.

Bequest: A gift by will of personal property.

Specific bequest: A gift of personal property of a specific class or kind.

Residuary bequest: A gift of the balance of the decedent's assets after payment of debts and other specific gifts.

C

Claims: A debt the decedent owed on the date of death.

Claimant: An entity making a demand for money or property.

Codicil: a legal instrument that modifies a will.

Community property: Property owned by a husband and wife each having an undivided one-half interest in the common property because of their marriage.

Conservator: An entity appointed by a court and given the power to protect the financial assets and financial interests of a legally disabled person (a "protected person"). Since the adoption of the Uniform Guardianship and Protective Proceedings Act (2003) there has been a change in the definition of a conservator and a guardian.

Contest: To oppose or dispute a matter before the court.

Co-Personal Representatives: Two or more persons appointed to represent a decedent's estate who must act together in the administration of the estate.

Co-trustees: More than one trustee serving at the same time with the same duties and responsibilities

Creditor: a person or party to whom a debt is owed.

D

Decedent: The person who has died.

Demand for Notice: A written statement, filed after the death of the decedent, by a person with a financial or property interest in a decedent's estate who desires notice of any order or filing pertaining to the decedent's estate.

Devise: disposition of property by will.

Devisee: person or organization designated by will to receive property

Disclaimer: A written statement where an heir or devisee declines to accept an asset of the estate.

Distributee: person, other than a creditor or a purchaser, who receives property of a decedent from the personal representative.

Distribution: A division of estate assets, pursuant to authority of the court, to those legally entitled to a share of the decedent's estate.

Domicile: A person's usual place of dwelling and shall be synonymous with "residence." [A person must be domiciled in Washington County at the time of death in order to file probate in Washington County. Evidence of domicile includes registering to vote, using the address as a permanent address, etc. It is the place the person intends to return to, even when currently residing elsewhere.]

Duress: The threat of harm or use of physical force upon the testator, with the intent to coerce the testator, to make a devise contrary to the testator's free will.

E

Escheat: When there are no surviving beneficiaries or heirs the decedent's assets revert to the state.

Estate: all of the property of the decedent.

Execute: To complete and sign [generally used with respect to wills], with all statutorily required formalities, such as witnesses or notary acknowledgement, a valid document.

Executor/Executrix: The male or female respectively, who is named by the person making the will to administer the estate.. This person will collect the property, pay any debt and distribute your property or assets according to the will. In Minnesota, the Executor is called the Personal Representative.

Exempt Property: Estate property which is not subject to probate proceedings.

F

Family Allowance: A portion of a decedent's estate set aside by statute for a surviving spouse, children, or parents, regardless of any testamentary disposition or competing claims.

Federal Estate Tax: The tax imposed at death on the net fair market value of all property in which the decedent owned an interest on the date of death. Generally, in 2004-2006, the first \$1,500,000 of an estate is not subject to federal estate tax.

Fiduciary: A person or institution legally responsible for the management, investment and distributions of funds. Examples include trustees, executors and administrators. Another name for an executor or personal representative.

Formal Proceedings: proceedings conducted before a judge.

G

Guardian: An individual legally appointed to manage the rights of a person incapable of taking care of his or her own affairs, such as a minor or protected person; A person who has been appointed by the court to act on behalf of a minor or ward. In Minnesota, language has recently been clarified to denote a guardian as “of the person” and conservator as “of the estate”.

Gift Tax: Tax on gifts which is generally paid by the person making the gift, rather than the recipient.

Gross Estate: The total value of your assets owned at death, or that are included in your estate, before debts, taxes, and other expenses or liabilities have been deducted. For federal estate tax purposes, the value is determined at the date of death or on an alternate valuation date six months after death.

Guardian: The named in a will or appointed by the court to care for a minor or incompetent person.

H

Heirs: persons entitled to the property of the decedent under the laws of intestate succession.

I

Incapacitated Person: A person who has been determined by the court to lack the capacity to manage at least some of the property or to meet at least some of the essential health and safety requirements of such a person.

Informal Proceedings: unsupervised proceedings conducted before the Probate Registrar.

Inherit: Receive something from a person (usually after the person is deceased).

Inheritance: That which is received from another person upon his death.

Interested Persons: includes heirs, devisees, children, spouse, creditors, and any others having a property right in or claim to the estate of the decedent.

Intestate: estate with no will.

Intestate Estate: Property that is held (1) solely in the name of an intestate person (a person who dies without a will) or (2) as a tenant in common by an intestate person. In the absence of a will, the intestate laws determine who inherits which shares of an intestate estate.

Irrevocable: Cannot be changed or revoked.

J

Joint Ownership: The ownership of property by two or more people, usually with the right of survivorship.

Joint Property: Property owned jointly with another person or persons.

Joint Tenancy with Right of Survivorship: A form of ownership by two or more persons such that upon one owner's death, the other owner automatically inherits the entire asset. A will provision cannot give the asset to someone other than the joint owner.

Joint Will: A single will that is signed by two or more persons (usually spouses) as their separate wills, and is to be probated after the death of each testator. Joint wills are not favored by law and may result in a finding of intestacy by the court. They often result in litigation for breach of contract when the survivor executes a new will following the first party's death.

Jurisdiction: the authority for a court to act on a matter.

L

Legatee: A person named in a Will; this may or may not be a relative of the deceased person.

Letters(Estate): The document issued by the court, which gives the personal representative the authority to act on behalf of the estate. Letters Testamentary are issued in a testate case; Letters of General Administration are issued in an intestate case. There are also Letters of Special Administration (for the appointment of a Special Administrator, Letters of Successor Personal Representative, etc.)

Letters (Guardianship): The document issued by the court which gives the guardian or conservator the authority to act on behalf of the ward or conservatee or other protected person.

Liabilities: What is owed to others, all debts and mortgages.

Liquid assets: Cash, coin and anything that can be quickly and easily converted to cash.

Living Trust: A revocable trust established by a grantor during his or her lifetime in which the grantor transfers some or all of his or her property into the trust.

Living Will: A legal document which is signed and witnessed indicating the person's wishes that, in the event of a terminal illness or debilitating accident, the person's life is not to be prolonged by artificial means.

N

Non-Probate Assets: Assets owned by the decedent not requiring probate to effect transfer of ownership.

Notice or giving notice: a written announcement to persons entitled to know what has transpired or will transpire in a case. When personal representatives comply with notice requirements, they give interested persons information about what is happening in the case, and protect the estate (and themselves) from claims that proper procedures were not followed. Generally, notice should be sent to:

- (a) all the heirs or devisees of an estate;
- (b) persons who have or may have an interest in the estate of the decedent;
- (c) anyone who asks for notice; and,
- (d) anyone who has filed a demand for notice.

O

Oath: A solemn affirmation to tell the truth.

P

Personal Effects: Personal belongings (such as clothing, pictures, mementos); personal effects may have little value as "assets," but may be important to relatives.

Personal Property: Any property that is not real (land) property. Examples include bank accounts, stocks, bonds, insurance policies, pension plans, jewelry, furniture and motor vehicles. Tangible personal property is property that can be touched (such as jewelry and sporting equipment).

Personal Representative (P.R.): Individual in charge of handling the estate of the decedent.

Petition: A written request to the court for an order.

Power of Attorney: A signed document that authorizes another person on someone's behalf. A power of attorney expires upon the death of the person who granted the power of attorney. The fact that a person had power of attorney does not give that person priority for appointment as personal representative.

Powers of Appointment: A right given to another in a written instrument, such as a will or trust that allows the other to decide how to distribute the property. The power of appointment is "general" if it places no restrictions on whom the distributees may be. A power is "limited" or "special" if it limits the eventual distributee.

Probate: The court process of settling an estate (the "probate estate") of a deceased person and transferring property to the heirs or beneficiaries of the estate.

Probate Assets: Assets owned **SOLELY** by the decedent.

Pro Se: Latin phrase for acting without an attorney; representing one's self.

Protected Person: A person who is under a conservator's charge or protection.

R

Registrar: The official of the court who administers informal probate.

Rescind: To cancel; revoke; terminate.

Residue: What is left of an estate after all bequests have been made.

Residuary Devise: A devise of the assets of the estate which remain after the provision for any devise

which is to be satisfied by reference to a specific property or type of property, fund, sum, or statutory amount.

Residuary Estate: The estate that remains after all specific bequests are made.

Revocable: Capable of being changed or revoked.

Revocation: A) The act of withdrawal or recall of some power. B) Making void a will.

Revoked: Refers to a will or other document that the decedent has cancelled. If a will is revoked, it has no effect.

Right of survivorship: Permitting property to bypass probate procedures, this right of a joint property owner provides that, in the event of death, the surviving joint owner receives ownership in full.

S

Self-Proved Will: A will in which at least two witnesses took an oath, included in the will, at the time the will was signed, and in which both the witnesses' and the decedent's signatures were notarized by a qualified notary public.

Separate property: Property that is not community property.

Separate Writing: Documents or lists, as referenced in a will, that dispose of only tangible personal property.

Share: the part of an estate which an heir will receive. The number of shares is not the same as the number of heirs as some heirs may receive only part of a share. When heirs are not all related in the same way, some may receive shares "by representation." The laws are different in each state as to how shares are determined.

T

Testament: Another name for a will, a testament is a document that deals with the disposition of one's property upon death.

Testamentary Trust: A trust that is created upon death by the terms of a person's will.

Testate: Estate with a will.

Testator: An individual who dies leaving a will or testament in force; A person who makes a valid will.

Trust: A written legal instrument created by a grantor during his or her lifetime or at death for the benefit of another; An arrangement where a person (known as a trustee) holds and manages the property of another person (who is known as the trust beneficiary).

Trustee: The person or bank that holds, manages, and distributes trust property pursuant to the terms of a trust. A "co-trustee" serves as trustee with another. A "contingent trustee" becomes trustee upon the occurrence of a specified future event.

W

Waiver: The voluntary relinquishment of a privilege or a right.

Ward: A person who is under a guardian's charge or protection.

Will: A legally executed document that directs how and to whom a person's property is to be distributed after death. Also called a testament, a will is a document that deals with the disposition of one's property upon death. Wills generally cannot dispose of property held as tenants by the entirety, joint tenants with rights of survivorship, or retirement plan benefits or life insurance proceeds (unless made payable to the estate). The person who has a will is a "testator".

Witness: As it pertains to a will, a person who is present at the time the other witnesses, the notary, and the testator are all also present in his or her company and, with proof of identification, signs the will and watches all the others signing at the same time.