THE GENE BROWN
CALIFORNIA PROBATE GUIDE

A Probate Educational Guide

A Plain-English Guide to Understanding the California Probate Process

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The Gene Brown California Probate Guide

A Probate Educational Guide

Educational Information Only

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This guide is not intended to provide legal, tax, accounting, financial, or other professional advice and should not be relied upon as a substitute for advice from qualified professionals familiar with the facts and circumstances of a particular estate.

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Chapter 1
The First 24 Hours After Someone Dies

Introduction

When someone you love passes away, life can suddenly feel overwhelming.

Family members are grieving. The telephone starts ringing. Relatives begin asking questions. Friends offer advice—some of it helpful, some of it completely wrong. Before long, someone asks the question that almost everyone hears:

“What do we do now?”

This chapter is designed to answer that question.

After helping California probate families since 1996, I've learned that the first day is usually filled with emotion, confusion, and uncertainty. People worry about wills, banks, attorneys, probate, and inheritances when, in reality, there are several more important things that deserve attention first.

The good news is this:

Very few legal decisions have to be made immediately.

Instead, your goal during the first day is simply to protect your loved one, protect the home, and avoid making expensive mistakes.

Your First Priority: Take Care of Your Loved One

If the death occurs in a hospital, hospice, or nursing facility, the staff will guide you through the immediate process.

If the death occurs at home and was expected, call the hospice agency or physician who is supervising the person's care.

If the death was unexpected, call 911 immediately.

Don't worry about probate.
Don't worry about the will.
Don't worry about who gets the house.
Those issues can wait.

Don't Make Major Financial Decisions

Families often feel pressure to make immediate decisions.

Someone says, “Let's sell the house.”

Another says, “Let's divide up the furniture.”

Someone else says, “Dad promised me the truck.”

Stop.

Nothing has to happen that quickly.

In California, ownership of property does not automatically change simply because someone has passed away. Taking time to understand the situation almost always leads to better decisions.

Secure the Home Immediately

If the deceased person lived alone, someone should visit the home as soon as practical.

Walk through the property.

Make sure:
- All doors are locked.
- Windows are secured.
- Garage doors are closed.
- Valuables are not visible.
- Mail is collected.
- Newspapers are stopped.
- Thermostat is set appropriately.
- Water leaks are checked.
- Lights operate properly.
- Refrigerated food is handled if no one will be returning soon.

Don't Remove Property

Avoid removing jewelry, cash, firearms, collections, important documents, or family heirlooms unless there is an immediate safety issue.

Locate Important Documents

Look for the original will, living trust, insurance policies, deeds, bank statements, retirement accounts, vehicle titles, mortgage information, and tax returns.

Avoid Family Arguments

Try not to solve inheritance issues during the first day. Good decisions are usually made after everyone has had time to think clearly.

Does Probate Start Immediately?

No. Probate generally begins only after an interested person files a petition with the California Superior Court.

Real-Life Example

A family once called me the day after their mother passed away believing they had to sell the home immediately. After slowing down, they discovered the home was in a living trust, probate wasn't necessary, and several costly mistakes were avoided.

Frequently Asked Questions

Do I need a lawyer immediately?
Usually not.

Should I change the locks?
Only if there is a legitimate concern.

Can family members start taking belongings?
Generally, no.

Should utilities be turned off?
Usually not.

Is probate always required?
No.

Gene Brown's Practical Advice

The biggest mistakes usually happen during the first few days—not because people are careless, but because they're grieving.

Slow down.

Secure the property.
Protect important documents.
Don't let family members divide belongings.
Don't make promises.
Don't rush into selling the house.

The legal issues can usually wait a few days. The emotional healing cannot.

Chapter Summary

• Take care of immediate medical and funeral needs.
• Secure the home.
• Protect valuables and important documents.
• Avoid distributing property.
• Delay major financial decisions.
• Gather information before deciding whether probate is necessary.

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Chapter 2
Do I Need Probate?

Introduction

One of the first questions families ask after someone passes away is:

"Do we have to go through probate?"

It's an excellent question.

Unfortunately, it's also one of the most misunderstood subjects in estate administration.

Over the years, I've spoken with thousands of California families. Many believed probate was automatic. Others thought every estate had to go through probate. Some believed having a will meant probate wasn't necessary.

None of those assumptions are always true.

The truth is that some estates require probate, while others avoid it entirely.

Understanding the difference can save your family months of unnecessary stress and help you make informed decisions from the very beginning.

What Is Probate?

Probate is the legal process used to transfer a deceased person's property to the rightful heirs or beneficiaries when court supervision is required.

Think of probate as the court's way of making sure:

• The correct person is placed in charge of the estate.
• Valid debts are paid.
• Remaining assets are distributed according to California law or the deceased person's will.
• Everyone is treated fairly throughout the process.

Probate Is Not Always Required

Not every death results in probate. Many California estates are transferred without probate through methods such as living trusts, joint ownership, beneficiary designations, POD and TOD accounts.

Having a Will Does Not Avoid Probate

A will tells the court who should receive the estate. It does not automatically transfer ownership. In many cases, probate is still required before the executor has authority to act.

A Living Trust Can Avoid Probate

When assets are properly transferred into a living trust during life, the successor trustee can usually administer those assets without court supervision.

Every Estate Is Different

No two probate situations are exactly alike. Every estate deserves its own careful review.

Don't Assume Anything

Always verify how assets are titled before making important decisions.

Real-Life Example

A widower believed he needed probate because friends told him everyone did. After reviewing the paperwork, we discovered nearly everything passed through a properly funded living trust and beneficiary designations. Probate was unnecessary.

Frequently Asked Questions

Does every estate go through probate? No.

Does a will avoid probate? Not necessarily.

Can some assets avoid probate while others require it? Yes.

Does owning a house always require probate? No.

How do I know whether probate is necessary? Review how every asset is titled and obtain qualified legal advice when appropriate.

Gene Brown's Practical Advice

Don't guess.

Don't rely on well-meaning friends.

Gather the documents, determine how every asset is titled, and then decide whether probate is actually required.

Chapter Summary

• Probate is a legal process, not a punishment.
• Many California estates never require probate.
• A will does not automatically avoid probate.
• A properly funded living trust often does.
• Every asset should be reviewed individually.
• Understand the facts before making decisions.

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Chapter 3
Who Is In Charge of the Estate?

Introduction

One of the first questions families ask after a loved one passes away is:

"Who's in charge now?"

It's a fair question.

Someone has to pay the bills, protect the home, gather important documents, communicate with family members, and eventually distribute the estate.

Many people assume the oldest child automatically takes over. Others believe whoever has possession of the will is now in charge. Still others think that being named in the will immediately gives someone legal authority.

In California, that's usually not how it works.

Who has authority depends on how the estate is organized and whether probate is required.

Understanding who is legally authorized to act can prevent confusion, family disagreements, and costly mistakes.

There Is a Difference Between Helping and Having Legal Authority

Helping the family after a death is important, but helping is not the same as having legal authority to act on behalf of the estate. Until the proper legal authority exists, no one should assume they have the right to sell property, close bank accounts, distribute belongings, or sign legal documents for the estate.

If There Is a Living Trust

When assets are held in a properly funded living trust, the person in charge is usually the successor trustee named in the trust. The successor trustee can often begin administering trust assets without probate court supervision, but still owes important legal duties to the beneficiaries.

If There Is a Will

If probate is required, the executor named in the will does not automatically receive authority on the day of death. The executor usually petitions the probate court and receives authority after appointment.

If There Is No Will

California law determines who has priority to ask the court to become the administrator of the estate. The administrator performs duties similar to those of an executor.

What Does the Person in Charge Actually Do?

The person responsible for the estate generally protects property, gathers documents, inventories assets, identifies debts, maintains insurance, keeps accurate records, works with professionals, and distributes assets according to the law or governing documents.

Being in Charge Doesn't Mean You Can Do Whatever You Want

Executors, administrators, and trustees have a fiduciary duty. They must act honestly, fairly, keep accurate records, avoid conflicts of interest, and always act in the best interests of the estate.

Family Members May Not Agree

Disagreements are common after a death. The legally authorized person has the responsibility to make decisions within California law while communicating openly and treating everyone fairly.

Real-Life Example

Three adult children each believed they should make decisions after their father died. After reviewing the documents, we discovered he had created a living trust and named one daughter as successor trustee. Once everyone understood who had legal authority, the confusion quickly disappeared.

Frequently Asked Questions

- Does the oldest child automatically become in charge? No.
- Does possessing the will make me the executor? No.
- Can more than one person serve together? Yes.
- Can an executor or trustee be removed? In some circumstances, yes.
- Should the family still work together? Absolutely.

Gene Brown's Practical Advice

The smoothest estate administrations happen when everyone understands their role.

If you are the executor or successor trustee, communicate often, keep excellent records, and be patient.

If you are a beneficiary, remember that administering an estate takes time. Most executors and trustees are doing the best they can while grieving.

Patience, honesty, and good communication prevent many family conflicts.

Chapter Summary

- Helping is not the same as having legal authority.
- A successor trustee administers trust assets.
- An executor usually receives authority through the probate court.
- If there is no will, the court may appoint an administrator.
- The person in charge owes a fiduciary duty.
- Good communication helps families avoid unnecessary conflict.

Chapter 4
What Does An Executor Actually Do?

Introduction

Sooner or later, almost every family asks the same question:

"What exactly does the executor do?"

It's a good question because many people accept the role without fully understanding what it involves.

Some people think the executor simply reads the will and hands out the property. Others believe the executor becomes the owner of everything until the estate is finished. Neither is true.

Serving as an executor is both an honor and a serious responsibility.

The executor becomes the person responsible for managing the estate according to California law and the instructions contained in the will.

The Executor Is a Manager, Not an Owner

The executor is the temporary manager of the estate, not its owner. The executor protects estate assets until they can be transferred to the rightful beneficiaries.

The Executor's First Responsibilities

After appointment by the court, the executor generally secures the home, locates important documents, identifies assets, protects property, and begins organizing the estate.

Creating an Inventory

The executor identifies real estate, bank accounts, investments, vehicles, business interests, personal property, and other assets so the estate can be properly administered.

Paying Valid Debts

Before distributions are made, valid debts and expenses must generally be addressed through the probate process.

Working With Professionals

Executors often work with attorneys, accountants, real estate professionals, appraisers, escrow officers, title companies, and tax professionals.

Keeping Everyone Informed

Regular communication with beneficiaries often reduces misunderstandings and family conflict.

Keeping Accurate Records

Maintain copies of receipts, bank statements, bills, deposits, correspondence, court documents, repairs, and other estate records.

Distributing the Estate

Assets should be distributed only after the proper legal procedures have been completed.

Real-Life Example

An executor once told me he had never handled an estate before. By asking questions, keeping careful records, communicating regularly, and relying on experienced professionals, he successfully completed the administration.

Frequently Asked Questions

• Does the executor get paid? Sometimes.
• Can the executor sell the house? Often yes, depending on the circumstances.
• Can assets be distributed early? Generally, no.
• Does the executor have to live in California? Not always.
• What if the executor makes an honest mistake? Acting honestly, carefully, and seeking professional guidance is what matters.

Gene Brown's Practical Advice

The best executors are organized, patient, honest, and willing to ask questions. Take one step at a time, surround yourself with experienced professionals, keep excellent records, and always remember you are serving the beneficiaries.

Chapter Summary

• The executor manages but does not own the estate.
• Protect estate assets first.

- Keep excellent records.
- Address valid debts before distributions.
- Work with qualified professionals.
- Honest communication builds trust.

Chapter 5
What Exactly Does A Probate Attorney Do?

Introduction

Many families believe they must hire a probate attorney immediately after a loved one dies. Others assume an attorney takes over the entire estate administration. Neither assumption is always correct.

A probate attorney serves as a legal advisor. Depending on the circumstances, the attorney helps guide the executor or administrator through California's probate process, prepares court documents, explains legal requirements, and helps avoid costly mistakes. The executor remains responsible for administering the estate.

What Does a Probate Attorney Actually Do?

A probate attorney advises the personal representative on California probate procedures, prepares required court filings, helps interpret the law, answers legal questions, and assists with resolving issues that arise during the administration of the estate.

The attorney does not become the executor, does not make family decisions, and does not automatically control estate assets.

Does Every Estate Need a Probate Attorney?

Not necessarily. Some estates never require probate because assets pass through a living trust, beneficiary designations, joint ownership, or other probate-avoidance methods. When probate is required, many families choose to work with an experienced probate attorney because the court process can be technical and time-consuming.

Working as a Team

A successful estate administration often involves a team that may include the executor or administrator, the probate attorney, an accountant, a real estate professional, an appraiser, escrow and title professionals, and other specialists when needed.

Real-Life Example

A family contacted me believing the attorney would handle every detail of the estate. After we reviewed the process together, they understood that the executor remained responsible for making decisions while the attorney provided legal guidance. Once everyone understood their roles, the administration became much smoother.

Frequently Asked Questions

- Does the probate attorney become the executor? No.
- Can I hire my own probate attorney? Often, yes.
- Does the attorney make family decisions? No.
- Will every estate need an attorney? Not always.
- Should I ask questions if I don't understand something? Absolutely.

Gene Brown's Practical Advice

Choose a probate attorney who explains complicated legal issues in plain English and communicates clearly. Ask questions whenever something is unclear. The best professionals educate their clients, return phone calls, and work cooperatively with the rest of the estate team. Remember, you are hiring an advisor—not giving away your responsibility to make informed decisions.

Chapter Summary

- A probate attorney provides legal advice and guidance.
- The executor or administrator remains responsible for the estate.
- Not every California estate requires probate.
- Good communication with experienced professionals helps avoid costly mistakes.
- Understanding everyone's role reduces confusion and family conflict.

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Chapter 6
Understanding Probate Bonds

Introduction

When families first hear the words "probate bond," they often become nervous.

Some assume it's another tax. Others think it's insurance that protects the executor. Still others wonder whether they have to pay thousands of dollars before probate can even begin.

The good news is that probate bonds are much simpler than most people imagine.

A probate bond is designed to protect the estate and the people who will eventually inherit it.

What Is a Probate Bond?

A probate bond, sometimes called a fiduciary bond or executor's bond, is a financial guarantee. If an executor or administrator intentionally mishandles estate assets or fails to perform important legal duties, the bond may provide financial protection for the estate or its beneficiaries.

Why Does the Court Require a Bond?

The probate court has a responsibility to protect estate assets until they can be distributed to the rightful heirs. A bond provides an added layer of protection if something goes seriously wrong during the administration of the estate.

Does Every Estate Require a Bond?

No. Many California probate estates do not require one. Some wills specifically waive the bond requirement, while other estates may require one depending on the circumstances and applicable California law.

Who Pays for the Bond?

When a bond is required, the premium is generally paid as an expense of administering the estate rather than by the executor personally.

How Much Does a Probate Bond Cost?

The cost varies depending on the amount of the bond, the bonding company, the applicant's qualifications, and the circumstances of the estate.

Does a Bond Protect the Executor?

No. A probate bond protects the estate, not the executor. Honest administration and careful record keeping remain essential.

Honest Executors Usually Have Nothing to Fear

Most executors act honestly, keep accurate records, communicate with beneficiaries, and follow professional advice. For them, the bond is simply another safeguard.

Real-Life Example

An executor once worried that a required bond meant the judge did not trust him. After learning that the bond was required because of the estate's circumstances—not because of any concern about his honesty—he completed the administration successfully without incident.

Frequently Asked Questions

• Does every executor need a probate bond? No.

• Is a probate bond the same as insurance? Not exactly.

• Do I pay for the bond personally? Generally, no.

• What if an executor steals money? The bond may provide financial protection for the estate, subject to its terms.

• Should I worry if a bond is required? Usually not.

Gene Brown's Practical Advice

Don't let the word "bond" intimidate you.

Be honest. Keep estate funds separate. Save every receipt. Document every transaction.

Communicate openly with beneficiaries. Ask questions whenever you're unsure.

Those simple habits will help protect both the estate and you.

Chapter Summary

- A probate bond protects the estate.
- Not every California estate requires one.
- The estate generally pays the premium when required.
- Honest executors rarely have problems with probate bonds.
- Good records and open communication are your best protection.

Chapter 7
Multiple Executors

Introduction

Most people assume that only one person serves as the executor of an estate.

In many cases, that's true.

But sometimes a parent names two children as co-executors because they want everyone treated equally. Other times, families choose multiple executors so the responsibility does not fall on one person alone.

When co-executors work well together, they share responsibilities, make thoughtful decisions, and provide valuable checks and balances. When they do not, even simple decisions can become frustrating and time-consuming.

What Is a Co-Executor?

A co-executor is one of two or more people appointed to administer the same estate. They generally share equal responsibility and are expected to work together.

Why Would Someone Choose Multiple Executors?

Parents often want fairness, different strengths, or additional experience involved in administering the estate.

Shared Responsibility Means Shared Decisions

Important decisions such as selling the home, hiring professionals, paying major expenses, settling claims, and distributing assets should generally be made together.

Communication Is Essential

The best co-executors communicate regularly, return calls, answer emails, discuss important decisions, and treat one another respectfully.

What Happens When Co-Executors Disagree?

Disagreements are common. The goal should always be deciding what is best for the estate rather than protecting personal opinions.

Can One Executor Act Alone?

Depending on the circumstances, significant decisions may require cooperation. Open communication helps avoid misunderstandings.

Real-Life Example

Two brothers serving as co-executors initially disagreed about selling their mother's home. After gathering objective information and professional advice, they reached a decision together and preserved their relationship.

Frequently Asked Questions

• Can there be more than two executors? Yes.

• Do co-executors usually have equal authority? Generally, yes.

• What if one executor refuses to cooperate? Legal guidance may become necessary.

• Can one executor ignore the others? That is rarely advisable.

• Is naming multiple executors always a good idea? Not always. It depends largely on the people involved.

Gene Brown's Practical Advice

The most successful co-executors communicate openly, listen respectfully, share information, compromise when appropriate, and base important decisions on facts rather than emotions. Protecting family relationships is one of the greatest accomplishments an executor can achieve.

Chapter Summary

• Co-executors generally share equal authority.

• Important decisions should usually be made together.

• Honest communication prevents many misunderstandings.

• Cooperation benefits both the estate and the family.

• Always act in the best interests of the estate and its beneficiaries.

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Chapter 8
Can An Executor Be Replaced?

Introduction

One of the questions I hear most often from beneficiaries is: "Can we replace the executor?"

Sometimes the answer is yes. Sometimes the answer is no. It depends on why the family wants the executor replaced. California probate law does not remove an executor simply because beneficiaries disagree with decisions.

Being Unpopular Is Not the Same as Being Unfit

Executors often make difficult decisions involving selling property, paying debts, delaying distributions, and enforcing the terms of a will. Those decisions may be unpopular, but that alone does not justify removal.

When Might an Executor Be Removed?

Examples of conduct that may justify court action include failing to perform required duties, misusing estate assets, refusing to communicate without justification, keeping poor records, ignoring court orders, or creating serious conflicts of interest.

Honest Mistakes Usually Aren't Enough

Most executors have never handled a probate before. Honest mistakes can often be corrected and are different from dishonesty or misconduct.

Communication Solves Many Problems

Regular updates and honest communication often prevent misunderstandings that grow into major family disputes.

What Should Beneficiaries Do If They Have Concerns?

Gather the facts first. Ask respectful questions. If serious concerns remain, consult a qualified California probate attorney to understand your legal options.

Real-Life Example

In one estate, beneficiaries believed the executor was doing nothing. In reality, the executor had been working with the probate attorney behind the scenes. Once regular updates began, most of the conflict disappeared.

Frequently Asked Questions

• Can beneficiaries vote to remove an executor? No.

• Can disagreements alone remove an executor? Generally, no.

• What if estate money is being misused? That is a serious matter requiring prompt legal attention.

• What if the executor never returns calls? Poor communication creates conflict but does not automatically justify removal.

• Should families try to resolve issues before going to court? Whenever possible, yes.

Gene Brown's Practical Advice

Most executors are doing their best while grieving and learning an unfamiliar process. Beneficiaries should ask respectful questions before assuming the worst. Executors should communicate regularly, return phone calls, answer emails, and keep everyone informed. Good communication preserves trust and often preserves families.

Chapter Summary

• Executors have important legal responsibilities.

• Honest mistakes differ from misconduct.

• Courts take removal requests seriously.

• Good communication prevents many disputes.

• Decisions should be based on facts rather than assumptions.

• Probate works best when everyone acts honestly, respectfully, and in the estate's best interests.

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Chapter 9
How Executors Get Paid

Introduction

One of the questions families often hesitate to ask is: "Does the executor get paid?" The answer is usually yes. California law generally allows an executor to receive compensation for the work involved in administering an estate. Administering an estate can require hundreds of hours of work over many months, and compensation recognizes that responsibility.

Why Does an Executor Receive Compensation?

Serving as an executor is a legal responsibility that includes protecting estate assets, following court procedures, maintaining records, and acting in the best interests of the estate and its beneficiaries.

Is the Executor Required to Accept Payment?

No. Some executors accept the compensation allowed by law, while others voluntarily decline some or all of it. Both decisions can be appropriate.

How Is Compensation Determined?

California law generally provides a statutory method for calculating ordinary executor compensation based on the value of the probate estate.

Is Executor Compensation the Same as Attorney Fees?

No. Executors administer the estate. Probate attorneys provide legal advice and prepare legal documents. Compensation for each role is generally separate.

Can an Executor Receive Additional Compensation?

Sometimes. Extraordinary services involving unusually complex estates may justify additional compensation when permitted by law and approved when required.

Should Families Be Concerned About Executor Compensation?

Usually not. Most executors devote substantial time and effort to carrying out responsibilities that benefit the entire family.

Real-Life Example

A daughter served as executor for her father's estate and spent nearly a year organizing records, maintaining the home, and preparing it for sale. After family members understood the amount of work involved, they recognized that her compensation had been earned through dedicated service.

Frequently Asked Questions

• Does every executor get paid? California law generally allows compensation.

• Can an executor refuse compensation? Yes.

• Is compensation paid by beneficiaries personally? No, it is generally paid from estate assets.

• Does the executor decide the amount? Compensation follows California law and the probate process.

• Should beneficiaries resent executor compensation? Usually not.

Gene Brown's Practical Advice

Most executors devote enormous amounts of time to carrying out responsibilities they never expected to have. If you are the executor, do not feel guilty if you accept the compensation provided by law. If you are a beneficiary, remember that the executor is often carrying a burden that benefits the entire family.

Chapter Summary

• California law generally allows executor compensation.

• Accepting compensation is usually optional.

• Executor compensation differs from attorney fees.

• Extraordinary services may justify additional compensation.

• Most executors earn their compensation through months of dedicated work.

• Honest, professional administration should always remain the primary goal.

Chapter 10
What Happens When Beneficiaries Disagree?

Introduction

If you've spent much time around probate, you've probably heard stories about families that stopped speaking to one another after someone passed away. Most beneficiary disagreements begin because people are grieving, overwhelmed, or have different expectations—not because they are dishonest.

Disagreement Is Normal

Every family is different. Beneficiaries may have different ideas about selling property, timing, or handling the estate. The important question is not whether disagreements occur, but how everyone responds to them.

Grief Changes the Way People Think

Grief affects judgment, emotions, and communication. Small misunderstandings can become much larger if family members fail to recognize that everyone grieves differently.

Communication Prevents Many Problems

Regular updates, honest conversations, and answering questions promptly help prevent unnecessary conflict. Silence often creates assumptions, and assumptions often create disagreements.

Focus on the Estate—Not Winning the Argument

When disagreements arise, ask: "What is best for the estate?" Keeping that goal in mind helps families make better decisions together.

Professional Guidance Can Help

When legal or emotional issues become difficult, probate attorneys, mediators, accountants, real estate professionals, and other advisors can often help families move forward.

Real-Life Example

Three siblings disagreed about whether to sell, rent, or keep the family home. After reviewing objective information instead of relying on emotions, they reached a solution that served the estate and preserved their family relationships.

Frequently Asked Questions

• Is it normal for beneficiaries to disagree? Yes.

• Should beneficiaries always agree with the executor? Not necessarily.

• Can disagreements delay probate? Sometimes.

• What if family members cannot agree? Professional guidance may help.

• Is preserving family relationships important? Absolutely.

Gene Brown's Practical Advice

Show patience, kindness, and understanding. Listen before responding. Ask questions before making assumptions. Focus on solving problems rather than winning arguments. No inheritance is worth destroying lifelong family relationships.

Chapter Summary

• Disagreements are often caused by grief and misunderstandings.

• Good communication prevents many conflicts.

• Focus on what is best for the estate.

• Professional guidance can resolve difficult issues.

• Preserving family relationships should remain an important goal throughout probate.

Chapter 11

Can the Executor Sell the House Without the Beneficiaries' Permission?

Introduction

One of the most common questions I hear from families is:

"Can the executor sell Mom's house without asking all of us first?"

The answer surprises many people.

In California, the executor's job is to administer the estate according to the law—not according to a vote of the beneficiaries. Although beneficiaries have important legal rights, they generally do not have the authority to approve or reject every decision the executor makes.

If selling the home is in the best interest of the estate, the executor will often have the legal authority to do so.

That doesn't mean the executor can do whatever they want.

The executor has a fiduciary duty, meaning they must always act honestly, fairly, and in the best interests of all beneficiaries—not just one person or themselves. Every decision must be made to protect the estate and maximize its value.

There are many legitimate reasons an executor may decide to sell a probate property:

• The estate needs cash to pay debts or taxes.

• The beneficiaries prefer to divide money rather than jointly own the home.

• The property is vacant and expensive to maintain.

• Deferred maintenance is causing the home to lose value.

• No beneficiary wants to keep the property.

In those situations, selling the home is often the most practical and financially responsible solution.

Beneficiaries certainly have the right to ask questions, request information, and, if necessary, object through the probate court if they believe the executor is acting improperly. But disagreement alone does not automatically prevent a sale.

The executor's responsibility is to make sound business decisions for the estate—not to satisfy everyone's personal preferences.

Real-Life Example

Several years ago, I worked with an estate where three adult children inherited their mother's home.

One child wanted to keep the property.

The second wanted to rent it.

The third wanted to sell it immediately.

Months passed while the family argued. Meanwhile, the vacant house required insurance, utilities, landscaping, repairs, and property taxes. Every month the estate lost more money.

After consulting with the probate attorney, the executor decided selling the home was in the estate's best interest.

Although one beneficiary was unhappy, the home sold for an excellent price. The proceeds were divided according to the will, and the estate was closed without years of continued conflict.

Sometimes the executor's responsibility is to make the difficult decision that protects everyone financially.

Frequently Asked Questions

Can one beneficiary stop the sale?

Usually not. A beneficiary may object through the probate court if there is evidence the executor is violating their fiduciary duties, but simply disagreeing with the decision generally is not enough.

Does the executor need unanimous approval?

In most situations, no. The executor is responsible for administering the estate according to California probate law and any court orders.

Can the executor sell the property to themselves?

Only under very limited circumstances and with proper legal authority. Because this creates a conflict of interest, it receives careful scrutiny and often requires court approval or other safeguards.

Should the executor communicate with the beneficiaries before selling?

Absolutely. Good communication builds trust and often prevents unnecessary misunderstandings, even when formal approval is not legally required.

Gene Brown's Practical Advice

One of the biggest mistakes I see is families treating probate like a democracy.

It isn't.

The executor has a legal responsibility to make decisions that protect the estate—not decisions based on who argues the loudest.

If you're the executor, keep everyone informed. Return phone calls. Explain your reasoning. Share important updates.

If you're a beneficiary, remember that the executor may have information you don't yet have, including legal advice from the probate attorney, financial obligations of the estate, or court requirements.

When everyone communicates openly and keeps the focus on honoring the decedent's wishes, probate usually moves faster, costs less, and preserves family relationships.

Most importantly, never let emotions delay good financial decisions. A vacant house rarely gets more valuable by sitting empty while the family argues.

Chapter 12
What If Someone Is Living in the Probate Property?

Introduction

One of the biggest surprises for many executors is discovering that someone is already living in the probate home.

It might be a family member.

It might be a friend of the person who passed away.

It could be a tenant with a lease, or it could even be someone living there without permission.

Each situation is different, and how the executor handles it can have a major impact on the probate process.

The first thing to understand is that the executor does not automatically have the right to force someone out of the property. California law protects tenants and occupants in many situations, even after the owner has passed away.

Before taking any action, the executor should determine:

• Who is living in the property?

• Are they paying rent?

• Is there a written lease?

• Did the decedent give them permission to live there?

• Do they have any legal right to remain in possession?

If the occupant is a lawful tenant, the executor generally steps into the shoes of the deceased landlord and must follow California landlord-tenant laws.

If the occupant is a family member living there without ownership rights, the situation can become emotionally difficult. The executor may eventually need to ask them to move, but that process should be handled carefully and, when necessary, with legal guidance.

One mistake I frequently see is family members changing the locks or shutting off utilities to force someone out.

That is almost always a bad idea.

California has very specific laws governing possession of residential property, and trying to remove someone without following the proper legal procedures can create expensive delays and legal problems for the estate.

The executor's responsibility is to protect the property while respecting everyone's legal rights.

Real-Life Example

I once worked with an estate where the decedent's adult son had been living in the home for several years.

He believed that because it had been his childhood home, he automatically inherited the right to continue living there.

Unfortunately, the will required the property to be sold and the proceeds divided equally among four children.

The executor met with the son, explained the probate process, and gave him reasonable time to find another place to live.

Because the executor communicated respectfully and honestly, the son eventually moved voluntarily, the home was prepared for sale, and the estate avoided a lengthy eviction process.

Good communication saved everyone time, money, and emotional stress.

Frequently Asked Questions

Can the executor simply change the locks?

Generally, no.

Can a beneficiary continue living in the home during probate?

Possibly, but only if doing so is consistent with the executor's fiduciary duties and does not harm the estate.

What if the occupant refuses to leave?

The executor should consult the probate attorney before taking action.

Should utilities be shut off to encourage someone to move?

No.

Gene Brown's Practical Advice

This is one of those situations where emotions can easily overpower good judgment.

I've seen families destroy lifelong relationships over a house.

As the executor, your job is not to take sides.

Your job is to follow the law, carry out the wishes of the person who passed away, and protect the value of the estate for everyone involved.

Treat every occupant with dignity and respect.

Communicate early.

Explain the process.

Give people reasonable time whenever possible.

And never try to force someone out by changing locks, shutting off electricity, or creating confrontation.

Almost every difficult occupancy situation can be handled successfully when people remain calm, communicate honestly, and follow the proper legal procedures.

Remember, you're not just administering a piece of real estate.

You're helping a family navigate one of the most emotional times of their lives.

Chapter 13
What Happens If There Is No Will?

Introduction

One of the biggest misconceptions about probate is that everyone leaves a will.

The truth is that many people don't.

When someone dies without a valid will, they are said to have died intestate.

That does not mean the State of California automatically inherits their property.

Instead, California law provides a very specific order that determines who receives the estate.

In an intestate probate, the court appoints an administrator instead of an executor.

The administrator performs essentially the same duties as an executor:

• Locate and protect the assets.

• Notify heirs and creditors.

• Pay valid debts and taxes.

• Sell property when appropriate.

• Distribute the remaining assets according to California law.

The biggest difference is that the deceased person did not choose who would inherit the estate or who would manage it.

Instead, California's intestate succession laws decide who receives the property.

For example, depending on the family situation, the estate may pass to:

• A surviving spouse.

• Children.

• Parents.

• Brothers and sisters.

• More distant relatives if no closer family members survive.

Every family situation is unique, and California's inheritance laws can become surprisingly complicated, especially in blended families, second marriages, or situations involving children from different relationships.

That is why having a properly prepared estate plan is almost always preferable to leaving these important decisions to state law.

Real-Life Example

I once met with the family of a gentleman who had owned his home for more than forty years.

Everyone assumed he had written a will.

He hadn't.

After his death, the family learned they had to open a probate administration rather than a probate based upon a will.

The court appointed one of his daughters as administrator.

Although the probate process was very similar to what would have happened with a will, the family had no written instructions from their father regarding who should receive personal belongings, how disagreements should be resolved, or who he trusted to administer the estate.

Fortunately, the family worked together respectfully.

The home was sold, the debts were paid, and the proceeds were distributed according to California law.

Even so, everyone agreed afterward that having a simple will would have made the entire process easier.

Frequently Asked Questions

Does the State of California inherit my property if I don't have a will?

Usually not.

Who becomes the administrator?

The probate court appoints someone, usually a close family member, according to California law.

Is probate different without a will?

The overall probate process is very similar.

Can family members choose who receives the property?

Not unless everyone reaches a legal agreement that complies with California law and the probate court, when required.

Gene Brown's Practical Advice

People often spend decades building their estates but never spend an hour creating a basic estate plan.

If you're reading this book before you need probate, let this chapter encourage you to prepare a will or complete estate plan.

If you're already handling the estate of someone who died without a will, don't panic.

California has clear laws that provide a roadmap for moving forward.

The key is working with experienced professionals, staying organized, communicating openly with family members, and remaining patient throughout the process.

Remember, probate exists to make sure property passes legally and fairly—even when someone forgot to leave written instructions.

The Gene Brown California Probate Guide

Chapter 14
How Long Does Probate Really Take?

Introduction

One of the very first questions almost every family asks me is:

"How long is this going to take?"

Unfortunately, there isn't one simple answer.

Every probate estate is different.

Some estates are relatively straightforward and can be completed in less than a year. Others involve complicated legal issues, family disagreements, tax matters, or difficult assets that can extend the process considerably.

For a typical California probate, families should generally expect the process to take approximately 12 to 18 months, although some estates are completed sooner and others take longer.

Several factors affect the length of probate, including:

• How quickly the probate petition is filed.

• The court's scheduling calendar.

• Whether the executor promptly completes required paperwork.

• Whether the estate includes real estate that must be sold.

• Whether creditors file claims against the estate.

• Whether family members disagree.

• Whether there are lawsuits involving the estate.

• Whether tax issues must be resolved before distribution.

One of the biggest misconceptions is that once the home sells, probate is over.

In reality, selling the property is often just one step in a much larger legal process.

After the sale, the executor may still need to pay creditors, prepare a final accounting, obtain court approval when required, resolve tax matters, and distribute the remaining assets before the estate can finally be closed.

The good news is that most probate delays can be minimized by staying organized, responding promptly to requests from the probate attorney, and maintaining good communication with everyone involved.

Real-Life Example

I worked with one estate where the executor hoped everything would be finished within six months.

The home sold quickly.

Everyone assumed they would receive their inheritance shortly afterward.

However, the estate still had to complete creditor notification periods, prepare court filings, resolve several accounting questions, and obtain final court approval.

The estate ultimately closed successfully about fourteen months after probate began.

Frequently Asked Questions

Can probate be completed in six months?

Occasionally, but most California probates take longer.

Does selling the house end probate?

No.

Can beneficiaries receive money before probate is finished?

Sometimes, depending on the circumstances and advice of the probate attorney.

What usually causes probate delays?

Missing paperwork, family disagreements, creditor issues, tax questions, court scheduling, and difficulty selling estate assets.

Gene Brown's Practical Advice

Probate is a legal process—not a race.

Trying to rush probate often creates mistakes that end up causing even greater delays.

Stay patient, stay organized, return phone calls promptly, and keep everyone informed.

Progress may seem slow at times, but each completed step brings the estate closer to the finish line.

The families who experienced the least stress were usually the ones who understood from the beginning that probate is measured in months—not weeks.

Chapter 15
What Is a Fiduciary Duty?

Introduction

One of the most important legal responsibilities an executor has is something called a fiduciary duty.

Although the term sounds complicated, the idea is actually quite simple.

A fiduciary duty means that the executor must always act in the best interests of the estate and all of its beneficiaries—not in their own personal interest.

Think of the executor as a trusted manager.

The estate belongs to the heirs and beneficiaries, but until the probate process is completed, the executor is responsible for protecting the assets, paying valid debts, following the law, and carrying out the wishes of the deceased person.

Every decision the executor makes should answer one question:

"Is this in the best interest of the estate?"

For example, an executor should:

• Protect the estate's property.

• Keep accurate financial records.

• Treat all beneficiaries fairly.

• Avoid conflicts of interest.

• Make prudent financial decisions.

• Communicate honestly with beneficiaries.

• Follow the instructions contained in the will whenever legally possible.

• Comply with all probate court requirements.

A fiduciary duty also means the executor cannot use the estate for personal gain.

They cannot take estate money for themselves, sell property below market value to a friend, hide information from beneficiaries, or favor one heir over another unless the will specifically authorizes it.

Real-Life Example

I once worked with an executor who was extremely conscientious.

Every expense was documented.

Every receipt was saved.

The beneficiaries received regular updates about the progress of the estate.

When it came time to sell the probate home, the executor obtained professional advice, priced the property appropriately, and accepted the strongest offer after careful consideration.

Because everything was handled openly and honestly, none of the beneficiaries questioned the executor's decisions.

Frequently Asked Questions

Can the executor spend estate money?

Yes—but only for legitimate estate expenses that benefit the estate and are properly documented.

Can the executor pay themselves?

Executors are generally entitled to compensation under California law unless they choose to waive it.

What happens if an executor violates their fiduciary duty?

They may be required to repay financial losses, removed by the court, or face other legal consequences.

Can beneficiaries ask to see financial records?

Yes. Executors are generally required to maintain accurate records and provide accountings as required by California probate law.

Gene Brown's Practical Advice

Manage the estate as though every decision will someday be explained to a probate judge.

Keep accurate records, save receipts, communicate openly, and always ask yourself whether your decisions benefit the estate rather than yourself.

Most problems don't come from dishonesty.

They come from poor communication.

Provide regular updates, answer reasonable questions, and remain transparent throughout the probate process.

Remember, being an executor is both an honor and a serious legal responsibility.

Chapter 16
Can the Executor Use Estate Money Before Probate Is Finished?

Introduction

One of the most common questions I hear from executors is:

"Can I use the estate's money before the probate case is finished?"

The short answer is yes—but only for legitimate expenses that benefit the estate.

Many people mistakenly believe that once they are appointed executor, they have complete control over the estate's bank account. They don't.

The money belongs to the estate—not to the executor.

The executor's responsibility is to preserve and protect the estate until it can be distributed to the beneficiaries.

Estate funds may generally be used to pay mortgage payments, property taxes, homeowners insurance, utility bills, necessary maintenance and repairs, landscaping, probate attorney fees, court filing fees, appraisal fees, accounting fees, and expenses related to selling estate property.

Think of the executor as the temporary manager of someone else's business. The business still has bills to pay. Ignoring those expenses usually costs the estate far more money in the long run.

An executor should never use estate money for personal expenses. Every dollar that leaves the estate should benefit the estate itself.

Opening a separate estate checking account as soon as practical creates a clean paper trail and makes the final accounting much easier.

Real-Life Example

Several years ago, I worked with the executor of an estate that included a vacant home.

The probate process lasted nearly a year. During that time, the executor continued paying the homeowners insurance, property taxes, utilities, landscaping, and several necessary plumbing repairs directly from the estate checking account.

Every receipt was saved. Every invoice was filed. Every payment appeared on the estate bank statement.

When one beneficiary questioned the expenses, the executor simply produced the records. It became obvious that every expense had protected the value of the property, and the probate moved forward without further disagreement.

Chapter Summary

Estate money is intended to protect and preserve the estate until it can be distributed to the beneficiaries.

Executors may generally use estate funds for legitimate expenses that benefit the estate, but they should never use those funds for personal purposes.

Keeping excellent records and saving every receipt helps protect both the estate and the executor.

Frequently Asked Questions

Can the executor use estate money before probate is over?

Yes. Estate funds may generally be used to pay legitimate expenses necessary to preserve and administer the estate.

Can the executor reimburse themselves?

Generally yes, provided the expense benefited the estate and proper documentation is maintained.

Should the executor open a separate estate bank account?

Absolutely.

Can beneficiaries ask where the money went?

Yes. Executors are generally expected to maintain accurate financial records and provide accountings as required.

Gene Brown's Practical Advice

One thing I've learned after many years helping probate families is that beneficiaries are usually very understanding when they know what's happening. Problems usually begin when communication stops.

Keep beneficiaries informed. Return their phone calls. Answer reasonable questions. Keep excellent records.

Think like a business owner. Every expense should have a purpose. Every check should have supporting documentation. Every financial decision should answer one simple question:

"Does this protect or benefit the estate?"

If the answer is yes, and you've documented your decision, you're usually headed in the right direction.

Remember, your responsibility isn't simply to distribute an inheritance. Your responsibility is to protect someone else's lifetime of hard work until it can be passed to the people they intended to receive it.

Chapter 17
Can the Executor Be Personally Liable for Mistakes?

Introduction

One of the biggest concerns I hear from first-time executors is:

"What happens if I make a mistake? Can I be held personally responsible?"

The answer is sometimes, yes.

That answer worries many people, but it shouldn't discourage you from serving as executor.

The law recognizes that most executors are ordinary people who have never administered an estate before. Courts generally do not expect perfection. They do, however, expect honesty, good judgment, and a sincere effort to carry out your responsibilities.

An executor has a fiduciary duty. That means you must always act in the best interests of the estate and its beneficiaries.

Personal liability usually arises only when an executor uses estate money for personal purposes, fails to pay legitimate debts or taxes, sells estate property for substantially less than fair market value without justification, ignores court orders, fails to keep accurate financial records, favors one beneficiary without legal authority, or acts dishonestly.

One of the best protections an executor has is asking questions before making major decisions and seeking professional advice.

Real-Life Example

Several years ago, I worked with an executor who inherited responsibility for selling a family home.

A relative wanted the property sold privately to another family member. The executor wasn't comfortable with that idea.

Instead, the executor consulted the probate attorney and hired a probate real estate professional.

The home was properly prepared, marketed, and sold for substantially more than the original private offer.

Because every step was documented and every decision was made in the estate's best interest, the probate was completed successfully.

Chapter Summary

Executors are expected to act honestly, carefully, and in the best interests of the estate.

Most executors who communicate openly, keep accurate records, and seek professional advice never experience personal liability.

Good documentation and sound professional guidance are among an executor's greatest protections.

Frequently Asked Questions

Can an executor be personally responsible for financial losses?

Yes, under certain circumstances.

Are executors responsible for honest mistakes?

Generally not. Honest mistakes are very different from intentional misconduct.

Should an executor hire professionals?

Often yes.

Can beneficiaries sue an executor?

They may ask the probate court to review the executor's actions if they believe legal duties were not fulfilled.

Gene Brown's Practical Advice

After working with probate families for many years, I've noticed that the executors who worry the most about making a mistake are often the ones who do the best job.

They ask questions.

They seek advice.

They communicate openly.

They keep excellent records.

The executors who usually get into trouble are the ones who assume they already know everything.

Build a good team around you. Listen to your probate attorney. Work with experienced professionals.

Before every important decision, ask yourself one simple question:

"What is in the best interest of the estate?"

If you keep that principle in mind, you'll usually stay on the right path.

Chapter 18
What Happens If the Executor Doesn't Do Their Job?

Introduction

One of the questions I hear most often from frustrated beneficiaries is:

"The executor isn't doing anything. What can we do?"

Fortunately, California probate law provides solutions.

Being named as an executor is not simply an honor—it is a legal responsibility.

When someone accepts the role of executor, they agree to administer the estate diligently, honestly, and in the best interests of the beneficiaries. Probate doesn't require perfection, but it does require progress.

Sometimes an executor falls behind because probate is unfamiliar and overwhelming. In those situations, patience and communication often solve the problem.

However, when an executor fails to perform required duties, beneficiaries have legal rights. The probate court can require an executor to act, provide an accounting, or in appropriate cases remove the executor and appoint someone else.

Removing an executor is generally considered a last resort, and judges often give the executor an opportunity to correct the problem first.

Real-Life Example

Several years ago, I was involved in a probate where the executor had good intentions but simply stopped moving the estate forward.

Months went by with very little communication. The house sat vacant while expenses continued.

After consulting with the probate attorney, the executor resumed regular communication, completed overdue filings, prepared the property for sale, and the estate moved toward a successful conclusion.

The biggest problem wasn't dishonesty. It was silence.

Chapter Summary

Most executors genuinely want to do a good job. Good communication, professional guidance, and steady progress solve most probate problems.

When an executor refuses to fulfill legal responsibilities, the probate court has authority to protect both the estate and its beneficiaries.

Frequently Asked Questions

Can an executor be removed?

Yes, under appropriate circumstances.

How long should beneficiaries wait before becoming concerned?

Long periods of unexplained inactivity justify reasonable questions.

Should beneficiaries communicate first?

Usually yes.

Who decides whether an executor should be removed?

Ultimately, the probate court.

Gene Brown's Practical Advice

One thing I've learned over the years is that most probate disputes don't begin because someone is dishonest.

They begin because people stop talking.

If you're serving as executor, keep beneficiaries informed. Even a brief phone call or email every few weeks can prevent months of frustration.

If you're a beneficiary, give the executor an opportunity to explain before assuming the worst.

But if there is no progress, no communication, and no reasonable explanation, remember that the probate court exists to protect everyone involved.

The smoothest probate cases are almost always the ones where people communicate openly, act professionally, and keep the focus on honoring the decedent's wishes.

Chapter 19
Can the Executor Live in the Probate House During Probate?

Introduction

One of the more uncomfortable questions that comes up during probate is:

"Can the executor move into Mom's house while probate is still going on?"

The answer is: It depends—but the executor should be very careful.

The executor does not own the house simply because they have been appointed by the court. The house belongs to the estate until it is legally transferred or sold.

If the executor already lived in the home before the decedent passed away, they may be able to continue living there depending on the circumstances and legal advice. Moving into the home after death without proper authority, however, can create serious questions and potential conflicts.

Whenever possible, decisions involving estate property should be transparent, documented, and discussed with the probate attorney.

Real-Life Example

Several years ago, I spoke with a family whose mother had passed away, leaving her home to three children.

One child, who was also the executor, moved into the vacant property believing they were protecting it.

The other beneficiaries believed the executor was receiving free housing while everyone else waited for their inheritance.

After working with the probate attorney, the family established a written agreement regarding occupancy and the future sale of the property. Much of the conflict disappeared once expectations were clearly explained.

Chapter Summary

Estate property belongs to the estate—not to the executor personally.

Living in the probate home without proper authority can create unnecessary conflict.

Seeking legal advice and communicating openly usually prevents misunderstandings before they become disputes.

Frequently Asked Questions

Can an executor live in the probate home?

Sometimes, depending on the circumstances.

Should the executor pay rent?

That depends on the facts and legal advice.

Can beneficiaries object?

Yes.

What is the safest approach?

Discuss the situation with the probate attorney before moving into the property.

Gene Brown's Practical Advice

Over the years, I've found that perception can be just as important as reality.

Before making any decision that personally benefits you, ask yourself:

"How will this look to the beneficiaries?"

Transparency builds trust. Good communication preserves families. When beneficiaries trust the executor, probate usually moves more smoothly, costs less, and reaches a successful conclusion much sooner.

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Chapter 20
Can an Executor Hire Family Members to Work on the Probate Property?

Introduction

One of the questions I occasionally hear from executors is:

"Can I hire my brother, my son, or another family member to do work on the probate house?"

The answer is: Possibly—but the executor must be extremely careful.

The executor has a fiduciary duty to act in the best interests of the estate. Every decision involving estate money should benefit the estate—not family members.

There is nothing inherently improper about hiring a qualified relative who charges a fair market price and performs needed work. The important question is whether the arrangement is fair, properly documented, and in the estate's best interest.

Good documentation protects everyone involved.

Real-Life Example

Several years ago, I worked with an estate that required extensive cleanup before the home could be sold.

The executor's nephew owned a hauling company. Rather than simply giving him the work, the executor obtained three written estimates.

The nephew submitted the lowest bid. The probate attorney reviewed the arrangement, and all estimates and invoices were kept in the estate file.

When a beneficiary later questioned the decision, the documentation demonstrated that the estate had received excellent service at a competitive price.

Chapter Summary

Executors may sometimes hire qualified family members to perform work for the estate.

The decision should always be based on what benefits the estate, supported by fair pricing, proper documentation, and complete transparency.

Frequently Asked Questions

Can an executor hire a relative?

Sometimes, yes.

Should more than one estimate be obtained?

Often, yes.

What if a beneficiary objects?

The executor should be prepared to explain the decision and demonstrate that the estate received fair value.

How can an executor protect themselves?

Maintain complete written records.

Gene Brown's Practical Advice

One lesson I've learned after many years in probate is this:

Good decisions are much easier to defend when they're well documented.

Before hiring a family member, ask yourself:

"Can I explain this decision to every beneficiary and to the probate judge if I ever have to?"

If the answer is yes—and your documentation supports the decision—you're probably making a sound business decision.

Transparency builds confidence, reduces family conflict, and helps probate move forward more smoothly.

Chapter 21

What Should the Executor Do With the Decedent's Personal Property?

Introduction

One of the most emotional parts of probate has nothing to do with bank accounts or real estate.

Families often ask me:

"What can we do with Mom's furniture, jewelry, photographs, and personal belongings before probate is finished?"

My advice is always the same:

Slow down.

The executor has a legal responsibility to protect all of the decedent's property until it can be distributed according to the will or California probate law.

Creating a written inventory, taking photographs, and documenting valuable items before anything is removed can prevent misunderstandings and family disputes. Taking the time to organize the process usually saves tremendous time and conflict later.

Real-Life Example

Several years ago, I worked with an estate where four siblings inherited their parents' home.

Before an inventory had been prepared, family members began removing furniture, artwork, tools, and keepsakes. Months later, no one could agree on what had been taken or who was entitled to receive it.

Had the executor photographed every room and documented the contents before anything was removed, much of the conflict could have been avoided.

Chapter Summary

The executor has a duty to protect the decedent's personal property until it is properly distributed.

Good inventories, photographs, accurate records, and guidance from the probate attorney help ensure every beneficiary is treated fairly.

Frequently Asked Questions

Can beneficiaries take personal belongings before probate is finished?
Generally, they should wait until the executor determines it is appropriate.

Should the executor inventory the home's contents?
Absolutely.

What if family members disagree?
The executor should follow the will, California law, and legal advice.

Are sentimental items common sources of disputes?
Very often.

Gene Brown's Practical Advice

One thing I've learned after many years working with probate families is that money isn't always what causes the biggest disagreements.

Sometimes it's Dad's watch, Mom's wedding ring, or the family photo album.

Take photographs. Prepare an inventory. Explain the process before anything leaves the house.

Good documentation protects property—but even more importantly, it often protects family relationships.

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Chapter 22
Can the Executor Sell the Probate House 'As Is'?

Introduction

One of the questions I hear frequently from executors is:

"Do we have to completely fix up the house before we sell it?"

The answer is: Not necessarily.

Many probate homes have been owned for decades and may need repairs or updating. The executor's responsibility is not to create the nicest house in the neighborhood but to make sound business decisions that maximize the value of the estate.

Sometimes that means making repairs. Sometimes it means selling the property exactly as it sits.

Every property should be evaluated individually based on its condition, the local market, available estate funds, and professional advice.

Real-Life Example

Several years ago, I met with an executor whose parents had lived in their home for nearly forty years.

The family believed they needed to spend well over $100,000 remodeling the home.

Instead, we recommended painting, replacing worn carpeting, improving the landscaping, completing several important repairs, and thoroughly cleaning the property.

The home attracted multiple offers and sold for substantially more than the beneficiaries expected, without unnecessary remodeling.

Chapter Summary

Every probate property deserves its own strategy.

Some homes should be sold as-is, while others benefit from selective improvements.

The executor's responsibility is to maximize the estate's net proceeds through sound planning and professional advice.

Frequently Asked Questions

Can a probate home be sold as-is?
Yes.

Does every probate home need remodeling?
No.

Who should help make that decision?
The probate attorney and an experienced probate real estate professional.

Can overspending reduce the estate's return?
Yes.

Gene Brown's Practical Advice

One thing I've learned after selling probate homes for many years is this:

Don't confuse spending money with making money.

Before spending thousands of dollars, ask your probate Realtor®:

"If we spend this money, how much do you realistically expect it will increase the selling price?"

The goal isn't to create the prettiest house. The goal is to maximize the estate's net proceeds while avoiding unnecessary expense.

The Gene Brown California Probate Guide

Chapter 23

Can the Executor Choose Any Real Estate Agent to Sell the Probate House?

Introduction

One of the questions I hear quite often is: 'Can the executor hire any Realtor® they want?' The answer is yes, but they should choose carefully. The sale of a probate home is often the estate's largest financial transaction. A knowledgeable probate real estate professional understands court procedures, multiple beneficiaries, vacant properties, disclosures, fiduciary duties, and how to maximize value.

Real-Life Example

An executor interviewed several agents. One promised the highest price without explaining how. Another recommended expensive remodeling. A more experienced probate Realtor recommended targeted improvements instead. The home attracted multiple offers and sold above expectations.

Chapter Summary

The executor may choose the estate's Realtor®, but experience, communication, integrity, and probate knowledge should guide that decision.

Frequently Asked Questions

Can the executor hire any agent? Yes.

Should they interview more than one? Absolutely.

Does the agent need probate experience? Not legally, but it is beneficial.

Should beneficiaries choose the Realtor? The executor may listen to opinions, but generally makes the decision.

Gene Brown's Practical Advice

The best probate Realtors solve problems before they become expensive. They coordinate contractors, communicate with attorneys, answer beneficiaries' questions, and help the executor make informed decisions. In my experience, the right Realtor becomes one of the executor's most valuable advisors.

Chapter 24
Should the Executor Accept the First Offer on the Probate House?

Introduction

One of the questions executors ask most often is whether they should accept the first offer or wait for a better one. The answer depends on the strength of the offer, not the order in which it arrived. Price is important, but so are financing, contingencies, deposits, timing, and the likelihood of closing. The executor's duty is to make the best decision for the estate based on today's facts, not speculation.

Real-Life Example

An executor received a strong offer only three days after listing the property. Some family members wanted to wait, believing a better offer would come. After reviewing the buyer's qualifications, price, and market conditions, the executor accepted the offer. No better offers appeared, and the transaction closed successfully.

Chapter Summary

The first offer should be evaluated on its merits. A well-qualified buyer offering fair market value today may be better than hoping for a higher offer that never comes.

Frequently Asked Questions

Should the executor always wait for multiple offers?
No.

Is the highest offer always the best?
No.

Who should help evaluate offers?
The probate attorney and an experienced probate Realtor®.

Can rejecting a good offer cost the estate money?
Yes.

Gene Brown's Practical Advice

Don't fall in love with the possibility of a better offer. Fall in love with making good decisions. Evaluate every offer objectively, considering the buyer's qualifications, price, contingencies, and the likelihood of closing. The executor's responsibility is to make the best decision with the information available today.

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Chapter 25

What Happens If the Probate House Doesn't Sell?

Introduction

One of the questions many executors ask is: 'What happens if the house doesn't sell?' A home not selling immediately does not mean something is wrong with the estate. The executor should evaluate pricing, buyer feedback, marketing, condition, and current market conditions rather than panic. Sometimes a price adjustment or improved marketing is all that is needed.

Real-Life Example

An estate home received many showings but no offers. Buyer feedback consistently indicated the price was too high. After a modest price adjustment, the home quickly received multiple offers and sold successfully. The issue was not the home—it was the pricing.

Chapter Summary

If a probate home doesn't sell, carefully review the price, condition, marketing, and buyer feedback. Objective decisions usually produce the best outcome for the estate.

Frequently Asked Questions

Does a home sitting on the market mean something is wrong?
Not necessarily.

Should the executor lower the price immediately?
Not automatically.

Can changing the marketing help?
Yes.

Who should help evaluate the situation?
An experienced probate Realtor® and the probate attorney.

Gene Brown's Practical Advice

The market tells us what buyers are willing to pay. If offers aren't coming, don't become discouraged—become curious. Study buyer feedback, review comparable sales, and be willing to adjust when the facts support it. Good decisions, not stubbornness, lead to successful probate sales.

Chapter 26
Should the Executor Accept a Cash Offer or a Higher Financed Offer?

Introduction

Executors sometimes receive both a lower cash offer and a higher financed offer. The best choice depends on the complete strength of each offer—not simply the purchase price. Factors include financing, contingencies, deposits, closing timeline, and the likelihood of a successful closing.

Real-Life Example

An estate received a lower cash offer and a higher financed offer. After reviewing the financed buyer's strong qualifications, substantial down payment, and lender approval, the executor accepted the financed offer. The sale closed on time and produced greater proceeds for the estate.

Chapter Summary

Cash offers are not automatically the best offers, and financed offers are not automatically riskier. The executor should evaluate every offer objectively and choose the one that best serves the estate.

Frequently Asked Questions

Is a cash offer always better?
No.

Should the executor always accept the highest offer?
Not necessarily.

Can a financed offer be just as strong?
Yes.

Who should help evaluate competing offers?
The probate attorney and an experienced probate Realtor®.

Gene Brown's Practical Advice

Don't focus on one number. Focus on the entire transaction. Consider the buyer's qualifications, contingencies, timing, and the likelihood of closing. Your fiduciary duty is to choose the offer that best serves the estate after weighing all of the relevant facts.

Chapter 27
Can the Executor Reject an Offer on the Probate House?

Introduction

An executor is not required to accept every offer received. Each offer should be evaluated objectively based on price, buyer qualifications, contingencies, timing, and the estate's best interests. The executor's fiduciary duty is to make sound business decisions, not emotional ones.

Real-Life Example

An executor received a low offer with numerous contingencies and repair requests. After careful review, the executor rejected it. A stronger offer soon followed with a higher price and fewer contingencies, resulting in a successful closing and greater proceeds for the beneficiaries.

Chapter Summary

The executor has the authority to reject offers that are not in the estate's best interests. Every decision should be based on careful analysis and sound judgment.

Frequently Asked Questions

Can the executor reject a low offer?
Yes.

Should every offer be presented?
Yes.

Can the executor reject an offer with excessive repair requests?
Yes.

Should the executor explain why an offer was rejected?
Clear communication is often beneficial.

Gene Brown's Practical Advice

You don't get paid for accepting offers—you get paid for making good decisions. Every offer deserves careful consideration, but not every offer deserves acceptance. Sometimes a counteroffer is appropriate, and sometimes saying no is the best way to protect the estate.

Chapter 28

Should the Executor Make Repairs Requested by the Buyer?

Introduction

After accepting an offer, buyers often request repairs following their inspection. The executor is not required to agree to every request. Instead, each item should be evaluated based on cost, necessity, the effect on the transaction, and the executor's fiduciary duty to the estate. Sometimes completing repairs makes sense, sometimes offering a credit is the better solution, and sometimes declining the request is appropriate.

Real-Life Example

An estate received a lengthy list of repair requests after the home inspection. The executor reviewed each item individually, agreed to address important safety issues, and offered a credit instead of completing several other items. The buyer accepted the compromise, the estate avoided unnecessary expense, and the transaction closed successfully.

Chapter Summary

The executor should evaluate every repair request carefully. Reasonable negotiations often protect the estate while helping the sale move smoothly toward closing.

Frequently Asked Questions

Must the executor complete every repair request?
No.

Can the executor offer a credit instead?
Yes.

Should safety issues receive greater consideration?
Absolutely.

Who should help evaluate repair requests?
The probate attorney and an experienced probate Realtor®.

Gene Brown's Practical Advice

Everything is negotiable. The goal is not to win the negotiation but to make the best business decision for the estate. Thoughtful compromises often produce the best outcome for everyone involved.

Chapter 29

What Happens on the Day the Probate House Closes?

Introduction

For many executors, closing day is both exciting and emotional. Most of the work has already been completed before closing day. Inspections, loan approval, title work, signed documents, and funding are generally finished before the deed is recorded. Once recording occurs, ownership transfers to the buyer and the estate receives the net proceeds after approved expenses are paid. The sale is a major milestone, but probate itself may not yet be complete.

Real-Life Example

An executor who had never sold a home before was nervous about closing day. By preparing in advance and maintaining communication with the title company, lender, and escrow officer, the transaction closed smoothly. When the deed was recorded, the executor received the call every seller hopes for: 'Congratulations. The house has officially sold.'

Chapter Summary

Closing day is the result of careful preparation. Once the deed is recorded, ownership transfers to the buyer and the estate receives its proceeds. The executor's remaining duties continue until the estate is fully administered.

Frequently Asked Questions

When does the buyer officially become the owner?
Generally, when the deed is recorded.

Does the executor receive the proceeds immediately?
The estate receives the net proceeds through escrow after approved expenses are paid.

Can beneficiaries receive their inheritance immediately?
Not necessarily.

Who coordinates the closing?
The title company, escrow officer, probate attorney, and probate Realtor®.

Gene Brown's Practical Advice

Closing day should feel calm—not chaotic. Good communication and preparation throughout the transaction usually lead to a smooth closing. Selling the probate home is often the executor's biggest responsibility, and reaching the closing table is an accomplishment to be proud of.

Chapter 30

What Happens After the Probate House Is Sold?

Introduction

For many executors, selling the probate home feels like crossing the finish line. However, selling the house is usually only one part of administering the estate. After closing, the executor must continue handling the estate by depositing the proceeds into the estate account, paying approved debts and expenses, filing required tax returns, maintaining accurate records, preparing any required accounting, working with the probate attorney, distributing the remaining assets, and ultimately closing the estate. The executor's fiduciary duty continues until probate is complete.

Real-Life Example

An executor wanted to distribute the sale proceeds the day after closing. After consulting the probate attorney, he learned that creditor claims and other expenses still had to be paid first. Waiting until every obligation was satisfied protected both the estate and the executor.

Chapter Summary

Selling the probate house is a major milestone, but it is rarely the final step. The executor must continue administering the estate carefully before making final distributions.

Frequently Asked Questions

Can beneficiaries receive their inheritance immediately after the sale?
Usually not.

Who receives the sale proceeds?
The estate.

Why can't the money be divided immediately?
Because debts, taxes, and expenses must usually be addressed first.

Who helps complete the probate?
The probate attorney and other professional advisors.

Gene Brown's Practical Advice

Selling the house is often the biggest responsibility, but it is not always the last. Continue keeping excellent records, stay in close communication with your probate attorney, pay legitimate obligations before making distributions, and finish the administration carefully. Completing the probate correctly honors your loved one and fulfills your fiduciary duty.

Chapter 31
Can a Beneficiary Force the Sale of a Probate Home?

Introduction

One of the most common questions I hear is:

"I am one of the beneficiaries. Can I force the executor to sell the house?"

The answer is: Usually not by yourself.

The executor—not the beneficiaries—is responsible for managing the estate. That includes deciding when the home should be prepared for sale, how it should be marketed, and when it should be sold.

However, that does not mean the executor has unlimited authority.

The executor has a legal duty to act in the best interests of all beneficiaries. If the executor is intentionally delaying the sale, refusing to communicate, allowing the property to deteriorate, or making decisions that hurt the estate, the beneficiaries have the right to ask the probate court to intervene.

Many beneficiaries become frustrated because they think the executor is moving too slowly.

Sometimes that frustration is justified.

Sometimes it is not.

Selling a probate home often requires clearing title issues, obtaining court authority, cleaning out decades of personal belongings, making repairs, dealing with heirs, resolving creditor claims, and coordinating with attorneys. What appears to be "doing nothing" may actually be several weeks of necessary work behind the scenes.

Understanding that distinction can prevent unnecessary family conflict.

Real-Life Example

Imagine three brothers inherit their mother's home.

One brother is serving as executor.

After two months, one of the other brothers becomes angry because the house has not yet been listed for sale. He accuses the executor of delaying the process and threatens legal action.

The reality is very different.

The executor has already:

• Changed the locks.

- Obtained insurance on the vacant home.
- Hired a clean-out company.
- Completed probate paperwork.
- Ordered a preliminary title report.
- Met with contractors to obtain repair estimates.
- Consulted with the probate attorney regarding court procedures.

Although no "For Sale" sign has gone up yet, the executor has been working steadily to maximize the value of the estate.

On the other hand, if six or eight months pass with no explanation, no progress, and poor communication, beneficiaries may have legitimate concerns that should be addressed with the attorney or, if necessary, the probate court.

Chapter Summary

Beneficiaries generally cannot force an immediate sale simply because they want their inheritance sooner.

The executor is responsible for making reasonable business decisions on behalf of the estate.

However, the executor must also act diligently and in the best interests of everyone involved.

If an executor refuses to perform those duties, beneficiaries have legal remedies available through the probate court.

Frequently Asked Questions

Can a beneficiary demand that the house be listed immediately?

Usually no. The executor determines the appropriate timing based upon the needs of the estate.

What if I think the executor is intentionally delaying the sale?

Start by requesting an explanation. Many delays are legitimate. If the executor refuses to communicate or appears to be neglecting the estate, consult the probate attorney.

Can beneficiaries vote to overrule the executor?

Generally no. The executor has the legal authority to administer the estate unless the probate court orders otherwise.

Can the court force the executor to act?

Yes. If the executor is violating fiduciary duties or failing to properly administer the estate, the court has authority to order action or even replace the executor.

Should beneficiaries hire their own attorney?

Sometimes. If significant financial interests are involved and communication has completely broken down, independent legal advice may be appropriate.

Gene Brown's Practical Advice

In my experience, most probate disputes don't begin because of money.

They begin because of poor communication.

Families often assume that "nothing is happening" simply because nobody is explaining what is happening.

As a probate Realtor, I try to keep everyone informed throughout the process. Even a short phone call every week or two can reduce misunderstandings and help preserve family relationships.

If you're a beneficiary, remember that the executor has responsibilities you may not see.

If you're an executor, remember that beneficiaries are often grieving, anxious, and waiting for information.

A little communication goes a long way.

I've seen families stay close because they communicated openly.

I've also seen families stop speaking to each other for years because they didn't.

The goal of probate isn't just to distribute assets. It's to honor the wishes of the person who passed away while treating every family member with fairness, respect, and professionalism.

Chapter 32
Can an Executor Sell the Probate Home to a Family Member?

Introduction

One of the questions I hear from beneficiaries is:

'Can the executor sell the house to themselves or another family member?'

The answer is:

Yes—but only under very specific circumstances, and there are strict legal rules designed to protect the estate and the beneficiaries.

An executor has a fiduciary duty to act in the best interests of the estate. That means every decision must be made honestly, fairly, and without putting the executor's own interests ahead of everyone else's.

If an executor wants to purchase the probate property personally—or sell it to a close relative—it creates what is known as a conflict of interest.

That doesn't automatically make the transaction improper, but it does require additional scrutiny.

Depending on the circumstances and the authority granted to the executor, court approval, full disclosure, and compliance with California probate law may be required before the sale can proceed.

The most important principle is this:

The estate must receive fair market value, and the executor cannot use their position to obtain an unfair advantage.

Real-Life Example

An executor was administering his father's estate.

The home had been in the family for more than fifty years, and the executor wanted to purchase it because he had grown up there and hoped to keep it in the family.

Rather than simply transferring the property to himself, he followed the proper legal process.

A professional appraisal was obtained.

The probate attorney advised him regarding the required procedures.

The beneficiaries were fully informed.

The transaction was completed at fair market value under the appropriate legal authority.

Because everything was handled openly and fairly, the sale was completed without family disputes or legal challenges.

Now consider the opposite situation.

Suppose an executor quietly sells the property to a relative for significantly less than market value without properly informing the beneficiaries.

That transaction could be challenged in court, delayed, or even set aside if the executor violated their fiduciary duties.

Chapter Summary

An executor may be able to purchase the probate home or sell it to a family member, but the transaction must be handled with complete honesty, transparency, and compliance with California probate law.

The executor's personal wishes always come second to the executor's legal duty to protect the estate.

Whenever a conflict of interest exists, additional caution should be exercised.

Frequently Asked Questions

Can the executor buy the probate home?

Sometimes, yes. Whether that is permitted depends upon the circumstances, the authority granted to the executor, and the applicable provisions of California probate law.

Can the executor sell the home to another family member?

Possibly, provided the transaction is conducted fairly, the estate receives fair market value, and all legal requirements are satisfied.

Does the executor have to disclose the transaction?

In many situations, full disclosure is essential. Transparency helps protect both the estate and the executor.

Can beneficiaries object?

Yes. If beneficiaries believe the property is being sold below market value or that the executor is acting improperly, they may raise their concerns with the probate attorney or ask the probate court to review the transaction.

How can conflicts of interest be avoided?

By obtaining professional advice, using independent valuations when appropriate, fully disclosing the transaction, and strictly following California probate procedures.

Gene Brown's Practical Advice

Over the years, I've seen situations where an executor genuinely wanted to keep the family home for sentimental reasons.

There's nothing wrong with that.

In fact, sometimes it can be a wonderful outcome.

The problem begins when the executor forgets that the house doesn't belong to them.

It belongs to the estate until the probate process has been completed.

Whenever I become involved in one of these situations, my advice is always the same:

Slow down.

Make sure the property is accurately valued.

Keep every beneficiary informed.

Follow the advice of the probate attorney.

If everyone understands the process and believes the transaction is fair, most disagreements disappear before they ever become lawsuits.

Remember, the executor isn't expected to avoid every difficult decision.

The executor is expected to make every decision with integrity.

That's what protects both the estate and the executor.

The Gene Brown California Probate Guide

Chapter 33

Should the Executor Accept the Highest Offer on the Probate Home?

Introduction

Many beneficiaries assume that the executor must always accept the highest purchase offer.

In reality, that's not always true.

The executor has a fiduciary duty to act in the best interests of the estate, but that responsibility involves much more than simply looking at the highest dollar amount.

Every offer should be evaluated as a complete package.

For example, one buyer may offer a higher price but require financing, extensive repairs, or a lengthy escrow with numerous contingencies.

Another buyer may offer slightly less but be paying cash, have no contingencies, and be able to close quickly with very little risk.

The executor's responsibility is to determine which offer is most likely to produce the best overall result for the estate.

Sometimes the highest offer is the best choice.

Sometimes it isn't.

A failed escrow can cost the estate valuable time, additional carrying costs, and even reduce the property's market value if it must be placed back on the market.

The goal is not simply to accept the highest number.

The goal is to complete the transaction that provides the greatest overall benefit to the estate.

Real-Life Example

A probate home received two offers.

The first buyer offered $1,010,000 with a conventional loan, a lengthy inspection contingency, and the sale of the buyer's existing home as a condition of closing.

The second buyer offered $995,000 in cash, waived contingencies, and could close within fourteen days.

At first glance, the higher offer appeared to be the obvious choice.

However, after reviewing both offers with the probate attorney and real estate professional, the executor recognized that the first transaction carried substantially greater risk.

The executor accepted the slightly lower cash offer.

The sale closed exactly as promised.

Had the higher offer fallen apart several weeks later, the estate could easily have lost more than the $15,000 difference through additional expenses, delays, and a weaker negotiating position.

Chapter Summary

The executor is not automatically required to accept the highest purchase offer.

Instead, the executor should carefully evaluate every important term of each offer, including price, financing, contingencies, closing timeline, and the likelihood of a successful closing.

The best offer is often the one that combines a strong price with the highest probability of actually closing.

Frequently Asked Questions

Does California probate law require the executor to accept the highest offer?

Not necessarily. The executor's responsibility is to act in the best interests of the estate, taking all relevant factors into consideration.

Can an executor choose a lower offer?

Yes. If the lower offer provides greater certainty, fewer risks, or a better overall outcome for the estate, accepting that offer may be entirely appropriate.

Should financing matter?

Absolutely. A strong pre-approved buyer may present little risk, while uncertain financing or the sale of another property can significantly increase the chance that the transaction will fail.

Should contingencies be considered?

Yes. Inspection, appraisal, financing, and home-sale contingencies all affect the strength of an offer and should be evaluated carefully.

Who should help evaluate competing offers?

The executor should work closely with the probate attorney and an experienced probate Realtor to evaluate every aspect of each offer before making a decision.

Gene Brown's Practical Advice

One of the biggest mistakes I see is focusing on only one number—the purchase price.

Real estate transactions are far more complicated than that.

Over the years, I've seen buyers submit impressive offers that had almost no chance of closing.

I've also seen buyers offer slightly less and perform exactly as promised.

When I present offers to an executor, I don't simply point to the highest price.

I explain the strengths and weaknesses of every offer.

I discuss financing, contingencies, buyer qualifications, proposed timelines, and the overall probability of success.

That's the information an executor needs to make an informed decision.

At the end of the day, the executor's responsibility is not to win a bidding contest.

The responsibility is to maximize the estate's net proceeds while minimizing unnecessary risk.

In my experience, the best transaction is the one that closes smoothly, protects the estate, and fulfills the executor's fiduciary duty to every beneficiary.

Chapter 34

How Should an Executor Protect a Vacant Probate Home?

Introduction

One of the greatest risks facing an executor is leaving a probate home vacant without taking the proper precautions.

An unoccupied home can quickly become the target of burglary, vandalism, trespassing, water damage, or even liability claims. What begins as a secure property can become a major financial problem in just a few days if something goes wrong.

Many executors assume they should simply lock the front door and return occasionally to check on the house.

Unfortunately, that is rarely enough.

Protecting a vacant probate home requires a systematic approach. The executor should secure the property, notify the insurance company if the home will be vacant, maintain the landscaping, monitor the utilities, and inspect the property on a regular basis.

Small maintenance issues that would normally be discovered by someone living in the home can become expensive disasters when a house sits empty.

A broken irrigation pipe, leaking water heater, roof leak, or electrical problem can cause thousands of dollars in damage before anyone notices.

The executor has a fiduciary duty to preserve the estate's assets. Properly protecting the home is one of the most important responsibilities during the probate process.

Real-Life Example

An executor inherited responsibility for a home that would likely remain vacant for several months while probate progressed.

Rather than simply locking the doors and hoping for the best, the executor created a checklist.

The locks were rekeyed immediately.

The insurance company was notified that the property would be vacant.

The lawn service continued on its regular schedule.

A trusted neighbor was given the executor's contact information.

The home was inspected every week.

Mail was collected promptly, newspapers were stopped, and valuables were secured.

Several weeks later, a small plumbing leak developed beneath a bathroom sink.

Because the property was being inspected regularly, the leak was discovered quickly and repaired before it caused significant damage.

Had the home remained unattended for another month, the repairs could have cost tens of thousands of dollars.

Chapter Summary

A vacant probate home requires active management.

The executor should treat the property as a valuable financial asset that must be protected until it is sold or distributed.

Regular inspections, proper insurance, routine maintenance, and immediate attention to repairs can prevent costly losses and protect the interests of every beneficiary.

Frequently Asked Questions

Should the executor change the locks?

Usually, yes.

Should the insurance company be notified?

Absolutely.

Should utilities remain on?

Often, yes.

How often should the home be inspected?

Regularly. Weekly inspections are often appropriate.

Should valuables remain inside the home?

Generally, no.

Gene Brown's Practical Advice

One of the very first things I tell executors after someone passes away is this:

Go secure the house.

That doesn't mean removing personal property.

It means protecting the estate.

I've seen vacant homes suffer major damage because a simple plumbing leak went unnoticed.

I've seen burglars enter homes after realizing no one was living there.

I've seen landscaping die, insurance claims denied, and deferred maintenance become far more expensive than it needed to be.

Most of these problems could have been prevented with regular inspections and a little planning.

Protecting the home isn't just about preserving real estate.

It's about protecting the inheritance that your loved one spent a lifetime building.

If you treat the property as though it were your own investment, you'll usually make the right decisions.

And in my experience, preventing a problem is almost always less expensive than fixing one after it occurs.

Chapter 35
When Should a Probate Property Be Sold?

Introduction

One of the most important decisions an executor must make is when to sell the probate property.

Many families assume the home should be listed immediately after their loved one passes away.

Others believe they should wait until probate has been completed.

The truth is that there is no single answer that applies to every estate.

The timing of the sale depends upon several factors, including the authority granted to the executor, the condition of the property, the financial needs of the estate, market conditions, and the advice of the probate attorney.

Sometimes selling the property as soon as legally possible is the best financial decision.

In other situations, it may be wiser to wait until repairs have been completed, personal belongings have been removed, or market conditions have improved.

The executor's responsibility is not to rush the sale.

The executor's responsibility is to make a thoughtful business decision that serves the best interests of the estate and all of its beneficiaries.

Every probate is unique.

The best timing for one estate may be completely different from another.

Real-Life Example

An executor inherited responsibility for a probate home that had been vacant for several months.

The local real estate market was strong, but the property still contained decades of furniture and personal belongings.

Several beneficiaries wanted to list the home immediately.

After consulting with the probate attorney and a probate Realtor, the executor decided to spend three weeks preparing the home for sale.

The personal property was removed.

The interior was professionally cleaned.

Fresh paint and minor repairs were completed.

The landscaping was refreshed.

When the property was finally listed, it generated significant buyer interest, received multiple offers, and sold above the asking price.

Had the home been listed without preparation, the estate likely would have received substantially less.

In another probate, however, the home required extensive repairs that would have delayed the sale for several months.

Because the estate needed liquidity to pay debts and ongoing expenses, the executor decided to sell the property in its existing condition.

That decision also proved to be the right one.

Both executors fulfilled their fiduciary duties because they made decisions based upon the specific circumstances of their estates rather than following a one-size-fits-all approach.

Chapter Summary

There is no universally "perfect" time to sell a probate property.

The executor should evaluate the condition of the home, the financial needs of the estate, current market conditions, and the legal authority available before deciding when to list the property.

The objective is to maximize the overall benefit to the estate—not simply to sell as quickly as possible.

Frequently Asked Questions

Should the home be listed immediately after someone dies?

Not necessarily.

Should repairs be completed before listing?

Sometimes.

Can market conditions affect the timing?

Absolutely.

Should the executor wait until probate is finished?

Not always.

Who should help make this decision?

The executor should consult with the probate attorney and an experienced probate Realtor.

Gene Brown's Practical Advice

This is where experience really matters.

I've been involved in probate real estate since 1996, and one lesson has remained constant:

There is no automatic formula for deciding when to sell.

Some homes should be listed almost immediately.

Others benefit tremendously from a few weeks of preparation.

Still others should be sold exactly as they sit because spending additional time or money simply won't produce a better result.

Whenever I meet with an executor, I begin by asking questions about the property, the estate, and the family's goals before making a recommendation.

My responsibility isn't to sell a house as quickly as possible.

My responsibility is to help the executor maximize the estate's net proceeds while minimizing unnecessary risk and stress for the family.

That's the standard I use in every probate transaction.

The Gene Brown California Probate Guide

Chapter 36

What Happens If the Probate Home Doesn't Sell?

Introduction

Most probate homes sell within a reasonable period of time when they are priced correctly and properly marketed.

However, every executor should be prepared for the possibility that the property may remain on the market longer than expected.

If the home doesn't sell, it doesn't necessarily mean something is wrong with the property.

The market may have changed.

The asking price may be too high.

The home's condition may not meet buyers' expectations.

Interest rates may have increased, reducing the number of qualified buyers.

Or there may simply be more competing homes available than when the property was first listed.

The executor has a fiduciary duty to monitor the marketing of the property and make reasonable business decisions if the home is not attracting buyers.

That may include adjusting the asking price, improving the property's appearance, increasing marketing efforts, or reconsidering the overall sales strategy.

Doing nothing is rarely the best solution.

The longer a property remains on the market without activity, the more likely buyers are to wonder whether something is wrong with it.

A thoughtful response is usually better than simply waiting and hoping conditions improve.

Real-Life Example

An executor listed a probate home during a period when buyer demand was exceptionally strong.

The family believed the home was worth more than recent comparable sales suggested and insisted on pricing it well above market value.

During the first month, there were numerous showings but no offers.

Over the next several weeks, showing activity declined significantly.

The executor met with the probate Realtor to review buyer feedback.

Most prospective buyers expressed the same concern: "We like the home, but it's overpriced."

After reviewing updated market data, the executor reduced the asking price to a level supported by comparable sales.

Within two weeks, the property received multiple offers and sold successfully.

Chapter Summary

If a probate home does not sell, the executor should not panic.

Instead, evaluate current market conditions, review buyer feedback, analyze comparable sales, and work with experienced professionals to determine whether adjustments should be made.

The goal is to respond to the market rather than ignore it.

Frequently Asked Questions

Should the price be reduced if the home isn't selling?

Sometimes.

How long should the executor wait before making changes?

There is no fixed rule.

Should additional repairs be considered?

Possibly.

Can changing market conditions affect the sale?

Absolutely.

Who should help evaluate the property's performance?

An experienced probate Realtor.

Gene Brown's Practical Advice

One of the hardest conversations I sometimes have with executors is about price.

Everyone wants to believe their loved one's home is worth more than the market says.

Buyers don't purchase memories.

They purchase value.

When a property sits on the market without serious offers, the market is sending us a message.

Our job isn't to argue with the market.

Our job is to understand what it's telling us.

Sometimes the answer is a price adjustment.

Sometimes it's improving the presentation.

Sometimes it's changing the marketing strategy.

As a probate Realtor, my responsibility is to provide honest advice based on current market conditions and help the executor make informed decisions that protect the estate's financial interests.

Chapter 37
How Do You Choose the Right Probate Realtor?

Introduction

One of the most important decisions an executor will make is choosing the real estate professional who will help sell the probate property.

Not every Realtor has experience handling probate sales.

In fact, many excellent Realtors rarely work with estates and may not fully understand the unique responsibilities, timelines, legal requirements, and family dynamics involved in probate.

Selling a probate home often requires much more than simply placing a sign in the yard and listing the property on the Multiple Listing Service (MLS).

A qualified probate Realtor should understand how to communicate with executors, beneficiaries, probate attorneys, contractors, title companies, and other professionals involved in the transaction.

The Realtor should also know how to evaluate whether repairs are financially worthwhile, recommend reliable vendors, coordinate property preparation, develop an effective marketing strategy, and guide the executor through every stage of the sale.

Experience matters.

The wrong Realtor can create unnecessary delays, confusion, and additional expense.

The right Realtor can make a difficult process far less stressful while helping the estate achieve the best possible financial result.

Real-Life Example

An executor interviewed three different Realtors before deciding who would represent the estate.

The first focused almost entirely on commission.

The second promised an unrealistically high selling price without supporting market data.

The third spent nearly two hours walking through the property, explaining the probate sales process, identifying inexpensive improvements that would increase value, discussing potential risks, and answering every question the family had.

The executor selected the third Realtor.

The home was properly prepared, aggressively marketed, attracted multiple qualified buyers, and sold above the asking price.

Chapter Summary

The Realtor you choose can have a significant impact on both the financial outcome and the overall probate experience.

Executors should look beyond promises and advertising.

Experience, communication, honesty, market knowledge, and probate expertise are often far more valuable than simply choosing the agent who quotes the highest price or the lowest commission.

Selecting the right professional can save time, reduce stress, and help maximize the estate's value.

Frequently Asked Questions

Does the Realtor need to specialize in probate?

While not legally required, substantial probate experience is extremely beneficial.

Should the executor interview more than one Realtor?

Yes.

Is the Realtor with the highest suggested listing price always the best choice?

No.

Can the Realtor recommend contractors and other professionals?

Yes.

What qualities should an executor look for?

Knowledge, honesty, communication, responsiveness, marketing ability, negotiation skills, and probate experience.

Gene Brown's Practical Advice

I've been helping probate clients since 1996.

Selling a probate home isn't really about selling a house.

It's about helping families through one of the most difficult periods of their lives.

An executor deserves more than someone who unlocks the front door and places a sign in the yard.

They deserve an advisor.

Someone who anticipates problems before they occur.

Someone who recommends improvements only when they make financial sense.

Someone who tells the truth, even when it's difficult to hear.

Don't hire a Realtor because of a slogan.

Hire a Realtor because they have the knowledge, experience, and integrity to protect the estate while helping you make confident, informed decisions.

Chapter 38

What Costs Should an Executor Expect When Selling a Probate Home?

Introduction

One of the questions I hear most often from executors is: "What expenses will the estate have to pay when we sell the house?"

The answer depends upon the condition of the property, the terms negotiated with the buyer, and the specific circumstances of the estate.

Many executors are surprised to learn that selling a home involves more than simply paying the real estate commission.

There may also be costs for title insurance, escrow fees, transfer taxes, property preparation, cleaning, repairs, staging, landscaping, inspections, and other closing expenses.

In addition, the estate may continue paying property taxes, insurance, utilities, and maintenance while the home is being marketed.

Understanding these costs in advance helps the executor prepare realistic expectations and make informed financial decisions.

Real-Life Example

An executor planned to sell a probate home that had been vacant for several months.

The family believed the only expense would be the real estate commission.

After reviewing the property, they discovered additional costs including cleaning, paint, landscaping, inspections, and minor repairs.

These improvements generated multiple offers and a higher sales price.

Chapter Summary

Selling a probate home involves a variety of potential expenses.

Some costs are unavoidable while others are investments that may increase the estate's value.

Frequently Asked Questions

Who pays the commission?

Typically from the seller's proceeds at closing.

Can the estate pay for repairs?

Often yes.

Should inspections be ordered before listing?

In many situations, yes.

Are staging and landscaping worthwhile?

Sometimes.

Can preparation expenses increase net proceeds?

Absolutely.

Gene Brown's Practical Advice

Don't focus only on reducing expenses.

Instead ask whether the expense will produce a greater financial return for the estate.

I've seen relatively small investments in paint, landscaping, cleaning, and repairs produce much higher sales prices.

Every property is different.

My responsibility is to help executors make smart business decisions that maximize the estate's net proceeds.

Chapter 39
What Happens During Final Distribution?

Introduction

For many executors, the day the probate home sells feels like the finish line.

In reality, selling the home is often one of the final major steps—but it is not necessarily the end of the probate process.

Before the estate can be closed, the executor must complete the final distribution of the estate by paying remaining debts and expenses, accounting for estate funds, and distributing the remaining assets according to the will or California law.

Beneficiaries are often eager to receive their inheritance, but assets should never be distributed prematurely.

Real-Life Example

An executor sold the probate home and immediately received calls asking when inheritances would be paid.

The executor first paid outstanding bills, deposited the escrow proceeds into the estate account, worked with the probate attorney to complete the final accounting, and then distributed the remaining funds.

The estate closed smoothly because every step was completed in the proper order.

Chapter Summary

Final distribution is the last major step in probate.

It involves paying remaining obligations, completing the accounting, and distributing the remaining assets before the estate is formally closed.

Frequently Asked Questions

Can beneficiaries receive their inheritance immediately after the home sells?

Usually not.

What is a final accounting?

A report of estate receipts, expenses, and proposed distributions.

Does every estate require court approval?

Not always.

Can money be distributed before all bills are paid?

Generally, no.

What happens after distributions are made?

The estate can then be formally closed.

Gene Brown's Practical Advice

Selling the probate home is a major milestone, but it isn't always the final step.

Finish the process as carefully as you started it.

Keep excellent records, work closely with your probate attorney, pay every legitimate obligation, and don't let anyone pressure you into distributing funds too early.

A careful final distribution protects the executor, the beneficiaries, and honors the person whose estate is being administered.

Chapter 40
Lessons Learned From Thirty Years of Probate Real Estate

Introduction

After helping probate families for more than thirty years, I've learned that no two probate cases are exactly alike.

Every family, every estate, and every home has its own story.

The executors who have the smoothest probate experience usually communicate well, stay organized, ask questions, and make decisions based on facts rather than emotions.

Probate is a process. Patience and experienced guidance make it far more manageable.

Real-Life Example

I worked with two probate estates at nearly the same time.

One executor stayed organized, communicated well, and trusted experienced professionals. The estate closed smoothly.

The other delayed decisions, communicated inconsistently, and allowed family disagreements to grow. The result was unnecessary delays, frustration, and additional expense.

Chapter Summary

Successful probate administration is rarely about luck.

It comes from thoughtful decisions, organization, communication, and relying on experienced professionals.

Frequently Asked Questions

Is every probate case different?

Yes.

What is the most common mistake executors make?

Waiting too long to ask questions.

Does organization matter?

Absolutely.

Should executors try to do everything themselves?

No. Experienced professionals provide valuable guidance.

What is your best advice?

Take probate one step at a time.

Gene Brown's Practical Advice

If I could sit across the kitchen table from every new executor, I'd say this:

You don't have to know everything today.

Surround yourself with experienced professionals, ask questions, stay organized, keep good records, and don't be afraid to ask for help.

Looking back over more than thirty years of probate real estate, my greatest satisfaction has never been selling houses.

It's been helping families move through one of the most difficult chapters of their lives with confidence, dignity, and peace of mind.

If this guide has helped you do that, then it has accomplished exactly what I hoped it would.

Chapter 41
What Happens If the Executor Does Nothing?

Introduction

Being named as an executor is both an honor and a serious legal responsibility.

Once appointed, the executor has a fiduciary duty to move the probate process forward with reasonable diligence.

Sometimes executors become overwhelmed by grief, distance, health issues, or uncertainty.

Unfortunately, doing nothing rarely solves the problem.

Delays can lead to unpaid bills, deteriorating property, delinquent taxes, and frustrated beneficiaries.

Real-Life Example

An executor delayed taking action because the paperwork and emotions felt overwhelming.

Months passed before the vacant home was secured and routine expenses were paid.

After meeting with the probate attorney and an experienced probate Realtor, the executor developed an action plan and the estate moved forward successfully.

Chapter Summary

Executors are not expected to know everything.

They are expected to act responsibly.

Seeking guidance early usually prevents unnecessary delays and expense.

Frequently Asked Questions

Can an executor ignore the probate process?

No.

What happens if the executor stops communicating?

The probate process may stall and the court may become involved.

Can an executor resign?

Yes, by following the proper legal procedures.

Can the court remove an executor?

Yes, in appropriate circumstances.

What should an overwhelmed executor do first?

Speak with the probate attorney and begin addressing one task at a time.

Gene Brown's Practical Advice

Very few people have ever served as an executor before.

You're not expected to know everything.

You're expected to learn, ask questions, and keep moving forward.

One phone call leads to another.

One decision leads to the next.

Don't let fear or uncertainty stop you from taking action.

The estate doesn't require perfection.

It requires steady, responsible progress.

Chapter 42
How Do Probate Sales Differ From Traditional Home Sales?

Introduction

Many executors assume selling a probate home is just like selling any other home.

While the marketing and escrow process are very similar, probate sales involve additional fiduciary responsibilities.

The executor must act in the best interests of the estate when making decisions about pricing, repairs, disclosures, negotiations, and offers.

Probate sales also require close coordination with the probate attorney, title company, escrow officer, and often the beneficiaries.

Real-Life Example

I represented two homes listed during the same month.

One was a traditional sale.

The other was a probate sale.

The probate transaction required additional communication, documentation, and coordination because the executor was acting as a fiduciary for the estate.

Both transactions closed successfully because everyone understood their responsibilities.

Chapter Summary

Probate sales are similar to traditional home sales, but they require additional legal responsibilities, communication, and documentation.

Frequently Asked Questions

Is a probate sale more complicated?

Sometimes.

Can the executor make decisions alone?

The executor should work closely with experienced professionals.

Why are disclosures important?

They protect both the buyer and the estate.

Do beneficiaries approve every decision?

Not necessarily.

Should the executor hire probate professionals?

Yes.

Gene Brown's Practical Advice

Probate sales are different because of the responsibility placed upon the executor.

I always encourage executors to ask one simple question before making an important decision:

'Is this in the best interest of the estate?'

Keep good records, communicate openly, ask questions, and don't hesitate to seek experienced guidance.

A successful probate sale is measured not only by the selling price, but by knowing the estate was handled professionally, ethically, and with care.

Chapter 43
What Happens If There Is a Reverse Mortgage on the Probate Home?

Introduction

Many executors are surprised to discover that a loved one's home has a reverse mortgage.

When the homeowner passes away, the reverse mortgage usually becomes due.

That does not necessarily mean the family loses the home.

The executor should notify the lender promptly, work closely with the probate attorney, and understand the available options.

In many cases, the estate sells the property, pays the reverse mortgage through escrow, and distributes any remaining equity to the beneficiaries.

Real-Life Example

An executor initially feared the lender would immediately foreclose.

After contacting the lender and consulting the probate attorney, the property was marketed, sold successfully, and the reverse mortgage was paid through escrow.

The remaining equity was distributed through the estate.

Chapter Summary

A reverse mortgage does not prevent a probate home from being sold.

Early communication with the lender and experienced professional guidance usually produce the best outcome.

Frequently Asked Questions

Can the executor sell a home with a reverse mortgage?

Yes.

Will beneficiaries receive money?

If equity remains after paying the loan and costs, yes.

Does the lender immediately take the home?

Not necessarily.

Can a family member keep the home?

Sometimes.

What should the executor do first?

Contact the lender and the probate attorney.

Gene Brown's Practical Advice

Don't let the words 'reverse mortgage' create unnecessary fear.

Gather the facts, determine exactly what is owed, keep the lender informed, and work closely with your probate attorney and probate Realtor.

When handled properly, a reverse mortgage is usually just another obligation paid through escrow.

Make decisions based on facts rather than assumptions.

Chapter 44
What Happens If the Probate Home Is Worth Less Than the Debt?

Introduction

One of the more difficult situations an executor may face is discovering that the probate home is worth less than the total amount owed against it.

Although this can feel discouraging, it does not mean the probate process comes to a halt.

The executor should determine the property's current market value, identify all debts secured by the property, and work closely with the probate attorney and other professionals before making decisions.

Real-Life Example

An executor believed there was no equity because of a mortgage, reverse mortgage, and unpaid property taxes.

After obtaining accurate payoff information and a current market analysis, the executor discovered there was still equity.

The property was sold, all liens were paid through escrow, and the remaining proceeds became part of the estate.

Chapter Summary

Never assume a property has no equity until the facts have been verified.

Accurate information leads to better decisions.

Frequently Asked Questions

Should the executor automatically sell an underwater property?

Not necessarily.

Can a probate sale occur with multiple liens?

Yes.

What if there truly is no equity?

Consult the probate attorney.

Who determines market value?

An experienced Realtor and, when appropriate, an appraiser.

What is the executor's primary responsibility?

Gather accurate information and protect the estate.

Gene Brown's Practical Advice

I've seen executors assume there was no equity only to discover there was substantial value remaining.

I've also seen unexpected debts reduce an estate's value.

Replace uncertainty with facts.

Determine what is owed, determine what the home is worth, and work closely with experienced professionals before making important decisions.

Chapter 45
Should You Accept the First Offer on a Probate Home?

Introduction

One of the first questions many executors ask is whether they should accept the first offer or wait for a better one.

There is no single answer.

The executor should evaluate every offer based on price, financing, contingencies, closing date, and the likelihood the transaction will actually close.

Real-Life Example

An executor received an offer three days after the home was listed.

After reviewing the terms with an experienced probate Realtor, the executor accepted the offer because it represented fair market value and the buyer was well qualified.

The transaction closed smoothly.

Chapter Summary

The first offer should never be accepted automatically, nor rejected simply because it is the first.

Every offer deserves careful analysis.

Frequently Asked Questions

Is the first offer usually the best?

Sometimes.

Should the executor wait for multiple offers?

Not necessarily.

Is the highest price always the best?

No.

Should the executor negotiate?

Often, yes.

Who should help evaluate offers?

An experienced probate Realtor and, when appropriate, the probate attorney.

Gene Brown's Practical Advice

I don't believe the first offer is always the best, nor do I believe it should always be rejected.

Every market is different.

Evaluate each offer objectively, ask questions, and make decisions based on facts rather than rules of thumb.

That's how you best protect the estate.

The Gene Brown California Probate Guide

Chapter 46
Probate and Capital Gains Taxes

Introduction

Taxes are one of the subjects that concern many executors and beneficiaries.

One important concept is the step-up in tax basis. In many situations, inherited property receives a new tax basis based on its fair market value at the owner's date of death, which may reduce or eliminate capital gains tax when the property is sold.

Every estate is different, so executors should work closely with a qualified CPA or tax professional before making tax-related decisions.

Real-Life Example

An executor feared the estate would owe substantial capital gains taxes because the home had appreciated for many years.

After meeting with a CPA, she learned the property generally received a step-up in tax basis. The home sold shortly after probate, and the tax consequences were much less significant than expected.

Chapter Summary

Capital gains taxes are an important consideration, but inherited property often receives favorable tax treatment through the step-up in tax basis.

Frequently Asked Questions

What is a step-up in tax basis?

A general adjustment to fair market value at the date of death, subject to applicable tax laws.

Will every estate owe capital gains taxes?

Not necessarily.

Who should answer tax questions?

A qualified CPA or tax professional.

Why is tax planning important?

It helps executors make informed decisions and avoid costly mistakes.

Gene Brown's Practical Advice

Whenever someone asks me a tax question, I tell them that it's a question their CPA should answer.

Your probate attorney provides legal guidance, your CPA provides tax guidance, and your Realtor provides real estate guidance.

When each professional works within their area of expertise, the executor receives the best advice possible.

Chapter 47
What Happens to Retirement Accounts?

Introduction

Many executors assume every asset automatically becomes part of the probate estate.

In many cases, retirement accounts such as IRAs and 401(k)s pass directly to the named beneficiaries through beneficiary designations rather than through probate.

If no valid beneficiary designation exists, the account may become part of the probate estate, depending on the account documents and applicable law.

Executors should work closely with the probate attorney and a qualified tax professional before making decisions.

Real-Life Example

An executor believed a large IRA had to pass through probate.

After contacting the financial institution, she learned her father had named his two children as beneficiaries.

The institution distributed the funds directly to them, while the executor continued administering the remaining probate assets.

Chapter Summary

Many retirement accounts pass directly to named beneficiaries and never become probate assets.

Frequently Asked Questions

Do all retirement accounts go through probate?

No.

What if no beneficiary was named?

The account may become part of the probate estate.

Can the executor distribute retirement account funds?

Usually not when valid beneficiaries are named.

Should beneficiaries contact the financial institution?

Yes.

Should tax advice be obtained?

Absolutely.

Gene Brown's Practical Advice

Before making assumptions, determine how each asset is titled and whether it has a beneficiary designation.

That simple step often eliminates confusion and helps the probate process move forward more smoothly.

Chapter 48
Selling a Probate Home During a Difficult Real Estate Market

Introduction

Not every probate home is sold during a strong real estate market. Higher interest rates, increased inventory, and economic uncertainty can make selling more challenging.

Proper pricing, good presentation, and effective marketing become even more important in a slower market.

Real-Life Example

An executor wanted to price the home based on sales from six months earlier. After reviewing current conditions, the home was priced competitively, prepared well, and sold within a few weeks, avoiding months of carrying costs.

Chapter Summary

Executors cannot control the market, but they can control preparation, pricing, marketing, and choosing experienced professionals.

Frequently Asked Questions

Should we wait for the market to improve?

Not necessarily.

Should we overprice the home?

Generally, no.

Do repairs still matter?

Yes.

Can a probate home receive multiple offers?

Absolutely.

How important is choosing the right Realtor?

Extremely important.

Gene Brown's Practical Advice

I've sold homes through strong and weak markets since 1978.

One lesson never changes: the market is always right.

Focus on today's value rather than yesterday's prices. Price realistically, prepare the home well, and keep the estate's goals at the center of every decision.

Chapter 49

Common Probate Mistakes and How to Avoid Them

Introduction

Serving as an executor is a significant responsibility. Most executors have never administered an estate before.

Common mistakes include waiting too long to take action, making assumptions instead of asking questions, allowing emotions to influence business decisions, failing to communicate with beneficiaries, and trying to handle every aspect of probate without experienced professional guidance.

Real-Life Example

An executor delayed selling a probate home while hoping the market would improve. During the delay, carrying costs increased and a plumbing leak caused additional damage. After consulting experienced professionals, the executor developed a plan, sold the home, and avoided further unnecessary expense.

Chapter Summary

Most probate mistakes are preventable. Taking prompt action, asking questions, communicating regularly, and working with experienced professionals helps protect both the estate and its beneficiaries.

Frequently Asked Questions

What is the biggest mistake executors make?

Waiting too long to act.

Should executors do everything themselves?

No.

How often should beneficiaries receive updates?

Regular communication is usually best.

Is it normal to feel overwhelmed?

Absolutely.

What's the best way to avoid probate mistakes?

Stay organized, ask questions early, and rely on experienced professionals.

Gene Brown's Practical Advice

The executors who do the best job are usually the ones who aren't afraid to ask questions.

You don't have to know everything—you simply need to know who to ask.

Taking timely action and building a strong team of professionals makes the probate process smoother and more successful for everyone involved.

Chapter 50

Final Thoughts — You Can Successfully Navigate Probate

Introduction

If you've read this guide from beginning to end, you've already accomplished something important.

Probate can seem intimidating at first, but it is a process that becomes much more manageable when approached one step at a time.

You are not expected to know every answer immediately. You're expected to make thoughtful decisions, ask questions, and work with qualified professionals.

Real-Life Example

An executor felt completely overwhelmed after losing a loved one. By focusing only on the next few steps, working with experienced professionals, and staying organized, she successfully completed the probate process.

Chapter Summary

Probate is rarely easy, but it is manageable. Knowledge reduces uncertainty, preparation builds confidence, and professional guidance helps prevent costly mistakes.

Frequently Asked Questions

Is it normal to feel overwhelmed?

Absolutely.

Do I have to know everything before I begin?

No.

What if I make a mistake?

Most mistakes can be corrected when identified early.

Who should I rely on?

Your probate attorney, CPA, title company, financial professionals, and an experienced probate Realtor.

What is the most important thing to remember?

Take one step at a time.

Gene Brown's Practical Advice

I've had the privilege of helping California probate families since 1996.

Almost every executor I've met began by saying, "I have no idea what I'm doing."

Yet almost all of them successfully completed the process because they cared, asked questions, listened to good advice, stayed honest, and kept moving forward.

You are more capable than you think.

If this guide has made probate a little less confusing and a little less intimidating, then it has accomplished exactly what I hoped it would.

— Gene Brown

California Probate Glossary

Plain-English definitions for educational purposes only. Probate, tax, and title rules depend on the facts and current law; consult qualified professionals for advice about a specific estate.

A

Abatement

A reduction in gifts from an estate when the estate does not have enough assets to pay all debts, expenses, and gifts in full.

Accounting

A report showing money and property received by the estate, expenses and payments made, assets remaining, and proposed or completed distributions.

Ademption

What can happen when property specifically given in a will is no longer owned by the person when they die, so the specific gift may fail or change.

Administrator

A person appointed by the probate court to administer an estate when there is no executor able and authorized to serve.

Advance Health Care Directive

A document that states a person's health-care wishes and may appoint someone to make health-care decisions if the person cannot make them.

Advancement

A lifetime gift that, when applicable law or a written statement requires it, is treated as an advance against an heir's later intestate share.

Affidavit

A written statement made under oath or penalty of perjury and used to establish facts.

Ancillary Probate

A probate proceeding in another state or jurisdiction for property located there when the primary probate is being handled elsewhere.

Appraisal

The process of determining the value of property. In California probate, a Probate Referee generally appraises many non-cash probate assets.

Asset

Anything of value owned by the decedent or estate, such as real estate, bank accounts, investments, vehicles, or personal property.

B

Beneficial Interest

A person's right to receive benefits, income, property, or distributions from a trust, estate, or other arrangement.

Beneficiary

A person or organization entitled to receive property under a will, trust, beneficiary designation, or other transfer arrangement.

Beneficiary Designation

Instructions on an account, policy, or asset naming who receives it at the owner's death, often outside probate.

Bequest

A gift made in a will.

Bond

A financial guarantee that protects the estate and interested persons against certain losses caused by a personal representative's improper conduct. A court may require one.

Breach of Fiduciary Duty

A failure by a fiduciary to carry out legal duties such as loyalty, care, impartiality, proper recordkeeping, or protection of estate assets.

C

California Probate Code

The California statutes governing probate, estate administration, wills, trusts, guardianships, conservatorships, and related matters.

Capacity

The legal ability to understand and make a particular decision or legal document; the required level of capacity depends on the act involved.

Cash Bequest

A gift of a stated amount of money made in a will.

Certified Death Certificate

An official certified copy of a death record, often required to prove a death to courts, financial institutions, title companies, and other organizations.

Citation

A formal court notice directing a person to appear, respond, or take another required action in a probate-related proceeding.

Claim Against the Estate

A demand for payment from the estate based on a debt or obligation of the decedent or estate.

Closing Statement

A document summarizing the financial details of a real estate closing, including charges, credits, and proceeds.

Codicil

A document that amends, adds to, or revokes part of an existing will without replacing the entire will.

Community Property

Property generally acquired by spouses or registered domestic partners during marriage or partnership while domiciled in California, subject to exceptions and applicable law.

Conservator

A person appointed by a court to manage the personal care or finances of an adult who cannot adequately manage those matters.

Conservatorship

A court-supervised proceeding in which a conservator is appointed to care for an adult or manage that person's finances.

Contested Probate

A probate proceeding involving a dispute, such as a will contest, challenge to a personal representative, or disagreement requiring court resolution.

Contingency

A condition that must be satisfied or waived before a contract obligation becomes final, such as an inspection, appraisal, or financing contingency.

Court Confirmation

A probate court's approval of a transaction when confirmation is required, including certain sales of estate real property.

Co-Executor

One of two or more executors appointed to administer the same estate.

Co-Trustee

One of two or more trustees serving together to administer a trust.

Creditor

A person, business, or government entity to whom money or another obligation is owed.

D

Decedent

The person who has died.

Decedent's Residence

The home in which the decedent lived. Whether it becomes a probate asset depends on ownership, title, beneficiary arrangements, and other legal factors.

Deed

A legal document used to transfer an interest in real property.

Devise

A gift of property made by will.

Devisee

A person or organization receiving a devise under a will.

Disclaimer

A legally effective refusal to accept property or an inheritance, made according to applicable legal requirements.

Distribution

The transfer of estate property to heirs or beneficiaries as authorized during or at the end of estate administration.

Distribution Receipt

A written acknowledgment that an heir or beneficiary received a distribution from the estate.

Distribution Schedule

A listing or plan showing which estate assets or amounts are to be distributed to particular heirs or beneficiaries.

Domicile

A person's permanent legal home—the place the person intends to make their principal home. Domicile can affect probate jurisdiction.

E

Encumbrance

A claim, lien, easement, restriction, or other interest that affects title to or use of property.

Escheat

The transfer of property to the state when a person dies without a valid disposition of the property and no legally entitled heirs can be found.

Escrow

A neutral arrangement in which documents, funds, and instructions are held and processed until the conditions of a transaction are satisfied.

Estate

The property, rights, and obligations associated with a person who has died; in probate, the term often refers to assets subject to estate administration.

Estate Account

A bank or financial account opened in the name of the estate and used to receive estate funds and pay authorized estate expenses.

Estate Administration

The process of identifying, protecting, managing, valuing, paying obligations from, and distributing estate assets.

Estate Inventory

A detailed list of assets belonging to the probate estate.

Estate Tax

A tax imposed on the transfer of a taxable estate at death. Federal estate tax rules may apply to larger estates; California currently has no separate state estate tax.

Ex Parte

A request for a court order made on shortened notice or without the ordinary noticed-hearing process, when permitted by law and court rules.

Executor

A person nominated in a will and appointed by the probate court to administer the probate estate.

Executor Compensation

Compensation an executor may receive for services to the estate. California law provides statutory compensation for ordinary services and permits additional compensation for extraordinary services when allowed and approved.

Executor's Deed

A deed executed by an executor to transfer estate real property when the executor has authority to make the transfer.

F

Fair Market Value

The price a willing buyer and willing seller would agree upon when neither is under compulsion and both have reasonable knowledge of relevant facts.

Family Allowance

Court-authorized financial support that may be paid from a probate estate for qualifying family members during administration.

Fiduciary

A person with a legal duty to act for another person's or entity's benefit, such as an executor, administrator, or trustee.

Fiduciary Duty

The legal duties a fiduciary owes, including acting loyally, prudently, honestly, and in accordance with applicable law and governing documents.

Final Accounting

The accounting presented near the end of administration showing estate financial activity and assets remaining for distribution.

Final Distribution

The transfer of the remaining estate assets to the persons entitled to receive them after required administration steps are completed and authorization is obtained.

G

Gift Deed

A deed transferring real property as a gift rather than as a sale for ordinary consideration.

Grant Deed

A commonly used California deed for transferring real property that carries certain statutory assurances from the grantor.

Grantor

A person who transfers property by deed; in trust usage, the person creating or funding a trust may also be called a grantor or settlor.

Guardian

A person appointed by a court to care for a minor or manage a minor's property, depending on the type of guardianship.

H

Heggstad Petition

A California court petition commonly used to ask the court to determine that property belongs to a trust even though title or transfer paperwork was incomplete, based on the facts and trust documents.

Heir

A person entitled to inherit property under intestate succession law.

Heirs at Law

The persons who would inherit from a decedent under intestate succession law.

Holographic Will

A handwritten will that may be valid in California when the signature and material provisions are in the testator's handwriting and other legal requirements are met.

I

Incapacity

A condition in which a person lacks the legal or practical ability to make or manage certain decisions; the meaning depends on the legal context.

Independent Administration of Estates Act (IAEA)

California law that may give a personal representative authority to take many estate actions with reduced court supervision, subject to the authority granted and required notices.

Inheritance

Money, property, or other rights received because of another person's death.

Intangible Personal Property

Personal property without physical form, such as bank accounts, stocks, bonds, and certain contractual or ownership rights.

Interested Person

A person or entity with a legally recognized interest in a probate matter, as defined by California law and the circumstances of the proceeding.

Intestate

Dying without a valid will disposing of property that must pass through the estate.

Intestate Succession

The statutory rules determining who inherits probate property when a person dies without a valid will controlling that property.

Inventory

A list of estate assets identified by the personal representative.

Inventory and Appraisal

The California probate filing that lists probate assets and their appraised values, generally including values determined by the personal representative and Probate Referee as applicable.

Irrevocable Trust

A trust that generally cannot be revoked by the settlor after creation, although modification or termination may sometimes be possible under the trust terms or applicable law.

Issue

A person's direct lineal descendants, such as children, grandchildren, and later generations.

J

Joint Executor

Another term for a co-executor—one of multiple executors serving in the same estate.

Joint Tenancy

A form of co-ownership that generally includes a right of survivorship, so a deceased joint tenant's interest passes to the surviving joint tenant or tenants rather than through probate.

Jurisdiction

A court's legal authority to hear and decide a particular matter.

L

Legacy

A gift made by will; the term is often used interchangeably with bequest.

Lender

A person or institution that lends money, often secured by property through a mortgage or deed of trust.

Letters of Administration

The court-issued document showing that an administrator has authority to act for a probate estate.

Letters Testamentary

The court-issued document showing that an executor has authority to act for a probate estate.

Lien

A legal claim or charge against property that may secure payment of a debt or obligation.

Life Estate

An ownership interest giving a person the right to possess or use property for the duration of a specified life, after which the property passes to another interest holder.

Living Trust

A trust created during the settlor's lifetime. Assets properly held in a living trust can generally be administered under the trust rather than through probate.

M

Marshal Estate Assets

To identify, locate, collect, secure, and bring estate assets under the personal representative's control.

Mediation

A process in which a neutral mediator helps parties try to resolve a dispute without a trial.

Minor Beneficiary

A beneficiary who is under the age of legal adulthood and may require special procedures for receiving or managing inherited property.

Multiple Listing Service (MLS)

A cooperative real estate database used by participating real estate professionals to share property listings and related information.

N

No-Contest Clause

A provision intended to discourage certain challenges to a will or trust by imposing a consequence on a beneficiary who brings a challenge covered by the clause; enforceability is governed by California law.

Notice of Proposed Action

A notice used under California's Independent Administration of Estates Act to inform interested persons of certain proposed actions before the personal representative proceeds.

Notice to Creditors

Notice informing creditors of a death and probate administration and of the procedure and deadlines for presenting claims.

O

Omitted Heir

A spouse or child who is not provided for in a will or other estate plan and who may, in certain circumstances, have rights under California law.

Overbid

A higher qualifying bid made at a probate court confirmation hearing when a sale is subject to court confirmation.

P

Partial Distribution

A distribution of some estate assets before final distribution, when authorized and appropriate.

Pecuniary Gift

A gift of a fixed or determinable amount of money.

Per Capita

A method of distribution in which property is divided equally among the qualifying individuals at the designated level.

Per Stirpes

A method of distribution by family branch, so descendants may take the share their deceased ancestor would have received.

Personal Effects

Personal belongings primarily associated with individual or household use, such as clothing, jewelry, furniture, and similar items.

Personal Property

Property other than real property, including money, vehicles, furnishings, securities, and other tangible or intangible assets.

Personal Representative

The general term for the court-appointed person administering a probate estate, including an executor or administrator.

Personal Representative's Deed

A deed executed by a court-appointed personal representative to transfer estate real property when authorized.

Petition

A formal written request asking the probate court to make an order or take action.

Petition for Final Distribution

A petition asking the probate court to approve completion of administration and authorize distribution of the remaining estate assets.

Power of Attorney

A document authorizing an agent to act for another person during that person's lifetime. The authority generally ends at the principal's death.

Predeceased Beneficiary

A beneficiary who died before the person whose will, trust, account, or other transfer names that beneficiary.

Preliminary Change of Ownership Report (PCOR)

A California form generally submitted with a recorded deed to provide information to the county assessor about a change in ownership.

Probate

The court-supervised legal process for administering property subject to probate after a person's death.

Probate Attorney

An attorney who advises and represents clients in probate and estate administration matters.

Probate Court

The division or function of the superior court that handles probate matters such as estates, trusts, guardianships, and conservatorships.

Probate Referee

A California-appointed appraiser who values many non-cash assets in probate estates.

R

Real Estate Commission

Compensation paid for real estate brokerage services under the terms of the applicable agreement and transaction.

Real Property

Land and interests attached to land, including houses and other improvements.

Recording

The filing of a document with the county recorder so it becomes part of the public real property records.

Residual Beneficiary

A beneficiary entitled to receive all or part of the residue of an estate after debts, expenses, taxes, and specific gifts are addressed.

Residuary Clause

A provision in a will directing who receives the residue of the estate.

Residuary Estate

The portion of the estate remaining after enforceable debts, expenses, taxes, and specific gifts have been handled.

Revocable Trust

A trust that the settlor generally retains the power to revoke or amend during life while the settlor has the required capacity, subject to the trust terms.

Right of Survivorship

A feature of certain forms of ownership under which a deceased owner's interest passes automatically to the surviving owner or owners.

S

Sale Confirmation

Court approval of a probate sale when confirmation is legally required.

Settlor

The person who creates a trust and transfers or declares property to be held in the trust.

Small Estate Procedure

A simplified procedure that may allow qualifying property to be collected or transferred without a full probate proceeding when California's requirements are satisfied.

Special Administrator

A person temporarily appointed by the probate court to protect or administer estate property when immediate or limited authority is needed before or instead of a general appointment.

Specific Bequest

A gift in a will of a specifically identified item or asset.

Spousal Property Petition

A California probate procedure through which a surviving spouse or registered domestic partner may ask the court to determine or confirm rights to certain property without a full probate of that property.

Successor Personal Representative

A person appointed to continue administering an estate after a prior executor or administrator can no longer serve.

Successor Trustee

A person who takes over administration of a trust when the prior trustee dies, resigns, becomes incapacitated, is removed, or otherwise stops serving.

Surcharge

A court-ordered financial charge against a fiduciary for loss or damage resulting from a breach of fiduciary duty.

Survivorship

The legal effect by which an interest in property passes to a surviving owner or beneficiary after another person's death, depending on the ownership or transfer arrangement.

T

Tangible Personal Property

Physical personal property that can be touched or moved, such as furniture, jewelry, artwork, vehicles, and household items.

Tenants in Common

A form of co-ownership in which each owner has a separate fractional interest that does not automatically pass to the other owners at death.

Testamentary Capacity

The legal mental capacity required to make a valid will.

Testator

A person who makes a will.

Title Company

A company that examines real property title and may provide title insurance and related settlement services.

Title Insurance

Insurance protecting against certain covered losses arising from defects, liens, or other title problems existing under the policy terms.

Trust

A legal arrangement in which a trustee holds and manages property for beneficiaries according to the trust terms.

Trust Administration

The process of managing, accounting for, and distributing trust property according to the trust document and applicable law.

Trustee

The fiduciary responsible for holding and administering trust property according to the trust terms and applicable law.

Trustee's Deed

A deed executed by a trustee to transfer real property held in a trust when the trustee has authority to make the transfer.

W

Waiver of Bond

A provision or consent requesting that a personal representative be permitted to serve without posting a bond, subject to the court's authority and applicable law.

Will

A legal document directing how probate property should be distributed at death and often nominating an executor and addressing other estate matters.

Will Contest

A legal challenge to the validity of a will or a provision of the will.

Will Substitutes

Arrangements that transfer property at death outside a will, such as certain trusts, beneficiary designations, and survivorship ownership.

Gene Brown's Practical Advice

Don't let probate terminology intimidate you. Use this glossary as a plain-English starting point, and ask your probate attorney, CPA, title professional, or other qualified advisor when a term affects an important decision.

ABOUT GENE BROWN

Experience, Education, and Practical Probate Real Estate Guidance

Gene Brown is a California real estate broker who has been helping people buy and sell real estate since 1978 and has specialized in probate and trust real estate since 1996.

Over the years, Gene has worked with executors, administrators, trustees, beneficiaries, heirs, attorneys, and families facing the many practical decisions that can arise when real property is part of an estate.

Probate real estate is often very different from an ordinary home sale.

An executor or administrator may be responsible for a property that needs to be secured, cleaned out, repaired, prepared for sale, maintained, and ultimately sold—all while dealing with court requirements, estate responsibilities, family concerns, deadlines, and the emotional impact of losing someone they cared about.

Gene's approach is to help simplify that process.

He believes that one of the most important things a probate real estate professional can do is help people understand their options. Every property and every estate is different. Some homes should be sold in their present condition. Others may benefit substantially from repairs, improvements, cleaning, landscaping, staging, or other preparation before being placed on the market.

The objective is not simply to put a property on the Multiple Listing Service. It is to identify the problems, evaluate the alternatives, develop a practical plan, and help the estate make informed decisions designed to achieve the best reasonable result for the property.

Why Gene Created This Guide

Gene created The Gene Brown California Probate Guide because he believes education makes difficult situations easier to manage.

Probate contains unfamiliar terminology, procedures, responsibilities, and decisions. For someone experiencing probate for the first time, even knowing which questions to ask can be difficult.

This guide was created to provide a plain-English educational resource that families can use throughout the probate process.

It is not a substitute for the probate attorney, CPA, tax professional, financial advisor, title professional, or other professionals who may be needed by an estate. Instead, it is intended to help readers better understand the process so they can communicate effectively with their professional team and make more informed decisions.

A Problem-Solving Approach

Gene views his role as more than that of a real estate broker.

When an estate includes real property, there may be dozens of practical issues that must be resolved before the transaction is complete. Gene's role is to help identify those issues, find practical solutions, coordinate the real estate process, and help move the property from its present condition to a successful sale.

His philosophy is straightforward:

Understand the problem. Evaluate the options. Develop a plan. Solve the problem.

That same philosophy is behind this guide.

If The Gene Brown California Probate Guide helps a family better understand probate, ask better questions, avoid unnecessary confusion, or make one difficult decision a little easier, then it has accomplished its purpose.

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