



From: McManus Blog Archives

### Why Probate May Be a Good Idea

Published 03/27/2012

Probate is the court process where a Will is validated, and a personal representative is appointed to pay the bills and distribute the assets titled in the decedent's sole name. Although most of you have heard that it is best to avoid or bypass probate, here are a few instances where probate can be a good thing:

1. Where there are many and unascertained creditors, probate provides a method to cut off creditor claims. Banks named as trustees will always want to have a probate administration to identify and cut off creditors.
2. Where there are differences among the beneficiaries of the estate, probate provides a forum where differences can be resolved.
3. Where an elderly spouse is in a nursing home, a testamentary special needs trust is used to provide benefits to the nursing home spouse when the community spouse dies first.
4. The guardians for minor children may be named in the Will of the parents when the minor children are beneficiaries of the Will.

NOTE: The hiring of a lawyer is an important decision that should not be based solely upon advertisements. The information contained within this website and blog in no way constitutes an attorney client relationship, nor should the content be misconstrued as legal advice.

Be aware that information sent over the Internet may not be secure. We welcome requests for information by email, which are kept in strictest confidence and not used or sold as marketing material, but ask that you do not transmit confidential information.