

## Legal Matters – May, 2008

Legal Matters is a column that answers your legal questions. It is written by Barry Evans, Attorney at Law, located at 550 Egret Bay Blvd., League City, TX 77573. Barry has been practicing as an attorney for over twenty-five years. If you have any legal questions you'd like answered in this column, you can email them to [barryevans@msn.com](mailto:barryevans@msn.com) or call Barry Evans at 281-557-1900.



Barry Evans, Attorney at Law

### **I have been named as an independent executor of my mother's will. What do I do next?**

Usually, the first step is to hire a lawyer to help with the probate and estate administration process. The lawyer will then prepare an application for probate, which is filed with the county clerk along with your mother's original will. The application is usually two to three pages long, and it recites certain facts about your mother, your mother's will and property. There is a filing fee which must be paid and it varies by county. In Galveston County it's \$243. In Harris County it's \$233.

After a 10-day mandatory waiting period, a probate hearing will be held. At the hearing, the lawyer will ask you a number of fairly simple questions, and then you will be asked to sign a document containing a written record of testimony. The judge will sign an order admitting your mother's will to probate. This order is a document, which your lawyer will have prepared and brought to the hearing. After the hearing, you will be asked to sign an oath stating that you will fulfill your duties as independent executor of your mother's estate. Once your oath is filed, you will be entitled to receive "letters testamentary" from the county clerk authorizing you to act on behalf of your mother's estate. Within 30 days of receiving letters testamentary, a "Notice to Creditors" must be published in a local newspaper and filed with the court. This notice lets creditors of your mother's estate know where they may file claims to recover money they are owed. You must publish a Notice to Creditors whether or not your mother's estate has creditors. Within 60 days of receiving letters testamentary, you will also have to notify secured creditors by certified mail that you have been issued letters testamentary. Then within 90 days of qualifying as executor, an Inventory of the Assets which pass under your mother's will must be filed with the court. It may be the case that the Inventory list only a small part of the estate, especially if your mother had life insurance, retirement plans, joint accounts, or other properties which pass directly to you.

Of course, in preparing this answer to your question, I have assumed that your mother's will was executed and notarized properly, and that it contains all the right language. Probate, can, under ideal circumstances, be completed in as little as three to four weeks, although, in real life, the process usually takes several months. If you have any questions regarding the probate process, you may contact Barry Evans at 281-557-1900 or email him at [barryevans@msn.com](mailto:barryevans@msn.com).

**Editor's note:** *The information in this column is not intended as legal advice but to provide a general understanding of the law. Readers with legal problems, including those whose questions are addressed here, should consult attorneys for advice on their particular circumstances.*