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NORTH CAROLINA PROBATE “NUGGETS”

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“We Don’t Speak Legal Advice Here”

In North Carolina, the Clerk of Superior Court serves as the Probate Judge and cannot practice law. Therefore, the Clerk’s office is not allowed to provide legal advice. As an Executor, don’t expect the Clerk or the Clerk’s staff to prepare accounts or complete Probate forms, or offer assistance in these matters. The clerk can provide basic information about the Probate process. They can talk about the types of estates and requirements, and the various forms that are involved. The clerk can also provide a "cheat sheet" for filling out an inventory or accounting, but they cannot directly assist in completing the forms. The staff will typically refer you to speak with an estate attorney for legal assistance.

The clerk cannot offer an opinion as to whether an attorney is required, and they also cannot provide the name of a specific attorney. However, at the front desk area (at least in the Mecklenburg County Estate Department), there is a binder which lists several probate attorneys in the area. This binder is available to the general public in the Estates area. I am not certain if every county has this, but it is worthwhile to ask.

Bring a Book!

There are 100 counties in North Carolina, each with its’ own Probate Department. The county in which the decedent died is the county that would have jurisdiction over the matter. It may be identified as an Estates Department in one county and a Probate Court in another, and each is a division of the Clerk of Court. Smaller counties will generally have a smaller staff but less of a wait time for services. Larger Counties, such as Mecklenburg, may have extremely long wait times, even though the staff is larger. Mecklenburg County for example almost never takes

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appointments, but I have heard Gaston County may require appointments. Ultimately, when visiting the Clerk's Office, expect to meet some very dedicated and professional people, but also bring a book and prepare for a potential wait!

Keep your checkbook at home!

There will be various Court costs associated with a Probate or Administration regardless of what county the matter is in. Opening an estate, closing an estate, even making copies, are all assigned a specific fee based on specific requirements. Payment must generally be made at the time of service, and personal checks are not allowed. Many people are surprised to learn that debit cards and credit cards are also not accepted. Cash, estate checks, and checks from an attorney's office are valid forms of payment. Fees can also grow and become quite large, depending on the size of the estate.

Moral of the Story

The requirements are standard between counties, however each Clerk's office may have implemented slightly different requirements pertaining to certain procedures. Of course if you are handling a Probate matter on your own, the information contained in this blog should not be considered legal advice. Contact our Firm at (704) 843-1446 and we will be happy to assist, or refer you to a local attorney in your area to make certain that the matter is handled properly according to your specific situation.