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I AM THE EXECUTOR. I DON'T NEED AN ATTORNEY TO HELP ME...OR DO I?

By: Sabrina Winters, Attorney at Law

The question I often hear is: "Am I required to hire an attorney to help me with a probate?" The general answer is no. North Carolina does not require an executor or administrator to hire an attorney to assist with probating or administering the estate of a decedent.

The realistic answer is probably. The process may become overwhelming for that executor that is appointed. Often times they are working, have families, and may even be out of state. Much of the work in a probate can be done via the mail. Although, it tends to become cumbersome because assets need to be located; documents need to be forwarded to the institution, etc. Sometimes, notice to creditors needs to be filed and it needs to be done in a specific manner. Do you know the language that has to be included? Do you know when the time starts running? Do you know when it ends?

There are several filing deadlines that must be met as well. There are tax issues that need to be considered as well as distribution requirements. Making a distribution at the wrong time may have drastic financial penalties associated with that distribution. Do you know when you can start distributing money? Do you know when you can't?

So there are ins and outs to the probate procedure that the typical executor may not know or understand. Executors can ask the Clerk at the Probate's court certain questions, but they are not permitted to give legal advice. The Clerk can only give procedural advice and will more likely suggest that you speak with an attorney regarding your question.

I have retained many new clients in the middle of trying to do it themselves for several reasons. The most common one has been that they just cannot handle all the details on their own.

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If you have been appointed as an executor or administrator and need help in settling the estate, call our Charlotte, North Carolina Probate Law Firm at 704-843-1446 to help you. We will be honest with you and tell you whether you really need us or not.

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